

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
May 23 2022 05:20 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

ALISHA BURNS

Appellant,

vs.

THE STATE OF NEVADA

Respondent

CASE NO. 82686

D.C. CASE NO: 03C191253

APPELLANT'S APPENDIX-VOLUME V

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State of Nevada

1	1. DEFENDANTS EXHIBIT LIST	001
2	2. DR. BENNET REPORT.....	002-007
3	3. WAIVER OF P/H.	008-011
4	4. OHIO ORDER TO TRANSPORT.....	012-014
5	5. LAS VEGAS CERTIFICATE REQUESTING ATTENDANCE OF	
6	WITNESS	015-022
7	6. SAO FOR CONTACT VISIT	023-024
8	7. OFFICER DAKA REPORT.....	025-026
9	8. GOLD AND SILVER PAWN TICKET.....	027
10	9. CERTIFICATE REQUESTING ATTENDANCE OF PETITIONER	028-044
11	10. THOMAS RIDDLE VOLUNTARY STATEMENT.....	045
12	11. STATES EXHIBIT COVER PAGE\.....	047-048
13	12. PETITIONER'S WRITTEN STATEMENT TO DETECTIVE.....	049-054
14	13. WAIVER OF P/H	055-059
15	14. SAO CONTACT VISIT	060-061
16	15. TRANSCRIPT SENTENCING.....	062-063
17	16. PETITIONER'S GPA.....	064-077
18	17. T SENTENCING.....	078-079
19	18. OFFICERS REPORT OF HOMICIDE.....	080-092
20	19. FORENSIC PRINT MATCH OF KACZMAREK.....	093-094
21	20. KACZMAREK TESTIMONY BLAMING ALISHA.....	095-174
22	21. OFFICER DAKA INTERVIEW.....	175-184

EXHIBITS

C191253
CASE NO.

[illegible]

Thomas L. Bennett, M.D.

Forensic Medicine and Pathology

September 17, 2018

Tony L. Abbatangelo, Attorney at Law
724 S. 9th Street
Las Vegas, NV 89101

RE: F18-83, State-NV v Alisha Burns

Dear Mr. Abbatangelo:

Thank you for the opportunity to work with you on the above case. You asked me to review the materials regarding this event, and to offer what information and opinions I may have from my role as a physician and forensic pathologist. I am board certified in anatomic pathology, clinical pathology and forensic pathology, and am active as a forensic consultant and forensic pathologist for Wyoming and Montana and adjacent states, working with our courts, families and Coroners in the investigation of the causes, manners and circumstances of injuries, deaths and other medical conditions. I have performed well-over 12,000 forensic autopsies in my career, the majority involving non-natural deaths. These have included investigating thousands of injuries, toxicology cases and trauma-associated deaths.

I have received the following **MATERIALS FOR REVIEW**:

1. Burns – Coroner's and related reports;
2. Kaczmarek DC - filed information;
3. Burns - statement of Kaczmarek in re murder
4. Burns - statement of Abe Cruz at pawn shop;
5. Burns and Kaczmarek notice of intent to seek the death penalty;

SUMMARY:

Pedro Villarreal (58 yo Hispanic man, 67 inches and 189 pounds) was found dead in his apartment at ~1200 on 9-27-02 by a maintenance worker who was checking on complaints the Uptown Motel room/apartment complex was without hot water. He was found in a tub of running water, he clothed in white underwear, black jean pants, brown belt and white socks, a blood-stained/blood-soaked sock in his mouth and multicolored pillow case over his head. His "hands appeared white in color and very wrinkled". The Medical Examiner was notified, and autopsy performed the next day.

CIRCUMSTANCES OF DEATH

Circ: Homicide/LVMPD. Discovered by maintance worker @ 1200 hrs with hands & feet bound with electrical cord, pillow case over head, face down in bathtub in approx. 3-5 inches of water with shower running. Maintance worker attempted entry into decedent's apartment @ approx 1000 hrs due to water back up in next door apartment tub but found

You indicated that you questioned whether the events could have happened on the 25th, based upon the findings at the scene and the autopsy, and requested I review materials and offer whatever opinions I could. You indicated that there were color photos available, but they had not been released to you, and are not in the materials I was able to review at the time of this report.

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EXAMINATION of his BODY:**THE VICTIM**

The victim was located on his stomach in the bathtub apparently face down. The victim's head pointed south and there was a multi-colored pillowcase (ITEM 7; 6932) located over the victim's head. The right arm was slightly bent at the elbow and was pointing to the north. The lower portion of the right arm was resting on the

lower portion of the victim's back with his hand palm up near his buttocks. The left arm was bent approximately 90 degrees at the elbow with the upper portion pointing to the south at the victim's side and the lower portion located across the lower back of the victim pointing to the west. The left hand was palm up and located on top of the right hand. The victim's hands appeared water pruned. The left and right arms were bound together near the wrists and around the left hand with a white extension cord (ITEM 10; 6932). His legs mirrored each other and were bent approximately 90 degrees at the knees with the upper portion pointing south with the knees located against the interior south wall of the bathtub. The upper portion of the legs were angled upwards with the left foot located against the east wall and the toes of the feet located against the south wall. The left and right legs were bound together just above the ankles with a cut white electrical cord (ITEM 11; 6932). There were two (2) "older" injuries on the victim's back. The victim was wearing a pair of black "Rustler" denim type pants with a brown belt (ITEM 6; 6932), a pair of white "Hanes" brief style underwear (ITEM 5; 6932), and a pair of white ankle length socks (ITEM 4; 6932). The clothing was wet.

From the autopsy, which was started at 0900 the day after he was found dead, Dr. Gary Telghoff listed the following diagnoses, and concluded that Mr. Villarreal died of "asphyxia", the manner of death "homicide".

- I. Asphyxia.
 - A. Suffocation.
 - B. Strangulation.
 - C. Drowning.
- II. Multiple blunt force trauma, body.

A white blood soaked piece of cloth (white sock) is in the oral cavity obstructing the same. The entire article is packed within the oral cavity with the tongue compressed to the bottom of the oral cavity. A white button approximately 1/4 inch is found attached to the right upper aspect of the abdomen (on the skin). There are exaggerated wrinkles in the skin of the forearms, wrists, hands and feet (washerwoman changes).

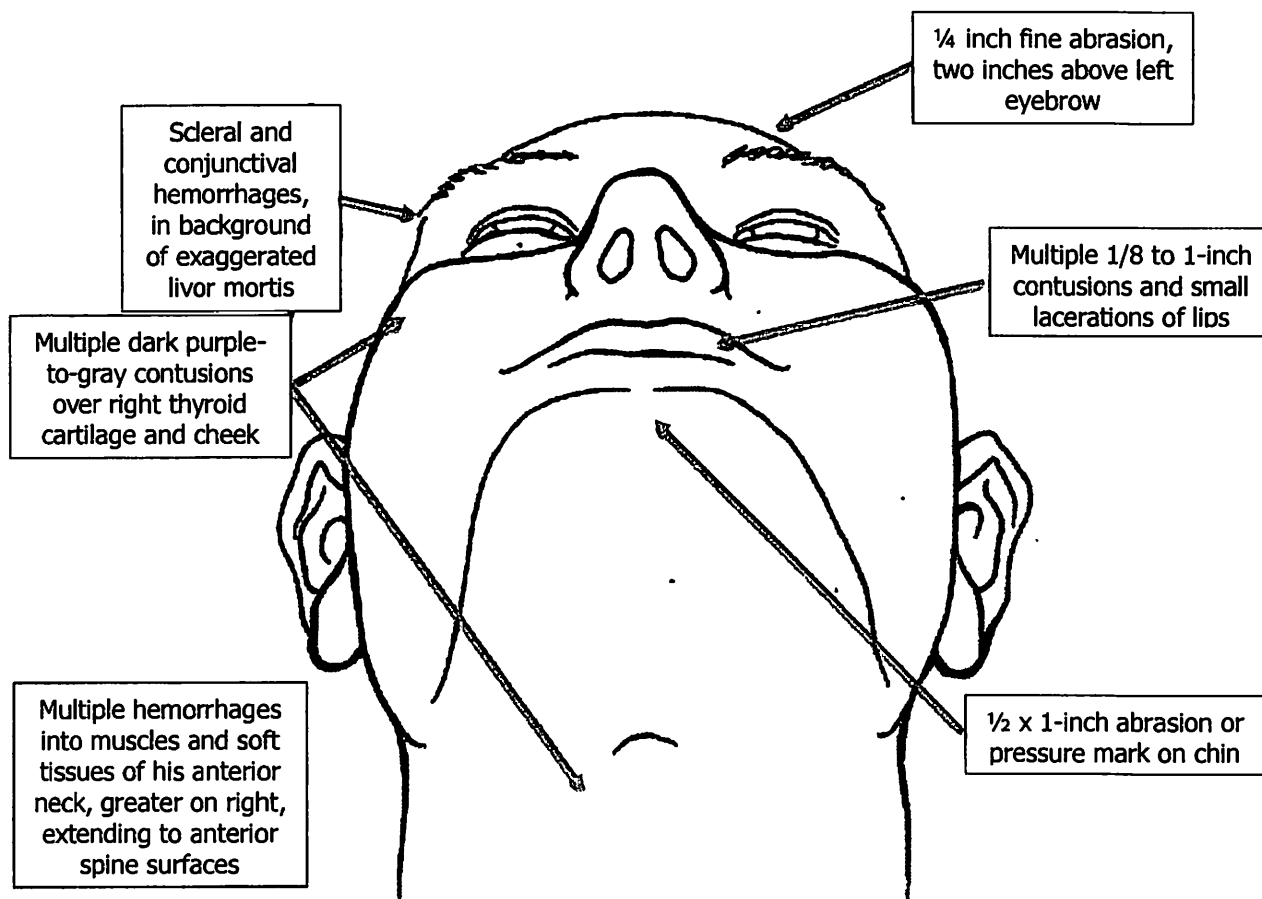
Upon removal of the previously described electric cords, deep furrows remain in the skin surrounding the wrists with prominent skin slippage in these areas and deep furrows around the lateral aspect and posterior aspect of the legs bilaterally.

The refrigerated body is cold. Rigor mortis is receded. Fixed exaggerated livor mortis is on the anterior aspect of the body, most pronounced on the anterior thighs, abdomen and chest and most particularly the neck and head. Some Tardieu spots are present on the shoulders and juncture of the chest with the neck. There is pronounced male pattern baldness. Residual black-graying scalp hair at the sides of the head and is 2-1/2 inches in maximal length. The anterior aspect of the skull is intact. The skin is edematous (slightly). The face is slightly weathered with

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numerous acne scars and pits. The nose and facial bones are intact by palpation. There is blood/purge fluid emanating from the nostrils. The decedent wears a black-graying mustache. The teeth are natural with some implants and extensive dental work present that are in adequate condition. The neck has evidence of injury to be described, but is otherwise well developed and symmetrical.

Head and Neck: Numerous petechial hemorrhages are in the sclerae and conjunctivae of both eyes; however, the head is involved by exaggerated livor mortis and is dependent at the scene. This most likely represents true petechial hemorrhage, exaggerated by dependent position.



Many abrasions were described over his back and left arm, with no mention of bruising. Bruises are described over his shoulders and his medial right arm.

Internally, prominent vascular engorgement and congestion of the organs is described, the lungs weighing 1,480 grams combined. No froth is described in the airways. No microscopic studies are described/performed, and there is no mention of saving tissues for potential microscopic studies. Toxicology studies found his blood contained 0.13% ethanol, no other drugs found.

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F18-83 State-NV v Alisha Burns

EXAMINATION of the SCENE:

From the Medical Examiner report:

It was reported that the maintenance worker attempted to enter the motel room/apartment at approximately 1000 hours on 27 September 2002. It was reported that he attempted to open the door, which was not locked, but found the chain intact from the inside. The air-conditioner was apparently running at that time. At approximately 1200 hours, he again attempted to knock on the decedent's door. At that time, the air-conditioner was off. The door this time was locked and required a key to enter. The chain was no longer latched. The maintenance man then reportedly left the apartment and called 911.

Scene:

One bedroom, second floor efficiency apartment with a bathroom, which was occupied only by the decedent. The apartment had no sign of forced entry or drug use. The apartment was in disarray with several items that appeared to have been gone through including a large dresser with most of the drawers pulled out. One dresser drawer was broken and some items from the closet appeared to have been searched. A small fan was turned over on the floor by the front window and its electrical cord was missing. An ash tray full of used cigarette butts appeared to have been dumped on the bed and the ashtray left on the floor along with a cigarette butt. The bathroom had three towels hanging on a towel rack next to the toilet and what appeared to be a pair of tan colored, nylon pantyhose hanging on a hook, on the back of the bathroom door.

There was also a wet box on the floor next to the tub with several paper items, which appeared to be magazines. On a small shelf between the bathroom door and the tub there were two toothbrushes upside down in a coffee cup filled with what appeared to be water, a second empty coffee cup, two razors and some other toiletries. The floor in the bathroom and out into the bedroom area was very wet. The sink and side of the tub had what appeared to be shaving cream all over the surfaces. No identification or money was located in the apartment.

Multiple fingerprints were lifted from the scene, none reportedly matching Alisha Burns.

DISTRICT ATTORNEY - CHARGES: The Clark County District Attorney's Notice includes information regarding past convictions of Steven Kaczmarek in 1989-1996. The current trial regards the death of Pedro Villarreal, the State accusing Mr. Kaczmarek of the murder and the robbery, and alleging Alisha Burns was his accomplice, many sites in the charges noting she was considered a child. They further allege:

The Defendant engaged in an extended struggle with the victim and strangled the victim for a substantial period of time before the victim died. Burns jumped on Villarreal's head and/or neck in a further attempt to asphyxiate him. Villarreal had several abrasions on his back from where he struggled against Defendant and Burns. Defendant and Burns left Villarreal bound in the tub with a sock in his mouth, a pillowcase over his head and water pouring over him. At the autopsy, the coroner observed that the sock in Villarreal's mouth was soaked with blood.

Abe Cruz, who worked as a counterperson at a pawn shop, was interviewed about events he could have witnessed on 9-25-02. He apparently recognized a photo of Steve Kaczmarek but was unable to recognize a photo of Alisha Burns or more info about the events.

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STEVE KACZMAREK INTERVIEW, 10-29-02:

He indicated he and Alisha Burns had taken her mother's car and driven from Ohio to Las Vegas, ultimately selling the car, and then Alisha panhandling for money, he and "Tommy" hovering nearby. They worked Fremont Street, where she met Mr. Villarreal, who had been drinking. Mr. Villarreal bought her a drink at McDonalds, and he alleges than offered her \$200 "to go to his house". He didn't remember the day. The three went with Mr. Villarreal back to his home about 2230, where they drank a beer. They decided to rob him, Steve indicating he grabbed the decedent around his neck with his left arm, taking Mr. Villareal to the floor, where he "passed out". They found the wallet between the mattresses. Mr. Villarreal began coming around, and Tommy then choked him, as did Alisha. Steve stood on his torso and Alisha stomped and punched the back of his neck. They then tied Mr. Villarreal up with the electrical cords and placed him into the tub. Steve put the sock into the mouth and cut off his shirt. They put on gloves they found at the apartment, and he claimed they wiped the room down, he worried about prints and DNA. They then turned on the water, took some money and things and left (p. 22). They then went directly to the pawn shop and pawned the merchandise. He claimed Alisha had gotten a fake ID under the name "Mary Jane Espelage", age 18, which she used to sell the car and also to sign a check (p. 45).

OPINIONS: After review of the above, I offer the following opinions, each to a reasonable degree of medical certainty:

1. From the description of the body of Mr. Villareal at the scene and then at the autopsy on 9-28-02, it is unlikely that Mr. Villareal had been dead since the 25th.
 - a. He had "washer woman" change of the skin, which is simply a sign or immersion or water soaking, which can occur in less than an hour of exposure to water.
 - b. The temperature of the water spraying on him is not given, or how the faucets were set (such as whether the hot water spigot had been turned on in addition to the cold?), but in general, the exposure of a body to water for approximately eight hours or more will result in generalized skin slippage, with the top layers of skin slipping and sloughing away. There is a description of some slipping of the skin under the bindings, but this is a result of mechanical trauma from the bindings, consistent with the description of the localized slippage of the skin.
2. "Asphyxia" is a "mechanism of death", meaning it is a functional disturbance with insufficient oxygen supply for the body, caused by a disease or injury. A "cause of death" is a disease or injury. The pathologist lists three causes under the "asphyxia" heading – suffocation, strangulation and drowning.
 - a. In my opinion, suffocation was a major contribution to the cause of death. The sock stuffed into the mouth would occlude the mouth, and at least compromise the posterior pharynx and breathing through the nose. He had bloody purge from his nose and mouth, much of which could have washed away in the tub, but with 300 mL of brown fluid in his stomach, there is a reasonable source of the purge, which could contribute through aspiration of gastric contents.
 - b. Strangulation is also a possibility. The bruising of the neck is only evidence of manual throttling injuries, as were described, from the hand or forearm of an assailant placed

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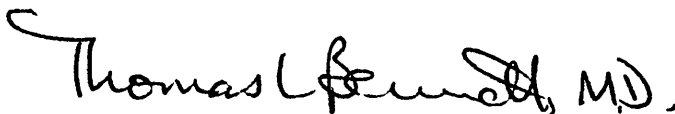
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forcefully across the front of the neck and adjacent tissues. The petechiae of the eyes, as described, are non-specific, caused by increased blood pressure in the head and neck rupturing the smallest veins and vessels that leave the pinhead-sized bruises, these bruises indeed potentially enlarging because of the pooling of blood in the lowest portions of the body following death – the dependent lividity.

- c. Drowning is a possibility, in that his face was found in water, but there are no findings that demonstrate he aspirated the water (such as froth in the airways) or otherwise was alive when placed into the tub.
3. Alcohol intoxication is a contributing factor to his death.
4. I agree with the Coroner/Medical Examiner that his death occurred on 9-27-02. Had he been dead for two days when found, and then the autopsy performed the next day, I would have expected more early changes of decomposition, such as malodor. By the time of the autopsy, the day after he was found dead, the rigor mortis was described as "receded" and the lividity fixed over the front of his body.
5. The floor was described as wet, and the air conditioner off in the apartment when his body was discovered. I did not see photos or a description of the wetness, but if the water came from the struggle to get the decedent into the tub and then clean up the area, and had been there two days, the Nevada climate is unlikely to allow persistent moisture for two days. The chain lock changes and air conditioner changes on the day he was found also clearly argue against his death being on the 25th.
6. Unidentified prints were described from the initial investigation, only sufficient to demonstrate that Alisha Burns was not identified. With the intervening 16 years, it may be of use to recheck the prints against computer records, as new additions to the data base may lead to hits.
7. In summary, it is my opinion that Mr. Villarreal's death occurred on the 27th rather than the 25th of September, just before he was found dead rather than two days prior to being found. I find nothing in the materials I have been able to review to date that disprove this opinion. It is interesting that the items were pawned on the 25th, per the interview with Abe Cruz, and in the same interview the officers state the murder occurred on the 27th.

If additional information becomes available that has a bearing on these conclusions, these conclusions will be amended or supplemented appropriately. I hope these points are of assistance. Please let me know if there is anything more I can do or need to provide.

Sincerely,



Thomas L. Bennett, M.D.
Forensic Pathologist

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1 Tran
2 CASE NO. C191253
3 DEPT NO. 6

4 IN THE JUSTICE'S COURT OF LAS VEGAS TOWNSHIP
5 COUNTY OF CLARK, STATE OF NEVADA

6 STATE OF NEVADA,)

7 Plaintiff,)

8 vs.)

9 ALISHA BURNES,)

10 Defendant.)

Case No.
02F21724X

11 REPORTER'S TRANSCRIPT

12 OF

13 UNCONDITIONAL WAIVER OF PRELIMINARY HEARING

14 BEFORE THE HONORABLE NANCY OESTERLE
15 JUSTICE OF THE PEACE

16 Tuesday, April 1, 2003

17
18
19
20
21 A P P E A R A N C E S:

22 For the State: MARY D. BROWN, ESQ.
Deputy District Attorney

23 For the Defendant: PHILIP J. KOHN, ESQ.
24 Special Public Defender

25 Reported by: Stacy L. Briggs, CCR #335

Stacy L. Briggs, CCR (702) 455-5512



1 LAS VEGAS, NEVADA, APRIL 1, 2003

2 * * * * *

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4

5 THE COURT: Mr. Kohn, I have Alisha
6 Burnes, 02F21724X.

7 MR. KOHN: Yes, Your Honor. Thank you,
8 Your Honor.

9 Your Honor, in this matter, we'll be
10 waiving the preliminary hearing. The District
11 Attorney has offered to allow Alisha to plead to
12 second degree murder, which would be a ten-to-life
13 sentence.

14 Alisha is seriously considering it and
15 is sort of waivering a little, but she still is
16 prepared to waive her preliminary hearing.

17 I have advised her, on more than one
18 occasion, that if you do waive your preliminary
19 hearing, you do not have a chance to come back to
20 this courtroom.

21 THE COURT: She could change her mind
22 and try to re-negotiate it or go to trial in
23 District Court.

24 MR. KOHN: Yes, Your Honor.

25 THE COURT: Ms. Brown, is that a correct

1 statement of the negotiations?

2 MS. BROWN: That's correct, Your Honor.

3 THE COURT: So, Alisha, did you talk to
4 your attorney, Mr. Kohn, about the negotiations?

5 THE DEFENDANT: Yes.

6 THE COURT: And do you understand the
7 deal?

8 THE DEFENDANT: Yes.

9 THE COURT: And is that what you would
10 like to do?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that by
13 entering into these negotiations you are waiving,
14 by that I mean that you are giving up your right to
15 have a preliminary hearing in this matter, which
16 means that you are giving up your right to
17 cross-examine the witnesses that the State could
18 call against you and to challenge their evidence;
19 you are also giving up your right to subpoena
20 witnesses to testify for you, and you are giving up
21 your right to testify on your own behalf for the
22 purpose of today's preliminary hearing only?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you also understand that
25 this is an unconditional waiver, which means that

1 it's a permanent waiver of your right to have a
2 preliminary hearing in this case?

3 So if for any reason, once you get to
4 District Court, you change your mind, you decide
5 that you don't want to take the plea bargain, you
6 would then go directly to jury trial on the
7 original charges, you would not come back to
8 Justice Court and appear before me for the purpose
9 of having a preliminary hearing in this case.

10 THE DEFENDANT: Oh. Yes.

11 THE COURT: So knowing all of that, do
12 you still want to go forward at this point and
13 unconditionally waive your right to a preliminary
14 hearing?

15 THE DEFENDANT: Yes.

16 THE COURT: It appears to me, from the
17 Complaint on file herein, that crimes have been
18 committed, to wit: Count I, burglary; Count II,
19 robbery; Count III, first-degree kidnapping; Count
20 IV, murder.

21 And this defendant having
22 unconditionally waived her right to have a
23 preliminary hearing, I hereby order said defendant
24 to be held to answer to said charges in the Eighth
25 Judicial District Court, State of Nevada, in and

Stacy L. Briggs, CCR (702) 455-5512

1 for the County of Clark.

2 Your next appearance date will be in
3 District Court.

4 THE CLERK: April 8th, 9:00 a.m.,
5 District Court 16.

6 MR. KOHN: Your Honor, I did advise your
7 clerk that I probably won't be available, so I'll
8 be moving to continue when I get there. That's
9 just so the DA knows.

10 THE COURT: Okay.

11

12

13 (Proceedings concluded.)

14 --o0o--

15

16 Attest: Full, true, accurate transcript of
17 proceedings.

18

19

Stacy L. Briggs, CCR #335

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25

Stacy L. Briggs, CCR (702) 455-5512

IN THE COURT OF COMMON PLEAS
JUVENILE DIVISION
BROWN COUNTY, OHIO



IN RE: REQUEST FOR
ATTENDANCE OF
MATERIAL WITNESS:
ALISHA BURNS

Case No. 20025011
Judge Dvorachek

Entry Ordering Witness to
Appear and Testify in
Out-of-State Criminal Proceeding

This matter came on upon the presentation of the Certificate of the Honorable James Bixler, Justice of the Peace for the Las Vegas Justice Court of the State of Nevada, in and for the County of Clark, State of Nevada, a Court of Record, which Certificate has been duly filed in this Court pursuant to Sections 2939.25 to .29 of the Ohio Revised Code, attesting that ALISHA BURNS, a person who is to be found in the custody of the Brown County Department of Jobs and Family Services, is a necessary and material witness in the criminal proceeding captioned: State of Nevada v. STEVEN KACZMAREK, being Case Number 02F18660X; that the attendance of such witness is required in the Las Vegas Justice Court of the State of Nevada, in and for the County of Clark, State of Nevada; that the State of Nevada and any other state through which the witness shall be required to pass by ordinary course of travel shall afford protection from arrest and service of civil and criminal process to and from the Court where such prosecution is pending; that it will no cause undue hardship to the witness, and that said witness has been served with a copy of the aforementioned Certificate.

IT IS THEREFORE ORDERED THAT, ALISHA BURNS, a necessary and material witness to the prosecution of the aforesaid criminal proceedings, shall appear in the Las Vegas Justice Court



Thomas F.
Grennan

PROSECUTING
ATTORNEY

Brown County
200 E. Cherry St.
Columbus, Ohio 43121
612/275-4151

of the State of Nevada, in and for the County of Clark, State of Nevada on the 27th day of
November, 2002 at 9:00 a.m., to testify as a witness at a preliminary hearing.

IT IS FURTHER ORDERED THAT ALISHA BURNS shall be conveyed to the custody of
Geri Luna and Terry Sullivan, investigators for the Nevada District Attorney's Office, Las Vegas,
Nevada, on November 24, 2002 at 9:00 a.m. at the Brown County Sheriff's Office in Georgetown,
Ohio. ALISHA BURNS shall then be transported by Geri Luna and Terry Sullivan to the Greater
Cincinnati Airport to be transported to Las Vegas, Nevada. ALISHA BURNS shall remain in the
custody of Geri Luna and Terry Sullivan until after the preliminary hearing scheduled for November
27, 2002 has concluded. ALISHA BURNS shall then be returned to Brown County, Ohio, as soon
as the first reasonable flight arrangement can be made. ALISHA BURNS shall then be transported
to the Brown County Sheriff's Office and returned to the custody of the Brown County Department
of Jobs and Family Services.

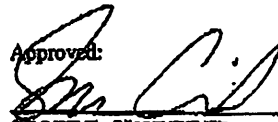
IT IS FURTHER ORDERED THAT, due to ALISHA BURNS being a minor child, the Las
Vegas Justice Court of the State of Nevada shall appoint an attorney or guardian ad litem to act as
counsel on behalf of ALISHA BURNS while she is in the custody of Geri Luna and Terry Sullivan,
in Las Vegas, Nevada.


RONALD S. DVORACHEK, JUDGE

Thomas F.
Graham

PROSECUTOR
ATTORNEY

Brown County
800 E. Cherry St.
Georgetown, Ohio 43121
937/270-4143

Approved: 
SCOTT T. GUSWEILER
Guardian Ad Litem for Alisha Burns


ERIN G. ROSEN
Assistant Prosecuting Attorney

Brown County Department of Job and Family Services

David M. Sharp
Director

775 Mt. Orab Pike
Georgetown, Ohio 45121

(937) 378-6104
FAX (937) 378-4753

FAX TRANSMITTAL SHEET

DATE: 12/18/02 FAX NUMBER 706-455-6273

TO: Public Defender

ATTENTION: Phil Schaer

REFERENCE: Alisha Burns

NUMBER OF PAGES: 3 (INCLUDING THIS PAGE)

FROM: Elizabeth Sharon Gumbert RN

COMMENTS: _____

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201

Justice Court, Las Vegas Township
CLARK COUNTY, NEVADA

STATE OF NEVADA

COUNTY OF CLARK

CASE NO. 02F18680X

DEFENDANT: STEVEN KACZMAREK

CHARGE: KIDNAP 1ST DEGREE,
SEXUAL ASSAULT VICTIM
UNDER 16, POSSESSION OF
STOLEN VEHICLE, POSS OF
FORGERY CHECKS

I, Marguerite R. Creel, Court Administrator/Clerk, as Clerk of the Court, County of Clark, State of Nevada, do hereby certify and attest the foregoing to be a full, true and correct copy of the original:

CERTIFICATE REQUESTING ATTENDANCE OF WITNESS

together with the endorsements thereon, now on file in my office, and that I have carefully compared the same with the original.

