

No. 82602

IN THE NEVADA SUPREME COURT

Electronically Filed
Jul 21 2021 04:09 p.m.
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 XIX of XXII**

Rene Valladares
Federal Public Defender, District of Nevada
*Jeremy C. Baron
Assistant Federal Public Defender
411 E. Bonneville Ave. Suite 250
Las Vegas, Nevada 89101
(702) 388-6577 | jeremy_baron@fd.org

*Counsel for Rickie Slaughter

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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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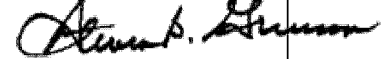
/s/ Richard D. Chavez

An Employee of the
Federal Public Defender

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1 RENE L. VALLADARES
Federal Public Defender
2 Nevada State Bar No. 11479
3 JEREMY C. BARON
Assistant Federal Public Defender
4 Nevada State Bar No. 14143C
411 E. Bonneville Ave. Suite 250
5 Las Vegas, Nevada 89101
6 (702) 388-6577
6 (702) 388-6419 (Fax)
7 jeremy_baron@fd.org

8 Attorneys for Petitioner Rickie Slaughter
9

10 EIGHTH JUDICIAL DISTRICT COURT
11 CLARK COUNTY

12 RICKIE SLAUGHTER,
13

14 Petitioner,
15

16 v.
17

18 CHARLES DANIELS, Director, Nevada
Department of Corrections; MARTIN L.
FRINK, Warden, Saguaro Correctional
Center; RENEE BAKER, ex-Warden, Ely
State Prison; and AARON FORD,
Attorney General of the State of Nevada,
19

20 Respondents.
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Case No. A-20-812949-W
(04C204957)

Dept. No. III

(Not a Death Penalty Case)

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23 PETITION FOR WRIT OF HABEAS CORPUS
24 (POST-CONVICTION)
25
26
27

No.	DATE	DOCUMENT	COURT	CASE #
23.	07/26/2019	Deposition Transcript of Marc DiGiacomo	United States District Court	3:16-CV-00721-RCJ-WGC
24.	07/26/2019	Exhibits to Deposition of Marc DiGiacomo	N/A	N/A
25.	10/16/2019	Declaration of Osvaldo Fumo	N/A	N/A
26.	10/24/2019	Declaration of Maribel Yanez	N/A	N/A
27.	(undated)	Unsigned Declaration of Rickie Slaughter ¹	N/A	N/A

DATED March 27, 2020.

Respectfully Submitted,

RENE L. VALLADARES
Federal Public Defender

/s/ Jeremy C. Baron
JEREMY C. BARON
Assistant Federal Public Defender

¹ Mr. Slaughter has stated this declaration is entirely truthful and that he intends to sign it. However, undersigned counsel has not been able to get a signed version of this declaration in time for this filing. Undersigned counsel will file a signed version promptly.

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CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2020, I electronically filed the foregoing with the Clerk of the Eighth Judicial District by using the Court’s electronic filing system.

Participants in the case who are registered users in the electronic filing system will be served by the system and include: Steven Wolfson, Steven.Wolfson@clark-countyda.com, Motions@clarkcountyda.com

I further certify that some of the participants in the case are not registered electronic filing system users. I will mail a copy of the foregoing document to the following people:

Michael Bongard
Office of the Attorney General
1539 Ave. F Suite 2
Ely, NV 89301

Rickie Slaughter
No. 85902
Saguaro Correctional Center
1252 E. Arica Road
Eloy, AZ 85131

/s/ Richard Chavez
An Employee of the Federal Public
Defender, District of Nevada

EXHIBIT 24

Part 5 of 6

EXHIBIT 24

Ivan's house.

It just doesn't seem to make sense. Now, Monique Westbrook, was her testimony the clearest in the world; she went up there and tried to say what she remembered 7 years later.

I had sex with this guy one time. I know it was before the Fourth of July. In 2004 the Fourth of July was one weekend after June 26th. It was 9 days that the Fourth of July fell on in that particular year.

MR. DiGIACOMO: I apologize. I object. There's absolutely no evidence of an investigation prior to 2005.

MR. MARCELLO: I am making a reasonable inference that if he would have been assigned a Public Defender, they would have had investigators at their office.

THE COURT: There is no evidence that he was assigned a

Public Defender.

I am going to sustain the objection.

MR. MARCELLO: Now, you are going to take a look at your instructions. Most of them have everything to do with the elements of the crime.

For the purpose of our case, Rickie simply wasn't there. So I think the most important instruction for you to look at it is instruction number 37; what capacity did the witnesses have to view the suspect.

If you have your jury instructions, I would like you to look at it right now. It gives you instructions on how to view the testimony of eyewitnesses.

Now, when Ms. Fleck was interviewing Geoffrey Loftus up there, she said all across this country crimes are being upheld and crimes are being proven with eyewitness testimony. She is

correct, they sure are.

You know from your own experience and training those aren't always correct. Everybody here has read stories of that happening. Everybody here knows where a friend of a friend, where some of those turned out to be incorrect.

I believe that Mr. Loftus indicated that 75 percent of the cases that were exonerated by DNA

--

MR. DiGIACOMO: Objection.

THE COURT: That was all stricken by the Court.

MR. MARCELLO: I thought he followed up with it.

THE COURT: Sustain the objection.

MR. MARCELLO: What are the factors that he said about recalling memory. This was a high stress situation.

Ryan John had even said I was constantly waiting for them to leave,

find a way out, wait until they go into another room.

He was worried about his own safety long before he tried to look at the suspects. Ivan, all he said was I wanted my family to get down. I didn't want anything to happen.

Jennifer Dennis, the same thing. All of the witnesses were constantly prevented from looking directly at the suspects.

Even when they did look directly at the suspects, Ryan John, he said the guy put the gun right to my face and I looked him right in the eye.

There is no testimony about anybody seeing black eyes. You saw the booking photo that Tiffany Johnson remembered Rickie to look like at the time.

He had a black eye in the photo. He doesn't remember seeing anybody with black eyes. He had stitches at the time. He had just

1 been jumped.

2 There is no testimony that
3 anybody recognized any type of scar,
4 healing or fresh stitches in his face
5 at the time.

6 This goes into factor number
7 one, for the person to look at, get
8 the opportunity to view the suspect.
9 And we are going to look more
10 importantly at factor number 5,
11 whether the identification was the
12 product of the witness' own
13 recollection or was the result of
14 subsequent influence or suggestion.

15 If somebody came to your
16 house, robbed you, tied up your
17 entire family, took everything that
18 you had, and the police call you and
19 say we got a suspect in custody, we
20 think that he did it. We need you to
21 come down here and point out the
22 suspect that is in this lineup.

23 You heard both Joey Posada
24 and Ryan John. You heard that they
25 were then contacted and told that the

1 suspect was in the lineup.

2 You know that if you make the
3 wrong pick, that suspect is going to
4 go free. And if the police are
5 saying that they think he did it, he
6 is probably the one that did it.

7 You are going down there with
8 the expectation that you are going to
9 point out the guy that did it. Yet
10 at the same time they are telling
11 you, he is in this lineup, if you
12 don't pick him out, the person that
13 did this to your family is going to
14 go free.

15 You are sitting in the
16 hospital and you are told that the
17 suspect is in this lineup, that they
18 caught the guy, and you take a look
19 at these pictures and say do you
20 recognize him.

21 Looking at that lineup,
22 there's no way that I would think
23 that Rickie Slaughter's picture
24 matches those other 5 ones.

25 We have been talking about a

1 blue background. You can see what
2 else it does, it creates a halo
3 effect on his face.

4 Detective Loftus testified
5 that when I viewed this lineup, it
6 appeared that his picture was taken
7 at a different time.

8 He looks like somebody that
9 is freshly in custody, compared to
10 the other 5. That's the guy who did
11 this to me.

12 They asked Jermaun Means the
13 same thing, we have the suspect in
14 custody, the guy that did it. We
15 need you view this lineup.

16 Jermaun Means says, writes on
17 the bottom of the statement, the face
18 just stands out to me. He doesn't
19 write, this is the guy that did
20 this. This is the man I think had
21 the gun.

22 This is the guy that just
23 stands out to me. This face just
24 stands out to me. The reason why
25 that face stands out to him is

1 because it looks completely different
2 than the other 5 pictures.

3 The gentleman is wearing a
4 yellow shirt. You can't control what
5 clothing they are wearing or what the
6 picture looks like.

7 You haven't heard any
8 evidence about how these photo
9 lineups are created. You are
10 allowed to use your inference, that
11 just viewing this in and of itself
12 indicates there is something
13 incorrect about this lineup.

14 Now, for Ryan John, he
15 testifies I am 100 feet away from
16 the house. The guy calls me over.
17 He goes into the house before I
18 do.

19 He turns around and puts a
20 gun under my chin. I look him in the
21 eye. I don't remember his clothing.
22 I remember his face. That's what he
23 said, I remember his face.

24 I don't remember any black
25 eyes. I don't remember stitches. I

1 don't remember any tattoos.

2 Tiffany Johnson testified he
3 had tattoos up and down his arms, a
4 black eye, stitches at the time. He
5 looks at this picture, this is the
6 guy I think that called me over.

7 He is told that from the time
8 that he gets called in that they had
9 the suspect in custody. He is in
10 this lineup, pick him out.

11 This is what we have to deal
12 with when we talk about accuracy
13 versus certainty. Ms. Fleck pointed
14 out, he had come to subsequent
15 hearings. Ryan John pointed him
16 out.

17 Again, that reinforces the
18 belief that this is the person.
19 Look at the layout of this
20 courtroom. There is 2 signs,
21 plaintiff and defendant. You don't
22 think that's going to help him point
23 out, that's the guy again.

24 So every time he shows up in
25 Court, he becomes more certain that

1 that's the guy. It doesn't make
2 him anymore accurate about who it
3 is.

4 Again, you got to ask
5 yourself, why didn't anyone see
6 any tattoos. Why didn't anyone see
7 scars, black eyes, stitches on the
8 person's face.

9 Why can they be so sure it
10 is Rickie, yet no one person can
11 agree what the real perpetrators were
12 wearing.

13 Ivan Young's description, 2
14 black males, one bald with a blue
15 shirt and the other one had a red
16 basketball jersey, dreadlocks, spoke
17 with a Jamaican accent. He said he
18 wanted to go back Belize.

19 Dinnah said these fucking
20 Americans prefer to carry credit
21 cards over cash.

22 If what the State is saying
23 is true, that Rickie Slaughter is
24 using a fake Jamaican accent, why
25 would he go through the extra step of

1 the Belize and the fucking Americans,
2 why do you have to go through these
3 extra steps.

4 The conversation started
5 off with Ivan Young about painting
6 cars just before the robbery took
7 place.

8 Why would anybody remember
9 that; that's why he didn't remember
10 his face right at that particular
11 time. He has people sent to him to
12 paint cars all the time.

13 Jermaun Means was coming to
14 pay him right at that time. Ryan John
15 initially told the police that he
16 cannot identify the suspects. His
17 statement of identification says, I
18 think, I think this is the guy.

19 When the suspect found the
20 credit card, he says fucking
21 American. He doesn't see any black
22 eyes, tattoos, stitches. He sees
23 white shoes, and you heard testimony
24 that the white pair of shoes, this
25 is a brand new white pair of shoes,

1 brand new looking, that were tested
2 for blood, not a drop of blood on
3 them.

4 You have seen track marks
5 with blood all over the place.
6 They were walking all around the
7 place. He shot them at more or less
8 point blank range, but not a single
9 drop of blood on those brand new
10 looking white shoes.

11 Joey Posada doesn't remember
12 anyone speaking with an accent. This
13 fits together with what Loftus said,
14 and that over time formulates our
15 memory of what occurred.

16 One of the suspects had
17 braided hair and the other having
18 dreadlocks. He originally thought it
19 was an Afro, and one of the suspects
20 was wearing a tuxedo or a dress
21 shirt.

22 We have a basketball jersey,
23 a blue shirt, some type of dress
24 shirt, a beige jacket now.
25 Essentially these individuals are

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1 under a high stress situation. They
2 are trying to remember any major
3 detail, and looking at the major
4 details, they get them wrong. The
5 exact face, shape, height, things
6 like that, they can't put it
7 together.

8 I don't think their memory is
9 useful for saying that's the guy that
10 did it. Jermaun Means cannot
11 identify the suspect.

12 You heard testimony from
13 Jennifer Dennis who was at the
14 house. There was a number of other
15 individuals at the house.

16 The get away car is described
17 from green, green-blue to blue. We
18 are later on told it is a Ford. We
19 are going to get to the slide in a
20 minute. I don't see any reason why
21 it couldn't have been a green Chevy
22 Malibu.

23 As to the number of people in
24 that house, half of them say it was
25 Rickie and half have no clue. That

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1 is 50/50. It doesn't sound like a
2 positive identification to me.

3 Again, all of these witnesses
4 were told the suspect was in custody,
5 present in a lineup. If they don't
6 pick out the right person, the person
7 that did this to your family goes
8 free.

9 Low and behold there is
10 somebody that looks like, that the
11 police think did it, that is good
12 enough for me. I rather they get
13 somebody than nobody.

14 And this kind ties in. I
15 know this is a very weird
16 proceeding. It is weird that we have
17 to segment out the testimony. You
18 don't get to hear a nice
19 chronological sequence of events.

20 You have to hear from
21 different witnesses and piece it
22 altogether. It makes it difficult to
23 tell a nice, long, continuous story.

24 The story that we have is
25 Mr. Slaughter dropped off Tiffany at

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1 7:00 o'clock in the morning at her
2 work, obtained a car sometime later,
3 went to see Monique Westbrook, had
4 sex with her, hung out with her, and
5 went to pickup Tiffany at 7:00, 7:15,
6 took her back to their house, she
7 took her car and left.

8 And according to the State's
9 case, Mr. Slaughter then walks down
10 the street to a 7-Eleven to use the
11 ATM card. This is another one that
12 doesn't fit in with the State's
13 case.

14 He goes to his apartment at
15 3801 East Charleston. The way the
16 State tells you, he goes to the
17 7-Eleven and said, hey, he has the
18 same height, facial features, it
19 looks like him.

20 To me, the person in that
21 video looks more stout, thicker,
22 heavier set. That's my personal
23 opinion.

24 Their view is he has the
25 same facial features and structure,

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1 but it is up to you to view that
2 picture and decide what you want to
3 do with it.

4 As far as I am aware, there's
5 no scientific evidence saying it is
6 him. It is up to your judgement as
7 to how you view that photo. He looks
8 too thick for that video.

9 Why go to that 7-Eleven in
10 the first place. You heard the store
11 clerk that had the videotape, he says
12 there's 4 stores on this route from
13 3801 Charleston to 3051 Charleston, 4
14 other stores, including one that he
15 owns.

16 Why would he go that far to
17 use that ATM. There is a Circle K,
18 Am Pm, another store that he owns,
19 and yet he goes the extra distance to
20 walk that distance to use that card
21 by 7:00 o'clock.

22 Now that we have got a
23 certain timeline here, he supposedly
24 commits this crime at 7:00 o'clock
25 and picks up Tiffany Johnson, a 10

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1 mile trip. He has to park, get her
2 out of the vehicle, not appear
3 nervous or weird in any way, then he
4 has to let her leave and then
5 suddenly walk all the way up
6 Charleston past 4 other stores to
7 go to that 7-Eleven and use the
8 ATM.

9 It doesn't seem likely. It
10 doesn't seem to fit into any of the
11 type of actual events that would have
12 occurred. It does not support the
13 State's case.

14 The lineups themselves, these
15 are not randomly generated pictures.
16 You heard Mr. Loftus that the other 5
17 pictures look like they were
18 generated by a computer program.
19 This one looks different.

20 This was an intentionally
21 created lineup. This was made by an
22 individual. The State does not
23 provide any evidence why this lineup
24 was created in the manner that it
25 was.

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1 Why did this line up have to
2 look like this; why couldn't it have
3 had a blue background for
4 everybody. You know, this doesn't
5 really seem right, let me make
6 another one, so I am not trying to
7 influence the witnesses.

8 Rickie's picture has no
9 background. It seems to have a halo
10 effect on his face. It was made to
11 make Rickie get selected.

12 How can you not become
13 certain that that was the right guy,
14 especially after you pick out that
15 right guy, they arrest him, go
16 through the Court process.

17 He comes to court, picks him
18 out in court because he is sitting at
19 the table that has the picture that
20 says Defendant.

21 Every time you come to court
22 you are going to look at the photo,
23 and see him sitting in Court and say
24 that's the guy. You are going to
25 become more certain over time than

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1 the exact moment you had it.
2 Ryan John, I am not sure I
3 can identify the suspects. I am
4 positive now, 100 percent sure. It
5 is your job to make sure that's the
6 right person.

7 Now, again, we are going
8 to look at this lack of evidence.
9 There is no forensic corroborating
10 evidence that Rickie committed this
11 crime, some of the things we expect
12 to confirm, if Rickie did it.

13 They had his vehicle, why not
14 compare the tire tracks left at the
15 scene with the tire tracks on the
16 bottom of the car.

17 That would have confirmed
18 that that was the vehicle that was
19 there. It was never done. There is
20 no evidence to that effect.

21 You heard testimony from Jeff
22 Arbuckle. They had the security tape
23 from 7-Eleven, why not have it from
24 Albertsons. The State presented no
25 evidence as to why reasonable

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1 investigations were not done.
2 The jail calls. Jail calls,
3 as the custodian of records
4 indicated, you can never tell the
5 intention of what somebody says, nor
6 can you tell what kind of language
7 that was used in general.

8 Rickie repeatedly states his
9 innocence. He is just standing in
10 jail, repeating what he has already
11 been told when he got taken in, they
12 booked me on this and that. I am
13 looking at some serious charges.

14 If you got booked in and saw
15 those charges, attempted murder,
16 kidnapping, battery with a deadly
17 weapon, second degree murder, that
18 would immediately trigger in you,
19 what the hell is going on.

20 I am going to talk to one
21 the person that might know what is
22 going on. Let me ask her what is
23 going on.

24 He was a 19-year-old black
25 male from a bad neighborhood. Stick

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1 to the script. I can think of a
2 millions versions as to what that
3 means besides let's stick to some
4 made-up story that we even haven't
5 made up yet.

6 You have already told the
7 cops what happened, stick to the
8 script. 7:00 o'clock, you told them
9 it was 7 to 7:15. You told them
10 exactly what the truth was as
11 to what time you picked me, 7:00,
12 7:15.

13 You heard no Jamaican
14 accent. You heard, cuz, cuz, cuz,
15 again the crackers, that type of
16 language is just to show that he is a
17 19-year-old black male from a bad
18 neighborhood, therefore that guy is a
19 bad guy.

20 That's the whole idea behind
21 those particular jail calls.

22 Tom Winter, this was a little
23 strange. Mr. Winter tells you he is
24 a concerned citizen, he calls the
25 police the day that he sees the news

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1 on television.

2 He doesn't say I saw Rickie
3 Slaughter's picture on the
4 television. He saw the news footage
5 of the robbery taking place.

6 MR. DIGIACOMO: I object. I
7 thought he said I saw Eric Hawkins
8 on the video, is what I thought he
9 said.

10 THE COURT: Ladies and
11 gentlemen you rely on what you
12 recall Mr. Winter testifying to,
13 what you remember as to the
14 testimony.

15 MR. MARCELLO: I will rely on
16 your recollection of which news
17 broadcast he watched. This is before
18 Rickie is listed as a suspect, before
19 any news story that Rickie is
20 connected to this crime.

21 He tells you Eric Hawkins
22 spoke with a Jamaican accent. He
23 moved out one month before the crime
24 occurred.

25 He didn't tell you where that

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1 accent was, but he had been around
2 the country, and my inference is that
3 that accent may be and where he might
4 have moved back to would be Belize.
5 The Jamaican accent, the suspects
6 were overheard that they wanted to go
7 back to Belize.

8 These robbers show and they
9 don't say, give me money. They say;
10 give me the money, where are the
11 guns. Jermaun Means shows up to
12 house with \$1,500 in his pocket.

13 At the same time they are
14 walking around the house, give me the
15 money. They don't say give me any
16 money, do you have any money. The
17 guns, they say give me the guns.
18 That implies they were there
19 expecting money and guns to be at
20 the house.

21 Jermaun Means shows up to the
22 house with \$1,500 in his pocket. We
23 haven't heard any evidence that in
24 anyway that Mr. Slaughter somehow has
25 knowledge of Jermaun Means.

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1 If that was him being at the
2 house, he would have to know that
3 Jermaun Means was showing up at the
4 house. I think that those particular
5 robbers were expecting money to be
6 there, that it was somebody that knew
7 to go there at that particular time
8 when Jermaun Means showed up to that
9 house.

10 They referred to Ryan John
11 and the others as fucking Americans.
12 Rickie could not have committed this
13 crime. He didn't have the time.

14 There's absolutely no
15 corroborating evidence indicating
16 Rickie committed this crime; no
17 blood, fiber, hair, fingerprints, no
18 evidence that he committed this crime
19 to corroborate what the witnesses'
20 recollection of the events are.

21 The detective conducted a
22 basic investigation of some
23 information that confirmed Rickie is
24 innocent. The 4 eyewitnesses, they
25 are wrong about what they saw. They

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 1 were manipulated by detectives to
 2 pick the wrong person.

3 Rickie is not guilty. Thank
 4 you.

5 THE COURT: Thank you,
 6 Mr. Marcello.

7 Mr. DiGiacomo.

8
 9 STATE'S FINAL CLOSING ARGUMENT
 10

11 MR. DIGIACOMO: Thank you.
 12 Every trial, a criminal trial, a
 13 civil trial that happens in the Court
 14 house is all about one thing. It is
 15 all about the truth.

16 At the end of the day, what
 17 is the truth; it doesn't matter what
 18 type of proceeding it is, where it is
 19 occurring in America, the one thing
 20 that matters is what is the truth.

21 Now, we already know and
 22 they conceded, Ms. Fleck said they
 23 would concede it, every crime
 24 listed in this indictment, this
 25 information was committed, no

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 1 question about it.

2 The only question is, is that
 3 the guy, did this man right here,
 4 Rickie Slaughter, did he, was he one
 5 of the 2 individuals that entered the
 6 house. If he is one of the 2, he is
 7 guilty.

8 If he is present, he is
 9 guilty, right, because each of those
 10 guys acted together. The real
 11 question, the question about it is,
 12 this man put a 357 to a guy's face
 13 that he shot. There is no question
 14 about that.

15 The question becomes, as I
 16 stand here every time, like maybe we
 17 should be in an era of CSI, there's a
 18 lot of rules that we live by. The
 19 most fundamental rule is you don't
 20 ever believe anything a lawyer says
 21 to you.

22 You shouldn't believe
 23 anything I say to you or anything
 24 Ms. Fleck says to you, or anything
 25 certainly Mr. Fumo said in his

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 1 opening, because God knows none of
 2 that panned out.

3 And you shouldn't believe
 4 most of what Mr. Marcello talked to
 5 you about either. They weren't
 6 quite exactly the way you heard it,
 7 right.

8 I was surprised to hear
 9 Mr. Marcello get up and say to you
 10 guys, Monique Westbrook said she was
 11 at home with the Defendant. He left
 12 at 7:00. That is when he went to go
 13 pick her up.

14 What I remember Monique
 15 saying is that if she was with him,
 16 it was between 7 and 10:00 o'clock at
 17 night. I can't tell you the day of
 18 the week.

19 We know it had to be the year
 20 2005, a full year after Mr. Slaughter
 21 was arrested for the crime.

22 There is no way she's an
 23 alibi witness for him. You have to
 24 believe Tiffany Johnson, you mean the
 25 woman that was convicted of

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 1 obstruction of justice in this case.
 2 It was this case in which she
 3 obstructed justice.

4 You have to find her
 5 credible. They said we tell you that
 6 you have to find her credible. No,
 7 you don't. We didn't call Tiffany
 8 Johnson.

9 Let's see, Tiffany Johnson,
 10 the first thing she tells the police
 11 is 7:30 at night or before 7:30 at
 12 night. I am not telling you you
 13 should believe her. I think you
 14 should believe Mr. Arbuckle, who has
 15 no reason to lie, who says it was a
 16 half hour. I don't get out until
 17 7:00.

18 I agree with Mr. Marcello
 19 that if he is the manager, he might
 20 lock the door at 7, but he probably
 21 doesn't get out until 7, 7:10. And
 22 he said I waited a half hour for
 23 her.

24 What tells you he is telling
 25 the truth is the one thing Tiffany

1 Johnson made a mistake about is, when
2 Jeff was leaving, pulling out of the
3 parking lot, Rickie was pulling in,
4 what is what Jeff Arbuckle told you;
5 when I was leaving, Rickie was
6 pulling in the parking lot, which
7 tells you what, between 7:30, 7:40,
8 somewhere in that range, Rickie
9 Slaughter came with his green
10 car.

11 Then they tell you
12 Mr. Slaughter had to get rid of all
13 the evidence before that. We know he
14 didn't, because he only got rid of
15 one of the guns.

16 Why did he have to get rid of
17 it before then; he had to get rid of
18 it before 2 days later. Do you
19 honestly think that Tiffany Johnson
20 doesn't know that he is guilty beyond
21 any shadow of a doubt.

22 That her behavior with the
23 police officer, with the police
24 officer that night, her behavior on
25 the stand, he doesn't have a job. He

1 had extra money. Maybe he got it
2 from his mother.

3 I don't know any of his
4 friends. If you could figure out who
5 his the best friend is, you would
6 know who the second suspect was,
7 which leaves you with this
8 inescapable conclusion.

9 I hear there is no forensic
10 evidence. There should have been
11 blood, and despite the 4 ID's with
12 the picture being in 4 different
13 spots, that somehow it was a big
14 suggestion as to who it is that these
15 guys should have picked out of the
16 photo lineups.

17 Let's start with something.
18 Set all 4 photo lineups to the side
19 and decide is Rickie Slaughter
20 guilty. Let's start with this, you
21 know that Rickie Slaughter has
22 connection to that neighborhood,
23 indisputable.

24 Kenny Marks said he brings
25 the license with his signatures on it

1 or title. We know that somehow this
2 neighborhood that he has no other
3 link to, that he has been in this
4 neighborhood a number of times, which
5 tells you another thing, that he
6 knows that Ivan, who happened to be
7 standing next to Kenny one time, and
8 Ivan probably doesn't remember this,
9 why would he pay attention to a
10 conversation that Ivan is having; he
11 knows what Ivan does, which is paint
12 cars, which means he knows that Ivan
13 probably gets paid in cash.

14 It is not exactly a business
15 that has a storefront and a credit
16 card machine. He knows that Ivan got
17 money, so he knows that's a place
18 where he can make some money from.

19 What else do you know, you
20 know there is no disputing there's 3
21 guns used in this crime. You know
22 that it is a .22 calibre revolver,
23 black with a brown handle; opps
24 Rickie has one of those.

25 You know there is a small

1 silver semi-automatic firearm; wait,
2 Rickie has one of those.

3 You know there's a 357 used.
4 I know there's a big long discussion
5 about that little piece of a bullet
6 in the trunk of the car. Maybe I was
7 somewhat confusing during my opening,
8 or maybe Mr. Marcello didn't
9 understand what we are saying.

10 What that means is Rickie
11 Slaughter had access to a 357. There
12 wasn't any dispute that the bullet
13 that hit Ivan in the face was a 357
14 silver tipped bullet.

15 They didn't dispute that.
16 That's what all of the outside of the
17 bullet was with the canolure. She's
18 able to determine on its chemical
19 composition that the jacketing that
20 was in Ivan's face was a 357, and it
21 was manufactured by Winchester.

22 We know he has a little
23 casing to a Winchester 357 in the
24 trunk of his car. That bullet,
25 whether that's the bullet that was

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 1 fired in the house, we will talk
 2 about that shortly, and somehow he
 3 wound up either getting it into the
 4 tread of his shoe, or winding up in
 5 the trunk of his car, or picking it
 6 up because he was running around the
 7 house looking for the money and saw
 8 it and thought, hey, I can get rid
 9 of evidence that would link it to
 10 me, or it was from a whole separate
 11 incident where he was tinkling with
 12 his gun out in the desert.

13 It doesn't matter. What
 14 matters is, is that there's a bullet
 15 core with a canolure consistent with
 16 the fragments found inside our crime
 17 scene, which tells you that not only
 18 does he have access to a Winchester
 19 357 Magnum gun, but the type of
 20 Winchester ammunition is consistent
 21 with the Winchester ammunition that
 22 hit Ivan in the face.

23 Now, what do you mean, he has
 24 all 3 guns. What are the odds of
 25 that. You haven't had a single ID at

138
 1 this point.

2 MR. FUMO: Your Honor,
 3 objection, that misstates the
 4 testimony.

5 She couldn't tell if
 6 that lead core was a Winchester or
 7 not.

8 THE COURT: The same thing,
 9 ladies and gentlemen, you will recall
 10 the testimony of the witnesses and
 11 make your own decisions based on
 12 that.

13 MR. DIGIACOMO: Now, you take
 14 all of that information and you
 15 haven't yet got to an ID yet.

16 What else do you know, I
 17 know there has been a lot of
 18 discussion, Ivan said a green Ford 7
 19 years later. He didn't say until way
 20 back when, and Jennifer said blue,
 21 teal, not green.

22 There is no discussion of a
 23 Ford, no discussion of a Ford. You
 24 didn't hear it but once, but listen
 25 to the 911 call.

139
 1 The 911 call comes out,
 2 someone says what kind of car were
 3 you driving, you will hear Jennifer
 4 say blue, someone correct her, no
 5 green, and someone in the background
 6 yells a Ford.

7 Listen to the call. The
 8 first thing that comes out of
 9 anyone's mouth is it is a green Ford
 10 that is the suspect vehicle in this
 11 case.

12 What do you know, the guy
 13 with the 3 guns who happens to be
 14 linked to that neighborhood just
 15 happens to be driving a green Ford.
 16 Who knew, right, and you still don't
 17 have a single identification in this
 18 case.

19 And that information you
 20 have, and you would be considering to
 21 yourself, it is looking pretty bad
 22 for you, Rickie Slaughter.

23 Now the cops come in. They
 24 take Mr. Slaughter into custody and
 25 throw Mr. Slaughter into jail. You

140
 1 haven't heard any information that he
 2 knows why he went to jail other than
 3 he knows what his charges are.

4 I have to ask this question,
 5 he goes to jail. You can look at his
 6 booking sheet. He is booked in at
 7 1:33 in the morning, and despite the
 8 rolling up of the sleeves here in the
 9 courtroom, that booking sheet doesn't
 10 say he has any tattoos.

11 And while it does have a
 12 little mark there where this black
 13 dot is, you should look at that,
 14 because when you pull up that video
 15 of Mr. Slaughter at 7-Eleven, you can
 16 see that little mark on his eye in
 17 the videotape itself.

18 He is booked in at 1:33, and
 19 at 1:45 in the morning he calls his
 20 girlfriend; the first call, he asked
 21 her what happens. What does she say;
 22 I told them you picked me up at
 23 7:30. You got to tell them 7 or I am
 24 going to prison for life.

25 My question to you is, from

1 the evidence you have heard here, how
2 does he know he needs to alibi
3 himself for 7:30 at night.

4 How does he know that fact
5 that that's when the crime occurred.
6 Ask yourself that question. It is
7 answerable.

8 He can't possibly know he has
9 to alibi himself for 7:00 o'clock at
10 night. He would have no idea that
11 this crime was committed at that
12 time.

13 So now when he says to you,
14 if you don't tell them 7, I am going
15 to prison for life, that tells you
16 one thing, he is scared of a crime
17 that occurred at 7:00 o'clock on a
18 Saturday.

19 I am assuming there wasn't
20 some other crime committed with a
21 green Ford with 3 guns that he needs
22 to worry about on a Saturday, June
23 26, 2004.

24 What else do you know; well,
25 as he goes on, now he has to

1 manufacture an alibi, and his first
2 story is you heard in the first jail
3 call, I am home alone playing Play
4 Station.

5 It is a little bit farther
6 along, not what Monique says, I think
7 maybe J.R. was there. Maybe J.R. is
8 going to alibi me. Then later he
9 decides he needs to get some woman to
10 come in and say she's with him,
11 Monique Westbrook, remember playing
12 that call, I need to alibi myself.

13 If he had not been doing
14 something wrong at 7:00 o'clock at
15 night, he wouldn't need anybody to
16 come in here and lie for him. That
17 alone would make him guilty.

18 Then you get to the last
19 phone call, which was from July of
20 2004, and you have to ask yourself
21 this; he says I just got my
22 discovery, will you help me get a
23 lawyer.

24 I might go to trial if they
25 are going to keep at 18 to life, but

1 if they offer me a plea of 8 to 9
2 years, I might take it.

3 Guilty people don't, in the
4 first week say, you know what, I am
5 going to go do the next decade of my
6 life in jail for something I didn't
7 do.

8 I got to tell Mr. Slaughter
9 this, too, you shoot a guy in the
10 face, you don't just get 10 years.
11 Now you are left with the fact that
12 you have all of this evidence piled
13 up and you wind up with 4 ID's.
14 Notice what he talked about with
15 those 4 ID's.

16 They have to come up with a
17 reason why those 4 ID's are not
18 admissible. They talked about, they
19 tried to get the experts to say ID's
20 can be wrong.

21 There are times, I am sure,
22 that a photo lineup is wrong, you
23 want corroborating evidence,
24 multiple photo lineups, physical
25 evidence.

1 Now you have to believe all
2 of these facts. You already know,
3 that all 4 people picked out the
4 wrong guy. How could all 4 people
5 pick out the wrong guy.

6 Nobody picked out a false
7 positive. You heard from Jennifer, I
8 couldn't identify anybody. She
9 didn't pick somebody, no pick
10 whatsoever.

11 Now, all 4 people have to be
12 making an identification, and they
13 all have to get the same
14 identification. Go back and look at
15 the photo lineups. They couldn't
16 have talked to each other and said
17 pick number one 2, 3, 4.

18 At each and every positive
19 identification, Rickie Slaughter is
20 in a different position on the photo
21 lineup. He is in 3, 4, 5 or 6, so
22 the witnesses couldn't say, pick
23 that one, pick this one, pick that
24 one.

25 So they pay \$6,500 to the

1 eminent Professor Loftus from MIT,
2 and he comes in here for \$6,500 and
3 tells you, there has to be some sort
4 of suggestion, and I have seen copies
5 of the photo lineup and the white
6 background. That would have stood
7 out to him.

8 With all due respect to
9 Professor Loftus, everybody in
10 today's society uses a high
11 lighter. If somebody is going to
12 falsely identify somebody in this
13 lineup and pick the wrong guy, how
14 about the guy who has the highlight
15 in the yellow shirt.

16 You guys were sitting through
17 the trial. You saw it on here. It
18 was all bled out, or you saw the
19 photocopies. He saw the photocopies
20 of it. When you actually look at
21 this photo lineup like you are
22 holding it in your hand, that
23 background looks no different than
24 anybody else's.

25 The only guy that is

1 highlighted is the guy in yellow.
2 When you hold it in your hand and
3 look at it to pick it out, so that
4 can't be the reason for the false
5 ID.

6 So now they go with: well,
7 they were told there was a suspect in
8 the lineup. They were told there was
9 a suspect in the lineup and he was
10 already in custody.

11 Ivan Young, how does Ivan
12 Young hit the right person if he is
13 not the person? why does Ivan Young
14 pick the right person, it is because
15 it is Rickie Slaughter.

16 But more importantly, it is
17 also why Ivan got shot, the whole
18 case: haven't you been sitting here,
19 why did poor Ivan, the guy who got
20 the bullet in the face, why did that
21 happen.

22 Let's talk first about what
23 happened with the crime. Here's the
24 perpetrator, Mr. Slaughter, who has
25 seen Ivan in the neighborhood before,

1 you know that at least once before,
2 while Ivan doesn't remember him,
3 potentially, he knows that's a
4 place where he can get money.

5 Ivan is the one who had
6 contact with him in the garage,
7 had a conversation with him in the
8 garage. Let's talk about a few
9 things before I get too far into that
10 about the booking photo, and what
11 they saw.

12 Look at the booking photo. I
13 don't see any stitches in the booking
14 photo. I don't know what the
15 discussion was about stitches in this
16 particular case.

17 The accents, let me get this
18 straight, some guy is going to make a
19 false accent to -- or during the time
20 that he is in there with a real
21 accent, he is going to give more
22 identifying information about
23 himself, saying I am going to go
24 back to Belize.

25 He is going to provide more

1 information during this crime, or do
2 you think it is Mr. Slaughter trying
3 to throw the other people in the
4 house off the scent.

5 He can't leave Ivan Young
6 alive. He knows he can't, because he
7 knows the kind of contact he has had
8 with Ivan Young up to this point.
9 That's why he has got to shoot
10 him.

11 What happens when he gets
12 shot, why does Ivan Young live, not
13 because Rickie missed, Ivan
14 flinched. You can look and see
15 exactly what happened in this case
16 with that bullet. It traversed down
17 his nose, through his lip, hit that
18 spot on the floor that you saw the
19 picture of, separated, and all of
20 that shrapnel came back into his
21 face, because none of that bullet
22 core is left inside.

23 It skidded off somewhere, or
24 at least portions of it skidded off,
25 whether it wound up in the traction

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1 of the shoe or wound up in the
2 clothing of Rickie, or whatever; but
3 look at the way that the crime was
4 committed.

5 This isn't CSI. You won't
6 see any blood splatters on the wall
7 or across the floor. You will see a
8 few footprints in blood, all of which
9 the crime scene analyst told you were
10 the victim's shoe print.

11 You will see a pile of blood
12 where he bled out on the floor.
13 There isn't any splatter in this
14 house in order to get on the
15 suspects.

16 They said you would have
17 thought they would have found black
18 hair or evidence of false hair.
19 There wasn't any hair found in the
20 house, so what is the relevance of
21 that.

22 The only thing that would
23 mean is 2 individuals didn't go in
24 this house and shoot Ivan in the
25 house, something they are not

150
1 disputing.

2 That doesn't somehow
3 exonerate Rickie Slaughter. The fact
4 that Ivan Young was shot tells you
5 that he knew his perpetrator.

