

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

KENYA SPLOND,

Appellant,

v.

STATE OF NEVADA,

Respondent.

Docket No. 82989

Electronically Filed  
Oct 15 2021 02:28 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT'S**

**APPENDIX Volume 2**

Monique McNeill, Esq.  
Nevada Bar No. 9862  
P.O. Box 2451  
Las Vegas, Nevada 89125  
Phone: (702) 497-9734  
Email: Monique.mcneill@yahoo.com  
**Attorney for Appellant Splond**

<b><u>Document</u></b>	<b><u>Volume.</u></b>	<b><u>Page Nos.</u></b>
Appendix Vol. 1	1, 2	31-283
Appendix Vol. 2	2, 3	284-536
Appendix Vol. 3	3, 4	537-788
Appendix Vol. 4	4	789-884
Exhibits in Support of Supplemental Brief	5	1072-1095
Findings of Fact	5, 6	1245-1291
Minutes Dec. 16, 2019	5	1029
Minutes Feb. 2, 2021	5	1143
Notice of Appeal	6	1340-1342
Notice of Entry of Findings of Fact		1292-1339
Opening Brief	1	1-30
Pet. Reply in Support of Petition	5	1129-1142
Proper Person Petition for Writ Of Habeas Corpus	4, 5	937-1003
Respondent's Answering Brief	4	885-933
Respondent's Appendix	4	934-936
Second Supp. Brief in Support of Pet.	5	1153-1197
State's Response to Pro Per Petition	5	1004-1028
State's Response to Pet. Supp. Brief	5	1096-1128
Supplemental Brief in Support of Petition	5	1030-1071

<b><u>Document</u></b>	<b><u>Volume.</u></b>	<b><u>Page Nos.</u></b>
Transcript, Hearing Feb. 1, 2021	5	1144-1152
Transcript, Hearing April 15, 2021	5	1198-1244

### **CERTIFICATE OF SERVICE**

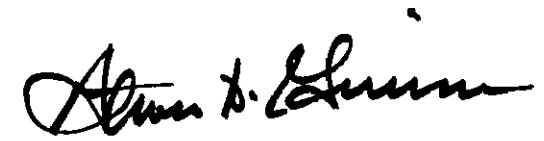
I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 15<sup>th</sup> day of October, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON FORD                      MONIQUE MCNEILL  
STEVEN WOLFSON

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

Kenya Splond

By:       /S/ Monique McNeill

  
CLERK OF THE COURT

1 **OPPS**  
2 ADAM PAUL LAXALT  
3 Attorney General  
4 David R. Keene, II (Bar. No. 11826)  
5 Senior Deputy Attorney General  
6 State of Nevada  
7 Office of the Attorney General  
8 555 East Washington Avenue, Suite 3900  
9 Las Vegas, Nevada 89101  
10 (702) 486-3584 (phone)  
11 (702) 486-3773 (fax)  
12 dkeene@ag.nv.gov  
13  
14 Attorneys for The State of Nevada  
15  
16

10 **DISTRICT COURT**  
11 **CLARK COUNTY, NEVADA**

12 THE STATE OF NEVADA,  
13 Plaintiff,

Case No. C-14-296374-1  
Dept. No. 11

14 vs.

15 KENYA SPLOND, #1138461,  
16 Defendant.

17 **OPPOSITION TO MOTION TO COMPEL**  
18 **PRODUCTION OF SUBPOENAED MATERIALS**

19 Date of Hearing: January 9, 2017  
20 Time of Hearing: 9:00 a.m.

21 COMES NOW the State of Nevada, Department of Public Safety, Division of Parole and  
22 Probation ("P&P"), by and through counsel, Adam Paul Laxalt, Attorney General for the State of  
23 Nevada, and David R. Keene, II, Senior Deputy Attorney General, and hereby submits its Opposition to  
24 Motion to Compel Production of Subpoenaed Materials.

25 This Opposition is made and based on the following memorandum of points and authorities, the  
26 pleadings and papers on file and any additional evidence the Court deems appropriate.

27 ///

28 ///

///

AFFIDAVIT OF DAVID R. KEENE, II

STATE OF NEVADA       )  
                                      : ss  
COUNTY OF CLARK       )

David R. Keene, II, being first duly sworn, deposes and says:

1. The Affiant is duly licensed to practice law in the State of Nevada and, in that capacity, is an attorney in the Office of the Attorney General for the State of Nevada.

2. The Affiant represents the State of Nevada, Department of Public Safety, Division of Parole and Probation, in this matter.

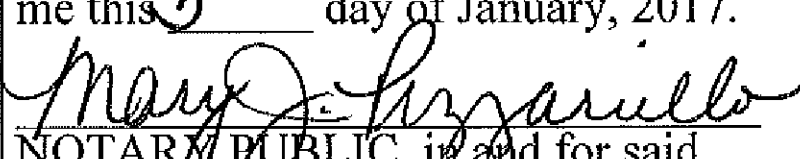
3. On January 5, 2017, the Affiant spoke to Melinda Ridgely, a custodian of records for the State of Nevada, Department of Public Safety, Division of Parole and Probation.

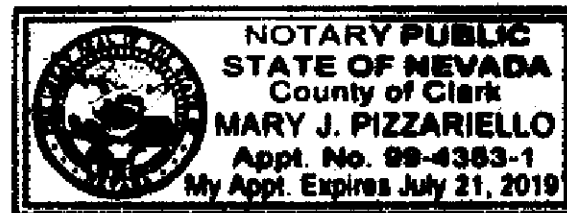
4. Ms. Ridgely told Affiant that the State of Nevada, Department of Public Safety, Division of Parole and Probation had provided the entire contents of Defendant Keyna Splond's parole and probation file to his attorney, pursuant to a subpoena dated September 12, 2016, and that no additional documentation exists.

Further Affiant sayeth naught.

  
DAVID R. KEENE, II

SUBSCRIBED and SWORN to before  
me this 5<sup>th</sup> day of January, 2017.

  
NOTARY PUBLIC, in and for said  
County and State (seal)



## POINTS AND AUTHORITIES

Defendant Kenya Splond ("Defendant") has subpoenaed certain materials from P&P. See Motion to Compel, Exhibit A. P&P responded with the documents presented in Exhibit B of the Motion to Compel. Subsequently, Defendant filed his Motion to Compel, seeking information provided to P&P officers and employees.

### **A. Arguments**

#### **1. Disclosure of the subpoenaed material is precluded by law.**

NRS 213.1075 provides that all information obtained by any P&P officer or employee is privileged:

Except as otherwise provided by specific statute, all information obtained in the discharge of official duty by a parole and probation officer or employee of the board is privileged and may not be disclosed directly or indirectly to anyone other than the board, the judge, district attorney or others entitled to receive such information, unless otherwise ordered by the board or judge or unless necessary to perform the duties of the division.

Such documents demanded by the Subpoena in this case – documentation, including communications – constitutes information obtained in the discharge of duties and, therefore, falls squarely within the protections of NRS 213.1075. Pursuant to NRS 213.1075, this file is privileged and should not be disclosed.

#### **2. The information Defendant seeks does not exist.**

Undersigned counsel avers that, after speaking with a P&P official, no additional information is contained in Defendant's P&P file. Thus, to the extent this Court rules that Defendant is entitled to the information, it should be aware that no such information exists.

///

///

///

///

///

///

1           **B.      Conclusion**

2           For the reasons herein provided, the Motion to Compel Production of Subpoenaed Materials  
3 should be denied.

4           DATED this 5th day of January, 2017.

5                                   ADAM PAUL LAXALT  
6                                   Attorney General

7                                   By: /s/ David R. Keene, II  
8                                   David R. Keene, II (Bar. No. 11826)  
9                                   Senior Deputy Attorney General  
10                                  Attorneys for The State of Nevada  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

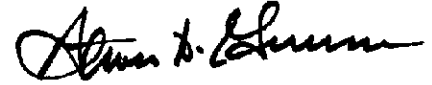
I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on January 5, 2017, I filed the foregoing **Opposition to Motion to Compel Production of Subpoenaed Materials** via this Court's electronic filing system. Parties that are registered with this Court's EFS will be served electronically. The following parties are not registered and, therefore, a copy of this document has been placed in the U.S. mail, first-class postage prepaid, addressed as follows:

T. Augustus Claus, Esq.  
Legal Resource Group, LLC  
205 North Stephanie Street, Suite D221  
Henderson, NV 89074

Attorneys for Defendant

/s/ Mary Pizzariello  
An employee of the Office of  
the Nevada Attorney General





CLERK OF THE COURT

JOC

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

KENNY SPLOND aka  
Kenya Splond  
#1138461

Defendant.

CASE NO. C296374-1

DEPT. NO. XI

JUDGMENT OF CONVICTION  
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480, COUNTS 2, 5 and 7 – BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony) in violation of NRS 205.060, COUNT 3, 6 and 8 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; and COUNTS 4 – POSSESSION OF STOLEN PROPERTY (Category B Felony) in violation of NRS 205.275(2)(c); and the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNT 1 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS

1 200.380, 199.480, COUNTS 2, 5 and 7 – BURGLARY WHILE IN POSSESSION OF A  
2 FIREARM (Category B Felony) in violation of NRS 205.060, COUNT 3, 6 and 8 –  
3 ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of  
4 NRS 200.380, 193.165; and COUNTS 4 – POSSESSION OF STOLEN PROPERTY  
5 (Category B Felony) in violation of NRS 205.275(2)(c); thereafter, on the 6<sup>th</sup> day of  
6 February, 2017, the Defendant was present in court for sentencing with counsel  
7 AUGUSTUS CLAUS, ESQ., and good cause appearing,  
8

9 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in  
10 addition to the \$25.00 Administrative Assessment Fee, \$686.71 Restitution payable to  
11 Victim in Count 3 (Brittany Slathar), \$250.00 Indigent Defense Civil Assessment Fee  
12 plus \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the Nevada  
13 Department of Corrections (NDC) as follows: **COUNT 1** - a MAXIMUM of SIXTY (60)  
14 MONTHS with a MINIMUM parole eligibility of TWELVE (12) MONTHS; **COUNT 2** - a  
15 MAXIMUM of ONE HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM parole  
16 eligibility of TWENTY-EIGHT (28) MONTHS, CONCURRENT with COUNT 1; **COUNT 3**  
17 - a MAXIMUM of ONE HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM parole  
18 eligibility of TWENTY-EIGHT (28) MONTHS plus a CONSECUTIVE term ONE  
19 HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM parole eligibility of TWENTY-  
20 EIGHT (28) MONTHS for the Use of a Deadly Weapon, CONCURRENT with COUNT  
21 2; **COUNT 4** - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility  
22 of TWENTY-FOUR (24) MONTHS, CONCURRENT with COUNTS 1, 2 & 3; **COUNT 5** -  
23 a MAXIMUM of ONE HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM parole  
24 eligibility of TWENTY-EIGHT (28) MONTHS, CONSECUTIVE to COUNTS 1, 2, 3 & 4;  
25  
26  
27  
28

1 **COUNT 6** - a MAXIMUM of ONE HUNDRED FIFTY-SIX (156) MONTHS with a  
2 MINIMUM parole eligibility of TWENTY-EIGHT (28) MONTHS plus a CONSECUTIVE  
3 term of ONE HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM parole eligibility of  
4 TWENTY-EIGHT (28) MONTHS for the Use of a Deadly Weapon, CONCURRENT with  
5 COUNT 5; **COUNT 7** - a MAXIMUM of ONE HUNDRED FIFTY-SIX (156) MONTHS  
6 with a MINIMUM parole eligibility of TWENTY-EIGHT (28) MONTHS, CONSECUTIVE  
7 to OTHER COUNTS; **COUNT 8** - a MAXIMUM of ONE HUNDRED FIFTY-SIX (156)  
8 MONTHS with a MINIMUM parole eligibility of TWENTY-EIGHT (28) MONTHS plus a  
9 CONSECUTIVE term of ONE HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM  
10 parole eligibility of TWENTY-EIGHT (28) MONTHS for the Use of a Deadly Weapon,  
11 CONCURRENT with COUNT 7; with NINE HUNDRED THIRTY-FIVE (935) DAYS  
12 credit for time served. As the \$150.00 DNA Analysis Fee and Genetic Testing have  
13 been previously imposed, the Fee and Testing in the current case are WAIVED. The  
14 AGGREGATE TOTAL sentence is NINE HUNDRED THIRTY-SIX (936) MONTHS  
15 MAXIMUM with a MINIMUM PAROLE ELIGIBILITY OF ONE HUNDRED SIXTY-EIGHT  
16 (168) MONTHS.

17 DATED this 10<sup>th</sup> day of February, 2017

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
ELIZABETH GONZALEZ  
DISTRICT COURT JUDGE  


  
CLERK OF THE COURT

NOTC

T. AUGUSTUS CLAUS, ESQ.  
LEGAL RESOURCE GROUP, LLC.  
Nevada Bar No. 10004  
205 N. Stephanie St., Suite D221  
Henderson, Nevada 89074  
(702)463-4900 Phone  
(702)463-4800 Fax  
Attorney for Defendant  
KENYA SPLOND

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENYA SPLOND

Defendant.

CASE NO. C-14-296374-1

DEPT. NO. 11

**NOTICE OF APPEAL**

Notice is hereby given that KENYA SPLOND, Defendant above named, by and through his attorney of record, T. AUGUSTUS CLAUS, ESQ., from the LEGAL RESOURCE GROUP, LLC., hereby appeals to the Supreme Court of Nevada, from Clark County District Court, his conviction. The Defendant previously appeared before the Court with counsel and entered a plea of not guilty to the crimes of COUNT 1 -CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480, COUNTS 2, 5 and 7- BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony) in violation of NRS 205.060, COUNT 3, 6 and 8- ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; and COUNTS 4- POSSESSION OF STOLEN PROPERTY (Category B Felony) in violation of NRS 205.275(2)(c); and the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNT 1 -CONSPIRACY TO

1 COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480, COUNTS 2, 5  
2 and 7- BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony) in violation  
3 of NRS 205.060, COUNT 3, 6 and 8- ROBBERY WITH USE OF A DEADLY WEAPON  
4 (Category B Felony) in violation of NRS 200.380, 193.165; and COUNTS 4- POSSESSION OF  
5 STOLEN PROPERTY (Category B Felony) in violation of NRS 205.275(2)(c); thereafter, on the  
6 6<sup>th</sup> day of February, 2017, the Defendant was present in court for sentencing with counsel  
7 AUGUSTUS CLAUS, ESQ., and good cause appearing,

8  
9 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to  
10 the \$25.00 Administrative Assessment Fee, \$686.71 Restitution payable to Victim in Count 3  
11 (Brittany Slathar), \$250.00 Indigent Defense Civil Assessment Fee plus \$3.00 DNA Collection Fee,  
12 the Defendant is SENTENCED to the Nevada Department of Corrections (NDC) as follows:

13 **COUNT 1** - a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of  
14 TWELVE (12) MONTHS; **COUNT 2**- a MAXIMUM of ONE HUNDRED FIFTY-SIX (156)  
15 MONTHS with a MINIMUM parole eligibility of TWENTY-EIGHT (28) MONTHS,  
16 CONCURRENT with COUNT 1; **COUNT 3**-a MAXIMUM of ONE HUNDRED FIFTY-SIX  
17 (156) MONTHS with a MINIMUM parole eligibility of TWENTY-EIGHT (28) MONTHS plus a  
18 CONSECUTIVE term ONE HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM parole  
19 eligibility of TWENTY- EIGHT (28) MONTHS for the Use of a Deadly Weapon, CONCURRENT  
20 with COUNT 2; **COUNT 4**- a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole  
21 eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with COUNTS 1, 2 & 3; **COUNT**  
22 **5**- a MAXIMUM of ONE HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM parole  
23 eligibility of TWENTY-EIGHT (28) MONTHS, CONSECUTIVE to COUNTS 1, 2, 3 & 4;

24 **COUNT 6**- a MAXIMUM of ONE HUNDRED FIFTY-SIX (156) MONTHS with a  
25 MINIMUM parole eligibility of TWENTY-EIGHT (28) MONTHS plus a CONSECUTIVE term of  
26 ONE HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM parole eligibility of TWENTY-  
27 EIGHT (28) MONTHS for the Use of a Deadly Weapon, CONCURRENT with COUNT 5;

1 **COUNT 7-** a MAXIMUM of ONE HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM  
2 parole eligibility of TWENTY-EIGHT (28) MONTHS, CONSECUTIVE to OTHER COUNTS;  
3 **COUNT 8-** a MAXIMUM of ONE HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM  
4 parole eligibility of TWENTY-EIGHT (28) MONTHS plus a CONSECUTIVE term of ONE  
5 HUNDRED FIFTY-SIX (156) MONTHS with a MINIMUM parole eligibility of TWENTY-  
6 EIGHT (28) MONTHS for the Use of a Deadly Weapon, CONCURRENT with COUNT 7; with  
7 NINE HUNDRED THIRTY-FIVE (935) DAYS credit for time served. As the \$150.00 DNA  
8 Analysis Fee and Genetic Testing have been previously imposed, the Fee and Testing in the current  
9 case are WAIVED. The AGGREGATE TOTAL sentence is NINE HUNDRED THIRTY-SIX (936)  
10 MONTHS MAXIMUM with a MINIMUM PAROLE ELIGIBILITY OF ONE HUNDRED SIXTY-  
11 EIGHT (168) MONTHS.

12 DATED this 2<sup>nd</sup> day of March, 2017.

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

LEGAL RESOURCE GROUP, LLC.

/s/ T. Augustus Claus  
T. AUGUSTUS CLAUS, ESQ.  
Nevada Bar No. 10004  
205 N. Stephanie St., Suite D221  
Henderson, Nevada 89074

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of **LEGAL RESOURCE GROUP, LLC.**, and that on the 2<sup>nd</sup> day of March, 2017, I caused the Notice of Appeal to be served as follows:

☐ by placing a true and correct copy of the same to be deposited for mailing in the U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or

☐ pursuant to EDCR 7.26, by sending it via facsimile; and/or

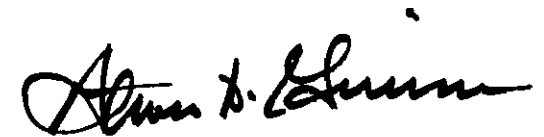
☐ by hand delivery via runner

☒ via electronic service

to the attorneys listed below:

DISTRICT ATTORNEY'S OFFICE  
Clark County District Attorney  
200 South Lewis Avenue  
Las Vegas, Nevada 89155  
[pdmotions@clarkcountyda.com](mailto:pdmotions@clarkcountyda.com)

/s/ Tobi Caperon  
An Employee of the Legal Resource Group, LLC.



CLERK OF THE COURT

**REQ**  
T. AUGUSTUS CLAUS, ESQ.  
LEGAL RESOURCE GROUP, LLC.  
Nevada Bar No. 10004  
205 N. Stephanie St., Suite D221  
Henderson, Nevada 89074  
(702)463-4900 Phone  
(702)463-4800 Fax  
Counsel for Defendant  
KENYA SPLOND

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff,

vs.

KENYA SPLOND

Defendant.

CASE NO. C-14-296374-1  
DEPT. NO. 11

**REQUEST FOR ROUGH DRAFT**  
**TRANSCRIPT**

**TO: JILL HAWKINS**

KENYA SPLOND, Defendant, thru his attorney T. Augustus Claus from the Legal Resource Group, LLC., requests preparation of a Transcripts of the proceedings before the District Court on:

-3/5/14 – Grand Jury Indictment

-3/12/14 – All Pending Motions

- 4/2/14 – Calendar Call

- 4/30/14 – Status Check

- 6/16/14 – Status Check

- 7/14/14 – Status Check

- 7/16/14 – Status Check

- 8/13/14 – Calendar Call

- 9/8/14 – Status Check



1 - 9/15/14 – Status Check  
2 - 10/1/14 – Status Check  
3 - 3/18/15 – Motion to Consolidate  
4 - 4/8/15 – Request  
5 - 4/15/15 – Status Check  
6 - 4/20/15 – Status Check  
7 - 4/22/15 – Confirmation of Counsel  
8 - 7/29/15 – Status Check  
9 - 8/12/15 – Status Check  
10 - 8/19/15 – Calendar Call  
11 - 10/5/15 – Motion to Continue Trial  
12 - 12/30/15 – Calendar Call  
13 - 1/4/16 – Calendar Call  
14 - 1/11/16 – Status Check  
15 - 3/2/16 – Calendar Call  
16 - 3/11/16 – Overflow  
17 - 3/11/16 – Telephonic Conference  
18 - 3/15/16 – Jury Trial  
19 - 3/16/16 – All Pending Motions  
20 - 3/18/16 – Status Check  
21 - 3/21/16 - Motion  
22 - 3/21/16 – Jury Trial  
23 - 3/22/16 – Jury Trial  
24 - 3/23/16 – Jury Trial  
25 - 3/24/16 – Jury Trial  
26 -7/20/16 – Sentencing  
27 -8/10/16 – Sentencing  
28 -9/7/16 – Sentencing

1 -10/12/16 – Sentencing  
2 -11/23/16 – Sentencing  
3 -12/21/16 – Sentencing  
4 -1/9/17 – Sentencing & Motion to Compel  
5 -1/23/17 – Sentencing & Motion to Compel  
6 -2/6/17 – Sentencing

7 This notice requests a Transcript of the District Court proceedings which counsel reasonably  
8 and in good faith believes are necessary to determine whether appellate issues are present.

9 I recognize that I must personally serve a copy of this form on the above named court  
10 reporter and to the District Attorneys Office, and that the above named court reporter shall have  
11 twenty (21) days from the receipt of this notice to prepare and submit to the District Court the  
12 Transcript requested herein.

13 Dated this 2<sup>nd</sup> day of March, 2017.

14 LEGAL RESOURCE GROUP, LLC.

15 By: /s/ T. Augustus Claus  
16 T. AUGUSTUS CLAUS, ESQ.  
17 Nevada Bar No. 10004  
18 205 N. Stephanie St., Suite D221  
19 Henderson, Nevada 89074  
20 (702)463-4900 Phone  
21 (702)463-4800 Fax  
22  
23  
24  
25  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of **LEGAL RESOURCE**  
3 **GROUP, LLC.**, and that on the 2<sup>nd</sup> day of March, 2017, I caused the Request for Rough Draft  
4 Transcripts to be served as follows:

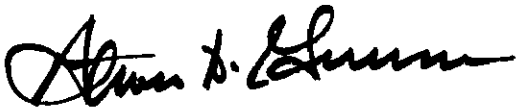
- 5 ☐ by placing a true and correct copy of the same to be deposited for mailing in the U.S.  
6 Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class  
7 postage was fully prepaid; and/or  
8 ☐ pursuant to EDCR 7.26, by sending it via facsimile; and/or  
9 ☐ by hand delivery via runner  
10 ☒ via electronic service

11 to the attorneys listed below:

12 DISTRICT ATTORNEY'S OFFICE  
13 Clark County District Attorney  
14 200 South Lewis Avenue  
15 Las Vegas, Nevada 89155  
[pdmotions@clarkcountyda.com](mailto:pdmotions@clarkcountyda.com)

16 Jill Hawkins  
17 Court Reporter  
[hawkinsj@clarkcountycourts.us](mailto:hawkinsj@clarkcountycourts.us)

18  
19 /s/ Tobi Caperon  
20 An Employee of the Legal Resource Group, LLC.

  
CLERK OF THE COURT

1 **ASTA**  
2 T. AUGUSTUS CLAUS, ESQ.  
3 LEGAL RESOURCE GROUP, LLC.  
4 Nevada Bar No. 10004  
5 205 N. Stephanie St., Suite D221  
6 Henderson, Nevada 89074  
7 (702)463-4900 Phone  
8 (702)463-4800 Fax  
9 Attorney for Defendant  
10 KENYA SPLOND

7 **DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

10 STATE OF NEVADA,

11 Plaintiff,

12 vs.

13 KENYA SPLOND

14 Defendant.

CASE NO. C-14-296374-1

DEPT. NO. 11

16 **CASE APPEAL STATEMENT**

17 1. Name of appellant filing this case appeal statement:

18 KENYA SPLOND

19 2. Identity of the judge issuing the decision, judgment, or order appealed from:

20 Judge ELIZABETH GONZALEZ

21 3. Identity of all parties to the proceedings in the District Court:

22 Plaintiff – State of Nevada

23 Defendant – KENYA SPLOND

24 4. Identity of all parties involved in this appeal:

25 KENYA SPLOND, Appellant;

26 State of Nevada (Clark County District Attorney's Office), Respondent

1 5. The name, law firm, address, and telephone number of all counsel on appeal and  
2 indentify the party or parties whom they represent:

3  
4 T. Augustus Claus, Esq., Legal Resource Group, LLC., 205 N. Stephanie St., Suite  
5 D221, Henderson, NV 89074. Phone # 702-463-4900 – Counsel for Appellant

6  
7 Steven Wolfson, Clark County District Attorney's Office, 200 Lewis Ave., Las  
8 Vegas, NV 89155. Phone # 702-671-2500 – Counsel for State

9  
10 6. Indicate whether appellant is represented by appointed or retained counsel in the District  
11 Court:

12 Appointed

13 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

14 Appointed

15 8. Indicate whether appellant was granted leave to proceed in forma pauperies, and the date  
16 of the entry of the District Court order granting such leave:

17 No

18 9. Indicate the date the proceedings commenced in the District Court:

19 February 6<sup>th</sup>, 2017.

20  
21 DATED this 2<sup>nd</sup> day of March, 2017.

22 Respectfully submitted,

23  
24 by: /s/ T. Augustus Claus

25 T. AUGUSTUS CLAUS, ESQ.  
26 LEGAL RESOURCE GROUP, LLC.  
27 Nevada Bar No. 10004  
28 205 N. Stephanie St., Suite D221  
Henderson, Nevada 89074

**CERTIFICATE OF SERVICE**

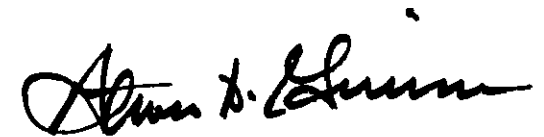
Pursuant to NRCP 5(b), I hereby certify that I am an employee of **LEGAL RESOURCE GROUP, LLC.**, and that on the 2<sup>nd</sup> day of March, 2017, I caused the Case Appeal Statement to be served as follows:

- ☐ by placing a true and correct copy of the same to be deposited for mailing in the U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or
- ☐ pursuant to EDCR 7.26, by sending it via facsimile; and/or
- ☐ by hand delivery via runner
- ☒ via electronic service

to the attorneys listed below:

DISTRICT ATTORNEY'S OFFICE  
Clark County District Attorney  
200 South Lewis Avenue  
Las Vegas, Nevada 89155  
pdmotions@clarkcountyda.com

/s/ Tobi Caperon  
An Employee of the Legal Resource Group, LLC.



CLERK OF THE COURT

**REQ**  
T. AUGUSTUS CLAUS, ESQ.  
LEGAL RESOURCE GROUP, LLC.  
Nevada Bar No. 10004  
205 N. Stephanie St., Suite D221  
Henderson, Nevada 89074  
(702)463-4900 Phone  
(702)463-4800 Fax  
Counsel for Defendant  
KENYA SPLOND

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff,

vs.

KENYA SPLOND

Defendant.

CASE NO. C-14-296374-1  
DEPT. NO. 11

**REQUEST FOR ROUGH DRAFT**  
**TRANSCRIPT**

**TO: JILL HAWKINS, CHERYL CARPENTER, LISA LIZOTTE, RENEE VINCENT,  
CYNTHIA GEORGILAS, JILL JACOBY**

KENYA SPLOND, Defendant, thru his attorney T. Augustus Claus from the Legal Resource Group, LLC., requests preparation of a Transcripts of the proceedings before the District Court on:

-3/5/14 – Grand Jury Indictment

-3/12/14 – All Pending Motions

- 4/2/14 – Calendar Call

- 4/30/14 – Status Check

- 6/16/14 – Status Check

- 7/14/14 – Status Check

- 7/16/14 – Status Check

- 8/13/14 – Calendar Call

1 - 9/8/14 – Status Check  
2 - 9/15/14 – Status Check  
3 - 10/1/14 – Status Check  
4 - 3/18/15 – Motion to Consolidate  
5 - 4/8/15 – Request  
6 - 4/15/15 – Status Check  
7 - 4/20/15 – Status Check  
8 - 4/22/15 – Confirmation of Counsel  
9 - 7/29/15 – Status Check  
10 - 8/12/15 – Status Check  
11 - 8/19/15 – Calendar Call  
12 - 10/5/15 – Motion to Continue Trial  
13 - 12/30/15 – Calendar Call  
14 - 1/4/16 – Calendar Call  
15 - 1/11/16 – Status Check  
16 - 3/2/16 – Calendar Call  
17 - 3/11/16 – Overflow  
18 - 3/11/16 – Telephonic Conference  
19 - 3/15/16 – Jury Trial  
20 - 3/16/16 – All Pending Motions  
21 - 3/18/16 – Status Check  
22 - 3/21/16 - Motion  
23 - 3/21/16 – Jury Trial  
24 - 3/22/16 – Jury Trial  
25 - 3/23/16 – Jury Trial  
26 - 3/24/16 – Jury Trial  
27 - 7/20/16 – Sentencing  
28 - 8/10/16 – Sentencing





1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of **LEGAL RESOURCE**  
3 **GROUP, LLC.**, and that on the 2<sup>nd</sup> day of March, 2017, I caused the Request for Rough Draft  
4 Transcripts to be served as follows:

5 ☐ by placing a true and correct copy of the same to be deposited for mailing in the U.S.  
6 Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class  
postage was fully prepaid; and/or

7 ☐ pursuant to EDCR 7.26, by sending it via facsimile; and/or

8 ☐ by hand delivery via runner

9 ☒ via electronic service

10 to the attorneys listed below:

11 DISTRICT ATTORNEY'S OFFICE  
12 Clark County District Attorney  
200 South Lewis Avenue  
13 Las Vegas, Nevada 89155  
[pdmotions@clarkcountyda.com](mailto:pdmotions@clarkcountyda.com)  
14

15 Jill Hawkins  
Court Reporter  
16 [hawkinsj@clarkcountycourts.us](mailto:hawkinsj@clarkcountycourts.us)

17 Jill Jacoby  
Court Reporter  
18 [jacobyj@clarkcountycourts.us](mailto:jacobyj@clarkcountycourts.us)

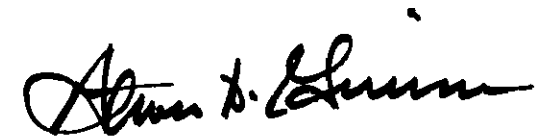
19 Lisa Lizotte  
Court Reporter  
20 [lizottel@clarkcountycourts.us](mailto:lizottel@clarkcountycourts.us)  
21

22 Renee Vincent  
Court Reporter  
23 [vincentr@clarkcountycourts.us](mailto:vincentr@clarkcountycourts.us)

24 Cynthia Georgilas  
Court Reporter  
25 [georgilasc@clarkcountycourts.us](mailto:georgilasc@clarkcountycourts.us)

26 Cheryl Carpenter  
Court Reporter  
27 [carpenterc@clarkcountycourts.us](mailto:carpenterc@clarkcountycourts.us)  
28

/s/ Tobi Caperon  
An Employee of the Legal Resource Group, LLC.



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENYA SPLOND,  
AKA KENNY SPLOND

Defendant.

CASE NO. C296111  
C296374  
DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
WEDNESDAY, MARCH 12, 2014

**TRANSCRIPT OF PROCEEDINGS**  
**STATUS CHECK: INDICTMENT RETURN IN C296374**  
**INITIAL ARRAIGNMENT**  
**INDICTMENT WARRANT RETURN**

APPEARANCES:

For the State:

AGNES LEXIS, ESQ.  
Deputy District Attorney

For the Defendant:

FRANK KOCKA, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

1 WEDNESDAY, MARCH 12, 2014 AT 8:40 A.M.

2  
3 THE COURT: C296111, Kenya Splond, and C296374.

4 MR. KOCKA: Good morning, Your Honor.

5 THE COURT: Defendant is present in custody. These are indictment  
6 returns?

7 MR. KOCKA: Yes, sir. I would confirm as his attorney at this time, Your  
8 Honor. He's got a copy of the information, he's read it this morning, we waive the  
9 reading.

10 THE COURT: Are you appointed or retained?

11 MR. KOCKA: Retained.

12 THE COURT: Okay. Does he invoke or waive his right to a speedy trial?

13 MR. KOCKA: Your Honor, we've already -- one of the cases needs to be  
14 dismissed because it came up through lower level already. They took it subsequent  
15 to the grand jury. We have a trial in front of you already set on that case for April 7<sup>th</sup>.  
16 So, I think, what we need to do is a little housekeeping this morning. Get a plea on  
17 the new information, dismiss the underlying case, which has been incorporated into  
18 the information here, and then we have to reset a new trial date. He is invoking.

19 MS. LEXIS: That's correct, Your Honor. Good morning.

20 C296111 needs to be dismissed by way of superseding indictment,  
21 which is C296374. And we would need a new trial date, he invoked.

22 THE COURT: And that's conspiracy to commit robbery, burglary in  
23 possession of a firearm, robbery with the use, and possession of stolen property?