I, Marguerite R. Creel, Court Administrator/Clerk, as Clerk of the Court, County of Clark, State of Nevada, in and for the County of Clark (which Court is a Court of Record, having a seal, which is annexed hereto), do hereby certify that JAMES BIXLER Justice of the Peace of the Justice Court aforesaid, and was duly commissioned, qualified and authorized by law to execute said certificate, and I do further certify that the signature of the Justice of the Peace above named to the said certificate of due attestation is genuine.



Case

IN WITNESS WHEREOF, I have hereunto set my hand and annexed the Seal of the Las Vegas Justice Court of Clark County, in and for the State of Nevada.

this 21 day of NOVEMBER 20 02

Marguerite R. Creel
Court Administrator/Clerk of the Las Vegas Justice Court, State of Nevada, in and for the County of Clark.

STATE OF NEVADA)

COUNTY OF CLARK) ss:

I, JAMES BIXLER Justice of the Peace, in and for the County of Clark, do hereby certify that Marguerite R. Creel, Court Administrator/Clerk, as Clerk of the Court of the County of Clark, State of Nevada, in and for the County of Clark, (which Court is a Court of Record, having a seal) and that the signature to the foregoing certificate and attestation is the genuine signature of Marguerite R. Creel, Court Administrator/Clerk, as such officer; that the seal annexed thereto is the seal of the Justice Court; that said Marguerite R. Creel, Court Administrator/Clerk, is the proper officer to execute the said certificate of attestation, and that such attestation is in due form according to the laws of the State of Nevada.

IN WITNESS WHEREOF, I have hereunto set my hand in my official character as such Justice of the Peace, at the City of Las Vegas, County and State aforesaid, this 21 day of NOVEMBER 20 02

James Bixler
Justice of the Peace, County of Clark in and for the State of Nevada.

**THOMAS F. GRENNAN
PROSECUTING ATTORNEY
BROWN COUNTY, OHIO**

Assistant Prosecutors
Tresa Gossett
Chris Erhardt
Mary McMullen
Erin Rosen

200 East Cherry Street
Georgetown, Ohio 45121

(937) 378-4151
Fax: (937) 378-6529

Trial Investigators
Robert Gifford
Larry Littleton

Victim Advocate
Connie S. Waltz

FAX TRANSMITTAL SHEET

DATE: 12-11-02
TO: Phil Kohn
FROM: Erin Rosen
NUMBER OF PAGES (including cover sheet): 11

COMMENTS:
See paragraph 5 of Certificate
Requesting Attendance of Witness
and paragraph 5 of the Request

If I can be of any further
help, please contact me.

The juvenile court number where
I can also be reached is (937) 378-6726,
or 378-6577. Thanks.

EGR

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FILED
Nov 21 10:27 AM '02
BY LAST

1 STEWART L. BELL
2 Clark County District Attorney
3 Nevada Bar #000477
4 CRAIG HENDRICKS
5 Deputy District Attorney
6 Nevada Bar #004630
7 200 South Third Street
8 Las Vegas, Nevada 89155-2211
9 (702) 455-4711
10 Attorney for Plaintiff

11 JUSTICE COURT, LAS VEGAS TOWNSHIP
12 CLARK COUNTY, NEVADA

13 THE STATE OF NEVADA,)	
14 Plaintiff,)	CASE NO: 02F18060X
15 -vs-)	DEPT NO: 4
16 STEVEN KACZMAREK,)	
17 #1752368)	
18 Defendant.)	

19 CERTIFICATE REQUESTING ATTENDANCE OF WITNESS

20 I, JAMES BIXLER, Justice of the Peace for the Las Vegas Justice Court of the State
21 of Nevada, in and for the County of Clark, a Court of Record, do hereby certify:

22 1. That there is now pending in Justice Court the above entitled criminal prosecution
23 by the State of Nevada against STEVEN KACZMAREK, Defendant, wherein said
24 Defendant stands accused and charged with having committed the following criminal
25 offense(s) against the laws of the State of Nevada, to wit: the crimes of FIRST DEGREE
26 KIDNAPPING (Felony - NRS 200.310, 200.320), STATUTORY SEXUAL SEDUCTION
27 (Felony - NRS 200.364, 200.368), POSSESSION OF STOLEN VEHICLE (Felony - NRS
28 205.273) and POSSESSION OF FORGED INSTRUMENT (Felony - NRS 205.160), in the
following manner, to wit:

That STEVEN KACZMAREK, the Defendant above named, on or between
September 2, 2002 and October 7, 2002, at and within the County of Clark, State of Nevada,
contrary to the form, force and effect of statutes in such cases made and provided, and

1 against the peace and dignity of the State of Nevada,

2 COUNT 1 - FIRST DEGREE KIDNAPPING

3 did on or between September 2, 2002, and October 7, 2002, wilfully, unlawfully,
4 feloniously, and without authority of law, lead, take, entice, carry away and/or detain
5 ALISHA BURNS, a minor child, with the intent to keep, imprison or confine the said
6 ALISHA BURNS from her parents, guardians or other person or persons having lawful
7 custody of said minor child, and/or with the intent to perpetrate upon the person of the said
8 ALISHA BURNS, an unlawful act, to-wit: statutory sexual seduction.

9 COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

10 did on or about October 7, 2002, then and there wilfully, unlawfully, and feloniously
11 sexually assault and subject ALISHA BURNS, a female child under sixteen years of age, to
12 sexual penetration, to-wit: sexual intercourse, by the said Defendant inserting his penis into
13 the vaginal opening of the said ALISHA BURNS, against her will, or under conditions in
14 which Defendant knew, or should have known, that the said ALISHA BURNS was mentally
15 or physically incapable of resisting or understanding the nature of Defendant's conduct, the
16 said Defendant being approximately 32 years of age.

17 COUNT 3 - POSSESSION OF STOLEN VEHICLE

18 did on or about September 2, 2002, then and there wilfully, unlawfully, and
19 feloniously possess a stolen motor vehicle wrongfully taken from MARY JANE
20 ESPELAGE, to-wit: a 1996 Geo Prizm, bearing Ohio [REDACTED] which
21 Defendants knew, or had reason to believe, had been stolen.

22 COUNT 4 - POSSESSION OF FORGED INSTRUMENT

23 did on or about October 2, 2002, then and there wilfully, unlawfully, feloniously, and
24 falsely, with intent to defraud DENNIS L. and DONNA BUTLER, have in his possession,
25 with the intent to utter or pass as true and genuine, a certain instrument for the payment of
26 money, to-wit: a First Interstate Bank Check No. 950, issued in the sum of \$250.00, lawful
27 money of the United States, said check payable to the order of MARY JANE ESPELAGE.

28 2. That the preliminary hearing therein has been set by the Court to be held before the

1 Las Vegas Justice Court of the State of Nevada, in and for the County of Clark, commencing
2 on November 27, 2002, at the hour of 9:00 o'clock A.M. of said day.

3 3. That ALISHA BURNS, whose address is SCIETO COUNTY JUVENILE
4 DETENTION CENTER, Georgetown, Ohio, is a necessary and material witness and a
5 principal witness for the State of Nevada in such prosecution by reason of the following:

6 ALISHA BURNS is the victim of the crimes of First Degree Kidnapping and
7 Statutory Sexual Seduction.

8 4. That the presence of the said ALISHA BURNS personally in said Justice Court for
9 the preliminary hearing of the Defendant for the purpose of giving testimony therein upon
10 the part of the State of Nevada on November 27, 2002, at the hour of 9:00 o'clock A.M. of
11 said day will be required for a period of 10 day(s).

12 5. That if the said ALISHA BURNS as such witness comes into the State of Nevada
13 in obedience to a Subpoena directing her to attend and to testify at said preliminary hearing,
14 the laws of the State of Nevada and of any other state through which said witness may be
15 required to pass by the ordinary course of travel to attend said preliminary hearing, give her
16 protection from arrest or the service of process, civil or criminal, in connection with matters
17 which arose before her entrance into said state pursuant to said Subpoena.

18 6. That this Certificate is made for the purpose of being presented to a Judge of a
19 Court of Record in the County of Brown, Georgetown, Ohio where the said ALISHA
20 BURNS now is in the custody of the Brown County Department of Jobs and Family
21 Services, upon proceedings to compel the said ALISHA BURNS to attend and testify at the
22 preliminary hearing in said criminal prosecution before the Las Vegas Justice Court of the
23 State of Nevada, in and for the County of Clark, upon the day and time hereinbefore set
24 forth.

25 ///

26 ///

27 ///

28 ///

1 WITNESS, the Honorable JAMES BIXLER, Justice of the Peace for the Las Vegas
2 Justice Court of the State of Nevada, in and for the County of Clark, this 21 day of
3 November, 2002.

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JUSTICE OF THE PEACE

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY

Craig Hendricks
CRAIG HENDRICKS
Deputy District Attorney
Nevada Bar #004630

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AFFIDAVIT IN SUPPORT OF INTERSTATE SUBPOENA

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

CRAIG HENDRICKS, being first duly sworn, deposes and says:

That the facts set forth in the foregoing application are true, except as to those matters therein stated to be upon information and belief, and as to those matters I believe it to be true.

That the above-referenced matter is presently set for preliminary hearing in the Las Vegas Justice Court, Nevada on November 27, 2002, at 9:00 a.m.

That STEVEN KACZMAREK is being charged with FIRST DEGREE KIDNAPPING (Felony - NRS 200.310, 200.320), STATUTORY SEXUAL SEDUCTION (Felony - NRS 200.364, 200.368), POSSESSION OF STOLEN VEHICLE (Felony - NRS 205.273) and POSSESSION OF FORGED INSTRUMENT (Felony - NRS 205.160).

That ALISHA BURNS is a material and essential witness in that she is the victim of the crimes of First Degree Kidnapping and Statutory Sexual Seduction and her presence will be required at preliminary hearing.

I declare under penalty of perjury that the foregoing is true and correct.

Dated on 11.20.02
(Date)

Craig Hendricks
(Signature)

● ORIGINAL

● FILED

11

APR 16 3 24 PM '03

Philip J. Kohn
CLERK

1 **ORDR**
2 PHILIP J. KOHN
3 SPECIAL PUBLIC DEFENDER
4 Nevada Bar #0556
5 333 South Third Street, 2ND Floor
6 Las Vegas, NV 89155-2316
7 (702) 455-6265
8 Attorneys for Defendant

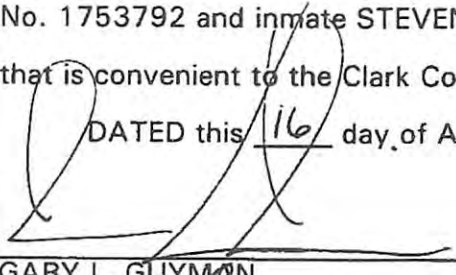
DISTRICT COURT
CLARK COUNTY, NEVADA


9 THE STATE OF NEVADA,)
10) CASE NO. C191253
11 Plaintiff,) DEPT. NO. XVI
12 vs.)
13 ALISHA BURNS,) DATE OF HEARING:
14 ID No. 1753792) TIME OF HEARING:
15 Defendant.)

STIPULATION AND ORDER
FOR A CONTACT VISIT

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties that the
19 Clark County Detention shall allow a contact visit between inmate ALICIA BURNS, I.D.
20 No. 1753792 and inmate STEVEN KACZMAREK, I.D. No. 1752368 at a date and time
21 that is convenient to the Clark County Detention Center.


22 DATED this 16 day of April, 2003.

23
24 
25 GARY L. GUYMAN
26 Deputy District Attorney
27 State Bar No. 003756
28 200 S. Third Street
Las Vegas, NV 89155
Attorney for Plaintiff


PHILIP J. KOHN
Special Public Defender
State Bar No. 000556
333 South Third Street, 2nd Floor
Las Vegas, NV 89155
Attorney for Defendant, Burns

RECEIVED
APR 16 2003
COUNTY CLERK

SPECIAL PUBLIC
DEFENDER
CLARK COUNTY
NEVADA

1
2
3 
4 GREGORY L. DENUE
5 State Bar No. 5279
6 601 S. Tenth Street
7 Las Vegas, NV 89101
8 Attorney for Defendant, Kaczmarek

9
10 **ORDER**

11 IT IS HEREBY ORDERED that the Clark County Detention shall allow a contact visit
12 between inmate ALICIA BURNS, I.D. No. 1753792 and inmate STEVEN KACZMAREK,
13 I.D. No. 1752368 at a date and time that is convenient to the Clark County Detention
14 Center.

15 DATED this 14th day of April, 2003.

16 
17 DISTRICT COURT JUDGE *re*

THIS IS CONFIDENTIAL INFORMATION
IT IS NOT TO BE DUPLICATED OR RELEASED TO ANOTHER PERSON OR AGENCY

Print Date: 12/01/2002

Time: 07:01 AM

CLARK COUNTY FAMILY AND YOUTH SERVICES

INFORMATION REPORT

Page 1 of 2

DEC 03 2002

Client: BURNS, ALISHA NICOLE

Division: Detention

Type of Report: Information

Report Date: 11/28/2002

Nature of Report: Client Information

Name(s), Birthdate(s), and Age(s) of Children Involved

BURNS, ALISHA NICOLE

15 Yrs 8 Mon

Name(s) of Staff Involved

DAKA, THERESA

Staff: DAKA, THERESA

Location: E-6

Incident Date: 11/25/2002

Incident Time: 02:05 PM

"Juvenile Detention"

DW Sig



Account of Event by Person Reporting

After all youths were locked down for shift exchange, Alisha motioned from her window for me to come talk to her. I observed her request a second time while I sat at the computer on A-Side. She stated through her door that she needed to speak to me. I proceeded to check on the youth. She requested to know where the men's prisons are. She discussed that her boyfriend was in one of them and she was upset over this. She relayed she was homesick and desired to return back to Ohio. She added that my accent makes her feel at home. Alisha requested if I knew why she was returned back to Las Vegas from Ohio. I indicated that I was not really sure. Youth discussed she may be charged as an adult and she is afraid of getting stuck in Las Vegas and not being able to return her hometown in Ohio as she may be sent to a Women's prison. Her fears which she identified were that she did not want her boyfriend to be charged with murder. She added that though he was an adult and a convicted child sex offender they had had a consensual relationship. Youth described that he never inflicted any form of violence upon her but they did begin to argue when they relocated to Las Vegas a few months ago. Youth reported that her caseworker was aware of her and her boyfriend's relationship. Alisha reflected that she hopes to be treated as a juvenile in Court so they will fly her back to Ohio so she can complete her time in their juvenile facility instead. Alisha continued that her and her boyfriend would hustle to make money. Youth reported that though she would not engage in prostitution her boyfriend would pose as her pimp. Alisha reflected on a particular unidentified day about 2 months ago she posed as a prostitute "for this trick." She reported her and her boyfriend entered the unknown victim's home as a front. Youth indicated that her boyfriend had acted as her pimp in order to rob the victim. She reported that she knew the victim had money by his possessions. She described the victim had been an older man. Alisha discussed that her and her boyfriend just intended to rob the victim but not kill him but the DNA was left on the man's body. Youth added that they tied him up after restraining him. She discussed her boyfriend kept sweating on the victim from the struggle, thus they placed him in the bathtub to clean him off, and to ensure no fingerprints were left on him. She indicated that they had cleaned up the room as well but must have left some prints behind. Alisha reflected she informed her boyfriend to stop fussing over the man but he began to sweat and some more "D" got on the victim again. Alisha relayed that attempted to wash him off a second time but boyfriend proceeded to stick a sock in his mouth against her words. Youth added she left for a little while to go to the store, and when she came back she saw her boyfriend standing outside the motel counting a stack of money, and holding a VCR. It is unclear if another party was present in the room with her and her boyfriend and the victim while the struggle had occurred, but the above information was discussed with me without leading questions. Youth did display only slight remorse for the man's death as she indicated "he wasn't supposed to die I guess he just suffocated from the sock." The "D" got on him so we got caught. "I don't really know exactly how he died."

Action Taken

1. Alisha Burns requests to speak to me after shift lockdown on 11-25-02 at 2:02 p.m. 2. Supervisory conference with Ms. Alexander, On 11-26-02. 3. Detention policy and procedure discussed. 4. Information recorded.

☐ Youth Agrees

☐ Youth Disagrees

☐ Statement Attached

BURNS CLERK PT 1.025

241

THIS IS CONFIDENTIAL INFORMATION
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Print Date: 12/01/2002

Time: 07:01 AM

CLARK COUNTY FAMILY AND YOUTH SERVICES

INFORMATION REPORT

Page 2 of 2

Theresa Doha

Signature of Reporter

Signature of Youth

Sheila Alyssa

Signature of Supervisor

Debra DeMarco

Signature of Division Manager

DOES AUTO TITLE LOANS

BORROW MONEY AGAINST YOUR
AUTO, TRUCK OR MOTOR CYCLE 415268

KACZMAREK, STEVEN

090337

ORIGINAL LOAN NO.
415268

4

Buy

DATE MADE 09/25/02		TIME MADE 22:23		DATE DUE	
BLD	UNW	BLK	5'10"	171	M
AMOUNT FINANCED. The amount of cash given directly to you.			\$ 30.00		
FINANCE CHARGE. The dollar amount the credit will cost you.			\$		
TOTAL OF PAYMENTS. Amount required to redeem pawn on Date Due.			\$		
ANNUAL PERCENTAGE RATE. The cost of your credit as a yearly rate.			%		
PAYMENT SCHEDULE: Total of Payments is due on Date Due shown above.					
PREPAYMENT: If you pay off early, you will not be entitled to a refund of part of the finance charge.					
DATE PAID			AMOUNT PAID		

See your contract for any additional information concerning nonpayment and default and prepayment refunds or penalties.

GOLD & SILVER PAWN SHOP
713 Las Vegas Blvd. South
Las Vegas, NV 89101 • (702) 385-7912

You are giving a security interest in the following personal property. Description of property.

-BRACELET: 14K I.D. 13.06TGW/YG BLANK

By signing, I agree to all terms and conditions on the front and back and acknowledge receipt of a copy of this ticket.

Steven Kaczmarek
SIGNATURE ON RECEIPT FROM

Steven Kaczmarek
PERSON'S SIGNATURE NOTICE: See Reverse Side

GOLD & SILVER PAWN SHOP DOES AUTO TITLE LOANS

BORROW MONEY AGAINST YOUR
AUTO, TRUCK OR MOTOR CYCLE 415269

KACZMAREK, STEVEN

090337

ORIGINAL LOAN NO.
415269

4

Buy

DATE MADE 09/25/02		TIME MADE 22:25		DATE DUE	
BLD	UNW	BLK	5'10"	171	M
AMOUNT FINANCED. The amount of cash given directly to you.			\$ 10.00		
FINANCE CHARGE. The dollar amount the credit will cost you.			\$		
TOTAL OF PAYMENTS. Amount required to redeem pawn on Date Due.			\$		
ANNUAL PERCENTAGE RATE. The cost of your credit as a yearly rate.			%		
PAYMENT SCHEDULE: Total of Payments is due on Date Due shown above.					
PREPAYMENT: If you pay off early, you will not be entitled to a refund of part of the finance charge.					
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GOLD & SILVER PAWN SHOP
713 Las Vegas Blvd. South
Las Vegas, NV 89101 • (702) 385-7912

You are giving a security interest in the following personal property. Description of property.

-VHS VCR WITH REMOTE: SHARP VC-A410U SER#101877897

By signing, I agree to all terms and conditions on the front and back and acknowledge receipt of a copy of this ticket.

Steven Kaczmarek
SIGNATURE ON RECEIPT FROM

Steven Kaczmarek
PERSON'S SIGNATURE NOTICE: See Reverse Side

365

Save 15%
on your
415268
Payday Loan

**KEEP
YOUR
CASH!**

Just pay the
Finance Charge
and
Renew
your loan
for 120 days.

Save 75%
on your
415269
Payday Loan

**KEEP
YOUR
CASH!**

Just pay the
Finance Charge
and
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your loan
for 120 days.

BURNS CLERK PT 1.027

IN WITNESS WHEREOF, I have hereunto set my hand in my official character as such Justice of the Peace, at the City of Las Vegas, County and State aforesaid, this 21 day of NOVEMBER 20 02

I, JAMES BIXLER, Justice of the Peace, in and for the County of Clark, do hereby certify that Marguerite R. Creel, Court Administrator/Clark, as Clerk of the Court of the County of Clark, State of Nevada, in and for the County of Clark, (which Court is a Court of Record, having seal) and that the signature to the foregoing certificate and attestation is the genuine signature of Marguerite R. Creel, Court Administrator/Clark, as such officer; that the seal annexed thereto is the seal of the Justice (Court) that said Marguerite R. Creel, Court Administrator/Clark, is the proper officer to execute the said certificate of attestation, and that said attestation is in due form according to the laws of the State of Nevada.

STATE OF NEVADA)
COUNTY OF CLARK)
ss:)

IN WITNESS WHEREOF, I have hereunto set my hand and entered the Seal of the Las Vegas Justice Court of Clark County, in and to the State of Nevada this 21 day of NOVEMBER, 20 02

[Signature]
 Court Administrator/Clerk of the Las Vegas Justice Court, State of Nevada, in and to the County of Clark.

together with the endorsements thereon, now on file in my office, and that I have carefully compared the same with the original.

I, Marguerite R. Creel, Court Administrator/Clerk, as Clerk of the Court, County of Alameda, to and for the County of Alameda (which Court is a Court of Record, having a seal, which is annexed hereto), do hereby certify that

JAMES BIXLER, Justice of the Peace of the Peace of the County of Alameda, and was duly commissioned, qualified and authorized by law to execute said certificate, and I do further certify that the signature of the Justice of the Peace above-mentioned to the said certificate of due attestation is genuine.

CERTIFICATE REQUESTING ATTENDANCE OF WITNESS

I, Marguerite R. Creel, Court Administrator/Clerk, as Clerk of the Court, County of Clark, State of Nevada, do hereby certify and attest the foregoing to be a full, true and correct copy of the original.

CHARGE: KIDNAP 1ST DEGREE,
SEXUAL ASSAULT VICTIM
UNDER 16, POSSESSION OF
STOLEN VEHICLE, POSS OF
FURNITURE CHAIRS

CASE NO. 02F186:0X
DEFENDANT: STEVEN KACZMAREK

STATE OF NEVADA
COUNTY OF CLARK

CLARK COUNTY, NEVADA

Justice Court, Gas Regas Downs hi

**THOMAS F. GRENNAN
PROSECUTING ATTORNEY
BROWN COUNTY, OHIO**

Assistant Prosecutors
Tresa Gossett
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Mary McMullen
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and paragraph 5 of the Request

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The juvenile court number where
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EGF

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FILED
NOV 21 10 27 AM '02
BY LAST

1 STEWART L. BELL
Clark County District Attorney
2 Nevada Bar #000477
CRAIG HENDRICKS
3 Deputy District Attorney
Nevada Bar #004630
4 200 South Third Street
Las Vegas, Nevada 89155-2211
5 (702) 455-4711
Attorney for Plaintiff
6

7 JUSTICE COURT, LAS VEGAS TOWNSHIP
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,)	
10 Plaintiff,)	CASE NO: 02F18660X
11 -vs-)	DEPT NO: 4
12 STEVEN KACZMAREK,)	
13 #1752368)	
14 Defendant.)	

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18 1. That there is now pending in Justice Court the above entitled criminal prosecution
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21 offense(s) against the laws of the State of Nevada, to wit: the crimes of FIRST DEGREE
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23 (Felony - NRS 200.364, 200.368), POSSESSION OF STOLEN VEHICLE (Felony - NRS
24 205.273) and POSSESSION OF FORGED INSTRUMENT (Felony - NRS 205.160), in the
25 following manner, to wit:

26 That STEVEN KACZMAREK, the Defendant above named, on or between
27 September 2, 2002 and October 7, 2002, at and within the County of Clark, State of Nevada,
28 contrary to the form, force and effect of statutes in such cases made and provided, and

1 against the peace and dignity of the State of Nevada,

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3 did on or between September 2, 2002, and October 7, 2002, wilfully, unlawfully,
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5 ALISHA BURNS, a minor child, with the intent to keep, imprison or confine the said
6 ALISHA BURNS from her parents, guardians or other person or persons having lawful
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10 did on or about October 7, 2002, then and there wilfully, unlawfully, and feloniously
11 sexually assault and subject ALISHA BURNS, a female child under sixteen years of age, to
12 sexual penetration, to-wit: sexual intercourse, by the said Defendant inserting his penis into
13 the vaginal opening of the said ALISHA BURNS, against her will, or under conditions in
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16 said Defendant being approximately 32 years of age.

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18 did on or about September 2, 2002, then and there wilfully, unlawfully, and
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25 with the intent to utter or pass as true and genuine, a certain instrument for the payment of
26 money, to-wit: a First Interstate Bank Check No. 950, issued in the sum of \$250.00, lawful
27 money of the United States, said check payable to the order of MARY JANE ESPELAGE.

28 2. That the preliminary hearing therein has been set by the Court to be held before the

1 Las Vegas Justice Court of the State of Nevada, in and for the County of Clark, commencing
2 on November 27, 2002, at the hour of 9:00 o'clock A.M. of said day.

3 3. That ALISHA BURNS, whose address is SCIETO COUNTY JUVENILE
4 DETENTION CENTER, Georgetown, Ohio, is a necessary and material witness and a
5 principal witness for the State of Nevada in such prosecution by reason of the following:

6 ALISHA BURNS is the victim of the crimes of First Degree Kidnapping and
7 Statutory Sexual Seduction.

8 4. That the presence of the said ALISHA BURNS personally in said Justice Court for
9 the preliminary hearing of the Defendant for the purpose of giving testimony therein upon
10 the part of the State of Nevada on November 27, 2002, at the hour of 9:00 o'clock A.M. of
11 said day will be required for a period of 10 day(s).

12 5. That if the said ALISHA BURNS as such witness comes into the State of Nevada
13 in obedience to a Subpoena directing her to attend and to testify at said preliminary hearing,
14 the laws of the State of Nevada and of any other state through which said witness may be
15 required to pass by the ordinary course of travel to attend said preliminary hearing, give her
16 protection from arrest or the service of process, civil or criminal, in connection with matters
17 which arose before her entrance into said state pursuant to said Subpoena.

18 6. That this Certificate is made for the purpose of being presented to a Judge of a
19 Court of Record in the County of Brown, Georgetown, Ohio where the said ALISHA
20 BURNS now is in the custody of the Brown County Department of Jobs and Family
21 Services, upon proceedings to compel the said ALISHA BURNS to attend and testify at the
22 preliminary hearing in said criminal prosecution before the Las Vegas Justice Court of the
23 State of Nevada, in and for the County of Clark, upon the day and time hereinbefore set
24 forth.

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26 ///

27 ///

28 ///

1 WITNESS, the Honorable JAMES BIXLER, Justice of the Peace for the Las Vegas
2 Justice Court of the State of Nevada, in and for the County of Clark, this 21 day of
3 November, 2002.

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JUSTICE OF THE PEACE

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY

Craig Hendricks
CRAIG HENDRICKS
Deputy District Attorney
Nevada Bar #004630

Brown County Department of Job and Family Services

David M. Sharp
Director

775 Mt. Orab Pike
Georgetown, Ohio 45121

(937) 378-6104
FAX (937) 378-4753

FAX TRANSMITTAL SHEET

DATE: 12/5/02 FAX NUMBER 702-455-6273

TO: Public Defender

ATTENTION: Phil Scha

REFERENCE: Alisha Burns

NUMBER OF PAGES: 3 (INCLUDING THIS PAGE)

FROM: Elizabeth Sharon Gentry RN

COMMENTS: _____

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AFFIDAVIT IN SUPPORT OF INTERSTATE SUBPOENA

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

CRAIG HENDRICKS, being first duly sworn, deposes and says:

That the facts set forth in the foregoing application are true, except as to those matters therein stated to be upon information and belief, and as to those matters I believe it to be true.

That the above-referenced matter is presently set for preliminary hearing in the Las Vegas Justice Court, Nevada on November 27, 2002, at 9:00 a.m.