6 When he was able to readily,
7 quickly identify Rickie Slaughter as
8 the perpetrator, when Rickie
9 Slaughter gets on a phone and says I
10 will do the 8 or 9 years, there isn't
11 any question, ladies and gentlemen,
12 who the shooter in this case is.

13 There isn't any question who
14 robbed, who terrorized, who
15 kidnapped, who brutalized this
16 family. There's at least one person
17 in this room that knows beyond any
18 shadow of a doubt who committed this
19 crime.

20 I suggest to you, if you are
21 doing the job, 12 of you will go back
22 in that room, you will talk about it
23 and come back here and tell him you
24 know, too.

25 Thank you.

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1 THE COURT: Thank you.

2 Mr. DiGiacomo.

3 All right. You will swear
4 the officer to take charge of the
5 jury.

6
7 (Thereupon, the officer was sworn
8 in to take charge of the jury.)
9

10 THE COURT: All right.

11 Ladies and gentlemen, go with
12 Leslie. She'll get all of the
13 exhibits back to you so that you can
14 begin your deliberation.

15 Mr. Servoss and Ms. Di Pol,
16 you are going to go with Molly. You
17 are the alternates. You are going to
18 be released.

19 You can't talk about the case
20 until we call you and let you know
21 the jury has finally concluded their
22 service.

23 I will take my directions
24 from you all as to how long we go for
25 today.

152
1 Go ahead, take all of your
2 stuff. Head back with Leslie.

3 You guys can go back there
4 and Molly will pick you up in a
5 moment.

6
7 (Thereupon, the following proceedings
8 were conducted in open court and
9 outside the presence of the jury.)
10

11 THE COURT: Does anyone
12 have anything outside the presence?

13 MR. DIGIACOMO: No, Your
14 Honor.

15 THE COURT: Give the Clerk your
16 contact information.

17 MR. DIGIACOMO: All right.

18 MR. FUMO: Yes.

19 THE COURT: I don't intend on
20 keeping them long into the evening.
21 I don't really ever do that.

22 I would imagine by no later than
23 6:00 o'clock, if they don't have a verdict,
24 I will let them go.
25

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(Proceedings concluded.)

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1 CERTIFICATE
2 STATE OF NEVADA)
3) ss.
4 CLARK COUNTY)
5
6
7
8
9 I, Robert A. Cangemi, CCR 888, do
10 hereby certify that I reported the foregoing
11 proceedings, and that the same is true and
12 accurate as reflected by my original machine
13 shorthand notes taken at said time and place
14 before the Hon. Douglas Herndon, District
15 Court Judge presiding.
16 Dated at Las Vegas, Nevada this 7th day
17 of August, 2011.
18
19 
20 Robert A. Cangemi, CCR 888
21 Certified Court Reporter
22 Las Vegas, Nevada
23
24
25

EXHIBIT 254

EXHIBIT 254





RE: Rickie Slaughter - discovery
Glen O'Brien to: Jeremy Baron

04/30/2018 04:16 PM

Hi Jeremy,

This was the response from Marc Digicomo:

"Apparently, when the detective created the Jacquan Richards photo lineup, there was a picture of Rickie in a different filler position. No one picked Richards out, so the detective didn't impound....if I did it in a transcript, it would be in evidence....my file only has the lineups I previously supplied."

He said check with the North Las Vegas Police Department. We do not appear to have it.

Glen

From: Glen O'Brien
Sent: Thursday, April 26, 2018 2:50 PM
To: 'Jeremy Baron' <Jeremy_Baron@fd.org>
Subject: RE: Rickie Slaughter - discovery

Jeremy,

I'm shorthanded attorneys this week so I'm covering a bunch of calendars. I spoke with Bart Pace and he believed we had sent everything we had. I will pull the file and verify that, but have not done so yet.

Glen

From: Jeremy Baron [mailto:Jeremy_Baron@fd.org]
Sent: Thursday, April 19, 2018 2:52 PM
To: Glen O'Brien <Glen.O'Brien@clarkcountyda.com>
Subject: Rickie Slaughter - discovery

Glen,

Thanks for taking my call just now. I'm attaching:

- (1) A copy of the subpoena packet we served on your office in December, which includes my discovery motion and the Court's order granting it.
- (2) Bart's January 2 production.
- (3) and (4) Bart's January 24 production (a cover email and an attachment).
- (5) A copy of the document that I described over the phone as the "second photo lineup" in this case.

The discovery motion itself should hopefully give you a little context for all of this, but if you're confused about anything, please feel free to call or email and I'd be happy to describe what's going on in greater detail.

As I explained over the phone, I have reason to believe that the prior productions are missing information regarding the second photo lineup. Based on representations he made in court, I am pretty confident that Marc DiGiacamo personally showed a copy of the second photo lineup to a witness in the case. Given that, I would expect the DA's file to have some documents that relate to the second photo lineup. But the prior productions from Bart didn't include much if anything about the second photo lineup; for example, they did not include any copies of the second photo lineup itself. That makes me wonder if the prior productions were complete with respect to this subject.

I understand that you're jumping into this cold, so if you have any questions, just let me know.

Thanks,

Jeremy C. Baron
Assistant Federal Public Defender
Office of the Federal Public Defender of Nevada
411 E. Bonneville Ave. Suite 250
Las Vegas, Nevada 89101
Phone: (702) 388-5130; Fax: (702) 388-6419
Email: jeremy_baron@fd.org

(See attached file: 00a DA Subpoena-Complete Pckt_FINAL.pdf)(See attached file: 2018-01-02 Packet.pdf)(See attached file: 2018-01-24 Email from B Pace to JCB.pdf)(See attached file: Binder1.docx)(See attached file: Exhibit 7 (second photo lineups).pdf)

EXHIBIT 126

EXHIBIT 126



12

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

FILED
Nov 2 12 27 PM '10

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

04C204957
TRAN
Reporters Transcript
1028829



THE STATE OF NEVADA,

Plaintiff,

vs.

RICKIE SLAUGHTER,

Defendant.

REPORTER'S TRANSCRIPT
OF
DEFT'S MOTIONS

BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

DATED: TUESDAY, DECEMBER 1, 2009

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

RECEIVED
NOV - 2 2010
CLERK OF THE COURT

25

1 APPEARANCES:

2 For the State: MARC DIGIACOMO, ESQ.

3

4 For the Defendant: SUSAN BUSH, ESQ.

5 PATRICK MCDONALD, ESQ.

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1 LAS VEGAS, NEVADA; TUESDAY, DECEMBER 1, 2009

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

3 * * * * *

4
5 THE COURT: Page 2, State vs. Rickie
6 Slaughter, C-204957. Mr. Slaughter is present in custody
7 with Ms. Bush and Mr. McDonald. Mr. DiGiacomo for the
8 State.

9 We have three defense motions on.

10 THE DEFENDANT: Your Honor, can I make a
11 record about a motion to substitute counsel that I haven't
12 been able to file.

13 THE COURT: You have a motion to
14 substitute counsel.

15 THE DEFENDANT: Yeah. The Clark County
16 Detention Center didn't send me this memo that will
17 provide for indigent posting for some reason. But I need
18 to file the motion. I want to know about filing it in
19 open court.

20 THE COURT: Sure.

21 MR. DIGIACOMO: Judge, I think we can
22 probably address the expert point fairly quickly. When I
23 received the expert motion I contacted defense and said
24 what do you mean you don't have them. They came over to
25 my office. They reviewed the file. I think they now have

1 all of the expert reports that are referenced by the
2 experts. If they're missing anything, I'm not aware of
3 any they don't have. So to that extent, I don't know if
4 that cures their motion, but it seems to me that would
5 cure any potential problems with their motion.

6 THE COURT: Ms. Bush.

7 MS. BUSH: Well, your Honor, the issue is
8 that there are reports -- I have an expert report
9 regarding bullet fragments and the gun, but it's my
10 understanding that the State doesn't have the reports
11 back, so that's why I don't have copies of those regarding
12 any DNA testing.

13 MR. DIGIACOMO: I gave you one report
14 related to DNA testing that relates to the hairs on the
15 gloves. There was insufficient genetic material for
16 complete DNA testing. I don't know if there is going to
17 be another report generated from the shoes, but my
18 understanding is there wasn't any biological material for
19 testing.

20 MS. BUSH: That is correct. We did get
21 the hair report. We received this last Tuesday, late
22 Tuesday afternoon when he picked it up from his office.

23 Then for the gun fragments, if there is any
24 additional reports from testing that were recently
25 completed we didn't receive those.

1 MR. DIGIACOMO: I don't have any other
2 reports, Judge.

3 THE COURT: That's in regards to the
4 DNA.

5 MR. DIGIACOMO: DNA on the shoes.

6 MS. BUSH: That's correct. .

7 THE COURT: The bullet fragment testing
8 that was done, those reports have been disclosed. Are
9 there any other expert reports anywhere.

10 MS. BUSH: Hair --

11 MR. DIGIACOMO: For the record, those
12 reports on the bullet fragments were in the original
13 discovery. I know Ms. Bush didn't have them. I know Mr.
14 Slaughter had them for better part of 5 years.

15 The DNA report was actually recently generated.
16 Apparently while I orally told her -- Ms. Bush -- awhile
17 back what the results were, she didn't have the report
18 itself. I provided it to them on Tuesday.

19 THE COURT: From what I'm understanding
20 from the reports is there is no DNA to include or exclude
21 on anybody.

22 MR. DIGIACOMO: Correct. They are what
23 they are.

24 THE DEFENDANT: I don't have them.

25 THE COURT: Well, your attorney is going

1 get them. If she doesn't already have them.

2 THE COURT: So the motion to -- Ms. Bush,
3 anything else you want to say on the motion to strike
4 notice of expert.

5 MS. BUSH: My main purpose was I wanted
6 the record to be clear. We didn't have this report. At
7 the time we filed this the trial was right around the
8 corner.

9 THE COURT: Understood.

10 I will note that the notice of expert was filed back
11 on November 10th, which was certainly within the
12 appropriate time period. CVs were provided. To the
13 extent some reports were done years ago, there has been
14 attorneys and then Mr. Slaughter was pro per, then we came
15 back on on appeal, and now we have new folks involved in
16 the case, so there is a voluminous amount of discovery,
17 I'm sure. I don't think there is any grounds to strike
18 the experts, based upon what's been stated so far. So
19 I'll deny the motion as to that.

20 The other two defense motions.

21 MR. MCDONALD: The motion to dismiss, if
22 the court would entertain that motion at this time.

23 I don't know how much more argument the court wants
24 to hear on this.

25 THE COURT: Let me ask this. I can't

1 really even tell what you are alleging was lost or
2 destroyed. You're asking to dismiss for failure to
3 preserve or destruction of exculpatory identification
4 evidence, but I can't tell by the motion what it is you
5 are alleging was lost or destroyed.

6 MR. MCDONALD: Well, Exhibit 5, which is
7 part of the motion, these photographic lineups were
8 apparently shown to some or all of the alleged victims by
9 whom, I'm not sure, when, I'm not sure, and what were the
10 results, I'm not sure. Okay.

11 So it's a failure to record the showing of these
12 photographic lineups to whomever they were shown to. All
13 the information we have is that the client wasn't
14 identified when these photo lineups were shown to the
15 victims.

16 THE COURT: How do you know they were
17 shown to anybody.

18 MR. DIGIACOMO: They were shown, Judge.
19 I'm willing to agree to that.

20 THE COURT: Just --

21 MR. MCDONALD: A report makes reference to
22 making up this photographic lineup. Now, there are 5
23 different photographic lineups. I believe they are
24 labeled A through E. The problem is I don't know when
25 they were shown, I don't know what officer or

1 representative of law enforcement showed them to
2 witnesses, and we don't know what the results were, aside
3 from our client apparently wasn't identified.

4 Now, it's a little more detailed than that. There
5 were earlier photographic lineups shown, and I outlined
6 that in my moving papers. A photograph of our client, an
7 old booking photograph was used in the first array of
8 photographic lineups. Then he was arrested and booked.
9 They took that new booking photo, which was either from
10 June 28th or June 29, 2004, sometime subsequent to getting
11 that booking photo, they used it in these to show to whom,
12 I don't know. All I know is these were shown. There is
13 no notations on any of these as to when they were shown,
14 who was the representative of law enforcement, who was
15 viewing these. All we have is these were shown at some
16 unknown date, by an unknown law enforcement officer, to
17 witnesses whom I don't know.

18 We normally, when you do a photographic lineup, this
19 information is filled in as to who the officer is, who's
20 viewing it, the date, sometimes the time, and what the
21 result is. That's what the problem is.

22 THE COURT: Mr. DiGiacomo.

23 MR. DIGIACOMO: Normally the standard
24 isn't whether or not there is any evidence missing. There
25 is a photo lineup, which has a second suspect by the name

1 of DeQuan Richards. DeQuan Richards photo lineup is
2 included in the 6 pack. The 6 pack was shown is the
3 victims. The records have shown they were shown to the
4 victims. And then none of the victims picked DeQuan
5 Richards out.

6 THE COURT: The same people that were
7 shown the earlier photo lineups.

8 MR. DIGIACOMO: The earlier photo lineups
9 which previously already identified Rick Slaughter --
10 well, some of them have. There is some people who didn't
11 identify anybody in those first ones.

12 The same -- the way I take the report as victims,
13 meaning all the victims were inside the house were shown
14 the photo lineups of DeQuan Richards. None of them
15 identified DeQuan Richards. That's the information that
16 Mr. McDonald has.

17 He is taking a giant leap, first of all, to say
18 Rickie Slaughter wasn't picked out of those photo lineups,
19 first of all. And second of all, there is no duty that I
20 can figure out that a cop has to write everything down.
21 They have provided him the photo lineup. They have told
22 him they've shown the photo lineup to the victims. And
23 that the victims didn't pick out DeQuan Richards. He's
24 free to cross-examine the detective or the witnesses on
25 what other information he wants to know, but there's

1 nothing that was failed to be preserved.

2 MR. MCDONALD: What has failed to be
3 preserved is when, where, who, what they were asked. I
4 don't know what they were asked. What comments they made
5 when viewing these. Those are normally written on here.

6 The court knows that. Mr. DiGiacomo knows that. We
7 all have been doing this for too many years to count now.

8 Not only is Richards in here, but Mr. Slaughter's
9 booking photo from June 28th or June 29th is in here. A
10 failure to pick him out is important.

11 There is 5 lineup arrays here. There were 6 alleged
12 victims. Did two look at the same one. We don't have any
13 of that information, for a failure to preserve.

14 THE COURT: Well --

15 MR. DIGIACOMO: Just because I have these
16 blank photo lineup arrays doesn't mean that it's been
17 sufficiently preserved. Potentially, exculpatory evidence
18 has not been sufficiently preserved for us to use in
19 trial. How can I sufficiently rebut anything someone says
20 when he gets on the stand and says now, 5-and-a-half years
21 later --

22 THE COURT: Well, you can ask questions
23 about it. I don't think this is a failure to preserve or
24 destroy evidence. The evidence is a photo lineup and
25 that's there.

1 Your argument is sloppy bookkeeping by the police
2 department, which as defense attorneys that is often times
3 a line of questioning you pursue at trial. You didn't do
4 a taped interview of this witness. Or you didn't preserve
5 certain notes. You didn't go out and try and talk to
6 these folks, or doing anything about X Y or Z.

7 Likewise here, they may not have written things down
8 the way you want them to write it down, then by all means
9 you can cross-examine them on that.

10 I don't know, from what sounds like to me, DeQuan
11 Richards isn't a defendant in this trial. I question
12 whether these other photo lineups are even involved in
13 this trial or not.

14 MR. MCDONALD: Well, they are involved
15 because Mr. Slaughter's picture is in here. Mr. Richards
16 was a suspect, obviously.

17 THE COURT: To the extent the police
18 weren't asking any of these people about Mr. Slaughter,
19 again, since they already asked them about
20 Mr. Slaughter -- I mean you can certainly bring it up at
21 time of trial, if you want to. I don't know if the State
22 is bringing it up or not.

23 Generally maybe you would bring a motion saying I
24 want to suppress the other photo lineups because of
25 something, but they are asking to dismiss a case for

1 failure to preserve or destroyed evidence. No, I don't
2 see that, so that motion is denied.

3 You have a motion to suppress.

4 THE DEFENDANT: The suppression is on the
5 other lineups.

6 THE COURT: Your attorneys are arguing,
7 Mr. Slaughter.

8 MR. MCDONALD: This resolves around the
9 affidavit of the lead detective who put in the affidavit
10 support of the search warrant that a green Ford was
11 involved in this incident on June 26th, 2004. That is
12 contrary to the witness' statement at the scene.
13 Destiny Watty said it was green. She believed it was a
14 Pontiac. He didn't put that, I feel, intentionally. Left
15 that out of the affidavit.

16 Nothing comes out about a green Ford Taurus until the
17 detective receives a call from a Metro detective who
18 supposedly has information from a confidential informant
19 that he has been working with. Not the North Las Vegas
20 detective. Something comes up about Mr. Slaughter's
21 girlfriend having ownership of a Ford Taurus. That they
22 reside together. And that Mr. Slaughter uses the Ford
23 Taurus -- has substantial use and control over the Ford
24 Taurus.

25 The problem here is there is no mention. There's

1 another witness by the name of Jennifer Dennis who was in
2 the house and told the investigating officer on the scene
3 that she heard the two suspects talking about a Pontiac.
4 She talks about a Pontiac. The witness outside, sitting
5 in the car across the street, sees two individuals come
6 out and get inside of a -- what she perceives to be a
7 green Pontiac Grand Am, I think was the model of the
8 Pontiac. It was intentional on the part of Detective
9 Cravin.

10 The only way he could tie Mr. Slaughter for probable
11 cause purposes to the event, there was no physical
12 evidence to tie Mr. Slaughter at the point he went for
13 that affidavit. All he had were allegations, secondhand
14 from a detective with Metro that Mr. Slaughter was somehow
15 involved and had supposedly bragged about being involved.
16 And then this fabrication after he receives that
17 information about not only Mr. Slaughter, but Mr.
18 Slaughter's girlfriend's green Ford Taurus, that somehow a
19 Ford Taurus was there. Never before that was there any
20 mention by any of the witnesses about a Ford Taurus, color
21 green.

22 THE COURT: Let me back up a little bit
23 and ask you, how do you get over the standing argument to
24 even challenge a search of a car that's not his and he
25 claims no interest in.

1 MR. MCDONALD: He doesn't have title
2 interest in the vehicle. He resides with Ms. Tiffany
3 Johnson, and the car is titled to her. But the detective
4 knows they reside together. The detective knows that Mr.
5 Slaughter had the vehicle, had continuous uninterrupted
6 use of the vehicle. The detective went to great lengths
7 to question her as to when Mr. Slaughter dropped her off
8 for work that day, when he picked her up after work that
9 day. That was the arrangement that the two of them had.
10 He would take her to work. He would use the car to do
11 errands, whatever he needed to do. He'd return with that
12 green Ford Taurus to pick her up once her workday was
13 done.

14 Just because he wasn't owner of record of title on
15 the vehicle doesn't mean that he didn't have use and
16 possession of that vehicle. And there's case law that I
17 cite to, such as a rental vehicle. One of the cases I
18 cited to 4 days --

19 THE COURT: I don't believe that he has to
20 be the title owner of the car to challenge it as such.
21 But it's different if you are not going to claim any
22 interest or ownership in and then turn around and say, no,
23 but the State has to show my interest or ownership in it
24 before they can validate the search. But I'm not claiming
25 any interest or ownership. The strength of your interest

1 or the nature of your control is part and parcel of --

2 MR. MCDONALD: Of your standing.

3 THE COURT: -- a standing issue.

4 MR. MCDONALD: She tells the police in her
5 interview that he had access use, control of the
6 vehicle.

7 THE COURT: Mr. DiGiacomo.

8 MR. DIGIACOMO: Judge, a standing issue
9 relates to both what Ms. Johnson says, as well as Mr.
10 Slaughter himself denies any possessory or ownership
11 interest. But he did make a colorful claim in the motion
12 for standing, and the law is not real clear as to what
13 point you physically get standing of a car. You could be
14 borrowing a car and be the driver and you don't have
15 standing in the car. At what point do you have it.

16 I don't want the court to reply on the standing issue
17 alone, because you have to get through 6 hurdles before
18 you could ever find that this case or the evidence of the
19 car should be suppressed.

20 If you get past standing, first Mr. McDonald skipped
21 the most salient piece of evidence in the search warrant
22 which nobody disputes, which is the victim picked Rickie
23 Slaughter out of a photo lineup. Which means any
24 reference to the word Ford is irrelevant to the probable
25 cause. The problem there is they were able to establish

1 where Mr. Slaughter lived. His girlfriend was in
2 possession of a small green car. And he was picked out of
3 a photo lineup as the individual who committed the crime.
4 At that point and that point alone they had sufficient
5 probable cause to execute the search warrant, which means
6 the word Ford is not necessary for the warrant.

7 But then you've got to go even farther back, which is
8 can you even show a colorful claim that Detective Prader
9 lied. And I would suggest to the court that they are
10 manipulating the facts in this case.

11 When the first 911 call comes in everyone says --
12 there's a discussion and they finally say a green car.
13 There is no identification of the make or model of that
14 car. Destiny Watty's handwritten statement, not any
15 affidavit from her or anything else, just says it was a
16 green car possibly a Grand Am. Officer Hoyt writes in his
17 initial report it was a green car, possibly a Grand Am or
18 something to that affect.

19 Detective Prader writes in his initial report, before
20 the search warrant was ever gotten, Officer Hoyt said
21 witnesses at the scene described a green car, possibly a
22 Grand Am or a Ford. They made the giant leap that
23 Detective Prader manufactured that evidence because they
24 didn't find it in the handwritten statement and Officer
25 Hoyt's report is -- doesn't have the word Ford in it.

1 I don't know how you can make that as a conclusive
2 showing or at least a preliminary showing necessary to
3 hold an evidentiary hearing on the word Ford, even if it
4 was necessary, Judge. So I'll submit it.

5 MR. MCDONALD: Briefly, your Honor.

6 Mr. Young did pick Mr. Slaughter out. What Detective
7 Prader fails to tell a magistrate is Jennifer Dennis, who
8 is also there, present, saw the two suspects in the house,
9 did not pick him out.

10 Now, apparently this sloppy record keeping of North
11 Las Vegas is showing photographic lineups. I don't know
12 else might have looked at the photographic lineups. There
13 were four other people who did not identify Rickie
14 Slaughter as in the house on that day and time. But
15 regardless, he's correct.

16 Mr. Young did pick him out. I know for a fact,
17 according to a release represented in a report by
18 Detective Prader, Jennifer Dennis did not pick him out.
19 She looked, I believe, at the same lineup that Mr. Young
20 looked at. And that again, is an old booking photo of Mr.
21 Slaughter, not the booking photo that was used
22 subsequently sometime after his arrest.

23 As far as the report by Detective Prader he writes a
24 report, but it's my understanding in looking at the dates
25 of the reports that he writes that report after he

1 receives that telephone call from Detective Depour,
2 concerning the green Ford. Nothing comes up about a green
3 Ford from the witnesses on the scene, from the officers
4 reports who responded to the scene. Destiny Watty's --
5 yeah you have her voluntary statement. It's not under
6 oath. But they certainly use those all the time for all
7 kinds of purposes, but it does not come up until after he
8 hears from Detective Depour and Detective Depour tells
9 him, according to his report, oh, by the way, I ran this
10 information and Rickie Slaughter's girlfriend has a green
11 Ford Taurus.

12 THE COURT: All right.

13 The motion to suppress is going to be denied. Not
14 only on standing grounds, but on the merits. I don't
15 think there is any showing that Detective Prader made any
16 falsehoods in the search warrant application. And I see
17 there is a lot of other evidence of probable cause.

18 The search warrant isn't a trial. There is no
19 obligation to give the magistrate a trial type evidence of
20 everything that's consistent and inconsistency and
21 everything a witness said and every photo lineup that was
22 shown and all the paragraphs and video tapes and records
23 and so forth. It's to establish probable cause to conduct
24 a search. I think the search warrant in this case
25 certainly establishes probable cause to okay the search.

1 I think separate and apart from the word Ford in the
2 search warrant, there was ample probable cause to indicate
3 that they could search the car, based upon the
4 identification of Mr. Slaughter as a perpetrator, base
5 upon the description of the green car.

6 It was clear that they did some search and they
7 identified the car by VIN number and license number in the
8 search warrant, as well. So for all those reasons the
9 motion to suppress is going to be denied.

10 All right. Have you guys seen your client's pro per
11 motion to substitute counsel.

12 MR. MCDONALD: I have looked at it
13 briefly. He showed it to me this morning for a few
14 moments.

15 THE COURT: I know we don't have calendar
16 call until Thursday, what is your position on that.

17 MR. DIGIACOMO: I believe Ms. Bush won't
18 be here on Thursday. We're obviously going to be ready.
19 We anticipate being ready. I'll check my investigator,
20 but he's had contact with the major of the lay witnesses
21 so I can't imagine us not being ready.

22 The only thing I would need is a Tuesday start,
23 because I'm under subpoena for Monday.

24 THE COURT: Okay. Defense.

25 MS. BUSH: At this time we're going to ask

1 for a continuance. We went and reviewed the DA's file and
2 there are numerous things that we received within the last
3 3 to 4 weeks, including 300 phone calls. Mr. DiGiacomo
4 was going to work with me on that and provide me
5 transcripts of the ones he intends to introduce at trial.
6 And I have not received those yet. It's my understanding
7 he will have them to me today, but based on that
8 information we may have to file motions or ask for
9 additional witnesses to appear depending on those phone
10 calls.

11 MR. DIGIACOMO: The only thing I'd say is
12 I recently turned over the jail phone calls. I provided a
13 disc awhile back to Ms. Bush with all the jail phone
14 calls, as well as the video. She couldn't see the video
15 of the 7/Eleven. They were photographs that I believe she
16 didn't have. And there may have been some paperwork. The
17 jail phone calls she's had for a long period of time. I
18 just got the transcripts this week.

19 THE COURT: I'm not going to continue the
20 trial because of the transcripts. If you've had the phone
21 calls, you had the phone calls.

22 MS. BUSH: It wasn't just the phone calls.
23 There are voluntarily statements that my expert has to
24 review. I got those last Tuesday. We did ask to see the
25 file and it took a week and a half to get an appointment

1 to see the file because they were in trial. He did
2 provide stuff last Tuesday of the stuff we were missing,
3 including photographs that we did not have. And those we
4 needed to printout.

5 Like I said, we've had the jail phone calls. It was
6 November, about 3 weeks. There is not only jail phone
7 calls, but recent prison phone calls. There's 300 phone
8 calls.

9 So based on -- we may want to use, depending on what
10 calls he intends to introduce we have to make a call of
11 what we want to use.

12 THE COURT: Here's what I'll say. I'll
13 leave calendar call on for Thursday. You need to file a
14 written motion. I'm not inclined to continue the trial at
15 this point. And Mr. Slaughter, as to your pro per motion,
16 we're not going to keep switching counsel. These folks --

17 THE DEFENDANT: Can I make --

18 THE COURT: You've got counsel in place.
19 I read the motion while I was sitting here. You may want
20 your case to be done in a certain way. You were pro per
21 before. You wanted counsel, I appointed counsel. They're
22 good attorneys. They know what they're doing. They're
23 not going to file a motion every time you tell them to, if
24 they don't think the motion has merit. That's their legal
25 obligation not to file frivolous motions.

1 They're prepared for your case. They're asking me
2 for a continuance because they think they need a
3 continuance to do more things on your case. But you can
4 sit here and tell me there are these 10 motions they
5 didn't file I wanted them to file, that's not what drives
6 the whether you get a new attorney.

7 THE DEFENDANT: I understand that.
8 There's allegations of a break down in communication
9 between me and my attorneys.

10 THE COURT: I've got a feeling you would
11 have a break down in communications with all your
12 attorneys, because that's just the way this case has gone
13 over the course of time. So I'm not going to let you
14 jockey the trial dates by filing a late motion to
15 substitute counsel, saying they're breaking down in
16 communications with me.

17 MR. SLAUGHTER: There is alibi evidence
18 that was discovered by James Compton (ph), the original
19 investigator on my case, when I represented myself back in
20 2005, that supported that. He's found a transcript of the
21 guilty plea hearing on page 3 and 9, these -- I have been
22 trying to tell my attorneys to find these alibi witnesses
23 and speak to Compton about it and investigate into that,
24 but they -- I can't talk to them. I'm being berated to
25 talk to them. I have to send letters from the county

1 jail, which is why I filed a motion today. I haven't
2 talked to them in over a month. Trial is around the
3 corner. This alibi is very, very important to the case
4 and corroborates the statement identification of two alibi
5 witnesses.

6 THE COURT: I'll leave it on for Thursday.
7 If the defense feels they need to file a motion to
8 continue, they can file a motion to continue.

9 I don't need a written response. You can respond
10 Thursday when we take up the trial date at that time.

11 MR. MCDONALD: Do we bring it on Thursday
12 if we file it with the clerk.

13 THE COURT: Get it to me before Thursday
14 so I can read it.

15 MR. MCDONALD: Sorry. What I meant was
16 file with the clerk's office and calendar it after the
17 calendar call.

18 THE COURT: I'll put it on calendar call
19 for Thursday, the motion to continue. Just get me
20 something in writing.

21 MR. MCDONALD: Just a procedural
22 question.

23 THE COURT: Understood.

24 MR. MCDONALD: We'll get the courtesy copy
25 to your Honor.

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THE COURT: Okay. See you Thursday.

* * * * *

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

EXHIBIT 115

EXHIBIT 115



Electronically Filed
11/09/2009 07:41:24 AM


CLERK OF THE COURT

1 **OPPS**
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 MARC DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #006955
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,
11 Plaintiff,

12 -vs-

13 RICKIE LAMONT SLAUGHTER,
14 #1896569
15 Defendant.

CASE NO: C204957

DEPT NO: III

15 **STATE'S OPPOSITION TO DISMISS CASE FOR FAILURE TO PRESERVE OR**
16 **DESTRUCTION OF EXCULPATORY PHOTO LINEUP IDENTIFICATION**
17 **EVIDENCE**

18 DATE OF HEARING: 11/10/09
19 TIME OF HEARING: 9:00 A.M.

20 COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through
21 MARC DIGIACOMO, Chief Deputy District Attorney, and hereby submits the attached
22 Points and Authorities in Opposition to Defendant's Motion To Dismiss Case For Failure To
23 Preserve Destruction Of Exculpatory Photo Lineup Identification Evidence.

24 This opposition is made and based upon all the papers and pleadings on file herein,
25 the attached points and authorities in support hereof, and oral argument at the time of
26 hearing, if deemed necessary by this Honorable Court.

27 ///

28 ///

POINTS AND AUTHORITIES

Defendant asserts that some evidence was lost or destroyed. As no evidence was lost or destroyed, Defendant's motion must be denied. Defendant relies upon a series of cases wherein the police either failed to collect, or failed to maintain, a physical piece of evidence. See Defendant's Motion p. 9, *citing Buchanan v. State*, 119 Nev. 201 (2003), *Cook v. State*, 114 Nev. 120 (1998), and *Deere v. State*, 100 Nev. 565 (1984). In the instant matter, the lineups shown to the victims which included Jacquan Richards were maintained and provided to defendant's counsel. As such, no failure to preserve the actual evidence occurred. See *Daniel v. State*, 119 Nev. 498, 78 P.3d 890 (2003).

What Defendant is really asserting is that he does not like the manner in which the police documented their showing of the photo lineup. The police made photo lineups which included a photo of Jacquan Richards. The police showed those photo lineups to the various witnesses. None of the various witnesses identified Jacquan Richards. The police documented that fact.¹ As such, there was nothing improper in the manner of documenting the photo lineups. Moreover, there is absolutely no authority in any jurisdiction that allows Defendant to claim a dismissal because the police wrote their reports in a manner he does not like. As such, his motion should be denied.

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¹ Defendant asserts that none of the witnesses identified Defendant in those photo lineups. That conclusion is speculation on the part of Defendant, however, he is free to cross examine the witnesses on that fact.

1 CONCLUSION

2 The law allows Defendant to seek redress for failure to maintain a physical piece of
3 evidence. In this case, the physical pieces of evidence, the photo lineups, were maintained.
4 As such, he has no basis upon which to seek relief. Therefore, the Court must deny his
5 motion.

6 DATED this 9th day of November, 2009.

7 Respectfully submitted,

8 DAVID ROGER
9 Clark County District Attorney
Nevada Bar #002781

10
11
12 BY /s/MARC DIGIACOMO
13 MARC DIGIACOMO
14 Chief Deputy District Attorney
Nevada Bar #006955

15
16
17
18
19
20 CERTIFICATE OF FACSIMILE TRANSMISSION

21 I hereby certify that service of the above and foregoing, was made this 8th day of
22 November, 2009, by facsimile transmission to:

23 SUSAN BUSH, ESQ.
24 FAX: 868-0248

25 /s/Deana Daniels
26 Secretary for the District Attorney's Office

27
28 MD/dd

EXHIBIT 252

EXHIBIT 252



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 have not 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 12/10/04

INITIALS K

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 _____

STATE OF NEVADA			
DEPARTMENT OF MOTOR VEHICLES AND PUBLIC SAFETY			
CERTIFICATE OF TITLE			
VEHICLE IDENTIFICATION NO. 1G1AZ37H1BZ419167	YEAR 1981	MAKE CHEV	ODOMETER
BODY TYPE CP	MODEL 14137	VEHICLE TYPE 7471	EXEMPT FROM REGISTRATION EXEMPT
TITLE NO. 5676606-1416	ISSUE DATE 05/17/2002	TYPE OF TITLE ORIGINAL	BRAND
MAILING ADDRESS MARKS KENNETH 1411 VIRGINIA CITY AVE LAS VEGAS NV 89106			
OWNER(S) NAME AND ADDRESS MARKS KENNETH 1411 VIRGINIA CITY AVE LAS VEGAS NV 89106			
LIENHOLDER			
RELEASE OF LIEN INTEREST IN THE VEHICLE DESCRIBED ON THIS TITLE IS HEREBY RELEASED			
SIGNER NAME		SIGNATURE OF AUTHORIZED AGENT	DATE
ACCORDING TO THE RECORDS OF THE DEPARTMENT OF MOTOR VEHICLES AND PUBLIC SAFETY, THE PERSON NAMED HEREON IS THE OWNER OF THE VEHICLE DESCRIBED ABOVE, SUBJECT TO LIENS AS SHOWN		CONTROL NO. 0973840	
NO-2 (Rev. 10/99)		THIS IS NOT A TITLE NO.	
ALTERATION OR ERASURE VOID THIS TITLE			



CERTIFICATION



NEW LICENSE 7-30-01
53-118-7047

FEDERAL AND STATE LAW REQUIRES THAT YOU STATE THE MILEAGE IN CONNECTION WITH THE TRANSFER OF OWNERSHIP. FAILURE TO COMPLETE OR PROVIDING A FALSE STATEMENT MAY RESULT IN FINES AND/OR IMPRISONMENT	
ASSIGNMENT OF TITLE FIRST REASSIGNMENT DEALER ONLY	The Undersigned hereby Certifies That the Vehicle Described in This Title Has Been Transferred to the Following Buyer(s): Printed Name of Buyer(s) _____ Printed Name of Buyer(s) _____ <div style="text-align: right;"><input type="checkbox"/> AND <input type="checkbox"/> OR</div> Address _____ City _____ State _____ Zip Code _____ I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked: <div style="display: flex; justify-content: space-between;"><div><input type="checkbox"/> The mileage stated is in excess of its mechanical limits <input type="checkbox"/> The odometer reading is not the actual mileage WARNING - ODOMETER DISCREPANCY <input type="checkbox"/> Exempt - Model year over 8 yrs old</div><div>Date of Sale <u>11/14/03</u> <u>Kenneth Marks</u> Printed Name of Seller(s)</div></div> <div style="display: flex; justify-content: space-between;"><div><u>[Signature]</u> Signature of Seller(s)</div><div><u>RICKIE L. SLAUGHTER JR</u> Printed Name of Buyer(s)</div></div> I am aware of the above odometer certification made by the seller/agent. <input type="checkbox"/> <div style="display: flex; justify-content: space-between;"><div><u>[Signature]</u> Signature of Buyer(s)</div><div></div></div>
	The Undersigned hereby Certifies That the Vehicle (described in This Title) Has Been Transferred to the Following Buyer(s): Printed Name of Buyer(s) _____ Street _____ City _____ State _____ Zip Code _____ I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked: <div style="display: flex; justify-content: space-between;"><div><input type="checkbox"/> The mileage stated is in excess of its mechanical limits <input type="checkbox"/> The odometer reading is not the actual mileage WARNING - ODOMETER DISCREPANCY <input type="checkbox"/> Exempt - Model year over 8 yrs old</div><div>Date of Sale _____</div></div> Dealer's Name _____ Signature of Agent _____ Printed Name of Agent _____ I am aware of the above odometer certification made by the seller/agent. <input type="checkbox"/> <div style="display: flex; justify-content: space-between;"><div>Signature of Buyer/Agent _____</div><div>Printed Name of Buyer/Agent _____</div></div>
	The Undersigned hereby Certifies That the Vehicle (described in This Title) Has Been Transferred to the Following Buyer(s): Printed Name of Buyer(s) _____ Street _____ City _____ State _____ Zip Code _____ I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked: <div style="display: flex; justify-content: space-between;"><div><input type="checkbox"/> The mileage stated is in excess of its mechanical limits <input type="checkbox"/> The odometer reading is not the actual mileage WARNING - ODOMETER DISCREPANCY <input type="checkbox"/> Exempt - Model year over 8 yrs old</div><div>Date of Sale _____</div></div> Dealer's Name _____ Signature of Agent _____ Printed Name of Agent _____ I am aware of the above odometer certification made by the seller/agent. <input type="checkbox"/> <div style="display: flex; justify-content: space-between;"><div>Signature of Buyer/Agent _____</div><div>Printed Name of Buyer/Agent _____</div></div>
	LESSEE HOLDER TO BE RECORDED AND SHOWN ON NEW TITLE: Printed Name of Lessee _____ Address _____ City _____ State _____ Zip Code _____

NOTE: PURCHASER MUST APPLY FOR NEW TITLE WITHIN 10 DAYS AFTER PURCHASE
ALTERATION OR ERASURE VOID THIS TITLE

EXHIBIT 56

EXHIBIT 56



Up
1

DISTRICT COURT

ORIGINAL

CLARK COUNTY, NEVADA

FILED

OCT 13 11 56 AM '06

Shirley M. Rasmussen
CLERK

STATE OF NEVADA,

Plaintiff,

CASE NO. C204957

DEPT. NO. III

vs.

