

IN THE NEVADA SUPREME COURT

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Elizabeth A. Brown
Clerk of Supreme Court

Rickie Slaughter,

Petitioner-Appellant,

v.

Charles Daniels, et al.,

Respondents-Appellees.

On Appeal from the Order Denying Petition
For Writ of Habeas Corpus (Post-Conviction)
Eighth Judicial District, Clark County
(A-20-812949-W | 04C204957)
Honorable Tierra Jones, District Court Judge

**Petitioner-Appellant's Appendix to the Opening Brief
Volume III of XXII**

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Dated July 21, 2021.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ *Jeremy C. Baron*
Jeremy C. Baron
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2021, I electronically filed the foregoing with the Clerk of the Nevada Supreme Court by using the appellate electronic filing system.

Participants in the case who are registered users in the appellate electronic filing system will be served by the system and include: Alexander Chen.

I further certify that some of the participants in the case are not registered appellate electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following person:

Rickie Slaughter NDOC #85902 High Desert State Prison P.O. Box 650 Indian Springs, NV 89070	Erica Berrett Deputy Attorney General Office of the Attorney General 555 E. Washington Ave. Suite 3900 Las Vegas, NV 89101
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/s/ Richard D. Chavez

An Employee of the
Federal Public Defender

TRAN
CASE NO. C-204957
DEPT. NO. 3

FILED

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JUN 30 1 57 PM '08

DISTRICT COURT

CR. [Signature]
CLERK OF THE COURT

CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
RICKIE SLAUGHTER,)
)
Defendant.)
_____)

REPORTER'S TRANSCRIPT
OF
EVIDENTIARY HEARING

BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

DATED: THURSDAY, JUNE 19, 2008

REPORTED BY: SHARON HOWARD, C.C.R. NO. 745

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APPEARANCES:

For the State:

MARC DIGIACOMO, ESQ.

SUSAN KRISKI, ESQ.

For the Defendant:

PRO PER

* * * * *

1 LAS VEGAS, NEVADA; THURSDAY, JUNE 19, 2008

2 P R O C E E D I N G S

3 * * * * *

4
5 THE COURT: Page 9, State of Nevada versus
6 Rickie Slaughter, C-204957.

7 Ms. Krisko and Mr. DiGiacomo for the State.

8 Mr. Slaughter did you have a chance to talk to
9 Ms. Krisko and Mr. DiGiacomo?

10 THE DEFENDANT: Yes, I did.

11 THE COURT: I will say that I agree that
12 anything I said to you is a matter of public record,
13 whether it's on the record because it's part of the plea
14 canvass and part of sentencing and things like that. You
15 and I never had any conversation down the hallway or
16 anything like that.

17 THE DEFENDANT: No, sir.

18 THE COURT: So to the extent you want to
19 utilize anything that was said by myself to you, in terms
20 of convincing me what to do in this case, it's part of
21 your plea canvass and your sentencing.

22 THE DEFENDANT: Well, it was to the
23 extent -- well, you were present when we had a
24 negotiation. That was off the record, obviously, and to
25 get to your recollection of what had been heard and things

1 like that. I didn't know about the recusal issue. But I
2 do want to preserve a proper record of everything that
3 occurred for the Supreme Court when we go back up there.
4 I wanted to present your testimony, Ms. Krisko's and
5 everybody else.

6 MR. DIGIACOMO: Judge, just for the
7 record, we do object.

8 If you have no recollection of an off-the-record
9 conversation with Rickie Slaughter, and I don't have any
10 recollection of that occurring, and I don't believe
11 Ms. Krisko has a recollection of that occurring, this is a
12 situation --

13 THE COURT: More importantly for what he
14 just said, I don't have any recollection whatsoever of
15 being present. And even if I was in court while you all
16 were discussing a negotiation, I don't have any
17 recollection of hearing anything related to negotiations
18 that you all talked about.

19 THE DEFENDANT: Well, the prior transcript
20 from two years ago, you indicated in that transcript -- if
21 you wanted to look at it -- that you did have an
22 indication of that.

23 THE COURT: I don't know if I read the one
24 from two years ago, but I would hope that two years ago I
25 would recollect whatever it was that had just taken place.

1 You know what, I'm getting old.

2 MR. DIGIACOMO: The transcript doesn't say
3 that. The transcript says I remember back at the time of
4 the plea that there was a discussion of this. Yeah, there
5 was. It's on the record. That's when the discussion
6 occurred.

7 THE COURT: I guess what I'm getting at,
8 Mr. Slaughter, is if you're hoping to have me as a witness
9 tell you that I remember you all having negotiation talks
10 and here's what you all were saying, I don't remember any
11 of that. That's not generally something that -- (a) I
12 cannot get involved in that. I can't and would not try
13 and facilitate negotiations in some fashion. That's up to
14 you and the State.

15 But more importantly, I don't remember anything you
16 all were talking about in terms of your negotiations.

17 THE DEFENDANT: Well, if you are --

18 THE COURT: If you're persistent in
19 wanting to try and have me as a witness, then, yeah, I
20 can't preside over a case in which I act as a witness.

21 THE DEFENDANT: I mean, the indication I
22 got was -- is, I guess, your recollection now and from
23 statements in the record. That's what I was trying to
24 get.

25 THE COURT: Is the transcript from two

1 years ago the sentencing transcript?

2 THE DEFENDANT: No. It's the habeas
3 transcript.

4 MR. DIGIACOMO: The habeas transcript
5 where he said, yeah, I remember what the issue --

6 THE COURT: And I still do remember the
7 day you pled, because it was the only time I was sitting
8 in Judge Togliatti's courtroom, because that's where we
9 were hearing the trial in there. You were pro per. And I
10 remember that you entered a negotiation and we took a
11 plea. Then later on I sentenced you. That's the extent
12 of it.

13 THE DEFENDANT: I think it went a little
14 further. It goes a little further than the transcript.
15 Sp that's my position.

16 THE COURT: Okay. State.

17 MS. KRISKO: Here's what we talked about.
18 You know, I'm using the word waive, but Mr. Slaughter
19 doesn't want to agree to that.

20 I'm out of the jurisdiction and I don't know if he's
21 going to be able to compel me. I'm not going to
22 voluntarily going to come back to testify. I'm here now.
23 I'm ready to go. I think that the information that I have
24 is probably more valuable simply because I did have
25 conversations with Mr. Slaughter, representing himself,

1 that were done not on the record.

2 My understanding is everything that you heard or
3 spoke about is on the record. And so having you be a
4 witness and recusing yourself and bringing in another
5 judge, I think, is not appropriate. And I don't think
6 it's necessary.

7 But if that's what he maintains, that's what he
8 maintains. He did ask me about doing an affidavit. I'll
9 make a sworn statement, if you want me to make that now,
10 as to what my recollection is. But he won't have the
11 benefit of asking me questions that go beyond that.

12 THE COURT: Here's the thing. After
13 hearing from Mr. Slaughter this morning as to what it is
14 he would purport to want me as a witness on, I'm satisfied
15 that I have no information whatsoever on that. No
16 recollection of hearing your conversations about any
17 negotiations that you all engaged in.

18 So I'm not going to recuse myself. We'll go ahead
19 and have our hearing today. But let me go ahead and take
20 a bit of a recess and you get everybody else out so they
21 can get back to do what they need to do. We'll come back
22 in and get started.

23 THE DEFENDANT: To the extent that I do
24 need this, I would ask for the record to be expanded to
25 include this transcript in the prior habeas.

1 THE COURT: Any transcripts in the case
2 are obviously usable in terms of whatever we're going to
3 do right now.

4 THE DEFENDANT: All right.

5 Also, one more thing. One of my documents seemed
6 to -- got left at the prison that I might need, which is
7 the original petition I filed. If I could get a copy of
8 that for the hearing.

9 THE COURT: I'll look in the file and see
10 if we can locate that.

11 We'll be in recess.

12 (Brief recess taken.)

13 THE COURT: State of Nevada versus Rickie
14 Slaughter, C-204957 on page 9.

15 This is the time set for an evidentiary
16 hearing in regard to Mr. Slaughter's motion to withdraw
17 plea. I think all the witnesses here are present that you
18 have discussed, Mr. Slaughter. Other than, I don't know
19 if your father is present.

20 THE DEFENDANT: No. But I do have an
21 affidavit, if the court is willing to accept that.

22 THE COURT: We'll get to that.

23 I know my law clerk contacted Mr. Wommer who is
24 present. Mr. Conklin is present. I don't know if he got
25 hold of Mr. Gowen or not.

1 MS. KRISKO: We did personally serve
2 Mr. Gowen.

3 THE COURT: Okay. Obviously Mr. DiGiacomo
4 and Ms. Krisko are present. As well as myself.

5 Mr. Slaughter, if you would call your first
6 witness.

7 THE DEFENDANT: Call James Conklin.

8 THE COURT: Mr. Conklin, if you would come
9 up here for me please, sir, and take the witness stand.
10 Remain standing and raise your right hand when you get up
11 there, if you would, please.

12 THE CLERK: You do solemnly swear that the
13 testimony you are about to give in this action shall be
14 the truth, the whole truth, and nothing but the truth, so
15 help you God.

16 THE WITNESS: I do.

17 THE CLERK: Be seated. State and spell
18 your name for the record.

19 THE DEFENDANT: James B. Conklin,
20 C-O-N-K-L-I-N.

21 THE DEFENDANT: Okay.

22 THE COURT: Mr. Slaughter.

23 DIRECT EXAMINATION

24 BY THE DEFENDANT:

25 Q. You were private detective on my case,

1 correct?

2 A. That's right. I was. I am.

3 Q. Do you remember, prior to actually -- the
4 day prior to the day I took the plea negotiation, do you
5 remember negotiations being offered?

6 A. No. I really don't know.

7 Q. Okay. Do you recollect the day of the
8 plea -- the day I took the negotiations?

9 A. Yes.

10 Q. April 4, 2005?

11 A. Yes.

12 Q. You were present during the negotiations,
13 all that, right?

14 A. I was in court, yes.

15 Q. Matter of fact, did you send me --

16 THE DEFENDANT: Your Honor, may I.

17 THE COURT: You have something you want to
18 give to Mr. Conklin?

19 THE DEFENDANT: Yes.

20 MR. DIGIACOMO: May I see it first, Judge?

21 THE COURT: Show the State the exhibit.

22 THE DEFENDANT: Also I have this affidavit
23 here.

24 BY THE DEFENDANT:

25 Q. The first letter -- you have two letters

1 there, right?

2 A. Yes.

3 Q. They're from you addressed to me, right?

4 A. Yes.

5 Q. In first letter dated in 2005, December 8.
6 The postmark on it is December 9, 2005. Is that actually
7 your letter, your handwriting?

8 A. Yes.

9 Q. In there you indicated towards the center,
10 you state that I recall prosecutor Krisko offering 15 to
11 life, and you would be given an opportunity to 15 to 40
12 years at sentencing. You also attach some notes to this.
13 Are those present?

14 A. Yes, they are.

15 Q. To those notes -- could you read those
16 notes.

17 A. It says April 4, 2005. It says pled guilty,
18 max 15 to life. Argue for 15 to 40. Sentencing for June
19 6, 2005.

20 Q. I remember this was a couple of years ago,
21 so I'm not sure how crisp your recollection is. But is it
22 fair to say that your impression of the negotiations, as
23 far as the minimum that I was supposed to serve was
24 supposed to be 15 years?

25 A. Yes.

1 Q. Do those notes, would you say they
2 accurately reflect that impression?

3 A. Yes.

4 Q. There's also the other letter there, just
5 the affidavit attached to that, right. If you want to
6 open it up I believe it's November 13, 2007?

7 A. Yes. This is the affidavit I wrote dated
8 November 13, 2007.

9 Q. I would also ask you, if you can remember,
10 to the best of your recollection, do you remember if I
11 declined the offer at first or accepted it immediately, or
12 do you remember any of that?

13 A. I really don't remember the details of the
14 negotiations. I do believe you plead guilty to it.

15 Q. You don't remember if I declined at first
16 before accepting the plea. Or how many times -- do you
17 remember whether we invoked the negotiation process on
18 more than one occasion?

19 A. I don't recall that.

20 Q. All right. Thank you.

21 THE DEFENDANT: Nothing further.

22 THE COURT: Mr. DiGiacomo.

23 CROSS-EXAMINATION

24 BY MR. DIGIACOMO:

25 Q. Those notes you have in front of you about

1 what the negotiation was, do you have any recollection of
2 when you took those notes?

3 A. I probably wrote those notes right after the
4 procedure.

5 Q. So the plea goes down in court and when
6 you're done with the plea in court you write the notes you
7 wrote in there?

8 A. That's correct.

9 Q. So the information in there may have come
10 from the actual plea canvass conducted by the court. And
11 that's your understanding of what the deal was from the
12 plea canvass that took place in the courtroom, correct?

13 A. Yes. That was my understanding of it,
14 afterwards. Correct.

15 Q. Your understanding after the procedure is
16 over?

17 A. Yes.

18 MR. DIGIACOMO: Nothing further.

19 THE DEFENDANT: May I have a little?

20 THE COURT: Yes.

21 REDIRECT EXAMINATION

22 BY THE DEFENDANT:

23 Q. As far as your understanding, does that stem
24 from the overall negotiation process or -- you didn't look
25 at any extraneous documents in these notes. This is from

1 your impression?

2 A. My impression after the hearing. Correct.

3 Q. Right. That would be immediately right
4 after?

5 A. Yes.

6 THE DEFENDANT: Can I offer those.

7 THE COURT: Yes. We'll mark those as
8 Defendant's Exhibits 1 and 2.

9 THE DEFENDANT: Thank you.

10 BY THE DEFENDANT:

11 Q. Like you said, your recollection was that
12 the minimum I would serve would be 15 years, right?

13 A. Yes.

14 THE DEFENDANT: Thank you. Nothing
15 further.

16 THE COURT: Any recross?

17 MR. DIGIACOMO: No.

18 THE COURT: Mr. Conklin, you may step
19 down.

20 THE WITNESS: Thank you.

21 THE COURT: Mr. Slaughter, you may call
22 your next.

23 THE DEFENDANT: Call Mr. Wommer.

24 THE COURT: Come up here please, sir.

25 THE CLERK: You do solemnly swear that the

1 testimony you are about to give in this action shall be
2 the truth, the whole truth, and nothing but the truth, so
3 help you God.

4 THE DEFENDANT: I do.

5 THE CLERK: Be seated. State and spell
6 your name for the record.

7 THE DEFENDANT: Paul Wommer, W-O-M-M-E-R.

8 DIRECT EXAMINATION

9 BY THE DEFENDANT:

10 Q. Mr. Wommer, you had represented me prior --
11 until I went pro se in this case?

12 A. That's correct.

13 Q. As I remember, on the day of the
14 negotiations, do you recollect -- you weren't there the
15 entire proceeding, but you came in sort of in the middle.
16 Is that fair to say?

17 A. I have a vague recollection of the day that
18 the negotiations were finalized. But I do remember the
19 gist of what took place during the negotiation process.

20 Q. You say you remember the gist. Concerning
21 that gist, what was -- what would be your recollection of
22 the impression of the minimum I was supposed to serve on
23 that plea?

24 A. I remember that the State indicated that the
25 minimum would be 15 years and the maximum would be life,

1 but you were able to argue for a lesser -- a lesser
2 back-end sentence. But it would be a minimum of 15.

3 And I remember -- and I clarified certain things
4 for you during the negotiations process. I didn't
5 participate in the negotiations, but when you had a
6 question about what that meant, I explained it to you.

7 Q. Okay. And what would you say your
8 explanation entailed that the minimum would be 15, no
9 more?

10 A. I remember that everyone's impression was
11 that the minimum would be 15. What the top end of the
12 sentence would be would be left to the judge after hearing
13 argument from both sides.

14 Q. May I ask you another question. Do you
15 remember me declining offers during my trial?

16 A. Yeah, I do. I don't remember exactly what
17 those offers were, but I remember you rejected them.

18 Q. Would it be a couple?

19 A. It was more than one.

20 Q. Moving on to the day of sentencing, you were
21 present at a conversation -- were you present at a
22 conversation between me and Ms. Krisko before the
23 sentencing actually that took place Outside in the
24 hallway?

25 A. If I was present, I don't remember what was

1 said.

2 Q. You don't remember what was said?

3 A. No. I vaguely remember -- was this the
4 conversation that took place in the jail room right
5 Outside in the hallway here?

6 Q. I think we were in a different courtroom,
7 but it was Outside in the hallway. Right Outside the door
8 of the courtroom.

9 A. I remember us being there. I do not
10 remember exactly what was said.

11 Q. I know you say you don't remember what was
12 said. That's understandable with all the time that's
13 passed. But I would ask you, do you have any impression
14 concerning whether I presented a concern to want to
15 withdraw my plea during that conversation out there?

16 A. Not at that time. I don't -- if that was
17 discussed, I would like to believe I would have remembered
18 it. But I do not remember the withdrawal of the guilty
19 plea, even being discussed.

20 Q. So you just don't remember -- is it fair to
21 say you don't remember?

22 A. I do not remember the gist of the
23 conversation that took place that day.

24 Q. Or any of its contents, correct?

25 A. Correct.

1 Q. Okay. Just to clarify. You're saying,
2 hypothetically if it did happen you might remember, but
3 you don't remember?

4 A. I'm just saying that, if there was a
5 discussion about the withdrawal of a guilty plea, I
6 probably would have remembered that, but I don't.

7 Q. And you just don't remember overall?

8 A. Correct.

9 Q. Okay.

10 THE DEFENDANT: That's all for right
11 now.

12 THE COURT: Mr. DiGiacomo.

13 MR. DIGIACOMO: A couple of questions.

14 CROSS-EXAMINATION

15 BY MR. DIGIACOMO:

16 Q. You indicated that the State's position
17 was -- the agreement was to receive a sentence of 15 to
18 life, correct?

19 A. Correct.

20 Q. And he had the right to argue for 15 to 40,
21 correct?

22 A. Correct.

23 Q. Ultimately it was the judge's call as to
24 what the sentence was going to be?

25 A. Correct.

1 Q. Then there was a written guilty plea put
2 together, correct?

3 A. Yes.

4 Q. One of the counts was first degree
5 kidnapping with substantial bodily harm, which would have
6 carried either a 15 to 40, or 15 to life, correct?

7 A. Yes.

8 Q. Then all the parties agreed that every other
9 sentence for all the other crimes that he was going to
10 plead to would run concurrent to that first degree
11 kidnapping?

12 A. Yes.

13 Q. And that some of those crimes had a deadly
14 weapon enhancement. In fact, the guilty plea said that
15 the deadly weapon enhancement for the other concurrent
16 sentences had to run consecutive, correct?

17 Like attempt murder with use of a deadly weapon,
18 the guilty plea agreement would have said --

19 THE DEFENDANT: Maybe I want to show
20 him.

21 THE COURT: Hold on.

22 THE DEFENDANT: Restate your question from
23 the beginning.

24 BY MR. DIGIACOMO:

25 Q. You understand that there are other crimes

1 other than the one first degree kidnapping with
2 substantial, correct?

3 A. Yes.

4 Q. And one of those crimes was a attempt murder
5 with use of a deadly weapon?

6 A. Yes.

7 Q. You understood that the deadly weapon
8 enhancement had to be consecutive to the underlying
9 attempt murder conviction?

10 A. Yes.

11 Q. But then those two sentences were to run
12 concurrent to the 15 to life, correct?

13 A. Yes.

14 Q. During this time period, there was a written
15 guilty plea agreement drafted?

16 A. Yes.

17 Q. And during the plea canvass the judge
18 specifically indicated to -- or requested of Mr. Slaughter
19 as to whether or not there was any other agreement, other
20 then what's contained in that written agreement,
21 correct?

22 A. Yes.

23 Q. To your recollection, other than what's
24 written in that guilty plea agreement, there wasn't any
25 other extraneous promises made to Mr. Slaughter?

1 A. Not to my knowledge.

2 Q. And, in fact, the agreement was that we
3 would have no opposition to concurrent, but certainly the
4 judge had the right to run those sentences consecutive to
5 a longer time, correct?

6 A. Yes.

7 Q. And it is your recollection that
8 Mr. Slaughter, after reading that guilty plea agreement,
9 understood the guilty plea agreement, correct?

10 A. Yes. Because I was present when he read
11 it.

12 THE DEFENDANT: Object.

13 THE COURT: What's the objection?

14 THE DEFENDANT: Well, he -- I believe
15 Mr. Wommer stated that he didn't partake in the
16 negotiations, but he was there afterwards and answered a
17 question.

18 THE COURT: I'll allow him to answer the
19 question. Go ahead. Restate the question.

20 BY MR. DIGIACOMO:

21 Q. Was your understanding that Mr. Slaughter
22 understood the contents of the guilty plea agreement,
23 correct?

24 A. I remember that Ms. Krisko had the
25 agreement -- had to go upstairs and get the agreement and

1 brought it back down. Mr. Slaughter read the agreement at
2 counsel table. And I was sitting next to him as he was
3 reading it, in case he had any questions about anything in
4 the plea agreement.

5 Q. So to your recollection, at least, there is
6 no other agreement out there other than what's written in
7 that guilty plea agreement itself, correct?

8 A. Correct.

9 Q. As to this meeting right before sentencing,
10 it's your position that had Mr. Slaughter told you that he
11 intended or that he desired to withdraw his guilty plea,
12 you would have recalled -- or you believe you would have
13 recalled something of that nature?

14 A. Yes, because that would have been
15 substantial.

16 THE DEFENDANT: Objection.

17 THE COURT: Hold on. You have an
18 objection?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: What is it?

21 THE DEFENDANT: I think that
22 mischaracterizes the testimony. He said he didn't
23 remember.

24 I believe he said that he would remember for sure --
25 that if that happened, he would remember that that was a

1 concern. I think he said overall he didn't remember.

2 THE COURT: Expressing that you don't
3 remember something and expressing an opinion as to whether
4 or not other things are or are not substantial are
5 different. I'll allow the answer to stand.

6 THE DEFENDANT: All right.

7 MR. DIGIACOMO: Thank you, Judge. No more
8 questions.

9 THE COURT: Mr. Slaughter, any redirect of
10 Mr. Wommer?

11 THE DEFENDANT: Yes, sir.

12 REDIRECT EXAMINATION

13 BY THE DEFENDANT:

14 Q. Mr. Wommer, I believe, just on that prior
15 examination, you said that -- a question concerning
16 extraneous negotiations or deals, things like that. You
17 said you didn't recollect any, correct?

18 A. Well, if you're talking about were there any
19 other agreements than the agreement that you reached with
20 the State, I don't know of any other agreements.

21 Q. Right. Would it be fair to say -- to your
22 recollection -- that the agreement I entered into was for
23 an aggravator or total minimum would be 15 at the
24 bottom?

25 A. Yes.

1 Q. That's in fact a recollection?

2 A. Because I do remember that being brought up
3 during the negotiation process. The bottom would be 15.

4 Q. That would be regardless with all the
5 sentences?

6 A. Yes. It didn't have anything to do with the
7 top end, but the bottom end would be 15.

8 Q. Okay.

9 THE DEFENDANT: Nothing further.

10 THE COURT: Mr. DiGiacomo?

11 MR. DIGIACOMO: No, Judge.

12 THE COURT: Let me ask you a question
13 Mr. Wommer.

14 In this particular case there was an important
15 distinction between some of the language that's been
16 talked about here today.

17 Are you saying that you understood that Mr. Slaughter
18 had been told he was going to receive a total minimum of
19 15 years, or that the negotiation is for a minimum of 15
20 years, maximum life, or maximum 40 years?

21 I don't think most plea bargains are talked about in
22 terms of total minimums, low end of something. That's why
23 I'm asking.

24 THE WITNESS: Repeat that question
25 again.

1 THE COURT: Are you saying that you were
2 aware that Mr. Slaughter was being told that he would have
3 a total minimum 15 years, or just that the negotiation is
4 for minimum 15, maximum life?

5 THE WITNESS: I don't think there was any
6 mention of the word total, or any discussion about total.
7 My memory is that the minimum sentence would be 15 years.

8 If your Honor --

9 THE COURT: You answered my first
10 question, was the word total used.

11 THE WITNESS: The word total was not
12 used.

13 THE COURT: My second question is was
14 there any discussion saying you're going to be out in 15
15 years?

16 THE WITNESS: No.

17 So that was never -- that was never discussed. Or at
18 least I don't remember that. I just remember that the
19 minimum sentence would be 15. What the top end that the
20 court imposed was at the discretion of the court. But
21 there was never any discussion that Mr. Slaughter would be
22 out in 15 years.

23 THE COURT: All right.

24 THE DEFENDANT: Can I respond?

25 THE COURT: Yes.

1 THE DEFENDANT: With a question?

2 THE COURT: Yes.

3 FURTHER REDIRECT EXAMINATION

4 BY THE DEFENDANT:

5 Q. You actually weren't present for the actual
6 negotiation. You were present during the signing; is that
7 correct? The signing of the plea agreement.

8 A. I was present during the signing of the plea
9 agreement, because you were sitting next to me as you
10 were -- I was sitting next to you as you were reading
11 it.

12 I remember when the offer was first presented to
13 you because, once again, I think we were sitting at
14 counsel table when Ms. Krisko walked by and made the offer
15 of 15 on the bottom. And I don't remember the other part
16 of the discussion that was had, but I do remember the
17 offer being conveyed while we were sitting at counsel
18 table. And I remember you turned to me and you asked me
19 questions about that offer.

20 THE DEFENDANT: Your Honor, there is some
21 evidence that needs to be proffered that I don't have.
22 It's the court minutes of that hearing, which actually
23 show -- we actually had litigation about this in the past,
24 concerning modification of the record. The court minutes
25 show that he wasn't present for the entire hearing.

1 THE COURT: Which hearing are you talking
2 about? The plea hearing?

3 THE DEFENDANT: The plea hearing. I
4 believe April 4th, at the bottom.

5 THE COURT: For the record, the court
6 minutes of April 4, 2005 reflect that Mr. Wommer was not
7 present when we initially began to get ready for trial.

8 The prospective jury panel was not present either.

9 Mr. Slaughter was making certain motions about
10 investigator photo lineups, request to continue, things of
11 that nature. I denied the request for continuance.

12 Then it reflects that Mr. Wommer is now present. The
13 matter recessed for parties to discuss negotiation.

14 Matter recalled. The same parties present. Then the
15 plea takes place.

16 THE DEFENDANT: You said, matter reset for
17 discussion of negotiation.

18 THE COURT: After I denied the motion to
19 continue, the minutes reflect that Mr. Wommer was then
20 present, and we took a recess for the parties to discuss
21 negotiations.

22 THE DEFENDANT: Do those minutes reflect
23 there was another recess before the negotiations were
24 resolved?

25 THE COURT: The minutes do not reflect

1 another recess before the negotiations were ultimately
2 entered into.

3 MR. DIGIACOMO: The transcript didn't
4 either.

5 THE DEFENDANT: Well, the transcript -- if
6 I may. It notes two recesses. One on page 21 and one on
7 page 23.

8 THE COURT: Let me grab the transcript.

9 MR. DIGIACOMO: But that's not
10 negotiations. Apparently you left to go to the restroom,
11 Mr. Slaughter.

12 THE DEFENDANT: It's my position there was
13 a negotiation that took place at both of these recesses.

14 MR. DIGIACOMO: Really? Because the
15 transcript says, quote, "The officers address -- together
16 the other officer is going to say, I'm not doing it.

17 Then at the recess when you walk back in the door it
18 says, after you stepped Outside we were talking about the
19 jury selection process. Okay. So it's clear we remained
20 in the courtroom.

21 On page 21, Judge.

22 THE COURT: Which -- I know the recess
23 referred to on page 23 is when we recessed for
24 negotiations to be discussed. Then when we came back on
25 calendar there were no other recesses.

1 The plea bargain went through. Thereafter, you pled
2 guilty.

3 THE DEFENDANT: We was talking about the
4 recess on page 21. It's just my -- for the record, it's
5 just my position that negotiations took place then when I
6 came back and that, in fact, Ms. Krisko states on 23, "I
7 think we might want to take a minute or two." It sounds
8 like we want to discuss negotiations again, which I
9 believe supports that.

10 I believe that can be brought out in testimony. I
11 just wanted to know what was on the minutes.

12 THE COURT: Anything further for Mr.
13 Wommer?

14 BY THE DEFENDANT:

15 Q. Your recollection is that you believe you
16 were there during the negotiations?

17 A. Initially, yes. When the offer was
18 proposed, I was seated next to you.

19 Q. One more time. You say your recollection of
20 that would be -- when you say the minimum would be 15, do
21 you understand that as -- how do you understand that?
22 What do you mean? Explain that for me, if possible?

23 A. My understanding that the absolute minimum
24 sentence that you would have received would have been --
25 no matter how the sentences were run, the minimum sentence

1 you would have received would have been 15 years.

2 Q. At the bottom?

3 A. Yes. What sentence was at the top end was
4 left to the discretion of the court.

5 Q. Okay. And that was concerning the entire
6 plea agreement, all the charges?

7 A. Yes.

8 THE DEFENDANT: Thank you. Nothing
9 further.

10 THE COURT: Anything further,
11 Mr. DiGiacomo?

12 MR. DIGIACOMO: No, Judge.

13 THE WITNESS: May I be excused.

14 THE COURT: You may be excused. Thank you
15 very much.

16 Mr. Slaughter, you can call your next witness.

17 THE DEFENDANT: I would like to call
18 Ms. Krisko.

19 THE CLERK: You do solemnly swear the
20 testimony you are about to give in this action shall be
21 the truth, the whole truth, and nothing but the truth so
22 help you God.

23 THE WITNESS: I do.

24 THE CLERK: Be seated. State and spell
25 your name for the record.

1 THE WITNESS: Susan Krisko, K-R-I-S-K O.

2 THE COURT: Mr. Slaughter.

3 DIRECT EXAMINATION

4 BY THE DEFENDANT:

5 Q. Ms. Krisko, you were the prosecutor in this
6 case?

7 A. Correct.

8 Q. Did you remember -- prior to the day of the
9 negotiations, do you remember if there were a few
10 negotiation offers -- a few plea offers?

11 A. Actually, I don't. I do not remember being
12 involved in negotiations prior to the start of the trial.
13 I remember that we were prepared to go to trial once
14 before. We were sent to Judge Cory's courtroom. You
15 asked for a continuance that we objected to. We were told
16 to leave the room and you did a Ferreta canvass. At that
17 time you had an attorney.

18 So I know we were previously ready for trial. Then
19 we were ready for trial the second time, the day that you
20 pled.

21 Q. So you are saying, no, you don't remember if
22 any offers were made before -- prior to the day we took
23 the --

24 A. I don't. I don't remember.

25 Q. The day of negotiations, do you remember

1 that day?

2 A. I remember the day before your sentencing
3 much better. I vaguely remember the day of -- the day you
4 entered your plea.

5 Q. Do you remember how many times negotiations
6 were discussed -- possible negotiations that day, or
7 whether it was more than once?

8 A. Actually I don't. Simply because I know
9 discussions were discussed in my office between my
10 co-counsel and myself much more so than I ever discussed
11 them with you.

12 Q. Well, I'm saying did we discuss negotiations
13 that day, off the record, more than once, or do you
14 remember how many times, if possible?

15 A. I thought there was only once. I know I had
16 to go upstairs and get paperwork. And I wouldn't have
17 done that had there not been an agreement.

18 THE DEFENDANT: Your Honor, may I.

19 THE COURT: Yes. Show it to
20 Mr. DiGiacomo, whatever the exhibit is.

21 BY THE DEFENDANT:

22 Q. What you have there is a transcript of the
23 plea canvass from April 4, 2005 in this case?

24 A. Yes.

25 Q. I believe on page 23, line 7 through 9, can

1 you read that?

2 A. Yes.

3 Q. Out loud.

4 A. I think we might want to take a minute or
5 two. It sounds like we want to discuss negotiations
6 again.

7 Q. Okay. Again, right?

8 A. That's right. I used that word.

9 Q. Does that -- does it invoke any memory of it
10 any better -- make it clearer at all?

11 A. It does not refresh my recollection.
12 However, it wouldn't be unusual for there to be need for
13 clarification, if you had a question or something and
14 wanted to talk about it.

15 Q. You said clarification, if I wanted to talk
16 about --

17 A. Often times -- I've handled a few pro per
18 cases, and when I've talked about negotiations, sometimes
19 there needs to be clarification. Somebody doesn't
20 understand something about the negotiations.

21 Q. Right. Okay. That would be like clarifying
22 what maybe the negotiations entailed?

23 A. Correct. And if there was a difference, we
24 would have done different paperwork.

25 Q. May I ask you, do you remember the

1 negotiations in this case?

2 A. Yes.

3 Q. May I ask what's your -- what did it
4 contemplate to you?

5 A. The contemplation was you were going to
6 plead to a number of felonies. Those felonies would be
7 run concurrent to the kidnapping, I believe, with use of a
8 deadly weapon, which would have been 15 to life, or 15 to
9 40.

10 THE COURT: Substantial bodily harm.

11 THE WITNESS: With substantial bodily
12 harm. Sorry.

13 THE DEFENDANT: For the record, we can
14 take -- I'm assuming the court can take judicial notice of
15 that transcript -- page 23 lines 7 through 9.

16 THE COURT: I'll take judicial notice of
17 what Ms. Krisko read out loud. It was on page 23 of the
18 April 4, 2005 transcript.