That STEVEN KACZMAREK is being charged with FIRST DEGREE KIDNAPPING (Felony - NRS 200.310, 200.320), STATUTORY SEXUAL SEDUCTION (Felony - NRS 200.364, 200.368), POSSESSION OF STOLEN VEHICLE (Felony - NRS 205.273) and POSSESSION OF FORGED INSTRUMENT (Felony - NRS 205.160).

That ALISHA BURNS is a material and essential witness in that she is the victim of the crimes of First Degree Kidnapping and Statutory Sexual Seduction and her presence will be required at preliminary hearing.

I declare under penalty of perjury that the foregoing is true and correct.

Dated on 11.20.02
(Date)

Craig Hendricks
(Signature)

**THOMAS F. GRENNAN
PROSECUTING ATTORNEY
BROWN COUNTY, OHIO**

Assistant Prosecutors
Tresa Gossett
Chris Erhardt
Mary McMullen
Erin Rosen

200 East Cherry Street
Georgetown, Ohio 45121

(937) 378-4151
Fax: (937) 378-8529

Trial Investigators
Robert Gifford
Larry Littleton

Victim Advocate
Connie S. Waltz

FAX TRANSMITTAL SHEET

DATE: 12-11-02

TO: Phil Kohn

FROM: Erin Rosen

NUMBER OF PAGES (including cover sheet): 10

COMMENTS:

See paragraph 5 of Certificate
Requesting Attendance of Witness
and paragraph 5 of the Request

If I can be of any further
help, please contact me.

The juvenile court number where

I can also be reached is (937) 378-6726,
or 378-6577. Thanks.

EGR

Should you have any problems receiving this fax, please call (937) 378-4151.

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IMPROPER AND MAY VIOLATE THE LAW.**

203

Justice Court, Las Vegas Township
CLARK COUNTY, NEVADA

STATE OF NEVADA }

COUNTY OF CLARK }

CASE NO. 02F18640X

DEFENDANT: STEVEN KACZMAREK

CHARGE: KIDNAP 1ST DEGREE,
SEXUAL ASSAULT VICTIM
UNDER 16, POSSESSION OF
STOLEN VEHICLE, POSS OF
FORGERY CHECKS

I, Marguerite R. Creel, Court Administrator/Clerk, as Clerk of the Court, County of Clark, State of Nevada, do hereby certify and attest the foregoing to be a full, true and correct copy of the original:

CERTIFICATE REQUESTING ATTENDANCE OF WITNESS

together with the endorsements thereon, now on file in my office, and that I have carefully compared the same with the original.

I, Marguerite R. Creel, Court Administrator/Clerk, as Clerk of the Court, County of Clark, State of Nevada, in and for the County of Clark (which Court is a Court of Record, having a seal, which is annexed hereto), do hereby certify that JAMES BIXLER, Justice of the Peace of the Justice Court aforesaid, and was duly commissioned, qualified and authorized by law to execute said certificate, and I do further certify that the signature of the Justice of the Peace above named to the said certificate of due attestation is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and annexed the Seal of the Las Vegas Justice Court of Clark County, in and for the State of Nevada

this 21 day of NOVEMBER, 20 02

Marguerite R. Creel
Court Administrator/Clerk of the Las Vegas Justice Court, State of Nevada, in and for the County of Clark.

STATE OF NEVADA)

COUNTY OF CLARK)

I, JAMES BIXLER, Justice of the Peace, in and for the County of Clark, do hereby certify that Marguerite R. Creel, Court Administrator/Clerk, as Clerk of the Court of the County of Clark, State of Nevada, in and for the County of Clark, (which Court is a Court of Record, having a seal) and that the signature to the foregoing certificate and attestation is the genuine signature of Marguerite R. Creel, Court Administrator/Clerk, as such officer; that the seal annexed thereto is the seal of the Justice Court; that said Marguerite R. Creel, Court Administrator/Clerk, is the proper officer to execute the said certificate of attestation, and that such attestation is in due form according to the laws of the State of Nevada.

IN WITNESS WHEREOF, I have hereunto set my hand in my official character as such Justice of the Peace, at the City of Las Vegas, County and State aforesaid, this 21 day of NOVEMBER, 20 02

[Signature]
Justice of the Peace, County of Clark in and for the State of Nevada.

**THOMAS F. GRENNAN
PROSECUTING ATTORNEY
BROWN COUNTY, OHIO**

Assistant Prosecutors
Tresa Gossett
Chris Erhardt
Mary McMullen
Erin Rosen

200 East Cherry Street
Georgetown, Ohio 45121

(937) 378-4151
Fax: (937) 378-6529

Trial Investigators
Robert Gifford
Larry Littleton

Victim Advocate
Connie S. Waltz

FAX TRANSMITTAL SHEET

DATE: 12-11-02

TO: Phil Kohn

FROM: Erin Rosen

NUMBER OF PAGES (including cover sheet): 11

COMMENTS:

See paragraph 5 of Certificate
Requesting Attendance of Witness
and paragraph 5 of the Request

If I can be of any further
help, please contact me.

The juvenile court number where
I can also be reached is (937) 378-6726,
or 378-6577. Thanks.

EGH

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FILED
NOV 21 10:27 AM '02
BY LAS VEGAS

1 STEWART L. BELL
2 Clark County District Attorney
3 Nevada Bar #000477
4 CRAIG HENDRICKS
5 Deputy District Attorney
6 Nevada Bar #004630
7 200 South Third Street
8 Las Vegas, Nevada 89155-2211
9 (702) 455-4711
10 Attorney for Plaintiff

11 JUSTICE COURT, LAS VEGAS TOWNSHIP
12 CLARK COUNTY, NEVADA

13 THE STATE OF NEVADA,
14 Plaintiff,

15 -vs-

16 STEVEN KACZMAREK,
17 #1752368
18 Defendant.

CASE NO: 02F18660X
DEPT NO: 4

19 CERTIFICATE REQUESTING ATTENDANCE OF WITNESS

20 I, JAMES BIXLER, Justice of the Peace for the Las Vegas Justice Court of the State
21 of Nevada, in and for the County of Clark, a Court of Record, do hereby certify:

22 1. That there is now pending in Justice Court the above entitled criminal prosecution
23 by the State of Nevada against STEVEN KACZMAREK, Defendant, wherein said
24 Defendant stands accused and charged with having committed the following criminal
25 offense(s) against the laws of the State of Nevada, to wit: the crimes of FIRST DEGREE
26 KIDNAPPING (Felony - NRS 200.310, 200.320), STATUTORY SEXUAL SEDUCTION
27 (Felony - NRS 200.364, 200.368), POSSESSION OF STOLEN VEHICLE (Felony - NRS
28 205.273) and POSSESSION OF FORGED INSTRUMENT (Felony - NRS 205.160), in the
following manner, to wit:

That STEVEN KACZMAREK, the Defendant above named, on or between
September 2, 2002 and October 7, 2002, at and within the County of Clark, State of Nevada,
contrary to the form, force and effect of statutes in such cases made and provided, and

1 against the peace and dignity of the State of Nevada,

2 COUNT 1 - FIRST DEGREE KIDNAPPING

3 did on or between September 2, 2002, and October 7, 2002, wilfully, unlawfully,
4 feloniously, and without authority of law, lead, take, entice, carry away and/or detain
5 ALISHA BURNS, a minor child, with the intent to keep, imprison or confine the said
6 ALISHA BURNS from her parents, guardians or other person or persons having lawful
7 custody of said minor child, and/or with the intent to perpetrate upon the person of the said
8 ALISHA BURNS, an unlawful act, to-wit: statutory sexual seduction.

9 COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

10 did on or about October 7, 2002, then and there wilfully, unlawfully, and feloniously
11 sexually assault and subject ALISHA BURNS, a female child under sixteen years of age, to
12 sexual penetration, to-wit: sexual intercourse, by the said Defendant inserting his penis into
13 the vaginal opening of the said ALISHA BURNS, against her will, or under conditions in
14 which Defendant knew, or should have known, that the said ALISHA BURNS was mentally
15 or physically incapable of resisting or understanding the nature of Defendant's conduct, the
16 said Defendant being approximately 32 years of age.

17 COUNT 3 - POSSESSION OF STOLEN VEHICLE

18 did on or about September 2, 2002, then and there wilfully, unlawfully, and
19 feloniously possess a stolen motor vehicle wrongfully taken from MARY JANE
20 ESPELAGE, to-wit: a 1996 Geo Prizm, bearing Ohio [REDACTED] which
21 Defendants knew, or had reason to believe, had been stolen.

22 COUNT 4 - POSSESSION OF FORGED INSTRUMENT

23 did on or about October 2, 2002, then and there wilfully, unlawfully, feloniously, and
24 falsely, with intent to defraud DENNIS L. and DONNA BUTLER, have in his possession,
25 with the intent to utter or pass as true and genuine, a certain instrument for the payment of
26 money, to-wit: a First Interstate Bank Check No. 950, issued in the sum of \$250.00, lawful
27 money of the United States, said check payable to the order of MARY JANE ESPELAGE.

28 2. That the preliminary hearing therein has been set by the Court to be held before the

1 Las Vegas Justice Court of the State of Nevada, in and for the County of Clark, commencing
2 on November 27, 2002, at the hour of 9:00 o'clock A.M. of said day.

3 3. That ALISHA BURNS, whose address is SCIETO COUNTY JUVENILE
4 DETENTION CENTER, Georgetown, Ohio, is a necessary and material witness and a
5 principal witness for the State of Nevada in such prosecution by reason of the following:

6 ALISHA BURNS is the victim of the crimes of First Degree Kidnapping and
7 Statutory Sexual Seduction.

8 4. That the presence of the said ALISHA BURNS personally in said Justice Court for
9 the preliminary hearing of the Defendant for the purpose of giving testimony therein upon
10 the part of the State of Nevada on November 27, 2002, at the hour of 9:00 o'clock A.M. of
11 said day will be required for a period of 10 day(s).

12 5. That if the said ALISHA BURNS as such witness comes into the State of Nevada
13 in obedience to a Subpoena directing her to attend and to testify at said preliminary hearing,
14 the laws of the State of Nevada and of any other state through which said witness may be
15 required to pass by the ordinary course of travel to attend said preliminary hearing, give her
16 protection from arrest or the service of process, civil or criminal, in connection with matters
17 which arose before her entrance into said state pursuant to said Subpoena.

18 6. That this Certificate is made for the purpose of being presented to a Judge of a
19 Court of Record in the County of Brown, Georgetown, Ohio where the said ALISHA
20 BURNS now is in the custody of the Brown County Department of Jobs and Family
21 Services, upon proceedings to compel the said ALISHA BURNS to attend and testify at the
22 preliminary hearing in said criminal prosecution before the Las Vegas Justice Court of the
23 State of Nevada, in and for the County of Clark, upon the day and time hereinbefore set
24 forth.

25 ///

26 ///

27 ///

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1 WITNESS, the Honorable JAMES BIXLER, Justice of the Peace for the Las Vegas
2 Justice Court of the State of Nevada, in and for the County of Clark, this 21 day of
3 November, 2002.

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JUSTICE OF THE PEACE

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY

Craig Hendricks
CRAIG HENDRICKS
Deputy District Attorney
Nevada Bar #004630

Brown County Department of Job and Family Services

David M. Sharp
Director

775 Mt. Orab Pike
Georgetown, Ohio 45121

(937) 378-6104
FAX (937) 378-4753

FAX TRANSMITTAL SHEET

DATE: 12/15/02 FAX NUMBER 702-455-6273

TO: Public Defender

ATTENTION: Phil Scha

REFERENCE: Alisha Burns

NUMBER OF PAGES: 3 (INCLUDING THIS PAGE)

FROM: Elizabeth Sharon Gentry RN

COMMENTS: _____

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AFFIDAVIT IN SUPPORT OF INTERSTATE SUBPOENA

STATE OF NEVADA)
COUNTY OF CLARK } ss:

CRAIG HENDRICKS, being first duly sworn, deposes and says:

That the facts set forth in the foregoing application are true, except as to those matters therein stated to be upon information and belief, and as to those matters I believe it to be true.

That the above-referenced matter is presently set for preliminary hearing in the Las Vegas Justice Court, Nevada on November 27, 2002, at 9:00 a.m.

That STEVEN KACZMAREK is being charged with FIRST DEGREE KIDNAPPING (Felony - NRS 200.310, 200.320), STATUTORY SEXUAL SEDUCTION (Felony - NRS 200.364, 200.368), POSSESSION OF STOLEN VEHICLE (Felony - NRS 205.273) and POSSESSION OF FORGED INSTRUMENT (Felony - NRS 205.160).

That ALISHA BURNS is a material and essential witness in that she is the victim of the crimes of First Degree Kidnapping and Statutory Sexual Seduction and her presence will be required at preliminary hearing.

I declare under penalty of perjury that the foregoing is true and correct.

Dated on 11.20.02
(Date)

Craig Hendricks
(Signature)

**THOMAS F. GRENNAN
PROSECUTING ATTORNEY
BROWN COUNTY, OHIO**

Assistant Prosecutors
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Trial Investigators
Robert Gifford
Larry Littleton

Victim Advocate
Connie S. Waltz

FAX TRANSMITTAL SHEET

DATE: 12-11-02
TO: Phil Kohn
FROM: Erin Rosen
NUMBER OF PAGES (including cover sheet): 10

COMMENTS:

See paragraph 5 of Certificate
Requesting Attendance of Witness
and paragraph 5 of the Request

If I can be of any further
help, please contact me.

The juvenile court number where
I can also be reached is (937) 378-6726,
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Page 1 of 1

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

Event # 020927-1153

THIS PORTION TO BE COMPLETED BY OFFICER

Specific Crime <u>MURDER</u>		Date Occurred <u>9-27-02</u>	Time Occurred <u>1213</u>
Location of Occurrence <u>813 Ogden Uptown Motel</u>		Sector/Beat <u>A4</u>	<input checked="" type="checkbox"/> City <input type="checkbox"/> County

Your Name (Last / First / Middle) <u>Riddle, Thomas Wesley</u>						Date of Birth <u>6/8/44</u>		Social Security # <u>547-56-8822</u>	
Race <u>W</u>	Sex <u>M</u>	Height <u>6ft2</u>	Weight <u>180</u>	Hair <u>Br</u>	Eyes <u>Br</u>	Work Schol. (Hours) <u>Disabled</u>	(Days Off)	Business / School <u>Uptown Motel</u>	
Residence Address: (Number & Street) <u>Summer Ave Above</u>				Bldg/Apt # <u>14</u>	City <u>LV</u>	State <u>NM</u>	Zip Code <u>89101</u>	Res. Phone: <u>382-5257</u>	
Bus. (Local) Address: (Number & Street)				Bldg/Apt #	City	State	Zip Code	Occupation <u>Mgmt.</u>	Depart Date (if visitor)
Best place to contact you during the day						Best time to contact you during the day		Can You Identify <input type="checkbox"/> Yes the Suspect? <input type="checkbox"/> No	

DETAILS Went in to No. 25 To check on water leak
I could hear water running. Found Pete
in Tub Face down. Door had a
chain lock on the First Tried door, Air was
running. Second time I Tried the door
the chain was not on the door and the
Air was OFF. Second time - was about 2 hr
later. called cops.

DEFENDANT'S
EXHIBIT
I
C191233
12-28-21

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS
 COMPLETED AT (LOCATION) 813 Ogden
 AT THE 27 DAY OF Sept. AT 12 15 (AM / PM).

Witness/Officer: Sgt Mike Thompson
 (SIGNATURE)
 Witness/Officer: Sgt Mike Thompson PH 1988
 (PRINTED)

Thomas Wesley Riddle
 SIGNATURE OF PERSON GIVING STATEMENT

States

EXHIBITS

CASE NO. 03C191253

		OFFERED		ADMITTED	
		DATE	OBJ	DATE	
WA	1) CD	1/22/21	Stip	1/22/21	
WA	2) 1st Letter	9/15/20	Y N	Y	9/18/20
WA	3) Transcript	9/18/20	Stip		
WA	4) Stip Order				
WA	5) Transcript				
WA	6) GPR				
WA	7) Transcript Sentencing				
WA	8) Officer Report	9/18/20	Stip		9/18/20
WA	9) Lab Report				
WA	10) Transcript Kaczmarek Testimony	1/22/21	Stip		1/22/21
WA	11) Daka Voluntary Statement	9/18/20	Y N	Y	9/18/20
WA	12) Autopsy Report		Stip		9/18/20
WA	13) Dr. Gary Telgenhoff - Transcript				
WA	14)				
WA	15)				
WA	16)				
WA	17)				
WA	18)				
WA	19)				
WA	20)				
WA	21)				
WA	22) Photo Victim in bathtub	9/18/20	Y N	Y	9/18/20

Stat's

EXHIBITS

CASE NO. C191253

		OFFERED		ADMITTED	
		DATE	OBJ	DATE	DATE
WA	23) Photo Crime Scene	9/14/20	Stip	9/14/20	
WA	24) ↓	↓	↓	↓	↓
WA	25) ↓	↓	↓	↓	↓
WA	26) ↓	↓	↓	↓	↓
WA	27) ↓	↓	↓	↓	↓
WA	28) Photo Victim Sock in Mouth	9/15/20	Y N	Y	9/14/20
WA	29) Photo Crime Scene	↓	Stip	↓	↓
WA	30) ↓	↓	↓	↓	↓
WA	31) ↓	↓	↓	↓	↓
WA	32) ↓	↓	↓	↓	↓
WA	33) ↓	↓	↓	↓	↓
WA	34) ↓	↓	↓	↓	↓
WA	35) ↓	↓	↓	↓	↓
WA	36) Overview Map	↓	↓	↓	↓
WA	37) Photo Crime Scene	↓	↓	↓	↓
WA	38) ↓	↓	↓	↓	↓
WA	39) ↓	↓	↓	↓	↓
WT	40) Jury Trial Transcript	9/22/20	Stip	9/22/20	
WA	41) Petition For Writ Habeas Corpus	9/14/20	Stip	9/14/20	
WT	42) Crim Complaint - Burns	9/24/20	Stip	9/22/20	
WA	43) Letters From Def (24)	↓	↓	9/22/20	

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
INMATE REQUEST/GRIEVANCE**

Date <u>12-17-07</u>	
Housing Unit <u>410</u>	Bed <u>04</u>
Prop Number _____	

Name: (last) Burns (first) Rutha (middle initial) N Floor 4

ID Number 1755792

☒ REQUEST ☐ GRIEVANCE

(All grievances must be submitted within 72 hours of incident.)

I would like to be able to speak with
Detective John Mikolajis or Detective R. Wilson
in the Homicide Branch at the LVMPD to
give information about a murder please as
soon as it is possible!

I urgently need to speak with one of these
gentlemen as soon as I possibly can!

THANKS!

Rutha Burns
Inmate's Signature

12-17-07
Date

Vanner 1780 12-17-07
Staff Person Receiving

Date/Time

Issue has been resolved as follows:



IFICATION

Signature of employee who resolved the Request/Grievance Problem

Date/Time

ORIGINAL—INMATE FILE

YELLOW—RETURNED TO INMATE WITH RESPONSE

PINK—INMATE KEEPS

1075

Written statement By: Risha M. Burns on 12-18-02
Given to: Det. John P. Kavanagh - CRMPD

MR. KAVANAGH, my name is Risha Burns. I am currently being detained at CDC in Las Vegas, Nevada. My charges that I was picked up for on 12-5-02 are Murder, Burglary, Robbery, and Kidnap 1st degree. I want to give you the information I know on this case in this written statement. I understand all my rights and would wish to waive my rights to have my attorney present on the day I submit this voluntary statement to you. My statement is as follows:

On the night of 9-25-02 (or approximately) I went to Steven Kormanek's bar a young man that I only know as "Timothy" came on Fremont St. I had met Timothy before on Fremont St. at the time where about midnight I was approached by an older man. He asked me if he could "buy me a drink". I had been approached by this man before but only took him for a "drink" and went on my way. This night, because of his persistence, I told Steve I was going to go into Joe's Bar, have him buy me a soda, and say hi to him. Him into giving me money. Steve and Timothy followed to watch from another table to make sure of my safety. Therefore, that I was taken

2075

As "Best" began to make advances as to office
me making the sexual moves. Obviously, I
told him I was not a prostitute and I got
up to walk away. I informed Steve of "Best's"
advances. Jimmy brought it to our attention
that we could not. From Steve and I agreed
that the worst of us would not. I then
went back to "Best" who was now outside and
walked to him without the sight of Steve and
Jimmy. I paid my self to be a prostitute
and explained to him that Steve was Jimmy
with over me to see that I am not hurt in
any way while I work. Obviously, "Best"
refused to allow Steve and Jimmy go to his
apartment with him and I. Obviously, he was
insulted to allow Steve and Jimmy to follow
him. They had to leave while we had seen. We
all agreed that they would leave.
We went to his apartment at the 400-4000
thick on paper and all entered. He gave us all
a beer and we all conversed while he had
a beer. I then on the 10th floor. I was shocked
first with my best I got up to use the
bathroom. I stood listening at the door. Steve
and Jimmy discussed "points" with "Best" to play
it off that I was a prostitute. I then came
back out and saw that Steve had got up to
go to the bathroom while in there he went

3025

"Pete" and I shot a hand grenade into the bathroom. Tommy got up to look, which prompted "Pete" to go back. He stood outside of the bathroom to watch Tommy and I shot the other shot. His wallet and also looked at the bullet wound. He then turned around to return to the door from the bathroom. Steve grabbed "Pete" around the neck with his left arm. "Pete" quickly passed out and went to the floor. Tommy and I put on gloves that were sitting next to the chair area and Tommy began to search through his pockets and chest drawers. I searched "Pete's" body for his wallet. It was not on him. There are several holes when we first came in, he put it up under his mattress. I got the wallet and put it in my pocket. I then got the card from the back of the refrigerator and gave it to Steve. While Tommy took over checking "Pete", Steve and I tied "Pete's" arms together behind his back. I then grabbed an extension cord from a box in the closet and gave it to Steve to tie "Pete's" legs together. Tommy and I then searched for valuable items and money somewhere. After a couple minutes, I took over checking "Pete" to keep him passed out while Steve put on gloves to help Tommy search. "Pete" began to wake up so I then got up and stepped on the back of

4075

"Pete's" neck and began to jump slightly. After they were finished collecting items I bagged everything up. I put the valuable items in one bag which consisted of 2 V.C.R., 2 watches, 2 jackets. I then put the beer bottles and other glasses into a cooler. After turning in everything down in bags to eliminate any possible fingerprints. I removed "Pete's" gold bracelet, watch, and an identification gold necklace off of his body. I suggested Long put "Pete" in the bathroom for when he woke up. Steve and Tommy picked "Pete" up by his head and legs and put him in the bath tub. Steve dropped sweat on "Pete's" shirt so when needed to cut off his shirt. I suggested that Steve turn on the shower to rid of any sweat that may have fell on his body. Steve did so. I made sure that "Pete" had a sock put in his mouth so that he could not yell for help when he woke up. I then put a pillow case over his head and we shut the bathroom door. The cops were gathered up and we walked out the room at that time. When Long left and went to a near-by alley to throw the bag with the gloves and bottles into a dumpster.

The house at 1100 was walked to a near-by house. Steve was the only one with ID so he had to be the one to leave the house.

The gold bracelet said we were in the hotel in Reno and
 out of the leather jacket but we were not. I said
 he had on the red jacket. Steve when
 collected the money and we left the game
 Tommy all the way. We left the jacket
 in the bus stop house close by. Steve when
 counted the money. There was about \$100
 there. (The \$100 was given to Tommy) so we
 now had about \$110. Tommy showed us
 a cell phone that he had gotten from "Dad's"
 house. Steve said I traded up with it to later
 give it to a girl we knew. The girl obtained some
 knives. Then at that time later Steve said I
 returned to Tennessee the life of Tommy
 with information was that "Dad" was found dead
 in his bathtub. He said he saw the story on
 the news. He didn't know if they knew who
 it was or not. Regardless, Steve said I remained
 off of Tennessee for a couple days. Tommy
 stayed there as he lived after by. I later
 found out that Tommy is his middle name.
 Nothing is his first
 This is my statement. This all I know.
 my father-in-law, Steve, and Tommy killed
 Pedro "Dad" Williams while attempting a
 robbery on October 10, 1985.

Alvin Burns #1753792

ORIGINAL

FILED

JUL 21 12 25 PM '03

Tran
CASE NO. C191253
DEPT NO. 6

IN THE JUSTICE'S COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

CLERK

STATE OF NEVADA,

Plaintiff,

vs.

ALISHA BURNES,

Defendant.

Case No.
02F21724X

REPORTER'S TRANSCRIPT

OF

UNCONDITIONAL WAIVER OF PRELIMINARY HEARING

BEFORE THE HONORABLE NANCY OESTERLE
JUSTICE OF THE PEACE

Tuesday, April 1, 2003

A P P E A R A N C E S:

For the State: MARY D. BROWN, ESQ.
Deputy District Attorney

For the Defendant: PHILIP J. KOHN, ESQ.
Special Public Defender

Reported by: Stacy L. Briggs, CCR #335

Stacy L. Briggs, CCR (702) 455-5512



IFICATION

COUNTY CLERK

JUL 21 2003

RECEIVED

1 LAS VEGAS, NEVADA, APRIL 1, 2003

2 * * * * *

3

4

5 THE COURT: Mr. Kohn, I have Alisha
6 Burnes, 02F21724X.

7 MR. KOHN: Yes, Your Honor. Thank you,
8 Your Honor.

9 Your Honor, in this matter, we'll be
10 waiving the preliminary hearing. The District
11 Attorney has offered to allow Alisha to plead to
12 second degree murder, which would be a ten-to-life
13 sentence.

14 Alisha is seriously considering it and
15 is sort of waivering a little, but she still is
16 prepared to waive her preliminary hearing.

17 I have advised her, on more than one
18 occasion, that if you do waive your preliminary
19 hearing, you do not have a chance to come back to
20 this courtroom.

21 THE COURT: She could change her mind
22 and try to re-negotiate it or go to trial in
23 District Court.

24 MR. KOHN: Yes, Your Honor.

25 THE COURT: Ms. Brown, is that a correct

1 statement of the negotiations?

2 MS. BROWN: That's correct, Your Honor.

3 THE COURT: So, Alisha, did you talk to
4 your attorney, Mr. Kohn, about the negotiations?

5 THE DEFENDANT: Yes.

6 THE COURT: And do you understand the
7 deal?

8 THE DEFENDANT: Yes.

9 THE COURT: And is that what you would
10 like to do?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that by
13 entering into these negotiations you are waiving,
14 by that I mean that you are giving up your right to
15 have a preliminary hearing in this matter, which
16 means that you are giving up your right to
17 cross-examine the witnesses that the State could
18 call against you and to challenge their evidence;
19 you are also giving up your right to subpoena
20 witnesses to testify for you, and you are giving up
21 your right to testify on your own behalf for the
22 purpose of today's preliminary hearing only?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you also understand that
25 this is an unconditional waiver, which means that

1 it's a permanent waiver of your right to have a
2 preliminary hearing in this case?

3 So if for any reason, once you get to
4 District Court, you change your mind, you decide
5 that you don't want to take the plea bargain, you
6 would then go directly to jury trial on the
7 original charges, you would not come back to
8 Justice Court and appear before me for the purpose
9 of having a preliminary hearing in this case.

10 THE DEFENDANT: Oh. Yes.

11 THE COURT: So knowing all of that, do
12 you still want to go forward at this point and
13 unconditionally waive your right to a preliminary
14 hearing?

15 THE DEFENDANT: Yes.

16 THE COURT: It appears to me, from the
17 Complaint on file herein, that crimes have been
18 committed, to wit: Count I, burglary; Count II,
19 robbery; Count III, first-degree kidnapping; Count
20 IV, murder.

21 And this defendant having
22 unconditionally waived her right to have a
23 preliminary hearing, I hereby order said defendant
24 to be held to answer to said charges in the Eighth
25 Judicial District Court, State of Nevada, in and

1 for the County of Clark.

2 Your next appearance date will be in
3 District Court.

4 THE CLERK: April 8th, 9:00 a.m.,
5 District Court 16.

6 MR. KOHN: Your Honor, I did advise your
7 clerk that I probably won't be available, so I'll
8 be moving to continue when I get there. That's
9 just so the DA knows.

10 THE COURT: Okay.

11

12

13 (Proceedings concluded.)

