

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

Juhjuan Washington,	)	Supreme Court Case No.: 83275
Appellant	)	
	)	Electronically Filed
vs.	)	Nov 14 2021 12:10 p.m.
	)	Elizabeth A. Brown
	)	Clerk of Supreme Court
The State of Nevada,	)	<b>APPELLANT'S APPENDIX INDEX</b>
Respondent,	)	<b>Vol. I</b>
	)	<b>Pages 001-250</b>
	)	

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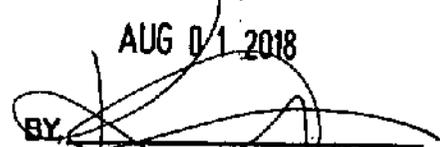
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**ORIGINAL**

**FILED IN OPEN COURT**  
STEVEN D. GRIERSON  
CLERK OF THE COURT

AUG 01 2018

BY:   
KIMBERLY ESTALA, DEPUTY

1 **IND**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 CHRISTOPHER HAMNER  
6 Chief Deputy District Attorney  
7 Nevada Bar #011390  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO: C-18-333798-1

11 -vs-

DEPT NO: IX

12 JUHJUAN WASHINGTON,  
13 #8124794

14 Defendant.

**INDICTMENT**

15 STATE OF NEVADA )  
16 COUNTY OF CLARK ) ss.

17 The Defendant above named, JUHJUAN WASHINGTON, accused by the Clark  
18 County Grand Jury of the crimes of ASSAULT WITH A DEADLY WEAPON (Category B  
19 Felony - NRS 200.471 - NOC 50201), ATTEMPT ROBBERY WITH USE OF A DEADLY  
20 WEAPON (Category B Felony - NRS 200.380, 193.330, 193.165 - NOC 50145), FIRST  
21 DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (Category A Felony - NRS  
22 200.310, 200.320, 193.165 - NOC 50055), OPEN OR GROSS LEWDNESS (Gross  
23 Misdemeanor - NRS 201.210 - NOC 50971), BURGLARY WHILE IN POSSESSION OF A  
24 FIREARM (Category B Felony - NRS 205.060 - NOC 50426), COERCION WITH USE OF  
25 A DEADLY WEAPON (Category B Felony - NRS 207.190, 193.165 - NOC 53160),  
26 ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380,  
27 193.165 - NOC 50138), GRAND LARCENY AUTO (Category B Felony - NRS 205.228.3 -  
28 NOC 56014), ATTEMPT SEXUAL ASSAULT (Category B Felony - NRS 200.364, 200.366,

C-18-333798-1  
IND  
Indictment  
4767658



1 193.330 - NOC 50119), ATTEMPT DESTRUCTION OF EVIDENCE (Gross Misdemeanor  
2 - NRS 193.330, 199.220 - NOC 52980), committed at and within the County of Clark, State  
3 of Nevada, on or between October 13, 2017 and October 22, 2017, as follows:

4 COUNT 1 - ASSAULT WITH A DEADLY WEAPON

5 did, on or about October 7, 2017, willfully, unlawfully, feloniously and intentionally  
6 place another person in reasonable apprehension of immediate bodily harm and/or did willfully  
7 and unlawfully attempt to use physical force against another person, to wit: ALEXANDRA  
8 TSVITENOK, with use of a deadly weapon, to wit: a knife, by holding said knife to  
9 ALEXANDRA TSVITENOK's throat and/or stomach and/or chest.

10 COUNT 2 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

11 did, on or about October 7, 2017, willfully, unlawfully, and feloniously attempt to take  
12 personal property, to wit: car keys, from the person of ALEXANDRA TSVITENOK, or in her  
13 presence, by means of force or violence, or fear of injury to, and without the consent and  
14 against the will of ALEXANDRA TSVITENOK, by holding ALEXANDRA TSVITENOK at  
15 knifepoint and demanding her car keys, with use of a deadly weapon, to wit: a knife.

16 COUNT 3 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

17 did, on or about October 7, 2017, willfully, unlawfully, and feloniously, seize, confine,  
18 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away ALEXANDRA TSVITENOK,  
19 a human being, with the intent to hold or detain the said ALEXANDRA TSVITENOK against  
20 her will, and without her consent, for the purpose of committing robbery, with use of a deadly  
21 weapon, to wit: a knife.

22 COUNT 4 - OPEN OR GROSS LEWDNESS

23 did, on or about October 13, 2017, willfully and unlawfully commit an act of open or  
24 gross lewdness, by Defendant causing and/or directing and/or encouraging KAYLEE  
25 EDWARDS to put her toe(s) and/or feet in Defendant's mouth.

26 COUNT 5 - BURGLARY WHILE IN POSSESSION OF A FIREARM

27 did, on or about October 19, 2017, then and there, willfully, unlawfully and feloniously  
28 enter with intent to commit coercion and/or larceny and/or robbery with use of a deadly

1 weapon, that certain 2010 Nissan, bearing Nevada License Plate "QEEN," owned by ASHLEY  
2 WRIGHT, said Defendant did possess and/or gain possession of a firearm during the  
3 commission of the crime and/or before leaving the vehicle.

4 COUNT 6 - COERCION WITH USE OF A DEADLY WEAPON

5 did, on or about October 19, 2017, then and there, willfully, unlawfully and feloniously  
6 use physical force, or the immediate threat of such force, against ASHLEY WRIGHT, with  
7 intent to compel her to do, or abstain from doing, an act which she had a right to do, or abstain  
8 from doing, with use of a deadly weapon, to wit: a firearm, by Defendant causing and/or  
9 directing and/or encouraging ASHLEY WRIGHT to transport Defendant in her vehicle, to wit:  
10 that certain 2010 Nissan, bearing Nevada License Plate "QEEN," owned by ASHLEY  
11 WRIGHT.

12 COUNT 7 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

13 did, on or about October 19, 2017, willfully, unlawfully and feloniously, seize, confine,  
14 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away ASHLEY WRIGHT, a human  
15 being, with the intent to hold or detain the said ASHLEY WRIGHT against her will, and  
16 without her consent, for the purpose of committing robbery and/or sexual assault, with use of  
17 a deadly weapon, to wit: a firearm.

18 COUNT 8 - ROBBERY WITH USE OF A DEADLY WEAPON

19 did, on or about October 19, 2017, willfully, unlawfully and feloniously take personal  
20 property, to wit: a car and/or keys, from the person of ASHLEY WRIGHT, or in her presence,  
21 by means of force or violence, or fear of injury to, and without the consent and against the will  
22 of ASHLEY WRIGHT, with use of a deadly weapon, to wit: a firearm.

23 COUNT 9 - GRAND LARCENY AUTO

24 did, on or about October 19, 2017, then and there, willfully, unlawfully, feloniously  
25 and intentionally, with intent to deprive the owner permanently thereof, steal, take and carry  
26 away, drive away or otherwise remove a motor vehicle owned by another person, having a  
27 value of \$3,500.00, or greater, in the possession of ASHLEY WRIGHT, to wit: a 2010 Nissan,  
28 bearing Nevada License No. "QEEN."

1 COUNT 10 - ASSAULT WITH A DEADLY WEAPON

2 did, on or about October 19, 2017, willfully, unlawfully, feloniously and intentionally  
3 place another person in reasonable apprehension of immediate bodily harm and/or did willfully  
4 and unlawfully attempt to use physical force against another person, to wit: ASHLEY  
5 WRIGHT, with use of a deadly weapon, to wit: a firearm, by Defendant threatening ASHLEY  
6 WRIGHT with a firearm.

7 COUNT 11 - BURGLARY WHILE IN POSSESSION OF A FIREARM

8 did, on or about October 20, 2017, then and there, willfully, unlawfully and feloniously  
9 enter with intent to commit larceny and/or assault and/or battery a felony, to wit: robbery  
10 and/or sexual assault, that certain 2004 Suzuki Aero, bearing Nevada License Plate 07G194,  
11 owned by MARICELLA MOJADDIDI-BRAMBILA, said Defendant did possess and/or gain  
12 possession of a firearm during the commission of the crime and/or before leaving the vehicle.

13 COUNT 12 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

14 did, on or about October 20, 2017, willfully, unlawfully and feloniously, seize, confine,  
15 inveigle, entice, decoy, abduct, conceal, kidnap, or carry away MARICELLA MOJADDIDI-  
16 BRAMBILA, a human being, with the intent to hold or detain the said MARICELLA  
17 MOJADDIDI-BRAMBILA against her will, and without her consent, for the purpose of  
18 committing robbery and/or sexual assault, with use of a deadly weapon, to wit: a firearm.

19 COUNT 13 - COERCION WITH USE OF A DEADLY WEAPON

20 did, on or about October 20, 2017, then and there, willfully, unlawfully and feloniously  
21 use physical force, or the immediate threat of such force, against MARICELLA MOJADDIDI-  
22 BRAMBILA, with intent to compel her to do, or abstain from doing, an act which she had a  
23 right to do, or abstain from doing, with use of a deadly weapon, to wit: a firearm, by Defendant  
24 causing and/or directing and/or encouraging MARICELLA MOJADDIDI-BRAMBILA to  
25 masturbate his penis with her feet.

26 COUNT 14 - ASSAULT WITH A DEADLY WEAPON

27 did, on or about October 20, 2017, willfully, unlawfully, feloniously and intentionally  
28 place another person in reasonable apprehension of immediate bodily harm and/or did willfully

1 and unlawfully attempt to use physical force against another person, to wit: MARICELLA  
2 MOJADDIDI-BRAMBILA, with use of a deadly weapon, to wit: a firearm, by Defendant  
3 threatening MARICELLA MOJADDIDI-BRAMBILA with a firearm.

4 COUNT 15 - OPEN OR GROSS LEWDNESS

5 did, on or about October 20, 2017, willfully and unlawfully commit an act of open or  
6 gross lewdness, to wit: by sucking on the toes and/or feet of MARICELLA MOJADDIDI-  
7 BRAMBILA.

8 COUNT 16 - OPEN OR GROSS LEWDNESS

9 did, on or about October 20, 2017, willfully and unlawfully commit an act of open or  
10 gross lewdness, to wit: by Defendant causing and/or directing and/or encouraging  
11 MARICELLA MOJADDIDI-BRAMBILA to masturbate his penis with her feet.

12 COUNT 17 - OPEN OR GROSS LEWDNESS

13 did, on or about October 20, 2017, willfully and unlawfully commit an act of open or  
14 gross lewdness, to wit: by Defendant causing and/or directing and/or encouraging  
15 MARICELLA MOJADDIDI-BRAMBILA to masturbate his penis with her feet.

16 COUNT 18 - OPEN OR GROSS LEWDNESS

17 did, on or about October 20, 2017, willfully and unlawfully commit an act of open or  
18 gross lewdness, to wit: by Defendant causing and/or directing and/or encouraging  
19 MARICELLA MOJADDIDI-BRAMBILA to masturbate his penis with her feet.

20 COUNT 19 - OPEN OR GROSS LEWDNESS

21 did, on or about October 20, 2017, willfully and unlawfully commit an act of open or  
22 gross lewdness, to wit: by Defendant causing and/or directing and/or encouraging  
23 MARICELLA MOJADDIDI-BRAMBILA to masturbate his penis with her feet.

24 COUNT 20 - OPEN OR GROSS LEWDNESS

25 did, on or about October 20, 2017, willfully and unlawfully commit an act of open or  
26 gross lewdness, to wit: by Defendant causing and/or directing and/or encouraging  
27 MARICELLA MOJADDIDI-BRAMBILA to masturbate his penis with her feet.

28 //

1 COUNT 21 - ATTEMPT SEXUAL ASSAULT

2 did, on or about October 20, 2017, then and there willfully, unlawfully, and feloniously  
3 attempt to sexually assault and subject MARICELLA MOJADDIDI-BRAMBILA, a female  
4 person, to sexual penetration, to wit: fellatio, by attempting to place his penis in or on the  
5 mouth of MARICELLA MOJADDIDI-BRAMBILA, against her will, or under conditions in  
6 which Defendant knew, or should have known, that MARICELLA MOJADDIDI-  
7 BRAMBILA was mentally or physically incapable of resisting or understanding the nature of  
8 Defendant's conduct.

9 COUNT 22 - ROBBERY WITH USE OF A DEADLY WEAPON

10 did, on or about October 20, 2017, willfully, unlawfully, and feloniously take personal  
11 property, to wit: a phone, from the person of MARICELLA MOJADDIDI-BRAMBILA, or in  
12 her presence, by means of force or violence, or fear of injury to, and without the consent and  
13 against the will of MARICELLA MOJADDIDI-BRAMBILA, with use of a deadly weapon,  
14 to wit: a firearm.

15 COUNT 23 - ATTEMPT DESTRUCTION OF EVIDENCE

16 did, on or about October 22, 2017, willfully and unlawfully, with intent to conceal the  
17 commission of a felony, to wit: robbery and/or sexual assault and/or larceny and/or assault and  
18 battery and/or burglary and/or kidnapping, or to protect or conceal the identity of any person  
19 committing the same, or with the intent to delay or hinder the administration of the law, or to

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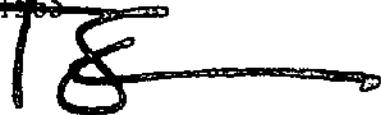
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1 prevent the production thereof at any time in any Court, or before any Officer, Tribunal, Judge,  
2 or Magistrate, destroy evidence by Defendant attempting to delete his taped statements.

3 DATED this 31<sup>st</sup> day of July, 2018.

4 STEVEN B. WOLFSON  
5 Clark County District Attorney  
6 Nevada Bar #001565

7 BY



8 CHRISTOPHER HAMNER  
9 Chief Deputy District Attorney  
10 Nevada Bar #011390

11 ENDORSEMENT: A True Bill



12 Foreperson, Clark County Grand Jury

1 Names of Witnesses and testifying before the Grand Jury:

2 EDWARDS, KAYLEE – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

3 MOJADDIDI-BRAMBILA, MARICELLA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

4 SAMPLES, LAWRENCE - LVMPD # 9354

5 TSVITENOK, ALEXANDRA – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

6 VELEZ, PAUL – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

7 WRIGHT, ASHLEY – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

8  
9 Additional Witnesses known to the District Attorney at time of filing the Indictment:

10 ARNOLD, MATTHEW – LVMPD #9798

11 BIWER, KATHRYN – LVMPD #16190

12 BRAMBILLA, JESSE – LVMPD #13423

13 CARROLL, BETH – LVMPD #7060

14 CHARLTON, NOREEN – LVMPD #13572

15 CHURCH, CHRISTOPHER – LVMPD #5120

16 CUSTODIAN OF RECORDS - CCDC

17 CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

18 CUSTODIAN OF RECORDS - LVMPD RECORDS

19 DIAMOND, KRISTINA – LVMPD #15011

20 EL BANNA, NADER – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

21 FRIESS, BRADLEY – LVMPD #12873

22 GANTT, DARIUS – LVMPD #16444

23 GRANT, MICHAEL – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

24 HUNN, BEAU – LVMPD #9656

25 HUTCHERSON, CHRISTOPHER – LVMPD #12996

26 IBRAHIM, ALEX – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

27 JOHNSON, DEREK – c/o CCDA, 200 Lewis Avenue, LV, NV 89101

28 KINNEY, MICHAEL – LVMPD #9352

1 LAFRENIERE, JASON – LVMPD #7570  
2 LEBLANC, BRENDAN – LVMPD #7316  
3 MCHALE, SHANNON – LVMPD #4750  
4 MILLER, JAMES – c/o CCDA, 200 Lewis Avenue, LV, NV 89101  
5 MURPHY, ROBERT – LVMPD #15664  
6 RADKE, TROY – LVMPD #5255  
7 RECORDS CUSTODIAN – DISPATCH  
8 ROBERSON, ERIC – LVMPD #6028  
9 SCOTT, JEFFREY – LVMPD #9618  
10 SORENSEN, RANDY – LVMPD #12959  
11 THOMAS, KRISTINA – LVMPD #13574  
12 TOMASO, BRITTNEY – LVMPD #9488  
13 TUFTELAND, ERIK – LVMPD # 8971  
14 WRIGHT, HELENE – LVMPD #13587

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26 18AGJ005X/17F18918X/cl-GJ  
27 LVMPD EV# 1710200829;  
1710190557; 1710220808  
28 (TK3)

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

August 09, 2018      09:00 AM      Initial Arraignment

HEARD BY:      Togliatti, Jennifer      COURTROOM: RJC Courtroom 10C

COURT CLERK: Trujillo, Athena

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Dena I. Rinetti      Attorney for Plaintiff  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

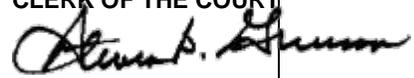
Defendant and counsel, Thomas Boley, Esq. not present.

COURT noted the Defendant refused transport and ORDERED, matter CONTINUED.

BW (CUSTODY)

CONTINUED TO: 8/16/18 9:00 AM

CLERK'S NOTE: Mr. Boley notified of continuance date via e-mail on 8/9/18. -amt 8/10/18



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. IX

BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE  
THURSDAY, AUGUST 9, 2018

**RECORDER'S TRANSCRIPT OF HEARING:  
INITIAL ARRAIGNMENT**

APPEARANCES:

For the State: DENA I. RINETTI, ESQ.  
Deputy District Attorney

For the Defendant: N/A

RECORDED BY: YVETTE G. SISON, COURT RECORDER

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Las Vegas, Nevada, Thursday, August 9, 2018

[Hearing began at 9:26 a.m.]

THE COURT: Washington, C333798-1. Do we have a defense attorney present?

THE CORRECTIONS OFFICER: He refused, Your Honor.

MS. RINETTI: I don't see a Special Public Defender, so I guess I'll sit down.

THE COURT: Okay, well I wouldn't sit down too long. The Defendant is not present because he refused --

MS. RINETTI: Oh, okay.

THE COURT: -- so what I'm going to do is I'm going to continue this one week for the Defendant's appearance --

MS. RINETTI: Okay.

THE COURT: -- notify Mr. Boley that since his client refused, we wouldn't have been able to go forward with the arraignment anyway --

MS. RINETTI: Okay.

THE COURT: -- and I'll just pass it one week, and we'll see if he's -- what he's doing one week from today.

MS. RINETTI: Great.

THE COURT: Thanks.

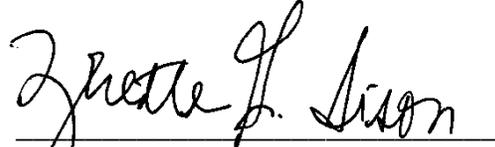
THE COURT CLERK: August 16<sup>th</sup> at 9 a.m.

[Hearing concluded at 9:26 a.m.]

\* \* \* \* \*

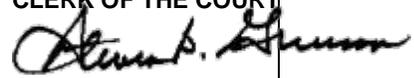
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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber

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DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. IX

BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE  
THURSDAY, AUGUST 16, 2018

**RECORDER'S TRANSCRIPT OF HEARING:  
INITIAL ARRAIGNMENT**

APPEARANCES:

For the State: MELANIE SCHEIBLE, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE G. SISON, COURT RECORDER

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Las Vegas, Nevada, Thursday, August 16, 2018

[Hearing began at 9:03 a.m.]

THE COURT: Juhjuan Washington, C333798-1. The record should reflect the presence of the Defendant in custody. This is the time set for initial arraignment. Is your client prepared to be arraigned?

MR. BOLEY: Yes ma'am.

THE COURT: Sir, your full true name please?

THE DEFENDANT: Juhjuan Washington.

THE COURT: No middle name?

THE DEFENDANT: Dayvon.

THE COURT: Can you spell that for me please.

THE DEFENDANT: D-a-y-v-o-n.

THE COURT: Hold on, the microphone is not picking you up, so could you spell that again for me please.

THE DEFENDANT: D-a-y-v-on.

THE COURT: Okay, and how old are you?

THE DEFENDANT: I'm 22.

THE COURT: How far did you go in school?

THE DEFENDANT: My senior year.

THE COURT: So, do you read, write, and understand the English language?

THE DEFENDANT: Yes ma'am.

THE COURT: Did you get a copy of the indictment?

1 THE DEFENDANT: Yes ma'am.

2 THE COURT: Have you read the charges?

3 THE DEFENDANT: Yes ma'am.

4 THE COURT: Do you need me to read them out loud to  
5 you all over again or are you ready to enter your plea because you  
6 read them to yourself?

7 THE DEFENDANT: No ma'am.

8 THE COURT: You're ready to enter your plea?

9 THE DEFENDANT: Yes ma'am.

10 THE COURT: What is your plea to the charges, Counts 1  
11 through 23 in the indictment? Not guilty?

12 THE DEFENDANT: Not guilty.

13 THE COURT: Okay, do you wish to invoke your speedy  
14 trial rights?

15 THE DEFENDANT: Yes ma'am.

16 THE COURT: All right. The matter will be set -- one  
17 second okay -- is it overflow eligible? Do you know?

18 MR. BOLEY: I'm guessing not, just with the number of  
19 witnesses.

20 THE COURT: Okay, today is August 16<sup>th</sup>. I have October  
21 15<sup>th</sup>, which gives you 59 days to get ready for trial; about as good as  
22 I can do for you.

23 MR. BOLEY: Okay, I'll take it.

24 THE COURT: All right. October 15<sup>th</sup> at 10:30, with a  
25 calendar call October 4<sup>th</sup> at 9 a.m. Thank you.

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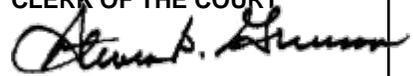
MR. BOLEY: Thank you, Judge.

[Hearing concluded at 9:05 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.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber



1 **MAEV**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
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10 (702) 671-2500  
11 Attorney for Plaintiff

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

9 THE STATE OF NEVADA,  
10  
11 Plaintiff,

11 -vs-

12 **JUHJUAN WASHINGTON,**  
13 **#8124794**

14 Defendant.

CASE NO: **C-18-333798-1**

DEPT NO: **IX**

15 **STATE'S NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF**  
16 **OTHER CRIMES, WRONGS, OR ACTS**

17 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that the State of  
18 Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JAMES R.  
19 SWEETIN, Chief Deputy District Attorney, will bring a **Motion to Admit Evidence of Other**  
20 **Crimes, Wrongs or Acts** before the above entitled Court on the **9<sup>th</sup>** day of October, 2018,  
21 at the hour of **9:00 o'clock A.M.**, or as soon thereafter as counsel may be heard.

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

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Bates 020

1 POINTS AND AUTHORITIES

2 STATEMENT OF FACTS PERTINENT TO THE INSTANT CASE

3 Defendant, JUHJUAN, is charged by way of Criminal Indictment with the crimes of  
4 Assault with a Deadly Weapon (Category B Felony – NRS 200.471), Attempt Robbery With  
5 Use of a Deadly Weapon (Category B Felony – NRS 200.380, 193.330, 193.165), First Degree  
6 Kidnapping With Use of a Deadly Weapon (Category A Felony – NRS 200.310, 200.320,  
7 193.165), Open or Gross Lewdness (Gross Misdemeanor – NRS 201.210), Burglary While in  
8 Possession of a Firearm (Category B Felony – NRS 207.190, 193.165), Coercion With Use of  
9 a Deadly Weapon (Category B Felony – NRS 207.190, 193.165), Robbery with Use of a  
10 Deadly Weapon (Category B Felony – NRS 200.380, 193.165), Grand Larceny Auto  
11 (Category B Felony – NRS 200.364, 200.366, 193.330), and Attempt Destruction of Evidence  
12 (Gross Misdemeanor – NRS 193.330, 199.220). The crimes were committed on or between  
13 October 13, 2017 and October 22, 2017. The victims are Alexandra Tsvitenok, Kaylee  
14 Edwards, Ashley Wright, and Maricella Mojaddidi-Brambila.

15 For the purpose of providing the Court with the most comprehensive statement of facts,  
16 the State is providing the testimony of the witnesses before the grand jury.

17 The Grand Jury Testimony of Ashley Wright Pertinent to this Motion

18 Ashley testified that on October 19, 2017, she was living in Las Vegas, Clark County.  
19 (Grand Jury Transcript, Vol. I, hereinafter “GJT”, p. 7). During the early morning hours of  
20 that day, Ashley was heading to work at Sutherland Global Services. (GJT, Vol. I, pp. 7-8).  
21 Ashley testified that she was also a student at the College of Southern Nevada at that time.  
22 (Id., p. 8). Ashley testified that she drove a 2010 Nissan Cube during that time with the license  
23 plate “QEEN”. (Id.).

24 Ashley described that it was typically still dark out when she went outside to go to work  
25 and while she was putting her bags in her car, she heard shuffling very close to her. (GJT, Vol.  
26 I, p. 9). Ashley stood up and turned around and there was a man standing 10 to 15 feet away.  
27 (Id.). As soon as they made eye contact the man raised his hand and there was a gun in his  
28 hand. (Id.). Ashley thought he was going to shoot her and she screamed as loudly as she could

1 and jumped on the other side of her car. (Id.). The gun appeared to be silver or metallic in  
2 color and looked to be a semi-automatic. (GJT, Vol. I, pp. 10-11).

3 While she was on the other side of the car, Ashley didn't hear anything so she opened  
4 her eyes to peer over to the other side, when she noticed the man was standing right in front  
5 of her. (Id., p. 12). Ashley gave the man her keys and told him to take the car and whatever  
6 he wanted inside of it. (Id.). Ashley described the man as a black male. The man asked her,  
7 "Did you think that I was going to shoot you?" He further stated that he wasn't going to shoot  
8 her and that he needed a ride to the hospital because he had just been kicked out of his house  
9 and that he got raped. (Id.). Ashley thought the man seemed a little off. (Id.). Ashley testified  
10 that her Nissan Cube cost between 28 and 30 thousand dollars. (GJT, Vol. I, p. 13).

11 Ashley told the man that he didn't need to pull a gun out if all he needed was a ride to  
12 the hospital. (Id. at p. 13). The man asked her again about going to the hospital and she agreed  
13 to take him to the hospital. (Id.). Ashley told the man that if someone refuses to take him to  
14 the hospital when he asked, he should ask the next person, without pulling a gun out on them.  
15 (Id.). Ashley testified that she did not want to take the man to the hospital but he still had the  
16 gun and she was concerned about the gun. (GJT, Vol. I, p. 14).

17 After getting into the car, Ashley drove and the man sat in the passenger seat. (GJT,  
18 Vol. I, p. 15). The man told Ashley to hurry up and pull off because she had screamed. (Id.).  
19 He then asked her where her phone was and she told him that it was in her bag in the back  
20 seat. (Id.). The man asked Ashley where she was headed and she told him that she was going  
21 to work and later to school. (Id.). Ashley testified that he told her that he had a baby mother  
22 who had just given birth and she was in the hospital. (Id.). Prior to the man telling Ashley  
23 that, she had asked him what hospital did he need to go to, and he told her UMC on Charleston.  
24 (Id.).

25 While driving on Lake Mead to get to the freeway, the directions that the man was  
26 giving Ashley began to change. (GJT, Vol. I, p. 16). Once they got near the freeway the man  
27 told Ashley to take a right on a little street before the freeway. (GJT, Vol. I, p. 17). The man  
28 asked Ashley to take them someplace dark, to talk because she was nice and he liked her.

1 (GJT, Vol. I, p. 18). Ashley testified that the man still had the gun resting between his legs  
2 and her anxiety was very high. (Id.). Ashley told the man that she was not going to take him  
3 someplace dark; that he could have her keys, her car, and everything in it, but she didn't want  
4 to go with him wherever he was going. (GJT, Vol. I, p. 19). The man pulled out the gun, put  
5 it to Ashley's side, and told her that she was going to do what he told her or he was going to  
6 "blow her fucking brains out." (Id.).

7 The man told Ashley to continue driving and to do the speed limit to avoid suspicion.  
8 (GJT, Vol. I, p. 21). The man finally told Ashley to pull over, which she did, at which time  
9 he told her to give him her keys and her phone. (Id.). Ashley put the car in park and stood  
10 outside of the car with her thermos cup. (Id.). Ashley grabbed the bags from the back seat  
11 because she was going to give the man her phone. (GJT, Vol. I, p. 22). As she grabbed the  
12 bags, the man hopped into the driver's seat and drove away. (Id.). Before driving away, the  
13 man told Ashley that he would shoot her if she started screaming, and that he would come  
14 back and kill her if he could hear her scream after he left. (Id.).