RICKIE SLAUGHTER,

Defendant.

REPORTER'S TRANSCRIPT
OF
GUILTY PLEA

BEFORE THE HONORABLE DOUGLAS W. HERNDON, DISTRICT COURT JUDGE
Taken on Monday, April 4, 2005
At 1:30 o'clock p.m.

APPEARANCES:

For the State:

SUSAN KRISKO, ESQ.
MARC DIGIACOMO, ESQ.
Deputies District Attorney

For the Defendant:

PAUL E. WOMMER, ESQ.
Attorney at Law

REPORTED BY: YVONNE M. VALENTIN, CCR 342

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1 LAS VEGAS, NEVADA, MONDAY, APRIL 4, 2005, 1:30 P.M.

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4 THE DEFENDANT: Your Honor?

5 THE COURT: Yes, sir?

6 THE DEFENDANT: Can I make a record briefly?

7 THE COURT: Yes. Yes, Mr. Slaughter, you can go
8 ahead.

9 THE DEFENDANT: I object to proceeding with the
10 trial today. I needed a continuance. I had various issues in
11 regard to that continuance, if the Court will hear them.

12 THE COURT: Is this the motion that you filed
13 last Friday with Judge Bell?

14 THE DEFENDANT: Yes, but Judge Bell didn't fully
15 consider my issues, I don't believe. He kind of denied it on
16 faith, just a continuance period. He didn't really listen to
17 my issues, I don't think.

18 THE COURT: While we're waiting for Mr. Wommer,
19 you can go ahead, and I'll allow you to bring up those issues
20 with me right now.

21 THE DEFENDANT: Thank you.

22 My investigator has been on the case since
23 February 17th and, you know, we were looking for a witness.
24 He didn't start investigating the case until February 17th.
25 We had three alibi witnesses we were looking for.

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1 You know, we didn't have an exact address or
2 location for those alibi witnesses but, you know, we tried to
3 get it done as fast as possible with some other things we were
4 doing, too. But he did end up locating them, but he didn't
5 locate them until March 30th, and I was informed March 31st.
6 That's when we had the contact visits in the jail.

7 Now, March 31st was just last week. He did
8 locate the alibi witnesses, you know, talking to various
9 people in that neighborhood and things like that. And
10 actually, if I could have him make a representation on the
11 record for me real quick, if the Court will allow?

12 THE COURT: Go ahead, sir.

13 MR. CONKLIN: Yes, sir. Jim Conklin, the private
14 investigator side of this case. I just had the name of a
15 Monique that was a possible alibi witness, a woman that he had
16 spent some time with during this period of time, and just an
17 apartment building.

18 And I just found her, I guess it was, last week,
19 in the last week, the day before the hearing. I just had a
20 brief interview of her. So she wasn't able to be put onto the
21 witness list.

22 And also, as far as the phone calls from this
23 jail, I didn't receive a copy of those until actually just
24 Saturday. I was told that I had everything, but later on we
25 found that there was a misunderstanding, and those calls out

1 of the jail were never given to my attention.

2 THE DEFENDANT: If I can kind of clarify what
3 he's speaking on? We were given by the State a CD ROM of
4 phone calls from the jail that they wanted to use in the
5 trial. The State informed me there are hundreds of phone
6 calls when I moved for the transcript of the CD, so I had to
7 listen to them at the jail.

8 I wasn't able to listen to them. There are three
9 CD's. One contains video surveillance; one contains an
10 interview; and one contains jail phone calls.

11 When we thought he had the copy of it, he kept
12 telling me he thought he had the wrong program to listen to
13 the jail phone calls. It dawned on me, and I asked him how
14 much CD's did he have, and he told me only one. The only
15 other CD was actually on my property, but I don't have them in
16 the jail. I have to go through a process. It takes it hours
17 to release the property to him, and he gets it through the
18 jail.

19 We found out this last week, and I released the
20 copies to him. I still asked him if he could wade through
21 there and try to figure out, because the prosecutor has it
22 nailed down which calls to use, and he's trying to wade
23 through hundreds of phone calls, ten-minute-long phone calls,
24 to figure out which one they're going to use. And I haven't
25 heard them personally myself.

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1 Also, I had -- my last issue -- you know, I had a
2 few evidentiary hearings I want the Court to hear and rule
3 upon before trial. But I couldn't -- I didn't actually have
4 an opportunity to make those motions out of the materials I
5 needed, because I was being housed in disciplinary
6 segregation.

7 When I brought this to McGroarty, he granted me a
8 court order to remedy that problem, but then he granted the
9 court order on the 30th. He granted it on the 29th, but he
10 signed it on the 30th. I have the order here. And Mr. Wommer
11 didn't get it to me until actually the 1st in Judge Bell's
12 courtroom, after our little hearing there.

13 So I haven't had a chance to put those in. For
14 the record, that's pretty much -- I mean, I just wanted a
15 chance to, you know, prepare my case -- I mean, for an
16 opportunity to bring this case here.

17 I can't present an effective defense without my
18 alibi witness, and I think those are very important to just to
19 receiving a fair trial.

20 For the record, that's pretty much it.

21 THE COURT: Okay. State?

22 MS. KRISKO: I would note that on 12/13 of '04,
23 that's when he went pro per. He waited two months to even ask
24 for or do a motion for the investigator. That was granted on
25 February 7th. He also had a motion for discovery and a motion

1 to marry. He's had all of this time to get ready. He
2 actually already did file an alibi notice. That alibi witness
3 isn't helpful to him, so now I guess we've got another alibi.

4 THE DEFENDANT: Can I be heard briefly?

5 THE COURT: Hold on. Go ahead and let her talk,
6 would you please?

7 THE DEFENDANT: I'm sorry.

8 THE COURT: Thank you.

9 MS. KRISKO: I note for the record, we've been
10 ready every single time. He waited until the day of trial to
11 go pro per. That's what caused a continuance last time. And
12 I think that's all this is is another delay tactic.

13 THE DEFENDANT: Your Honor, this isn't a delay
14 tactic. When I went pro per, Mr. Wommer had my case a little
15 over a month. He filed -- that alibi witness notice that he
16 filed was the wrong alibi notice. Mr. Wommer decided to file
17 that on his own initiative, which I didn't explain that to him
18 to file that.

19 Now, that was the wrong alibi witness he filed.
20 And then at the same time, I doubt if Mr. Wommer, if he was
21 prepared to proceed at trial then without any alibi witness or
22 anything like that. Me and Mr. Wommer weren't communicating.
23 That was the basis of me proceeding pro per.

24 THE COURT: Well, here's what I'll say. I notice
25 from going back through your things that back in December,

1 when the first trial was set, Mr. Wommer announced ready.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And quite honestly, Mr. Slaughter,
4 some trials are complicated and require a lot of getting ready
5 for, and some trials aren't as complicated. They don't
6 require as much. But Mr. Wommer announced ready at that time.

7 You were able to, in a rather unusual fashion,
8 get a chance to talk to Judge Cory outside the presence of the
9 State and convince him to grant you a continuance. And at
10 that time, it seemed to be that it was in relation to some
11 medical records that you wanted to get ahold of.

12 Then you were also able to go through a Faretta
13 canvass and be allowed to represent yourself at that time. So
14 that's when you became responsible for your own defense at
15 that time.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Since that time, if I understand it
18 correctly, we've had a couple prior trial settings, at one of
19 which you, yourself, announced ready for.

20 THE DEFENDANT: I never announced ready.

21 THE COURT: If I read the court minutes right, on
22 the trial setting, that was -- you were in court on
23 February 8th of this year, and that was for the trial setting
24 that was supposed to start, I believe, February 14th. And
25 both sides announced ready for trial, and the Court reset

1 the trial.

2 THE DEFENDANT: Excuse me, your Honor. Can I
3 please? That's got to be an error. I announced I couldn't be
4 ready in the time that -- they -- I understand they exercised
5 their right to a speedy trial, but I couldn't be ready. I had
6 just been granted my private investigator, and I actually put
7 that motion on before February 8th, when it was granted, but I
8 couldn't be ready. I needed time for an investigator to
9 locate these witnesses.

10 THE COURT: Let me go ahead and finish.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You've -- and I reviewed the motion
13 to continue that you filed in front of Judge Bell, as well.
14 And you kind of elicit a number of things there that -- I
15 guess about seven different things that you think justify your
16 need for a continuance at this time.

17 And I am not inclined to go against Judge Bell's
18 ruling, because number one, he already issued it, and we're
19 set to start trial now; and number two, reading through the
20 motion to continue, and considering how long you've been on
21 your case, and the things that you've been able to do, all the
22 motions you've been able to file for yourself, it's obvious to
23 me that you know how to file motions, and you know how to make
24 requests to the Court.

25 But a lot of these things are very last-minute

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1 requests, and I'm not inclined to vacate the trial. So we're
2 going to go forward today.

3 THE DEFENDANT: These weren't last-minute
4 requests. I just found alibi witnesses. We tried to get them
5 as soon as possible. We didn't have an exact location. We
6 just had a neighborhood. And by luck, he actually came upon
7 these witnesses.

8 THE COURT: Have you given -- does the State have
9 that name?

10 THE DEFENDANT: No. I wasn't able to. He just
11 found him on the 31st. I was informed on the 1st. You know,
12 the statute says I have to give them 10 days ahead of time. I
13 haven't been able to put him on. I can't present no defense
14 without my alibi witnesses. They're going to testify to my
15 whereabouts at the time of this crime.

16 THE COURT: Well, here's what I will do. You
17 give them that name, and I may revisit the issue, but I'm
18 telling you right now, in all likelihood, it's going to stay
19 as it is. We're not continuing the trial. The trial will go
20 for a few days.

21 If you give the State the name, and the State's
22 investigator can try and contact this woman and see if they
23 can talk to him as well. And we'll readdress the issue of,
24 when it comes time to present your case in chief, whether this
25 person is going to be allowed to testify or not.

1 You're right about the statute, though. The
2 statute requires many things. And when you are the -- or the
3 statutes require many things. And when you choose to
4 represent yourself, you're held to the same standards as
5 everybody else.

6 It's not the Court's job to do your work for you
7 or make you comply with time lines. And that's one of the
8 dangers that comes with choosing to represent yourself,
9 especially when you're in custody. The ability to get
10 everything done isn't always great.

11 You, in your motion to continue, are saying that,
12 for instance, you couldn't file motions that you wanted to
13 file, because you've been in disciplinary segregation. Well,
14 you know, to the extent that you're given the jail problems,
15 you might be on there ad infinitum.

16 So when would you ever be able to file the
17 motions, if that's the basis?

18 THE DEFENDANT: No, Mr. McGroarty, I brought that
19 up to him. He granted me the access to do it. I'm pretty
20 sure he granted it with the thought that I would have the
21 opportunity.

22 THE COURT: The problem is, Mr. Slaughter, we
23 can't just keep delaying things because you filed lots of
24 motions. You never filed a motion to suppress before. So now
25 at the last minute, you want to file a motion to suppress.

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1 THE DEFENDANT: No. I've been in disciplinary
2 for over a month. That's when I was going to file my motion
3 to suppress, so we can have all that squared out before trial,
4 sir.

5 THE COURT: No, but I'm saying, you started
6 representing yourself in December. You didn't file a motion
7 to suppress in December. You didn't file it in January. You
8 didn't file it in February. Now, at the end of March, early
9 April, you're telling me you had a motion to suppress that you
10 wanted to file.

11 THE DEFENDANT: In the beginning of March.

12 THE COURT: I also have to look at the record and
13 consider that Mr. Wommer, during the time that he represented
14 you, represented to the Court that he was ready to proceed to
15 trial, and he didn't think there were any writ issues or
16 anything else that needed to be legally addressed.

17 So I have to consider that as well, because I
18 think Mr. Wommer's a competent attorney. I don't know what
19 other things in your motion to continue that you wanted to
20 argue about. You brought up issues of the photo lineup. I
21 take it the original photo lineups --

22 THE DEFENDANT: I never seen the original photo
23 lineups. I tried to have my investigator review those last
24 weekend after McGroarty had granted my order for that, and I
25 still haven't -- she said that the police -- they weren't

1 on -- they weren't -- he wasn't on duty on Fridays, and he's
2 the only one with them.

3 THE COURT: Did the defense receive copies of the
4 photo lineups, and the photo lineups will be brought into
5 court by the detective? I don't think that's much of an
6 issue.

7 You had -- you bring up the issue of wanting to
8 hire an expert witness now. I think the time has long since
9 come and gone for that as well, in addition to the fact that
10 your motion doesn't even refer to anybody by name that you
11 have, that you are potentially going to have.

12 THE DEFENDANT: Dr. Robert Shomer (phonetic).

13 THE COURT: Robert Shomer's name gets bantered
14 around a lot.

15 THE DEFENDANT: No, I haven't been granted
16 expenses to hire him.

17 THE COURT: There is a time to do things and a
18 time to go to trial, and now is the time to go to trial.

19 There was one other issue that you brought up
20 about wanting a copy of your booking photo.

21 THE DEFENDANT: I got that.

22 THE COURT: Okay. All right then. Well, I'm not
23 going to grant a motion to continue at this time. As I said,
24 it's time to go to trial now. Is there anything else that
25 needs to be brought up outside the presence of jury selection?

1 MR. DiGIACOMO: Just one other issue I'd like to
2 put on the record as to the jail phone calls. He says they're
3 lengthy and everything like that. The substance of the phone
4 calls are in the original declaration and arrest report that
5 was made in this case back in June of 2004, Judge, so it's not
6 like there is significant new information that --

7 THE COURT: Hold on, Mr. Slaughter.

8 MR. DiGIACOMO: That was in the original arrest
9 report written by the detective as to the information that was
10 contained therein.

11 THE COURT: Are there parts of hundreds of phone
12 calls that the State is intending to use, or are they able to
13 be narrowed down to particular phone calls?

14 MR. DiGIACOMO: At the time, most of the phone
15 calls have to do with the alibi, which apparently he's not
16 proceeding upon. In fact, the rebuttal evidence to the alibi
17 is in the original declaration of arrest in this particular
18 case. Most of it has to do with where he was at 7:00 o'clock.

19 If he's going to put a witness on to say that she
20 was with him at the time period which he says on the phone
21 call, he's telling somebody else to say he was with them, then
22 we'll be using portions of that, but it has to do with what he
23 puts up, not what we're putting in our case in chief.

24 THE COURT: Part of the phone calls would be case
25 in chief; is that correct or not?

1 MR. DiGIACOMO: No, I don't believe we have any
2 case in chief information to put in front of the jury, Judge.

3 THE COURT: Okay. Well, the issue of the phone
4 calls, should it even be an issue, can be addressed later on
5 when we get to Mr. Slaughter's case in chief.

6 THE DEFENDANT: Can I bring something else up?

7 THE COURT: Yes.

8 THE DEFENDANT: We have a Kenny Marks that is on
9 their witness list as their case in chief, and I never
10 received anything from them. And the judge did order them to
11 turn over whatever they had on Kenny Marks, and I still
12 haven't received anything, and I brought it up numerous times.

13 THE COURT: Are there any statements from Kenny
14 Marks?

15 MR. DiGIACOMO: Judge, there is. Me and
16 Miss Krisko interviewed this witness. He had a title which
17 had Mr. Slaughter's name on it. We provided a copy of that
18 title to Mr. Slaughter. He lives across the street from where
19 the crime scene is. He doesn't have a written statement. He
20 has a photo lineup that he wrote off.

21 THE COURT: Is that photo lineup part of
22 discovery as well?

23 THE DEFENDANT: No.

24 MR. DiGIACOMO: Judge, I saw it in my file as
25 well. I don't remember there was this photo lineup. I saw it

1 in my discovery today, but if he doesn't have it, I can give
2 him a copy of it right now.

3 THE COURT: Okay. Well, we'll do that.

4 Mr. Slaughter, not everybody that the State or
5 even oftentimes the defense puts on a witness list necessarily
6 gave a taped statement or wrote out a statement.

7 THE DEFENDANT: I'd just like to know the
8 substance of what he was going to testify to, so I can be
9 prepared for that.

10 THE COURT: If he was on the State's witness
11 list, then your investigator can go out and talk to him, but
12 they're not required to turn over their work product, which
13 means the things that come out of an individual interview with
14 a witness, unless it's exculpatory in nature. Then they have
15 to tell you about it.

16 Otherwise, their interview of a witness in
17 preparation for trial is not something that's discoverable to
18 you.

19 THE DEFENDANT: If he's on the case in chief, I
20 believe I have a right to know what he's going to testify to.

21 MR. DiGIACOMO: This is my only copy, Judge, and
22 I'm going to have it marked as an exhibit.

23 THE COURT: Is that a photo lineup that pertains
24 to Mr. Marks having reviewed the photo lineup and having
25 signed off on it?

1 MR. DIGIACOMO: That's correct.

2 THE DEFENDANT: What is it referring to, that he
3 seen a crime?

4 MR. DIGIACOMO: That he identified you in a photo
5 lineup, and he was talking about Marquis Lerner, and that's
6 the first name he talked about.

7 THE DEFENDANT: I'd ask that we stipulate to his
8 testimony about buying a car. That's irrelevant. It has
9 nothing to do with the case.

10 THE COURT: It sounds like you might not have
11 very many cases for them. I can't tell the State how to run
12 their case. I can't tell them what is relevant and what is
13 not relevant.

14 If there is something that comes up at the time
15 of trial that you feel is relevant, I'll rule on it at that
16 time, but I can't tell them which witnesses to call or not to
17 call and make them tell you what their conversation with the
18 witness was.

19 MR. DIGIACOMO: Just one other matter we need to
20 bring up, Judge. The defendant, I guess you call those
21 shorts, asked to be here in shorts. We called up Victim
22 Witness and got pants that should fit him. I'd ask the Court
23 to allow him to change into pants. The shorts probably aren't
24 too appropriate in front of the jury.

25 THE COURT: Are those the clothes that you had at

1 the time you were booked, Mr. Slaughter?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: I think it would behoove you to put
4 on pants in front of the jury, if you don't mind.

5 THE DEFENDANT: Yes. I have no problem. There
6 was just no clothes down there for me. If I could change into
7 shoes, I could tell my mother, who is outside, to bring me
8 some shoes.

9 THE COURT: Well, we're going to start. Where
10 are the clothes that apparently -- oh, well, let's let him go
11 ahead, and you can take him down to the restroom and get into
12 the clothes.

13 THE DEFENDANT: Your Honor, can I move for a few
14 admissions right now?

15 THE COURT: Move for admissions?

16 THE DEFENDANT: Yeah.

17 THE COURT: Like items of evidence?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: That would come up during the time of
20 trial. When an appropriate witness is on the stand, if there
21 is some item of evidence that you think they are in possession
22 of, then you can move its admission. Or during your case in
23 chief, if you call witnesses, that would be a time to move the
24 admission of particular pieces of evidence.

25 THE DEFENDANT: And I also have a proposed

1 stipulation of fact, if the State is willing to agree to the
2 stipulation.

3 THE COURT: Go ahead and tell us what it is.

4 THE DEFENDANT: That the victim was shot through
5 the right cheek, and the bullet exited his left chin and shot
6 out two of his teeth and caused fragments in his eye. If we
7 can do that, I don't believe there is no need for the photo.

8 MR. DiGIACOMO: Well, Judge, the photo, as in any
9 case --

10 THE DEFENDANT: I have a copy of the photo right
11 here.

12 MR. DiGIACOMO: A photo, in any case, is
13 recommended. We have the photos marked. If he has an
14 objection to the prejudicial nature of any particular photo,
15 he can raise that with the Court, but we're not willing to
16 enter into a stipulation as to what the photos do and do not
17 show.

18 THE DEFENDANT: I do object to the photo right
19 now.

20 THE COURT: I'll look at the photos and see what
21 I think in terms of their nature as to whether any or all of
22 them should be admissible or not.

23 Obviously, when there is allegations of injury
24 and the proposition of medical experts testifying in terms of
25 the nature of the injury, whether it was potentially a lethal

1 injury, whether it causes substantial bodily harm, then
2 they're going to need probably to refer to some photos, but
3 that doesn't mean all of them get admitted.

4 THE DEFENDANT: Yeah, well, I don't believe they
5 need this photo, when actually the witness is going to
6 testify. They'll probably bring the medical expert and
7 examine them and everything like that.

8 THE COURT: I will look -- how many photos are
9 marked?

10 THE DEFENDANT: I only have one.

11 MR. DiGIACOMO: There are 92 exhibits that we've
12 marked.

13 THE CLERK: I only have 90.

14 MR. DiGIACOMO: There were 90 exhibits we marked
15 prior when Judge Cory was supposed to start trial. We've
16 given those back to your clerk, so she should have them
17 marked, and then you can look through them, Judge.

18 THE COURT: Are any of the photos going to be
19 used during any kind of opening statements?

20 MR. DiGIACOMO: I'll agree not to, if the Court
21 hasn't had a chance to look at them.

22 THE COURT: I'll look at it before then and make
23 a ruling as if the intent of either party were to use them
24 during openings.

25 MR. DiGIACOMO: I was hoping we'd get to openings

1 today. That's looking less and less likely, and so I hadn't
2 intended to use any of them during my openings. Should we get
3 to them tomorrow morning and I have a chance to put a power
4 point together --

5 THE COURT: Both sides can let me know if it's
6 something I have a chance to make a ruling on before the
7 point -- I'll make a ruling on them before we get to the point
8 of using them, regardless if it's a witness or opening
9 statement.

10 THE DEFENDANT: I never received a list of the
11 exhibits or anything like that.

12 THE COURT: Well, generally, you're not going to
13 get a list of exhibits until we get ready to start trial and
14 the court clerk is able to write out all the exhibits, because
15 it's only at that time our exhibits are proffered to the Court
16 to be marked by either side.

17 MS. KRISKO: Just to let you know, the ones she
18 has, those are the ones, like pictures, medical records,
19 things like that, the officer is going to be bringing in all
20 the other physical evidence.

21 THE COURT: Okay. All right. Mr. Slaughter, if
22 you can go with this gentleman, please, and go ahead and --

23 THE CORRECTIONS OFFICER: Your Honor, as far as
24 the clothes go, I won't be able to take those back with him to
25 the jail. Those have to be receipted.

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1 THE COURT: He can change out at the end of the
2 day.

3 THE CLERK: The officers will dress him out, but
4 if you get another officer, he's going to say, "I'm not doing
5 it." So if his family or somebody on the outside, if they can
6 get him a better shirt, too.

7 AUDIENCE MEMBER: Do they bring him into the main
8 jail?

9 THE CORRECTIONS OFFICER: In the front lobby,
10 they'll give him a receipt, so they can account for
11 everything.

12 AUDIENCE MEMBER: I'll try to get that taken care
13 of today.

14 (Whereupon, a brief recess ensued.)

15 THE COURT: Mr. Slaughter, after you had stepped
16 outside, we were talking about the jury selection process;
17 okay?

18 THE DEFENDANT: Yeah.

19 THE COURT: We've got 12 members on the jury plus
20 two alternate members. That's 14. And then each side gets
21 eight peremptory challenges of the jury. So that's another
22 16. So that's 30 total people. And each side gets one
23 challenge as to the alternate.

24 So theoretically, what we need to have is 32
25 people passed for cause, meaning 32 acceptable people, and

1 then you all will start exercising your challenges against
2 those people; okay?

3 THE DEFENDANT: So you say we get eight and one
4 extra for the alternate?

5 THE COURT: Right. So after you've exercised
6 your eight and/or the State has exercised their eight and/or
7 you all have waived, you'll know who the first 14 people are.
8 And you can use that last challenge against the last two of
9 those 14, if you want to challenge either of those two people
10 that will be sitting as an alternate. And I'll let you know
11 when we get to that point.

12 But I'll let you know, what we're going to
13 endeavor to do is get 32 main people, and that's who you all
14 will begin questioning originally. We're not going to
15 individually question, however, the total number of people who
16 come in.

17 We just want to get 32 that seem to be
18 acceptable, and then we'll start questioning those. And if
19 any of those people need to leave, we'll replace them with one
20 person, so that we always maintain a number of 32, until we
21 pass them all for cause.

22 And what I do is, I ask them a bunch of questions
23 first, and then you can ask them questions as a group, meaning
24 if you have just a general kind of question, "Hey, have you
25 ever been arrested before?" and if one guy raises his hand,

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1 then you individually ask him some questions.

2 But we're not going to individually ask each
3 person the same questions over and over. Do you know what I
4 mean?

5 THE DEFENDANT: Yeah.

6 THE COURT: Does that make sense? Okay.

7 MS. KRISKO: I think we might want to take a
8 minute or two. It sounds like we want to discuss negotiations
9 again.

10 THE COURT: Okay. Was there a habitual filing?

11 MR. DiGIACOMO: There is not, Judge, but the
12 first three kidnappings occurred with substantial bodily harm
13 and with a deadly weapon. So they're looking at 30 to life or
14 life without.

15 THE COURT: All right. Just let me know.

16 (Whereupon, a brief recess ensued.)

17 THE COURT: We can go back on the record in
18 C204957, State of Nevada versus Rickie Lamont Slaughter.

19 It's my understanding that the matter is resolved
20 now. Is that correct, folks?

21 MR. DiGIACOMO: Yes, your Honor.

22 THE COURT: Okay.

23 THE DEFENDANT: Yes.

24 THE COURT: And I have a guilty plea agreement
25 before me and a fourth amended information. Has a fourth

1 amended information been filed? Yes? No?

2 MR. DiGIACOMO: Yes, Judge. I believe we've
3 already given them to your clerk.

4 THE COURT: Okay. Is that your understanding,
5 Mr. Slaughter, the matter is resolved now?

6 THE DEFENDANT: Yeah. As I understand the
7 agreement, though, for the record, that the State will not be
8 allowed to argue --

9 THE COURT: We're going to go through the
10 agreement and make sure you understand everything. But as you
11 sit here now, your understanding is that you and the State
12 have resolved the matter; is that correct?

13 THE DEFENDANT: Yeah.

14 THE COURT: Why don't you go ahead and tell me,
15 if you would please, Mr. DiGiacomo, what the negotiations are.

16 MR. DiGIACOMO: Yes, Judge.

17 The defendant will enter a plea to -- let's make
18 sure I read these all off. Count I, attempt murder with use
19 of a deadly weapon; Count II, robbery with use of a deadly
20 weapon; Count III, first degree kidnapping; and Count IV,
21 first degree kidnapping with use of a deadly weapon.

22 The State agrees to retain the right to argue for
23 15 years to life at sentencing as to Count III, but stipulates
24 that life without the possibility of parole is not an
25 available sentence for the Court.

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1 The State will not oppose concurrent time between
2 the counts, and the defendant has agreed to retain the right
3 to argue for 15 to 40 years as to sentencing on Count III.

4 Essentially, Judge, the negotiation is either a
5 15 to life or a 15 to 40, depending on the Court's decision at
6 sentencing, and the sentencing is to be before this Court is
7 my understanding, Judge.

8 THE COURT: Okay. And Count III is the
9 kidnapping charge that alleges substantial bodily harm?

10 MR. DiGIACOMO: That's correct, Judge.

11 THE COURT: Do you understand that, Mr.
12 Slaughter?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: That's what the status of the
15 negotiations are?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you agree with the negotiations as
18 Mr. DiGiacomo stated them?

19 THE DEFENDANT: Yeah, that the decision's between
20 15 to 40 and 15 to life?

21 THE COURT: Right. Okay. Why don't you go ahead
22 and tell me at this time, if you would please, what your true
23 name is.

24 THE DEFENDANT: Rickie Lamont Slaughter, Jr.

25 THE COURT: Do you understand that if that is not

1 your true name, you must declare it to me, or all proceedings
2 in this case will be under the name set forth in the
3 information on file, which is Rickie Lamont Slaughter?

4 Do you understand? Is that a yes?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Yes, sir. And what is your age?

7 THE DEFENDANT: Twenty.

8 THE COURT: And how far did you go in school?

9 THE DEFENDANT: Eleventh grade.

10 THE COURT: And do you read, write, and
11 understand the English language?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Okay. And you've received a copy, I
14 take it, of the fourth amended information that was filed
15 today in open court?

16 THE DEFENDANT: Yeah.

17 THE COURT: Okay. And will you waive the formal
18 reading of the charges and any list of witnesses that are
19 attached to that fourth amended information?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And I know you're representing
22 yourself, but you also have Mr. Wommer present as standby
23 counsel. Did you have an opportunity to discuss with
24 Mr. Wommer the fourth amended information and the charges that
25 were filed this afternoon?

YVONNE M. VALENTIN, OFFICIAL COURT REPORTER

1 THE DEFENDANT: Yeah.

2 THE COURT: Okay. And how do you plead to the
3 fourth amended information listing the four charges of
4 Count I, attempt murder with use of a deadly weapon; Count II,
5 robbery with use of a deadly weapon; Count III, first degree
6 kidnapping alleging substantial bodily harm; and Count IV,
7 first degree kidnapping with use of deadly weapon, guilty or
8 not guilty?

9 THE DEFENDANT: Your Honor, actually, I didn't --

10 MR. DiGIACOMO: Judge, it appears he's a little
11 confused.

12 MR. WOMMER: Would you repeat the question, your
13 Honor?

14 THE COURT: Okay. How do you plead to the four
15 counts in the fourth amended information, guilty or not
16 guilty?

17 THE DEFENDANT: Guilty.

18 THE COURT: And that would be guilty as to
19 Count I, attempted murder with use of a deadly weapon?

20 THE DEFENDANT: Yeah.

21 THE COURT: Guilty as to Count II, robbery with
22 use of a deadly weapon?

23 THE DEFENDANT: Yeah.

24 THE COURT: Guilty as to Count III, first degree
25 kidnapping; that's the count that alleges substantial bodily

1 harm.

2 THE DEFENDANT: Yeah.

3 THE COURT: And guilty as to Count IV, first
4 degree kidnapping with use of a deadly weapon?

5 THE DEFENDANT: Yeah.

6 THE COURT: Before I accept your plea of guilty,
7 I must be satisfied that your plea is freely and voluntarily
8 given. Are you making this plea freely and voluntarily?

9 THE DEFENDANT: Yeah.

10 THE COURT: Has anyone forced or coerced you to
11 enter this plea?

12 THE DEFENDANT: No.

13 THE COURT: Has anyone made you any promises
14 other than what's in the guilty plea agreement to get you to
15 plead guilty?

16 THE DEFENDANT: No.

17 THE COURT: I have before me a written guilty
18 plea agreement. Is that your signature that's contained on --

19 THE DEFENDANT: Yeah.

20 THE COURT: -- page five of the agreement?

21 THE DEFENDANT: Yeah.

22 THE COURT: Just for the record, on the original,
23 the date wasn't entered, so I'm going to write in there the
24 4th day of April, 2005.

25 Did you have an occasion, Mr. Slaughter, to read

1 through the guilty plea agreement before you signed it?

2 THE DEFENDANT: Yes, I did.

3 THE COURT: And did you have an opportunity to
4 discuss everything with Mr. Wommer before you signed it?

5 THE DEFENDANT: Yeah.

6 THE COURT: Did you understand the things that
7 you read in the guilty plea agreement prior to signing it?

8 THE DEFENDANT: Yes.

9 THE COURT: And any questions that you may have
10 had, were you able to discuss those with Mr. Wommer?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. Thank you.

13 Do you understand that the range of punishments,
14 and this is separate and apart from what the plea agreement
15 is, but the range of punishments for attempt murder with use
16 of a deadly weapon is 240 months maximum, with a minimum
17 parole eligibility of 24 months, plus an equal and consecutive
18 240 months maximum, with parole eligibility after 24 months
19 for that charge?

20 Do you understand that's the maximum?

21 THE DEFENDANT: Yes.

22 THE COURT: Count II, robbery with use of a
23 deadly weapon, do you understand that the range of punishment
24 is 180 months with a parole -- or excuse me -- with a minimum
25 parole eligibility of 24 months, plus an equal and consecutive

1 minimum term of not less than 24 months and not more than 180
2 months for that charge; that that's the range of punishment?

3 THE DEFENDANT: Yeah.

4 THE COURT: Do you understand that on first
5 degree kidnapping, Count III, that alleges substantial bodily
6 harm, you could potentially receive a sentence of life without
7 the possibility of parole or life with the possibility of
8 parole, with parole eligibility beginning at 15 years, or a
9 definite term of 40 years with parole eligibility beginning at
10 15 years?

11 THE DEFENDANT: Yeah.

12 THE COURT: And do you understand as to Count IV,
13 first degree kidnapping with use of a deadly weapon, that the
14 range of punishment is, you could receive a sentence of life
15 with the possibility of parole beginning after five years has
16 been served, or a definite term of 15 years, with parole
17 eligibility beginning after five years has been served, plus
18 an equal and consecutive term of life with the possibility of
19 parole after five years has been served, or a definite term of
20 15 years, with eligibility for parole beginning after five
21 years has been served?

22 THE DEFENDANT: Yes, I understand.

23 THE COURT: And those were just the potential
24 ranges of punishment you could receive. Do you understand all
25 that?

YVONNE M. VALENTIN, OFFICIAL COURT REPORTER

1 THE DEFENDANT: Yeah. Can I have a moment for a
2 second?

3 THE COURT: Yes.

4 (Whereupon, the defendant had an off-the-record
5 discussion with his attorney.)

6 MR. WOMMER: We're ready.

7 THE COURT: Ready? Okay.

8 Mr. Slaughter, do you understand that the
9 sentencing is going to be up to the Court?

10 THE DEFENDANT: Yes.

11 THE COURT: It's going to be my decision as to
12 how to sentence you, and no one else has any position or is in
13 any position to promise you leniency or anything else. Do you
14 understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Okay. Do you have any questions that
17 you would like to ask me or your attorney before I accept your
18 plea?

19 THE DEFENDANT: No.

20 THE COURT: Okay. Thank you. Now, as I
21 understand it, as to Count I, attempt murder with use of a
22 deadly weapon, on or about June 26th, 2004, yourself and/or an
23 unknown co-conspirator did then and there, without authority
24 of law, and with malice aforethought, wilfully and feloniously
25 attempt to kill Ivan Young, a human being, by shooting at and

1 into the body of Ivan Young and/or by causing a bullet to
2 strike the face of Ivan Young, and that that was accomplished
3 through use of a deadly weapon, that being a firearm; is that
4 correct?

5 THE DEFENDANT: Yeah.

6 THE COURT: And as to Count II, robbery with use
7 of a deadly weapon, I understand that on that same date,
8 June 26th, 2004, yourself and/or an unknown conspirator or
9 co-conspirator did wilfully, unlawfully and feloniously take
10 personal property, that being an ATM card, from the person of
11 Ryan John, or in his presence, by means of force or violence
12 or fear of injury to Ryan John, and without the consent and
13 against the will of Ryan John, by pointing a firearm at Ryan
14 John and demanding such money;

15 That a deadly weapon was used in the commission
16 of that crime as well, that being a firearm. And that further
17 you would be responsible for that crime under three separate
18 theories of liability in that you and an unknown
19 co-conspirator conspired with each other to commit the
20 offenses of larceny and/or robbery and/or kidnapping, and
21 you're therefore all vicariously liable for the foreseeable
22 acts of the others;

23 Or 2: That you directly committed the acts
24 constituting the offense;

25 Or 3: That you and/or an unknown co-conspirator

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1 aided or abetted each other in the commission of the crime by
2 securing and/or detaining and/or robbing Ryan John with the
3 use of a deadly weapon, while yourself or the others acted in
4 concert throughout by counseling and encouraging each other
5 throughout.

6 Is that correct?

7 THE DEFENDANT: Yeah.

8 THE COURT: With regard to Count III, first
9 degree kidnapping, I further understand that on June 26th,
10 2004, you wilfully, unlawfully, feloniously, and without
11 authority of law, either seized, confined, inveigled, enticed,
12 decoyed, abducted, concealed, kidnaped or carried away Ivan
13 Young, a human being, with the intent to hold or detain him
14 against his will, and without his consent, for the purpose of
15 committing robbery and/or to inflict substantial bodily harm
16 and/or to kill Ivan Young, and that said kidnapping resulted
17 in substantial bodily harm to Ivan Young.

18 Is that correct?

19 THE DEFENDANT: Yeah.

20 THE COURT: And finally as to Count IV, first
21 degree kidnapping with use of a deadly weapon, I understand
22 that on June 26th of 2004, you wilfully, unlawfully,
23 feloniously and without authority of law, either seized,
24 confined, inveigled, enticed, decoyed, abducted, concealed,
25 kidnaped or carried away Ryan John and/or Jose Posada,

1 P-O-S-A-D-A, and/or Aaron, that's two A's, Dennis and/or
2 Jermaun, J-E-R-M-A-U-N, Means, M-E-A-N-S, and/or Jennifer
3 Dennis, with the intent to hold those said individuals against
4 their will and without their consent for the purpose of
5 committing robbery and/or to inflict substantial bodily harm
6 and/or to kill those individuals, and that a firearm was used
7 during the commission of that crime;

8 And that you would be responsible under one of
9 three theories of liability for that crime; that you and an
10 unknown conspirator conspired with each other to commit
11 larceny and/or robbery and/or kidnapping and/or to inflict
12 substantial bodily harm and/or kill those named individuals,
13 and therefore you would be vicariously liable for the
14 foreseeable acts of the other conspirators;

15 Or second, that you directly committed the acts
16 against those named individuals;

17 Or three, that you and/or the unknown
18 co-conspirator aided and abetted each other in the commission
19 of this crime against those individuals by securing and/or
20 detaining and/or robbing those named individuals, you all
21 acting in concert throughout and counseling and encouraging
22 each other throughout.

23 Is that correct?

24 THE DEFENDANT: Yeah.

25 THE COURT: Okay. Court finds that the

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1 defendant's -- well, does the State have anything to add to
2 the plea canvass?

3 MR. DiGIACOMO: No, Judge.

4 THE COURT: The Court finds that the defendant's
5 plea of guilty is freely and voluntarily made and that the
6 defendant understands the nature of the offenses and the
7 consequences of his plea and therefore accepts his plea of
8 guilty.

