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2 IN THE SUPREME COURT OF THE STATE OF NEVADA

3 Electronically Filed  
4 Oct 25 2021 11:18 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

5 JUAN JOSE LUNA,

6 Appellant,

7 vs.

CASE NO.82792

8 THE STATE OF NEVADA,

9 Respondent.

10 APPENDIX TO RESPONDENT'S BRIEF

11 Appeal From The Fourth Judicial District Court  
12 Of The State of Nevada  
In And For The County Of Elko

13 THE HONORABLE AARON D. FORD  
14 ATTORNEY GENERAL OF NEVADA  
100 N. CARSON STREET  
15 CARSON CITY, NV 89701

16 Tyler J. Ingram  
Elko County District Attorney's Office  
540 Court Street, 2<sup>nd</sup> Floor  
17 Elko, NV 89801  
By: Chad B. Thompson  
18 State Bar No. 10248  
ATTORNEYS FOR RESPONDENT

Megan Ortiz  
Deputy Public Defender  
State Bar No. 15614  
569 Court St. Elko, NV 89801  
ATTORNEY FOR APPELLANT

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Dated this 22 day of October, 2021.

TYLER J. INGRAM  
Elko County District Attorney  
540 Court Street, 2<sup>nd</sup> Floor  
Elko, NV 89801  
(775) 738-3101

By:



Chad B. Thompson  
Deputy District Attorney  
Nevada Bar Number: 10248

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Honorable Aaron D. Ford  
Nevada Attorney General

Megan Ortiz  
Attorney for Appellant

DA#: AP-21-00953

PLAINTIFF EXHIBIT NO: 1  
CASE NO.: DC-CR-20-4  
DISTRICT COURT: JUDGE ALVIN R. KACIN  
DATE MARKED: 08/07/20  
DATE ADMITTED: 08/07/20  
CLERK: DM

DC-CR-20-4  
Luna, Juan  
Exhibit

**UNSWORN DECLARATION OF CUSTODIAN OF RECORDS**

**PURSUANT TO NRS 52.252 AND NRS 53.045**

COMES NOW, Kamie Hunter, who says:  
(Print Name)

1. That Declarant is the custodian of records with Elko Dispatch and in this capacity is a custodian of the records of said employer.
2. That on the 14<sup>th</sup> day of July, 20 20, your Declarant was requested by an employee of the Elko County District Attorney's Office to produce a recording of a call for service, specifically the call for service identified as CFS number 3163, with a call date and time of 01/19/2020 12:31pm, and identified by incident number 2020-1070 which recording is now, or was formerly maintained at this institution.
3. That your Declarant has examined the original recording and has made or caused to be made a true and exact copy of the recording, and that the copy of the reproduction of the recording attached hereto is true and complete.
4. That the original recording was made at or near the time of the telephone call, by or from information transmitted by a person with knowledge, and was made in the course of a regularly conducted activity of your Declarant or the stated employer.

I certify and declare, under the penalties of perjury, that the foregoing is true and correct.

Further your Declarant sayeth not.

Dated this 16<sup>th</sup> day of July, 20 20.

Kamie Hunter

Custodian of Records  
Elko Central Dispatch

## Detail Call For Service Report

Login ID: dbradshaw

Print Date/Time: 07/14/2020 12:35

From CFS:	3153	From Date:	01/19/2020 00:31	CFS Type:	All
To CFS:	3153	To Date:	01/19/2020 00:31	Agency Type:	
Layer:	All	Areas:	All		
CFS Number:	3153	Call Date/Time:	01/19/2020 00:31:00	Primary Incident:	2020-00001070

Location:	174 US 93 HWY WELLS, NV 89835 , Wells	Dispatch Time:	01/19/2020 00:31:00
Additnl Loc Info:		Arrive Time:	01/19/2020 00:31:00
Common Name:	PETRO	Clear Date/Time:	01/19/2020 05:12:53
Phone:		Created By:	dandrus
Call Type:	Assist	Report Required:	No
Status:	In Progress	Priority:	3
Police ORI:	NV004013N	Source:	Radio
		Fire ORI:	

### Person Information

Name	Person Type	Address	Phone	Race	Sex	DOB	Age	SSN
Iuna, Juan Jose	License Lookup					06/24/1985	35	

### Vehicle Information

Vehicle Type:	Motor Vehicle	Make:	Chevrolet	Model:		Year:	
Style:		VIN:		Condition:		Color:	
Plate Type:		Plate:	21cx845	Plate State:	ID	Reg. Year:	
Description:							

### Narrative, Questionnaire Responses, TDD Text

Create Time	Created By	Narrative
01/19/2020 00:31:00	dandrus	d26/ contacted by employee to move a veh along
01/19/2020 00:34:48	csims	d26/have c400
01/19/2020 00:36:15	csims	d26/j3 for possession
01/19/2020 00:37:25	csims	d70/confirmed for 1260.00 cash only
01/19/2020 00:46:08	dandrus	d26/ substantial amount of c400 in drivers seat
01/19/2020 01:12:11	dandrus	d26/ adv roadway of tow, let them know will need to store veh in their inside garage
01/19/2020 01:14:00	csims	roadway towing advised
01/19/2020 01:41:23	dandrus	d26/ roadway is 23
01/19/2020 22:09:59	Della Beachel	d26/req cch on Iuna, Juan Jose for investigations (Narrative added to cleared call.)

### Dispositions

Disposition	Disposition Count
Cleared Call	1

I hereby certify that this record is a true and correct copy of the original on file at the Elko Central Dispatch Administrative Authority, Elko, Nevada.