19 THE DEFENDANT: Also, just for future
20 reference, a lot of these exhibits I believe the court
21 will probably take judicial notice of.

22 THE COURT: Any transcripts are part of
23 the court record. As are the pleadings that are on file
24 in the case.

25 THE DEFENDANT: Okay.

1 BY THE DEFENDANT:

2 Q. You said -- I apologize. You said your
3 memory of the negotiations was I would plead to several
4 felonies and what was it?

5 A. Plead to several felonies -- the spirit of
6 the negotiations were that you would received a 15 to life
7 sentence. You would receive sentences on the robbery with
8 uses. I believe those were the other charges you pled to.
9 And that those would be running concurrent.

10 Q. Would it be fair to say that negotiations --
11 or the spirit, as you termed it, entailed that I would be
12 eligible for release within 15 years?

13 A. Eligible for parole within 15 years. I know
14 that I never would have given the suggestion that you
15 would have absolutely been out in 15 years. I have no
16 control over the parole board.

17 Q. No. I'm not saying released guaranteed.
18 But eligible for parole release?

19 A. Eligible to go before the parole board,
20 yes.

21 THE DEFENDANT: I'd like you to take a
22 look at this.

23 THE COURT: Okay. The transcript?

24 THE DEFENDANT: No. This is actually an
25 opposition from Ms. Krisko, dated -- it was filed April

1 18, 2008. Opposition to petitioner's motion to withdraw
2 guilty plea.

3 THE COURT: All right.

4 THE DEFENDANT: It would be page 9.

5 THE COURT: Go ahead.

6 THE DEFENDANT: I apologize.

7 THE COURT: She has a copy.

8 BY THE DEFENDANT:

9 Q. On page 9 --

10 A. Line 14?

11 Q. Lines -- yeah, that would be 13 through 14.

12 Well, actually, first, this was authored by you, right?

13 You wrote this?

14 A. I have to say it was authored by an intern.

15 And I did review it and sign it.

16 Q. It was authored by an intern?

17 A. Yes.

18 Q. It concerns a lot of factual matter. Can
19 you explain to me how that works?

20 A. Sure. I reviewed it. If there's something
21 I needed to add, I discussed it with the intern. Then he
22 authored it. And I went through it and signed it.

23 Q. So would it be fairly characterized as you
24 being the author of the motion? You review it and make
25 sure everything is correct, what you want to say, right?

1 A. Yes.

2 Q. Before sending it out and -- actually you
3 sign at the bottom, right, on page 9?

4 A. Yes.

5 Q. Now, at page -- that same page, lines 13
6 through 14, can you read that for me?

7 A. Sure. The Defendant's sentence was to be
8 that he would be eligible for probation, if -- and that is
9 italicized -- if he was granted parole at 15 years.

10 Q. Eligible for release?

11 A. If you were granted parole.

12 Q. Right. Right.

13 So, I mean -- you know, you made a statement a few
14 lines back where you said that it would just be that I
15 would be eligible for parole, not released. So would that
16 invoke the contemplation that the total -- the
17 negotiations for the total of the minimum would be 15
18 years, right? Is that fair to say?

19 A. I don't think it's fair to say. I don't
20 think that we necessarily disagree. My understanding was
21 that at 15 years, you would be eligible for parole. That
22 was always our understanding. That was the spirit of the
23 negotiations. I don't disagree with that at all.

24 Q. Thank you. That would be regardless -- not
25 withstanding the other sentences, all of that, eligible

1 for parole is at 15, right?

2 A. Yes.

3 Q. Few more questions.

4 A. I'm sorry. Can I add that's provided that
5 the judge went along with that. Because we also told you
6 that we had no way of making sure he would do that.

7 Q. Right. Right. The initial petition filed
8 in this matter, did you -- do you remember filing an
9 opposition to that?

10 A. I don't think that I did that one. I
11 believe that was Mr DiGiacomo who did that one.

12 Q. All right.

13 THE DEFENDANT: Judge?

14 THE COURT: Which one do we have now?

15 THE DEFENDANT: This is State's opposition
16 filed November 17, 2006.

17 THE COURT: You can approach.

18 MR. DIGIACOMO: Can I see that first,
19 Judge. I don't have a copy of it here.

20 THE DEFENDANT: For the record, your
21 Honor, all of these are being noticed, right?

22 THE COURT: They're all part of the file.
23 Anything we use is part of the file.

24 THE DEFENDANT: All right.

25 BY THE DEFENDANT:

1 Q. You have the opposition filed in response to
2 the initial petition filed in this case back in 2006,
3 right?

4 A. My name is on it. I can tell you just
5 looking at this that I didn't do this. This would have
6 been, I believe, our appellant division. It is not
7 uncommon for them to put the attorney's name on that. I
8 don't even think that I ever saw this.

9 Q. Is that right.

10 THE DEFENDANT: Is it possible to see the
11 file to see if there's a signature on that? My copy
12 doesn't have a signature.

13 THE COURT: Mr. Slaughter, your file is so
14 big that there are multiple volumes of it. All I have
15 with me today is what I needed to decide and be prepared
16 for this hearing.

17 THE WITNESS: I can tell you that it's
18 electronically signed. It wasn't even a signature of
19 mine.

20 THE DEFENDANT: But your name is at the
21 bottom of this document?

22 THE WITNESS: My name is at the bottom,
23 yes. Absolutely.

24 BY THE DEFENDANT:

25 Q. So is your testimony that you didn't have

1 anything to do with this opposition?

2 A. No. But that's not uncommon on appellate
3 issues.

4 Q. This would have been a post-conviction
5 matter, same as now. It wasn't at the Supreme Court.
6 This was in this court.

7 A. Right. But then you filed -- okay. I did
8 not see that. It's not uncommon for these to go to our
9 appellate division.

10 Q. May I ask you a question. How -- all right.
11 If you didn't see this, would anybody else in the office
12 that may have seen this -- although there's no signature
13 on here -- or nobody's name -- there's quite a bit of
14 factual statements in here?

15 They would have gotten it, I'm assuming, from the
16 transcript?

17 Q. Well, actually -- if I may?

18 THE COURT: Yes.

19 THE DEFENDANT: I apologize. I don't have
20 extra copies.

21 Footnote 3, number 10, it's concerning a factual
22 matter that isn't discussed in the transcript concerning
23 one of the victim's -- a dispute I had with an alleged
24 victim in the case that had lost their eye.

25 THE WITNESS: Okay.

1 BY THE DEFENDANT:

2 Q. How would they get that information?

3 A. Because our appellate division will talk to
4 us about causes, but they're filing oppositions.

5 Q. So is it possible you consulted with them
6 concerning this?

7 A. Right. I said I did not write this. They
8 very well may have talked to myself. They may have talked
9 to Mr. DiGiacomo. Both of us have been on the case since
10 the trial stage.

11 Q. They wouldn't have allowed you to review
12 it?

13 A. It's not a matter of them not allowing us to
14 review it. It's more to do with just being able to get to
15 it in a timely manner.

16 Q. There is a statement in here I would like to
17 read. I would like to ask you a question in response to
18 that.

19 Page 4, it says, specifically Defendant alleges
20 that the prosecutor misrepresented the law when she
21 assured him that he would have the opportunity to be
22 released from prison in 15 years.

23 It says -- it further goes on to say, contrary to
24 Defendant's allegation, the record clearly indicates that
25 his sentence does allow him the opportunity to be released

1 in 15 years?

2 It then goes on -- never disputes that allegation.
3 And that wouldn't be disputed by you, right? Correct?

4 A. I can't tell you that I know how to answer
5 that. You're saying that you wanted to be released in 15
6 years.

7 Q. The opportunity.

8 A. The opportunity.

9 Q. Which would be eligible for possible
10 release.

11 A. That's my understanding. You would be
12 eligible for possible release.

13 Q. Okay. Going on to -- I'm just having
14 trouble understanding how he wrote this in your name. I
15 apologize.

16 At the sentencing hearing -- you were present at
17 sentencing, right?

18 A. I was.

19 Q. Do you remember -- you said, I believe, in
20 your earlier testimony, you said you remember that better
21 than you remember the day of the plea negotiations,
22 right?

23 A. I do, yeah.

24 Q. Do you remember there was a conversation
25 took place between you, me, and I believe Mr. Wommer was

1 also present?

2 A. That's correct. It was in the other
3 courtroom. In the other court building. We were not in
4 this courtroom. It was out in the corridor that leads
5 into the courtroom. There was a correction's officer that
6 was also there.

7 Q. Right. I couldn't find that correction's
8 officer. But there -- at that discussion, what -- do you
9 remember we discussed concerns, you know, concerning the
10 hearing that was coming on, whether it be -- just issues
11 we discussed -- preliminary issues before the hearing?

12 A. The issues I remember you bringing up were
13 you were in fear that the judge in this case would not
14 follow the recommendation by the State. I believe that's
15 even addressed in the transcript. Because my feelings was
16 that I was not going to go back and have a new guilty plea
17 done up to change the language.

18 You wanted it to say, stipulated. And I said, are
19 not opposing it. I'm not sure with phraseology it was.
20 But that was the concern that I remember you having the
21 most.

22 Q. Do you remember any addition concerns that
23 were presented at that discussion?

24 A. I don't. I remember your biggest concern
25 was that Judge Herndon would not follow what we were

1 trying to accomplish.

2 Q. Did I ask you -- but you -- is it fair to
3 say, do you really remember what my basis was for
4 believing he might not go that way?

5 A. No. I'm saying I remember it better than
6 the other day. I'm not saying I remember verbatim what
7 was going on. I remember the major concern that you
8 had. And just from reviewing the transcript, you also
9 filed a couple other motions. And your concern was just
10 that he made run things consecutively.

11 Q. Outside of that transcript, referring to
12 discussions Outside.

13 A. Outside the transcript I absolutely remember
14 you being concerned about the wording we used, because you
15 thought Judge Herndon might run things consecutively.

16 Q. And you said -- okay. Let me ask you this.
17 Can I, your Honor?

18 THE COURT: Yes.

19 BY THE DEFENDANT:

20 Q. You have the sentencing transcript dated, I
21 believe, August 8, 2005. The day I was sentenced in this
22 case.

23 Now, the page -- the particular page you're looking
24 at, towards the bottom -- I believe it starts line 20,
25 begin to address a few issues, correct?

1 A. I did. And actually -- is that what you're
2 talking about?

3 Q. Yeah. Can you read that from lines 20 --
4 from page 4. I believe that's what you're on. The next
5 page to line 9.

6 A. I did. And what actually happened is just
7 to maybe forestall some of the other arguments that
8 Mr. Slaughter had out in the hallway, we made the
9 agreement that we would argue for 15 to life. I did not
10 tell him that I would agree to have my secretary go
11 through the pain of writing up a new guilty plea
12 agreement, but we will stipulate, we will agree, we will
13 not oppose whatever words he wants. That's fine.

14 In addition, I think his concern is that this court
15 is going to somehow fashion something that goes beyond the
16 contemplated negotiations.

17 Q. Right there. You said -- can I get that
18 back, your Honor?

19 THE WITNESS: Well, yes. But it does go
20 on to talk about we couldn't tie his hands to anything.

21 Q. If you're finishing the sentence, go ahead.
22 Okay.

23 Now you stated -- you addressed the issue, is it
24 fair to say, you addressed the issue concerning the
25 word?

1 A. Right.

2 Q. Then you state, in addition, I think his
3 concern is that this court is somehow going to fashion
4 something that goes beyond the contemplated negotiations.

5 Now, my question is the contemplated negotiations
6 was for the minimum of 15, right?

7 A. Right. And you were afraid he was going to
8 run things consecutively.

9 Q. Now, this "in addition," would that present
10 another concern that maybe was happening -- occurred in
11 that conversation?

12 A. I can't say that it would, just because I
13 would imagine you would have brought that up, if it had.

14 Q. Let me ask you this. Actually, I did get
15 that later.

16 On page 4, lines 21, you say -- the beginning was
17 the court asked you if you received the amended plea
18 agreement. You said, I did.

19 And you say, and what actually happened is -- then
20 you stop out away -- just to maybe forestall some of the
21 other arguments -- plural -- do you think you would have
22 used that to reference something else that happened to be
23 discussed Outside?

24 A. Mr. Slaughter, when I used that, we had
25 talked for quite a number of minutes out in the hallway.

1 I remember that. I remember we talked about your major
2 concerns. And I assume that those were the two concerns
3 that I was talking about. The fact that we want -- you
4 wanted the wording changed. And that the judge was not
5 going to follow the concurrent time.

6 Q. Would you know why -- what my basis was that
7 I might have conveyed to you concerning why I felt that if
8 you said somehow fashion, which means, like, it was kind
9 of a complex issue maybe that started, why the negotiation
10 wouldn't be consummated?

11 A. I remember you had a very determined way of
12 doing the negotiations, because we wanted to stipulate to
13 a sentence and you wanted the right to argue. Because you
14 wanted to be able to argue for 40. And we wanted to be
15 able to argue for life. So I do remember at the
16 negotiations you went with, right to argue versus
17 stipulated.

18 Q. To your recollection do you ever remember me
19 presenting you with my intentions to withdraw a guilty
20 plea?

21 A. That I don't remember at all. I think I
22 would have remembered it. Because you actually had filed
23 two other motions right before that and none of them were
24 given to us. But you never filed a motion to withdraw at
25 the time of sentencing. I mean, that's in the transcript

1 also.

2 Q. You said none of them were given to you.
3 You say you got the motions in the transcript. It says, I
4 did.

5 A. I think it talked about -- I'm sorry. I
6 can't remember if I got them from you in court or I got
7 them beforehand. I never did an opposition to them that I
8 remember.

9 THE DEFENDANT: I would ask the court to
10 take judicial notice -- I don't have the motion here. It
11 was a motion filed. I believe it was stamped received
12 August 4, 2005. I believe it ended up getting filed four
13 days later on August 8, 2005.

14 THE COURT: All right.

15 MR. DIGIACOMO: What was the title of
16 that?

17 THE DEFENDANT: The title, motion to
18 withdraw guilty plea. I believe there was no decision on
19 it. It was vacated on August 23rd, the minutes reflect I
20 believe.

21 THE COURT: Hold on a second. What was
22 the date you are referring to again?

23 THE DEFENDANT: The date of the hearing
24 was August 23rd.

25 THE COURT: That I don't have.

1 THE DEFENDANT: It should have been filed.
2 It's not on the calendar at all?

3 THE COURT: It's not on the calendar at
4 all. I don't recall it ever being mentioned at
5 sentencing. It's not a part of the sentencing minutes.

6 THE DEFENDANT: Actually I have a calendar
7 printout from your clerk. That's about as close as I got.
8 They had a hearing scheduled August 23rd, 2005.

9 It says Defendant pro per motion to withdraw guilty
10 plea.

11 I don't have the actual motion, but I remember the
12 date. It's actually in all the pleadings, in my brief to
13 the Supreme Court too.

14 THE COURT: I don't have it. And I've
15 read the sentencing transcript again before we got started
16 today. And I have it here in court as well. I don't
17 remember anything being mentioned about a motion to
18 withdraw guilty plea.

19 THE DEFENDANT: I actually -- it wasn't
20 brought out while anyone testified.

21 THE COURT: That's what I'm trying to get
22 at. You're saying you filed a motion and nobody ever
23 decided it. Or you filed it and withdrew it.

24 THE DEFENDANT: I filed it. What I'm
25 saying is this was advanced in the briefing. I filed the

1 motion before sentencing, based on -- based on
2 misrepresentations. That's what it says in the motion.
3 And it was based on my concerns.

4 I didn't have the exact statutes, just hearsay from
5 other inmates where I was housed, that the sentences might
6 not run the way I was told, as far as the contemplated
7 negotiation, right. So I filed that motion to address
8 it.

9 What I advance happened is during our discussion that
10 I was just referencing to Ms. Krisko on examination, we
11 discussed -- I presented my intention to withdraw because
12 I believed that negotiations might have been
13 misapprehended. And I was told that that wasn't a basis I
14 could withdraw my plea on.

15 What happened is when I came in the court -- and it's
16 in the sentencing transcript -- I didn't want to look
17 stupid, you know. I had been told by Mr. Wommer and
18 Ms. Krisko -- I think she might dispute some of that -- I
19 had been told by them that it wasn't a basis to withdraw
20 my plea on. So I didn't want to look stupid. So what I
21 did, I asked the court concerning those weapon
22 enhancements. I believe that's at -- let me find the
23 sentencing transcript.

24 THE COURT: Let me cut to the chase here.
25 You didn't mention this motion at all at sentencing?

1 THE DEFENDANT: Correct.

2 THE COURT: All right. All right. That's
3 all I was trying to get at.

4 Go ahead and continue on with your questions of
5 Ms. Krisko.

6 BY THE DEFENDANT:

7 Q. Well, what I did was offer -- is it possible
8 to take notice of that motion. I know you said, I don't
9 have it?

10 THE COURT: I don't have it. I don't have
11 it filed. I don't have it in the court minutes. I don't
12 have it in the sentencing transcript. I can't take notice
13 of something I don't have any notice of.

14 THE DEFENDANT: I have a calendar printout
15 from the clerk.

16 THE COURT: I need to have it. You want
17 me to take notice of it, not that you're telling me that
18 there was something somewhere. Sometimes things get
19 mailed in and people withdraw it.

20 Just go ahead and continue on with your questions for
21 Ms. Krisko right now. Okay.

22 THE DEFENDANT: All right.

23 BY THE DEFENDANT:

24 Q. Most cases dealing with proper person
25 defendants, when they mail in a motion and it's filed it's

1 usually sent to the district attorney's office, isn't
2 it?

3 A. No, that's not correct. That actually
4 happened again with your brief here. You filed them with
5 the clerk's office. They don't have a duty to turn around
6 and send them to us. So I had to pull off your latest
7 brief. And that's also why I didn't have your reply and
8 it continued before, because if you don't send them to us,
9 we don't always get them.

10 Q. You never -- I guess it would be your
11 testimony you didn't receive that motion?

12 A. I don't remember seeing a motion from you on
13 a motion to withdraw.

14 Q. Did you ever review the initial petition
15 filed in this matter -- the petition I filed?

16 A. I don't believe so. I don't believe I did.
17 I know that your petition -- I believe your petition went
18 down to our appellate division. They responded.
19 Mr. DiGiacomo did the writ hearing. I only got involved
20 after the hearing got reset -- the evidentiary hearing got
21 discussed, then I got back involved.

22 Q. So --

23 A. I can tell you on that one with my
24 signature, I know it's also not mine because I do my own
25 motions. I don't have other people do them. So I would

1 have signed it.

2 Q. The one with your signature?

3 A. The one that has an electronic signature.

4 Q. You are saying that's not yours?

5 A. I didn't write it.

6 Q. I got it. I got what you're saying.

7 THE DEFENDANT: The initial petition,
8 there is an allegation that are advanced where I mention
9 that discussion -- that same discussion I was alluding
10 to. And I expressed that I did -- my intentions of -- I
11 expressed my intention to Ms. Krisko to withdraw the
12 plea.

13 I guess I just ask for judicial notice of that. And
14 also the fact that in the pleadings they didn't -- they
15 don't controvert that in the opposition where Ms. Krisko
16 told us she didn't author that.

17 MR. DIGIACOMO: I don't know if you can
18 take judicial notice of a conversation.

19 THE COURT: I'm not taking judicial
20 notice.

21 THE DEFENDANT: Not the conversation.
22 Just that it's in the initial petition and that they
23 didn't controvert it in their opposition. That's what I'm
24 asking. The pleading is on file.

25 THE COURT: All right. Just so the record

1 is clear. I will take judicial notice now, Mr. Slaughter,
2 that you filed a motion to withdraw guilty plea. That was
3 filed with the clerk's office at 2:38 in the afternoon of
4 August 8, 2005, which would have been eight hours --
5 excuse me -- about five hours after sentencing had already
6 taken place. And that the hearing date given was August
7 23, of '05. That would have been vacated, because you had
8 already been sentenced.

9 Part of my confusion was, since you never mentioned
10 at sentencing you had apparently sought to file this
11 motion, I had no knowledge of the motion since it hadn't
12 even been filed yet.

13 THE DEFENDANT: Do you take notice,
14 there's a received stamp on there -- a date received. The
15 date it was received. I'm just trying to establish the
16 time.

17 THE COURT: That's the handwritten, I
18 mailed it to the DA's office.

19 THE DEFENDANT: No. On the front. The
20 first page. It should be at the bottom left-hand corner,
21 says received August 4, 2005.

22 THE COURT: What I'm telling you is if you
23 want me to know about something and take action on it
24 you've got to tell me about it. There was nothing raised
25 at sentencing you'd ever filed a motion discussing your

1 withdrawing your plea.

2 Since the court didn't have it, there's no way I
3 could address anything at the time you were sentenced.
4 And you didn't raise anything.

5 THE DEFENDANT: Absolutely.

6 THE COURT: Let's keep going.

7 MR. DIGIACOMO: Uudge, and chance we can
8 get it printed, just so we know what the allegation was.

9 THE COURT: There's a copy.

10 MR. DIGIACOMO: Thank you, Judge.

11 THE COURT: I will tell you, for the
12 record, it's a very short motion that says, quote, "in the
13 instant case the Defendant wishes to withdraw his plea due
14 to misrepresentations made by the DA, Ms. Susan Krisko,
15 and Marc DiGiacomo, and Defendant's stand-by counsel Paul
16 Wommer that affected the voluntariness of the plea."

17 "Because of the numerous misconceptions and direct
18 consequences of the plea, the Defendant respectfully
19 requests the honorable court grant the Defendant the
20 assistance of counsel to review the record for all
21 improprieties."

22 That's the end of -- that's essentially it. That's
23 kind of repeated again in a section titled closing and/or
24 relief sought. There's nothing else that's gone into.

25 In conjunction with that, I will say there's a motion

1 to appoint counsel that I did take up at time of
2 sentencing. And I appointed Mr. Wommer to represent
3 Mr. Slaughter in his sentencing at his request.

4 THE DEFENDANT: Correct.

5 THE COURT: Anymore questions,
6 Mr. Slaughter?

7 THE DEFENDANT: That would be it for the
8 moment.

9 THE COURT: Mr. DiGiacomo.

10 CROSS-EXAMINATION

11 BY MR. DIGIACOMO:

12 Q. Ms. Krisko, at some point in time the guilty
13 plea agreement had to be reduced to writing; is that
14 correct?

15 A. That's correct.

16 Q. And Mr. Slaughter was a pro per defendant,
17 correct?

18 A. Correct.

19 Q. You went upstairs and had a guilty plea
20 agreement generated?

21 A. Yes.

22 Q. And that guilty plea agreement contained all
23 the terms and conditions of the agreement, correct?

24 A. Yes.

25 Q. At the time that this guilty plea agreement

1 was created was there any discussion of a statute that
2 talks about how sentences or viewed by the Nevada
3 Department of Corrections?

4 A. No.

5 Q. Was there any discussion of the structure of
6 the sentence in the sense that NRS 213 -- whatever it
7 is -- 2131, in anyway affects the sentencing structure?

8 A. No.

9 Q. Essentially what you agreed with
10 Mr. Slaughter was that he would receive a 15 to life for
11 the -- or 15 to 40 years for the first degree kidnapping
12 with substantial bodily harm?

13 A. Yes.

14 Q. And you would agree that he would receive a
15 sentence for all the other crimes that he was going to
16 plead to?

17 A. Yes.

18 Q. And all those crimes would be run
19 concurrent?

20 A. Yes.

21 Q. And that the sentencing was up to the
22 court?

23 A. Yes.

24 Q. Initially, that's in the plea agreement,
25 correct?

1 A. Yes.

2 Q. Then the day of sentencing itself,
3 Mr. Slaughter indicated to you that he was concerned the
4 judge would give more than 15 to life, correct?

5 A. Yes.

6 Q. And you said, look, I don't think he will.
7 I'm willing to agree to say that we stipulate that it's
8 going to be 15 to life?

9 A. Correct.

10 Q. And the judge followed that?

11 A. Or 15 to 40, because --

12 Q. He wanted to argue for that?

13 A. Yes.

14 Q. And you did that at sentencing too?

15 A. Yes.

16 Q. At any point in time do you feel you
17 misrepresented anything to Mr. Slaughter?

18 A. No. And, quite frankly, the fact that they
19 had to have AG opinion come down and even interpret that
20 statute, I had no belief that -- I had no knowledge about
21 the statute applying in this case.

22 Q. As far as you're concerned, did you fulfil
23 the terms and conditions of the plea agreement?

24 A. I did. And I've been trying to ever
25 since.

1 Q. And, in fact, when Mr. Slaughter raised the
2 issue, at least when it originally came up, he filed a
3 writ in this particular court and I'm the person that
4 handled it, not you, correct?

5 A. That's correct.

6 Q. And after that time period the Supreme Court
7 order came down asking for, basically, an opinion from the
8 attorney general ordering this evidentiary hearing?

9 A. Yes.

10 Q. And after that we learned from the attorney
11 general that they are taking the interpretation different
12 than necessarily you or I would take it, correct?

13 A. Absolutely. I'm not sure how they came up
14 with that.

15 Q. Interpretation.

16 A. Yes.

17 Q. In fact, you don't know what the judge's
18 interpretation of that particular statute is?

19 A. No.

20 Q. That is the position of the State of Nevada
21 that we're more than willing to allow Mr. Slaughter to
22 have 15 to life sentence, correct?

23 A. Absolutely. I have had a couple of
24 conversations with Mr. Slaughter where we agreed -- I
25 proposed that we would withdraw the deadly weapon

1 enhancement because the spirit of the negotiations has
2 always been that he would be eligible for the parole board
3 and release, if they agreed, at 15 years.

4 Q. And Mr. Slaughter indicated to you that he
5 doesn't care how it is we propose to fix it so he does 15
6 to life, he just wants out of his plea?

7 A. Yes.

8 Q. So it's not that he wants specific
9 performance of this agreement between us, he wants out of
10 his plea?

11 A. Yes.

12 Q. Let's talk about at the sentencing -- prior
13 to the sentencing, you were present for that conversation
14 with Mr. Slaughter?

15 A. Yes.

16 Q. And during that conversation you have no
17 recollection of him telling you that he wanted to withdraw
18 his guilty plea?

19 A. No. I remember him being very concerned
20 about the judge giving him a different plea, and my --

21 THE COURT: Different sentence.

22 THE WITNESS: Sorry. A different
23 sentence, but my complete unwillingness to go up and have
24 a new guilty plea.

25 I remember being very adamant that he was not going

1 to make us do a new guilty plea just to write the
2 different wording that he wanted.

3 BY MR. DIGIACOMO:

4 Q. You recall that the Defendant file a motion
5 for an amended guilty -- amended plea agreement?

6 A. I did recall that after reading the
7 sentencing transcript. He had two. He had that motion
8 and one to have counsel appointed.

9 MR. DIGIACOMO: Nothing further.

10 THE COURT: Mr. Slaughter, anything
11 further.

12 THE DEFENDANT: Um -- yeah. Yeah.

13 BY THE DEFENDANT:

14 Q. Just in reference to that, would you say you
15 are certain that there was nothing else brought up at that
16 conversation, or would you just say you don't remember?

17 A. Far as far as what I --

18 Q. At the sentencing hearing.

19 A. As far as what you're asking me, I do not
20 remember anything that had to do with how the prison was
21 going to commute your time. If that had been a
22 conversation we had, I'm sure that would have stuck out in
23 my mind.

24 Could there have been other things we discussed I
25 don't remember, yes.

1 Q. And those other things we possibly could
2 have discussed that you don't remember, could have
3 possibly been my intention to withdraw, correct?

4 A. I think that you talked about wanting to
5 withdraw if I wouldn't give you the wording you wanted.
6 Again, my complete memory of that instance was you had a
7 very strong opposition to the wording that we used, that
8 you had agreed to in the guilty plea. And you wanted that
9 changed. I was equally adamant that I didn't want to make
10 a secretary go about changing just the wording to make you
11 happy.

12 Q. That might be a peripheral matter, but it's
13 true you did change that wording, correct?

14 A. I was not willing to take up and make a
15 secretary retype an entire guilty plea, correct.

16 Q. But you basically, in response to my
17 question, I guess you're saying that you didn't -- you
18 don't remember if anything else was discussed. I'm
19 asking, can you certainly say for certain that nothing
20 else was discussed in that conversation based on your
21 memory?

22 A. I can say I certainly never discussed with
23 you how computation would be done at the prison, because I
24 had no knowledge of that. I can say I absolutely did not
25 have that conversation with you, because I mean I was

1 shocked when I saw the way that the computation was being
2 done.

3 Q. I was in reference to regard to withdrawing.

4 A. Well, I guess then what I mean with the
5 motion to withdraw, or, in fact, with that word, is you
6 may have used the word withdraw to talk about the fact
7 that you wanted the wording to be different.

8 I can't say that you didn't use that word. But
9 your whole concern, that I remember, was the wording, and
10 I thought we had gotten it to a point where you were fine
11 with it. I wasn't going to have new paperwork done. I
12 wrote what I wrote. And we went forward.

13 Q. Okay. One last thing. Considering your
14 statement where you say just to maybe forestall some of
15 the other argument, would you say that you're referencing
16 numerous arguments, plural arguments, more than one had
17 happened in the hallway?

18 A. You had two that I remember.

19 Q. Two.

20 A. Two. Making me have a new guilty plea done.
21 And having the judge run things differently. Those are
22 the two arguments.

23 Q. Having things run different?

24 A. Having the judge run things consecutively
25 versus concurrent. I do remember you being very worried

1 that you somehow would not get the benefit of what the
2 bargain was.

3 Q. And somehow that's like -- it kind of
4 canotates (sic) when you say probably something complex we
5 was talking about, something that, you know -- you say
6 somehow -- you also reference -- you say that in the
7 transcript also?

8 A. I'm sorry. I don't understand.

9 Q. What I mean is you say the court is somehow
10 going to fashion something that goes beyond the
11 contemplated negotiations. I think we got it.

12 A. Meaning consecutively.

13 THE DEFENDANT: Nothing further.

14 THE COURT: Mr. DiGiacomo.

15 MR. DIGIACOMO: No.

16 THE COURT: Ms. Krisko, you can step down.
17 Thank you very much.

18 Mr. Slaughter, you may call your next witness.

19 THE DEFENDANT: Call Mr. DiGiacomo.

20 May I ask a question. I don't know -- just for the
21 record -- if given what I stated earlier, the recusal
22 issue, if that's entirely appropriate with Mr. DiGiacomo
23 conducting examination and testifying. He has an adverse
24 position to this habeas proceeding.

25 THE COURT: Well, I mean, to begin with

1 it's too late to raise that issue, now that we're three
2 witnesses into the proceeding. But nonetheless, I'll
3 allow him to go forward. So, go ahead.

4 You can question -- raise your right hand, if you
5 would, please.

6 THE CLERK: You do solemnly swear the
7 testimony you are about to give in this action shall be
8 the truth, the whole truth, and nothing but the truth so
9 help you God.

10 THE WITNESS: I do.

11 THE CLERK: Be seated. State and spell
12 your name for the record.

13 THE WITNESS: Marc DiGiacomo,
14 D-I -- capital, G-I-A-C-O-M-O.

15 THE DEFENDANT: For the record, I object
16 to that.

17 DIRECT EXAMINATION

18 BY THE DEFENDANT:

19 Q. Mr. DiGiacomo, you were present in court the
20 day of the negotiations as well; is that correct?

21 A. Correct.

22 Q. Would you say you participated in the
23 negotiation process?

24 A. Sure. As a lawyer on the case, I assume I
25 did, yes.

1 Q. Do you remember Ms. Krisko stated on her
2 examination, would your recollection be similar to her?

3 A. I don't know in all regards. My
4 recollection is what's in that guilty plea agreement is
5 what the agreement is.

6 Q. Well, I'm asking you on memory, not the
7 document. With regard to the contemplation of the
8 negotiation, as far as the minimum being 15 years before
9 an eligibility of release, would you say that's a fair
10 statement?

11 A. I would say this to you Rickie. I would say
12 we made you an offer of negotiation. That offer of
13 negotiation, in my mind, when I read it, is 15 to life.
14 That's what you got. And there was no discussion of
15 computation at that time. No discussion of structuring of
16 sentences. Nothing like that.

17 We said we want you to plead to this. This
18 sentence, concurrent, take it or leave it. That's my
19 recollection of the conversation.

20 Q. That's your recollection?

21 A. I don't remember giving you legal advise or
22 talking about what the deal was. That was the deal. And
23 we told you you could take it or go to trial.

24 Q. So you don't remember any other negotiations
25 or clarifying negotiations or anything like that?

1 A. The only thing I recall was that your desire
2 was to argue for the 40 -- 15 to 40. Because initially we
3 made you the offer of 15 to life on the first degree
4 kidnapping. And you wanted it. And Ms. Krisko was
5 upstairs getting the guilty plea agreement, and I had to
6 call her and tell her, give him the right to argue over 15
7 to life versus 15 to 40. That's my only recollection of
8 any additional negotiation that happened.

9 Q. Okay. You said any additional negotiation
10 that happened?

11 A. Correct.

12 Q. As far as you know -- to your understanding
13 far as the negotiation process and in your practice, if a
14 negotiation is entertained, the process of negotiation, if
15 it's not accepted, then the hearing proceeds, correct?

16 A. Yeah, I guess so.

17 Q. Right. Right. Right. It wouldn't proceed
18 if the negotiation was accepted, right?

19 A. Correct.

20 Q. Do you remember -- do you have memory of --
21 I don't know if you remember it or not -- concerning the
22 point in that hearing on August 4th, when you did the plea
23 negotiation, where Ms. Krisko referenced we would like to
24 discuss negotiations again?