9 The matter will be referred to Parole & Probation
10 for a presentence investigation report.

11 I note that Mr. Slaughter is in custody. He'll
12 be remanded to the custody of the sheriff until such time as
13 sentencing can take place.

14 THE DEFENDANT: So will the time start running on
15 this case?

16 THE COURT: Pardon? Yes. You'll be accruing
17 credit for this case.

18 How is P & P doing these days?

19 MR. DiGIACOMO: Terrible. They're kicking
20 everything back.

21 MR. WOMMER: What's happened is, on defense side
22 we used to get a call from P & P saying the report is ready
23 three or four days in advance of sentencing. That's been done
24 away with. Now I get a fax the morning of the sentencing from
25 P & P.

1 THE COURT: We'll set it out for sentencing in 60
2 days.

3 THE CLERK: June 6th at 10:30 a.m.

4 THE COURT: To the extent that any exhibits were
5 lodged with the Court this morning, those will be released
6 back to the separate parties that lodged them.

7 We'll be in recess. Thank you.

8 ATTEST: Full, true, and accurate transcript of
9 proceedings.

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12 YVONNE M. VALENTIN, CCR 342
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YVONNE M. VALENTIN, OFFICIAL COURT REPORTER

EXHIBIT 14

EXHIBIT 14



CASE: 04015160 ----- NORTH LAS VEGAS POLICE DEPARTMENT----- REF: 247730
DATE: 8/12/04 ----- POLICE REPORT----- PAGE: 1
TIME: 4:15 ----- INVESTIGATIVE PORTION----- OF: 4

----- 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 ! 7/29/04 / 10:41

hate crime? NO ! gang related? NO ! fingerprints? NO

routing? ! prosecute? ! prop report? ! vehl report? ! arrest rpt? ! attach?
OTHER ! YES ! NO ! 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 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
FITZ/HOWARD DOUGLAS 0652 ! PRIETO/JESUS 0674

CASE: 04015160 ---NORTH LAS VEGAS POLICE DEPARTMENT--- REF: 247730
 DATE: 8/12/04 -----POLICE REPORT----- PAGE: 2
 TIME: 4:15 -----PERSONS PORTION----- OF: 4

name of person (001): ! type: W ! occupation: ! susp id?
 ARBUCKLE/JEFF ! WITNESS ! DRY CLEANER ! YES

sex ! race: W hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
 M ! WHITE ! 1977 ! 27 ! 000 ! 000 ! ! !

alias-aka: ! birthplace:
 alias-aka: ! ssn: mf no:

addr: 715 N NELLIS LV NV 89110 ! 459-1300
 business: !

descriptors:
 descriptors:

records bureau processed ser no ! detective bureau processed ser no
 SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
 FITZ/HOWARD DOUGLAS 0652 ! PRIETO/JESUS 0674

.....

CASE: 04015160	-----NORTH LAS VEGAS POLICE DEPARTMENT-----	REF: 247730
DATE: 8/12/04	-----POLICE REPORT-----	PAGE: 3
TIME: 4:15	-----NARRATIVE PORTION-----	OF: 4

.....

ON JULY 1, 2004 I COMPLETED A PROCESSING REQUEST AND FOREWARDED SAME TO THE IDENTIFICATION BUREAU REQUESTING THE GUNS RECOVERED IN THIS CASE BE CHECKED FOR LATENT PRINTS. CSI BRADY PROCESSED THE GUNS AND ONLY ONE NONE COMPARABLE PRINT WAS LOCATED. SEE HER REPORT FOR DETAILS.

I ALSO COMPLETED A REQUEST FOR GUNS AND BULLET FRAGMENTS BE SENT TO THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT FORENSIC LABORATORY FOR EXAMINATION. I REQUESTED THE BULLET FRAGMENTS BE COMPARED TO THE GUNS RECOVERED. I ALSO REQUESTED THAT IT BE DETERMINED WHAT TYPE OF GUN THE BULLET FRAGMENTS WERE FIRED FROM.

ON JULY 2, 2004, I RESPONDED TO THE VICTIM'S RESIDENCE. JENNIFER DENNIS CONTACTED ME AND SAID THAT SHE HAD LOCATED A BULLET HOLE IN THE KITCHEN FLOOR WHERE HER HUSBAND, IVAN YOUNG, WAS SHOT. I EXAMINED THE FLOOR AND SAW WHAT APPEARED TO BE A BULLET IMPRESSION. THE BULLET IMPRESSION WAS LOCATED WHERE I INITIALLY SAW THE POOL OF BLOOD ON THE NIGHT OF THE INCIDENT. I LATER REQUESTED A CRIME SCENE INVESTIGATOR RESPONDED TO THE VICTIMS RESIDENCE AND TAKE PICTURES OF THE BULLET IMPRESSION. CSI FISHER RESPONDED AND TOOK THE PHOTOS.

ON JULY 20, 2004, I REQUESTED THE FILM IN THE CAMERA RECOVERED DURING THE SEARCH WARRANT BE DEVELOPED. I WAS ATTEMPTING TO LOCATE SOME PICTURES OF SLAUGHTER AND HIS ACCOMPLICE. NO PHOTOS OF THE NATURE WERE LOCATED.

DURING THE INITIAL INVESTIGATION OFFICERS RECEIVED INFORMATION THAT A SUBJECT IDENTIFIED AS ERRICK HAWKINS FIT THE DISCRIPTION OF THE SUSPECTS IDENTIFIED DURING THE ROBBERY.

I LATER CONTACTED HAWKINS AND SPOKE WITH HIM ABOUT WHERE A WAS ON JUNE 26, 2004. HAWKINS TOLD ME THAT HE WAS AT A FAMILY GET TOGETHER AT HIS AUNTS RESIDENCE. HE FURNISHED ME WITH HIS AUNTS NAME, URSULIA CHRISTMAS, HER ADDRESS, 2301 MAVERICK ST. HE ALSO GAVE ME HER PHONE NUMBER, 638-9536, SO I COULD VERIFY HIS STORY. HAWKINS DID NOT SPEAK WITH A JAMAICAN ACCENT.

I CALLED CHRISTMAS AND SPOKE WITH HER. SHE TOLD ME THAT HAWKINS WAS AT HER RESIDENCE ON SATURDAY, JUNE 26, 2004. SHE SAID THAT HE REMAINED AT HER RESIDENCE UNTIL EARLY SUNDAY MORNING.

DURING THE INVESTIGATION THE NORTH LAS VEGAS DETENTION CENTER MONITORED SLAUGHTER'S PHONE CALLS. DETENTION DETECTIVE TODD WILLIAMS SUPPLIED ME WITH THE CALLS MADE BY SLAUGHTER. DURING THESE CALLS SLAUGHTER TALKED WITH TIFFANY JOHNSON. DURING THE CALLS WITH JOHNSON, SLAUGHTER TOLD HER TO TELL THE POLICE HE CAME TO PICK HER UP AT 7 PM. DURING CALLS MADE TO AN UNIDENTIFIED MALE HE SAID THAT HE WAS GOING TO WAIT FOR A GOOD OFFER FROM THE DISTRICT ATTORNEY BEFORE TAKING A DEAL. DURING THE PHONE CALLS HE TALKS ABOUT THE GUNS THAT WERE FOUND AND HOW TO CREATE AN ALIBI TO EXPLAIN WHERE HE WAS ON THE NIGHT OF THE ROBBERY.

DURING THE INVESTIGATION I CONTACTED ONE OF JOHNSON'S CO-WORKERS, JEFF ARBUCKLE, AT ELDORODO CLEANERS. ONE JUNE 26, 2004, ARBUCKLE SAID THAT HE WAS WORKING WHEN JOHNSON GOT OFF WORK. HE SAID WHEN HE LEFT WORK IT WAS 7:15 PM AND

records bureau processed
SCARFF/DENISE

ser no ! detective bureau processed
1259 !

ser no

supervisor approving
FITZ/HOWARD DOUGLAS

ser no ! officer reporting
0652 ! PRIETO/JESUS

ser no
0674

.....
.....
CASE: 04015160 ----NORTH LAS VEGAS POLICE DEPARTMENT---- REF: 247730
DATE: 8/12/04 -----POLICE REPORT----- PAGE: 4
TIME: 4:15 -----NARRATIVE PORTION----- OF: 4
.....
.....

JOHNSON WAS STILL WAITING OUTSIDE THE BUSINESS FOR HER RIDE.

COPIES OF THE PHONE CALLS WERE MADE AND FORWARDED TO THE DISTRICT
ATTORNEY'S OFFICE.

records bureau processed ser no ! detective bureau processed ser no
SCARFF/DENISE 1259 !

supervisor approving ser no ! officer reporting ser no
FITZ/HOWARD DOUGLAS 0652 ! PRIETO/JESUS 0674

EXHIBIT 4

EXHIBIT 4



CASE: 04015160 NORTH LAS VEGAS POLICE DEPARTMENT--- REF: 246198
 DATE: 6/30/04 -----POLICE REPORT----- PAGE: 1
 TIME: 5:45 -----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 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 ! BAILEY/ANTHONY 1366

CASE: 04015160
DATE: 6/30/04
TIME: 5:45

---NORTH LAS VEGAS POLICE DEPARTMENT---
-----POLICE REPORT-----
-----NARRATIVE PORTION-----

REF: 246198
PAGE: 2
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

EXHIBIT 250

EXHIBIT 250





Incident Description for Ticket/Date:589729/20040626

Close

Ticket Number: 589729

Date: 6/26/2004

Time Received: 1911

Unit: 4B81

Off: 1334 HOYT/MARK

Incident: 433 BATTERY

Off2:

Pers Rptg: 911/C/290 4223 JERMON

Disp: 1635 RANDOLPH/EIDRIS

Location: 2612 GLORY VIEW

Call: 1635 RANDOLPH/EIDRIS

Nbhd: APT AIRPORT

AI: ADAM I

Priority: U

Time - Received: 1911 **Dispatch:** 0000 **Arrived:** 1915 **Completed:** 2120

Case No: 04015160 **Self Init:** N **Assisted:** N **Disposition:** 2

Description

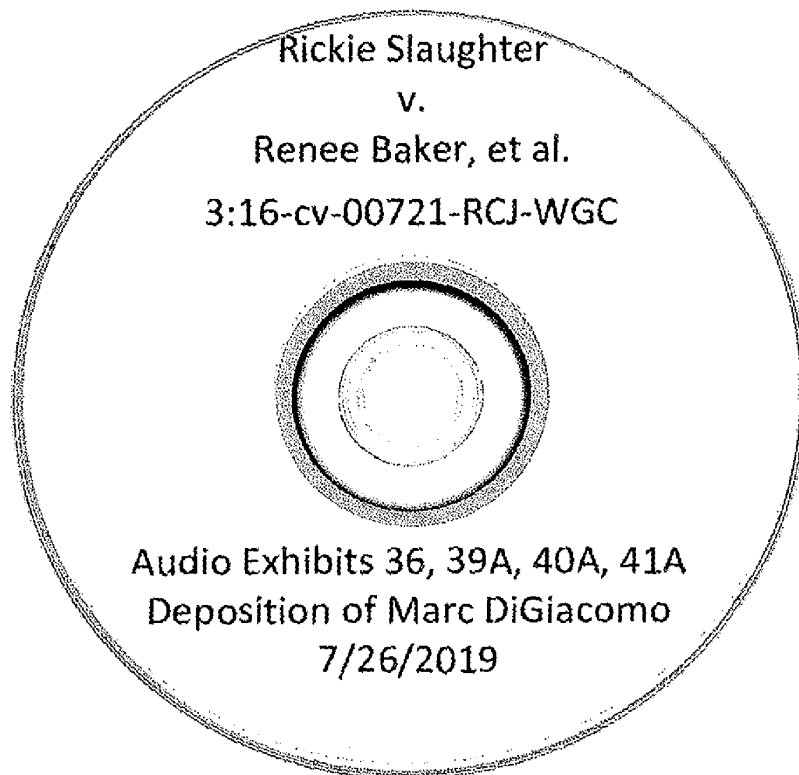
HMA WAS SHOT AS A RESULT OF A 407...LAYING ON THE BED INSIDE OF ABV...
HOME EVASION...NO ONE KNOWS WHO THE SUBJS ARE...PR ADB HE WAS TIED UP AND
PUT IN ANOTHER ROOM...T/L 5 MIN AGO...GRN VEH UNK PLATES PARKED FAR WAY LS
HEADING EB ON GLORY VIEW...PR ADV SUBJ'S HAD 4 413'S...UNK DESCRIP ON 413'S
FD ADV//SUBJ SHOT IN CHEEK//VEH IS DRK GRN 4DR POSS PONTIAC GRAND AM
CODE RED 1914HRS MPD ADV 1919//1933 DEMARTINO ADV 1936//MEL PRIETO PGD
ID REQ 1914HRS//CODE GRN 1921 HRS//PIO PGD 1937 ADV 1939//1938H/PRIETO ADV
CODE RED 2009HRS GRN 2012HRS -YOUNG/IVAN:05211973 [REDACTED]

EXHIBIT 36

911 CALL

Audio





66 Exhibit H 55

EXHIBIT

37

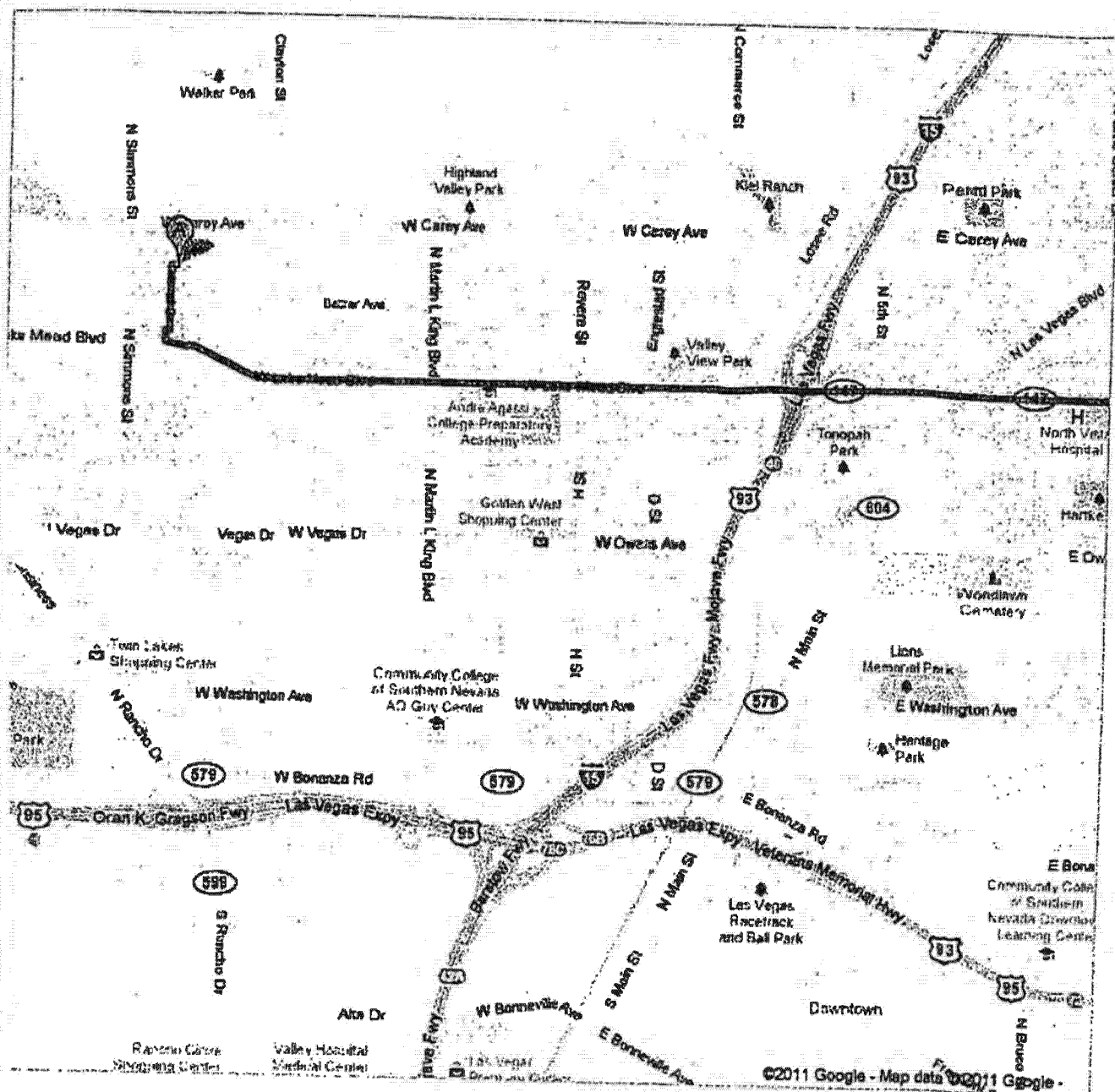
Rickie Slaughter | 2
Case #C204957

I drove from Eldorado Cleaners to the 2600 block of Glory View North Las Vegas, Nevada exactly reversing my previous route taken (see previous Google map). The route took approximately 24 minutes.

Craig Retke
Nevada Investigative Group LLC
PILB #1496

Google maps

To see all the details that are visible on the screen, use the Print link next to the map.



Driving directions to Nellis @ Bonanza (S)



2612 Glory View Ln
North Las Vegas, NV 89032

1. Head west on Glory View Ln toward Prevail Dr/Prevail Ln

2. Take the 1st left onto Prevail Dr/Prevail Ln

3. Turn right at Nobility St

4. Take the 1st left onto Victor Way

5. Turn left at W Lake Mead Blvd

6. Turn right at N Nellis Blvd



Nellis @ Bonanza (S)

8.2 miles 20-21 minutes

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.
Map data ©2011 Google

Report a problem

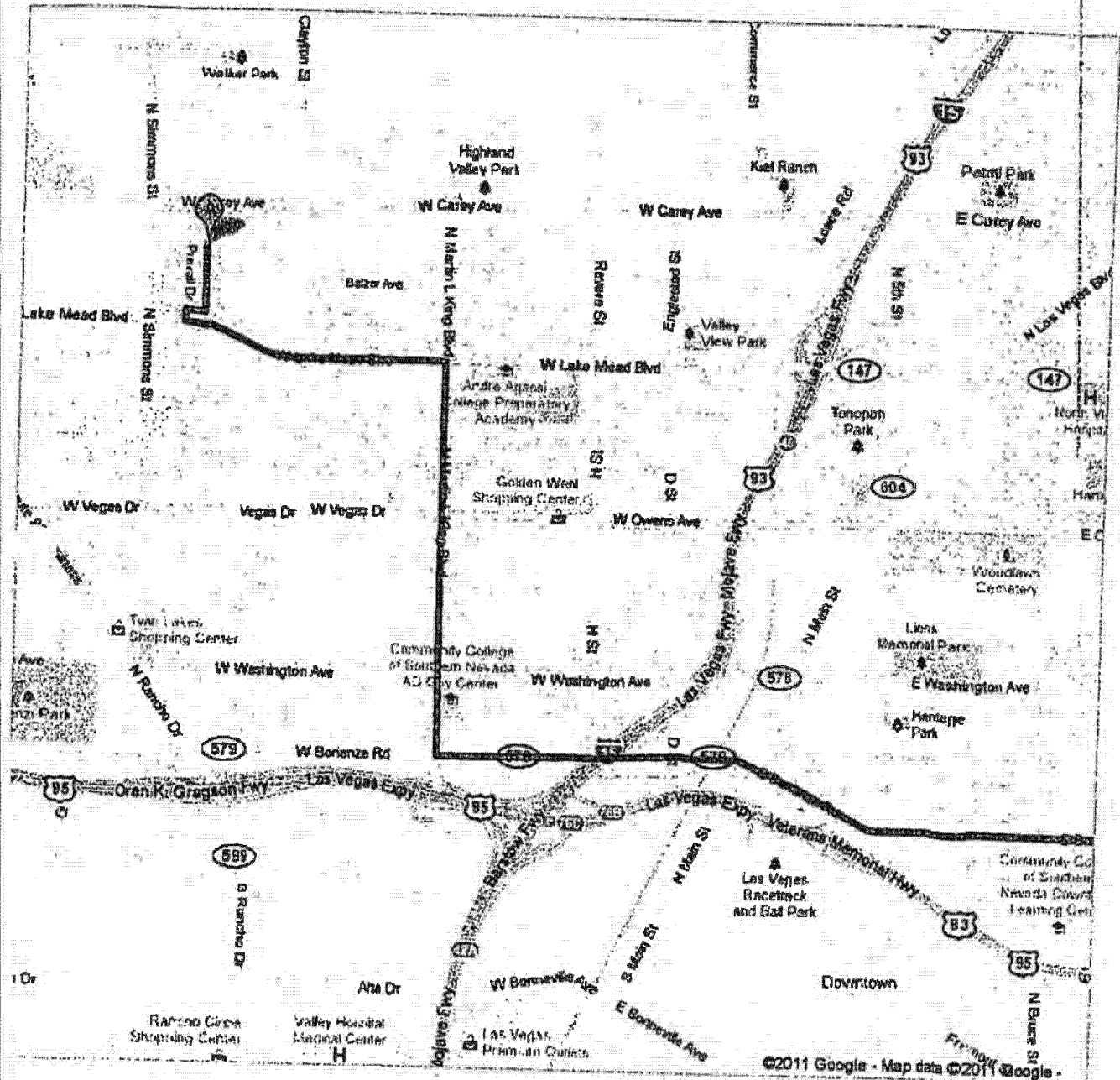
03/29/11

DROVE FROM 2612 GLORY VIEW N.L.V.
TO THE INTERSECTION OF NELLIS/BONANZA
TOTAL TIME 22 MINUTES. 8.3 MILES APPROX.

VARIED SPEED LIMITS.

Google maps

To see all the details that are visible on the screen, use the "Print" link next to the map.



©2011 Google - Map data ©2011 Google

Driving directions to Bonanza @ Nellis (W)



2600 Glory View Ln
North Las Vegas, NV 89032

1. Head south on Rejoice Dr/Rejoice Ln toward United Ln
2. Turn right at Nobility St
3. Take the 1st left onto Victor Way
4. Turn left at W Lake Mead Blvd
5. Turn right at N Martin L King Blvd
6. Turn left at W Bonanza Rd



Bonanza @ Nellis (W)

8 MILES 20-21 MINUTES










These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.
Map data ©2011 Google

Report a problem

03/29/11

DROVE FROM 2612

A 715 N Nellis Blvd, Las Vegas, NV 89110

1. Head south on N Nellis Blvd toward E Bonanza Rd
About 2 mins
go 1.2 mi
total 1.2 mi
-  2. Turn right onto E Charleston Blvd
About 3 mins
go 1.6 mi
total 2.7 mi
-  3. Take the ramp onto I-515 N/US-93 N/US-95 N
About 4 mins
go 3.9 mi
total 6.7 mi
-  4. Take exit 76C for Martin L King Blvd
About 1 min
go 0.5 mi
total 7.1 mi
-  5. Turn right onto N Martin L King Blvd
About 4 mins
go 1.3 mi
total 8.5 mi
-  6. Turn left onto W Lake Mead Blvd
About 2 mins
go 0.9 mi
total 9.4 mi
-  7. Turn right at the 1st cross street onto Victor Way
go 151 ft
total 9.4 mi
-  8. Turn right onto Nobility St
go 75 ft
total 9.4 mi
-  9. Take the 1st left onto Prevail Dr/Prevail Ln
go 0.2 mi
total 9.6 mi
-  10. Turn right onto Glory View Ln
Destination will be on the left
go 105 ft
total 9.7 mi

B 2612 Glory View Ln, North Las Vegas, NV 89032

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2011 Google

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.

4/25/2011

Case 3:16-cv-00721-RCJ-WGC Document 26-14 Filed 08/02/17 Page 39 of 87

715 N Nellis Blvd, Las Vegas, NV 89110

Google maps

Directions to 2612 Glory View Ln, North Las Vegas, NV 89032
10.3 mi – about 18 mins

Save trees. Go green!

Download Google Maps on your
phone at google.com/gmm



4/25/2011

Case 3:16-cv-00721-RC-WGC Document 26-14 Filed 08/02/17 Page 40 of 87

715 N Nellis Blvd, Las Vegas, NV 89110

Google maps

Directions to 2612 Glory View Ln, North Las Vegas, NV 89032
9.7 mi – about 18 mins

Save trees. Go green!

Download Google Maps on your
phone at google.com/gmm



4/25/2011

715 N Nellis Blvd, Las Vegas, NV 89110



715 N Nellis Blvd, Las Vegas, NV 89110

- | | |
|---|---------------|
| 1. Head south on N Nellis Blvd toward E Bonanza Rd | go 1.2 mi |
| About 2 mins | total 1.2 mi |
| 2. Turn right onto E Charleston Blvd | go 1.6 mi |
| About 3 mins | total 2.7 mi |
| 3. Take the ramp onto I-515 N/US-93 N/US-95 N | go 3.8 mi |
| About 4 mins | total 6.5 mi |
| 4. Continue onto US-95 N | go 0.9 mi |
| About 1 min | total 7.4 mi |
| 5. Take exit 77 for Rancho Dr toward US-95 BUS | go 0.4 mi |
| | total 7.8 mi |
| 6. Keep right at the fork, follow signs for US-95 BUS N/Rancho Dr N and merge onto N Rancho Dr/U.S. Route 95 Business | go 1.1 mi |
| About 2 mins | total 8.9 mi |
| 7. Turn right onto Vegas Dr | go 0.4 mi |
| About 1 min | total 9.3 mi |
| 8. Turn left onto N Simmons St | go 0.8 mi |
| About 2 mins | total 10.1 mi |
| 9. Turn right onto Devoted Way | go 174 ft |
| | total 10.1 mi |
| 10. Turn left onto Patriotic Ln | go 453 ft |
| | total 10.2 mi |
| 11. Patriotic Ln turns right and becomes Glory View Ln | go 0.1 mi |
| Destination will be on the left | total 10.3 mi |



2612 Glory View Ln, North Las Vegas, NV 89032

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.


Map data ©2011 Google













Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.


Directions to 2612 Glory View Ln, North Las Vegas, NV 89032
9.4 mi – about 19 mins

Download Google Maps on your phone at google.com/gmm



 715 N Nellis Blvd, Las Vegas, NV 89110

1. Head south on N Nellis Blvd toward E Bonanza Rd go 0.1 mi
total 0.1 mi
-  2. Take the 1st right onto E Bonanza Rd go 3.0 mi
About 7 mins total 3.1 mi
-  3. Turn left onto N Eastern Ave go 0.3 mi
About 1 min total 3.5 mi
-  4. Take the Interstate 515 N/U.S. 93/U.S. 95 ramp go 0.3 mi
total 3.7 mi
-  5. Merge onto I-515 N/US-93 N/US-95 N go 1.8 mi
About 2 mins total 5.6 mi
-  6. Continue onto US-95 N go 0.9 mi
About 1 min total 6.5 mi
-  7. Take exit 77 for Rancho Dr toward US-95 BUS go 0.4 mi
total 6.9 mi
-  8. Keep right at the fork, follow signs for US-95 BUS N/Rancho Dr N and merge onto N go 1.1 mi
Rancho Dr/U.S. Route 95 Business total 8.0 mi
About 2 mins
-  9. Turn right onto Vegas Dr go 0.4 mi
About 1 min total 8.3 mi
-  10. Turn left onto N Simmons St go 0.8 mi
About 2 mins total 9.1 mi
-  11. Turn right onto Devoted Way go 174 ft
total 9.2 mi
-  12. Turn left onto Patriotic Ln go 453 ft
total 9.2 mi
-  13. Patriotic Ln turns right and becomes Glory View Ln go 0.1 mi
Destination will be on the left total 9.4 mi

 2612 Glory View Ln, North Las Vegas, NV 89032

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2011 Google

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.

EXHIBIT 13

EXHIBIT 13



CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: 246634
 DATE: 8/12/04 -----POLICE REPORT----- PAGE: 1
 TIME: 4:15 -----INVESTIGATIVE PORTION----- OF: 3

-----INCIDENT FOLLOWUP-----

classification/additional information:
 OBST A P/O

invest bureaus/units notified:

location of occurrence: ! rpt dist:D5 neighborhood: CBC
 1301 LMBE ! DAVID 5 CENTRAL BUSINESS - CENTRAL

from: date / time ! to: date / time ! report: date / time
 6/28/04 / 23:00 ! 6/28/04 / 23:00 ! 7/06/04 / 15:19

hate crime? NO ! gang related? NO ! fingerprints? NO

routing? ! prosecute? ! prop report? ! vehl report? ! arrest rpt? ! attach?
 CITY ATTY ! YES ! NO ! NO ! ADULT ONLY ! YES

-----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 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
MENDEZ/LUZ M	0985 !		

supervisor approving	ser no !	officer reporting	ser no
DEMARTINO/FRANK	0755 !	PRIETO/JESUS	0674

CASE: 04015160 ---NORTH LAS VEGAS POLICE DEPARTMENT--- REF: 246634
 DATE: 8/12/04 -----POLICE REPORT----- PAGE: 2
 TIME: 4:15 -----PERSONS PORTION----- OF: 3

 name of person (001): ! type: S ! occupation: ! susp id?
 JOHNSON/TIFFANY ! SUSPECT ! DRY CLEANERS ! YES

 sex ! race: B hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
 F ! BLACK ! [REDACTED] 1984 ! 20 ! 505 ! 170 ! BRO ! BRO ! !

 alias-aka: ! birthplace:
 alias-aka: ! ssn: [REDACTED] 8985 mf no:

 addr: [REDACTED] LV NV 89110 ! 459-1320
 business: !

 descriptors:
 descriptors:

records bureau processed	ser no !	detective bureau processed	ser no
MENDEZ/LUZ M	0985 !		
supervisor approving	ser no !	officer reporting	ser no
DEMARTINO/FRANK	0755 !	PRIETO/JESUS	0674

CASE: 04015160 ---NORTH LAS VEGAS POLICE DEPARTMENT--- REF: 246634
 DATE: 8/12/04 -----POLICE REPORT----- PAGE: 3
 TIME: 4:15 -----NARRATIVE PORTION----- OF: 3

ON JUNE 28, 2004, A SEARCH WARRANT WAS SERVED IN CONECTION WITH AN ATTEMPT MURDER, ROBBERY INVESTIGATION THAT OCCURRED AT 2612 GLORY VIEW. DURING THE SERVICE, THE SUSPECT, RICKIE SLAUGHTER, WAS ARRESTED. HIS GIRLFRIEND TIFFANY JOHNSON WAS ALSO CONTACTED AT THE APARTMENT DURING THE ARREST.

AFTER THE ARREST JOHNSON WAS INTERVIEWED AT HER APARTMENT, 3801 E CHARLESTON #114. DURING THE INTERVIEW JOHNSON TOLD US THAT SLAUGHTER HAD COME TO PICK HER UP ON THE DAY OF THE INCIDENT AT 7 PM. SHE SAID THAT WHEN HE CAME TO PICK HER UP NO ONE WAS WITH HIM AND THEY WENT HOME AND PLAYED VIDEO GAMES. SHE WAS TRANSPORTED TO THE POLICE DEPARTMENT AND SHE CONTINUED TO TELL ME THE SAME STORY.

ON JUNE 29, 2004, I AGAIN CONTACTED JOHNSON TO GET FURHTER INFORMATION. I CONFRONTED HER ABOUT THE TIME SHE SAID SLAUGHTER HAD PICKED HER UP. I TOLD HER THAT HE WAS IDENTIFIED AS BEING AT THE CRIME SCENE BY SEVERAL WITNESSES AFTER 7 PM. I TOLD HER THAT SLAUGHTER COULDN'T HAVE PICKED HER UP AT THAT TIME. JOHNSON THAN CHANGED HER STORY AND SAID THAT SLAUGHTERR PICKED HER UP AT ABOUT 7:30 PM. JOHNSON WAS CAUGHT IN A LIE, WHILE TRYING TO PROVIDE AN ALIBI FOR SLAUGHTER. SHE ALSO TOLD ME THAT SLAUGHTER HAD MORE MONEY THE NIGHT THE INCIDENT OCCURRED, WHEN SHE KNEW HE ONLY HAD 70 DOLLARS THAT MORNING. MORE INFORMATION SHE FAILED TO FURNISH ON THE NIGHT OF THE ARREST.

BECAUSE I BELIEVE THAT JOHNSON IS SOME HOW INVOLVED IN THE ATTEMPT MURDER AND ROBBERY I DECIDED NOT TO ARREST HER AT THAT TIME HOPING TO GET FURTHER INFORMATION SO THAT I COULD CONNECT HER WITH THE CRIME.

ON JULY 6, 204 I CONTACTED JOHNSON AT 715 NORTH NELLIS AND PLACED HER UNDER ARREST FOR OBSTRUCTING A POLICE OFFICER. SHE WAS GIVEN HER MIRANDA RIGHTS AND TRANSPORTED TO THE POLICE DEPARTMENT FOR QUESTIONING. DURING THE INTERVIEW JOHNSON NOW REMEMBERED THAT ON THE NIGHT OF THE ROBBERY THERE WERE SEVERAL PEOPLE IN HER APARTMENT WHEN SHE CAME HOME. JOHNSON SAID THAT WHEN SHE CAME HOME AFTER BEING PICKED UP SHE DROPPED SLAUGHTER OFF AND WENT TO HER GRANDFATHERS RESIDENCE. JOHNSON SAID THAT SHE CAME HOME LATER AND THERE WERE SEVERAL PEOPLE IN HER APARTMENT, ALTHOUGH SHE ONLY KNEW ONE OF THEM. SHE ONLY IDENTIFIED J.R. A NEIGHBER THAT LIVES IN APARTMENT 111. SHE SAID THERE WERE THREE OTHER PEOPLE THAT SHE DIDN'T KNOW.

DETECTIVE MELGAREJO AND TRANSPORTED JOHNSON TO THE NORTH LAS VEGAS JAIL FOR BOOKING. WHILE IN ROUTE DETECTIVE MELGAREJO CONTINUED TO TALK TO JOHNSON. AS HE TALKED WITH HER SHE ADMITTED TO KNOWING SOMEONE ELSE AT HER APARTMENT THAT NIGHT. JOHNSON SAID THAT HER COUSIN'S BOYFRIEND MACK WAS THERE ALTHOUGH SHE DOESN'T KNOW HIS REAL NAME.

IT WAS APPARENT THAT JOHNSON CONTINUED TO LIE FOR GIVING FALSE INFORMATION THROUGH OUT THE INTERVIEWS OBSTRUCTING THE INVESTIGATION.

JOHNSON WAS BOOKED IN THE NORTH LAS VEGAS JAIL FOR TWO COUNTS OF OBSTRUCTING A POLICE OFFICER.

ATTACHMENTS TWO CITATIONS.

records bureau processed	ser no ! detective bureau processed	ser no
MENDEZ/LUZ M	0985 !	
supervisor approving	ser no ! officer reporting	ser no
DEMARTINO/FRANK	0755 ! PRIETO/JESUS	0674

Q. You've been thinking - Tiffany you've been thinking. Hey listen to me
3 Tiffany - do you know what happened the other night
4 A. No I don't.
5 Q. Hey but you know that something happened. Wait you know that - no you
6 know that something happened that night. Then you remember - wait yes you
7 do because you know when it happened and nobody told you when it
8 happened.
9 No body told you when it happened. And hey look at me Tiffany did you want
10 to be in trouble for something that you didn't do? Wait do you want to be in
11 trouble for something that you didn't do? Do you? Hey look at me - Tiffany.
12 Hey look at me tell me about what happened the other night.
13 You guys planned it together huh. Yes you did - okay you know what goes on
14 and you know what he does. You guys planned it together? Were you sitting
15 in the car waiting for him out there?
16 A. Sitting where.
17 Q. When he went in there and bopped those people.
18 A. No
19 Q. Well listen I tell you what happened - look at me - look at me. I'll tell you
20 what happened. (Slater) - what is his first name.
21 A. (Ricky).
22 Q. Okay (Ricky) and somebody else went over to a place on (Glory View) -
23 okay. they went in the house and they robbed and they tied up the family.
24 Okay - are you listening? And during the robbery they shot somebody in the
25 face.
26 Okay now do you understand? Okay and they were identified when they were
27 driving your car. Now you know what is going on?
28 A. No that you tell me.
29 Q. Okay you know what is going on now right. Okay so do you see what is going
30 - look somebody tried to kill somebody and (Ricky) was identified as the one
31 that did it.

32 All right he is identified as the one that shot somebody in the face. All right he
33 was using your car -- all right -- it was identified. And witnesses picked his
34 picture out of photo lineups. Okay now you understand.

35 A. Okay.

36 Q. Okay so in actuality your staying with some guy you said that you knew he
37 carries guns right.

38 A. (Unintelligible)

39 Q. Wait you know he carries guns? Why does he carry guns is he a cowboy? Is
40 he a cop? Huh talk to me Tiffany is he?

41 A. No he is not.

42 Q. He is not a cop is he.

43 A. No he is not.

44 Q. But he carries guns right. Look at me - hey -- look I am trying to believe that
45 you want no part of this. Okay listen this is why we have to bring you in here
46 because you know what happens people say somebody was waiting in the car
47 for them. Okay - all right well you know he did something that night.
48 You know he did something that night - wait - you know this but if you set
49 here and you act like you don't know anything then it doesn't look good -
50 wait - look at - hey Tiffany, Tiffany do you feel bad about those people? Huh?
51 Do you know - wait did you know that he would do something like that? To
52 shoot somebody in the face that is tied up. What time that night did he tell you
53 about what happened?

54 A. He didn't tell me nothing.

55 Q. Why did you set here and tell me you don't know nothing about it when you
56 actually do know something.

57 A. I know what you told me I don't know nothing about before hand. I didn't
58 know nothing. And I have no reason to lie to you.