BY: 

(Custodian of Files)



## Detail Call For Service Report

Login ID: dbradshaw

Print Date/Time: 07/14/2020 12:35

From CFS:	3153	From Date:	01/19/2020 00:31	CFS Type:	All
To CFS:	3153	To Date:	01/19/2020 00:31	Agency Type:	
Layer:	All	Areas:	All		
<hr/>					
CFS Number:	None	Call Date/Time:	None	Primary Incident:	None

### Associated Areas

Area Type Code	Description
Quadrant	City of Wells
Station	Station 1
Beat	
District	
Police ORI	NV004013N
EMS ORI	
Fire ORI	

### Incident Number(s)

Incident Number	ORI Number	Primary Unit	Department Name	Agency Type
2020-00001070	NV0040000	Yes	Elko County Sheriff's Office	Police
2020-00001667	NV004013N	No	Elko Central Dispatch	Police

### Unit(s)

Unit	Primary Unit	Radio Number	Personnel
D26	Yes	D26	S75 Trice

## Detail Call For Service Report

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To CFS:	3153	To Date:	01/19/2020 00:31	Agency Type:	
Layer:	All	Areas:	All		

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CFS Number:	None	Call Date/Time:	None	Primary Incident:	None
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### Call Log

Log Date/Time	Entered By	Action	Description
01/19/2020 00:31:00	dandrus	Call Created	New call created Call Type: Assist , Location: 174 US 93 HWY, Phone Number: , Name:
01/19/2020 00:31:00	dandrus	Narrative Added	d26/ contacted by employee to move a veh along
01/19/2020 00:31:00	dandrus	Call Updated	Dispositions Changed
01/19/2020 00:31:00	dandrus	Incident Created	Added Incident Number, ORI: NV0040000, Number: 2020-00001070
01/19/2020 00:31:00	dandrus	Unit Status Action	Unit D26 At Scene
01/19/2020 00:31:00	dandrus	Incident Created	Added Incident Number, ORI: NV004013N, Number: 2020-00001667
01/19/2020 00:31:39	dandrus	Vehicle Added	Role: Plate Inquiry, Type: Motor Vehicle, Make: Chevrolet, Plate No.: 2tcx845, State: ID
01/19/2020 00:33:41	dandrus	Person Added	Name: luna,juan jose,,
01/19/2020 00:34:48	csims	Narrative Added	d26/have c400
01/19/2020 00:36:15	csims	Narrative Added	d26/j3 for possession
01/19/2020 00:37:25	csims	Narrative Added	d70/confirmed for 1260.00 cash only
01/19/2020 00:41:02		Unit Timer Expired	Unit D26;At Scene
01/19/2020 00:46:08	dandrus	Narrative Added	d26/ substantial amount of c400 in drivers seat
01/19/2020 01:05:54		Unit Timer Expired	Unit D26;At Scene
01/19/2020 01:12:11	dandrus	Narrative Added	d26/ adv roadway of tow, let them know will need to store veh in their inside garage
01/19/2020 01:14:00	csims	Narrative Added	roadway towing advised
01/19/2020 01:28:34		Unit Timer Expired	Unit D26;At Scene
01/19/2020 01:41:23	dandrus	Narrative Added	d26/ roadway is 23
01/19/2020 01:47:16	dandrus	Unit Status Action	76 roadway to secure veh
01/19/2020 01:52:50	dandrus	Unit Status Action	23 roadway
01/19/2020 02:07:26		Unit Timer Expired	Unit D26;At Scene
01/19/2020 02:08:03	dandrus	Unit Status Action	Unit D26 Transport
01/19/2020 02:23:04		Unit Timer Expired	Unit D26;Transport
01/19/2020 02:25:28	dandrus	Unit Status Action	c4, mm327
01/19/2020 02:42:47	dandrus	Unit Status Action	c4 mm305
01/19/2020 02:43:21		Unit Timer Expired	Unit D26;Transport
01/19/2020 02:49:08	dandrus	Unit Status Action	Unit D26 At Scene
01/19/2020 02:59:08		Unit Timer Expired	Unit D26;At Scene
01/19/2020 03:25:43		Unit Timer Expired	Unit D26;At Scene
01/19/2020 05:12:50	dandrus	Unit Status Action	Unit D26 cleared from call
01/19/2020 05:12:53	dandrus	Call Updated	Dispositions Changed
01/19/2020 05:12:53	dandrus	Call Cleared	
01/19/2020 22:09:59	Della Beachel	Narrative Added	d26/req cch on luna, juan jose for investigations (Narrative added to cleared call.)



## Detail Call For Service Report

Login ID: dbradshaw

Print Date/Time: 07/14/2020 12:35

From CFS:	3153	From Date:	01/19/2020 00:31	CFS Type:	All
To CFS:	3153	To Date:	01/19/2020 00:31	Agency Type:	
Layer:	All	Areas:	All		

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CFS Number:	None	Call Date/Time:	None	Primary Incident:	None
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### Unit Log