25 A. No. I mean I don't have anything

1 independent of what is in the transcript as it relates to
2 negotiations. I recall that you came to court in like
3 shorts and a T-shirt where your gang tats could be seen.
4 There was some discussion about that. You left the room
5 to change into pants we brought down to VWACK (ph). And
6 you came back in and at some point we had negotiations. I
7 don't recall what prompted them, or if there had been
8 conversations over the years of this case about
9 negotiations before.

10 Q. No. Would you say you are involved -- would
11 you agree that the contemplation in the negotiation was
12 for the minimum overall to be 15 years minimum?

13 A. When you say the contemplation, what I'm
14 telling you is this is what the deal was. We told you
15 these are the crimes. These -- this is the sentence.
16 We'll run these things concurrent. We'll give you a
17 written guilty plea agreement. You can take it. You can
18 leave it.

19 Ms. Krisko and I both think that that agreement
20 means you are eligible for a parole hearing in 15 years.
21 But we didn't have a discussion about the structuring of
22 the sentences or anything. We made you the offer. You
23 can take it, or you can leave it. You chose to take it.

24 Q. So you say when -- that you both believe the
25 minimum would be 15, right? That's what you just said?

1 A. I disagree with the attorney general's
2 opinion as to that statute.

3 Q. I'm just asking. You said you both thought
4 the minimum would be 15. That be something that would
5 possibly be conveyed during the plea negotiations?

6 A. What do you mean?

7 Q. Would that be conveyed to a person the
8 negotiation is being offered to?

9 A. It's in writing.

10 Q. Right.

11 A. It's a guilty plea agreement.

12 Q. All right. Yeah. In fact, you -- excuse me
13 for a second. You explained the negotiations to the
14 court, do you remember that?

15 A. I read it this morning.

16 Q. I mean, you explained it at the plea
17 negotiation?

18 A. I don't have an independent recollection.
19 It seems like something I would have said.

20 Q. You don't have an independent recollection.
21 So you just only recollect what's in the transcript?

22 A. As to what I explained to the court, yeah.

23 Q. As the negotiations pretty much you only
24 recollect what's on the plea agreement as you said earlier
25 and the transcript?

1 A. I do not recollect having conversations with
2 you. Mr. Wommer was here. Your investigator was here. I
3 remember there being an offer being made to you, and then
4 you saying I want the right to argue for 40 years. Me
5 calling Ms. Krisko and saying it doesn't matter, we'll
6 give him the right to argue for 40 years instead of a life
7 sentence.

8 The guilty plea agreement was done. I don't
9 remember having a long discussion with you about the
10 consequences of your plea at all.

11 Q. So you say you called Ms. Krisko -- you
12 called her and told her?

13 A. To change the plea agreement after --
14 because you wanted the 40 years instead of life.

15 Q. This would be after the plea negotiations
16 was resolved?

17 A. Well, at some point.

18 Q. When do you recollect that this took
19 place?

20 A. It had to be on the break, because
21 Ms. Krisko was in the room with me when we put the
22 negotiations on the record.

23 Q. It had to be on a break?

24 A. I don't see it in the transcript. I
25 wouldn't have made a phone call on the record.

1 THE DEFENDANT: Can I?

2 THE COURT: Yes.

3 MS. KRISKO: Can you tell me what you're
4 referencing, please.

5 THE DEFENDANT: Sorry. It's the plea
6 canvass transcript at page 25, lines 4 through 7.

7 BY THE DEFENDANT:

8 Q. On that page -- you have the plea transcript
9 in front of you, correct?

10 A. Correct.

11 Q. Lines 4 through 7 -- well, actually you can
12 read it. You can read from the back.

13 You have the transcript?

14 MS. KRISKO: Yes.

15 THE WITNESS: Read from where the court
16 asked what the negotiations are?

17 BY THE DEFENDANT:

18 Q. Yes. Is that where the court starts. Line
19 14, page 24.

20 A. THE COURT: "Why don't you tell me, please,
21 Mr. DiGiacomo, what the negotiations are."

22 MR. DIGIACOMO: "Yes, Judge."

23 "The Defendant will enter a plea to -- let's make
24 sure we read all of these off."

25 "Count (1), attempt murder with use of a deadly

1 weapon."

2 "Count (2), robbery with use of a deadly weapon."

3 "Count (3), first degree kidnapping."

4 "Count (4), first degree kidnapping with use of a
5 deadly weapon."

6 "The State agrees to retain the right to argue for
7 15 years to life sentencing as to Count (3), but
8 stipulates that life without the possibility of parole is
9 not an available sentence for the court."

10 "The State will not oppose concurrent time between
11 counts, and the Defendant has agreed to retain the right
12 to argue for 15 to 40 years, as to sentencing on Count
13 (3)."

14 "The sentencing, Judge, the negotiation is either
15 15 to life, or 15 to 40, depending on the court's decision
16 at sentencing. The sentencing is to be before this court,
17 is my understanding, Judge."

18 Q. Good. You say at line 4, you say
19 essentially, Judge, the negotiation is either 15 to life
20 or 15 to 40?

21 A. Correct.

22 Q. And are you saying essentially the
23 negotiations, as a whole, is 15 to life or 15 to 40?

24 A. I'm saying your sentence is 15 to life. My
25 interpretation, you got the sentence you bargained for.

1 Q. Would that be regardless of the entire
2 agreement, right?

3 A. Yes.

4 Q. 15 at the bottom?

5 A. Yes.

6 Q. No other sentences starting afterwards?

7 A. You are asking me do I agree with the
8 interpretation of the attorney general, no.

9 Q. That's not what I'm asking you.

10 A. We're arguing apples and oranges.

11 Q. I'm not asking you that.

12 A. You got a sentence of 15 to life, everything
13 else was run concurrent.

14 Q. Can I ask you the question?

15 A. Sure.

16 Q. What I'm asking is it a fair statement that
17 the deal we entered into was for me to get a minimum of 15
18 with no sentences starting afterwards? And you agree with
19 that contemplation of the negotiation as Ms. Krisko
20 stated.

21 A. As Ms Krisko said that was the spirit. I
22 don't think -- we didn't have that discussion at all.

23 Q. So --

24 A. You didn't say is there any sentence going
25 to be running after that 15 years on the bottom. We

1 didn't have that conversation. The question you're asking
2 me is, did you get a 15 to life with everything else
3 concurrent based upon the structure in the plea agreement,
4 the answer is, yes. We don't disagree with that statement
5 Rickie.

6 We didn't provide you any legal advise about the
7 way the sentences are going to be structured. I don't
8 know that we necessarily agree with the way the AG claims
9 the sentence should be structured.

10 Q. You are saying you don't think -- you are
11 saying essentially -- would it be fair to say during the
12 negotiations, when you offered this negotiation, I was
13 informed that this deal would allow me to serve a minimum
14 of 15. That's what the deal was.

15 A. I don't know that you were informed. That's
16 the way I read the guilty plea agreement.

17 Q. You have no independent recollection Outside
18 of that, as far as --

19 A. No.

20 Q. -- the minimum.

21 THE DEFENDANT: I don't have anymore
22 questions.

23 THE COURT: Anything Ms. Krisko.

24 CROSS-EXAMINATION

25 BY MS. KRISKO:

1 Q. You have stated quite a few times the guilty
2 plea agreement is as you believe the negotiations was,
3 correct?

4 A. Correct.

5 Q. Did you have discuss with Mr. Slaughter his
6 computation of good-time credit?

7 A. No.

8 Q. Did you ever tell him he would get so many
9 days off for doing things that he was supposed do in
10 prison?

11 A. No. It's not something I normally
12 discuss.

13 Q. Did you ever discuss with him how a parole
14 board would go and whether or not he would get paroled the
15 first time?

16 A. No.

17 Q. Did you or anyone, to your knowledge,
18 discuss anything about the way the sentence would be
19 handled from the timekeeper in this case being the
20 prison?

21 A. No.

22 Q. Was that -- is that something you ever
23 typically discuss in negotiations?

24 A. I can't recall ever doing that.

25 Q. I believe you already stated it, but, the

1 attorney general came down with the decision, and up until
2 that time period, was it your understanding concurrent
3 meant concurrent?

4 A. I still think concurrent means concurrent.

5 Q. So when you gave this negotiation, along
6 with myself, it was your understanding that concurrent
7 would be everything going together?

8 A. Correct.

9 MS. KRISKO: Nothing further.

10 THE COURT: Mr. Slaughter.

11 REDIRECT EXAMINATION

12 BY THE DEFENDANT:

13 Q. You represented the State on the first
14 initial opposition before the Supreme Court ruled in the
15 case, right?

16 A. At the first hearing, yes.

17 THE DEFENDANT: Can I, your Honor?

18 THE COURT: Yes.

19 BY THE DEFENDANT:

20 Q. That transcript you have, is that of the
21 prior writ of habeas corpus?

22 A. It appears to be.

23 Q. I mean, it's filed stamped, right? It reads
24 writ of habeas corpus transcript.

25 A. Yes. It appears to be.

1 Q. Page 6 -- if you turn to page 6. Can you go
2 to lines 24 through 25 -- on page 6, 24 through 25 -- page
3 7, 1 through 6.

4 A. This is you speaking.

5 Q. Yes, sir.

6 A. "I think this indicates the intention of the
7 negotiation and supports my allegation that I was told the
8 deal would give me an opportunity to be released in 15
9 years."

10 Q. And 3 through 4.

11 A. "THE COURT: I absolutely agree with you.
12 But there is no dispute as to that."

13 "Answer: Right."

14 I don't think anybody disputes that.

15 Q. Well, just on your testimony you said that I
16 was never informed that I would be able to serve a minimum
17 of 15. You never objected to any of this at the hearing,
18 did you?

19 A. I still don't object to it.

20 Q. Right. So what I'm asking is do you object
21 that I was told that this deal would give me an
22 opportunity in 15 years?

23 THE COURT: This has been asked and
24 answered. Let's go ahead and move on.

25 BY THE DEFENDANT:

1 Q. Well, did you object at this hearing to that
2 statement that I made right there?

3 A. No. I don't know who you're talking about
4 told you, but certainly that wasn't a discussion I had
5 with you. But I don't think the court disagrees with your
6 position in that. I don't disagree with the court.

7 Q. All right. And the court kind of goes on on
8 page 7 saying you understood that it was an opportunity
9 that you could be paroled at 15 years and have no other
10 sentences start.

11 And I kind of went on through this hearing for
12 awhile, but I state quite a few times that I was told by
13 the State that I would have the opportunity to get out in
14 15 years, pursuant to this deal. And you never objected
15 to any of this, correct?

16 A. I don't see an objection here. I don't know
17 that it was relevant at that point.

18 Q. I mean, when it came to your time to
19 argument, you didn't object to any of those things,
20 right?

21 A. It wasn't relevant. You, me, the court,
22 everybody thought you were eligible for parole at 15
23 years.

24 Q. Did you object to the statement when I said
25 that I was informed by the State at the negotiations that

1 this deal would give me an opportunity to get out in 15
2 years. You never objected to that, did you?

3 A. No.

4 Q. Huh?

5 A. No.

6 Q. All right.

7 THE DEFENDANT: That's it.

8 MS. KRISKO: Briefly.

9 FURTHER CROSS-EXAMINATION

10 BY MS. KRISKO:

11 Q. Was it your understanding that Mr. Slaughter
12 was representing himself?

13 A. Correct.

14 Q. Pro per?

15 A. Correct.

16 Q. He had ever available -- strike that. When
17 he represents himself pro per, have you ever talked to a
18 pro per defendant before?

19 A. Yes.

20 Q. Is it your understanding that they are their
21 lawyer?

22 A. Correct.

23 THE DEFENDANT: I object.

24 THE COURT: Overruled.

25 BY MS. KRISKO:

1 Q. The onus is on them to know the law?

2 A. Correct.

3 Q. It's not your duty to provide legal counsel
4 to them?

5 A. I don't.

6 Q. In this case, did you ever tell
7 Mr. Slaughter, I can tell you how the computation is going
8 the be done at the prison and it will be done this way so
9 you will be out?

10 A. No.

11 Q. Did you ever discuss that stature that the
12 Supreme Court is actually discussing in this particular
13 case with Mr. Slaughter?

14 A. No.

15 Q. To your understanding had anyone from your
16 office, including myself, do that?

17 A. No.

18 MS. KRISKO: Nothing further.

19 THE COURT: All right, Mr. DiGiacomo, you
20 can step down. Thank you.

21 Mr. Slaughter, do you have any further witnesses?

22 THE DEFENDANT: Yes. I would like to
23 place my own testimony. Also, your Honor --

24 THE COURT: We're going to need to take a
25 lunch recess before we continue on.

1 My main concern was to get Ms. Krisko on the stand
2 before she needs to leave town. We'll finish it up today,
3 but we'll have to take a break for about an hour. I've
4 got to give everybody a break.

5 Ms Krisko, as far as I'm concerned, you're done,
6 unless you want to stick around. Mr. DiGiacomo can
7 continue on.

8 We'll be in recess. We'll come back and start back
9 up again at 3:15.

10 (Lunch recess taken.)

11 THE COURT: Back on the record in State of
12 Nevada versus Rickie Slaughter, C-204957. Mr. Slaughter
13 is present, representing himself. Mr. DiGiacomo and
14 Ms. Krisko for the State.

15 As we left off, I believe, Mr. Slaughter, you
16 indicated you wanted to call yourself as a witness now.

17 THE DEFENDANT: Yes, sir. Can I just note
18 real briefly the objection again regarding the DA as
19 witnesses since they're representing the State.

20 THE COURT: Okay.

21 THE DEFENDANT: And the issue that I
22 wasn't able to present any testimony from you.

23 Also, before I testify, can I offer this affidavit of
24 a witness who was out of state who couldn't --

25 THE COURT: Have you seen a copy of it?

1 MR. DIGIACOMO: I haven't, Judge.

2 THE DEFENDANT: I have a copy.

3 MR. DIGIACOMO: Other than the three
4 layers of hearsay, the fact that it's also a prior
5 inconsistent statement of Mr. Slaughter, I don't know that
6 it's relevant to the proceedings at all.

7 THE COURT: I'll go ahead and allow it to
8 be marked as an exhibit. I'll look at it and decide if
9 any weight should be given to it. Mark that next in
10 order.

11 THE DEFENDANT: Your Honor, there was a
12 letter that goes with that. I apologize.

13 THE COURT: Okay.

14 THE DEFENDANT: The letter is attached to
15 the proceedings. This is the actual letter here. There
16 was copies attached to some of the pleadings.

17 THE COURT: You can approach the clerk.

18 That will be included with that last exhibit. All
19 right. Mr. Slaughter, you've got something else that you
20 wanted to mark?

21 THE DEFENDANT: No. Can I make a
22 statement in regard to that?

23 THE COURT: Yes. Yes. In regard to those
24 exhibits?

25 THE DEFENDANT: Yes.

1 THE COURT: Sure.

2 THE DEFENDANT: Those are offered. They
3 just convey my impression that I told my father that --
4 what I was assured what the deal would provide, what the
5 benefit of the bargain was.

6 He had inquired, that's why the letter is there. And
7 I, in fact, told him. And I think that's what the
8 affidavit establishes.

9 THE COURT: I'll go ahead and admit those
10 and take them into consideration along with everything
11 else.

12 THE DEFENDANT: Thank you.

13 THE COURT: As far as your testimony goes,
14 you don't have to come up here. Go ahead and raise your
15 hand, if you would, please.

16 THE CLERK: You do solemnly swear the
17 testimony you are about to give in this action shall be
18 the truth, the whole truth, and nothing but the truth, so
19 help you God.

20 THE DEFENDANT: I do.

21 THE CLERK: State and spell your name for
22 the record.

23 THE DEFENDANT: Rickie Slaughter,
24 S-L-A-U-G-H-T-E-R.

25 As far as to the form, you want me to just do a

1 narrative?

2 THE COURT: Yes. Obviously you don't have
3 anybody that can ask you questions. So you can just tell
4 me what it is you want to tell me, in terms of the issue
5 we are here to decide today.

6 THE DEFENDANT: As is, I believe,
7 consistent with I believe Ms. Krisko's testimony today,
8 the deal was to give me what was supposed to be a minimum
9 of 15. And I believe that that was conveyed to me.
10 That's what happened at the negotiation process. What I
11 remember. I remember this distinctly from Mr. DiGiacomo.
12 And it was when he offered the deal he said now is the
13 time to negotiate, if any. And he said the fact of the
14 matter is that we're all going home tonight. The question
15 is when are you going home.

16 He said you can go to trial. That's your right. But
17 we're looking for life without. Or you can take this deal
18 and have an opportunity to get out in 15 years. And I
19 remember distinctly that was what stuck in my mind with
20 regard to the deal. So we considered the deal. I
21 actually rejected it the first time.

22 I believe it was -- I don't know if it was after we
23 came back from the close, whatever it was coming after. I
24 believe the second recess though, as was in the transcript
25 Ms. Krisko stated, we might want to discuss negotiations

1 again.

2 What happened is that at that point we began to
3 clarify because I didn't understand how it would give me
4 an opportunity to get out in 15 years. Now, we didn't
5 discuss any specific statutes, or, you know, structure
6 like that per se. But we discussed that this deal -- I
7 was told that this deal would give me an opportunity to
8 get out in 15 years.

9 I inquired, how does that happen with all of this.
10 And that's basically what I was told. They broke it down
11 to me. You serve this. You serve this. And the 15 is
12 the largest sentence.

13 And anyways, aside from the plea negotiations, I
14 ended up taking the deal. I believe maybe once or so
15 during the canvass I actually stopped and conferred with
16 Mr. Wommer and Mr. DiGiacomo concerning -- you know, it
17 was still in my mind at that time so I asked him again
18 that's how it runs. That's consistent with what Mr.
19 Wommer said today as well. It's consistently advanced in
20 all of my pleadings.

21 But also, aside from the negotiation process, once we
22 got to sentencing -- before sentencing there were a few
23 different issues. One, the language of the plea
24 agreement. Two, issue concerning the way the sentence
25 would run. Now, I didn't know the statute at the time. I

1 wasn't that articulate to put it in the motion that way.
2 But I had this concern based on the stuff I was hearing
3 from inmates housed with me in prison. They said I don't
4 think your deal runs like that. I don't think you'll have
5 a minimum 15. I think you -- it's going to be separated
6 as it is now.

7 I didn't have any authority on it, but I had a
8 concern. It concerned me, so I filed the motion again. I
9 filed the motion to withdraw.

10 Now, before the hearing I was met by Ms. Krisko.
11 Mr. Wommer was there. A correctional officer, I haven't
12 been able to find. And at this discussion we discussed a
13 few things. Like Ms. Krisko said today, we were talking
14 for awhile. And one of the issues was, what was the
15 language of the agreement. The other issue was that I
16 didn't feel that the deal is not going to give me the
17 benefit I was told, a minimum 15. I didn't know how to
18 express it. I believe that's why Ms. Krisko is saying
19 somehow in fact it's something different. I didn't know
20 how to say it, but I knew that, you know, I had this
21 concern something wasn't right.

22 Well, in any event, Mr. Wommer and Ms. Krisko told me
23 that the deal did provide for what they told me. That it
24 would provide a minimum of 15. All of these would be
25 concurrent. This is a minimum 15. Life or 40 was up to

1 you.

2 Based on that, I didn't really want to feel like the
3 stupid one coming into court saying, you know, I want to
4 withdraw on this basis and I got two attorneys -- now
5 three, telling me that this is how the deal goes. I
6 didn't want to rely on the inmates. So what I did is I
7 asked your Honor. I asked you at the hearing. That's
8 when I decided to pose the question. Then you told me --
9 then if it didn't go that way, then I was going to pursue
10 my motion to withdraw.

11 But what happened is I asked you and you essentially
12 gave me the same stuff, the same information that they
13 gave me concerning the weapons enhancement. And that's in
14 the transcript.

15 So after I heard that, I got the judge, I got two
16 district attorneys, I got Mr. Wommer, so I'm like, they're
17 all telling me that the deal does provide for a minimum.
18 There's nothing that's going to come after. So based on
19 that, I didn't pursue my motion. I think that was
20 reasonable. Based on everybody telling me this I didn't
21 pursue it based on that.

22 Any event, in the prison sometime through inmate --
23 with an inmate caseworker, and they informed me that, you
24 know, you don't have a minimum. You got another sentence
25 coming after this 15. I asked how was that so. I didn't

1 believe it at first. I'm telling them I don't understand.
2 I was told the deal was a minimum 15. So they showed me
3 the statute. They showed me the printouts. They showed
4 me how it all worked.

5 I did a little research. After I researched it then
6 it kind of made sense when I read the statute. I guess
7 that makes sense and that's how we got here. I believe
8 the attorney general's opinion establishes that -- and the
9 way the prison calculated, establishes I don't have the
10 minimum I was told I would have in this agreement. And I
11 believe Ms. Krisko conceded to that today.

12 That's pretty much all that in a nut shell. That's
13 how we got here.

14 THE COURT: All right. Mr. DiGiacomo, do
15 you have any questions for Mr. Slaughter.

16 MR. DIGIACOMO: Just a couple of
17 questions, Rickie.

18 CROSS-EXAMINATION

19 BY MR. DIGIACOMO:

20 Q. You'd agree with me that you were acting as
21 your own lawyer, correct?

22 A. Absolutely.

23 Q. So when Ms. Krisko and I were talking to
24 you, did you take us to be your lawyers?

25 A. No.

1 Q. Are you telling this court that somehow we
2 lied to you?

3 A. What I'm saying is when you offered the deal
4 I was told that the deal would give me a minimum of 15
5 years.

6 Q. By who?

7 A. Now you're saying that that's not possible.

8 Q. By who?

9 A. I was told that by you. I was told that by
10 Ms. Krisko. We were going back and forth. You were
11 there.

12 Q. Did you read this?

13 A. I read the plea agreement.

14 Q. You understood it, right?

15 A. No, actually I didn't. Not pursuant to --

16 Q. Did you understand the judge could have run
17 all your time consecutive?

18 A. Yeah, I understood that.

19 Q. You knew you could have gotten a sentence of
20 a heck of a lot more than 15 to life when you signed this,
21 right?

22 A. To be honest, I thought when you stipulated,
23 I thought that that has to be done or I'd be allowed to
24 withdraw.

25 Q. You'd agree that that happened at

1 sentencing. I'm talking about when you signed the plea
2 agreement. You knew the judge could run a whole bunch of
3 time piled on you, and you'd have a huge minimum
4 sentence?

5 A. No. Actually the language -- I moved to
6 amend the language. I believe the language is wrong. I
7 believe when we discussed it at the negotiation, we are
8 supposed to be stipulating in the first place. That was
9 in my motion to amend the plea.

10 Q. So when the court told you during your plea
11 canvass that sentencing is completely up to him and he got
12 to decide, and you said you understood that, were you
13 lying to him?

14 A. No. But I figured that if we stipulated
15 then he has to go with it. If he doesn't, I will get to
16 withdraw.

17 Q. Okay. So you agree with me that the word
18 stipulate didn't even come up until sentencing, correct?

19 A. No. Stipulating came up during the
20 negotiations.

21 Q. So now stipulating came up during the
22 negotiations?

23 A. Right. And somehow it evaded me during the
24 proceeding and that's why I brought that up coming into
25 sentencing.

1 Q. Now you're telling the court that the guilty
2 plea agreement that you signed wasn't correct?

3 A. Correct.

4 Q. And then what happened at sentencing is when
5 you talked to Ms. Krisko -- you had a discussion, didn't
6 you, with Ms. Krisko?

7 A. Yes.

8 Q. Your concern with Ms. Krisko was the judge
9 might give you a heck of a lot more than 15 to life?

10 A. My concern was that the deal wasn't the way
11 I heard it as far as it wouldn't be -- it might bring
12 consecutive sentences after the minimum.

13 Q. So now you're telling us that your concern
14 was it may be just an accident that -- you had this
15 concern that it might be an accidental more than 15 to
16 life?

17 A. Accident -- I don't understand what you're
18 saying.

19 Q. What I'm asking you is you knew the judge
20 could have given you a sentence range of 50 years to life,
21 correct?

22 A. No.

23 Q. If he had run all those counts consecutive,
24 he could have given you 50 to life, correct?

25 A. If they were run consecutive, I imagine they

1 could have -- whatever it would add up to consecutive.

2 Q. You knew the judge had the right to do
3 that?

4 A. I thought if it was stipulated then if he
5 does that then the negotiation was --

6 Q. You agree with me the stipulation didn't
7 occur until sentencing?

8 A. I don't agree with you.

9 Q. I'll show you, just so the record is
10 clear. That's the guilty plea agreement, correct?

11 A. Correct.

12 Q. The word stipulate is written in there.
13 That was written in at the time of sentencing, correct?

14 A. Absolutely.

15 Q. So when you signed this it said the State
16 will not oppose concurrent time between the counts?

17 A. Right.

18 Q. Your testimony is you thought that that was
19 stipulated?

20 A. My testimony is that somehow I missed it.
21 That's my testimony.

22 Q. Okay. Now, on page 3 of this transcript, I
23 want you to read line 14 and 15. Read that out loud to
24 the court.

25 A. "I have not been promised a guarantee of any

1 particular sentence by anyone. I know that my sentence is
2 to be determined by the court within the limits prescribed
3 by statute."

4 Q. Okay. You read that prior to signing this,
5 correct?

6 A. I would assume.

7 Q. What does that sentence mean to you,
8 Rickie?

9 A. It means that Outside of what we negotiated
10 there was no other deal.

11 Q. Outside of what's contained in this guilty
12 plea agreement --

13 A. Outside of the negotiations as a whole. As
14 far as what we discussed and what that -- what the plea
15 agreement was.

16 Q. Why don't you read page 5, lines 12 through
17 14.

18 A. It says, "I am signing this agreement
19 voluntarily after consultation with my attorney. And I am
20 not acting under duress or coercion by virtue of promises
21 of leniency except for what's set forth in the agreement."

22 Q. What does that mean to you?

23 A. What I thought is the agreement, as written
24 here, provided for that total minimum from what you guys
25 told me.

1 Q. So in other words, what you thought was that
2 signing this document was going to give you a 15 to life,
3 correct?

4 A. Yeah. That I wouldn't have know sentences
5 coming after the 15 years.

6 Q. It was you legal interpretation of that
7 guilty plea agreement?

8 A. As given to me by you guys.

9 Q. Well, I'm not your lawyer. It was your
10 interpretation that that's what you were signing?

11 A. But you offered that information. I didn't
12 ask for it.

13 Q. I'm asking you when you signed that piece of
14 paper that's what you thought you were agreeing to?

15 A. What?

16 Q. Your legal interpretation of what you are
17 signing here is that you are getting 15 to life?

18 A. That's my legal interpretation as given to
19 me by you. Yes. That's what I thought that deal did.

20 Q. Who was your lawyer?

21 A. I was my lawyer.

22 MR DIGIACOMO: I have nothing else,
23 Judge.

24 THE COURT: Anything further,
25 Mr. Slaughter?

1 THE DEFENDANT: Just to clarify. I think
2 it's clear as far as the plea agreement that it was a
3 boilerplate plea agreement. I mean, at the time it states
4 I consulted with my attorney and it has all these things
5 in there a regular defendant -- it's boilerplate. It
6 wasn't tailored to the specific facts of what was going
7 on.

8 The deal, as conveyed to me, was that I would have a
9 minimum of 15. That was the deal. And that deal in that
10 paperwork, that's what it would provide. Mr. DiGiacomo
11 told me that. Ms. Krisko told me that. That was the
12 impression that we all had. I don't think everybody would
13 have had that impression unless that was said. If that's
14 the contemplation, it's clear that would be conveyed
15 during the negotiation.

16 Other than that, that's about it.

17 THE COURT: Anything further Mr. DiGiacomo
18 from Mr. Slaughter?

19 MR. DIGIACOMO: Not for Mr. Slaughter, no.

20 THE COURT: Mr. Slaughter any further
21 witnesses you wish to call?

22 THE DEFENDANT: No, sir.

23 THE COURT: All right. Does the State
24 have any rebuttal witnesses?

25 MR. DIGIACOMO: No.

1 THE COURT: Argument, Mr. Slaughter, as to
2 what I should do here today.

3 THE DEFENDANT: I wanted to get an
4 indication whether the court was inclined for us to -- I
5 know it was a lot presented today, if we would --

6 THE COURT: I've certainly got some
7 opinions. And I'll tell you both that I am giving strong
8 consideration to revisiting the initial opinions that I
9 had about NRS 213.1213 in the attorney general's
10 interpretation of that.

11 I think in fact the first time this came up on remand
12 from the Supreme Court and we had the attorney general's
13 opinion I said, looks like 213 mandates you have to serve
14 the minimum of 22-and-a-half years, so we need to have
15 this hearing to decide what to do. I have looked at that
16 a lot since then and given great consideration to -- let
17 me put it this way, one way or the other, Mr. Slaughter,
18 you may be making new law in Nevada as we get this case
19 decided.

20 What I'm giving strong consideration to now is
21 telling the attorney general you're wrong. And I think to
22 the extent that they may be interpreting that statute in
23 that was, it might be unconstitutional to read into a
24 sentence something that wasn't intended or even announced
25 by the court -- i.e., that a weapon enhancement has to run

1 consecutive to a another offence when the court has said
2 they have to run concurrent.

3 So, that's part of what I'll have you all address in
4 terms of arguments today, as to whether or not I need to
5 revisit that and make a distinction on that. In addition
6 to the other questions that the Supreme Court had kind of
7 remanded this to be answered. One of which was, was
8 Mr. Slaughter told that, and, if so, by whom. That he
9 would or could receive a total minimum of 15 years.

10 Then there were the issues of 213.1213. All right.

11 THE DEFENDANT: So we present an argument?

12 THE COURT: Sure.

13 THE DEFENDANT: I guess it wouldn't be
14 possible that we can get a transcript of this and then
15 recap it, like that, would it?

16 THE COURT: No. I mean we've had a
17 hearing here today. So it's time to argue about what the
18 evidence has borne out for us.

19 THE DEFENDANT: I was just asking.

20 I think considering everything today, especially in
21 consideration that I think when Ms. Krisko testified that
22 it was the contemplation in the negotiation for the
23 minimum 15. I think for everybody to have that impression
24 I think it would be impossible to say that that wouldn't
25 be conveyed during the negotiation process. I think that

1 just kind of defies logic. And me being there, I know
2 that I was told that this was 15 years minimum.

3 Also concerning that -- on that note, I'm going to
4 get to 2 and 3. I know you want us to address that. But
5 on the form, I think that's pretty clear I was informed.
6 And as far as Mr. DiGiacomo's testimony when he said he
7 didn't have independent recollection from what he's read
8 in the transcripts, that's understandable. We're three
9 years later.

10 So I think it is more accurate to look at that prior
11 transcript from just two years ago where he didn't object
12 to any of these things. He didn't dispute any of these
13 things. And your Honor recognized that. You said in that
14 transcript that there was no dispute to that.

15 Mr. DiGiacomo didn't stand up and say, your Honor,
16 the State's position is adverse to that. You said that on
17 page 7, after I said -- and I quote -- "I think this
18 indicates the intention of the negotiations that supports
19 my allegation that I was told that the deal would give me
20 an opportunity to be released in 15 years." And you
21 stated in response, "I absolutely agree with you." There
22 is no dispute as to that.

23 And Mr. DiGiacomo was there. He represented that at
24 the plea negotiations as well. And I think that's more
25 accurate to consider in that entire hearing in it's full

1 context where he never disputed any of that, then three
2 years later now when he said he doesn't have anything
3 independent from what he's read from the transcript and
4 the plea agreement.

5 On that I think my investigator James Conklin's
6 impression of the total minimum, I think that's obviously
7 something borne out of negotiations. He stated he makes
8 notations right after the hearing. And he said it was his
9 impression that the overall minimum was 15 minimum,
10 nothing after that. I think that comes from the
11 negotiation process. It's not, you know -- everybody
12 wouldn't have come out with this understanding if it
13 wasn't spoken or wasn't conveyed.

14 So I think definitely the facts bear out. And I
15 think the pleadings as well. There is concessions in a
16 lot of these pleadings and oppositions. I know Ms. Krisko
17 disputed one opposition, whether she wrote it or not, even
18 though her name was at the bottom. But even aside from
19 that her recent opposition says the deal is supposed to be
20 15 years and I'd be eligible for release afterwards. And
21 I think that's important. That was in her latest
22 opposition filed April 18, 2008.

23 So I think the total -- the facts and totality of the
24 circumstances, looking at everything, the entire record
25 and looking at all the pleadings, looking at the

1 allegations and also considering that the testimony here
2 today was three years later from the actual event, I think
3 that it's fair to say that I was told that. I don't think
4 that's really a big dispute aside from Mr. DiGiacomo's
5 testimony.

6 Now, as far as the constitutionality of NRS 213.123,
7 to my knowledge from what I read and the research I've
8 done, as well as the attorney general's opinions and the
9 Nevada Supreme Court's decisions in the Bowlin (ph) case,
10 looking at that, it appears plain. It doesn't appear
11 ambiguous or anything like that. It's plain. It says
12 that, you know, it only deals with the current sentences.
13 And that all those concurrent sentences turn into the one
14 that has the longest eligibility for parole. And the
15 attorney general kind of outlines in his briefing that the
16 Department of Correction's position is that -- the court
17 held -- it outlines that based on Bowlin (ph) and Stevens
18 and Kensey (ph) that these cases require it to be like
19 that, to apply the sentences in the way we thought they
20 were supposed to run, one after another. The latter
21 manipulates that statute. And that's what he says in
22 ground three, that the Department of Corrections is only
23 supposed to read the plain language. The plain language
24 says dealing with the current sentences.