59 Q. Okay so where did he come up with the money?

60 A. What money? Well...

- Q. Okay you go ahead and play this game okay. Remember I told you if you know about a crime that has been committed and you don't report it to the police you are just as guilty as the ones that did it.
- 63 Did you know that? So is there anything that you can tell me about what is
- 64 going on with this?
- 65
- 66 A. (Unintelligible)
- 67 Q. Do you know about the robbery that night? Did you know he came home with
- 68 some money? You know he came home with extra money that night. Didn't
- 69 you know that?
- 70 A. I didn't know about the money.
- 71 Q. Tiffany.
- 72 A. (Unintelligible) I don't know I didn't know nothing about all of that. I wasn't
- 73 a part of that...
- 74 Q. So - okay all right - and I am trying to believe you - I am trying to believe that
- 75 you weren't a part of it. Okay but does he tell you where he gets the money to
- 76 pays the rent for? Wait - did you ask - hey what did you do get a job? Did
- you get a job - hey (Ricky) did you get a job. Did you ever say that?
- 78 A. When I ask him things he says the best thing is not to know whatever
- 79 happens.
- 80 Q. He says that is the best thing.
- 81 A. Whatever goes around he doesn't tell me.
- 82 Q. But he told you that...
- 83 A. He told me that whatever he does that it ain't none of my business.
- 84 Q. So do you ever see the guys he hangs out with?
- 85 A. Yes.
- 86 Q. Just tell me - well who which guys do you know that he hangs out with.
- 87 A. What is his name...
- 88 Q. Just give me a name - what is one of his best friends that he hangs out with.
- 89 A. He doesn't have any best friends.
- 90 Q. Okay the one guy that he hangs out with the most.
- 91 A. He hangs out with a guy that lives down (unintelligible).

92 Q. Who is that?
93 A. (JR).
94 Q. (JR) where does he live next door or close?
95 A. Down the way.
96 Q. What apartment does he live in?
97 A. Like 111 or something.
98 Q. One eleven.
99 A. He don't hang around with a lot of people. And I'm not with him during the
100 day I go to school and I come - come pick him up and he drops me off at
101 work.
102 Q. (Unintelligible) you going to school?
103 A. Yes
104 Q. What are you doing in school what kind of classes?
105 A. Health information.
106 Q. Health information - so is that to be what?
107 A. Medical billing and coding
108 Q. Medical billing - is it going to be a good job?
109 A. Yes.
110 Q. You've got a baby right. Would you like would you like all of this - just
111 would you like everything that you've worked for kind of like just go down
112 the drain? Huh?
113 A. No.
114 Q. Okay so don't you think that something is going on and you know anything
115 about it. I'm talking about anything - listen if somebody says look - hey
116 remember that thing - or just anything that you would want us to know to
117 make us think that you weren't part of this.
118 A. I'm telling you he don't tell me nothing.
119 Q. Okay so what do you think on that day - don't you think you know there is
120 something happening. That is why it kind of surprises me that you set here
121 acting like you don't know what happened - or you don't know...

7 A. I don't know what happened. The guy that I ask at our house the police car
with whatever - and when they brought me down here you told me somebody
124 said that I was driving the car. And how was I suppose to driving the car from
125 7 to 7 on Saturday.
126 Q. Well how is it that you know that something happened from 7 to 7.
127 A. That is not what I am saying - I saying that is the time I worked. So I don't
128 know what happened. I don't know - I don't know.
129 Q. Where is your baby at?
130 A. My family.
131 Q. Where is your family staying?
132 A. Is that important?
133 Q. Where is your family staying?
134 A. (Unintelligible)
135 Q. Believe me if I wanted to know I could find out. Okay I'm just making
136 conversation you know - okay. Do they live here in town? You got brothers
137 and sisters? How are they doing are they doing okay? Huh?
Do you think they would stay with somebody that would shoot somebody in
139 the face? Do you? You have a kid with him? What are you going to tell him
140 when he goes to prison for this? Huh? What are you going to tell him?
141 A. I'm telling you the truth - whatever happened that day I don't know.
142 Q. What do you mean - I'm telling you.
143 A. I'm telling the truth I haven't (unintelligible) from him.
144 Q. So how many times do you know of this happening?
145 A. This is the first time I have heard something about this.
146 Q. Who was he with that day?
147 A. I don't know.
148 Q. You let him use the car that day. He dropped you off for work right?
149 A. I went to work that morning. And then I went and got him (unintelligible).
150 Q. Hold on you went to work that morning - what time?
151 A. At 7.
152 Q. And then when you said you went and got him?

- 153 A. I went and got him to check my car because my car was acting funny. And
154 then I came back to work.
- 155 Q. What time did you come back to work?
- 156 A. Like 3 - I probably got back (unintelligible).
- 157 Q. Okay and when you leave work you time - punch your timecard?
- 158 A. No.
- 159 Q. Who is your boss down there?
- 160 A. (Sharon Zims).
- 161 Q. (Sharon Zims)? What time did you get off that day?
- 162 A. I get off every day at 7 o'clock.
- 163 Q. So you work from 7 in the morning to 7 at night.
- 164 A. On Saturday's I do. I got to go to school during the week.
- 165 Q. So on that Saturday - the Saturday that just passed a couple of days ago
166 something didn't happen unusual that day. You took him to work and you
167 came to work and you came back. And then you went back to work and he
168 kept the car right?
- 169 A. Like he usually does.
- 170 Q. Huh.
- 171 A. So what is going to happen to my car?
- 172 Q. I don't know we'll probably keep it. Here is what happens - if somebody tries
173 - if somebody commits a crime and they use a vehicle in the commission of
174 that crime that vehicle becomes part of the crime.
- 175 And since your vehicle was identified at the scene - and there is a good
176 chance but I am going to check with your work - I'll have to check with your
177 work and make sure you was at work that day.
- 178 And because you set here and you say you don't know anything about
179 anything - wait - you say you don't know anything. He doesn't say anything
180 around you. Right he don't say anything. Nothing at all - ever.
- 181 A. Not pertaining to - whatever we talk about is about our family whatever we -
182 on that day - he don't tell me nothing outside that.
- 183 Q. And you don't ask.

184 A. Every time I do he says its not my business don't worry about it.
185 Q. So and you like that - that is good? So you see what is not your business? Do
186 you see what is not your business now? Robbing people, shooting people.
187 Losing your car. Do you know now? And then you say you seen him with
188 guns right? What kind of gun?
189 A. I don't know I don't know nothing...
190 Q. Well tell me what do they look like?
191 A. I don't know.
192 Q. Was it little was it big was it - did it look like a cowboy's gun?
193 A. The one that I saw it was little...
194 Q. What kind was it a revolver? Did it have a wheel on it?
195 A. I don't know.
196 Q. Was it like automatic gun? Was it? During the day when you go to work on
197 Saturday's do you call him during the day?
198 A. No I don't.
199 Q. Whose phone was that going off in your apartment?
200 A. That was his.
201 Q. That was his phone?
202 A. Well we share it - we use it together but he has it most of the day. Just in case
203 I have to call him. And then most of the time you know he has it.
204 Q. So if I check the phone records I'm going to be able to see you didn't call him
205 that day?
206 A. Probably if I called him that day.
207 Q. What you mean - you don't call him all the time?
208 A. No I don't because I am busy.
209 Q. So tell me about Saturday again. What time did he drop you off at work?
210 A. I drove myself to work.
211 Q. Okay and then in the afternoon when you went back what time did he drop
212 you off at work?
213 A. About 1 o'clock
214 Q. One o'clock

215 A. Dropped me and my co-worker.
216 Q. You and your what?
217 A. My co-worker.
218 Q. Who is your co-worker?
219 A. (Unintelligible)
220 Q. I find it hard to believe that you live with somebody and they are doing this
221 kind of stuff and you don't know it. Just seems like it is impossible. To come
222 up with money you say it is none of their business. What is it - he don't work.
223 A. I know he asks his mom for money sometimes.
224 Q. Does she give him hundreds of dollars?
225 A. Not hundreds of dollars I know she helps.
226 Q. He had hundreds of dollars that day. And you know he had money.
227 A. I don't know how much money he had.
228 Q. (Unintelligible) but you know he had money.
229 A. He had money when I had (unintelligible).
230 Q. Tiffany why are you trying to...
231 A. I'm not trying to protect him
232 Q. Okay so how much money did you see him with that night? How much
233 money did he show you that night?
234 A. He didn't show me a thing. He just gave me the - gave me half of the rent.
235 Q. And how much is half of the rent?
236 A. We pay about what - almost \$75 a piece, which would be \$149 or something
237 like that.
238 Q. And you didn't see how much money he had that day?
239 A. No.
240 Q. Does he buy you anything?
241 A. He says if I work hard - we bought some (freon) for the car because it was
242 leaking. And we put gas in it. He doesn't buy cigarettes he doesn't spend a
243 whole bunch of money.
244 Q. So what do you think would have made him do that?
245 A. I don't know.

Tiffany Johnson 2

DR#04-15160

7/20/2004

6

Q. Does he seem like the kind of person? Yes, no?

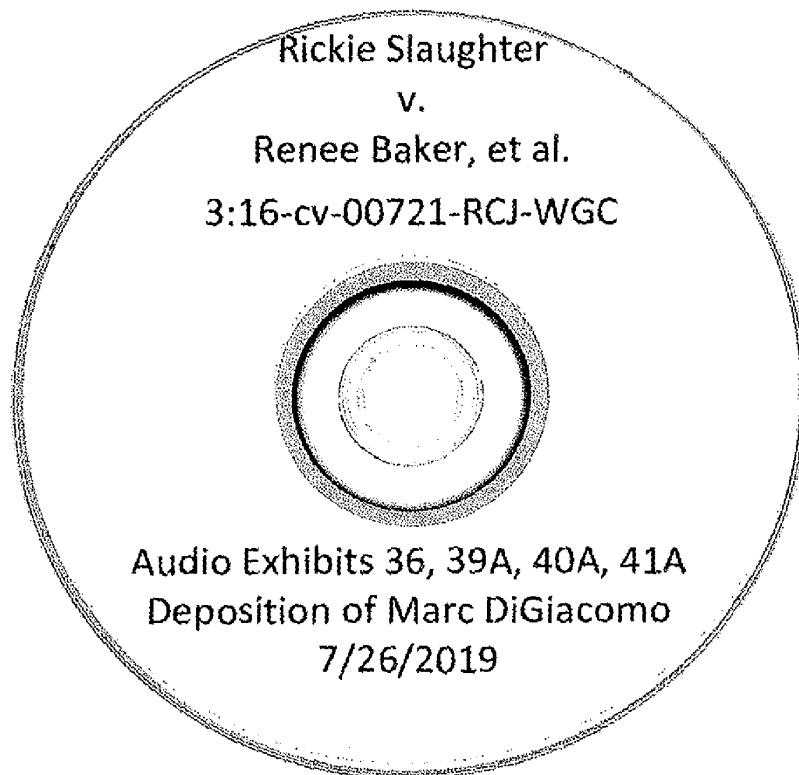
EXHIBIT 39A

Johnson

Interview 1

Audio





2 Q. Okay the date is June 29th year 2004 the interview is being conducted on
3 Tiffany Johnson case number is 04-15160. Okay I kind of want - I'm sorry --
4 I wanted to - tell me about Saturday.
5 Kind of the whole day when you got up that morning. And just kind of what
6 happened in the sequence of events through the day. And then tell me how
7 you remember what happened.
8 A. I got up - got dressed - took my baby to my grandfather's house and went to
9 work. Took my friend to the bank.
10 Q. Who is your friend?
11 A. Her name is (Kate).
12 Q. Okay speak a little louder so we can hear you.
13 A. And I came back here - I left here about like probably 12:30...
14 Q. What time did you go to work.
15 A. Seven o'clock in the morning.
16 Q. Seven o'clock. And you get a lunch break is that why you left at 12:30?
17 A. No.
18 Q. So you left at 12:30 though.
19 A. I came back here to take her to - I left to take my friend to the bank.
20 Q. Then what happened.
21 A. Then I came back here and then I went back to work.
22 Q. Okay then what - okay what happened when you went back to work? Did
23 (Ricky) take you?
24 A. Yes
25 Q. Yes?
26 A. Yes.
27 Q. Okay and what happened - you got to work about what time?
28 A. One o'clock
29 Q. One o'clock, okay so what happened then - what time did you finally get to
30 pick you up that day. What time did he come - what time did he actually
31 come?

32 A. I got off about 8 minutes early.

33 Q. How long did you have to wind up waiting?

34 A. Probably about - what - 15 minutes - it seemed like.

35 Q. About what time do you think was it he finally got there?

36 A. I really don't know.

37 Q. Was it more like - well listen you know - so was it more toward the middle of

38 the hour, was it more toward 7:30 was it more toward 8? Because you can

39 kind of judge this. I know you were probably saying well where is he at?

40 Did you say that? Where is he at? Did you try to call him?

41 A. No.

42 Q. No - could you give me a variance of - or at least a timeline of when he finally

43 got there to pick you up?

44 A. Before 7:30.

45 Q. So close to 7:30 - Yes or no?

46 A. Probably before 7:30.

47 Q. A little bit before 7:30. Okay when he got here did he - did you ask him why

48 he was late? Or did you say anything to him?

49 A. No.

50 Q. Nothing at all?

51 A. No.

52 Q. Tiffany I - remember me and you were going to come in here with kind of this

53 kind of - see what you can tell me that makes sense about this. Maybe that he

54 - was there a reason - was something bothering him? Was there something

55 that was going on where that he needed money real bad or anything like that?

56 Because If I don't know anything - there could be a lot of reasons why people

57 do things,

58 You know somebody needed money - somebody was hurt, somebody - you

59 know I don't know why he would have taken the money or he would have

50 done that. But you know you live with him and you know what his life is like.

51 So maybe you can tell me that you know this is what was going on - or he was

52 - you know maybe somebody was talking to him that was a bad influence you

know. Maybe he - somebody was saying something to him and he seemed to be listening to? Was there anything going on like that?

A. I don't know what he does with his friends. I couldn't tell you if I wanted to because I don't even talk to him myself. The only person I talk to if I do is (JR).

Q. (JR). Do you think (JR) knows anything?

A. Not about that.

Q. You don't think so? You don't think he talks to (JR).

A. Well I know he talks to him but I don't think he tells him about his day or his life.

Q. Okay so you think (JR) would have known if he comes over here and he's talking to (Ricky) what (Ricky) did on Saturday. Like he said oh you know what I did this or I did this. You don't think they are close like that?

A. Not like that.

Q. Since you talk to (JR) does (JR) tell you anything?

A. No he didn't.

Q. He didn't say anything? Is there anybody else around here that you would know?

A. In these apartments?

Q. Yes.

A. No.

Q. No so I know last night when we were first talking you were scared. And you were kind of confused about what things were going on. So is that why you kind of like told me he came at 7 instead of the time he really came? Is that why you told me that? Say yes or no?

A. Yes.

Q. Yes - okay see because I know I don't want to get you into any trouble and I don't believe that you did anything to be hurtful or lie you know. So that is why you - I wanted to give you the opportunity. Because I know what time it happened and I know what time you said you got off.

93 And I knew it couldn't match up. You know - so when you said he got there
at 7 when there was no way that could have happened I knew that you needed
95 to talk to me and tell me what time he really got here. You know - when he
96 got there - what did you guys do after he came at 7:30 - where did you go?
97 A. Came back here for his curfew.
98 Q. What curfew is that - he's on house arrest.
99 A. No - on probation.
100 Q. He is on probation what is his curfew.
101 A. Eight o'clock.
102 Q. When he came back - okay remember we're talking about money. Okay we
103 were talking about how much money he had and things. Okay that night
104 before you guys paid the rent - remember the rent was due yesterday right for
105 the week.
106 A. What is yesterday - Sunday.
107 Q. It was due Sunday? And when did you pay the rent. Was it Sunday?
108 A. Like always it was Sunday morning.
Q. Okay so before that did he have the money?
110 A. Some of it.
111 Q. Okay but - Okay lets say before Sunday - or before you went to work
112 Saturday he just has some money right. That is what you said right?
113 A. He had some money.
114 Q. Okay but: he didn't have all of it?
115 A. I'm not saying all the money for the rent I'm saying he just had some money.
116 Q. Okay but: did he have enough money for the rent?
117 A. Saturday I believe so yes.
118 Q. Okay but you got to think hard now remember - you know I know what your -
119 how you feel - I know how you feel. But you know what if he didn't have the
120 money then you need to say okay well maybe he was short or maybe he
121 wasn't. You know the thing is I'm trying to draw on your - how honest you
122 are now compared to last night you know.

Because we started off kind of scary you know - somebody comes here and they arrest somebody. And then I know you are kind of thrown right into the middle of things. And then you're asked a lot of questions.

And you're asked when (Ricky) comes to pick you up after work and you say he was right on time at 7 o'clock. That is what you said he was right - I have it on tape. You said (unintelligible).

I said what time was (Ricky) come to pick you up? He was right on time at 7 o'clock. But I know you were scared and I know you are trying to protect people you love.

So what happens is you start thinking kind of cloudy. So you make a mistake and you go oh he came at 7. But then we learn today that he actually came more like 7:30 right? Right?

A. A little bit before.

Q. Okay a little bit before okay so more closer to 7:30 than 7 right? Yes.

A. Yes.

Q. Okay so is your telling me now about money and things that - see because I want to believe you all the way now. I want to believe what Tiffany is telling me. And Tiffany says (Ricky) had either a little bit of money or no money on Saturday. Right. Is that right - what he had - little or nothing.

A. He had some money.

Q. He had some money - give me an idea of what you think some money is - \$5?

Huh? He didn't have the money for the rent did he?

A. He probably had \$70 probably.

Q. Okay now what - you didn't see it or you did see it or what?

A. I don't know when we had to pay for stuff on my car that about how much he had.

Q. Okay so on Saturday night he had more money than what he had when you left that morning?

A. Probably about - I know about - when I paid for the rent about \$100 more.

Q. He had a \$100 more.

A. That is all I know of.

154 Q. Okay listen because I want to believe you now - you said he had maybe
1 around \$70 in the morning and when you came back that night he had maybe
156 \$100 more. So you would say \$170.

157 A. About that yes.

158 Q. Can you please speak up a little bit louder because I am going to make sure
159 that you are telling me the truth - I mean - because remember I don't want to
160 mess you up from last night - from 7 o'clock to 7:30 and then - because I want
161 to make sure that what you're telling me now is the truth right - right?

162 A. Yes.

163 Q. Okay so what - in the morning he had \$70 maybe - speak up louder.

164 A. At the most.

165 Q. At the most. And then after evening he had what?

166 A. About \$170.

167 Q. One seventy - and did he tell you where he got that?

168 A. I know he was probably going to have to - he said he was probably going to
169 have to ask his mom for money.

170 Q. Did he say he probably asks his mom for money because I just want to know.
171 Is this the deal because I know he committed a robbery that day right before
172 he picked you up. Okay - so is - is the money you seen more or less than
173 \$170? Did you see the actual hundreds? Did you see hundred dollar bills?
174 Because look it - hey, Tiffany remember what they are going to do. They are
175 going to say hey Tiffany wasn't truthful. And they're going to say Tiffany
176 tried to lie first. They are going to say Tiffany gave you 7 o'clock when he
177 came at 7:30. So they're going to try to put you into the middle of this.
178 And I know you don't want to be in the middle of this. So they are going to
179 say Tiffany knew what was going on because Tiffany tried to cover it up.
180 Okay so if you saw more money you need to tell the truth about how much
181 money you saw.

182 What you guys did with the money afterwards. Where did he go what did he
183 buy what did he do. You know because this is very important to you - this
184 isn't important to me anymore because you - if you would have came in right

5 away and you would have said he came at 7:30 and got me at work then you
1 know boom I would have said yes okay look Tiffany is telling the truth.
187 But you can't start off telling little lies and then come out later and tell little
188 lies and then try to end up good you can't do that. Now will you tell me what
189 happened that night? How much money did (Ricky) actually have? How
190 many hundreds did you see?
191 A. Only seen the one that he gave me.
192 Q. So he gave you a one hundred dollar bill?
193 A. He gave me - yes that is all I seen.
194 Q. He didn't show you any other money.
195 A. No he did not.
196 Q. Did you ever look?
197 A. No I did not.
198 Q. Is there anything else that was like out of place on that day or that night that
199 you could talk to me about that you could tell me now so that I can make
200 everything kind of like seem like it is all truthful now. This is no lies. You
know is there anything else you can tell me?
202 Did he tell you about who he was with that day? Did he tell you about the
203 car? Did he tell you about - did he see something on TV - was he ever
204 watching anything on TV where he said something about that deal - we used
205 to - you seen it was on TV. Didn't you see that home invasion robbery on TV?
206 Did you see it on the news?
207 A. No.
208 Q. You didn't? Well did he ever say anything about anything that was on TV?
209 A. No he played video games all day.
210 Q. All day - after that.
211 A. Until I wanted to watch TV.
212 Q. And then what happened then.
213 A. After that I go to sleep until the next day.

214 Q. And he's never said anything about committing that robbery to you about
what happened. Tell me about the guns that you saw. When was the last time
216 you saw a gun? Be truthful now. Is it the last week or so?
217 A. About a week ago.
218 Q. About a week ago - what kind of gun was it? What does it look like?
219 A. I do not know.
220 Q. Was it a square gun? Where did he have it at?
221 A. It was a little small one - That's all I seen.
222 Q. It was a little small one? Where did he usually keep it?
223 A. He left it here and he told me he had to get rid of them and that is the last time
224 that I seen them.
225 Q. Okay you said once up in here. And you said he had to get rid of them. Why
226 did you say like two - more than one - was there more than one gun? Was
227 there two guns?
228 A. No I am saying he had to get rid of - well it - I don't know how many he had.
229 If he had more that's all I seen.
Q. Okay so you saw one gun? And that was about a week ago?
231 A. Yes
232 Q. Okay so today's Tuesday - you say about last Tuesday you saw it?
233 A. Sometime a week ago. I'm not saying a specific date that I...
234 Q. But just some time last week. Did you see the guys that were with him? You
235 know we are - okay what happened is we processed your car and we check for
236 prints. And we check for everything. Do you know the other guys that were
237 with him - in your car? He never says who goes in the car with him?
238 A. The only person I know is (JR) has been in my car and his girlfriend. And
239 that's about all.
240 Q. Do you think (JR) could have did this with him?
241 A. No.
242 Q. I'm just - I'm wondering I don't know. Is (JR) that close of friend?
243 A. They're friends but I don't know how close. They've known each other for a
244 while.

Q. For a while - you sure (JR) didn't tell you anything? Listen hey did (JR) say anything like don't say nothing, don't talk - don't talk to - did he say anything like that.

A. No he didn't.

Q. He didn't - is there anything else you want to tell me? Is there any thing else you can remember?

A. That is how my day went on Saturday - that is all

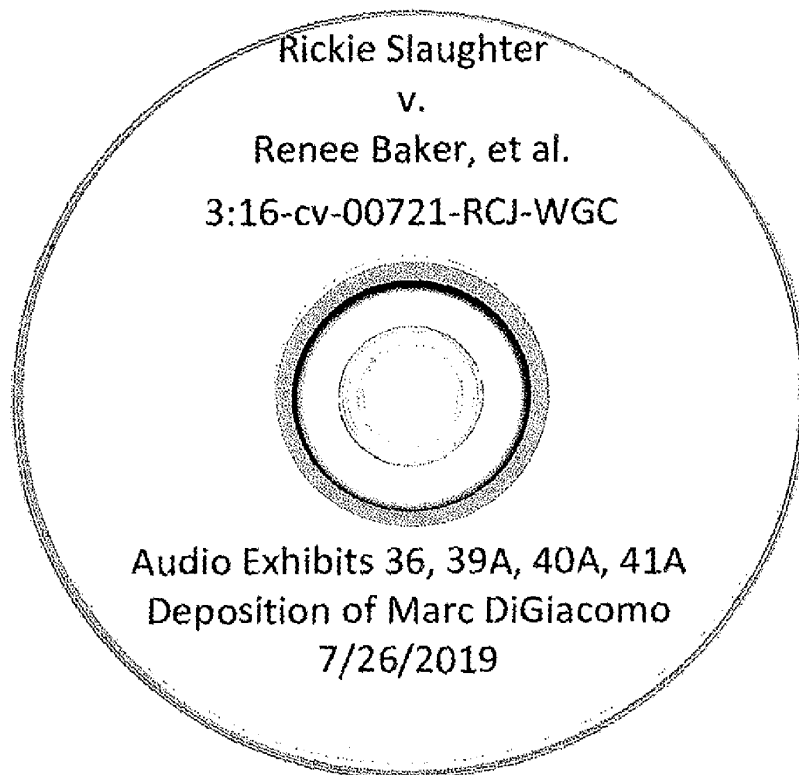
EXHIBIT 40A

Johnson

Interview 2

Audio





Q. (Unintelligible). All right sit down. Since - on the night of the arrest and all of this time that has come by pretty much we've talked a couple of times. And before I - I am going to advise you of your rights - you have the right to remain silent. Anything you say can be used against you in a court of law. You have a right to an attorney present during questioning. If you cannot afford an attorney one will be appointed to you free of charge. Do you understand?

A. Yes.

Q. Okay - do you ever think about what you are going to do with the rest of your life?

A. Yes

Q. No seriously what kind of plans do you have for your future? You're going to school?

A. I was

Q. What was you doing when you went to school?

A. Studying medical.

Q. Okay what kind of medical?

A. Health information.

Q. Okay was it just to work as some type of clerical person in a hospital? Where you just work with paperwork or were you actually going to work with patients?

A. A little bit of both.

Q. A little bit of both. So it looks like you have something you want to do right - later on? And now pretty much you stop doing it?

A. It had to be put on hold

Q. Why is that?

A. I don't have no way to get to school.

Q. I don't remember you going to school when was the last time you went to school.

A. Before all of this happened.

- 32 Q. Yes before all of this happened when is the last time you were going to school?
- 34 A. I was going to school probably the last Thursday before this happened.
- 35 Q. And you are enrolled in what is it night classes - collage or where is it at?
- 36 A. Spring Mountain.
- 37 Q. And this is - what is the name of this school.
- 38 A. Heritage College.
- 39 Q. Heritage College and your - you have been enrolled in there and you just
- 40 haven't been going because you don't have a car?
- 41 A. Yes.
- 42 Q. And you've been going to school to be a medical - what is the...
- 43 A. Billing and coding.
- 44 Q. Billing and coding. Okay so you have some kind of plans for future right?
- 45 A. Yes I do.
- 46 Q. So what you say it looks like when you get yourself involved with something
- 47 that you don't - that is illegal? What does it look like when you do that?
- A. Not good.
- 49 Q. Not good what do you think this would be when you go to get a job later on
- 50 and then you put in application and they say hey Tiffany what was this about.
- 51 What is this arrest about? What did it have to do with? And then you are
- 52 charged with whatever crime that is being committed and then you have to
- 53 explain what you do when you go down for a job interview.
- 54 A. It's not good.
- 55 Q. Not good? Well listen this is just like I told you the first day when me and
- 56 you talked. You said the first time we talked when we were at your apartment
- 57 you said - when we were talking about (Ricky) you said oh he was right here
- 58 right on time. Right on time to pick me up. Right at 7. Okay remember that?
- 59 A. Yes I do.
- 50 Q. Okay and then later on after that night I came back the second day and then
- 51 you said - I told you I said it couldn't have been 7 o'clock because he was
- 52 way on the other side of town at that address where he committed the robbery.

And then in order to get there when it was not 7 o'clock then - it was after 7 to your work it was impossible. Right.

A. Right.

Q. Right so then what did you tell me then - he wasn't actually there at 7 it was later - correct.

A. Yes I did.

Q. Okay and you said it was more like about 7:30 is that what you said?

A. I said it was about 7:30 or a few minutes before.

Q. Okay so then you tried to provide an alibi for somebody who had just committed a violent crime. See because somebody doesn't something and somebody comes out with a story for somebody that has committed that crime. And they put them - he couldn't have done it - he was here. So then you are actually providing an alibi for somebody that just committed a violent crime. So instead of you being involved just like I told you that night you could come and you could say hey all right I did this or I did this. But here is the truth. Do you understand?

A. Yes.

Q. So why don't you and me start - because you seem like you at least have your head on and you are trying to work towards something. Let's start at the beginning like on that day. Everything that you know - and I don't want to start off with lies and stuff. I want to be truth - you know to be truthful. And we'll see exactly you know the truth about the time and the day what you know - what happened afterwards - what happened before.

Who you might know that was there with him. Everything that you know about it. Anything about guns, anything to do with the guns when they were there. When you knew they were putting in your car. When - everything that has to do with this.

This is the only way that I'm going to believe you this is the only way that a district attorney is going to believe you when you come later. Instead of you trying to provide somebody's way out you tell us about what happened. Can we just start over?

94 A. Yes.

5 Q. Okay so tell me what happened - tell me how is it you found out about all of

96 this stuff that was going on. Was it with me or was it - before that on this -

97 how did it happen.

98 A. With you - I found all this out.

99 Q. And before that you didn't know anything about this?

100 A. I did not.

101 Q. And you lied that night for what?

102 A. The Thursday I talked to you because I was scared - everything that I had

103 went through. I was scared.

104 Q. So why did you say exactly at 7.

105 A. I didn't say the right thing that came to my mind. But then I - like when you

106 came to talk to me I told you (unintelligible).

107 Q. And you said you were going to come today and tell me the truth about things.

108 So you have nothing to say now.

109 A. When I told you that - the one that I didn't know about.

11 Q. No you should tell me about everything that you know about it in this deal

111 with - him and the robbery with him and his crime. With everything that you

112 know about who he was with what time he came home that night and where

113 he came - who he came with.

114 Who was with him - how met with him. Everything that you know because I

115 know you are not telling me the truth. If you set here and you smile and you

116 think this is a joke. You think this is a joke. And you still think it is a joke.

117 And instead of telling me the truth you are going to set here and play about

118 this.

119 Now you know he was with somebody. But you say you don't know all of his

120 friends. I could care less about his friends. I'm not talking about all of his

121 friends. I'm talking about one other person - the person you saw him with that

122 night. The person that was there.

3 Okay - that was with him. Because well after - not long after they picked you
11 up they went to the store up at the corner and you know about that too. You
125 said you don't know anything. You don't know anything right.
126 A. I don't know about them going to the store.
127 Q. Oh you don't know about who he was with either.
128 A. A lot of people were there.
129 Q. Hold on you don't know who was with him - who left with him after you got
130 home. Who left with him?
131 A. I don't know because I didn't go home - I didn't go inside of our apartment. I
132 left - I dropped him off and I went to my grandfather's house. I did not go
133 inside the apartment.
134 Q. And what time did you leave from your house?
135 A. At right after I dropped him off.
136 ((Crosstalk))
137 A. It took us about almost 10 minutes of traffic, 10 15 minutes to get home. I
138 dropped him off - I did not go in.
Q. How come you said there was a lot of people there? You just told me there
140 were a lot of people there.
141 A. When I came back - when I came back...
142 Q. When you came back who was there when you came back?
143 A. (JR) was there - the only one I know by name.
144 Q. Who is (JR)?
145 A. The guy that is in apartment 111.
146 Q. One eleven.
147 A. Two doors down.
148 Q. Who else was there.
149 A. And some other people that I don't know by name. And they had left after I
150 came home.
151 Q. What did you do when you got home - right when you got home what did you
152 do at your house. Did you maybe go into the kitchen did you go into the
153 bathroom? Did you - you had worked all day did you take a shower?

154 A. That day I went to the store and got something to eat came home fixed it put
155 I. my baby to sleep and fed him and put him to sleep.

156 Q. Okay was the people that were there - about the time the people were there the
157 people that were in the apartment who were they. Because listen I know that
158 you know the people that come over to your place.

159 A. Not by name no I don't.

160 Q. Then how come you didn't tell me about this before?

161 A. I don't know.

162 Q. You don't know or you just don't want to. Wait who was in the apartment that
163 night besides (JR)? Was it - just like I told you before everything that you say
164 is going to make me believe you that you weren't involved in this. I still think
165 you are involved in this. I still think you have - listen there is no way
166 somebody has your car.

167 You said that used it all the time they use your car. They drop you off at work
168 and they come back. All for the sudden this night you decide to tell a lie that
169 oh you know he was on the dot at 7. It doesn't work like that. You know the
170 reason you are lying is because you know something that happened - you
171 know that something happened.

172 You knew that something happened before I got there. And you still - you
173 know now what happened even if you didn't know all the particulars, which I
174 filled you in on. But you do know that something happened that night before I
175 came. You knew that (Ricky) was involved in something - you knew that
176 some of the guys that was with him that helped him with that.

177 And I want to know what you know about everything that happened that night
178 because you are still not telling me everything. You set here and you say oh
179 now you came home. But you didn't even stay home. You said you left
180 (Ricky) - you don't get out of your car you just dropped him off. But you said
181 there were a lot of people there.

182 But then they weren't there until you came back later. So how did you know
183 who was there when you first came to your apartment that night. When you
184 first came there.

5 A. I didn't go inside.

186 Q. Wait just a second - is this what you usually - you usually drop him off?

187 A. Sometimes.

188 Q. Okay so what was the reason you were just dropping him off and leaving him

189 to go on in.

190 A. Because I was going to pick up my son. He was almost time for him for

191 curfew. And I went to go pick him up then because I was tired and I was

192 ready to go home.

193 Q. What time did you get back that night.

194 A. I stayed over at my grandfather's house maybe about 30 minutes I was talking

195 to my sister.

196 Q. And so you were back - how long? What time did you come back to your

197 apartment?

198 A. About 9 maybe.

199 Q. And the people were still there.

200 A. A few people were still there.

201 Q. So how many people is a few?

202 A. A few - there were people coming in and out knocking on the door.

203 Q. Do you have some kind business there where people come there all the time.

204 A. No they come there to hang out.

205 Q. Okay how many people were there - how many was there - one, two, three.

206 A. With (JR) probably about three other people.

207 Q. Three other people. And you don't know anybody's name that was at your

208 place.

209 A. No I don't they come in and they say hi to me and they all walk outside with

210 him because I'm home.

211 Q. So what have you found out about this - if you say you didn't know anything

212 about that tell me about the money that he had. The money that he had. How

213 much money he had that day? What he had that day? Tell me where he would

214 have got the money that he had.

245 tell you this this time that I came home - or I'm going to tell you a little bit
246 more but I am not going to tell you everything that I know.
247 Because when in fact you know what happened - and if you don't know
248 exactly what happened you knew that something did happen because you
249 were with somebody - because he was with somebody that he did it with.
250 But you still seem to want to keep the information from us instead of helping -
251 you want to be part of the crime or incident that happened that night instead of
252 just telling us - hey okay this is everything I know. This is the way it
253 happened. This is exactly what he did. Or this is exactly what was - this is
254 what was said.
255 You don't seem to want to do that you know. Hey this isn't for me. I'm not
256 going to jail. I'm not going to jail. You know that. You are - I'm not going.
257 So you need to tell me what you know. You still think this is a joke?
258 A. I didn't say it is.
259 Q. Well you did because you - every time I go do you think it is a joke you are
260 smiling - you think this is a joke.
261 A. I'm not even smiling.
262 Q. The person that got shot in the head he is not smiling. He is not smiling. The
263 people that ID'd (Ricky) at the crime they are not smiling you know. The
264 people that got tied up in the house they are not smiling. But you're
265 smiling...
266 A. No I am not.
267 Q. Yes you are you think this is all a joke. You know what - when we came to
268 talk to you you lied and you have continued to lie. And this - just like you
269 came here today you told me more about that night that you never told me.
270 That you never - what is this - is this - do you think I have time to bring
271 somebody in here 50 times so that I can get a story that should have been told
272 me the first time I talked to you. You think that people deserved to be tied up
273 in their house and shot.
274 A. No I don't.
275 Q. Wait - so why are you trying to cover up for somebody who would do that.

5 A. I am not covering up
7 Q. No you already covered up. Is there any thing - are you going to tell me
178 anything about what you know about the crime committed that night? You
179 need to start talking to me.
180 A. I don't know about it.
181 Q. You know something about what happened that night. You know who he was
182 with. You heard things - you heard things or you have seen things that you
183 know that has to do with that night now. You might not have known it then.
184 But you know it now. This is the time that you want to say okay - hey all
185 right I saw this - this was out of place.
186 This wasn't right. Or this wasn't right. You know - or this person shouldn't
187 have been there. Or maybe he should have done this or something was out of
188 place and you can see it now. You might not have seen it then. So tell me
189 what as out - what was different. What as not the same.
190 Did you see any people wearing anything they shouldn't have been wearing?
191 Did they have anything they shouldn't have had?
A. No everybody was dressed normally, - they were playing video games talking
193 when I came home with my son. And then after I came home with my son
194 everybody they walked out - they just went outside and was talking.
195 Q. And what did you talk to (Ricky) since then about? The few days that were in
196 between from the day that we went over there what did you talk to him about?
197 You don't know nothing about what happened. There is not anything he said -
198 there is not anything he's done that would...
199 A. He asked me the main thing we talked about is getting him an attorney. That
100 is all he's been calling me for. He said that if I could try to find somebody...
101 Q. He didn't say nothing about this case at all.
102 A. No.
103 Q. Nothing at all.
104 A. He just asked me if I could find him an attorney - find a way if I can get some
105 money and try to start a payment plan with someone and get him an attorney.
106 Q. And that is all up front, nothing about what happened that night.