Log Date/Time	Entered By	Unit	Status	Action	Description	Location
01/19/2020 00:31:00	dandrus	D26	Dispatched	Unit Status Change		PETRO, 174 US 93 HWY, Wells
01/19/2020 00:31:00	dandrus	D26	At Scene	Unit Status Change		PETRO, 174 US 93 HWY, Wells
01/19/2020 00:41:02	default_nws - default_nws	D26	At Scene	Unit Timer Expired		PETRO, 174 US 93 HWY, Wells
01/19/2020 00:45:50	dandrus	D26	At Scene	Unit Check In		PETRO, 174 US 93 HWY, Wells
01/19/2020 01:05:54	default_nws - default_nws	D26	At Scene	Unit Timer Expired		PETRO, 174 US 93 HWY, Wells
01/19/2020 01:08:31	dandrus	D26	At Scene	Unit Check In		PETRO, 174 US 93 HWY, Wells
01/19/2020 01:28:34	default_nws - default_nws	D26	At Scene	Unit Timer Expired		PETRO, 174 US 93 HWY, Wells
01/19/2020 01:41:16	dandrus	D26	At Scene	Unit Check In		PETRO, 174 US 93 HWY, Wells
01/19/2020 01:47:09	dandrus	D26	At Scene	Unit Check In		PETRO, 174 US 93 HWY, Wells
01/19/2020 01:47:16	dandrus	D26	At Scene	Unit Location	76 roadway to secure veh	76 roadway to secure veh
01/19/2020 01:52:50	dandrus	D26	At Scene	Unit Location	23 roadway	23 roadway
01/19/2020 02:07:26	default_nws - default_nws	D26	At Scene	Unit Timer Expired		23 roadway
01/19/2020 02:08:03	dandrus	D26	Transport	Unit Status Change		76 8
01/19/2020 02:23:04	default_nws - default_nws	D26	Transport	Unit Timer Expired		76 8
01/19/2020 02:25:28	dandrus	D26	Transport	Unit Location	c4, mm327	c4, mm327
01/19/2020 02:28:18	dandrus	D26	Transport	Unit Check In		c4, mm327
01/19/2020 02:42:47	dandrus	D26	Transport	Unit Location	c4 mm305	c4 mm305
01/19/2020 02:43:21	default_nws - default_nws	D26	Transport	Unit Timer Expired		c4 mm305
01/19/2020 02:49:08	dandrus	D26	At Scene	Unit Status Change		23 8
01/19/2020 02:59:08	default_nws - default_nws	D26	At Scene	Unit Timer Expired		23 8
01/19/2020 03:05:41	dandrus	D26	At Scene	Unit Check In		23 8
01/19/2020 03:25:43	default_nws - default_nws	D26	At Scene	Unit Timer Expired		23 8

## Detail Call For Service Report

Login ID: dbradshaw

Print Date/Time: 07/14/2020 12:35

From CFS: 3153      From Date: 01/19/2020 00:31      CFS Type: All  
To CFS: 3153      To Date: 01/19/2020 00:31      Agency Type:  
Layer: All      Areas: All

CFS Number: None      Call Date/Time: None      Primary Incident: None

### Unit Log

Log Date/Time	Entered By	Unit	Status	Action	Description	Location
01/19/2020 05:12:50	dandrus	D26	Available for calls	Unit Cleared	Unit cleared from call	
01/19/2020 05:12:50	dandrus	D26	Available for calls	Unit Status Change		

PLAINTIFF EXHIBIT NO: 2  
CASE NO.: DC-CR-20-4  
DISTRICT COURT: JUDGE ALVIN R. KACIN  
DATE MARKED: 08/07/20  
DATE ADMITTED: 08/07/20  
CLERK: DM

**PRETRIAL HEARING**

**08/07/20**

**STATE'S EXHIBIT 3 (ADMITTED)**

**REMARKED AS STATE'S EXHIBIT 6**  
**FOR JURY TRIAL 12/08/20**



**IDAHO TRANSPORTATION DEPARTMENT**  
Vehicle Services, Titles • P.O. Box 7129  
Boise ID 83707-1129

(208) 334-8663  
dmv.idaho.gov

I certify that I am an official custodian of the records of the Idaho Transportation Department, Division of Motor Vehicles, and that this/these copy(s) is/are a true and correct copy(s) of the original on file with said department.

Signature \_\_\_\_\_ Date 2/11/2020  
Printed Name \_\_\_\_\_

Elko County DA  
Erika Weber  
540 Court St, 2nd Floor  
Elko NV 89801-0160

RE: Motor Vehicle Record Request

This is the motor vehicle record you requested. If you need further information, please contact the Idaho Transportation Department at (208) 334-8773. Our fax number is (208) 332-4189.

**CURRENT REGISTRATION RECORD**

PLATE #	VIN	EXPIRATION DATE	ISSUE DATE	PLATE DATE
2TCX845	1G1PG5S91B7139849	20200531	20191018	20191202

MAKE	MODEL	YEAR	COLOR	DESCRIPTIO N	CANCELLED?	DATE
CHEV	CRZ	2011	BLK	CRUZ		20191202

SPACING	REG TYPE	SUB TYPE	TRAN TYPE	ISSUE COUNTY
	PC	CAR	RN	42

PARKS PASS?	PERSONALIZED ?	HANDICAP?	CENTENNIAL ?	HIGHWAY DISTRICT? 4204
-------------	-------------------	-----------	-----------------	------------------------------

OWNER 1	OWNER 2	RENEWAL CARD #
FIFE, CALEB DUWAYNE		

OWNER 3 / ADDRESS	COMMENTS
	LOST FRONT PLTE

459 5TH AVE N	RESIDENCE COUNTY
TWIN FALLS ID 83301	42

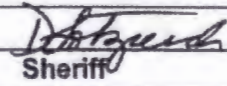
Section 49-203 Idaho Code prohibits the release of personal information contained in driver and vehicle records to unauthorized parties, without express written consent of the individual the information pertains to. As an authorized requester you may receive this information but you may not release or resell it.



PLAINTIFF EXHIBIT NO: 6  
CASE NO.: DC-CR-20-4 LUNA, Jose Juan  
DISTRICT COURT: JUDGE ALVIN R. KACIN  
DATE MARKED: 12/02/20  
DATE ADMITTED: DM 12/16/20  
CLERK: DM

PLAINTIFF EXHIBIT NO: 3  
CASE NO.: DC-CR-20-4  
DISTRICT COURT: JUDGE ALVIN R. KACIN  
DATE MARKED: 08/07/20  
DATE ADMITTED: 08/07/20  
CLERK: DM



<b>ELKO COUNTY</b>		<b>RULES AND REGULATIONS</b>	
<b>SHERIFF'S DEPARTMENT</b>			
<b>SUBJECT: Vehicle Impounds</b>		<b>NUMBER: 2-27</b>	
<b>EFFECTIVE DATE: 02-27-07</b>		<b>REVIEW DATE:</b>	
<b>AMENDS/SUPERSEDES:</b>		<b>APPROVED:</b>  Sheriff	

#### NOTE

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

#### INDEX WORDS

Vehicle Impounds

#### I. POLICY

During the course of executing their duties, deputies will on occasion encounter vehicles that need to be impounded and processed for evidence. It is the policy of this department to handle these impounds in an expedient and effective manner.