24 MS. LEXIS: That's correct, Your Honor.

25 THE COURT: Is that your understanding as well?

1 MR. KOCKA: Yes, sir. And we would need to vacate the trial date already  
2 set in that as well.

3 THE COURT: We'll vacate that trial date, dismiss C296111.

4 Invoke or waive?

5 MR. KOCKA: Invoke.

6 THE COURT: Invoke the right to a speedy trial.

7 THE CLERK: April 7<sup>th</sup> at 8:00 a.m. Calendar call is April 2<sup>nd</sup>.

8 THE COURT: Any motions you can file in writing, please.

9 MR. KOCKA: Thank you.

10 I don't believe at this point that we've actually taken a plea from my  
11 client.

12 THE COURT: Well, you entered a plea on his behalf.

13 MR. KOCKA: I did, but he is present --

14 THE COURT: How do you plead to the four felony charges?

15 THE DEFENDANT: Not guilty.

16 THE COURT: All right.

17 MR. KOCKA: Thank you, Your Honor. I appreciate it.

18 [Proceeding concluded at 8:41 a.m.]

19  
20  
21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 Gina Villani  
25 Court Recorder



1 WEDNESDAY, APRIL 2, 2014 AT 8:54 A.M.

2  
3 THE COURT: C296374, Kenya Splond.

4 MR. KOCKA: Judge, I'm actually starting trial with Judge Barker in about an  
5 hour, it's supposed to go two weeks, so I'm not going to be able to do this one.

6 THE COURT: All right.

7 MR. KOCKA: I'm trying to get together with the DA, get an offer on the table.  
8 I think we're probably going to get this one resolved. So if you want to set it for a  
9 status check in about 30 days?

10 THE COURT: 30 day status check.

11 MR. KOCKA: Thanks, Judge.

12 THE COURT: And if we can't, we'll reset the trial then.

13 MR. KOCKA: Yep, we'll reset it at that time.

14 THE CLERK: April 30<sup>th</sup> at 8:00 a.m.

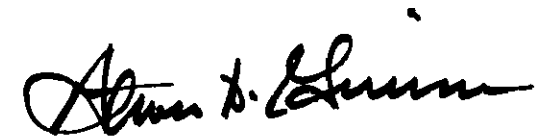
15 THE COURT: Thanks.

16 MR. KOCKA: Thank you, Judge. I appreciate it.

17 [Proceeding concluded at 8:55 a.m.]  
18  
19  
20

21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23   
24 \_\_\_\_\_  
Gina Villani  
Court Recorder  
25



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENYA SPLOND,  
AKA KENNY SPLOND

Defendant.

CASE NO. C296374

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
WEDNESDAY, APRIL 30, 2014

**TRANSCRIPT OF PROCEEDINGS**  
**STATUS CHECK: NEGOTIATIONS/RESET TRIAL**

APPEARANCES:

For the State:

TIERRA JONES, ESQ.  
Deputy District Attorney

For the Defendant:

FRANK KOCKA, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER



1 WEDNESDAY, APRIL 30, 2014 AT 8:31 A.M.

2  
3 THE COURT: C296374, Kenya Splond.

4 MR. KOCKA: Judge, the district attorney that's been assigned to this case is  
5 not here, but I believe she's left the file, and it's her request that we just set a new  
6 trial date in the case.

7 MS. JONES: That is correct, Your Honor.

8 THE COURT: All right. New trial date set for -- did he waive?

9 MR. KOCKA: I believe he did, Judge.

10 I'd also like to set a status check in addition to the trial.

11 THE COURT: Because our ordinary course is in 2015.

12 MR. KOCKA: Judge, why don't we do this --

13 THE COURT: We'll have a status check in 45 days.

14 MR. KOCKA: Perfect. Because there's an offer that's floating around out  
15 there, we just need to finalize it.

16 THE COURT: Set the trial in 2015, criminal trial.

17 You waived your right to a speedy trial, yes?

18 MR. KOCKA: He did, Judge.

19 THE COURT: Is that right?

20 THE DEFENDANT: Yes.

21 THE COURT: All right.

22 THE CLERK: Calendar call is January 28<sup>th</sup>, 2015, at 8:00 a.m. Trial is  
23 February 2<sup>nd</sup> at 9:30. The status check date would be June 6<sup>th</sup> --

24 THE COURT: Possible negotiations.

25 THE CLERK: -- at 8:00 a.m. Oh, I'm sorry, June 16<sup>th</sup>.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MS. JONES: June 16<sup>th</sup>?


THE CLERK: Correct.

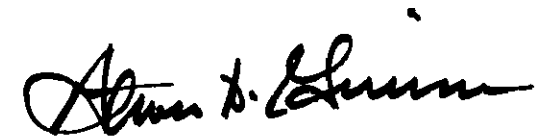
MR. KOCKA: Thank you, Judge. I appreciate it.

THE COURT: All right.

[Proceeding concluded at 8:32 a.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual recording in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
Gina Villani  
Court Recorder



CLERK OF THE COURT

1 RTRAN

2

3

4

5

DISTRICT COURT  
CLARK COUNTY, NEVADA

6

7

8

STATE OF NEVADA,

9

Plaintiff,

10

vs.

11

12

KENYA SPLOND,  
AKA KENNY SPLOND

13

14

Defendant.

15

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
MONDAY, JUNE 16, 2014

16

17

**TRANSCRIPT OF PROCEEDINGS**  
**STATUS CHECK: POSSIBLE NEGOTIATIONS**

18

19

APPEARANCES:

20

For the State:

21

AGNES LEXIS, ESQ.  
Deputy District Attorney

22

For the Defendant:

23

FRANK KOCKA, ESQ.

24

25

RECORDED BY: JILL JACOBY, COURT RECORDER

1 MONDAY JUNE 16, 2014 AT 9:12 A.M.

2  
3 THE COURT: C296374, Kenya Splond.

4 MR. KOCKA: Good morning, Judge.

5 THE COURT: Hey.

6 MR. KOCKA: He is present in custody.

7 Your Honor, we have been going back and forth with Ms. Lexis of the  
8 DA's office trying to get an offer, a global offer on the table. He has a prelim down  
9 at Department 3, and a sentencing currently set in Department 2. I know we set this  
10 a couple of times for status checks. Ms. Lexis has assured me she's going to make  
11 an offer. She's cautioned it by saying I may not like the offer, but she's going to be  
12 getting me an offer for sure.

13 THE COURT: All right. 30 days to get this cleaned up.

14 MR. KOCKA: Thank you, Judge.

15 THE CLERK: July 14<sup>th</sup> 8:00 a.m.

16 THE COURT: Thanks, Frank.

17 MR. KOCKA: Good seeing you, Judge.

18 THE COURT: Good seeing you.

19 [Proceeding concluded at 9:13 a.m.]

20  
21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 Gina Villani  
25 Court Recorder

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

---

**No. 72545**

---

**KENYA SPLOND**  
Appellant,

vs.

**STATE OF NEVADA**  
Respondent.

---

Appeal from a Judgment of Conviction  
Eighth Judicial District Court, Clark County  
The Honorable Elizabeth Gonzalez, District Court

---

**APPENDIX VOL 2**

---

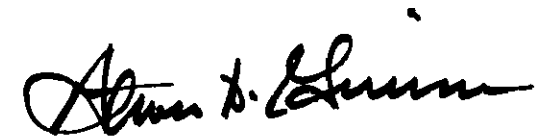
T. AUGUSTUS CLAUS, ESQ.  
Legal Resource Group, LLC.  
Nevada Bar No. 10004  
205 N. Stephanie St., Suite D221  
Henderson, NV 89074  
Telephone: (702) 463-4900  
Fax: (702) 463-4800  
Attorney for KENYA SPLOND

000284

## TABLE OF CONTENTS

Transcript of Negotiation.....	AA-000251-AA-000252
Transcript of Status Check.....	AA-000253-AA-000254
Transcript of Calendar Call.....	AA-000255-AA-000258
Transcript of Negotiation.....	AA-000259-AA-000262
Transcript of Negotiation.....	AA-000263-AA-000266
Transcript of Negotiation.....	AA-000267-AA-000268
Transcript of Motion to Consolidate.....	AA-000269-AA-000273
Transcript of Amended Indictment.....	AA-000274-AA-000275
Transcript of Status Check.....	AA-000276-AA-000278
Transcript of Status Check.....	AA-000276-AA-000278
Transcript of Status Check.....	AA-000279-AA-000281
Transcript of Confirmation of Counsel.....	AA-000282-AA-000283
Transcript of Calendar Call.....	AA-000289-AA-000292
Transcript of Trial Readiness.....	AA-000286-AA-000288
Transcript of Calendar Call.....	AA-000289-AA-000292
Transcript of Trial Date.....	AA-000293-AA-000296
Transcript of Calendar Call.....	AA-000297-AA-000298
Transcript of Calendar Call.....	AA-000299-AA-000301

Transcript of Trial Date.....	AA-000302-AA-000305
Transcript of Calendar Call.....	AA-000306-AA-000308
Transcript of Overflow.....	AA-000309-AA-000311
Transcript of Telephone Conference.....	AA-000312-AA-000317
Transcript of Jury Trial.....	AA-000318-AA-000370
Transcript of Resetting Trial.....	AA-000371-AA-000379
Transcript of Status Check.....	AA-000380-AA-000387
Transcript of Jury Trial Day 1.....	AA-000388-AA-000456
Transcript of Jury Trial Day 2.....	AA-000457-AA-000500



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENYA SPLOND,  
AKA KENNY SPLOND

Defendant.

CASE NO. C296374

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
MONDAY, JULY 14, 2014

**TRANSCRIPT OF PROCEEDINGS**  
**STATUS CHECK: POSSIBLE NEGOTIATIONS**

APPEARANCES:

For the State:

WILLIAM DIXON, ESQ.  
Deputy District Attorney

For the Defendant:

NOT PRESENT

RECORDED BY: JILL JACOBY, COURT RECORDER



1 MONDAY, JULY 14, 2014 AT 9:02 A.M.

2  
3 THE COURT: C296374, Kenny Splond.

4 When is the codefendant's trial set?

5 MR. DIXON: I can give you the codefendant's name, if you could please look  
6 it up, Your Honor.

7 I just got a text from the deputy in charge of this case, and she's in  
8 court this morning, the codefendant is Kellie Chapman, K-E-L-L-I-E.

9 THE COURT: I have the chief clerk here, she'll tell me.

10 THE CLERK: Jury trial is -- or calendar call is August 13<sup>th</sup>, and the jury trial is  
11 August 18<sup>th</sup>.

12 THE COURT: All right. We'll have a status check on Wednesday to make  
13 sure those dates are good with Mr. late Frank Kocka.

14 THE CLERK: That will be July 16<sup>th</sup> 8:00 a.m.

15 MR. DIXON: Thank you, Your Honor.

16 [Proceeding concluded at 9:02 a.m.]  
17  
18  
19  
20

21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 Gina Villani  
25 Court Recorder

DISTRICT COURT  
CLARK COUNTY, NEVADA

DEPT. VIII

**TRANSCRIPT OF PROCEEDINGS**  
**STATUS CHECK: TRIAL DATE**

NOT PRESENT

000289  
**AA000253**

1 WEDNESDAY, JULY 16, 2014 AT 9:50 A.M.

2  
3 THE COURT: Did we ever get ahold of Kocka?

4 THE MARSHAL: I made three calls, got the message machine all three  
5 times. And I got ahold of him Monday to be here. He came in the court.

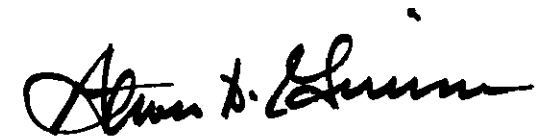
6 THE COURT: Trial date stands on Mr. Splond.

7 [Proceeding concluded at 9:50 a.m.]  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 Gina Villani  
25 Court Recorder



CLERK OF THE COURT

1 RTRAN  
2  
3  
4

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11  
12 KENYA SPLOND,  
13 AKA KENNY SPLOND  
KELLIE ERIN CHAPMAN,

14 Defendants.

CASE NO. C296374

DEPT. VIII

15 BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
16 WEDNESDAY, AUGUST 13, 2014

17 **TRANSCRIPT OF PROCEEDINGS**  
18 **CALENDAR CALL**

19 APPEARANCES:

20 For the State:

TIERRA JONES, ESQ.  
Deputy District Attorney

22 For the Defendant Kenya Splond:

FRANK KOCKA, ESQ.

23 For the Defendant Kellie Erin Chapman:

ROY NELSON, ESQ.

24  
25 RECORDED BY: JILL JACOBY, COURT RECORDER

1 WEDNESDAY, AUGUST 13, 2014 AT 8:33 A.M.

2  
3 THE COURT: C296374, Kenya Splond.

4 MR. KOCKA: Good morning, Your Honor.

5 THE COURT: Hey.

6 MR. KOCKA: Good to see you.

7 THE COURT: Good to see you.

8 What are you doing?

9 MR. KOCKA: What am I doing, Judge?

10 THE COURT: You're not ready for trial?

11 MR. KOCKA: No, Judge. I spoke to Ms. Lexis yesterday -- I believe also the  
12 codefendant's been picked up, and Mr. Nelson is on that case as well. He's in trial  
13 right now. I've got the Banditos (phonetic) trial coming up in Department 2 that we  
14 are gearing up for.

15 And at this point, I spoke to Ms. Lexis, there is an offer outstanding  
16 that -- although their offer is not really all that great. We're going to be asking for a  
17 continuance in this case. If you want to set it for status check negotiation and reset  
18 the trial.

19 THE COURT: When do you want it back on?

20 MR. KOCKA: 30 days.

21 THE COURT: 30 days, okay.

22 THE CLERK: September 8<sup>th</sup> at 8:00 a.m.

23 MR. KOCKA: Thank you, Judge.

24 THE COURT: Thanks.

25 THE CLERK: And then we'll set trial at that time.

1 MS. JONES: And you said the trial is vacated?  
2 MR. KOCKA: Trial is vacated?  
3 THE COURT: Trial dates vacated.  
4 MR. KOCKA: Thank you, Judge.  
5 [Matter trailed at 8:34 a.m.]  
6 [Matter recalled at 9:13 a.m.]  
7 THE COURT: How about C296374, Kellie Chapman.  
8 MR. NELSON: She's present in custody, in the back, Your Honor.  
9 THE COURT: Are you ready to go to trial?  
10 MR. NELSON: I'm not, Judge. I got set in Judge Herndon already for next  
11 week on an invoked. I need to file a motion to request for bail.  
12 It's my understanding the codefendant got set over for 30 days; is that  
13 correct?  
14 MS. JONES: That's correct, 9-8.  
15 THE COURT: Why are we split apart?  
16 MS. JONES: You heard it because Mr. Kocka was here, Judge.  
17 THE COURT: Oh.  
18 MR. NELSON: If we can have the same date?  
19 THE COURT: That's fine.  
20 ///  
21 ///  
22 ///  
23 ///  
24 ///  
25 ///

1 MR. NELSON: I think I can have it negotiated and done by then.

2 THE COURT: All right.

3 THE CLERK: September 8<sup>th</sup> at 8:00 a.m.

4 THE COURT: Thanks.

5 MR. NELSON: Thank you.

6 [Proceeding concluded at 9:14 a.m.]

7

8

9

10

11

12

13

14

15

16


17

18

19

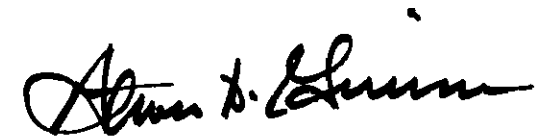
20

21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 \_\_\_\_\_  
Gina Villani  
Court Recorder

25



CLERK OF THE COURT

1 RTRAN  
2  
3  
4

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11  
12 KENYA SPLOND,  
13 AKA KENNY SPLOND  
KELLIE ERIN CHAPMAN,

14 Defendants.

CASE NO. C296374

DEPT. VIII

15 BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
16 MONDAY, SEPTEMBER 8, 2014

17 **TRANSCRIPT OF PROCEEDINGS**  
18 **STATUS CHECK: NEGOTIATIONS**

19 APPEARANCES:

20 For the State:

MARC DIGIACOMO, ESQ.  
Chief Deputy District Attorney

22 For the Defendant Kenya Splond:

FRANK KOCKA, ESQ.

23 For the Defendant Kellie Erin Chapman:

Roy Nelson, ESQ.

24  
25 RECORDED BY: JILL JACOBY, COURT RECORDER



1 MONDAY, SEPTEMBER 8, 2014 AT 8:26 A.M.

2  
3 THE COURT: C296374, Kellie Chapman.

4 Don't we need Kocka here on Splond?

5 MR. DIGIACOMO: I don't know if it's Kocka or Hendron. But we need --

6 THE COURT: I show Kocka on the calendar.

7 [Colloquy between Court and Clerk]

8 MR. DIGIACOMO: I know that Mr. Hendron took over many of Kocka's track  
9 cases. So if it's a track appointment, Mr. Hendron may be showing up on it.

10 THE COURT: Kocka isn't a track attorney here though.

11 MR. DIGIACOMO: Okay.

12 THE COURT: So we have a new track attorney, or he's a track attorney in  
13 the other --

14 MR. DIGIACOMO: I don't remember which department. He's in one of the  
15 two departments. It may be the other department, Judge.

16 THE COURT: All right.

17 [Colloquy between Court and Clerk]

18 THE COURT: Do you have Kocka's cell number?

19 THE MARSHAL: Yes.

20 THE COURT: Call him. Tell him I'd call him, but I'm busy.

21 [Matter trailed at 8:28 a.m.]

22 [Matter recalled at 8:44 a.m.]

23 THE COURT: C296374, Kenya Splond.

24 MR. KOCKA: Good morning, Judge. This is on status check negotiations.  
25 My understanding is is that Ms. Lexis just returned, and Ms. Trippiedi just brought

1 Mr. Splond up through the grand jury on another case. I think the indictment just  
2 came down about two weeks ago. As of this date, I have not received an offer from  
3 either one of them, this was on status check. So if you want to kick it a week, I'll see  
4 if Ms. Lexis is done with her vacation, and then Ms. Trippiedi can get together and  
5 maybe we can get something done.

6 THE COURT: All right. Pass it another week.

7 MR. KOCKA: Thank you, Judge.

8 THE COURT: Thanks.

9 THE CLERK: September 15<sup>th</sup> at 8:00 a.m.

10 [Colloquy between Court and Clerk]

11 MR. DIGIACOMO: Judge, is this the same representations for the  
12 codefendant Ms. Chapman as well? I know Mr. Nelson has --

13 THE COURT: We'll find out. We'll find out. He's -- let's finish -- he's working  
14 the Dickens case, the Dickens out of the case.

15 [Matter trailed at 8:45 a.m.]

16 [Matter recalled at 8:55 a.m.]

17 THE COURT: C296374, Kellie Chapman. It's set for September 15<sup>th</sup> at  
18 8 o'clock. It's a status check.

19 Was she charged in that same indictment?

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. NELSON: I don't believe so.


THE COURT: The new one, okay.

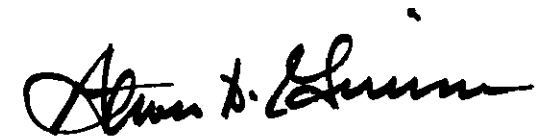
MR. NELSON: Thank you, Your Honor.

THE COURT: We can set a trial then. Thanks.

[Proceeding concluded at 8:55 a.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual recording in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
Gina Villani  
Court Recorder



CLERK OF THE COURT

1 RTRAN

2

3

4

5

DISTRICT COURT  
CLARK COUNTY, NEVADA

6

7

8

STATE OF NEVADA,

9

Plaintiff,

10

vs.

11

12

KENYA SPLOND,  
AKA KENNY SPLOND

13

KELLIE ERIN CHAPMAN,

14

Defendants.

15

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE

16

MONDAY, SEPTEMBER 15, 2014

17

**TRANSCRIPT OF PROCEEDINGS**  
**STATUS CHECK: NEGOTIATIONS**

18

19

APPEARANCES:

20

For the State:

AGNES LEXIS, ESQ.  
Deputy District Attorney

21

22

For the Defendant Kenya Splond:

FRANK KOCKA, ESQ.

23

For the Defendant Kellie Erin Chapman:

ROY NELSON, ESQ.

24

25

RECORDED BY: JILL JACOBY, COURT RECORDER

1 MONDAY, SEPTEMBER 15, 2014 AT 8:28 A.M.

2  
3 THE COURT: C296374, Kellie Chapman.

4 Have you got ahold of Kocka yet?

5 THE MARSHAL: I put two calls in. I got his answer machine.

6 THE COURT: All right.

7 MR. NELSON: Judge, his client was indicted on new charges. My client was  
8 not. We think we -- Ms. Lexis and I have talked this morning. Her dad's been  
9 present at every single court appearance as well. We think we're close to an offer.

10 THE COURT: Okay.

11 MR. NELSON: And so I'd ask for two weeks as a status check, if that's okay  
12 with the State?

13 MS. LEXIS: Yes, it is, Your Honor.

14 And just for the record, I had previously conveyed an offer to Mr. Kocka  
15 regarding the codefendant Mr. Splond --

16 THE COURT: Splond's not on. So let's not talk about that without an  
17 attorney present.

18 MS. LEXIS: All right.

19 THE COURT: Let's just talk about Chapman.

20 MS. LEXIS: Okay.

21 THE COURT: Two weeks okay?

22 MS. LEXIS: Two weeks is okay.

23 THE COURT: All right. Two weeks.

24 THE CLERK: September 29<sup>th</sup> at 8:00 a.m.

25 THE COURT: And then we'll get Kocka here.

1 MS. LEXIS: Okay.

2 [Matter trailed at 8:29 a.m.]

3 [Matter recalled at 8:49 a.m.]

4 THE COURT: C296374, Kenya Splond.

5 MR. KOCKA: Good morning, Judge.

6 THE COURT: Hey.

7 MR. KOCKA: Oh, it's you.

8 THE COURT: This is time for probably a negotiation, but he got picked up on

9 a new case, an indicted.

10 MR. KOCKA: Oh, yeah, he didn't get picked. It's ever since he's been here,

11 Judge.

12 THE COURT: Oh, he's been here, okay.

13 MR. KOCKA: They're just dragging their heels indicting him.

14 THE COURT: They got him indicted.

15 MR. KOCKA: Yeah, I know.

16 MS. LEXIS: I did convey an offer, Your Honor, previously which involved both

17 cases while the second case was still in Justice Court. I can reconvey that offer. All

18 though I know Mr. Kocka did not like it very much, so.

19 MR. KOCKA: Ms. Trippiedi has the other case, Judge. Maybe I'll talk to her

20 and see if I can get a better deal.

21 THE COURT: If you want me to pass it a week or two? What do you want to

22 do?

23 MR. KOCKA: Why don't we go two, Judge? I know we've got a calendar call

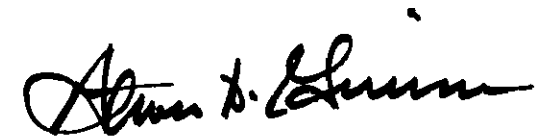
24 date set, and I'm trying to see if Ms. Lexis here might somehow soften up.

25 THE COURT: I don't show a calendar call day.

1 MR. KOCKA: You don't?  
2 THE COURT: Not typed on here.  
3 MR. KOCKA: I show -- Oh, you know it's in Department 12 we have the  
4 calendar call, Judge.  
5 THE COURT: All right.  
6 MR. KOCKA: That's the new case for the indictment.  
7 THE COURT: Two weeks?  
8 MR. KOCKA: Two weeks sounds good.  
9 THE COURT: All right.  
10 THE CLERK: October 1<sup>st</sup> at 8:00 a.m.  
11 MR. KOCKA: 10-1-14. I'm going to get the offer, Judge.  
12 [Proceeding concluded at 8:50 a.m.]

13  
14  
15  
16  
17  
18  
19  
20  
21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23   
24 Gina Villani  
25 Court Recorder



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENYA SPLOND,  
AKA KENNY SPLOND

Defendant.

CASE NO. C296374

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
WEDNESDAY, OCTOBER 1, 2014

**TRANSCRIPT OF PROCEEDINGS**  
**STATUS CHECK: NEGOTIATIONS**

APPEARANCES:

For the State:

TIERRA JONES, ESQ.  
Deputy District Attorney

For the Defendant:

FRANK KOCKA, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER



1 WEDNESDAY, OCTOBER 1, 2014 AT 8:41 A.M.

2  
3 THE COURT: C296374, Kenya Splond.

4 MR. KOCKA: We just need to set the trial date, Judge

5 THE COURT: All right. It's not negotiated?

6 MR. KOCKA: No, Judge. And he has a trial date currently set in District  
7 Court, Department 12, for May 12<sup>th</sup>, so -- or excuse me March 12<sup>th</sup>. So this is not  
8 negotiated. You just need to set a trial date here.

9 THE COURT: All right.

10 THE CLERK: Calendar call would be May 20<sup>th</sup> at 8:00 a.m. Trial is May 26<sup>th</sup>  
11 at 9:30.

12 THE COURT: Thanks.

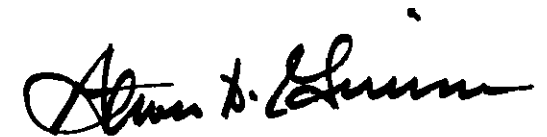
13 MR. KOCKA: Thank you.

14 [Proceeding concluded at 8:42 a.m.]

15  
16  
17  
18  
19  
20  
21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 Gina Villani  
25 Court Recorder



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENYA SPLOND,  
AKA KENNY SPLOND

Defendant.

CASE NO. C296374  
C300105

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
WEDNESDAY, MARCH 18, 2015

**TRANSCRIPT OF PROCEEDINGS**  
**STATE'S MOTION TO CONSOLIDATE**

APPEARANCES:

For the State:

HAGAR TRIPPIEDI, ESQ.  
Deputy District Attorney

For the Defendant:

FRANK KOCKA, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

1 WEDNESDAY, MARCH 18, 2015 AT 8:44 A.M.

2  
3 THE COURT: C296374, Kenya Splond.

4 MR. KOCKA: Good morning, Your Honor.

5 THE COURT: I was waiting to call you and you --

6 MR. KOCKA: I've already been called, your most efficient staff. I mean, Tom  
7 is just incredible, Judge. It was 8:01 and a half --

8 THE COURT: Don't.

9 MR. KOCKA: -- when he called me.

10 THE COURT: We've been together longer than most people have been  
11 married.

12 MR. KOCKA: That's what he was just telling me.

13 THE COURT: Years.

14 MR. KOCKA: Yeah, I know. Are you paying him combat pay yet or --

15 THE COURT: I get hazardous pay for that.

16 MR. KOCKA: Really.

17 THE COURT: He's the best.

18 MR. KOCKA: He is the best, Judge.

19 THE COURT: Best in the courthouse.

20 MR. KOCKA: You know what, Judge?

21 THE COURT: All right.

22 MR. KOCKA: Judge, you should thank him.

23 THE COURT: Thank you, Thomas.

24 MR. KOCKA: There you go.

25 THE COURT: He had a great trip this week.

1 MR. KOCKA: Did he? Where did he go?

2 THE COURT: Right over -- right there, he tripped on that cord.

3 MR. KOCKA: If I had a drumstick, I'd give you a roll, Judge.

4 THE COURT: Yeah, bada boom.

5 What about Splond?

6 MR. KOCKA: No opposition. Well, you should be -- I should be standing over

7 here, huh? Yeah, you know, I just had this uneasy feeling when I was standing. I

8 didn't know why and now I do. I was standing at the wrong table.

9 Judge, I have no opposition on the motion.

10 THE COURT: Consolidate. That means they're bringing it to me.

11 MR. KOCKA: So we can sit here and put everything in front of you because I

12 feel more comfortable in front of you, Judge.

13 THE COURT: Ha, ha, ha. All right. Bring Mr. Splond's case C300105 -- did

14 you talk to the other judge?

15 MR. KOCKA: Yeah.

16 THE COURT: And it's okay with them --

17 MR. KOCKA: Yeah.

18 THE COURT: -- them to get out of work?

19 MR. KOCKA: They love giving their work to you, Judge.

20 THE COURT: They all do.

21 MR. KOCKA: They do.

22 THE COURT: They do.

23 MR. KOCKA: Yeah.

24 THE COURT: Okay. We need a status check --

25 MR. KOCKA: Because you're the second hardest working judge in this

1 building.

2 THE COURT: We need a status check?

3 MR. KOCKA: Yeah.

4 THE COURT: When?

5 MR. KOCKA: 30 days.

6 THE COURT: 30 days.

7 MR. KOCKA: Ms. Botelho's on it, maybe we should go 45 days.

8 MS. TRIPPIEDI: And I'll have the amended info filed with the charges from  
9 the other case on that date.

10 THE COURT: Okay.

11 MR. KOCKA: Judge, maybe we should go 45. Ms. Botelho's working the  
12 case; it always takes her a little bit longer.

13 THE COURT: Okay. I can turn around, you can whack him, and I wouldn't  
14 see it, then it wouldn't be in my presence.

15 MS. TRIPPIEDI: Your Honor, actually I will --

16 MS. HEAP: I'll do it.

17 THE COURT: And then you can prosecute him.

18 MS. TRIPPIEDI: -- I'll be filing -- I'm going to be filing the amended info with  
19 the new charges probably this week.

20 THE COURT: Okay.

21 MS. TRIPPIEDI: So we can just keep the calendar call day as is.

22 THE COURT: Do you have all the discovery in the other case?

23 MR. KOCKA: I've got everything, Judge.

24 THE COURT: Okay. So, we're just -- Okay, cool.

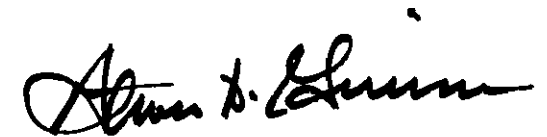
25 MR. KOCKA: We're either going to resolve this or I'll be filing motions, Judge.

1 THE COURT: Okay.  
2 MS. TRIPPIEDI: We can take it off calendar.  
3 THE COURT: The trial is currently set for May 26<sup>th</sup>. We don't need to change  
4 that?  
5 MS. TRIPPIEDI: We don't need to change that. We can just take it off  
6 calendar.  
7 MR. KOCKA: We're good.  
8 THE COURT: Okay.  
9 MR. KOCKA: All right.  
10 THE COURT: Thanks.  
11 MS. TRIPPIEDI: Thank you.  
12 THE CLERK: And your name, please?  
13 MS. TRIPPIEDI: My name is Hagar Trippiedi, Bar No. 10114.  
14 COURT: And the other one is C300105 is Kenny Splond, not Kenya.

15 [Proceeding concluded at 8:46 a.m.]  
16  
17  
18  
19  
20

21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23   
24 Gina Villani  
25 Court Recorder



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENYA SPLOND,  
AKA KENNY SPLOND

Defendant.

CASE NO. C296374

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
WEDNESDAY, APRIL 8, 2015

**TRANSCRIPT OF PROCEEDINGS**  
**STATE'S REQUEST: TO FILE AN AMENDED INDICTMENT**

APPEARANCES:

For the State:

TALEEN PANDUKHT, ESQ.  
CHIEF Deputy District Attorney

For the Defendant:

NOT PRESENT

RECORDED BY: JILL JACOBY, COURT RECORDER

1 WEDNESDAY, APRIL 8, 2015 AT 10:05 A.M.

2  
3 THE COURT: C296374, Kenya Splond.

4 File the amended indictment so you don't lose it.

5 MS. PANDUKHT: I can still file it, yes.

6 THE COURT: Yeah.

7 And we'll continue this Monday to get Mr. Kocka back here.

8 MS. PANDUKHT: So both of those cases are back on Monday?

9 THE COURT: Yes.

10 MS. PANDUKHT: Conveniently I will be too.

11 THE CORRECTIONS OFFICER: What date is that, please?

12 THE CLERK: April 13<sup>th</sup>.

13 THE CORRECTIONS OFFICER: Thank you.

14 THE COURT: Thanks.

15 MS. PANDUKHT: Thank you.

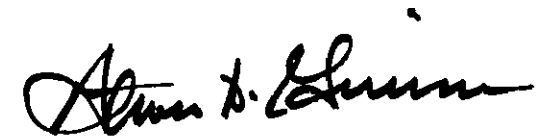
16 [Proceeding concluded at 10:09 a.m.]

17  
18  
19  
20  
21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 Gina Villani  
25 Court Recorder





CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENNY SPLOND,  
AKA KENYA SPLOND

Defendant.

CASE NO. C296374  
C300105

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
WEDNESDAY, APRIL 15, 2015

**TRANSCRIPT OF PROCEEDINGS**  
**STATUS CHECK: STATUS OF CASE**

APPEARANCES:

For the State:

WILLIAM FLINN, ESQ.  
Chief Deputy District Attorney

For the Defendant:

FRANK KOCKA, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

1 WEDNESDAY, APRIL 15, 2015 AT 8:30 A.M.

2  
3 THE COURT: C296374, Kenny Splond, and 300105.

4 MR. KOCKA: Good morning, Judge.

5 THE COURT: Hey.

6 MR. KOCKA: Nice haircut.

7 THE COURT: You too.

8 MR. KOCKA: Thanks.

9 THE COURT: Both of them.

10 MR. KOCKA: Yeah, got a little extra polish on it this morning.

11 THE COURT: All right. This is status check on the case to see that you're  
12 prepared for trial. Are you ready for trial?