EXHIBIT 41A

Johnson

Interview 3

Audio



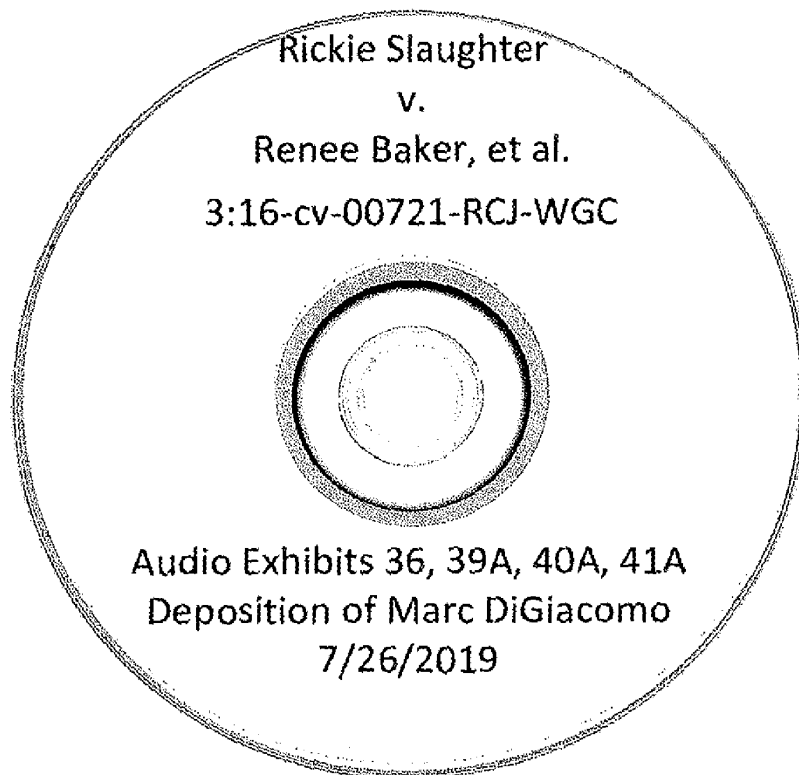


EXHIBIT 249

EXHIBIT 249



LVMPD - COMMUNICATION CENTER
EVENT SEARCH

EVT : LLV040603002698	TYPE: 416B	PRI : 1
LOC : ELDORADO CLEANERS	BLOG:	APT :
ADDR: 715 N NELLIS BL	XST : 5100 WALNUT AV	CITY : LV
CADD:	CNAM: JEFF/MNGR	CPHONE: 4591300
MAP : 0242919	S/B : 03	SRA : K952
P/U : 3F13	OFF1: 6029	OFF2 :
DATE: 2004/06/03	INIT: 18:40:30	AREA : NE
911 : NO	CLSE: 19:12:37	DISC : E

18:43:13	CM	IN FRNT OF BIZ REFSG TO LEAVE "RIKI SLAUGHTER" BMA, EARLY 20S, 5'10, HVY BL	45	LV7672
18:43:13	CM	D,NFD SITTING IN GRN FORD TAURUS IN PLOT UNK 408/446/WRAPS	45	LV7672
18:43:13	CM	Original Location : ELDORADO CLEANERS	45	LV7672
18:50:08	USAS 3F13	715 N NELLIS BL	19	LV7017
18:50:14	USER 3F13	715 N NELLIS BL	00	LV6029
18:50:14	CM 3F13	Odometer: 0000.0	00	LV6029
18:52:36	USAS 3F11	715 N NELLIS BL	19	LV2465
18:52:42	USER 3F11	715 N NELLIS BL	00	LV6539
18:52:43	CM 3F11	Odometer: 0000.0	00	LV6539
18:55:23	CM 2F12	Odometer: 0000.0	00	LV6029
18:55:24	USAR 3F13	715 N NELLIS BL	00	LV6029
19:09:05	USCL 3F11		00	LV6539
19:09:05	CM 2F11	Odometer: 0000.0	00	LV6539
19:12:37	USCL 3F13		00	LV6029
19:12:37	CM 3F13	Odometer: 0000.0	00	LV6029

I HEREBY CERTIFY that this is a full, true
and correct copy of the original on file with
the Las Vegas Metropolitan Police Department.
except for the information that is privileged
and confidential by law

RESEARCH ASSISTANT Communications Bureau

1/6/2018 3:40:24 PM

EXHIBIT 8

EXHIBIT 8



CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: 246305
DATE: 8/12/04 -----POLICE REPORT----- PAGE: 1
TIME: 4:15 -----INVESTIGATIVE PORTION----- OF: 7

-----INCIDENT FOLLOWUP-----

classification/additional information:
AMURDWDW/BURGWDW/ROBBWDW/KIDNAPWDW

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 ! 6/29/04 / 13:49

hate crime? NO ! gang related? NO ! fingerprints? NO

routing? ! prosecute? ! prop report? ! vehl report? ! arrest rpt? ! attach?
OTHER ! YES ! YES ! NO ! ADULT ONLY !

-----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 [X]-SUBMITTED D.A.-----5 []-RECLASSIFY-----10
[]-JUVENILE-----1 []-ADMIN. CLEARED-----6 []-VIC REFUSED PROS.--11
[]-NON DETECTIVE CLR--2 []-EXCEPTIONALLY CLR--7 []-AFFIDAVIT-----12
[X]-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
MENDEZ/LUZ M 0985 !

supervisor approving ser no ! officer reporting ser no
DEMARTINO/FRANK 0755 ! PRIETO/JESUS 0674

CASE: 04015160 ----NORTH LAS VEGAS POLICE DEPARTMENT---- REF: 246305
 DATE: 8/12/04 -----POLICE REPORT----- PAGE: 2
 TIME: 4:15 -----PERSONS PORTION----- OF: 7

name of person (001): ! type: S ! occupation: ! susp id?
 SLAUGHTER/RICKIE ! SUSPECT ! !

sex ! race: B hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
 M ! BLACK ! 1984 ! 19 ! 509 ! 186 ! BLK ! BRO ! !

alias-aka: ! birthplace:
 alias-aka: ! ssn: 7827 mf no:

addr: 3801 EAST CHARLESTON #114 LV NV 89104 !
 business: !

descriptors:
 descriptors:

name of person (002): ! type: W ! occupation: ! susp id?
 JOHNSON/TIFFANY ! WITNESS ! DRY CLEANER ! YES

sex ! race: B hisp:N! dob ! age ! hgt ! wgt ! hair ! eyes ! bld ! cmp
 F ! BLACK ! 1984 ! 20 ! 506 ! 130 ! BRO ! BRO ! !

alias-aka: ! birthplace:
 alias-aka: ! ssn: 8985 mf no:

addr: 3801 EAST CHARLESTON #114 LV NV 89104 ! 3527213
 business: !

descriptors:
 descriptors:

records bureau processed ser no ! detective bureau processed ser no
 MENDEZ/LUZ M 0985 !

supervisor approving ser no ! officer reporting ser no
 DEMARTINO/FRANK 0755 ! PRIETO/JESUS 0674

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CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: 246305
DATE: 8/12/04 -----POLICE REPORT----- PAGE: 3
TIME: 4:15 -----PROPERTY PORTION----- OF: 7
.....

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 RICKIE SLAUGHTER/VIEWED BY IVAN YOUNG

002 MISC E brd: size:
mod: cal:
ser:
coll: col2: dt last seen:
own#:

NLV PHOTO LINE UP CONTAINING RICKIE SLAUGHTER/VIEWED BY RYAN JOHN

003 MISC E brd: size:
mod: cal:
ser:
coll: col2: dt last seen:
own#:

NLV PHOTO LINE UP CONTAINING RICKIE SLAUGHTER/VIEWEDBY JERMAUN MEANS

004 MISC E brd: size:
mod: cal:
ser:
coll: col2: dt last seen:
own#:

CD-R 7-11 SECURITY TAPE

+++++++ 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
MENDEZ/LUZ M 0985 !

supervisor approving ser no ! officer reporting ser no
DEMARTINO/FRANK 0755 ! PRIETO/JESUS 0674

.....

CASE: 04015160	----NORTH LAS VEGAS POLICE DEPARTMENT----	REF: 246305
DATE: 8/12/04	-----POLICE REPORT-----	PAGE: 4
TIME: 4:15	-----NARRATIVE PORTION-----	OF: 7

.....

ON JUNE 26, 2004, DETECTIVE MELGAREJO AND I WERE CONTACTED BY DISPATCH AND TOLD TO RESPOND 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 THE APPARENT VICTIM OF A ROBBERY. IVAN TOLD OFFICER HOYT THAT TWO UNIDENTIFIED BLACK MALES SHOT HIM. IVAN THEN STARTED TO SCREAM IN PAIN AND WAS NOT ABLE TO GIVE ANY MORE INFORMATION.

DURING MY EXAMINATION OF THE SCENE I SAW A PUDDLE OF BLOOD IN THE KITCHEN THE APPARENT LOCATION WHERE YOUNG WAS SHOT, THE RESIDENCE WAS IN DISARRAY. CSI BRADY ARRIVED AND PROCESSED THE SCENE. DURING HER EXAMINATION SHE TOLD ME THAT IT LOOKED AS THOUGH THE SUSPECTS MAY HAVE WORN GLOVES.

OFFICER HOYT FURTHER QUESTIONED OTHER VICTIMS AT THE SCENE AND LEARNED THAT TWO UNIDENTIFIED BLACK MALE ADULTS APPROACHED YOUNG AS HE WAS STANDING INSIDE HIS GARAGE. THE BLACK MALES FORCED YOUNG INTO THE RESIDENCE WHERE THEY ROBBED AND SHOT HIM. THE TWO SUSPECTS, ONCE INSIDE THE RESIDENCE, FOUND JENNIFER DENNIS, AARON DENNIS AND JOSE POSADA. THE SUSPECTS TIED THEM ALL UP WITH EXTENSION CORDS FOUND INSIDE THE RESIDENCE. SEVERAL OF THE VICTIM'S IDENTIFIED THE SUSPECTS AS POSSIBLY WEARING A RED AND BLUE SHIRT.

WHILE AT THE RESIDENCE ONE OF THE SUSPECTS CALLED TO JOHN RYAN WHO WAS ACROSS THE STREET VISITING HIS GIRLFRIEND AT [REDACTED] JOHN SAID THE SUSPECT TOLD HIM THAT IVAN WANTED TO TALK WITH HIM. RYAN SAID SINCE HE IS A FRIEND OF IVAN'S HE WALKED OVER TO IVAN'S RESIDENCE. RYAN SAID THAT AS HE WALKED THROUGH THE DOOR LEADING INTO THE RESIDENCE FROM THE GARAGE ONE OF THE SUSPECTS PUT A GUN TO HIS HEAD FORCING HIM TO THE FLOOR WHERE HE WAS BOUND AND ROBBED. RYAN SAID THAT DURING THE ROBBERY HIS WELLS FARGO ATM BANK CARD WAS TAKEN. RYAN SAID THE SUSPECT THREATENED TO KILL HIM IF HE DIDN'T GIVE THEM HIS PIN NUMBER. RYAN SAID THE SUSPECTS PUT A COAT ON HIS HEAD SO HE WAS NOT ABLE TO SEE THEM ANY FURTHER. RYAN CHECKED BANKS RECORDS WHILE WE WERE AT HE SCENE AND FOUND THE SUSPECTS HAD JUST TAKEN \$201.50 FROM HIS ACCOUNT.

AS THE ROBBERY WAS IN PROGRESS JERMAUN MEANS CAME TO YOUNG'S DOOR TO SEE ABOUT HIS VEHICLE THAT WAS BEING PAINTED BY YOUNG. MEANS SAID THAT AS HE APPROACHED, THE TWO SUSPECTS WERE EXITING. MEANS SAID THEY PULLED HIM INTO THE RESIDENCE WHERE HE WAS TIED AND ROBBED OF OVER 1300.00 DOLLARS.

DENNIS WAS ALSO INTERVIEWED AND GAVE SIMILAR INFORMATION AS TO WHAT HAD OCCURRED DURING THE ROBBERY. DENNIS SAID SHE WAS TIED AND PLACED ON THE FLOOR AND HER HEAD WAS COVERED WITH A COAT, SO SHE COULDN'T SEE THE SUSPECTS. DENNIS SAID SHE COULD HEAR THE SUSPECTS QUESTIONING JOHNSON. SHE SAID WHEN THEY DIDN'T LIKE HIS ANSWER THEY WOULD HIT HIM. DENNIS SAID THAT SHE HEARD A GUN SHOT AND COULD HEAR YOUNG GURGLING. DENNIS SAID THAT YOUNG WASN'T SAYING ANYTHING, SO SHE THOUGHT HE WAS PLAYING DEAD.

DURING HOYT'S INITIAL INVESTIGATION WITNESSES AT THE SCENE IDENTIFIED THE SUSPECT'S VEHICLE AS A GREEN GRAND AM OR A GREEN FORD.

records bureau processed
MENDEZ/LUZ M

ser no ! detective bureau processed
0985 !

ser no

supervisor approving
DEMARTINO/FRANK

ser no ! officer reporting
0755 ! PRIETO/JESUS

ser no
0674

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CASE: 04015160	-----NORTH LAS VEGAS POLICE DEPARTMENT-----	REF: 246305
DATE: 8/12/04	-----POLICE REPORT-----	PAGE: 5
TIME: 4:15	-----NARRATIVE PORTION-----	OF: 7

.....

ON JUNE 28, 2004, I WAS CONTACTED BY DETECTIVE DEVORE OF THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT (LVMPD). HE TOLD ME THAT HE HAD RECEIVED INFORMATION FROM A RELIABLE CONFIDENTIAL INFORMANT (CI) WHO HAS BEEN PROVIDING ASSISTANCE TO THE LVMPD IN RETURN FOR FAVORABLE CONSIDERATION FOR OUTSTANDING WARRANTS. THIS CI HAS BEEN ASSISTING THE LVMPD FOR OVER A YEAR AND THE INFORMATION THE CI PROVIDED HAS RESULTED IN THE ARREST OF TWO SUSPECTS WHO WERE WANTED FOR TWO SEPARATE ARMED ROBBERIES.

ACCORDING TO THIS CI, THE CI OVERHEARD A SUBJECT NAMED RICKY SLAUGHTER BRAGGING ABOUT HAVING COMMITTED A ROBBERY WHICH WAS BEING REPORTED ON TV. THIS ROBBERY WAS THE ONE WHICH HAD OCCURRED ON GLORY VIEW ON JUNE 26. THE CI IDENTIFIED SLAUGHTER'S GIRLFRIEND AS TIFFANY JOHNSON. THE CI FURTHER STATED THAT TIFFANY JOHNSON OWNS A GREEN FORD TAURUS. THE CI SAYS THEY WERE SHOWN THREE GUNS USED IN THE ROBBERY, A 32 CALIBER, A 22 CALIBER AND A 357 REVOLVER. CI STATED THAT WHERE EVER SLAUGHTER IS THE GUNS ARE NOT FAR AWAY.

THE CI TOLD DETECTIVE DEVORE THAT RICKY SLAUGHTER LIVES AT SUNRISE VISTA SUITES APARTMENTS, IN APARTMENT #114, LOCATED AT 3801 EAST CHARLESTON. CI SAID THAT SLAUGHTER LIVES IN THE APARTMENT WITH HIS GIRLFRIEND TIFFANY JOHNSON.

PRIOR TO CALLING ME WITH THE INFORMATION DETECTIVE DEVORE VERIFIED THAT JOHNSON DOES PRESENTLY LIVES IN APARTMENT 114 AND IS THE ONLY ONE ON THE LEASE. HE ALSO VERIFIED THAT A GREEN FORD TAURUS IS REGISTERED TO JOHNSON, WITH NEVADA LICENSE 201RKS. DETECTIVE DEVORE ALSO CONFIRMED THE IDENTITY OF SLAUGHTER.

AFTER GAINING THE INFORMATION I PROCEEDED TO CHECK SLAUGHTER'S RECORDS THROUGH SCOPE. I THEN ORDERED THE MOST RECENT PHOTO OF SLAUGHTER FROM THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT PHOTO LAB. A PHOTO LINE UP WAS COMPILED CONTAINING SLAUGHTER AND FIVE OTHER BLACK MALES SIMILAR IN APPEARANCE.

I THEN CONTACTED YOUNG AT UNIVERSITY MEDICAL CENTER AND SHOWED HIM THE PHOTO LINE UP. HE LOOKED AT THE LINE UP AND IMMEDIATELY PICKED SLAUGHTER AS THE SUSPECT THAT SHOT HIM. HE SAID THAT SLAUGHTER SPOKE WITH A JAMAICAN ACCENT AND HAD TWO GUNS DURING THE ROBBERY. HE ALSO SAID THAT SLAUGHTER WAS THE ONE THAT TIED EVERYONE UP IN THE RESIDENCE.

DENNIS WAS ALSO PRESENT AT THE HOSPITAL AND WAS SHOWN THE PHOTO LINE UP. SHE WAS NOT ABLE TO IDENTIFY THE SUSPECT.

I THEN PREPARED AN AFFIDAVIT REQUESTING A SEARCH WARRANT BE ISSUED FOR 3801 EAST CHARLESTON APARTMENT 114 AND THE SEARCH OF A 1997 FORD TAURUS NEVADA LICENSE 201RKS. JUSTICE COURT JUDGE DAHL SIGNED THE WARRANT AUTHORIZING THE SEARCH OF THE ABOVE LISTED ADDRESS AND VEHICLE.

AT ABOUT 2200 HOURS THE SEARCH WARRANT WAS SERVED BY THE NORTH LAS VEGAS SPECIAL OPERATION UNIT. DETECTIVE MELGAREJO AND I ASSISTED IN THE SEARCH AND SERVICE OF THE WARRANT. DURING THE EXECUTION SLAUGHTER WAS LOCATED INSIDE THE APARTMENT AND PLACED UNDER ARREST. JOHNSON WAS ALSO LOCATED INSIDE THE APARTMENT.

CSI LUEVANO RESPONDED TO OUR LOCATION AND ASSISTED IN THE COLLECTION OF

.....

records bureau processed	ser no ! detective bureau processed	ser no
MENDEZ/LUZ M	0985 !	
supervisor approving	ser no ! officer reporting	ser no
DEMARTINO/FRANK	0755 ! PRIETO/JESUS	0674

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CASE: 04015160	-----NORTH LAS VEGAS POLICE DEPARTMENT-----	REF: 246305
DATE: 8/12/04	-----POLICE REPORT-----	PAGE: 6
TIME: 4:15	-----NARRATIVE PORTION-----	OF: 7

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EVIDENCE. DURING THE SEARCH NO ITEMS LISTED ON THE SEARCH WARRANT WERE LOCATED IN THE RESIDENCE. DURING THE SEARCH A BLUE SHIRT WAS LOCATED IN THE APARTMENT AND A CAMERA ALONG WITH PAPER WORK LISTED UNDER JOHNSON AND SLAUGHTER'S NAME. WITNESSES AT THE SCENE SAID THAT ONE OF THE SUSPECTS WAS POSSIBLY WEARING A BLUE SHIRT, SO THE SHIRT WAS COLLECTED. ALL THESE ITEMS WERE COLLECTED AS POSSIBLE EVIDENCE. THE 1997 FORD WAS TOWED TO THE STATION FOR PROCESSING.

WHILE AT THE SCENE JOHNSON WAS INTERVIEWED ABOUT THE INCIDENT. SHE ACTED AS THOUGH SHE DIDN'T KNOW ANYTHING ABOUT THE ROBBERY. WHILE QUESTIONING HER SHE STATED THAT SLAUGHTER HAD PICKED HER UP FROM WORK AT 1900 HOUR WHEN SHE GOT OFF.

BOTH JOHNSON AND SLAUGHTER WERE TRANSPORTED TO THE POLICE DEPARTMENT FOR FURTHER QUESTIONING.

BEFORE QUESTIONING SLAUGHTER HE WAS ADVISED OF HIS MIRANDA RIGHTS AND SIGNED A WAIVOR AGREEING TO TALK WITH ME. DURING THE INTERVIEW HE INSISTED THAT HE DIDN'T KNOW WHAT I WAS TALKING ABOUT.

I THEN QUESTION JOHNSON FURHTER. JOHNSON AGAIN TOLD ME THAT SLAUGHTER DROPPED HER OFF AT WORK AT ABOUT 1 PM AND RETURNED TO PICK HER UP AT 7 PM. SHE STILL INSISTED THAT SHE KNEW NOTHING ABOUT THE INCIDENT. AFTER QUESTIONING SHE WAS TRANSPORTED BACK TO HER RESIDENCE.

I AGAIN SPOKE WITH SLAUGHTER AND TOLD HIM THAT JOHNSON TOLD ME SLAUGHTER DROPPED HER OFF AT WORK. I REMINDED HIM THAT HE HAD HER VEHICLE DURING THE TIME OF THE ROBBERY. AT THAT POINT HE SAID THAT HE WANTED HIS ATTORNEY. THE INTERVIEW WAS TERMINATED. HE WAS THEN TRANSPORTED AND BOOKED IN THE NLV JAIL FOR THE ABOVE LISTED CHARGES.

ON JUNE 29, 2004, I CONTACTED JOHNSON AT HER RESIDENCE AND QUESTIONED HER FURTHER. I TOLD HER THAT IT WASN'T POSSIBLE FOR SLAUGHTER TO HAVE PICKED HER UP AT 7 PM WHEN THE ROBBERY WAS COMMITTED AT THE SAME TIME. SHE NOW CHANGED HER STORY AND SAID THAT SLAUGHTER DIDN'T PICK HER UP UNTIL ABOUT 7:30 PM. SHE ALSO TOLD ME THAT SLAUGHTER ONLY HAD ABOUT SEVENTY DOLLARS THAT MORNING AND WHEN SHE GOT OFF FROM WORK HE HAD AN EXTRA HUNDRED DOLLAR BILL.

I LATER CONTACTED VICTIM JERMAUN MEANS AT HIS RESIDENCE. I SHOWED HIM THE PHOTO LINE THAT CONTAINING SLAUGHTER AND FIVE OTHER BLACK MALES SIMILAR IN APPEARANCE. I ASKED HIM IF HE RECOGNIZED ANYONE IN THE PICTURES FROM THE NIGHT OF THE ROBBERY. MEANS LOOKED AT THE PHOTOS AND IDENTIFIED SLAUGHTER AS THE SUSPECT. HE TOLD ME THAT HE STANDS OUT AS SOMEONE HE SAW.

I THEN CONTACTED RYAN JOHN AND HE CAME INTO THE POLICE DEPARTMENT TO VIEW THE PHOTO LINE UPS. JOHN LOOKED AT THE PHOTO LINE AND IDENTIFIED SLAUGHTER AS THE SUSPECT. HE TOLD ME THAT HE ROCOGNIZED HIM AS THE ONE THAT CALLED HIM OVER TO YOUNGS RESIDENCE AND THE ONE HE BELIEVED SHOT YOUNG.

I THEN CONTACTED WELLS FARGO SECURITY AND SPOKE WITH CHRIS GANDY TO FIND WHERE JOHN'S ATM CARD WAS USED. HE TOLD ME THAT JOHN'S CREDIT CARD WAS USED AT 3051 EAST CHARLESTON A 7-11 STORE LOCATED A COUPLE OF BLOCKS DOWN THE STREET

records bureau processed
MENDEZ/LUZ M

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supervisor approving
DEMARTINO/FRANK

ser no ! officer reporting
0755 ! PRIETO/JESUS

ser no
0674

.....
 CASE: 04015160 -----NORTH LAS VEGAS POLICE DEPARTMENT----- REF: 246305
 DATE: 8/12/04 -----POLICE REPORT----- PAGE: 7
 TIME: 4:15 -----NARRATIVE PORTION----- OF: 7

FROM SLAUGHTER'S RESIDENCE. I WENT TO THE 7-11 AND CONTACTED THE MANAGEMENT. I REVIEWED THE STORES SECURITY TAPE AND AT ABOUT 7:56 PM A SAW TWO SUBJECTS APPROACH THE STORE. ONE SUBJECT ENTERED THE STORE WHILE THE OTHER SUBJECT WALKED AROUND THE STORE TO THE SIDE. THE SUBJECT THAT ENTERED HAD HIS FACE AND HEAD WAS COVERED WITH A SCARF. THE SUBJECT WALKED OVER TO THE ATM AND REMANIED IN FRONT OF THE MACHINE FOR OVER THREE MINUTES. IT LOOKED AS THOUGH HE WAS TRYING TO FIGURE OUT HOW TO USE IT. THE SUBJECT FINISHED AND WALKED DIRECTLY OUT OF THE STORE. A COPY OF THE SECURITY TAPE WAS TAKEN AND BOOKED INTO EVIDENCE.

I WAS LATER CONTACTED BY CSI LUEVANO. HE TOLD ME THAT DURING HIS SEARCH OF THE VEHICLE, THE 1997 FORD TAURUS NEVADA LICENSE 201RKS, HE LOCATED TWO GUNS, A 25 CALIBER SEMI AUTO AND A 22 CALIBER REVOLVER. CSI LUEVANO ALSO LOCATED SEVERAL GLOVES. LUEVANO TOLD ME THAT ALL THE ITEMS WERE LOCATED UNDER A PANEL IN THE TRUNK OF THE VEHICLE. SEE CSI REPORT FOR DETAILS. A HOLD WAS LATER PLACED ON THE VEHICLE.

DUE TO THE AMOUNT OF BLOOD LOCATED AT THE CRIME SCENE I REQUESTED THAT ID CHECK THE VEHICLE FOR BLOOD. NO BLOOD WAS LOCATED.

AT MY REQUEST SLAUGHTER'S SHOES WERE COLLECTED FROM THE JAIL AS EVIDENCE AND CHECKED FOR BLOOD.

I AM SUBMITTING THIS CASE TO THE DISTRICT ATTORNEY'S OFFICE FOR PROSECUTION ON THE CHARGES OF ATTEMPT MURDER WITH A FIREARM ROBBERY WITH A FIREARM, BURGLARY WITH A FIREARM. I AM ALSO ADDING THE CHARGE OF KIDNAPPING WITH A FIREARM.

.....
 records bureau processed ser no ! detective bureau processed ser no
 MENDEZ/LUZ M 0985 !

 supervisor approving ser no ! officer reporting ser no
 DEMARTINO/FRANK 0755 ! PRIETO/JESUS 0674

127 Nev. 26
Supreme Court of Nevada.

Robert Charles LAMB, Appellant,
v.
The STATE of Nevada, Respondent.

No. 51457.
|
March 3, 2011.

Synopsis

Background: Defendant was convicted by a jury in the District Court, Clark County, Donald M. Mosley, J., of first-degree murder with the use of a deadly weapon. Defendant appealed.

Holdings: The Supreme Court, Pickering, J., held that:

defendant's statement to police, that "I have a revolver but I found it" was admissible under the public safety exception to the *Miranda* requirements;

the State could use defendant's denials that he knew the murder victim, his sister, to impeach defendant's testimony;

error that occurred when witness testified that murder victim had previously obtained a restraining order against defendant was harmless;

testimony from murder victim's husband that victim told him many times that she feared defendant would shoot her did not constitute inadmissible evidence of prior bad acts;

defendant was not entitled to a jury instruction on voluntary manslaughter;

the bailiff's exchange with the jury concerning the jury's note for the judge, while improper, did not carry a reasonable probability or likelihood of having influenced its verdict.

Affirmed.

Attorneys and Law Firms

****702** Philip J. Kohn, Public Defender, and Kristine M. Kuzemka and Nancy Lemcke, Deputy Public Defenders, Clark County, for Appellant.

Catherine Cortez Masto, Attorney General, Carson City; David Roger, District Attorney, Steven S. Owens, Chief Deputy District Attorney, and Marc P. DiGiacomo, Deputy District Attorney, Clark County, for Respondent.

Before DOUGLAS, C.J., PICKERING and HARDESTY, JJ.

OPINION

By the Court, PICKERING, J.:

***29** Robert Lamb appeals his conviction of the first-degree murder of his sister, Susan. He identifies a multitude of errors, from his first encounter with the police, through pretrial proceedings, jury selection, and trial, to the mishandling of a jury note during deliberations and, finally, sentencing. For the reasons below, we conclude that: (1) the public safety exception to the *Miranda* rule made admissible Lamb's unwarned statement to the police that "I have a revolver, but I found it"; (2) Lamb's claims of pervasive procedural, evidentiary, and instructional error fail; and (3) it was error for the bailiff to communicate with the jury concerning its question without notice to the parties, but in this case the error was non-prejudicial. We therefore affirm.

I.

BACKGROUND FACTS

Susan Bivans was shot eight times with a .22 caliber revolver in the parking lot outside her daughter's grade school. The assailant left on foot without taking Susan's purse or other belongings. Her ***30** husband, Stuart Bivans, met with police at the scene. Asked whether Susan had any enemies, Stuart said that she was terrified of her brother, Robert Lamb, who blamed Susan for their parents disowning him. Lamb's height, weight, and age matched witness accounts of the assailant's.

The evidence at trial, much of it Lamb's own writings, was circumstantial but compelling. It told the story of a desperately disturbed man, one obsessed with his sister and

his jealousy over her relationship with their parents. His journals include statements like, "Intimidated, humiliated, oppressed, because **703 Susan took control of parents and the money"; "Evil actions have consequences. You are selfish and greedy. Susan, it will be interesting how it plays out"; and "A cat fight between whores.... Sus[an] is so mean to me [because s]he resented that dad loved me and mom. My mission finding out [dad], Sus[an], money[,] lies.... Being dead does not absolve them of everything."

Lamb did not just write about his sister. He also wrote to her and called and came to her home to berate her. His obsession worsened after he tried but failed to have himself appointed their parents' guardian. Then, not long after, Lamb's father died, disinheriting him.

Lamb's journals chronicle his surveillance of Susan's life, the cars she drove, their license plate numbers, and when and where her daily routines took her. Among his belongings was a bestselling mystery, *Mortal Prey*, from which he hand-copied excerpts, including the fictional killer's rumination about there being "blood ... on their hands and I will wash it off," which he revised to "Blood on Susan's hands. I will wash it off." The State maintained that Lamb scripted Susan's murder from this book, down to weapon choice, kill site, off-site parking, disguises, and how to dispose of the gun. He also researched Nevada's homicide and concealed weapon laws, its prisons, and the Las Vegas criminal defense bar.

Lamb had a concealed weapon permit and several 9 millimeter guns but no .22 caliber revolver. His apartment was a short drive from the school where Susan was shot. A security camera showed Lamb's Izusu Rodeo pulling into the apartment complex soon after the shooting. Evidence collected from Lamb's apartment and SUV included a cleaning brush for a .22 caliber weapon, binoculars, face makeup, and the remains of a home haircut and dye job. When he was arrested, Lamb's hair had been crudely cut and colored.

Lamb mounted a two-pronged defense at trial. First, he argued that the State hadn't met its burden of proving that he was Susan's killer because the murder weapon was never found and no forensic evidence linked him to the crime. Second, he maintained that *31 the police bungled the investigation and let the real killer go free. Pressed to name possible enemies of Susan's besides Lamb, Stuart offered the name of Earl Cottrell, a friend's ex-husband. (The Cottrells' divorce was contentious, and Susan had sided with her friend.) Lamb seized on this and proffered Cottrell as a much likelier killer

than himself. He thought it significant that the Cottrells' and Bivanses' daughters went to the same school, that Susan was shot on a Wednesday, and that Cottrell took his daughter to school on Wednesdays.

II.

DISCUSSION

A. Fifth Amendment and Miranda challenges

Lamb first appeals the denial of his motion to suppress statements he made to the police in the field and later at the police station, before receiving *Miranda* warnings. He also asserts that the State's cross-examination of him violated the Fifth Amendment because it went beyond impeachment to improper comment on his exercise of the right to remain silent. As to the motion to suppress, we review the district court's legal conclusions de novo and its factual findings for clear error. *Rosky v. State*, 121 Nev. 184, 190, 111 P.3d 690, 694 (2005). Lamb did not object to the cross-examination questions he now challenges, so plain error review applies to them. *Gaxiola v. State*, 121 Nev. 638, 653, 119 P.3d 1225, 1236 (2005).

1. Lamb's statements to the police

Lamb had a series of encounters with the police, each producing statements later used against him at trial. The first encounter occurred at Lamb's apartment complex. Susan was shot just after 8 a.m. Within hours, a surveillance team had been set up outside Lamb's apartment. Around 1 p.m., a man fitting Lamb's description came out carrying a Hefty trash bag. He seemed to be headed toward a dumpster, then paused, looked around, and went to Lamb's SUV, opened its door, and put the bag inside. The police approached, several with handguns drawn, **704 and ordered the man to the ground. One officer handcuffed him while another explained that he was not under arrest but needed to be detained. When asked his name, the man replied, "I don't know, I bumped my head." Asked if he had identification, the man nodded toward his wallet. In the wallet was a driver's license confirming the man was Lamb.

The takedown occurred before the police, who were waiting on a warrant, had swept or secured Lamb's apartment. Not knowing who or what might be inside, or where Lamb might have put the *32 gun if he was the shooter, an officer asked Lamb if there were any people, dogs, or weapons in the

apartment that could cause them injury. Lamb answered "no" to the first two questions and said, "I have a revolver, but I found it" in response to the third.

At this point, the officers stopped speaking to Lamb and telephoned the lead detective, Lance Gibson, for direction. On Gibson's instructions, they said nothing more beyond asking Lamb if he would come to the Henderson police station to be interviewed. Lamb replied, "I don't want to but I will."¹ At the station, Gibson introduced himself to Lamb and said, "I'm here to talk to you about a killing of a woman named Susan." Lamb's response was "I don't know anybody named Susan."² Gibson followed up with "you don't know anybody by the name of Susan?" to which Lamb responded, "Susan Goddard?" (Lamb's sister's last name was Bivans and never had been Goddard.) Gibson then advised Lamb of his *Miranda* rights; he also offered Lamb medical attention, which Lamb declined. Lamb stated, "I'm not going to answer questions without a lawyer, but I'll listen to what you have to say." Thereafter, Gibson showed Lamb a picture of Susan, prompting Lamb to say, "Pretty lady. She's the one who is dead?"

Lamb was arrested and transported to the Henderson jail for booking. When asked his name and other routine intake questions, Lamb initially said he couldn't remember. After learning that this meant he would be processed as a John Doe, a longer, more involved process, Lamb recovered his memory and provided his name, social security number, and other biographical information.

2. Public safety exception

Lamb's motion to suppress sought to exclude his statement to the police that "I have a revolver but I found it" as the product of custodial interrogation not preceded by the warnings required by *Miranda v. Arizona*, 384 U.S. 436, 467-68, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). The district court agreed that the statement was unwarned and resulted from custodial interrogation. However, it held that *Miranda* did not require its exclusion because the "public safety" exception recognized in *New York v. Quarles*, 467 U.S. 649, 657-60 & n. 9, 104 S.Ct. 2626, 81 L.Ed.2d 550 (1984), applied. Although this court has not previously addressed *Quarles* in a published opinion, we agree.

*33 The “public safety” exception permits police officers to “ask a suspect questions without first giving *Miranda* warnings if they reasonably believe it is ‘necessary to secure

their own safety or the safety of the public.' " *United States v. Are*, 590 F.3d 499, 505 (7th Cir.2009) (quoting *Quarles*, 467 U.S. at 659, 104 S.Ct. 2626), *cert. denied*, 562 U.S. —, 131 S.Ct. 73, 178 L.Ed.2d 241 (2010). In *Quarles*, a woman told police she had just been raped at gunpoint and that her attacker, whom she described, had just entered a nearby supermarket. 467 U.S. at 651–52, 104 S.Ct. 2626. The police apprehended the suspect in the market, wearing an empty shoulder holster. *Id.* at 652, 104 S.Ct. 2626. After handcuffing him, but with no *Miranda* warning, the officers asked the man where the gun was. *Id.* He told them it was "over there," and the police found it in an otherwise ****705** empty carton in the area indicated. *Id.* The Supreme Court reversed the state court's suppression of the statement and the gun based on the "public safety" exception. *Id.* at 659–60, 104 S.Ct. 2626..

Since Quarles's statement about the gun was unwarned, *Miranda* required its exclusion, a result the Court deemed unacceptable as a matter of public policy, "Procedural safeguards which deter a suspect from responding were deemed acceptable in *Miranda* in order to protect the Fifth Amendment privilege; when the primary social cost of those added protections is the possibility of fewer convictions, the *Miranda* majority was willing to bear that cost." *Quarles*, 467 U.S. at 657, 104 S.Ct. 2626. However, "if the police are required to recite the familiar *Miranda* warnings before asking the whereabouts of the gun, suspects in Quarles's position might well be deterred from responding." *Id.* Given the "danger to the public safety" of a gun remaining "concealed somewhere in the supermarket" where "an accomplice might make use of it, [or] a customer or employee might later come upon it," the societal cost of requiring a warning before asking the suspect about the gun's whereabouts was "something more than merely the failure to obtain evidence useful in convicting Quarles." *Id.* Thus, *Quarles* held the unwarned statement admissible, because "the need for answers to questions in a situation posing a threat to the public safety outweighs the need for the prophylactic [*Miranda*] rule protecting the Fifth Amendment's privilege against self-incrimination." *Id.*

Here, the officers knew that Lamb was a suspect in a homicide involving a gun. They had not secured his apartment or his car, did not know if his apartment was accessible to others, and did not know if he had an accomplice inside the apartment or on the grounds. He walked out with a large black trash bag and carried it through the apartment complex's public areas. Before he emerged, the officers were waiting on a warrant

and had been preparing to enter his apartment, either on a protective sweep or to execute the *34 imminent warrant. According to the officers who testified at the suppression hearing, they asked Lamb about people, dogs, or weapons in the apartment out of concern for the safety of the officers about to go into the apartment and the safety of anyone inside. The district court accepted these concerns as objectively reasonable. It concluded that "the officers have a right for their own safety and the safety of possible other individuals to inquire as to very basic things [such] as who else is in [the] apartment, if anyone? Are there animals or weapons?" and that, under *Quarles*, the statement, "I have a revolver, but I found it," was admissible, despite the lack of *Miranda* warnings.

Lamb is right that his case differs from *Quarles* in that here, the stated concern was with the safety of officers about to enter, or people who might be inside, a private apartment, whereas in *Quarles*, the Court's concern was that a citizen might be harmed by an unattended weapon in a public supermarket. But *Quarles* covers officer safety, as well as public safety. "While the facts in *Quarles* raised the specter of danger to the public, the public safety exception clearly encompasses questions necessary to secure the safety of police officers," so long as the questioning (1) " 'relate[s] to an objectively reasonable need to protect the police or the public from any immediate danger,' " and (2) is not "investigatory in nature or 'designed solely to elicit testimonial evidence from a suspect.' " *United States v. Estrada*, 430 F.3d 606, 612 (2d Cir.2005) (Sotomayor, Cir. J.) (quoting *United States v. Newton*, 369 F.3d 659, 677 (2d Cir.2004), and *Quarles*, 467 U.S. at 658–59 & n. 8, 104 S.Ct. 2626). The public safety exception is "narrow," *Quarles*, 467 U.S. at 658, 104 S.Ct. 2626, but it does not depend on the distinction between officer safety and public safety suggested by Lamb. Rather, its limits derive from "the exigency which justifies it" and the distinction "between questions necessary to secure their [police officers'] own safety or the safety of the public and questions designed solely to elicit testimonial evidence from a suspect." *Id.* at 658–59, 104 S.Ct. 2626.