15 Ashley testified that the man took her car but she was able to get her purse and phone  
16 out of the vehicle. (GJT, Vol. I, pp. 22-23). Ashley reported the incident to the police. (Id.,  
17 at p. 23). On October 21, 2017, Ashley was presented with a photo line-up put together by law  
18 enforcement where she was able to pick the Defendant out as the individual who was in her  
19 car. (GJT, Vol. I, pp. 23-24).

20 **The Grand Jury Testimony of Maricella Mojaddidi-Brambila Pertinent to this Motion**

21 Maricella testified that she attended school at UNLV and that she was 20 years old.  
22 (GJT, Vol. II, p. 8). Maricella testified that she would be a sophomore in the Fall. (Id.). In  
23 August 2017, at approximately 6:00-6:30 a.m., Maricella was at the Cottage Grove parking  
24 garage at UNLV, parking her car. (GJT, Vol. II, p. 9). Maricella got out of her vehicle and  
25 was getting her back pack out of the backseat, when she noticed an African-American male  
26 approaching from the upper level stairs. (Id.). Maricella testified that she drove a 2004 Suzuki  
27 Aerio, license plate #07G194. (Id.).

28 ///

1 Maricella described the male as being in his early 20's, wearing some jeans and a navy  
2 hoodie. (GJT, Vol. II, p. 10). The male had medium dreadlock hair with blond tips. (Id.). As  
3 the man walked toward Maricella, the way he looked at her seemed suspicious causing her to  
4 get back into her car. (GJT, Vol. II, p. 11). As Maricella was trying to close her door, the man  
5 pulled a silver gun out from his pocket and pointed it at her face. (Id.). The man told Maricella  
6 to unlock the passenger door and let him into the car, which she did. (GJT, Vol. II, p. 12). The  
7 man got into the passenger seat, put the gun to Maricella's head and told her to drive out of  
8 the garage. (Id.). The man was telling Maricella that he was having problems with his pregnant  
9 girlfriend and that she cheated on him. (Id.). The man told Maricella to drive him to the  
10 mountain so that he could shoot himself there. (Id.). Maricella told the man that there were  
11 other ways to solve things. (Id.).

12 Maricella was near tears and trying to stay calm while driving out of the parking garage  
13 toward Cambridge and Katie. (GJT, Vol. II, p. 13). The man had Maricella stop the car at an  
14 elementary school, in the parking lot. (Id.). The man put the gun away and told Maricella to  
15 take her shoes and socks off, which she did. (Id.). The man pulled down his pants down. (Id.)

16 While they were driving the man mentioned to Maricella that he had a foot fetish and  
17 asked her if she knew what a foot job was. (GJT, Vol. II, p. 15). Maricella did not know exactly  
18 what it was but had a mental image of what it could be. (Id.). Maricella was in fear at this  
19 point because of the gun. (Id.). Maricella sat with her back toward the door and put her feet  
20 on the man's lap, where he observed her toes, telling her that he liked natural toes and noting  
21 that she didn't have nail polish, before sucking the big toe of her right foot. (Id.). The male  
22 then placed Maricella's feet on his penis, in an inward position. (GJT, Vol. II, p. 16). The male  
23 began moving Maricella's feet up and down against his penis. (GJT, Vol. II, p. 17). Maricella  
24 testified that the Defendant had her change positions so that she was facing the driver's side  
25 window, on her hands and knees, with her feet still on the male's lap. (GJT, p. 18). The male  
26 grabbed her feet and moved them up and down on his penis. (GJT, Vol. II, p. 19). The male  
27 instructed Maricella to turn around and face him and to move her feet up and down on his  
28 penis and not to stop. (Id.).

1 At some point kids and adults begin to walk by and the male took the gun back out and  
2 instructed Maricella to drive off of the parking lot. (GJT, Vol. II, p. 20). Maricella drove to a  
3 small apartment complex down the street from UNLV. (Id.). The male instructed Maricella  
4 to park all the way in the back by the dumpsters. (Id.). The male then told Maricella to continue  
5 what she had been doing, rubbing her feet up and down on his penis, while facing him. (GJT,  
6 Vol. II, p. 21). The male instructed Maricella to shift into the position where her back was  
7 toward him and she continued to rub his penis with her feet. (GJT, Vol. II, p. 22). The male  
8 asked Maricella for her phone because he wanted to record what he was doing. (Id.). Maricella  
9 was afraid that the male would hurt her if she didn't comply and she gave him her phone. (Id.).

10 The male recorded the incident and ejaculated into Maricella's feet after placing them  
11 in a bowl like position. (GJT, Vol. II, pp. 23-24). The male asked Maricella if she wanted to  
12 give him a blow job and she told him that she did not know how. (GJT, Vol. II, p. 25). The  
13 male told Maricella that he could teach her, but then he observed that she didn't really want to  
14 and didn't push it. (Id.).

15 Maricella testified that the male used napkins from a compartment in her car to wipe  
16 off her feet and her car seat. (GJT, Vol. II, p. 26). The male then threw the napkins out window.  
17 (Id.). The male instructed Maricella to put her shoes and socks back on and take him to the  
18 mountain on Fort Apache. (Id.). Maricella opened her car door a bit to put her shoes and socks  
19 back on and the male took the gun back out and put it on his left thigh. (GJT, Vol. II, p. 27).  
20 Maricella snatched the gun and pointed it at the male and told him to get out of her car. (GJT,  
21 Vol. II, p. 28). The male looked scared and grabbed his backpack telling her to give him the  
22 gun back. (Id.). Maricella screamed "No". (Id.). Maricella's phone fell from the male's  
23 pocket onto the car seat he had been sitting in, at which time she picked it up and tried to take  
24 a picture of him. (Id.). Maricella was shaking so bad the camera wouldn't focus and she called  
25 the police. (Id.).

26 While she was on the phone with the police, Maricella was chasing after the male, who  
27 was running away and got away. (GJT, Vol. II, p. 29). Maricella was able to flag down a police  
28 car by waving the gun in the air. (GJT, Vol. II, p. 30). As soon as they stepped out of the car,

1 Maricella threw the gun on the floor. (Id.). Later, while at UMC to undergo a sexual assault  
2 examination, Maricella gave detectives access to her phone and provided a voluntary  
3 statement. (Id.). The following day, Maricella met with a police detective who provided her  
4 with a photo-line-up of potential suspects and she was able to identify Defendant as the person  
5 who was in her car. (GJT, Vol. II, pp. 31-32).

### 6 **The Grand Jury Testimony of Kaylee Edwards Pertinent to this Motion**

7 Kaylee testified that she was 19 years old and her birthday is in June of 1999. (GJT,  
8 Vol. III, p. 7). Kaylee further testified that she was a student at UNLV studying mechanical  
9 engineering. (Id.). On October 13, 2017, Kaylee was sitting outside the Honors College  
10 building waiting for her cousin to text her about a choir performance at Ham Hall. (GJT, Vol.  
11 III, p. 8). It was starting to get dark outside and Kaylee was sitting at a table outside the  
12 building. (Id.). Kaylee was approached by an African American male who had dark curly hair  
13 that was blond on the ends. (GJT, Vol. III, p. 9).

14 Kaylee was wearing a Foothill High School shirt and the male commented, “Oh  
15 Foothill. I went to Foothill too. What a coincidence.” (GJT, Vol. III, p. 10). The male stated  
16 that he was a reflexology major and had a school project that involved interviewing people  
17 about their feet but he was having trouble getting people to volunteer for his survey. (Id.). The  
18 male began by asking Kaylee some questions about her feet but then asked her to take her  
19 shoes off which made her feel uneasy. (GJT, Vol. III, pp. 10-11). Kaylee complied and the  
20 male asked her to put her feet on his lap so that he could check them, which made her feel  
21 weird. (Id., at p. 11). Kaylee testified that her socks were on at that point. (Id.).

22 The male asked Kaylee to take her socks off and she agreed, although she really didn’t  
23 want to. (Id.). The male asked Kaylee if she had ever heard of something called the “scent  
24 test” and she said no. (GJT, Vol. III, p. 12). The male stated that he needed to smell Kaylee  
25 feet for that and he did so. (Id.). The male stated that he had to try something called the taste  
26 test, and put both of her big toes in his mouth, separately. (Id.) Kaylee mentioned that it wasn’t  
27 sanitary for him to be doing that stuff and he told her that he would just brush his teeth later  
28 and that he didn’t want to be doing that stuff any more than she did. (GJT, Vol. III, p. 13).

1           The male asked Kaylee if she had ever heard of people that had a foot fetish and she  
2 said that she had heard of it. (Id., at p. 13). The male asked how Kaylee felt about it and she  
3 indicated that it was their lives and their choice. (Id.). Kaylee testified that she was feeling  
4 very uncomfortable after the male put her toes in his mouth. (Id.). Kaylee was on her computer  
5 while speaking to this male and sent texts to two of her friends and her mom asking them to  
6 call her so that she could walk away from the situation. (GJT, Vol. III, p. 14). Kaylee pulled  
7 her phone out to check it and make sure the texts she sent from the computer went through  
8 and the male said “Oh, you don’t need to call the police”. Kaylee’s sister called her at which  
9 time she told the male that she had to take the phone call and walked away. (GJT, Vol. III, p.  
10 15). Shortly thereafter, Kaylee, her sister, and her mother went to the campus police and filled  
11 out a report. (Id.).

12           On October 21, 2017, Kaylee was later shown a series of photographs by law  
13 enforcement and asked if she could potentially identify anyone. (GJT, Vol. III, pp. 16-17).  
14 Kaylee did choose an individual from the line-up, who looked most like the person she  
15 encountered. (Id., at p. 17).

16                           **The Grand Jury Testimony of Alexandra (Sasha) Tsvitenok**  
17   **Pertinent to this Motion**

18           Alexandra testified that she goes by the nickname Sasha. (GJT, Vol. III, p. 20). Sasha  
19 further testified that she was 19 years old and attended school at UNLV. (Id.). Sasha testified  
20 that she as going to be a sophomore and her major was Hospitality. (GJT, Vol. III, pp. 20-21).  
21 Sasha testified that on October 7, 2017, at approximately 3:00 a.m., she was walking from the  
22 Tonopah dorm to the South Complex dorm when she spotted a guy standing by the building.  
23 (Id., at p. 21). The male was black, in his 20’s and had blond dreads. (Id.). Sasha described  
24 the dreads as two toned, black with blond ends. (GJT, Vol. III, p. 22). Sasha observed the  
25 male to be wearing a black hoodie with pants. (Id.). As Sasha walked past the male he did not  
26 say anything but as she continued walking he ran up to her and grabbed her, putting a knife to  
27 her throat. (Id.). With the knife to her throat, the male asked Sasha for her car keys. (Id.).

28           ///

1 Sasha described the knife as just a regular knife and testified that she could feel the  
2 blade against her skin when he put it there. (GJT, Vol. III, p. 23). Sasha testified that she feared  
3 for her life and thought she was going to die. (Id.). Sasha testified that she told the male that  
4 she didn't have a car key and described him as being agitated and scared. (GJT, Vol. III, p.  
5 24). Sasha could feel that he was trembling. (Id.). The male forced Sasha to walk a little bit  
6 and then forced her down because she tried to run away. (GJT, Vol. III, p. 25). The male told  
7 her that his baby had just died and he just wanted to get away from everything and he was  
8 upset. (Id.). The male was holding the knife to Sasha's stomach as she sat on the ground. (Id.).  
9 Sasha was scared and crying at that point. (GJT, Vol. III, p. 26).

10 Sasha spotted a person walking and turned her head toward them, at which time the  
11 male spotted the person too, and made Sasha get up and walk away. (Id., at p. 26). The male  
12 asked Sasha where she was staying and she showed him the building and he walked her to it.  
13 (Id.). The male was holding the knife to Sasha's ribs as they walked away. (Id.). The male  
14 was apologizing to Sasha as they were walking. (GJT, Vol. III, p. 27). As they were  
15 approaching the building the male told Sasha to stay safe and turned and ran away, while Sasha  
16 ran into the building. (Id.). Sasha called the police and reported the incident that same day.  
17 (GJT, Vol. III, p. 28).

18 On October 26, 2017, Sasha was shown a series of photographs by law enforcement  
19 and was able to identify a photograph of the person she thought was the male that she  
20 encountered. (GJT, Vol. III, pp. 28-30).

## 21 **STATEMENT OF FACTS PERTINENT TO DEFENDANT'S OTHER ACTS**

### 22 **Shaimaa Abdelhaleem**

23 On October 14, 2017, UNLV Police Officer R. Ljunquist responded to the Student  
24 Union at UNLV where he met with Shaimaa Abdelhalee. Shaimaa indicated that she had been  
25 walking from the Starbucks on Maryland Parkway toward her Office at the Technology  
26 Building. Shaimaa indicated that she walked across the street at Maryland Parkway and  
27 University Road and then walked between the Student Union and Beam Hall towards Wright  
28 Hall. Shaimaa further indicated that she walked between Wright B and C towards the Barrick

1 Museum through the garden area. Just after Shaimaa walked over the small bridge next to the  
2 museum an unknown black male grabbed her from behind and pulled her towards the shadows  
3 approximately 30 feet from the east doors of the Barrick Museum. Shaimaa was attempting  
4 to scream but the male put his hand over her mouth to keep her from screaming.

5 The male had Shaimaa sit down on the bench wall, took her keys, and told her to give  
6 him her money and her phone. Shaimaa gave the male fourteen dollars. The male took off  
7 Shaimaa's shoes and began talking about his love for feet. Shaimaa began speaking to the  
8 male in an effort to try to be friendly with him and told him that she needed money to take the  
9 bus home, so the male gave her two dollars back. Shaimaa stated that she received a small cut  
10 on her hand, which she received while the unknown male was covering her mouth and nose  
11 with his hand in attempt to stop her from screaming, which was bleeding slightly. Shaimaa  
12 noticed that the unknown male was also bleeding as they sat on the bench wall.

13 After approximately ten minutes, Shaimaa was able to put her shoes back on and the  
14 male walked her toward the Computing Services Building. Shaimaa gave the male a plastic  
15 package of wipes to clean the blood of his hands. The male told Shaimaa his name was "Juan"  
16 and he was expecting a baby girl with his girlfriend, who he lived with. When they reached  
17 the inner campus area between Wright Hall and The Moot Court Building the unknown male  
18 began feeling faint and fell to the ground, telling Shaimaa that he couldn't walk anymore.  
19 Shaimaa used that opportunity to run to the Student Union for help and the police were  
20 notified.

21 Shaimaa willingly walked Officer Ljunquist back through the path she and the  
22 unknown male walked. When they arrived at where the unknown male had fallen to the  
23 ground Shaimaa pointed out the plastic package of wipes that were on the ground. Office  
24 Ljunquist took photos and then placed the package into an evidence bag. When they walked  
25 to area where the wall bench was located, Officer Ljunquist observed blood on the wall and  
26 the ground. LVMPD Crime Scene Investigator T. Paine was dispatched to process the scene.  
27 In addition to the DNA evidence, Defendant was observed in the area where the crimes  
28 occurred on campus video cameras.

1 **Jacob Weidner**

2 On August 4, 2012 Wichita Kansas Police were contacted to investigate an incident  
3 that occurred at Riverside Academy, located at 2050 W. 11<sup>th</sup>, Wichita, Kansas. The reporting  
4 victim, Jacob Weidner, then age 15, stated that his roommate, Juhjuan Washington  
5 (Defendant), then age 16, gave him some pornographic materials and stated that he was going  
6 to the staff to get him in trouble, unless Jacob provided certain sexual favors to Defendant.  
7 Jacob further stated that he was being blackmailed and was worried about getting a write-up  
8 and a charge if he did not comply with Defendant's demands. Defendant told Jacob if he  
9 cooperated he would give him some phone numbers for prostitutes and strippers in Las Vegas,  
10 Nevada.

11 Defendant described being under the blanket with his feet sticking out the end of the  
12 blanket when Defendant began rubbing his erect penis between Jacob's toes and feet.  
13 Defendant then forced Jacob to rub his erect penis with his hand. Jacob described Defendant's  
14 penis as being hard and thick. Defendant told Jacob if he didn't continue to cooperate he would  
15 report him to the staff. Defendant instructed Jacob to get on his hands and knees at which time  
16 Defendant pulled down Jacob's pants and inserted his erect penis into Jacob's butt cheeks,  
17 which caused Jacob pain. Defendant asked Jacob, "Do you like that?" and Jacob replied "No".  
18 Defendant stopped what he was doing and went back to rubbing his penis on Jacob's feet until  
19 he ejaculated on Jacob's feet. Defendant told Jacob to lick it, which he did, before wiping the  
20 rest of it off with his sheet. Defendant told Jacob to keep it a secret.

21 On August 5, 2012, Officer Huff spoke to Tyler, then age 17, who was in the room  
22 when the incident occurred. Tyler indicated that he observed Defendant rubbing his penis  
23 against Jacob's foot. Tyler looked away for a while and when he looked back over, Jacob had  
24 moved his foot to the ground and Defendant stopped what he was doing. Tyler stated that he  
25 did not see anything else.

26 On August 5, 2012, Officer Huff also spoke to Matthew Beagle, then age 14, who was  
27 another one of Jacob's roommates. Matthew stated that he was asleep the night of the incident  
28 but he did overhear Jacob telling Tyler that Defendant bribed him over sex pictures. Matthew

1 explained that he heard the incident involved Jacob having his clothes off and being raped.

2 On August 14, 2012, Defendant, was taken to EMCU, by his therapist from Riverside  
3 Academy, Sherry Medina. Defendant was advised of his rights by Detective Slaughter and  
4 Defendant invoked, at which time no questioning occurred. Later that same day, Defendant  
5 contacted Detective Slaughter and stated that he wanted to speak to him without a lawyer.  
6 Defendant was re-advised of his Miranda Warnings, stated her understood them and agreed to  
7 speak with Detective Slaughter. Defendant admitted that sometime in February he asked  
8 Jacob if he could jack off on his feet. Jacob told him no but Defendant took his penis out of  
9 his pants anyway and tapped it on Jacob's foot without his permission. Defendant told Jacob  
10 not to tell anyone.

11 Most recently, on August 4, 2012, Defendant provided pornographic pictures to Jacob  
12 and told him that he was going to report him if he didn't let him jack off on his feet. Defendant  
13 stated that he could tell Jacob was afraid because his eyes got really big. Defendant stated that  
14 he did "jack off" on Jacob's feet until he ejaculated. Defendant stated that he told Jacob to  
15 lick the "cum" off of his feet and Jacob complied. Defendant stated that Jacob wanted to do  
16 the other things so Defendant put his penis between Jacob's butt cheeks and let Jacob jack him  
17 off with his hand. Defendant signed a letter of apology to Jacob.

18 On April 3, 2013, Defendant entered a plea of No Contest to the crime of Aggravated  
19 Indecent Liberties.

20 **Demia Edington**

21 On September 11, 2011, LVMPD Patrol Officers were dispatched to Mojave High  
22 School, located at 5302 Goldfield, reference a sexual assault that occurred off of the school  
23 campus. Upon arrival, Officer M. Gipson met with Demia Edington, then age 15, who had a  
24 bandage covering her left hand. Officer Gipson further observed that Demia appeared to have  
25 some type of learning disability because she was laughing and smiling and then she would  
26 start to cry. Officer Gipson was advised by Demia's counselor from Mojave High School that  
27 Demia had the mentality of a sixth grader.

28 ///

1 Demia stated that on Sunday, September 4, 2011, a person she knows as “Jay” was  
2 calling her name. Demia was walking and “Jay” continued to call her name. Demia stated that  
3 she turned around and told “Jay” that she was going to a friend’s house to go to the bathroom.  
4 Demia stated that “Jay Jay” told her to walk with him to the Mojave gate. “Jay Jay” took  
5 Demia by a house and he had a metal pole. He told Demia, “Suck my dick bitch” at which  
6 time Demia tried to run. “Jay Jay” hit Demia in the hand with the metal bar causing a cut to  
7 her hand. Demia agreed to have oral sex with “Jay Jay” if he didn’t hit her again, and he stated,  
8 “Suck my dick or I will hit you again.” Demia stated that “Jay Jay” pulled out his penis and  
9 had her suck on it. “Jay Jay” then told her to pull down her pants which she didn’t want to do,  
10 but she was afraid that he would hit her again. “Jay Jay” put his penis inside Demia’s vagina  
11 and had sex with her. When he was finished, he told her that she would have to tell everyone  
12 that a dog bit her on the hand or he would kill her.

13 Demia stated that she told her mom the dog story, but yesterday she began to feel upset  
14 about what happened with “Jay Jay” and she told her mother what really happened.

15 Officer Gipson spoke to Demia’s mother, Marcella Woods, who told him that Demia  
16 had a learning disability and is very trusting. Marcella stated that Demia told her older sister,  
17 Semia, that “Jay Jay” made her perform oral sex on him. Semia convinced Demia to tell their  
18 mother. Marcella further indicated that she did not call the police the previous night when she  
19 found out because she wanted to go to Mojave High School and find out what “Jay Jay’s real  
20 name was first. The school dean advised Marcella that “Jay Jay’s” name was Juhjuan  
21 Washington. After speaking with the dean, the school contacted the police.

22 Officer Gipson met with Defendant, then age 15, at the school, in one of the Dean’s  
23 office. Defendant was provided his juvenile Miranda Warnings and stated that he understood  
24 but wanted one of his parent’s present prior to answering any questions. Defendant’s mother,  
25 Denise Townsend was called and a short time later she and her husband, Michael Jones  
26 arrived. Defendant admitted to engaging in sex with Demia, by force, stating that she did not  
27 want to have sex with him and he forced her to. Defendant further asked if he could tell Demia  
28 that he was sorry. Defendant was arrested and transported to the Clark County Juvenile Hall

1 on charges of sexual assault and battery with intent to commit sexual assault.

2 The State herein files its Notice of Motion and Motion to Admit Evidence of other  
3 Crimes, Wrongs or Acts.

4 **LEGAL ARGUMENT**

5 **I. PURSUANT TO NRS 48.045(3), EVIDENCE OF OTHER SEXUAL OFFENSES**  
6 **INVOLVING SHAIMAA, DEMIA, AND JACOB ARE ADMISSIBLE TO**  
7 **SHOW THE DEFENDANT’S PROPENSITY FOR SEXUAL ABUSE.**

8 NRS 48.045, as amended and effective as of October 1, 2015, provides in relevant  
9 portion:

10 “1. Evidence of a person’s character or a trait of his or her  
11 character is not admissible for the purpose of proving that the  
12 person acted in conformity therewith on a particular occasion . . .  
13 . . . . .

14 **3. Nothing in this section shall be construed to prohibit the**  
15 **admission of evidence in a criminal prosecution for a sexual**  
16 **offense that a person committed another crime, wrong or act**  
17 **that constitutes a separate sexual offense. As used in this**  
18 **subsection, “sexual offense” has the meaning ascribed to it in**  
19 **NRS 179D.097.”**

20 NRS 48.045 (emphasis added).

21 Further, NRS 179D.097 defines “sexual offense” as follows:

22 (a) Murder of the first degree committed in the perpetration or  
23 attempted perpetration of sexual assault or of sexual abuse or  
24 sexual molestation of a child less than 14 years of age pursuant to  
25 paragraph (b) of subsection 1 of NRS 200.030.

26 (b) Sexual assault pursuant to NRS 200.366.

27 (c) Statutory sexual seduction pursuant to NRS 200.368.

28 (d) Battery with intent to commit sexual assault pursuant to  
subsection 4 of NRS 200.400.

(e) An offense involving the administration of a drug to another  
person with the intent to enable or assist the commission of a  
felony pursuant to NRS 200.405, if the felony is an offense listed  
in this subsection.

(f) An offense involving the administration of a controlled  
substance to another person with the intent to enable or assist the  
commission of a crime of violence pursuant to NRS 200.408, if

1 the crime of violence is an offense listed in this section.

2 **(g)** Abuse of a child pursuant to NRS 200.508, if the abuse  
involved sexual abuse or sexual exploitation.

3 **(h)** An offense involving pornography and a minor pursuant to  
NRS 200.710 to 200.730, inclusive.

4 **(i)** Incest pursuant to NRS 201.180.

5 **(j)** Open or gross lewdness pursuant to NRS 201.210.

6 **(k)** Indecent or obscene exposure pursuant to NRS 201.220.

7 **(l)** Lewdness with a child pursuant to NRS 201.230.

8 **(m)** Sexual penetration of a dead human body pursuant to NRS  
201.450.

9 **(n)** Sexual conduct between certain employees of a school or  
volunteers at a school and a pupil pursuant to NRS 201.540.

10 **(o)** Sexual conduct between certain employees of a college or  
university and a student pursuant to NRS 201.550.

11 **(p)** Luring a child or a person with mental illness pursuant to NRS  
201.560, if punished as a felony.

12 **(q)** Sex trafficking pursuant to NRS 201.300.

13 **(r)** Any other offense that has an element involving a sexual act or  
sexual conduct with another.

14 **(s)** An attempt or conspiracy to commit an offense listed in  
paragraphs (a) to (r), inclusive.

15 **(t)** An offense that is determined to be sexually motivated  
pursuant to NRS 175.547 or 207.193.

16  
17 The recent amendments to NRS 48.045 are similar to statutes drafted in a number of  
18 other states including: Cal. Evid. Code Sec. 1108; Ariz. R. Evid. 404; Alaska R. Evid. 404;  
19 Fla. Stat. Sec. 90.404; Official Code of Georgia Sec. 24-4-413; Illinois Compiled Statutes Sec.  
20 5/115-7.3; Louisiana Statutes, Art. 412.2; and Utah Rule of Evidence 404; Kansas Statutes,  
21 Sec. 21.5502. As currently amended, NRS 48.045 is almost identical to amendments made to  
22 the California Evidence Code in the mid 1990's and subsequently upheld by the California  
23 Courts. Additionally, the reasoning of the Nevada Legislature in enacting such amendments  
24 was similar to the reasoning of the California legislature.

25 California Evidence Code, section 1108 was added effective January 1, 1996. The  
26 statute has since been determined to be valid and constitutional. See People v. Fitch 55 Cal.  
27 App. 4<sup>th</sup> 172, 177-86 (1997). Specifically, the California Supreme Court, in upholding section  
28 1108, emphasized the legislative history behind section 1108: "the Legislature's principal

1 justification for adopting section 1108 was a practical one: By their very nature, sex crimes  
2 are usually committed in seclusion without third party witnesses or substantial corroborating  
3 evidence. The ensuing trial often presents conflicting versions of the event and requires the  
4 trier of fact to make difficult credibility determinations. Section 1108 provides the trier of fact  
5 in a sex offense case the opportunity to learn of the defendant’s possible disposition to commit  
6 sex crimes.” People v. Falsetta 21 Cal. 4<sup>th</sup> 903, 915 (1999). Indeed, the Court explained that  
7 the “‘Legislature has determined the need for this evidence is ‘critical’ given the serious and  
8 secretive nature of sex crimes and the often resulting credibility contest at trial.” Id. at 911  
9 (citation omitted).

10 Similar to the effect of the subject amendment on NRS 48.045, California’s Section  
11 1108 explicitly supersedes Evidence Code, section 1101’s prohibition of evidence of character  
12 or disposition. See People v. Soto 64 Cal. App. 4<sup>th</sup> 966, 984 (1998). The purpose of Section  
13 1108 is to permit trial courts to admit prior sexual assault evidence on a common sense basis,  
14 without a precondition of finding a “non-character” purpose for which it is relevant, so that  
15 juries are able to rationally assess such evidence. Id. at 983-84. This rational assessment  
16 “includes consideration of other sexual offenses as evidence of the defendant’s disposition to  
17 commit such crimes, and for its bearing on the probability or improbability that the defendant  
18 has been falsely or mistakenly accused.” Id. at 984 (citation omitted). Evidence of prior sexual  
19 conduct is highly probative and is admissible as propensity evidence. As has been indicated  
20 in the analogous federal rules, the “presumption is in favor of admission.” Id. at 989 (quoting  
21 United States v. Sumner 119 F. 3d 658, 662 (8<sup>th</sup> Cir. 1997)). The California Supreme Court  
22 further held that Section 1108 “implicitly abrogates prior decision of this court indicating that  
23 ‘propensity’ evidence is per se unduly prejudicial to the defense.” People v. Villatoro, 281  
24 P.3d 390 (Cal. 2012); see also Falsetta, 21 Cal.4<sup>th</sup> at 911.