13 MR. KOCKA: Judge, I have been trying to get the DA handling this case,  
14 Ms. Botelho to get us an offer. I spoke to Ms. Trippiedi last time, Hagar, she was  
15 supposed to get with Ms. -- I guess she's Ms. Lexis now, and I can't get either DA to  
16 give me an offer on the case whatsoever.

17 THE COURT: Well, they may not offer anything, but you have to go over and  
18 look at their file. Have you had an opportunity --

19 MR. KOCKA: I've got the file. We're good on it. I'm trying to get some kind  
20 of --

21 THE COURT: You're ready for trial?

22 MR. KOCKA: Judge, I -- this is not a case that I'm going to be prepared to try.  
23 I'm trying to get an offer on it. What I've informed the district attorney on numerous  
24 occasions is I have not been retained to do the trial on this case, but I am more than  
25 happy to stay on this case and get it negotiated if they give me an offer. I've told

1 both of them, Ms. Trippiedi and Ms. Lexis, that if you don't give me an offer, and I've  
2 told them this about --

3 THE COURT: Right.

4 MR. KOCKA: -- it the last time we were here. I am going to have to withdraw.

5 THE COURT: They will bring an offer on Monday. I expect them here on  
6 Monday. Okay. Make sure they know that.

7 MR. FLINN: I will. Ms. Lexis is in a trial.

8 THE COURT: Them or Steve -- them or Steve Wolfson. And I'll call Wolfson.  
9 I do have his cell.

10 MR. FLINN: That's fine, Your Honor.

11 THE COURT: I would explain to him it's important that they be here Monday.  
12 Thank you.

13 THE CLERK: April 20<sup>th</sup>.

14 MR. KOCKA: Thank you, Judge.

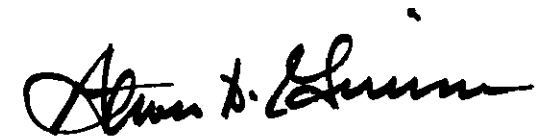
15 THE COURT: Thanks.

16 [Proceeding concluded at 8:32 a.m.]  
17  
18  
19  
20

21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 Gina Villani  
25 Court Recorder



CLERK OF THE COURT

1 RTRAN  
2  
3  
4

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11  
12 KENNY SPLOND,  
13 AKA KENYA SPLOND

14 Defendant.

)  
) CASE NO. C296374  
) C300105  
) DEPT. VIII  
)  
)  
)  
)  
)  
)

15 BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
16 MONDAY, APRIL 20, 2015

17 **TRANSCRIPT OF PROCEEDINGS**  
18 **STATUS CHECK: STATUS OF CASE**

19 APPEARANCES:

20 For the State:

HAGAR TRIPPIEDI, ESQ.  
Deputy District Attorney

21 For the Defendant:

FRANK KOCKA, ESQ.

22 NADIA HOJJAT, ESQ.  
23 Deputy Public Defender  
24

25 RECORDED BY: JILL JACOBY, COURT RECORDER

1 MONDAY, APRIL 20, 2015 AT 8:56 A.M.

2  
3 THE COURT: C296374, C300105, Kenny Splond.

4 MR. KOCKA: Good morning, Judge.

5 THE COURT: Hey.

6 Is this case resolved?

7 MR. KOCKA: It is not, Your Honor. I did receive an offer on the case; the  
8 offer is not acceptable to my client. So at this point, Your Honor, I don't know if you  
9 want me to do it formally in writing or you'll accept it orally, but I'm going to have to  
10 get him over to the PD's office because he wants to go to trial.

11 THE COURT: All right. Mr. Kocka's allowed to withdraw. We'll set it down --  
12 public defender is appointed, give them the file. It will be on for Wednesday for a  
13 status check on conflict.

14 MR. KOCKA: Thank you, Judge.

15 MS. HOJJAT: And, Your Honor, this was my case down in Justice Court. I  
16 remember at the time there was no conflict, but I've seem to recall that they were  
17 actually going to file on the uncharged codefendant.

18 MR. KOCKA: They did.

19 MS. HOJJAT: If they filed on the uncharged codefendant, I believe, my office  
20 had represented her. Because I remember I already ran this conflict check. So that  
21 should be a conflict. I'll go back and double check it, but that's my recollection with  
22 this case.

23 THE COURT: See you Wednesday.

24 THE CLERK: April 22<sup>nd</sup>.

25 MS. HOJJAT: Thank you.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE CLERK: State, your name, please.


MS. TRIPPIEDI: Hagar Trippiedi, Bar No. 10114.

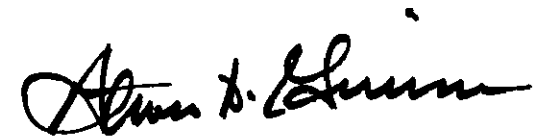
MR. KOCKA: Thank you, Judge.

THE COURT: Yep.

[Proceeding concluded at 8:58 a.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual recording in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
Gina Villani  
Court Recorder



CLERK OF THE COURT

1 RTRAN  
2  
3  
4

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11  
12 KENNY SPLOND,  
13 AKA KENYA SPLOND

14 Defendant.

CASE NO. C296374  
C300105

DEPT. VIII

15 BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
16 WEDNESDAY, APRIL 22, 2015

17 **TRANSCRIPT OF PROCEEDINGS**  
18 **CONFIRMATION OF COUNSEL**

19 APPEARANCES:

20 For the State:

JOHN GIORDANI, ESQ.  
Deputy District Attorney

21 For the Defendant:

FIKISHA MILLER, ESQ.  
Deputy Public Defender

22  
23 T. AUGUSTAS CLAUS, ESQ.  
24

25 RECORDED BY: JILL JACOBY, COURT RECORDER

1  
2 WEDNESDAY, APRIL 22, 2015 AT 9:03 A.M.

3  
4 THE COURT: C296374, Kenny Splond, and C300105.

5 Mr. Splond, I got a text that the PD can't handle it.

6 Step over that way so I can talk to Mr. Claus who's going to represent  
7 Mr. Splond.

8 MS. MILLER: Your Honor, we do have the discovery to turn over to  
9 Mr. Claus.

10 THE COURT: All right. I'm going to have to ask that you represent him.  
11 Kocka came in to try to negotiate, it wasn't negotiated, PD looked there's a conflict,  
12 so.

13 Trial's currently set May 26<sup>th</sup>. I don't think you can be ready by May  
14 26<sup>th</sup>.

15 MR. CLAUS: No, but -- no, we can just reset it now, Your Honor.

16 THE COURT: All right. Let's reset the trial date to the next stack.

17 THE CLERK: August 24<sup>th</sup> at 9:30. Calendar call is August 19<sup>th</sup> 8:00 a.m.

18 THE COURT: And a 30 day status check on making sure that you're  
19 prepared for trial and you have all that you need for trial.

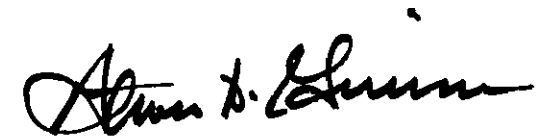
20 THE CLERK: July 29<sup>th</sup> at 8:00 a.m.

21 [Proceeding concluded at 9:04 a.m.]

22 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
23 recording in the above-entitled case to the best of my ability.

24   
Gina Villani  
25 Court Recorder





CLERK OF THE COURT

1 RTRAN

2

3

4

5

DISTRICT COURT  
CLARK COUNTY, NEVADA

6

7

8

STATE OF NEVADA,

9

Plaintiff,

10

vs.

11

12

KENNY SPLOND,  
AKA KENYA SPLOND

13

14

Defendant.

15

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
WEDNESDAY, JULY 29, 2015

16

17

**TRANSCRIPT OF PROCEEDINGS**  
**STATUS CHECK: TRIAL READINESS**

18

19

APPEARANCES:

20

For the State:

21

TIERRA JONES, ESQ.  
Deputy District Attorney

22

For the Defendant:

23

T. AUGUSTAS CLAUS, ESQ.

24

25

RECORDED BY: PATTI SLATTERY, COURT RECORDER

1 WEDNESDAY, JULY 29, 2015 AT 10:02 A.M.

2  
3 THE COURT: C296374 and C300105, Kenny Splond. Your attorney is in  
4 another department, we'll put this back on for -- this is on status check to see if he's  
5 trial ready for the August 24<sup>th</sup> trial anyway. So put it on August 12<sup>th</sup>.

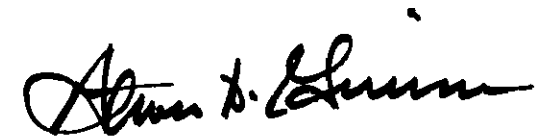
6 THE CLERK: August 12<sup>th</sup> at 8:00 a.m.

7 THE COURT: Thank you. And then call Claus's office and tell him that we  
8 continued it to the 12<sup>th</sup>.

9 [Proceeding concluded at 10:02 a.m.]

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23   
24 Gina Villani  
25 Court Recorder



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENNY SPLOND,  
AKA KENYA SPLOND

Defendant.

CASE NO. C296374  
C300105

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
WEDNESDAY, AUGUST 12, 2015

**TRANSCRIPT OF PROCEEDINGS**  
**STATUS CHECK: TRIAL READINESS**

APPEARANCES:

For the State:

MEGAN THOMSON, ESQ.  
Chief Deputy District Attorney

For the Defendant:

T. AUGUSTAS CLAUS, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

1 WEDNESDAY, AUGUST 12, 2015 AT 8:28 A.M.

2  
3 THE COURT: C296374 -- stay here -- Kenny Splond. This is status check on  
4 trial readiness.

5 MR. CLAUS: Yes, Your Honor, I apologize. Your Honor, I have some --

6 THE COURT: And his other case C300105.

7 MR. CLAUS: Your Honor, I'm not sure why we're having this now; in part,  
8 because I've got another case set for a 60-day invocation.

9 THE COURT: Well, do you have -- have you got the discovery?

10 MR. CLAUS: No, Your Honor, I have not.

11 THE COURT: Why have you not gotten the discovery?

12 MR. CLAUS: I've gotten some of the discovery. I'm sorry, let me be  
13 particular. I haven't conducted a file review with the State to confirm that I have --

14 THE COURT: Okay. You should have done that by today, that's what this is  
15 on for, is a status check to see that you've done that.

16 MR. CLAUS: I was misinformed, Your Honor.

17 THE COURT: All right. All right. Trial dates for August 24<sup>th</sup>. So at calendar  
18 call, I guess, we'll have this trial readiness. You better be ready because now you  
19 can't tell me that -- you tell me you haven't got the discovery.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. CLAUS: I will --


THE COURT: You better have been over there.

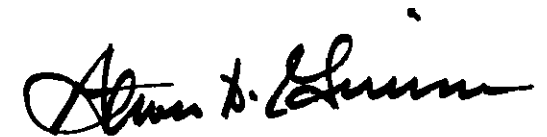
MR. CLAUS: Double some efforts, Your honor.

THE COURT: All right.

[Proceeding concluded at 8:29 a.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual recording in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
Gina Villani  
Court Recorder



CLERK OF THE COURT

1 RTRAN

2

3

4

5

DISTRICT COURT  
CLARK COUNTY, NEVADA

6

7

8

STATE OF NEVADA,

9

Plaintiff,

10

vs.

11

12

KENNY SPLOND,  
AKA KENYA SPLOND

13

14

Defendant.

15

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
WEDNESDAY, AUGUST 19, 2015

16

**TRANSCRIPT OF PROCEEDINGS**  
**CALENDAR CALL**

17

18

19

APPEARANCES:

20

For the State:

21

AGNES LEXIS, ESQ.  
Deputy District Attorney

22

For the Defendant:

23

T. AUGUSTAS CLAUS, ESQ.

24

25

RECORDED BY: JILL JACOBY, COURT RECORDER

1 WEDNESDAY, AUGUST 19, 2015 AT 9:22 A.M.

2  
3 THE COURT: Are you ready on Splond?

4 THE STATE: Yes, Your Honor.

5 THE COURT: Is this the one you're announcing ready for trial on?

6 MR. CLAUS: No, Your Honor. I'll be announcing ready on Anthony  
7 Humphrey, Your Honor.

8 Mr. Splond hasn't invoked is my understanding or at least he waived  
9 prior to my appointment on the case.

10 THE COURT: He's waived on both but.

11 [Matter trailed at 9:22 a.m.]

12 [Matter recalled at 9:25 a.m.]

13 THE COURT: C296374 and C300105, Kenny Splond.

14 MS. LEXIS: You're Honor, it should only be one case now because it was  
15 consolidated. So I have C296374 as the only case.

16 THE COURT: I have eight counts there and four counts in the other case.

17 So what do you have?

18 MS. LEXIS: All eight counts should be now under C296374.

19 THE COURT: That's the eight counts.

20 So dismiss the other one?

21 MS. LEXIS: Right now, yes.

22 THE COURT: Okay. So you're in trail, we'll have to continue this.

23 MR. CLAUS: I've explained that to Mr. Splond the last time we were here.

24 THE COURT: All right.

25 THE CLERK: Trial is February 1<sup>st</sup> at 9:30. Calendar call is January 26<sup>th</sup>.

1 MS. LEXIS: Your Honor, do we have anything sooner than next year since  
2 he's in custody and it's an old case?  
3 THE CLERK: January 4<sup>th</sup>?  
4 MS. LEXIS: We're eligible for overflow.  
5 THE COURT: January 4<sup>th</sup>.  
6 MS. LEXIS: Even if we're overflow eligible?  
7 THE COURT: The next stack. Let's put it to the end of October. We'll send it  
8 to overflow.  
9 THE CLERK: October 19<sup>th</sup> jury trial and calendar call is October 14<sup>th</sup>.  
10 MS. LEXIS: October 14<sup>th</sup> and October 19<sup>th</sup>.  
11 MR. CLAUS: And, Your Honor, just for the record I'm not sure we're overflow  
12 eligible this is three different robberies, so. Perhaps we can get it done in a week;  
13 perhaps not.  
14 THE COURT: In here you can get it done in a week.  
15 MS. LEXIS: Absolutely.  
16 MR. CLAUS: Your Honor, we've had trial before but -- let me remind you of  
17 that.  
18 THE COURT: Well, you've just got to quit yabbering and just try your case.  
19 MR. CLAUS: Well, I would except I do like getting –  
20 ///  
21 ///  
22 ///  
23 ///  
24 ///  
25 ///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE COURT: Yabber, you like to yabber.

MR. CLAUS: -- not guilties and misdemeanors, Your Honor. So with that  
being said --

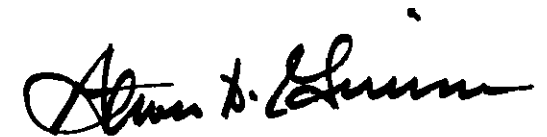
[Proceeding concluded at 9:27 a.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
recording in the above-entitled case to the best of my ability.



---

Gina Villani  
Court Recorder



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENNY SPLOND,  
AKA KENYA SPLOND  
KELLIE ERIN CHAPMAN

Defendants.

CASE NO. C296374

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
MONDAY, OCTOBER 5, 2015

**TRANSCRIPT OF PROCEEDINGS**  
**DEFENDANT'S MOTION TO PLACE ON CALENDAR FOR THE PURPOSE OF**  
**CONTINUING TRIAL DATE**  
**REVOCATION OF PROBATION**

APPEARANCES:

For the State:

TIERRA JONES, ESQ.  
Deputy District Attorney

For the Defendant Kenny Splond:

T. AUGUSTAS CLAUS, ESQ.

For the Defendant Kellie Erin Chapman:

ROY NELSON, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

1 MONDAY, OCTOBER 5, 2015 AT 8:53 A.M.

2  
3 THE COURT: C296374, Kellie Chapman.

4 MR. NELSON: She's present in custody. This is the time set for probation  
5 revocation. The officer is present. Pursuant to negotiations in a separate case  
6 she's stipulating to the probation revocation in this case without modification. She  
7 has 221 days credit for time served. I believe it's a 28 to 72 month sentence.

8 THE COURT: Okay. Go through it again, I'm sorry.

9 MS. JONES: 28 to 72, yes.

10 MR. NELSON: 28 to 72, no modification, and 221 days credit for time served.

11 THE COURT: Is that your understanding --

12 DEFENDANT CHAPMAN: Yes, it is.

13 THE COURT: -- of what's going on?

14 I put you -- and you reviewed your presentence report with your  
15 attorney, this one and the other attorney?

16 DEFENDANT CHAPMAN: Yes.

17 THE COURT: And you're satisfied that this is in your best interest?

18 DEFENDANT CHAPMAN: Yes.

19 THE COURT: Do you have any questions of your attorney before I sentence  
20 you?

21 DEFENDANT CHAPMAN: No.

22 THE COURT: Are you satisfied with Mr. Nelson?

23 DEFENDANT CHAPMAN: Yes, I am.

24 THE COURT: And his services?

25 DEFENDANT CHAPMAN: Absolutely.

1 THE COURT: I put you on probation on January 14<sup>th</sup>, 2015, sentenced you to  
2 28 to 72 months, and you haven't reported, you sort of absconded; is that right?

3 DEFENDANT CHAPMAN: Yes.

4 THE COURT: All right. And then there's a new case, and you pled to that, or  
5 about to plead to it?

6 DEFENDANT CHAPMAN: Yes.

7 THE COURT: All right. And part of that deal is you're going to be --

8 DEFENDANT CHAPMAN: Revoked.

9 THE COURT: -- revoked in this one?

10 DEFENDANT CHAPMAN: Yes.

11 THE COURT: And do you have any questions of the Court before I sentence  
12 you?

13 DEFENDANT CHAPMAN: No.

14 THE COURT: Okay. I will revoke your probation; you're sentenced to 28 to  
15 72 months in Nevada Department of Corrections.

16 With what type of credit?

17 MR. NELSON: 221 days.

18 MS. JONES: That's correct, Your Honor.

19 THE COURT: 221 days.

20 [Matter trailed at 8:55 a.m.]

21 [Matter recalled at 9:19 a.m.]

22 THE COURT: C296374, State of Nevada versus Kenny Splond.

23 MR. CLAUS: Good morning, Your Honor. Augustas Claus appearing on  
24 behalf of Mr. Splond, who is present in custody.

25 Your Honor, this is a request to reset Mr. Splond's trial date, it currently

1 overlaps with a murder trial that Judge Villani is very motivated to have go forward.

2 THE COURT: All right. Next criminal stack?

3 MR. CLAUS: When is the next criminal stack?

4 THE COURT: When is the next criminal stack after October?

5 THE CLERK: November 9<sup>th</sup>.

6 THE COURT: November.

7 MR. CLAUS: I don't think that's sufficient time, Your Honor.

8 THE COURT: December do we have --

9 THE CLERK: January 4<sup>th</sup>.

10 THE COURT: January 4<sup>th</sup>, 2016, 8 o'clock.

11 MR. CLAUS: Thank you, Your Honor.

12 MS. JONES: For trial?

13 THE COURT: No, for calendar call. The trial date then will be that Monday.

14 Okay. We actually -- Okay. I have a fill in clerk, so just be patient.

15 [Colloquy between Court and Clerk]

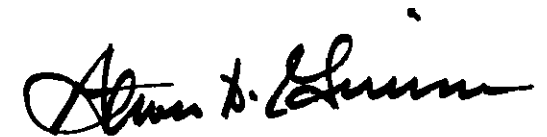
16 THE CLERK: So calendar call is December 30<sup>th</sup> at 8:00 a.m. Jury trial is  
17 January 11<sup>th</sup> at 9:30.

18 [Proceeding concluded at 9:21 a.m.]

19  
20  
21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 Gina Villani  
25 Court Recorder



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENNY SPLOND,  
AKA KENYA SPLOND

Defendant.

CASE NO. C296374

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
WEDNESDAY, DECEMBER 30, 2015

**TRANSCRIPT OF PROCEEDINGS  
CALENDAR CALL**

APPEARANCES:

For the State:

AGNES LEXIS, ESQ.  
Deputy District Attorney

For the Defendant:

AUGUSTAS CLAUS, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

1 WEDNESDAY, DECEMBER 30, 2015 AT 9:07 A.M.

2  
3 THE COURT: C296374, Kenny Splond.

4 MS. LEXIS: State's ready, 10 to 12 witnesses. It's been continued multiple  
5 times. He's been through three attorneys. Mr. Claus is his third.

6 MR. CLAUS: And I think, Your Honor, it's presumptive to have the calendar  
7 call this week if Baldovinos does not deal. And we have something we're talking  
8 about right now, Your Honor, but until it's put in writing, Your Honor, I may very well  
9 be in trial for that second week for Mr. Splond. So if we can continue the calendar  
10 call until next week.

11 THE COURT: Monday. Calendar call Monday.

12 THE CLERK: January 4<sup>th</sup> at 8:00 a.m.

13 [Matter trailed at 9:07 a.m.]

14 [Matter recalled at 11:04 a.m.]

15 THE COURT: C296374 Kenny Splond. We'll put it on for Monday, but we are  
16 going to go to trial on the 11<sup>th</sup>.

17 MS. JONES: Thank you, Judge.

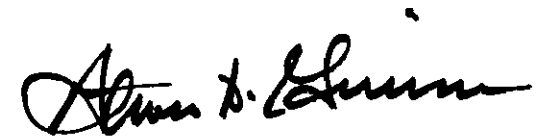
18 MR. CLAUS: I'll take it for Monday. Thank you, Your Honor.

19 [Proceeding concluded at 11:05 a.m.]

20  
21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 Gina Villani  
25 Court Recorder



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

KENNY SPLOND,  
AKA KENYA SPLOND

Defendant.

CASE NO. C296374  
C300105

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
MONDAY, JANUARY 4, 2016

**TRANSCRIPT OF PROCEEDINGS**  
**CALENDAR CALL**

APPEARANCES:

For the State:

JOHN GIORDANI, ESQ.  
TIERRA JONES, ESQ.  
Deputy District Attorneys

For the Defendant Kenny Splond:

ROCHELLE NGUYEN, ESQ.

For the Defendant Kellie Erin Chapman:

ROY NELSON, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER



1 MONDAY, JANUARY 4, 2016 AT 9:16 A.M.

2  
3 THE COURT: C296374, Kenny Splond. Again, Mr. Splond, you're attorney is  
4 not feeling well. We'll pass it a week.

5 THE CLERK: January 11<sup>th</sup>, 8:00 a.m.

6 THE COURT: He's not going to be able to do the trial starting tomorrow, so.  
7 We'll take care of that.

8 MS. JONES: That's next week's trial, Judge.

9 THE COURT: No, he -- wasn't he the one doing tomorrow's trial?

10 MS. JONES: No, that's Roy.

11 MS. NGUYEN: No, that's Roy.

12 THE COURT: Oh, okay.

13 MS. NGUYEN: I think Roy is here, so.

14 THE COURT: Trial is still on; starting in the morning.

15 MS. NGUYEN: Is that all, Your Honor?

16 THE COURT: Yeah, I think so.

17 MS. NGUYEN: I think so too. Thank you.

18 [Matter trailed at 9:17 a.m.]

19 [Matter recalled at 9:33 a.m.]

20 MS. JONES: And, Your Honor, can you recall the Splond matter on 14A?

21 THE COURT: Yeah. Mr. Nelson will stand in for Mr. --

22 MS. JONES: I just have one question.

23 THE COURT: C296374, Kenny Splond.

24 MS. JONES: And, Your Honor, this case is set for jury trial next week --

25 THE COURT: Roy --

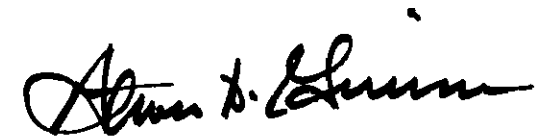
1 MS. JONES: -- are you vacating the trial date?  
2 THE COURT: I'm going to have to vacate the trial. I told you Mr. Claus has  
3 been injured.  
4 MS. JONES: Right. We just wanted to know if we could call off our  
5 witnesses.  
6 THE COURT: Yes, call off your witnesses.  
7 MS. JONES: Okay. And you'll have a status check Monday morning?  
8 THE COURT: His office said he was unable to be at court at all for the week  
9 and can't go to trial next week.  
10 MS. JONES: Okay. So vacating the trial date, status check next Monday?  
11 THE COURT: Vacating the trial date.  
12 MS. JONES: Thank you.

13 [Proceeding concluded at 9:33 a.m.]  
14  
15  
16  
17  
18  
19  
20

21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 Gina Villani  
25 Court Recorder



CLERK OF THE COURT

1 RTRAN

2

3

4

5

DISTRICT COURT  
CLARK COUNTY, NEVADA

6

7

8

STATE OF NEVADA,

9

Plaintiff,

10

vs.

11

12

KENNY SPLOND,  
AKA KENYA SPLOND

13

14

Defendant.

15

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
MONDAY, JANUARY 11, 2016

16

17

**TRANSCRIPT OF PROCEEDINGS**  
**STATUS CHECK: RESET TRIAL DATE**

18

19

APPEARANCES:

20

For the State:

21

HILARY HEAP, ESQ.  
Deputy District Attorney

22

For the Defendant:

23

AUGUSTAS CLAUS, ESQ.

24

25

RECORDED BY: JILL JACOBY, COURT RECORDER

1 MONDAY, JANUARY 11, 2016 AT 8:43 A.M.

2  
3 THE COURT: C296374 and C300105, Kenny Splond.

4 MR. CLAUS: Good morning, Your Honor, Augustas Claus appearing on  
5 behalf of Mr. Splond who is present in custody.

6 MS. HEAP: Your Honor, on this case Ms. Lexis is asking for the trial date as  
7 soon as possible.

8 THE COURT: When's the next criminal stack?

9 THE CLERK: January 25<sup>th</sup>.

10 THE COURT: January 25<sup>th</sup>.

11 MS. HEAP: That's in like two weeks.

12 MR. CLAUS: That's a little bit soon, Your Honor.

13 THE COURT: Well, you should have been ready before we continued it so  
14 that you could rehabilitate. Now that -- and you should have been prepared for this  
15 trial.

16 MR. CLAUS: That's absolutely true, Your Honor.

17 THE COURT: So we vacated that -- this trial date so we'll be on that stack for  
18 the 25<sup>th</sup>.

19 Is that the calendar call date or the trial date?

20 THE CLERK: That's trial date.

21 You do have one murder case.

22 THE COURT: That's all right.

23 THE CLERK: Okay. So calendar call is January 13<sup>th</sup> at 8:00 a.m. Jury trial  
24 January 25<sup>th</sup> at 9:30.

25 MS. HEAP: Can I ask just -- is that the beginning of the stack?

1 [Colloquy between Court and Clerk]

2 MS. HEAP: Is it the beginning --

3 MR. CLAUSE: We can do that because frankly, Your Honor, I've got an

4 invoked client set February 1<sup>st</sup> and a murder trial set February 8<sup>th</sup>. So if you're going

5 to try and get it to trial that quickly, it's going to have to be --

6 THE COURT: Well, no I'm trying to --

7 MS. HEAP: My concern is just subpoenaing the witnesses.

8 THE COURT: All right.

9 MS. HEAP: Can I -- Can we trail this for one moment while I ask Ms. Lexis?

10 THE COURT: No.

11 Give us the next stack. That's not -- just give me the next stack after

12 January.

13 THE CLERK: Okay. We're going to go March 2<sup>nd</sup> for calendar call at

14 8:00 a.m. March 14<sup>th</sup> Jury trial 9:30.

15 MS. HEAP: Thank you.

16 MR. CLAUS: I've got no problem with that, Your Honor. However, I do have

17 a SA case set for that week as well, just so the Court's aware.

18 THE CLERK: How long will this trial take?

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

1 MR. CLAUS: Multiple burglaries, set over, I think, four or five different  
2 incidents. This would probably take better part of a week. Just given the multiplicity  
3 of locations and --

4 THE COURT: One week.

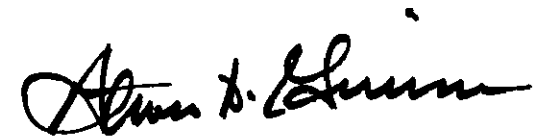
5 THE CLERK: Okay.

6 [Proceeding concluded at 8:45 a.m.]  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 Gina Villani  
25 Court Recorder



CLERK OF THE COURT

1 RTRAN

2

3

4

5

DISTRICT COURT  
CLARK COUNTY, NEVADA

6

7

8

STATE OF NEVADA,

9

Plaintiff,

10

vs.

11

12

KENNY SPLOND,  
AKA KENYA SPLOND

13

14

Defendant.

15

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE  
WEDNESDAY, MARCH 2, 2016

16

**TRANSCRIPT OF PROCEEDINGS**  
**CALENDAR CALL**

17

18

19

APPEARANCES:

20

For the State:

21

AGNES LEXIS, ESQ.  
Deputy District Attorney

22

For the Defendant:

23

AUGUSTAS CLAUS, ESQ.

24

25

RECORDED BY: JILL JACOBY, COURT RECORDER

1 WEDNESDAY, MARCH 2, 2016 AT 8:24 A.M.

2  
3 THE COURT: C296374, C300105 Kenny Splond.

4 MR. CLAUS: Good morning, Your Honor, Augustas Claus appearing on  
5 behalf of Mr. Splond.

6 THE COURT: Are you ready for trial?

7 MR. CLAUS: I believe we're ready to go, Your Honor.

8 THE COURT: How long will it take to try this case?

9 MS. LEXIS: It's 13 to 15 witnesses. It's the oldest case in your stack. If you  
10 keep us, we'll be done in four days, five days.

11 THE COURT: I can't. I have a victim that is in custody on a material witness  
12 on Page 5. Michael Harper's gonna go. That's number one because I have the  
13 victim in custody.

14 MS. LEXIS: Okay.

15 THE COURT: So this will go to overflow.

16 No out of state witnesses?

17 MS. LEXIS: No out of state witnesses -- or maybe one. It's our detective  
18 who's retired.

19 THE COURT: Okay. Do you have any witnesses that --

20 MR. CLAUS: Potential of perhaps two or three, Your Honor.

21 THE COURT: All right. Overflow for Friday.

22 THE CLERK: March 4<sup>th</sup> at 8:30.

23 MS. LEXIS: This is for the 14<sup>th</sup>; right, Your Honor?

24 THE COURT: This is for the 14<sup>th</sup>.

25 MS. LEXIS: So overflow --



1 MR. CLAUS: This will be -- it will be overflow for next week, Your Honor.

2 THE COURT: Yes.

3 THE CLERK: March 11<sup>th</sup> 8:30, Department 18.

4 THE COURT: Thanks.

5 MR. CLAUS: Thank you.

6 [Proceeding concluded at 8:25 a.m.]

7

8

9

10

11

12

13

14

15

16


17

18

19

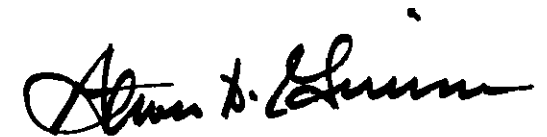
20

21 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual  
22 recording in the above-entitled case to the best of my ability.

23 

24 \_\_\_\_\_  
Gina Villani  
Court Recorder

25



CLERK OF THE COURT

RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

KENNY SPLOND  
AKA KENYA SPLOND,

Defendant.

CASE NO. C-14-296374-1

DEPT. XVIII

BEFORE THE HONORABLE DAVID BARKER, DISTRICT COURT JUDGE

FRIDAY, MARCH 11, 2016

**RECORDER'S TRANSCRIPT RE:  
OVERFLOW**

APPEARANCES:

For the State:

BINU G. PALAL, ESQ.  
AGNES LEXIS, ESQ.  
Deputy District Attorneys

For the Defendant:

T. AUGUSTAS CLAUS, ESQ.

RECORDED BY: MICHELLE RAMSEY, COURT RECORDER

1 FRIDAY MARCH 11, 2016

2 [Proceeding commenced at 8:31 a.m.]

3  
4 THE COURT: Let's begin on page one then. C296374 consolidated 300105  
5 issued proceeding under the lower per EDCR. The record should reflect the  
6 presence of representatives of the State, Ms. Lexis, Mr. Palal. Mr. Palal's on behalf  
7 of Mr. Splond, who's present. Per court staff and originated in Department 8, Four  
8 to five days to try, 13 to 15 witnesses. Does that remain an accurate reflection of  
trial time, gentlemen?

9 MR. PALAL: Yes, Your Honor.

10 THE COURT: And lady?

11 MR. CLAUS: Yes, Your Honor.

12 THE COURT: All right. I'm sending you to Judge Gonzales, DC 11. She's  
13 working out of 14C. She's requested a Tuesday, Tuesday, 9:30 start. All right.

14 MR. PALAL: And, Your Honor, is she ok then if it may flow over to the next  
week then?

15 THE COURT: She's got next week.

16 MR. PALAL: Okay.

17 THE COURT: You said four days and she's going to give you full days, so.

18 MR. PALAL: Okay. Oh, full days? Okay that should be fine.

19 THE COURT: I would think. Go check with her JEA, Dan Kutinac, is the JEA.  
20 I'd go up there now and make sure you're good to go.

21 MR. PALAL: All right. Thank you, Your Honor.

22 THE COURT: Mr. Splond, any questions?

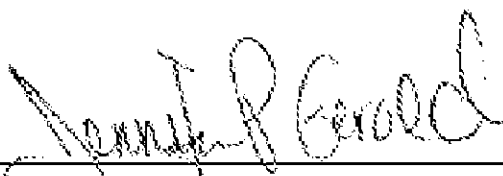
23 THE DEFENDANT: No.