14 --o0o--

15

16 Attest: Full, true, accurate transcript of
17 proceedings.

18

19


Stacy L. Briggs, CCR #335

20

21

22

23

24

25

Stacy L. Briggs, CCR (702) 455-5512

● ORIGINAL

● FILED

11

APR 16 3 24 PM '03

Shirley B. Langston
CLERK

1 **ORDR**
2 PHILIP J. KOHN
3 SPECIAL PUBLIC DEFENDER
4 Nevada Bar #0556
5 333 South Third Street, 2ND Floor
6 Las Vegas, NV 89155-2316
7 (702) 455-6265
8 Attorneys for Defendant

9
10 DISTRICT COURT
11 CLARK COUNTY, NEVADA
12

13 THE STATE OF NEVADA,
14
15 Plaintiff,

CASE NO. C191253

DEPT. NO. XVI

16 vs.

17 ALISHA BURNS,
18 ID No. 1753792

DATE OF HEARING:
TIME OF HEARING:

19 Defendant.
20

21 **STIPULATION AND ORDER**
22 **FOR A CONTACT VISIT**

23 IT IS HEREBY STIPULATED AND AGREED by and between the parties that the
24 Clark County Detention shall allow a contact visit between inmate ALICIA BURNS, I.D.
25 No. 1753792 and inmate STEVEN KACZMAREK, I.D. No. 1752368 at a date and time
26 that is convenient to the Clark County Detention Center.

27 DATED this 16 day of April, 2003.

28
[Signature]
GARY L. GUYMAN
Deputy District Attorney
State Bar No. 003756
200 S. Third Street
Las Vegas, NV 89155
Attorney for Plaintiff

[Signature]
PHILIP J. KOHN
Special Public Defender
State Bar No. 000556
333 South Third Street, 2nd Floor
Las Vegas, NV 89155
Attorney for Defendant, Burns

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APR 16 2003

COUNTY CLERK



IFICATION

SPECIAL PUBLIC
DEFENDER

CLARK COUNTY
NEVADA

BURNS CLERK PT 1.060

1
2
3 *Gregory L. Denu*
4 GREGORY L. DENUE
5 State Bar No. 5279
6 601 S. Tenth Street
7 Las Vegas, NV 89101
8 Attorney for Defendant, Kaczmarek

9 ORDER

10 IT IS HEREBY ORDERED that the Clark County Detention shall allow a contact visit
11 between inmate ALICIA BURNS, I.D. No. 1753792 and inmate STEVEN KACZMAREK,
12 I.D. No. 1752368 at a date and time that is convenient to the Clark County Detention
13 Center.

14 DATED this 14th day of April, 2003.

15 *John A. Prouty*
16 DISTRICT COURT JUDGE *re*

1 THE DEFENDANT: Yes.

2 THE COURT: Do you also understand that as a
3 result of your plea today, you could be sentenced to
4 life with the possibility of parole, with parole
5 eligibility beginning after ten years, or a definite
6 term of twenty-five years with eligibility of parole
7 beginning in ten years; do you understand that?

9:19A

8 THE DEFENDANT: Yes.

9 THE COURT: Plus, you'll be required to pay
10 an administrative assessment fee and restitution if
11 appropriate; do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Did you have sign this on Page 4?

14 THE DEFENDANT: Yes.

15 THE COURT: We note that fact.

16 We note the district attorney has signed off
17 on the same page.

18 We note your attorney has signed off on Page
19 5.

20 What did you do on or about September 27th,
21 2002, that caused you to plead guilty to the crime of
22 second degree murder?

23 THE DEFENDANT: I was involved in a robbery,
24 and the guy died.

9:20A

1 THE COURT: Thank you.

2 MS. BROWN: And I just want to be clear that
3 Ms. Burns knows this is nonprobationable.

4 THE COURT: Do you understand that, Miss?

5 THE DEFENDANT: Yes.

6 MR. KOHN: And also, Counsel, and I agree
7 that she would get credit for time served back to
8 December Fifth when they issued the warrant for her
9 arrest on this murder charge.

10 THE COURT: Is that correct?

11 MS. BROWN: That's correct, your Honor.

12 THE COURT: Thank you.

13 (WHEREUPON, THE PROCEEDINGS WERE
14 CONCLUDED)

15 * * * * *

1 THE COURT: And what happened?

2 THE DEFENDANT: And he died.

3 THE COURT: Because he had a sock stuck in
4 his mouth?

5 THE DEFENDANT: Yes.

6 THE COURT: He was placed in a bathtub?

7 THE DEFENDANT: Yes.

8 THE COURT: And the water was turned on?

9 THE DEFENDANT: Yes.

10 THE COURT: Here in Clark County, State of
11 Nevada?

12 THE DEFENDANT: Yes.

13 MS. BROWN: And she assisted and aided.

14 THE COURT: You assisted in this? Yes?

15 THE DEFENDANT: Yes.

16 THE COURT: The Court finds your entry of
17 guilty plea is freely and voluntarily made.

18 We further find that you understand the
19 nature of the offense and the consequences of your
20 plea.

21 We, therefore, accept your guilty plea.

22 Continue it for sentencing on...

23 THE COURT CLERK: June the Third at 9:00 a.m.

24 MR. KOHN: Thank you, your Honor.

REPORTER'S CERTIFICATE

2 STATE OF NEVADA)
3 :SS
COUNTY OF CLARK)

4 I, PEGGY ISOM, CERTIFIED SHORTHAND
5 REPORTER, DO HEREBY CERTIFY THAT I TOOK DOWN IN
6 STENOTYPE ALL OF THE PROCEEDINGS HAD IN THE
7 BEFORE-ENTITLED MATTER AT THE TIME AND PLACE
8 INDICATED, AND THAT THEREAFTER SAID STENOTYPE NOTES
9 WERE TRANSCRIBED INTO TYPEWRITING AT AND UNDER MY
10 DIRECTION AND SUPERVISION AND THE FOREGOING TRANSCRIPT
11 CONSTITUTES A FULL, TRUE AND ACCURATE RECORD TO THE
12 BEST OF MY ABILITY OF THE PROCEEDINGS HAD.

13 IN WITNESS WHEREOF, I HAVE HEREBY
14 SUBSCRIBED MY NAME IN MY OFFICE IN THE COUNTY OF
15 CLARK, STATE OF NEVADA.

16 *Peggy Isom*
17
18 PEGGY ISOM, RMR, CLK 541
19
20
21
22
23
24

● ORIGINAL ●

1 GMEM
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 MARY BROWN
6 Deputy District Attorney
7 Nevada Bar #006947
8 200 South Third Street
9 Las Vegas, Nevada 89155-2211
10 (702) 455-4711
11 Attorney for Plaintiff

FILED IN OPEN COURT
APR 22 2003

SHIRLEY B. PARRAGUIRRE, CLERK

BY *Barbara J. Karp*

BARBARA J. KARP, DEPUTY



IDENTIFICATION
T

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,)

10 Plaintiff,)

11 -vs-)

12 ALISHA BURNS, aka Alisha Nicole
13 Burns, #1753792)

14 Defendant.)

CASE NO:

C

191253

DEPT NO:

XVI

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: **SECOND DEGREE MURDER (Category A**
17 **Felony - NRS 200.010, 200.030)**, as more fully alleged in the charging document attached
18 hereto as Exhibit "1".

19 My decision to plead guilty is based upon the plea agreement in this case which is as
20 follows:

21 The State and Defendant stipulate to a life sentence with the possibility of parole after
22 ten (10) years.

23 CONSEQUENCES OF THE PLEA

24 I understand that by pleading guilty I admit the facts which support all the elements of
25 the offense(s) to which I now plead as set forth in Exhibit "1".

26 I understand that as a consequence of my plea of guilty the Court must sentence me to
27 imprisonment in the Nevada Department of Corrections for life with possibility of parole
28 with eligibility for parole beginning at ten (10) years; or a definite term of twenty-five (25)

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APR 22 2003

COUNTY CLERK

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BURNS CLERK PT 1.064

● ORIGINAL ●

1 GMEM
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 MARY BROWN
6 Deputy District Attorney
7 Nevada Bar #006947
8 200 South Third Street
9 Las Vegas, Nevada 89155-2211
10 (702) 455-4711
11 Attorney for Plaintiff

FILED IN OPEN COURT
APR 22 2003

SHIRLEY B. PARRAGUIRRE, CLERK
BY *Barbara J. Kane*
BARBARA J. KANE, DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,)

10 Plaintiff,)

11 -vs-)

12 ALISHA BURNS, aka Alisha Nicole
13 Burns, #1753792)

14 Defendant.)

CASE NO:

C

19/253

DEPT NO:

XVI

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: **SECOND DEGREE MURDER (Category A**
17 **Felony - NRS 200.010, 200.030)**, as more fully alleged in the charging document attached
18 hereto as Exhibit "1".

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20 follows:

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22 ten (10) years.

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APR 22 2003

COUNTY CLERK

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BURNS CLERK PT 1.065

1 years with eligibility for parole beginning at ten (10) years. I understand that the law requires
2 me to pay an Administrative Assessment Fee.

3 I understand that, if appropriate, I will be ordered to make restitution to the victim of
4 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
5 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
6 reimburse the State of Nevada for any expenses related to my extradition, if any.

7 I understand that I am not eligible for probation for the offense to which I am
8 pleading guilty.

9 I understand that if more than one sentence of imprisonment is imposed and I am
10 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
11 the sentences served concurrently or consecutively.

12 I also understand that information regarding charges not filed, dismissed charges, or
13 charges to be dismissed pursuant to this agreement may be considered by the judge at
14 sentencing.

15 I have not been promised or guaranteed any particular sentence by anyone. I know
16 that my sentence is to be determined by the Court within the limits prescribed by statute.

17 I understand that if my attorney or the State of Nevada or both recommend any
18 specific punishment to the Court, the Court is not obligated to accept the recommendation.

19 I understand that if the State of Nevada has agreed to recommend or stipulate a
20 particular sentence or has agreed not to present argument regarding the sentence, or agreed
21 not to oppose a particular sentence, such agreement is contingent upon my appearance in
22 court on the initial sentencing date (and any subsequent dates if the sentencing is continued).

23 I understand that if I fail to appear for the scheduled sentencing date or I commit a
24 new criminal offense prior to sentencing the State of Nevada would regain the full right to
25 argue for any lawful sentence.

26 I understand that the Division of Parole and Probation will prepare a report for the
27 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
28 sentencing, including my criminal history. This report may contain hearsay information

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27 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
28 sentencing, including my criminal history. This report may contain hearsay information

1 regarding my background and criminal history. My attorney and I will each have the
2 opportunity to comment on the information contained in the report at the time of sentencing.
3 Unless the District Attorney has specifically agreed otherwise, then the District Attorney
4 may also comment on this report.

5 WAIVER OF RIGHTS

6 By entering my plea of guilty, I understand that I am waiving and forever giving up
7 the following rights and privileges:

8 1. The constitutional privilege against self-incrimination, including the right to refuse
9 to testify at trial, in which event the prosecution would not be allowed to comment to the
10 jury about my refusal to testify.

11 2. The constitutional right to a speedy and public trial by an impartial jury, free of
12 excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the
13 assistance of an attorney, either appointed or retained. At trial the State would bear the
14 burden of proving beyond a reasonable doubt each element of the offense charged.

15 3. The constitutional right to confront and cross-examine any witnesses who would
16 testify against me.

17 4. The constitutional right to subpoena witnesses to testify on my behalf.

18 5. The constitutional right to testify in my own defense.

19 6. The right to appeal the conviction, with the assistance of an attorney, either
20 appointed or retained, unless the appeal is based upon reasonable constitutional jurisdictional
21 or other grounds that challenge the legality of the proceedings and except as otherwise
22 provided in subsection 3 of NRS 174.035.

23 VOLUNTARINESS OF PLEA

24 I have discussed the elements of all of the original charge(s) against me with my
25 attorney and I understand the nature of the charge(s) against me.

26 I understand that the State would have to prove each element of the charge(s) against
27 me at trial.

28 I have discussed with my attorney any possible defenses, defense strategies and

1 regarding my background and criminal history. My attorney and I will each have the
2 opportunity to comment on the information contained in the report at the time of sentencing.
3 Unless the District Attorney has specifically agreed otherwise, then the District Attorney
4 may also comment on this report.

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25 attorney and I understand the nature of the charge(s) against me.

26 I understand that the State would have to prove each element of the charge(s) against
27 me at trial.

28 I have discussed with my attorney any possible defenses, defense strategies and

1 circumstances which might be in my favor.

2 All of the foregoing elements, consequences, rights, and waiver of rights have been
3 thoroughly explained to me by my attorney.


4 I believe that pleading guilty and accepting this plea bargain is in my best interest,
5 and that a trial would be contrary to my best interest.

6 I am signing this agreement voluntarily, after consultation with my attorney, and I am
7 not acting under duress or coercion or by virtue of any promises of leniency, except for those
8 set forth in this agreement.

9 I am not now under the influence of any intoxicating liquor, a controlled substance or
10 other drug which would in any manner impair my ability to comprehend or understand this
11 agreement or the proceedings surrounding my entry of this plea.

12 My attorney has answered all my questions regarding this guilty plea agreement and
13 its consequences to my satisfaction and I am satisfied with the services provided by my
14 attorney.

15 DATED this 21 day of April, 2003.

17 
18 ALISHA BURNS, aka ALISHA NICOLE
19 BURNS
20 Defendant

21 AGREED TO BY:

22 
23 MARY BROWN
24 Deputy District Attorney
25 Nevada Bar #006947
26
27
28

1 circumstances which might be in my favor.

2 All of the foregoing elements, consequences, rights, and waiver of rights have been
3 thoroughly explained to me by my attorney.


4 I believe that pleading guilty and accepting this plea bargain is in my best interest,
5 and that a trial would be contrary to my best interest.

6 I am signing this agreement voluntarily, after consultation with my attorney, and I am
7 not acting under duress or coercion or by virtue of any promises of leniency, except for those
8 set forth in this agreement.

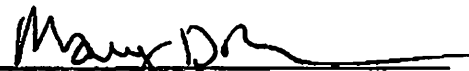
9 I am not now under the influence of any intoxicating liquor, a controlled substance or
10 other drug which would in any manner impair my ability to comprehend or understand this
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13 its consequences to my satisfaction and I am satisfied with the services provided by my
14 attorney.

15 DATED this 21 day of April, 2003.

17 
18 ALISHA BURNS, aka ALISHA NICOLE
19 BURNS
20 Defendant

21 AGREED TO BY:

22 
23 MARY BROWN
24 Deputy District Attorney
25 Nevada Bar #006947
26
27
28

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of
3 the court hereby certify that:

4 1. I have fully explained to the Defendant the allegations contained in the charge(s)
5 to which guilty pleas are being entered.

6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.

8 3. All pleas of guilty offered by the Defendant pursuant to this agreement are
9 consistent with the facts known to me and are made with my advice to the Defendant.


10 4. To the best of my knowledge and belief, the Defendant:

11 a. Is competent and understands the charges and the consequences of pleading
12 guilty as provided in this agreement.

13 b. Executed this agreement and will enter all guilty pleas pursuant hereto
14 voluntarily.

15 c. Was not under the influence of intoxicating liquor, a controlled substance or
16 other drug at the time I consulted with the defendant as certified in paragraphs
17 1 and 2 above.

18 DATED this 27 day of April, 2003

19 
20 PHILIP KOHN
21 ATTORNEY FOR DEFENDANT
22
23
24
25
26
27
28

gmr

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of
3 the court hereby certify that:

4 1. I have fully explained to the Defendant the allegations contained in the charge(s)
5 to which guilty pleas are being entered.

6 2. I have advised the Defendant of the penalties for each charge and the restitution
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8 3. All pleas of guilty offered by the Defendant pursuant to this agreement are
9 consistent with the facts known to me and are made with my advice to the Defendant.

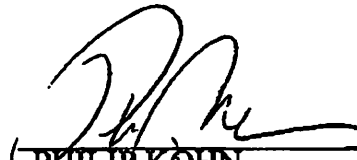
10 4. To the best of my knowledge and belief, the Defendant:

11 a. Is competent and understands the charges and the consequences of pleading
12 guilty as provided in this agreement.

13 b. Executed this agreement and will enter all guilty pleas pursuant hereto
14 voluntarily.

15 c. Was not under the influence of intoxicating liquor, a controlled substance or
16 other drug at the time I consulted with the defendant as certified in paragraphs
17 1 and 2 above.

18 DATED this 21 day of April, 2003

19 
20 PHILIP KOHN
21 ATTORNEY FOR DEFENDANT

22
23
24
25
26
27
28 gmr

1 INF
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 MARY BROWN
6 Deputy District Attorney
7 Nevada Bar #006947
8 200 South Third Street
9 Las Vegas, Nevada 89155-2211
10 (702) 455-4711
11 Attorney for Plaintiff

12 I.A. 4/8/03
13 9:00 A.M.
14 P. Kohn

DISTRICT COURT
CLARK COUNTY, NEVADA

15 THE STATE OF NEVADA,

16 Plaintiff,

17 -vs-

18 ALISHA BURNS, aka Alisha Nicole
19 Burns, #1753792

20 Defendant.

Case No: C

Dept No: XVI

INFORMATION

21 STATE OF NEVADA }
22 COUNTY OF CLARK } ss.

23 DAVID ROGER, District Attorney within and for the County of Clark, State of
24 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

25 That ALISHA BURNS, aka Alisha Nicole Burns, the Defendant(s) above named,
26 having committed the crime of SECOND DEGREE MURDER (Felony - NRS 200.010,
27 200.030), on or about the 27th day of September, 2002, within the County of Clark, State of
28 Nevada, contrary to the form, force and effect of statutes in such cases made and provided,
and against the peace and dignity of the State of Nevada, did then and there wilfully,
feloniously, without authority of law, and with malice aforethought, kill PEDRO
VILLAREAL, a human being, by asphyxiation by putting pressure on the neck of the said
PEDRO VILLAREAL with his hands and arm, by placing a sock in the mouth of the said
PEDRO VILLAREAL and by placing the said PEDRO VILLAREAL's head in such a

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4 Nevada Bar #002781
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feloniously, without authority of law, and with malice aforethought, kill PEDRO
VILLAREAL, a human being, by asphyxiation by putting pressure on the neck of the said
PEDRO VILLAREAL with his hands and arm, by placing a sock in the mouth of the said
PEDRO VILLAREAL and by placing the said PEDRO VILLAREAL's head in such a

1 position as to be submerged in water in the following manner, to-wit: said Defendant and
2 STEVEN KACZMAREK, aka Steven D. Kaczmarek aiding or abetting each other by
3 counsel and encouragement by entering into a course of conduct whereby Defendant
4 ALISHA BURNS, aka Alisha Nicole Burns, did pose as a prostitute to lure the said PEDRO
5 VILLAREAL to his room and Defendant and STEVEN KACZMAREK, aka Steven D.
6 Kaczmarek did then overpower PEDRO VILLAREAL and did kidnap, rob and murder him.

7 DAVID ROGER
8 DISTRICT ATTORNEY
9 Nevada Bar #002781

10 BY

Mary Brown

11 MARY BROWN
12 Deputy District Attorney
13 Nevada Bar #006947

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26 DA#02F21724X/gmr
27 LVMPD EV#0209271153
28 2ND DEG MURD - F
(TK6)

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9 Nevada Bar #002781

10 BY

Mary Brown

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12 Deputy District Attorney
13 Nevada Bar #006947
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26 DA#02F21724X/gmr
27 LVMPD EV#0209271153
28 2ND DEG MURD - F
(TK6)

1 CASE NO. C191253
2 DEPT. NO. 16
3 DOCKET U

4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 *****
8 THE STATE OF NEVADA,

9 PLAINTIFF,

10 VS.

11 ALISHYA BURNS,
12 AKA ALISHA NICOLE BURNS,

13 DEFENDANT.
14

15 REPORTER'S TRANSCRIPT

16 OF

17 SENTENCING

18
19 BEFORE THE HONORABLE JUDGE JOHN McGROARTY
20 DISTRICT COURT JUDGE

21 DATED TUESDAY, JUNE 3, 2003

22 FOR THE PLAINTIFF: MARY BROWN -AND- GARY GUYMON

23 FOR THE DEFENDANT: PHILLIP KOHN

24 REPORTED BY: PEGGY ISOM, RMR, CCR NUMBER 541

ORIGINAL FILED

JAN 26 11 59 AM '04

CLERK

1 LAS VEGAS, NEVADA; TUESDAY, JUNE 3, 2003

2 9:00 A.M.

3 PROCEEDINGS

4 *****

5 THE COURT: Is Ms. Burns ready to be
6 sentenced?

7 MR. KOHN: Yes, your Honor.

8 THE COURT: All right. Ms. Burns, pursuant
9 to your guilty plea --

10 MR. KOHN: For the record, Philip Kohn with
11 Alicia Burns.

12 THE COURT: That's a guilty plea, correct?

13 MR. KOHN: Yes, your Honor.

14 THE COURT: -- on April Twenty-second of this
15 year you are adjudicated guilty of the crime of second
16 degree murder.

17 Does P&P have anything to add?

18 P&P OFFICER: We'll submit it, your Honor.

19 THE COURT: State?

20 MS. BROWN: Your Honor, this is a stipulated
21 sentence --

22 THE COURT: I agree.

23 MS. BROWN: -- of ten to life.

24 THE COURT: Counsel?

1 APPEARANCES:

2 FOR THE STATE:

3 MARY BROWN, ESQUIRE
4 DEPUTY DISTRICT ATTORNEY
5 200 SOUTH THIRD STREET
6 LAS VEGAS, NEVADA 89101

7 FOR THE DEFENDANT:

8 PHILLIP KOHN, ESQUIRE
9 SPECIAL PUBLIC DEFENDER
10 333 SOUTH THIRD STREET
11 2ND FLOOR
12 LAS VEGAS, NEVADA 89155
13 *****

1 Anything to say, Young Lady?

2 THE DEFENDANT: No.

3 THE COURT: Counsel?

4 MR. KOHN: Your Honor, I'm sitting here
5 watching this last sentencing and getting more and
6 more aggravated as I hear the district attorney and
7 the Court impose a sentence or enhancement for using a
8 child.

9 THE COURT: That's the law.

10 MR. KOHN: Right. And then this child pleads
11 guilty to second degree murder as an adult. Something
12 is way screwed up with all due respect to the Court.

9:29A 13 THE COURT: It's anomalous.

14 MR. KOHN: It's wrong. One of these two
15 can't stand -- you can't use a child and then call the
16 child an adult.

17 With having said that, as long as we're
18 beating up on P&P, with all due respect to them, look
19 at the aggravating mitigating factors. Aggravating
20 for is age of the defendant, mitigating for is age of
21 the defendant. One of these can't stand.

22 Submit it.

23 THE COURT: All right. In addition to \$25
24 administrative assessment fee and \$150 DNA analysis

RECEIVED

JAN 26 2004

COUNTY CLERK



NOTIFICATION

BURNS CLERK PT 1.078

1 fee I'll sentence you to a term of life with the
2 possibility of parole after one hundred and twenty
3 months in Nevada State Department of Prisons.

4 You will be required to submit to a test to
5 determine genetic markers.

6 And is that one hundred and thirty-one days;
7 is that correct?

8 THE DEFENDANT: Yes.

9 MR. KOHN: I believe it is, your Honor.

10 THE COURT: One hundred and thirty-one days
11 credit for time served. That's the order.

12 MR. KOHN: Thank you.

13 (WHEREUPON, THE PROCEEDINGS WERE
14 CONCLUDED)

15 * * * * *

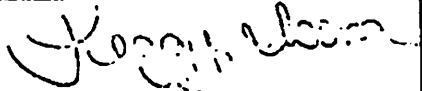
9:30A

1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA)
3 :SS
4 COUNTY OF CLARK)

5 I, PEGGY ISOM, CERTIFIED SHORTHAND
6 REPORTER, DO HEREBY CERTIFY THAT I TOOK DOWN IN
7 STENOTYPE ALL OF THE PROCEEDINGS HAD IN THE
8 BEFORE-ENTITLED MATTER AT THE TIME AND PLACE
9 INDICATED, AND THAT THEREAFTER SAID STENOTYPE NOTES
10 WERE TRANSCRIBED INTO TYPEWRITING AT AND UNDER MY
11 DIRECTION AND SUPERVISION AND THE FOREGOING TRANSCRIPT
12 CONSTITUTES A FULL, TRUE AND ACCURATE RECORD TO THE
13 BEST OF MY ABILITY OF THE PROCEEDINGS HAD.

14 IN WITNESS WHEREOF, I HAVE HEREUNTO
15 SUBSCRIBED MY NAME IN MY OFFICE IN THE COUNTY OF
16 CLARK, STATE OF NEVADA.

17 
18 PEGGY ISOM, RPR, CCR 541

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
OFFICER'S REPORT

ENTERED
LRMS

EVENT #: 020927-1153

MURDER

SUBJECT

DIVISION REPORTING:

ISD

DIVISION OF OCCURRENCE:

PATROL

DATE AND TIME OCCURRED:

09/27/2002 1213 HRS

LOCATION OF OCCURRENCE:

THE UPTOWN MOTEL
813 E. OGDEN #25
LAS VEGAS, NV 89101

VICTIM

VILLARREAL, PEDRO GUERRERO
DOB 08/23/1944 SSN 464-86-2999
ID# 811895
ADDRESS 813 E. OGDEN #25
LAS VEGAS, NV 89101

SUSPECT(S)

UNKNOWN

Metropolitan Police
Records Distribution
Distr. 170066
WVS

I SYNOPSIS

On 09/27/2002 at approximately 1213 hours the LVMPD received a call from the manager of the Uptown Motel located at 813 E. Ogden. The caller stated that the maintenance man had found a male tied up and possibly dead in the bathtub of apartment twenty-five. Patrol officers and medical personnel responded and determined that the subject was dead.

II PERSONS AT SCENE

A PATROL

1	OFFICER S. RUMERY	P# 6734
2	OFFICER B. ROPER	P# 7539

B GENERAL ASSIGNMENT

1	SERGEANT M. THOMPSON	P# 1988
---	----------------------	---------

C HOMICIDE

1	SERGEANT R. ALBY	P# 1810
---	------------------	---------



Date and Time of Report:

10/31/2002 0900 HRS

Officer:

DETECTIVE R. WILSON

P#: 3836

Approved:

Sgt. Randy Alby 1810

Officer:

R. Wilson

P#:

LVMPD 82 (REV. 1-91) • AUTOMATED

SIGNATURE:

CONTINUATION REPORT

ID/Event Number: 020927-1153

Page 2 of 13

2 DETECTIVE J. MIKOLAINIS P# 1511
3 DETECTIVE R. WILSON P# 3836

D CRIMINALISTICS

1 CSAS A. CABRALES P# 2045
2 CSA R. DAHN P# 5947
3 CSA S. ROLLO P# 6932

E MEDICAL (AMR)

1 EMT B. LUNDY UNIT 443
2 EMT PAQUET UNIT 443

F CORNER

1 INVESTIGATOR CAROL FERRANTI
(TOD 09/27/2002 1510 HRS)

G MORTUARY (NEVADA FUNERAL)

1 ATTENDANT E. LEE
2 ATTENDANT P. DIXON

H PUBLIC ADMINISTRATOR

1 CONRAD VERGARA

III WITNESSES INTERVIEWED

1 RIDDLE, THOMAS WESLEY
DOB 06/08/1944 SSN 547-56-8822
ID# 308503
WMA 6-2 180 HR-BRO EY-BRO
ADDRESS 813 E. OGDEN #14
LAS VEGAS, NV 89101
PHONE 382-5257 (WORK)
UPTOWN MOTEL (MAINTENANCE)

2 SASIELA, FRANK
DOB 09/06/1923 SSN 044-16-7367
ID# 110455
WMA 5-06 180 HR-GRAY EY-HAZ
ADDRESS 813 E. OGDEN #26

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

CONTINUATION REPORT

ID/Event Number: 020927-1153

Page 3 of 13

LAS VEGAS, NV 89101
PHONE 382-5257 (MESSAGE)

3 LLOYD, CHARLES A
DOB 07/28/1934 SSN 253-46-7271
WMA 6-0 180 HR-GRAY EY-BRO
ADDRESS 2038 PALM ST. #321
LAS VEGAS, NV 89104
PHONE 349-7986

4 MORSE, LEWIS R
DOB 04/24/1939 SSN 518-40-1785
ID# 929349
WMA 5-11 230 HR-BRO EY-BLU
ADDRESS 813 E. OGDEN #29
LAS VEGAS, NV 89101

5 STELTON, JOHN M.
DOB 06/24/1924 SSN 285-30-3757
WMA 5-09 152 HR-BRO EY-BLU
ADDRESS 813 E. OGDEN #27
LAS VEGAS, NV 89101
PHONE 382-5257 (MESSAGE)

6 LUNDY, BRADFORD LEE
DOB 02/03/1967 SSN 530-96-4500
WMA 6-01 200 HR-BRO EY-BLU
ADDRESS 3900 DALECREST #1017
LAS VEGAS, NV 89129
PHONE 493-4780 (HOME)
671-6722 (WORK) (AMR AMBULANCE)

7 LEWIS, TORRENCE
DOB 12/05/1978 SSN 530-19-0618
ID# 1503740
BMA 5-09 178 HR-BLK EY-BRO
ADDRESS 3425 SANDY LANE
LAS VEGAS, NV 89115

8 PRYOR, EDD
DOB 07/29/1966 SSN 570-19-3029
ID#1311769
WMA 5-09 195 HR-BRO EY-BRO
ADDRESS 1485 LUCKY ST.
LAS VEGAS, NV 89104

CONTINUATION REPORT

ID/Event Number: 020927-1153

Page 4 of 13

IV DETAILS

On 09/27/2002, Thomas Riddle, the maintenance man for the Uptown Motel, attempted to locate the source of water leaking into apartment number twenty-six. Riddle attempted to enter apartment #25 and the chain on the door was locked. He could hear the water running. A short time later he again attempted to enter the apartment. This time he was able to enter and found the victim tied up in the bathtub with the shower running on him. He exited the apartment and notified the manager who reported the incident to the LVMPD.