25 So what it does is it breaks apart the first line of

1 sentences, which is the primary offenses, and runs those
2 concurrent to the 15 to life. Then separates the
3 concurrent weapon enhancement and turns those to a second
4 sentence.

5 I think looking at that statue and considering the
6 case law -- I've read a lot of it on that issue -- I think
7 that it's -- you know, I guess that's the way it's
8 supposed to run when you read it all.

9 I would also want to note though as the attorney
10 general outlined in their opinion they say that there's no
11 authority for the proposition that a defendant can be
12 sentenced to -- to have a sentence for the purpose of
13 parole eligibility, a minimum of 15.

14 I think that even though it was inadvertent between
15 the district attorneys, I think an additional note that
16 deal might have been illegal in the first place to
17 contemplate something like that in an aggregate where it
18 would end up 15 at a minimum.

19 So that's my position. I believe the facts show that
20 I was informed. As far as the Supreme Court's remand
21 order, in answer to that, I was informed that I would
22 serve a total minimum of 15. I think that I did state at
23 the plea negotiations all those things that happened in
24 the canvass. All those things that happened, I absolutely
25 stated it. It's in the transcript.

1 But I think also the Supreme Court outlined to us,
2 they say at page 3, right here. They say, appellant
3 promises plea is voluntary, based on promises that his own
4 sentence would permit release in 15 years. The record on
5 appeal revealed that appellate was informed about the
6 potential sentences he faced in the plea agreement and
7 plea canvass, and that he acknowledged that this court was
8 not bound by the plea negotiations. However, it appeared
9 that appellant pleaded guilty based on an understanding it
10 offered him an opportunity to be released in 15 years.
11 And that would be the opportunity for that parole -- that
12 parole.

13 It's not saying that I will get paroled, but the
14 opportunity. And this deal doesn't give that. I think
15 that my position is that will be borne out by the facts
16 today, and as a whole.

17 THE COURT: Let me ask you this. If the
18 negotiation wasn't a stipulated and conditional sentence,
19 and therefore I could have run everything consecutive,
20 then how could you have an absolute expectation that you
21 would only serve 15 years before eligibility for parole?

22 THE DEFENDANT: Not an absolute
23 expectation. But with the sentences running concurrent,
24 as stated in my plea, they told me effectively that's a 15
25 to life, or 15 to 40. That's was up to you how we got on

1 the bottom end, like Mr. Wommer said. But the minimum was
2 15, if they run concurrent.

3 If they run consecutive and all that really wasn't a
4 consideration that they were running consecutive when we
5 negotiated.

6 But obviously I absolutely agree with that idea that
7 that wouldn't be possible with the consecutive sentences.
8 Of course, it could be more than that. I believe that I
9 was told that it could and would be that, if he goes all
10 concurrent.

11 THE COURT: All right. Mr. DiGiacomo.

12 MR. DIGIACOMO: Thank you, Judge.

13 It turned out to be a more complex case than you
14 think it would be. But the initial problem --

15 THE COURT: I agree with that.

16 MR. DIGIACOMO: -- that Mr. Slaughter has
17 is in order to really succeed on this motion to withdraw
18 his guilty plea, there has to have been some promise that
19 was inappropriate for him to rely upon. That's just
20 simply not the fact.

21 The fact of the matter is he was provided a guilty
22 plea agreement. This court, myself, Ms. Krisko, everyone
23 of us thought he has a parole eligibility at 15 years.
24 The fact is that his lawyer made a mistake and apparently
25 didn't know the law, so it's his lawyer's problem. Oh,

1 but that's him. So he really doesn't had a basis for
2 withdraw of his guilty plea.

3 We have offered Mr. Slaughter to fix this problem.
4 He doesn't want to fix it. What he really wants is a new
5 trial. But I would suggest to the court there is a number
6 of solutions to the issue here. None of which result in
7 Mr. Slaughter getting a new trial or getting any trial.

8 The first one is that the interpretation -- the
9 twisted interpretation by the Department of Corrections
10 through the AG's office of that statute. That statute
11 was, I don't believe, ever meant to deny institutional
12 parole from one sentence to another sentence when it's
13 running concurrent to a life sentence. What would
14 possibly be the reason for that being the purpose of that
15 statute.

16 That statute is to prevent someone being released
17 from the street before their sentence for the largest
18 sentence that they received has expired, which means he
19 shouldn't get out of jail before 15 years. It doesn't
20 mean that after his minimum sentence on his attempt murder
21 has run he shouldn't receive some sort of institutional
22 parole to his deadly weapon enhancement. And the
23 interpretation that the AG's office gives to that statute
24 doesn't make a whole heck of lot of sense.

25 So I would submit to the court you can solve this

1 problem that way. In which you just find that that
2 interpretation just doesn't make sense. Of course that
3 would have far ranging consequences to the timekeeper, I
4 imagine, at the prison. This is the first time this has
5 ever come up in my career in the thousands of cases I've
6 done. Nobody else has ever heard of this problem coming
7 up. It may just be --

8 THE COURT: It might alleviate some of
9 the over-crowding issues in the prisons.

10 MR. DIGIACOMO: Wouldn't it ever.

11 I mean, apparently Mr. Slaughter got some sort of
12 information from the guys who are in jail, because they
13 apparently know the time keeping method of the prison.
14 Where as those of us that were negotiating the case in
15 good faith, made no misrepresentation, had no idea the
16 prison was going to make it an interpretation that it's
17 22-and-a-half years for his parole.

18 There is another solution which is to enforce the
19 specific performance of the plea agreement. And the way
20 to do that, I would submit to the court, is he gets to
21 withdraw his plea to the deadly weapons enhancement, then
22 he'd have 15 years on the bottom end. You enter that
23 order. We enter a judgment of conviction that don't have
24 the deadly weapon enhancement sentence and those get
25 dismissed. That would be a resolution of the problem

1 where he gets his parole hearing at 15 years. It's a 15
2 to life. And he gets the benefit of his bargain.

3 Ultimately, the last thing you do is deny it.
4 Because ultimately it rests on Rickie Slaughter to know
5 what his lawyer should have known, which is how that was
6 computed. There was no promise from Ms. Krisko and, the
7 AG's office or the Department of Corrections, were going
8 to compute this time in some manner other than what's
9 contained in the guilty plea agreement.

10 You had the ability to give him a lot amount of time
11 on the bottom. It was -- he indicated that there was no
12 other promises made, although he now claims there were
13 other promises made. He indicates to the court in the
14 transcript that he knew sentencing was completely up to
15 you. Now he's claiming that's not true.

16 He indicated on the guilty plea agreement that he
17 knew that we wouldn't oppose certain things. Now he's
18 claiming we stipulated, whereas, you know there was a
19 conversation prior to sentencing.

20 The simple fact of the matter is that while there may
21 be some error that occurred, the error goes to the lawyer
22 of Rickie Slaughter not anybody else in the courtroom.
23 And we can't be held liable for that error, Judge. I'm
24 submitting to the court you can solve it in a number of
25 ways. But I'll submit it to the discretion of the

1 court.

2 THE DEFENDANT: I have a small rebuttal.

3 THE COURT: Yes.

4 THE DEFENDANT: Just a few issues.

5 Just to start I think Mr. DiGiacomo somewhat
6 mischaracterizes my position. I never said that -- I'm
7 not saying that they intentionally misled me. But they
8 gave me erroneous information that I relied on. I didn't
9 ask for that information. They offered it. They didn't
10 have a duty to advise me that. But when they offered
11 that, I think that that has to be accurate, according to
12 the law.

13 I think regardless of the tenure of counsel, the
14 status, whether it's self-representation mode, or whether
15 it's an attorney, I think that regardless of that the law
16 never permits counsel to be misled with erroneous
17 information whether it's inadvertent or not inadvertent.
18 The case law speaks on that.

19 I also want to point out concerning that
20 self-representation is there is no law that says once he's
21 in self-representation mode, not it's okay for him to be
22 induced with something that might have been wrong
23 information, whether it's inadvertent or not
24 inadvertent.

25 The good faith or bad faith is irrelevant. The

1 Supreme Court has precedent that says the prosecution
2 offers erroneous information that that undermines the
3 plea. Like I say, there's nothing that says in law
4 period. I've looked.

5 The State, they advanced the ground in their
6 opposition. And there's no case that they are relying on.
7 They relied on Supreme Court rule guidelines and
8 procedures for advising the defendant when he elects
9 self-representation. And never says -- there's nothing
10 that says you can give him erroneous information now.
11 It's okay because he's in self-representation mode.

12 All I'm saying is that the abstract concept
13 concerning voluntariness, yeah, the plea was made on a
14 plea basis. But it can't be voluntary if I relied upon
15 erroneous information. There's no way. Because I'm
16 considering something that's not even possible in the
17 first place.

18 And other than that, I guess, alternatively what
19 Mr. DiGiacomo is requesting as far as his remedies, yeah,
20 those are possible remedies. I don't know that the rule
21 and the statute is unconstitutional. I don't know. I'm
22 not a judge or justice or anything. But I don't know if
23 that -- it would be probably different than precedent
24 states now. But as far as modification, I think that that
25 is also a remedy that's stricken out by the law that says

1 that modifying the sentence to meet the parole eligibility
2 to meet that minimum number of 15 is not appropriate. But
3 if your Honor is inclined to do that, I have to respect
4 that.

5 THE COURT: Well, a couple things.

6 You can sit down, Mr. Slaughter.

7 To begin with, the focus here, at least in the
8 court's mind, has to be on what was taking place back when
9 the plea was entered, not what was said the next day to
10 your father, for instance, or not what was put in the
11 pleadings later on or things like that. It's what was
12 said back at the time the plea was entered, in and around
13 that date of April 4, 2005, and the communications you had
14 with your attorney and your investigator and with the
15 State's attorney. So that's kind of what I have focused
16 on.

17 I will also state as an aside, this case is very
18 illustrative of the dangers and pitfalls of
19 self-representation. Because the State is right. They
20 have said this several times it's not their obligation to
21 provide you with legal advise. And I don't think that
22 they gave you erroneous advise. They made you an offer.
23 And they expressed that here's the offer, a minimum 15 on
24 Count (3), kidnapping with substantial bodily harm. You
25 can argue for 40. We can argue for life. Everything else

1 runs concurrent.

2 And thereafter, what we are going to talk about in a
3 moment, is intent, impression, spirit things like that.
4 Those are all fine and dandy, but beyond making the offer,
5 I don't think there is anything erroneous about what they
6 told you.

7 Oftentimes, in my experience within the criminal
8 justice system, when you're represented by an attorney and
9 you set about trying to resolve a case, oftentimes you
10 make a certain offer and the attorney will respond -- the
11 defense attorney -- saying, look, because of this, he
12 won't make his first parole. I know he won't. So can we
13 readjust the offer a little bit to give him a little less
14 on the bottom end because we know he's going to serve more
15 before he makes parole. That's part and parcel of the
16 negotiation process because criminal defense attorneys
17 will engage in that with the State's attorney.

18 But when you engage in self-representation, you're
19 held to the same standard as an attorney. It's not the
20 State's job to try and sit down with you and try to
21 explain computations and gatekeeper's duties at the Nevada
22 Department of Prison, parole and pardon issues and things
23 like. They just make an offer, which is pretty much what
24 they did here.

25 Now, in terms of what was remanded back to us from

1 the Supreme Court, let me just first say that one of the
2 issues the Supreme Court raised was that we may want to
3 appoint -- or I may want to appoint an attorney to
4 represent Mr. Slaughter, because this was a complex
5 matter. I agree it's kind of complex. But I will also
6 state for the record that Mr. Slaughter declined
7 representation when we first brought this matter back.

8 I have to tell you, Mr. Slaughter, much like I told
9 Mr. Allen earlier today, you've acquitted yourself very
10 well in this. You have done a hell of a lot better than
11 most self-representation defendants would in terms of
12 appreciating the law and being able to articulate things
13 to the court. And there are issues here that I think are
14 issues of fairness. There are issues of what I think the
15 law requires. There are issues, as I said a little
16 earlier, of whether we're going to make new law here today
17 in some fashion or not. Every so often something plops
18 down in front of you that even though the trial court is
19 designed to interpret and apply the law, sometimes that
20 interpretation creates new policies and procedures and
21 protocols for how things should be done. I've got a
22 feeling that's what we'll end up with here.

23 Out of an abundance of fairness to you, I think that
24 what you bargained for was a minimum 15 years before you
25 would be eligible for release from prison, assuming you

1 made parole. That's what I thought would happen. That's
2 what you thought would happen. I think that's what
3 Mr. DiGiacomo and Ms. Krisko thought would happen. I
4 think that's what Mr. Wommer thought would happen.

5 But there is a difference between what the intent of
6 everybody is and what the spirit is and what the
7 impressions are of everybody involved and the actual
8 language that was used for you. And I point out that
9 distinction because it's not unlike a case that you cited
10 in one of your briefs, which was the Clark case. I can't
11 remember the citation off the top of my head.

12 THE DEFENDANT: Clark v. State.

13 THE COURT: Clark v. State, 90 Nevada 144.
14 The gentleman pleads to a certain crime. The judge
15 sentences him in a certain way, because the judge
16 believes, based on what he had seen from the Department of
17 Prisons that if the guy maintained good behavior in prison
18 he would make his first parole board, so he gave him a
19 certain sentence. And the guy believed that as well,
20 entering into the plea and taking the sentence. Turns out
21 he didn't make his first parole hearing.

22 He filed a writ of mandamus. Went back in front of
23 the district court judge. The district court judge said,
24 well, gee, absolutely I thought you were going to make
25 your first parole board. And since the prisons is looking

1 at this differently, I'm going to go back and modify your
2 sentence to 1 year and 3 months versus 1 to 4 years --
3 whatever it was -- so you can get out earlier.

4 The court said, no, judge. That's bad. You can't
5 invade the executive power of the parole board. Your
6 expectations for what may happen in that sentence doesn't
7 change what took place at the plea and the sentencing.

8 Nobody gave bad information to the defendant, because
9 they believed he would get out earlier on parole. That's
10 the risk that's inherent in pleading guilty and subjecting
11 yourself to the parole process. That's kind of what we
12 have here. Even though I think it would be fair to you to
13 have that sentence, I'm looking -- which is one of the
14 questions the Supreme Court asked me the answer -- as to
15 whether you were told, informed, by whom, that you would
16 or could receive a total minimum sentence of only 15
17 years.

18 Everybody told you here's the deal we're offering
19 you. Here's the sentence for kidnapping with substantial
20 bodily harm, minimum 15. You argue 40. We argue life.
21 And for all the other sentences we're going to agree to
22 concurrent sentences. But nobody said to you, and you're
23 only going to get 15 years and then you're going to be
24 eligible for release to the streets. Or you're going to
25 be released in 15 years. This is the absolute total you

1 can serve before you're released. Those are all things
2 that as far as I'm hearing today and reviewing everything
3 that you believed, and that everybody else believed, but
4 wasn't certainly promised or expressly stated to you in
5 any fashion. I think that's an important distinction of
6 what the Supreme Court is asking me to answer. That's one
7 of the reasons I asked you the question earlier that I
8 did.

9 This wasn't a conditional plea. It wasn't a
10 stipulated sentence type of plea. I could have run things
11 consecutive at the time of sentencing. I chose to run it
12 concurrently, because the State was not opposing it to
13 run concurrently. So you could not have entered your
14 plea -- that's again the focus, what were you thinking
15 when the plea was entered. You could not have entered
16 your plea with a subjective belief that you were only
17 going to have to serve 15 years, and that was absolute, if
18 there was a possibility that I could have run your
19 sentences consecutively and you'd have to serve 30, 40
20 years or more before you could have been released to the
21 streets.

22 So even though the reason why the prison is saying
23 you have to serve more than 15, isn't because of what I
24 did in sentencing. It's still -- the focus has to be on
25 what was your expectation when you entered the plea. And

1 you didn't have an expectation. You couldn't have had an
2 expectation, if I could have run everything consecutively.

3 Go ahead.

4 THE DEFENDANT: Can I say one thing?

5 THE COURT: Yes.

6 THE DEFENDANT: I did have an expectation
7 as far as, if the sentences ran concurrent.

8 THE COURT: If they were run concurrent,
9 but there was no guarantee on that. Nobody promised you
10 concurrent. In fact, in the plea when I asked you about
11 it, it was in the plea agreement, you understand that
12 sentencing is completely up to the court. And I have the
13 discretion to decide how to sentence you -- concurrent,
14 consecutive, what the years are, all that stuff. So if I
15 have the ability to do that, you could sit here and say I
16 had the expectation that I'd only served 15 years. I was
17 guaranteed that was the deal. When the reality was I
18 could have sentenced you to way more than 15 on the low
19 end, if I chose to run any of those sentences consecutive.
20 So that kind of belies the position you're taking. But
21 more importantly, as I said, I don't think there was any
22 guarantee to you expressly or otherwise that you would
23 serve 15 years and be eligible for release. Because
24 that's the total minimum you would have to serve, even
25 though it was the intent of the parties for that to take

1 place.

2 As I said, that's kind of an important distinction,
3 because Mr. Wommer, Mr. DiGiacomo. Ms. Krisko, and
4 yourself, Mr. Conklin and everybody's testimony, and I
5 think I asked Mr. Wommer specifically that, was there
6 language ever used that the total minimum you're going to
7 serve is 15 years, or that you're going to be released in
8 15 years or anything like that. And there wasn't.

9 THE DEFENDANT: My testimony was there
10 was.

11 THE COURT: Your testimony was -- but even
12 in your testimony, which I think was for the most part
13 pretty sincere that it was your impression that you were
14 going to serve a minimum of 15 years. And that everybody
15 was telling you 15 years is the minimum sentence.

16 THE DEFENDANT: Right.

17 THE COURT: Telling you that 15 years is
18 the minimum sentence for the kidnapping with substantial
19 bodily harm, and everything runs concurrent, so 15 years
20 minimum sentence is different than being guaranteed, or a
21 distinction is made because that's not a guarantee that
22 you're going to serve 15 years. Especially when the
23 availability of consecutive time is there for the court.

24 So while I think that's an important distinction to
25 make, I don't necessarily think that's fair to you. I

1 just think that under the law and in answer to the
2 question the Supreme Court asked me to answer, I think
3 that if I had to look at it like that, looking at what you
4 knew at the time you entered the plea, not what took place
5 at sentencing or any other time, then you had, at best, a
6 subjective belief and impression that 15 was going to be
7 the minimum amount of time before you could be released.
8 But that certainly wasn't guaranteed to you. And it
9 wasn't any erroneous information. And because you were
10 representing yourself, you're expected to know or research
11 or do whatever you need to do to know how these sentences
12 were going to be looked at by the Department of Prisons.
13 And therefore, whether or not you should accept the deal.
14 So if I look at it solely on that issue, I think I have to
15 deny the motion to withdraw plea, in terms of the question
16 that was posed by the district court. Because there's no
17 other issues raised to me to indicate that this was not a
18 knowing and voluntary pled case.

19 Now the other questions that Supreme Court remanded
20 this back to answer, and I made a comment about them when
21 we were in court previously, which I believe was back in
22 April -- no back in November of 2007 -- when we initially
23 said that we're going to need to set this down and decide
24 how to deal with the sentencing issue.

25 The comments I was making was about 213.1213. I

1 agree, Mr. DiGiacomo, that there's a variety of things you
2 can do to make this fair to Mr. Slaughter. I don't know
3 if I could strike the deadly weapon enhancements and
4 therefore create for him what he bargained for. I agree
5 that striking them would create for him the minimum 15,
6 without the problem of the prison doing what they're
7 doing. And I agree that doing that would not technically
8 appear to be a violation of Clark, because I'm not doing
9 anything to a sentence. I am striking weapon
10 enhancements, which are kind of whole sentences. I'm not
11 modifying a sentence, so to speak.

12 On the other hand, I guess a colorful argument could
13 be made that I am doing something which modifies the
14 sentence because I'm striking out part of the sentence.
15 But more importantly, I think, is taking a look again at
16 213.1213 and the attorney general's opinion on that and
17 trying to decipher what that statute stands for, what it
18 means, what it says, what it doesn't say, what is a
19 realistic interpretation of it, what's the intent behind
20 it and so forth. And in doing so, even though I said back
21 in November that that statute looks like it mandates that
22 this sentence has to be served in a certain way, so
23 Mr. Slaughter has to serve 22-and-a-half years, so here we
24 are, what are we going to do. After having looked at it a
25 little further, and in light of how this is probably

1 impacting lots of cases in the system, how it impacts
2 negotiations in cases, I think it's more appropriate to
3 enter some findings in regard to that statute at this
4 point in time.

5 As an initial matter, I will say I agree with the
6 State, that I think the legislative intent behind that
7 statute is simply to say if you're sentenced to prison on
8 one count for 5 years and on another count for 20 years,
9 and they're running concurrent, you're not to be released
10 from prison in 5 years when you make parole on the first
11 sentence or expire. It's the second. The longer sentence
12 which governs when you should be eligible for parole
13 release. That to me is absolutely what the main and
14 primary intent of that statute is. Ad that's basically
15 what it says. A longer sentence controls when sentences
16 are ordered to run concurrently.

17 I will additionally state that there is nothing in
18 that statute which makes exception for weapon enhancements
19 or any other kind of enhancement that's added on to a
20 sentence. It just talks about sentences running
21 concurrently or consecutively. So to the extent it
22 doesn't speak to any enhancements or otherwise carving out
23 an exception to have them run in a different fashion, I
24 have to infer that there is not the intent for those
25 things to be treated and run in a different fashion. And

1 that's going to be important, as I discuss a few other
2 things in a moment.

3 Additionally, if -- well, I should say that what
4 appears is going on is that the Department of Prisons is
5 saying -- or the AG is saying on behalf of the Department
6 of Prisons that because Bowen established this way of
7 looking at parole wherein a primary offence and the
8 enhancement would be treated as two separate offenses for
9 all purposes. Because of that, they are now saying that
10 when you have things running concurrent the deadly weapon
11 enhancement of a primary offence has to run consecutive to
12 the longest sentence of all those concurrent sentences.

13 That's the reason they're saying what they're saying
14 here. Because the weapon enhancement for attempt murder,
15 the weapon enhancement for robbery with a deadly weapon,
16 the weapon enhancement for the general kidnapping charge,
17 even though they can all run concurrent to each other
18 somehow they have to run consecutive to the kidnapping
19 with substantial bodily harm 15 year sentence, because
20 you're not eligible for parole until released on that
21 sentence. That to me runs very much afoul of the order of
22 the court in sentencing somebody.

23 When Mr. Slaughter was sentenced, I did not say
24 attempt murder runs concurrent to substantial bodily harm,
25 kidnapping, but the dead weapon enhancement doesn't. I

1 didn't say robbery runs concurrent to the kidnapping with
2 substantial bodily harm count, but the deadly weapon
3 enhancement doesn't. I didn't say kidnapping runs
4 concurrent to the kidnapping with substantial bodily harm
5 count, but the weapon enhancement doesn't.

6 I announced that attempt murder with deadly weapon
7 runs concurrent to the kidnapping with substantial bodily
8 harm. Robbery with a deadly weapon runs concurrent.
9 Kidnapping with a deadly weapon runs concurrent.

10 Even if you want to say the attempt murder or the
11 primary and the enhancement are two separate sentences,
12 they can -- they're one count for purposes of sentencing.
13 And I clearly stated that that count runs concurrent to
14 the kidnapping with substantial bodily harm count. And
15 therefore, every part of that count runs concurrent, in my
16 mind. And to interpret a statute to do otherwise, would
17 be to basically ignore the sentencing of the court and
18 create by the prisons, create their own sentencing
19 structure, which to me is not the legislative intent of
20 that statute and vitiates the orders that were given down
21 by the courts as to how things are going to run and
22 contrary to the negotiations that are being entered into
23 between people.

24 I said earlier unconstitutional. Maybe it's not
25 unconstitutional. I don't think the statute in and of

1 itself is really unconstitutional. That was a bad word
2 choice on my part. But I think the interpretation of it
3 is clearly against what I perceive to be the intent of
4 statute and the way it should be applied, in terms of
5 concurrent consecutive sentences.

6 So my remedy for this whole thing is to answer the
7 question from the Supreme Court which was determine
8 whether it was legally possible to achieve a total minimum
9 sentence of 15 years under NRS 213.1213. Yes. I think
10 it's legally possible to do that.

11 Second question, determine whether 213.1213 precludes
12 the Nevada Department of Corrections from paroling a
13 appellant on sentences for the primary offences with the
14 deadly weapon enhancement when it paroles appellant on the
15 controlling sentence. I do not think it precludes them
16 from doing that. I think that's one count. And that
17 whole count has the run concurrent to another count, which
18 means the primary offence and the weapon enhancement runs
19 concurrent to that other count.

20 I think it is improper for the prisons to be somehow
21 interpreting the weapon enhancement to have to run
22 consecutive to another count. And that was not the clear
23 order of the court.

24 So my remedy, Mr. Slaughter, is to tell you that my
25 order is directing the prisons that their interpretation

1 of 213 is incorrect. And that they can parole you off the
2 primary and weapon enhancements for your other 3 counts at
3 the time that you're up for parole on your kidnapping
4 count.

5 THE DEFENDANT: Just for clarification.

6 THE COURT: I know I rambled a little. Is
7 that clear to everyone?

8 THE DEFENDANT: I want to make a note.

9 THE COURT: What that leaves us with is if
10 the Department of Prisons wants to maintain their
11 interpretation of that, then they're going to have to
12 appeal my decision up the Nevada Supreme Court as to how
13 the statute needs to be applied to your case.

14 And to be honest, I welcome that. It's a gray area.
15 I don't think anybody has ever raised this issue before.
16 And some oversight and review by seven people who have
17 more experience than I do is certainly welcomed. And I'll
18 obviously take whatever direction they give me in the
19 future as to how to handle this issue. As I think will
20 the prosecution and defense attorneys to kind of
21 understand how this issue is to be dealt with.

22 THE DEFENDANT: May I ask, could we have
23 a transcript of this proceedings.

24 THE COURT: Sure. I will have the
25 transcript provided at State expense to Mr. Slaughter of

1 today's hearing.

2 THE DEFENDANT: Is it possible to get the
3 June 3rd, hearing too. It was brief.

4 THE COURT: What was the June 3rd,
5 hearing. What's the purpose for that.

6 THE DEFENDANT: We had some discussions at
7 that hearing. There was some statements made.

8 MS. KRISKO: There was some argument then
9 you determined --

10 THE DEFENDANT: I would like to have that,
11 if that's possible too.

12 THE COURT: Okay. Well, here's the
13 reality. My decision today controls everything. Like I
14 said, I'm somewhat -- I don't know if reversing myself is
15 a good use -- or is good terminology. But I'm revisiting
16 what I decided last November. I can't remember everything
17 we discussed on June 3rd, generally speaking. But I'll go
18 ahead and have a transcript of that provided as well.

19 MR. DIGIACOMO: In your order, you
20 answered the questions in the affirmative. I guess my
21 question is a procedural one for the prison. Does it
22 matter to under the statue whether or not they
23 institutionally parole from the primary to the deadly
24 weapon enhancement or if they do the double parole at the
25 time of 15 years?

1 THE COURT: Well, I think if they're
2 continuing -- if they're considering those two things to
3 be separate, they necessarily have to parole him off the
4 primary and let him serve the secondary. You just don't
5 get released after you get paroled on the primary.

6 MR. DIGIACOMO: They have to give him his
7 hearing at his minimum.

8 THE COURT: So the reality is that -- if I
9 recall correctly. I'm trying to see if I was right in
10 what I was thinking about.

11 The reality is -- this was another thing that I meant
12 to say earlier in terms of your expectation of 15 years.
13 Because this was a point that I remember thinking about
14 and I had in my notes.

15 Under the way you were sentenced, the maximum on the
16 attempt murder with a deadly weapon, the maximum on
17 robbery with a deadly weapon, those all exceeded 15 years
18 anyway. So even if you didn't come up for eligibility and
19 parole earlier you could have served more than 15 on those
20 maximums.

21 But, yes. He has to be eligible for parole
22 institutionally on the primary before going on to the
23 secondary. Because he could serve more than 15 years on
24 those.

25 MR. DIGIACOMO: So as long as they give

1 him a hearing on those individual counts it qualifies
2 under the stature and the rule.

3 THE COURT: Yes.

4 THE DEFENDANT: What was the -- you
5 answered whether it was legally possible to achieve the
6 total minimum sentence of 15 years, you answered that in
7 the affirmative.

8 THE COURT: I said I believe under
9 213.1213, that, yes, it's legally possible to receive a
10 total minimum sentence of 15 years.

11 THE DEFENDANT: And the next one.

12 THE COURT: And that 213.123 does not
13 preclude the Department from paroling you for the primary
14 offense and the deadly weapon enhancements when it
15 paroles -- the question posed was does 213.123 preclude
16 the Nevada Department of Corrections from paroling
17 appellant on the sentences for the primary offenses with
18 the deadly weapon enhancement when it paroles appellant on
19 the controlling sentence. The answer to that is, no. I
20 don't think it precludes them from doing that.

21 THE DEFENDANT: Question. If, in the
22 event -- I don't understand. They say that they rule that
23 the statute is correct in its application the way the AG
24 is applying it, out of fairness, obviously I'm not getting
25 the benefit of what I pled for.

1 THE COURT: Here's the best I can tell
2 you. You're basically asking what happens now?

3 THE DEFENDANT: Yeah. I mean, as far as
4 their other alternative remedy.

5 THE COURT: I can't give you legal advise.
6 You can appeal my decision. The State can appeal my
7 decision. The prison can say we're not going to follow
8 your order. In which case you could appeal them. Or they
9 could say, we're going to follow his order in your case,
10 but we're going to appeal him because we think he's wrong.
11 Any of those things.

12 THE DEFENDANT: I was trying to get an
13 indication from the court concerning -- just that I wasn't
14 getting the benefit of it -- of the plea bargain, the
15 spirit of the negotiations.

16 MR. DIGIACOMO: The court just ruled that
17 you have to have a parole hearing.

18 THE COURT: Let me reexplain this to you.
19 I ruled that -- the second part of what I ruled was they
20 should be interpreting under that statute that you should
21 be eligible for parole in 15 years. That's the cut and
22 dried portion of that.

23 Now the second part of what I ruled, however --
24 because this is important if the Supreme Court disagrees
25 with me on that.

1 The second part of what I ruled is that I still think
2 your plea was knowing and valid. So even if they disagree
3 with that interpretation and the Department of Prisons is
4 able to proceed on with their interpretation, I'm stilling
5 ruling that your plea was valid because I did not find
6 that anybody guaranteed you or informed you you would or
7 could receive a total minimum of 15 years. I think that's
8 contrary to the plea negotiations and the testimony I
9 heard.

10 I don't necessarily think it would be fair to you to
11 have to serve more than 15 years before you were eligible
12 for release from prison, but I think under what I have
13 heard and in reviewing the case, that's my ruling.

14 THE DEFENDANT: Okay. One brief record
15 before we go. Just concerned about the testimony I wanted
16 to elicit from you also. I didn't mention that the
17 sentencing transcript you stated in there effectively, Mr.
18 Slaughter, you have a life sentence with the minimum of 15
19 years, which is what I believe you bargained for. And
20 just -- I believe that there were things that I needed to
21 elicit to support -- you know, I bargained for this 15.
22 That's what I was told the deal was.

23 I just wanted to make that record. As far as the
24 transcript and the order.

25 THE COURT: The transcript -- I'll ask the

1 State to prepare an order on the transcripts.

2 THE DEFENDANT: That's June 3rd and --

3 THE COURT: June 3rd and today's date as
4 well.

5 MR. DIGIACOMO: If you wish, I'll draft an
6 order so we get the transcript for disposing of it.

7 THE COURT: All right. Thank you.

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CERTIFICATE
OF
CERTIFIED COURT REPORTER

* * * * *

I, the undersigned certified court reporter in and for the
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the
time and place therein set forth; that the testimony and
all objections made at the time of the proceedings were
recorded stenographically by me and were thereafter
transcribed under my direction; that the foregoing is a
true record of the testimony and of all objections made at
the time of the proceedings.


Sharon Howard
C.C.R. #745

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DISTRICT COURT
CLARK COUNTY, NEVADA

FILED

2008 AUG 12 A 9:56

RICKIE SLAUGHTER,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Charles J. Short
CLERK OF THE COURT

Case No: C204957
Dept No: III

NOTICE OF ENTRY OF
DECISION AND ORDER

PLEASE TAKE NOTICE that on August 11, 2008, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on August 12, 2008.

CHARLES J. SHORT, CLERK OF THE COURT

By: *Brandi J. Wendel*
Brandi J. Wendel, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 12 day of August 2008, I placed a copy of this Notice of Entry of Decision and Order in:

The bin(s) located in the Office of the District Court Clerk of:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division

- ☒ The United States mail addressed as follows:
Rickie Slaughter # 85902
P.O. Box 1989
Ely, NV 89301

Brandi J. Wendel
Brandi J. Wendel, Deputy Clerk

1 **ORDR**

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9 Las Vegas, Nevada 89155-2212
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11 Attorney for Plaintiff

FILED

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

12 THE STATE OF NEVADA,

13 Plaintiff,

14 -vs-

15 RICKIE SLAUGHTER,
16 #1896569

17 Defendant.

CASE NO: C204957

DEPT NO: III

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: 6/18/08
TIME OF HEARING: 8:30 A.M.