24 THE COURT: All right. Very good.

25 [Proceeding concluded at 8:33 a.m.]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
Jennifer P. Gerold  
Court Recorder/Transcriber

DISTRICT COURT  
CLARK COUNTY, NEVADA

Defendant.

# Transcript of Proceedings

000348  
**AA000312**

1 LAS VEGAS, NEVADA, FRIDAY, MARCH 11, 2016, 9:26 A.M.

2 (Court was called to order)

3 THE COURT: So what do you guys want to know? Good  
4 morning.

5 MR. PALAL: Good morning, Judge.

6 MR. CLAUS: Good morning, Your Honor.

7 MR. PALAL: Binu Palal for the State. We just want to  
8 know what the schedule is like for your week next week so we  
9 could coordinate our witnesses and what not.

10 THE COURT: My biggest issue is who is my calendar  
11 deputy on Wednesday. You don't know who that is. That throws  
12 me sometimes off.

13 MR. PALAL: Okay.

14 THE COURT: But my plan is to start at 9:30 on Tuesday  
15 and Thursday.

16 MR. PALAL: Mm-hmm.

17 THE COURT: And to start as close to 10:15 as possible  
18 on Wednesday.

19 MR. PALAL: Mm-hmm.

20 THE COURT: And on Friday we should be able to start  
21 at 9:00.

22 MR. PALAL: All right. Great, thank you very much,  
23 Your Honor.

24 THE COURT: Does that get you guys done this week, or  
25 that week?

1 MR. PALAL: I think it should.

2 THE COURT: Because Dan says you think you're four to  
3 five days.

4 MR. PALAL: Right. Right. But I think --

5 MR. CLAUS: Yeah.

6 MR. PALAL: I don't know. Gus, what do you think?

7 MR. CLAUS: Well, I was going to ask if we could have  
8 the beginnig of your Monday just to be sure, Your Honor. But my  
9 understanding was is that we're not going to have the ability of  
10 flowing into the week after.

11 THE COURT: Probably not.

12 MR. CLAUS: So --

13 THE COURT: I have --

14 MR. CLAUS: [Unintelligible] jury selection on Monday?

15 THE COURT: I can't, because I have a preliminary  
16 injunction hearing, and I've got a settlement conference.

17 MR. CLAUS: Okay.

18 THE COURT: Love to, can't.

19 MR. PALAL: All right. Your Honor, I think we should  
20 -- we should -- we should be able to get this done by the --  
21 give this to a jury by the end of business on Friday.

22 THE COURT: Okay. Because I have -- you know, if you  
23 want to try and start at 9:00 o'clock on Tuesday, I only have a  
24 few things on my calendar and I start my civil at 8:30. The  
25 problem is I've got -- is Wednesday is really the problem,

1 because I have 30 something things on.

2 MR. PALAL: All right. I'll talk to the calendar

3 deputy and tell that person to go fast.

4 THE COURT: It never helps.

5 MR. PALAL: Your Honor, if you're willing to at least

6 try to get us a start at 9:00 on Tuesday, I'm sure both parties

7 will be there at 9:00 o'clock on Tuesday, and if we're able to

8 go we can go.

9 THE COURT: Is that okay? Gus?

10 MR. CLAUS: Yeah. That sounds fine, Your Honor.

11 THE COURT: Okay.

12 MR. CLAUS: Thanks.

13 THE COURT: Well, Dan, tell jury we'd like a jury at

14 9:00 and we'll have Kevin --

15 MR. KUTINAC: Should I go 9:00, because they're going

16 to have to mark exhibits? Should I go 9:30?

17 THE COURT: When are you guys going to mark your

18 exhibits and things?

19 MR. PALAL: We can do that Tuesday morning. I mean,

20 we can get there early Tuesday morning.

21 THE COURT: Dulce said she'd love to see you Tuesday

22 morning.

23 MR. PALAL: Okay. That's fine, Your Honor.

24 THE COURT: Anything else?

25 MR. PALAL: Nothing.



1           THE COURT: So I need any jury instructions you  
2 actually think you're going use, email them to Dan in Word  
3 format, and then Gus, as things go through the trial if you want  
4 to add to that let me know. I'll try and have a working set  
5 done for you Wednesday at lunch time.

6           MR. PALAL: Oh, great. Thank you.

7           MR. CLAUS: Thank you, Your Honor.

8           MR. PALAL: Thank you, Your Honor.

9           THE COURT: Okay? But if you guys give me any that  
10 you think you want just send them over and Dan will work it out.  
11 Do you know how to get ahold of Dan?

12          MR. PALAL: You know what can I get Dan's email?

13          MR. KUTINAC: I have your cards. I'll send you each  
14 an email together so that you'll have my email address.

15          MR. PALAL: Thank you.

16          MR. CLAUS: Thank you.

17          THE COURT: Anything else?

18          MR. PALAL: Nothing from the State.

19          MR. CLAUS: I think that's it, Your Honor.

20          THE COURT: All right. We'll see you on Tuesday  
21 morning. Sorry I couldn't start on Monday, but I've got a  
22 preliminary injunction hearing and a settlement conference both.

23 . . .

24 . . .

25 . . .

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. PALAL: No problem, Your Honor.  
MR. CLAUS: That's all right, Your Honor.  
THE COURT: Okay. 'Bye.  
MR. CLAUS: Thank you.  
MR. PALAL: 'Bye.

THE PROCEEDINGS CONCLUDED AT 9:30 A.M.

ATTEST: I do hereby certify that I have truly and correctly  
transcribed the audio/video proceedings in the above-entitled  
case to the best of my ability.

  
\_\_\_\_\_  
JILL HAWKINS  
Court Recorder

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
KENYA SPLOND,  
Defendant.

CASE NO. C-14-296374-1  
DEPT. XI

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**TUESDAY, MARCH 15, 2016**

**TRANSCRIPT OF PROCEEDINGS RE:**

**JURY TRIAL - DAY 1**

APPEARANCES :

For the State:

BINU G. PALAL  
CHAD N. LEXIS  
Deputy District Attorneys

For the Defendant: T. AUGUSTUS CLAUS, ESQ.

RECORDED BY: JILL HAWKINS, COURT RECORDER

1 LAS VEGAS, NEVADA; TUESDAY, MARCH 15, 2016

2 [Proceeding commenced at 8:56 a.m.]

3 [Outside the presence of the prospective jury panel]

4 THE COURT: Good morning, sir. How are you today?

5 THE DEFENDANT: I'm all right. How about yourself?

6 THE COURT: I am well. I was just explaining to counsel, I  
7 have an unusual way that, if you agree, I will select the alternate  
8 jurors. I have found that sometimes the alternates who are at the  
9 end of the list, you know, the last two people --

10 THE DEFENDANT: Right.

11 THE COURT: -- who are the alternates, they don't always pay  
12 attention during the trial. So when I first became a Judge, we  
13 went to a different system where we use this, if you agree, by  
14 drawing out of a coffee can two numbers for seats that would be  
15 jurors. The problem is if we use that method, you will not know  
16 who those alternates are until your counsel has executed all of the  
17 peremptory challenges because those seats will float as to the  
18 person remaining after the execution of the peremptory challenge.

19 So I'm going to give you a minute to talk to your  
20 attorney about whether you want to use the old-fashioned method of  
21 having the last four people be the group we use to pick the two  
22 alternates or whether we have them float and then counsel will use  
23 that additional peremptory challenge across the entire group. So  
24 it's four for the standard jurors and one for the alternates. And  
25

1 if you use the method with the poker chips, you get five across the  
2 whole group; otherwise, you have four across the group of twenty  
3 and one across the group of four. Okay? So I'll let you guys  
4 figure that out.

5 MR. CLAUS: But we don't know that number ahead of time. We  
6 draw that alternate number.

7 THE COURT: He draws it. I have two -- I have all the poker  
8 chips here. If you want to do that, he can pull the two chips and  
9 he'll tell us what numbers they are by drawing the two chips.

10 MR. CLAUS: Okay.

11 THE COURT: But he gets to pick, not anybody else.

12 [Pause in the proceedings]

13 THE COURT: Mr. Claus, have you had a chance to review the  
14 State's proposed exhibits 1 through 35?

15 MR. CLAUS: I have not, Your Honor.

16 THE COURT: Okay. Then I won't ask you the next question.  
17 One of the things that annoys me to no end is speaking objection,  
18 so let's try and avoid them. State your legal basis.

19 MR. CLAUS: Are we on the record?

20 THE COURT: We're on.

21 MR. CLAUS: I agree with that wholeheartedly, Your Honor.

22 THE COURT: So just give me your legal basis. Any more  
23 argument I'll have you come up to the bench while I'll excuse the  
24 jurors. I try and make a record of everything we talk about at the  
25

1 bench conferences, but don't rely on me for your record of what  
2 should be made. If you have other things, we'll make them at the  
3 next break, but I'll try to keep my list of things I think are  
4 important. Please remember you're in charge of what you think is  
5 important because my perspective is slightly different than yours.  
6 Anybody need any dailies that you know of at this point?

7 MR. CLAUS: No, Your Honor.

8 MR. PALAL: No, Your Honor.

9 THE COURT: If you're going to use a PowerPoint as part of  
10 any of your arguments or presentations with witnesses, the Clerk  
11 will need a copy. She prefers it on a portable electronic storage  
12 device or printed. She will mark it as a Court's Exhibit. Jurors  
13 are allowed to ask questions. Please be aware that I'm going to  
14 call you up to the bench to review the questions whenever the  
15 jurors submit them. Hopefully the Marshal's gathering them pretty  
16 quickly so as you guys have a break between direct and cross or  
17 redirect, I'll have you guys come up, review them, make a  
18 determination if you have any objections. Anybody have any  
19 questions since you're not my regular guys about how I do things?

21 MR. PALAL: None that I can think of, Your Honor.

22 MR. CLAUS: I imagine you'll throw your gavel at me if I do  
23 anything wrong.

24 THE COURT: I won't yell at you. I'll ask you to approach.  
25 I let both sides make a brief factual statement to the voir dire

1 before we start so when we ask them if they know any of the  
2 witnesses or know anything about the case, they have a frame of  
3 reference to answer those questions. So if you'd like to make a  
4 statement, you can, you don't have to. If you don't want to, I  
5 won't ask you in front of the jurors. You think you want to talk  
6 them?

7 MR. CLAUS: For voir dire, Your Honor?

8 THE COURT: Just a little bit about who your witnesses might  
9 be and why you think whatever it was the State was wrong -- said  
10 was wrong.

11 MR. CLAUS: Oh. No, I wouldn't want to do any argument at  
12 that point.

13 THE COURT: Okay. So then I'll ask you -- it's not really an  
14 argument, it's just a factual statement. So I'll ask you then just  
15 introduce your client.

16 MR. CLAUS: Okay.

17 THE COURT: Okay. And yourself. And you have the list of  
18 witnesses so you can read it to them?

19 MR. PALAL: Yes, Your Honor.

20 THE COURT: Okay. Any questions for me?

21 MR. CLAUS: No, Your Honor.

22 MR. PALAL: No, Your Honor.

23 THE COURT: Really?

24 MR. PALAL: I'm sure we'll find something along the way.  
25

1 [Recess taken from 9:02 a.m. to 9:06 a.m.]

2 MR. CLAUS: Your Honor, just for the sake of the record, I  
3 don't believe there was ever an offer extended --

4 THE COURT: Oh, well then let me canvass. Did the State ever  
5 make an offer?

6 MR. CLAUS: To me as Counsel, Your Honor, I want to clarify  
7 that.

8 THE COURT: I'm just asking.

9 MR. CLAUS: There were two prior counsels here.

10 MR. PALAL: Are we on the record?

11 THE COURT: Absolutely.

12 MR. PALAL: Okay. Yes to previous counsel, Mr. Kocka, an  
13 offer was made. It was to plead guilty to two robberies with use  
14 of a deadly weapon, full right to argue including for consecutive  
15 time. I think that was, though, some time ago and to be perfectly  
16 frank with the Court, Mr. Lexis and I are relatively new on this  
17 case so we don't have that time line --

18 THE COURT: Well, let me ask Mr. Splond, did you get that  
19 offer, sir, earlier?

20 THE DEFENDANT: No.

21 THE COURT: No?

22 THE DEFENDANT: No.

23 THE COURT: Then I'll let you take to Mr. Claus about it.  
24 Remember, the decision is always yours, not anybody else's.  
25



1 MR. PALAL: And, Your Honor, to be clear, I believe that offer  
2 was revoked while Mr. Kocka was counsel, I think, well over a year  
3 ago.

4 THE COURT: Okay.

5 MR. PALAL: And is no longer outstanding.

6 THE COURT: So there's no current offer?

7 MR. PALAL: There's no current offer.

8 THE COURT: And when do you think that offer was made  
9 Mr. Kocka since Mr. Splond never recalls receiving it? Now, I  
10 should make a record.

11 MR. PALAL: I believe it was made in 2014, but I will have to  
12 -- I will have to confer with the original -- the deputy who made  
13 the original offer.

14 THE COURT: Okay. And when, if ever, was that offer formally  
15 withdrawn?  
16

17 MR. PALAL: I also believe in the beginning of 2015, Your  
18 Honor.

19 THE COURT: And why do you think that?

20 MR. PALAL: My communications with the original deputy which  
21 is Ms. Lexis. But I will confer --

22 THE COURT: Who?

23 MR. PALAL: Agnes Lexis. She's a deputy in our office. So  
24 she's the person who originally had this case. She's actually  
25 double set is the reason why Mr. Lexis and I --

1 THE COURT: You're here.

2 MR. PALAL: -- are handling this case.

3 THE COURT: Any relation between Mr. Lexis and Ms. Lexis?

4 MR. LEXIS: Yes, Your Honor.

5 THE COURT: Okay. I don't know her. Is she -- who's track  
6 are you guys, usually?

7 MR. PALAL: We are usually in the Walsh -- Judge Walsh, Judge  
8 Togliatti, Judge Delaney and Judge Johnson.

9 THE COURT: Okay. So, sir, if you never got that offer from  
10 your other attorney, I apologize. They are telling me now it is  
11 withdrawn. So at this point they are not making an offer of any  
12 sort it sounds like to you. So I guess we'll just go ahead and  
13 proceed and then deal with whatever issues there may be later if  
14 there are any.

15

16 MR. CLAUS: Yeah. And I don't think there's any disagreement,  
17 Your Honor, that no offer was ever conveyed to me or conveyed to  
18 Mr. Splond.

19 MR. PALAL: That's correct.

20 MR. LEXIS: And Your Honor, according to the minutes in  
21 C296374, Department 11, on September 15th, 2014, --

22 THE COURT: Okay. I'm going, hold on, I'm not as fast as  
23 you.

24 MR. LEXIS: Okay.

25 THE COURT: And this was in front of Judge Smith that day.

1 Ms. Lexis stated she previously conveyed an offer which involved  
2 both cases; however, counsel did not like the offer. The request  
3 of Mr. Kocka, Court ordered matter continued. So there may have  
4 been some discussion about that offer because it looks like it was  
5 continued to October 1st for the same issue to be discussed. And  
6 that was again in front of Judge Smith. Mr. Kocka advised matter  
7 not resolved.

8 MR. LEXIS: That's correct, Your Honor. And according to  
9 Ms. Lexis that's when the offer was revoked and there is no offer  
10 at this time.

11 THE COURT: Okay. So now you get to decide which tie you  
12 like better.

13 After the cases were consolidated, was another offer made or  
14 was it only prior to the consolidation?

15 MR. PALAL: It was prior to the consolidation, Your Honor.

16 THE COURT: But the representation, at least from the  
17 minutes, looks like it was to both cases at the time the offer was  
18 made, prior to the consolidation.

19 MR. PALAL: That's correct.

20 THE COURT: All right. Nice gray tie.

21 MR. CLAUS: It is a nice gray tie, Your Honor, thank you for  
22 allowing us to use it.

23 THE COURT: It's not me; it's my assistant, Dan.

24 MR. CLAUS: Well thank you, Dan.

1 THE COURT: If you want to leave those items here, we  
2 frequently have people leave them and put them right there on the  
3 back of that bench. You're welcome to leave it rather than haul it  
4 back and forth. It's not a very big bag, so you won't, you know,  
5 worry about it.

6 MR. CLAUS: I appreciate it, Your Honor.

7 THE COURT: All right. So is there anything else from a  
8 housekeeping standpoint that we can do while we wait for the jurors  
9 to come upstairs?

10 MR. PALAL: I don't believe so. I believe your Court received  
11 our proposed jury instructions.

12 THE COURT: Dan says yes.

13 MR. PALAL: I don't know that there's any other outstanding  
14 issues. Mr. Claus?

15 MR. CLAUS: No. I think that's it, Your Honor.

16 THE COURT: Did you get a chance to look at the exhibits yet,  
17 Mr. Claus?

18 MR. CLAUS: No, Your Honor. May I?

19 THE COURT: Trying to use your time wisely.

20 MR. CLAUS: Thank you.

21 MR. PALAL: Are we going to choose the alternates?

22 THE COURT: Oh, let's let him finish this. So there's 1  
23 through 35. Look like all photos are DVDs.

24 MR. PALAL: Yes, Your Honor. In addition, there's some photo  
25

1 lineups as well.

2 MR. CLAUS: I previously spoken with the State, they were  
3 going to bring in the custodian of records for these, I believe.

4 MR. PALAL: Actually, we're not intending on bringing in the  
5 custodian of records. We're having the victims authenticate  
6 whatever video they can.

7 MR. CLAUS: That has some apparent limitations then.

8 THE COURT: They only have to testify that they're  
9 substantially similar to whatever it was they observed. Pretty  
10 well a standard, but yeah.

11 MR. CLAUS: I had some interesting discussions with Judge  
12 Hafen about this a couple weeks ago. In that if they don't bring  
13 in the COR and the case doesn't come in in its entirety, they  
14 sensed that the victims or the witnesses did not observe something  
15 on the tape then.

16 THE COURT: DVDs are harder than photos.

17 MR. PALAL: And, Your Honor, if we're discussing this, I have  
18 edited the videos to exclude those views that the victim could not  
19 attest to. So primarily what you'll be seeing in videos is videos  
20 in which the victim is either in and can identify themselves or has  
21 a view from where they were standing as to what was happening.

22 THE COURT: Okay. So here's what I'm going to ask you,  
23 because I'm paranoid, did you provide the edited DVDs to Mr. Claus  
24 for his review before coming today?  
25

1 MR. PALAL: I did not.

2 THE COURT: Darn.

3 MR. PALAL: I can -- I can prepare them. Send the edited --  
4 they're nothing -- there's nothing new and I haven't not spliced  
5 anything together.

6 THE COURT: Well no, but it's the edited issue. I need him  
7 to review whatever it is that you're proposing. I understand that  
8 it came from a greater population --

9 MR. PALAL: Yes.

10 THE COURT: -- and you've now edited that population --

11 MR. PALAL: Right.

12 THE COURT: -- but he's still entitled to see that edited  
13 version before I make him stipulate or object.

14 MR. PALAL: Okay. Yes, Your Honor, I'll provide that to  
15 defense counsel.

16 THE COURT: Okay.

17 [Pause in the proceedings 9:13:55 - 9:14:08 by the Court]

18 THE COURT: Okay, so you've had a chance to look photographs  
19 now. Counsel's going to get you a copy of the edited DVDs for you  
20 to look at --

21 MR. CLAUS: Court's indulgence, Your Honor.

22 THE COURT: -- whether he's either emailing them or sending  
23 them, I don't know.

24 MR. CLAUS: Thank you, Your Honor.

1 [Pause in the proceedings]

2 THE COURT: So you got a chance to look at proposed 1 through  
3 35 with the exception of the DVDs which are, I guess, being  
4 downloaded to a thumb drive as we speak.

5 MR. CLAUS: Yes, Your Honor.

6 THE COURT: Okay. Were there any that you want to state an  
7 objection to now or are we going to do them on a case-by-case basis  
8 as witness testifies?

9 MR. CLAUS: Probably on a case-by-case basis, Your Honor, but  
10 I'm looking right now at the discovery that was turned over by the  
11 State. Some of them are newish to me.

12 THE COURT: They look different to you?

13 MR. CLAUS: They do.

14 THE COURT: Okay.

15 MR. CLAUS: Let me just double check them. That might be my  
16 memory playing tricks on me.

17 [Pause in the proceedings]

18 THE COURT: Do they appear to be different? Are there  
19 differences?

20 MR. PALAL: I prefer to -- I'd prefer to deal with it now as  
21 opposed to tomorrow.

22 MR. CLAUS: Well, dealing with it now, Your Honor, is I try  
23 and keep a fairly organized folder of discovery from the State and  
24 in looking at the photos that the State's chosen to introduce or  
25

1 marked as exhibits a number of them caught my eye, primarily from  
2 the Cricket store locations, from the different event numbers.

3 THE COURT: Which would be 1 through 8?

4 MR. PALAL: Yes, Your Honor.

5 MR. CLAUS: Yes, Your Honor.

6 MR. CLAUS: It's Cricket and Metro Wireless, and I think these  
7 would have been associated with event numbers 140122-2866.

8 THE COURT: And the Metro Wireless are 1 through 15?

9 MR. CLAUS: One through 15 which would be event number --

10 THE COURT: And I'm sorry not 1 through 15, 11 through 15.

11 MR. CLAUS: -- which would be event number 140128-2214. The  
12 difficulty is, Your Honor, those, from all intents and purposes  
13 that I can find, have not been produced to me. Conversely, that  
14 puts me in a bit of a strange position because at those two  
15 locations, there were prints lifted from the glass and from the  
16 counter and from those latent print examinations which are shown in  
17 the photographs that I think Mr. Palal has --

18 THE COURT: Number 7 and 8? Proposed 7 and 8.

19 MR. CLAUS: -- that would constitute exculpatory evidence. So  
20 even though I haven't received it, Your Honor, my druthers would be  
21 give me a chance to take a closer look at that --

22 THE COURT: I'm not rushing you.

23 MR. CLAUS: -- and then I'll finish making my record tomorrow  
24 or when this becomes pertinent. And it's my understanding that  
25



1 Mr. Palal would like to do that right now. I'm a little bit  
2 hamstrung in this moment.

3 THE COURT: So wait -- let me -- did you get number 10 and 17  
4 previously in the unedited version which are the DVDs for those two  
5 locations?

6 MR. CLAUS: Let me check and make sure [indiscernible] up  
7 here.

8 THE COURT: Ten and 17 are DVDs, so they'd be the video.

9 MR. CLAUS: No I did not -- oh I'm sorry, 10 and 17 --

10 THE COURT: Are the proposed videos.

11 MR. CLAUS: -- the video and the Metro PCS for the -- yes,  
12 Your Honor, I did receive that [indiscernible] --

13 THE COURT: Okay. So we're just talking about the stills  
14 that are 1 through 8 and 11 through 15 that there's a potential  
15 issue with?

16 MR. CLAUS: Yes, Your Honor.

17 MR. PALAL: Right.

18 MR. CLAUS: These aren't stills that are taken from the video;  
19 these are stills that were captured by Metro --

20 THE COURT: Okay.

21 MR. CLAUS: -- for their investigation. As I said, Your  
22 Honor, that places me in a little bit of a pickle because the --

23 THE COURT: I'm not making you do anything yet.

24 MR. CLAUS: Yes, Your Honor.

1 THE COURT: Just making sure we have -- we understand there's  
2 an issue.

3 MR. PALAL: Right.

4 THE COURT: Okay. So did you and Mr. Splond decide how we're  
5 doing the alternates?

6 MR. CLAUS: I believe Mr. Splond would like to take a chance  
7 at drawing out his alternate, Your Honor.

8 THE COURT: Okay. Dan, will you walk over there with the --  
9 I'm going to do two alternates because I've had lots of people not  
10 showing up the second day. So, sir, pick out two, there are 1  
11 through 14 in there.

12 MR. KUTINAC: First one, number 10. Second, number 12.

13 THE COURT: So the tenth person remaining after the execution  
14 of the ten peremptory challenges will be your first alternate, and  
15 the twelfth person remaining on the list after the execution of the  
16 ten peremptory challenges will be your second alternate, sir. So  
17 you won't know who those people are until all the peremptory  
18 challenges are executed, but because you've chosen this method,  
19 your counsel gets to use a total of five peremptory challenges over  
20 that group of 24 and he can use them against anybody he wants to.  
21 Any other questions, counsel?

22 MR. LEXIS: And, Your Honor, just for the record, the previous  
23 counsel stated she gave them all to Frank Kocka, all to defense  
24 counsel present today. It's noted in the reports that there was  
25

1 pictures taken and we're giving them all to him again right now.

2 THE COURT: And if you guys Bates number like I've been  
3 telling Chris Lalli for years, this wouldn't be an issue.

4 MR. CLAUS: Fortunately, Your Honor, I do Bates number when I  
5 receive them.

6 THE COURT: I understand. The DA's office is the one who has  
7 to approve when they gave it and giving it is tough when you have  
8 Bates number.

9 MR. PALAL: Sure, Your Honor. The only -- the only -- and I  
10 understand this may present an issue, the only thing the State  
11 would ask is that we address this before we swear in the jury, so  
12 if we need a continuance as opposed to a mistrial going forward. I  
13 think if -- Mr. Claus is now aware of the issue. He's aware that  
14 -- I understand that he may need time to decide how he wants to  
15 proceed, but the State's position is if he -- the proper -- State's  
16 position is the remedy would be a continuance rather than striking  
17 the photos. And so that -- State would just ask that we decide  
18 that issue before we swear in the jury.

19 THE COURT: The actual jury as opposed to the voir dire?

20 MR. PALAL: Yeah, before jeopardy attaches.

21 MR. CLAUS: May I --

22 THE COURT: It's a fair request.

23 MR. CLAUS: It is, Your Honor. And I don't disagree. It is a  
24 fair request. Because it is exculpatory evidence, Your Honor, may  
25

1 I have a moment to speak with my client?

2 THE COURT: Well, I'm not going to make you decide right now.

3 I'll ask you at lunch.

4 MR. CLAUS: Okay.

5 THE COURT: That way you have time to talk to your client

6 about it and think about it.

7 MR. CLAUS: Okay.

8 THE COURT: I'm not forcing you to decide right now. We're

9 going to just start doing voir dire now. I'm not going to swear

10 the jury until after we've made this decision. So Kevin, have you

11 got them lined up?

12 THE MARSHAL: Yes, I have everyone.

13 THE COURT: Even 21?

14 THE MARSHAL: Yes, Judge. She is here.

15 THE COURT: All right. We had misplaced 21 for a while, she

16 has reappeared. So bring them in. The first 24 people on your

17 list will go to the box. The others will sit in the audience

18 avoiding the broken chair.

19 THE MARSHAL: Yes, Judge.

20 THE COURT: So we're going to use real badge numbers --

21 THE MARSHAL: Jurors are present.

22 THE COURT: -- which is the four digit number.

23 [In the presence of the prospective jury panel]

24 THE COURT: You can be seated, counsel. Good morning, ladies

25

1 and gentlemen. This is the time set for trial of case number  
2 C296374, State of Nevada versus Kenny Splond. The record will  
3 reflect the presence of the Defendant, his counsel and counsel for  
4 the State and all officers of the Court. Are the parties ready to  
5 proceed?

6 MR. PALAL: Yes, Your Honor.

7 MR. CLAUS: Yes, Your Honor.

8 THE COURT: Ladies and gentlemen, you are in Department 11 of  
9 the 8th Judicial District Court. My name is Elizabeth Gonzalez and  
10 I'm the presiding Judge in this Department. Good morning. Can  
11 everybody hear me? I noticed we have one person using my  
12 headphones; does anybody else have any problems hearing me? Okay.

13  
14 Let me take this opportunity to introduce the Court staff  
15 with whom you may be coming into contact during this process. Jill  
16 Hawkins is the Court Recorder. She takes everything down on a  
17 digital audio video recording system. For that reason, it's very  
18 important that if you need to respond to a question you give me the  
19 last four digits of the badge number that you have so that she can  
20 properly identify whoever it is that's speaking if she ever has to  
21 make a transcription of these proceedings.

22 Dulce Romea's the Court Clerk. She swears witnesses,  
23 keeps track of the exhibits and keeps the official record of the  
24 Court.

25 You've already met Kevin Eckhardt who's our Marshal. You

1 will have the most contact with him.

2           Standing by the rear door is my assistant, Dan Kutinac,  
3 you may also come into contact with him if you need letters for  
4 your employer or anything if you're actually chosen as a juror.

5           On behalf of the State, if you would please introduce  
6 yourself, your co-counsel, your witnesses, and make a brief factual  
7 statement about the case.

8           MR. PALAL: Thank you, Your Honor. Good morning, ladies and  
9 gentlemen. My name is Binu Palal, with me is Chad Lexis, we are  
10 deputies with the Clark County District Attorney's Office.

11           Ladies and gentlemen, in this case the State has charged  
12 the Defendant, Kenny Splond, with burglary while in possession of a  
13 firearm, and robbery with use of a firearm, and possession of  
14 stolen property.

15           Ladies and gentlemen, the allegations are that the  
16 Defendant -- that the Defendant entered into Star Mart located at  
17 5001 Rainbow on February 2nd, 2014. That he entered into -- that  
18 he entered into Metro PCS located at 6663 Smoke Ranch committing a  
19 robbery there. And that he entered into 4343 North Rancho Drive, a  
20 Cricket store, and committing a robbery in there. The State also  
21 alleges that the Defendant possessed stolen property, specifically  
22 here, a firearm owned by Jeffrey Bruce Haberman.

23           The State intends to call some of the following  
24 witnesses, but please listen to see if you know any of these  
25

1 witnesses. Samuel Echeverria, Graciela Angeles-Menez, Detective  
2 Kavon, Officer Ayala, Custodian of Records of CCDC Las Vegas  
3 Metropolitan Police Department Communications and Records Division,  
4 Kristy Holzer, Joshua Rowberry, Brittney Slather, Alisa Williams.

5           Additionally, the State may be calling Officer Brumaghin,  
6 Officer Carter, Kelly Chapman, Officer Coleman, Custodian of  
7 Records of the Nevada Department of Motor Vehicles, Custodian of  
8 Records of the Star Mart, Officer Fairweather, Officer Forson,  
9 Officer Francis, Officer Garcia, Officer Haas, Jeffrey Haberman,  
10 Officer Hoffman, Officer Kirwin, Detective Landers, Araceli, last  
11 name unknown, Officer McCray, Officer Ralyea.

12           Lastly, the State may also call the following witnesses:  
13 Crime Scene Analyst, Shawn Fletcher, Latent Print Examiner, Heather  
14 Gouldthorpe, and Crime Scene Analyst, Monte Spoor. Thank you.

15           THE COURT: Thank you. On behalf of Mr. Splond, please  
16 introduce yourself, your client, and any additional witnesses you  
17 might be calling.

18           MR. CLAUS: Good morning, ladies and gentlemen of the jury.  
19 My name is Augustas Claus, I represent Kenny Splond. In addition  
20 to the witnesses that you have heard from the State, it's possible  
21 that you may hear from Mr. Splond. You may also hear from Toby  
22 [indiscernible]. Thank you.

23           THE COURT: Thank you. Ms. Clerk, if you would please call  
24 the roll of panel of prospective jurors. Ladies and gentlemen,  
25

1 when your name is called, please answer present or here.

2 [Clerk calls roll of prospective jury panel]

3 THE COURT: Are there any members of my prospective jurors  
4 whose names were not called? If you would please stand and be  
5 sworn.

6 [Clerk swears prospective jury panel]

7 PROSPECTIVE JURY: I do [in unison].

8 THE CLERK: Please be seated.

9 THE COURT: Ladies and gentlemen, we are about to commence  
10 the jury selection process. During this process you will be asked  
11 questions bearing upon your ability to sit as fair and impartial  
12 jurors in this particular case. You'll be asked questions both by  
13 myself and by counsel. Please understand that some of the questions  
14 may seem somewhat personal. They are not intended to embarrass  
15 you, but they are necessary for the parties to make a determination  
16 as to whether you can set as a fair and impartial juror in this  
17 particular case.  
18

19 If, for some reason, you believe that the answer needs to  
20 be given in private, please let me know and we will try and  
21 accommodate your request, but it is important that we obtain  
22 truthful and honest answers so the Court and counsel can make an  
23 intelligent determination as to your capabilities to serve as a  
24 fair and impartial juror.

25 It is important you know the significance of full



1 complete and honest answers to all the questions we are about to  
2 ask you. Please do not try to hide or withhold anything which  
3 might indicate bias or prejudice by you. Should you fail to answer  
4 truthfully or if you hide or withhold anything touching upon your  
5 qualifications that fact may tend to contaminate your verdict. I'm  
6 going to conduct a brief general examination of all of you and then  
7 I'm going to focus some more detailed questions to those folks  
8 sitting in the box area.

9           At some point during the process of selection of jury,  
10 the attorneys will have the right to ask that a particular person  
11 be excused. This process is called a challenge. Please do not be  
12 offended if you are excused by one of the challenge processes. It  
13 doesn't mean that you're not qualified to sit as a juror; it just  
14 means that there's something in your background that the attorneys  
15 believe may give question as to whether you can be fair and  
16 impartial in this particular case.

17           If you wish to respond to a question, please remember I  
18 need the last four digits of your badge number and then the marshal  
19 will have a microphone so that you can be picked up on the audio  
20 video recording system. So please wait until the microphone gets  
21 to you before you give your badge number.