2-27.1

## **II. PURPOSE**

This purpose of this order is intended to outline the procedures to be used when impounding vehicles and their subsequent inventory.

## **III. DEFINITIONS**

### **A. VEHICLE IMPOUND**

Taking temporary custody of a vehicle for safekeeping or for evidence processing.

### **B. VEHICLE INVENTORY**

The process of accounting for items of value that are left in the vehicle.

## **IV. PROCEDURES**

- A.** When a vehicle is encountered that is going to be towed, the deputy should evaluate whether or not the vehicle will require further evidentiary processing. If the vehicle needs no further processing it will be towed to the impound yard of the tow company that is towing the vehicle.
- B.** If the vehicle needs further processing or a warrant is to be applied for, the vehicle will be sealed and towed to the Elko County Sheriff's Office.
- C.** When sealing a vehicle the deputy will place evidence tape on the hood and trunk, as well as all windows and doors. The tape will be initialed and dated with the current date. The tape will be applied in such a way that the deputy can tell whether or not the areas taped have been opened.
- D.** Once the vehicle is at the Sheriff's Office, it will be the responsibility of the deputy who impounded it to ensure that it is processed. The detectives will be available to assist, but the final responsibility will lie with the deputy working the case.

- E.** Once the vehicle has been processed, it is the responsibility of the deputy to inventory the contents of the vehicle and secure any immediate personal items of value or any other item with an immediate cash value of \$100.00 or greater. These items include, but are not limited to: cash, credit cards, checks, prescription drugs, jewelry and weapons.
- F.** If the vehicle is taken as a seizure, the deputy will make a note of that in his/her report and notify the detective sergeant. It will then be the detective sergeant's responsibility to ensure the proper paperwork for the seizure is filled out.
- G.** When a vehicle impound is done, the deputy will fill out a vehicle impound sheet. All pertinent information on the form will be completed. The office copy of the impound sheet will be placed on the clipboard in the office before ending the tour of duty.
- H.** All pertinent information on the vehicle impound log sheet shall also be filled out.
- I.** If the vehicle is not being held for seizure, or if the vehicle is not being held as evidence in a criminal matter, as soon as practical after the vehicle is processed, the tow company shall be called to remove the vehicle to their impound lot.
- J.** In no case will the Sheriff's office be liable for the tow bill if the vehicle is not being held for seizure or held as evidence in a criminal case.



PLAINTIFF EXHIBIT NO: 4  
CASE NO.: DC-CR-20-4  
DISTRICT COURT: JUDGE ALVIN R. KACIN  
DATE MARKED: 08/07/20  
DATE ADMITTED: 08/07/20  
CLERK: DM





## **Policy 515**

*James Pitts*

November 19, 2013

### **Search and Seizure**

#### **515.1 PURPOSE AND SCOPE**

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Elko County Sheriff's Office personnel to consider when dealing with search and seizure issues.

#### **515.2 POLICY**

It is the policy of the Elko County Sheriff's Office to respect the fundamental privacy rights of individuals. Members of this office will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this office will comply with relevant federal and state law governing the seizure of persons and property.

In accordance with the Training Policy, the Office will provide relevant and current training to deputies as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

#### **515.3 SEARCHES**

- 1) The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid.
- 2) There are, however, several exceptions that permit a warrantless search.
- 3) Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:
  - a) Valid consent
  - b) Incident to a lawful arrest
  - c) Legitimate community caretaking interests

I HEREBY CERTIFY THAT THIS IS A TRUE  
CORRECT COPY OF THE ORIGINAL DOCUMENT  
ON FILE WITH THE RECORDS AND CLERK  
OF THE ELKO COUNTY SHERIFF'S OFFICE  
ELKO, NEVADA.

SIGNED: [Signature]

DATED: 070620

- d) Vehicle searches under certain circumstances
  - e) Exigent circumstances
- 4) Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant.
    - a) Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.
  - 5) Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this office is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.
  - 6) Whenever practicable, deputies are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

#### **515.4 SEARCH PROTOCOL**

- 1) Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:
  - a) Members of this office will strive to conduct searches with dignity and courtesy.
  - b) Deputies should explain to the person being searched the reason for the search and how the search will be conducted.
  - c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
  - d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
  - e) When the person to be searched is of the opposite sex as the searching deputy, a reasonable effort should be made to summon a deputy of the same sex as the subject to conduct the search. When it is not practicable to summon a deputy of the same sex as the subject, the following guidelines should be followed:
    - i) Another deputy or a supervisor should witness the search.
    - ii) The deputy should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

#### **515.5 DOCUMENTATION**

- 1) Deputies are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:
  - a) Reason for the search
  - b) Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)
  - c) What, if any, injuries or damage occurred

I HEREBY CERTIFY THAT THIS IS A TRUE AND  
CORRECT COPY OF THE ORIGINAL DOCUMENT  
ON FILE WITH THE RECORDS AND I.D. SECTION  
OF THE ELKO COUNTY SHERIFF'S DEPARTMENT  
ELKO, NEVADA.

SIGNED: KM & K  
DATED: 070620



- d) All steps taken to secure property
  - e) The results of the search, including a description of any property or contraband seized
  - f) If the person searched are the opposite sex, any efforts to summon a deputy of the same sex as the person being searched and the identification of any witness deputy.
- 2) Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and office policy have been met.



I HEREBY CERTIFY THAT THIS IS A TRUE AND  
CORRECT COPY OF THE ORIGINAL DOCUMENT  
ON FILE WITH THE RECORDS AND I.D. SECTION  
OF THE ELKO COUNTY SHERIFF'S DEPARTMENT  
ELKO, NEVADA.