Lamb argues that since he was in handcuffs and out of the apartment he posed no threat to the officers or the public. If the officers had already swept the apartment and **706 secured it and any occupants, this argument would have more teeth. See *United States v. Brathwaite*, 458 F.3d 376, 382 n. 8 (5th Cir.2006) (public safety exception did not sanctify unwarned questions agents asked a suspect about weapons in his home when they had already performed two protective sweeps,

handcuffed both residents and were executing a search warrant). In this case, however, the apartment and its outside areas had not been swept; Lamb was a suspect in a recent fatal shooting; he had a concealed weapon permit; and the officers did not know who else might be in or near the apartment.

*35 While the question is close, we agree with the district court that Lamb being handcuffed did not neutralize the emergent risk to the police of the protective sweep and/or search they were about to conduct, or convert their quick questions about people, dogs, or weapons from self-protective to investigatory. See *United States v. Are*, 590 F.3d 499, 506–07 (7th Cir.2009) (under *Quarles*, a cuffed defendant's unwarned statement in answer to a question about weapons in his unsecured home was admissible; "even when a quick protective search of a residence is conducted, the potential presence of an undiscovered but dangerous individual with access to a weapon cannot be discounted," also noting the defendant's history of weapons offenses), *cert. denied*, 562 U.S. —, 131 S.Ct. 73, 178 L.Ed.2d 241 (2010); *United States v. Williams*, 181 F.3d 945, 953–54 (8th Cir.1999) (similarly holding admissible an unwarned statement by a cuffed defendant about a gun he had; "the officers could not have known if any armed individuals were present in the apartment or preparing to enter the apartment within a short period of time [or] whether other hazardous weapons were present in the apartment that could cause them harm if they happened upon them unexpectedly or mishandled them in some way"); see also *United States v. Estrada*, 430 F.3d 606, 613 (2d Cir.2005) (holding a defendant's answer to an officer's question about the presence of guns in an apartment about to be searched admissible; the questions "were narrow in scope, directly targeting the safety concern, and were not posed to elicit incriminating evidence. Rather, given that the apartment had not been secured at the time of the questioning, the questions were aimed at controlling a potentially dangerous situation and relieving an immediate threat to the officers' safety").³

3. Identification and booking questions

Lamb next challenges the admissibility of his responses to the booking questions asked him at the Henderson jail. He waived this challenge at the suppression hearing—appropriately, given the booking questions exception recognized by the Supreme Court in *Pennsylvania v. Muniz*, 496 U.S. 582, 601, 110 S.Ct. 2638, 110 L.Ed.2d 528 (1990), and this court in *Nika v. State*, 113 Nev. 1424, 1438–39, 951 P.2d 1047, 1056–57 (1997), *overruled on other grounds by Leslie v. Warden*, 118 Nev. 773, 780, 59 P.3d 440, 445 (2002). Whether that waiver

extended to Lamb's responses to the police's initial requests for identification in the apartment parking lot is unclear. Assuming no waiver, we nonetheless do not perceive the "unusual circumstances" that would make his response to the officers' field requests for identification *36 incriminating and hence inadmissible because unwarned. *Hilbel v. Sixth Judicial Dist. Court of Nev. Humboldt Cty.*, 542 U.S. 177, 191, 124 S.Ct. 2451, 159 L.Ed.2d 292 (2004).⁴

4. Lamb's impeachment on cross-examination

The district court deemed Lamb's statement that "I'm not going to answer **707 questions without a lawyer, but I'll listen to what you have to say," an adequate invocation of his right to remain silent. Lamb denied knowing his sister to Detective Gibson both before and after invoking his right to remain silent. The State did not use either statement in its case-in-chief. However, after Lamb took the stand and testified in his own defense (against the advice of counsel), the State used his denials as impeachment, suggesting his amnesia was feigned.

It would be "an extravagant extension of the Constitution" to hold that *Miranda* immunizes perjury from impeachment with prior inconsistent statements. *Harris v. New York*, 401 U.S. 222, 225–26 & n. 2, 91 S.Ct. 643, 28 L.Ed.2d 1 (1971). Thus, statements elicited in violation of *Miranda* may be used to impeach a defendant's inconsistent trial testimony, provided the statements are not involuntary within the meaning of the Fifth Amendment. *Id.*; see *Johnson v. State*, 92 Nev. 405, 407, 551 P.2d 241, 242 (1976). However, the State cannot use a person's silence after receiving *Miranda* warnings as impeachment. *Doyle v. Ohio*, 426 U.S. 610, 618, 96 S.Ct. 2240, 49 L.Ed.2d 91 (1976).

In his direct testimonial narrative, Lamb averred that he loved his sister; that "I've always loved her"; that the real "tragedy" is that "[t]here's a mad man out there" who has not been caught; and that "the police never offered me the courtesy that morning of a telephone call and to come by and visit with me that morning and say my sister was brutally murdered," though "[t]hey did to Stu," her husband. On cross-examination, Lamb admitted that, when interviewed at the station, he pretended he didn't know his sister's name or recognize her picture:

[The State]: You indicated to the police [that] you didn't even know who your sister was?

[Lamb]: I wasn't going to cooperate with the police.

*37 Driving the point home, the State then asked, "As opposed to actually having some sort of memory problem you intentionally chose not to provide the information to the police?" to which Lamb responded, "I was praying. I wasn't going to answer their questions."

Lamb did not object to any of these questions but nonetheless argues on appeal that they amounted to constitutionally impermissible comment on his exercise of his right to remain silent. We disagree. The statements were neither involuntary, see *supra* note 4, nor can we conclude, applying plain error review, that the State went beyond fair impeachment to improper comment on Lamb's right to remain silent. *Gaxiola v. State*, 121 Nev. 638, 656, 119 P.3d 1225, 1237 (2005). Lamb did not remain silent; he professed not to know or recognize his sister. This was inconsistent with his trial testimony and legitimate impeachment.

B. Jury selection

1. Voir dire

Lamb appeals the district court's refusal of his request for a jury questionnaire and restriction of voir dire. "Decisions concerning the scope of voir dire and the manner in which it is conducted are reviewable only for abuse of discretion," *Hogan v. State*, 103 Nev. 21, 23, 732 P.2d 422, 423 (1987), and draw "considerable deference" on appeal. *Johnson v. State*, 122 Nev. 1344, 1355, 148 P.3d 767, 774 (2006).

Lamb's proposed jury questionnaire would have asked the venire about news coverage of the killing, by then several years in the past. The district court preferred to address this orally rather than by questionnaire, and conducted individual voir dire of the four panel members who acknowledged having heard or read about the killing. Proceeding this way did not amount to an abuse of discretion.

Quoting NRS 175.031, Lamb also complains that the district court "unreasonably restricted" his voir dire. "The purpose of jury voir dire is to discover whether a juror will consider and decide the facts impartially and conscientiously apply the law as charged by the court." *Johnson*, 122 Nev. at 1354, 148 P.3d at 774 (quotations omitted). A fair reading of the record repels Lamb's claim the district court abused its discretion in managing voir dire. It simply limited questions **708 "aimed more at indoctrination than acquisition of information" concerning bias or ability to apply the law, *Hogan*, 103 Nev. at 23, 732 P.2d at 423, while preserving

Lamb's right to a fair-minded jury. This was not an abuse of discretion.

***38 2. Batson challenge**

During jury selection, the State used one of its peremptory challenges to dismiss an African-American juror. Lamb objected under *Batson v. Kentucky*, 476 U.S. 79, 106 S.Ct. 1712, 90 L.Ed.2d 69 (1986). As its race-neutral justification, the State offered the fact that the juror had arrived late to court that morning. Lamb countered with only his personal belief that an African-American juror might distrust the government and favor the defense and the observation that the State did not question the juror about his tardiness. The district court accepted the State's explanation as race neutral and found that the defense had not shown pretext or purposeful discrimination. *Diomampo v. State*, 124 Nev. 414, 423, 185 P.3d 1031, 1036 (2008) (analyzing *Batson* challenges under the three-part test in *Purkett v. Elem*, 514 U.S. 765, 766–67, 115 S.Ct. 1769, 131 L.Ed.2d 834 (1995)). A decision "on the ultimate question of discriminatory intent represents a finding of fact of the sort accorded great deference on appeal." *Walker v. State*, 113 Nev. 853, 867–68, 944 P.2d 762, 771–72 (1997) (quoting *Hernandez v. New York*, 500 U.S. 352, 364, 111 S.Ct. 1859, 114 L.Ed.2d 395 (1991)), and we affirm the rejection of Lamb's *Batson* challenge.

C. Evidence of restraining orders and threats

Considerable unobjected-to evidence established Lamb's obsession with Susan, his belief that she had robbed him of their parents' love and money, his threat to "bash her face in" if she did not give him "his fair share of their parents' money," and his plans for revenge. Although conceding the legitimately admissible evidence, the defense told the State that Lamb did not accept and wanted to be heard on the admissibility of the following: (1) that Susan had obtained a restraining order against Lamb; and (2) that Susan had told her husband many times that she feared Lamb would shoot her. The State informally agreed that this evidence should not come in without, as to the former, advance permission from the court and, as to the latter, a basis on which to overcome Lamb's hearsay objection. Despite this, two of the State's witnesses mentioned these subjects with no advance ruling, from which Lamb appeals.

The restraining order came up during the State's examination of Susan's best friend. The State asked, "Were you ever present when [Lamb] showed up unannounced at Susan's house?" The witness answered, "Yes, I was. It was after there

had been a restraining order. I know I'm jumping now. I can tell you that it was after there was a restraining order." Lamb objected and, after an unreported colloquy at the bench, the jury was instructed that "there was no restraining order per se issued in this matter referred *39 to earlier. It was an oral report of harassment that was reduced to a police report at some point." Nothing else was said about it.

We do not agree with the State that the restraining order was admissible to show Susan's state of mind: Lamb did not assert self-defense; Susan's state of mind several years earlier, when she applied for a restraining order against her brother, was not in issue. See *Shults v. State*, 96 Nev. 742, 751, 616 P.2d 388, 394 (1980) (murder victim's statement of his fear of defendant was not admissible as non-hearsay under the state-of-mind exception in NRS 51.105(1) where the defendant did not claim self-defense, accidental death, or suicide). The State should have instructed its witnesses not to allude to it. See *People v. Warren*, 45 Cal.3d 471, 247 Cal.Rptr. 172, 754 P.2d 218, 224–25 (1988) ("A prosecutor has the duty to guard against statements by his witnesses containing inadmissible evidence. If the prosecutor believes a witness may give an inadmissible answer during his examination, he must warn the witness to refrain from making such a statement."). Nonetheless, the restraining order appears to have been blurted out by a nervous witness, rather than solicited by the State, and the court's corrective instruction, such as it was, followed immediately. See **709 *Sterling v. State*, 108 Nev. 391, 395, 834 P.2d 400, 402 (1992) ("inadvertent references to other criminal activity not solicited by the prosecution, which are blurted out by a witness, can be cured by the trial court's immediate admonishment to the jury to disregard the statement"). Thus, we conclude that the restraining order's passing and immediately qualified mention was harmless. *Id.* It would be unreasonable to conclude otherwise, given the overwhelming proof of Lamb's tortured relations with his sister—evidence that included Susan's directive to Lamb never to call or come to her home; his voluminous writings showing he stalked out her home, spied on her, and fantasized about revenge; his failed litigation attempt to be appointed their parents' guardian; and his bitterness at being disowned, for all of which Lamb blamed Susan.⁵

The evidence concerning Susan's statements to her husband, Stuart, that she feared that Lamb would shoot her came out during Stuart's testimony about a call he partially overheard between Susan and Lamb. Stuart testified that, by the end of the call, Susan was shaking and crying uncontrollably because Lamb had *40 threatened to "bash her face in."

Lamb did not object to this testimony, which the State had also presented at the preliminary hearing. Lamb conceded that it was admissible under NRS 51.095, the “excited utterance exception” to the hearsay rule, *see Hogan*, 103 Nev. at 23, 732 P.2d at 423; he did not invoke NRS 48.045 or argue that Lamb’s threat should be excluded as improper character or “prior bad acts” evidence.

At trial, Stuart’s testimony about Susan’s call with Lamb did not stop at Lamb’s threat to “bash her face in.” He added: “She was scared. She was scared whenever he got into these screaming modes. She had many times told me that she thought one day he would shoot her.” Lamb objected, and a hearing outside the presence of the jury was held.

The court found that the State and Lamb had both been surprised by Stuart’s testimony. Questioned outside the jury’s presence, Stuart testified that, when Susan told him about Lamb threatening to “bash her face in,” she also said she thought he was going to shoot her, and that she was crying and visibly shaken throughout. This testimony led Lamb to concede that Susan’s statement following that particular call about fearing Lamb would shoot her qualified for admission as an excited utterance, obviating his earlier hearsay objection in that context. However, Lamb argued that there was no non-hearsay basis for Stuart to globalize this testimony to Susan telling him “many times” that she feared Lamb would shoot her. The court sustained Lamb’s objection and instructed Stuart that, when the jury returned and he resumed his testimony, he could not relate other instances in which Susan had expressed this fear to him. At Lamb’s request, the court further ordered that Lamb would be permitted to establish that, while Stuart had testified before about Lamb’s call threatening to bash Susan’s face in, he hadn’t mentioned her saying she was afraid Lamb was going to shoot her. Lamb made no argument then under NRS 48.035 or NRS 48.045(2) about this evidence, and accepted the district court’s solution by cross-examining Stuart on his inconsistent accounts of Susan’s report to him of her traumatic telephone conversation with Lamb.

The “failure to specifically object on the grounds urged on appeal preclude[s] appellate consideration on the grounds not raised below,” *Pantano v. State*, 122 Nev. 782, 795 n. 28, 138 P.3d 477, 485 n. 28 (2006), unless the defendant demonstrates plain error. *Moore v. State*, 122 Nev. 27, 36–37, 126 P.3d 508, 514 (2006). But Lamb’s “prior bad acts” objection to Stuart’s testimony about Susan’s stated fear Lamb would shoot her fails plain error review for at least four reasons. First,

Lamb asked for and accepted **710 the district court’s ruling that he be allowed to impeach Stuart by implying *41 recent fabrication, suggesting waiver. Second, while Susan’s stated fear of Lamb shooting her calls for balancing of probative value against the risk of unfair prejudice under NRS 48.035(1), it does not implicate Lamb in a “prior bad act” under NRS 48.045(2), beyond the threat to “bash her face in” that Lamb conceded was admissible. *Cf. Salgado v. State*, 114 Nev. 1039, 1042, 968 P.2d 324, 326 (1998) (noting distinction between collateral offenses or prior bad acts and facts directly relevant to the crime charged). Third, Lamb’s defense that Cottrell, not he, was the shooter put motive and identity squarely in issue: Lamb’s threats against Susan were relevant to motive and, inferentially, Lamb’s identity as her killer. *See David P. Leonard, The New Wigmore: Evidence of Other Misconduct and Similar Events* § 8.5.1(a), at 512 (2009) (“When an act has been committed, and the issue is whether a specific person, rather than another, is responsible, evidence that the person in question had a motive to act in that way is relevant because the evidence tends to make it somewhat more likely than it would be without the evidence that person committed the act.”).⁶ Finally, the evidence against Lamb concerning his hatred of and intent to harm his sister was overwhelming.⁷

D. Errors in the instructions

Lamb’s claims of instructional error also fail. His request for an instruction on voluntary manslaughter was properly rejected under *42 *Williams v. State*, 99 Nev. 530, 531, 665 P.2d 260, 261 (1983), which requires an instruction on a defendant’s theory of the case if there is “some evidence, no matter how weak or incredible, to support it.” While Lamb had a scrape on his head, nothing linked it to Susan—still less to his theory of the case, which was that Cottrell or someone else killed her, not Lamb. And his objections to Instruction No. 8 (premeditation) and Instruction No. 11 (a transition instruction) fail procedurally because not asserted in the district court, *Morales v. State*, 122 Nev. 966, 971, 143 P.3d 463, 467 (2006), and substantively, under *Byford v. State*, 116 Nev. 215, 238, 994 P.2d 700, 715 (2000), and *Green v. State*, 119 Nev. 542, 549, 80 P.3d 93, 97 (2003), respectively.

E. Closing arguments

In closing argument, the defense sought to explore with the jury why the reasonable doubt standard exists. The district court did not abuse its discretion in disallowing this improper “attempt to ... supplement ... the statutorily

prescribed standard for reasonable doubt.” *Evans v. State*, 117 Nev. 609, 631, 28 P.3d 498, 513–14 (2001).

Lamb also challenges the State’s closing arguments. But a prosecutor may **711 comment on the defense’s failure to call a witness where, as here, the defendant “injected [the person] into the testimony as an alibi witness.” *Id.* at 631, 28 P.3d at 513 (alteration in original) (quotation omitted). And while exhorting the jury to “do its job” was arguably improper, *id.* at 633, 28 P.3d at 515 (citation omitted), the district court immediately directed the State to rephrase and it did. Lamb also faults the State’s argument during the penalty phase criticizing the weakness of Lamb’s evidence of mental illness, *People v. Zambrano*, 41 Cal.4th 1082, 63 Cal.Rptr.3d 297, 163 P.3d 4, 43 (2007), *overruled on other grounds by People v. Doolin*, 45 Cal.4th 390, 87 Cal.Rptr.3d 209, 198 P.3d 11, 36 n. 22, *cert. denied*, 558 U.S. —, 130 S.Ct. 168, 175 L.Ed.2d 107 (2009), but this argument merely “attack[ed] the defense case and argument. Doing so is proper and is, indeed, the essence of advocacy.” *People v. Thornton*, 41 Cal.4th 391, 61 Cal.Rptr.3d 461, 161 P.3d 3, 48 (2007) (quotations and citations omitted). Last, rather than appealing to a single juror, the State’s comment regarding the occupation of one juror was addressed to the jury as a whole, and was not intended to excite passion. *People v. Hartfield*, 137 Ill.App.3d 679, 92 Ill.Dec. 281, 484 N.E.2d 1136, 1142 (1985).⁸

*43 F. Misconduct involving the jury

Lamb’s final challenge is to the district court’s rejection of his motion for a new trial based on the bailiff’s improper interaction with the jury. With notice to and no objection from the parties, the trial judge, who had a scheduling conflict, left the jury in another judge’s charge on its second day of deliberations. Thereafter, the foreman told the bailiff he had a note for the judge. The bailiff saw the note, which asked about the difference between first- and second-degree murder, but he neither took possession of it nor alerted the parties or either judge. Instead, taking matters into his own hands, the bailiff told the jury the judge was out of the jurisdiction and to read the jury instructions. After this exchange came to light at the penalty hearing, Lamb moved for a new trial. Following an evidentiary hearing, at which the bailiff testified to these facts (no juror affidavits or other testimony was offered), the district court denied the motion for new trial, from which Lamb appeals.

The bailiff’s ex parte communication with the jury violated NRS 175.391 and NRS 175.451 and was error. On being

told the jury had a note for the judge, the bailiff should not have engaged with the jury further. See NRS 175.391 (an officer in charge of a deliberating jury “shall not permit any communication be made to them, or make any personally, unless by order of the court, except to ask them if they have agreed upon their verdict”). Rather, he should have alerted the presiding judge so the parties could be notified and the matter handled according to the protocol laid out in NRS 175.451 or an agreed-upon variation.⁹ See also *ABA Principles for Juries and Jury Trials*, Principle 15(D) (2005) (“When jurors submit a question during deliberations, the court, in consultation with the parties, should supply a prompt, complete and responsive answer or should explain to the jurors why it cannot do so.”).

A bailiff’s ex parte communication with deliberating jurors beyond what NRS 175.391 permits is a species of jury misconduct. **712 *44 See Wayne R. LaFave et al., *Criminal Procedure* § 24.9(f), at 525 & n.65.2 (3d ed. 2007 & Supp. 2010–11) (“The term ‘jury misconduct’ [encompasses] conduct by others which contaminates the jury process with extraneous influence,” including improper communications with bailiffs). Citing *Conforte v. State*, 77 Nev. 269, 362 P.2d 274 (1961), Lamb asserts prejudice is *presumed* once the bailiff’s improper contact is shown. But Lamb overlooks *Meyer v. State*, 119 Nev. 554, 564, 80 P.3d 447, 455 (2003), which, like the federal cases on which it relies, substantially limits the presumed-prejudice rule stated in *Remmer v. United States*, 347 U.S. 227, 74 S.Ct. 450, 98 L.Ed. 654 (1954), and its progeny (including *Conforte*, 77 Nev. at 272, 362 P.2d at 276 (citing *Remmer*, 347 U.S. 227, 74 S.Ct. 450, 98 L.Ed. 654)). See *United States v. Williams–Davis*, 90 F.3d 490, 496–97 (D.C.Cir.1996) (assessing the impact on *Remmer* of the limits imposed on juror affidavits by FRE 606(b) and concluding that, modernly, *Remmer* illustrates “the importance of weighing the likelihood of prejudice rather than as a source of rigid rules”); *Meyer*, 119 Nev. at 564 nn. 21 & 22, 565–67, 80 P.3d at 455 nn. 21 & 22, 456–57 (citing *Williams–Davis* and NRS 50.065, the Nevada analog to FRE 606(b)).¹⁰ In *Meyer*, this court “reject[ed] the position that any extrinsic influence is automatically prejudicial [and i]nstead [adopted] the position of the [federal] circuit courts that examine the nature of the extrinsic influence in determining whether such influence is presumptively prejudicial.” 119 Nev. at 564, 80 P.3d at 455. We explained that only the “most egregious cases of extraneous influence on a juror, such as jury tampering,” would warrant a conclusive presumption of prejudice. *Id.*

Under *Meyer*, when made aware of an extrinsic jury communication, the court must first determine the existence and content of the communication. 119 Nev. at 563, 80 P.3d at 455. Then, the court must determine—without relying on direct statements from the jurors about the impact the communication had on their deliberations, *see* NRS 50.065—whether there is a “reasonable probability or likelihood that the [extrinsic communication] affected the verdict.” *Id.* at 564, 80 P.3d at 455. In other words: “Did the intrusion affect the jury’s deliberations and thereby its verdict?” *United States v. Olano*, 507 U.S. 725, 739, 113 S.Ct. 1770, 123 L.Ed.2d 508 (1993), *quoted in Williams–Davis*, 90 F.3d at 496. In answering this question, the court “must apply an objective test” to determine “whether the average, hypothetical juror would be influenced by the juror misconduct.” *Meyer*, 119 Nev. at 566, 80 P.3d at 456. “How much inquiry is necessary ... depends on how likely was the extraneous *45 communication to contaminate the jury’s deliberations.” *Wisehart v. Davis*, 408 F.3d 321, 326 (7th Cir.2005).

Here, neither side disputes that the jury note went to the difference between first- and second-degree murder and that the bailiff told the foreman the judge was unavailable and to read the jury instructions. The extrinsic communication thus is proved. The question is whether the district court abused its discretion when it determined that the exchange was not such as to have had a reasonable probability or likelihood of affecting the jury’s deliberations. *Meyer*, 119 Nev. at 561, 80 P.3d at 453 (“A denial of a motion for a new trial based upon juror misconduct will be upheld absent an abuse of discretion by the district court.”).

The “official character of the bailiff—as an officer of the court as well as of the State—beyond question carries great weight with a jury.” *Parker v. Gladden*, 385 U.S. 363, 365, 87 S.Ct. 468, 17 L.Ed.2d 420 (1966). Thus, courts give a bailiff’s statements to a jury especially close scrutiny in terms of accuracy and potential for coercion when challenged as improper. *See Ward v. Hall*, 592 F.3d 1144, 1181 (11th Cir.), *cert. denied*, 562 U.S. —, 131 S.Ct. 647, 178 L.Ed.2d 513 (2010); *People v. McLaurin*, 235 Ill.2d 478, 337 Ill.Dec. 221, 922 N.E.2d 344, 356–57 (2009); Diane M. Allen, Annotation, *Communication Between Court Officials or Attendants and Jurors in Criminal Trial as **713 Ground for Mistrial or Reversal—Post–Parker Cases*, 35 A.L.R.4th 890 (1985) (collecting cases).¹¹ The bailiff’s exchange with the jury concerning its note, while improper, nonetheless did not carry a reasonable probability or likelihood of having influenced its verdict.

The jury instructions on first- and second-degree murder were a verbatim reprise of those we approved in *Byford*, 116 Nev. at 236–37 & n. 4, 994 P.2d at 714–15 & n. 4, and were correct—indeed, *46 Lamb accepted them without objection or proffered additions. The bailiff’s statement that the judge was not available¹² and the jury should read the instructions thus did not introduce incorrect law into the proceedings, *see Scott v. State*, 92 Nev. 552, 555, 554 P.2d 735, 737 (1976) (upholding judge’s refusal to reinstruct a deliberating jury on the difference between first- and second-degree murder; if the judge “is of the opinion the instructions already given are adequate, correctly state the law and fully advise the jury ... his refusal to answer a question already answered in the instructions is not error” (alteration in original) (quoting *Tellis v. State*, 84 Nev. 587, 591, 445 P.2d 938, 941 (1968))), or cost Lamb the ability to cure an identifiable error in the instructions. There was no real contest at trial as to first- or second-degree murder; the issue was identity, not premeditation. On this record, therefore, we uphold the district court’s determination that the communication was innocuous and conclude that there was no demonstrated likelihood or probability that the improper ex parte communication between the bailiff and the jury impacted the jury’s deliberations. *Compare Wilson v. State*, 511 N.E.2d 1014, 1018 (Ind.1987) (declining to reverse the district court’s order denying motion for new trial based on the bailiff answering a jury question about the verdict forms by telling them to read the instructions because, while the court noted it did not “condone” the ex parte communication “[t]he bailiff’s statement to the jury, which directed them to refer to their instructions, was innocuous and not prejudicial”), and *United States ex rel. Clark v. Fike*, 538 F.2d 750, 760–61 (7th Cir.1976) (rejecting argument that bailiff telling the jury “that if the jury needed information they should look to the instructions” was tantamount to an “Allen charge”: “This was the proper response since at that time no questions could be answered. The judge was at dinner. Defense counsel was across town at a policeman’s banquet.”), with *Moore v. Knight*, 368 F.3d 936, 941 (7th Cir.2004) (prejudice established where bailiff “clearly conveyed incorrect substantive information”).

For these reasons, we affirm Lamb’s judgment of conviction of first-degree murder with use of a deadly weapon and his sentence of life imprisonment without the possibility of parole.

We concur: DOUGLAS, C.J., and HARDESTY, J.

All Citations

127 Nev. 26, 251 P.3d 700, 127 Nev. Adv. Op. 3

Footnotes

- 1 Detective Gibson testified at the suppression hearing that he would have come to the apartment complex and spoken to Lamb there if Lamb had refused to go to the station.
- 2 Although the record reflects that Gibson's interview with Lamb was videotaped and that the videotape was played at the suppression hearing, it was not transcribed or included in the record on appeal. The quotes in the text are from the transcript of the suppression hearing, where the lawyers and the court repeated what was said on the videotape.
- 3 The State also argues that the error, if any, was harmless, since the murder weapon was never recovered and no revolver was found in Lamb's apartment.
- 4 We also reject Lamb's argument, citing *Jackson v. Denno*, 378 U.S. 368, 376, 84 S.Ct. 1774, 12 L.Ed.2d 908 (1964), and *Passama v. State*, 103 Nev. 212, 213, 735 P.2d 321, 322 (1987), that the district court erred in rejecting his voluntariness challenge as to his unwarned statements. Lamb concedes that no deceit or trickery was practiced on him and cites no authority for the proposition that a statement made to officers while in handcuffs is per se coerced (and ignores abundant contrary precedent). Also significant are the facts that Lamb later declined the medical assistance offered and was able to answer routine booking questions when he learned it was in his interest to do so.
- 5 Lamb asserts error in connection with this witness's testimony about an altercation she overheard between Lamb and Susan that left Susan sobbing over what she told her friend was "[a] scary threat." Defense counsel neither objected to this statement nor argued its admission was plain error; thus we decline to address it. See *Moore v. State*, 122 Nev. 27, 36–37, 126 P.3d 508, 514 (2006) ("[f]ailure to object during trial generally results in a waiver thereby precluding appellate consideration of the issue").
- 6 Lamb cites but is not helped by *Walker v. State*, 116 Nev. 442, 997 P.2d 803 (2000). To be sure, *Walker* involved a murder and prior altercations between the defendant and the deceased. In *Walker*, though, the issue was intent, not motive or identity. The parties' prior confrontations were remote in time and, more importantly, involved heated arguments, not threats of future harm. These acts were not probative of specific intent to kill except when added together with the final deadly confrontation, as proof of propensity for violence and hence, intent to kill, which NRS 48.045(2) and our case law forbid. By contrast, Lamb's threats, which were proven by clear and convincing evidence, went to motive and identity; their probative value on these issues outweighed the risk of unfair prejudice.
- 7 As for the multifarious other evidentiary issues Lamb asserts, "[d]istrict courts are vested with considerable discretion in determining the relevance and admissibility of evidence," and a "decision to admit or exclude evidence will not be reversed on appeal unless it is manifestly wrong." *Archanian v. State*, 122 Nev. 1019, 1029, 145 P.3d 1008, 1016 (2006). Applying these standards, we conclude that the district court did not abuse its discretion in its rulings as to the storage facility owner's letter to the Henderson police, the photo lineup witness statements, the State calling Earl Cottrell, and limiting Lamb's efforts to explore the Cottrells' marriage. Lamb's argument that the prosecutor's questions violated his attorney-client privilege, NRS 49.095, is foreclosed by *Franko v. State*, 94 Nev. 610, 614, 584 P.2d 678, 680 (1978). Finally, the State provided Lamb access to the evidence as required by NRS 174.235, and the voluminous writings recovered from Lamb's apartment, car, and storage unit were adequately authenticated under NRS 52.015(1), NRS 52.055, at the preliminary hearing, and, ultimately, by Lamb on the witness stand.
- 8 Lamb's challenge to the sufficiency of the evidence fails because, viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Koza v. State*, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984). His contention that he was entitled to be sentenced under the sentencing scheme prescribed for the use of a deadly weapon enhancement, NRS 193.165, in effect at the date of his sentencing, rather than at the date of the crime, is foreclosed by *State v. District Court (Pullin)*, 124 Nev. 564, 569–70, 188 P.3d 1079, 1082–83 (2008). And because the errors that did occur were inconsequential and did not affect the verdict, Lamb's claim of cumulative error fails. *Big Pond v. State*, 101 Nev. 1, 3, 692 P.2d 1288, 1289 (1985).
- 9 NRS 175.451 provides: "After the jury have retired for deliberation, if there is any disagreement between them as to any part of the testimony, or if they desire to be informed on any point of law arising in the cause, they must require the officer to conduct them into court. Upon their being brought into court, the information required shall be given in the presence of, or after notice to the district attorney and the defendant or [his or her] counsel."

- 10 We note that, although NRS 50.065 differs from FRE 606(b) in its phrasing, *Meyer* embraces *Tanner v. United States*, 483 U.S. 107, 121, 107 S.Ct. 2739, 97 L.Ed.2d 90 (1987), and does not consider the differences significant. *Meyer*, 119 Nev. at 563 n. 20, 80 P.3d at 455 n. 20.
- 11 Although Lamb does not develop an argument that the bailiff's communication with the jury was tantamount to an improper communication by the court with the jury without him being present, he does cite *Cavanaugh v. State*, 102 Nev. 478, 729 P.2d 481 (1986), and *Varner v. State*, 97 Nev. 486, 634 P.2d 1205 (1981), both ex parte judicial communication, not third-party communication, cases that applied a harmless error analysis rather than the prejudice analysis *Meyer* discusses. Here, there is no indication that the court authorized the bailiff to communicate with the jury as he did, although from the vantage point of the jury foreman, this would not have been clear. The same reasons that lead us to affirm the district court's conclusion of no prejudice also support a determination, under *Cavanaugh* and *Varner*, that the error was harmless on the facts of this case. The suggestion that the jury should consult the instructions was, in sum, "not inappropriate ... and did not render the verdict invalid." *Farmer v. State*, 95 Nev. 849, 853, 603 P.2d 700, 703 (1979); cf. *Pappas v. State, Dep't Transp.*, 104 Nev. 572, 575, 763 P.2d 348, 350 (1988) (no abuse of discretion in denying motion for new trial in a civil case in which the judge's secretary advised the jury that the judge and lawyers were not available to answer a question and that it should be reduced to writing).
- 12 Lamb does not argue, and we do not independently conclude, that the bailiff's statement that the judge was out of the jurisdiction introduced an element of coercion into their deliberations.

EXHIBIT 60

EXHIBIT 60



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

FILED

Oct 11 11 02 AM '06

Shirley L. Langston
CLERK

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,
Plaintiff,

vs.

RICKIE SLAUGHTER,
Defendant.

REPORTER'S TRANSCRIPT
OF
SENTENCING

BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

DATED: MONDAY, AUGUST 8, 2005

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

COUNTY CLERK

OCT 11 2006

RECEIVED

1 APPEARANCES:

2 For the State: SUSAN KRISKO, ESQ.

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4 For the Defendant: PAUL E. WOMMER, ESQ.

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1 LAS VEGAS, NEVADA; MONDAY, AUGUST 8, 2006

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

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4
5 THE COURT: We're on the record in case
6 C-204957, State of Nevada versus Rickie Slaughter.

7 This is the time set for entry of judgment
8 and imposition of sentence.

9 I'll note that Mr. Slaughter is present in
10 custody from Nevada State Prison. He's present with the
11 District Attorney's office, Mr. Wommer, who is stand-by
12 counsel.

13 Mr. Slaughter is there any legal cause or
14 reason why sentencing should not proceed today?

15 THE DEFENDANT: Actually, I did file a
16 motion for request of counsel to do my sentencing for me.
17 I ain't no match for the D.A.

18 THE COURT: I did not get that motion. I
19 do have --

20 THE DEFENDANT: I have sent it.

21 THE COURT: Let me ask this, Mr. Wommer,
22 are you prepared to be able to proceed with sentencing on
23 this today?

24 MR. WOMMER: I am, your Honor.

25 Mr. Slaughter has indicated he filed two

1 motions. What happens when a pro per defendant
2 represented by counsel files a motion, the clerk's office
3 invariable sends it to counsel of record. The same thing
4 happens, usually with pro per defendants when they file a
5 motion, that motion is not filed, it's simply sent to
6 their stand-by counsel. I haven't received either of
7 those two motions.

8 THE COURT: In terms of the motion to
9 appoint counsel for sentencing, as I said, I didn't
10 receive that yet, and it's probably -- if you filed it,
11 it's on calendar a couple of weeks from now.

12 THE CLERK: August 16th, I have a motion
13 to appoint counsel.

14 THE COURT: To the extent you want
15 Mr. Wommer to stand in for you and do the sentencing as
16 your attorney, I'll allow him to do that though. I'll
17 grant that motion.

18 I did receive a pro per request for
19 amended plea agreement. Did counsel get that?

20 MS. KRISKO: I did. And what actually
21 happened is -- just to maybe forestall some of the other
22 arguments that Mr. Slaughter had out in the hallway. We
23 made an agreement that we would argue for 15 to life.

24 I did not tell him that I would agree to
25 have my secretary go through the pain of writing up a new

1 guilty plea agreement, but we will stipulate, we will
2 agree, will not oppose, whatever words he wants, that's
3 fine.

4 In addition, I think his concern is that
5 this court is somehow going to fashion something that goes
6 beyond the contemplated negotiation. And to affect that
7 we both, Mr. Wommer and myself, told him that we cannot
8 tie your hands or tell him with a crystal ball what you
9 will do.

10 It is our understanding you have every
11 intention of allowing the negotiations to stand and to
12 follow those negotiations so that he's not looking at
13 doing more than the 15 to either 40, if he gets that, or
14 life if we get what we want, as far as argument goes.

15 THE COURT: I'll first note that the
16 guilty plea agreement and my understanding of the
17 negotiations all along, back when we did this plea, was
18 that the State was free to argue for life, minimum 15 on
19 Count (3), and that Mr. Slaughter was going to argue for a
20 40 minimum 15, as to that Count.

21 So I don't think the State would need to
22 file anything differently, because that's what they bound
23 themselves to in the initial plea.

24 THE DEFENDANT: Ms. Krisko did change the
25 language, the State would stipulate to current time

1 between the counts.

2 THE COURT: What she said today is that
3 she'll agree the State is going to request concurrent
4 time.

5 THE DEFENDANT: I had a question also, if
6 the counts run concurrent, I really didn't understand how
7 that would run, how -- with the other consecutive weapons
8 enhancements.

9 THE COURT: What happens is that each
10 count runs at the same time as the other counts. To the
11 extent a count has a charge and a weapons enhancement, or
12 any other kind of enhancement, then that runs consecutive,
13 within the count itself.

14 But each count runs concurrent to each
15 other. So for Count (1), attempt murder with use of a
16 deadly weapon, you're going to receive a sentence for
17 attempt murder, and you're going to receive a sentence for
18 the use of a deadly weapon. Each of those sentences will
19 be exactly the same, and they will run consecutive to each
20 other.

21 THE DEFENDANT: But they don't run
22 consecutive to the 15 to 40 or the 15 to life if the
23 counts ran concurrent?

24 THE COURT: Well, if I choose to run them
25 all concurrent then you're correct. They will not run

1 consecutive to the 15 to life.

2 If for whatever reason I chose to believe
3 that some of these counts need to run consecutive, then,
4 yeah, the attempt murder with use of a deadly weapon
5 sentences would run consecutive. But that's a decision
6 I'm going to make in a minute.

7 I'll tell you that my inclination is to
8 follow the negotiations that you all entered into which
9 involved concurrent time.

10 Now separate and apart from the request
11 for amended plea, which, as I said, had been filed pro per
12 and was essentially, I guess, asking what Ms. Krisko could
13 talk about, which was for the State to stipulate to
14 concurrent time.

15 You referenced discussions in the hallway
16 that you had with Mr. Slaughter. I know he's representing
17 himself, so that's not appropriate, but what were those
18 discussions?

19 MS. KRISKO: Those discussions -- he
20 actually had me write stipulated on this piece of paper.
21 But our position is we negotiated the case to get 15 on
22 the minimum end and to argue for life on the top end. I'm
23 not going to now come in here and try to somehow get
24 around that and do anything other than that.