22           First, has anyone in my group of prospective jurors been  
23 convicted of a felony? Seeing no hands I have a universally  
24 negative response.  
25

1           Is there anyone in my group of jurors who's not a United  
2 States citizen? Seeing no hands I have a universally negative  
3 response.

4           Is there anyone who has such a sympathy, prejudice or  
5 bias relating to age, religion, race, gender, sexual orientation or  
6 national origin that they feel would affect their ability to be  
7 open-minded, fair and impartial jurors? Seeing no hands I have a  
8 universally negative -- ma'am?

9           PROSPECTIVE JUROR #0149: Badge number 149. I am not  
10 qualified because I'm not good speak English or, you know, good  
11 understanding.

12           THE COURT: Okay. Thank you for giving me your badge number.  
13 And you must have understood at least part of my response so my  
14 instructions -- so we'll get to you and may ask you some more  
15 questions in a little bit, ma'am.

16           Are any of you acquainted with the Defendant or his  
17 attorney? Seeing no hands I have a universally negative response.

18           Are any of you acquainted with either of the Deputy  
19 District Attorneys? Seeing no hands I have a universally negative  
20 response.

21           Are any of you acquainted with any of the witnesses'  
22 names who were read?  
23

24           PROSPECTIVE JUROR #0115: Badge number 0115, I'm a police  
25 officer with the Las Vegas Metropolitan Police Department and know

1 some of the witnesses that are potentially called.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR #0115: I've also worked with Deputy DA Chad  
4 Lexis on cases before.

5 THE COURT: Okay. Thank you. Anybody else recognize any of  
6 the witnesses' names who were read? Okay. This case is expected  
7 to last four days, would serving that period of time serve as an  
8 undue burden for any of you?

9 PROSPECTIVE JUROR #0088: Badge number 0088, working at SLS  
10 Hotel and Casino full-time.

11 THE COURT: Where do you work, ma'am?

12 PROSPECTIVE JUROR #0088: SLS Hotel and Casino.

13 THE COURT: And what do you do there?

14 PROSPECTIVE JUROR #0088: Food and beverage service.

15 THE COURT: And do they pay for you to serve on jury duty?

16 PROSPECTIVE JUROR #0088: No.

17 THE COURT: Okay. Have you checked with your HR Department  
18 to confirm that?

19 PROSPECTIVE JUROR #0088: No.

20 THE COURT: Okay. Why do you think they don't pay for you to  
21 be on jury duty?

22 PROSPECTIVE JUROR #0088: Because I don't know I just assumed,  
23 I guess.

24 THE COURT: Okay. At our next break, will you call them to  
25

1 check?

2 PROSPECTIVE JUROR #0088: Yes.

3 THE COURT: Because most of the hotels have a period of time  
4 that they pay for jury duty for a period.

5 PROSPECTIVE JUROR #0088: Okay.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR #0088: Yeah.

8 PROSPECTIVE JUROR #0091: Badge 0091, just some Spring Break  
9 plans that I was going to be out of town starting on Sunday.

10 THE COURT: So if we finish by Friday, you're okay?

11 PROSPECTIVE JUROR #0091: Yes.

12 THE COURT: All right.

13 PROSPECTIVE JUROR #0092: Badge number -- badge number 0092,  
14 I'm a foreman for construction company. I'm finishing up the  
15 Federal Justice Tower down on Clark and 6th. I'm installing all  
16 the security ceilings in there and it's quite important to get that  
17 thing wrapped up.

18 THE COURT: Okay. Thank you, sir.

19 PROSPECTIVE JUROR #0150: Badge number 0150, I'm a student at  
20 UNLV and I have classes that are imperative that I attend.

21 THE COURT: And are you having midterms soon?

22 PROSPECTIVE JUROR #0150: Yes, ma'am.

23 THE COURT: When are those?

24 PROSPECTIVE JUROR #0150: I have one tomorrow.

25

1 THE COURT: Okay. And what's your class schedule?

2 PROSPECTIVE JUROR #0150: I have classes all day today and

3 all day tomorrow and Thursday.

4 THE COURT: Okay. So what is -- when you say all day, what

5 are your class hours?

6 PROSPECTIVE JUROR #0150: I have one class at 10 o'clock. I

7 have one class at 2:30 and another class at 5:30.

8 THE COURT: Okay. So you have a 10, a 2:30 and a 5?

9 PROSPECTIVE JUROR #0150: Yes.

10 THE COURT: What's your major?

11 PROSPECTIVE JUROR #0150: Asian studies.

12 THE COURT: Okay. Thank you. Anybody else who believes it

13 will be a hardship to serve for the rest of the week?

14 PROSPECTIVE JUROR #0163: Badge number 0163, I also work in

15 the casino industry. I work at the Encore Beach Club and I'm not

16 sure if they'll pay the weekends. Like you said, I'll probably

17 have to make sure, but just letting you know.

18 THE COURT: Okay. So on our next break if you'll call over

19 there and talk to the HR folks and see what the policy is for the

20 Beach Club for jury service.

21 PROSPECTIVE JUROR #0163: Okay.

22 THE COURT: Okay?

23 PROSPECTIVE JUROR #0163: Thank you.

24 THE COURT: Anybody else in the box area before Kevin goes to

25

1 the audience? Okay.

2 PROSPECTIVE JUROR #0249: Badge number 0249, I'm the primary  
3 caretaker for an autistic child.

4 THE COURT: Okay. All right. Anybody else in that back row?

5 PROSPECTIVE JUROR #0246: Badge number 0246, I work for  
6 Republic Services and I don't get paid for being here.

7 MR. CLAUS: What was that badge number again, please, Your  
8 Honor?

9 THE MARSHAL: What's your badge number again?

10 PROSPECTIVE JUROR #0246: Oh, 0246.

11 MR. CLAUS: Thank you.

12 THE COURT: Yes, ma'am.

13 PROSPECTIVE JUROR #0255: Excuse me, I'm sorry, my English is  
14 not very good and it is very difficult to understand exactly. My  
15 number is 255.  
16

17 THE COURT: Okay.

18 PROSPECTIVE JUROR #0255: That's all. That's all.

19 THE COURT: All right, ma'am.

20 PROSPECTIVE JUROR #0255: It is very difficult for me.

21 THE COURT: It's okay, ma'am. What kind of work do you do?

22 PROSPECTIVE JUROR #0255: Sorry. No, I am retired.

23 THE COURT: Okay. And before you retired, what kind of work  
24 did you do?

25 PROSPECTIVE JUROR #0255: Nothing. I was with my husband.

1 THE COURT: Okay. And how long have you been a United States  
2 citizen?

3 PROSPECTIVE JUROR #0255: From two, zero, zero, nine.

4 THE COURT: Okay. And how long have you lived in the U.S.?

5 PROSPECTIVE JUROR #0255: Sorry?

6 THE COURT: How long have you lived in the U.S.?

7 PROSPECTIVE JUROR #0255: From two, zero, zero, two.

8 THE COURT: All right. Thank you, ma'am.

9 PROSPECTIVE JUROR #0255: Thank you.

10 THE COURT: Anybody else who believes it would be a hardship  
11 to serve?

12 PROSPECTIVE JUROR #0267: Badge 0267, I'm a CPA and partner  
13 with the firm of Bradshaw, Smith, and Company and today's a  
14 corporate deadline and there's other numerous appointments and  
15 engagements at this time.

16 THE COURT: Thanks.

17 PROSPECTIVE JUROR #0271: Badge is 0271, I'm a nursing mother  
18 of a seven-week old and so I need at least a 20-minute break every  
19 two hours to pump.

20 THE COURT: Okay. Thank you, ma'am.

21 PROSPECTIVE JUROR #0277: 0277, I am the sitter for two small  
22 children of working mothers.

23 THE COURT: And are those your children or grandchildren,  
24 ma'am? Or are they --  
25

1 PROSPECTIVE JUROR #0277: One is my grandchild and another is  
2 not.

3 THE COURT: Okay. Thank you.

4 PROSPECTIVE JUROR #0283: 0283, I work for Enterprise  
5 Rent-A-Car and I am a commissioned employee and I just opened a  
6 branch so it's imperative that I'm there.

7 THE COURT: Anybody else?

8 PROSPECTIVE JUROR #0302: Badge 302, I'm an on-call casino  
9 poker dealer and we're embarking on a poker tournament this week  
10 which gives me the opportunity to work full-time. Normally, I can  
11 only work a couple days a week.

12 THE COURT: Thank you, sir.

13 PROSPECTIVE JUROR #0263: Badge number 2 -- 0263, I am an  
14 aesthetician, local, currently self-employed. I already have  
15 previous appointments booked for all of the week slash on stand-by  
16 which isn't -- but, I also have at least one interview coming up  
17 this week. One of those I do need to call back today. It would be  
18 great. I'm looking for something other than my self-employment.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR #0263: Very intensely right now, and that's  
21 pretty much it.

22 THE COURT: So when you said you have interviews, those are  
23 job interviews?

24 PROSPECTIVE JUROR #0263: Yes, job interviews.



1 THE COURT: Okay. Thank you. Anybody else? Anybody else  
2 have a hardship or reason you couldn't serve for the rest of the  
3 week? I have one up here.

4 PROSPECTIVE JUROR #0169: Badge number 169, work at the Santa  
5 Fe Race and Sports Book. It's March Madness beginning this week,  
6 we have a small crew, and boss just said all hands on deck.

7 THE COURT: Your badge number's what?

8 PROSPECTIVE JUROR #0169: 169.

9 THE COURT: Okay. Thank you, sir. Ladies and gentlemen,  
10 are there any of you who believe that for any reason you couldn't  
11 be fair and impartial in this case based upon the limited  
12 information you currently know? Okay.

13 PROSPECTIVE JUROR #0086: Badge number 0086, I was a victim of  
14 armed robbery 23 years ago.

15 THE COURT: And that experience colors your judgment on  
16 anybody who's alleged to have those crimes?

17 PROSPECTIVE JUROR #0086: Possibly.

18 THE COURT: Okay. Anybody else who believe there's a concern?

19 PROSPECTIVE JUROR #0115: Badge number 115, again being a  
20 police officer with the Las Vegas Metropolitan Police Department,  
21 the alleged -- or the addresses where the alleged crimes were  
22 committed are right on the border of my area command and it's  
23 possible that I may have other knowledge of those crimes or alleged  
24 crimes due to information shared in the department and their  
25

1 geographical location to where I work.

2 THE COURT: Thank you, sir. Anybody else?

3 PROSPECTIVE JUROR #0107: Badge 107, I was also a victim of  
4 armed robbery.

5 THE COURT: And when was that, sir?

6 PROSPECTIVE JUROR #0107: Probably like 20 years ago.

7 THE COURT: And does that experience color your judgment on  
8 anyone who's alleged with those kind of crimes?

9 PROSPECTIVE JUROR #0107: I think so.

10 THE COURT: Okay. Anybody else?

11 PROSPECTIVE JUROR #0145: Badge 0145, I was in law enforcement  
12 for ten years and I don't feel that I could be impartial.

13 THE COURT: Okay. Where were you in law enforcement?

14 PROSPECTIVE JUROR #0145: In North Miami Police Department.

15 THE COURT: Anybody else?

16 PROSPECTIVE JUROR #0169: Badge 169, I was also a victim of  
17 armed robbery New Year's Day 2003.

18 THE COURT: And do you think that experience, sir, would color  
19 your judgment on somebody who has those crimes alleged against  
20 them?  
21

22 PROSPECTIVE JUROR #0169: I do.

23 THE COURT: Thank you. Anybody else who believes for any  
24 other reason you might not be able to be fair and impartial?

25 PROSPECTIVE JUROR #0282: Mine's not about the fair and

1 impartial, mine's about being able to serve. As you saw, I tried  
2 to get up and go to the bathroom --

3 THE MARSHAL: Badge number?

4 PROSPECTIVE JUROR #0282: Badge number 0282 and I've been  
5 having issues with my bladder. Doctors don't really know what it  
6 is, so I need to go like frequently.

7 THE COURT: What's your number, sir?

8 PROSPECTIVE JUROR #0282: 0282. If the bathroom breaks  
9 weren't an issue, it wouldn't be a problem, though.

10 THE COURT: Okay. So if you want to get up and go now, that's  
11 okay.

12 PROSPECTIVE JUROR #0282: Okay. Thank you.

13 THE COURT: But is it an unpredictable or a period of time  
14 that you need frequent breaks?

15 PROSPECTIVE JUROR #0282: It really depends. I'm a  
16 schoolteacher and sometimes I just have to get up and go.

17 THE COURT: Okay. All right. Thank you, sir. And then just  
18 come back to your seat when you get back, sir.

19 PROSPECTIVE JUROR #0282: Okay. Thank you, Your Honor.

20 THE COURT: In any criminal trial the jury sitting as a group  
21 acts as a fact -- oh, we have another one?

22 PROSPECTIVE JUROR #0306: Juror 306, I've been in banking  
23 18 years and I've been involved in --

24 THE COURT: Hold on a second, ma'am. Okay, yes.

1 PROSPECTIVE JUROR #0306: I've been in banking 18 years and  
2 I've been involved in a lot of robberies.

3 THE COURT: And does that cause you to have concern about  
4 whether you can be fair and impartial?

5 PROSPECTIVE JUROR #0306: Possibly.

6 THE COURT: Okay.

7 MR. CLAUS: And that was badge number 0306?

8 THE COURT: 306.

9 MR. CLAUS: Thank you.

10 THE COURT: Anybody else?

11 PROSPECTIVE JUROR #0261: Badge number 0261, I grew up in a  
12 family, my father's a retired police officer back in Michigan just  
13 outside of Detroit. I'm not sure I can be fair in this trial.

14 THE COURT: Okay. Anybody else who has a concern about being  
15 fair and impartial?

16 PROSPECTIVE JUROR #0222: Yeah, badge number 222, it has  
17 nothing to do with fair and impartial, I apologize, but as far as  
18 being able to serve, I just need to know that I could get a phone  
19 call from my son or my wife, my son's extremely ill. He's had  
20 three open-heart surgeries and he has seizures. And so I don't  
21 have a problem serving, I just need to know that if there was a  
22 problem that someone could let me know, so.

23 THE COURT: So if we had those calls go to my assistant and  
24 then they could come in and tell you if there was an emergency --  
25

1 PROSPECTIVE JUROR #0222: Yeah.

2 THE COURT: -- would that work?

3 PROSPECTIVE JUROR #0222: Yeah, we have no family in Nevada  
4 and so I have other little kids at home that my wife would have to  
5 need help with, but that's the only problem.

6 THE COURT: All right. Thank you, sir. I appreciate your  
7 willingness to serve.

8 THE MARSHAL: Anyone else?

9 THE COURT: Anybody else who has a concern about being fair  
10 and impartial based on the limited information you currently have?

11 In any trial the jury sitting as a group are acting as  
12 fact finders. That means that the jurors listen to the evidence.  
13 They listen to the witnesses. They look at the documents that are  
14 admitted, and then as a group, they make a decision about what  
15 happened. Does anybody have a problem acting as a fact finder?  
16 Serving in that role? Seeing no hands I have a universally  
17 negative response.

18 My primary job as the Judge is to give you all the  
19 instructions on the law that apply to the case. Does anybody think  
20 that they will have problems following the law as I give it to you?  
21 Seeing no hands I have a universally negative response.

22 Under our system, certain principles of law apply in  
23 every criminal trial they are that the indictment filed in the case  
24 is a mere accusation and is not evidence of guilt, the State must  
25

1 prove that the defendant is guilty beyond a reasonable doubt, and  
2 the defendant is presumed innocent. Does anyone have a concern  
3 with those particular principles or not believe in them? I have a  
4 universally negative response.

5 So I'm going to go back real quick to Mr. Cooke.

6 PROSPECTIVE JUROR #0282: Yes.

7 THE COURT: Mr. Cooke, two questions while you were out of the  
8 room. First, the jurors acting as a group, listen to the  
9 witnesses, look at the exhibits and then as a group, make a  
10 decision about what happened acting as fact finders; do you have a  
11 problem fulfilling that role if you're chosen?

12 PROSPECTIVE JUROR #0282: No, Your Honor.

13 THE COURT: And my primary job as the Judge is to give you  
14 instructions on the law. Do you have any reason to believe you  
15 wouldn't be able to follow the instructions on the law as I give  
16 them to you?

17 PROSPECTIVE JUROR #0282: No, Your Honor.

18 THE COURT: And then you heard my question about the basic  
19 principles of criminal justice as you came in the room, you don't  
20 have a problem with those? All right. Thank you, sir.

21 PROSPECTIVE JUROR #0282: Thank you.

22 THE COURT: And if you need to go to the restroom, just raise  
23 your hand, go, and I'll try to catch you up as you come back in.

24 PROSPECTIVE JUROR #0282: Thank you.

1 THE COURT: Okay. Can all of you wait in forming your opinion  
2 until all of the evidence has presented -- been presented to you  
3 and under the instructions that I give you? Everybody willing to  
4 wait until the end of the case to make a decision? All right. I  
5 have a universally positive response.

6 Does anybody know anything about this case other than  
7 potentially Officer Dalrymple, other than what's been said here in  
8 the courtroom? Seeing no hands I have a universally negative  
9 response.

10 Ladies and gentlemen, you're now going to take a short  
11 five-minute recess while I talk to the lawyers about a couple of  
12 issues and then I'm going to have you come back into the room.  
13 Please remember the order in which you're seated in. Those of you  
14 who have reassignments to call your HR department, if you could try  
15 and do that now, that would be really helpful. And then if you get  
16 information, signal me when you come back in that you need to give  
17 me that answer. Okay?

18 THE MARSHAL: Stay on this floor, please.

19 [Outside the presence of the prospective jury panel]

20 THE COURT: Thank you, sir.

21 MR. CLAUS: We have one other issue, Your Honor.

22 THE COURT: Got to wait for all the doors to close. All  
23 right, now.

24 MR. CLAUS: One of the jurors wandered out with the headset  
25

1 still on which means --

2 THE COURT: The gentleman here?

3 MR. CLAUS: No, there was a gentleman in the back row, Your  
4 Honor.

5 THE COURT: Needed a headset?

6 MR. CLAUS: He had a headset which means that he's still  
7 listening.

8 THE COURT: Oh. Kevin, could you go get my headphones from  
9 the gentleman who has them in the hallway?

10 MR. CLAUS: If you can hear us, come back in.

11 THE COURT: Good catch, Mr. Claus. Okay. I try and treat all  
12 the people who gave me hardships the same. So if we excuse people  
13 who have financial hardships because they're aestheticians or they  
14 don't get tips, I try and excuse the whole group that's like that.  
15 So I'm going to go through those who I think we have hardship  
16 issues and then we can talk about the group that has other  
17 potential issues.

18 THE CLERK: Judge, you have to wait until he comes back with  
19 the headset.

20 THE COURT: I haven't said anything yet.

21 THE DEFENDANT: Judge, the restroom?

22 THE COURT: Oh, yeah. You can, sir. I'm going to go to 150  
23 as soon as Kevin walks in the room with headphones. Kevin, do you  
24 have my headphones?  
25



1 THE MARSHAL: Yes, Judge.

2 THE COURT: All right. So number 150, Jordan Myrda is a UNLV  
3 student who is in the midst of midterms. I would typically excuse  
4 that person.

5 MR. PALAL: The State has no objection.

6 MR. CLAUS: No objection, Your Honor.

7 THE COURT: Okay. Dan, is there some special form I have to  
8 use now?

9 MR. KUTINAC: No, Your Honor. No. Just so you know, though,  
10 when you do excuse them, they are free to go they do not need to go  
11 back down to the third floor.

12 THE COURT: Okay

13 MR. CLAUS: Really?

14 MR. KUTINAC: Yeah, they get a whole new system now.

15 THE COURT: Okay. And then I have juror number 222 who has a  
16 child issue who says that he's willing to serve, but may have to  
17 leave at a moment's notice.

18 MR. CLAUS: Yeah, the open-heart surgery, yes, Your Honor.

19 MR. PALAL: The State has no objection.

20 THE COURT: So if it's okay with you guys, I'm going to excuse  
21 him?  
22

23 MR. CLAUS: And that's 222, Your Honor, for the record?

24 THE COURT: 222. And then I have 249 who has an autistic  
25 child that she is the caregiver for.

1 MR. PALAL: I have no problem -- she's pretty far down the  
2 jury list anyway, Your Honor.

3 THE COURT: Yeah, she is. I have 267. I usually try and  
4 excuse the CPAs during tax season and encourage them to reschedule  
5 ahead of time.

6 MR. PALAL: State --

7 MR. LEXIS: Yeah. No objection.

8 MR. CLAUS: Yeah, no objection. Which was the CPA again,  
9 please, Your Honor?

10 MR. PALAL: 267.

11 THE COURT: His number is 267.

12 MR. CLAUS: Thank you.

13 THE COURT: 271 is our lady who is currently pumping in the  
14 deliberation room, Kevin?

15 THE MARSHAL: Yes, Judge.

16 THE COURT: She seems willing to serve, but it may create  
17 issues with the breaks. I just mention that for your thought --

18 MR. PALAL: Yes, the State has no objection to excusing her.

19 MR. CLAUS: Neither here, Your Honor.

20 THE COURT: So 271.

21 MR. CLAUS: 271?

22 THE COURT: 277 babysits her grandchild while someone works.  
23 That's someone I would typically excuse.

24 MR. PALAL: No objection by the State.

1 THE COURT: Mr. Claus?

2 MR. CLAUS: That was 277, Your Honor?

3 THE COURT: 277.

4 MR. CLAUS: No objection.

5 THE COURT: 282 has to take frequent unannounced restroom  
6 breaks.

7 MR. CLAUS: I think that's a good person to excuse, Your  
8 Honor.

9 MR. PALAL: The State would agree.

10 THE COURT: Okay. I mean, I told him he could during jury  
11 selection, but it would create a huge problem during trial.

12 MR. CLAUS: Then again, it might cover for me needing to take  
13 a restroom break so often, so.

14 THE COURT: It would -- it's up to you guys.

15 MR. PALAL: Yes, the State has no objection.

16 THE COURT: Okay. And then I have a lot of people -- I have  
17 one Metro, current Metro officer who I would prefer not to have him  
18 talk too much about stuff in front of the jury.

19 MR. PALAL: The State has no objection to excusing that juror,  
20 115.

21 MR. CLAUS: 115. Yes let's --

22 THE COURT: I'm trying to find his number; he's like in the  
23 first 20.

24 MR. PALAL: 115, Your Honor.

25

1 MR. CLAUS: Before he inadvertently --

2 MR. KUTINAC: What number, Judge?

3 MR. PALAL: 115.

4 MR. LEXIS: 115, Your Honor.

5 MR. CLAUS: Before he blurts that he has knowledge of this  
6 crime.

7 THE COURT: That's why I said, besides Officer Dalrymple.  
8 He's 115, any objection to excusing him?

9 MR. CLAUS: No, Your Honor.

10 MR. PALAL: None, Your Honor.

11 THE COURT: And then I had a bunch of people who were victims  
12 of armed robberies and expressed concern. If you want to excuse  
13 them now, I will. Otherwise, I will let you guys ask and you can  
14 make cause challenges as we go.

15 MR. PALAL: The State would ask for an opportunity to ask some  
16 questions and proceed.

17 THE COURT: Okay.

18 MR. CLAUS: And, Your Honor, I'm just trying to make record,  
19 when I've -- having a juror that says that on the front-end usually  
20 means that they're going to take an opportunity to say something  
21 nasty on the record. I'd prefer to get rid of them right now and  
22 there's only two of them. That I'm aware of. That would need to  
23 be let go of.

24 THE COURT: There were four.

1 MR. PALAL: Yeah, four.

2 MR. CLAUS: I've got 107 --

3 THE COURT: I've got four.

4 MR. CLAUS: -- and then --

5 MR. PALAL: 306.

6 MR. CLAUS: -- 169 and that gets us out of the 20 people that

7 are in the jury. I'm not sure who --

8 MR. LEXIS: No, you're missing 86.

9 THE COURT: 86, the second person

10 MR. CLAUS: Oh, I'm sorry, yes, I am missing 86, apologies,

11 Your Honor.

12 THE COURT: And then you have the banker, also, who is sitting

13 in seat, near the end.

14 MR. PALAL: 306, Your Honor.

15 THE COURT: 306.

16 MR. CLAUS: 306 was at the end?

17 THE COURT: Yeah, she was the banker.

18 MR. PALAL: Yeah.

19 THE COURT: Okay. So you want to ask them questions?

20 MR. PALAL: Yeah --

21 THE COURT: You understand that if something really bad

22 happens and then I have to start all over and then we won't finish

23 this week?

24

25 MR. PALAL: State understands that, but we think -- we would

1 like the opportunity to at least question them.

2 THE COURT: Okay. Understanding that if they contaminate the  
3 whole panel, I have a problem. And I have had people who go to  
4 that extent just to get out of jury duty.

5 MR. CLAUS: As have I, Your Honor.

6 THE COURT: Because they just don't want to be here.

7 MR. PALAL: I think we can phrase the questions in such a way.

8 THE COURT: All right. Is there anyone else other than those  
9 categories and specific individuals we've talk about that you have  
10 concern? I have two people who claim they don't speak any English.  
11 One is in the box. She was, however, able to give me her badge  
12 number so she clearly understood what we were doing so far this  
13 morning. The Russian lady in the back row.

14 MR. PALAL: State will submit.

15 THE COURT: Mr. Claus?

16 MR. CLAUS: Your Honor, I'd be more concerned about Ms. Bong  
17 Lee simply because she did speak with an exceptionally heavy  
18 accent. I was able to understand the Russian speaker and even  
19 though she might not have had as good of a grasp of the language as  
20 she'd have liked, she was comprehensible. Ms. Lee, on the other  
21 hand, I think she might have trouble interacting with the other  
22 jurors. I'd ask if you're inclined to excuse her for cause at this  
23 point.  
24

25 THE COURT: Any objections?

1 MR. PALAL: No objection. State takes no position.

2 THE COURT: So I'll excuse 149. So here's the -- any others

3 that you guys want me to consider excusing at this early stage

4 based on the limited information we currently have?

5 MR. PALAL: Nothing from the State, Your Honor.

6 MR. CLAUS: No, Your Honor.

7 THE COURT: 150, 222, 249, 267, 271, 277, 282, 115 and 149.

8 MR. PALAL: If I could do them in order, Your Honor, make sure

9 I've got them right? 115, 149 --

10 THE COURT: 115, 149, 150, 222, 249, 267, 271, 277, 282.

11 MR. PALAL: Exactly, thank you, Your Honor.

12 THE COURT: Everybody got the same list?

13 MR. CLAUS: Yes, Your Honor.

14 THE COURT: Now, I'm going to cross-reference on my list. I

15 am going to take a longer break than I was going to because of the

16 young lady who's pumping. But she is one of the jurors we're

17 excusing, so I may just have Kevin excuse her depending upon when

18 you guys are ready. Does anybody want the opportunity to take a

19 restroom break themselves while we're at this stage?

20 MR. CLAUS: I'll take a short break, Your Honor.

21 THE COURT: Okay.

22 [Recess taken from 10:08 a.m. to 10:14 a.m.]

23 [Outside the presence of the prospective jury panel]

24 MR. CLAUS: -- continuance, would you keep this?

25

1       THE COURT: I am required to keep it. I get in trouble if I  
2 try to send it back to the originating department. I did it once  
3 when the Judge had not decided a pending motion in limine and I  
4 sent it back and I got in trouble, but Herndon backed me up. So  
5 otherwise I get stuck with it.

6       MR. CLAUS: Okay.

7       THE COURT: I mean stuck, you remain in my department.

8       MR. CLAUS: Okay. Then based upon that, Your Honor, and  
9 speaking with Mr. Splond, he would like some additional time to go  
10 through this new evidence with me. Your Honor, I can't imagine it  
11 taking much more than a week, but based upon the photographs -- and  
12 these are questions I didn't have answers for. I think a week  
13 continuance would be more than sufficient.

14       MR. PALAL: All right. Your Honor, I'd just like to make a  
15 brief record.

16       THE COURT: I'm listening.

17       MR. PALAL: If that's okay. In speaking with Ms. Lexis, she  
18 said she had a file review with Mr. Claus. Now, I don't have any  
19 problem with Mr. Claus' representation that he doesn't have the  
20 photos; it must have been some kind of oversight. I'm not  
21 questioning Mr. Claus' integrity or anything like that, just to be  
22 clear. I've worked with him for a long time. He's always been  
23 upfront with me; however, Ms. Lexis said she went over the file  
24 that the photos were in the file at the time. Clearly something  
25



1 miscommunication happened.

2           With regards to a one week continuance, Your Honor, the  
3 issue with that for the State is the lead detective is -- one, the  
4 lead detective in the case is flying in from Wisconsin, he's  
5 currently retired. So there's that. I don't know -- I just can't  
6 represent to the Court when he'd be available. Two, as the Court  
7 knows we had spent some time lining up a number of witnesses. I  
8 don't know that I can turn that around. We'll make representation  
9 as to whether I can turn that around in one week. So if we're  
10 continuing the case, I mean, the State would -- Court's indulgence  
11 --

12           MR. CLAUS: If the State needs a longer continuance to secure  
13 the witnesses, Your Honor, I told Mr. Splond that that might be an  
14 eventuality to this request, so I can't very well object to that  
15 based upon the nature of my request.  
16

17           THE COURT: No, I understand.

18           MR. PALAL: Can -- when does the Court have its criminal  
19 calendars? Can we reset this for tomorrow?

20           THE COURT: I have criminal calendars Mondays and Wednesdays.  
21 Is tomorrow Wednesday?

22           MR. PALAL: Yes, tomorrow is Wednesday.

23           THE COURT: Tomorrow's Wednesday.

24           MR. PALAL: Can we put it on for tomorrow so we can try and  
25 contact our witnesses and see their availability for next week?

1 THE COURT: Is that okay with you? Status check tomorrow?

2 MR. CLAUS: That's just fine with me, Your Honor.

3 MR. PALAL: Thank you, Judge.

4 THE COURT: All right. Based upon the issue related to

5 proposed State's Exhibits 1 through 8 and 11 through 15, the

6 request for continuance is granted. I am going to dismiss this

7 group of jurors in its entirety and let them go and have you come

8 back tomorrow for a status check on resetting trial.

9 MR. LEXIS: Your Honor --

10 THE COURT: Hold on.

11 MR. LEXIS: I'm sorry.

12 THE COURT: My stack goes through the week of April 11th and

13 then I have the next stack starts in May -- or the end of May

14 beginning of June.

15 MR. LEXIS: And that was my question, Your Honor. If we

16 reschedule we could do it either next week or the following week?

17 MR. CLAUS: In the position I'm putting the State in, Your

18 Honor, I must --

19 THE COURT: I will then negotiate with you dates.

20 MR. LEXIS: All right. Thank you, Your Honor.

21 THE COURT: The problem is for me and this is the problem for

22 I think most of the Judges, we already have a bunch of stuff set so

23 it doesn't really matter. There's already a lot of crap going on

24 and so we try really hard to make things happen when they should,

25

1 but sometimes stuff happens.

2 MR. PALAL: Sure.

3 THE COURT: So like with you guys, I'm now going to -- when  
4 the jurors come back in, excuse them all and I'm going to call the  
5 preliminary junction hearing and I didn't finish yesterday and ask  
6 if they want to use any of the days this week.

7 MR. PALAL: All right.

8 THE COURT: Because I had told them they weren't going to get  
9 to go for a couple of weeks because you guys were going to be busy.

10 MR. CLAUS: Apologies, Your Honor.

11 THE COURT: It's not your problem. They're civil lawyers;  
12 they get paid by the hour.

13 MR. PALAL: So, Your Honor, we'll be here tomorrow with an  
14 idea of our availability.

15 THE COURT: 9 o'clock.

16 MR. PALAL: Thank you, Your Honor.

17 THE COURT: Okay. But don't leave.

18 MR. CLAUS: I was apologizing for subjecting you to civil  
19 attorneys for that long, Your Honor.

20 THE COURT: Their half day hearing wasn't a half day hearing.

21 MR. CLAUS: Shocking.

22 MR. KUTINAC: Hold on --

23 THE COURT: You want me to hold the exhibits that have been  
24 offered or return them to the State?  
25

1 MR. PALAL: Can you hold them with the exhibit list? Thank  
2 you.

3 THE CLERK: Sure.

4 MR. PALAL: Thank you.

5 THE COURT: Since they're not admitted, do we keep them in a  
6 special thing here or send them to the vault?

7 THE CLERK: I think now they want us to --

8 MR. CLAUS: Are we off the record?

9 THE COURT: Not yet.

10 [Pause in the proceedings]

11 MR. LEXIS: Your Honor, would you have a Monday start next  
12 week if it was next week?

13 THE COURT: What -- hold on, I got to get back to March. Next  
14 week would be the 21st?

15 MR. PALAL: Yes.

16 THE COURT: Quite possibly. I do not have a conflict. It  
17 would be a Monday afternoon start, probably. No, it would be a  
18 Monday morning start. I don't have a settlement conference. I  
19 have five cases currently set. I can't tell --

20 MR. PALAL: Oh, yeah, cause we may be sent to overflow --  
21 would we be -- are we -- our --

22 THE COURT: Well, we try and keep the longest of the cases and  
23 send the shorter ones to overflow. There is one case -- did you  
24 put that case back on that you vacated in error? Aniqua Anderson?  
25

1 THE CLERK: Yes.

2 THE COURT: There was one case with a grumpy young lady who  
3 wants to fire the Public Defenders' Office and hire her own lawyer  
4 and I told her if she could afford to hire her own lawyer, she  
5 probably couldn't qualify for the Public Defenders' Office and she  
6 got mad at me. So I don't think those -- I think those are all  
7 shorter, though. I think yours would be the longest case. The  
8 oldest case on there -- you're a what? Are you a 2014 case?  
9 You're the oldest of my cases now on this list.