18 THIS CAUSE having come on for hearing before the Honorable Douglas Herndon,
19 District Judge, on the 18th day of June, 2008, the Petitioner being present, in proper person,
20 the Respondent being represented by DAVID ROGER, District Attorney, by and through
21 MARC P. DI GIACOMO, Deputy District Attorney, and the Court having considered the
22 matter, including briefs, transcripts, arguments of counsel, the evidentiary hearing and
23 documents on file herein, now therefore, the Court makes the following findings of fact and
24 conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 25
- 26 1. That on June 27, 2007, the Nevada Supreme Court remanded Petitioner's appeal from
27 the denial of his post-conviction petition for writ of habeas corpus ordering this Court to
28 hold an evidentiary hearing to determine three questions.

- 1 2. As to the first question, the Court finds that no one specifically told Petitioner that his
2 plea agreement would make him eligible for parole after fifteen (15) years, or that he
3 would be paroled after fifteen (15) years, other than the language contained in the guilty
4 plea agreement. This includes the representatives of the State, Mr. DiGiacomo and Ms.
5 Krisko, his stand-by counsel, Mr. Wommer, and his investigator, Mr. Conklin.
- 6 3. To the extent that no promises, other than that contained in the guilty plea agreement
7 were made to Petitioner, the court finds the plea knowing and voluntary. Petitioner's
8 only issue is whether he can withdraw his plea because he was not aware of the Attorney
9 General's interpretation of NRS 213.1213. However, as Petitioner represented himself in
10 proper person, that lack of understanding cannot be grounds for relief.
- 11 4. As to whether NRS 213.1213 would allow for a minimum sentence of fifteen (15) years
12 under the plea agreement, the Court answers that question in the affirmative. The clear
13 intent of the statute is to prevent a prisoner who has two concurrent sentences to be
14 paroled from prison on the earlier of the two parole dates. The statute is silent as to
15 institutional parole from an underlying sentence to a weapons enhancement. To interpret
16 the statute as the Attorney General has interpreted it, would allow the department to carry
17 out sentences which were not the intent of the sentencing judge. When this Court
18 sentenced Petitioner, the Court intended the sentence for Attempt Murder With Use of a
19 Deadly Weapon (and the other counts) to run concurrent with the sentence for First
20 Degree Kidnapping With Substantial Bodily Harm. The interpretation suggested by the
21 Attorney General would have the deadly weapon enhancement run consecutive to the
22 Kidnapping count which was not the intention of the Court.
- 23 5. Finally, this Court finds that the Nevada Department of Prisons is not precluded from
24 paroling Petitioner for the primary offence with the deadly weapon enhancement when it
25 paroles petitioner on the controlling sentence of First Degree Kidnapping Resulting In
26 Substantial Bodily Harm.

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DOUGLAS W. HERNDON

DATED this 7 day of August, 2008.

DISTRICT JUDGE

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

BY


MARC P. DI GIACOMO
Chief Deputy District Attorney
Nevada Bar #006955

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICKIE LAMONT SLAUGHTER, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52385

FILED

MAR 27 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY J. J. Wasado
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

PROCEDURAL HISTORY

On August 31, 2005, the district court convicted appellant, pursuant to a guilty plea, of attempted murder with the use of a deadly weapon (count 1), robbery with the use of a deadly weapon (count 2), first-degree kidnapping with substantial bodily harm (count 3), and first-degree kidnapping with the use of a deadly weapon (count 4). The district court sentenced appellant to serve in the Nevada State Prison: (1) for count 1, two consecutive terms of 90 to 240 months; (2) for count 2, two consecutive terms of 72 to 180 months; (3) for count 3, life with the possibility of parole after 15 years; and (4) for count 4, two consecutive terms of life with the possibility of parole after 5 years. The district court imposed the terms between counts to run concurrently. No direct appeal was taken.

On August 7, 2006, appellant filed a proper person post-conviction petition for a writ of habeas corpus in the district court. Among other things, appellant claimed that his guilty plea was not voluntarily entered because he was promised and led to believe that he would be

eligible for parole/release to the streets after serving a minimum of 15 years. The State opposed the petition. On January 29, 2007, the district court denied the petition. This court affirmed the denial of several of the claims raised in the petition, but reversed the denial of appellant's claim regarding the voluntariness of his plea and remanded the matter for an evidentiary hearing and directed that the Attorney General file a response to the underlying sentence structure/parole eligibility claim. Slaughter, Jr., v. State, Docket No. 48742 (Order Affirming in Part, Vacating in Part and Remanding, July 24, 2007).

Upon remand, the district court appointed post-conviction counsel to assist appellant, however, appellant later elected to proceed in proper person. The Attorney General filed a response regarding the underlying sentence structure/parole eligibility claim. Appellant filed a brief in the district court seeking to withdraw his guilty plea. The State opposed withdrawal of the guilty plea, but stated that in the spirit of the plea negotiations, the deadly weapon enhancements should be removed. Appellant filed a reply. After conducting an evidentiary hearing, the district court denied appellant's claim that his guilty plea was involuntarily entered, but ordered the Department of Corrections to parole appellant from sentences for the deadly weapon enhancements for counts 1, 2, and 4 at the same time as the sentences for the primary offenses for counts 1, 2, and 4 and the sentence imposed in count 3. This appeal followed.

FACTS AND DISCUSSION

In his petition, appellant claimed that his guilty plea was involuntary because he was not correctly informed about the minimum sentence he would be required to serve before parole eligibility to the streets. Confusion regarding the minimum sentence largely relates to the

structuring of appellant's sentences for parole purposes. Based upon our review of the record on appeal, we conclude that the district court erred in determining that the Department erred in structuring the sentences and erred in determining that the guilty plea was voluntarily entered. We further conclude that the only remedy available is for appellant to have an opportunity to withdraw the guilty plea.

A guilty plea is presumptively valid, and a petitioner carries the burden of establishing that the plea was not entered knowingly and intelligently. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); see also Hubbard v. State, 110 Nev. 671, 675, 877 P.2d 519, 521 (1994). Further, this court will not reverse a district court's determination concerning the validity of a plea absent a clear abuse of discretion. Hubbard, 110 Nev. at 675, 877 P.2d at 521. In determining the validity of a guilty plea, this court looks to the totality of the circumstances. State v. Freese, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000); Bryant, 102 Nev. at 271, 721 P.2d at 367.

Appellant claimed that his guilty plea was involuntary because he was promised and led to believe that he would be eligible for parole/release to the streets after serving 15 years. Pursuant to plea negotiations, notably in which appellant represented himself, appellant agreed to enter a guilty plea to the four counts set forth above, the parties: (1) agreed to argue for a minimum sentence of 15 years on count 3; (2) the defendant retained the right to argue for a maximum term of 40 years on count 3 while the State retained the right to argue for a maximum sentence of life imprisonment on count 3; and (3) the State agreed to concurrent time between counts. While acknowledging that he was not promised release on parole, appellant claimed that he was led to believe that the plea agreement was represented as providing a minimum term of

15 years collectively before being eligible for consideration for parole/release to the streets.

At the evidentiary hearing, appellant's standby counsel testified that he understood the plea negotiations to include an absolute minimum sentence of 15 years no matter how the other sentences were imposed. Susan Krisko, one of the State's attorneys at the time of the plea, testified that she believed the spirit of the negotiations contemplated appellant's being eligible for parole after 15 years, although she never discussed NRS 213.1213 or promised appellant that he would be released after 15 years. Marc DiGiacomo, another of the State's attorneys at the time of the plea, testified that they never discussed the sentence structure or provided legal advice regarding the sentence structure and disagreed that the spirit of the negotiations required a minimum term of 15 years before parole eligibility. Mr. DiGiacomo testified, however, that he believed the sentences for the counts 1, 2, and 4 ran concurrently with the 15-to-life sentence for count 3. At the conclusion of the evidentiary hearing, the district court determined that the plea was voluntarily entered—appellant bargained for 15 years before eligibility for parole/release to the streets but there was no promise only a subjective belief that he would be eligible for release after 15 years. However, the district court concluded that the Department incorrectly determined that the deadly weapon enhancements did not begin until after appellant was paroled on the 15 to life term for count 3 and directed the Department to consider appellant for parole from the deadly weapon enhancements at the same time as he was considered for parole on the sentences for the primary offenses. The district court reasoned that because the counts were imposed to run concurrently every portion of the count, the primary

offense sentences and deadly weapon enhancement sentences, should run concurrently with count 3.

Sentence Structure

We conclude that the district court erred in determining that the Department incorrectly structured the sentences for purposes of parole eligibility. NRS 213.1213 provides that for purposes of determining parole eligibility between concurrent sentences, "eligibility for parole from any of the concurrent sentences must be based on the sentence which requires the longest period before the prisoner is eligible for parole." In the instant case, this means that the sentence for count 3, life with the possibility of parole after 15 years, is the controlling sentence for purposes of parole eligibility because it represents the longest term for parole eligibility. However, at the time appellant committed his offense, NRS 193.165 provided for an equal and consecutive enhancement sentence when a defendant used a deadly weapon during the commission of his primary offense. 1995 Nev. Stat., ch. 455, § 1, at 1431. Thus, until appellant is paroled from the sentences for the primary offenses for counts 1, 2, and 4, appellant is not eligible for parole on the deadly weapon enhancements. In examining the effect of NRS 193.165, this court has held that the deadly weapon enhancement is to be treated as a separate sentence from the primary sentence for all purposes, including parole eligibility. Nevada Dep't Prisons v. Bowen, 103 Nev. 477, 481, 745 P.2d 697, 699 (1987). This court has further recognized that there is no authority to aggregate a sentence for the purpose of parole eligibility. State v. Kimsey, 109 Nev. 519, 521, 853 P.2d 109, 111 (1993). Thus, the district court erred in determining that the Department was required to treat in the aggregate the sentences of the primary offenses and the deadly weapon enhancements for purposes of parole eligibility on counts 1, 2, and 4;

rather, the sentence structure as imposed requires appellant to serve the term of 15 years to life imprisonment for count 3 and a consecutive term for the controlling deadly weapon enhancement in the second level of the sentence structure.

Voluntariness of the Plea

Based upon our review of the record on appeal, we further conclude that the district court erred in determining that the guilty plea was voluntarily entered. In order to enter a voluntary and knowing guilty plea, the district court must be satisfied that the defendant has an understanding of the consequences of the guilty plea. State v. Freese, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000). The record on appeal establishes that appellant was informed of the nature of the charges and the range of punishments for each offense. Appellant was further informed that the district court's imposition of concurrent or consecutive time between counts was a matter within the district court's discretion. However, pervading the plea negotiations, was a misapprehension regarding the minimum term for parole eligibility to the streets when examining the global effect of the plea negotiations. The testimony from appellant's standby counsel, the testimony from one of the State's attorneys, and the district court's own statements at sentencing and during the post-conviction hearings, indicates that the parties and the district court mistakenly understood that the plea negotiations provided, globally, for a minimum term of 15 years to be served before appellant was eligible for parole to the streets.¹ Although the district court does not

¹As discussed above, this understanding was mistaken pursuant to NRS 213.1213 and NRS 193.165.

have a duty to inform a defendant of the parole consequences of a guilty plea, because those consequences are considered to be collateral consequences, see Palmer v. State, 118 Nev. 823, 830, 59 P.3d 1192, 1196 (2002), if appellant is informed that the plea negotiations contemplate a minimum sentence for parole eligibility that information should be accurate.² See Sierra v. State, 100 Nev. 614, 616, 691 P.2d 431, 433 (1984) (recognizing that a plea may be involuntary where the defendant was misinformed about the mandatory minimum punishment because if the defendant had been correctly informed of the full range of punishments, including the minimum term which was higher than represented, the defendant may not have been willing to enter the plea); Rouse v. State, 91 Nev. 677, 679, 541 P.2d 643, 644 (1975) (recognizing that a plea may be invalid where a defendant's belief as to a potential sentence, or hope of leniency, is supported by a promise from the State or indication by the court); see also Mathis v. Warden, 86 Nev. 439, 443, 471 P.2d 233, 236 (1970) (suggesting that the district court's misrepresentation regarding the parole consequences may warrant withdrawal of the plea). Reviewing the entire record on appeal, the "spirit" of the plea negotiations contemplated a term of 15 years to be served before appellant was eligible for parole to the streets. In the instant case, because of a misunderstanding of the effect of the deadly weapon enhancements on the

²This court is not suggesting that the State had a duty to provide legal advice to appellant, who as we noted earlier represented himself, but merely that the State provide accurate information regarding the plea negotiations. In the instant case, the record reveals that the plea negotiations concerned the minimum parole eligible term, and thus, this information was required to be accurate for a voluntary and knowing plea in the instant case.

minimum term to be served for parole eligibility to the streets, the terms of the negotiations were not fairly and accurately set forth. Thus, under the unique facts in this case, appellant demonstrated that his plea was involuntarily entered.

Remedy

In the proceedings below, the State indicated its willingness to have the deadly weapon enhancements stricken from the judgment of conviction in order to effectuate the parties' intentions regarding the guilty plea. Generally, the district court lacks jurisdiction to suspend or modify a defendant's sentence after the defendant begins to serve it. NRS 176A.400(3); Passanisi v. State, 108 Nev. 318, 322, 831 P.2d 1371, 1373 (1992). An exception to this rule applies when the court has made a mistake in rendering a judgment that worked to the extreme detriment of the defendant; however, this exception only applies if the error concerned the defendant's criminal record. Id. at 322-23, 831 P.2d at 1373-74; see also Edwards v. State, 112 Nev. 704, 707, 918 P.2d 321, 324 (1996). This court has specifically recognized that the district court's misapprehension regarding the legal consequences of a sentence does not permit the district court to modify the sentence after the defendant has begun to serve the sentence. State v. Kimsey, 109 Nev. 519, 522, 853 P.2d 109, 111 (1993). Consequently, because appellant's guilty plea was not voluntarily entered, as discussed above, appellant must be permitted an opportunity to withdraw his guilty plea in the instant case. Therefore, we reverse the denial of this claim.

Conclusion

Having reviewed the record on appeal and for the reasons set forth above, we conclude that oral argument and briefing are unwarranted

in this matter. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.³

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

Pickering, J.
Pickering

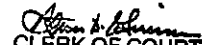
cc: Hon. Douglas W. Herndon, District Judge
Rickie Lamont Slaughter Jr.
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

³We have considered all proper person documents filed or received in this matter. We conclude that appellant is only entitled to the relief described herein. This order constitutes our final disposition of this appeal. Any subsequent appeal shall be docketed as a new matter.

1 MTN
 2 SUSAN K. BUSH, Esq.
 3 Bar No. 8007
 4 BUSH & LEVY, LLC.
 5 528 S. Casino Center Blvd., Suite 202
 6 Las Vegas, Nevada 89101
 7 (702) 868-4411
 8 Attorney for Petitioner,
 9 RICKIE L. SLAUGHTER

FILED

OCT 27 2009


 CLERK OF COURT

DISTRICT COURT
 CLARK COUNTY, NEVADA

8	THE STATE OF NEVADA,)	
9)	
	Plaintiff,)	
10	vs.)	
11	RICKIE L. SLAUGHTER,)	Case No.: C204957
12)	Dept. No.: III
	Defendant.)	

14 **MOTION TO DISMISS CASE FOR FAILURE TO PRESERVE OR DESTRUCTION OF**
 15 **EXCULPATORY PHOTO LINEUP IDENTIFICATION EVIDENCE**

16 COMES NOW, the Defendant, RICKIE L. SLAUGHTER by and through his attorney,
 17 SUSAN K. BUSH, of the law office of BUSH & LEVY, LLC., and hereby requests this
 18 Honorable Court to dismiss the instant criminal case with prejudice or in the alternative to
 19 prohibit identification testimony from eyewitnesses from being presented.

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CLERK OF THE COURT

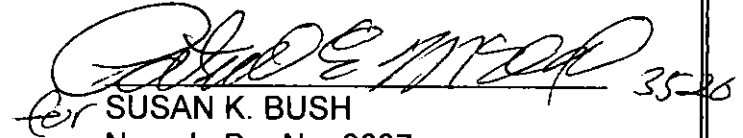
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This Motion is made and based upon the Memorandum of Points and Authorities
attached hereto and any oral argument adduced at the time of hearing on this matter.

DATED this 23rd ay of October, 2009

 35-26
for SUSAN K. BUSH

Nevada Bar No. 8007
BUSH & LEVY, LLC.
528 S. Casino Center Blvd., Suite 202
Las Vegas, Nevada 89101
(702) 868-4411
Attorney for Petitioner,
RICKIE L. SLAUGHTER

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Plaintiff:

PLEASE TAKE NOTICE that the undersigned will bring the foregoing MOTION TO DISMISS CASE FOR FAILURE TO PRESERVE EXCULPATORY PHOTO LINEUP IDENTIFICATION EVIDENCE on for hearing before the above-entitled Court on the 10 day of ~~October~~ November, 2009, at the hour of 9 a.m./p.m., or as soon thereafter as counsel may be heard on this matter.

DATED this 23rd day of October, 2009.


SUSAN K. BUSH

Nevada Bar No. 8007

BUSH & LEVY, LLC.

528 S. Casino Center Blvd., Suite 202

Las Vegas, Nevada 89101

(702) 868-4411

Attorney for Petitioner,

RICKIE L. SLAUGHTER

STATEMENT OF FACTS

On June 26, 2004, victims Ivan Young ("Young"), Ryan John ("John"), Jermaun Means ("Means"), Jose Posada ("Posada"), Jennifer Dennis, and Arron Denis, were bound and robbed by two (2) perpetrators, while at Yong's residence located at 2612 Glory View, North Las Vegas, NV. During the robbery, Young was reportedly shot. John reported being robbed of a Well's Fargo ATM card, and Means reported being robbed of over \$1,300.00 in cash and a silver wireless phone.

The victims and witness descriptions of the perpetrators varied in large part. Young described the robbers and being two (2) black males "one was bald and was wearing shorts and a blue shirt. The second had dreadlocks and a Jamaican accent." (Exhibit 1, 6/29/04 NLVPD Police Report by Officer Anthony Bailey, at pg. 2). John described only one of the robbers and said he was "unsure how many" perpetrator's were present during the crimes. (Exhibit 2, 6/29/04 NLVPD Police Report by Officer Mark Hoyt, at pg. 10). John was only able to describe the perpetrator as a black male.

Means described the robbers as two (2) black males and recalled one of the perpetrators wearing a beige suit jacket and that the other had dread locks. Posada described the robbers and two (2) black males. Posada stated that one had "braids" and the other had a dark afro. Additionally, Posada described one of the perpetrators as wearing a "tuxedo shirt".

Jennifer Dennis only described the perpetrators as being two black males and stated that both were 5'10" and one wore a red shirt and blue jeans and the other wore a blue shirt and jean shorts. Aaron Dennis was only able to provide vague description of the robbers as being two (2) black males, one of whom wore a black jacket. (See Exhibit 2, NLVPD Police Report by Officer Mark Hoyt).

Crime Scene Investigators ("C.S.I.") for the NLVPD reported no forensic evidence present at the crime scene from which the perpetrators could be identified.

1 Based upon information from a confidential informant ("C.I."), Detective Jesse Prieto
2 ("Prieto") of the North Las Vegas Police Department constructed a set of photographic lineups on
3 June 28, 2004. This lineup contained the image of Petitioner, Rickie Slaughter, along with the
4 images of five (5) other individuals. (Exhibit 3, 1st set of photo lineups). On this same date,
5 Detective Prieto administered this photo lineup to Young. Mr. Young selected Mr. Slaughter as a
6 potential suspect to the June 26, 2004 robbery.
7

8 With this information, Detective Prieto obtained and executed a search warrant authorizing
9 the search of both a residence where Mr. Slaughter was believed to stay, and a vehicle owned by
10 Tiffany Johnson ("Johnson"), who was believed to be Mr. Slaughter's girlfriend at the time. The
11 search of the residence and the vehicle revealed no relevant evidence to the instant offense. However,
12 two (2) firearms were located in the trunk of Ms. Johnson's vehicle, but these guns were determined
13 by the Las Vegas Metropolitan Police Department's ("LVMPD") forensic laboratory not to be the
14 weapons used to shoot Mr. Young.
15

16 On June 29, 2004, Mr. Slaughter was arrested and booked. a booking photo of Mr. Slaughter
17 was taken at the NLVPD Detention Center (Exhibit 4, NLVPD Booking photo of Rickie Slaughter
18 dated 6/29/04). That same day, the previously constructed photographic lineup arrays (see Exhibit
19 3, 1st set of photo line up) of Mr. Slaughter were shown to victims Means and John. Both Means and
20 John selected Mr. Slaughter as a possible suspect. Means noted "the face just stands out", and John
21 wrote, "this is the guy that I think". On July 1, 2004, Detective Prieto again administered the same
22 photographic array to Posada. Posada selected Mr. Slaughter's photo from the array (Exhibit 3, 1st
23 set of photo lineup). No other victims or witnesses selected Mr. Slaughter as an alleged suspect.
24 Detective Prieto preserved these identifications by having the witnesses sign and indicate the date
25 and time that they viewed the photographic arrays. Due to Young's medical condition, Detective
26 Prieto preserved Young's selection identified by Prieto's signature and a notation.
27
28

1 On an unknown date, another group of photographic lineup arrays was made by an unknown
2 state official (Exhibit 5, 2nd set of photo lineups). This new group of photo lineup arrays contained
3 Mr. Slaughter's June 29, 2004 NLVPD "mug shot" and a photograph of a former suspect in this case,
4 Jaquan Richard ("Richard") in lineup positions 4 & 1, 3 & 5, 3 & 4, 4 & 2, and 4 & 3 (See Exhibits
5 5a, 5b, 5c, 5d and 5e).

6
7 According to Detective Prieto's police reports this new group of photos containing Mr.
8 Slaughter's and Mr. Richard's photographs was shown to all of the victims on an unknown date and
9 by an unknown state official. (Exhibit 6, NLVPD report 12/10/04). However, no identifications or
10 selections of Mr. Slaughter are noted as being made from the new set of photographic lineups. None
11 of the State officials who administered this new group of photos to the victims preserved the names,
12 signatures, dates, or times when these photographs were viewed. (Exhibit 5, 2nd set of photographs).

13
14 On September 21, 2004, the preliminary hearing took place in the instant case. Justice of the
15 Peace Natalie Tyrrell found that sufficient evidence existed to hold Mr. Slaughter over for trial. At
16 the preliminary hearing, the State's case focused entirely on the identifications of Mr. Slaughter as
17 the alleged perpetrator.

18 POINTS AND AUTHORITIES

19
20 "Eyewitness misidentification is the single greatest cause of wrongful convictions
21 nationwide, playing a role in more than 75% of convictions overturned through DNA testing."¹ This
22 is a case where identification of Mr. Slaughter is based exclusively upon eyewitness testimony. The
23 State's failure to properly preserve establishing proof (i.e. officer's names, viewing witnesses names,
24 signatures, etc.) of the State's eyewitness viewings of the second group of photographic arrays from
25

26
27 ¹ Innocence Project (<http://www.innocenceproject.org/understand/Eyewitness-Misidentification.php>)
28

1 which Mr. Slaughter was not selected as a suspect by any of the State's eyewitnesses violates his due
2 process and prevents Mr. Slaughter from confronting and cross-examining these eyewitnesses at trial
3 with this exculpatory and material evidence.

4 **Loss Or Destruction of Evidence- Bad Faith Present**

5 Due process requires that the prosecution disclose exculpatory evidence within its possession.
6 Brady v. Maryland, 373 U.S. 83, 87, 83 S. Ct. 1194 (1963). The failure to preserve evidence violates
7 a defendant's right to due process only, however, if that evidence possessed "exculpatory value that
8 was apparent before the evidence was destroyed, and [is] of such a nature that the defendant would
9 be unable to obtain comparable evidence by other reasonably available means." California v.
10 Trombetta, 467 U.S. 479, 489 (1984).

11 A defendant must also demonstrate that the police acted in bad faith in failing to preserve
12 potentially useful evidence. Arizona v. Youngblood, 488 U.S. 51, 58, 109 S. Ct. 333, 102 L. Ed. 2d
13 281 (1988); *see also* Guam v. Muna, 999 F.2d 397, 400 (9th Cir. 1993).

14 The presence or absence of bad faith turns on the government's knowledge of the apparent
15 exculpatory value of the evidence at the time it was lost or destroyed. Youngblood, 488 U.S. at 56-
16 57; *see also* United States v. Cooper, 983 F.2d 928, 931 (9th Cir. 1993), Sheriff, Clark County v.
17 Warner, 112 Nev. 1234 (Nev. 1996), State v. Hall, 105 Nev. 7 (Nev. 1989), and Howard v. State,
18 95 Nev. 580 (Nev. 1979).

19 In United States v. Cooper, (relying on California v. Trombetta and Arizona v. Youngblood)
20 the court began,

21 "[b]ecause of the government's bad faith actions, the laboratory equipment seized
22 from Apotheosis Research lies broken and buried in a toxic waste dump. This
23 equipment cannot be introduced at trial. It can neither support nor undermine Wayne
24 Cooper and Vincent Gammill's repeated assertion that their lab lacked the physical
25 capability to manufacture methamphetamine."
26
27
28

1 United States v. Cooper, 983 F.2d 928, 929 (9th Cir. 1993). Bad faith was based on information
2 repeatedly provided to the government that the equipment was not capable of manufacturing
3 methamphetamines. Id. The government argued that defendants had “other means to establish the
4 physical capabilities of the destroyed lab equipment.” Id. at 932. They argued defendants could
5 question experts familiar with the properties of lab equipment and they could question the designer
6 of the 125-gallon reaction vessel. Id. Ultimately, the court disagreed stating, “[g]eneral testimony
7 about the possible nature of the destroyed equipment would be an inadequate substitute for testimony
8 informed by its examination.” Id.

10 In this case, Mr. Slaughter can demonstrate bad faith. Consistent with Youngblood, bad faith
11 is present in this case based on the *apparent exculpatory value* of witnesses interviewed by the police
12 who failed to identify Mr. Slaughter as a suspect. It cannot be argued that this apparent exculpatory
13 value was not known to the government at the time it was lost or destroyed. Here, like Cooper,
14 general testimony about the possible nature of the destroyed [evidence] in Mr. Slaughter’s case
15 would be an inadequate substitute for testimony informed by its examination, the examination of
16 notes regarding officers who conducted the photo lineup in question, and names of witnesses who
17 did not identify Mr. Slaughter as a suspect. More importantly, general testimony is not an option in
18 Mr. Slaughter’s case because unlike the defendants in Cooper, Mr. Slaughter was never aware of the
19 information to begin with; That is, Mr. Slaughter does not know the names of the officers who
20 conducted the exculpatory photo lineup identifications in question, and he does not know the names
21 of the witnesses who did not identify him as a suspect. Therefore, apart from any desire, Mr.
22 Slaughter, unlike defendants in Cooper, does not have the option of questioning experts in order to
23 demonstrate the exculpatory value of witnesses who did not identify him as a suspect, particularly
24 in a case hinging entirely upon eye witness identification testimony. In short, Mr. Slaughter is
25 wholly precluded from meaningful cross-examination on the exculpatory identification results.

1 In conclusion, consistent with the reasoning in Youngblood, Mr. Slaughter's due process was
2 violated by the bad faith failure to preserve apparently exculpatory evidence. The appropriate remedy
3 is dismissal.

4 **Loss Or Destruction of Evidence- Bad Faith Absent**

5 In the alternative, if this Court does not find bad faith present, Mr. Slaughter's motion to
6 dismiss should still be granted. Where there is no bad faith, the defendant has the burden of showing
7 prejudice. Buchanan v. State, 119 Nev. 201, 220 (Nev. 2003). The defendant must show that "it
8 could be reasonably anticipated that the evidence sought would be exculpatory and material to [the]
9 defense." Id., see also Cook v. State, 114 Nev. 120, 125 (Nev. 1998). Further, the "materiality and
10 potentially exculpatory character of lost or destroyed evidence must be determined on an ad hoc
11 basis on the facts of each particular case". Deere v. State, 100 Nev. 565, 566-67 (Nev. 1984).

12 In Cook, defendant was charged with three counts of sexual assault for the alleged rape of
13 his former domestic partner. Cook, 114 Nev. 120. At the conclusion of his fourth trial, a jury found
14 Cook guilty of one count of sexual assault. Cook, 114 Nev. 120. Following the investigation, the
15 police subsequently lost the photos, reports, and sweater. Cook, 114 Nev. at 124-25.

16 Cook alleged that lost photographs of blood on the carpet would have proven that he did not
17 violently attack the victim and drag her several feet across the carpeted floor; that the lost photos of
18 the bruise on his arm deprived him of the opportunity to rebut or impeach the victim's testimony that
19 the bruise on his arm was caused by her act of slamming a door on his arm during her purported
20 escape attempt; that his lost initial statement to police, given by Cook before he was aware of any
21 of the victim's specific allegations, could have been used to corroborate Cook's trial testimony; the
22 victim's lost initial statement to the police: Cook argues that the victim's initial statement may have
23 been inconsistent with portions of her trial testimony as evidenced by the fact that her initial
24 statement led police to charge Cook with only one count of fellatio, and not two; and Cook argues

1 that the sweater was both material and exculpatory evidence because it would have supported his
2 testimony because no blood was on it and it would have demonstrated she was not wearing the
3 sweater when she says she was, when her nose got bloody. Cook, 114 Nev. 124-25.

4 The court ruled that Cook has made the requisite showing of prejudice by demonstrating that
5 the lost items of evidentiary value could have been reasonably anticipated to be both material and
6 exculpatory. Cook, 114 Nev. at 126. Due to the State's negligent loss of evidence, Cook's ability to
7 defend himself was severely undermined. Cook, 114 Nev. at 126. Accordingly, the State's failure to
8 preserve such evidence violated Cook's right of due process and mandates reversal of his conviction
9 and sentence. Cook, 114 Nev. at 126.

11 In footnote number 6, the Cook Court noted, "[w]e do not suggest the Sparks Police
12 Department had a duty to collect evidence. Rather, we base our holding that Cook's defense was
13 unduly prejudiced solely on the evidence that was gathered and then subsequently lost by the Sparks
14 Police Department." Cook, 114 Nev. at 126. The court then concluded that Cook has established
16 prejudice by showing that the lost items of evidentiary value could have been reasonably anticipated
17 to be both exculpatory and material. Cook, 114 Nev. at 127.

18 In Buchanan defendant was convicted of three counts of first-degree murder in the deaths of
19 her three infant sons. Buchanan, 119 Nev. at 202. On Appeal, defendant claimed that she was
21 "irretrievably crippled and a fair trial became impossible" because the State discarded, consumed or
22 failed to gather various tissues of the three infants, thus, impermissibly shifting the burden of proof
23 to the defense. Buchanan, 119 Nev. at 219. In denying her appeal, the court noted that there was no
24 evidence of bad faith on the part of law enforcement. Buchanan, 119 Nev. at 220. The murder
25 investigation did not start until the third death, so any exculpatory value from any tissue from the
26 first two victims would not have been apparent to law enforcement. Buchanan, 119 Nev. at 220.

1 Also, medical experts testified that because of the small size of infants, frequently the tissues are
2 consumed in the testing. Buchanan, 119 Nev. at 220.

3 In Deere, the defendant appealed his conviction for first degree kidnapping, battery and
4 sexual assault upon a Las Vegas prostitute. Id. The primary issue on appeal was the denial of
5 defendant's pretrial motion to dismiss based on the "state's allegedly negligent failure to impound
6 and preserve material and potentially exculpatory evidence, namely the blouse and undergarment of
7 the victim." Id. The appeal was denied because defendant was unable to "demonstrate that it was
8 reasonably likely that the lost evidence would have exculpated him; he thus cannot make the
9 requisite showing of prejudice." Id.

11 In this case, the facts of Mr. Slaughter's case are analogous to those in Cook; That is, the lost
12 evidence was both exculpatory and material. Like Cook, the exculpatory photo lineup evidence in
13 Mr. Slaughter's case was collected by investigators. Next, like the evidence in Cook, the photo
14 lineup evidence is *apparently* exculpatory (witnesses to the second photo lineup did not identify Mr.
15 Slaughter), and material because Mr. Slaughter's case turns exclusively on identity as no other
16 evidence ties Mr. Slaughter to the crime. More importantly, the first photo lineup was conducted
17 using an older (out of date) photo of Mr. Slaughter, whereas the second photo lineup conducted used
18 his booking photo from June 29, 2004. Thus, witnesses viewing a current (more accurate) photo of
19 Mr. Slaughter at the second photo lineup failed to identify him as a suspect. Based on the foregoing,
20 it is more than "reasonably anticipated that the evidence sought would be exculpatory and material
21 to [the] defense." In this case, one which turns exclusively on witness identification testimony, any
22 reasonable person would *highly* anticipated that the photo lineup evidence sought would be
23 exculpatory and material to the defense.

24 The facts of Mr. Slaughter's case are unlike those of Buchanan and Deere. In Buchanan, the
25 court noted the murder investigation did not start until the third death, so any exculpatory value from

1 any tissue from the first two victims would not have been apparent to law enforcement, where as in
2 Mr. Slaughter's case, the evidence was 1) in fact gathered; 2) during an investigation, and 3) this
3 Court can fairly infer that such evidence was reasonably anticipated to be exculpatory and material
4 to the defense as analyzed above.