SIGNED: \_\_\_\_\_

DATED: 070620

PLAINTIFF EXHIBIT NO: 5  
CASE NO.: DC-CR-20-4  
DISTRICT COURT: JUDGE ALVIN R. KACIN  
DATE MARKED: 08/07/20  
DATE ADMITTED: 08/07/20  
CLERK: DM

# ELKO COUNTY SHERIFF'S DEPARTMENT VEHICLE IMPOUNDMENT AND INVENTORY RECORD

NCIC#

CASE# or  
CITATION

2019 070

## VEHICLE INFORMATION

YEAR 2011 MAKE CHEV TYPE PC COLOR BLK ODOMETER READING 157P65891B7139849  
 LICENSE# 8TCX845 STATE ID VIN# 1G7P65891B7139849  
 VIN CHECK WITH REGISTRATION YES ☐ NO ☐ ALTERED ☐ OPR. DR. LIC.# HC2197556  
 VEHICLE OPERATOR JUAN LUNA ADDRESS 5525TH AVE W PH.#   
 REGISTERED OWNER CAEB FITE ADDRESS TUSW FALLS ID PH.#   
 LEGAL OWNER  ADDRESS  PH.#   
 NAME OF ARRESTED PARTY Juan Luna ARREST REPORT # 20201070  
 REPORTED BY TRICE DATE 1-19-20 TIME

## REASON FOR IMPOUNDMENT

ACCIDENT ☐ DUI ☐ STOLEN ☐ ABANDONED ☐ FELONIOUS USE ☒ NO OPR. LIC. ☒ BURNED ☐  
 OTHER THAN ABOVE SEIZED PENDING SEARCH WARRANT  
 TOW-IN SERVICE REQUESTED BY TRICE 926 SIGNED TRICE 926  
 EXACT LOCATION WHERE VEHICLE PICKED UP PETRO WELLS NW  
 NAME OF TOW-IN SERVICE ROADWAY DRIVER LOISAN MCFADDIN ROTATION # 900  
 VEHICLE TOWED TO ROADWAY MILES TOWED 2 DATE 1-19-20 TIME   
 VEHICLE TOWED: BACKWARD ☐ FORWARD ☐ DRIVESHAFT CONNECTED ☐ DOLLY ☐ OTHER   
 VEHICLE DRIVEABLE: YES ☒ NO ☐ DRIVEN IN BY

## INVENTORY AND CONDITION OF VEHICLE WHEN TOWED IN

DOORS AND TRUNK: LOCKED ☐ UNLOCKED ☒ KEYS IN CAR ☒ KEYS IN PROPERTY ROOM ☐ OTHER

(USE CONDITION SYMBOL: 1-FOR EXCELLENT - 2-GOOD - 3-FAIR - 4-POOR - 5-CONSTRUCTIVE TOTAL)

✓	DAMAGED	CONDITION	✓	DAMAGED	CONDITION	✓	DAMAGED	CONDITION
FRONT END	4	4	ENGINE			SPARE TIRE		
LF 1/4			RADIATOR			LR TIRE		
LF DOOR			ALTERNATOR			RR TIRE		
LR DOOR			BATTERY			RF TIRE		
LR 1/4			A/C			LF TIRE		
REAR END			RADIO			GLASS		
RF 1/4			TAPE DECK					
RF DOOR			HUB CAP					
RR DOOR			WHEEL COVER					
RR 1/4			DRIVE TRAIN					
HOOD			JACKS					
TOP			TOOLS					
REAR LID			GASOLINE					

## HOLD AND RELEASE INFORMATION

(USE SUPPLEMENTARY REPORT FOR ANY DETAILS NOT LISTED ON THIS PAGE)

DESCRIBE ANY PERSONAL PROPERTY LEFT IN VEHICLE SEE ATTACHED INVENTORY ON SUPPLEMENTAL REPORT 20201070 SUPP 1  
 PERSONAL PROPERTY: REMOVED BY OPERATOR ☐ IN PROPERTY ROOM ☐ OTHER ITEMS SEIZED BOOKED INTO EVIDENCE  
 REPORT MADE BY TRICE 926 DATE 1/20/20 TIME 1935

THE ABOVE VEHICLE HAS BEEN RELEASED TO ME AND I FOUND IT'S CONDITION TO BE AS INDICATED ABOVE.

SIGNED ROADWAY TOWING NO ONE AVAILABLE DATE 1/21/20 TIME 1845H



PLAINTIFF EXHIBIT NO: 6  
CASE NO.: D.C.P. 20-4  
DISTRICT COURT: JUDGE ALVIN R. KACIN  
DATE MARKED: 08/07/20  
DATE ADMITTED: 08/07/20  
CLERK: DM

**Supplement**

On January 21, 2020 at approximately 1700 hours I, Deputy J. Trice, assisted Elko Combined Narcotics Unit with the execution of a search warrant on the vehicle I seized on January 19th.

During the search of the vehicle a 12-gauge shotgun was located, in a black case, in the trunk of the vehicle. The shotgun was a Dickinson brand, silver and black in color. Also, the shotgun was loaded 4 shells in the magazine tube. I ran the shotgun with serial number of 183310977, through Elko Dispatch with a no match return.

The only physical evidence taken during the search was the Dickinson shotgun.

I booked the shotgun into evidence along with the case and 4 shells.

On January 19th, 2020, I had Elko Dispatch run a criminal history check on Juan LUNA to verify felony convictions. LUNA has a previous felony conviction for battery constituting domestic violence 2nd count, with one or more prior victims over age 65 with a disposition date of 5/29/2009.

I added an additional charge for a felon in possession of a firearm to LUNA's booking.

After executing the search warrant a vehicle inventory was completed. Please note the following items were left in the vehicle.