10 THE MARSHAL: Ready, Your Honor?

11 THE COURT: I am. Do you have the young lady?

12 THE MARSHAL: Yes, Judge.

13 THE COURT: Okay. I think you would be likely to bump those  
14 if you tell me you want to go next week.

15 THE MARSHAL: Jurors are present

16 [In the presence of the prospective jury panel]

17 THE COURT: You can be seated, counsel. Ladies and gentlemen,  
18 I want to thank all of you for your jury service. You are now all  
19 excused. Thank you so much for coming because without people like  
20 you who come and are willing to sit as jurors, our system wouldn't  
21 work. So thank you very much to all of you for coming. I believe  
22 you are now all supposed to go home or go back to work. You have  
23 no further things to do with us. Thank you so much. Have a great  
24 day.  
25

1 [Jury excused]

2 THE COURT: All right. So see you guys at 9 in the morning.

3 MR. PALAL: Sorry for wasting your morning, Your Honor.

4 THE COURT: Dulce will retain the exhibits. If you want to go  
5 next week, it looks like a sure shot, you'll go here.

6 MR. PALAL: Okay.

7 MR. CLAUS: Your Honor, one thing that I might be doing just  
8 so you're aware, and I don't know if the State wants to oppose this  
9 orally right now. The transcripts from the previous hearings in  
10 which they said that the offers were or were not conveyed, I've got  
11 certain things in writing that came through to my office. I don't  
12 know exactly how that record was built beforehand. Obviously, it  
13 was before my time.  
14

15 THE COURT: Yeah.

16 MR. CLAUS: As this came up and based upon the answer that was  
17 given by Mr. Splond, I feel that I should probably dig into that a  
18 little bit more. So with your permission, Your Honor, I will  
19 submit some ex parte orders to the Court for signature for the  
20 preparation of those transcripts, assuming the State does not  
21 object from those previous hearings.

22 THE COURT: Does Doug Smith have a court recorder or a court  
23 reporter? Do you guys know?

24 UNIDENTIFIED SPEAKER: It's a court reporter.

25 MR. PALAL: I think it's a reporter, Your Honor.

1 THE COURT: Yeah, then send over the orders and I'll sign  
2 them.

3 MR. CLAUS: Thank you very much, Your Honor.

4 THE COURT: There's no objection; right?

5 MR. PALAL: No, Your Honor.

6 THE COURT: We need to clarify that issue. Okay. Anything  
7 else?

8 MR. CLAUS: That's it.

9 MR. PALAL: Nothing from State.

10 THE COURT: Don't forgot to give my assistant back his tie.  
11 And I'll see you guys in the morning?

12 MR. PALAL: Yes.

13 THE COURT: And I'll see if I can get my preliminary  
14 injunction hearing back on.

15 MR. CLAUS: What time, Your Honor, in the morning?

16 MR. PALAL: Eight --

17 THE COURT: 9 o'clock.

18 MR. CLAUS: 9 o' clock. Thank you.

19 [Proceeding concluded at 10:27 a.m.]

20  
21 ATTEST: I do hereby certify that I have truly and correctly  
22 transcribed the audio/video proceedings in the above-entitled case  
23 to the best of my ability.

24  
25   
Jennifer P. Gerold  
Court Recorder/Transcriber

DISTRICT COURT  
CLARK COUNTY, NEVADA

Defendant.

# Transcript of Proceedings

000407  
**AA000371**



1 LAS VEGAS, NEVADA, WEDNESDAY, MARCH 16, 2016, 9:45 A.M.

2 (Court was called to order)

3 THE COURT: 29, Splond.

4 How are you doing?

5 MR. CLAUS: Fair to Midland, Your Honor.

6 MR. LEXIS: Good morning, Your Honor. Chad Lexis for  
7 the State.

8 THE COURT: Good morning, Mr. Splond. I haven't seen  
9 you since what, yesterday, day before.

10 THE DEFENDANT: Yesterday.

11 THE COURT: Okay. You guys ready to go?

12 MR. CLAUS: I believe the State wants to go, Your  
13 Honor. I'd -- and I'll hold to what I said yesterday.

14 THE COURT: 10:00 o'clock, Monday.

15 MR. LEXIS: Correct, Your Honor.

16 MR. CLAUS: Monday or Tuesday, Your Honor? Which  
17 start would you prefer?

18 THE COURT: I'd prefer Monday. That way we're sure we  
19 get done.

20 MR. CLAUS: If we can do a Monday start, Your Honor,  
21 my request would only be that we start a little later in the  
22 day.

23 THE COURT: 1:00 o'clock.

24 MR. CLAUS: Well, not necessarily 1:00 o'clock, but  
25 maybe a 10:00 o'clock start.

1 THE COURT: That's what I said 10:00.

2 MR. CLAUS: The 9:00 o'clocks are very difficult for

3 me.

4 THE COURT: 10:00 o'clock. Monday, 10:00. 10:30?

5 MR. LEXIS: 10:00 o'clock's good for me, Judge.

6 THE COURT: 10:30?

7 MR. CLAUS: 10:30 would be better, please.

8 THE COURT: 10:30.

9 THE COURT CLERK: March 21, 10:30 for trial.

10 MR. LEXIS: And, Your Honor, for the record, I handed

11 over the CD as you requested yesterday of the video.

12 THE COURT: The edited versions of the video.

13 MR. LEXIS: Correct, Your Honor. It looks like Mr.

14 Claus also filed a discovery motion. I told him he's more than

15 welcome to come over at any time to look at our files, yet

16 again. We have turned over at this point everything.

17 THE COURT: Well, here's one of the problems in this

18 department. I ordered the information produced and that doesn't

19 necessarily mean you get to just open up your file.

20 MR. LEXIS: Correct.

21 THE COURT: They are two different things.

22 MR. LEXIS: But we've -- I also asked Mr. Claus if

23 there was anything specifically that he is addressing that we

24 have not turned over.

25 THE COURT: Hold on. Let me see if I can find a

1 motion. I didn't know there was a motion.

2 MR. CLAUS: It was filed late last night, Your Honor.  
3 I was reviewing the discovery and going through, and I  
4 figured --

5 THE COURT: Hold on.

6 MR. CLAUS: -- I should file a discovery motion at  
7 this point.

8 THE COURT: Since trial's on Monday, I figure I would  
9 look at it now, if you guys would give me a second.

10 MR. LEXIS: Yes, Your Honor.

11 (Pause in the proceedings)

12 THE COURT: Did the State want to object to any of the  
13 specific requests that are enumerated beginning on page 8? No,  
14 I'm sorry, it's 7.

15 MR. LEXIS: Other than, Judge, I can assure the Court  
16 we have complied with Brady and Giglio. I've asked Mr. Claus if  
17 anyone of these specifically he has not obtained or needs and he  
18 tells me in the negative.

19 THE COURT: Okay. The motion is granted with the  
20 exception of "E". The material will not be provided to the  
21 defense, but will be shown to the defense to the extent it is  
22 available by the State, and "I" except for notes that reflect  
23 conversations with the District Attorneys as those are work  
24 product. I'm not going to require the production of any of the  
25 items under "O" at this time; however, they will have to be

1 produced prior to the commencement of trial and the defendant  
2 will have the opportunity to object to their use. And on "W",  
3 if it relates to misconduct of an officer, I will do an in  
4 camera review and then make a determination as to whether the  
5 information will be released. And all the other respects the  
6 motion's granted.

7 MR. LEXIS: E, O --

8 THE COURT: E, I, O and W.

9 MR. CLAUS: I'll have to change W to U, Your Honor.

10 THE COURT: Is that what it is?

11 MR. CLAUS: No, Your Honor. I'm just saying I'm just  
12 going to have to reorder that.

13 THE COURT: Let me make sure. Hold on. I don't think  
14 you went all. No, U's okay.

15 MR. CLAUS: I know. E, I, O, U, and [unintelligible].

16 THE COURT: He's making fun of me.

17 MR. CLAUS: I'm not, I'm not. No, no, no, no.

18 THE COURT: Oh, I didn't get it.

19 MR. CLAUS: I'm sorry.

20 THE COURT: Now I understand. E, I, O, U. Okay.  
21 Good. I got it. Thank you. All right. I'm a little slow this  
22 morning.

23 MR. LEXIS: So, Your Honor, do you want us to file a  
24 response or did you already address this [unintelligible]?

25 THE COURT: No. I asked you to respond orally since

1 we're starting trial on Monday.

2 MR. LEXIS: I understand.

3 THE COURT: It was like why are we going to wait. So  
4 it looks like all of the information is specifically included.  
5 He's got a lot of references to specific event numbers and  
6 information. Get those to him as soon as you can so that we  
7 don't have a delay related to the next trial date.

8 MR. CLAUS: Now --

9 MR. LEXIS: And --

10 MR. CLAUS: -- Your Honor, the --

11 MR. LEXIS: Sorry.

12 MR. CLAUS: -- there are some things that have come up  
13 based upon the evidence that I'm going to dig deeper into. I'm  
14 going to try and do that by Monday, Your Honor. I've told the  
15 State, the State doesn't appear to have that evidence either.  
16 If they don't have it, Your Honor, and I've done the file review  
17 with them, I'm going to plan on filing a motion in limine. I  
18 understand that it's a late date, but I don't want to have  
19 anything else show up in trial or during testimony that's in the  
20 State's putative custody or from their experts that hasn't been  
21 produced by the time we get going.

22 MR. LEXIS: Well, Judge, can we vent that out now as  
23 far as what is it he's misses. What does he want? What is he  
24 missing?

25 MR. CLAUS: I haven't seen the bench notes for the

1 fingerprint examiner. I spoke with the DA about this outside of  
2 court. I don't believe they do either.

3 MR. LEXIS: That's correct.

4 MR. CLAUS: To be perfectly frank, I'm satisfied with  
5 that as the fingerprint examiner's reports simply say that my  
6 client's finger prints are excluded from possible matches. What  
7 I don't want to have is have the fingerprint examiner show up  
8 with their bench notes at trial and then start testifying as to  
9 why that happens, Your Honor, to be perfectly frank. And then  
10 I'm faced with this conundrum in front of the jury of an expert  
11 showing up with notes that should have been produced, dare I say  
12 months ago.

13 THE COURT: You were here when I talked about the  
14 appendix to the expert report on the other case and why it's  
15 important that when the expert relies on things it's important  
16 we have that information.

17 MR. LEXIS: I will call --

18 THE COURT: It's the same kind of thing.

19 MR. LEXIS: I will call them up today, Your Honor.

20 THE COURT: Okay.

21 MR. LEXIS: Is there anything else?

22 THE COURT: But if there is a problem related to the  
23 evidence production that I've just ordered or to your review  
24 after you meet with the DAs, I'd rather hear about it Friday  
25 afternoon when I can tell the jury not to come in and maybe do

1 other things productively then have a problem.

2 MR. LEXIS: Could we have a status check on Friday,  
3 Your Honor?

4 THE COURT: We can have a status check on Friday.

5 THE COURT CLERK: March 18th at --

6 THE COURT: Can we do 9:00 o'clock?

7 MR. CLAUS: I was already planning on being available  
8 at 9:00 o'clock on Friday, Your Honor.

9 THE COURT: Where you?

10 MR. CLAUS: I'll be there.

11 THE COURT: You okay with 9:00 o'clock?

12 MR. LEXIS: Yes, Your Honor.

13 MR. CLAUS: I've got Competency Court at 9:00 o'clock,  
14 Your Honor. So if you just put a --

15 THE COURT: Could we do 9:30?

16 MR. CLAUS: 9:30 would be just fine.

17 THE COURT: 9:30 okay?

18 MR. LEXIS: Yes, Your Honor.

19 And my -- I ask if there is anything else that he's  
20 aware of at this time.

21 THE COURT: There's all these lists of event numbers  
22 that are in this motion, and I'm assuming that the reason  
23 they're listed is because they're important. That's my only  
24 guess. So if what you're asking him is is there anything else  
25 that's not in the motion, please --

1 MR. LEXIS: That he does not have, Your Honor.

2 MR. CLAUS: Those are -- that was just a thing that I  
3 could call up off the top of my head, Your Honor, as something  
4 that I thought might happen at trial, as it has happened at  
5 trial. I'll dredge back into my list of horrors and try and  
6 think of something else for this afternoon.

7 THE COURT: Well, I'd really like the detectives not  
8 to show up with notes that nobody's ever seen to testify during  
9 trial, because that'll send me through the ceiling.

10 MR. LEXIS: Yes, Your Honor.

11 THE COURT: Okay. Anything else?

12 MR. CLAUS: I think that's it, Your Honor.

13 THE COURT: All right. Then I guess I'll see you  
14 Friday at 9:00 -- 30.

15 MR. CLAUS: Thank you very much.

16 THE COURT: 9:30.

17 THE COURT CLERK: March 18.

18 MR. CLAUS: 9:30. Thank you.

19 THE PROCEEDINGS CONCLUDED AT 9:55 A.M.

20 ATTEST: I do hereby certify that I have truly and correctly  
21 transcribed the audio/video proceedings in the above-entitled  
22 case to the best of my ability.

23   
24 JILL HAWKINS  
25 Court Recorder



THE STATE OF NEVADA,  
Plaintiff,  
vs.  
KENYA SPLOND,  
Defendant.

CASE NO. C296374

DEPT. XI

# Transcript of Proceedings

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

FRIDAY, MARCH 18, 2016

CHAD N. LEXIS  
AGNES LEXIS  
Deputy District Attorneys

T. AUGUSTUS CLAUS, ESQ.

Page 1

1 LAS VEGAS, NEVADA, FRIDAY, MARCH 18, 2016, 9:26 A.M.

2 (Court was called to order)

3 THE COURT: Good morning.

4 MS. LEXIS: Good morning.

5 THE COURT: Good morning, Mr. Splond. How are you  
6 today?

7 THE DEFENDANT: All right. How are you?

8 THE COURT: So how are we doing?

9 MS. LEXIS: Your Honor, since the last court date, Mr.  
10 Lexis obtained the CSA notes and also the notes and files from  
11 the fingerprint expert. Those were disclosed to Mr. Claus.

12 THE COURT: Hold on a second. I apparently have to  
13 wait for my staff to come back in the room.

14 MS. LEXIS: Okay.

15 THE COURT RECORDER: Can I have your appearance,  
16 please?

17 MS. LEXIS: Oh, yes. Agnes Lexis for the State,  
18 L-E-X-I-S, Bar Number 11064.

19 MR. LEXIS: Chad Lexis, 10391.

20 THE COURT: And they are related.

21 MR. CLAUS: Augustus Claus for Mr. Splond who's  
22 present in custody, Bar Number 10004.

23 THE COURT RECORDER: I'm sorry. I didn't hear you.

24 MR. CLAUS: Augustus Claus for Mr. Splond who's  
25 currently in custody, Bar Number 10004.

1 THE COURT: Okay. Keep going.

2 MS. LEXIS: Your Honor, Mr. Claus and Mr. Lexis and I  
3 met last night to do a very intensive file review. I was told  
4 of the Court's advice regarding Bate stamping discovery. So  
5 what I did is I went through --

6 THE COURT: This is not the first time I've said it.  
7 I've had this discussion with Mr. Lalli for years.

8 MS. LEXIS: Yes. But I note at the last court date  
9 you indicated that I should have done that. So I took the  
10 Court's advice, I went through all --

11 THE COURT: I didn't say you. I said all of the DA's  
12 office should.

13 MS. LEXIS: I did it in this particular case. I went  
14 through all of the discovery that I've ever given Mr. Claus from  
15 the inception of this case, and also prior counsel. I Bate  
16 stamped it and I made it available to Mr. Claus, I burnt it onto  
17 a thumb drive. I also burned it onto a CD, and I would like to  
18 lodge that as an exhibit with the Court.

19 In addition, Mr. Claus signed a receipt of copy of  
20 discovery containing an outline of the items that I couldn't  
21 Bate stamp, for instance, video or some audio files. He signed  
22 it and dated it yesterday, I've also initialed and dated it.  
23 May I approach your clerk to file it as an exhibit?

24 THE COURT: Sure. Here's my question though. Did it  
25 include the items that were the subject of the discovery motion

1 on Wednesday?

2 MS. LEXIS: Yes, it did, Your Honor.

3 THE COURT: Okay.

4 MS. LEXIS: I gave that to him separately, but also  
5 included it in all of the Bate stamped discovery.

6 THE COURT: Thank you.

7 Mr. Claus, good morning.

8 MR. CLAUS: Good morning, Your Honor.

9 THE COURT: Did you get a thumb drive?

10 MR. CLAUS: I did get a thumb drive, Your Honor.

11 THE COURT: Were you able to read the data that was on  
12 the thumb drive?

13 MR. CLAUS: Yes, Your Honor.

14 THE COURT: Good.

15 MR. CLAUS: I've been reading the data that's been on  
16 the thumb drive.

17 THE COURT: Those are two good steps.

18 MR. CLAUS: About 1100 pages, Your Honor. The  
19 District Attorney's representation is that a lot of that is  
20 duplicate. So I have no reason to disbelieve that. I have been  
21 going through it since I received it in the evening. I did  
22 however, Your Honor, in the course of my review come across some  
23 documents. Frankly, Your Honor, I think I might have had these  
24 before, but it prompted me to file a motion to suppress this  
25 morning. His traffic stop, a copy of that was sent to the Court

1 and to the District Attorney, but frankly, it wasn't filed until  
2 very early this morning.

3 THE COURT: We don't have it yet.

4 MR. CLAUS: May I approach, please?

5 THE COURT: Sure.

6 MR. CLAUS: My position would be, Your Honor, that we  
7 can handle this motion to suppress, assuming the State doesn't  
8 have any objection, prior to impaneling the jury. They say they  
9 have their witnesses. There was one officer who did this and  
10 wrote a report.

11 THE COURT: Okay.

12 MS. LEXIS: My initial position, Your Honor, is that  
13 this motion is extremely untimely according to --

14 THE COURT: It really is late.

15 MS. LEXIS: -- EDCR 3. --

16 THE COURT: Because we started trial last Tuesday.

17 MS. LEXIS: Yes, Your Honor. And I also upon  
18 reviewing Odyssey will note for the Court that Mr. Claus was  
19 appointed on this case April 22nd of 2015. Since then the trial  
20 has been continued under his watch three times. He has  
21 announced ready all of those times. I understand it was  
22 continued based on the 20 or 25 photos that he claimed he was  
23 missing. He has had an opportunity to look at that now. I'll  
24 just note for the Court that I read his motion to suppress based  
25 on the illegal stop. The basis for the stop and the -- all of

1 the reports, the video, also the photographs concerning this  
2 particular event, which -- this robbery which led to the stop,  
3 Mr. Claus has had since April of 2015. So that defense was  
4 certainly available to Mr. Claus to raise, which adds to just  
5 the untimeliness of this particular motion.

6 THE COURT: So assume it's untimely, I'm still going  
7 to hear it because otherwise we have to try the case again.

8 MS. LEXIS: I understand, Your Honor.

9 THE COURT: So what are you doing at 10:00 o'clock on  
10 Monday morning?

11 MS. LEXIS: Motion to suppress hearing.

12 MR. CLAUS: Actually, there's another complication,  
13 Your Honor, but this is one you can resolve one way or the  
14 other.

15 I have an open murder preliminary hearing that's  
16 scheduled Monday morning, which is -- I had thought going to be  
17 continued. After speaking with the client yesterday, he'd like  
18 to go forward. I've talked with the District Attorney, the  
19 coroner is not available, but if we can stipulate to the cause  
20 of death just for the purposes of preliminary hearing we can go  
21 forward. So I was going to be asking for a later start on  
22 Monday, Your Honor.

23 THE COURT: Okay. Can we -- how late?

24 MR. CLAUS: I was going to ask for 1:00 o'clock.

25 THE COURT: Can you have your officer here for the

1 evidentiary hearing at 1:00 o'clock?

2 MS. LEXIS: I will call Officer Rowberry and have him  
3 here. If there's a problem may I call -- contact chambers?

4 THE COURT: Please let my law clerk know.

5 MS. LEXIS: Okay.

6 THE COURT: How long do you think for the evidentiary  
7 hearing on the suppression, an hour?

8 MR. CLAUS: Your Honor, I -- yes, very little.

9 MS. LEXIS: And, Your Honor, may the State respond  
10 orally being that --

11 THE COURT: Absolutely.

12 MS. LEXIS: Thank you.

13 THE COURT: And so I'll plan to pick up the jury --  
14 have Kevin pick up the jury at 2:00.

15 MR. CLAUS: Very well.

16 THE COURT: And we can start jury selection again with  
17 a new panel.

18 MS. LEXIS: Yes, Your Honor.

19 MR. CLAUS: Thank you, Your Honor.

20 THE COURT: Anything else?

21 MR. LEXIS: And, Your Honor, just so you know, Mr.  
22 Palal is not going to be here on Friday. We anticipate --

23 THE COURT: Today's Friday.

24 MS. LEXIS: Next week Friday and Monday.

25 THE COURT: Oh, okay.

1 MR. LEXIS: We anticipate on being done on Thursday,  
2 but I just wanted to make you aware of that. If I have to  
3 handle it myself on Friday [unintelligible].

4 THE COURT: I'm not worried about it. I know it's  
5 going to be fine.

6 MS. LEXIS: Okay.

7 THE COURT: Anything else? I already have the jury  
8 instructions; you gave them to me last time. See you at 1:00  
9 o'clock on Monday.

10 MR. CLAUS: Thank you, Your Honor.

11 THE COURT: Okay. Have a nice weekend.

12 MS. LEXIS: Thank you, you too.

13 THE PROCEEDINGS CONCLUDED AT 9:32 A.M.

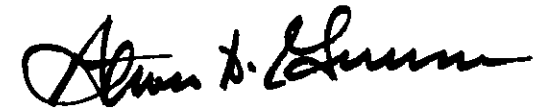
14  
15  
16  
17  
18  
19  
20 ATTEST: I do hereby certify that I have truly and correctly  
21 transcribed the audio/video proceedings in the above-entitled  
case to the best of my ability.

22  
23   
24 JILL HAWKINS  
Court Recorder



TRAN

Page 1  
Electronically Filed  
04/19/2017 01:46:34 PM



CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C-14-296374-1
	)	
vs.	)	
	)	DEPT. NO. XI
KENYA SPLOND, aka Kenny Splond,	)	
#1138461 KELLIE ERIN CHAPMAN,	)	
#1681308,	)	
	)	
Defendants.	)	

---

BEFORE THE HONORABLE ELIZABETH GONZALEZ,

DISTRICT COURT JUDGE

MONDAY, MARCH 21, 2016

RECORDER'S TRANSCRIPT OF JURY TRIAL - DAY 1

APPEARANCES:

For the Plaintiffs:	BINU PALAL
	CHAD LEXIS
	Deputy District Attorneys

For the Defendants:	AUGUSTUS CLAUS
---------------------	----------------

TRANSCRIBED BY: ALLISON SWANSON, CSR No. 13377

1 I N D E X O F W I T N E S S E S

2

3 STATE'S WITNESSES: DAY PAGE

4 JOSHUA ROWBERRY

5 Direct Examination by MR. PALAL 1 8

6 Cross-Examination by MR. CLAUS 1 24

7 SAMUEL ECHEVERRIA

Direct Examination by MR. LEXIS 2 31

8 Cross-Examination by MR. CLAUS 2 43

Redirect Examination by MR. LEXIS 2 47

9 Recross-Examination by MR. CLAUS 2 47

Further Redirect Examination by MR. LEXIS 2 49

10

ALISA WILLIAMS

11 Direct Examination by MR. PALAL 2 59

Cross-Examination by MR. CLAUS 2 55

12 Redirect-Examination by MR. PALAL 2 59

13 BRITTANY SLATHAR

Direct Examination by MR. LEXIS 2 62

14 Cross-Examination by MR. CLAUS 2 79

Redirect Examination by MR. LEXIS 2 81

15 Recross-Examination by MR. CLAUS 2 83

Further Redirect Examination by MR. LEXIS 2 84

16

JEFFREY HABERMAN

17 Direct Examination by MR. LEXIS 2 87

Cross-Examination by MR. CLAUS 2 93

18 Redirect Examination by MR. LEXIS 2 96

19 JOSHUA ROWBERRY

Direct Examination by MR. PALAL 3 10

20 Cross-Examination by MR. CLAUS 3 36

21 JEREMY LANDERS

Direct Examination by MR. LEXIS 3 36

22 Cross-Examination by MR. CLAUS 3 44

23 GRACIELA ANGLES

Direct Examination by MR. LEXIS 3 46

24 Cross-Examination by MR. CLAUS 3 62

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

## I N D E X   O F   W I T N E S S E S (Continued)

## STATE'S WITNESSES:

DAY      PAGE

MONTE SPOOR

Direct Examination by MR. PALAL

3          69

Cross-Examination by MR. CLAUS

3          89

SHAWN FLETCHER

Direct Examination by MR. LEXIS

3          91

Cross-Examination by MR. CLAUS

3          103

HEATHER GOULDTHORPE

Direct Examination by MR. PALAL

3          106

Cross-Examination by MR. CLAUS

3          113

Redirect Examination by MR. PALAL

3          135

Recross-Examination by MR. CLAUS

3          138

SCOTT KAVON

Direct Examination by MR. LEXIS

3          147

Cross-Examination by MR. CLAUS

3          161

Redirect Examination by MR. LEXIS

3          174

1

2

## LIST OF EXHIBITS

3

4

## STATE'S EXHIBITS

DAY

PAGE

5

Exhibit 1

1

11

6

2

36

7

Exhibit 2

1

13

8

2

36

9

Exhibit 3

1

21

10

2

36

11

Exhibit 4

2

36

12

Exhibit 5

2

36

13

Exhibit 6

3

73

14

Exhibit 7

3

73

15

Exhibit 8

3

73

16

Exhibit 9

2

36

17

Exhibit 11

3

48

18

Exhibit 12

3

48

19

Exhibit 13

3

48

20

Exhibit 14

3

48

21

Exhibit 15

3

98

22

Exhibit 16

3

53

23

Exhibit 19

2

67

24

Exhibit 20

3

25

1	Exhibit 21	3	17
2	LIST OF EXHIBITS (continued)		
3			
4	STATE'S EXHIBITS	DAY	PAGE
5	Exhibit 22	3	27
6	Exhibit 23	3	27
7	Exhibit 24	3	27
8	Exhibit 25	2	68
9	Exhibit 26	3	27
10	Exhibit 27	3	31
11	Exhibit 28	2	93
12	Exhibit 29	2	89
13	Exhibit 30	2	89
14	Exhibit 31	3	27
15	Exhibit 32	3	31
16	Exhibit 33	2	82
17	Exhibit 34	3	34
18	Exhibit 35	3	34
19	Exhibit 36	2	42
20	Exhibit 37	3	48
21	Exhibit 38	2	69
22	Exhibit 39	2	38
23	Exhibit 40	2	72
24	Exhibit 41	2	53

1

2

## LIST OF EXHIBITS (continued)

3

4

## STATE'S EXHIBITS

DAY

PAGE

5

Exhibit 42

2

91

6

Exhibit 43

3

57

7

Exhibit 44

3

22

8

Exhibit 45

3

12

9

10

## DEFENDANT'S EXHIBITS

DAY

PAGE

11

Exhibit A

3

129

12

13

## COURT'S EXHIBITS

14

Exhibit 1

2

59

15

Exhibit 5

3

40

16

17

18

19

20

21

22

23

24

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

LAS VEGAS, NEVADA, MONDAY, MARCH 21, 2016 1:03 P.M.

\*\*\*\*\*

THE BAILIFF: -- is now in session. The honorable Elizabeth Gonzalez presiding.

THE COURT: Good afternoon.

THE BAILIFF: Please be seated.

MR. PALAL: Good afternoon, Your Honor.

THE COURT: Are we ready to proceed with the evidentiary hearing?

MR. CLAUS: Yes, Your Honor.

MR. PALAL: Yes, Your Honor.

THE COURT: First witness.

MR. PALAL: State calls Officer Rowberry to the stand.

Your Honor, may I use the podium?

THE COURT: Sure.

MR. PALAL: Thank you.

THE COURT: Just remember, if you wander, Joe will scold you. She'll try not to do it in front of the jury, but --

MR. PALAL: Yeah.

THE COURT: -- it moves and it has flaps and there's all sorts of stuff. And it has, like, wings that are on the side, if you need to use them for shelves to stack

1       crap. I'm sorry. To stack important legal items.

2                               JOSHUA ROBERRY,

3       [having been called as a witness and being first duly  
4       sworn testified as follows:]

5               THE CLERK: Thank you. Please be seated, and please  
6       state and spell your name for the record.

7               THE WITNESS: Joshua Rowberry. J-o-s-h-u-a,  
8       R-o-w-b-e-r-r-y.

9               THE COURT: Now, sir, you'll notice there's water in  
10       the pitcher there and there are M&Ms in the dispenser. If  
11       you should need something else, let the marshal know,  
12       he'll try to help you.

13               THE WITNESS: Thank you.

14               THE COURT: You may proceed.

15               MR. PALAL: Thank you, Your Honor.

16                               DIRECT EXAMINATION OF JOSHUA ROWBERRY

17       BY MR. PALAL:

18               Q       Sir, how are you employed?

19               A       With Las Vegas Metropolitan Police Department.

20               Q       And in what capacity?

21               A       Police officer.

22               Q       And are you assigned to a particular type of duty?

23               A       Graveyard patrol.

24               Q       Were you operating in that capacity on



1 February 2nd, 2014?

2 A Yes, I was.

3 Q Now, prior to February 2nd, 2014, how long were you a  
4 patrol officer for?

5 A Five, six years.

6 Q Now, in the early morning hours of approximately  
7 3:00 a.m., did you receive a call?

8 A Yes, I did.

9 Q What was the nature of the call?

10 A It was a robbery at the gas station.

11 Q Okay. And were you -- over on the call, were you  
12 informed whether or not a gun was used?

13 A Yes, I was.

14 Q Was a gun used?

15 A Yes.

16 Q Okay. What did you do upon receiving that call?

17 A I went en route to the area of Rancho and  
18 Rainbow, where the store was located.

19 Q And is the store located at 5001 Rainbow Boulevard?

20 A Yes.

21 Q Sorry. North Rainbow Boulevard, to be more specific.  
22 Is that a "yes"?

23 A Yes.

24 Q All right. Did you ultimately arrive at

1 5001 North Rainbow Boulevard?

2 A In the vicinity, yes.

3 Q Okay. Did you stop at the -- at the area at  
4 5001 North Rainbow Boulevard?

5 A I didn't stop at the store, no.

6 Q Why -- why not?

7 A The information that was given to us over the  
8 radio in the MDT, the computer, was that the male was last  
9 seen running northbound from the store.

10 Q And do you know running northbound on a particular  
11 street?

12 A Rainbow.

13 Q All right. So what did you do?

14 A I started looking in the area for anything that  
15 stuck out, subject running, anything -- basically, looking  
16 for the suspect that was last seen running.

17 Q At approximately how -- when you're on Rainbow,  
18 approximately how much later than the call is this? How much  
19 time had elapsed?

20 A Two, three minutes.

21 Q Did you see anything that got your attention?

22 A A vehicle that pulled out off of a side street,  
23 was Rancho Santa Fe.

24 Q And I'm gonna show you what's been previously marked

1 as State's Proposed Exhibit Number 1.

2 MR. PALAL: Your Honor, may I approach the witness?

3 THE COURT: You may.

4 BY MR. PALAL:

5 Q Sir, do you recognize what's State's Proposed Exhibit  
6 Number 1 is?

7 A Yes, it's an aerial map of the address,  
8 5001 North Rainbow and the surrounding area.

9 Q And does it fairly and accurately depict this area?

10 A Yes.

11 Q And are you familiar with this area?

12 A Yes.

13 Q Is this your area of patrol?

14 A Yes.

15 MR. PALAL: Your Honor, at this time, the State moves  
16 State's Proposed Exhibit Number 1 into evidence.

17 THE COURT: Any objection per purposes of this  
18 hearing?

19 MR. CLAUS: No, Your Honor.

20 THE COURT: Be admitted.

21 [STATE'S EXHIBIT 1 ADMITTED]

22 BY MR. PALAL:

23 Q Okay. And so you -- where is the area -- and you can  
24 mark with my pen. Where's the area that you saw the vehicle

1 leaving?

2 MR. CLAUS: May I approach, please, Your Honor?

3 THE COURT: You may.

4 MR. CLAUS: Just while he's doing this.

5 THE COURT: You want to see where he marks; right?

6 MR. CLAUS: Yes, Your Honor.

7 THE COURT: Someday we'll have technology so it all  
8 works better.

9 BY MR. PALAL:

10 Q All right. And so you're marking -- you drew a  
11 circle at Rainbow Santa Fe Drive and Rainbow Boulevard.

12 A Correct.

13 THE COURT: Rancho Santa Fe --

14 THE WITNESS: Rancho Santa Fe.

15 BY MR. PALAL:

16 Q Sorry. Rancho Santa and Rainbow Boulevard.

17 Now, what direction was the vehicle proceeding?

18 A North.

19 Q And did you notice anything odd about the vehicle?

20 A Yes.

21 Q What did you notice about the vehicle?

22 A The -- the rear of the vehicle was smashed or  
23 damaged like it was involved in an accident.

24 MR. PALAL: Your Honor, I'm -- may I approach the

1 witness with State's Proposed Exhibit Number 2?