5 Moreover, the second group of photographic lineup arrays contains Mr. Slaughter's June 29,
6 2004 booking photo taken only two (2) days after the crime. According to police reports, this second
7 set of photographs "was shown to all of the victims" and Mr. Slaughter was not positively identified
8 as a potential perpetrator by any of the State's eyewitnesses. Much to Mr. Slaughter's detriment,
9 neither the names, signatures, dates, or times that the eyewitnesses viewed these arrays were
10 preserved on the second set of photographs. More troubling and problematic is the fact that the State
11 agent or agents who administered this group of photographic lineup arrays to the eyewitnesses cannot
12 be ascertained because they did not preserve their name on the lineups. Based on the foregoing, Mr.
13 Slaughter's dismissal should be granted even if this Court does not find bad faith. The above
14 demonstrates that it was more than reasonably anticipated that the lost or destroyed information
15 relating to the second photo lineup would be exculpatory and material to the defense.

16 As a result of the State's failure, Mr. Slaughter's defense is emasculated. Identity is the
17 defense, arguably Mr. Slaughter's sole defense. The State was arguably aware of this at the time of
18 the investigation, or at least, as is the standard set in Buchanan, reasonably anticipated that the
19 evidence sought would be exculpatory and material to [the] defense. As such, Mr. Slaughter is left
20 without a means to reconstruct, authenticate, or establish the eyewitness' viewings of the second
21 group of photographs. This inability to authenticate the facts and circumstances where Mr. Slaughter
22 was not identified by the eyewitnesses prevents him from introducing and exploring this exculpatory
23 evidence. Mr. Slaughter's defense against the instant charges is that he was mistakenly identified as
24 a perpetrator by the State's eyewitnesses. The fact that the State case relies heavily upon the

1 eyewitness identifications of Mr. Slaughter—coupled with the fact that there is no physical evidence
2 that directly links Mr. Slaughter to the crimes for which he is accused--provides the materiality and
3 potentially exculpatory nature of the second set of photographic lineup arrays.

4 Finally, the state cannot be permitted to benefit from its own failure to preserve evidence
5 favorable to the defendant. Sanborn v. State, 107 Nev. 399, 408 (Nev. 1991). In Sanborn, defendant
6 sought reversal on appeal of his conviction because the state failed properly to collect and preserve
7 the firearm which was used to inflict his wounds. Id. at 407. He asserted that the state's mishandling
8 of the gun prejudiced him because analysis of fingerprints and blood from the gun was crucial to his
9 theory that he acted in self-defense. Id. Overturning his conviction on other grounds, the court
10 announced the following presumption that would apply in a retrial by the state: "the trial court shall
11 instruct the jury that because the state failed to test the firearm that was used to inflict wounds on
12 Sanborn for blood and fingerprints, the weapon is irrebuttably presumed to have been held and fired
13 by the victim, Papili." Id. at 408.

14 In this case, State's case against Mr. Slaughter is buttressed by the absence of the second
15 photographic lineup array evidence. Therefore, the State cannot be allowed to benefit from its own
16 failure to preserve.

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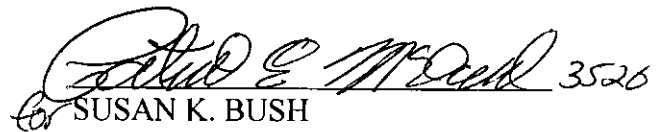
28

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CONCLUSION

Based upon the fact that all of the State's witnesses failed to identify Mr. Slaughter in the second photographic lineup and the circumstances under which these potentially exculpatory failures were not preserved by the State, Mr. Slaughter respectfully urges this court to enter an order dismissing the instant case with prejudice. In the alternative, Mr. Slaughter prays that this Court enter an order prohibiting the State from using the first photographic selections of Mr. Slaughter and the in-court identifications made at Mr. Slaughter's preliminary hearing and prohibit the State from eliciting any in-court identifications of Mr. Slaughter at trial.

Respectfully Submitted:

 3526
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CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: 246198
DATE: 6/29/04 -----POLICE REPORT----- PAGE: 1
TIME: 7:46 -----INVESTIGATIVE PORTION----- OF: 2

-----INCIDENT FOLLOWUP-----

classification/additional information:
AMURD

invest bureaus/units notified: I.D. BUREAU

location of occurrence: ! rpt dist:A1 neighborhood: APT
2612 GLORY VIEW ! ADAM 1 AIRPORT

from: date / time ! to: date / time ! report: date / time
6/26/04 / 19:11 ! 6/26/04 / 19:11 ! 6/26/04 / 19:11

hate crime? NO ! gang related? NO ! fingerprints? NO

routing? ! prosecute? ! prop report? ! vehl report? ! arrest rpt? ! attach?
DETECTIVE ! YES ! NO ! NO ! NO !

-----METHOD OF OPERATION-----

residential---type: 111 target: 169 security:
SINGLE FAMILY TARGET-OTHER

non-residtl---type: target: security:

entry---location: 318 DOOR method: 312 FRONT
exit---location: 362 NO FORCE-UNLOCKED method: 362 NO FORCE-UNLOCKED

-----suspect actions:-----

A. 601 MULTI SUSPECTS B. 603 VEHICLE NEEDED C. 606 SUSPECT ARMED
D. 607 DISCHARGED WEAPON E. 801 INFLICTED INJURY F. 803 FORCED VIC TO FLO
G. 811 TOOK HOSTAGE H. 813 COVERED VICTIM FA I. 815 DEMANDED SPC ITEM

*****DISPOSITIONS*****

[]-UNFOUNDED/NO CRIME--0 []-SUBMITTED D.A.-----5 []-RECLASSIFY-----10
[]-JUVENILE-----1 []-ADMIN. CLEARED-----6 []-VIC REFUSED PROS.--11
[]-NON DETECTIVE CLR---2 []-EXCEPTIONALLY CLR---7 []-AFFIDAVIT-----12
[]-DETECTIVE ARREST---3 []-SCREEN CLEARED-----8 []-CA/DA DENIAL-----13
[]-SUBMITTED CITY ATTY-4 []-NO CHGS FILED(NCF)--9 []-OTHER-----14
[]-SUBMITTED US ATTNY-15

-----RECORDS-----

class code---ucr ! sid number ! date ser no ! date ser no
! ! enter ! cleared
! ! scope ! scope
! !

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! BAILEY/ANTHONY 1366

CASE: 04015160
DATE: 6/29/04
TIME: 7:46

-----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: 246198
-----POLICE REPORT----- PAGE: 2
-----NARRATIVE PORTION----- OF: 2

ON SATURDAY 06/26/04 AT ABOUT 1911 HOURS OFFICER M. HOYT 1334 AND SEVERAL OTHER OFFICERS WERE DISPATCHED TO 2612 GLORY VIEW REFERENCE A SHOOTING VICTIM. I RESPONDED AS WELL TO ASSIST.

WHEN I ARRIVED, I ASSISTED IN SECURING WITNESSES AND THE SCENE. ONCE EVERYTHING WAS UNDER CONTROL I WAS ASKED BY SERGEANT D. NOWAKOWSKI TO FOLLOW THE SOUTHWEST AMBULANCE THAT WAS TRANSPORTING OUR VICTIM (IDENTIFIED AS IVAN YOUNG) TO UNIVERSITY MEDICAL CENTER'S TRAUMA RESUS DEPARTMENT FOR TREATMENT TO HIS FACIAL INJURIES AS A RESULT OF A GUN SHOT, AND REPORT BACK YOUNG'S CONDITION AS SOON AS POSSIBLE.

ONCE ARRIVED AT THE HOSPITAL, SOUTHWEST AMBULANCE MEDIC JOSHUA KINNUNEN FROM UNIT 524 HANDED ME A SMALL PIECE OF METAL HE HAD RECOVERED FROM YOUNG'S SHIRT. IT APPEARED TO BE THE COPPER JACKETING TO A PROJECTILE AND HELD EVIDENTIARY VALUE SO I TOOK CUSTODY OF IT.

AFTER GOING INSIDE AND WAITING FOR THE DOCTORS AND NURSES TO FINISH THEIR TREATMENT OF YOUNG, I WAS ABLE TO QUESTION HIM ABOUT THE INCIDENT. ONE OF THE TRAUMA PERSONNEL HANDED ME A PLASTIC CONTAINER HOLDING A SMALL PIECE OF COPPER METAL THAT ALSO APPEARED TO BE THE JACKETING FROM A PROJECTILE, SO I TOOK CUSTODY OF IT. THEY TOLD ME IT WAS RECOVERED FROM HIS FACE. YOUNG WAS VERY COHERANT AND REMEMBERED THE INCIDENT VERY WELL. HE TOLD ME THAT HE WAS OUTSIDE IN HIS GARAGE WORKING ON A CAR WHEN HE WAS APPROACHED BY TWO BLACK MALES (BM(S)). ONE WAS BALD AND WAS WEARING SHORTS AND A BLUE SHIRT. THE SECOND HAD DREADLOCKS AND SPOKE WITH A JAMAICAN ACCENT. THEY STARTED TALKING TO YOUNG.

ABOUT WORKING ON CARS. AFTER TALKING FOR A FEW MINUTES THEY BRANDISHED FIRE ARMS AND ORDERED YOUNG TO GO INSIDE. ONCE INSIDE THEY PUT EVERYONE IN THE HOUSE DOWN ON THE FLOOR AND STARTED ASKING FOR MONEY FROM EVERYONE. YOUNG SAID THEY PLACED SOMETHING OVER HIS HEAD AND FACE SO HE COULD NOT SEE AT ALL. DURING THIS TIME TWO OF YOUNG'S FRIENDS ARRIVED AND WERE PULLED INTO THE HOUSE AS WELL. YOUNG DID NOT KNOW WHAT HAPPENED TO THEM. YOUNG TOLD ME HE THOUGHT THE SUSPECTS GOT A CHECKCARD BUT UNKNOWN IF ANYTHING ELSE WAS TAKEN. YOUNG THEN TOLD ME THAT THE BM WITH DREADLOCKS CAME OVER TO HIM AND PLACED A GUN TO HIS FACE. THE BLACK MALE THEN SAID "HAVE YOU EVER SEEN ONE OF THESE BEFORE?" AFTER SAYING THAT, THE BM FIRED 1 SHOT STRIKING HIM IN THE FACE NEAR HIS CHIN. BOTH BMS THEN FLED AND GOT INTO A VEHICLE LEAVING THE SCENE.

YOUNG TOLD ME THAT HE KNOWS FOR A FACT THE BM WITH DREADLOCKS AND A JAMAICAN ACCENT WAS THE SHOOTER, AND THAT WITHOUT A DOUBT HE WOULD BE ABLE TO IDENTIFY THEM BOTH. YOUNG TOLD ME HE THOUGHT HE SAW 3 GUNS BUT COULD ONLY IDENTIFY TWO OF THEM. ONE WAS A .380 SEMI-AUTO AND THE OTHER WAS A SMALL BLACK REVOLVER. I THEN RETURNED TO THE SCENE OF THE SHOOTING WHERE OFFICER M. BRADY OF NLVPD'S CRIME SCENE ANALYST UNIT WAS INVESTIGATING. I TURNED BOTH OF THE PIECES OF JACKETING OVER TO HER AT THAT TIME.

NO ATTACHMENTS.

records bureau processed
SCARFF/DENISE

ser no ! detective bureau processed
1259 !

ser no

supervisor approving
NOWAKOWSKI/DENNIS

ser no ! officer reporting
1225 ! BAILEY/ANTHONY

ser no
1366


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CASE: 04015160      NORTH LAS VEGAS POLICE DEPARTMENT  REF: ORIGINAL
DATE: 6/29/04      -----POLICE REPORT----- PAGE: 1
TIME: 7:46      -----INVESTIGATIVE PORTION----- OF: 12
*****
-----INCIDENT ORIGINAL-----
classification/additional information:
AMURDWDW/BURG/ROBB/FALSE IMPRISONMENT
-----
invest bureaus/units notified: I.D. BUREAU/DETECTIVE
-----
location of occurrence:      ! rpt dist:A1 neighborhood: APT
2612 GLORY VIEW      ! ADAM 1      AIRPORT
-----
from:      date / time      ! to:      date / time      ! report:      date / time
        6/26/04 / 19:11      !      6/26/04 / 19:11      !      6/26/04 / 20:52
-----
hate crime? NO      ! gang related? YES      ! fingerprints? NO
-----
routing? ! prosecute? ! prop report? ! vehl report? ! arrest rpt? ! attach?
DETECTIVE      :      YES      !      NO      !      NO      !      NO      !      YES
*****
-----METHOD OF OPERATION-----
residential---type: 111      target:      security:
        SINGLE FAMILY
-----
non-residtl---type:      target:      security:
-----
entry---location: 325 GARAGE      method:
exit---location: 373 FORCED-UNIQUE METHODmethod:
-----
suspect actions:
A. 601 MULTII SUSPECTS      B. 606 SUSPECT ARMED      C. 607 DISCHARGED WEAPON
D. 704 SELECTIVE IN LOCT      E. 801 INFLICTED INJURY      F. 802 THREAT RETALIATIC
G. 533 FORCED VIC TO FLO      H. 814 BOUND/GAGGED VICT      I. 901 KNEW VICTIMS NAME
*****DISPOSITIONS*****
[ ] -UNFOUNDED/NO CRIME--0 [ ] -SUBMITTED D.A.-----5 [ ] -RECLASSIFY-----10
[ ] -JUVENILE-----1 [ ] -ADMIN. CLEARED-----6 [ ] -VRO REFUSED PROS.--11
[ ] -NON DETECTIVE CLR--2 [ ] -EXCEPTIONALLY CLR--7 [ ] -AFFIDAVIT-----12
[ ] -DETECTIVE ARREST---3 [ ] -SCREEN CLEARED-----8 [ ] -CA/CA DENIAL-----13
[ ] -SUBMITTED CITY ATTY-4 [ ] -NC CECS FILED(NCF)--9 [ ] -OTHER-----14
[ ] -SUBMITTED US ATINY-15
*****
-----RECORDS-----
class code---ucr      :      sid number      !      date      ser no      !      date      ser no
        :      ! enter      ! cleared
        :      ! scope      ! scope
        :      !
*****
records bureau processed      ser no ! detective bureau processed      ser no
SCARFF/DENISE      1259 !
-----
supervisor approving      ser no ! officer reporting      ser no
NOWAKOWSKI/DENNIS      1225 ! HOYT/MARK      1334
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.....
CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
DATE: 6/29/04 -----POLICE REPORT----- PAGE: 2
TIME: 7:46 -----PERSONS PORTION----- OF: 12
.....

name of person (001): ! type: V ! occupation: ! susp id?
YOUNG/IVAN ! VICTIM ! PAINTER ! YES
.....

sex ! race: W hisp:Y! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! HISPANIC ! 5/21/1973 ! 31 ! 000 ! 000 ! ! ! !
.....

alias-aka: ! birthplace:
alias-aka: ! ssn: 467370271 mf no:
.....

addr: 2612 GLORY VIEW NORTH LAS VEGAS NV 89030 !
business: !
.....

descriptors:
descriptors:
.....

name of person (002): ! type: W ! occupation: ! susp id?
WADDY/DESTINEE ! WITNESS ! DENTAL ASSIST ! NO
.....

sex ! race: B hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
F ! BLACK ! 5/18/1981 ! 23 ! 000 ! 000 ! ! ! !
.....

alias-aka: ! birthplace:
alias-aka: ! ssn: 564738514 mf no:
.....

addr: 2309 BAHAMA POINT NORTH LAS VEGAS NV 89031 ! 7022904223
business: !
.....

descriptors:
descriptors:
.....

name of person (003): ! type: V ! occupation: ! susp id?
MEANS/JERMAUN ! VICTIM ! ! NO
.....

sex ! race: B hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! BLACK ! 12/11/1976 ! 27 ! 000 ! 000 ! ! ! !
.....

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:
.....

addr: 2309 BAHAMA POINT NORTH LAS VEGAS NV 89031 ! 7026369620
business: !
.....

descriptors:
descriptors:
.....

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !
.....

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334
.....

.....
CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
DATE: 6/29/04 -----POLICE REPORT----- PAGE: 3
TIME: 7:46 -----PERSONS PORTION----- OF: 12
.....

name of person (004): ! type: V ! occupation: ! susp id?
JOHN/RYAN ! VICTIM ! LABORER ! NO

sex ! race: W hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! WHITE ! [REDACTED]/1985 ! 19 ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: 9030 BARR AVE LAS VEGAS NV 89124 ! 7026479472
business: VEGAS TRAFFIC SAFETY 4872 LMBW LV NV 89108 ! 7027912008

descriptors: GIRLFRIEND LIVES AT 2613 GLORY VIEW
descriptors:

name of person (005): ! type: V ! occupation: ! susp id?
DENNIS/AARON ! VICTIM ! NO

sex ! race: W hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! WHITE ! 2/08/1994 ! 10 ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: 2612 GLORY VIEW NORTH LAS VEGAS NV 89031 !
business: !

descriptors:
descriptors:

name of person (006): ! type: V ! occupation: ! susp id?
POSADA/JOSE ! VICTIM ! NO

sex ! race: W hisp:Y! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! HISPANIC ! 3/23/1992 ! 12 ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: UNKNOWN !
business: !

descriptors: IVAN YOUNG'S NEPHEW
descriptors:

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334

.....
.....
CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
DATE: 6/29/04 -----POLICE REPORT----- PAGE: 4
TIME: 7:46 -----PERSONS PORTION----- OF: 12
.....

name of person (007): ! type: W occupation: ! susp id?
HICKMAN/JAKE #1476 ! WITNESS ! POLICE OFFICER ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

name of person (008): ! type: W ! occupation: ! susp id?
COON/CHRISSE #1457 ! WITNESS ! POLICE OFFICER ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

name of person (009): ! type: W ! occupation: ! susp id?
BAILEY/ANTHONY #1366 ! WITNESS ! POLICE OFFICER ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMEE ! 7026339111

descriptors:
descriptors:

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334

name of person (010):		! type: W		! occupation:		! susp id?			
ADAMS/CLINTON #1066		! WITNESS		! POLICE OFFICER		! NO			

sex ! race:	hisp: !	dob	! age !	hgt !	wgt !	hair !	eyes !	bld !	cmp
M !	!	!	! !	000 !	000 !	!	!	!	!

alias-aka:				! birthplace:					
alias-aka:				! ssn:		mf no:			

addr:		!							
business: NLVPD 1301 LMBE		! 7026339111							

descriptors:									
descriptors:									

name of person (011):		! type: W		! occupation:		! susp id?			
NOWAKOWSKI/DENNIS #1225		! WITNESS		! POLICE SERGEANT		! NO			

sex ! race:	hisp: !	dob	! age !	hgt !	wgt !	hair !	eyes !	bld !	cmp
M !	!	!	! !	000 !	000 !	!	!	!	!

alias-aka:				! birthplace:					
alias-aka:				! ssn:		mf no:			

addr:		!							
business: NLVPD 1301 LMBE		! 7026339111							

descriptors:									
descriptors:									

name of person (012):		! type: W		! occupation:		! susp id?			
NOWAKOWSKI/DENNIS #1225		! WITNESS		! POLICE SERGEANT		! NO			

sex ! race:	hisp: !	dob	! age !	hgt !	wgt !	hair !	eyes !	bld !	cmp
M !	!	!	! !	000 !	000 !	!	!	!	!

alias-aka:				! birthplace:					
alias-aka:				! ssn:		mf no:			

addr:		!							
business: NLVPD 1301 LMBE		! 7026339111							

descriptors:									
descriptors:									

records bureau processed		ser no !		detective bureau processed		ser no			
SCARFF/DENISE		1259 !							

supervisor approving		ser no !		officer reporting		ser no			
NOWAKOWSKI/DENNIS		1225 !		HOYT/MARK		1334			

CASE: 04015160 ---NORTH LAS VEGAS POLICE DEPARTMENT--- REF: ORIGINAL
DATE: 6/29/04 ---POLICE REPORT--- PAGE: 6
TIME: 7:46 ---PERSONS PORTION--- OF: 12

name of person (013): ! type: W ! occupation: ! susp id?
BRADY/MARION #850 ! WITNESS ! I.D. TECH. ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
F ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

name of person (014): ! type: W ! occupation: ! susp id?
WALKER/SEAN #1523 ! WITNESS ! POLICE OFFICER ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

name of person (015): ! type: W ! occupation: ! susp id?
SANDERS/JOHN #1244 ! WITNESS ! POLICE OFFICER ! NC

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334

.....
CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
DATE: 6/29/04 -----POLICE REPORT----- PAGE: 7
TIME: 7:46 -----PERSONS PORTION----- OF: 12
.....

name of person (016): ! type: S ! occupation: ! susp id?
NO NAME ! SUSPECT ! ! NO

sex ! race: B hisp: N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! BLACK ! ! ! 508 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: !

descriptors: SPOKE WITH JAMAICAN ACCENT
descriptors: HAD DREAD LOCKS

name of person (017): ! type: S ! occupation: ! susp id?
NO NAME ! SUSPECT ! ! NO

sex ! race: B hisp: N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! BLACK ! ! ! 511 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: !

descriptors: LSW BLUE AND WHI CLOTHING
descriptors:

name of person (018): ! type: W ! occupation: ! susp id?
PRIETO/JESUS #674 ! WITNESS ! DETECTIVE ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMEE ! 7026339111

descriptors:
descriptors:

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HCYT/MARK 1334

.....
CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
DATE: 6/29/04 -----POLICE REPORT----- PAGE: 8
TIME: 7:46 -----PERSONS PORTION----- OF: 12
.....

name of person (019): ! type: W ! occupation: ! susp id?
MELGAREJO/EDWING #837 ! WITNESS ! DETECTIVE ! NO
.....

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !
.....

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:
.....

addr: !
business: NLVPD 1301 LMBE ! 7026339111
.....

descriptors:
descriptors:
.....

.....
records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !
.....

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334
.....

CASE: 04015160
DATE: 6/29/04
TIME: 7:46

-----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
-----POLICE REPORT----- PAGE: 9
-----NARRATIVE PCRTION----- OF: 12

ON SATURDAY, 06-26-04 AT 1911 HOURS, OFFICERS WERE DISPATCHED TO 2612 GLORY VIEW IN REFERENCE TO A SHOOTING VICTIM INSIDE THE RESIDENCE. OFFICER HICKMAN WAS THE FIRST OFFICER TO ARRIVE WITH OFFICER COON ARRIVING SHORTLY AFTER OFFICER HICKMAN. WHEN I ARRIVED, I WALKED INTO THE FRONT DOOR. THE FRONT DOOR OPENS TO A LARGE LIVING ROOM WITH A DINING AREA TO THE LEFT OF THE FRONT DOOR AND THE KITCHEN ON THE OTHER SIDE OF THE DINING AREA. THERE WAS A LARGE POOL OF BLOOD ON THE FLOOR IN THE DINING AREA AND A LAMP WAS TIPPED OVER IN THE LIVING ROOM. OFFICER COON WAS TALKING TO A FEMALE TRYING TO PLACE DOGS IN THE BACKYARD. OFFICER COON TOLD ME SHE WAS A WITNESS AND THE VICTIM, IVAN YOUNG WAS IN A BEDROOM ON THE EAST SIDE OF THE RESIDENCE. OFFICER HICKMAN WAS TALKING TO YOUNG GETTING HIS PERSONAL INFORMATION. YOUNG WAS LAYING ON A BED ON HIS BACK WITH HIS HANDS AGAINST HIS FACE. I COULD SEE A LOT OF BLOOD ON YOUNG'S NOSE AND CHIN AREA. YOUNG TOLD ME HE GOT SHOT BY TWO GUYS HE DID NOT KNOW WHILE HE WAS IN THE GARAGE. YOUNG BEGAN TO YELL SAYING THAT HIS FACE HURTS. AT THIS TIME, NORTH LAS VEGAS FIRE DEPARTMENT RESCUE UNIT #53 AND SOUTHWEST AMBULANCE UNIT #524 ARRIVED TO TREAT YOUNG. AS PARAMEDICS ROLLED YOUNG OUT OF THE RESIDENCE ON A GURNEY, I NOTICED THAT A SCREEN TO A WINDOW LOCATED ON THE WEST SIDE OF THE RESIDENCE WAS PULLED FROM THE WINDOW FRAME AND HANGING FROM THE TOP. AS PARAMEDICS LOADED YOUNG INTO THE AMBULANCE, OFFICERS WERE SEPARATING WITNESSES.

IVAN YOUNG'S WIFE WAS AT THE RESIDENCE WHEN IVAN WAS SHOT. OFFICER HICKMAN INTERVIEWED HER. REFER TO OFFICER HICKMAN'S FOLLOW-UP REPORT FOR FURTHER INFORMATION.

I THEN SPOKE TO A WHITE MALE, IDENTIFIED AS RYAN JOHN. JOHN TOLD ME HE WAS VISITING HIS GIRLFRIEND AT 2613 GLORY VIEW WHICH IS DIRECTLY ACROSS THE STREET FROM 2612 GLORY VIEW. JOHN LEFT HIS GIRLFRIENDS HOUSE AND STARTED TO WALK TO HIS VEHICLE THAT WAS PARKED IN FRONT OF 2613 GLORY VIEW. A BLACK MALE YELLED TO JOHN FROM THE GARAGE OF 2612 GLORY VIEW THAT IVAN WANTED TO TALK TO HIM. BECAUSE JOHN KNEW IVAN AND WAS FRIENDS WITH HIM, HE WALKED ACROSS THE STREET. THE UNIDENTIFIED BLACK MALE OPENED THE HOUSE DOOR INSIDE THE GARAGE THAT OPENS TO A LAUNDRY ROOM SO JOHN COULD WALK INSIDE. AS JOHN WALKED INTO THE LAUNDRY ROOM, THE SUSPECT PUT A PISTOL TO JOHN'S THROAT AND TOLD HIM TO GET ON THE GROUND IN THE KITCHEN AND PLACE HIS HANDS BEHIND HIS BACK. THERE IS ANOTHER DOOR THAT OPENS INTO THE KITCHEN FROM THE LAUNDRY ROOM. JOHN LAID ON THE FLOOR WITH HIS HEAD TOWARDS THE SINK AND HIS FEET AT THE REFRIGERATOR. THE SUSPECT TIED JOHN'S HANDS BEHIND HIS BACK AND STOMPED ON JOHN'S HEAD. THE SUSPECT THEN PLACED A BLACK JACKET OVER HIS HEAD. THE SUSPECT THEN PLACED A GUN TO JOHN'S HEAD AND TOLD HIM THAT IF HE MOVES, HE WAS GOING TO BLOW HIS BRAINS OUT. THE SUSPECT THEN WENT INTO JOHN'S POCKETS AND FOUND AN AUTOMATIC TELLER MACHINE (ATM) CARD IN A FRONT POCKET. THE SUSPECT THEN TOLD JOHN TO TELL HIM HIS PERSONAL PIN NUMBER TO HIS ATM. JOHN TOLD HIM. THE SUSPECT THEN TOLD JOHN THAT IF THE NUMBER WAS WRONG, HE WOULD COME BACK AND KILL HIM. THE SUSPECT THEN WALKED AWAY. JOHN HEARD TWO MALES TALKING TO IVAN. JOHN SAID THAT IVAN WAS

records bureau processed
SCARFF/DENISE

ser no ! detective bureau processed
1259 !

ser no

supervisor approving
NOWAKOWSKI/DENNIS

ser no ! officer reporting
1225 ! HOYT/MARK

ser no
1334

CASE: 04015160
DATE: 6/29/04
TIME: 7:46

-----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
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CLOSE TO HIM, NEAR THE DINING ROOM AREA. JOHN HEARD IVAN ASKING A MALE NOT TO SHOOT HIM. THEN JOHN HEARD A GUN SHOT AND IVAN SCREAM. JOHN THEN HEARD ONE OF THE SUSPECTS ASK THE OTHER SUSPECT IF HE SHOT HIM. THE OTHER MALE, IN A JAMAICAN ACCENT SAID, YES I SHOT HIM. JOHN THEN HEARD THE SUSPECT LEAVE THROUGH THE FRONT DOOR. ABOUT ONE TO TWO MINUTES LATER, JOHN STOOD UP, TAKING THE JACKET OFF OF HIS HEAD. JOHN RAN TO THE LAUNDRY ROOM, PULLING ONE OF HIS HANDS FROM BEHIND HIS BACK AND JUMPED OUT OF A WINDOW THAT FACES NORTH TO THE REAR YARD. JOHN JUMPED SEVERAL YARDS NORTHBOUND, RUNNING AWAY FROM THE RESIDENCE. JOHN THEN CALLED THE POLICE FROM A CELLULAR TELEPHONE FROM AN UNKNOWN ADDRESS. JOHN HAD SEVERAL MARKS ON BOTH WRIST FROM BEING TIED UP AND WAS TREATED AT THE SCENE BY MEDICAL PERSONNEL. JOHN TOLD ME THAT HE COULD NOT IDENTIFY ANY OF THE SUSPECTS AND WAS UNSURE HOW MANY WERE THERE. JOHN CALLED WELLS FARGO BANK WHICH ISSUED THE ATM CARD. THEY TOLD JOHN THAT AN ATM WITHDRAWAL FOR \$201.50 WAS JUST TAKEN FROM AN UNKNOWN ATM MACHINE. WELLS FARGO WOULD NOT KNOW THE EXACT LOCATION UNTIL MONDAY BECAUSE IT WAS PAST NORMAL BUSINESS HOURS. JOHN COMPLETED A WITNESS STATEMENT AT THE SCENE.

ANOTHER VICTIM, JERMAIN MEANS TOLD ME THAT HE WENT OVER TO 2612 GLORY VIEW BECAUSE IVAN WAS PAINTING HIS VEHICLE. APPARENTLY, IVAN PAINTS VEHICLES OUT OF HIS HOME. AS MEANS WALKED UP TO THE FRONT DOOR, TWO UNKNOWN MALES OPENED THE DOOR AND BEGAN TO WALK OUT. ONE OF THE MALES WAS WEARING A BEIGE SUIT JACKET AND THE OTHER HAD DREAD LOCKS. MEANS BELIEVED THE MALE WITH THE DREAD LOCKS WAS WEARING A WIG. THE SUSPECTS GRABBED ONTO MEANS'S ARM AND PULLED HIM INTO THE RESIDENCE. THEY FORCED HIM TO THE FLOOR JUST INSIDE THE FRONT DOOR AND TIED HIS HANDS BEHIND HIS BACK. MEANS TOLD ME THAT BOTH MALES HAD GUNS IN THEIR HANDS BUT HE COULD NOT DESCRIBE THE WEAPONS. ONE OF THE SUSPECTS ASKED MEANS IF HE HAD ANY MONEY. MEANS TOLD HIM YES. ONE OF THE SUSPECTS REMOVED ABOUT \$1,300.00 DOLLARS FROM MEANS'S FRONT PANTS POCKET. MEANS REMEMBERED HAVING SEVEN \$100.00 BILLS. THE SUSPECT ALSO TOOK MEANS'S CELLULAR TELEPHONE. MEANS TOLD ME THAT THE SUSPECTS THEN LEFT OUT OF THE FRONT DOOR. AFTER A FEW SECONDS, MEANS GOT UP, BROKE THE WIRES THE SUSPECTS TIED HIM UP WITH AND RAN OUTSIDE TO HIS VEHICLE. MEANS'S GIRLFRIEND, DESTINIE WADDY WAS WAITING INSIDE THE VEHICLE. MEANS TOLD ME THAT HE DID NOT HEAR ANY GUN SHOTS SO HE BELIEVED IVAN WAS ALREADY SHOT BEFORE HE GOT THERE. MEANS RECEIVED MEDICAL ATTENTION AT THE SCENE AND HE COMPLETED A WITNESS STATEMENT. MEANS TOLD ME HE COULD NOT IDENTIFY THE SUSPECTS.

WADDY TOLD ME THAT SHE SAW TWO UNIDENTIFIED MALES WALK OUT OF THE RESIDENCE AND GOT INTO A DARK GREEN VEHICLE. WADDY SAID THE VEHICLE WAS POSSIBLY A PONTIAC GRAND AM. THE VEHICLE WAS LAST SEEN WESTBOUND ON GLORY VIEW. WADDY DESCRIBED THE MALES AS ONE WEARING A WIG, ABOUT 5'8" TALL. THE OTHER MALE WAS ABOUT 5'11" TALL. BOTH WERE WEARING BLUE AND WHITE CLOTHING. WADDY TOLD ME THAT SHE HAS NEVER SEEN THE TWO MALES BEFORE. WADDY ALSO COMPLETED A WITNESS STATEMENT AT THE SCENE.

records bureau processed
SCARFF/DENISE

ser no 1 detective bureau processed
1259 1

ser no

supervisor approving
NOWAKOWSKI/DENNIS

ser no 1 officer reporting
1225 1 HOYT/MARK

ser no
1334

CASE: 04015160
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-----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
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IVAN'S SON, AARON DENNIS WAS ALSO AT THE RESIDENCE WHEN HE WAS SHOT. DENNIS SAID THAT HIS FATHER CAME INTO THE HOUSE AND TOLD HIM, HIS MOTHER AND HIS COUSIN TO DO WHAT THEY SAY. TWO BLACK MALES WERE WALKING BEHIND IVAN. ONE WAS WEARING A BLACK JACKET. THE TWO MALES DEMANDED EVERYONE TO GET ON THE GROUND. ONE OF THE SUSPECTS TIED DENNIS'S HANDS BEHIND HIS BACK. DENNIS THEN ONLY REMEMBERED ONE OF THE MALES ASKING FOR MONEY AND SHOOTING IVAN. DENNIS COMPLETED A WITNESS STATEMENT AND HE WAS TREATED BY PARAMEDICS AT THE SCENE.