25 He wanted the word stipulate, so I'm

1 saying on the record, stipulate, not opposed, agree,
2 whatever record he likes is fine, as long as -- I told him
3 in the hallway we can't tie your hands, but we are
4 standing by our negotiations.

5 THE COURT: All right. You understand
6 that, Mr. Slaughter?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right.

9 Okay. Is there any other reason that you
10 feel sentencing should not go forward today -- any other
11 legal cause or reason, understanding what Ms. Krisko has
12 stated what she's going to do and honor in terms of your
13 request?

14 THE DEFENDANT: No, sir.

15 THE COURT: Okay. Do you still wish
16 Mr. Wommer to act as your counsel and argue your
17 sentencing for you?

18 THE DEFENDANT: Yeah. But can I talk to
19 Mr. Wommer for a second?

20 THE COURT: Sure.

21 (Brief recess taken.)

22 THE COURT: By virtue of your plea of
23 guilt, I adjudge you guilty of the offenses of attempt
24 murder with use of a deadly weapon, as to Count (1).

25 Count (2), robbery with use of a deadly

1 weapon.

2 Count (3), first degree kidnapping
3 involving substantial bodily harm.

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

6 Before your attorney speaks on your
7 behalf -- well, actually we'll let Ms. Krisko make any
8 statements she wishes to make.

9 MS. KRISKO: Thank you, your Honor.

10 We are going to urge this court to
11 sentence the Defendant to 15 to life. That has always
12 been our position in this case, and it's certainly borne
13 out by the facts in this case.

14 The Defendant and is co-defendant went
15 into a family's house. They held them at gun point. They
16 tied them up, and not only that, they looked for money and
17 things like that, but they taunted two of these victims.

18 One of them that was tied up, they put the
19 gun in front of his face and said grab for it, grab for
20 it, then hit him. The victim that lost his eye, they put
21 the gun in front of him and said grab for it also.

22 The Defendant then took that weapon, shot
23 into the floor, that was the ricochet that went up into
24 his face and he lost his eye.

25 Those actions were not necessary to

1 complete the robbery. Those went way above and beyond the
2 actually desire to have the family be in fear so they
3 could loot for money.

4 In addition, people would come up to the
5 door, and they would call those people in the house then
6 rob them.

7 The Defendant said, in his own PSI, the
8 last time he worked he was 14 years old. So to have him
9 go and do these things to a law-abiding family, that were
10 only trying to make their own way in life, certainly would
11 show this court that the sentence that would me most
12 appropriate would be 15 to life.

13 I'm not even going to go into his prior
14 record, you know, it's not good. It's certainly not as
15 horrible as you would expect. But, you know, he's had
16 chances at probation, and he failed. He went into drug
17 court, he failed.

18 The Defendant made all the choices in this
19 case. And I think that, you know, it's a good thing that
20 our system allows him to have all these safeguards. He
21 has an attorney, he doesn't have an attorney, he comes in
22 and does all this negotiating. He never gave the victim
23 any of that chance when he was in their house terrorizing
24 them and then caused him to lose his eye.

25 And so with that, I submit it.

1 THE COURT: Okay. Mr. Slaughter, before
2 your attorney, Mr. Wommer, speaks on your behalf, is there
3 anything you want to tell the court in mitigation of
4 sentencing?

5 THE DEFENDANT: Yes, your Honor.

6 The district attorney brought up a lot of
7 facts in the case when we went to trial, and presented
8 evidence to place those facts in dispute, but I don't want
9 to talk about that today. I want to speak on taking the
10 agreement.

11 Basically I seen it as an opportunity to
12 build a foundation that is needed to become a person I
13 need to be. To become a person I owe to my mom, I owe my
14 wife, my brother, son, my family, to the victims, to
15 society, to this court. Most importantly, to myself to
16 become.

17 I've been in a lot of programs since I
18 have been up there, and right now where I stand I'm in a
19 consistent, competent position and have the confidence to
20 try and improve in life spiritually. That's pretty much
21 all I wanted to say to the court. I don't want you to
22 think there's no hope. And I'm asking the court for the
23 chance to get the 15 to 40 years.

24 THE COURT: Thank you.

25 THE DEFENDANT: I did just meet my father

1 who just came into my life, who's been a blessing too.

2 THE COURT: Mr. Wommer.

3 MR. WOMMER: Thank you, your Honor.

4 Ms. Krisko hit on something with regard to
5 the criminal record, because it covers three pages in the
6 PSI, it has this ominous cloud about it. But upon closer
7 inspection there really isn't a whole lot there on the
8 first page, which is page 4 of the PSI. Even the top half
9 of page 5.

10 It appears that the crux of Mr.
11 Slaughter's problems is back on page two of the report.
12 He indicated to probation that he had a normal childhood,
13 was raised by his mother and grandmother. But he didn't
14 have the direction of a male in the household, and this is
15 the residue of that type of up-bringing.

16 In terms of jobs, he had one job for a
17 couple of months handing out fliers. Certainly nothing of
18 substance in terms of employment.

19 And the problem continues over on page 3,
20 where he indicates he completed the 12th grade and had no
21 further education or training beyond this point.

22 It appears to me from his statement to you
23 this morning that he's reached that proverbial fork in the
24 road where he realizes he can't continue to be the
25 irresponsible sort that he's been in the past, and that

1 he's got to get his GED when he gets out, he's got to be
2 able to find gainful employment, he's got to be able to
3 become a productive member of society.

4 In light of all those factors, I'm asking
5 you to impose the 15 to 40 years.

6 THE COURT: Well, I'll tell you Mr.
7 Slaughter, over my 15 years being involved in the criminal
8 justice system I have certainly seen worse PSIs than yours
9 in terms of criminal history. It's not good to have lots
10 of arrests, but arrests for petty larceny and burglary,
11 and trespass and loitering, and carrying a concealed
12 weapon are certainly not the most horrible things that
13 come before the court that you look at and think I
14 obviously need to dole out some type of maximum
15 sentence.

16 On the other hand, that type of record
17 normally isn't a real indicator that you're going to end
18 up in the situation that you're in here, by any account.

19 The facts of this case are pretty
20 horrific. I think that had Ms. Krisko not agreed today to
21 stipulate to the concurrents between the counts, I would
22 have given great weight to running some of those counts
23 consecutive.

24 I think your plea bargain was very
25 beneficial to you. As your own counsel was very wise to

1 advise you to take that, because the evidence that was
2 presented to the court back then was pretty strong against
3 you and was likely to result in convictions that would
4 have exposed you to much more time than you were exposed
5 to in your plea bargain.

6 So I think that Ms. Krisko and
7 Mr. DiGiacomo were imminently fair to you in that regard,
8 as she was today by agreeing to stipulate to concurrent
9 time on the counts.

10 But, even though the court is going to
11 follow the agreement as to concurrent time, I think the
12 nature of this case and what was done to these folks,
13 breaking into their home and attempting to and/or robbing
14 them and having this one gentleman be shot in the face,
15 whether it was by ricochet or direct shot, is just the
16 kind of violent activity and weapons related activity the
17 community no longer wants to put up with, if they ever
18 did. And it certainly doesn't warrant anything other than
19 a life sentence.

20 So what I'm going to do as to Count (1) --
21 well, in addition to the \$25.00 administrative assessment
22 fee, \$150.00 DNA fee, you'll be ordered to undergo genetic
23 marker testing, pursuant to the DNA fee.

24 And as to Count (1), attempt murder with
25 use of a deadly weapon, I'll sentence you on the attempt

1 murder to the maximum of 240 months and a minimum parole
2 eligibility of 90 months.

3 Plus a consecutive maximum of 240 months,
4 plus a minimum parole eligibility of 90 months.

5 On Count (2), robbery with use of a deadly
6 weapon, for robbery a maximum of 180 months, with a
7 minimum parole eligibility of 72 months.

8 Plus a consecutive maximum 180 months,
9 plus a minimum parole eligibility of 72 months for the
10 weapons enhancement. That count will run concurrent to
11 Count (1).

12 As to Count (3), first degree kidnapping
13 with substantial bodily harm, the sentence will be life
14 with a minimum of 15 years before parole eligibility.
15 That count will run concurrent to Counts (1) and (2).

16 As to Count (4), the first degree
17 kidnapping with use of a deadly weapon, without
18 substantial bodily harm, the sentence will be life with a
19 minimum of 5 years before parole eligibility, plus a
20 consecutive five, with a minimum of 5 years before parole
21 eligibility.

22 Count (4), will run concurrent to Counts
23 (1), (2), and (3).

24 Effectively Mr. Slaughter, you have a life
25 sentence with a minimum of 15 years, which is what I

1 believe you bargained for and what the State has
2 stipulated they were going to request of the court today,
3 and I have agreed to follow that

4 I'm also going to impose restitution in
5 the amount of \$35,000.00. That's what can be verified
6 through Victims of Crime Compensation. And I don't have
7 any verification of anything else.

8 I know there was an allegation by the
9 victims there was damage to their house, but there isn't
10 any supporting documentation for that, so I don't know
11 that it's proper for the court to order that.

12 THE DEFENDANT: Can I have copies of that
13 from the Victims of Crime?

14 THE COURT: I can tell you that the PSI
15 notes it with a particular VC number, Victims of Crime.

16 And although there was no documentation
17 attached, the court made inquiry to Victims of Crime to
18 see if that \$35,000.00 was, in fact, paid out for medical
19 services, and it's my understanding it was. So I've
20 satisfied that total could be competently awarded, so I'll
21 go ahead and award that.

22 You can talk to Mr. Wommer about what he
23 can get from Victims of Crime in terms of some type of
24 form that will let you know that total, but I'm not going
25 to award the requested amounts that go to damage to the

1 home because I didn't see documentation for that.

2 In terms of credit for time severed, it's
3 my understanding that as a probation or prisoner, all of
4 your time from which you were arrested after this case was
5 credited to C-190662, so there are zero days credit for
6 time served.

7 MS. KRISKO: Thank you. There's one other
8 issue, your Honor.

9 THE COURT: Yes.

10 MS. KRISKO: There is a suggestion of
11 consecutive time to C-196399. He was out on probation, I
12 believe, when this occurred, and he received a 12 to 32
13 that he's probably already been revoked on. So you need
14 to make a decision as to that.

15 THE COURT: What was the case number?

16 MS. KRISKO: C-196399, it's listed on page
17 6 under prior arrests.

18 THE COURT: Did he receive any credit on
19 that on the time he was in on this case, do you know?

20 MS. KRISKO: Looks like he was pending
21 revocation on 18/16, so he would have been -- probation
22 violation 9/23, yeah, so he probably should have
23 received -- the time should have gone to that.

24 THE DEFENDANT: Was that --

25 THE COURT: To the extent that I'm giving

1 him no credit on this case, and he's been in custody for
2 over a year, I'm going to order that this sentence run
3 concurrent to C-196399.

4 MS. KRISKO: Okay. All right.

5 THE COURT: And to the extent there is an
6 August 16th, date for motion to appoint counsel for
7 sentencing, I'll vacate that date, as I granted
8 Mr. Slaughter's request and allowed Mr. Wommer to proceed
9 with sentencing.

10 MS. KRISKO: Thank you.

11 MR. WOMMER: Thank you.

12 THE COURT: Thank you all.

13

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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

EXHIBIT 91

EXHIBIT 91



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CLERK OF THE COURT

1 **OPPS**
2 **DAVID ROGER**
3 Clark County District Attorney
4 Nevada Bar #002781
5 **SUSAN R. KRISKO**
6 Chief Deputy District Attorney
7 Nevada Bar #006024
8 200 South Third Street
9 Las Vegas, Nevada 89155-2212
10 (702) 455-4711
11 Attorney for Plaintiff

12
13 DISTRICT COURT
14 CLARK COUNTY, NEVADA

15 **RICKIE LAMONT SLAUGHTER, Jr.,**
16 #85902,

17 Plaintiff,

18 -vs-

19 **THE STATE OF NEVADA**

20 Respondent.

CASE NO: C204957

DEPT NO: III

21 **OPPOSITION TO PETITIONER'S MOTION FOR WITHDRAWAL OF GUILTY PLEA**

22 DATE OF HEARING: June 3, 2008

23 TIME OF HEARING: 9:00 A.M.

24 COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through
25 SUSAN R. KRISKO, Chief Deputy District Attorney, and hereby submits the attached
26 Points and Authorities in opposition to plaintiff's motion.

27 This opposition is made and based upon all the papers and pleadings on file herein,
28 the attached points and authorities in support hereof, and oral argument at the time of
hearing, if deemed necessary by this Honorable Court.

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1 **POINTS AND AUTHORITIES**

2 **STATEMENTS OF FACTS**

3 On June 26, 2004, the defendant along with another man went to 2612 Glory View in
4 North Las Vegas. Victim Ivan Young was outside when the defendant and his accomplice
5 came up and forced the victim into his home at gun point. At one point during this strong
6 arm robbery, Ryan John was walking by and the defendants called out to him on the pretext
7 of wanting to talk to him. When he approached, they forced him into the residence also.

8 Inside this residence, Ivan Young's wife, young son and nephew were also taken
9 hostage by these defendants. Ivan Young, his wife, the two young boys and Ryan John were
10 all tied up with cord and Ryan Young was stomped in the head while lying helpless on the
11 floor. Rickie Slaughter took the opportunity to terrorize this family even more by going to
12 Ivan Young who was tied up helpless on the floor and shooting into the ground next to his
13 face. A fragment then entered Ivan Young's face, causing him to lose his eye. While this
14 robbery was taking place, Jermaun Means came to the door to check on his car, a car that
15 Ivan Young was painting. He was also pulled into the house and tied up and robbed at gun
16 point. The defendants stole Ryan John's ATM card and used it just a little while later to get
17 \$200.00.

18 This case was set for trial numerous times and on the day of trial in front of District
19 Court 1, the defendant went pro per and was able to delay the trial. Then on April 4, 2005,
20 the next trial setting the defendant decided to take a plea negotiation, again on the day of
21 trial. He was and remains his own counsel. The plea negotiation contemplated his being
22 eligible for parole after 15 years. While the State's position is to remedy the sentence; it is
23 important to note that the defendant was never promised he would in fact be released at that
24 time. He would only be eligible for parole.

25 **ARGUMENT**

26 The defendant makes an unsubstantiated statement in his brief concerning a certain
27 finding. No where has this Court determined that "Mr. Slaughter was, in fact, given a
28 misrepresentation by the State at the plea negotiations". Defendant makes this statement and

1 then uses it to bolster the idea that the only remedy due him is to withdraw his plea. That is
 2 absurd. It is also prejudicial to the State.

3 **NO MISREPRESENTATION OCCURRED**

4 The Supreme Court asked for an advisory opinion from the Attorney General to
 5 explain the position of the prison as to **NRS 213.1213**. The State does not agree with the
 6 interpretation and conclusion the Attorney General came to however that is irrelevant. The
 7 fact that **NRS 213.1213** was open to different interpretations shows that it was reasonable for
 8 the State and the defendant to have made the negotiation that we did. Further, this very court
 9 on December 18, 2006, at the writ of Habeas Corpus argument fully believed that the
 10 sentence was appropriate and that the prison would follow the plain reading of the statute to
 11 make him eligible for parole at 15 years. No bad faith existed. The State was ready to go to
 12 trial on the day of negotiations. The State would gain no benefit from these alleged
 13 misrepresentations.

14 To begin, the defendant chose to represent himself. He is not entitled to any special
 15 consideration due to this fact. **SCR 253** Guidelines and procedures in criminal proceedings
 16 in the district court where the defendant elects self representation.

17 1. Where a defendant appearing in district court chooses self
 18 representation, the court should make a specific, penetrating and
 19 comprehensive inquiry of the defendant to determine whether the
 20 defendant understands the consequences of his or her decision to
 21 proceed without counsel. The district court's observation of the
 22 defendant should reveal that the defendant appears to understand
 23 the nature of the proceedings, and is voluntarily exercising his or
 24 her informed free will. The district court's inquiry should reveal
 25 whether the defendant should consult with appointed counsel to
 26 discuss the consequences of self representation before deciding
 27 to proceed in proper person.

28 2. The court should inform the defendant of some of the dangers,
 disadvantages and consequences of self representation:

(a) Self representation is often unwise and a defendant may
 conduct a defense to his or her own detriment;

(b) A proper person defendant is responsible for knowing and
 complying with the same procedural rules as lawyers, and cannot
 expect help from the judge in complying with these procedural
 rules;

(c) A defendant proceeding in proper person will not be allowed
 to complain on appeal about the competency or effectiveness of
 his or her representation;

1 (d) The state will be represented by experienced professional
counsel who will have the advantage of skill, training and ability;

2 (e) The proper person defendant is not entitled to special library
privileges;

3 (f) A defendant unfamiliar with legal procedures may allow the
prosecutor an advantage, may not make effective use of legal
rights, **and may make tactical decisions that produce**
4 **unintended consequences;** and

5 (g) The effectiveness of the defense may well be diminished by
defendant's dual role as attorney and accused.

6 3. The court's canvass of the defendant may include questions in
the following areas:

7 (a) The defendant's age, education, literacy, background, and
prior experience or familiarity with legal proceedings;

8 (b) Defendant's health and whether the defendant is taking any
medication or is under the influence of any alcohol or other
drugs;

9 (c) Defendant's mental health history;

10 (d) Whether defendant has been threatened or coerced in any
way to waive the right to an attorney;

11 (e) Defendant's understanding of the right to representation at no
cost if the defendant is unable to pay;

12 (f) Defendant's understanding of the elements of each crime and
lesser included or related offenses;

13 (g) Defendant's understanding of the possible penalties or
punishments, and the total possible sentence the defendant could
receive;

14 (h) Defendant's understanding of the pleas and defenses which
may be available;

15 (i) Defendant's understanding that the court may appoint standby
counsel who, in the event that the court terminates the
defendant's self representation, would become appointed counsel
and represent the defendant in the remaining proceedings;

16 (j) **Defendant's understanding that if standby counsel is**
17 **appointed, standby counsel is not required to advise or**
18 **provide a proper person defendant with legal advice;** and

19 (k) Defendant's understanding that he or she has 30 days within
which to file an appeal from the entry of a judgment of
conviction.

20 4. The court shall make findings on the record concerning
whether:

21 (a) The defendant is competent to waive his or her constitutional
right to be represented by an attorney; and

22 (b) The defendant is waiving the right to counsel freely,
voluntarily and knowingly, and has a full appreciation and
understanding of the waiver and its consequences.

23 5. If the district court appoints counsel to represent a defendant
who insists on exercising his or her right to self representation,
24 then the district court should state the basis for denying
25 defendant's request for self representation.

26
27 The defendant's claims of misrepresentation are frivolous. While he is correct that
28 the State's interpretation of the applicable statute was contrary to what the Attorney General

1 has now opined, the defendant made the choice to enter the guilty plea. Further, his
2 sentencing plea shows that the defendant was advised numerous times the Court did not even
3 have to follow the State's recommendation, stipulation or wish. Transcript of Sentencing,
4 August 8, 2005, page 5. His knowledge of the same statutes was presumed given his waiver
5 of council. Further, while the State still maintains a remedy is required, in choosing to
6 represent himself, he put himself in the position that he may make tactical decisions that
7 produce unintended consequences.

8 Further his claim that he was precluded from filing his motion to withdraw guilty plea
9 by the State is disingenuous. The defendant seems to be the only person that thought that his
10 parole eligibility may be at issue, if you are to believe that what his August 8, 2005 motion
11 was about. It seems that the defendant felt misrepresentations had occurred to get him to
12 plea and therefore he should have gone forward with his motion. Those misrepresentations
13 aren't disclosed but he now claims it was due to his reading of NRS 213.1213. That alone
14 invalidates all of his arguments. If he believed his parole eligibility was in question, as his
15 own counsel, he had the duty to pursue the claim. The State strongly disagrees that any
16 "interference" happened. The defendant has run his defense as he wanted from the very
17 beginning. The State's memory of that discussion is contrary to the defendant's; no one told
18 him he could not pursue his claim. See Reporters transcript of sentencing, August 8, 2005,
19 page 7-8. The defendant's concern was the wording in the guilty plea agreement and that is
20 discussed in the transcript. His concerns were addressed on the record. The State in no way
21 interfered with his issue being heard. It was however, discussed that the State believed the
22 sentence was appropriate and would allow for his parole *eligibility* at 15 years; not his
23 release. The defendant wanted the benefit of representing himself and now cries foul that he
24 was stopped from effectively representing himself. That is simply untrue.

25 **DEFENDANT SHOULD NOT BE ENTITLED TO WITHDRAW HIS GUILTY PLEA.**

26 The defendant represented himself throughout the proceedings, and was adequately
27 informed as to the consequences of his guilty plea. Any claim that he was misinformed as to
28 his eligibility for parole is without merit and negated by the fact that his eligibility for parole

1 is not a consequence of the guilty plea agreement. As such, the court was not under a duty to
2 advise defendant of the circumstances as they relate to parole eligibility.

3 **THERE WAS NO DUTY TO ADVISE DEFENDANT OF HIS ELIGIBILITY FOR PAROLE**

4 In *Stocks v. Warden, Nevada State Prison*, 86 Nev. 758, 762, 476 P.2d 469, 472
5 (1970), the Court held the statute governing acceptance of guilty pleas requires “that the
6 accused understand the nature of the charge against him and the consequences of his plea
7 thereto, that is, the sentence authorized for that crime.” In *Stocks*, the Court refused to allow
8 the defendant to withdraw his guilty plea, and also held the court was not required to advise
9 petitioner that parole was not available, since parole eligibility is only a “collateral
10 consequence.” *Id.*, citing *Anushevitz v. Warden*, 86 Nev. 191, 467 P.2d 115 (1970) (There is
11 “no duty upon the court to advise a defendant regarding the prospects for parole, the granting
12 of which is wholly beyond the jurisdiction of the district judge); *Mathis v. Warden, Nevada*
13 *State Penitentiary*, 86 Nev. 439, 471 P.2d 233 (1970) (the court did not allow defendant to
14 withdraw his guilty plea, despite allegation that “he misunderstood the trial court concerning
15 his right to probation or parole ...”). The holdings in *Mathis*, *Anushevitz*, and *Stocks* have
16 expressly been upheld in *Sali v. Warden, Nevada State Prison*, 87 Nev. 41, 482 P.2d 287
17 (1971), and have long remained the holding that a defendant’s ineligibility for parole is not a
18 “consequence of a guilty plea,” and the court will not permit a defendant to withdraw his
19 guilty plea on claim of failure to advise. See also *Little v. Warden, Nevada State Prison*, 117
20 Nev. 845, 34 P.3d 540 (2001) (Ineligibility for parole is a “collateral consequence” and the
21 Court will not allow withdrawal from an otherwise valid guilty plea based on totality of
22 circumstances if defendant was aware he was ineligible for probation.).

23 Here, the defendant was well-informed of the sentence he was facing, which was
24 presented in length in the guilty plea agreement. The sentence was facially valid, he was
25 properly canvassed at the sentencing, and he made several acknowledgements concerning his
26 rights in pleading guilty and the ramifications that flow there from. This fact has been
27 established in a prior hearing on the voluntariness of the plea. See Finding of Fact,
28 Conclusions of Law and Order, State’s Exhibit #1

THE ATTORNEY GENERAL OPINION SHOULD HAVE NO CONSEQUENCE

The Court in *Mathis* further presents eerily similar facts as defendant's case, and the Court denied defendant the habeas relief he was seeking in that case. The Court supported the holding that the trial court is not required to advise the defendant of his eligibility for parole and also renounced defendant's that his plea was not voluntarily given. *Mathis*, 86 Nev. at 440, 471 P.2d at 234. In fact, the defendant claimed he misunderstood because "after [he] began to serve his sentence he was informed through an opinion of the attorney general (No. 489, February 18, 1968) construing NRS 213.110, that he was ineligible for parole." *Id.* at 441 (emphasis added). "A belief or hope alone that probation or parole would be granted is insufficient to compel the withdrawal of a guilty plea. *Id.* at 443, citing *Bates v. State*, 84 Nev. 43, 436 P.2d 27 (1968).

The defendant should not be entitled to withdraw his guilty plea, despite the attorney general's opinion which determined he must serve 22 ½ years (as opposed to 15) before he is eligible for his earliest release. The defendant must serve 15 years for the largest of the primary offenses he committed before he is, in fact, eligible for parole. Once paroled for the primary offense, he may then begin serving the sentence for the weapon enhancements, and he can then be paroled to the community as early as 7 ½ years later in accord with the Attorney General's opinion on the interpretation of **NRS 213.1213** and the holding recognized in *Nevada, Department of Prisons v. Bowen*, 103 Nev. 477, 745 P.2d 697 (1987).

DEFENDANT'S GUILTY PLEA WAS GIVEN KNOWING AND VOLUNTARILY.

The Court need look no further than the long-announced rule in *Lundy v. Warden, Nevada State Prison*, 89 Nev. 419, 514 P.2d 212 (1973), for denying a defendant's post-conviction relief when claiming his guilty plea is not entered voluntarily. Similar to *Lundy*, the defendant in this case is not setting forth any substantive evidence to warrant a finding that the plea should be invalid. The court further elaborated:

"An allegation that a guilty plea is entered because of the expectation of a lesser penalty is, of itself, insufficient to invalidate the plea. When an accused expressly represents in open court that his plea is voluntary, he may not ordinarily repudiate his statements to the

1 sentencing judge. In the case before us, nothing in the record impeaches (Lundy's) plea or
2 suggests that his admissions in open court were anything but the truth."
3 *Id.* at 422, citing *Brady v. United States*, 397 U.S. 742, 758, 90 S.Ct. 1463, 1474 (1970). The
4 trial court admonished the defendant to which he made express announcements, which serve
5 to negate any claims that his plea was involuntary.

6 In another case in which the defendant wished to withdraw his guilty plea, the court
7 determined yet again that defendant "was not misled as to when he would be eligible for
8 parole." *Greene v. State*, 110 Nev. 1336, 1338, 885 P.2d 609, 610 (1994). The court
9 rejected the defendant's contention without an evidentiary hearing, because the statutory
10 authority was not misleading in its application to defendant's sentence. Here, the attorney
11 general's office provided its interpretation of the minimum sentence under **NRS 213.1213**,
12 and the defendant should not be able to seek relief for any alleged misunderstanding when
13 the sentence is facially valid.

14 **THE STATE WOULD SUFFER PREJUDICE**

15 In *Hart v. State*, 116 Nev. 558, 1 P.3d 969 (2000), the court used **NRS 176.165** to
16 reject defendant's motion to withdraw guilty plea and provided a descriptive enumeration of
17 the factors to resolve this issue:

18 "Our decision that some limitation should be placed on the motion to withdraw a plea
19 is also grounded in the language of **NRS 176.165**. As previously discussed, the statute
20 provides the district court may permit a defendant to withdraw a plea, after sentencing, only
21 to 'correct manifest injustice.' Whether an 'injustice' is 'manifest' will depend on a variety
22 of factors, including whether the State would suffer prejudice if the defendant is permitted to
23 withdraw his or her plea. Accordingly, we hold that consideration of the equitable doctrine
24 of laches has shown 'manifest injustice' that would permit withdrawal of a plea after
25 sentencing.

26 Application of the doctrine of an individual case may require consideration of several
27 factors, including: (1) whether there was an inexcusable delay in seeking relief; (2) whether
28 an implied waiver has arisen from the defendant's knowing acquiescence in existing

1 conditions; and (3) whether circumstances exist that prejudice the State. See *Buckholt v.*
2 *District Court*, 94 Nev. 631, 633, 584 P.2d 672, 673-74 (1978)." *Id.* at 563 (emphasis
3 added). The State would undoubtedly suffer prejudice by permitting Defendant to withdraw
4 his guilty plea. The defendant was sentenced August 8, 2005, and he has not provided any
5 worthy basis to support his notion. The State would be required to obtain further evidence
6 which may no longer exist and secure witnesses whose once vivid memory is now faded.
7 This is the exact "manifest injustice" the holding in *Hart* seeks to prevent, and defendant
8 should not be permitted to withdraw his guilty plea.

9 **COMPETING ARGUMENTS**

10 The State is aware of the competing arguments advanced in this reply. While the
11 State is adamant that the defendant should not be able to withdraw his plea, and that any
12 consequences to that plea were at his risk, the State maintains that the spirit of the
13 negotiations should be fulfilled. The defendant's sentence was to be that he would be
14 eligible for release *if* he was granted parole, at 15 years. To that end, the State would ask to
15 withdraw the deadly weapon enhancements and file an amended judgment of conviction.
16 That should be the appropriate remedy in this case wherein the defendant's whole argument
17 has been that he should have been eligible for release at 15 years. To do so would
18 accomplish all the goals of both parties.

19 DATED this 18th day of April, 2008.

20 Respectfully submitted,

21 DAVID ROGER
22 Clark County District Attorney
23 Nevada Bar #002781

24
25 BY

26 SUSAN R. KRISKO
27 Chief Deputy District Attorney
28 Nevada Bar #006024

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 18th day of April, 2008, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

RICKIE SLAUGHTER #85902
HIGH DESERT STATE PRISON
P.O. BOX 650
INDIAN SPRINGS, NV 89018

BY /s/ J. Robertson

Secretary for the District Attorney's Office

SRK/jr

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1 **ORDER**

2 **DAVID ROGER**
3 **Clark County District Attorney**
4 **Nevada Bar #002781**
5 **MARC DIGIACOMO**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #006955**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

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Chief Clerk
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DISTRICT COURT
CLARK COUNTY, NEVADA

8 **THE STATE OF NEVADA,**

9 Plaintiff,

10 -vs-

11 **RICKIE SLAUGHTER,**
12 **#1896569**

13 Defendant.

CASE NO: C204957

DEPT NO: III

14 **FINDINGS OF FACT, CONCLUSIONS OF**
15 **LAW AND ORDER**

16 **DATE OF HEARING: 12/18/06**
17 **TIME OF HEARING: 9:00 a.m.**

18 **THIS CAUSE** having come on for hearing before the Honorable Douglas Herndon,
19 District Judge, on the 18th day of December, 2006, the Petitioner being present, proceeding
20 In Forma Pauperis, the Respondent being represented by DAVID ROGER, District Attorney,
21 by and through MARC DIGIACOMO, Deputy District Attorney, and the Court having
22 considered the matter, including briefs, transcripts, arguments of counsel, and documents on
23 file herein, now therefore, the Court makes the following findings of fact and conclusions of
24 law:

25 **FINDINGS OF FACT**

- 26 1) Defendant was charged by way of Information with the following crimes: one count
27 of CONSPIRACY TO COMMIT KIDNAPPING (Felony - NRS 199.480, 200.030);
28 one count of CONSPIRACY TO COMMIT ROBBERY (Felony - NRS 199.480);

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EXHIBIT "1"

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one count of CONSPIRACY TO COMMIT MURDER (Felony - 199.480); two (2) counts of ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.330, 193.165); one count of BATTERY WITH USE OF A DEADLY WEAPON (Felony - NRS 200.481; one count of ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS 200.380, 193.330, 193.165); one count of ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS 200.380, 193.165); one count of BURGLARY WHILE IN POSSESSION OF A FIREARM (Felony - NRS 205.060); BURGLARY (Felony - NRS 205.060); six (6) counts of FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Felony - NRS 200.310, 200.320, 193.165) and one count of MAYHEM (Felony - NRS 200.280). Pursuant to plea negotiations, the State filed a fourth Amended Information dismissing thirteen out of the seventeen counts for which Defendant was initially charged.

2) On April 4, 2005, proceeding pro se with appointed stand-by counsel, Defendant pled guilty to: COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Felony - NRS 200.010, 200.030, 193.330, 193.165); COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS 200.380, 193.165); COUNT 3 - FIRST DEGREE KIDNAPPING (Felony - NRS 200.310, 200.320); and COUNT 4 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Felony - NRS 200.310, 200.320, 193.165).

3) On August 08, 2005, Defendant was granted appointment of his stand-by counsel for representation at sentencing. The court, having heard argument from the State, Defendant and Defendant's counsel sentenced Defendant as follows: as to COUNT 1, a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS and a MINIMUM of NINETY (90) MONTHS in the Nevada Department of Corrections (NDC), plus an equal and CONSECUTIVE MAXIMUM of TWO HUNDRED FORTY (240) MONTHS and a MINIMUM of NINETY (90) MONTHS for Use of a Deadly Weapon; on COUNT 2, a MAXIMUM of ONE HUNDRED EIGHTY (180)

1 MONTHS and a MINIMUM of SEVENTY-TWO (72) MONTHS in the Nevada
2 Department of Corrections (NDC), plus an equal and CONSECUTIVE MAXIMUM
3 of ONE HUNDRED EIGHTY (180) MONTHS and a MINIMUM of SEVENTY-
4 TWO (72) MONTHS for Use of a Deadly Weapon, CONCURRENT with Count 1;
5 on COUNT 3, a MAXIMUM of LIFE in the Nevada Department of Corrections
6 (NDC), with a MINIMUM of 15 YEARS before Parole Eligibility, CONCURRENT
7 with Counts 1 and 2; on COUNT 4, LIFE in the Nevada Department of Corrections
8 (NDC), with a MINIMUM of 5 YEARS before Parole Eligibility, plus an equal and
9 CONSECUTIVE LIFE in the Nevada Department of Prisons, with a MINIMUM of 5
10 YEARS before Parole Eligibility for Use of a Deadly Weapon, CONCURRENT with
11 Counts 1, 2, and 3, with NO Credit for Time Served. Judgment of Conviction was
12 filed on August 31, 2005.

- 13 4) On August, 7, 2006, Defendant filed the instant Petition for Writ of Habeas Corpus
14 (Post-Conviction).
- 15 5) The district court properly canvassed Defendant and properly accepted the guilty plea
16 which was made knowingly, intelligently, voluntarily, and it suffers from no
17 constitutional defects.
- 18 6) Defendant's claim that he was induced into pleading guilty by the prosecutor's
19 misrepresentations of law upon entry of his plea is completely belied by the record.
- 20 7) The trial court took sufficient steps to ensure that Defendant's guilty plea was made in
21 a knowing, intelligent, and voluntary manner.
- 22 8) Defendant signed a guilty plea agreement with the guidance and advice of stand-by
23 counsel on April 4, 2005. The agreement states the range of punishment in explicit
24 detail for the relevant charges. The agreement also contains an explicit "WAIVER
25 OF RIGHTS" section which details all the meaningful constitutional trial rights
26 Defendant is giving up by pleading guilty including the right to testify, the right to
27 confront and cross-examine witnesses, the right to subpoena witnesses, and that each
28 element of the charges must be proved by the State beyond a reasonable doubt.

1 Defendant's signature is affixed to the end of this document. There is also a separate
 2 "certificate of counsel" signed by Defendant's attorney that avers as an officer of the
 3 court that thorough discussions occurred with Defendant about all matters pertinent to
 4 the case.

- 5 9) There is absolutely no indication from the record that the Court based its sentencing
 6 decision on impalpable or highly suspect evidence.

7 CONCLUSIONS OF LAW

- 8 1) The law in Nevada directs that "[t]he trial court should view the guilty plea as
 9 presumptively valid and the burden should be on the defendant to establish that the
 10 plea was not entered knowingly and intelligently." Bryant v. State, 102 Nev. 268,
 11 272, 721 P.2d 364, 368 (1986). Further, a guilty plea should not be invalidated "as
 12 long as the totality of the circumstances, as shown by the record, demonstrates that
 13 the plea was knowingly and voluntarily made and that the defendant understood the
 14 nature of the offense and the consequences of the plea." State v. Freese, 116 Nev.
 15 1097, 1105, 13 P.3d 442, 448 (2000).

- 16 2) "To properly accept a guilty plea, a court must sufficiently canvass a defendant to
 17 determine if the defendant knowingly and intelligently entered into the plea."
 18 Williams v. State, 103 Nev. 227, 230, 737 P.2d 508, 510 (1987).

- 19 3) In Hanley v. State, the Court stated:

20 [I]n cases where a guilty plea is accepted, the record should affirmatively
 21 show that certain minimal requirements are met. These are generally:

- 22 1. an understanding waiver of constitutional rights and
 23 privileges;
 24 2. absence of coercion by threat or promise of leniency;
 25 3. understanding of the consequences of the plea, the range of
 26 punishments; and
 27 4. an understanding of the charge, the elements of the offense.

28 97 Nev. 130, 133, 624 P.2d 1387, 1389 (1981)(internal citations
 omitted).

- 4) There is no requirement in Nevada that a "ritualistic oral canvass of a defendant"

1 takes place prior to accepting a guilty plea, and the failure to conduct one does not
 2 invalidate a plea. Freese, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000). The
 3 Supreme Court of Nevada "will not invalidate a plea as long as the totality of the
 4 circumstances, as shown by the record, demonstrates that the plea" was entered in a
 5 knowing and voluntary manner and defendant understood nature and consequences of
 6 the offense(s) and plea. Id. A court may not rely simply on a written plea agreement
 7 without some verbal interaction with a defendant. Id. Thus, a "colloquy" is
 8 constitutionally mandated, and a "colloquy" is but a conversation in a formal setting,
 9 such as that occurring between an official sitting in judgment of an accused at plea.
 10 See id.

- 11 5) The totality of the "record" to be evaluated for plea validity contains all of the
 12 following: (1) all interaction between the court and Defendant up to the moment of
 13 the plea; (2) an extensive and express written plea agreement signed by Defendant;
 14 and (3) a certification from Defendant's attorney that full discussions about the case
 15 and all relevant matters occurred with Defendant and that Defendant was sufficiently
 16 advised and prepared to enter the plea with no cause for legal concern; and (4) a plea
 17 "canvass" to verify that Defendant appreciated the consequences of the moment, and
 18 to give him one last chance to question any matter relevant to the proceedings. See
 19 State v. Freese, 116 Nev. 1097, 13 P.3d 442 (2000).
- 20 6) In Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984), the Court held
 21 that claims asserted in a petition for post-conviction relief must be supported with
 22 specific factual allegations, which if true, would entitle the petitioner to relief.
- 23 7) A defendant cannot repudiate any of the statements he makes on the record. Lundy v.
 24 Warden, 89 Nev. 419, 514 P.2d 212 (1973).

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