2 THE COURT: You may.

3 BY MR. PALAL:

4 Q Showing you what's been marked in this case before as  
5 Exhibit Number 2, do you recognize what's depicted in State's  
6 Proposed Exhibit Number 2?

7 A The vehicle that I observed pulling out from  
8 Rancho Santa Fe.

9 Q Does it -- does it fairly and accurately depict the  
10 vehicle, as you noticed it, on February 2nd, 2014?

11 A Yes.

12 MR. PALAL: Your Honor, the State moves at this time,  
13 State's Exhibit 2 into evidence.

14 THE COURT: Any objection for purpose of this hearing?

15 MR. CLAUS: No, Your Honor.

16 THE COURT: Be admitted.

17 [STATE'S EXHIBIT 2 ADMITTED]

18 BY MR. PALAL:

19 Q And from the photo, it shows that the back of the  
20 vehicle appears to be damaged; is that fair?

21 A Yes.

22 Q Now, what was the significance of the damage to the  
23 back of the vehicle?

24 A Um, there's parts of the vehicle that are hanging

1 down, unknown if, you know, they can fall off or --

2 Q Is that kind of damage to the back of the vehicle  
3 something that what cause you to initiate a traffic stop?

4 A Yes.

5 Q Okay. And have you, in your course as a patrol  
6 officer, initiated traffic stops based on damage similar to  
7 the damage at the back of the vehicle?

8 A Yes.

9 Q Can you -- are you permitted to cite somebody for  
10 damage to the back of the vehicle?

11 A If it's an unsafe vehicle that, you know, things  
12 can fall off and, you know, injure other motorists that  
13 may be following behind, yes.

14 Q And does the damage to the vehicle indicate to you  
15 something may have happened prior to the -- to you seeing the  
16 vehicle?

17 A Yes. I mean, somebody rear-ended it or something  
18 happened.

19 Q Okay. And so at this point do you believe you have  
20 probable cause to stop the vehicle for a traffic infraction?

21 A Yes.

22 Q All right. Now, moving on, there's also the robbery  
23 that had just occurred. How far away are we from the place  
24 where the robbery was reported?

1           A     When I first observed the vehicle?

2           Q     Yes.

3           A     Less than half a mile.

4           Q     And were there any other vehicles on the road?

5           A     No.

6           Q     Were there any other people on the road?

7           A     No.

8           Q     In your training and experience as an officer who's  
9     been working, I think, six years at this -- five or six years,  
10    at this point, have you ever answered calls to robberies?

11          A     Yes.

12          Q     Have you ever answered calls for robberies where  
13    somebody has left the robbery by foot?

14          A     Yes.

15          Q     And in your training and experience, have people left  
16    by foot only to enter in a car parked someplace else?

17          A     Yes.

18          Q     Has that happened to -- has that happened in your  
19    training and experience more than once?

20          A     Yes.

21          Q     At this time, does anything else draw your attention  
22    to the vehicle?

23          A     Those two things, that's it.

24          Q     And at some point, do you -- do you start to follow

1 the vehicle?

2 A As soon as it pulls out onto Rainbow, I begin  
3 following it.

4 Q Do you immediately pull it -- pull the vehicle over?

5 A No, I -- I start watching for -- see what its  
6 movements are, you know, if it takes off speeding, if it  
7 starts driving erratically, things like that.

8 Q Okay. And did the vehicle do anything?

9 A Um, slow speeds. It's driving -- speed limit on  
10 that street is 45. So I mean, it's not traveling at speed  
11 limit speeds but, other than that, it's driving in the  
12 lane.

13 Q At some point, do you decide to stop the vehicle?

14 A Yes.

15 Q Why do you decide to stop the vehicle?

16 A Um, it's close proximity to the robbery, the fact  
17 that the vehicle is damaged, things could be falling off.  
18 So for the traffic infraction and the fact that the  
19 robbery just occurred. And within the amount of time  
20 lapse from the last time the male was last seen leaving  
21 the store to me finding the store's maybe four minutes.

22 Q Now, what happens when you stop the vehicle?

23 A I stopped the vehicle, walk up to driver's side,  
24 right behind the rear window, rear passenger window. I



1 had verbal communication with the driver. I asked the  
2 driver to roll down the back window.

3 Q And let me pause you right there. Do you -- what's  
4 the physical characteristics of the driver?

5 A The female.

6 Q Now, when you were following the vehicle, could  
7 you -- could you see who the driver was?

8 A No.

9 Q All right. So you made some command to the female  
10 operator of the vehicle?

11 A Correct.

12 Q And what were the commands?

13 A If you could roll down the back window. The  
14 windows are heavily tinted, so I couldn't see in there.  
15 It's one of officer safety issues. For me to proceed  
16 forward to make contact with the driver, you know, face to  
17 face or in person, I don't -- I want to make sure that  
18 that back seat is clear. Or if somebody is back there, I  
19 know who's back there.

20 Q And did she comply with your command?

21 A Yes.

22 Q And did you notice anything in the back seat of the  
23 vehicle?

24 A It was a black male adult laying on the seat,

1 covered up.

2 Q And by "covered up" what do you mean?

3 A Like, under a -- under a blanket.

4 Q Did you issue any commands to the black male adult in  
5 the back of the vehicle?

6 A Yes, I did.

7 Q What were those commands?

8 A Let me see your hands.

9 Q And why -- why did you make that command?

10 A The information that was provided, initially in  
11 the robbery, when I was en route, was that the suspect was  
12 last seen with a handgun. So for officer safety purposes,  
13 I can't see his hands. I don't know if this person has a  
14 weapon or not.

15 Q All right. So was -- when you issued that command to  
16 the black male adult in the back of the vehicle, did that  
17 person comply?

18 A No.

19 Q And though probably not relevant for this process,  
20 this proceeding, do you see that person in the courtroom  
21 today?

22 A Yes, I do.

23 Q Can you please identify him.

24 A He's sitting at the table here with the white

1 shirt, glasses.

2 MR. PALAL: Your Honor, may the record --

3 THE COURT: Record will so reflect.

4 MR. PALAL: Thank you.

5 BY MR. PALAL:

6 Q Did you, um -- when the Defendant was not complying  
7 with your orders, what did you do?

8 A I initiated a code red on my channel.

9 Q What does a code red mean?

10 A Basically, any of the other officers working  
11 cannot use the radio. It's mainly for me because I have  
12 something apparent that I'm dealing with that I need other  
13 officers to respond to my location.

14 Q Did the other officers respond?

15 A Yes.

16 Q What -- what happened after the other officers  
17 respond?

18 A The other officers respond. We take the  
19 female -- we have her exit the vehicle, take her into  
20 custody. The male exits the vehicle and we take him into  
21 custody.

22 Q So at that point, the fact that the male in the back  
23 of the vehicle is being compliant?

24 A Right.

1           Q     Did you happen to -- after the male and female were  
2     taken into custody, were the doors -- did they leave the doors  
3     open when they exited the vehicle?

4           A     Yes.

5           Q     Were you able to observe anything relevant to you in  
6     plain view?

7           A     Yes.

8           Q     What were you able to observe?

9           A     In the -- in the driver seat, there was two packs  
10    of Newport cigarettes, an eight-pack of Wrigley spearmint  
11    gum.

12          Q     What was the significance of the -- of these items?

13          A     In the details of the robbery, which is on our  
14    computer and broadcast over the air, was that the subject  
15    took two packs of Newports and Wrigley's spearmint gum.

16          MR. PALAL: Your Honor, permission to approach the  
17    witness.

18          THE COURT: You may.

19    BY MR. PALAL:

20          Q     Showing you what's been marked as State's Proposed  
21    Exhibit Number 3, do you recognize what's depicted on State's  
22    Exhibit Number 3?

23          A     Yes.

24          Q     Does it fairly -- what is State's Exhibit Number 3?

1           A     It's the driver's seat of the vehicle with the  
2     Newport cigarettes and the gum.

3           Q     And does it fairly and accurately depict the vehicle,  
4     as you observed it, after the female had exited the vehicle?

5           A     Yes.

6           MR. PALAL: Your Honor, at this time the State's gonna  
7     move exhibit -- State's Proposed Exhibit 3 into evidence.

8           THE COURT: Any objection?

9           MR. CLAUS: No, Your Honor.

10          THE COURT: Purpose of this hearing, be admitted.

11                 [STATE'S EXHIBIT 3 ADMITTED]

12          BY MR. PALAL:

13          Q     At that point, do you conduct a search of the  
14     vehicle?

15          A     No.

16          Q     What happens between you conducting a search of the  
17     vehicle -- between this point and when you conducted a search  
18     of the vehicle?

19          A     Um, the female and the male were taken to  
20     separate cars, when they were initially taken into  
21     custody. Officers read each subject a Miranda, and they  
22     were questioned. When they're being questioned, their  
23     stories were inaccurate, as far as -- you know, they were  
24     different.

1 Q In --

2 A And --

3 Q In consistent [inaudible] --

4 A Inconsistent with each other. And

5 Officer Landers responded to the store. He arrived at my  
6 scene with the car stop with the victim of the robbery and  
7 conducted a show up, which I got information from him that  
8 the show up was 100 percent.

9 Q And by the way, you say "the show up is 100 percent,"  
10 does that mean that the -- that the victim identified somebody  
11 as being part of the robbery that had occurred at  
12 5001 North Rainbow?

13 A Yes.

14 Q And who did she identify as being the person? Was it  
15 the female or the male?

16 A Male.

17 Q All right. And same male we have sitting here today?

18 A Yes.

19 MR. PALAL: Court's indulgence.

20 THE COURT: Sure.

21 MR. PALAL: Take your time, Your Honor. Take your  
22 time.

23 BY MR. PALAL:

24 Q All right. Now, after getting the -- being informed

1       that the alleged victim in this case identified the Defendant  
2       as 100 percent, at that point, do you conduct a search of the  
3       vehicle?

4           A       Um, no. I -- I had contacted Robbery, which I  
5       remember which detective I spoke to. I gave him the  
6       details. Fact that there was a robbery, these items were  
7       taken, the -- the gum, the cigarettes -- the car stop that  
8       I had initiated, that we had subjects in custody and a  
9       show up was conducted for 100 percent.

10           He instructed that everything was good to go and  
11       I had probable cause to search the vehicle.

12           Q       Do you, yourself, believe you had probable cause to  
13       search the vehicle at that point?

14           A       Yes.

15           Q       And upon searching the vehicle, did you find other  
16       items that were relevant to your investigation?

17           A       Yes.

18           Q       What else did you find?

19           A       A black hooded sweatshirt, a camouflage beanie,  
20       and a revolver.

21           Q       And how did you know that -- what were the  
22       significance of the black -- what was the significance of the  
23       black hooded sweatshirt?

24           A       It was one of the descriptions given by the

1 victim. When the male left, that's what he was wearing.

2 Q And the --

3 MR. CLAUS: I'm gonna object to hearsay, here. I've  
4 allowed a lot of it in.

5 THE COURT: Overruled.

6 BY MR. PALAL:

7 Q And with regards to the camouflage hat, what was the  
8 significance of that?

9 A The suspect was last seen wearing the camouflage  
10 hat.

11 Q And with regards to the revolver, what was the  
12 significance of that?

13 A That's what he was armed with.

14 MR. PALAL: State will pass the witness, Your Honor.

15 THE COURT: Cross-examination.

16 CROSS-EXAMINATION OF JOSHUA ROWBERRY

17 BY MR. CLAUS:

18 Q Officer, let's go -- let's go back a little bit and  
19 let's be a little more specific about when and how things  
20 happened. You received the call that a robbery had occurred  
21 at the Star Mart at 2:57 a.m.; is that correct?

22 A Yes.

23 Q And you initiated the traffic stop at 3:03.

24 A Correct.



1           Q     Okay. Now, your information that you'd received from  
2     that call out was that a black male had robbed Star Mart;  
3     correct?

4           A     Correct.

5           Q     And that that black male had went on foot towards  
6     the, I think there's a -- some sort of pub directly to the  
7     north of the Star Mart?

8           A     What? Excuse me?

9           Q     There's some sort of pub or bar directly to the north  
10    of Star Mart.

11          A     No.

12          Q     You don't know that?

13          A     No, there's not.

14          Q     No, there's not. Okay. What is there between that  
15    subdivision and the Star Mart?

16          A     There's a, what now is a -- a church. Before  
17    that, it as the Century 21 Movie Theater and there was  
18    some residence -- or some commercial businesses. That's  
19    it.

20          Q     Okay.

21          A     There -- correct, there is a bar, but it's not on  
22    Rainbow. It's west in the parking lot.

23          Q     Okay. So based upon that description, and it took  
24    you -- what -- seven minutes, then, to initiate the traffic

1 stop?

2 A Correct.

3 Q And when you initiated the traffic stop, was the car  
4 half a mile away from the Star Mart?

5 A Could be.

6 Q And it was coming out of a residential subdivision;  
7 is that correct?

8 A Yes.

9 Q Okay. And it pulled out on to Rainbow from  
10 Sante Fe Drive; right?

11 A Rancho Santa Fe.

12 Q Rancho Santa Fe, thank you.

13 Now, do you issue a citation to the driver or,  
14 frankly, anyone in the vehicle for the damage to the vehicle?

15 A I did not.

16 Q When you were following the vehicle, did you notice  
17 any materials falling off the vehicle?

18 A No, I did not.

19 Q And you already testified that when the vehicle  
20 pulled out from the side street, it wasn't driving  
21 erratically, it wasn't exceeding the speed limit, it wasn't  
22 going outside of the lines; correct?

23 A Correct.

24 Q Approximately how far away from Rancho Santa Fe Drive

1       and Rainbow did you activate your lights and siren to initiate  
2       the traffic stop?

3           A       The next -- I think it's the second left to turn  
4       into the next subdivision.

5           Q       Help refresh your recollection by looking at the  
6       photos?

7           A       Yes.

8           MR. CLAUS: For the record, I'm gonna be talking about  
9       State's Exhibit -- or Proposed Exhibit Number 2 for this  
10      hearing.

11      BY MR. CLAUS:

12          Q       So you already did a circle at one location. Can  
13      you --

14          THE COURT: So use a different color, if he's gonna  
15      circle again, please.

16          MR. CLAUS: I was gonna ask him to do an "X."

17          MR. PALAL: Your Honor, if I may approach the witness,  
18      I got a different color pen.

19          THE COURT: Okay.

20          MR. CLAUS: You can do a different color pen.

21          THE COURT: I have an orange and a purple.

22          MR. CLAUS: Can we make an "X" --

23          THE COURT: We can make an "X."

24      BY MR. CLAUS:

1           Q     -- where he -- where you initiated the traffic stop  
2     and where the car ultimately came to a rest.  Okay.

3           A     And you want where it came to a rest?

4           Q     Yeah.

5           A     As in another "X" or --

6           THE COURT:  How about a triangle for this one.

7     BY MR. CLAUS:

8           Q     How about a triangle?  How's that?

9                 Okay.  And the driver of the car was a female;  
10    correct?

11          A     Yes.

12          Q     And you had seen the car turn on to Rainbow?

13          A     Correct.

14          Q     Was it facing you at that point?  Could you see who  
15    the driver was?

16          A     I did not see the driver.

17          Q     Okay.  But could you have seen the driver, if you  
18    were looking?

19          A     No.  When it pulled out, I was far enough back --  
20    um, I -- I wouldn't have been able to see the driver, no.

21          Q     At what point did you know that you'd pulled over a  
22    female?

23          A     When I got to the driver's side to make contact  
24    with the driver.

1           Q     Okay. And yet you still continued speaking with her?  
2     Your first command was to order her to roll down -- roll down  
3     her back window?

4           A     Correct.

5           Q     Okay. And she complied with that.

6           A     Yes.

7           Q     You didn't ask for license or registration.

8           A     No.

9           Q     And it's because you believe this car was involved in  
10    the robbery.

11          A     Yes.

12          Q     Okay. And other than the traffic damage, didn't have  
13    anything to do with the robbery; correct?

14          A     The damage? No.

15          Q     Okay. There was nothing called to indicate there was  
16    a car involved, there was a female involved, that there was  
17    any damage to a vehicle that had been inflicted as part of  
18    this robbery; correct?

19          A     No.

20          Q     Okay. So the only articulable fact that you used to  
21    believe that this car was associated with the robbery was the  
22    fact that it was in the area of the robbery when you arrived?

23          A     That and I had -- the fact that the vehicle was  
24    damaged. Whether or not it was related to the robbery, it

1 still had damage to the vehicle. Because I didn't know if  
2 it was involved in a four -- an accident or not.

3 Q Okay. Had you received any information from any  
4 source that there had been an accident in the immediate  
5 vicinity or in the immediate time period before initiating  
6 that stop?

7 A No.

8 Q Okay. And you'd been watching the vehicle and  
9 nothing had fallen out of the vehicle during the time you had  
10 been following behind it.

11 A No.

12 Q Okay. And you didn't issue a traffic citation to the  
13 vehicle --

14 A I did not.

15 Q -- for violating any law.

16 MR. PALAL: Objection. Asked and answered.

17 THE COURT: Overruled. You can answer.

18 THE WITNESS: I did not.

19 BY MR. CLAUS:

20 Q What law would it have been violating? Could you  
21 have ticketed?

22 A Yes.

23 Q And what code?

24 A For the code, I'm not 100 percent. The charge

1 would have been, like, an unsafe motor vehicle traveling  
2 on a highway.

3 Q And how was the motor vehicle unsafe?

4 A Right now, without me investigating -- I didn't  
5 investigate that particular thing, due to the fact that  
6 the information that I had after that was the male in the  
7 back seat that was identified as the subject that robbed  
8 the gas station.

9 The traffic infraction, I had no worries about  
10 that anymore. That was not the seriousness of the crime  
11 at the time.

12 Q Okay. And indeed, in your police report -- and  
13 you're -- you're trained to write police reports; right?

14 A Yes.

15 Q And how long have you been writing police reports?

16 A Now, almost eight years.

17 Q And when you're trained to write these police  
18 reports, they tell you to write all of the important facts in  
19 these police reports; correct?

20 A Correct.

21 Q Not to leave anything else; correct?

22 A Right.

23 Q Okay. And so you didn't put anything in your police  
24 report about there being an actual infraction for unsafeness;

1 correct?

2 A No.

3 Q No, that's not correct or --

4 A No. I did not put that there was a stop for that  
5 infraction, no.

6 Q Okay.

7 A Other than in my report, I believe I wrote that  
8 the vehicle was damaged.

9 Q Yes. And as you stand here today, or -- excuse me --  
10 sit here today, you cannot identify the code section that you  
11 believe the vehicle was violating.

12 A No. When it comes to traffic codes or things  
13 like that, we have a book that we would refer to, like a  
14 citation book, that fits the actual charge in all the  
15 county, city codes.

16 Q Okay. And who publishes that book?

17 A LVMPD.

18 Q And is that a book that you had in your car that day?

19 A Yes.

20 Q Okay. And what's the name of that book?

21 A Traffic Citation Guide.

22 Q Traffic Citation --

23 A Guide.

24 Q Citation Guide. And so if you're going to look for a



1 citation in that guide to issue, what would be the criteria  
2 that you would use?

3 A As far as?

4 Q Well, you said that this -- this was a citable  
5 offense. So when you're looking in this guide for how would  
6 you issue the citation, what would be the facts that you would  
7 use? How is this -- how is this guide organized?

8 A It's done by traffic offenses, driver's license,  
9 registration, equipment violations, then there's parking  
10 enforcement. It goes through all the list. Once you go  
11 to that tab, you flip it over and then you would find the  
12 infraction and you would have to enter city, county code  
13 and the code -- or the booking code.

14 Q Okay. And so what facts would you use to identify  
15 the infraction that was being violated here, or the code that  
16 was being violated here?

17 A Like I said, I didn't investigate that part of  
18 it. That was why I stopped the vehicle. But I didn't  
19 investigate it. So I didn't look at the vehicle to see  
20 how well things were bolted, if it was taped on there, if  
21 it was [inaudible] I didn't -- I didn't investigate that  
22 part of the vehicle.

23 So I no longer went to look at the  
24 Traffic Citation Guide. I didn't look any of that stuff

1 up. The part that I dealt with was the robbery, the  
2 suspect was in custody, and I did the -- the booking for  
3 that. That's all I did.

4 Q Okay. To your knowledge, did anyone else deal with  
5 the traffic citation side?

6 A That, I don't remember.

7 Q Okay. Did you write the temporary custody record for  
8 Ms. Chapman?

9 A For Ms. Chapman?

10 Q Yes.

11 A That, I don't recall.

12 Q It help to refresh your recollection, show you copy  
13 of the TCR or Ms. Chapman.

14 A Yes.

15 MR. CLAUS: Permission to approach, Your Honor.

16 THE COURT: You may. And you're gonna show him an  
17 electronic version?

18 MR. CLAUS: Yes, Your Honor, with --

19 THE COURT: Okay.

20 MR. CLAUS: -- with the Court's permission.

21 THE COURT: That's fine.

22 MR. CLAUS: What was filed with the motion.

23 THE COURT: At some point in time, we will need a  
24 citation to that, but I think we have it attached to

1 three.

2 MR. CLAUS: Your Honor, I believe that the citation  
3 would be under the State's Bates stamping regime --

4 THE COURT: 367?

5 MR. CLAUS: -- Splond 367, yeah.

6 THE COURT: Yeah. Just wanted to make sure.

7 THE WITNESS: Yes, that is me.

8 BY MR. CLAUS:

9 Q Okay. And does this refresh your recollection as to  
10 what charges Ms. Chapman was booked under?

11 A Yes.

12 Q Okay. And was she booked for a traffic citation?

13 A No.

14 Q So, to your knowledge, did you or anyone else issue  
15 her a traffic citation?

16 A No.

17 Q Okay. And, indeed, you were the one that issued this  
18 TCR or -- or wrote out this TCR for --

19 A Yes.

20 Q -- Ms. Chapman.

21 So it would have fallen to you to do any other  
22 booking paperwork; correct?

23 A A lot of times when the call is what the -- you  
24 know, like a robbery or something that is fairly large --

1       it's not a ticket, it's not something, you know, you just  
2       do fairly quick -- this involves four or five officers.  
3       So while I'm doing something, or the other officer's doing  
4       something, I might fill out the TCR. I might fill out the  
5       request, the witness list.

6               We get help -- we help each other out.  
7       Obviously, my name is on there as the arresting and  
8       transporting, so --

9           Q     And it's your signature on this; correct?

10          A     Yes.

11          Q     Okay. So you would be the person to know if she had  
12       been given a citation or if she was arrested for anything  
13       else.

14          A     Yes.

15          Q     Okay. And, to your knowledge, was she?

16          A     No.

17          Q     Okay. And as you sit here today, you cannot identify  
18       the specific facts that you used to look for the citation in  
19       your traffic citation code book.

20               MR. PALAL: Objection, Your Honor. Mischaracterizes  
21       the witness's --

22               THE COURT: Sustained.

23               MR. PALAL: -- testimony.

24               MR. CLAUS: Then I'll ask you --

1 THE COURT: Do you want to ask it a different way?

2 MR. CLAUS: -- again.

3 BY MR. CLAUS:

4 Q Then I'll ask you again, officer. What facts would  
5 you use to look for the traffic infraction in this case?

6 A The facts?

7 Q Yes.

8 A As far as, you know, how well is the bumper on  
9 there, can it fall off? Is there any other part of the  
10 vehicle that can fall off? That's what I would be looking  
11 for.

12 Q Now, can you testify to any of those things today?

13 A No.

14 Q Did you look for any of those things at the time that  
15 you initiated the traffic stop?

16 A No.

17 Q Okay. So in point of fact, all the facts that you've  
18 just given to me, you have no facts that you would use to look  
19 up in the code book what that infraction might have been; is  
20 that correct?

21 MR. PALAL: Objection, Your Honor. Again,  
22 mischaracterizes the witness's testimony.

23 THE COURT: Overruled. Sir, he's asking you if you  
24 remember the facts you would have used to look up in your

1 book, as you sit here today; right?

2 MR. CLAUS: Correct, Your Honor.

3 THE COURT: Okay.

4 THE WITNESS: So the facts of why I stopped it?

5 BY MR. CLAUS:

6 Q No, the facts that you would have used to issue a  
7 citation.

8 A It's what I -- if parts of the vehicle are  
9 falling off, if there -- maybe there was one bolt holding  
10 it on and it can fall off --

11 Q Yes, officer.

12 A -- that's what I would be looking for.

13 Q But -- but you didn't check any of those things --

14 A No.

15 Q -- correct?

16 So you cannot testify today that any of those things  
17 were happening; correct?

18 A Correct.

19 Q You cannot testify that a bolt was falling off;  
20 correct?

21 A Correct.

22 Q You cannot testify that the bumper was falling off;  
23 correct?

24 A Correct.

1 Q Because you didn't check any of those facts.

2 A No, I did not.

3 Q So if somebody asked you to write a citation today  
4 for what occurred when you pulled over Ms. Chapman, you would  
5 not be able to do so; correct?

6 A Today, no.

7 Q Okay.

8 MR. CLAUS: Pass the witness, Your Honor.

9 THE COURT: Redirect?

10 MR. PALAL: No, Your Honor.

11 THE COURT: Thank you. Sir, you can step down. We  
12 appreciate your time. Have a nice afternoon.

13 Next witness.

14 MR. PALAL: That concludes the State's presentation.

15 THE COURT: Any additional witnesses that you'd like  
16 to call on behalf of the Defense?

17 MR. CLAUS: No, Your Honor.

18 THE COURT: All right. Would you like to argue? It  
19 was your motion, Mr. Claus, so you get to start.

20 MR. CLAUS: Yes, Your Honor.

21 Your Honor, to be frank, this is fairly straight  
22 forward. An officer can't just stop a group of people  
23 because they happen to be in a high crime area. Can't  
24 stop a group of people because they happen to be in the

1 same area that a crime occurred. There's black letter  
2 case law on that.

3 The issue is here that the State, I think, is  
4 going to try to say is, well, he started with a traffic  
5 stop because he thought the vehicle was unsafe. And what  
6 you have, Your Honor, is a completely pretextual traffic  
7 stop. He knew what he was looking for. He was looking  
8 for somebody who was leaving the scene of the robbery.  
9 And he looked and he used any pretext for making that  
10 stop.

11 When he followed this vehicle, even though he was  
12 following it for whether or not it was a safe vehicle on  
13 the roadway ostensibly, he observed nothing to give him  
14 any cause for concern that this was an unsafe vehicle.  
15 There were not parts falling on this vehicle. There was  
16 nothing that appeared unsafe from this vehicle, other than  
17 the fact that it had been in a car wreck. And there was  
18 no reason for him to be looking for a vehicle that had  
19 been in a wreck.

20 Moreover, Your Honor, when he initiates the  
21 traffic stop, he's done with the pretextual traffic stop.  
22 What he's really looking for is, is this car associated  
23 with the robbery? And so he proceeds in that fashion. He  
24 doesn't ask the person to identify themselves. He doesn't



1 ask for ID. He immediately begins ordering the driver of  
2 the car to essentially render the car searchable for him  
3 because that is his true purpose.

4 And, Your Honor, that is the essence of a  
5 pretextual stop. That as soon as a police officer has  
6 what he -- what he wanted, he starts looking for what he's  
7 really after. And that is the people associated with the  
8 robbery.

9 And he's identified two facts: One, the car was  
10 in the area of the robbery, which cannot support probable  
11 cause in and of itself, and that the vehicle was damaged,  
12 which, Your Honor, I've shown to be completely pretextual.

13 Based upon that, I would ask for the evidence  
14 that was gathered from that pretextual stop to be  
15 suppressed.

16 THE COURT: Thank you.

17 MR. PALAL: Your Honor, with all due respect to my  
18 colleague, he has the law precisely wrong.

19 First of all, if we're talking about the traffic  
20 stop, Nevada, in 2014, adopted the notion that  
21 pretextual -- that we no longer -- I'm sorry. Let me take  
22 this back.

23 The United States Supreme Court said in  
24 Ohio v. Robinette at 519 US 33 in 1996 is that, doesn't

1 matter if it's -- if a stop is pretextual or not, as long  
2 as there's a valid basis to stop the vehicle, if the  
3 officer has probable cause that a traffic infraction has  
4 occurred.

5 Now, if you look at State's Exhibit 2, for the  
6 purposes of this hearing, the back of the vehicle clearly  
7 shows that there's probable cause that the vehicle may be  
8 unsafe on the road.

9 In the true motivation of the officer, according  
10 to the Supreme -- United States Supreme Court, is not  
11 relevant, as long as there is a basis in law that there's  
12 probable cause that a -- that there's a traffic  
13 infraction.

14 And that we have here. The photo speaks for  
15 itself. There's probable cause for a traffic infraction.  
16 So that's one way in which the stop can be justified.

17 Now, let's not conflate that with the other way,  
18 which the traffic -- or the stop could be justified, which  
19 is the reasonable suspicion or an investigatory stop.  
20 Your Honor, that probable cause is not needed for an  
21 investigatory stop, rather a reasonable suspicion is  
22 what's required.

23 And what the United States Supreme Court has said  
24 on this issue is that even innocent actions, when viewed

1 by police officers who have knowledge of the motives or  
2 patterns of certain types of criminal activity, can give  
3 rise to reasonable suspicion. And that's in US v. Cortez  
4 449 US 441.

5 The case that the Defense actually cites to,  
6 Illinois v. Wardlow, also says that a stop, as long as  
7 as -- you can stop as long as there is reasonable  
8 suspicion. And even innocent activity may be the basis  
9 for a -- for a reasonable suspicion stop.

10 And what the officer articulated was, in his  
11 training and experience, robbers sometimes go to cars  
12 awaiting some distance away. They go to that vehicle and  
13 then that vehicle is what ultimately provides them  
14 transportation.

15 And what he testified to was that at 2:57 the  
16 call came in and 3:03 he conducted the traffic stop,  
17 Your Honor. Within six minutes, heading in the general  
18 direction that the -- that the Defendant -- that the  
19 suspected robber was running. The only car on the road,  
20 the only person on the road is enough for a reasonable  
21 suspicion. It's enough to make that stop.

22 So State's position is under two distinct  
23 theories, a stop was proper. First, the probable cause  
24 that a traffic infraction had occurred, which is

1 demonstrated by not just the officer's testimony but by  
2 State's proposed -- State's Exhibit Number 2 and the  
3 reasonable suspicion that the car may be in -- may be  
4 involved -- or the persons in the car may be involved in  
5 the robbery.

6 And given the low threshold required for a  
7 reasonable suspicion, which is something -- essentially  
8 what the Supreme Court has said, something more than a  
9 hunch. And that's what he had here. More than a hunch.  
10 He saw the car traveling in the same direction, the only  
11 car on the road. And given his training and experience,  
12 this is a means of getting away from a robbery, that he  
13 had more than a hunch.

14 So under either one of those two theories, the  
15 evidence should not be suppressed. The stop was proper.

16 THE COURT: Thank you.

17 Mr. Claus, anything else?

18 MR. CLAUS: No, Your Honor. In terms of the  
19 pretextual stop -- this might be a different situation if  
20 the officer had said, "There's damage to that car. I'm  
21 stopping it immediately."

22 But if you look at the exhibit, Your Honor, the  
23 police officer followed this car for half a mile, looking  
24 for something else. And it was only when the officer

1       says, "Okay. Nothing else is happening here," that he  
2       decided to force the issue.

3               That is clearly pretextual. And in terms of  
4       reasonable suspicion, Your Honor, reasonable suspicion,  
5       the activity is what? What was the activity that was  
6       being engaged in here that provided even reasonable,  
7       articulable suspicion? It was being in the area of the  
8       robbery. That's it. And, Your Honor, that's not enough.  
9       There has to be something more.

10              The police officer might have had a hunch. And  
11       that's exactly what he testified to. But it was nothing  
12       more than that.

13              And so, Your Honor, I'd submit thereon.

14              THE COURT: Thank you. The motion is denied. Here,  
15       there was a valid basis for the traffic stop, which led to  
16       the discovery of the additional evidence. Even if no  
17       citation was issued, the photographic evidence shows the  
18       valid basis.

19              Anything else?

20              MR. CLAUS: No, Your Honor.

21              MR. PALAL: Nothing for the State.

22              THE COURT: All right. Kevin, go get my jury.

23              THE BAILIFF: Yes, Your Honor.

24              THE COURT: Now, Mr. Splond, remember how we talked

1 about the selection of the alternate jurors the other day?

2 Do you remember that discussion?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you still want to use that process?

5 THE DEFENDANT: Uh, no.

6 THE COURT: Okay. So we're gonna let the alternate  
7 jurors be the last two, which would be 13 and 14.

8 THE DEFENDANT: Yeah. Yes [inaudible].

9 THE COURT: Sir, it's your decision.

10 THE DEFENDANT: [Inaudible]

11 THE COURT: No. No. I'm not trying to pressure you.

12 THE DEFENDANT: I know. I would -- I would pick the  
13 two.

14 THE COURT: You want to pick the two names out of the  
15 proffer -- okay. Let me get Dan.

16 Dan, can you come take the coffee can to  
17 Mr. Splond? He's gonna pull out a poker chip somewhere  
18 between 1 and 14. You're gonna tell me number one and  
19 then you're gonna tell me number two.