A bag of new clothes. Several items of other clothing. A box of husky brand tools, opened. Several items for personal care (i.e.; makeup, deodorant, lotions) in a large pink bag. There was a cell phone left in the center console, unsure brand, condition working. There was a bag of trash. There were items of indicia belonging to LUNA located in the vehicle as well. There were also several small items of paraphernalia located throughout the vehicle but not seized. The vehicle had appeared to have been involved in an accident at some point due to the airbags being deployed and cut out also the drivers seat belt had been cut out of the vehicle as well. The front bumper had non-factory screws holding it secure to the vehicle. Overall the car was in fair condition and released to Roadway Towing in the same condition as it was seized.

16:13:44 01/29/20

31



PLAINTIFF EXHIBIT NO: 7  
CASE NO.: DC-CR-20-4  
DISTRICT COURT: JUDGE ALVIN R. KACIN  
DATE MARKED: 08/07/20  
DATE ADMITTED: 08/07/20  
CLERK: DM

Report RE: Supplemental Progress - Evaluation of Meth Pipe (#20I000049)

Report written by: Jake Eisinger, Detective, I1054

Date report written: August 4, 2020

DETAILS:

On August 4, 2020, Detective (Det.) Jake Eisinger of the Elko Combined Narcotics Unit (ECNU) met with Kayla Czegledi, the evidence technician at the Elko County Sheriff's Office (ECSSO). Det. Eisinger spoke to Mrs. Czegledi in reference to ECSSO case number 20EL01070, specifically to examine the methamphetamine pipe seized by Deputy Trice.

Det. Eisinger photographed the methamphetamine pipe while it was in the evidence package. Det. Eisinger opened the evidence package and pulled out the methamphetamine pipe and photographed the methamphetamine pipe outside of the evidence package.

Det. Eisinger noticed the glass pipe is the same design most commonly used to smoke methamphetamine. The pipe was tubular and had a glass bulb at the end with a small hole at the top of the bulb.

Det. Eisinger noticed the pipe had white residue which is common with the use of smoking methamphetamine through this type of pipe.

Det. Eisinger also noticed burn marks on the underside of the bulb common with using a lighter or butane torch to heat the pipe in order to smoke methamphetamine.

Det. Eisinger used a plastic ziptie to scrap the white residue out from inside the pipe and dumped the residue into a narcotics identification kit (NIK) test. Det. Eisinger used a "U" NIK test and tested the residue from the pipe. The residue presumptively tested positive for methamphetamine. Det. Eisinger took photographs of the presumptively positive NIK Test.

Det. Eisinger placed the pipe back into the evidence package and resealed the package with evidence tape, initialed and dated the evidence tape.

Det. Eisinger handed the evidence back to Mrs. Czegledi who observed the entire process.

Based on Det. Eisinger's training and experience, the condition of the pipe, and the presumptive positive NIK test, Det. Eisinger believes the pipe was used to smoke methamphetamine.

Photographs taken by Det. Eisinger have been attached to this report.

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DEPARTMENT OF PUBLIC SAFETY, INVESTIGATIONS DIVISION

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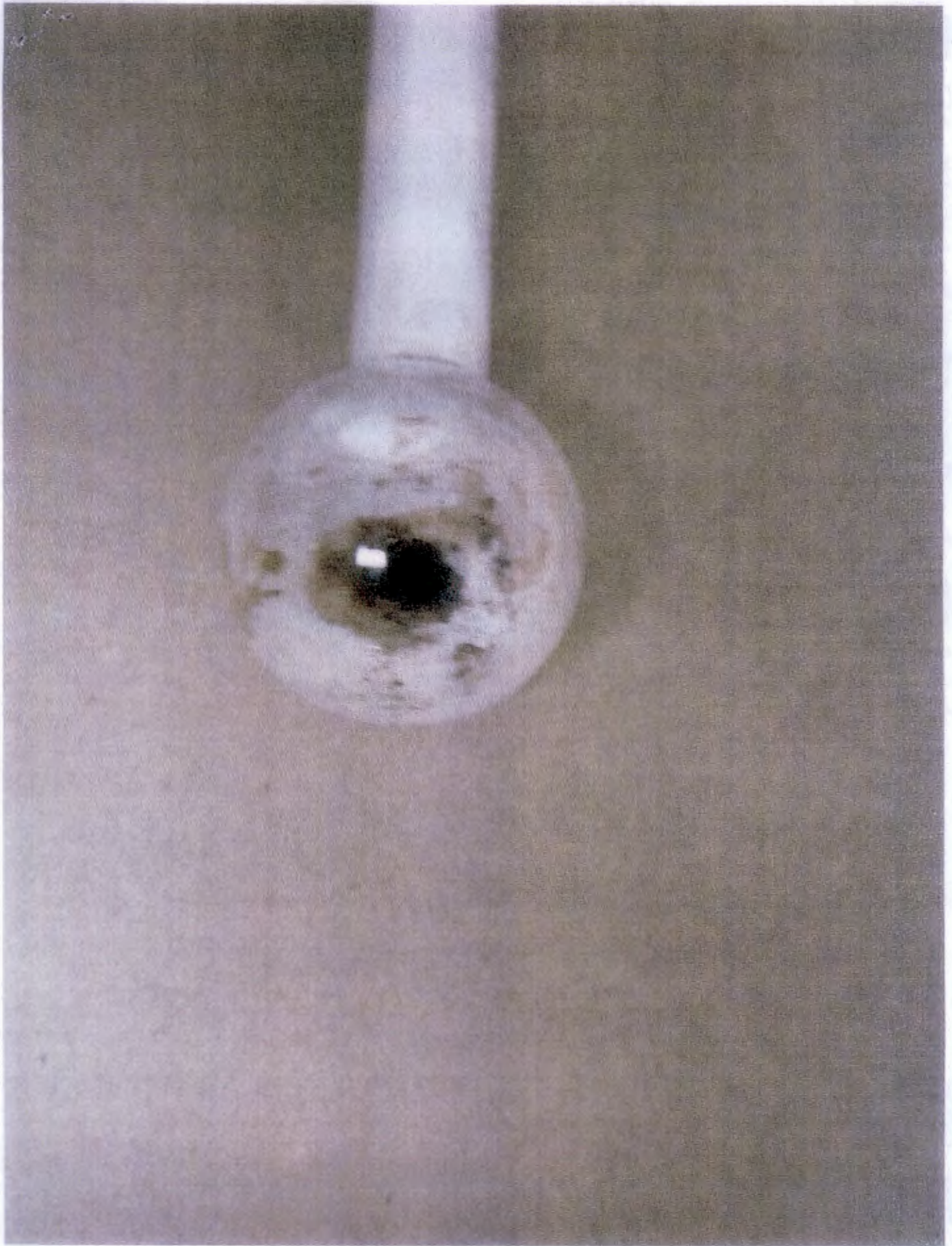
RELEASED TO: \_\_\_\_\_