Patrol officers and medical personnel responded to the scene and determined that the victim was deceased. The scene was secured and general assignment as well as homicide detectives responded to the scene. Sergeant R. Alby as well as Detectives Mikolainis and Wilson responded for homicide. Detective Wilson was assigned to document the scene with the assistance of the crime scene analysts. Detective Mikolainis interviewed the available witnesses.

V SCENE INVESTIGATION**A DESCRIPTION OF SCENE**

The Uptown Motel is located at 813 E. Ogden Las Vegas, NV 89101, on the north side of the street. The complex has two stories and shaped in a rectangle. There is a courtyard in the middle of the complex. All of the individual apartment doors face inward and are only accessed from the middle of the complex. There are two gated entries into the complex. The first is on the south, Ogden, side next to the office. This gate is normally left open during the daytime hours. The second entrance is on the west side of the complex and is accessed from the west alley. This gate is normally closed and locked except at times when it is opened for maintenance or construction workers.

The scene is located in apartment number 25 which is located in the northeast corner of the complex on the second floor. The door to the apartment has the number 25 on the front of it and faces west. The back of an air conditioning unit is protruding through the west wall of the apartment directly south of the door. Immediately south of the A/C unit is a large window covered with aluminum foil and blinds which also faces west.

Apartment 25 is a studio apartment with a bathroom located in the southeast corner. A bed is centered on the south wall with a table with a lamp on it on the west side of the bed and a small refrigerator on the east side of the bed. A small dresser with a portable radio on it and a red wire rack with a hot plate and miscellaneous cooking items are located along the west wall under the window. There were two white plastic chairs side by side facing the wall under the A/C unit.

A small table with some video cassettes and a box fan on it is located along the north wall just inside the door. A large six drawer dresser is centered on the north wall and has a

CONTINUATION REPORT

ID/Event Number: 020927-1153

Page 5 of 13

television on it. The sound on the TV was low and it was on channel eight. The reception was poor and there were two disconnected video cables coming off the west side of the TV. There were numerous VHS videos on the top of the dresser on the east side of the TV. A smaller end table with two drawers and a lamp on it was located just east of the large dresser. An open closet area containing numerous personal items is located on the east wall extending from the northeast corner south to the north wall of the bathroom.

A door into the bathroom is located at the west end of the north wall of the bathroom. The bathroom door opens inward. A toilet is located on the south wall of the bathroom near the west wall. The seat was down and the lid was up. The sink is located on the south wall between the toilet and the bathtub. The bathtub is located along the east wall of the bathroom. The faucet and shower head are located at the north end of the tub. The shower curtain was open and pulled to the right or south end of the tub. There was a small shelf located on the north wall between the door and the tub with miscellaneous toiletry items on it.

B LOCATION AND DESCRIPTION OF THE BODY

The body of the victim was located laying face down in the bathtub. The head was to the south and the feet to the north. The head was covered in a multi-colored pillow case and the hands were tied tightly behind the back with a white extension cord. The hands were positioned slightly over to the right side of the back. Both palms were up and the left hand was tied on top of the right hand. There are two burn type injuries to the victim's back. A smaller injury was located in the center of the back and a larger injury was located on the left side of the back. The legs were bent at the knees and tied together tightly at the ankles with a white electrical cord cut on one end. The feet were leaning toward the northeast corner of the tub. The body was nude from the waist up. The body was clothed in a pair of black jeans with a brown leather type belt and white socks on both feet.

C VISIBLE EVIDENCE LOCATED AT THE SCENE

The entire scene was photographed by CSA S. Rollo to document the location and condition of the scene as well as evidence located at the scene. All items of evidence recovered at the scene were impounded by CSA R. Dahn.

A single tan latex glove, and several cigarette butts were on and near the foot of the bed. Cigarette butts were also located in an ashtray on a wire rack table along the west wall. A gray and white small fan with the cord cut off was located on the floor next to the west side of the bed. A brown handled steak knife with an approximate 4 inch blade was located on the edge of the dresser along the north wall. Located on the floor between the bathroom door and the north wall was the owner's manual for a Philips VCR models VRB411AT and VRB611BT as well as a "Primary Annual Report for Bartenders and Culinary Workers" addressed to Pedro Villarreal at 813 E. Ogden Ave number three.

CONTINUATION REPORT

ID/Event Number: 020927-1153

Page 6 of 13

A "Sharp" VCR manual for models VC-A410U (A) and VC-H810U (A) with a warranty card inside bearing the possible serial number JAU01-02 was located inside the bottom drawer of a small end table on the north wall. A prescription pill bottle in the name of Pedro Villarreal for Doxycycline, with one pill in it, was located on the night table on the west side of the bed.

In the bathroom area an orange and red can of "Colgate" shaving cream was located on the small shelf on the north wall. An empty "Shield" cigarette package was located inside a trash box on the floor under the shelf. A white ivory button with threads attached was located in the bottom of the bathtub under the victim's body. A sample of a reddish stain was collected from the west edge of the bathtub. Some miscellaneous paperwork that was wet was recovered from left rear pocket of the pants worn by the victim.

A pair of tan Latex gloves were located inside apartment #22 which is being renovated. The gloves were located inside the bathtub that had been removed and was sitting in the livingroom area.

For a complete description of the scene and all items of evidence recovered at the scene see the crime scene report completed by CSA S. Rollo and the evidence impound report completed by CSA R. Dahn.

VI AUTOPSY

On 02/08/2002 at approximately 0900 hours an autopsy was conducted on the body of Pedro Villarreal at the Clark County Coroner's office.

A PERSONS PRESENT AT AUTOPSY

1	Deputy Medical Examiner Doctor Gary Telgenhoff	
2	Forensic Assistant David Light	
3	Forensic Assistant Damen O'Brien	(photos)
4	CSA S. Rollo	P# 6932
5	Sergeant R. Alby	P# 1810

B LOCATION OF INJURIES

During the course of the autopsy Dr. Telgenhoff noted that there was a cut to the left palm and a second cut behind the right wrist. He also noted the two injuries on the back that were noted at the scene. There were no other injuries noted.

C EVIDENCE IMPOUNDED

The body was photographed by CSA Rollo to document the condition of the body at the time of autopsy. CSA Rollo impounded all items of evidence recovered at the autopsy.

CONTINUATION REPORT

ID/Event Number: 020927-1153

Page 7 of 13

These items included a button from the stomach area, a pillowcase from the head, a sock from the mouth and electrical cord ligatures from the hands and legs as well as the victim's clothing. A biology kit, Buccal Swabs, and a DNA kit were also collected and impounded. For further information on items of evidence recovered at the autopsy see the autopsy evidence form completed by CSA Rollo.

D AUTOPSY RESULTS

At the conclusion of the autopsy Doctor Telgenhoff determined that the cause of death was asphyxia and the manner of death was homicide.

VII INVESTIGATION

According to Deloris Kramer, the manager at the Uptown Motel, Pedro Villarreal has lived in the complex for approximately the last ten years. Villarreal was living alone in apartment twenty-five. Thomas Riddle is working at the Uptown Motel as the maintenance man. On 09/26/2002 at approximately 1200 hours Riddle got a complaint from the tenant in room 29 that there was no hot water. Riddle checked the water heater and noted that it was functioning properly but was just empty meaning that someone had used all the hot water.

Again on 09/27/2002 the tenant in apartment 29 complained that he still did not have any hot water. The tenant in apartment 26, which is next to Pete's room, complained that the tub next door was overflowing because it was leaking under the wall into his bathroom. Riddle started to try and clean it up and realized that it was still leaking. At approximately 1200 hours Riddle stated that he went to Pete's room and knocked on the door. He noticed that the air conditioner was running. There was no answer so Riddle used the master key and opened the door. The door only opened a short distance because the chain lock was on the door. Riddle called into the apartment but got no response. He could hear the water running, figured that Pete was in the tub, so he closed the door and went back to apartment 26 to work on the leaking water.

Approximately 15 to 20 minutes later Riddle was down stairs talking to some people and noticed that Pete's air conditioner was off. Riddle again knocked on the door with no response. He again used his key to open the door. As he did so he noticed that the chain was not on the door and could still hear the water running. Riddle entered the room and noticed that the bathroom door was open approximately 4 inches. Riddle pushed open the bathroom door and saw a body laying in the tub. He then left and informed Deloris who reported it to the police.

Police and AMR Ambulance personnel responded to the scene. EMT Bradford Lundy entered the apartment with LVMPD Officer S. Rumery. Lundy determined that the victim was deceased and the scene was secured. The tub appeared to be approximately half full of water and the shower was running. The water was turned off and the scene was secured.

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT**

ID/Event Number: 020927-1153

Page 8 of 13

Villarreal's neighbors in the complex stated that they have seen various people going in and out of the room on numerous occasions but could not identify any of these individuals with the exception of a white female known only as "Sadie". A possible last name for Sadie is Hays or Hayes. Detectives were able to identify Sadie as Vickie Lynne Hays ID# 1810640. Photos of Hays were shown to several people who identified her as the person they know as Sadie.

Deloris also stated that in the past a black male named Arthur Mickey has come into the complex and tried to strong arm some of the tenants into letting him use their apartment. Detectives have located Arthur Mickey in SCOPE and obtained a photo of him but do not have any evidence linking him to the murder at this time. The photo was identified by Deloris Kramer as being the person she knows as Arthur Mickey.

Detectives noted that there was an empty space on the dresser to the left of the television with some loose cables coming off the television. Detectives believe that at least one and possibly two VCRs were removed from that location. There were numerous VHS tapes stacked on the dresser to the right of the television as well as on the table just west of the dresser. No Video Cassette Recorders were located inside the room. Manuals to two different VCRs were however located in the room. There was a large amount of what appeared to be shaving cream that had been sprayed on the upper portion of the sink for an unknown reason. Some had dripped down onto the floor. A pair of black pantyhose were noted hanging on a hook on the back of the bathroom door. There was also a Budweiser six pack of bottles located on the floor next to the east side of the bed. There was one bottle still in the carton and one unopened bottle on the dresser on the north wall. There were no empty bottles in the room but there were 3 or 4 Budweiser bottle caps in various locations around the room. Three of the drawers of the dresser were open and it appeared that some items had been disturbed.

Detectives noted that there were a number of apartments that were under construction in the complex. According to Deloris Kramer the renovations were being done by Design Builders. Detective Mikolainis contacted Sally Donald at Design Builders who stated that they did not have anyone working at the Uptown Motel on September 26th or 27th. She stated that RGC Electric may have had someone working on those days. Detective Mikolainis contacted Shawn Snyder at 258-7825 who was working on both the 26th and 27th at the Uptown for RGC Electric. Snyder stated that he was only there for a couple hours each morning and did not see anything unusual.

On 10/02/2002 Detective Wilson contacted the Clark County Public Administrator office in order to release the victim's apartment to them. Detective Wilson met Public Administrator Conrad Vergara at the victim's apartment. The lock on the door was removed by Detective Wilson and Vergara took custody of the apartment.

On 10/08/2002 Detective Wilson received a phone call from a subject who identified himself as Michael Henderson. Henderson stated that he was outside the 7-11 store at Las Vegas Boulevard and Fremont when he heard a female he knows as Tina tell how she

CONTINUATION REPORT

ID/Event Number: 020927-1153

Page 9 of 13

was involved in the robbery and murder of a man in his apartment in the Ogden House Apartment Complex. Tina related to him that the man was bound, gaged and placed in the tub. Henderson stated that Tina indicated that she had done this with another female and a male that she did not identify. Henderson stated that Tina is the girlfriend of Tom who is a graveyard clerk at the same 7-11 store and lives at the El Cid Motel in room.

Detectives went to the indicated 7-11 store and spoke to the manager who provided the name and address of Thomas Wilson. The address for Wilson was 233 S. 6th Street #331 Las Vegas, NV 89101, which is the address for the El Cid Motel. Thomas Wilson was located in the SCOPE system and has an ID number of 1799093.

Detectives also met with Sherry Gibson and her daughter Amanda. Gibson is the mother of Amanda and the ex-wife of Pedro Villarreal. Amanda is the daughter of Villarreal. Amanda lives in Tennessee with her mother and visits her father during the summer. According to Amanda the following items are missing from her father's apartment:

- 1 cell phone with number (702) 334-3371
- 2 a gold link ID type bracelet with no inscription
- 3 a gold ring
- 4 a black waist length leather jacket
- 5 a state quarters coin collection in a hard case
- 6 a black leather wallet with Pedro Villarreal ID
- 7 a Philips or Sharp VCR, possibly both but one was possibly broken

Amanda stated that one of the VCRs broke and that a new one was purchased to replace it. She is not sure what brand the new one was. Amanda provided photos of two girls that her father hung out with on a regular basis. One of the photos was of a dark haired female with the victim. Amanda identified this female as the one she knows as "Sadie". The other female she identified as "Katie" but could provide no further. The photos were shown to several different people who identified the picture of the single female as actually being "Sadie". She is the female identified as Vickie Lynne Hays.

On 10/09/2002 detectives went to the El Cid Motel and attempted to contact Thomas Wilson and possibly his girlfriend Tina in room 331. Detectives were unable to contact anyone at the room but did speak to management and confirmed that Thomas Wilson does live there with his brother James Wilson. The manager stated that he knew Thomas' girlfriend only as Tina. Tina had called and left a message with the front desk for Thomas to call her at the Lee Motel room 103.

Detectives went to the Lee Motel and contacted a female who identified herself as Tina Hobel or Tina Olten ID# 839351 in room 103. Tina consented to being interviewed and was transported to the LVMPD Homicide office to be interviewed. Buccal Swabs were obtained from Hobel for future DNA comparisons if necessary.

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT**

ID/Event Number: 020927-1153

Page 10 of 13

At the beginning of the interview Tina was advised of her rights per Miranda and stated that she understood her rights. Tina denied any knowledge of the murder and denied ever being in apartment 25 at the Uptown Motel. Tina was booked into the Las Vegas City Jail for an outstanding narcotics paraphernalia warrant.

On 10/10/2002 at approximately 0930 hours Detectives Wilson and Mikolainis met with a subject identified as Michael Henderson, DOB 04/11/1952. Henderson stated that he was outside the 7-11 store located at Fremont and Las Vegas Boulevard with Tina, another white female and a white male, talking a few days ago. During the conversation Tina stated that she was glad they didn't get caught because some detectives had found an ID belonging to "Yolanda". Tina went on to say that she, Yolanda and a black male had robbed a guy in a motel room in the area of Stewart/9th. They had tied him up, gaged him, then put him in the bathtub. Henderson was shown a photo of Tina Hobel ID #839351 and positively identified her as the female that had told him the information about the murder.

On 10/14/2002 at approximately 1100 hours Detective Charles Zinovitch conducted a polygraph examination on Tina Hobel to determine the level of her truthfulness when she denied any involvement in the murder of Pedro Villarreal. At the conclusion of the examination Detective Zinovitch determined that Hobel was being truthful when she denied direct knowledge of the incident.

On 10/22/2002 at approximately 1330 hours Detectives Mikolainis and Wilson responded to the Clark County Detention Center and met with inmate Torrence Lewis, ID# 1503740. Lewis had called the LVMPD Homicide office and indicated that he had information regarding a homicide. He had requested that detectives come talk to him.

Lewis stated that he was cell mates with a subject that he knows only as Steven. He described Steven as being a white male that kept to himself a lot. Steven told Lewis that he had been arrested for numerous counts of statutory sexual seduction as well as other charges. Steven stated that his girlfriend is a 15 year old white girl that he came out to Las Vegas with from Iowa. She was supposedly in a foster home there in Iowa. Steven told Lewis that he had told his girlfriend to tell the police everything when they got caught and that he hoped that she did not tell them about the murder that they committed.

Steven went on to tell Lewis that the victim was an older Hispanic male that thought that his girlfriend was a hooker. They went up to the victim's room some where on Fremont Street. Steven stated that when they got inside he grabbed the victim's neck from behind and choked him with his arm then his girlfriend jumped on the victim's neck. They then covered the victim's head and put him in the bathtub turning the shower on. Steven told Lewis that they stole six hundred dollars from the victim. Steven also stated that he had wiped down the apartment in an attempt to remove their fingerprints. Steven mentioned that there was another male suspect involved in the murder but that he had paid the subject fifty dollars to leave town when he began asking questions about Steven's name.

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT**

ID/Event Number: 020927-1153

Page 11 of 13

The Clark County Detention Center was able to identify the cell mate of Lewis on 10/14/2002 as being Steven Kaczmarek ID# 1752368.

On 10/23/2002 at approximately 0830 hours Detective Wilson contacted the LVMPD Pawn Detail who ran the name of Steven Kaczmarek through their system. Kaczmarek was in the pawn system as having pawned a blank gold ID bracelet and a VCR on 09/25/2002 at the Gold and Silver Pawn Shop located at 713 Las Vegas Boulevard South. Holds were placed on the items through the Pawn Detail.

The female juvenile that was supposedly with Kaczmarek was identified as Allsha Burns and is apparently in the custody of the Brown County Children Services in Ohio.

The pawned bracelet matched the description of one worn by the victim according to his family members. The VCR was a Sharp model VC-A410U Ser# 101877897. The make and model number of the VCR matched one of the owners manuals located in the victim's apartment. CSA S. Rollo responded with detectives to the Gold and Silver Pawn Shop to process and impound the bracelet as well as the VCR. The original pawn ticket with the signature of Steven Kaczmarek on it was impounded also. Copies were made of the ticket prior to the impound.

On 10/23/2002 Detectives Wilson and Mikolainis met with Torrence Lewis at the Clark County Detention Center. Lewis gave a complete taped statement to detectives and repeated the information he had provided earlier. He was also shown a photo line-up that contained a photo of Steven Kaczmarek ID# 1752368 in position number two. Lewis identified the photo in position two as being the subject he knew as Steven that had told him of his involvement in a murder. Lewis was positive of his identification.

Major Case prints were obtained from Kaczmarek by Officer Young at the Clark County Detention center and the print cards were signed by Kaczmarek. Copies of the cards and the pawn ticket were impounded for signature comparison at a later date.

On 10/24/2002 Detectives Wilson and Mikolainis contacted Abe Cruz at the Gold and Silver Pawn Shop. Cruz was the employee that had purchased the bracelet and the VCR from a person that signed the name Steven Kaczmarek on 09/25/2002 at approximately 2228 hours. Cruz stated that he was working that night. He does not specifically recall the transaction but was shown a photo line-up. Kaczmarek was depicted in position number 2 in the line-up. Cruz stated he did not positively recall buying the items from any of the subjects depicted but stated that the person in position number two looked very familiar to him and he thought that he had seen him at the pawn shop before.

On 10/28/2002 Detective Mikolainis met with inmate Edd Pryor ID# 1311769 in the Clark County Detention Center. Pryor stated that he had a conversation with Steven Kaczmarek in the day room in the detention center. Kaczmarek appeared to be upset when he was brought back into the module by the guard. Pryor asked him what was wrong and Kaczmarek indicated that he was just coming back from being fingerprinted again.

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT**

ID/Event Number: 020927-1153

Page 12 of 13

Kaczmarek told Pryor that he had killed a man and stole four hundred and eighty dollars from him. Kaczmarek indicated that he was assisted by his girlfriend and another subject. He also told Pryor that they tied the man up and put him in the bathtub. Pryor was shown a photo line-up containing a photo of Kaczmarek in position number two. Pryor identified the subject he knows as Steven Kaczmarek as the subject he saw in photo number two.

On 10/29/2002 Detectives Wilson and Mikolainis met with Steven Kaczmarek at the Clark County Detention Center. Detective Mikolainis read Kaczmarek his rights per Miranda. Kaczmarek indicated that he understood his rights verbally and in writing.

Kaczmarek stated that he and his 15 year old girlfriend, Alisha Burns, stole her foster mothers car and came to Las Vegas sometime around the end of August or the first of September of 2002. When their money ran out they sold the car and when that money ran out they hustled money from people on the street. Alisha would ask for money from people and that is how they got by.

Kaczmarek is not sure of the date or the exact time but in the down town area Alisha was out asking for money and she came back to Kaczmarek with a older Hispanic male. Kaczmarek stated that he would follow Alisha for her protection. The male took Alisha to the McDonalds restaurant located in the Fitzgeralds Hotel to get a drink. Alisha had some kind of conversation with the male as Kaczmarek and another male he knows only as Tommy sat a few tables over from them. Alisha told Kaczmarek that she had made a deal with the male that he would give her two hundred dollars if she would go back to the room with him. Kaczmarek talked to the male who told him that he only had thirty dollars but after talking for a while invited all three of them to his room to drink some beer.

Kaczmarek, Alisha and Tommy all went with the male to his room at the Uptown Motel. Kaczmarek described the Uptown Motel and stated that the apartment was upstairs in the far right corner. They went inside the apartment and he described a refrigerator next to the bed that they got the beer out off. He described the beer as Budweiser in the brown bottles. As they all sat and drank their beers Alisha made a motion to Kaczmarek with her hands which led him to believe that she expected him to attack the male so that they could rob him. Kaczmarek stated that he and Alisha had discussed doing this before numerous times but had never done it. A short time later Alisha again made the same motion.

Kaczmarek went into the bathroom and called Tommy into the bathroom. Kaczmarek told Tommy that he was going to rob the guy and asked him to help. Tommy agreed to help and left the bathroom. Kaczmarek then call the male into the bathroom. When he turned to leave Kaczmarek grabbed him around the neck from behind with the left arm. Kaczmarek squeezed his neck until he passed out. Kaczmarek kept the hold on him while Alisha and Tommy searched the room for valuables. They located the wallet and some money under the mattress. Kaczmarek also told them to wipe down the room to remove their fingerprints. They found plastic gloves in the room and put them on. Both Tommy and Alisha also took turns holding the victim's neck to keep him unconscious. While Alisha was holding the victim he kept moving so Kaczmarek grabbed an extension cord and tied

CONTINUATION REPORT

ID/Event Number: 020827-1153

Page 13 of 13

up the victim's legs. He then stood on the victim's back and told Alisha to cut the cord off of a fan and then used it to tie up the victim's hands.

Alisha also stomped on the back of the victim's neck to try and get him to lose consciousness again. Tommy helped lift the victim into the bathtub and Kaczmarek put a sock in the victim's mouth and a pillow case over his head. Kaczmarek stated that he was dripping sweat on the victim's shirt. He cut the shirt off the victim and took it with him when they left to avoid leaving DNA evidence at the scene.

Kaczmarek stated that they took two black leather type jackets, two baseball type hats, a VCR, a bracelet, a new package of socks, some razors, a comb, a cellular phone, a twenty dollar bill and a roll of quarters.

They left the room and walked to the pawn shop to try and pawn the items. They tried to pawn the jackets but the shop would not take them so they left them on some magazine holders on the side walk. They did pawn the gold bracelet and the VCR. Kaczmarek said that he was the only one that had ID so he pawned the items. They got 10 dollars for the VCR and 30 dollars for the bracelet. Tommy kept the roll of quarters and the baseball caps. Kaczmarek gave Tommy 10 dollars after pawning the items. They decided to use ten dollars to buy some marijuana. Tommy left to get the marijuana with the ten dollars. Kaczmarek stated that they gave the cell phone to a black female drug dealer who let them stay the night at her apartment. For further information see Kaczmarek's taped statement.

VIII CONCLUSION

Latent prints were recovered from the scene and are being compared to Kaczmarek's and other potential suspects as well as through the AFIS system. Continuing efforts are being made to locate Vickie Hays and other potential witnesses in an attempt to obtain further information. At this point in the investigation Hobel is no longer considered a potential suspect. Results are pending on the signature comparison. An interview with Alisha Burns will be conducted in the future. Kaczmarek is the primary suspect in the murder however he is not the only suspect. Investigators are attempting to identify Tommy who was the third suspect in the crime. An arrest warrant was obtained for Steven Kaczmarek for the charges of Murder, Robbery, Burglary and Kidnap with a Weapon. The investigation into the murder of Pedro Villarreal is currently on going and additional arrests are anticipated in the future.

- LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY REPORT OF EXAMINATION

NAME: Kaczmarek, Steven

CASE #: 02 0927-1153

AGENCY: LVMPD

DATE: 10-29-02

INCIDENT: Murder

REQUESTED BY: Det. J. Mkolainis
Homicide Detail

I, JIMMY W. SMITH, do hereby declare:

OCT 30 2002

That I am a Document Examiner employed by the Las Vegas Metropolitan Police Department; That I am certified by the American Board of Forensic Document Examiners as a qualified Forensic Document Examiner.

That on September 10, 1997, I first qualified in District Court of the Eighth Judicial District of Clark County Nevada, as an expert witness to testify regarding forensic document examinations;

That I have qualified in the Courts of The State of Oklahoma, as an expert witness regarding questioned document examinations;

That I examined the below listed evidence:

QUESTIONED:

1. A copy of Gold & Silver Pawn Shop ticket, #415268 with two (2) Steven Kaczmarek signatures.
2. A copy of Gold and Silver Pawn Shop ticket, #415269 with two (2) Steven Kaczmarek signatures.

KNOWN:

3. Copies of eight pages of fingerprints containing ten (10) known Steven Kaczmarek signatures.

RESULTS OF THE EXAMINATION:

Based on the known writing submitted, it is highly probable that Steven Kaczmarek signed his name on the bottom right of the pawn ticket listed in questioned item one.

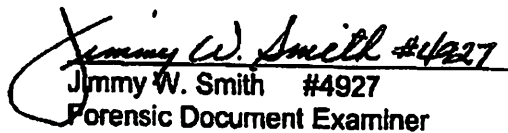
There are similarities between the known Steven Kaczmarek signatures and the Steven Kaczmarek signatures on the bottom of questioned item two and on the bottom left of questioned item one. The reason for this limited conclusion is the poor condition of the questioned signatures.

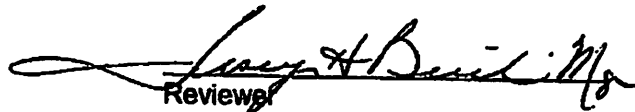


The evidence was sealed and returned upon completion of the requested document examination.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on: 10/29/02


Jimmy W. Smith #4927
Forensic Document Examiner


Reviewer

1 name and spell your last name for the record, please?

2 THE WITNESS: Right now? My name is Steven
3 Kaczmarek, K-a-c-z-m-a-r-e-k.

4

5 DIRECT EXAMINATION

6 BY MR. WOMMER:

7 Q. Mr. Kaczmarek, you can adjust that microphone
8 to where it's comfortable. Try to keep your voice up
9 and speak directly in the microphone. All right?