IVAN'S NEPHEW, JOSE POSADA TOLD ME TWO UNIDENTIFIED BLACK MALES WERE THREATENING IVAN FOR MONEY. THE SUSPECTS MADE POSADA AND DENNIS FACE A WALL AND ASKED THEM WHERE ALL THE TELEPHONES WERE. POSADA TOLD THE MALES AND THE SUSPECTS BROKE ALL OF THE TELEPHONES AND CELLULAR PHONES. POSADA SAID THE SUSPECTS TIED EVERYONE UP WITH WIRES FROM THE FLOOR LAMPS IN THE LIVING ROOM. POSADA THEN SAID HIS UNCLE IVAN WAS SHOT IN THE HEAD. POSADA DESCRIBED ONE OF THE MALES AS A BLACK MALE WITH BRAIDS. THE OTHER MALE WAS A BLACK MALE WITH A DARK AFRO. ONE OF THE SUSPECTS WAS WEARING A TUXEDO SHIRT. POSADA ALSO SAID THAT HE SAW THREE GUNS. THE TWO MALES THEN WALKED OUT OF THE FRONT DOOR. POSADA COMPLETED A WITNESS STATEMENT AT THE SCENE AND WAS TREATED BY PARAMEDICS.

CSI BRADY ARRIVED AND PROCESSED THE SCENE. DETECTIVES PRIETO AND MELGARJEO ALSO ARRIVED ON SCENE. OFFICER BAILEY WENT TO UNIVERSITY MEDICAL CENTER TO CHECK ON IVAN'S INJURIES. IVAN WAS LAST LISTED IN STABLE CONDITION. OFFICER BAILEY ALSO INTERVIEWED IVAN. REFER TO OFFICER BAILEY'S FOLLOW-UP REPORT FOR FURTHER DETAILS. TAMMY POSADA, JOSE'S MOTHER ARRIVED ON SCENE AND TOOK POSSESSION OF THE FOUR DOGS BELONGING TO IVAN. TAMMY ALSO TOOK CUSTODY OF JOSE AND DENNIS UNTIL FURTHER NOTICE. AT ABOUT 2330 HOURS, DISPATCH RECEIVED A TELEPHONE CALL FROM TOM WINTER ABOUT POSSIBLE INFORMATION ON THE SUSPECTS. WINTER TOLD ME HE OWNS SEVERAL PROPERTIES IN THE LAS VEGAS VALLEY. ONE OF HIS EX-TENANTS, ERIC HAWKINS OWNS A DARK GREEN CHEVY MALIBU AND WAS A SUSPECT IN A BURGLARY CASE ABOUT TWO MONTHS AGO. WINTER SAW A NEWS RELEASE AND TOLD ME THAT HAWKINS'S METHOD OF OPERATION MATCHES A BURGLARY TWO MONTHS AGO, SIMILAR TO 2612 GLORY VIEW. WINTER TOLD ME HAWKINS SPEAKS WITH A JAMAICAN ACCENT AND HAS A BROTHER-IN-LAW THAT HE IS ALWAYS SEEN WITH. WINTER TOLD ME HAWKINS'S SOCIAL SECURITY NUMBER IS [REDACTED]-6948. A RECORDS CHECK ON HAWKINS REVEALED THAT HE HAS BEEN ARRESTED IN THE PAST FOR NARCOTICS AND WEAPONS CHARGES WITH A D.O.B. OF 072284. HE IS LISTED AS 5'10" TALL AND 140 POUNDS. DISPATCH PROVIDED POSSIBLE ADDRESSES IN LAS VEGAS OF 1904 JOELLA OR 3332 PARAGON DRIVE.

ATTACHMENTS: FIVE WITNESS STATEMENTS.

records bureau processed
SCARFF/DENISE

ser no ! detective bureau processed
1259 !

ser no

supervisor approving
NOWAKOWSKI/DENNIS

ser no ! officer reporting
1225 ! HOYT/MARK

ser no
1334

CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
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TIME: 7:46 -----BOOKING PORTION----- OF: 12

name of arrestee: SLAUGHTER/RICKIE mf: 99089534 cs: 1896569
sex | race/ethnic | date birth | age | hgt | wgt | hair | eyes | bld | cmp
M | B N BLACK | 1984 | 19 | 509 | 180 | BLK | BRO | MED | DRK

alias-aka: SLAUGHTER/RICKIE LAMONT | place of birth:
alias-aka: | LAS VEGAS NV
alias-aka: | ssn: 627
alias-aka: | driv lic/st: 1401804365 NV

scars, marks, TAT RF ARM "RICC"/SC ABDOM 6"
tattoos, etc: SC R SIDE STAB WOUND
illness/injuries:

address (house no; apt no; street, city, state, zip) | phone number
3301 E CHARLESTON #114 LV NV

next of kin name: PATRICIA MITCHELL relation: MOTHER
next of kin address: phone: 7022414277
employer: NONE occupation: NONE

date/time of booking: 6/29/04 0133 abno: 253034
place of arrest: 3801 E CHARLESTON #114 arresting officer: vehl
date/time of arrest: 6/28/04 2300 PRIETO/JESUS YES
officers present during booking: transporting officer: impd
SAKAY 1265/GARCIA 1525 PRIETO/JESUS YES
ad ID:

no.	orig	charge	warrant/nrs	cts	fgm	bail	case num
1	PC	02148	200.030 ATT MURD WDW	1	F	NONE	4015160
2	PC	00118	200.380 ROBB WDW	1	F	40,000	4015160
3	PC	00301	205.060 BURG WDW	1	F	15,000	4015160
4	PC	02743	200.460 FALSE IMPRISON WDW	1	F	10,000	4015160

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334

CASE: 04015160 NORTH LAS VEGAS POLICE DEPARTMENT REF: ORIGINAL
DATE: 6/29/04 POLICE REPORT PAGE: 1
TIME: 7:46 INVESTIGATIVE PORTION OF: 12

-----INCIDENT ORIGINAL-----

classification/additional information:
AMURDWDW/BURG/ROBB/FALSE IMPRISONMENT

invest bureaus/units notified: I.D. BUREAU/DETECTIVE

location of occurrence: ! rpt dist:A1 neighborhood: APT
2612 GLORY VIEW ! ADAM 1 AIRPORT

from: date / time ! to: date / time ! report: date / time
6/26/04 / 19:11 ! 6/26/04 / 19:11 ! 6/26/04 / 20:52

hate crime? NO ! gang related? YES ! fingerprints? NO

routing? ! prosecute? ! prop report? ! vehl report? ! arrest rpt? ! attach?
DETECTIVE ! YES ! NO ! NO ! NO ! YES

-----METHOD OF OPERATION-----

residential---type: 111 target: security:
SINGLE FAMILY

non-residtl---type: target: security:

entry---location: 325 GARAGE method:
exit---location: 373 FORCED-UNIQUE METHODmethod:

suspect actions:

A. 601 MULTI SUSPECTS B. 606 SUSPECT ARMED C. 607 DISCHARGED WEAPON
D. 704 SELECTIVE IN LOOT E. 801 INFLICTED INJURY F. 802 THREAT RETALIATIO
G. 803 FORCED VIC TO FLO H. 814 BOUND/GAGGED VICT I. 901 KNEW VICTIMS NAME

*****DISPOSITIONS*****

[]-UNFOUNDED/NO CRIME--0 []-SUBMITTED D.A.-----5 []-RECLASSIFY-----10
[]-JUVENILE-----1 []-ADMIN. CLEARED-----6 []-VIC REFUSED PROS.--11
[]-NON DETECTIVE CLR---2 []-EXCEPTIONALLY CLR---7 []-AFFIDAVIT-----12
[]-DETECTIVE ARREST----3 []-SCREEN CLEARED-----8 []-CA/DA DENIAL-----13
[]-SUBMITTED CITY ATTY-4 []-NO CHGS FILED(NCF)--9 []-OTHER-----14
[]-SUBMITTED US ATTN-15

-----RECORDS-----

class code---ucr ! sid number ! date ser no ! date ser no
! enter ! cleared
! scope ! scope
!

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334

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CASE: 04015160 ---NORTH LAS VEGAS POLICE DEPARTMENT--- REF: ORIGINAL
DATE: 6/29/04 -----POLICE REPORT----- PAGE: 2
TIME: 7:46 -----PERSONS PORTION----- OF: 12
.....

name of person (001): ! type: V ! occupation: ! susp id?
YOUNG/IVAN ! VICTIM ! PAINTER ! YES

sex ! race: W hisp:Y! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! HISPANIC ! [REDACTED]/1973 ! 31 ! 000 ! 000 ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: [REDACTED]0271 mf no:

addr: 2612 GLORY VIEW NORTH LAS VEGAS NV 89030 !
business: !

descriptors:
descriptors:

name of person (002): ! type: W ! occupation: ! susp id?
WADDY/DESTINEE ! WITNESS ! DENTAL ASSIST ! NO

sex ! race: B hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
F ! BLACK ! 5/18/1981 ! 23 ! 000 ! 000 ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: [REDACTED]8514 mf no:

addr: 2309 BAHAMA POINT NORTH LAS VEGAS NV 89031 ! 7022904223
business: !

descriptors:
descriptors:

name of person (003): ! type: V ! occupation: ! susp id?
MEANS/JERMAUN ! VICTIM ! ! NO

sex ! race: B hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! BLACK ! 12/11/1976 ! 27 ! 000 ! 000 ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: 2309 BAHAMA POINT NORTH LAS VEGAS NV 89031 ! 7026369620
business: !

descriptors:
descriptors:

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334

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CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
DATE: 6/29/04 -----POLICE REPORT----- PAGE: 3
TIME: 7:46 -----PERSONS PORTION----- OF: 12
.....

name of person (004): ! type: V ! occupation: ! susp id?
JOHN/RYAN ! VICTIM ! LABORER ! NO

sex ! race: W hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! WHITE ! 2/06/1985 ! 19 ! 000 ! 000 ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: 9030 BARR AVE LAS VEGAS NV 89124 ! 7026479472
business: VEGAS TRAFFIC SAFETY 4872 LMBW LV NV 89108 ! 7027912008

descriptors: GIRLFRIEND LIVES AT 2613 GLORY VIEW
descriptors:

name of person (005): ! type: V ! occupation: ! susp id?
DENNIS/AARON ! VICTIM ! ! NO

sex ! race: W hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! WHITE ! 2/08/1994 ! 10 ! 000 ! 000 ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: 2612 GLORY VIEW NORTH LAS VEGAS NV 89031 !
business: !

descriptors:
descriptors:

name of person (006): ! type: V ! occupation: ! susp id?
POSADA/JOSE ! VICTIM ! ! NO

sex ! race: W hisp:Y! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! HISPANIC ! 3/25/1992 ! 12 ! 000 ! 000 ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: UNKNOWN !
business: !

descriptors: IVAN YOUNG'S NEPHEW
descriptors:

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334

CASE: 04015160 ---NORTH LAS VEGAS POLICE DEPARTMENT--- REF: ORIGINAL
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name of person (007): ! type: W ! occupation: ! susp id?
HICKMAN/JAKE #1476 ! WITNESS ! POLICE OFFICER ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

name of person (008): ! type: W ! occupation: ! susp id?
COON/CHRISSE #1457 ! WITNESS ! POLICE OFFICER ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

name of person (009): ! type: W ! occupation: ! susp id?
BAILEY/ANTHONY #1366 ! WITNESS ! POLICE OFFICER ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334

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CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
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TIME: 7:46 -----PERSONS PORTION----- OF: 12
.....

name of person (010): ! type: W ! occupation: ! susp id?
ADAMS/CLINTON #1068 ! WITNESS ! POLICE OFFICER ! NO
.....

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !
.....

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:
.....

addr: !
business: NLVPD 1301 LMBE ! 7026339111
.....

descriptors:
descriptors:
.....

name of person (011): ! type: W ! occupation: ! susp id?
NOWAKOWSKI/DENNIS #1225 ! WITNESS ! POLICE SERGEANT ! NO
.....

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !
.....

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:
.....

addr: !
business: NLVPD 1301 LMBE ! 7026339111
.....

descriptors:
descriptors:
.....

name of person (012): ! type: W ! occupation: ! susp id?
NOWAKOWSKI/DENNIS #1225 ! WITNESS ! POLICE SERGEANT ! NO
.....

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !
.....

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:
.....

addr: !
business: NLVPD 1301 LMBE ! 7026339111
.....

descriptors:
descriptors:
.....

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !
.....

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334
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CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
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TIME: 7:46 -----PERSONS PORTION----- OF: 12
.....

name of person (013): ! type: W ! occupation: ! susp id?
BRADY/MARION #850 ! WITNESS ! I.D. TECH. ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
F ! ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

name of person (014): ! type: W ! occupation: ! susp id?
WALKER/SEAN #1523 ! WITNESS ! POLICE OFFICER ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

name of person (015): ! type: W ! occupation: ! susp id?
SANDERS/JOHN #1244 ! WITNESS ! POLICE OFFICER ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334

CASE: 04015160
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-----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
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name of person (016): ! type: S ! occupation: ! susp id?
NO NAME ! SUSPECT ! NO

sex ! race: B hisp: N ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! BLACK ! ! ! 508 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: !

descriptors: SPOKE WITH JAMAICAN ACCENT
descriptors: HAD DREAD LOCKS

name of person (017): ! type: S ! occupation: ! susp id?
NO NAME ! SUSPECT ! NO

sex ! race: B hisp: N ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! BLACK ! ! ! 511 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: !

descriptors: LSW BLUE AND WHI CLOTHING
descriptors:

name of person (018): ! type: W ! occupation: ! susp id?
PRIETO/JESUS #674 ! WITNESS ! DETECTIVE ! NO

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: !
business: NLVPD 1301 LMBE ! 7026339111

descriptors:
descriptors:

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334

.....
CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
DATE: 6/29/04 -----POLICE REPORT----- PAGE: 8
TIME: 7:46 -----PERSONS PORTION----- OF: 12
.....

name of person (019): ! type: W ! occupation: ! susp id?
MELGAREJO/EDWING #837 ! WITNESS ! DETECTIVE ! NO
.....

sex ! race: hisp: ! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! ! ! ! 000 ! 000 ! ! ! !
.....

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:
.....

addr: !
business: NLVPD 1301 LMBE ! 7026339111
.....

descriptors:
descriptors:
.....

.....
records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !
.....

supervisor approving ser no ! officer reporting ser no
NOWAKOWSKI/DENNIS 1225 ! HOYT/MARK 1334
.....

CASE: 04015160
DATE: 6/29/04
TIME: 7:46

-----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
-----POLICE REPORT----- PAGE: 9
-----NARRATIVE PORTION----- OF: 12

ON SATURDAY, 06-26-04 AT 1911 HOURS, OFFICERS WERE DISPATCHED TO 2612 GLORY VIEW IN REFERENCE TO A SHOOTING VICTIM INSIDE THE RESIDENCE. OFFICER HICKMAN WAS THE FIRST OFFICER TO ARRIVE WITH OFFICER COON ARRIVING SHORTLY AFTER OFFICER HICKMAN. WHEN I ARRIVED, I WALKED INTO THE FRONT DOOR. THE FRONT DOOR OPENS TO A LARGE LIVING ROOM WITH A DINING AREA TO THE LEFT OF THE FRONT DOOR AND THE KITCHEN ON THE OTHER SIDE OF THE DINING AREA. THERE WAS A LARGE POOL OF BLOOD ON THE FLOOR IN THE DINING AREA AND A LAMP WAS TIPPED OVER IN THE LIVING ROOM. OFFICER COON WAS TALKING TO A FEMALE TRYING TO PLACE DOGS IN THE BACKYARD. OFFICER COON TOLD ME SHE WAS A WITNESS AND THE VICTIM, IVAN YOUNG WAS IN A BEDROOM ON THE EAST SIDE OF THE RESIDENCE. OFFICER HICKMAN WAS TALKING TO YOUNG GETTING HIS PERSONAL INFORMATION. YOUNG WAS LAYING ON A BED ON HIS BACK WITH HIS HANDS AGAINST HIS FACE. I COULD SEE A LOT OF BLOOD ON YOUNG'S NOSE AND CHIN AREA. YOUNG TOLD ME HE GOT SHOT BY TWO GUYS HE DID NOT KNOW WHILE HE WAS IN THE GARAGE. YOUNG BEGAN TO YELL SAYING THAT HIS FACE HURTS. AT THIS TIME, NORTH LAS VEGAS FIRE DEPARTMENT RESCUE UNIT #53 AND SOUTHWEST AMBULANCE UNIT #524 ARRIVED TO TREAT YOUNG. AS PARAMEDICS ROLLED YOUNG OUT OF THE RESIDENCE ON A GURNEY, I NOTICED THAT A SCREEN TO A WINDOW LOCATED ON THE WEST SIDE OF THE RESIDENCE WAS PULLED FROM THE WINDOW FRAME AND HANGING FROM THE TOP. AS PARAMEDICS LOADED YOUNG INTO THE AMBULANCE, OFFICERS WERE SEPARATING WITNESSES.

IVAN YOUNG'S WIFE WAS AT THE RESIDENCE WHEN IVAN WAS SHOT. OFFICER HICKMAN INTERVIEWED HER. REFER TO OFFICER HICKMAN'S FOLLOW-UP REPORT FOR FURTHER INFORMATION.

I THEN SPOKE TO A WHITE MALE, IDENTIFIED AS RYAN JOHN. JOHN TOLD ME HE WAS VISITING HIS GIRLFRIEND AT 2613 GLORY VIEW WHICH IS DIRECTLY ACROSS THE STREET FROM 2612 GLORY VIEW. JOHN LEFT HIS GIRLFRIENDS HOUSE AND STARTED TO WALK TO HIS VEHICLE THAT WAS PARKED IN FRONT OF 2613 GLORY VIEW. A BLACK MALE YELLED TO JOHN FROM THE GARAGE OF 2612 GLORY VIEW THAT IVAN WANTED TO TALK TO HIM. BECAUSE JOHN KNEW IVAN AND WAS FRIENDS WITH HIM, HE WALKED ACROSS THE STREET. THE UNIDENTIFIED BLACK MALE OPENED THE HOUSE DOOR INSIDE THE GARAGE THAT OPENS TO A LAUNDRY ROOM SO JOHN COULD WALK INSIDE. AS JOHN WALKED INTO THE LAUNDRY ROOM, THE SUSPECT PUT A PISTOL TO JOHN'S THROAT AND TOLD HIM TO GET ON THE GROUND IN THE KITCHEN AND PLACE HIS HANDS BEHIND HIS BACK. THERE IS ANOTHER DOOR THAT OPENS INTO THE KITCHEN FROM THE LAUNDRY ROOM. JOHN LAID ON THE FLOOR WITH HIS HEAD TOWARDS THE SINK AND HIS FEET AT THE REFRIGERATOR. THE SUSPECT TIED JOHN'S HANDS BEHIND HIS BACK AND STOMPED ON JOHN'S HEAD. THE SUSPECT THEN PLACED A BLACK JACKET OVER HIS HEAD. THE SUSPECT THEN PLACED A GUN TO JOHN'S HEAD AND TOLD HIM THAT IF HE MOVES, HE WAS GOING TO BLOW HIS BRAINS OUT. THE SUSPECT THEN WENT INTO JOHN'S POCKETS AND FOUND AN AUTOMATIC TELLER MACHINE (ATM) CARD IN A FRONT POCKET. THE SUSPECT THEN TOLD JOHN TO TELL HIM HIS PERSONAL PIN NUMBER TO HIS ATM. JOHN TOLD HIM. THE SUSPECT THEN TOLD JOHN THAT IF THE NUMBER WAS WRONG, HE WOULD COME BACK AND KILL HIM. THE SUSPECT THEN WALKED AWAY. JOHN HEARD TWO MALES TALKING TO IVAN. JOHN SAID THAT IVAN WAS

records bureau processed
SCARFF/DENISE

ser no ! detective bureau processed
1259 !

ser no

supervisor approving
NOWAKOWSKI/DENNIS

ser no ! officer reporting
1225 ! HOYT/MARK

ser no
1334

CASE: 04015160
DATE: 6/29/04
TIME: 7:46

-----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
-----POLICE REPORT----- PAGE: 10
-----NARRATIVE PORTION----- OF: 12

CLOSE TO HIM, NEAR THE DINING ROOM AREA. JOHN HEARD IVAN ASKING A MALE NOT TO SHOOT HIM. THEN JOHN HEARD A GUN SHOT AND IVAN SCREAM. JOHN THEN HEARD ONE OF THE SUSPECTS ASK THE OTHER SUSPECT IF HE SHOT HIM. THE OTHER MALE, IN A JAMAICAN ACCENT SAID, YES I SHOT HIM. JOHN THEN HEARD THE SUSPECT LEAVE THROUGH THE FRONT DOOR. ABOUT ONE TO TWO MINUTES LATER, JOHN STOOD UP, TAKING THE JACKET OFF OF HIS HEAD. JOHN RAN TO THE LAUNDRY ROOM, PULLING ONE OF HIS HANDS FROM BEHIND HIS BACK AND JUMPED OUT OF A WINDOW THAT FACES NORTH TO THE REAR YARD. JOHN JUMPED SEVERAL YARDS NORTHBOUND, RUNNING AWAY FROM THE RESIDENCE. JOHN THEN CALLED THE POLICE FROM A CELLULAR TELEPHONE FROM AN UNKNOWN ADDRESS. JOHN HAD SEVERAL MARKS ON BOTH WRIST FROM BEING TIED UP AND WAS TREATED AT THE SCENE BY MEDICAL PERSONNEL. JOHN TOLD ME THAT HE COULD NOT IDENTIFY ANY OF THE SUSPECTS AND WAS UNSURE HOW MANY WERE THERE. JOHN CALLED WELLS FARGO BANK WHICH ISSUED THE ATM CARD. THEY TOLD JOHN THAT AN ATM WITHDRAWAL FOR \$201.50 WAS JUST TAKEN FROM AN UNKNOWN ATM MACHINE. WELLS FARGO WOULD NOT KNOW THE EXACT LOCATION UNTIL MONDAY BECAUSE IT WAS PAST NORMAL BUSINESS HOURS. JOHN COMPLETED A WITNESS STATEMENT AT THE SCENE.

ANOTHER VICTIM, JERMAUN MEANS TOLD ME THAT HE WENT OVER TO 2612 GLORY VIEW BECAUSE IVAN WAS PAINTING HIS VEHICLE. APPARENTLY, IVAN PAINTS VEHICLES OUT OF HIS HOME. AS MEANS WALKED UP TO THE FRONT DOOR, TWO UNKNOWN MALES OPENED THE DOOR AND BEGAN TO WALK OUT. ONE OF THE MALES WAS WEARING A BEIGE SUIT JACKET AND THE OTHER HAD DREAD LOCKS. MEANS BELIEVED THE MALE WITH THE DREAD LOCKS WAS WEARING A WIG. THE SUSPECTS GRABBED ONTO MEANS'S ARM AND PULLED HIM INTO THE RESIDENCE. THEY FORCED HIM TO THE FLOOR JUST INSIDE THE FRONT DOOR AND TIED HIS HANDS BEHIND HIS BACK. MEANS TOLD ME THAT BOTH MALES HAD GUNS IN THEIR HANDS BUT HE COULD NOT DESCRIBE THE WEAPONS. ONE OF THE SUSPECTS ASKED MEANS IF HE HAD ANY MONEY. MEANS TOLD HIM YES. ONE OF THE SUSPECTS REMOVED ABOUT \$1,300.00 DOLLARS FROM MEANS'S FRONT PANTS POCKET. MEANS REMEMBERED HAVING SEVEN \$100.00 BILLS. THE SUSPECT ALSO TOOK MEANS'S CELLULAR TELEPHONE. MEANS TOLD ME THAT THE SUSPECTS THEN LEFT OUT OF THE FRONT DOOR. AFTER A FEW SECONDS, MEANS GOT UP, BROKE THE WIRES THE SUSPECTS TIED HIM UP WITH AND RAN OUTSIDE TO HIS VEHICLE. MEANS'S GIRLFRIEND, DESTINEE WADDY WAS WAITING INSIDE THE VEHICLE. MEANS TOLD ME THAT HE DID NOT HEAR ANY GUN SHOTS SO HE BELIEVED IVAN WAS ALREADY SHOT BEFORE HE GOT THERE. MEANS RECEIVED MEDICAL ATTENTION AT THE SCENE AND HE COMPLETED A WITNESS STATEMENT. MEANS TOLD ME HE COULD NOT IDENTIFY THE SUSPECTS.

WADDY TOLD ME THAT SHE SAW TWO UNIDENTIFIED MALES WALK OUT OF THE RESIDENCE AND GOT INTO A DARK GREEN VEHICLE. WADDY SAID THE VEHICLE WAS POSSIBLY A PONTIAC GRAND AM. THE VEHICLE WAS LAST SEEN WESTBOUND ON GLORY VIEW. WADDY DESCRIBED THE MALES AS ONE WEARING A WIG, ABOUT 5'8" TALL. THE OTHER MALE WAS ABOUT 5'11" TALL. BOTH WERE WEARING BLUE AND WHITE CLOTHING. WADDY TOLD ME THAT SHE HAS NEVER SEEN THE TWO MALES BEFORE. WADDY ALSO COMPLETED A WITNESS STATEMENT AT THE SCENE.

records bureau processed
SCARFF/DENISE

ser no ! detective bureau processed
1259 !

ser no

supervisor approving
NOWAKOWSKI/DENNIS

ser no ! officer reporting
1225 ! HOYT/MARK

ser no
1334

App.0617

CASE: 04015160
DATE: 6/29/04
TIME: 7:46

-----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: ORIGINAL
-----POLICE REPORT----- PAGE: 11
-----NARRATIVE PORTION----- OF: 12

IVAN'S SON, AARON DENNIS WAS ALSO AT THE RESIDENCE WHEN HE WAS SHOT. DENNIS SAID THAT HIS FATHER CAME INTO THE HOUSE AND TOLD HIM, HIS MOTHER AND HIS COUSIN TO DO WHAT THEY SAY. TWO BLACK MALES WERE WALKING BEHIND IVAN. ONE WAS WEARING A BLACK JACKET. THE TWO MALES DEMANDED EVERYONE TO GET ON THE GROUND. ONE OF THE SUSPECTS TIED DENNIS'S HANDS BEHIND HIS BACK. DENNIS THEN ONLY REMEMBERED ONE OF THE MALES ASKING FOR MONEY AND SHOOTING IVAN. DENNIS COMPLETED A WITNESS STATEMENT AND HE WAS TREATED BY PARAMEDICS AT THE SCENE.

IVAN'S NEPHEW, JOSE POSADA TOLD ME TWO UNIDENTIFIED BLACK MALES WERE THREATENING IVAN FOR MONEY. THE SUSPECTS MADE POSADA AND DENNIS FACE A WALL AND ASKED THEM WHERE ALL THE TELEPHONES WERE. POSADA TOLD THE MALES AND THE SUSPECTS BROKE ALL OF THE TELEPHONES AND CELLULAR PHONES. POSADA SAID THE SUSPECTS TIED EVERYONE UP WITH WIRES FROM THE FLOOR LAMPS IN THE LIVING ROOM. POSADA THEN SAID HIS UNCLE IVAN WAS SHOT IN THE HEAD. POSADA DESCRIBED ONE OF THE MALES AS A BLACK MALE WITH BRAIDS. THE OTHER MALE WAS A BLACK MALE WITH A DARK AFRO. ONE OF THE SUSPECTS WAS WEARING A TUXEDO SHIRT. POSADA ALSO SAID THAT HE SAW THREE GUNS. THE TWO MALES THEN WALKED OUT OF THE FRONT DOOR. POSADA COMPLETED A WITNESS STATEMENT AT THE SCENE AND WAS TREATED BY PARAMEDICS.

CSI BRADY ARRIVED AND PROCESSED THE SCENE. DETECTIVES PRIETO AND MELGARJEO ALSO ARRIVED ON SCENE. OFFICER BAILEY WENT TO UNIVERSITY MEDICAL CENTER TO CHECK ON IVAN'S INJURIES. IVAN WAS LAST LISTED IN STABLE CONDITION. OFFICER BAILEY ALSO INTERVIEWED IVAN. REFER TO OFFICER BAILEY'S FOLLOW-UP REPORT FOR FURTHER DETAILS. TAMMY POSADA, JOSE'S MOTHER ARRIVED ON SCENE AND TOOK

POSSESSION OF THE FOUR DOGS BELONGING TO IVAN. TAMMY ALSO TOOK CUSTODY OF JOSE AND DENNIS UNTIL FURTHER NOTICE. AT ABOUT 2330 HOURS, DISPATCH RECEIVED A TELEPHONE CALL FROM TOM WINTER ABOUT POSSIBLE INFORMATION ON THE SUSPECTS. WINTER TOLD ME HE OWNS SEVERAL PROPERTIES IN THE LAS VEGAS VALLEY. ONE OF HIS EX-TENANTS, ERIC HAWKINS OWNS A DARK GREEN CHEVY MALIBU AND WAS A SUSPECT IN A BURGLARY CASE ABOUT TWO MONTHS AGO. WINTER SAW A NEWS RELEASE AND TOLD ME THAT HAWKINS'S METHOD OF OPERATION MATCHES A BURGLARY TWO MONTHS AGO, SIMILAR TO 2612 GLORY VIEW. WINTER TOLD ME HAWKINS SPEAKS WITH A JAMAICAN ACCENT AND HAS A BROTHER-IN-LAW THAT HE IS ALWAYS SEEN WITH. WINTER TOLD ME HAWKINS'S SOCIAL SECURITY NUMBER IS [REDACTED] 6948. A RECORDS CHECK ON HAWKINS REVEALED THAT HE HAS BEEN ARRESTED IN THE PAST FOR NARCOTICS AND WEAPONS CHARGES WITH A D.O.B. OF 072284. HE IS LISTED AS 5'10" TALL AND 140 POUNDS. DISPATCH PROVIDED POSSIBLE ADDRESSES IN LAS VEGAS OF 1904 JOELLA OR 3332 PARAGON DRIVE.

ATTACHMENTS: FIVE WITNESS STATEMENTS.

records bureau processed
SCARFF/DENISE

ser no ! detective bureau processed
1259 !

ser no

supervisor approving
NOWAKOWSKI/DENNIS

ser no ! officer reporting
1225 ! HOYT/MARK

ser no
1334

TH LAS VEGAS ICE
WITNESS PHOTO LINEUP IDENTIFICATIONCase #: 04-15160

TO WITNESS:

1. If you have previously seen one or more of the persons in the line up in regards to the crime in question, place a circle around the appropriate number corresponding to the number of the person in the line up. Place your initials next to the circled number.
2. Complete any additional comments
3. Then sign your name and fill in the date and the time.



#1



#2



#3



#4



#5



#6

ADDITIONAL WITNESS COMMENTS: _____

Signature of Officer [Signature] 174

Signature of Officer _____

Signature of Witness _____

Date & Time _____

Witness Name Printed _____

*"Exhibit A - 1st set of
Photo line ups"*

THIS IS JUAN YOUNG'S I.D. OF THE SUSPECT. Due to medical treatment,

App.0620

NORTH LAS VEGAS POLICE

WITNESS PHOTO LINEUP IDENTIFICATION

Case #: 04-1516

TO WITNESS:

1. If you have previously seen one or more of the persons in the line up in regards to the crime in question, place a circled number around the appropriate number corresponding to the number of the person in the line up. Place your initials next to it.
2. Complete any additional comments
3. Then sign your name and fill in the date and the time.



#1



#2



#3



#4



#5



#6

ADDITIONAL WITNESS COMMENTS:

The face just stand out to me.

Signature of Officer

6741

Signature of Witness

Date & Time

Signature of Officer

Witness Name Printed

Exhibit A - 1st set of

Photo line ups
App.0621

NORTH LAS VEGAS POLICE

WITNESS PHOTO LINEUP IDENTIFICATION

Case #: 04-1516

TO WITNESS:

1. If you have previously seen one or more of the persons in the line up in regards to the crime in question, place a circled number around the appropriate number corresponding to the number of the person in the line up. Place your initials next to it.
2. Complete any additional comments
3. Then sign your name and fill in the date and the time.



#1



#2



#3



#4



#5



#6

RJ

ADDITIONAL WITNESS COMMENTS:

This is the guy that I think that called me
over to Evans House and tied me up and shot Ivan.

Signature of Officer

674

Signature of Witness

6-29-04 140

Date & Time

Signature of Officer

Exhibit A - 1st set of

Witness Name Printed

Photolineups

App.0622

NORTH LAS VEGAS POLICE

WITNESS PHOTO LINEUP IDENTIFICATION

Case #: 04-1516

TO WITNESS:

1. If you have previously seen one or more of the persons in the line up in regards to the crime in question, place a circle around the appropriate number corresponding to the number of the person in the line up. Place your initials next to the circled number.
2. Complete any additional comments
3. Then sign your name and fill in the date and the time.



#1



#2



#3



#4



#5



#6

ADDITIONAL WITNESS COMMENTS:

I saw him next to my
uncle. This man had a gun.