RELEASED BY (NDI): \_\_\_\_\_













PLAINTIFF EXHIBIT NO: 19  
CASE NO.: DC-CR-20-4 LUNA, Jose Juan  
DISTRICT COURT: JUDGE ALVIN R. KACIN  
DATE MARKED: 12/02/20  
DATE ADMITTED: \_\_\_\_\_  
CLERK: DM

PLAINTIFF EXHIBIT NO: 8  
CASE NO.: DC-CR-20-4  
DISTRICT COURT: JUDGE ALVIN R. KACIN  
DATE MARKED: 08/07/20  
DATE ADMITTED: 08/07/20  
CLERK: DM

1 Case No. DC-CR-2020-0004

2 Dept. II

3

4

5

6 IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF  
7 NEVADA, IN AND FOR THE COUNTY OF ELKO

8

00000

9 THE STATE OF NEVADA :

10 Plaintiff, : JURY TRIAL

11 v. : TESTIMONY

12 JUAN JOSE LUNA, : JACOB ELMORE

13 Defendant. :

14 \_\_\_\_\_/

15

16 TRANSCRIPT OF PROCEEDINGS

17

18 BE IT REMEMBERED that the above-entitled matter  
19 came on for hearing on December 15, 2020, at the hour of  
20 8:35 a.m. of said day, in Elko, Nevada, before the  
21 HONORABLE ALVIN R. KACIN, District Judge.

22

23

24

25 Reported by Lisa M. Manley, CCR No. 271

FILED

2021 OCT 21 AM 11:17

4TH JUDICIAL DISTRICT COURT

CLERK DEPUTY LB

2021 OCT 21 PM 3:35  
RECEIVED  
CLERK DEPUTY  
DISTRICT ATTORNEY

COPY

1



A P P E A R A N C E S

For the Plaintiff:

CHAD B. THOMPSON, ESQ.  
Elko County Deputy District  
Attorney  
540 Court Street  
Second Floor  
Elko, Nevada 89801

For the Defendant:

BENJAMIN C. GAUMOND, ESQ.  
Elko County Deputy Public  
Defender  
569 Court Street  
Elko, NV 89801



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

2                                    JACOB ELMORE

3                    called as a witness in said case, having been first  
4                    duly sworn, testified as follows:

5                                    DIRECT EXAMINATION

6       BY MR. THOMPSON:

7                    Q.            would you please state and spell both your  
8                    first and last name, please?

9                    A.            My name's Jacob Elmore. J-a-c-o-b E-l-m-o-r-e.

10                  Q.            How old are you, Mr. Elmore?

11                  A.            Twenty-nine.

12                  Q.            And where do you live?

13                  A.            wells.

14                  Q.            And back in January of this year were you also  
15                  living in wells?

16                  A.            Yeah.

17                  Q.            Did you have a job back then?

18                  A.            Yep.

19                  Q.            where was that at?

20                  A.            Petro.

21                  Q.            Are you currently working there?

22                  A.            Yep.

23                  Q.            Okay. And in January of 2020, how long had  
24                  you been working at the Petro?

25                  A.            Five years -- or four and a half years.

1 Q. And what was your position with them?  
2 A. Cashier.  
3 Q. Now, are you currently a cashier still?  
4 A. Yes.  
5 Q. Okay. And now I want to direct your attention  
6 to the evening of the 18th, 19th, near the midnight hour.  
7 Were you scheduled to work on that day?  
8 A. Yes, at midnight.  
9 Q. Okay. What was your shift to be?  
10 A. Midnight to 8:00.  
11 Q. And who were you relieving?  
12 A. Jen Gardner.  
13 Q. Was that the witness who just left the  
14 courtroom?  
15 A. Yes.  
16 Q. What time did you show up for work that night?  
17 A. 11:45.  
18 Q. And when you got there, did Ms. Gardner inform  
19 you of anything unusual?  
20 A. She told me about the car sitting on the pump  
21 5, yeah.  
22 Q. Based on that information you got from her,  
23 did you take any action?  
24 A. I did after I counted in my money and all  
25 that.

1 Q. Okay. So you did your job duties first?  
2 A. Yes.  
3 Q. When you say counting your money, what does  
4 that mean?  
5 A. Well, I got to count my money, make sure it's  
6 all there, before I start my shift.  
7 Q. Your money where?  
8 A. In the register.  
9 Q. Okay. So it wasn't until you had started your  
10 shift that you did something about it?  
11 A. Right, yes.  
12 Q. Do you know what time it was?  
13 A. Probably 12:15 to 12:30, somewhere in there.  
14 Q. Okay. And what was it that you did?  
15 A. I walked out to the car and asked them to move  
16 to the parking lot and get off the pump.  
17 Q. Get off the what?  
18 A. Get off the pump, the gas pump.  
19 Q. Where was the car at?  
20 A. Pump number 5.  
21 Q. And can you describe how it was parked there?  
22 A. Parked normally.  
23 Q. Like somebody filling up their gas?  
24 A. Yeah.  
25 Q. Or their car with gas?