11:18A 10 A. Okay. All right.

11 Q. Mr. Kaczmarek, you're the defendant in this
12 case?

13 A. Yes, sir.

14 Q. And directing your attention back to the fall
15 of 2002, were you living in Ohio?

16 A. Yes, sir.

17 Q. Where in Ohio were you living?

18 A. Hillsborrow, Ohio.

19 Q. Did you have a girlfriend in Ohio?

20 A. Yes, sir.

21 Q. What was her name?

22 A. Alisha Burns.

23 MR. WOMMER: May I approach the witness, your
24 Honor?

MARKED FOR IDENTIFICATION

PR

#

Ca

STATE'S
EXHIBIT

1 THE COURT: You may.

2 BY MR. WOMMER:

3 Q. Showing you what's been marked and admitted
4 as State's Exhibit Number Sixty-eight, tell me if
5 you're familiar with the person depicted in that
6 picture?

7 A. That's Alisha Burns.

8 Q. Now, when you were living in Ohio, did you
9 and Alisha decide that you were going to leave Ohio
10 and come to Las Vegas?

11 A. Yes, sir.

12 Q. Why did you decide to come to Las Vegas?

13 A. Well, when I met Alisha she was -- you know,
14 we met, and she told me a lot about, you know,
15 herself, and, you know, I told her a lot about myself.
16 And, you know, we got along pretty good.

17 You know, and you know, I would -- she would
18 tell me, you know, about guys, you know, beating her
19 up and things like that. Just -- it's just -- we got
20 along really good, you know.

21 And one night she asked -- you know, she
22 asked me -- well, a conversation had struck up while
23 we were sitting in my car about, you know, where she
24 would want to go, if she would, you know, just ever

1 leave. And we was just talking.

2 But then the next day, you know, she started
3 talking about it more. And she told me about her, you
4 know, her foster mom leaving, you know, her car, her
5 keys in her car and things like that. And she
6 suggested that, you know, we take the car and stuff
7 like that.

8 Q. What made you decide to come to Las Vegas?

9 A. This is where she pretty much wanted to come
10 because we just figured we'd come out here and then,
11 you know, get married. And just be together, you
12 know, pretty much.

13 Q. So you drove from Ohio to Las Vegas?

14 A. Yes, sir.

15 Q. When did you do that?

16 A. It had to be, like, the beginning of August
17 maybe.

18 Q. Of 2002?

19 A. Yes.

20 Q. Did you have a lot of money on you then?

21 A. Well we had -- we had some money because her
22 foster -- Alisha's foster mom had, you know, money in
23 her purse and stuff.

24 Q. How much money did you have?

1 A. When we got here?

11:21A 2 Q. Yes.

3 A. Maybe \$150, something like that.

4 Q. All right. You had \$150 when you got to Las
5 Vegas. Did you find a job here?

6 A. No, sir.

7 Q. Did Alisha find a job here?

8 A. No, sir.

9 Q. All right. So when -- where did you stay?
10 What type of places did you live in when you got to
11 Las Vegas with this \$150?

12 A. Well, we lived in the motels.

13 Q. How much were they costing a night to stay in
14 these motels?

15 A. Well, at first it was like \$50, between \$45
16 and \$55. And, you know, we would overhear, you know,
17 people, you know, saying pretty much just telling me
18 and Alisha that there are cheaper hotels. So...

19 Q. Did you find some cheaper places to stay?

11:22A 20 A. Yes, sir.

21 Q. What did they cost?

22 A. Like \$32. Motel Six on Tropicana cost \$32.

23 Q. Now being you -- you didn't have a job so you
24 didn't have any income coming in. She didn't have a

1 job. Did you have any credit cards or anything like
2 that?

3 A. No, sir.

4 Q. Well, did there come a time when you decided
5 to start begging on the streets?

6 A. Yes, sir.

7 Q. And did you try begging?

8 A. I tried. But...

9 Q. Were you very good at it?

10 A. Not really.

11 Q. Did Alisha try?

12 A. Yes. She -- she tried.

13 Q. Was she better at it than you?

14 A. Yeah.

15 Q. Well --

16 A. We found it more --

17 Q. On a good day how much money could she make
18 begging on the streets?

19 A. Between \$35 \$50 something --

20 Q. How about on a bad day? How much did she
21 bring in?

11:23A 22 A. \$10 \$5, I don't know.

23 Q. Now, did you use this money that she got
24 begging to pay for a motel and buy food?

1 A. When we had enough. We would worry about
2 sleeping, you know, somewhere before we worried about
3 anything else.

4 Q. Was there a lot of times when you didn't have
5 money to pay for a hotel?

6 A. Yeah. Extremely a lot of times.

7 Q. What would you do on those nights?

8 A. We would -- we would go to Fremont Street and
9 sit at the tables.

10 Q. The park benches there, picnic tables?

11 A. Yes. By the Neapolitan thing I think it is.
12 And, and I would let her rest her head on my shoulder,
13 you know, so she could get, you know, some sleep. And
14 when the bikes -- you know, the bike, the security
15 guards rode by, I would wake her up because they
16 would -- they, you know, they told you that you
17 couldn't sleep, you know, there.

11:24A 18 Q. On the picnic tables?

19 A. Yeah. Or while you were sitting there at the
20 picnic tables.

21 Q. Now when she would go out begging, would you
22 lurk around where she was begging?

23 A. Yes. I would stay behind her and make sure
24 she was all right.

1 Q. All right. Directing your attention back to
2 September of 2002. Did there come a time when you met
3 someone you later knew as Pedro Villareal?

4 A. Yes.

5 Q. How would that happen?

6 A. Me and Alisha had just came back. You know,
7 we were on the strip. And we didn't have enough
8 money, you know, to get a motel.

9 Q. How much did you have?

10 A. We only -- at that time we only had, like,
11 \$5, \$6, five or six dollars at that time.

12 Q. Okay.

11:25A 13 A. So we were, we were sitting, you know, at the
14 tables. And Alisha, she said that she's going to go
15 ask people for money. And I was like, all right. So
16 I started following her, following her like I always
17 do follow her.

18 And the first -- the first street that goes
19 through Fremont, I don't know what the first red light
20 is, and she stopped there. And she came back. She
21 told me, she said, this guy wants to buy me something
22 to eat.

23 And I saw the guy. And I said, yeah, go
24 ahead. Because, you know, we didn't have too much

1 money to eat, you know.

2 Q. This guy turned out to be Pedro Villareal?

3 A. Yes, sir.

4 Q. Okay. So go ahead.

5 A. And she started to go. You know, I said,
6 okay. She started to go, and we went to McDonald's.

7 Q. McDonald's is right up the street here?

11:26A 8 A. Over by Fitzgerald's.

9 Q. Okay.

10 A. In Fitzgerald's. And I walked, you know.
11 And he bought her a pop, a soda. And...

12 Q. Where are you at this time?

13 A. Oh, I was, like, right -- there's an opening
14 on, by Fitzgerald's where the McDonald's is because
15 the McDonald's is in the corner. I was standing by
16 the slot machines, you know, so -- because I didn't --
17 I didn't want -- I didn't want him to feel as if I was
18 following them or anything.

19 Q. But you were still in the area watching?

20 A. Yes, sir.

21 Q. Go ahead.

22 A. Well, he went and he bought her a soda, and
23 they sat at one table. I sat at another table.

24 Q. How far away?

1 A. Thirty-five, forty feet.

2 Q. Okay. What happened then?

3 A. Well, I couldn't hear the conversation or
4 anything. So -- well they got up, and they walked
5 out, and I walked out. You know. And Alisha or -- I
6 mean, Pedro, I assume, went -- went to the bathroom.

7 Well I was talking to Alisha out in front.
8 And she -- she was telling me, you know, about what
9 they were talking about and stuff.

11:28A 10 Q. What were they talking about?

11 A. About her being some type of prostitute or
12 something like 'at. I don't know. I don't know.
13 That's what they were talking about. I mean, I have a
14 hard time because I don't get into that type of stuff.

15 Q. Did Pedro offer her any money for sex?

16 A. He said -- he said that \$200. That's what
17 she told me that he had offered her to go back to his
18 room.

19 Q. Was she interested in having sex with him for
20 \$200?

21 A. Well, she came up with a different idea.

22 Q. What was her idea?

23 A. She wanted to try to rob the guy.

24 Q. What did you say when she proposed robbing

1 him?

2 A. Well, I said, yes.

3 Q. All right.

4 A. I said, okay. I said, okay.

5 Q. Pedro come back then?

6 A. Yes. He came back.

7 Q. What happened then?

8 A. She started talking to him again and things
9 like that. You know, and after a while she's, like,
10 okay. After she talked to him for, like, five or ten
11 minutes on the side -- I was just standing there
12 because they have a stage in between. And I was just
13 standing there. And I, I suppose she told him about
14 me too. So we started going, you know, with --

11:29A 15 Q. When you say "we" who are you talking about?

16 A. Me and Alisha.

17 Q. What about Pedro. Where is he?

18 A. He was with us.

19 Q. So the three of you start walking away?

20 A. Yeah. We started walking to his house.

21 Q. Well, did he -- did Pedro talk to you at this
22 time?

23 A. Yeah. He was -- he was talking to me about
24 some Beatles thing. Beatles CD or something like

1 that. I was like okay. And that was pretty much it.

2 Q. So it was agreed that you were going to watch
3 this Beatles C.D. at his place?

4 A. Yeah.

5 Q. That sounded like a good idea to you?

6 A. It sounded like a good idea to me, because I
7 didn't -- we didn't have any place to go, you know,
8 that nice.

9 Q. How did the idea of \$200 sound to you?

10 A. The money sounded good. But what he wanted
11 to give up the money for didn't sound too good to me.

12 Q. All right. So what happened next?

13 A. We went -- we went to his apartment.

11:30A 14 Q. That's the place at the Uptown?

15 A. Yeah. Yes, sir.

16 Q. Okay. What happened when you first arrived
17 there? Could you just walk into the place? Or do you
18 have to go through a gate?

19 A. No. He had to open it up, a gate.

20 Q. All right.

21 A. The key.

22 Q. All right. What -- now were you standing
23 near him when he's opening this gate up, are you? Or
24 standing near Alisha?

1 A. I was standing by Alisha.

2 Q. And are you two talking about anything then?

3 A. Yes.

4 Q. What are you talking about?

5 A. She asked me if that's what we were going to
6 do, rob the guy.

7 Q. What did you say?

8 A. I told her, yeah, if that's what you want to
9 do.

10 Q. Okay.

11 A. And she said, yeah, because we needed the
12 money. So I was like, okay. So pretty much, you
13 know, it was pretty much it. And on the way up the
14 stairs, she told me that as soon as she, you know,
15 jumped on the guy, that to, you know, try to help her,
16 you know, if the guy struggled any at all.

11:31A 17 Q. Okay.

18 A. And I was like, all right.

19 Q. So what happened when you got into his room?

20 A. We sat there for a few minutes. And we drank
21 a couple of beers.

22 Q. All right.

23 A. Alisha went to the bathroom, got up and went
24 to the bathroom somewhere. I think, I'm pretty sure

1 she went all the way in the bathroom. You know, I
2 wasn't really paying attention if she went all the way
3 in, but she went by the bathroom.

4 Well, the guy got up and he went over towards
5 the bathroom too. Well, I mean, just I -- it happened
6 so fast. It just kind of like --

7 Q. Explain it to me. What happened?

8 A. Well, I was sitting by the door, and he had
9 the Beatles thing in. And he got up. And all of a
10 sudden, Alisha just jumped on him. And he was trying,
11 you know, he wasn't falling all the way to the bed or
12 to the ground.

11:32A 13 Q. What was she doing to him?

14 A. Excuse me?

15 Q. What was she doing to him?

16 A. She just jumped on him.

17 Q. Was she punching him?

18 A. She was trying to force him down.

19 Q. All right.

20 A. On the ground.

21 Q. Was she successful in doing that? Was she
22 able to do that?

23 A. Well, she got -- she grabbed him, and he hit
24 the bed first. And then he fell on the ground. And,

1 you know, they started struggling. So she told me to
2 help. You know, she's like, help me, help me.

3 Q. So what did you do?

4 A. I grabbed him.

5 Q. What -- grabbed him where?

6 A. Around the neck.

7 Q. What were you trying to do to him?

8 A. I was just trying to, like -- I was trying to
9 choke him, but I wasn't trying to kill him, I mean, or
10 anything.

11 Q. Why were you trying to choke him?

12 A. So he would pass out, so we would have the
13 time to grab the money and leave.

14 Q. All right. Were you able to choke him?

15 A. Yeah. I choked him.

16 Q. While you were choking him, what was Alisha
17 doing to him?

18 A. She was going in his pockets and stuff.

19 Q. All right. When you choked him the first
20 time, what happened? Did he pass out?

11:33A 21 A. Yes.

22 Q. So what did you and Alisha do then?

23 A. I just -- we got up, and she said, told me to
24 start checking drawers and stuff. And started

1 checking all the drawers.

2 Q. What were you looking for?

3 A. Just anything of value.

4 Q. Did you find any money?

5 A. Yes. We found money.

6 Q. How much?

7 A. Found \$20 in a wallet.

8 Q. All right. So you had \$20 in cash. Did you
9 find anything else that you could maybe trade for
10 money?

11 A. Well, Alisha had while she was going through
12 his pockets, she had -- she grabbed a bracelet.

13 Q. The bracelet we've seen here in court?

14 A. Yes, sir.

15 Q. Okay. What happened then?

16 A. Well, he had, you know, a VCR, and we took
17 that too.

11:34A 18 Q. All right. Did Pedro ever get up or try to
19 get up?

20 A. Yes. He started moving.

21 Q. What did you and Alisha do when he started to
22 move?

23 A. I didn't really star -- I mean, I -- I was --
24 I didn't see him start moving. She -- she saw him

1 start moving first, and she went over there, and he
2 was laying on the ground. And she started stomping on
3 his neck and his throat.

4 Q. What are you doing at this time?

5 A. I was just at -- for, I don't know, three or
6 four seconds, I was like, you know, tripping, you
7 know, tripping out because I was like, whoa.

8 Well, she kept doing that, and then after she
9 started, you know, stomped on his neck and his throat
10 and stuff, she just grabbed him around the neck. And
11 she just fell to the ground and grabbed him around his
12 neck.

13 Q. All right.

14 A. And she asked me to tie him up.

15 Q. All right.

16 A. You know, well, tie his hands. And I tied
17 his hands.

18 Q. What did you tie his hands with?

19 A. Electricity cord.

11:35A 20 Q. All right. How did you get that cord?

21 A. She pointed to it over by where the guy had
22 the beer at.

23 Q. Did she --

24 A. In the refrigerator.

1 Q. Did she cut the cord from whatever it was
2 attached to?

3 A. Yeah. After -- well, when she got up,
4 because the guy was passed out again. Okay. Well,
5 that's what I thought he was passed out again. And
6 she got up. His hands were already tied and tied up.

7 Q. Who tied his hands?

8 A. I tied his hands with the extension cord.

9 Q. All right. Now, were there any knives around
10 this room or this apartment?

11 A. Yeah. There were knives all over the place.

12 Q. How many knives were there?

13 A. I didn't take time out, but, to count them,
14 but there was a lot of them. A lot of them.

15 Q. Now did you or Alisha ever take any of these
16 knives and stab Pedro?

17 A. No.

18 Q. All right. What happened after you tied his
19 hands?

11:36A 20 A. Alisha, like I said, she got up because the
21 guy wasn't moving anymore. And she cut -- cut the
22 cord on something, I assume it was of the fan, and
23 tied his feet.

24 Q. What did you decide to do then?

1 A. She was like, let's put him in the bathtub.
2 I wanted to put him on the bed and stuff, you know,
3 because --

4 Q. Did you think he was still alive at that
5 point?

6 A. Yeah. I thought he was alive.

7 Q. Did you think he was going to awake and be a
8 little angry?

9 A. Yeah. I want -- yeah, I mean, I would be a
10 little angry too.

11 Q. What did the two of you decide to do after
12 you tied his hands and feet?

13 A. Well, she -- well, she wanted to put him in
14 the bathtub. So I said, all right. Because I pretty
15 much just did whatever she wanted to do anyway. And I
16 said, all right. So we put him in the bathtub.

11:38A 17 Q. Now, did you turn the water on in the
18 bathtub?

19 A. Yeah. She asked me to turn the water on.
20 She told me to turn the water on.

21 Q. Why?

22 A. I couldn't really tell you.

23 Q. All right. After you put Pedro in the
24 bathtub, what did you decide to do then?

1 A. She shut the bathroom door. And on the way
2 out, I turned, you know, I turned the T.V. on.

3 Q. Why?

4 A. Because I didn't -- you know, I though maybe
5 somebody might hear, you know, the noise or something.
6 And, plus, when he got up, I thought, you know, I
7 thought that Pedro, when he woke up, that he would
8 think that somebody was in the room still.

9 Q. All right.

10 A. You know. So I wasn't -- I mean, I -- there
11 was no way, no way in my mind that I thought that he
12 was, he was gone, you know. That I didn't think he
13 was dead.

11:39A 14 Q. Did you and Alisha then leave the room?

15 A. Yeah.

16 Q. Did you take that bracelet and that VCR and
17 pawned it at the pawn shop?

18 A. Um-hum, yeah.

19 Q. How much money did you get for that?

20 A. \$40.

21 Q. What did you do with this \$40 you got from
22 the pawn shop and the \$20 you got from the room?

23 A. We went -- we were going to buy some reefer.
24 Well, we went to buy some reefer, and the guy, you

1 know, he jacked us.

2 Q. He jacked you?

3 A. Yeah.

4 Q. What's that mean?

5 A. Kind --

6 Q. Does that mean he scammed you?

7 A. Yeah, kind of.

8 Q. Took your money?

9 A. Yeah.

10 Q. And you didn't get the reefer?

11 A. No. So that was pretty much after that she
12 was -- I mean, I was mad too. But, you know, we were
13 both mad about that because now we couldn't do
14 nothing, you know. And -- and that was it.

11:40A 15 Q. Did you ever intend to kill Pedro Villareal?

16 A. No, I did not.

17 MR. WOMMER: I have no further questions,
18 your Honor.

19 CROSS-EXAMINATION

20 BY MR. GUYMON:

21 Q. You were mad about losing \$20 for being
22 jacked for \$20. Is that what you just said?

23 A. Yes.

24 Q. How do you think Pedro felt?

1 MR. WOMMER: Objection, your Honor,
2 speculation.

3 THE COURT: Sustained.

4 BY MR. GUYMON:

5 Q. Do you think Pedro was mad?

6 MR. WOMMER: Objection, your Honor.

7 THE COURT: Sustained.

8 BY MR. GUYMON:

9 Q. The devil made me do it. Did you ever hear
10 that expression?

11 A. Yes.

12 Q. How old are you, sir?

13 A. How old am I?

14 Q. Yes.

15 A. I'm thirty-three.

16 Q. How old is Alisha?

17 A. She's sixteen.

18 Q. And on September 25th, how old was she?

19 A. Fifteen.

20 Q. And how large were you a man on September
21 25th of 2002?

22 A. How large was I of a man?

23 Q. Yeah. Are you the same size today?

11:41A 24 A. Yeah.

1 Q. Your driver's license that you presented to
2 the Gold and Silver Pawn Shop put you at 171 pounds?

3 A. Well, sir, they do that at DMV. They just
4 asked us around how much we weigh. And I said 171
5 pounds.

6 Q. All right. And if I was to ask you on
7 September 25th around how much you weighed, how big
8 were you?

9 A. About 160 pounds, 160 pounds, about 160.

10 Q. And Alisha is not a big woman, is she?

11 A. She's -- she's about five three, weighs 130
12 pounds. So...

13 Q. You're bigger than she is?

14 A. I'm taller and weigh about twenty-five,
15 thirty pounds more.

16 Q. You're stronger than she?

17 A. Excuse me?

18 Q. You're stronger than she is?

19 A. I would assume, yes.

11:42A 20 Q. And you're more streetwise than she is?

21 A. I, I wouldn't say all that.

22 Q. Have you been convicted of a couple felonies,
23 sir?

24 A. Yes, sir, I have.

1 Q. 1988, what felonies were you convicted of?

2 A. I was convicted of -- I was convicted -- in
3 Illinois I was convicted of statutory or criminal
4 sexual assault, and home invasion.

5 Q. And --

6 A. That's all I --

7 Q. Weren't you also convicted of two different
8 counts of armed robbery in 88? Or excuse me, one
9 count of armed robbery?

11:43A 10 A. I -- I may have been, but I'm not really sure
11 because, you know, I've never -- I took a plea bargain
12 with the Court which is -- I didn't take it all the
13 way to trial because I was guilty, and I accepted my
14 responsibility for what I did.

15 Q. Guilty of two counts of aggravating criminal
16 sexual assault?

17 A. Um-hum.

18 Q. One count of home invasion and one count of
19 armed robbery. 1988?

20 A. Yes, sir.

21 Q. Before you ever met Alisha?

22 A. Yes. That's back in 1988.

23 Q. All right. Any other felony convictions?

24 A. Yes. I think I had -- or I know I had one in

1 Ohio for aggravated burglary.

2 Q. In 1996, correct?

11:44A 3 A. Yes, sir.

4 Q. All right. You had not met Alisha Burns at
5 that point either; is that correct?

6 A. No, sir.

7 Q. All right. In fact, you met Alisha Burns the
8 summer of 2002?

9 A. Yes, sir. I met her at the beach by my
10 house.

11 Q. All right. And after you met her, a romance
12 started?

13 A. Yes.

14 Q. The two of you wanted to marry one another?

15 A. Yes, sir.

16 Q. Come to Vegas and perhaps live happily ever
17 after?

18 A. That's what we had planned.

19 Q. Okay. And you planned on sharing a life
20 together, correct?

21 A. Yes. Yes, sir.

22 Q. You made a lot of plans together, didn't you?

23 A. I wouldn't say a lot.

24 Q. Well, but you'd share with each other your

1 thoughts?

2 A. Well, two people that care about each other
3 should, you know, you know, share their thoughts with
4 each other. I mean, especially, if they're talking
5 about running away and marrying each other.

11:45A 6 Q. Okay. And perhaps you were going to be the
7 breadwinner of the family; is that correct?

8 A. I was going to try, yes, I was.

9 Q. Like every man, you have some pride?

10 A. Yes, I do.

11 Q. You want to be able to provide for your girl?

12 A. I want to. I want to provide for my family.

13 Q. Okay. And so you came out here and what did
14 you begin to do to provide for your family?

15 A. I really couldn't do anything. I --

16 Q. Tell me --

17 A. I mean --

18 Q. -- where did you apply for a job at?

19 A. I applied for a job. I applied for a job at
20 a lot of places.

21 Q. But you weren't successful, so you began to
22 beg?

23 A. Yes, sir.

24 Q. And each day you spent with Alisha talking

1 about your concerns and trying to do the best you
2 could to get a little money?

11:46A 3 A. Yes, sir.

4 Q. And isn't it true that when things got bleak
5 you began to talk about perhaps robbing somebody?

6 A. Yes, sir, we did; robbing, not killing.

7 Q. All right. Let's talk about that then. You
8 indicated when you spoke to the detectives, and, in
9 fact, you told the detectives you didn't plan on
10 killing anybody, didn't you?

11 A. Yes, sir, I did.

12 Q. You told them you just planned on robbing
13 this man?

14 A. Yes, sir, I did.

15 Q. On October 29th did -- you tried to make that
16 very clear, didn't you?

17 A. I didn't try to make that clear. I did not
18 try to kill that man.

19 Q. All right. But you told the detectives about
20 the plan just to rob him, not to kill him, correct?

21 A. Yes, sir.

22 Q. Okay.

11:47A 23 MR. WOMMER: What page?

24 MR. GUYMON: Page thirty-three.

1 BY MR. GUYMON:

2 Q. You indicated that, quote, we weren't out to
3 kill nobody, correct?

4 A. Yes, sir.

5 Q. We weren't out to hurt no one, you know, hurt
6 no know, kill nobody. Well, I can't say hurt nobody
7 because, you know, just somebody up and taking their
8 stuff, just taking their stuff is hurting them, true?

9 A. Yes. Yes, sir.

10 Q. You were out to take --

11 A. Yes, sir. I mean, if you take -- I mean,
12 even if you punch somebody in their mouth, or even if
13 you take two dollars out of their wallet, that is
14 still hurting them. I mean, physically, you know, or
15 just, you know, emotionally by taking money.

16 Q. So you planned on just taking his stuff,
17 correct?

18 A. Exactly. We did not try to hurt him.

19 Q. In fact, you went on to say that we planned
20 on beating him up and taking his stuff. That was the
21 extent of your plan?

11:48A 22 A. I don't know about beating him up. I mean, I
23 may have said that.

24 Q. Let's take a look. I'm referencing Proposed

1 Exhibit Sixty-nine that was previously played to the
2 jury. Can you read that, sir, from where you're at?

3 A. What line is it?

4 Q. Right here. Does that say --

5 A. We planned maybe beating him up.

6 Q. All right. So that --

7 A. Maybe.

8 Q. That was something you may have to do in
9 order to carry out your plan to rob him, correct?

10 A. To rob him; not kill him.

11 Q. All right. And I just want to make that
12 clear.

13 A. Okay.

14 Q. Your plan was to rob him; not to kill him?

15 A. Yes, sir.

16 Q. All right. And, in fact, you were out to get
17 some money, isn't that what you told the detectives,
18 not to kill him?

19 A. Yes, sir.

20 Q. And isn't it true that you and Alisha had
21 actually talked about this quite a bit prior to this?

11:49A 22 A. Talked about robbing?

23 Q. Yeah, robbing somebody; not killing somebody.
24 Let's leave killing alone. We'll get to killing

1 later. You talked with Alisha all the time about
2 robbing somebody?

3 A. I wouldn't say all the time, no.

4 Q. Well, didn't you say that to the detectives
5 on the 29th of October?

6 A. Yes. I told them that me and Alisha had
7 talked about, you know, robbing people before, yes, I
8 did.

9 Q. And about how many times had you talked with
10 Alisha about robbing people?

11 A. I never really took count about it. I mean,
12 a few times. We've talked about it a few times. I
13 don't -- I don't have an exact number or -- I mean, it
14 wasn't over five, I mean, times that we talked about.

15 Because we were -- we were always -- we were
16 always trying to hustle money before we would even try
17 to hurt anyone because we -- that's just --

18 Q. Perhaps you can explain then to me if you
19 would what you mean when you told the detectives, and,
20 you know, what I mean -- I mean, we talked about it
21 all the time. But we never do it. And, uh, but this
22 time I guess we're actually going to go through with
23 it because I had a little help, you know, I had Tommy
24 with me.

1 I want to break that down for you a little
2 bit. When you told the detectives, I, me, you're
3 talking about, I, Steven Kaczmarek, right?

11:51A 4 A. Yes, sir.

5 Q. We, meaning you and Alisha, talked about it
6 all the time. Now how often did you talk about
7 robbing somebody?

8 A. I don't know how many times. I mean, I mean,
9 how often -- or not how many times -- how often that
10 we talked about it. I mean, whenever the conversation
11 came up.

12 Q. Came up more than once, didn't it?

13 A. Yes. It came up more than one time.

14 Q. Came up more than twice?

15 A. I -- I can't sit here and tell you that it
16 came up ten times. I can't sit here and say it came
17 up four times because I don't know how many times it
18 came up. Because that -- that's not what all I
19 thought about, was just robbing someone, just in
20 talking about it all the time, every day, all the time
21 every day.

22 I just -- I -- I don't -- I'm not that type
23 of person where I talk about just, you know, hurting
24 someone or take something, or, I mean, you know, there

1 are other things in life like that.

11:52A

2 Q. You're not that type of person. You're the
3 type of person in 1988 that was convicted of
4 aggravated sexual assault. That's the type of person,
5 correct?

6 A. I was convicted of it.

7 Q. Convicted of home invasion, that type of
8 person?

9 A. Um-hum.

10 Q. Convicted in 88 of armed robbery, that type
11 of person, correct?

12 A. Yes. I mean, I --

13 Q. In 96?

14 A. I stole.

15 Q. Aggravated burglary?

16 A. Yes.

17 Q. And your plan now in 2002 was to rob someone,
18 correct?

19 A. We planned to rob him, yes, we did.

20 Q. All right. And this time you had a little
21 help. Is that why you carried it out this time as
22 opposed to the times you talked about it but didn't do
23 it?