20 MR. KUTINAC: Sorry, Your Honor [inaudible].

21 THE COURT: Well, I sent Kevin to get the jury. So I  
22 had to holler at you. Don't worry. You're good. He'll  
23 say he has not been able to find all the chips.

24 MR. CLAUS: Thankfully, Your Honor, I know that I

1       didn't touch them. So I am --

2           THE COURT: When we did --

3           MR. CLAUS: -- exculpated.

4           THE COURT: -- City Center we had 20 or 25 alternates,  
5       so it was a little more frustrating.

6           MR. PALAL: Wow.

7           THE COURT: We had enough alternates to make a year.

8           MR. PALAL: Wow.

9           MR. KUTINAC: What are we missing?

10          THE CLERK: Six.

11          MR. PALAL: We got a great TV out of it; right?

12          THE COURT: I got two.

13          MR. PALAL: Oh, wow, I didn't even notice that one.

14          THE COURT: We got two great TVs. And boy, are they  
15       hooked in that ceiling.

16                You got them all?

17          MR. KUTINAC: [Inaudible]

18          THE COURT: All right. Mr. Splond, tell us who our  
19       first alternate's gonna be.

20          THE DEFENDANT: Eight, Your Honor.

21          THE COURT: And our second alternate.

22          THE DEFENDANT: Number one, Your Honor.

23          THE COURT: So the person remaining in the eight spot,  
24       after the execution of all the preemptory challenges, will

1 be the first alternate. And the person remaining in the  
2 first spot, after the execution of all the preemptory  
3 challenges, will be the second alternate. Those will be  
4 blind and the jurors wouldn't be disclosed that  
5 information until right after closing arguments.

6 All right. Anything else while we pull the  
7 jurors upstairs?

8 MR. CLAUS: My client would like to speak with me,  
9 Your Honor. Can I --

10 THE COURT: Sure. Absolutely.

11 MR. CLAUS: -- take him to the side room?

12 THE COURT: Absolutely.

13 MR. CLAUS: Thank you.

14 THE COURT: And let us know when you're ready.

15 MR. CLAUS: Thank you, Your Honor.

16 THE COURT: Because I'm not gonna rush you because you  
17 know how long it takes me to get a jury upstairs.

18 MR. CLAUS: Yes, Your Honor.

19 [Recess at 1:44 p.m. proceedings resumed at  
20 2:00 p.m.]

21 [Outside the presence of the prospective jury]

22 THE COURT: Can you start at 9:30 tomorrow?  
23 Tomorrow's Tuesday.

24 MR. CLAUS: Let me check.



1 THE COURT: I ask these questions for a reason.

2 MR. PALAL: Yes, Your Honor.

3 THE COURT: Thank you.

4 THE BAILIFF: You're welcome.

5 MR. CLAUS: Tomorrow, it looks like I can do a 9:30  
6 start, Your Honor.

7 THE COURT: Awesome. And we're gonna shoot for 10:30  
8 on Wednesday.

9 You ready to bring them in?

10 THE BAILIFF: Not just yet, Judge.

11 THE COURT: Okay. Kevin, signal me before you bring  
12 them in; okay?

13 THE BAILIFF: Yes, I will.

14 THE COURT: Thank you.

15 MR. CLAUS: And then you said on Wednesday we're gonna  
16 start at 10:30?

17 THE COURT: Yeah, I think so. I got 20 things on my  
18 calendar at 9:00.

19 MR. CLAUS: And then Thursday, 10:30 start as well,  
20 Your Honor?

21 THE COURT: No, Thursday will be 9:00, 9:30. I only  
22 have seven things on.

23 [Discussion off the record]

24 MR. CLAUS: Friday, when would you expect to start,

1 Your Honor, if we go on Friday?

2 THE COURT: I have an evidentiary hearing at 8:30 on a  
3 post conviction that should last about five minutes, maybe  
4 ten. So I'm thinking 9:30. 9:00 or 9:30.

5 MR. CLAUS: Excellent. Okay. And it's 9:30 tomorrow?  
6 May I go in the --

7 THE COURT: Yeah. 9:30 Tuesday, Thursday, Friday.  
8 10:30 Wednesday.

9 MR. CLAUS: Thank you.

10 [Discussion off the record]

11 [In the presence of the prospective jury]

12 THE BAILIFF: Jurors are present.

13 THE COURT: You can sit down in these two chairs.

14 Counsel, you can be seated.

15 Good afternoon, ladies and gentlemen. This is  
16 the time set for the trial of case number C296374,  
17 State of Nevada versus Kenny Splond, the Defendant.

18 The record will reflect the presence of the  
19 Defendant, his Counsel, and Counsel for the State, as well  
20 as all the officers of the Court.

21 Are the parties ready to proceed?

22 MR. PALAL: Yes, Your Honor.

23 MR. CLAUS: Yes, Your Honor.

24 THE COURT: Ladies and gentlemen, you are in

1 Department 11 of the 8th Judicial District Court. My name  
2 is Elizabeth Gonzalez and I'm the presiding judge in this  
3 department.

4 Let me take this opportunity to introduce the  
5 Court staff with whom you may be coming into contact  
6 during jury selection. Jill Hopkins is the  
7 Court Recorder. She takes down everything that occurs in  
8 the courtroom on a digital audio/video recording system.  
9 For that reason, it's very important that if you have to  
10 respond to a question, you give me the last four digits of  
11 the badge number. That way she will be able to accurately  
12 identify whoever has responded as part of a transcript, if  
13 she ever has to type one.

14 Dulce Romea, she's the Court Clerk who swears  
15 witnesses, marks exhibits, and keeps track of the  
16 evidence.

17 Kevin Ekhart is the marshal who you have already  
18 met and is the person you will have the most contact  
19 during the trial.

20 On behalf of the State, if you would please  
21 introduce yourself and make a brief statement of the  
22 nature of the case and state the names of the witnesses  
23 you may call and introduce your court counsel.

24 MR. PALAL: Yes, thank you, Your Honor.

1           Good afternoon, ladies and gentlemen, my name is  
2   Binu Palal. I'm here with Chad Lexis. We are both  
3   Deputy District Attorneys for the Clark County  
4   District Attorney's Office.

5           You've been called here for a criminal case. In  
6   this case, the State has charged the Defendant with a  
7   series of robberies and burglaries. Specifically, the  
8   Defendant is charged with a burglary with use of a firearm  
9   and robbery with use of a firearm for his -- with the --  
10   on January 22nd, 2014, with -- for entering into a Cricket  
11   located at 4343 North Rancho Drive.

12          The next crime he's committed -- he's charged  
13   with is also a burglary and -- burglary with one  
14   possession of a firearm and robbery with use of a firearm  
15   for a robbery and burglary that occurred on  
16   January 28th, 2014, at a Metro PCS located at  
17   6663 Smoke Ranch.

18          He's also charged with a burglary with a firearm  
19   and robbery with a firearm for the events that occurred on  
20   February 2nd, 2014, at a Star Mart located at  
21   5001 North Rainbow.

22          Additionally, he's charged with conspiracy  
23   robbery with a co-conspirator, name of Kelly Chapman, also  
24   charged with possession of stolen property, to wit a

1 firearm in this case.

2 Ladies and gentlemen, I'm gonna read you a list  
3 of names of people we may call. We are almost assuredly  
4 not calling all these folks. But we just list everybody  
5 who could possibly be a witness in this case.  
6 Officer Ayala, Ariselli Bautista, Officer Brumagin,  
7 Officer Bruno; Officer Carter, Officer Casper;  
8 Officer Coleman; Detective Cologne, custodian of records  
9 for the Clark County Detention Center, Las Vegas  
10 Metropolitan Police Department dispatch and records, the  
11 custodian of records for the Nevada Department of Motor  
12 Vehicles, the custodian of records for Star Mart,  
13 Officer Dun, Samuel Echeverria, Officer Fairweather,  
14 Crime Scene Analyst Fletcher, Officer Forson,  
15 Officer Francis, Officer Garcia, Forensic Analyst  
16 Heather Gouldthorpe, Officer Haus, Jeffery Haberman,  
17 Officer Hoffman, Christy Holser, Graciela Jimenez,  
18 Detective Scott Kavon, Officer Kerwin, Officer Couelausky,  
19 Officer Landers, Officer Marquez, Officer McCray,  
20 Officer Paysos, Officer Raylea, Officer Rowberry,  
21 Brittany Slathar, Crime Scene Analyst 4, and  
22 Alisa Williams.

23 Thank you.

24 THE COURT: Thank you.

1           Mr. Claus, need you to introduce yourself, your  
2       client, and any additional witnesses you intend to call.

3           MR. CLAUS: Good afternoon, ladies and gentlemen of  
4       the jury. My name is Augustus Claus. I represent Splond.  
5       Additional witnesses that may be called by the Defense  
6       include Mr. Splond but also [inaudible].

7           Thank you very much.

8           THE COURT: Thank you.

9           Ladies and gentlemen, and this is Tom Stewart.  
10       He is an extern, which is a law student who's working with  
11       our Department. So you may see him in and out of the  
12       courtroom.

13           Ms. Clerk, please call the roll of the panel of  
14       perspective jurors. Ladies and gentlemen, when your name  
15       is called, if you would please answer "present" or "here."

16           [Jury roll call]

17           THE COURT: Is there anyone here as a member of my  
18       perspective jury who's name was not called?

19           Seeing no hands, having [inaudible] a response.  
20       Could you all please stand up and raise your right hands  
21       to be sworn.

22           [The prospective jury was duly sworn]

23           THE COURT: Ma'am, would you like some water?

24           Is anyone not able to hear me?

1           Okay. Ladies and gentlemen, we are about to  
2           commence the jury selection process. During this process,  
3           questions will be asked of you, both by myself and by  
4           Counsel.

5           I will tell you that some of the questions will  
6           be somewhat personal. They are not intended to embarrass  
7           you. They are asked so that Counsel and the Court can  
8           make a determination as to whether you can sit as a fair  
9           and impartial juror in this particular case.

10          If for any reason you believe that the answer to  
11          a question needs to be given in private, please let us  
12          know and we will try and accommodate your request.

13          It is important you know the significance of  
14          full, complete, and honest answers to all the questions we  
15          are about to ask you. Please do not try to hide or  
16          withhold anything which might indicate bias or prejudice  
17          of any sort by any of you. Should you fail to answer  
18          truthfully or if you hide or with hold anything bearing  
19          upon your ability to serve or your qualifications, that  
20          fact may tend to contaminate your verdict.

21          I'm going to conduct a general examination of all  
22          of you. And then I'm gonna focus more precise questions  
23          on those sitting in the box area. At some point during  
24          the process of selecting a jury, Counsel will have the

1 right to ask that a particular individual be excused.  
2 Please do not be offended if you're excused by one of  
3 these processes. They're called challenges. It doesn't  
4 mean you're not qualified to sit as a jury or juror, it  
5 just means that in this particular case, there's something  
6 in your background that gives Counsel concern as to  
7 whether you could sit fairly and impartially in this  
8 particular case.

9 Please remember that those procedures are part of  
10 our system of government. And they are some of the  
11 protections that are given to everyone that is involved in  
12 our system.

13 If you wish to respond to a question, please  
14 remember, I need the last four digits of your badge number  
15 before you respond. And because we're using a recording  
16 system, please wait for the microphone to get you -- get  
17 to you. Kevin has it and he will try and be quick.

18 [Jury voir dire recorded but not herein  
19 transcribed]

20 THE COURT: Ladies and gentlemen, we're gonna let you  
21 guys be excused for a few minutes.

22 During this recess, you are admonished not to  
23 talk or converse among yourselves or with anyone else on  
24 any subject connected with this trial or read, watch, or



1 listen to any report of commentary on the trial or any  
2 person connected to this trial by any means of  
3 information, including without limitation: Social media,  
4 text, newspaper, television, Internet, radio or form or  
5 express any opinion on any subject connected with the  
6 trial until the case is finally submitted to you.

7 We'll see you about ten minutes outside.

8 Courtroom 14A at the other end of the hallway, there's  
9 some blue buckets there. I'm not sure if it's a hazard or  
10 not. If there's a hazard don't go down there all the way.

11 THE BAILIFF: Remember which seats you're in, please.

12 JUROR: Same seats, different courtroom?

13 THE BAILIFF: No, same seats --

14 THE COURT: No, you'll come back to these chairs.

15 JUROR: Oh, I thought you said we're gonna get sent to  
16 14A.

17 THE BAILIFF: No.

18 THE COURT: I'm just trying to send you the other end  
19 of the hallway, so you don't run into any people who may  
20 be coming in and out of the courtroom.

21 JUROR: Got it.

22 [Outside the presence of the prospective jury]

23 [Jury voir dire resumed]

24 THE COURT: All right, guys. While we're doing that,

1 if we could now go to my list of --

2 MR. WAITE: Your Honor?

3 THE COURT: Yeah.

4 MR. WAITE: Can I be excused. I've got a couple  
5 motions [inaudible] today.

6 THE COURT: Bye. Yes, you may leave.

7 MR. WAITE: Thank you. I appreciate it.

8 THE COURT: But some people like to watch the process.  
9 Well, you know.

10 MR. WAITE: Thank you.

11 THE COURT: Okay.

12 MR. PALAL: Can we -- we can probably move back to our  
13 desks.

14 THE COURT: Now that we don't have any jurors, I can  
15 do this. Nobody's got headphones this time. So I don't  
16 have to worry about that.

17 [Jury voir dire resumed]

18 THE COURT: Okay. Does anybody want to, outside the  
19 presence, ask any of the folks who had felony convictions  
20 anything about those to establish whether you think they,  
21 in fact, do have the ability to serve or not. I know  
22 sometimes that is a touchy issue.

23 MR. PALAL: Your Honor, I think during the course of  
24 voir dire we usually ask, "Have you been accused of a

1 crime," and go --

2 THE COURT: I do ask that.

3 MR. PALAL: -- and go a little bit in -- I mean, just  
4 the nature of it.

5 THE COURT: Right.

6 MR. PALAL: I don't think the State requires anything  
7 more than that.

8 THE COURT: Okay.

9 MR. PALAL: If we -- and if we do, Your Honor, do we  
10 have permission to further inquire if necessary?

11 THE COURT: Absolutely.

12 MR. PALAL: All right. Thank you, Your Honor.

13 THE COURT: The concern is some people are  
14 uncomfortable talking about that information in public.  
15 And so I was gonna let you, if you thought there was any  
16 reason that you needed it, to take the opportunity to ask  
17 outside the presence of the other jurors, but --

18 MR. PALAL: No, we're fine, Your Honor. Thank you  
19 for the opportunity.

20 MR. CLAUS: [Inaudible] knows that their civil rights  
21 have been restored is refreshing, Your Honor, so I have no  
22 questions.

23 THE COURT: Okay. Kevin, as soon as you have them  
24 back, I will excuse those in addition to Mr. Waite, who

1 I've not excused. And I will fill the seats vacated by  
2 excused jurors from the audience. And hopefully we  
3 [inaudible] but I don't know how long it's gonna take that  
4 young lady to get to and from the bathroom because I don't  
5 even know if the bathrooms on the floor are working today.

6 [Pause in the proceedings]

7 THE COURT: Mr. Claus, look at your list, make sure  
8 I'm right: 46, 156, 345, 368, 371, 372, 383, 384, 447,  
9 and 472.

10 MR. CLAUS: I agree, Your Honor.

11 THE COURT: Okay.

12 THE COURT: I had somehow written the other juror ID  
13 number for two of them. So I had to go back and correct  
14 my list. Because I have two sets of ID numbers and  
15 sometimes I write the other one.

16 MR. CLAUS: Your formatting on your random list is  
17 slightly different than the other departments and that  
18 takes a little bit of getting used to, but not much.

19 THE COURT: Is it different?

20 MR. CLAUS: Just a little different.

21 THE COURT: This is the new system that applies to  
22 everybody.

23 MR. CLAUS: Really?

24 MR. PALAL: Oh, okay. That might be it.

1 THE COURT: This is the new -- it's been -- this is  
2 its third week.

3 MR. PALAL: Oh, okay.

4 MR. CLAUS: I thought --

5 THE COURT: And you've had me for two.

6 MR. CLAUS: Okay.

7 THE COURT: Are we ready, Kevin?

8 THE BAILIFF: Yes, Judge.

9 [Discussion off the record]

10 [In the presence of the prospective jury]

11 THE COURT: Ladies and gentlemen, you can sit down.

12 Counsel, you may be seated.

13 Ladies and gentlemen, I'm going to excuse the  
14 following individuals at this time.

15 [Jury voir dire resumed]

16 THE COURT: Yes, we're gonna take a short break. All  
17 you got to do is wave at me.

18 Ladies and gentlemen, during this recess, you are  
19 admonished not to talk or converse among yourselves or  
20 with anyone else on any subject connected with this trial  
21 or read, watch, or listen to any report of commentary on  
22 the trial or any person connected to this trial by any  
23 means of information, including without limitation:  
24 Social media, text, newspaper, television, Internet, radio

1 or form or express any opinion on any subject connected  
2 with the trial until the case is finally submitted to you.

3 While all those individuals are all going to the  
4 restroom, if I could have [Juror 0412] and [Juror 0422]  
5 please remain with us. But the rest of you can all go to  
6 the restroom or stay out in the hallway, out there in  
7 front of 14A.

8 [Outside the presence of the jury]

9 [Jury voir dire resumed]

10 THE COURT: Does Counsel need a restroom break before  
11 the marshal brings everybody back in?

12 MR. PALAL: Yes, please.

13 THE COURT: Okay.

14 MR. PALAL: Thank you, Your Honor.

15 THE COURT: You know, I'm trying to watch out for you  
16 guys.

17 [Recess at 3:22 p.m.; proceedings resumed at  
18 3:27 p.m.]

19 [Outside the presence of the jury]

20 [Discussion off the record]

21 THE COURT: Well, once I finish these -- the number  
22 six that we're gonna put in there -- the person we're  
23 gonna put in chair six, then I'm gonna ask the general  
24 question about criminal contacts. And then just let them

1 raise their hands and then you guys follow up on them as  
2 you will.

3 MR. PALAL: Okay.

4 THE COURT: I'm not gonna go into any details at all  
5 with them. Just have them identify themselves for you  
6 guys.

7 MR. PALAL: All right.

8 THE COURT: So write fast.

9 MR. PALAL: All right.

10 MR. CLAUS: Your Honor, do you have a stated goal of  
11 getting through jury selection by the end of the day --

12 THE COURT: I have no --

13 MR. CLAUS: -- today?

14 THE COURT: -- stated goals, other than to do my job.  
15 And to do my job well.

16 MR. CLAUS: I just -- some judges like to -- like to  
17 get through certain items in a given day.

18 THE COURT: No, I --

19 MR. CLAUS: And so they'll length then out the day --

20 THE COURT: No, my day end at 5:00 o'clock.

21 MR. CLAUS: Okay.

22 THE COURT: I don't pay overtime to staff. I'm a  
23 responsible elected official.

24 MR. CLAUS: Yes, Your Honor.

1           THE COURT: I know there's a difference of opinion in  
2 the building, but that's my opinion.

3           MR. CLAUS: I -- I --

4           THE COURT: I see budgets and I know what it means.

5           MR. CLAUS: I've learned to go with the flow,  
6 Your Honor. I think that's --

7           THE COURT: That's good.

8           MR. CLAUS: I go where I'm ordered, how's that?

9           THE COURT: You know? I've been known to go over, but  
10 only when something unusual occurs. We try not to; right?

11          THE CLERK: Right.

12          THE BAILIFF: Ready?

13                 [In the presence of the jury]

14          THE BAILIFF: Jurors are present.

15          THE COURT: You can sit down when you get to your  
16 chairs if you feel like it. You can stand up if you want  
17 to. Oh, you got to scoot down one more. Leave that sixth  
18 chair open. Yeah. There you go. Thank you.

19                 [Jury voir dire resumed]

20          THE COURT: Okay. Ladies and gentlemen, at this time  
21 we're gonna take our evening recess. We're gonna start  
22 tomorrow morning at 9:30. So if you could meet outside  
23 courtroom 14A in the morning.

24                 During this recess, you're admonished not to talk



1 or converse among yourselves, with anyone else, any  
2 subject connected with this trial or read, watch or  
3 listening any report or commentary on the trial or any  
4 person connected with this trial by any mean of  
5 information including, without limitation: Social media,  
6 text, newspaper, television, Internet, radio or form or  
7 express any opinion on any subject connected with the  
8 matter until the case is it finally submitted to you.

9 Ladies and gentlemen, I'm gonna read you one  
10 thing that I probably wouldn't read you until tomorrow.  
11 But because you're gonna be gone overnight, I'm gonna read  
12 it to you. Hold on a second. Let me find it in my notes.

13 During the course of this trial, the attorneys  
14 for both sides of the parties, witnesses, and court  
15 personnel, other than the marshal, are not permitted to  
16 converse with members of the jury. These individuals are  
17 not being antisocial, they are bound by ethics and the law  
18 not to talk to you. To do so might contaminate your  
19 verdict.

20 You're admonished, additionally, you're not to  
21 visit the scene of any of the acts or occurrences made  
22 mention of during the trial unless specifically directed  
23 to do so by the Court. Please don't investigate this case  
24 or anyone that has anything to do with this case on your

1 own. Do not undertake any legal or factual research on  
2 your own. And that includes research on the Internet.

3 So we'll see you in the morning at 9:30. Have a  
4 nice evening.

5 [Outside the presence of the jury]

6 THE COURT: Kevin?

7 THE BAILIFF: Yes, Your Honor.

8 THE COURT: For Ms. Amico, can you give her directions  
9 to the handicap parking facility for the jurors so that  
10 she can park there tomorrow?

11 Okay. Anything outside the presence?

12 MR. PALAL: Your Honor, I just want to -- in order to  
13 line up our witnesses. Do you have a time you suggest  
14 that we line those witnesses up?

15 THE COURT: My guess is that we will finish the jury  
16 selection by about 10:30 tomorrow, maybe 11:00.

17 MR. PALAL: Okay.

18 THE COURT: And then you guys will make openings. And  
19 then I have to break for lunch and go twist arms of pro  
20 bono lawyers. And then we'll start back up at 1:30,  
21 probably --

22 MR. PALAL: Okay.

23 THE COURT: -- with witnesses, will be my guess, then.

24 MR. PALAL: That's what I'll tell our witnesses, then.

1 THE COURT: That sound like a plan for you guys?

2 MR. PALAL: Yes, that's fine, Your Honor.

3 THE COURT: All right. I'm holding you here for a few  
4 minutes because typically at this stage, when I break jury  
5 instructions overnight, I have three or four people who  
6 have to talk to us tonight.

7 So we're all gonna stay here to wait for Kevin to  
8 come back and say, "Judge, there's these people who have  
9 to talk to you." And if he doesn't say that, that's okay  
10 and we'll all go home. But if he does say that, then  
11 we'll visit with those people individually and see what  
12 their problem is.

13 So just, you know, be patient for a few minutes.

14 [Discussion off the record]

15 MR. CLAUS: And, Your Honor, I haven't practiced in  
16 front of you before, but in talking with the State,  
17 they're gonna be bringing in the fingerprint examiner. I  
18 try not to double subpoena witnesses, if at all possible.  
19 I didn't know, some judges want you to because if the  
20 State --

21 THE COURT: No, I don't want you to. I want you to do  
22 it all at once so I only have one witness in.

23 Kevin, are we ready to go home?

24 THE BAILIFF: Yes, Judge.

1 THE COURT: No -- no people had to talk to us tonight?

2 THE BAILIFF: No.

3 THE COURT: Not a single one. That's lovely to hear.

4 All right. So we'll see you guys in the morning  
5 at 9:30.

6 MR. PALAL: Thank you, Your Honor.

7 PROCEEDING CONCLUDED AT 5:00 P.M.

8 \*\*\*\*\*

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

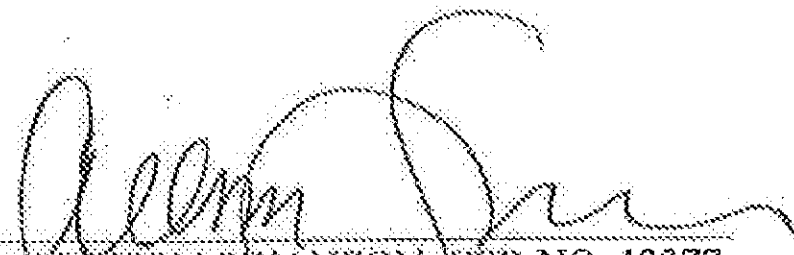
24

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

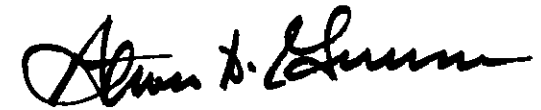
AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

  
ALLISON SWANSON, CSR NO. 13377  
CERTIFIED SHORTHAND REPORTER  
FOR THE STATE OF CALIFORNIA

TRAN

Page 6  
Electronically Filed  
04/19/2017 01:47:40 PM



CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C-14-296374-1
	)	
vs.	)	
	)	DEPT. NO. XI
KENYA SPLOND, aka Kenny Splond,	)	
#1138461 KELLIE ERIN CHAPMAN,	)	
#1681308,	)	
	)	
Defendants.	)	

---

BEFORE THE HONORABLE ELIZABETH GONZALEZ,

DISTRICT COURT JUDGE

Tuesday, March 22, 2016

RECORDER'S TRANSCRIPT OF JURY TRIAL - DAY 2

APPEARANCES:

For the Plaintiffs:	BINU PALAL
	CHAD LEXIS
	Deputy District Attorneys

For the Defendants:	AUGUSTUS CLAUS
---------------------	----------------

TRANSCRIBED BY: ALLISON SWANSON, CSR No. 13377

1 LAS VEGAS, NEVADA, TUESDAY, MARCH 22, 2016 9:30 A.M.

2 \*\*\*\*\*

3 [Outside the presence of the prospective jury]

4 MR. CLAUS: I'm just gonna use the restroom, if you  
5 don't mind, Your Honor.

6 THE COURT: That's fine.

7 MR. CLAUS: Yeah?

8 THE COURT: You got to get a tie on your client, too.

9 MR. CLAUS: Yeah.

10 THE DEFENDANT: Thank you.

11 THE COURT: Do either of you have anything outside the  
12 presence?

13 MR. PALAL: Nothing from the State, Your Honor.

14 MR. CLAUS: No, nothing from the Defense.

15 THE COURT: Okay. The plan is we're gonna finish jury  
16 selection, exercise the challenges, take a break, set up  
17 the Elmo, do our openings, break for lunch.

18 I got to be in Summerlin at noon for an arm  
19 twisting. And I'll be back here at 1:15, 1:30. We'll  
20 plan for the jury at 1:30.

21 MR. CLAUS: Five peremptories a piece, yes,  
22 Your Honor?

23 THE COURT: Yes.

24 MR. CLAUS: Thank you.

1 THE COURT: Across the whole group because you agreed  
2 to the alternate process that was the unusual one.

3 MR. CLAUS: Yes, Your Honor.

4 THE COURT: Okay. Bye.

5 [Discussion off the record]

6 [Recess at 9:31 a.m.; proceedings resumed at  
7 9:34 a.m.]

8 THE BAILIFF: Still waiting on four jurors.

9 THE COURT: Okay. So I'm not late. I did good. I  
10 was ready on time.

11 [Recess at 9:34 a.m.; proceedings resumed at  
12 9:54 a.m.]

13 [Outside the presence of the jury]

14 THE COURT: Mr. Claus, you're gonna use about half  
15 hour?

16 MR. CLAUS: I thought more towards an hour,  
17 Your Honor, but --

18 THE COURT: Come on Jordan, fix us up. And what juror  
19 are we missing?

20 THE BAILIFF: [Inaudible] 46.

21 THE COURT: Okay. So we're missing a paralegal from  
22 the law firm, [Juror 0516]

23 THE BAILIFF: She showed up.

24 THE COURT: All right. Bring them in.



1 THE BAILIFF: Yes, Judge.

2 [Discussion off the record]

3 [In the presence of the prospective jury]

4 THE COURT: Morning, ladies and gentlemen.

5 Counsel, you can be seated.

6 Mr. Claus, you may continue your examination.

7 MR. CLAUS: Thank you, Your Honor.

8 [Jury voir dire resumed]

9 THE COURT: Thank you.

10 Ladies and gentlemen, at this time Counsel begin  
11 executing the peremptory challenges. I'm gonna go ahead  
12 and read some introductory comments to you while they're  
13 doing that. Counsel, if you have any questions during the  
14 process executing your peremptory challenges, remember, I  
15 would rather hear about them rather than you have a  
16 mistake while making an assumption incorrectly.

17 Ladies and gentlemen, first, I want to thank all  
18 of you for coming. And that includes those in the  
19 audience who did not get up to be questioned. Without  
20 those of you who are willing to serve as jurors, our  
21 system wouldn't work.

22 As you've heard from some of the attorneys, this  
23 is one of the most important systems in the whole -- in  
24 the whole world. We have a system where everyone is

1       presumed innocent and is judged by their peers.

2               You sitting here are those peers. And I  
3       appreciate your willingness to come down here during  
4       spring break. On behalf of all of the judges here at the  
5       8th Judicial District Court, thank you for your  
6       attendance. Even if you're not selected as a juror, we  
7       really appreciate you.

8               If you want to visit among yourselves, you can.  
9       Sometimes this process takes a little longer than others.  
10      If you want to stand up at your chair, you can.

11              Counsel, are there any issues with respect to the  
12      execution of peremptory challenges?

13              MR. PALAL: None by the State, Your Honor.

14              MR. CLAUS: No, Your Honor.

15              THE COURT: Okay. Ladies and gentlemen, the following  
16      individuals will remain and form my jury. The rest of you  
17      may be excused as soon as I finish reading the names. And  
18      I truly appreciate your attendance and your participation  
19      as jurors.

20              The following individuals please remain: Badge  
21      number 386, [Juror No. 1]; badge number 394,  
22      [Juror No. 2]; badge number 251, [Juror No. 3]; badge  
23      number 269, [Juror No. 4]; badge number 425,  
24      [Juror No. 5]; badge number 291, [Juror No. 6]; badge

1       number 294, [Juror No. 7]; badge number 412,  
2       [Juror No. 8], badge number 353, [Juror No. 9], badge  
3       number 367, [Juror No. 10]; badge number 427,  
4       [Juror No. 11]; badge number 401, [Juror No. 12]; badge  
5       number 378, [Juror No. 13]; and badge number 381,  
6       [Juror No. 14].

7               So if those individuals would remain, the rest of  
8       you are excused. Thank you, again, for your  
9       participation.

10              [Juror No. 1], you have the first important  
11       decision to make. You're gonna have to look at this  
12       monitor on the wall. Do you want to sit in that chair or  
13       move over one? You're okay seeing it? It's not gonna be  
14       too far? Okay.

15              Ladies and gentlemen, if you'd all stand and  
16       we're gonna swear you in now.

17              [The jury was duly sworn]

18              THE COURT: And those of you on the top row, if you  
19       could all squish in so you're in row. So if you'd move  
20       over one chair. Now, [Juror No. 8], you have to make the  
21       decision as to whether you can see that monitor up there  
22       from the chair you're in or if you want to move over a  
23       chair.

24              JUROR NO. 8: I'm okay.

1           THE COURT: Okay. So if you guys can squish in. And  
2 then, ladies, if you would go in and in order form -- get  
3 in those black more comfortable chairs. And  
4 [Juror No. 14], you're gonna be on the end.

5           Thank you. Ladies and gentlemen, you are now  
6 sworn members of this jury. Before we commence with  
7 opening statements, I need to make some introductory  
8 comments.

9           You're admonished that no juror may declare to a  
10 fellow jury any fact relating to this case of his or her  
11 own knowledge. And if any juror discovers during the  
12 trial or after the jury has retired that he or she or any  
13 other juror has personal knowledge of any fact in  
14 controversy in this case, you shall disclose that to me in  
15 the absence of the other jurors. The way you do that is  
16 you tell the marshal.

17           So what that means is if somebody walks into the  
18 courtroom and you recognize them -- either because you've  
19 seen them at church, you run into them at the gym but you  
20 don't know their name and you didn't know their name in  
21 the list of witnesses was read -- you need to bring that  
22 to our attention. The way that you do that is by telling  
23 the marshal. And then if an inquiry needs to be made, I  
24 go ahead and make that at that time; okay?

1           During the course of this trial, the attorneys  
2   for both sides, the parties, the witnesses, and court  
3   personnel, other than the marshal, are not permitted to  
4   converse with members of the jury. These individuals are  
5   not being antisocial. They are bound by ethics and the  
6   law not to talk to you. To do so might contaminate your  
7   verdict.

8           You're admonished, additionally, that you are not  
9   to visit the scene of any of the acts or occurrences made  
10   mention of during this trial unless specifically directed  
11   to do so by the Court. Please don't investigate this case  
12   or anyone who has anything to do with this case on your  
13   own. Do not undertake any legal or factual research on  
14   your own. And that includes research on the Internet.

15           What I will now say is intended to serve as an  
16   introduction to the trial of this case. It is not a  
17   substitute for the detailed instructions on the law, which  
18   I will give you at the close of the case and before you  
19   retire to consider your verdict.

20           This is a criminal case commenced by the State of  
21   Nevada, which I may sometimes refer to as the State,  
22   against Kenny Splond, the Defendant. The case is based on  
23   an indictment. The clerk will now read the indictment to  
24   the ladies and gentlemen of the jury and state the plea