25 The admission of such evidence is, of course, subject to other provisions of the rules of  
26 evidence including NRS 48.025 which provides:

27 “1. All relevant evidence is admissible . . . .”

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Also, NRS 48.035 provides in relevant part:

“1. Although relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury.”

Pursuant to NRS 48.045 and NRS 48.035, similar to Cal. Evid. Code Section 1108, as long as the current offenses and the prior offenses are ones defined as qualifying “sexual offenses,” the prior offenses are admissible unless the trial court finds them to be inadmissible pursuant to NRS 48.035. See People v. Branch 91 Cal. App. 4<sup>th</sup> 274, 281 (2001).

In the instant case, pursuant to NRS 48.045(3), evidence of other sexual offenses committed by Defendant should be admitted. Here, the Defendant has been adjudicated for the crime of Aggravated Indecent Liberties with a Child, for his sexual misconduct involving Jacob Weidner, in Kansas. Additionally, the crimes involving Demia Edington constitute sexual assault with a minor under the age of 16, among other things; and, the crimes related to the incident involving Shaimaa Abdelhaleem were clearly sexually motivated in that Defendant took of Shaimaa’s shoes and began to converse with her about his love for feet; all of which fall under the definitions listed in NRS 179D.097

It should also be noted that NRS 48.045 does not require a defendant to have been **convicted** of a previous offense; it explicitly allows “evidence in a criminal prosecution for a sexual offense that a person **committed** another crime, wrong or act that constitutes a separate sexual offense.” (Emphasis added).

In this case, the probative weight of the breadth and scope of Defendant’s sexual abuse of the three prior victims in this case is enormous to show Defendant’s sexual attraction to feet and his propensity to act out sexually against others. The State submits the probative value of such evidence far outweighs any prejudicial effect. Clearly, the other act evidence is no more prejudicial than the charged crimes. Thus, evidence of these prior sexual offenses should be admitted for propensity purposes.

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1 **II. EVIDENCE OF DEFENDANT’S OTHER SEXUAL ACTS INVOLVING**  
2 **SHAIMAA, DEMIA, AND JACOB IS ADMISSIBLE AS EVIDENCE**  
3 **CONCERNING THE DEFENDANT’S MOTIVE, OPPORTUNITY, INTENT,**  
4 **PLAN, AND ABSENCE OF MISTAKE.**

5 Even prior to the above referenced acts being specifically determined not to be  
6 character evidence per NRS 48.045(3), it would have been admissible pursuant to NRS  
7 48.045(2). NRS 48.045(2) provides:

8 Evidence of other crimes, wrongs or acts is not admissible to prove  
9 the character of a person in order to show that he acted in  
10 conformity therewith. It may, however, be admissible for other  
11 purposes, such as proof of motive, opportunity, intent, preparation,  
12 plan, knowledge, identity, or absence of mistake or accident.

13 The State of the law used to be, in regard to acts as defined in this motion, that to be  
14 deemed an admissible bad act, the trial court must determine, outside the presence of the jury,  
15 that: (1) the incident is relevant to the crime charged; (2) the act is proven by clear and  
16 convincing evidence; and (3) the probative value of the evidence is not substantially  
17 outweighed by the danger of unfair prejudice. Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d  
18 1061, 1064-65 (1997). NRS 48.045(2) is identical to Federal Rule of Evidence 404(3)(b).

19 After a court finds that evidence of other crimes does not violate NRS 48.045(2), the  
20 court must then review the evidence in regard to NRS 48.035. This statute requires a weighing  
21 of probative value against prejudicial effect. Tucker v. State, 82 Nev. 127 (1966).

22 In Tucker the Nevada Supreme Court stated how the balancing of "probative vs.  
23 prejudicial" is to occur, 8 Nev. at 130:

24 The reception of such evidence is justified by necessity and, if  
25 other evidence has substantially established the element of the  
26 crime involved (motive, intent, identity, absence of mistake, etc.),  
27 the probative value of showing another offense is diminished, and  
28 the trial court should rule it inadmissible even though relevant and  
within an exception to the rule of exclusion.

29 In other words, the stronger the proof of the elements of the charged offense toward  
30 which the secondary acts would provide proof, the less probative the secondary acts become.  
31 Ultimately, the decision to admit or exclude evidence lies within the discretion of the court.  
32 And such a decision will not be reversed absent manifest error. Kazalyn v. State, 108 Nev.

1 67, 825 P.2d 578 (1992); Halbower v. State, 93 Nev. 212, 562 P.2d 485 (1977). The decision  
2 to admit or exclude evidence of separate and independent offenses rests within the sound  
3 discretion of the trial court, and will not be disturbed unless it is manifestly wrong. Daly v.  
4 State, 99 Nev. 564, 567, 665 P.2d 798, 801 (1983).

5 **MOTIVE, IDENTITY, INTENT, AND LACK OF MISTAKE OR ACCIDENT**

6 Evidence relevant to prove motive will often overlap to a degree with “propensity  
7 evidence”. As such, the question should be, is it “simple propensity evidence (i.e. character  
8 evidence), or is it a “separate act of pedophilia or other form of sexual aberration” and  
9 therefore admissible for the other purpose of explaining why a crime of sexual deviance was  
10 committed.” See Ledbetter, 122 Nev. 252 at 261-62, 129 P.3d 671 at 678, Maupin, J.  
11 concurring in part and dissenting in part.

12 In Reed v. State, 95 Nev. 190, 591 P.2d 274 (1979), the defendant was charged with  
13 Burglary. In Reed, the victim testified that she was in her motel room at the Orbit Inn Motel  
14 when she heard the window open. She saw a hand reach in and turn the doorknob, and then  
15 two men entered the room and took her purse and cup of change. The victim testified at trial  
16 that she thought the defendant was the man who stood at the door. A palm print and a  
17 fingerprint from the point of entry matched the defendant. The State was permitted to  
18 introduce evidence of two other motel burglaries where the defendant's fingerprints were  
19 recovered. Also, one victim identified the defendant as committing one of the burglaries.

20 In upholding the ruling of the trial court admitting the evidence of other crimes, the  
21 Nevada Supreme Court held that the evidence was offered to establish identity of the person  
22 who burglarized the Orbit Inn Motel Room.

23 The modus operandi exception is generally “proper in ‘situations where a positive  
24 identification of the perpetrator has not been made, and the offered evidence establishes a  
25 signature crime so clear as to establish the identity of the person on trial.’” Ledbetter v. State,  
26 122 Nev. 252 at 260, 129 P.3d 671 at 677, *citing*, Rosky v. State, 121 Nev. at \_\_\_\_\_, 111 P.3d  
27 at 698 (*quoting* Mortensen v. State, 115 Nev. 273, 280, 986 P.2d 1105, 1110 (1999)).

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1 In Brinkley v. State, 101 Nev. 676, 708 P.2d 1026 (1985), defendants Brinkley and  
2 Drummond were convicted of five counts of Unlawfully Obtaining a Controlled Substance  
3 and one count of Unlawful Conspiracy to Obtain a Controlled Substance. The prosecution  
4 successfully offered evidence revealing that subsequent to the occurrence of the substantive  
5 crimes, Drummond attempted to pass a forged prescription while Brinkley waited outside in a  
6 car. Under these facts, the high court stated:

7  
8 Evidence under the "common plan or scheme" exception must  
9 tend to prove the charged crimes by revealing that the defendant  
10 planned to commit the crimes . . . [t]he offense must tend to  
11 establish a preconceived plan which resulted in the commission of  
12 the charged crime . . .

13 Id.

14 In Ledbetter v. State, 122 Nev. 252, 129 P.3d 671, the Court explained:

15 The common scheme or plan exception of NRS 48.045(2) is  
16 applicable when both prior act evidence and the crime charged  
17 constitutes an "integral part of an overarching plan explicitly  
18 conceived and executed by the defendant." (*quoting Richmond v.*  
19 *State*, 118 Nev. 924, 933, 59 P.3d 1249, 1255 (2002). "The test  
20 is not whether the other offense has certain elements in common  
21 with the crime charged, but whether it tends to establish a  
22 preconceived plan which resulted in the commission of that crime.

23 Id. 122 Nev. 252 at 260-61, 129 P.3d 671 at 678.

24 In Petrocelli v. State, 101 Nev. 46 (1985) the defendant was convicted of first degree  
25 murder and the death penalty was imposed. The Supreme Court affirmed the verdict. One  
26 issue raised on appeal concerned the admissibility of testimony relating to the prior killing of  
27 Petrocelli's girlfriend.

28 Petrocelli had gotten into an argument with his fiancé and tried to drag her away from  
work; she refused and a struggle ensued. Petrocelli pulled out a gun and killed his fiancé in a  
flurry of shots; he claimed the death was accidental. After killing his fiancé Petrocelli fled  
from Washington and eventually ended up in Reno. While test driving a vehicle in Reno,  
Petrocelli shot and killed the car dealer with the same gun used on his fiancé, robbed the victim  
and hid his body under rocks and sagebrush.

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1 At trial, Petrocelli claimed he had gotten into an argument with the car dealer and as  
2 they struggled for the gun it went off two or three times. The court held the testimony was  
3 properly admissible under NRS 48.045(2) to show absence of mistake or accident stating in  
4 101 Nev. at 50:

5 . . . that the "two killings with the same gun involving the same  
6 person, Mr. Petrocelli, who within a short period of time  
7 [committed the killings]" bore sufficient similarity to admit the  
evidence at trial.

8 In Thompson v. State, 102 Nev. 348, 721 P.2d 1290 (1986) the court affirmed a  
9 conviction for murder, attempt murder, robbery and attempt robbery all with use of a deadly  
10 weapon and imposition of the death penalty.

11 In that case, Thompson shot, killed and robbed a man he met camping beside the  
12 railroad trucks near Reno. Later, he shot and attempted to rob two woman of their car in a  
13 parking lot outside of a Reno casino. At the time of the commission of these crimes, Thompson  
14 knew police were looking for him concerning a double homicide in California.

15 The trial court allowed evidence of the two collateral homicides in California under  
16 NRS 48.045(2) stating:

17 That statute provides for the admission of such evidence when  
18 used for certain limited purposes. One of the listed exceptions  
19 concerns evidence tending to show that a defendant's crime was  
20 committed in furtherance of a plan. The State offered the evidence  
21 in question to show Thompson's plan to obtain money to allow  
him to flee the state because he knew that law enforcement officers  
were looking for him concerning another homicide. The evidence  
was admitted for this purpose. The district court did not err in  
allowing the admission of such evidence.

22 Id., 102 Nev. at 351, 721 P.2d at 1292.

23 The Nevada Courts have recognized the value of evidence of other crimes and have  
24 upheld its admissibility in sex cases. In McMichael v. State, 94 Nev. 184, 577 P.2d 398 (1978),  
25 the defendant was appealing his conviction for the crime of Infamous Crime Against Nature.  
26 The trial court allowed the State, in its case in chief, to present evidence that the defendant and  
27 his thirteen year old victim had engaged in oral copulation both prior and subsequent to the  
28 incident leading to the defendant's arrest. The Supreme Court upheld the trial court's

1 admission of the testimony to prove intent or the absence of mistake or accident.

2 While in McMichael, *supra*, only the named victim testified, in Findley v. State, 94  
3 Nev. 212, 577 P.2d 867 (1978)(*overruled on other grounds by Braunstein v. State*, 40 P.3d  
4 413 (2000)), the Supreme Court of Nevada affirmed the introduction of evidence that the  
5 defendant had committed similar acts of lewdness with a child nine years earlier in order to  
6 prove the defendant's lewd intent in touching a five year old girl's "private parts" in the case  
7 for which he was on trial. The high court stated: "Intent, by reason of the words of the  
8 [lewdness with a minor] statute, is an element of the crime and directly placed in issue by the  
9 not guilty plea of the accused." *Id.* at Nev. 214, P.2d 868, *citing Overton v. State*, 78 Nev.  
10 198 (1962).

11 In Williams v. State, 95 Nev. 830, 603 P.2d 694 (1979), the complaining victim testified  
12 that she met the defendant while discussing a possible job as his secretary. The defendant  
13 remained even though asked to leave by the victim. The defendant offered \$5,000.00 for a  
14 "one night stand." After the victim refused, the defendant stated that he had a black belt in  
15 karate and demonstrated what he could do to her. The sexual assault then occurred. The  
16 defendant testified that sexual intercourse occurred but it was consented. The State offered  
17 two prior victims (from crimes occurring nineteen months before the crime charged) who  
18 testified that they met the defendant through a job interview and were coerced into having  
19 sexual intercourse after the defendant demonstrated his ability with karate.

20 In allowing the evidence of the prior sexual assaults, the Nevada Supreme Court stated:

21 In the instant case, evidence of Williams' sexual misconduct with  
22 other persons was admitted as being relevant to prove his intent to  
23 have intercourse with the victim without her consent. This  
24 evidence was introduced after Williams admitting committing the  
25 act, but claimed to have done so with the victim's consent. By  
26 acknowledging the commission of the act but asserting his  
27 innocent intent by claiming consent as a defense, Williams himself  
28 placed in issue a necessary element of the offense and it was,  
therefore, proper for the prosecution to present the challenged  
evidence, which was relevant on the issue of intent, in order to  
rebut Williams' testimony on a point material to the establishment  
of his guilty.

Id., 95 Nev. at 833.

1 NRS 48.045(2) is identical to Federal Rules of Evidence, Rule 404(3)(b), and there are  
2 a wealth of Federal cases interpreting this statute which provide assistance in determining the  
3 admissibility of evidence under 48.045(2).

4 In United State v. Goichman, 547 F.2d 778 (CA3 1976), the defendant was being  
5 prosecuted for willful attempt to evade or defeat payment of income taxes during a particular  
6 year. During the course of the trial the prosecution presented evidence showing defendant had  
7 in the past received checks in settlement of personal injury cases which were not deposited in  
8 defendant's "attorney account". The court held the evidence admissible to show opportunity  
9 or method by which defendant may have generated unreported income and that the evidence  
10 was admitted solely to show that defendant could have generated unreported income, not that  
11 he did so.

12 In United States v. Kirk, 528 F.2d 1057 (CA5 1976), defendant was charged with  
13 threatening the life of the President of the United States of America. At trial prosecution  
14 presented evidence showing that three years earlier defendant had committed the same  
15 offenses. The court ruled this evidence to be properly admissible to show defendant's intent,  
16 holding in 528 F.2d at 1061:

17 Whether the prior intended to show that defendant made this threat  
18 intentionally or as the result of "alcohol taking," was a matter for  
19 the jury's termination. The fact that the former offense occurred  
three years prior to the offense charged does not make it so remote  
as to be excluded.

20 In United States v. Beechum, 582 F.2d 898 (CA5 1978): A jury convicted Orange Jell  
21 Beechum, a substitute letter carrier for the United States Postal Service, of unlawfully  
22 possession a 1890 silver dollar that he knew to be stolen from the mails, in violation of 18  
23 U.S.C. section 1708 (1976). To establish that Beechum intentionally and unlawfully  
24 possessed the silver dollar, the government introduced into evidence two Sears, Roebuck &  
25 Co. credit cards found in Beechum's wallet when he was arrested. Neither of the cards was  
26 issued to Beechum, and neither was signed. The government also introduced evidence  
27 indicating that the cards had been mailed some ten months prior to Beechum's arrest to two  
28 different addresses on route's he had serviced. 582 F.2d at 903.

1 The Court held in 582 F.2d at 911 that:

2 Where the issue addressed is defendant's intent to commit the  
3 offense charged, the relevancy of the extrinsic offense derives  
4 from the defendant's indulging himself in the same state of mind  
5 in the perpetration of both the extrinsic and charged offenses. The  
6 reasoning is that because the defendant had unlawful intent in the  
7 extrinsic offense, it is less likely that he had lawful intent in the  
8 present offense.

9 The Court then goes to footnote 15 where it engages in a detailed analysis of the  
10 similarity required between the charged and extrinsic offenses when the extrinsic offense is  
11 introduced to show something other than intent. In footnote 15 in 582 F.2d at 911, 912 the  
12 Court states:

13 It is crucial to distinguish the use of extrinsic offense evidence to  
14 prove issues other than intent. In other contexts different  
15 standards apply because the inference to be drawn from the  
16 extrinsic offense is not based upon the reasoning applicable here.  
17 To illustrate this proposition and to place our discussion in the  
18 proper context, we digress briefly and examine the use of extrinsic  
19 offense evidence in other settings.

20 Evidence of extrinsic offenses may be admissible to show motive,  
21 which has been defined as "the reason that nudges the will and  
22 prods the mind to indulge the criminal intent." Slough & Knightly,  
23 Other Vices, Other Crimes, 41 Iowa L. Rev. 325, 328 (1956)  
24 (footnote omitted). For example, the prosecution may establish  
25 impecuniousness as a motive for robbery by showing that the  
26 defendant had been threatened for nonpayment of a debt incurred  
27 in a drug transaction. United States v. Johnson, 525 F.2d 999, 1006  
28 (2d Cir. 1975), cert. denied, 424 U.S. 920, 96 S.Ct. 1127, 47  
L.Ed.2d 327 (1976). The only point of similarity between the  
charged and extrinsic offenses in this instance is that the same  
individual committed both. Therefore, overall similarity is not  
required when the offense is introduced to show motive.  
(Emphasis added)

Such evidence is admissible to indicate knowledge. Thus, the  
Government may prove that the defendant knew that he was  
passing counterfeit securities by eliciting testimony that the  
defendant knowingly had purchased counterfeit currency on a  
prior occasion. Peters v. United States, 376 F.2d 839 (5th Cir.  
1967). Again, similarity of the physical elements of the crime  
need not be established. (Emphasis added)

The extrinsic offense need merely be of such a nature that its  
commission involved the same knowledge required for the offense  
charged. The identity of the defendant may be established by  
evidence of offenses extrinsic to the indictment. In this instance,  
the likeness of the offenses is the crucial consideration. The  
physical similarity must be such that it marks the offenses as the  
handiwork of the accused. In other words, the evidence must

1 demonstrate a modus operandi. United States v. Goodwin, 492  
2 F.2d 1141, 1154 (5th Cir. 1974). Thus "[a] much greater degree  
3 of similarity between the charged crime and the uncharged crime  
4 is introduced to prove identity than when it is introduced to prove  
5 a state of mind." United States v. Myers, 550 F.2d 1036, 1045 (5th  
6 Cir. 1977). As an example, a prior conviction for possession of  
7 heroin may not in itself establish that in an unrelated prosecution  
8 a defendant possessed heroin with the intent to distribute. If,  
9 however, the conviction and the charged offense involved white  
10 heroin, an extremely rare type in the region, a distinctiveness may  
11 be established that is sufficient to allow admission of the prior  
12 offense to show identity. United States v. Baldarrama, 566 F.2d  
13 560 (5th Cir. 1978). (Emphasis added)

14 Extrinsic offenses may be admitted if part of a common plan,  
15 scheme, or design. Although this category encompasses a variety  
16 of circumstances, see 2 Weinstein & Berger, Weinstein's  
17 Evidence. 404[09] (1976), we shall address only one. If the  
18 uncharged offense is "so linked together in point of time and  
19 circumstances with the crime charged that one cannot be fully  
20 shown without proving the other, the general rule of exclusion  
21 does not apply." Slough & Knightly, *supra*, at 331. Evidence  
22 admitted under this test is termed part of the res gestae of the crime  
23 charged. E.g., United States v. McDaniel, 574 F.2d 1224, 1227  
24 (5th Cir. 1978). Physical similarity is not requisite here.  
25 Illustrative is the case of United States v. Hughes, 441 F.2d (12th  
26 Cir.), cert. denied, 404 U.S. 849, 92 S.Ct. 156, 30 L.Ed.2d 88  
27 (1971). This was an appeal from convictions for printing  
28 counterfeit obligations, possessing counterfeit plates and  
negatives, and possession counterfeit federal reserve notes. We  
held that it was not prejudicial error for the trial court to have  
admitted several sawed-off shotguns found on the premises of the  
operation. "The record of entry and use of [the premises] for their  
counterfeiting operation would be grossly incomplete without the  
account of their guns, intimidations, beatings, and violence . . .  
[T]he guns in question were pertinent evidence because they were  
so closely blended and inextricably bound up with the history of  
the crime itself as to constitute a part of the plan of system of  
criminal action involved in this case." *Id.* at 20.

We have taken this opportunity to digress to point out that the  
meaning and nature of the "similarity" requirement in extrinsic  
offense doctrine are not fixed quantities. Each case must be  
decided in its own context, with the issue to which the offense is  
directed firmly in mind.

24 In United States v. DeLoach, 654 F.2d 763 (D.C.C.A. 1980), defendants were convicted  
25 for submitting false application for labor certification of an alien. The court allowed admission  
26 of testimony of three government witnesses, all aliens, that defendant was a swindler who took  
27 their money for false promise to find them jobs and labor certifications and that the conduct  
28 occurred over a period encompassing a year and one-half prior to the offense charged. The

1 court held that testimony to be properly admissible. Prosecution argued that the evidence of  
2 the other swindles related to the ultimate issue of intent, and the intermediate issues of  
3 knowledge, motive, common plan and absence of mistake and accident. The defendant argued  
4 that the prior bad acts were so dissimilar that the only logical inference to be drawn from the  
5 admission of them was that defendant was a bad person who swindles aliens, and therefore,  
6 he was likely to try to deceive the government. The Court held in 654 F.2d at 769:

7           These prior acts were instead introduced to show intent. In this  
8 case, where intent was the only real issue, and where appellant  
9 predictably raised the defense of mistake, the admissible bad acts  
10 evidence need not show incidents identical to the events charged,  
11 so long as they are closely related to the offense and tend to rebut  
12 the defense of mistake.

11           The Court cited three additional factors which reinforced the admissibility of the  
12 extrinsic evidence. The prior acts were introduced to show intent, which was the only real  
13 issue. The government had great need for evidence on the issue of intent; and the trial court  
14 gave the limiting instruction which properly restricted the jury's use of the evidence.

15           In Darnell v. State, 92 Nev. 680, 558 P.2d 624 (1976), the Supreme Court of Nevada  
16 held that evidence that the defendant had previously purchased stolen property was properly  
17 admitted to prove he intended to possess stolen property in a subsequent prosecution.

18           In United States v. Wilson, 732 F.2d 404 (5th Cir. 1984), the defendant was convicted  
19 of conspiracy and illegal shipment of plastic explosives to Lybia. The prosecution introduced  
20 evidence concerning extraneous offenses and incidents involving terrorism, including a 1976  
21 incident in which defendants supported terrorist activities including the building of booby  
22 traps and letter bombs and the shipment of explosives to England; a 1979 incident in which  
23 similar explosives were discovered in a warehouse in Rotterdam; evidence of a contract with  
24 a co-defendant to furnish exploding lamps, fire extinguishers and brief cases to Lybia. The  
25 court ruled the evidence concerning the extraneous offenses and incidents involving terrorism  
26 were properly admissible to establish defendant's motive, intent, and plan.

27           In United States v. Parker, 549 F.2d 1217 (9th Cir. 1977), defendants were convicted  
28 of armed bank robbery and one defendant was convicted of bank larceny. During the course

1 of the trial evidence was adduced that the defendant had been addicted to heroin for  
2 approximately ten years and had been involved in drug counseling during most of that period.  
3 The court held that the evidence of defendant's narcotics dealing was admissible to show his  
4 motive to commit a robbery. Defendant argued that the prejudicial effect of the extrinsic  
5 offense substantially outweighed its probative value. The court stated: “. . . Evidence relevant  
6 to defendant's motive is not rendered inadmissible because of its highly prejudicial nature . . .  
7 The best evidence often is!” Id. at 1222.

8 In United States v. Harrison, 679 F.2d 942 (D.C. Cir. 1982), defendant was convicted  
9 of possession of controlled substance with intent to distribute. The prosecution presented  
10 evidence that defendant had been engaged in past drug dealings over a period of time to show  
11 proof of motive, intent, preparation, plan, knowledge, identity and absence of mistake. The  
12 court held evidence of the extrinsic offenses was admissible for those purposes:

13 . . . There is nothing "unfair" in admitting direct evidence of the  
14 defendant's past acts by an eyewitness thereto that constituted  
15 substantive proof of the relevant intent alleged in the indictment.  
16 **The intent with which a person commits an act on a given  
occasion can many times be best proven by testimony or  
evidence of his acts over a period of time prior thereto . . .**

16 Id. 948.

17 In Colley v. State, 98 Nev. 14 (1982), the defendant was convicted of attempted murder  
18 and battery with intent to commit sexual assault resulting in substantial bodily harm. During  
19 the trial, the State offered the testimony of a witness who had been choked and raped by the  
20 defendant eight days before the victim in the case was attacked. Id., at 14. The defendant  
21 argued on appeal that the evidence should have been excluded. The Nevada Supreme Court  
22 affirmed the lower court ruling, finding in part that the evidence was properly admitted as  
23 relevant to the defendant's state of mind. Id. (*citing Findley v. State*, 94 Nev. 212 (1978),  
24 *overruled on other grounds by Braunstein v. State*, 40 P.3d 413 (2000)).

25 In discussing motive, the Ledbetter Court stated:

26 In recent years this court has discussed at some length the motive  
27 exception of NRS 48.045(2) as a basis to admit evidence of  
28 uncharged prior acts in child abuse prosecutions. In 2002, this  
court's en banc decision in Braunstein v. State rejected a line of  
cases that stood for the proposition that evidence of other acts  
offered to prove “a specific emotional propensity for sexual

1 aberration” is always relevant to a defendant's intent and  
2 outweighs the danger of unfair prejudice as a matter of law. 118  
3 Nev. at 75, 40 P.3d at 418 (*abrogating* McMichael v. State, 94  
4 Nev. 184, 577 P.2d 398 (1978), and overruling Findley v. State,  
5 94 Nev. 212, 577 P.2d 867 (1978)). This court returned in  
6 Braunstein to the principle of analyzing the admissibility of prior  
7 act evidence “according to the parameters of NRS 48.045(2),”  
8 which involved satisfying the three factors for admissibility. Id.

9 Id., 122 Nev. 252 at 261, 129 P.3d 671 at 678.

10 In so ruling, the Court did not say "a specific, emotional propensity for sexual  
11 aberration" is not relevant or that it is unfairly prejudicial. It was clearly the "always" relevant  
12 and "always outweighs" danger of unfair prejudice as a matter of law aspect with which the  
13 Braunstein Court took issue.

14 The Court went on to state:

15 Later that year, this court en banc attempted to apply Braunstein  
16 in the case Richmond v. State and divided on when the motive  
17 exception of NRS 48.045(2) may be relied upon to admit prior act  
18 evidence in child abuse prosecutions. Richmond, 118 Nev. 924,  
19 59 P.3d 1249. Three opinions resulted, but a four-justice majority  
20 of this court agreed that motive could be a valid basis for  
21 admission of prior act evidence in child abuse prosecutions to  
22 show a defendant's attraction to or obsession with his victims. Id.  
23 at 937, 59 P.3d at 1257–58 (Maupin, J., concurring in part and  
24 dissenting in part); id. at 942, 59 P.3d at 1261 (Shearing, J.,  
25 concurring in part and dissenting in part, with whom Young, C.J.,  
26 and Agosti, J., agreed). But *cf.* id. at 932–34, 59 P.3d at 1254–56  
27 (plurality opinion by Rose, J., with whom Becker and Leavitt, JJ.,  
28 agreed). It was explained:

Evidence of separate acts of pedophilia or other  
forms of sexual aberration are not character  
evidence, but are admissible for the “other purpose”  
[under NRS 48.045(2)] of explaining why a crime  
of sexual deviance was committed. The mental  
aberration that leads a person to commit a sexual  
assault upon a minor child, while not providing a  
legal excuse to criminal liability, does explain why  
the event was perpetrated. Id. at 939 n. 14, 59 P.3d  
at 1259 n. 14 (Maupin, J., concurring in part and  
dissenting in part).