1           A.       Yeah.

2           Q.       Can you describe what kind of car it was?

3           A.       I don't know what kind of, like, make and

4 model; it was just a black small car.

5           Q.       Do you remember how many doors?

6           A.       Four.

7           Q.       And when you went out to the car, did you see

8 how many occupants were in the car?

9           A.       Yes.

10          Q.       How many?

11          A.       Two.

12          Q.       And which side of the car did you approach on?

13          A.       Passenger side.

14          Q.       And was there someone seated then in the

15 passenger side?

16          A.       Yes.

17          Q.       Who was that?

18          A.       A woman. I don't know who it was.

19          Q.       Could you describe what she looked like?

20          A.       Maybe late forties. She didn't -- I didn't

21 really get a good look at her because I am taller than the

22 car; it was kind of hard to see in there.

23          Q.       Did you notice a hair color or anything?

24          A.       I don't recall.

25          Q.       Okay. Did she roll down the window for you?



1           A.       The window was already down.  
2           Q.       And the other person in the car, where were  
3 they at?  
4           A.       The driver's side.  
5           Q.       Could you tell if it was a male or female?  
6           A.       No.  
7           Q.       You didn't look at the driver?  
8           A.       Couldn't see the driver. Just saw legs.  
9           Q.       So the lights were on?  
10          A.       I don't remember.  
11          Q.       well, I guess that was a bad question.  
12                    Did you notice if any lights, either interior  
13 or exterior, were on?  
14          A.       Interior there was no -- no lights.  
15          Q.       Okay. Were there any on the exterior?  
16          A.       I don't believe so.  
17          Q.       Do you remember if the car was running?  
18          A.       I don't think so.  
19          Q.       Okay. So you just spoke with the woman there?  
20          A.       Yes.  
21          Q.       And what was the direction you gave them?  
22          A.       I asked her to please move their car off the  
23 pump. If they needed to sleep or something, they could go  
24 to the parking lot and do that. I just needed them to move  
25 off the pump.

1 Q. And what was her response?  
2 A. She said, "Okay."  
3 Q. That's it? Anything more than that?  
4 A. One word.  
5 Q. Okay. And after that, what did you do?  
6 A. I walked back inside and continued like  
7 normal.  
8 Q. And did the -- did you see the car move?  
9 A. No.  
10 Q. How long did you observe it after you had gone  
11 out and talked to her?  
12 A. Probably like an hour and a half until all the  
13 police were finished with what they were doing.  
14 Q. Okay. To the conclusion of when it was taken  
15 away?  
16 A. Right, yeah, everything was over.  
17 Q. Okay. And then after talking to the woman,  
18 did you or Ms. Gardner do anything to contact police?  
19 A. I didn't, but she did.  
20 Q. Okay. Did you see what she did?  
21 A. Yeah, I saw her drive across the street to  
22 where there was two police cars parked, trucks, whatever  
23 they are.  
24 Q. Okay. And then after she was over there, did  
25 she come back to the Petro?

1           A.       Yes.

2           Q.       Did you see what the officers did from across  
3 the street?

4           A.       well, they pulled in behind the car at the gas  
5 pump, yeah.

6           Q.       And then what did you see them do when they  
7 got there?

8           A.       They talked to the driver and pulled them out  
9 of there really quickly.

10          Q.       Okay. Then eventually how did the car end up  
11 leaving the area?

12          A.       I believe it was towed away.

13          Q.       Before Ms. Gardner went over and talked to the  
14 police, did you guys give them some time to move the car?

15          A.       Yeah, probably about 15, 20 minutes.

16          Q.       And it still didn't move?

17          A.       No.

18          Q.       while you were observing the car, did you ever  
19 see anybody else around the car --

20          A.       No.

21          Q.       -- other than these two?

22          A.       No.

23          Q.       Didn't see anybody walk up to it or anything?

24          A.       No.

25          Q.       And then the officers, after they pulled the

1 people out of the car, did they come in and get a written  
2 statement from you?

3 A. Yes.

4 MR. THOMPSON: I will pass the witness.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 BY MR. GAUMOND:

8 Q. Mr. Elmore, you never talked to the driver  
9 inside the car, correct?

10 A. No. Never.

11 Q. But you didn't attempt to try to get his  
12 attention?

13 A. No.

14 Q. And you never called the police on either of  
15 the people inside the car, correct?

16 A. No.

17 Q. That is because you didn't have a need to do  
18 so?

19 A. Right.

20 MR. GAUMOND: I will pass the witness.

21 THE COURT: Any redirect?

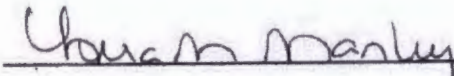
22 MR. THOMPSON: I do not.

23 (WHEREUPON, the testimony of Jacob Elmore was  
24 concluded)

25



1 STATE OF NEVADA )  
2 ) SS.  
3 COUNTY OF ELKO )  
4 I, LISA M. MANLEY, Official Court Reporter of the Fourth  
5 Judicial District Court, Dept. II, of the State of Nevada,  
6 in and for the County of Elko, do hereby certify that I was  
7 present in court during all the proceedings had in the  
8 matter of the State of Nevada, plaintiff, versus  
9 JUAN JOSE LUNA, defendant, heard at Elko, Nevada, on  
10 December 15, 2020, and took verbatim stenotype notes  
11 thereof; and that the foregoing 10 pages contain a full,  
12 true and correct transcription of my stenotype notes so  
13 taken, and a full, true and correct copy of all proceedings  
14 had.

15  
16   
17 LISA M. MANLEY - CCR No. 271  
18 OFFICIAL COURT REPORTER  
19  
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