24 A. No. Nothing really came up. I mean, I

1 don't --

2 Q. Isn't that what it says here that this time
3 you actually carried out your plan because you had had
4 a little help. Is that true or not true?

11:53A 5 A. I carried the plan out because I had help?

6 Q. Yeah.

7 A. Yes. I mean, I could -- I couldn't -- I
8 wouldn't -- I don't know, I just -- I don't -- not my
9 type of person. Just not my personality.

10 Q. Okay. Tell me, though, in your direct
11 examination we didn't hear a word about Tommy. Was
12 Tommy there or wasn't Tommy there?

13 A. That's something the detectives made up when
14 they came in.

15 Q. Let me ask you this. Was it the detective's
16 voice that we heard in this courtroom when you -- when
17 Tommy was described?

18 A. It was the detective that came and testified
19 that was -- that is the one who said Tommy, when they
20 first came and saw me without the tape recorder, and
21 stuff, on.

11:54A 22 Q. But tell me this, you told the detectives,
23 did you not, that Tommy was a wanna be, is that what
24 you said?

1 A. Yeah.

2 Q. Tommy wore his pants down, he sagged, you
3 say?

4 A. Um-hum.

5 Q. Tommy was a white guy?

6 A. Um-hum.

7 Q. Real skinny?

8 A. (No audible response)

9 THE COURT: Please answer yes or no.

10 THE WITNESS: Okay.

11 BY MR. GUYMON:

12 Q. Real skinny?

13 A. Yes.

14 Q. And I think you said a little pubic hair on
15 his face; is what you called it?

16 A. Yes, I did.

17 Q. Wore a hat?

18 A. Yes.

19 Q. Couldn't describe a hair style?

20 A. Yes.

21 Q. All right. Now, that was your description of
22 Tommy?

23 A. Yes.

24 Q. Is that an accurate description of Tommy?

1 A. . That's an act -- it's a description of
2 someone I know.

3 Q. Was Tommy there to help you with this
4 robbery?

5 A. They wasn't a Tommy.

6 Q. How many people were there?

7 A. Two people.

8 Q. You and who else?

9 A. Three people counting Pedro. Me,
10 Alisha Burns, and Pedro.

11:55A 11 Q. All right. So Tommy wasn't in that room?

12 A. No, sir. Tommy is someone the detective told
13 me about before they turned the tape recorder on.

14 Q. Okay.

15 A. That's just one of the things he said before
16 they turned the tape recorder on.

17 Q. So we've narrowed it down so far that only
18 two people are guilty of robbery of Pedro Villareal?

19 MR. WOMMER: Objection, your Honor, calls
20 for --

21 THE COURT: Sustained.

22 MR. GUYMON: Well --

23 MR. WOMMER: Calls for a legal conclusion.

24 THE COURT: Correct.

1 BY MR. GUYMON:

2 Q. All right. Let's not use a word of art. Let
3 me say it this way. Tommy didn't take the gold
4 bracelet then, did he?

5 A. I -- he wasn't there, so I guess not.

6 Q. Okay. So you were there and Alisha was
7 there?

8 A. Yes.

9 Q. So either you or Alisha took the gold
10 bracelet, correct?

11 A. She took it off of -- off of his body.

12 Q. You pawned it?

13 A. Yes, sir. I pawned it because I was the only
14 one, out of me and her, that had had an I.D. That is
15 why I pawned it. Because they would not take the VCR
16 and the bracelet because I was the only one to have an
17 I.D.

11:56A 18 Q. And you and her took the VCR, correct? Yes
19 or no?

20 A. Yes.

21 Q. And you and her took Pedro's money, correct?

22 A. Yes.

23 Q. And you or her took Pedro's comb?

24 A. Comb?

1 Q. Well, you took --

2 A. Yeah, out of the bathroom, yes.

3 Q. You told the detectives that?

4 A. Yes.

5 Q. They didn't make that up, right?

6 A. No, no, no, no. I said the comb because we
7 did take a comb. Yes, we did.

8 Q. All right. And a roll of quarters?

9 A. While Alisha was checking his pockets, he had
10 a roll of quarters, yes, he did.

11 Q. And you and Alisha took the roll of quarters?

12 A. Alisha took them off, yeah, of -- off of him.

13 Q. How about the black jacket? You and her took
14 the black jacket, correct?

15 A. Yes.

16 Q. And a couple of baseball caps?

17 A. Yes.

18 Q. These were mens jackets, correct?

19 A. I would say so.

11:57A 20 Q. All right. And it was you and Alisha that
21 made this plan together to rob this man, not to kill
22 him?

23 A. To rob, yeah, yes.

24 Q. And so the police didn't make that up. You

1 and Alisha made that plan, correct?

2 A. Yes. We planned to rob him, yes, we did.

3 Q. All right. And on page thirty-two when you
4 talk about that plan to rob somebody, it's right here.
5 You talking about not having a job and being homeless,
6 and your response is: No, I -- I never really asked
7 him about a job.

8 And this is Tommy.

9 But, I mean, I would assume that he didn't,
10 if he wanted to go out and, you know, rob somebody
11 with me and Alisha, you know what I mean, I mean, why
12 would you want to rob somebody when you got a job
13 unless you're just mentally retarded, you know.

14 That was you that said that, correct?

15 A. Yes. That was me.

11:59A 16 Q. Okay. So the truth is Tom -- according to
17 what you're telling us now, Tommy didn't exist?

18 A. No. He did not.

19 Q. Tommy wasn't there?

20 A. No, he did not.

21 Q. All right. So the person that didn't have a
22 job was you and Alisha?

23 A. Yes.

24 Q. So the persons or people that made the plan

1 to go out and rob Pedro was you and Alisha?

2 A. Yes.

3 Q. This plan was a plan that was pretty fixed in
4 you and Alisha's mind, correct?

5 A. I wouldn't say pretty fixed. I mean, it was
6 like a spur of the moment thing.

7 Q. Wait.

8 A. As far as robbing, I mean, we planned it, but
9 we didn't sit there and like mastermind it, you know
10 what I mean, like two, three hours masterminding a
11 plan to rob him.

12 Q. Well, you can agree people can make a plan
13 instantly, can't they?

14 A. I mean, it would -- it would all depend on
15 what they're making plans of doing.

16 Q. In a moment, a husband and wife can -- or not
17 husband and wife, boyfriend and girlfriend, can plan
18 to go to lunch, can't they?

12:00P 19 A. In the spur of the moment?

20 Q. Well, let me ask you, how long did it take
21 you and Alisha to go to lunch on any given day if you
22 had money?

23 A. Well, we were living on the streets, so when
24 we had money, I mean, if we were hungry, I mean, we

1 would -- we would go to McDonald's.

2 Q. And that wouldn't take long to make that
3 decision, would it?

4 A. No. But we didn't have any jobs or anything
5 else to do. So, I mean, you know, it's kind of easy
6 to make decisions like that when you don't have
7 anything to do.

8 Q. All right. How about a plan to, say -- did
9 you and Alisha ever make plans to, say, walk across
10 the street and go get cigarettes? Is that something
11 you could plan to do?

12 A. Well, yes. I mean, I -- I could, yeah, we
13 could plan that.

14 Q. So plan a plan doesn't necessarily take a
15 long time, does it?

16 A. It depends on what you are going to do, what
17 you plan to do.

18 Q. But something you talk about all the time is
19 something that you're able to plan; are you not?

12:01P 20 A. Well, like I said, we didn't talk about it or
21 make plans about it. We may have talked about it, you
22 know, a couple of times or whatever. But we did not
23 sit there and plan it, plan things out on how we would
24 carry it out, or even if we did do it if we was to do

1 it.

2 Q. Okay. But when you said at page eleven or
3 twelve that you talked about it all the time?

4 A. Um-hum.

5 Q. All the time means more than once, right?

6 A. Yes.

7 Q. All the time means more than twice?

8 A. I don't know.

9 Q. Well --

10 A. I mean, if it goes -- I mean, all the time, I
11 mean--

12 Q. All the time.

13 A. We've -- I mean we talked about it, but, I
14 mean, we never just sat there and, like, every
15 single -- that's not that -- that's not what we talked
16 about every single day, no, it is not.

17 Q. Okay.

18 A. I mean, what we've talked -- maybe, we could
19 break it down. We talked about maybe two or three
20 times a week.

12:02P 21 Q. Okay.

22 A. But, I mean, you know, not, you know,
23 constantly talking about robbing someone. No, we did
24 not. We did not sit there and say, well, we'll rob

1 him. We'll rob her. We'll rob this. We'll do that.
2 We'll do this, and then two hours later start talking
3 about it again. No, we did not do that.

4 Q. But if you talked about it for two or three
5 times a week, how many weeks you think you talked
6 about robbing somebody?

7 A. Well, we started talking about robbing
8 somebody when we ran out of money.

9 Q. All right. Let's -- so let's back up. When
10 did you get here?

11 A. In August.

12 Q. With \$150?

13 A. Um-hum.

14 Q. And when did \$150 run out at the tune of \$50
15 a night for hotel?

16 A. Well, it wasn't exactly \$50. It was, you
17 know, between \$45, \$50, \$40, \$50. It took about three
18 or four days.

12:03P 19 Q. Okay.

20 A. But we still had Alisha's foster mom's car.

21 Q. All right. Which ultimately you sold?

22 A. Alisha did. Yes, she did.

23 Q. You got her a fake I.D. so she could sell it?

24 A. She went and got a fake I.D. hustling money

1 on the street. She had enough, she went and got
2 enough money to pay for the fake I.D.

3 Q. And that was \$350?

4 A. Not the fake I.D.

5 Q. No, but the car, the sale of the car, the
6 proceeds?

7 A. Yes.

8 Q. All right. So \$150 runs out in three or four
9 days? How long does \$350 take you?

10 A. Well, Alisha got sick. I mean, we rented a
11 motel, and Alisha got sick. And when Alisha got sick,
12 we stayed in the motel three or four more days than,
13 you know, than we should have because on Fridays and
14 Saturdays you have to pay more money because I guess
15 it's the weekend or whatever.

12:04P 16 And Alisha had got sick. And I was, you
17 know, going to the store and stuff getting her hot tea
18 because of her ear and stuff. So, yes, we stayed in
19 the motel longer than that.

20 Q. All right.

21 A. Than three or four days.

22 Q. And life was a little more expensive in Las
23 Vegas than you thought it was doing to be, correct?

24 A. Extremely, yes.

1 Q. And so in truth and in fact within, say, two
2 or three weeks you're out of money?

3 A. Well, we had -- we had money because we
4 would -- we would buy the cheapest, you know, what we
5 could. You know what I mean, when we first got here.

6 Q. Okay. Is it fair, though, to say that by
7 September you were out of money?

8 A. By September I was -- I would say so because
9 we're in CCDC in September.

10 Q. Okay. And so in truth and in fact, even in
11 October -- in August you were out of money?

12 A. No.

12:05P 13 Q. All right. We'll leave it at that then.

14 Nonetheless this plan that you established between the
15 two of yourselves having spoken about it three times a
16 week for a couple of weeks, at least was a plan that
17 you were going to now be able to carry out, correct?

18 A. I didn't -- to be honest with you, we planned
19 it, but I didn't know if we was going to carry it out.
20 No, I did not.

21 Q. All right.

22 A. We planned the burglary or the robbery,
23 burglary, or same thing, I guess. We planned that,
24 but I didn't know if we was going to carry it out.

1 No, I did not.

2 Q. All right. And it was your suggestion that
3 the detectives nonetheless that -- page twelve -- that
4 Alisha began to, quote, she kept motioning, in other
5 words, for you to jump on him, correct?

6 A. Yes.

7 Q. And, in fact, that's what you're talking
8 about if we read it in its context. It says,
9 question, was, when were you going to do something?

10 Your answer, right, exactly. Because at
11 first I wasn't -- I was like, you know, you know,
12 forget about it. At first I was, like, no, you know,
13 just forget about it. He's only got \$30. And, you
14 know, it was really nothing, you know.

15 She kept motioning. She went to the
16 bathroom, and I talked to the guy.

17 Now, you telling us the guy you're talking
18 about is Pedro, right? The guy is Pedro?

12:06P 19 A. I guess.

20 Q. And, you know, I was like, well, you where is
21 the money at? And he showed me the money. He had a
22 roll of quarters and \$20. Alisha came out of the
23 bathroom, and she motioned again, you know, when,
24 like, when are you going to do it? You know, when you

1 going to grab him?

2 A. Um-hum.

3 Q. That's your answer?

4 A. That's what I said.

5 Q. All right. So she's motioning to you to
6 carry out the plan, correct?

7 A. That's what I said. I --

8 Q. You want to change what you said now, right?

9 A. Do I want to change what I said?

10 Q. Yes.

11 A. No. I want to -- I want to explain why I
12 said it.

13 Q. All right. Let me get to that. You go on
14 the next page, let me keep reading then to make sure
15 it's all in context. I was, like, you know, let's
16 finish our beer, you know, in a secret code way.
17 Correct?

18 A. Yes.

19 Q. All right. Now, you go on at page thirteen,
20 do you not, about the plan of what's going to happen
21 to the detectives?

12:08P 22 A. What do you mean if I go on about the plan.
23 The plan of what?

24 Q. Well, you go on and say, I was, like, well

1 let's finish our beer, you know, and then we'll have
2 another one, and then I looked at them. It was like,
3 you know, you know what I mean, like, like, you know,
4 winking my eye.

5 Now who was you winking your eye to?

6 A. I -- probably Alisha. I mean, if I was
7 winking my eye or I just might have been winking my
8 eye. I don't know.

9 Q. Because she had been motioning to you and you
10 had been responding back in secret code Pedro had no
11 idea he was going to be robbed, right?

12 A. I guess not. I mean, I --

13 MR. WOMMER: Objection. Calls for speculation
14 on...

15 THE COURT: Sustained.

16 BY MR. GUYMON:

17 Q. This was your little secret with you and
18 Alisha, wasn't it?

19 A. Yes. We -- like I said, I mean, there's
20 no --

21 Q. And you --

22 A. -- question, okay, about we -- yes, we did.
23 We did plan on robbing him. Okay. There's no
24 question about that. None at all.

1 I mean, that's -- I mean, I've told you that
2 200 times now, but we did not plan on killing this
3 guy.

12:09P 4 Q. I haven't accused you of that yet, have I?

5 A. Well, you're trying to get to there, yes, you
6 are.

7 Q. We're just getting with the plan so far.

8 A. All right. Go ahead.

9 Q. Hundred percent certain there was a plan to
10 rob him; is that fair?

11 A. Yes. We did plan to rob him.

12 Q. All right.

13 A. Yes, we did.

14 Q. And, in fact, you told the detectives that
15 you carried out the plan when you went on to say,
16 winking my eye, you know, so that they knew when we
17 finished the beers that's when I was going to grab
18 him.

19 You're talking about yourself.

20 Well, I called Tommy into the bathroom, and I
21 said, you know, like, hey, Tommy, look at this because
22 the guy had a mirror that came out, you know, like a
23 mirror you hold it up.

24 Now you're telling us today Tommy doesn't

1 exist, right?

2 A. Tommy does not exist.

3 Q. Okay.

4 A. No, he does not.

5 Q. But you went back, and you said, well, I
6 grab, you know, just -- well, let me back up. Hey,
7 you know, I'm going to grab him. When I grab, you
8 know, just punch him in the stomach a few times, you
9 know what I mean.

10 He was like, okay, all right. All right. We
11 went back, and he sat down. Tommy did. Well, I call
12 the guy in the bathroom, and I was like, hey, man look
13 at this, you know.

14 Well, he looked at it, and when he turned
15 around I grabbed him.

16 Now I'm going to leave the plan, and I'm
17 going to get now to the action; is that fair? We're
18 in the action. I grabbed him. When you said, I
19 grabbed him, who did you mean?

12:10P 20 A. I grabbed Pedro.

21 Q. Okay. So you were the first one to lay hand
22 on Pedro, right?

23 A. No.

24 Q. But yet in the statement the first time you

1 mentioned anybody touching Pedro it's you, I, Steven
2 Kaczmarek, grabbed Pedro?

3 A. Yes, it is. In the statement, yes, it is.

4 Q. All right. Tommy did nothing. Now, you want
5 us to believe that Tommy doesn't exist now, correct?

6 A. Tommy does not exist.

7 Q. All right. But the first time you told this
8 story on October 29 it was you that grabbed Pedro?

9 A. Yes, it was.

10 Q. And when you talked to Edd Pryor, it was you
11 that grabbed Pedro?

12 A. That -- with Edd Pryor it's -- he -- no, I
13 did not tell him that.

14 Q. So you told the police that, but apparently
15 you didn't tell Edd Pryor that?

16 A. No. I did not tell Edd Pryor nothing.

17 Q. All right. And you told the police that, I,
18 Steven Kaczmarek grabbed Pedro, but you didn't tell
19 Torrence Lewis or Edd Pryor that?

12:11P 20 A. No, I did not.

21 Q. Okay. So you weren't making it up when you
22 told the Detectives, but, apparently they're making it
23 up now is that what we're to believe?

24 A. That, that the witnesses are making it up?

1 Q. Yeah.

2 A. Well --

3 Q. Yes or no, sir?

4 MR. WOMMER: Objection, your Honor.

5 MR. GUYMON: It calls for a yes or no, Judge.

6 THE COURT: I don't think so.

7 If you're not able to answer it, just tell
8 him that.

9 THE WITNESS: I'm not making anything up.

10 BY MR. GUYMON:

11 Q. All right. Now when you talked to the
12 detective, if you're not making anything up, when they
13 asked you how did you grab the guy, I grab him around
14 his neck, were you making that up?

15 A. No. I wasn't making that up.

16 Q. So you did grab him behind his neck?

17 A. Yes, I did after Alisha jumped on him.

18 Q. But is Edd Pryor making it up when he says
19 that you put your arm around Pedro's neck?

20 A. Probably. I mean, I can't speak for him. I
21 did not tell him that.

12:12P 22 Q. Okay. But you told the detectives that?

23 A. Yes, I did.

24 Q. And, in fact, that very night on the 25th,

1 that's exactly what you did, you put your arm around
2 Pedro's neck?

3 A. Yes, I did.

4 Q. And you choked him out?

5 A. Yes, I did.

6 Q. And when you choke a guy out, what are you
7 really doing?

8 A. Just, you know, just trying to get him to
9 pass out because, and he was just passed out.

10 Q. Okay.

11 A. Okay. Because he started moving. And Alisha
12 jumped on, jumped on him in his neck and his throat, I
13 mean.

14 Q. You choke him out?

15 A. I mean, a person is dead does not move.
16 Okay. You know. And then all of a sudden he's, you
17 know, I don't -- I don't know if he's passed out or
18 what. Okay.

19 Q. All right.

20 A. So --

21 Q. Is it sufficient to say that when you choke a
22 guy out you disable him?

23 A. Well, he's, you know, like, you know how you
24 sleep, or, you know, maybe like doze off something

1 like that, for two or three minutes, then you wake
2 back up.

12:13P

3 Q. Mr. Kaczmarek, how long -- how quickly can
4 someone grab money out of somebody's front pocket?

5 A. I don't know. I've never grabbed it out of
6 their front pocket.

7 Q. How long does it take you to grab money out
8 of the front pocket if you had it in your front
9 pocket?

10 A. It all depends.

11 Q. How about a wallet? How long does it take
12 you to take a wallet out of your pocket?

13 A. Couple of seconds I would say.

14 Q. And Pedro was out for at least a couple of
15 seconds, right?

16 A. Yes.

17 Q. So you all could have grabbed his money and
18 his wallet and simply walked out the door, couldn't
19 you?

20 A. Yes.

21 Q. But --

22 A. But Alisha wanted to get anything of value,
23 so I mean -- yes, I mean, we -- we could have just --

24 Q. Did you want things of value?

1 A. Did I?

2 Q. Yes.

3 A. Yes, because I knew that we could get a
4 little bit more money if we took, you know, the VCR
5 and things to the pawn shop.

12:14P 6 Q. So it's really not fair to lay this off on
7 Alisha because not only did Alisha want things of
8 value, you wanted things of value?

9 A. Things of value, yes.

10 Q. All right. So you and she both wanted things
11 of value. Let's not lay it off on her.

12 A. No, we could say -- yeah, we could say that.
13 That we -- that both of us, me and -- me and her, that
14 we both wanted things of value because that's, I mean,
15 that's -- that's money, you know. I mean, to somebody
16 that don't have anything, okay, that's money.
17 Something that a person can pawn would be money.

18 Q. Okay. I'm going to leave the plan. I know I
19 got us in the action, but let me talk about leadership
20 for a minute. Because three or four times you talk
21 about about what Alisha wants, and I want to talk
22 about what you wanted and what Alisha wanted both.
23 Okay?

24 A. Um-hum.

1 Q. When I use the word leadership, you
2 understand what a leader is, right?

3 A. Yes, sir.

4 Q. Okay. And isn't it true, that you were the
5 ones -- you were the one that told the detective that
6 you were quote, streetwise; is that fair?

7 A. Yes, I am street -- I -- I grew up on the
8 streets my whole life, yes.

12:16P 9 Q. Convicted of aggravated rape twice, two
10 counts?

11 A. Rape?

12 Q. Aggravated sexual assault is that what it
13 was?

14 A. Yes.

15 Q. Two counts?

16 A. Yes.

17 Q. Armed robbery?

18 A. Yes.

19 Q. Felony home invasion?

20 A. Right.

21 Q. And aggravated burglary?

22 A. Right. Now, do you see all of them are
23 stealing, not murdering, or hurting, or anybody, or
24 anything like that.

1 Q. A pattern?

2 A. Of stealing.

3 Q. Okay. You indicated, did you not, to the
4 detective that you were stronger than Alisha, true?

5 A. Well, yes.

6 Q. Okay. In fact that's at page fifteen, can we
7 just assume that's there?

8 A. Yeah, we can assume that's there.

9 Q. All right.

10 A. I mean, if you have the statement. I don't
11 think that you would lie.

12 Q. All right. And page thirteen, we read it.
13 You said you were the one that grabs the man around
14 the neck, correct?

12:17P 15 A. Yes, yes.

16 Q. You said it not once but twice on page
17 thirteen; is that fair?

18 A. If that's what it says.

19 Q. Let's -- let's make sure. I don't want to
20 misstate the evidence. I grabbed him. Is it there?

21 A. Which line? I -- I can --

22 Q. if I read it, it says I grabbed him, okay.
23 Tommy didn't do nothing at first. Well, I grab -- I
24 just grabbed the guy. And, in fact, here it says, I

1 grabbed him around his neck?

2 A. Yes, I did grab him around his neck.

3 Q. All right. And you grabbed him with your
4 left arm, right?

5 A. Yes. I -- I'm -- you know, I mean, I
6 could -- I grabbed him like this. Yes, I did. Or I
7 grabbed him, you know, in a choke, you know, like
8 choking him, you know.

9 Q. How much force did you put on Pedro to choke
10 him out?

11 A. I didn't put enough force on to kill him.

12:18P 12 Q. I'm not --

13 A. I mean, I'm just letting you know. I mean, I
14 did not put force enough to kill nobody on the neck.

15 Q. All right. It says I grabbed him, and I
16 brung him to the floor. How much force does it take
17 somebody to choke a man and bring him to the floor?

18 A. I don't know because I grabbed him around the
19 neck. I didn't bring him to the floor because he was
20 already there. And like I said --

21 Q. Wait an second.

22 A. -- before you even asked that, I said I may
23 have said that, Yes, I did. I said that for a reason.

24 Q. Well, here you said that, I, Steven

1 Kaczmarek, brung him to the floor. Is that what you
2 told the police?

3 A. Yes.

4 Q. All right. And, in fact, you told the police
5 wanting to make sure they knew you weren't trying to
6 kill him. You said, I was just going to choke him
7 out. You know, you know, I didn't want to kill the
8 guy. True?

9 A. Yes.

10 Q. All right. Now, those are all things that
11 you're telling the police that you were doing,
12 correct?

12:19P 13 A. Yes.

14 Q. And at no time did you tell the police that
15 Alisha was the first one to lay?

16 A. No, I did not.

17 Q. Okay. And Edd Pryor didn't tell the police
18 that Alisha brought him to the floor, did he?

19 A. I don't know what Edd Pryor or Torrence Lewis
20 told --

21 Q. Torrence --

22 A. -- the police or told you.

23 Q. Okay.

24 A. But --

1 Q. You heard Torrence's testimony, right, today?

2 A. Yeah.

3 Q. All right. And he did not include any facts
4 about Alisha being the one to take him to the floor,
5 correct?

6 A. Not that I heard.

7 Q. Okay. And you didn't hear it from Edd Pryor
8 either, did you?

9 A. No.

10 Q. Okay. And tell me something. You told this
11 jury that it was Alisha who began to tell you what to
12 do, correct?

13 A. Um-hum.

14 Q. But no where in the statement do you talk
15 about Alisha telling you what to do?

16 A. I don't know if it's nowhere in the
17 statement. I mean --

12:20P 18 Q. We will get to that then. She wasn't --

19 A. You know, I haven't --

20 Q. She wasn't punking you around, was she?

21 A. To be honest with you I was in love with her,
22 and I was -- I was -- I was in love with her. I mean,
23 I would do pretty much anything she told me to do.

24 Q. And would she do anything that you would tell

1 her to do if she was in love with you?

2 A. I don't know because -- I just -- I don't
3 think so.

4 Q. All right. But isn't it true you told the
5 police that it was you who said, I told them to start
6 grabbing money and stuff; is that true?

7 A. If that's what I said on the statement.

8 Q. All right.

9 A. I mean, I don't know.

10 Q. Let get to it.

11 A. If that's what I said.

12 Q. After telling the police that you wouldn't
13 kill anybody, you said, I told them to, you know,
14 start grabbing, you know, the money and stuff. Now,
15 when you said, I told them, you're talking about
16 yourself, right?

12:21P 17 A. That -- that I --

18 Q. I?

19 A. Me.

20 Q. I told them.

21 A. That I told her, I guess, or them, whatever
22 this says on the statement.

23 Q. All right. If Tommy doesn't exist and only
24 Alisha was there, who would you have been telling to

1 grab money?

2 A. Exactly. That's why I said there's a reason
3 for what I said on that statement.

4 Q. All right. Did you tell Alisha to start
5 grabbing money and stuff?

6 A. No.

7 Q. All right. So you lied to the police?

8 A. Yes.

9 Q. Okay.

10 A. But I --

11 Q. And --

12 A. -- I lied to them for a reason.

13 Q. All right. And when you told the police
14 that, I told them, you know, you need to wipe the
15 fingerprints, your fingerprints off, is that your
16 order? Or was Alisha telling you what to do?

17 A. What do you mean was it my order to --

18 Q. Well --

19 A. -- tell her to wipe fingerprints off?

12:22P 20 Q. It says here, and I told them -- now, if
21 there's no them, it's just Alisha, okay.

22 A. Um-hum.

23 Q. So let's replace that, I told Alisha, well
24 look, guys, you need to wipe your fingerprints off,

1 you know?

2 A. Um-hum.

3 Q. Now, is that what you told Alisha?

4 A. First of all, I may have said that, but you
5 don't tell Alisha to do really anything. She pretty
6 much just does what she wants to do when she wants to
7 do it and how she wants to do it.

8 Q. Right. Because a thirty-two year old street
9 smart ex-felon can't tell a fifteen year old anything,
10 can he?

11 A. She's just as street smart as you. Street
12 smart as you.

13 Q. I don't know that my street smarts are at
14 issue. We're talking about yours, sir.

15 A. No. You asked me if I could tell a fifteen
16 year old, okay, what to do because I'm street smarter
17 than her. No. Not if she's as street smart as you.
18 If I know two plus two, you know what I mean, and you
19 know it -- there's nothing I can --

12:23P 20 Q. But when you talked to the police, it was you
21 who said, I told them to get his wallet, and I told
22 them to wipe the fingerprints, correct?