29 Id. at 261-62, 678 (emphasis added).

30 Finally, the Ledbetter Court found that, “The probative value of explaining to the jury  
31 what motivated Ledbetter, an adult man who was in a position to care for and protect his young  
32 stepdaughter L.R. from harm, to instead repeatedly sexually abuse her for so many years was

1 very high.” Id. at 262-63, 679 (emphasis added).

2 In the instant case, the Defendant has placed the matter of intent directly into issue by  
3 his plea of not guilty in the instant case. Moreover, this Defendant is a self-admitted serial  
4 rapist and his conduct of committing various sexual acts upon of random individuals  
5 constitutes a serious “mental aberration.” The evidence of Defendant’s prior sexual  
6 misconduct with Demia Edington and Jacob Weidner, and his criminal misconduct with  
7 Shaimaa, which occurred and was reported in October 2017 during the same time period  
8 Defendant was engaged in his crime spree against the victims in the instant case, shed light on  
9 his  *motive* to engage in kidnapping, robbing and engaging in lewd conduct with the four female  
10 victims in this case for the purposes of his own sexual gratification, as well as his  *intent* to do  
11 so. See Ledbetter v. State, 122 Nev. 252, 262, 129 P.3d 671, 678 (2006), noting that “whatever  
12 might motivate one to commit a criminal act is legally admissible to prove motive under NRS  
13 48.045(2).”

14 Furthermore, evidence that Defendant sexually abused Demia in 2011, and Jacob in  
15 2012, is relevant and admissible and more probative than prejudicial, to dispel any attempt by  
16 Defendant to suggest that the instant charges are some kind of  *mistake or accident*.

17 This Defendant is a violent and dangerous serial sexual predator. It is the State’s  
18 position that the evidence of prior sexual abuse should be deemed admissible at the trial as  
19 evidence of motive, identity, intent, and lack of mistake or accident as it relates to this matter.

20 Evidence of Defendant’s prior sexual misconduct with Demia and Jacob, as well as his  
21 criminal conduct involving Shaimaa, is relevant for the purpose of showing motive,  
22 opportunity, intent, plan, and absence of mistake, and thus is the type of evidence relevant and  
23 admissible pursuant to the Nevada Supreme Court’s interpretation of NRS 48.045(2).

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**CONCLUSION**

For the reasons cited herein, the State respectfully requests this Court grant its Motion to Admit Evidence of Other Crimes, Wrongs, or Acts.

DATED this 28th day of September, 2018.

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

BY /s/ James R. Sweetin  
\_\_\_\_\_  
JAMES R. SWEETIN  
Chief Deputy District Attorney  
Nevada Bar #005144

**CERTIFICATE OF ELECTRONIC TRANSMISSION**

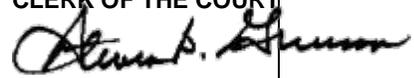
I hereby certify that service of the above and foregoing was made this 28th day of September, 2018, by electronic transmission to:

THOMAS BOLEY, ESQ.  
Email Address: tboley@bandafirm.com

BY: /s/ J. Georges  
\_\_\_\_\_  
Secretary for the District Attorney's Office

jg/SVU





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DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. IX

BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE  
THURSDAY, OCTOBER 4, 2018

**RECORDER'S TRANSCRIPT OF HEARING:  
CALENDAR CALL**

APPEARANCES:

For the State: JAMES R. SWEETIN, ESQ.  
WILLIAM C. ROWLES, ESQ.  
WILLIAM J. MERBACK, ESQ.  
Deputy District Attorneys

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE G. SISON, COURT RECORDER

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Las Vegas, Nevada, Thursday, October 4, 2018

[Hearing began at 9:09 a.m.]

THE COURT: State versus Juhjuan Washington, C333798-1. He is present in custody. This is the time set for calendar call for jury trial, first trial setting, October 15<sup>th</sup>.

MR. MERBACK: Your Honor, this is Mr. Sweetin's case, we need to wait for him to be present.

MR. BOLEY: I apologize.

THE COURT: Are you calling ready or not?

MR. BOLEY: No.

THE COURT: And does he know that?

MR. BOLEY: Does Mr. Sweetin know? Yes, I talked to him about it.

THE COURT: Okay. Okay, have a seat, we're just waiting for Mr. Sweetin.

[Case trailed at 9:09 a.m.]

[Case recalled at 9:14 a.m.]

THE COURT: Calendar call on first trial setting, I think he invoked right?

MR. BOLEY: He did invoke, but today he's going to waive his right to a speedy trial. There are some outstanding issues we need to address. I know there's a motion to include some prior bad acts, and we want to examine the grand jury transcript to answer that.

1 THE COURT: And you have additional investigation?

2 MR. BOLEY: Yes ma'am.

3 THE COURT: Okay, so Mr. Washington, what your lawyer  
4 is telling -- it would be very unusual for a lawyer to be able to get  
5 ready in less than 60 days for a 23-count indictment, three counts of  
6 which involve a potential life sentence. So, he's telling me he  
7 needs more time. I assume you've discussed that with him. Hello -  
8 - you're not going to answer me? All right, Mr. Boley, have you  
9 discussed that with him?

10 MR. BOLEY: I have.

11 THE COURT: And when you ask him questions, does he  
12 answer?

13 MR. BOLEY: He does.

14 THE COURT: Okay, so he understands?

15 MR. BOLEY: I believe he does.

16 THE COURT: So, if you don't want to waive your speedy  
17 trial rights, you can go to trial a week from Monday, and if you're  
18 not going to talk, you go to trial a week from Monday.

19 THE DEFENDANT: What if I didn't want to go to trial?

20 THE COURT: I can't hear you.

21 THE DEFENDANT: So, what if I didn't want to go to trial.

22 THE COURT: Then you have to talk. Do you understand  
23 what I'm saying? Your lawyer needs more time to get ready.

24 THE DEFENDANT: Yes ma'am.

25 THE COURT: Do you understand that in order to give him

1 a continuance at his request, you will be waiving your speedy trial  
2 rights so he can get ready?

3 THE DEFENDANT: Yes ma'am.

4 THE COURT: Is that what you wish to do?

5 THE DEFENDANT: Yes ma'am.

6 THE COURT: Okay. I accept your waiver, and the matter  
7 will be -- so what am I doing here? When -- I'm accepting the  
8 waiver of the speedy trial because no one on the planet can usually  
9 be ready for a case of this magnitude in 60 days or less.

10 MR. BOLEY: Thank you, Judge.

11 THE COURT: So, what timeframe could you be ready?  
12 Are you wanting to move the motion? Have you already opposed  
13 it? I don't look at things, you know, six days in advance or  
14 whatever --

15 MR. BOLEY: Sure, of course.

16 THE COURT: -- so I won't know what's going on with that  
17 until I look at it, but are you ready? Are we moving it? Are we  
18 setting a trial now? Do you want a status check resetting of trial?  
19 What are we doing?

20 MR. BOLEY: You know, also you know confirm with the  
21 State as to what their wishes are.

22 MR. SWEETIN: That's fine. There's a lot of discovery in  
23 this. I think that most of it -- I think all of it has gone over to Mr.  
24 Boley. I know there are a few things that we've gotten recently that  
25 I don't think he's gotten yet --

1 MR. BOLEY: Sure.

2 MR. SWEETIN: -- so my -- I would propose -- and I told  
3 Mr. Boley if he needs additional time to respond to the motion, then  
4 I don't have a problem with that, but we would set the trial date  
5 maybe after the hearing on the motion.

6 THE COURT: So --

7 MR. SWEETIN: That would give time to figure out what  
8 our calendars can do, and he can look -- make sure he's looked at  
9 all of the discovery.

10 MR. BOLEY: That might be prudent.

11 THE COURT: Okay, so Mr. Boley, right now the motion is  
12 set for the 9<sup>th</sup>. When would like me -- any Tuesday or Thursday,  
13 reasonably thereafter, would you like me to set it.

14 MR. BOLEY: No preference, whatever is in the Courts  
15 convenience.

16 THE COURT: So, do you think if I set the motion out to  
17 October 23<sup>rd</sup>, that would give you time to -- or October 30<sup>th</sup>, to look  
18 at the State's file, file an opposition and tell me when you could be  
19 ready?

20 MR. BOLEY: Yes ma'am.

21 MR. SWEETIN: And Judge, I'm going to be out of the  
22 jurisdiction on the 30<sup>th</sup>. I don't know if the Court would consider  
23 maybe moving to the 8<sup>th</sup> of November, if it could move it out that  
24 far. Would that be all right?

25 MR. BOLEY: That's fine.

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THE COURT: Okay, so I'm going to take the State's motion to admit evidence of other crimes, wrongs, or acts, and put it for November 8<sup>th</sup>. I'm going to set a status check resetting of trial, November 8<sup>th</sup>, status check file review, November 8<sup>th</sup>; and then on that day, Mr. Washington, whenever your lawyer tells me he can be ready, I'll set it.

THE DEFENDANT: All right.

THE COURT: As soon as he can be ready, I can set it, my ordinary court, when you can be ready.

MR. BOLEY: Thank you, Your Honor.

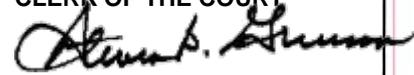
MR. SWEETIN: Thank you, Judge.

[Hearing concluded at 9:18 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.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber



1 **OPP**  
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9 *Attorney for Defendant*

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

12 THE STATE OF NEVADA,

CASE NO: C-18-333798-1

13 Plaintiff,

DEPT NO: IX

14 vs.

Hearing Date \_\_\_\_\_

15 JUHJUAN WASHINGTON  
16 #8124794

Hearing Time \_\_\_\_\_

17 Defendant.

18 **OPPOSITION TO MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS,**  
19 **OR ACTS**

20 Defendant, JUHJUAN WASHINGTON, by and through his counsel, THOMAS D.  
21 BOLEY, ESQ., hereby opposes the State of Nevada's Motion to Admit Evidence of Other  
22 Crimes, Wrongs, or Acts.

23 This Opposition is made and based upon all the papers and pleadings on file herein, the  
24 attached Declaration of Counsel and Memorandum of Points and Authorities, and oral argument  
25 at the time set for hearing this Motion.

26 DATED this 24<sup>th</sup> day of October, 2018.

RESPECTFULLY SUBMITTED

27   
28 THOMAS D. BOLEY, Esq.  
Nevada Bar # 11061

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**DECLARATION**

THOMAS D. BOLEY, ESQ. makes the following declaration:

1. I am an attorney licensed to practice law in the State of Nevada, appointed by this Court to represent Defendant JUHJUAN WASHINGTON, in the present matter;

2. I make this Declaration in support of Defendant's Opposition to the State's Motion to Admit Evidence of Other Crimes, Wrongs, or Acts;

3. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

**I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).**

EXECUTED this 24<sup>th</sup> day of October, 2018.

  
\_\_\_\_\_  
Thomas D. Boley, Esq.

**POINTS AND AUTHORITIES – PROCEDURAL HISTORY**

Defendant, Juh’Juan Washington, has been indicted on several charges surrounding the sexual attacks of Kaylee Edwards, Alexandra Tsvitenok, Ashley Wright and Maricella Mojaddidi-Brambila. The State is seeking to admit evidence surrounding several past incidents, specifically laid out in the State’s Motion. The incidents involve three other victims outside of the facts alleged in the indictment.

**POINTS AND AUTHORITIES – LEGAL ARGUMENT**

Evidence offered at trial must satisfy two preliminary requirements. First, the evidence must be relevant to the issue at hand and second, the proposed evidence must be more probative than prejudicial. NRS 48.015 defines relevance as having a tendency “to make the existence of

1 any fact that is of consequence...more of less probable than it would be without the evidence.”

2 Relevant, in this matter, would be any evidence that would suggest that the Defendant was the  
3 perpetrator that harmed the alleged victims or any evidence that could be used to impeach the  
4 defendant. *Weakland v. State*, 96 Nev. 699 (1980). NRS 48.035 lays out the balancing test which  
5 must be applied to consideration of prior bad acts.

- 6
- 7 1. Although relevant, evidence is not admissible if its probative value is substantially  
8 outweighed by the danger of unfair prejudice, of confusion of the issues or of  
9 misleading the jury.

9 Sexual offenses provide a specific challenge when it comes to consideration of  
10 credibility, as the State clearly described in their Motion. That being said, the State is attempting  
11 to stretch the balancing test of probative value versus prejudice to its absolute limit in pursuit of  
12 a conviction. In this case, the balancing test is very important because it determines what prior  
13 bad acts may be heard by a jury and still be considered non-character evidence.

14

15 In 1994, Rules 413 and 414 of the Federal Rules of Evidence were passed. Many States  
16 later mirrored those rules, which led us to the passage of NRS 48.045(3), cited by the State,  
17 which allows separate sexual offenses to be admitted. According to Prof. Michael Smith of  
18 UCLA’s School of Law, this is a grey area between character and pattern called “propensity.”

19 *Prior Sexual Misconduct Evidence in State Courts: Constitutional and Common Law*  
20 *Challenges*, American Criminal Law Review 52, 321, 327 (2014).

21

22 Needless to say, there are Constitutional disagreements about whether or not this type of  
23 “propensity” evidence can be admitted to prove the likelihood of guilt in a separate sexual  
24 offense. In *State v. Cox*, the Supreme Court of Iowa declared that propensity evidence was a  
25 violation of due process directly, and struck down a similar law that allowed such evidence under  
26 the due process clause of the Iowa constitution. 781 N.W.2d 757, 768 (Iowa, 2010). The State of  
27  
28

1 Missouri held similarly. “[e]vidence of uncharged crimes, when not properly related to the cause  
2 of trial, violates a defendant’s right to be tried for the offense for which he is indicted.” *State v.*  
3 *Gilyard* 979 S.W.2d 138 (Mo. 1998). That language was later cited to strike down the Missouri  
4 law in *State v. Ellison* 239 S.W.3d 603, 608-08 (Mo. 2007).

5 But the beauty of the law in the State of Nevada is that Defendant does not need to ask  
6 this Honorable Court to strike down any law. There is clearly a balancing test provided by  
7 statute, which mirrors the Federal Rules of Evidence. All that this respondent must do is show  
8 that the probative value is substantially outweighed by the danger of unfair prejudice. NRS  
9 48.035(1).  
10

11 **THE STATE HAS FAILED TO SHOW THE SPECIFIC NEED TO ADMIT THE**  
12 **ALLEGED BAD ACTS**

13 The State, in their motion, has not shown by plain, clear and convincing evidence, that  
14 the prior bad acts are necessary to prove their case or provide any new information that would  
15 weigh on the jury. In fact, the only reason the State would bring in these prior bad acts is to show  
16 the Defendant’s propensity to commit more bad acts, which is dangerously close to character  
17 evidence. This was discussed in *Taylor v. State*, 109 Nev. 849, 853, 858 P.2d 843 (1993).  
18

19 The state contends that the evidence was relevant to prove intent, absence of mistake,  
20 absence of accident, and appellant’s common scheme or plan. The general rule is that  
21 evidence of prior acts is inadmissible to prove character or actions in conformity  
22 therewith. The state has not explained how any of the exceptions contained in NRS  
23 48.045(2) specifically relate to the facts of this case. A mere recitation of the statute is not  
24 sufficient justification for the admission of prior acts.

25 Further, in *Cipriano v. State*, 11 Nev. 534, 894 P.2d 347 (1995), the court found that  
26 evidence of prior bad acts are not admissible to prove that the Defendant acted in a similar  
27 manner.

28 Evidence of a defendant’s other crimes, wrongs, or bad acts is not admissible to prove  
that the accused acted in a similar manner for purposes of the charge at issue *Beck v.*

1           *State*, 105 Nev. 910, 784 P.2d 983 (1989). The justification for this rule is that evidence  
2 of prior uncharged wrongs may improperly influence the jury and result in a conviction  
3 because the jury believes the accused is predisposed to crime or is a bad person.  
4           *Crawford v. State*, 107 Nev. 345, 348, 811 P.2d 67, 69 (1991)...Moreover, evidence of  
5 other bad acts is only admissible where three requirements are met: (1) the incident is  
6 relevant to the crime charged; (2) the act is proven by clear and convincing evidence; and  
7 (3) the evidence is more probative than prejudicial. *Berner v. State*, 104 Nev. 695, 697,  
8 765 P.2d 1144, 1146 (1988).

9           There is no stated reason given why this is going to help them in their case-in-chief, and  
10 that they cannot achieve the same with other evidence. They have not stated that they would be  
11 unable to prove their case without the evidence. In *United State v. LeCompte*, 99 F.3d 274 (8<sup>th</sup>  
12 Cir. 1996), the court reversed a conviction for abusive sexual conduct with a minor, holding it  
13 was error to admit evidence of the defendant's prior acts of sex abuse with minors. The trial  
14 court admitted the bad acts as evidence of "plan," but the court noted that the "victims were  
15 different, and the events were far apart in time." Absent more distinct relevant, "the bad act  
16 evidence was relevant to 'plan' only insofar as it tends to prove propensity to commit crimes  
17 which Rule 404(b) prohibits."

18           Under Rule 404(b), testimony concerning other bad acts is admissible "if it is relevant to  
19 a material issue, established by a preponderance of the evidence, more probative than  
20 prejudicial, and similar in kind and close in time." *United States v. Baker*, 82 F.3d 273,  
21 276 (8<sup>th</sup> Cir. 1996). Such evidence is not admissible "solely to prove the defendant's  
22 criminal disposition." *United States v. Shoffner*, 71 F.3d 1429, 1432 (8<sup>th</sup> Cir. 1995). *Id.* at  
23 277.

24           The government, then, bears the burden to establish that prior bad act evidence, even in a  
25 sexual case is relevant under Rule 404(b) and more probative than prejudicial. *Id.* Here, the State  
26 wants this information in front of the jury so as to inflame their emotions against the Defendant  
27 and convict him regardless of the evidence in their case-in-chief.  
28

1 In Mr. Washington's case, the State has testimony from several victims, forensics and  
2 video evidence. The only reason that they would seek to admit these prior bad acts is to create a  
3 prejudicial lens through which the jury will view this evidence.

4 **JUVENILE CONVICTIONS ARE EXTREMELY PREJUDICIAL AND SHOULD**  
5 **NOT BE ADMITTED AS EVIDENCE IN AN ADULT TRIAL**

6 American jurisprudence has drawn a line between juvenile and adult crimes, for good  
7 reason. The purpose of juvenile detention is generally seen as rehabilitation. NRS 50.095(4)  
8 renders juvenile convictions inadmissible for purposes of impeachment in a subsequent adult  
9 trial. On the surface, the spirit of juvenile crimes seems to be betrayed by the spirit of NRS  
10 48.045(3), which allows admission of prior sex crimes. But, this is not the case.

12 Both of these statutes easily operate simultaneously when you look at NRS 48.035. This  
13 statute grants this Honorable Court the power to balance probative value and unfair prejudice.  
14 All one needs to do to balance these factors is to look at the practical way in which juvenile  
15 offenses are handled right here in Clark County and contrast that with traditional concepts of  
16 crime and punishment.

18 The first American juvenile courts were seen in Illinois in 1899. During the Progressive  
19 Era between 1880 and 1920, the United States began to see a rise in homeless youth. When these  
20 young men and women were arrested for crimes, they were often housed with adult offenders.  
21 This created a situation where children became conditioned by adults to essentially become  
22 better criminals. The United States took example from the English Bridewell institution, which  
23 focused on teaching morality and trade skills. *Development of the Juvenile Justice System*,  
24 findlaw.com.  
25  
26  
27  
28

1 It was in 1944 that the US Supreme Court truly addressed the bright line between the way  
2 children and adults are treated when they stand accused. In *Prince v. Mass.*, the Court directly  
3 addressed the topic:

4 The state's authority over children's activities is broader than over like actions of  
5 adults...A democratic society rests, for its continuance, upon the healthy, well-rounded  
6 growth of young people into full maturity as citizens, with all that implies. It may secure  
7 this against impeding restraints and dangers, within a broad range of selection. Among  
8 evils most appropriate for such action are the crippling effects of child employment, more  
9 especially in public places, and the possible harms arising from other activities subject to  
10 all the diverse influences of the street. It is too late now to doubt that legislation  
11 appropriately designed to reach such evils is within the state's police power, whether  
12 against the parents claim to control of the child or one that religious scruples dictate  
13 contrary action. 321 U.S. 158, 168-169 (1944).

14 The important note is the difference in philosophy between adult and juvenile criminal  
15 justice. Scholars and jurists debate the appropriate approach to criminal justice for adults and  
16 come to vastly different conclusions. But the overwhelming consensus is that juvenile criminal  
17 justice is based on a theory of rehabilitation for the child. The success of that rehabilitation is a  
18 subject for the legislature and possibly for an appellate court. The State's authority over children  
19 is much more complete than its authority over adults. Comparing juvenile and adult convictions  
20 is comparing two separate sets of laws and two separate sets of courts. It is like apples and  
21 oranges.

22 To admit a prior juvenile conviction would open a philosophical can of worms in front of  
23 a jury, who is charged with fact-finding. The State could argue or imply that Mr. Washington's  
24 rehabilitation in juvenile detention was not successful and that he is still a dangerous predator.  
25 To counter that claim, the defense would be forced to argue that Mr. Washington was possibly  
26 institutionalized, or even victimized, similar to the discussion in *Prince v. Mass.* This places an  
27 unfair burden on the defense to philosophically defend the juvenile criminal justice system as a  
28 whole.

1                   **Jacob Weidner**

2                   The incident surrounding Jacob Weidner has little probative value. While the  
3 involvement of feet is similar, almost everything else is different. These were two boys living  
4 together in a juvenile correctional facility. There were no allegations of kidnapping or similar  
5 plans or schemes to the instant case. The probative value of this information is blown away by  
6 the prejudice to Mr. Washington.  
7

8                   **Demia Edington**

9                   This case occurred when both Washington and the victim were juveniles. Also, the cases  
10 are quite factually different. In the instant indictment, the facts surround the fact that Washington  
11 allegedly has a foot fetish. This incident involves no contact with any feet whatsoever. Its only  
12 probative value would be to show Washington's propensity towards sex crimes. And this  
13 incident serves no purpose to show a perpetual habit or common scheme with the instant case.  
14

15                  That type of discussion would serve to only confuse and distract the jury from the real  
16 issues at bar, which is a finding of guilty or non-guilty regarding the indictment filed by the State  
17 of Nevada. The State seeks to admit two juvenile crimes in Mr. Washington's past. Not only are  
18 those crimes factually different than the instant case, but they are a completely separate category  
19 of crimes because he was charged and convicted through the juvenile justice system.  
20

21                   **UNCHARGED BAD ACTS ARE HEAVILY DISFAVORED**

22                  The use of *uncharged* bad acts is "heavily disfavored" as such bad acts are often highly  
23 prejudicial or irrelevant. *Braunstein v. State*, 118 Nev. 68, 73, 40 P.3d 413 (2002); *Walker v.*  
24 *State*, 116 Nev. 442, 445, 997 P.3d 803 (2000). "Prior bad act evidence forces the accused to  
25 defend himself against vague and unsubstantiated charges and may result in a conviction because  
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1 the jury believes the defendant to be a bad person." *Braunstein* 118 Nev. at 73; see also *Walker*,  
2 116 Nev. at 445.

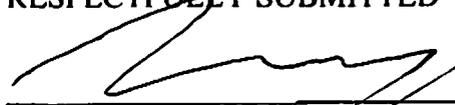
3 This applies specifically to the incident that the State seeks to admit regarding Shaimaa  
4 Abdelhaleem. It is not so much what the State can prove about this incident, but what they lack.  
5 It is very important to note that there is not a positive identification of Mr. Washington in that  
6 case. If there was, he would likely be indicted for that incident. The State relies on the fact that  
7 there was DNA evidence collected, but does not state that any DNA evidence matches  
8 Washington. Given the fact that this incident was recent, and has not been put before a Grand  
9 Jury, it seems likely that there is a large piece of the puzzle missing. It does not appear that there  
10 is a positive identification of Defendant in this incident. Unless Ms. Abdelhaleem can literally  
11 identify Washington in the courtroom, it would be allowing this incident into a jury trial based  
12 mostly on Washington fitting a description.  
13  
14

15 Even if there is anything identifying Washington as the perpetrator of this crime, it is still  
16 quite unrelated to the allegations in the allegations in this indictment. Therefore, it would be  
17 highly prejudicial to include this set of facts in Mr. Washington's trial and it would provide very  
18 little helpful information to the jury.  
19

### 20 CONCLUSION

21 All three situations presented by the State are highly prejudicial with low probative value  
22 and therefore must be excluded from the trial in this matter.  
23

24 RESPECTFULLY SUBMITTED

25   
26 THOMAS D. BOLEY, Esq.  
27 Nevada Bar # 11061  
1900 E. Bonanza Rd.  
Las Vegas, Nevada 89101  
28 (702) 435-3333  
*Attorney for Defendant*

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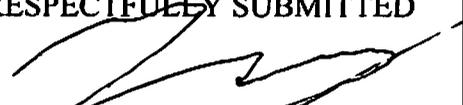
**NOTICE OF MOTION**

TO: CLARK COUNTY DISTRICT ATTORNEY

PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing motion on for hearing before the above-entitled Court on \_\_\_\_\_ at the hour of \_\_\_\_\_ in Dept IX, or as soon thereafter as counsel may be heard.

Dated this 24<sup>th</sup> day of October 2018.

RESPECTFULLY SUBMITTED



THOMAS D. BOLEY, Esq.  
Nevada Bar # 11061  
1900 E. Bonanza Rd.  
Las Vegas, Nevada 89101  
(702) 435-3333  
*Attorney for Defendant*

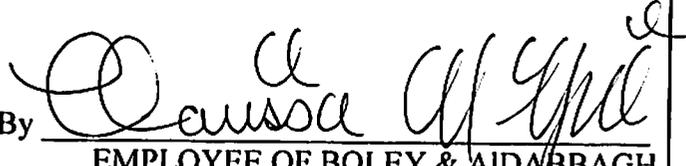
**CERTIFICATE OF SERVICE**

A copy of the foregoing OPPOSITION TO MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS, OR ACTS was:

\_\_\_\_\_ Mailed to respective parties at the following address(es) on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_;

X  
\_\_\_\_\_ Electronically Served on all interested parties on the 24<sup>th</sup> day of October, 2018, pursuant to N.E.F.C.R. Rule 9.

Plaintiff: STATE OF NEVADA (Odyssey Filing)

By   
EMPLOYEE OF BOLEY & AIDABBAGH

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

November 08, 2018      09:00 AM      All Pending Motions

HEARD BY:      Togliatti, Jennifer      COURTROOM: RJC Courtroom 10C

COURT CLERK: Trujillo, Athena

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Juhjuan Washington	Defendant
State of Nevada	Plaintiff
Thomas D Boley	Attorney for Defendant
William C. Rowles	Attorney for Plaintiff

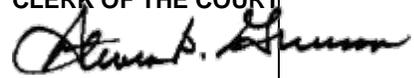
**JOURNAL ENTRIES**

STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS, OR ACTS ... STATUS  
CHECK: RESET TRIAL DATE

CONFERENCE AT THE BENCH. COURT noted it needs additional time to review the briefs and  
ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 11/15/18 9:00 AM



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. IX

BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE  
THURSDAY, NOVEMBER 8, 2018

**RECORDER'S TRANSCRIPT OF HEARING:  
ALL PENDING MOTIONS**

APPEARANCES:

For the State: WILLIAM C. ROWLES, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE G. SISON, COURT RECORDER

1 Las Vegas, Nevada, Thursday, November 8, 2018

2  
3 [Hearing began at 9:22 a.m.]

4 THE COURT: State versus Juhjuan Washington, C333798-  
5 1. He is present in custody.

6 MR. ROWLES: Your Honor, I believe we're waiting for Mr.  
7 Sweetin on this.

8 THE COURT: We're waiting on Sweetin, is that what you  
9 said? Who again?

10 MR. ROWLES: Mr. Sweetin, Your Honor.

11 THE COURT: Okay.

12 MR. BOLEY: That was my understanding, Your Honor.

13 THE COURT: All right. Do you know if -- well can I see  
14 counsel at the bench? Can you stand in for Sweetin for a minute?