Signature of Officer

Signature of Witness

Date & Time

Signature of Officer

Witness Name Printed

Exhibit A - 1st set of Photo lineup

App.0623

**NORTH LAS VEGAS DETENTION/CORRECTIONS
MUGSHOT PROFILE**

BOOKING NAME: SLAUGHTER RICKIE
RUE NAME:

AKA #1: SLAUGHTER/RICKIE LAMONT AKA #2:
AKA #3: AKA #4:

SEX: Male	RACE: Black	PHOTO DATE: 06 / 29 / 2004
HAIR: Black	EYES: Brown	PHOTO TIME: 02 : 47
HEIGHT: 5'09"	WEIGHT: 180	PHOTO NUMBER: 3065732
BLD: Medium	CMP: Dark	



SCARS, MARKS, TATTOOS:
SCARS, MARKS, TATTOOS:

DATE OF BIRTH: [REDACTED] 1984	AGE:	MF NUMBER: 89534
PLACE OF BIRTH:		BOOK NUMBER: 253034
SOCIAL SECURITY NUMBER: [REDACTED] 7827		FED ID NUMBER:
DRIVERS LICENSE/STATE:		CS NUMBER: 1896569
EMPLOYER:		SID NUMBER:
OCCUPATION:		FBI NUMBER:

ADDRESS: TELEPHONE:

EMERGENCY CONTACT: RELATION:
ADDRESS: TELEPHONE:

PLACE OF ARREST:	DATE/TIME OF ARREST: / / :
ARRESTING OFFICER:	TRANSPORTING OFFICER:
VEHICLE:	IMPOUND:

BKG DATE: 06 / 29 / 2004	BKG TIME: 01 : 33	BKG OFF#:	BKG OFFICER:
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NO	ORIG	OC	PCN	WARRANTS/NRS	CTS	FGM	BAIL	CASE NUMBER
1	PC P			200.030	01	F	100000	04015160
	ATT MURD WDW							
2	PC P			200.380	01	F	040000	04015160
	ROBB WDW							
3	PC P			205.060	01	F	040000	04015160
	BURG WDW							
4	PC P			200.460	01	F	010000	04015160
	FALSE IMPRISON WDW							
5								
6								
7								
8								
9								
10								

The undersigned, Legal Keeper of Records, North Las Vegas Police Department, does hereby certify that the foregoing copy has been compared by me with the original and that it is a true and correct transcript thereof and of the whole or of a specified part of said original as the same appears on file in my official care and custody.
In testimony whereof, I have affixed my signature.
Date 7-13-09 [Signature]
North Las Vegas Police Dept.

PHOTO SPREAD

WITNESS: PLEASE READ THESE INSTRUCTIONS CAREFULLY

Positions of persons in this photo spread are numbered left to right, beginning with Number One (1) on your left.

1. If previously you have seen one or more of the persons in this photo spread, write your initials in the "INITIALS" space(s) beside the photo(s) of the person(s) you have seen

OFFENSE/INCIDENT No. _____

2. In "NOTES" space, tell briefly how/where/when you saw or met person(s) you identified.

3. If you never have seen any person in this line-up, write your initials in the "NONE OF THE ABOVE" space.

4. Sign your name in the "VIEWED BY" space, and fill in the time and date spaces

5. Then hand this photo spread to the officer in charge.



#1 PERSON

DATE _____

INITIALS _____

NOTES _____



#2 PERSON

DATE _____

INITIALS _____

NOTES _____



#3 PERSON

DATE _____

INITIALS _____

NOTES _____



#4 PERSON

DATE _____

INITIALS _____

NOTES _____



#5 PERSON

DATE _____

INITIALS _____

NOTES _____



#6 PERSON

DATE _____

INITIALS _____

NOTES _____

TIME PHOTO SPREAD SHOWN _____

NONE OF THE ABOVE _____

AGENCY _____

DATE PHOTO SPREAD SHOWN _____

VIEWED BY _____

OFFICER _____

Signature of witness to this viewing: _____

DATE OF OFFENSE _____

WITNESS _____

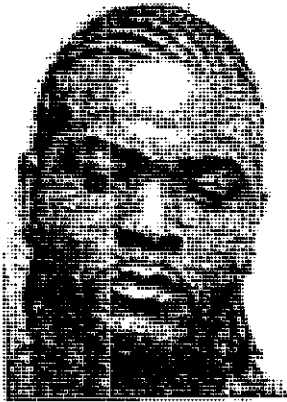
DATE _____

NORTH LAS VEGAS POLICE
WITNESS PHOTO LINEUP IDENTIFICATION

Case #: 04-15160

TO WITNESS:

1. If you have previously seen one or more of the persons in the line up in regards to the crime in question, place a circle around the appropriate number corresponding to the number of the person in the line up. Place your initials next to the circled number.
2. Complete any additional comments
3. Then sign your name and fill in the date and the time.



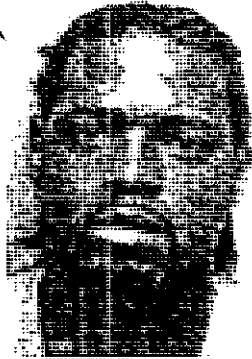
#1



#2



#3



#4



#5



#6

ADDITIONAL WITNESS COMMENTS: _____

Signature of Officer

Signature of Witness

Date & Time

Signature of Officer

Witness Name Printed

App.0629

NORTH LAS VEGAS POLICE
WITNESS PHOTO LINEUP IDENTIFICATION

Case #: 04-15160

WITNESS:

If you have previously seen one or more of the persons in the line up in regards to the crime in question, place a circle around the appropriate number corresponding to the number of the person in the line up. Place your initials next to the circled number.

Complete any additional comments

Then sign your name and fill in the date and the time.



#1



#2



#3



#4



#5



#6

ADDITIONAL WITNESS COMMENTS:

Signature of Officer

Signature of Witness

Date & Time

Signature of Officer

Witness Name Printed

Attachment B.3

Attachment B.4

NORTH LAS VEGAS POLICE
WITNESS PHOTO LINEUP IDENTIFICATION

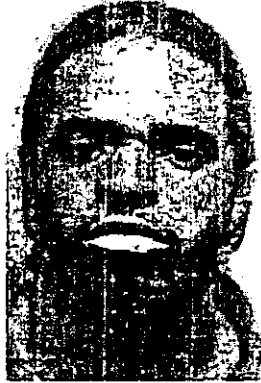
Case #: 04-15160

TO WITNESS:

1. If you have previously seen one or more of the persons in the line up in regards to the crime in question, place a circle around the appropriate number corresponding to the number of the person in the line up. Place your initials next to the circled number.
2. Complete any additional comments
3. Then sign your name and fill in the date and the time.



#1



#2



#3



#4



#5



#6

ADDITIONAL WITNESS COMMENTS: _____

Signature of Officer

Signature of Witness

Date & Time

Signature of Officer

Witness Name Printed

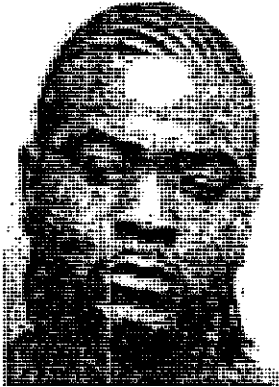
App.0633

NORTH LAS VEGAS POLICE
WITNESS PHOTO LINEUP IDENTIFICATION

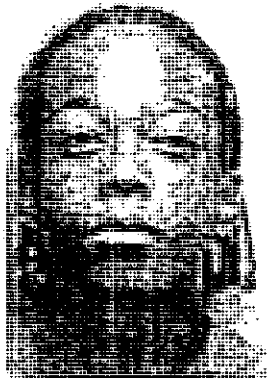
Case #: 04-15160

TO WITNESS:

1. If you have previously seen one or more of the persons in the line up in regards to the crime in question, place a circle around the appropriate number corresponding to the number of the person in the line up. Place your initials next to the circled number.
2. Complete any additional comments
3. Then sign your name and fill in the date and the time.



#1



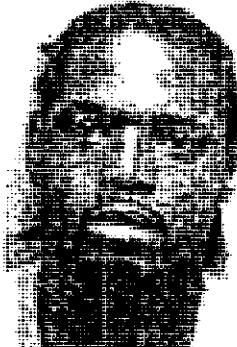
#2



#3



#4



#5



#6

ADDITIONAL WITNESS COMMENTS: _____

Signature of Officer

Signature of Witness

Date & Time

Signature of Officer

Witness Name Printed

App.0635

CASE: 04015160 ---NORTH LAS VEGAS POLICE DEPARTMENT--- REF: 250183
DATE: 12/10/04 -----POLICE REPORT----- PAGE: 1
TIME: 15:25 -----INVESTIGATIVE PORTION----- OF: 5

-----INCIDENT FOLLOWUP-----

classification/additional information:
AMURDWDW/BURG/ROBB/FALSE IMPRISONMENT

invest bureaus/units notified:

location of occurrence: ! rpt dist:A1 neighborhood: APT
2612 GLORY VIEW ! ADAM 1 AIRPORT

from: date / time ! to: date / time ! report: date / time
6/26/04 / 19:11 ! 6/26/04 / 19:11 ! 9/21/04 / 7:29

hate crime? NO ! gang related? NO ! fingerprints? NO

routing? ! prosecute? ! prop report? ! vehl report? ! arrest rpt? ! attach?
OTHER ! YES ! YES ! NO ! NO !

-----METHOD OF OPERATION-----

residential---type: target: security:

non-residtl---type: target: security:

entry---location: method:
exit---location: method:

suspect actions:

A. B. C.
D. E. F.
G. H. I.

*****DISPOSITIONS*****

[]-UNFOUNDED/NO CRIME--0 []-SUBMITTED D.A.-----5 []-RECLASSIFY-----10
[]-JUVENILE-----1 []-ADMIN. CLEARED-----6 []-VIC REFUSED PROS.--11
[]-NON DETECTIVE CLR---2 []-EXCEPTIONALLY CLR---7 []-AFFIDAVIT-----12
[]-DETECTIVE ARREST---3 []-SCREEN CLEARED-----8 []-CA/DA DENIAL-----13
[]-SUBMITTED CITY ATTY-4 []-NO CHGS FILED(NCF)--9 []-OTHER-----14
[]-SUBMITTED US ATTN-15

-----RECORDS-----

class code---ucr ! sid number ! date ser no ! date ser no
! ! enter ! cleared
! ! scope ! scope
! !

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DEN1SE 1259 !

supervisor approving ser no ! officer reporting S ser no
HANKS/ROBERT EDWARD JR 0998 ! PRIETO/JESUS 0674

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CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: 250183
DATE: 12/10/04 -----POLICE REPORT----- PAGE: 2
IME: 15:25 -----PERSONS PORTION----- OF: 5
.....

name of person (001): ! type: W ! occupation: ! susp id?
RICHARD/JACQUAN ! WITNESS ! DRIVER ! YES

sex ! race: B hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! BLACK ! [REDACTED]/1978 ! 26 ! 509 ! 206 ! BLK ! BRO ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: [REDACTED] 8071 mf no:

addr: !
business: !

descriptors:
descriptors:

name of person (002): ! type: S ! occupation: ! susp id?
ROBINSON/MARVIN ! SUSPECT ! !

sex ! race: B hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
M ! BLACK ! [REDACTED]/1985 ! 19 ! 602 ! 182 ! BLK ! BRO ! !

alias-aka: ! birthplace:
alias-aka: ! ssn: mf no:

addr: 1115 EVANS NLV NV 89030 !
business: !

descriptors:
descriptors:

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !
supervisor approving ser no ! officer reporting S ser no
HANKS/ROBERT EDWARD JR 0998 ! PRIETO/JESUS 0674

.....
 CASE: 04015160 ---NORTH LAS VEGAS POLICE DEPARTMENT--- REF: 250183
 DATE: 12/10/04 -----POLICE REPORT----- PAGE: 3
 TIME: 15:25 -----PROPERTY PORTION----- OF: 5

 no. artcds type--descriptive information on property----- stolen recover
 additional descriptive information----- value value

001 MISC E brd: size:
 --- mod: cal: -----
 ser:
 coll: col2: dt last seen:
 own#:

NLV PHOTO LINE UP CONTAINING MARVIN ROBINSON/VIEWED BY IVAN YOUNG

 ++++++-----> totals----->

type: E-evidence; F-found; I-impounded; L-lost;
 O-other; R-recovered; S-stolen; T-released; X-safekeeping

 records bureau processed ser no ! detective bureau processed ser no
 SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting S ser no
 HANKS/ROBERT EDWARD JR 0998 ! PRIETO/JESUS 0674

.....
.....
CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: 250183
DATE: 12/10/04 -----POLICE REPORT----- PAGE: 4
TIME: 15:25 -----NARRATIVE PORTION----- OF: 5
.....
.....

DURING MY INVESTIGATION I LEARNED THAT RICKIE SLAUGHTER WAS MAKING SEVERAL PHONE CALLS TO A SUBJECT LATER IDENTIFIED AS JACQUAN RICHARD, ALSO KNOW AS MACK. DURING THESE CALLS SLAUGHTER AND RICHARD TALKED ABOUT THE ROBBERY, HOW SLAUGHTER COULD CREATE AN ALIBI AND VARIOUS ASPECTS OF THE INCIDENT. I MADE SEVERAL ATTEMPTS TO CONTACT RICHARD DURING THE INVESTIGATION, BUT I WAS NOT ABLE TO DO SO.

PHOTO LINE UPS OF RICHARD WERE MADE AND SHOWN TO ALL OF THE VICTIMS. NONE OF THE VICTIMS WERE ABLE TO IDENTIFY RICHARD AS A SUSPECT.

I LEARNED THAT RICHARD HAD A WARRANT THROUGH PAROLE AND PROBATION. I CONTACTED PAROLE AND PROBATION AND ASKED THAT I BE NOTIFIED IF RICHARD WAS ARRESTED FOR THE WARRANT.

ON SEPTEMBER 17, 2004, I WAS CONTACTED BY THE CLARK COUNTY DETENTION CENTER (CCDC), THEY TOLD ME THAT RICHARD HAD BEEN ARRESTED FOR THE ABOVE LISTED WARRANT.

I WENT TO CCDC AND CONTACTED RICHARD FOR AN INTERVIEW. HE WAS ADVISED OF HIS MIRANDA RIGHTS AND DURING A TAPED INTERVIEW TOLD ME WHAT HE KNEW ABOUT THE ROBBERY. RICHARD SAID THAT SLAUGHTER TOLD HIM THAT HE COMMITTED THE ROBBERY. RICHARD SAID THAT HE WENT OVER TO SLAUGHTER'S RESIDENCE ON THE NIGHT OF THE ROBBERY. RICHARD SAID THAT HE GOT TO HIS RESIDENCE AFTER 7 THAT NIGHT, BUT HE DOESN'T KNOW THE EXACT TIME.

RICHARD WENT ON TO TELL ME VARIOUS DETAILS OF THE CRIME. DETAILS NOT RELEASED TO THE PUBLIC. RICHARD SAID THAT SLAUGHTER TOLD HIM THE ROBBERY WENT BAD AND SLAUGHTER HAD TO SHOOT SOMEONE. SLAUGHTER TOLD HIM ABOUT ROBBING TWO PERSONS THAT CAME OVER TO THE RESIDENCE DURING THE ROBBERY. RICHARD SAID THAT

WAS TOLD ABOUT SLAUGHTER GETTING THE CREDIT CARD AND ABOUT GETTING SOME MONEY FROM A VICTIM WHO WAS COMING IN AS THEY ATTEMPTED TO LEAVE. DURING THE INTERVIEW I HAD TO STOP DURING INMATE DINNER SERVING. THIS WAS ABOUT 4:30. I RETURNED A COUPLE OF HOURS LATER AND CONTINUED THE INTERVIEW GETTING VARIOUS DETAILS. DURING THE INTERVIEW RICHARD IDENTIFIED SLAUGHTER'S ACCOMPLICE. RICHARD SAID THAT SLAUGHTER TOLD HIM IT WAS LITTLE MARV A DONNA GANG MEMBER. TO CONFIRM SLAUGHTER'S IDENTITY I SHOWED RICHARD A PHOTO LINE UP THAT CONTAINED SLAUGHTER. HE POINTED TO SLAUGHTER. I DID NOT ASK HIM TO INITIAL THE LINE UP. SEE INTERVIEW FOR DETAILS.

THROUGH FURTHER INVESTIGATION LITTLE MARV WAS IDENTIFIED AS MARVIN ROBINSON A DONNA STREET GANG MEMBER. I OBTAINED A PHOTO OF ROBINSON FROM A PREVIOUS NORTH LAS VEGAS JAIL BOOKING. I THEN CREATED A PHOTO LINE UP WHICH CONTAINED ROBINSON AND FIVE OTHER BLACK MALES SIMILAR IN APPEARANCE.

ON SEPTEMBER 21, 2004 I WENT TO THE PRELIMINARY HEARING FOR RICKIE SLAUGHTER, AT THE NORTH LAS VEGAS JUSTICE COURT. THERE I CONTACTED IVAN YOUNG, JENNIFER DENNIS, ARRON DENNIS, JOEY PASADA AND RYAN JOHN.

AFTER THE HEARING I SHOWED EACH OF THE VICTIMS THE PHOTO LINE UPS THAT I HAD PREPARED. YOUNG LOOKED AT THE LINE UP AND SAID HE WAS UNSURE, HE DEBATED

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting S ser no
HANKS/ROBERT EDWARD JR 0998 ! PRIETO/JESUS 0674

S.W. FILED 9-166

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

STATE OF NEVADA)

ss:

Nov 5 2 06 PM '09

County of Clark)

JUSTICE COURT
NORTH LAS VEGAS, NV
BY 8 CLERK

DETECTIVE J. PRIETO being first duly sworn, deposes and states on information and belief, that Affiant is a Detective with the North Las Vegas Police Department (NLVPD) presently assigned to the Detective Bureau, has been with the North Las Vegas Police Department for over twenty two (23) years and has been assigned to the Detective Bureau for over four (10) years.

There is probable cause to believe that certain evidence will be found, and is located inside the body of Rickie Slaughter DOB, [REDACTED] 1984, social security # [REDACTED]-7827, to-wit:

The evidence referred to and sought to be seized consists of the following:

1. Buccal Swab sample from inside the mouth.

and as I am satisfied that there is probable cause to believe that said person will be located at the Clark County Detention Center, 330 S Casino Center, City of Las Vegas, County of Clark.

The items described constitutes evidence which tends to demonstrate that the criminal offenses of attempt murder with a deadly weapon, robbery with a deadly weapon, and burglary with a deadly weapon, 200.030, 200.381, 205.060 have been committed.

In support of your Affiant's assertion to constitute the

existence of probable cause, the following facts are offered based on your Affiant's personal knowledge and on information and belief.

On June 26, 2004, detective Melgarejo and I responded to 2612 Glory View, North Las Vegas, Nevada, 89030 in reference to a robbery that had been committed at that address.

We arrived and were briefed by Officer Hoyt. Officer Hoyt said that when he arrived he found the victim Ivan Young shot in the face. Due to young's injury there was a large amount of blood at the scene.

As a result of the investigation it was learned that an attempt murder, robbery, and burglary had been committed.

During my investigation Rickie Slaughter was identified as a suspect in the crime. The victims of the incident later positively identified Slaughter as the suspect who shot Young and robbed several victims inside Young's residence. I subsequently arrested Slaughter for the above listed crimes.

During the investigation several items of evidence were recovered. One item recovered from Slaughter were his tennis shoes. I collected the shoes because it was believed they may have been exposed to the blood at the crime scene.

The shoes were inspected and it appeared that blood was on the bottom of the shoes and possibly on the edge of one of the shoes.

On October 21, 2009, I completed a request and forwarded same to the identification bureau requesting the shoes be tested for blood. A test was conducted and I was later notified as to the results of

the testing. The identification bureau advised me the substance on the shoes appeared to have been covered by some type of polish, possibly hide the blood like substance. They were not able to test the substance due to the polish.

On October 23, 2009, I contacted Young and obtained a buccal swab from him for DNA testing. I subsequently sent the Young's buccal swab and Slaughter's tennis shoes to the Metropolitan Police Department Forensic Lab to conduct a comparison.

On November 5, 2009, I was contacted by the Forensic Lab. Kim Merga requested that I get a Buccal swab from Slaughter to eliminate him as a donor to the blood like substance on the shoes.

WHEREFORE, Affiant requests that a Search Warrant issue directing a search for and seizure of the aforementioned item at the location set forth herein and authorizing a daytime search between the hours of 7 a.m. and 7 p.m.


J. Prieto, Affiant

SUBSCRIBED and SWORN to before me

this X day of November 5, 2009.


J U D G E

SEARCH WARRANTS.W. 09-166

STATE OF NEVADA)
)
County of Clark) ss.
)

The State of Nevada, to any Peace Officer in the County of Clark.
Proof by Application and Affidavit for Search Warrant having been
made before me by DETECTIVE J. PRIETO said Application and Affidavit
for Search Warrant incorporated herein by reference, that there is
probable cause to believe that certain evidence, namely:

1. Buccal Swab sample from inside the mouth.

is presently located inside the body of Rickie Slaughter DOB,
[REDACTED] 1984, social security # [REDACTED]-7827, to-wit:, and I am
satisfied that there is probable cause to believe that said property
is located as set forth above and that based upon the Application and
Affidavit for Search Warrant there are sufficient grounds for the
issuance of the Search Warrant.

You are hereby commanded to forthwith collect buccal swab samples
for said evidence, serving this Search Warrant between the hours of
7 a.m. and 7 p.m. at the Clark County Detention Center, 330 S Casino

Center, City of Las Vegas, County of Clark, as set forth in the Application and Affidavit for Search Warrant in support hereto, and if the property there to seize it, prepare a written inventory of the property seized and make a return for me within ten (10) days.

Dated this day of November 5, 2009.



J U D G E

Exhibit "B"

CASE: 04015160

DATE: 7/06/04

TIME: 7:54

NORTE LAS VEGAS POLICE DEPARTMENT

REF: 246554

POLICE REPORT

PAGE: 1

INVESTIGATIVE PORTION

OF: 3

INCIDENT FOLLOWUP

classification/additional information:

MURD/AMURD

invest bureaus/units notified: DETECTIVES

location of occurrence: rpt dist: D3 neighborhood: ARA
NLVDOC DAVID 3 ARROWHEAD ACREfrom: date / time to: date / time report: date / time
6/29/04 / 12:00 6/29/04 / 12:00 6/30/04 / 15:00

hate crime? NO gang related? NO fingerprints? NO

routing? prosecute? prop report? vehl report? arrest rpt? attach?

DETECTIVE YES YES NO NO

METHOD OF OPERATION

residential---type: target: security:

non-residtl---type: target: security:

entry---location: method:
exit---location: method:

suspect actions:

A. B. C.
D. E. F.
G. H. I.

*****DISPOSITIONS*****

[]-UNFOUNDED/NO CRIME--0 []-SUBMITTED D.A.-----5 []-RECLASSIFY-----10
[]-JUVENILE-----1 []-ADMIN. CLEARED-----6 []-VIC REFUSED PROS.--11
[]-NON DETECTIVE CLR--2 []-EXCEPTIONALLY CLR---7 []-AFFIDAVIT-----12
[]-DETECTIVE ARREST---3 []-SCREEN CLEARED-----8 []-CA/DA DENIAL-----13
[]-SUBMITTED CITY ATTY-4 []-NO CHGS FILED (NCF)--9 []-OTHER-----14
[]-SUBMITTED US ATTY-15*****
RECORDSclass code---ucr | sid number | date ser no | date ser no
| enter | cleared
| scope | scope
|

records bureau processed ser no | detective bureau processed ser no

supervisor approving ser no | officer reporting ser no
SYLVESTER/PAMELA ANN 1026 | FISCHER/PATRICK 1647

CASE: 04015160 ---NORTH LAS VEGAS POLICE DEPARTMENT--- REF: 246554
DATE: 7/06/04 -----POLICE REPORT----- PAGE: 2
TIME: 7:54 -----PROPERTY PORTION----- OF: 3

no. artcds type--descriptive information on property----- stolen recover
additional descriptive information----- value value

001 CLOTHI E brd: REEBOK size: 10.5
mod: SNEAKER cal:
ser:
coll: WHI col2: BLU dt last seen:
own#:

ITEM #1, REEBOK, WHITE AND BLUE SNEAKERS BELONGING TO RICKY
SLAUGHTER FROM NLVDCC BOOKING

+++++ totals----->

type: E-evidence; F-found; I-impounded; L-lost;
O-other; R-recovered; S-stolen; T-released; X-safekeeping

records bureau processed	ser no	detective bureau processed	ser no
supervisor approving	ser no	officer reporting	ser no
SYLVESTER/PAMELA ANN	1026	FISCHER/PATRICK	1647

CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: 246554
DATE: 7/06/04 -----POLICE REPORT----- PAGE: 3
TIME: 7:54 -----NARRATIVE PORTION----- OF: 3

ON 062904 AT APPROXIMATELY 1200 HRS. I RECIEVED A REQUEST TO PROCESS THE SHOES OF RICKY SLAUGHTER MF#89534 FOR THE PRESENCE OF BLOOD WHICH WERE HELD AT NLVDOC BOOKING FROM DETECTIVE J. PREITO P#674.

I WENT TO NLVPD BOOKING AND COLLECTED ONE PAIR OF WHITE AND BLUE REEBOK SNEAKERS BELONGING TO RICKY SLAUGHTER FROM NLVDOC BOOKING OFFICER PAM MORTON. I THEN TRANSPORTED THEM TO THE NLVPD CRIME LAB. I TOOK OVERALL VIEWS OF THE SHOES. DURING A VISUAL EXAMINATION I NOTED THAT THE SHOES WERE CLEAN. SOME RUSTY OR REDDISH STAINS WERE OBSERVED ON THE SOLES OF BOTH THE LEFT AND RIGHT SOLES. THESE WERE TESTED WITH SEPERATE HEMA TRACE KITS TO TEST FOR THE PRESENCE OF BLOOD WITH NEGATIVE RESULTS. THE UPPERS WERE TESTED AS WELL WITH NEGATIVE RESULTS. NO OTHER SERVICES WERE PERFORMED.

ALL ITEMS COLLECTED AS EVIDENCE BY ME WERE BOOKED INTO THE NLVPD EVIDENCE VAULT UNDER MY HAND. ALL PHCTOGRAPHS WERE TAKEN WITH MY DEPARTMENT ISSUED SONY DIGITAL CAMERA AND UP-LOADED INTO THE NLVPD COMPUTER FILES FOR LATER STORAGE. A CASE FILE JAKCET INDICATING THAT DITITAL PHOTOS WERE TAKEN WAS COMPLETED AND IS MAINTAINED WITHIN THE NLVPD C.S.I. BUREAU.

records bureau processed	ser no 1	detective bureau processed	ser no
supervisor approving	ser no 1	officer reporting	ser no
SYLVESTER/PAMELA ANN	1026	FISCHER/PATRICK	1647

S.W. FILED 9-166

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

STATE OF NEVADA)

ss:

Nov 5 2 06 PM '09

County of Clark)

JUSTICE COURT
NORTH LAS VEGAS, NV
BY 8 CLERK

DETECTIVE J. PRIETO being first duly sworn, deposes and states on information and belief, that Affiant is a Detective with the North Las Vegas Police Department (NLVPD) presently assigned to the Detective Bureau, has been with the North Las Vegas Police Department for over twenty two (23) years and has been assigned to the Detective Bureau for over four (10) years.

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1. Buccal Swab sample from inside the mouth.

and as I am satisfied that there is probable cause to believe that said person will be located at the Clark County Detention Center, 330 S Casino Center, City of Las Vegas, County of Clark.

The items described constitutes evidence which tends to demonstrate that the criminal offenses of attempt murder with a deadly weapon, robbery with a deadly weapon, and burglary with a deadly weapon, 200.030, 200.381, 205.060 have been committed.

In support of your Affiant's assertion to constitute the

existence of probable cause, the following facts are offered based on your Affiant's personal knowledge and on information and belief.

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As a result of the investigation it was learned that an attempt murder, robbery, and burglary had been committed.

During my investigation Rickie Slaughter was identified as a suspect in the crime. The victims of the incident later positively identified Slaughter as the suspect who shot Young and robbed several victims inside Young's residence. I subsequently arrested Slaughter for the above listed crimes.

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the testing. The identification bureau advised me the substance on the shoes appeared to have been covered by some type of polish, possibly hide the blood like substance. They were not able to test the substance due to the polish.

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WHEREFORE, Affiant requests that a Search Warrant issue directing a search for and seizure of the aforementioned item at the location set forth herein and authorizing a daytime search between the hours of 7 a.m. and 7 p.m.


J. Prieto, Affiant

SUBSCRIBED and SWORN to before me

this X day of November 5, 2009.


J U D G E

SEARCH WARRANTS.W. 09-166

STATE OF NEVADA)
) ss.
County of Clark)

The State of Nevada, to any Peace Officer in the County of Clark.
Proof by Application and Affidavit for Search Warrant having been
made before me by DETECTIVE J. PRIETO said Application and Affidavit
for Search Warrant incorporated herein by reference, that there is
probable cause to believe that certain evidence, namely:

1. Buccal Swab sample from inside the mouth.

is presently located inside the body of Rickie Slaughter DOB,
[REDACTED] 1984, social security # [REDACTED]-7827, to-wit:, and I am
satisfied that there is probable cause to believe that said property
is located as set forth above and that based upon the Application and
Affidavit for Search Warrant there are sufficient grounds for the
issuance of the Search Warrant.

You are hereby commanded to forthwith collect buccal swab samples
for said evidence, serving this Search Warrant between the hours of
7 a.m. and 7 p.m. at the Clark County Detention Center, 330 S Casino

Center, City of Las Vegas, County of Clark, as set forth in the Application and Affidavit for Search Warrant in support hereto, and if the property there to seize it, prepare a written inventory of the property seized and make a return for me within ten (10) days.

Dated this day of November 5, 2009.

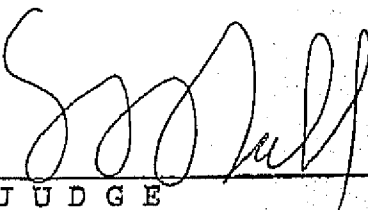

J U D G E

Exhibit "B"

CASE: 04015160

DATE: 7/06/04

TIME: 7:54

NORTE LAS VEGAS POLICE DEPARTMENT

REF: 246554

POLICE REPORT

PAGE: 1

INVESTIGATIVE PORTION

OF: 3

INCIDENT FOLLOWUP

classification/additional information:

MURD/AMURD

invest bureaus/units notified: DETECTIVES

location of occurrence: rpt dist: D3 neighborhood: ARA
NLVDOC DAVID 3 ARROWHEAD ACREfrom: date / time to: date / time report: date / time
6/29/04 / 12:00 6/29/04 / 12:00 6/30/04 / 15:00

hate crime? NO gang related? NO fingerprints? NO

routing? prosecute? prop report? vehl report? arrest rpt? attach?

DETECTIVE YES YES NO NO

METHOD OF OPERATION

residential---type: target: security:

non-residtl---type: target: security:

entry---location: method:
exit---location: method:

suspect actions:

A. B. C.
D. E. F.
G. H. I.

*****DISPOSITIONS*****

[]-UNFOUNDED/NO CRIME--0 []-SUBMITTED D.A.-----5 []-RECLASSIFY-----10
[]-JUVENILE-----1 []-ADMIN. CLEARED-----6 []-VIC REFUSED PROS.--11
[]-NON DETECTIVE CLR--2 []-EXCEPTIONALLY CLR---7 []-AFFIDAVIT-----12
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[]-SUBMITTED CITY ATTY-4 []-NO CHGS FILED (NCF)--9 []-OTHER-----14
[]-SUBMITTED US ATTY-15

RECORDS

class code---ucr | sid number | date ser no | date ser no
| enter | cleared
| scope | scope
| |

records bureau processed ser no | detective bureau processed ser no

supervisor approving ser no | officer reporting ser no
SYLVESTER/PAMELA ANN 1026 | FISCHER/PATRICK 1647

CASE: 04015160 ---NORTH LAS VEGAS POLICE DEPARTMENT--- REF: 246554
DATE: 7/06/04 -----POLICE REPORT----- PAGE: 2
TIME: 7:54 -----PROPERTY PORTION----- OF: 3

no. artcds type--descriptive information on property----- stolen recover
additional descriptive information----- value value

001 CLOTHI E brd: REEBOK size: 10.5
mod: SNEAKER cal:
ser:
coll: WHI col2: BLU dt last seen:
own#:

ITEM #1, REEBOK, WHITE AND BLUE SNEAKERS BELONGING TO RICKY
SLAUGHTER FROM NLVDCC BOOKING

++++++ totals----->

type: E-evidence; F-found; I-impounded; L-lost;
O-other; R-recovered; S-stolen; T-released; X-safekeeping

records bureau processed ser no : detective bureau processed ser no

supervisor approving ser no : officer reporting ser no
SYLVESTER/PAMELA ANN 1026 : FISCHER/PATRICK 1647

CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: 246554
DATE: 7/06/04 -----POLICE REPORT----- PAGE: 3
TIME: 7:54 -----NARRATIVE PORTION----- OF: 3

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records bureau processed	ser no 1	detective bureau processed	ser no
supervisor approving	ser no 1	officer reporting	ser no
SYLVESTER/PAMELA ANN	1026	FISCHER/PATRICK	1647