23 A. Yes. When I talked to the police.

24 THE COURT: Wait. One at a time.

1 BY MR. GUYMON:

2 Q. And at page fifteen it was you who told the
3 police, I told them to get his wallet, true?

4 A. Yes.

5 Q. It's right up there at the top.

6 And it was you who told the police that once
7 he was out, I told Tommy to hold him. Now Tommy
8 doesn't exist?

9 A. No, he does not.

10 Q. So if we were to replace the name Tommy, it
11 would be once he was out, I told Alisha to hold him,
12 right?

13 A. What do you mean replace the word Tommy?

14 Q. I'll leave that alone.

15 A. I mean, how are you going to just put that in
16 there.

17 Q. Now, isn't it true that you told the police
18 at some point in time Alisha needed advice from you
19 during this robbery, correct?

20 A. I may have said that.

21 Q. Okay. You told the police, in fact, that
22 while Alisha was holding him down -- and I'll read the
23 whole thing. We're talking about the guy being on the
24 ground, and you said, exactly, the same way. And

1 there was a little wall about this -- I don't know,
2 about five or six inches wide. And I had told her to
3 press her foot against where she would get just a
4 little more strength. So it was you that was telling
5 her to push her foot there, right? That's what you
6 told the police?

7 A. That's what I told the cops, yes.

12:25P 8 Q. All right. And it says, well, the guy -- she
9 did, and the guy was still moving, so she or I -- I
10 got -- I went, cause -- cause she said, Steve, the
11 guys moving. He's moving. And I, you know, I saw his
12 legs. So she called out for your help as to what to
13 do. Fair enough?

14 A. Okay.

15 Q. All right. And you were the one that told
16 her to get rubber gloves, correct, according to what
17 you told the police?

18 A. Yes, according to what I told the police.

19 Q. All right.

20 A. I told the police a lot of things that really
21 didn't happen or anything. But that's besides the
22 point. I mean --

23 Q. All right.

24 A. I told them --

1 Q. But what you will agree that a robbery did
2 happen. Well, I can't use a robbery for now. That
3 Pedro's stuff was stolen, right?

4 A. Um-hum.

12:26P 5 Q. That latex gloves were used, correct?

6 A. Yes, we used gloves.

7 Q. That the place was wiped down, correct?

8 A. I don't know if it was all the way wiped
9 down.

10 Q. That Pedro was tied up?

11 A. Yes.

12 Q. That he was put in the tub?

13 A. Yes.

14 Q. That you tore his shirt off of him?

15 A. Yes. I did.

16 Q. And that you turned the water on?

17 A. That I turned -- I -- I was told, yeah, I
18 turned it on.

19 Q. Okay.

20 A. And all those things happen.

21 Q. You now want to dispute, however, who
22 actually did them; is that right?

23 A. I don't want to dispute nothing. I mean,
24 I -- I said what I said, yes, I did.

1 Q. All right.

2 A. Okay.

3 Q. And it was you who told Alisha to cut the fan
4 cord, correct?

5 A. No. If I said that, that's -- that's what
6 according to police is what I said to the police, yes.

12:27P 7 Q. Let's read it. Well, we tied him up with the
8 extension cord, and then, uh, Alisha cut the fan. I
9 was thinking -- excuse me. I think it was the fan.
10 I'm pretty sure it was the fan. She cut the wire
11 because I told her to cut that wire, and that's how we
12 tied her hand -- his hands. Okay?

13 A. Um-hum.

14 Q. And that's how he got tied up.

15 A. Um-hum.

16 Q. So according to what you told the police on
17 the 29th it was you who told her to cut the cord?

18 A. Yes.

19 Q. And it was you who told Alisha to get a sock;
20 is that right?

21 A. According to what I told the police, yes.

22 Q. You did tell her that, right, or told the
23 police that?

24 A. Yes, I told the police that.

1 Q. And it was you who told her to step to the
2 side when you went to pawn the items later on that
3 night, correct?

4 A. Yes, I did tell her that. That part is true.
5 I did tell her that.

12:28P 6 Q. All right. So while you would agree that in
7 your statement it is you that is telling people what
8 to do while at apartment 25, true?

9 A. I -- I wouldn't say people. Well, in my
10 statement, I guess, yes.

11 Q. All right.

12 A. Because Tommy --

13 Q. I want you to look at your statement and tell
14 me if one time you told the police that Alisha told
15 you to choke the guy?

16 A. You want me to read this whole statement?

17 Q. Well, you think it's in there?

18 A. I don't know because I don't -- like I
19 said --

20 Q. Will you take my word for it that nowhere in
21 there does it say that you said Alisha told me to
22 choke him out?

12:29P 23 A. I could take your word for it. I don't -- I
24 mean, I wouldn't --

1 Q. Would you take my word for it that nowhere
2 does it say that Alisha told me to cut the cord?

3 A. Yes.

4 Q. Would you take my word for it that nowhere
5 does it say that Alisha told me to turn on the bath
6 water?

7 A. I don't know of the, but I -- I'd take your
8 word for it, yes.

9 Q. Will you take my word for it that nowhere in
10 that statement does it say that Alisha told me to put
11 the sock in his mouth?

12 A. Right. I'd take your word for it.

13 Q. Will you take my word for it that nowhere
14 does it say that Alisha told me to take his wallet?

15 A. Yes.

16 Q. Will you take my word for it when nowhere
17 does it say that Alisha told me to take the bracelet,
18 the comb, the VCR, his jackets, or his hat?

19 A. Yes.

20 Q. Will you take my word for it that nowhere in
21 there does it say that Alisha told me to cut off the
22 shirt?

12:30P 23 A. Yes.

24 Q. Will you take my word for it that nowhere in

1 there does it say that Alisha told me to put him in
2 the tub?

3 A. Yes.

4 Q. Will you take my word for it in nowhere in
5 there does it say that Alisha told me to put a
6 pillowcase over this man's head?

7 A. Yes.

8 Q. Thank you, sir. All right. Now then, I want
9 to conclude one last line of questioning. And that is
10 your comments to the police that you didn't mean to
11 kill this man. All right?

12 A. Yes, sir.

13 Q. I want to be fair.

14 A. Okay.

15 Q. You said repeatedly to the police that you
16 didn't mean to kill him?

17 A. Yes, I did.

12:31P 18 Q. That you only meant to rob him?

19 A. Yes, sir.

20 Q. That's in there more than once, more than
21 twice?

22 A. It -- it -- I don't know exactly how many
23 times it was that I said it, but I probably said it a
24 lot. Because, I mean, it hurt, you know, to know

1 someone was dead that you robbed.

2 Q. Okay. And it was only your intent to choke
3 him out?

4 A. Yes, it was.

5 Q. In hindsight choking him out was a dangerous
6 thing to do; was it not?

7 A. Yes, I guess it is. Yes, it is. It is a
8 dangerous thing, I mean, to do. I mean, and to hold
9 it -- you know, to hold the grip for an extended
10 period of time, yes, it is.

12:32P 11 Q. And this was extensive enough that you broke
12 a sweat; isn't that true?

13 A. Well, it was hot anyway. I mean, it wasn't
14 just, I mean, because I had him around the neck I was
15 seating. I mean, it was hot outside. I mean, even
16 when you're in the house, I mean, and it's -- I mean,
17 especially, you know, a little room, I mean, you know,
18 anybody is going to sweat.

19 Q. All right.

20 A. I mean, anyone.

21 Q. But you would agree that it's a lot of work
22 to struggle with a man for a prolonged period of time?

23 A. I mean, I didn't struggle with him. I mean.

24 Q. It was that easy?

1 A. Alisha jumped on him. I mean -- I mean
2 all -- like I said, he was already -- he hit the bed,
3 and then he hit floor.

4 Q. And hit --

5 A. And I grabbed him around the neck, and then
6 he was out, you know. And we started looking for
7 things like I explained. And he started to wake, and
8 Alisha started stomping on his neck.

12:33P 9 Q. All right. In hindsight when he went down
10 the first time and passed out, you could have grabbed
11 a couple things and just left, true?

12 A. Yes, we could.

13 Q. And in hindsight --

14 A. Assume --

15 THE COURT: One at a time.

16 BY MR. GUYMON:

17 Q. Yes or no?

18 A. We couldn't have grabbed -- I don't think we
19 could have grabbed a couple of things, you know, a few
20 things and left -- a few things of value and then left
21 before he woke up, no, I don't.

22 Q. Well, you could have got away while he was
23 out, right?

24 A. Yes. We could have just left. But...

1 Q. But you didn't?

2 A. No, we did not.

3 Q. You got greedy?

4 A. No.

5 Q. You wanted a little more, right?

6 A. Yes.

7 Q. Okay. So he got choked out, not once, not
8 twice, but three or more times, correct?

9 A. Just once.

10 Q. Well, how many times did he pass out and come
11 back?

12 A. Just once because Alisha stomped on his neck
13 and stuff. And I thought after that, that he was just
14 passed out begin.

12:34P 15 Q. Okay. What --

16 A. Like I say I tied his -- you know, Alisha
17 told me where the extension cord was, and I saw it,
18 and I got it, and I tied his hand behind his back.
19 Yes, I did.

20 Q. Well, tell me something, while you were tying
21 his hands up behind his back, were you able to
22 determine whether he was alive or dead then?

23 A. I don't know. I mean, I'm not a doctor or
24 anything. I don't know when people -- you know, I

1 don't know how to take pulses or anything.

2 Q. Isn't it true that you told the police that
3 when you tied him up he was still alive?

4 A. I may have said that.

5 Q. Isn't it true that you told the police when
6 you stuffed the sock in his mouth he was still alive?

7 A. I may have said that.

8 Q. Okay. And isn't it true that he was still
9 alive when you put him in the bathtub?

10 A. I don't know if he was or not to be honest.
11 I mean, I -- I -- in my opinion, okay, I thought he
12 was. Yes, I did. But, you know, I mean...

12:35P 13 Q. What made --

14 A. I really thought --

15 Q. Excuse me. And what made you think this man
16 was still alive when you put him in the bathtub?

17 A. Because I didn't -- you know, I didn't --
18 like I said, I'm not a doctor or anything. I don't
19 think choking somebody or, you know, for five seconds
20 or ten seconds would kill someone, or you know,
21 or -- but, you know, then I wasn't -- you know, I
22 wasn't really thinking because she stomped on his neck
23 and things like that. And I wasn't really thinking
24 about him really being alive, you know what I mean, or

1 dead. Because I really wanted to get out of there.

2 You know.

3 Q. Nobody made you stay though, did they?

4 A. No. Nobody made us stay.

5 Q. I mean, Alisha doesn't make you do something,
6 does she?

7 A. Not -- not forcibly, no. But...

8 Q. And you obviously thought he was still alive
9 because you told the police, look, man, I put him in
10 the tub so that when he woke up, he'd say, oh, dude,
11 what a bummer?

12:36P 12 A. Thought. I thought. I thought is the main
13 word there. I thought he was alive.

14 Q. All right. Now do you really think a man can
15 continue to breathe with a sock in his mouth?

16 A. (No audible response)

17 Q. Yes or no?

18 A. Yes. Through his -- you know, like what the
19 doctor was pretty much saying, through his nose. I
20 mean, I could cover my mouth and breathe through my
21 nose --

22 Q. You --

23 A. -- and still be alive.

24 Q. Do you really think, sir, that a man can

1 continue to breathe when he's under water?

2 A. Uh.

3 Q. Yes or no?

4 A. I didn't know. I don't think you can breath,
5 no, not underwater. I mean, not if you stay under
6 water for a long period of time, no.

7 Q. How long do you think this man was going to
8 be able to hold his breath as he lay in a bathtub that
9 was filling with water?

10 A. I, I really don't know. I mean...

11 Q. Isn't it true --

12 A. I thought we did for the -- I did not know
13 that it would fill up with water. Okay. I did not
14 know that the plunger or whatever to hold the water in
15 the tub was even on or off. I mean, all I did was,
16 Alisha told me to turn the water on the shower. I
17 turned the shower on. I did not know that the shower
18 was going to fill the bathtub up. I mean...

12:38P 19 Q. Let me ask you --

20 A. That's were. That's a drain. I didn't know
21 if it was closed or, I mean, I didn't -- my mind
22 wasn't -- if you know thinking on the drain.

23 Q. Let me ask you this, you can't get off your
24 stomach when your hands were tied behind your back and

1 your feet are tied up, can you?

2 A. I don't know. I've never tried it.

3 Q. You think you could?

4 A. I -- I'm, uh -- it depends on the person.

5 Q. Do you think you could continue to breathe if
6 a man had his arms around your neck and was pressing
7 them against your neck?

8 A. No. I mean, that's why, you know, you fall
9 asleep. That's --

10 Q. Do you think --

11 A. That's why they call it the sleeper hold.

12 Q. Do you think you could still to breathe?

13 A. Excuse me?

14 Q. Do you think you can continue to breathe if
15 you were under water and couldn't come up for air?

16 A. No. I don't think you could.

17 Q. Just how long was that sock that was put in
18 his mouth, if you could show us with your hand?

12:39P 19 A. I don't know. I didn't put it in his mouth.

20 Q. But it was you that told the detective?

21 A. Yes, it was.

22 Q. And it was described as a tennis styled sock;
23 is that right?

24 A. Yeah.

1 Q. And you heard the testimony that it was
2 forcibly put in his mouth to the point that his mouth
3 bled. You heard that testimony, right?

4 A. I heard that testimony, yes.

5 Q. How long did you think you could breathe if a
6 sock, a tennis style sock, was stuffed in your mouth?

7 A. Forcibly? Probably not too long I don't
8 think. Probably not too long.

9 Q. If a sock was wadded up and stuffed to the
10 back of a person's throat?

11 A. They would probably choke, choke to death
12 probably.

13 MR. GUYMON: I have no other questions.

14 MR. WOMMER: May I? Your Honor, may I
15 approach the witness, your Honor?

16 REDIRECT EXAMINATION

17 BY MR. WOMMER:

18 Q. Mr. Kaczmarek, Mr. Guymon asked you a number
19 of questions regarding this statement. And a couple
20 of those questions were, would you take my word for it
21 that there was never an indication that Alisha gave
22 you a pillowcase; do you remember those questions?

12:40P 23 MR. GUYMON: That was not the question. It
24 was did Alisha tell you to put the pillowcase over his

1 head?

2 THE COURT: That was the question.

3 BY MR. WOMMER:

4 Q. Would you take a look at the statement, page
5 20, Counsel. Would you take a look at this and read
6 this line here. And tell me what that says?

7 A. There?

8 Q. No, from right there.

9 A. It was, it was Alisha who gave --

10 THE COURT: Wait a minute, wait a minute.
11 Speak into the microphone?

12 THE WITNESS: Okay. It was -- it was Alisha
13 who gave me a pillowcase and told me to put it over
14 his head.

15 BY MR. WOMMER:

16 Q. Would you take a look at the first two
17 sentences of page twenty-one?

18 A. Just a regular pillowcase. Yeah, it was
19 Alisha. She told me, she said, here put this over his
20 head. So I put it over his head. She said turn the
21 water on.

22 Q. Thank you. Mr. Kaczmarek, when you gave this
23 statement to Detectives Wilson and Mikolainis, were
24 you protecting anyone?

12:41P 1

A. Yes, I was.

2

Q. Who were you protecting?

3

A. I was protecting Alisha.

4

Q. Why?

5

A. Because I really really loved her and cared about her. And I thought she really really loved and cared about me.

6

7

Q. Would it be fair to say that you weren't completely honest with the two detectives when you gave them this statement?

10

11

A. Yes, it would.

12

Q. Thank you.

13

MR. WOMMER: No further questions, your Honor.

14

15

THE COURT: Anything on that?

16

RE CROSS-EXAMINATION

17

BY MR. GUYMON:

18

Q. You wouldn't be protecting yourself today, would you?

19

20

A. No. I -- I'm not lying.

21

Q. There's a lot at stake, isn't there?

22

A. Yes. There's a lot at stake.

23

Q. And you wouldn't lie to save your life, would you?

24

1 A. I think anybody would.

2 MR. GUYMON: I have no other question?

3 THE WITNESS: I -- I -- I wouldn't, no. I
4 wouldn't lie to save my life. Not, not feeling the
5 way I feel about Alisha Burns, no.

12:42P 6 MR. GUYMON: I have no other questions,
7 Judge.

8 MR. DENUÉ: No.

9 MR. WOMMER: No questions.

10 THE COURT: Thank you. You may step down.
11 Call your next witness.

12 MR. WOMMER: Your Honor, at this point the
13 defense would rest.

14 THE COURT: All right. Does the defense have
15 any rebuttal?

16 MR. GUYMON: No, your Honor.

17 THE COURT: All right. Ladies and gentlemen,
18 we're going to send you to lunch. Ask you to come
19 back at, let's see now, two thirty.

20 MR. WOMMER: That would be fair because I
21 2:30 have some --

22 THE COURT: Do not discuss the case amongst
23 yourselves or with anyone else.

24 Do not read, watch, or listen to any accounts

1 of these proceedings.

2 Do not form or express any opinion on any
3 issue connected to the case until after it's submitted
4 to you.

5 Bill, should they meet you downstairs or up
6 here?

7 THE BAILIFF: Yes, your Honor. Down in the
8 lounge.

9 THE COURT: Meet in the juror lounge. Thank
10 you.

11 No, no. What time did I say 2:30?

12:43P 12 A JUROR: Two thirty.

13 (Whereupon, the following
14 proceedings were had outside
15 the presence of the jury.)

16 THE COURT: All right. Let the record
17 reflect that the jury and the alternates have left the
18 courtroom. At this time we want to make part of the
19 record the fact that the defense did not want the
20 Exhibit 1 read to the jury again. And that was at a
21 bench conference with --

22 MR. WOMMER: Prior to Edd Pryor's testimony.

23 THE COURT: Exactly.

24 MR. WOMMER: That's correct.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 1

EVENT #: 020927-1153

SPECIFIC CRIME: MURDER

DATE OCCURRED: ON OR ABOUT 09/27/2002

TIME OCCURRED:

LOCATION OF OCCURRENCE: UPTOWN MOTEL, 813 E. OGDEN, LAS VEGAS, NV

CITY OF LAS VEGAS

CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: DAKA, THERESA

DOB: 09/18/1961

SOCIAL SECURITY #: 103-56-4761

RACE:

SEX:

HEIGHT:

WEIGHT:

HAIR:

EYES:

WORK SCHEDULE:

DAYS OFF:

HOME ADDRESS:

HOME PHONE:

WORK ADDRESS: DEPT. OF JUVENILE JUSTICE
DETENTION CENTER
601 N. PECOS, LAS VEGAS, NV
89101

WORK PHONE: 455-5346

BEST PLACE TO CONTACT:

BEST TIME TO CONTACT:

The following is the transcription of a tape-recorded interview conducted by DETECTIVE R. WILSON, P# 3836, LVMPD Homicide Section, on 12/03/2002 at 1309 hours. Present during the interview are Det. R. Wilson, Theresa Daka, and Det. J. Mikolainis, P#1511.

Q: This is Det. R. Wilson, W-I-L-S-O-N, P#3836, conducting a witness voluntary statement reference event 020927-1153, which is an investigation into the murder of Pedro Villareal. This murder occurred on 09/27- on or about 09/27/2002. Person being interviewed at this time is last name of Daka, D-A-K-A, first name is

BURNS CLERK PT 1. 175



LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 2

EVENT #: 020927-1153

STATEMENT OF: DAKA, THERESA

Theresa, T-H-E-R-E-S-A. Date of birth is 09/18/1961. Soc is 103-56-4761. She works at the Department of Juvenile Justice Detention Center located at 601 North Pecos, P-E-C-O-S, Las Vegas, Nevada 89101 and the phone number there is 455-5346. This interview is being conducted in an interview room in the booking section of the Juvenile Detention Center. Present during the interview are myself, Ms. Daka, and my partner, Det. J. Mikolainis, P#1511. Today's date is 12/03/2002, and the time now is 1309 hours. Okay Theresa, you understand that this interview is being tape recorded?

A: Yes I do.

Q: And that's okay, correct?

A: Yes.

Q: Okay, um, where are you employed?

A: At the Department of Juvenile Justice Detention, Unit E-6, A Side.

Q: And what, what kind of job responsibilities do you have?

A: I'm a juvenile probation officer. I supervise and monitor juvenile delinquent— judge delinquent or juvenile offenders or out of jurisdiction juveniles in the detention facility.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 3

EVENT #: 020927-1153

STATEMENT OF: DAKA, THERESA

Q: Okay and, uh, during your, your time here at the Clark County Juvenile Detention Center, um, did you have the opportunity to come in contact with one of the juveniles being housed here by the name of Alicia Burns?

A: Yes.

Q: Okay, what I'd like to do is show you a couple pictures and see if you can recognize these, the pictures as...

A: Yes that's...

Q: That looks like Alicia Burns?

A: Yes.

Q: Okay and, uh, you've had how much, how much contact have you had with Alicia?

A: Um, I've known the subject minor about a month, on and off about a month.

Q: Okay, when was the first time you had contact with her?

A: Um, sometime in October and then in November.

Q: Do you, did there come a time when she talked to you, uh, about a, a murder that had taken place here in Las Vegas?

A: Yes.

Q: Could you relate, uh, your conversation with her about that subject?

A: Yes.

Q: And if you remember when that took place.

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT**

PAGE 4

EVENT #: 020927-1153

STATEMENT OF: DAKA, THERESA

A: Yes, um, on, um, at 2 p.m. on Tuesday, um, 11/27/02, the youth summoned me to her room to speak to her, um, citing that she had something on her mind and she really needed to talk to me because she felt comfortable with me as she stated. Um, she had requested me to speak to her the day before as well but I was busy and I told her, um, she had to wait. The next day I proceeded to speak to her during the, uh, shift exchange and the conversation was about fifteen minutes. The youth indicated to me that she had a lot of things on her mind and she was worried she wouldn't be able to be flown home because she had to give testimony on, um, a murder case. She added that, um, her boyfriend was being housed somewhere and where were the, where were the local prisons in Las Vegas. Uh, she added that, um, she didn't want to testify against him because of, um, she was worried that she would be brought into it along with him. She said she knows the right things to say and that she can say quote unquote she had went to the store. Um, she added that she would often pose as a prostitute and he, her boyfriend, as her pimp and on a particular night, about a month prior to two months they, they met up with a trick and they didn't have to force their way into where he was staying on Fremont and they noticed when they got in his room that he had had money and things by his possessions and she, um, discussed that she, um, tied him up with her boyfriend, it being his idea, her boyfriend, and they were just going to rob him. She, she

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 5

EVENT #: 020927-1153

STATEMENT OF: DAKA, THERESA

stated that he wasn't suppose to die but that D got on him, the D meaning the DNA. She said that, um, they tied him up and they held him down but the sweat from her boyfriend got on him so they washed him off and the, as he continued to struggle, her boyfriend, um, tried to, to restrain him again, still tied up but more sweat got on him and then her boyfriend decided to put him in the bathtub and she said that she didn't like that idea but that she decided to leave to go to the store. She said she didn't really know how he died but that the sock in his mouth must have suffocated him and that, um, she told her boyfriend not to keep washing him off. They cleaned the prints as much as they could around the apartment and then she said that she had must have left some prints and they must not of, um, did a good job and she said it was the D that got on him that got her involved with it otherwise she would a known what to do and she said that when she came back from the store, she saw her boyfriend had a stack a money and a VCR and told her, "Let's go." I asked her if she, um, had any other thoughts, she said that she didn't want to go to a women's prison because she just wants to be addressed as a delinquent and go back to Ohio to do her time so she could be at home.

Q: Um, did she go into further details at all as far as, uh, how they tied him up or what they used to tie him up or anything like that?

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

PAGE 6

EVENT #: 020927-1153

STATEMENT OF: DAKA, THERESA

A: No she didn't and it wasn't clear if there was another party with them. She said that they had done things like that numerous times before, that's how they obtained money because I asked her, um, did she work out here in a store or a job and she said no her boyfriend would hustle and that they would do that, they would, um, pose as prostitute and pimp and then rob people. She never had to do anything sexually.

Q: Okay, um, how was it that she implied that there might have been someone else involved?

A: She said my boyfriend and his friend during some parts of the conversation.

Q: Okay. Did, but she didn't give any indication as to who this other person might a been?

A: No and she had told me on another occasion about the first time that she had been, um, detained in this facility that they had no other friends or, um, family out here. It was just her and her boyfriend but when this time she spoke to me on this particular day, um, she said that her boyfriend and his friend were outside so I don't know if the boyfriend had been, and the friend of the boyfriend was in the room too but I know that there was like another party outside so it seemed.

Q: Uh, did she indicate how much money was taken?

A: No. She said she didn't question her boyfriend.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

PAGE 7

EVENT #: 020927-1153

STATEMENT OF: DAKA, THERESA

Q: But she said there was a stack of money and a VCR?

A: Yes exactly.

Q: Okay, did she mention anything else that was taken?

A: No, no.

Q: Okay, uh, is there anything else that you can remember that she might a said about this?

A: She stated to me that she knows what to say and that, um, she didn't want him to die. He wasn't suppose to die. I, um, it seemed like, um, she knew what was going on but she, she didn't, she didn't want to know and she did have much more information that she was not coming forward with and I didn't ask her any questions other than just little comments in between.

Q: Okay, uh, so it was your impression from the conversation that, uh, that she was totally aware of the, doing a trick roll or, or...

A: Yes.

Q: ...posing as a prostitute for the purposes of robbing...

A: Yes.

Q: ...supposed Johns and, uh, but that in this instance, um, things got out of hand and she claims that she, he wasn't suppose to die.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 8

EVENT #: 020927-1153

STATEMENT OF: DAKA, THERESA

A: Exactly, she was initially, she said that she was initially just gonna say that she was at the store the whole time but then during the course of the conversation she added more to the conversation and told me, 'cause I said to her, "Oh you don't know about why you're here?" when she said, "Do you know why I'm here?" and I said, "No" and I said, "Do you know why you're here?" and she said, "Yeah, it's a murder but I know what to say" she said, "I'll just say I was at the store the whole time." She said she would often mix cocaine, crack, speed, and weed all in the same head, all at the same time.

Q: Okay, John did you have any questions?

JM: Yeah I do, by chance did, uh, did Alicia talk to any other juveniles in reference to the, to the murder or did she talk to any other employees of this establishment?

A: No 'cause, um, not to my knowledge. She's a loner and she's, um, stays in her room often. She does chat and she is, um, superficially friendly, she can be friendly but she told me that she talks to me 'cause my accent and her accent are alike and, um, that she feels at home with me.

JM: Okay.

A: So, I don't know though.

JM: No, well, you know, we know we can't ask you to go back to talk to her because that would be illegal 'cause then you would be acting as an agent for us but, uh, if she

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

VOLUNTARY STATEMENT

PAGE 9

EVENT #: 020927-1153

STATEMENT OF: DAKA, THERESA

does talk to any other employees or anybody else and they contact you, would you please let us know?

A: Yes of course. I had brought it to my supervisor's attention. I wrote an incident report on it. The incident report has more of the details because it was fresh in my mind at the time that I was writing the report, um, because I was alarmed. She began telling me things in the hospital about that they had done this sort of thing numerous times about prostitution and how they robbed people and how she would just sit outside the Stardust all day but she didn't go into real heavy stuff. Then she was flown back to Ohio and then this time she was brought back and then she went into stuff with me after she had been here for about a week and a half, two weeks. The girls are not permitted to discuss their charges, they usually get punished for that, um, to my knowledge she doesn't talk about it, she just, um, talks about other things like, you know, her probation or her running away and that kind a history but she did talk to me when everybody was locked up and I was in her cell at the doorway and she talks quietly.

JM: Okay, well if she talks to you anymore, could you make sure that you do a, write a report.

A: Yes I'll write an additional report.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT
PAGE 10

EVENT #: 020927-1153

STATEMENT OF: DAKA, THERESA

JM: Okay, and then the report that you just got through doing, could we get, would you send us a copy of that?

A: Yes, if my supervisor permits it. If the agency permits it, I can, um...

JM: We'll leave you our business cards.

A: Okay.

JM: Okay?

A: I can fax it to you.

JM: Sure.

A: Thank you.

JM: I have no other questions.

Q: Okay, do you have anything else you'd like to add before we end the interview?

A: No.

Q: Okay, that's gonna conclude the interview, same persons are present, time now is 1322 hours.

THIS VOLUNTARY STATEMENT WAS COMPLETED IN AN INTERVIEW ROOM IN THE BOOKING SECTION OF THE JUVENILE DETENTION CENTER ON THE 3RD DAY OF DECEMBER, 2002 AT 1322 HOURS.

RW/JM/dfk
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