15 MR. ROWLES: Yes, Your Honor.

16 [Bench Conference]

17 THE COURT: Okay, so Mr. Washington, the Court was out  
18 of the building for several days for an emergency, and I need more  
19 time to look at your lawyer's and the State's briefs, so I advised  
20 them up at the bench, I'm going to continue it to next Thursday,  
21 which is --

22 THE COURT CLERK: November 15<sup>th</sup>, 9 a.m.

23 THE COURT: Now do you want to set the trial then or do  
24 you want to set the trial now?

25 MR. BOLEY: We can set the trial then.

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MR. ROWLES: That would work best for the State, Your Honor.

MR. BOLEY: Okay.

THE COURT: Okay, so if Mr. Sweetin can't come, you'll bring his schedule?

MR. ROWLES: Yes, Your Honor.

THE COURT: Okay, thank you.

[Hearing concluded at 9:24 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.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

November 15, 2018      09:00 AM      All Pending Motions

HEARD BY:      Togliatti, Jennifer      COURTROOM: RJC Courtroom 10C

COURT CLERK: Trujillo, Athena

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

James R Sweetin	Attorney for Plaintiff
State of Nevada	Plaintiff
Thomas D Boley	Attorney for Defendant
William C. Rowles	Attorney for Plaintiff

**JOURNAL ENTRIES**

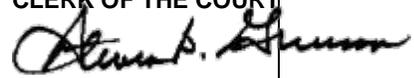
STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS, OR ACTS ... STATUS  
CHECK: RESET TRIAL DATE / FILE REVIEW

Defendant not present.

CCDC Corrections Officer advised the Defendant refused transport. CONFERENCE AT THE BENCH.  
COURT ORDERED, Defendant's appearance WAIVED and ORDERED, matter CONTINUED. Court  
directed counsel to have a file review before the next Court date.

CUSTODY

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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. IX

BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE  
THURSDAY, NOVEMBER 15, 2018

**RECORDER'S TRANSCRIPT OF HEARING:  
ALL PENDING MOTIONS**

APPEARANCES:

For the State: JAMES R. SWEETIN, ESQ.  
WILLIAM C. ROWLES, ESQ.  
Deputy District Attorneys

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE G. SISON, COURT RECORDER

1 Las Vegas, Nevada, Thursday, November 15, 2018

2  
3 [Hearing began at 10:16 a.m.]

4 THE COURT: State versus Juhjuan Washington, C333798-  
5 1. This is a status check motion to admit evidence of other crimes,  
6 wrongs, or acts that I had to continue for more time to review.

7 MR. BOLEY: Yes ma'am.

8 THE COURT: Can I see counsel at the bench.

9 [Bench Conference]

10 THE COURT: Okay, the Defendant's appearance is waived  
11 for today because Mr. Boley is going to go and speak with the  
12 Defendant and discuss the fact that on November 27<sup>th</sup> at 9 a.m.,  
13 we're going to do several things. We're going to discuss the file  
14 review that's going to happen between now and then -- is that  
15 enough time? Do you have enough time, or should I set it for  
16 Thursday of that week, since next week is Thanksgiving?

17 MR. BOLEY: That should be okay. If it's okay with the  
18 State.

19 MR. SWEETIN: I don't know, maybe a little bit more time  
20 might be helpful.

21 MR. BOLEY: Okay.

22 THE COURT: Okay, why don't we do November --  
23 December 4<sup>th</sup>, which is coming up right around the corner. On  
24 December 4<sup>th</sup>, we're going to talk about the file review and whether  
25 there's any outstanding discovery or forensics or anything like that.

1 We're going to reset the trial, and I'm going to hear the motion to  
2 admit evidence of other crimes, wrongs, or acts, and unless your  
3 client has got a medical issue, if he refuses, then he won't be here,  
4 and that's his voluntary choice. Will you discuss that with him?

5 MR. BOLEY: I will.

6 THE COURT: Thank you.

7 MR. BOLEY: Thank you, Judge.

8 THE COURT: Thank you.

9 [Hearing concluded at 10:19 a.m.]

10 \* \* \* \* \*

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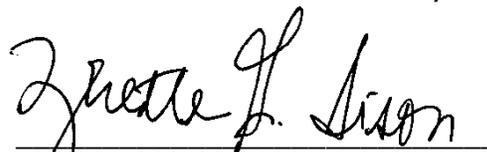
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17 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
18 audio/video proceedings in the above-entitled case to the best of my ability.

18

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Yvette G. Sison  
Court Recorder/Transcriber

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DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

December 04, 2018

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

December 04, 2018      9:00 AM      All Pending Motions

HEARD BY: Togliatti, Jennifer      COURTROOM: RJC Courtroom 10C

COURT CLERK: April Watkins

RECORDER: Patti Slattery

**PARTIES**

<b>PRESENT:</b>	Boley, Thomas D	Attorney for Deft.
	Rowles, William C.	Attorney for Pltf.
	State of Nevada	Plaintiff
	Sweetin, James R.	Attorney for Pltf.
	Washington, Juhjuan	Defendant

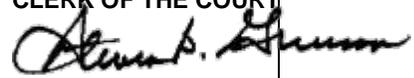
**JOURNAL ENTRIES**

- STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS OR ACTS...STATUS CHECK: RESET TRIAL DATE / FILE REVIEW

Colloquy. COURT ORDERED, matters CONTINUED.

CUSTODY

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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. IX

BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE  
TUESDAY, DECEMBER 4, 2018

**RECORDER'S TRANSCRIPT OF HEARING:  
ALL PENDING MOTIONS**

APPEARANCES:

For the State: JAMES R. SWEETIN, ESQ.  
WILLIAM C. ROWLES, ESQ.  
Deputy District Attorneys

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: PATTI SLATTERY, COURT RECORDER

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Las Vegas, Nevada, Tuesday, December 4, 2018

[Hearing began at 9:59 a.m.]

THE COURT: State of Nevada versus Juhjuan Washington, C333798-1. Can I see counsel at the bench?

[Bench Conference]

THE COURT: Mr. Washington, the oral argument in your matter is being continued until 10:30 on Friday morning. Your lawyer will talk to you about the continuance. Anything else counsel? Did I have you state your appearances?

MR. SWEETIN: James Sweetin and Billy Rowles for the State.

MR. BOLEY: Tom Boley on behalf of Mr. Washington.

THE COURT: Okay, thanks.

[Hearing concluded at 10:02 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.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

December 07, 2018      10:30 AM      All Pending Motions

HEARD BY:      Togliatti, Jennifer      COURTROOM: RJC Courtroom 10C

COURT CLERK: Trujillo, Athena

RECORDER:      Garcia, Trisha

REPORTER:

**PARTIES PRESENT:**

James R Sweetin	Attorney for Plaintiff
Juhjuan Washington	Defendant
State of Nevada	Plaintiff
Thomas D Boley	Attorney for Defendant
William C. Rowles	Attorney for Plaintiff

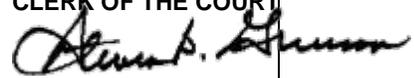
**JOURNAL ENTRIES**

STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES, WRONGS, OR ACTS ... STATUS CHECK: RESET TRIAL DATE / FILE REVIEW

Mr. Boley advised they did have a file review, however, he believes they will need more than one meeting. Arguments by State and Mr. Boley. COURT ORDERED, State's Motion GRANTED IN PART / DENIED IN PART; Motion GRANTED as to an evidentiary hearing for the incidents taking place on 8/4/2012 and 10/14/2018; Motion DENIED as to the 9/7/2011 incident. State to prepare the order and submit to opposing counsel before final submission to the Court. State requested a transcript. Court directed counsel to submit a written order. Colloquy regarding trial date. COURT FURTHER ORDERED, matter SET for status check.

**CUSTODY**

1/15/19 9:00 AM STATUS CHECK: SET EVIDENTIARY HEARING / RESET TRIAL DATE



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. IX

BEFORE THE HONORABLE JENNIFER P. TOGLIATTI,  
DISTRICT COURT JUDGE  
FRIDAY, DECEMBER 7, 2018

**RECORDER'S TRANSCRIPT OF HEARING:  
STATE'S MOTION TO ADMIT EVIDENCE OF OTHER CRIMES  
WRONGS OR ACTS  
STATUS CHECK: RESET TRIAL DATE/FILE REVIEW**

APPEARANCES:

For the State: JAMES SWEETIN, ESQ.  
WILLIAM ROWLES, ESQ.  
Deputy District Attorneys  
  
For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: TRISHA GARCIA, COURT RECORDER

1 Las Vegas, Nevada, Friday, December 7, 2018

2  
3 [Hearing began at 10:32 a.m.]

4 THE COURT: State versus Washington, C333798-1. The  
5 record should reflect the presence of the Defendant. This is the time set  
6 for hearing in State's motion to admit evidence of other crimes, wrongs,  
7 or acts, and status check setting of trial and file review. I don't recall; did  
8 we talk about the file review at all?

9 MR. BOLEY: We did before --

10 THE COURT: Okay sorry.

11 MR. BOLEY: -- and we had an initial meeting and went over a  
12 lot of the file already. I think it's going to take more than one meeting,  
13 because there's a lot.

14 THE COURT: All right. Well, I have a motion to admit  
15 evidence of other crimes, wrongs, or acts, and opposition, and as far as I  
16 know that's the filings that I have.

17 MR. SWEETIN: That's correct, Judge.

18 THE COURT: Okay.

19 MR. SWEETIN: And Judge, I want to lay out for you -- I think  
20 it's important to lay out sort of the course of conduct, the circumstances  
21 under which the Defendant has conducted himself last few years to  
22 really see the relevance of it; not only between the acts which he's  
23 currently charged with, but with the other bad acts that we've made  
24 reference to. So, he's currently charged with essentially four different  
25 victims, and just to run down very quickly sort of the chronology.

1           On October 7, 2017, the first victim, Alexandra, was sort of  
2 walking between buildings on the campus over at UNLV, was  
3 approached by the Defendant. The Defendant put a knife to that victim's  
4 neck and her stomach, demanded her car keys. The victim didn't  
5 produce her car keys but gave him some money, and when the  
6 Defendant saw other people around the area, he then made the victim  
7 walk to other areas at knife point and while walking, the victim was able  
8 to get free.

9           In regards to the second victim, on October 13, 2018, that  
10 victim, Kaylee, was sitting outside a UNLV building, in a public area with  
11 others and was approached by the Defendant who said that he was  
12 doing a study and asked for some help, which she agreed to, caused her  
13 to remove her shoes and her socks, and then he proceeded to do  
14 various things to her feet including fondling and sucking on the victim's  
15 feet. The victim tried to sort of exculpate himself -- herself from this  
16 Defendant, and ultimate as she was on the phone trying to call  
17 somebody, the Defendant indicates; are you calling the police?  
18 Ultimately, she is able to walk away from that incident.

19           The third incident, on October 19, 2017 or 18, I'm sorry. The  
20 victim, Ashley, was accosted by the victim at gunpoint as she was  
21 getting into her car at a Las Vegas apartment off the UNLV Campus.  
22 The Defendant told the victim to drive to an isolated area. The victim  
23 refused. The Defendant then pointed this gun at her head and told her  
24 he would blow off her head if she didn't do what he said. She then drove  
25 the car to an isolated area as instructed. She was able to get out of the

1 car, subsequent to that, the Defendant fled in that car.

2 On October 20, 2017, the victim, Maricella, was approached  
3 by the Defendant as she attempted to park her car at UNLV. The  
4 Defendant then approached the car and forced her to drive him to an  
5 isolated location at gunpoint. The Defendant told that victim that he had  
6 a foot fetish and he subsequently performed sexual acts upon her feet  
7 including sucking on her feet and masturbating his penis with her feet.  
8 He had attempted to have the victim in that case perform fellatio on him,  
9 and ultimately the victim was able to get away, exculpate herself from  
10 the car and to escape. And that is what the Defendant is charged with.

11 Now the State is seeking to bring in three other incidents, and  
12 I'll explain the relevance after I explain the basics of them.

13 The first, relates to an incident that happens fairly close in time  
14 to the incident that we are talking about here, October 14<sup>th</sup>, I believe. In  
15 that case, the victim was walking on the UNLV Campus. The Defendant  
16 grabbed the victim from behind, pulled her into the shadows, put his  
17 hand over his mouth. He then took the victim's money and keys. The  
18 Defendant took off the victim's shoes and told the victim that he had this  
19 love for feet. The Defendant then had the victim put her shoes back on  
20 and began to walk her to another location, at which time; the victim was  
21 able to escape.

22 Also, the State is seeking to admit two other incidents. One  
23 that occurred on September 7, 2011. At that point, the Defendant was  
24 15 years of age. The victim in the case was Demia. In that case, the  
25 Defendant isolated a mentally challenged high school student. He told

1 her to perform fellatio on him, and when she refused, he hit her hand  
2 with a metal pole, and the Defendant subsequently forced the victim to  
3 perform fellatio on him, and he ultimately had sexual intercourse with  
4 her.

5 Also, on August 4, 2012, victim Weidner; while the Defendant  
6 and the victim lived in the same house, the Defendant threatened to get  
7 the victim into trouble if that victim did not perform sexual acts upon him.  
8 The Defendant caused him to masturbate his penis with his feet, and he  
9 had anal intercourse with that victim, and caused that victim to perform  
10 fellatio on him.

11 Now, the State would submit that the three incidents, other  
12 bad act incidents, that I just described, should come in under the statute  
13 48.0453, and that's the addition to the character reference statute which  
14 I'm sure the Court is familiar with. And essentially what that says is that  
15 if you have an act, if you're prosecuting an act that constitutes sexual  
16 violence, and you have another act, other bad act, that constitutes  
17 sexual violence, that evidence is admissible. So it becomes, as any  
18 other evidence in a case; and the issue is whether it's more probative  
19 than prejudicial, as any other evidence that's presented in a case is.

20 Now, in this case, the State submits that the probative value of  
21 this evidence is to show the Defendant's predisposition is propensity to  
22 commit the acts for which he's charged. The State submits that in the  
23 case, the probative value of this other evidence is very significant to  
24 show that, and if you look at, you know specifically some of the counts;  
25 for instance, our victim, Maricella, who the Defendant is charged with

1 committing acts. The Defendant attempting to have her perform fellatio  
2 on him; this is similar to the acts the Defendant attempted to cause the  
3 victims, both Demia and Weidner, and if you look at the acts in regards  
4 to our victim -- charge victim, Kaylee, the Defendant sucked on the  
5 victim's feet as laid out in a manner out in school property. The sexual  
6 intent of that is something -- or the sexual nature of that is something  
7 that the State would be required to show, and that's very similar to the  
8 sexual intent displayed in the similar acts, which he committed upon  
9 Weidner.

10 Additionally, in regards to victim, Ashley, the Defendant is  
11 charged with first-degree kidnapping with the intent to commit sexual  
12 assault. The State would submit that the conduct which he committed in  
13 that particular act is similar to the conduct committed on our other bad  
14 act victim, Shaimaa, which shows essentially that intent to commit  
15 similar sexual acts, which would be the State's burden.

16 You know, the probative value of these are very significant the  
17 State would submit in meeting the State's burden. I would note that  
18 although any evidence in any case is prejudicial as the State's  
19 presenting it, evidence that shows the Defendant's guilt certainly is  
20 prejudicial to the Defendant; however, in this case we have the  
21 Defendant in the charged acts using a gun, a knife, to commit very  
22 sexual acts in the case -- in the acts that we're attempting to bring in, the  
23 Defendant did not have those things, the State would submit that clearly  
24 they're not as prejudicial to the Defendant as even the acts that the  
25 Defendant is charged with.

1           But besides, the State would submit under 48.0453 that the  
2 other bad act that we talked about now is taken out of the character  
3 evidence statute in its ordinary evidence.

4           But even under the old statute as it existed, 48.0452, the State  
5 would submit that it would be admissible as another bad act to show  
6 various things including motive, intent, the absence of mistake in this  
7 case for the same reasons that I kind of laid out in regards to the  
8 probative nature of these cases.

9           For those reasons, the State would submit that the evidence --  
10 the other bad act evidence is admissible in this case under 48.0453; that  
11 the probative value outweighs any prejudicial effect, and even if the  
12 Court were to analyze this under 48.0452, that the evidence would come  
13 in as evidence to show motive, intent, absence of mistake; certainly the  
14 intent in motive to kidnap and were robbed and/or engaged in lewd  
15 conduct with each of the charged victims, and the State would submit it  
16 on that.

17           MR. BOLEY: Thank you, Judge. My colleague here correctly  
18 stated that law that's applied here, but I would pose this to the Court that  
19 what the State's trying to admit is not only highly prejudicial, but it's also  
20 not that probative; because if the State's goal is to prove that Mr.  
21 Washington went on a foot-related sex crime spree. They already have  
22 four victims where they charged him; they've got an indictment, and  
23 we're going to trial on that. So what more do they need? If they need  
24 some proof further and more than four victims that he has this inclination  
25 -- you know, I would pose to the Court that they don't necessarily need

1 that. It's not that probative to bring in juvenile crimes and uncharged  
2 crimes.

3 I've already presented to this court in writing that -- the law  
4 regarding uncharged bad acts. The State does have a remedy in that  
5 case. If they wanted to present this adult victim to a Grand Jury, they  
6 could have added a charge and indicted Mr. Washington, but they have  
7 not.

8 So, to introduce that shifts the burden partially to the Defense  
9 to disprove something at trial while we're already trying to defend him  
10 from the four charged acts.

11 Also, two of the acts that the State is trying to admit are  
12 juvenile acts. I think I went through a lot of the history of the juvenile  
13 system, but it's a very different system; and the intent of the juvenile  
14 system is to rehabilitate as well as protect the public. So when those  
15 convictions entered and those confinements occurred, there was a  
16 completely different spirit to what happened there.

17 So I would pose to this Court that not only are these highly  
18 prejudicial acts that the State is trying to admit, but they really don't need  
19 those acts. In fact, Mr. Sweetin talks about his case with a lot of  
20 confidence, so in that case they wouldn't need to bring it in; it would be a  
21 very low, low probative value. I'll submit it to your discretion on that one.

22 THE COURT: So there's apples and oranges right? There is  
23 admissibility under the statute first cited by the State, in which case the  
24 issues related to the level of proof necessary to prove such things  
25 versus another bad act, which is a different statute cited by the State

1 which requires clear and convincing evidence.

2           The Juvenile Court kind of evidentiary standard and processes  
3 is where the relevant -- the relevance to that argument is really second  
4 statute cited by the State, the other bad act because -- ordinarily if a  
5 court were to admit a bad act under that statute then there would have to  
6 be an evidentiary hearing, and the judge would have to find by clear and  
7 convincing evidence that such things occurred.

8           And so, you know, part of my question to the State is -- you  
9 know, I don't have -- and if you had it attached as exhibits, and I just  
10 didn't have it printed out, that's fine, you can direct me to it; but where  
11 are the -- what do the records reflect about the -- the 2012 incident?

12           MR. SWEETIN: The police reports. I do have police reports.  
13 I did not attach that to the pleading. I summarized --

14           THE COURT: But I mean I guess what I'm saying is, the  
15 anticipation of the Court would be, there still would have to be an  
16 evidentiary hearing. It's not just like going to -- I wouldn't just grant it.

17           MR. SWEETIN: The State would actually ask for that, and all  
18 of these -- I ask that there be an evidentiary hearing, and the State  
19 present the evidence that allows the Court to make a determination. If  
20 they're making that determination 48.045, paragraph 3, that relates to  
21 probative versus prejudicial if it's in -- regards to the 2<sup>nd</sup> paragraph; then  
22 it would relate to a showing of clear and convincing evidence.

23           THE COURT: Okay and did you wish to reply -- I didn't give  
24 you a chance to reply, sorry I had a question that I wanted to ask about  
25 the records from juvenile court, because I really don't think that would --

1 that would be enough. I don't think you could just put that forth and say;  
2 oh well, it comes in; and you're not -- you're not suggesting that's the  
3 case?

4 MR. SWEETIN: We're not. We would not seek to do that.  
5 We seek to present a witness --

6 THE COURT: Okay.

7 MR. SWEETIN: -- that the Court can evaluate.

8 THE COURT: Okay. So did you want to respond to any of  
9 the arguments? Because otherwise, I'm prepared to rule.

10 MR. SWEETIN: Judge, and I think that -- although Defense  
11 Counsel makes reference to the -- I guess arguing that the -- that the  
12 probative value or the prejudicial effect outweighs the probative value; I  
13 would note that in any case, it's the State's burden. The State has the  
14 burden to present evidence that meets the different elements of the  
15 crimes charged. Clearly in this case, the State would submit that the  
16 Defendant has committed a number of crimes; as he's committing those  
17 crimes, he's at different stages of completion. The evidence of those  
18 crimes which he has completed clearly goes to the intent of --

19 THE COURT: To prove attempt.

20 MR. SWEETIN: -- the other crimes.

21 THE COURT: And that kind of thing.

22 MR. SWEETIN: Yes.

23 THE COURT: I assume you have numerous attempts in here  
24 and --

25 MR. SWEETIN: We do.

1 THE COURT: Yes. Okay. So my ruling is going to be that  
2 I'm going to grant the motion in part and deny it in part.

3 I'm granting it in part as it relates to an evidentiary hearing.  
4 I'm allowing an evidentiary hearing on the October 14, 2018 incident.  
5 One, because it clearly goes to show motive, intent, and modus  
6 operandi, common scheme, and plan; the love for feet, the way that  
7 victims are approached on campus or off campus or close to campus,  
8 location, the same month, the same modus operandi for sharing either a  
9 sexual preference for feet or engaging in sexual acts with feet; clearly it's  
10 more probative than prejudicial under 48.0453, but if a Supreme Court  
11 were to find that I need to rely on these modus operandi, absence of  
12 mistake or accident, and otherwise to admit it, then I'm still granting the  
13 evidentiary hearing. So it's granted as to October 14, 2018 incident -- a  
14 hearing, an evidentiary hearing, because the Judge assigned to this  
15 case is going to have to decide; is that clear and convincing standard  
16 met, under that statute, and decide is it more probative than prejudicial.

17 I'm also granting in part and denying in part the request for the  
18 October 4, 2012 incident. I'm going to grant an evidentiary hearing  
19 because I find that -- well first of all, under the more probative than  
20 prejudicial analysis, the sexual acts and the feet proclivities are highly  
21 more -- highly probative than prejudicial. I find that the anal intercourse  
22 is less probative than prejudicial and; therefore, if I was trying this case, I  
23 would be allowing -- if I found that there was clear and convincing  
24 evidence, under the modus operandi, common plan or scheme. I know  
25 it's 2012, and it's six years earlier, it's not as relevant to common plan or

1 scheme but it is to motive, and intent, and as far as anal intercourse, I  
2 would exclude that; but that's an advisory opinion only; that's for -- you  
3 know, that's what I would be inclined to do but I haven't heard he  
4 evidence. Maybe I would exclude it all because I don't find that it's clear  
5 and convincing, I don't know; that Judge will have to decide. I think  
6 you're going to need a transcript of this by the way, because -- and the  
7 motion is denied as to September 7, 2011. I understand -- I mean that's  
8 just a straight up sexual offense, and it is significantly more prejudicial  
9 than probative to the nuanced attacks that are occurring in this case at  
10 or around UNLV, at or around focused on feet, comments about the love  
11 of feet or the proclivity for feet, or the foot fetish, and sexual acts related  
12 to the feet. So I guess it's granted in part and denied in part.

13 I would grant an evidentiary hearing as to October 14, 2018  
14 event, August 4, 2012 event, and denied as to September 7, 2011. Is  
15 there anything else?

16 MR. BOLEY: No ma'am.

17 MR. SWEETIN: No that's it Judge. I think we need to set a  
18 new trial date.

19 THE COURT: Did you prepare an order?

20 MR. SWEETIN: I can't prepare an order Judge, and you  
21 made reference to do a transcript? Do you want us to do an order for  
22 transcript or can you just order that now?

23 THE COURT: I need a written order, and I need -- I just think  
24 that that's best for your trial Judge who's going to be left carrying my role  
25 -- carrying the water of this ruling, and I don't want you to have to argue

1 over what it meant. So I think it's -- you know in a prophylactic manner  
2 to save you all a headache, you should have it for your trial Judge.

3 So how long do you need to get ready for trial knowing you  
4 have to defend against two new sexual acts, potentially as part of the  
5 case?

6 MR. BOLEY: Sure. If we're going to have an evidentiary  
7 hearing on those prior acts, maybe it would be best to set a trial with that  
8 hearing.

9 THE COURT: Do you have -- well, my issue is this; I'm not in  
10 a position to tie the hands of the new Judge on setting an evidentiary  
11 hearing.

12 MR. BOLEY: Sure.

13 THE COURT: So I could set a status check setting of  
14 evidentiary hearing and status check setting of trial on January 15<sup>th</sup> at 9  
15 a.m., and then let that Judge decide when the hearing will be; let that  
16 Judge decide when the trial is going to be, and in the meantime we  
17 could maybe have the transcript and prepare an order. How does that  
18 sound?

19 MR. SWEETIN: That sounds good.

20 MR. BOLEY: Yes ma'am.

21 THE COURT: Okay. So I will see you on -- I won't see you  
22 on January 15<sup>th</sup>. If you could prepare an order, run it by counsel as to  
23 form and content only so that you can sign -- I want you to sign off as to  
24 form and content, obviously you're not agreeing to an evidentiary  
25 hearing; you've lodged your objection

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Is there anything else on this case? Obviously I need you to do it before January 2<sup>nd</sup>.

MR. SWEETIN: Yes, we'll get it right away.

MR. BOLEY: Sure.

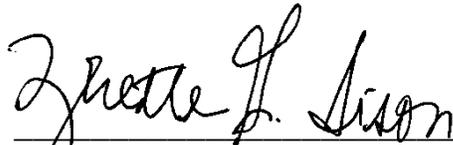
THE COURT: Okay, thank you very much.

MR. ROWLES: Thank you, Your Honor.

[Hearing concluded at 10:55 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.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 15, 2019**

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

**January 15, 2019      9:00 AM      Status Check**

**HEARD BY:** Holthus, Mary Kay      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Natalie Ortega

**RECORDER:** Yvette G. Sison

**PARTIES**

**PRESENT:**      Boley, Thomas D      Attorney for Deft.  
   Sweetin, James R      Attorney for State  
   Washington, Juhjuan      Defendant

**JOURNAL ENTRIES**

- COURT NOTED it was its understanding that an Evidentiary Hearing would need to be set on two of the three bad acts that Judge Togliatti granted. Mr. Sweetin advised in light of the most recent opinion by the Nevada Supreme Court the State may file a motion to reconsider based upon that. Speaking with Mr. Boley talking about potentially setting trial date. CONFERENCE AT BENCH. Based upon the conference at the bench it was the Court's understanding the State wanted to file other bad acts motion and defense would oppose. COURT ORDERED, State's brief due February 12th, Defense Opposition due February 26th, State's Reply March 5th; Argument hearing SET March 12, 2019. COURT NOTED the March 12, 2019 was for argument and at that time an Evidentiary hearing would be scheduled.

**CUSTODY**

03/12/19 9:00 AM ARGUMENT

06/11/19 9:00 AM CALENDAR CALL

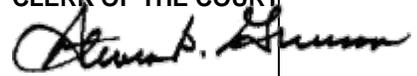
PRINT DATE: 03/27/2019

Page 1 of 2

Minutes Date: January 15, 2019

06/17/19 1:00 PM JURY TRIAL

CLERK'S NOTE: Minutes updated. The Calendar Call has been rescheduled to June 11, 2019 at 9:00 a.m. Additionally, trial is scheduled to commence at 1:00 p.m. on June 18, 2019. A copy of this minute order was placed in the attorney folder(s) of: Thomas D. Boley, Esq., and Chief District Attorney James R. Sweetin (Clark County District Attorney). ndo03/27/19



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE  
TUESDAY, JANUARY 15, 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
STATUS CHECK**

APPEARANCES:

For the State: JAMES R. SWEETIN, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE SISON COURT RECORDER

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Las Vegas, Nevada, Tuesday, January 15, 2019

[Hearing began at 9:24 a.m.]

THE COURT CLERK: State of Nevada versus Juhjuan Washington, C333798.

THE COURT: Good Morning.

MR. SWEETIN: Good Morning, Judge. James Sweetin for the State.

MR. BOLEY: Tom Boley for Mr. Washington, who's present in custody.

THE COURT: Okay, my understanding is we need to set an evidentiary hearing on two of the three other bad acts that Judge Togliatti granted, is that correct?

MR. SWEETIN: That is correct, Judge. There was a recent opinion by the Nevada Supreme Court. The State might be filing a motion to reconsider based upon that.

I was talking to Mr. Boley, and we were talking about potentially setting a trial date. We were hoping to get June 24<sup>th</sup>. I know that that goes right up to your civil stack, and this will probably go into a second week, and I don't know if the Court would be open to that or not, but we would want the evidentiary hearing some time before that, and I don't think it's a big issue as to how far before that on the calendar.

MR. BOLEY: And that's fine, but I think the date was June 17<sup>th</sup>, correct?

1 MR. SWEETIN: Well, I was looking -- I was trying to get  
2 June 24<sup>th</sup>. I do have a trial that's set to go June 10<sup>th</sup>, and I think that  
3 that will go into a second week, if it goes, and it might go and that's  
4 why was looking to try to get the 24<sup>th</sup>.

5 If the Court gives us the 17<sup>th</sup>, with the understanding that I  
6 have that other trial.

7 THE COURT: Can you guys approach?

8 MR. BOLEY: Yes ma'am.

9 [Bench Conference]

10 THE COURT: I don't know how the civil bar feels about  
11 bleeding over at this point, so until I find out if that's cool or uncool.  
12 You know, I do criminal all year, but technically I have to do the civil  
13 as well, so --

14 MR. SWEETIN: Well, if you set us for the 17<sup>th</sup>, with the  
15 understanding that I might be in that other trial go, I'm fine with  
16 that. I think the other trial is probably about a 50/50 as to whether it  
17 was going to go or not, but you know, it's either going to negotiate  
18 or go.

19 MR. BOLEY: And I'm not going to resist if he needs to get  
20 to bump it at that point.

21 THE COURT: Okay, I'd rather do it that way. How long do  
22 you need for the evidentiary hearing? How much you --

23 MR. SWEETIN: There's two witnesses, and I think that my  
24 direct on both witnesses will be less than an hour.

25 MR. BOLEY: I think -- so maybe -- I don't know if this is

1 even possible, but if you got -- say we start on day 2, potentially  
2 we're going to call him first, maybe we can have the evidentiary  
3 hearing right on the eve of trial. I don't know if we can do that.

4 MR. SWEETIN: That's fine with me. I mean, I think that  
5 we might file, like I said, a motion to reconsider on the one other  
6 act, which would bring everything to the forefront of the --

7 THE COURT: Was that the disabled -- mentally disabled  
8 kid that she denied? Or am I mixing them up.

9 MR. SWEETIN: No, no, no -- I think she denied --

10 THE COURT: She gave you the feet people?

11 MR. SWEETIN: Right.

12 THE COURT: And that was the old -- the roommate, right?

13 MR. BOLEY: Well yeah -- she didn't rule on the  
14 roommate, but she sort of gave us guidance. She said that she  
15 would probably allow acts on the feet, but not the other acts --

16 THE COURT: Anal.

17 MR. BOLEY: -- right. But the new stuff I think that you  
18 would need prove beyond clear and convincing evidence, maybe  
19 not by this in court.

20 MR. SWEETIN: And I think that part of the issue was, was  
21 that she was talking about -- she was talking as to admissibility and  
22 propensity evidence, and now the Supreme Court has come out,  
23 and they said specifically that propensity evidence is admissible.

24 So, I mean, that would be the only issue that we would  
25 put before you, as to whether --

1 THE COURT: So, are you going to re-brief that before we  
2 set the evidentiary hearing?

3 MR. SWEETIN: That's what we were thinking about.

4 THE COURT: All right, let's do that, so we have it all at  
5 once. I mean I don't care, you're the one that won't necessarily  
6 know what's coming in at trial if you wait until the date of trial;  
7 that's fine with me.

8 MR. BOLEY: We have a lot of information about those  
9 incidents, a lot of the back story; banker's boxes and banker's boxes  
10 --

11 THE COURT: It sounds like it's probably coming in.

12 MR. BOLEY: Yeah, yeah.

13 THE COURT: Not to pre-judge, I'm still open-minded, but  
14 based upon what I read, it's pretty spot on.

15 MR. BOLEY: Sure.

16 THE COURT: All right, so do you want to set a little  
17 briefing schedule?

18 MR. SWEETIN: That's fine, Judge.

19 THE COURT: Okay.

20 [Bench Conference Concluded]

21 THE COURT: Okay, based on our conversation at the  
22 bench, it's my understanding that the State wants to file a  
23 supplemental other bad acts motion. Defense will oppose it. If we  
24 can get a briefing schedule, and then you want the June 17<sup>th</sup> trial  
25 date?

1 MR. SWEETIN: That's fine, Judge. We would just ask that  
2 if we could have 30 days. I don't know if there's a rush to get the  
3 brief, but can we just have 30 days to file our briefs.

4 THE COURT CLERK: February 12<sup>th</sup>, then two weeks after  
5 for reply --

6 MR. BOLEY: Two weeks would be great.

7 THE COURT CLERK: -- okay, then February 26<sup>th</sup>. And then  
8 for hearing, 30 days after that or two weeks how would you --

9 THE COURT: You want time for a reply?

10 THE COURT CLERK: Yeah, I set it --

11 THE COURT: You did?

12 THE COURT CLERK: -- for February 26<sup>th</sup>; and then two  
13 weeks --

14 MR. SWEETIN: If we can just have a week for a reply,  
15 that's fine.

16 THE COURT: You set for an opposition?

17 THE COURT CLERK: Okay.

18 THE COURT: The week after that for the reply.

19 THE COURT CLERK: Okay, so February 26<sup>th</sup>?

20 THE COURT: No, a week after that.

21 THE COURT CLERK: Oh, after which date? I'm sorry.

22 THE COURT: After the February 26<sup>th</sup>.

23 THE COURT CLERK: Oh, okay --

24 THE COURT: For State's reply.

25 THE COURT CLERK: March 5<sup>th</sup>.

1 MR. BOLEY: I'm going to be out of the jurisdiction March  
2 2<sup>nd</sup> through 6<sup>th</sup>, I'd like to get maybe another week.

3 THE COURT: That's just Mr. Sweetin's opportunity to  
4 reply --

5 MR. BOLEY: Oh, sorry.

6 THE COURT: -- so you won't -- you don't have to do  
7 anything during that time.

8 MR. SWEETIN: And what was that date one more time?

9 THE COURT CLERK: March 5<sup>th</sup>. And then a hearing a  
10 week or two later?

11 THE COURT: Doesn't matter to me.

12 MR. SWEETIN: Either is fine with me.

13 THE COURT CLERK: Okay, March 12<sup>th</sup> for hearing.

14 THE COURT: And that's just for argument, and then at  
15 that point, we're going to set the evidentiary hearing. Is that what  
16 we're all agreeing on?

17 MR. SWEETIN: Yes Judge, that would be the State's  
18 preference. And then our trial date would be set, and I would just --  
19 if I can make a record, my notes don't indicate -- I remember  
20 specifically that the Court canvassed the Defendant and that he  
21 waived his speedy trial right and that's Defense Counsel's memory  
22 as well. I just wanted the record to reflect that.

23 THE COURT: Okay.

24 THE COURT CLERK: So, do you want the March -- or  
25 sorry, the June 26<sup>th</sup> date?

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THE COURT: The 17<sup>th</sup>.

THE COURT CLERK: You want the 17<sup>th</sup>, okay. June 17<sup>th</sup> jury trial, 9 a.m.; and calendar call will be June 13<sup>th</sup> at 9 a.m.

MR. SWEETIN: Thank you, Judge.

THE COURT: Thank you.

MR. BOLEY: The hearing on previous bad acts, is that going to be 9 a.m. as well?

THE COURT CLERK: Yes.

MR. BOLEY: Everything is at 9 a.m.?

THE COURT: Yes. If we get to the point when we set the evidentiary hearing on the 12<sup>th</sup>, if it looks like it's going to run long, we can maybe jiggle the time around.

MR. BOLEY: Okay.

MR. SWEETIN: Thank you, Judge.

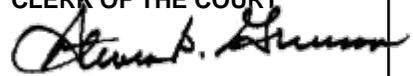
THE COURT: Thanks.

[Hearing concluded at 9:32 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.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber



1 **NOTM**  
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7  
8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 THE STATE OF NEVADA,  
11  
12 Plaintiff,

13 -vs-

14 **JUHJUAN WASHINGTON,**  
15 **#8124794**

16 Defendant.

CASE NO: **C-18-333798-1**

DEPT NO: **XVIII**

17 **STATE'S RENEWED NOTICE OF MOTION AND MOTION TO ADMIT**  
18 **EVIDENCE OF SEPARATE SEXUAL OFFENSE FOR**  
19 **PROPENSITY PURPOSES**

20 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE** that the State of  
21 Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JAMES R.  
22 SWEETIN, Chief Deputy District Attorney, will bring a **Motion to Admit Evidence of**  
23 **Separate Sexual Offense for Propensity Purposes** before the above entitled Court on the  
24 **12th day of MARCH, 2019**, at the hour of **9:00 o'clock AM**, or as soon thereafter as counsel  
25 may be heard.

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

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF FACTS PERTINENT TO THE INSTANT CASE**

3 Defendant, JUHJUAN, is charged by way of Criminal Indictment with the crimes of  
4 Assault with a Deadly Weapon (Category B Felony – NRS 200.471), Attempt Robbery With  
5 Use of a Deadly Weapon (Category B Felony – NRS 200.380, 193.330, 193.165), First Degree  
6 Kidnapping With Use of a Deadly Weapon (Category A Felony – NRS 200.310, 200.320,  
7 193.165), Open or Gross Lewdness (Gross Misdemeanor – NRS 201.210), Burglary While in  
8 Possession of a Firearm (Category B Felony – NRS 207.190, 193.165), Coercion With Use of  
9 a Deadly Weapon (Category B Felony – NRS 207.190, 193.165), Robbery with Use of a  
10 Deadly Weapon (Category B Felony – NRS 200.380, 193.165), Grand Larceny Auto  
11 (Category B Felony – NRS 200.364, 200.366, 193.330), and Attempt Destruction of Evidence  
12 (Gross Misdemeanor – NRS 193.330, 199.220). The crimes were committed on or between  
13 October 13, 2017 and October 22, 2017. The victims are Alexandra Tsvitenok, Kaylee  
14 Edwards, Ashley Wright, and Maricella Mojaddidi-Brambila.

15 For the purpose of providing the Court with the most comprehensive statement of facts,  
16 the State is providing the testimony of the witnesses before the grand jury.

17 **The Grand Jury Testimony of Ashley Wright Pertinent to this Motion**

18 Ashley testified that on October 19, 2017, she was living in Las Vegas, Clark County.  
19 (Grand Jury Transcript, Vol. I, hereinafter “GJT”, p. 7). During the early morning hours of  
20 that day, Ashley was heading to work at Sutherland Global Services. (GJT, Vol. I, pp. 7-8).  
21 Ashley testified that she was also a student at the College of Southern Nevada at that time.  
22 (Id., p. 8). Ashley testified that she drove a 2010 Nissan Cube during that time with the license  
23 plate “QEEN”. (Id.).

24 Ashley described that it was typically still dark out when she went outside to go to work  
25 and while she was putting her bags in her car, she heard shuffling very close to her. (GJT, Vol.  
26 I, p. 9). Ashley stood up and turned around and there was a man standing 10 to 15 feet away.  
27 (Id.). As soon as they made eye contact the man raised his hand and there was a gun in his  
28 hand. (Id.). Ashley thought he was going to shoot her and she screamed as loudly as she could

1 and jumped on the other side of her car. (Id.). The gun appeared to be silver or metallic in  
2 color and looked to be a semi-automatic. (GJT, Vol. I, pp. 10-11).

3 While she was on the other side of the car, Ashley didn't hear anything so she opened  
4 her eyes to peer over to the other side, when she noticed the man was standing right in front  
5 of her. (Id., p. 12). Ashley gave the man her keys and told him to take the car and whatever  
6 he wanted inside of it. (Id.). Ashley described the man as a black male. The man asked her,  
7 "Did you think that I was going to shoot you?" He further stated that he wasn't going to shoot  
8 her and that he needed a ride to the hospital because he had just been kicked out of his house  
9 and that he got raped. (Id.). Ashley thought the man seemed a little off. (Id.). Ashley testified  
10 that her Nissan Cube cost between 28 and 30 thousand dollars. (GJT, Vol. I, p. 13).

11 Ashley told the man that he didn't need to pull a gun out if all he needed was a ride to  
12 the hospital. (Id. at p. 13). The man asked her again about going to the hospital and she agreed  
13 to take him to the hospital. (Id.). Ashley told the man that if someone refuses to take him to  
14 the hospital when he asked, he should ask the next person, without pulling a gun out on them.  
15 (Id.). Ashley testified that she did not want to take the man to the hospital but he still had the  
16 gun and she was concerned about the gun. (GJT, Vol. I, p. 14).

17 After getting into the car, Ashley drove and the man sat in the passenger seat. (GJT,  
18 Vol. I, p. 15). The man told Ashley to hurry up and pull off because she had screamed. (Id.).  
19 He then asked her where her phone was and she told him that it was in her bag in the back  
20 seat. (Id.). The man asked Ashley where she was headed and she told him that she was going  
21 to work and later to school. (Id.). Ashley testified that he told her that he had a baby mother  
22 who had just given birth and she was in the hospital. (Id.). Prior to the man telling Ashley  
23 that, she had asked him what hospital did he need to go to, and he told her UMC on Charleston.  
24 (Id.).

25 While driving on Lake Mead to get to the freeway, the directions that the man was  
26 giving Ashley began to change. (GJT, Vol. I, p. 16). Once they got near the freeway the man  
27 told Ashley to take a right on a little street before the freeway. (GJT, Vol. I, p. 17). The man  
28 asked Ashley to take them someplace dark, to talk because she was nice and he liked her.

1 (GJT, Vol. I, p. 18). Ashley testified that the man still had the gun resting between his legs  
2 and her anxiety was very high. (Id.). Ashley told the man that she was not going to take him  
3 someplace dark; that he could have her keys, her car, and everything in it, but she didn't want  
4 to go with him wherever he was going. (GJT, Vol. I, p. 19). The man pulled out the gun, put  
5 it to Ashley's side, and told her that she was going to do what he told her or he was going to  
6 "blow her fucking brains out." (Id.).

7 The man told Ashley to continue driving and to do the speed limit to avoid suspicion.  
8 (GJT, Vol. I, p. 21). The man finally told Ashley to pull over, which she did, at which time  
9 he told her to give him her keys and her phone. (Id.). Ashley put the car in park and stood  
10 outside of the car with her thermos cup. (Id.). Ashley grabbed the bags from the back seat  
11 because she was going to give the man her phone. (GJT, Vol. I, p. 22). As she grabbed the  
12 bags, the man hopped into the driver's seat and drove away. (Id.). Before driving away, the  
13 man told Ashley that he would shoot her if she started screaming, and that he would come  
14 back and kill her if he could hear her scream after he left. (Id.).

15 Ashley testified that the man took her car but she was able to get her purse and phone  
16 out of the vehicle. (GJT, Vol. I, pp. 22-23). Ashley reported the incident to the police. (Id.,  
17 at p. 23). On October 21, 2017, Ashley was presented with a photo line-up put together by law  
18 enforcement where she was able to pick the Defendant out as the individual who was in her  
19 car. (GJT, Vol. I, pp. 23-24).

20 **The Grand Jury Testimony of Maricella Mojaddidi-Brambila Pertinent to this Motion**

21 Maricella testified that she attended school at UNLV and that she was 20 years old.  
22 (GJT, Vol. II, p. 8). Maricella testified that she would be a sophomore in the Fall. (Id.). In  
23 August 2017, at approximately 6:00-6:30 a.m., Maricella was at the Cottage Grove parking  
24 garage at UNLV, parking her car. (GJT, Vol. II, p. 9). Maricella got out of her vehicle and  
25 was getting her back pack out of the backseat, when she noticed an African-American male  
26 approaching from the upper level stairs. (Id.). Maricella testified that she drove a 2004 Suzuki  
27 Aerio, license plate #07G194. (Id.).

28 //

1 Maricella described the male as being in his early 20's, wearing some jeans and a navy  
2 hoodie. (GJT, Vol. II, p. 10). The male had medium dreadlock hair with blond tips. (Id.). As  
3 the man walked toward Maricella, the way he looked at her seemed suspicious causing her to  
4 get back into her car. (GJT, Vol. II, p. 11). As Maricella was trying to close her door, the man  
5 pulled a silver gun out from his pocket and pointed it at her face. (Id.). The man told Maricella  
6 to unlock the passenger door and let him into the car, which she did. (GJT, Vol. II, p. 12). The  
7 man got into the passenger seat, put the gun to Maricella's head and told her to drive out of  
8 the garage. (Id.). The man was telling Maricella that he was having problems with his pregnant  
9 girlfriend and that she cheated on him. (Id.). The man told Maricella to drive him to the  
10 mountain so that he could shoot himself there. (Id.). Maricella told the man that there were  
11 other ways to solve things. (Id.).

12 Maricella was near tears and trying to stay calm while driving out of the parking garage  
13 toward Cambridge and Katie. (GJT, Vol. II, p. 13). The man had Maricella stop the car at an  
14 elementary school, in the parking lot. (Id.). The man put the gun away and told Maricella to  
15 take her shoes and socks off, which she did. (Id.). The man pulled down his pants down. (Id.)

16 While they were driving the man mentioned to Maricella that he had a foot fetish and  
17 asked her if she knew what a foot job was. (GJT, Vol. II, p. 15). Maricella did not know exactly  
18 what it was but had a mental image of what it could be. (Id.). Maricella was in fear at this  
19 point because of the gun. (Id.). Maricella sat with her back toward the door and put her feet  
20 on the man's lap, where he observed her toes, telling her that he liked natural toes and noting  
21 that she didn't have nail polish, before sucking the big toe of her right foot. (Id.). The male  
22 then placed Maricella's feet on his penis, in an inward position. (GJT, Vol. II, p. 16). The male  
23 began moving Maricella's feet up and down against his penis. (GJT, Vol. II, p. 17). Maricella  
24 testified that the Defendant had her change positions so that she was facing the driver's side  
25 window, on her hands and knees, with her feet still on the male's lap. (GJT, p. 18). The male  
26 grabbed her feet and moved them up and down on his penis. (GJT, Vol. II, p. 19). The male  
27 instructed Maricella to turn around and face him and to move her feet up and down on his  
28 penis and not to stop. (Id.).

1 At some point kids and adults begin to walk by and the male took the gun back out and  
2 instructed Maricella to drive off of the parking lot. (GJT, Vol. II, p. 20). Maricella drove to a  
3 small apartment complex down the street from UNLV. (Id.). The male instructed Maricella  
4 to park all the way in the back by the dumpsters. (Id.). The male then told Maricella to continue  
5 what she had been doing, rubbing her feet up and down on his penis, while facing him. (GJT,  
6 Vol. II, p. 21). The male instructed Maricella to shift into the position where her back was  
7 toward him and she continued to rub his penis with her feet. (GJT, Vol. II, p. 22). The male  
8 asked Maricella for her phone because he wanted to record what he was doing. (Id.). Maricella  
9 was afraid that the male would hurt her if she didn't comply and she gave him her phone. (Id.).

10 The male recorded the incident and ejaculated into Maricella's feet after placing them  
11 in a bowl like position. (GJT, Vol. II, pp. 23-24). The male asked Maricella if she wanted to  
12 give him a blow job and she told him that she did not know how. (GJT, Vol. II, p. 25). The  
13 male told Maricella that he could teach her, but then he observed that she didn't really want to  
14 and didn't push it. (Id.).

15 Maricella testified that the male used napkins from a compartment in her car to wipe  
16 off her feet and her car seat. (GJT, Vol. II, p. 26). The male then threw the napkins out window.  
17 (Id.). The male instructed Maricella to put her shoes and socks back on and take him to the  
18 mountain on Fort Apache. (Id.). Maricella opened her car door a bit to put her shoes and socks  
19 back on and the male took the gun back out and put it on his left thigh. (GJT, Vol. II, p. 27).  
20 Maricella snatched the gun and pointed it at the male and told him to get out of her car. (GJT,  
21 Vol. II, p. 28). The male looked scared and grabbed his backpack telling her to give him the  
22 gun back. (Id.). Maricella screamed "No". (Id.). Maricella's phone fell from the male's  
23 pocket onto the car seat he had been sitting in, at which time she picked it up and tried to take  
24 a picture of him. (Id.). Maricella was shaking so bad the camera wouldn't focus and she called  
25 the police. (Id.).

26 While she was on the phone with the police, Maricella was chasing after the male, who  
27 was running away and got away. (GJT, Vol. II, p. 29). Maricella was able to flag down a police  
28 car by waving the gun in the air. (GJT, Vol. II, p. 30). As soon as they stepped out of the car,

1 Maricella threw the gun on the floor. (Id.). Later, while at UMC to undergo a sexual assault  
2 examination, Maricella gave detectives access to her phone and provided a voluntary  
3 statement. (Id.). The following day, Maricella met with a police detective who provided her  
4 with a photo-line-up of potential suspects and she was able to identify Defendant as the person  
5 who was in her car. (GJT, Vol. II, pp. 31-32).

6 **The Grand Jury Testimony of Kaylee Edwards Pertinent to this Motion**

7 Kaylee testified that she was 19 years old and her birthday is in June of 1999. (GJT,  
8 Vol. III, p. 7). Kaylee further testified that she was a student at UNLV studying mechanical  
9 engineering. (Id.). On October 13, 2017, Kaylee was sitting outside the Honors College  
10 building waiting for her cousin to text her about a choir performance at Ham Hall. (GJT, Vol.  
11 III, p. 8). It was starting to get dark outside and Kaylee was sitting at a table outside the  
12 building. (Id.). Kaylee was approached by an African American male who had dark curly hair  
13 that was blond on the ends. (GJT, Vol. III, p. 9).

14 Kaylee was wearing a Foothill High School shirt and the male commented, “Oh  
15 Foothill. I went to Foothill too. What a coincidence.” (GJT, Vol. III, p. 10). The male stated  
16 that he was a reflexology major and had a school project that involved interviewing people  
17 about their feet but he was having trouble getting people to volunteer for his survey. (Id.). The  
18 male began by asking Kaylee some questions about her feet but then asked her to take her  
19 shoes off which made her feel uneasy. (GJT, Vol. III, pp. 10-11). Kaylee complied and the  
20 male asked her to put her feet on his lap so that he could check them, which made her feel  
21 weird. (Id., at p. 11). Kaylee testified that her socks were on at that point. (Id.).

22 The male asked Kaylee to take her socks off and she agreed, although she really didn’t  
23 want to. (Id.). The male asked Kaylee if she had ever heard of something called the “scent  
24 test” and she said no. (GJT, Vol. III, p. 12). The male stated that he needed to smell Kaylee  
25 feet for that and he did so. (Id.). The male stated that he had to try something called the taste  
26 test, and put both of her big toes in his mouth, separately. (Id.) Kaylee mentioned that it wasn’t  
27 sanitary for him to be doing that stuff and he told her that he would just brush his teeth later  
28 and that he didn’t want to be doing that stuff any more than she did. (GJT, Vol. III, p. 13).

1 The male asked Kaylee if she had ever heard of people that had a foot fetish and she  
2 said that she had heard of it. (Id., at p. 13). The male asked how Kaylee felt about it and she  
3 indicated that it was their lives and their choice. (Id.). Kaylee testified that she was feeling  
4 very uncomfortable after the male put her toes in his mouth. (Id.). Kaylee was on her computer  
5 while speaking to this male and sent texts to two of her friends and her mom asking them to  
6 call her so that she could walk away from the situation. (GJT, Vol. III, p. 14). Kaylee pulled  
7 her phone out to check it and make sure the texts she sent from the computer went through  
8 and the male said “Oh, you don’t need to call the police”. Kaylee’s sister called her at which  
9 time she told the male that she had to take the phone call and walked away. (GJT, Vol. III, p.  
10 15). Shortly thereafter, Kaylee, her sister, and her mother went to the campus police and filled  
11 out a report. (Id.).

12 On October 21, 2017, Kaylee was later shown a series of photographs by law  
13 enforcement and asked if she could potentially identify anyone. (GJT, Vol. III, pp. 16-17).  
14 Kaylee did choose an individual from the line-up, who looked most like the person she  
15 encountered. (Id., at p. 17).

16 **The Grand Jury Testimony of Alexandra (Sasha) Tsvitenok**

17 **Pertinent to this Motion**

18 Alexandra testified that she goes by the nickname Sasha. (GJT, Vol. III, p. 20). Sasha  
19 further testified that she was 19 years old and attended school at UNLV. (Id.). Sasha testified  
20 that she as going to be a sophomore and her major was Hospitality. (GJT, Vol. III, pp. 20-21).  
21 Sasha testified that on October 7, 2017, at approximately 3:00 a.m., she was walking from the  
22 Tonopah dorm to the South Complex dorm when she spotted a guy standing by the building.  
23 (Id., at p. 21). The male was black, in his 20’s and had blond dreads. (Id.). Sasha described  
24 the dreads as two toned, black with blond ends. (GJT, Vol. III, p. 22). Sasha observed the  
25 male to be wearing a black hoodie with pants. (Id.). As Sasha walked past the male he did not  
26 say anything but as she continued walking he ran up to her and grabbed her, putting a knife to  
27 her throat. (Id.). With the knife to her throat, the male asked Sasha for her car keys. (Id.).

28 //

1 Sasha described the knife as just a regular knife and testified that she could feel the  
2 blade against her skin when he put it there. (GJT, Vol. III, p. 23). Sasha testified that she feared  
3 for her life and thought she was going to die. (Id.). Sasha testified that she told the male that  
4 she didn't have a car key and described him as being agitated and scared. (GJT, Vol. III, p.  
5 24). Sasha could feel that he was trembling. (Id.). The male forced Sasha to walk a little bit  
6 and then forced her down because she tried to run away. (GJT, Vol. III, p. 25). The male told  
7 her that his baby had just died and he just wanted to get away from everything and he was  
8 upset. (Id.). The male was holding the knife to Sasha's stomach as she sat on the ground. (Id.).  
9 Sasha was scared and crying at that point. (GJT, Vol. III, p. 26).

10 Sasha spotted a person walking and turned her head toward them, at which time the  
11 male spotted the person too, and made Sasha get up and walk away. (Id., at p. 26). The male  
12 asked Sasha where she was staying and she showed him the building and he walked her to it.  
13 (Id.). The male was holding the knife to Sasha's ribs as they walked away. (Id.). The male  
14 was apologizing to Sasha as they were walking. (GJT, Vol. III, p. 27). As they were  
15 approaching the building the male told Sasha to stay safe and turned and ran away, while Sasha  
16 ran into the building. (Id.). Sasha called the police and reported the incident that same day.  
17 (GJT, Vol. III, p. 28).

18 On October 26, 2017, Sasha was shown a series of photographs by law enforcement  
19 and was able to identify a photograph of the person she thought was the male that she  
20 encountered. (GJT, Vol. III, pp. 28-30).

21 **STATEMENT OF FACTS PERTINENT TO DEFENDANT'S OTHER ACTS**

22 ***Shaimaa Abdelhaleem***

23 On October 14, 2017, UNLV Police Officer R. Ljunquist responded to the Student  
24 Union at UNLV where he met with Shaimaa Abdelhalee. Shaimaa indicated that she had been  
25 walking from the Starbucks on Maryland Parkway toward her Office at the Technology  
26 Building. Shaimaa indicated that she walked across the street at Maryland Parkway and  
27 University Road and then walked between the Student Union and Beam Hall towards Wright  
28 Hall. Shaimaa further indicated that she walked between Wright B and C towards the Barrick

1 Museum through the garden area. Just after Shaimaa walked over the small bridge next to the  
2 museum an unknown black male grabbed her from behind and pulled her towards the shadows  
3 approximately 30 feet from the east doors of the Barrick Museum. Shaimaa was attempting  
4 to scream but the male put his hand over her mouth to keep her from screaming.

5 The male had Shaimaa sit down on the bench wall, took her keys, and told her to give  
6 him her money and her phone. Shaimaa gave the male fourteen dollars. The male took off  
7 Shaimaa's shoes and began talking about his love for feet. Shaimaa began speaking to the  
8 male in an effort to try to be friendly with him and told him that she needed money to take the  
9 bus home, so the male gave her two dollars back. Shaimaa stated that she received a small cut  
10 on her hand, which she received while the unknown male was covering her mouth and nose  
11 with his hand in attempt to stop her from screaming, which was bleeding slightly. Shaimaa  
12 noticed that the unknown male was also bleeding as they sat on the bench wall.

13 After approximately ten minutes, Shaimaa was able to put her shoes back on and the  
14 male walked her toward the Computing Services Building. Shaimaa gave the male a plastic  
15 package of wipes to clean the blood of his hands. The male told Shaimaa his name was "Juan"  
16 and he was expecting a baby girl with his girlfriend, who he lived with. When they reached  
17 the inner campus area between Wright Hall and The Moot Court Building the unknown male  
18 began feeling faint and fell to the ground, telling Shaimaa that he couldn't walk anymore.  
19 Shaimaa used that opportunity to run to the Student Union for help and the police were  
20 notified.

21 Shaimaa willingly walked Officer Ljunquist back through the path she and the  
22 unknown male walked. When they arrived at where the unknown male had fallen to the  
23 ground Shaimaa pointed out the plastic package of wipes that were on the ground. Office  
24 Ljunquist took photos and then placed the package into an evidence bag. When they walked  
25 to area where the wall bench was located, Officer Ljunquist observed blood on the wall and  
26 the ground. LVMPD Crime Scene Investigator T. Paine was dispatched to process the scene.  
27 In addition to the DNA evidence, Defendant was observed in the area where the crimes  
28 occurred on campus video cameras.

1           ***Jacob Weidner***

2           On August 4, 2012 Wichita Kansas Police were contacted to investigate an incident  
3 that occurred at Riverside Academy, located at 2050 W. 11<sup>th</sup>, Wichita, Kansas. The reporting  
4 victim, Jacob Weidner, then age 15, stated that his roommate, Juhjuan Washington  
5 (Defendant), then age 16, gave him some pornographic materials and stated that he was going  
6 to the staff to get him in trouble, unless Jacob provided certain sexual favors to Defendant.  
7 Jacob further stated that he was being blackmailed and was worried about getting a write-up  
8 and a charge if he did not comply with Defendant's demands. Defendant told Jacob if he  
9 cooperated he would give him some phone numbers for prostitutes and strippers in Las Vegas,  
10 Nevada.

11           Defendant described being under the blanket with his feet sticking out the end of the  
12 blanket when Defendant began rubbing his erect penis between Jacob's toes and feet.  
13 Defendant then forced Jacob to rub his erect penis with his hand. Jacob described Defendant's  
14 penis as being hard and thick. Defendant told Jacob if he didn't continue to cooperate he would  
15 report him to the staff. Defendant instructed Jacob to get on his hands and knees at which time  
16 Defendant pulled down Jacob's pants and inserted his erect penis into Jacob's butt cheeks,  
17 which caused Jacob pain. Defendant asked Jacob, "Do you like that?" and Jacob replied "No".  
18 Defendant stopped what he was doing and went back to rubbing his penis on Jacob's feet until  
19 he ejaculated on Jacob's feet. Defendant told Jacob to lick it, which he did, before wiping the  
20 rest of it off with his sheet. Defendant told Jacob to keep it a secret.

21           On August 5, 2012, Officer Huff spoke to Tyler, then age 17, who was in the room  
22 when the incident occurred. Tyler indicated that he observed Defendant rubbing his penis  
23 against Jacob's foot. Tyler looked away for a while and when he looked back over, Jacob had  
24 moved his foot to the ground and Defendant stopped what he was doing. Tyler stated that he  
25 did not see anything else.

26           On August 5, 2012, Officer Huff also spoke to Matthew Beagle, then age 14, who was  
27 another one of Jacob's roommates. Matthew stated that he was asleep the night of the incident  
28 but he did overhear Jacob telling Tyler that Defendant bribed him over sex pictures. Matthew

1 explained that he heard the incident involved Jacob having his clothes off and being raped.

2 On August 14, 2012, Defendant, was taken to EMCU, by his therapist from Riverside  
3 Academy, Sherry Medina. Defendant was advised of his rights by Detective Slaughter and  
4 Defendant invoked, at which time no questioning occurred. Later that same day, Defendant  
5 contacted Detective Slaughter and stated that he wanted to speak to him without a lawyer.  
6 Defendant was re-advised of his Miranda Warnings, stated her understood them and agreed to  
7 speak with Detective Slaughter. Defendant admitted that sometime in February he asked  
8 Jacob if he could jack off on his feet. Jacob told him no but Defendant took his penis out of  
9 his pants anyway and tapped it on Jacob's foot without his permission. Defendant told Jacob  
10 not to tell anyone.

11 Most recently, on August 4, 2012, Defendant provided pornographic pictures to Jacob  
12 and told him that he was going to report him if he didn't let him jack off on his feet. Defendant  
13 stated that he could tell Jacob was afraid because his eyes got really big. Defendant stated that  
14 he did "jack off" on Jacob's feet until he ejaculated. Defendant stated that he told Jacob to  
15 lick the "cum" off of his feet and Jacob complied. Defendant stated that Jacob wanted to do  
16 the other things so Defendant put his penis between Jacob's butt cheeks and let Jacob jack him  
17 off with his hand. Defendant signed a letter of apology to Jacob.

18 On April 3, 2013, Defendant entered a plea of No Contest to the crime of Aggravated  
19 Indecent Liberties.

20 ***Demia Edington***

21 On September 11, 2011, LVMPD Patrol Officers were dispatched to Mojave High  
22 School, located at 5302 Goldfield, reference a sexual assault that occurred off of the school  
23 campus. Upon arrival, Officer M. Gipson met with Demia Edington, then age 15, who had a  
24 bandage covering her left hand. Officer Gipson further observed that Demia appeared to have  
25 some type of learning disability because she was laughing and smiling and then she would  
26 start to cry. Officer Gipson was advised by Demia's counselor from Mojave High School that  
27 Demia had the mentality of a sixth grader.

28 //

1 Demia stated that on Sunday, September 4, 2011, a person she knows as “Jay” was  
2 calling her name. Demia was walking and “Jay” continued to call her name. Demia stated that  
3 she turned around and told “Jay” that she was going to a friend’s house to go to the bathroom.  
4 Demia stated that “Jay” told her to walk with him to the Mojave gate. “Jay Jay” took Demia  
5 by a house and he had a metal pole. He told Demia, “Suck my dick bitch” at which time Demia  
6 tried to run. “Jay Jay” hit Demia in the hand with the metal bar causing a cut to her hand.  
7 Demia agreed to have oral sex with “Jay Jay” if he didn’t hit her again, and he stated, “Suck  
8 my dick or I will hit you again.” Demia stated that “Jay Jay” pulled out his penis and had her  
9 suck on it. “Jay Jay” then told her to pull down her pants which she didn’t want to do, but she  
10 was afraid that he would hit her again. “Jay Jay” put his penis inside Demia’s vagina and had  
11 sex with her. When he was finished, he told her that she would have to tell everyone that a dog  
12 bit her on the hand or he would kill her.

13 Demia stated that she told her mom the dog story, but yesterday she began to feel upset  
14 about what happened with “Jay Jay” and she told her mother what really happened.

15 Officer Gipson spoke to Demia’s mother, Marcella Woods, who told him that Demia  
16 had a learning disability and is very trusting. Marcella stated that Demia told her older sister,  
17 Semia, that “Jay Jay” made her perform oral sex on him. Semia convinced Demia to tell their  
18 mother. Marcella further indicated that she did not call the police the previous night when she  
19 found out because she wanted to go to Mojave High School and find out what “Jay Jay’s real  
20 name was first. The school dean advised Marcella that “Jay Jay’s” name was Juhjuan  
21 Washington. After speaking with the dean, the school contacted the police.

22 Officer Gipson met with Defendant, then age 15, at the school, in one of the Dean’s  
23 office. Defendant was provided his juvenile Miranda Warnings and stated that he understood  
24 but wanted one of his parent’s present prior to answering any questions. Defendant’s mother,  
25 Denise Townsend was called and a short time later she and her husband, Michael Jones  
26 arrived. Defendant admitted to engaging in sex with Demia, by force, stating that she did not  
27 want to have sex with him and he forced her to. Defendant further asked if he could tell Demia  
28 that he was sorry. Defendant was arrested and transported to the Clark County Juvenile Hall

1 on charges of sexual assault and battery with intent to commit sexual assault.

2 **STATEMENT OF THE CASE RELEVANT TO THIS MOTION**

3 On September 28, 2018, the State filed a Notice of Motion and Motion to Admit  
4 Evidence of Other Crimes, Wrongs or Acts in this matter.

5 On October 24, 2018, Defendant filed an Opposition to the State’s Notice of Motion  
6 and Motion to Admit Evidence of Other Crimes, Wrongs or Acts.

7 On December 7, 2018, at the time set for hearing of the State’s Motion to Admit  
8 Evidence of Other Crimes, Wrongs or Acts, the Court ordered State’s Motion granted in part  
9 and denied in part. The motion was granted as to an evidentiary hearing for the incidents  
10 taking place on August 4, 2012, involving victim Shaimaa Abdelhaleem; and, the October 14,  
11 2017, involving victim Jacob Weidner. However, the motion was denied as to the September  
12 11, 2011 incident involving victim Demia Edington, with the Court finding that the admission  
13 of said evidence would be more prejudicial than probative.

14 On January 3, 2019, the Nevada Supreme Court issued its opinion in Franks v. State,  
15 135 Nev.Adv.Op 1 (January 3, 2019), a copy of which is attached hereto as State’s Exhibit  
16 “1” for this Court’s review.

17 Based upon the Nevada Supreme Court’s ruling in Franks, *supra*, the State herein files  
18 its Renewed Notice of Motion and Motion to Admit Evidence of Separate Sexual Offense for  
19 Propensity Purpose as it relates to Defendant’s uncharged conduct of sexually assault Demia  
20 Edington, a minor under the age of 16.

21 **LEGAL ARGUMENT**

22 **I. PURSUANT TO NRS 48.045(3), EVIDENCE OF DEFENDANT’S OTHER**  
23 **SEXUAL OFFENSES IS ADMISSIBLE TO SHOW DEFENDANT’S**  
24 **PROPENSITY TO COMMIT SEXUAL OFFENSES**

NRS 48.045(3), as amended and effective as of October 1, 2015, provides:

3. Nothing in this section shall be construed to prohibit the admission  
of evidence in a criminal prosecution for a sexual offense that a person  
committed another crime, wrong or act that constitutes a separate  
sexual offense. As used in this subsection, “sexual offense” has the  
meaning ascribed to it in NRS 179D.097.”

28 //

1 Further, NRS 179D.097 defines “sexual offense” as follows:

2 1. “Sexual offense” means any of the following offenses:

3 (b) Sexual assault pursuant to NRS 200.366.

4 . . .

5 (d) Battery with intent to commit sexual assault pursuant to subsection  
6 4 of NRS 200.400.

7 . . .

8 (g) Abuse of a child pursuant to NRS 200.508, if the abuse involved  
9 sexual abuse or sexual exploitation.

10 . . .

11 (j) Open or gross lewdness pursuant to NRS 201.210.

12 . . .

13 (l) Lewdness with a child pursuant to NRS 201.230.

14 . . .

15 (r) Any other offense that has an element involving a sexual act or  
16 sexual conduct with another.

17 (s) An attempt or conspiracy to commit an offense listed in paragraphs  
18 (a) to (r), inclusive . . .”

19 In Franks v. State, *supra*, the Nevada Supreme Court held:

20 We conclude that the plain language of NRS 48.045(3) permits the  
21 district court to admit evidence of a separate sexual offense for  
22 purposes of proving propensity in a sexual offense prosecution.

23 The Court further noted that no Petrocelli hearing is necessary, as sexual offenses are  
24 excluded from the requirements of NRS 48.045(1) and (2). The Court then set forth a three-  
25 part analysis for district court’s to adhere to when determining whether evidence is admissible  
26 under NRS 48.045(3):

27 Therefore, prior to its admission under NRS 48.045(3), the district  
28 court must determine that the prior bad sexual act is (1) relevant to the  
crime charged, (2) proven by a preponderance of the evidence, and (3)  
weighed to determine that its probative value is not substantially  
outweighed by the danger of unfair prejudice as articulated by United  
States v. LeMay, 260 F.3d 1018, 1027-28 (9th Cir. 2001).

29 **1. Relevant to the crime charged.**

30 In determining whether the evidence is relevant to the crime(s) charged, the Court  
31 stated:

1 First, similar to the Petrocelli framework, we conclude that the State  
2 must request the district court's permission to introduce the evidence  
3 of the prior sexual offense for propensity purposes outside the  
4 presence of the jury. See Bigpond, 128 Nev. at 117, 270 P.3d at 1250.  
5 The State must then proffer its explanation of how the prior sexual  
6 offense is relevant to the charged offense, i.e., tends to make it more  
7 probable that the defendant engaged in the charged conduct. See NRS  
8 48.015.

9 Evidence that this Defendant sexually assaulting Demia Edington in September 2011,  
10 by inserting his penis into her vagina; and, placing his penis into her mouth, are offenses that  
11 fall squarely within the definition of “sexual offense” under NRS 179D.097. Here,  
12 Defendant’s prior acts of sexually assaulting Demia are extremely relevant because it shows  
13 his propensity to sexually assault the victims in this case, making it more probable that he  
14 engaged in the charged conduct.

15 **2. Proven by a preponderance of the evidence.**

16 Regarding the burden the State must meet in order to admit the evidence, the Court  
17 stated:

18 ... prior to the admission of prior sexual offense evidence for  
19 propensity purposes under NRS 48.045(3), the district court must  
20 make a preliminary finding that the prior sexual offense is relevant for  
21 propensity purposes, and that a jury could reasonably find by a  
22 preponderance of the evidence that the bad act constituting a sexual  
23 offense occurred.

24 The Court found that the victim’s testimony alone in Franks was sufficient to meet this  
25 burden, citing Keeney v. State, 109 Nev. 220, 229 (1993) (holding that even a higher burden,  
26 clear and convincing evidence, can be provided by a victim's testimony alone). Here, Demia  
27 will be made available to testify regarding Defendant’s prior crimes; evidence will also be  
28 presented that Defendant himself admitted to using force and sexually assaulting Demia  
against her will. This far surpasses the preponderance of the evidence standard required by  
our Supreme Court.

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1           **3. Weighed to determine that its probative value is not substantially outweighed**  
2           **by the danger of unfair prejudice.**

3           Finally, the Supreme Court noted that the district court must conduct a weighing  
4 analysis to determine whether the evidence’s probative value is *substantially* outweighed by  
5 the risk of unfair prejudice. In conducting this analysis, the Court requires that the factors set  
6 forth in United States v. LeMay, 260 F.3d 1018, 1027-28 (9th Cir. 2001) be addressed: (1) the  
7 similarity of the prior acts to the acts charged, (2) the closeness in time of the prior acts to the  
8 acts charged, (3) the frequency of the prior acts, (4) the presence or lack of intervening  
9 circumstances, and (5) the necessity of the evidence beyond the testimonies already offered at  
10 trial.

11           **4. The Similarity of the Prior Acts Charged**

12           In Franks, the court noted that the prior acts and the act for which Franks was charged  
13 were identical, thus weighing in favor of the probative value of the evidence. Likewise, in this  
14 case Defendant’s prior acts involving Demia are deviant and involve his use of force in  
15 facilitating his sexual assault of her, just as he used force and/or threat of harm to facilitate the  
16 crimes for which his is charged in this case. Thus, the probative value of the evidence is  
17 extremely high.

18           **5. The Closeness in Time of the Prior Acts to the Acts Charged**

19           In Franks, the victim could not testify as to the exact dates when the prior sexual offense  
20 acts occurred. The Court did not take issue with this fact, citing LeMay (reasoning that the  
21 lapse of *12 years* between trial and the prior sexual offenses did not render admission of  
22 relevant evidence of the similar prior acts an abuse of discretion). Here, approximately six  
23 years separate Defendant’s crimes against Demia and the crimes he subsequently committed  
24 against the victim s in this case. However, Defendant was sent to the facility in Wichita Kansas  
25 in 2012, where he sexually abused Jacob Weidner and was convicted of Aggravated Indecent  
26 Liberties; all of which occurred in less than a year after he sexually assaulted Demia. If  
27 anything, the short lapse in time between Demia and Jacob and the victim in this case, coupled  
28 with the increase in number of victims and Defendant’s escalation in the time frame that he

1 committed the instant crimes clearly illustrates this Defendant's propensity to act out sexually  
2 against others, whenever and wherever the opportunity arises, all of which weighs heavily in  
3 favor of the probative value of the evidence.

#### 4 **6. The Frequency of the Prior Acts**

5 This particular factor was not addressed by Franks, and the application of the factor as  
6 set forth in LeMay likewise received little analysis:

7 The "frequency of events" factor discussed in Glanzer also cuts in  
8 favor of the government. Although it was not introduced at trial, the  
9 government also had evidence of a third incident in which LeMay had  
10 sexually abused his young relatives. True, this incident occurred even  
11 before the 1989 abuse of his cousins when LeMay himself was  
extremely young, and, as the prosecutor noted, was "triple hearsay."  
However, that there was evidence of a third similar incident suggests  
that LeMay's abuse of his cousins in 1989 was not an isolated  
occurrence.

12 LeMay at 1029. Here, the "frequency of events" factor appears to weigh in favor of the  
13 probative value of the evidence.

#### 14 **7. The Presence or Lack of Intervening Circumstances**

15 The Franks Court noted that there were no "intervening circumstances that would alter  
16 the balance of the acts probative value and risk of unfair prejudice." Likewise, there are no  
17 intervening circumstances in the instant case that would alter this analysis.

#### 18 **8. The Necessity of the Evidence beyond the Testimonies Already Offered at Trial**

19 In Franks, the Court addressed this factor as follows:

20 Lastly, while evidence regarding the prior bad acts may not have been  
21 necessary to establish the State's case, the "evidence need not be  
22 absolutely necessary to the prosecution's case in order to be  
introduced; it must simply be helpful or practically necessary."

23 This analysis also applies to the instant case. While the evidence of Defendant's prior  
24 conduct may or may not be absolutely necessary, it is certainly helpful to the State's case.  
25 Additionally, it is "practically necessary" in the sense that the State must prove to 12 people  
26 beyond a reasonable doubt that Defendant is capable of the acts alleged. The probative value  
27 of the fact Defendant previously sexually abused a fifteen year old girl, with the use of force  
28 and threats of harm a few years earlier is enormous, and cannot be said to be *substantially*

1 outweighed by the risk of unfair prejudice.

2 Our Supreme Court has now made it clear that NRS 48.045(3) clearly indicates the  
3 legislature's intent to allow admission of the type of evidence the State seeks to admit in this  
4 case *for propensity purposes*. When the trial court in this case made its previous ruling on this  
5 issue, it was without the benefit or guidance of the recent Supreme Court opinion in Franks.  
6 Additionally, in its Order this Court found "that the probative value of admission of the other  
7 sexual acts is outweighed by the prejudicial nature of the admission of the other sexual acts."  
8 However, the standard is not merely that the prejudice outweigh the probative value, the  
9 prejudice has to *substantially* outweigh the probative value of the evidence.

10 As the 9th Circuit stated in United States v. Mahler, "evidence relevant to a defendant's  
11 motive is not rendered inadmissible because it is of a highly prejudicial nature. . . . The best  
12 evidence often is." 452 F.2d 547 (9th Cir. 1971), cert. denied, 405 U.S. 1069, 92 S. Ct. 1517,  
13 31 L. Ed. 2d 801 (1972). Thus, evidence of Defendant's prior sexual offenses involving Demia  
14 Edington should be admitted in this case for propensity purposes.

### 15 CONCLUSION

16 Based upon the above, the State herein requests this Court to reconsider admission of  
17 evidence involving Defendant's sexual abuse of Demia Edington in light of the Supreme  
18 Court's recent opinion in Franks, *supra*; and, permit the State to admit evidence of Defendant  
19 prior sexual abuse of Demia as propensity evidence. In the alternative, the State respectfully  
20 requests that this Court set forth the legal analysis required under LeMay, *supra*, as to why the  
21 prejudice of this evidence substantially outweighs any probative value.

22 DATED this 25th day of January, 2018.

23 STEVEN B. WOLFSON  
24 Clark County District Attorney  
Nevada Bar #001565

25 BY /s/ JAMES R. SWEETIN  
26 JAMES R. SWEETIN  
27 Chief Deputy District Attorney  
28 Nevada Bar #005144

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**CERTIFICATE OF SERVICE**

I hereby certify that service of the above and foregoing was made this 25th day of  
JANUARY, 2019, to:

THOMAS BOLEY, ESQ.  
tboley@bandafirm.com

BY /s/ HOWARD CONRAD  
Secretary for the District Attorney's Office  
Special Victims Unit

hjc/SVU



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

9 THE STATE OF NEVADA,  
10  
11 Plaintiff,  
12  
13 vs.  
14 JUHJUAN WASHINGTON  
15 #8124794  
16 Defendant.

CASE NO: C-18-333798-1  
DEPT NO: IX  
Hearing Date \_\_\_\_\_  
Hearing Time \_\_\_\_\_

16 **OPPOSITION TO RENEWED MOTION TO ADMIT EVIDENCE OF OTHER CRIMES,**  
17 **WRONGS, OR ACTS**

18 Defendant, JUHJUAN WASHINGTON, by and through his counsel, THOMAS D.  
19 BOLEY, ESQ., hereby opposes the State of Nevada's Renewed Motion to Admit Evidence of  
20 Other Crimes, Wrongs, or Acts.

21 This Opposition is made and based upon all the papers and pleadings on file herein, the  
22 attached Declaration of Counsel and Memorandum of Points and Authorities, and oral argument  
23 at the time set for hearing this Motion.

24 DATED this 26th day of February, 2019.

25 RESPECTFULLY SUBMITTED

26  
27   
28 THOMAS D. BOLEY, Esq.  
Nevada Bar #11061

**DECLARATION**

THOMAS D. BOLEY, ESQ. makes the following declaration:

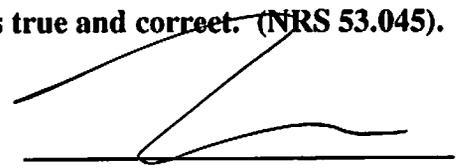
1. I am an attorney licensed to practice law in the State of Nevada, appointed by this Court to represent Defendant JUHJUAN WASHINGTON, in the present matter;

2. I make this Declaration in support of Defendant's Opposition to the State's Renewed Motion to Admit Evidence of Other Crimes, Wrongs, or Acts;

3. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

**I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).**

EXECUTED this 26<sup>th</sup> day of February, 2019.



Thomas D. Boley, Esq.

**POINTS AND AUTHORITIES – PROCEDURAL HISTORY**

Defendant, Juh'Juan Washington, has been indicted on several charges surrounding the sexual attacks of Kaylee Edwards, Alexandra Tsvitenok, Ashley Wright and Maricella Mojaddidi-Brambila. The State is seeking to admit evidence surrounding several past incidents, specifically laid out in the State's Motion. The incidents involve three other victims outside of the facts alleged in the indictment.

The State previously filed a motion to include a myriad of past bad acts. The State received a ruling on those points. Unfortunately for the State, the sexual assault of Demia Edington.

**POINTS AND AUTHORITIES – LEGAL ARGUMENT**

1  
2 Evidence offered at trial must satisfy two preliminary requirements. First, the evidence  
3 must be relevant to the issue at hand and second, the proposed evidence must be more probative  
4 than prejudicial. NRS 48.015 defines relevance as having a tendency “to make the existence of  
5 any fact that is of consequence...more of less probable than it would be without the evidence.”  
6 Relevant, in this matter, would be any evidence that would suggest that the Defendant was the  
7 perpetrator that harmed the alleged victims or any evidence that could be used to impeach the  
8 defendant. *Weakland v. State*, 96 Nev. 699 (1980). NRS 48.035 lays out the balancing test which  
9 must be applied to consideration of prior bad acts.  
10

- 11           1. Although relevant, evidence is not admissible if its probative value is substantially  
12           outweighed by the danger of unfair prejudice, of confusion of the issues or of  
13           misleading the jury.

14           Sexual offenses provide a specific challenge when it comes to consideration of  
15           credibility, as the State clearly described in their Motion. That being said, the State is attempting  
16           to stretch the balancing test of probative value versus prejudice to its absolute limit in pursuit of  
17           a conviction. In this case, the balancing test is very important because it determines what prior  
18           bad acts may be heard by a jury and still be considered non-character evidence.  
19

20           In 1994, Rules 413 and 414 of the Federal Rules of Evidence were passed. Many States  
21           later mirrored those rules, which led us to the passage of NRS 48.045(3), cited by the State,  
22           which allows separate sexual offenses to be admitted. According to Prof. Michael Smith of  
23           UCLA’s School of Law, this is a grey area between character and pattern called “propensity.”  
24           *Prior Sexual Misconduct Evidence in State Courts: Constitutional and Common Law*  
25           *Challenges*, *American Criminal Law Review* 52, 321, 327 (2014).  
26  
27  
28

1           Needless to say, there are Constitutional disagreements about whether or not this type of  
2 “propensity” evidence can be admitted to prove the likelihood of guilt in a separate sexual  
3 offense. In *State v. Cox*, the Supreme Court of Iowa declared that propensity evidence was a  
4 violation of due process directly, and struck down a similar law that allowed such evidence under  
5 the due process clause of the Iowa constitution. 781 N.W.2d 757, 768 (Iowa, 2010). The State of  
6 Missouri held similarly. “[e]vidence of uncharged crimes, when not properly related to the cause  
7 of trial, violates a defendant’s right to be tried for the offense for which he is indicted.” *State v.*  
8 *Gilyard* 979 S.W.2d 138 (Mo. 1998). That language was later cited to strike down the Missouri  
9 law in *State v. Ellison* 239 S.W.3d 603, 608-08 (Mo. 2007).

11           But the beauty of the law in the State of Nevada is that Defendant does not need to ask  
12 this Honorable Court to strike down any law. There is clearly a balancing test provided by  
13 statute, which mirrors the Federal Rules of Evidence. All that this respondent must do is show  
14 that the probative value is substantially outweighed by the danger of unfair prejudice. NRS  
15 48.035(1).

17           **THE STATE HAS FAILED TO SHOW THE SPECIFIC NEED TO ADMIT THE**  
18 **ALLEGED BAD ACTS**

19           The State, in their motion, has not shown by plain, clear and convincing evidence, that  
20 the prior bad acts are necessary to prove their case or provide any new information that would  
21 weigh on the jury. In fact, the only reason the State would bring in these prior bad acts is to show  
22 the Defendant’s propensity to commit more bad acts, which is dangerously close to character  
23 evidence. This was discussed in *Taylor v. State*, 109 Nev. 849, 853, 858 P.2d 843 (1993).

24           The state contends that the evidence was relevant to prove intent, absence of mistake,  
25 absence of accident, and appellant’s common scheme or plan. The general rule is that  
26 evidence of prior acts is inadmissible to prove character or actions in conformity  
27 therewith. The state has not explained how any of the exceptions contained in NRS  
28

1 48.045(2) specifically relate to the facts of this case. A mere recitation of the statute is not  
2 sufficient justification for the admission of prior acts.

3 Further, in *Cipriano v. State*, 11 Nev. 534, 894 P.2d 347 (1995), the court found that  
4 evidence of prior bad acts are not admissible to prove that the Defendant acted in a similar  
5 manner.

6 Evidence of a defendant's other crimes, wrongs, or bad acts is not admissible to prove  
7 that the accused acted in a similar manner for purposes of the charge at issue *Beck v.*  
8 *State*, 105 Nev. 910, 784 P.2d 983 (1989). The justification for this rule is that evidence  
9 of prior uncharged wrongs may improperly influence the jury and result in a conviction  
10 because the jury believes the accused is predisposed to crime or is a bad person.  
11 *Crawford v. State*, 107 Nev. 345, 348, 811 P.2d 67, 69 (1991)...Moreover, evidence of  
12 other bad acts is only admissible where three requirements are met: (1) the incident is  
13 relevant to the crime charged; (2) the act is proven by clear and convincing evidence; and  
14 (3) the evidence is more probative than prejudicial. *Berner v. State*, 104 Nev. 695, 697,  
15 765 P.2d 1144, 1146 (1988).

16 There is no stated reason given why this is going to help them in their case-in-chief, and  
17 that they cannot achieve the same with other evidence. They have not stated that they would be  
18 unable to prove their case without the evidence. In *United State v. LeCompte*, 99 F.3d 274 (8<sup>th</sup>  
19 Cir. 1996), the court reversed a conviction for abusive sexual conduct with a minor, holding it  
20 was error to admit evidence of the defendant's prior acts of sex abuse with minors. The trial  
21 court admitted the bad acts as evidence of "plan," but the court noted that the "victims were  
22 different, and the events were far apart in time." Absent more distinct relevant, "the bad act  
23 evidence was relevant to 'plan' only insofar as it tends to prove propensity to commit crimes  
24 which Rule 404(b) prohibits."

25 Under Rule 404(b), testimony concerning other bad acts is admissible "if it is relevant to  
26 a material issue, established by a preponderance of the evidence, more probative than  
27 prejudicial, and similar in kind and close in time." *United States v. Baker*, 82 F.3d 273,  
28 276 (8<sup>th</sup> Cir. 1996). Such evidence is not admissible "solely to prove the defendant's  
criminal disposition." *United States v. Shoffner*, 71 F.3d 1429, 1432 (8<sup>th</sup> Cir. 1995). *Id.* at  
277.

1 The government, then, bears the burden to establish that prior bad act evidence, even in a  
2 sexual case is relevant under Rule 404(b) and more probative than prejudicial. *Id.* Here, the State  
3 wants this information in front of the jury so as to inflame their emotions against the Defendant  
4 and convict him regardless of the evidence in their case-in-chief.

5 In Mr. Washington's case, the State has testimony from several victims, forensics and  
6 video evidence. The only reason that they would seek to admit these prior bad acts is to create a  
7 prejudicial lens through which the jury will view this evidence.

8  
9 **JUVENILE CONVICTIONS ARE EXTREMELY PREJUDICIAL AND SHOULD**  
10 **NOT BE ADMITTED AS EVIDENCE IN AN ADULT TRIAL**

11 American jurisprudence has drawn a line between juvenile and adult crimes, for good  
12 reason. The purpose of juvenile detention is generally seen as rehabilitation. NRS 50.095(4)  
13 renders juvenile convictions inadmissible for purposes of impeachment in a subsequent adult  
14 trial. On the surface, the spirit of juvenile crimes seems to be betrayed by the spirit of NRS  
15 48.045(3), which allows admission of prior sex crimes. But, this is not the case.

16 Both of these statutes easily operate simultaneously when you look at NRS 48.035. This  
17 statute grants this Honorable Court the power to balance probative value and unfair prejudice.  
18 All one needs to do to balance these factors is to look at the practical way in which juvenile  
19 offenses are handled right here in Clark County and contrast that with traditional concepts of  
20 crime and punishment.  
21

22 The first American juvenile courts were seen in Illinois in 1899. During the Progressive  
23 Era between 1880 and 1920, the United States began to see a rise in homeless youth. When these  
24 young men and women were arrested for crimes, they were often housed with adult offenders.  
25 This created a situation where children became conditioned by adults to essentially become  
26 better criminals. The United States took example from the English Bridewell institution, which  
27  
28

1 focused on teaching morality and trade skills. *Development of the Juvenile Justice System*,  
2 findlaw.com.

3 It was in 1944 that the US Supreme Court truly addressed the bright line between the way  
4 children and adults are treated when they stand accused. In *Prince v. Mass.*, the Court directly  
5 addressed the topic:

6  
7 The state's authority over children's activities is broader than over like actions of  
8 adults...A democratic society rests, for its continuance, upon the healthy, well-rounded  
9 growth of young people into full maturity as citizens, with all that implies. It may secure  
10 this against impeding restraints and dangers, within a broad range of selection. Among  
11 evils most appropriate for such action are the crippling effects of child employment, more  
12 especially in public places, and the possible harms arising from other activities subject to  
13 all the diverse influences of the street. It is too late now to doubt that legislation  
14 appropriately designed to reach such evils is within the state's police power, whether  
15 against the parents claim to control of the child or one that religious scruples dictate  
16 contrary action. 321 U.S. 158, 168-169 (1944).

17 The important note is the difference in philosophy between adult and juvenile criminal  
18 justice. Scholars and jurists debate the appropriate approach to criminal justice for adults and  
19 come to vastly different conclusions. But the overwhelming consensus is that juvenile criminal  
20 justice is based on a theory of rehabilitation for the child. The success of that rehabilitation is a  
21 subject for the legislature and possibly for an appellate court. The State's authority over children  
22 is much more complete than its authority over adults. Comparing juvenile and adult convictions  
23 is comparing two separate sets of laws and two separate sets of courts. It is like apples and  
24 oranges.

25 To admit a prior juvenile conviction would open a philosophical can of worms in front of  
26 a jury, who is charged with fact-finding. The State could argue or imply that Mr. Washington's  
27 rehabilitation in juvenile detention was not successful and that he is still a dangerous predator.  
28 To counter that claim, the defense would be forced to argue that Mr. Washington was possibly  
institutionalized, or even victimized, similar to the discussion in *Prince v. Mass.* This places an

1 unfair burden on the defense to philosophically defend the juvenile criminal justice system as a  
2 whole.

3 **Demia Edington**

4 This case occurred when both Washington and the victim were juveniles. Also, the cases  
5 are quite factually different. In the instant indictment, the facts surround the fact that Washington  
6 allegedly has a foot fetish. This incident involves no contact with any feet whatsoever. Its only  
7 probative value would be to show Washington's propensity towards sex crimes. And this  
8 incident serves no purpose to show a perpetual habit or common scheme with the instant case.  
9

10 That type of discussion would serve to only confuse and distract the jury from the real  
11 issues at bar, which is a finding of guilty or non-guilt regarding the indictment filed by the State  
12 of Nevada. The State seeks to admit two juvenile crimes in Mr. Washington's past. Not only are  
13 those crimes factually different than the instant case, but they are a completely separate category  
14 of crimes because he was charged and convicted through the juvenile justice system.  
15

16 **NOTHING SUBSTANTIVE HAS CHANGED SINCE JUDGE TOGLIATTI**  
17 **MADE HER RULING**

18 The State's position is that the *Franks* case relaxes the scrutiny which must be applied to  
19 prior bad acts as they are introduced into the case at bar. *Franks v. State*, 135 Nev. Adv. Op. 1, 2  
20 (2019). This three-page opinion changes very little as it is applied to this matter.  
21

22 Previously, Judge Togliatti ruled that the factual differences between the sexual assault of  
23 Demia Edington were dissimilar enough that she decided to deny the State's motion in this  
24 matter. The facts remain the same. There were previous incidents which involved sexual  
25 behavior with feet that the previous Judge found to be factually similar enough to allow  
26 admitted.  
27  
28

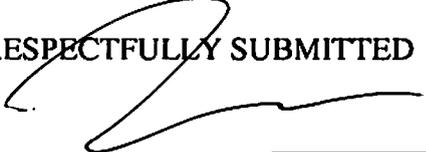
1 But no two sex crimes could be more different. Without belaboring the ugly details of  
2 these two crimes, the victims were completely different, and the acts performed or allegedly  
3 performed on the victims were completely different. The Court in *Franks* allowed a conviction to  
4 stand when it met the previous test to admit prior bad sexual acts. But one of those elements is  
5 similar facts. That was the basis for the original denial, and it is still true today.  
6

7 In the end, this is an attempt to revisit a legal ruling by the previous Judge in this matter.  
8 The State should not be able to revisit a ruling when the previous Judge applied the exact same  
9 legal factors that are applied in *Franks*, and reached a conclusion.

10 **CONCLUSION**

11 The State's Renewed Motion to Admit Prior Bad Acts should be DENIED.

12  
13 RESPECTFULLY SUBMITTED

14  
15   
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20 (702) 435-3333  
21 Attorney for Defendant  
22  
23  
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28

**NOTICE OF MOTION**

TO: CLARK COUNTY DISTRICT ATTORNEY

PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing motion on for hearing before the above-entitled Court on \_\_\_\_\_ at the hour of \_\_\_\_\_ in Dept IX, or as soon thereafter as counsel may be heard.

Dated this 26<sup>th</sup> day of February, 2018.

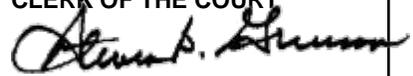
RESPECTFULLY SUBMITTED



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

10 THE STATE OF NEVADA,  
11 Plaintiff,

12 -vs-

13 **JUHJUAN WASHINGTON,**  
14 **#8124794**

15 Defendant.

CASE NO: **C-18-333798-1**

DEPT NO: **XVIII**

16 **STATE'S REPLY TO DEFENDANT'S OPPOSITION TO STATE'S RENEWED**  
17 **NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE**  
18 **OF OTHER CRIMES, WRONGS, OR ACTS**

19 DATE OF HEARING: **MARCH 12, 2019**  
20 TIME OF HEARING: **9:00 A.M.**

21 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney,  
22 through JAMES R. SWEETIN, Chief Deputy District Attorney, and hereby submits the  
23 attached Points and Authorities in this State's Reply to Defendant's Opposition to State's  
24 Renewed Notice of Motion and Motion to Admit Evidence of other Crimes, Wrongs or Acts.

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

28 //

//

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF FACTS RELEVANT TO THIS REPLY**

3 Defendant, JUHJUAN, is charged by way of Criminal Indictment with the crimes of  
4 Assault with a Deadly Weapon (Category B Felony – NRS 200.471), Attempt Robbery With  
5 Use of a Deadly Weapon (Category B Felony – NRS 200.380, 193.330, 193.165), First Degree  
6 Kidnapping With Use of a Deadly Weapon (Category A Felony – NRS 200.310, 200.320,  
7 193.165), Open or Gross Lewdness (Gross Misdemeanor – NRS 201.210), Burglary While in  
8 Possession of a Firearm (Category B Felony – NRS 207.190, 193.165), Coercion With Use of  
9 a Deadly Weapon (Category B Felony – NRS 207.190, 193.165), Robbery with Use of a  
10 Deadly Weapon (Category B Felony – NRS 200.380, 193.165), Grand Larceny Auto  
11 (Category B Felony – NRS 200.364, 200.366, 193.330), and Attempt Destruction of Evidence  
12 (Gross Misdemeanor – NRS 193.330, 199.220). The crimes were committed on or between  
13 October 13, 2017 and October 22, 2017. The victims are Alexandra Tsvitenok, Kaylee  
14 Edwards, Ashley Wright, and Maricella Mojaddidi-Brambila.

15 For the purpose of providing the Court with the most comprehensive statement of facts,  
16 the State is providing the testimony of the witnesses before the grand jury.

17 **The Grand Jury Testimony of Ashley Wright Pertinent to this Motion**

18 Ashley testified that on October 19, 2017, she was living in Las Vegas, Clark County.  
19 (Grand Jury Transcript, Vol. I, hereinafter “GJT”, p. 7). During the early morning hours of  
20 that day, Ashley was heading to work at Sutherland Global Services. (GJT, Vol. I, pp. 7-8).  
21 Ashley testified that she was also a student at the College of Southern Nevada at that time.  
22 (Id., p. 8). Ashley testified that she drove a 2010 Nissan Cube during that time with the license  
23 plate “QEEN”. (Id.).

24 Ashley described that it was typically still dark out when she went outside to go to work  
25 and while she was putting her bags in her car, she heard shuffling very close to her. (GJT, Vol.  
26 I, p. 9). Ashley stood up and turned around and there was a man standing 10 to 15 feet away.  
27 (Id.). As soon as they made eye contact the man raised his hand and there was a gun in his  
28 hand. (Id.). Ashley thought he was going to shoot her and she screamed as loudly as she could

1 and jumped on the other side of her car. (Id.). The gun appeared to be silver or metallic in  
2 color and looked to be a semi-automatic. (GJT, Vol. I, pp. 10-11).

3 While she was on the other side of the car, Ashley didn't hear anything so she opened  
4 her eyes to peer over to the other side, when she noticed the man was standing right in front  
5 of her. (Id., p. 12). Ashley gave the man her keys and told him to take the car and whatever  
6 he wanted inside of it. (Id.). Ashley described the man as a black male. The man asked her,  
7 "Did you think that I was going to shoot you?" He further stated that he wasn't going to shoot  
8 her and that he needed a ride to the hospital because he had just been kicked out of his house  
9 and that he got raped. (Id.). Ashley thought the man seemed a little off. (Id.). Ashley testified  
10 that her Nissan Cube cost between 28 and 30 thousand dollars. (GJT, Vol. I, p. 13).

11 Ashley told the man that he didn't need to pull a gun out if all he needed was a ride to  
12 the hospital. (Id. at p. 13). The man asked her again about going to the hospital and she agreed  
13 to take him to the hospital. (Id.). Ashley told the man that if someone refuses to take him to  
14 the hospital when he asked, he should ask the next person, without pulling a gun out on them.  
15 (Id.). Ashley testified that she did not want to take the man to the hospital but he still had the  
16 gun and she was concerned about the gun. (GJT, Vol. I, p. 14).

17 After getting into the car, Ashley drove and the man sat in the passenger seat. (GJT,  
18 Vol. I, p. 15). The man told Ashley to hurry up and pull off because she had screamed. (Id.).  
19 He then asked her where her phone was and she told him that it was in her bag in the back  
20 seat. (Id.). The man asked Ashley where she was headed and she told him that she was going  
21 to work and later to school. (Id.). Ashley testified that he told her that he had a baby mother  
22 who had just given birth and she was in the hospital. (Id.). Prior to the man telling Ashley  
23 that, she had asked him what hospital did he need to go to, and he told her UMC on Charleston.  
24 (Id.).

25 While driving on Lake Mead to get to the freeway, the directions that the man was  
26 giving Ashley began to change. (GJT, Vol. I, p. 16). Once they got near the freeway the man  
27 told Ashley to take a right on a little street before the freeway. (GJT, Vol. I, p. 17). The man  
28 asked Ashley to take them someplace dark, to talk because she was nice and he liked her.

1 (GJT, Vol. I, p. 18). Ashley testified that the man still had the gun resting between his legs  
2 and her anxiety was very high. (Id.). Ashley told the man that she was not going to take him  
3 someplace dark; that he could have her keys, her car, and everything in it, but she didn't want  
4 to go with him wherever he was going. (GJT, Vol. I, p. 19). The man pulled out the gun, put  
5 it to Ashley's side, and told her that she was going to do what he told her or he was going to  
6 "blow her fucking brains out." (Id.).

7 The man told Ashley to continue driving and to do the speed limit to avoid suspicion.  
8 (GJT, Vol. I, p. 21). The man finally told Ashley to pull over, which she did, at which time  
9 he told her to give him her keys and her phone. (Id.). Ashley put the car in park and stood  
10 outside of the car with her thermos cup. (Id.). Ashley grabbed the bags from the back seat  
11 because she was going to give the man her phone. (GJT, Vol. I, p. 22). As she grabbed the  
12 bags, the man hopped into the driver's seat and drove away. (Id.). Before driving away, the  
13 man told Ashley that he would shoot her if she started screaming, and that he would come  
14 back and kill her if he could hear her scream after he left. (Id.).

15 Ashley testified that the man took her car but she was able to get her purse and phone  
16 out of the vehicle. (GJT, Vol. I, pp. 22-23). Ashley reported the incident to the police. (Id.,  
17 at p. 23). On October 21, 2017, Ashley was presented with a photo line-up put together by law  
18 enforcement where she was able to pick the Defendant out as the individual who was in her  
19 car. (GJT, Vol. I, pp. 23-24).

20 **The Grand Jury Testimony of Maricella Mojaddidi-Brambila Pertinent to this Motion**

21 Maricella testified that she attended school at UNLV and that she was 20 years old.  
22 (GJT, Vol. II, p. 8). Maricella testified that she would be a sophomore in the Fall. (Id.). In  
23 August 2017, at approximately 6:00-6:30 a.m., Maricella was at the Cottage Grove parking  
24 garage at UNLV, parking her car. (GJT, Vol. II, p. 9). Maricella got out of her vehicle and  
25 was getting her back pack out of the backseat, when she noticed an African-American male  
26 approaching from the upper level stairs. (Id.). Maricella testified that she drove a 2004 Suzuki  
27 Aerio, license plate #07G194. (Id.).

28 //

1 Maricella described the male as being in his early 20's, wearing some jeans and a navy  
2 hoodie. (GJT, Vol. II, p. 10). The male had medium dreadlock hair with blond tips. (Id.). As  
3 the man walked toward Maricella, the way he looked at her seemed suspicious causing her to  
4 get back into her car. (GJT, Vol. II, p. 11). As Maricella was trying to close her door, the man  
5 pulled a silver gun out from his pocket and pointed it at her face. (Id.). The man told Maricella  
6 to unlock the passenger door and let him into the car, which she did. (GJT, Vol. II, p. 12). The  
7 man got into the passenger seat, put the gun to Maricella's head and told her to drive out of  
8 the garage. (Id.). The man was telling Maricella that he was having problems with his pregnant  
9 girlfriend and that she cheated on him. (Id.). The man told Maricella to drive him to the  
10 mountain so that he could shoot himself there. (Id.). Maricella told the man that there were  
11 other ways to solve things. (Id.).

12 Maricella was near tears and trying to stay calm while driving out of the parking garage  
13 toward Cambridge and Katie. (GJT, Vol. II, p. 13). The man had Maricella stop the car at an  
14 elementary school, in the parking lot. (Id.). The man put the gun away and told Maricella to  
15 take her shoes and socks off, which she did. (Id.). The man pulled down his pants down. (Id.)

16 While they were driving the man mentioned to Maricella that he had a foot fetish and  
17 asked her if she knew what a foot job was. (GJT, Vol. II, p. 15). Maricella did not know exactly  
18 what it was but had a mental image of what it could be. (Id.). Maricella was in fear at this  
19 point because of the gun. (Id.). Maricella sat with her back toward the door and put her feet  
20 on the man's lap, where he observed her toes, telling her that he liked natural toes and noting  
21 that she didn't have nail polish, before sucking the big toe of her right foot. (Id.). The male  
22 then placed Maricella's feet on his penis, in an inward position. (GJT, Vol. II, p. 16). The male  
23 began moving Maricella's feet up and down against his penis. (GJT, Vol. II, p. 17). Maricella  
24 testified that the Defendant had her change positions so that she was facing the driver's side  
25 window, on her hands and knees, with her feet still on the male's lap. (GJT, p. 18). The male  
26 grabbed her feet and moved them up and down on his penis. (GJT, Vol. II, p. 19). The male  
27 instructed Maricella to turn around and face him and to move her feet up and down on his  
28 penis and not to stop. (Id.).

1 At some point kids and adults begin to walk by and the male took the gun back out and  
2 instructed Maricella to drive off of the parking lot. (GJT, Vol. II, p. 20). Maricella drove to a  
3 small apartment complex down the street from UNLV. (Id.). The male instructed Maricella  
4 to park all the way in the back by the dumpsters. (Id.). The male then told Maricella to continue  
5 what she had been doing, rubbing her feet up and down on his penis, while facing him. (GJT,  
6 Vol. II, p. 21). The male instructed Maricella to shift into the position where her back was  
7 toward him and she continued to rub his penis with her feet. (GJT, Vol. II, p. 22). The male  
8 asked Maricella for her phone because he wanted to record what he was doing. (Id.). Maricella  
9 was afraid that the male would hurt her if she didn't comply and she gave him her phone. (Id.).

10 The male recorded the incident and ejaculated into Maricella's feet after placing them  
11 in a bowl like position. (GJT, Vol. II, pp. 23-24). The male asked Maricella if she wanted to  
12 give him a blow job and she told him that she did not know how. (GJT, Vol. II, p. 25). The  
13 male told Maricella that he could teach her, but then he observed that she didn't really want to  
14 and didn't push it. (Id.).

15 Maricella testified that the male used napkins from a compartment in her car to wipe  
16 off her feet and her car seat. (GJT, Vol. II, p. 26). The male then threw the napkins out window.  
17 (Id.). The male instructed Maricella to put her shoes and socks back on and take him to the  
18 mountain on Fort Apache. (Id.). Maricella opened her car door a bit to put her shoes and socks  
19 back on and the male took the gun back out and put it on his left thigh. (GJT, Vol. II, p. 27).  
20 Maricella snatched the gun and pointed it at the male and told him to get out of her car. (GJT,  
21 Vol. II, p. 28). The male looked scared and grabbed his backpack telling her to give him the  
22 gun back. (Id.). Maricella screamed "No". (Id.). Maricella's phone fell from the male's  
23 pocket onto the car seat he had been sitting in, at which time she picked it up and tried to take  
24 a picture of him. (Id.). Maricella was shaking so bad the camera wouldn't focus and she called  
25 the police. (Id.).

26 While she was on the phone with the police, Maricella was chasing after the male, who  
27 was running away and got away. (GJT, Vol. II, p. 29). Maricella was able to flag down a police  
28 car by waving the gun in the air. (GJT, Vol. II, p. 30). As soon as they stepped out of the car,

1 Maricella threw the gun on the floor. (Id.). Later, while at UMC to undergo a sexual assault  
2 examination, Maricella gave detectives access to her phone and provided a voluntary  
3 statement. (Id.). The following day, Maricella met with a police detective who provided her  
4 with a photo-line-up of potential suspects and she was able to identify Defendant as the person  
5 who was in her car. (GJT, Vol. II, pp. 31-32).

6 **The Grand Jury Testimony of Kaylee Edwards Pertinent to this Motion**

7 Kaylee testified that she was 19 years old and her birthday is in June of 1999. (GJT,  
8 Vol. III, p. 7). Kaylee further testified that she was a student at UNLV studying mechanical  
9 engineering. (Id.). On October 13, 2017, Kaylee was sitting outside the Honors College  
10 building waiting for her cousin to text her about a choir performance at Ham Hall. (GJT, Vol.  
11 III, p. 8). It was starting to get dark outside and Kaylee was sitting at a table outside the  
12 building. (Id.). Kaylee was approached by an African American male who had dark curly hair  
13 that was blond on the ends. (GJT, Vol. III, p. 9).

14 Kaylee was wearing a Foothill High School shirt and the male commented, “Oh  
15 Foothill. I went to Foothill too. What a coincidence.” (GJT, Vol. III, p. 10). The male stated  
16 that he was a reflexology major and had a school project that involved interviewing people  
17 about their feet but he was having trouble getting people to volunteer for his survey. (Id.). The  
18 male began by asking Kaylee some questions about her feet but then asked her to take her  
19 shoes off which made her feel uneasy. (GJT, Vol. III, pp. 10-11). Kaylee complied and the  
20 male asked her to put her feet on his lap so that he could check them, which made her feel  
21 weird. (Id., at p. 11). Kaylee testified that her socks were on at that point. (Id.).

22 The male asked Kaylee to take her socks off and she agreed, although she really didn’t  
23 want to. (Id.). The male asked Kaylee if she had ever heard of something called the “scent  
24 test” and she said no. (GJT, Vol. III, p. 12). The male stated that he needed to smell Kaylee  
25 feet for that and he did so. (Id.). The male stated that he had to try something called the taste  
26 test, and put both of her big toes in his mouth, separately. (Id.) Kaylee mentioned that it wasn’t  
27 sanitary for him to be doing that stuff and he told her that he would just brush his teeth later  
28 and that he didn’t want to be doing that stuff anymore than she did. (GJT, Vol. III, p. 13).

1 The male asked Kaylee if she had ever heard of people that had a foot fetish and she  
2 said that she had heard of it. (Id., at p. 13). The male asked how Kaylee felt about it and she  
3 indicated that it was their lives and their choice. (Id.). Kaylee testified that she was feeling  
4 very uncomfortable after the male put her toes in his mouth. (Id.). Kaylee was on her computer  
5 while speaking to this male and sent texts to two of her friends and her mom asking them to  
6 call her so that she could walk away from the situation. (GJT, Vol. III, p. 14). Kaylee pulled  
7 her phone out to check it and make sure the texts she sent from the computer went through  
8 and the male said “Oh, you don’t need to call the police”. Kaylee’s sister called her at which  
9 time she told the male that she had to take the phone call and walked away. (GJT, Vol. III, p.  
10 15). Shortly thereafter, Kaylee, her sister, and her mother went to the campus police and filled  
11 out a report. (Id.).

12 On October 21, 2017, Kaylee was later shown a series of photographs by law  
13 enforcement and asked if she could potentially identify anyone. (GJT, Vol. III, pp. 16-17).  
14 Kaylee did choose an individual from the line-up, who looked most like the person she  
15 encountered. (Id., at p. 17).

16 **The Grand Jury Testimony of Alexandra (Sasha) Tsvitenok Pertinent to this Motion**

17 Alexandra testified that she goes by the nickname Sasha. (GJT, Vol. III, p. 20). Sasha  
18 further testified that she was 19 years old and attended school at UNLV. (Id.). Sasha testified  
19 that she as going to be a sophomore and her major was Hospitality. (GJT, Vol. III, pp. 20-21).  
20 Sasha testified that on October 7, 2017, at approximately 3:00 a.m., she was walking from the  
21 Tonopah dorm to the South Complex dorm when she spotted a guy standing by the building.  
22 (Id., at p. 21). The male was black, in his 20’s and had blond dreads. (Id.). Sasha described  
23 the dreads as two toned, black with blond ends. (GJT, Vol. III, p. 22). Sasha observed the  
24 male to be wearing a black hoodie with pants. (Id.). As Sasha walked past the male he did not  
25 say anything but as she continued walking he ran up to her and grabbed her, putting a knife to  
26 her throat. (Id.). With the knife to her throat, the male asked Sasha for her car keys. (Id.).

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28 //

1 Sasha described the knife as just a regular knife and testified that she could feel the  
2 blade against her skin when he put it there. (GJT, Vol. III, p. 23). Sasha testified that she feared  
3 for her life and thought she was going to die. (Id.). Sasha testified that she told the male that  
4 she didn't have a car key and described him as being agitated and scared. (GJT, Vol. III, p.  
5 24). Sasha could feel that he was trembling. (Id.). The male forced Sasha to walk a little bit  
6 and then forced her down because she tried to run away. (GJT, Vol. III, p. 25). The male told  
7 her that his baby had just died and he just wanted to get away from everything and he was  
8 upset. (Id.). The male was holding the knife to Sasha's stomach as she sat on the ground. (Id.).  
9 Sasha was scared and crying at that point. (GJT, Vol. III, p. 26).

10 Sasha spotted a person walking and turned her head toward them, at which time the  
11 male spotted the person too, and made Sasha get up and walk away. (Id., at p. 26). The male  
12 asked Sasha where she was staying and she showed him the building and he walked her to it.  
13 (Id.). The male was holding the knife to Sasha's ribs as they walked away. (Id.). The male  
14 was apologizing to Sasha as they were walking. (GJT, Vol. III, p. 27). As they were  
15 approaching the building the male told Sasha to stay safe and turned and ran away, while Sasha  
16 ran into the building. (Id.). Sasha called the police and reported the incident that same day.  
17 (GJT, Vol. III, p. 28).

18 On October 26, 2017, Sasha was shown a series of photographs by law enforcement  
19 and was able to identify a photograph of the person she thought was the male that she  
20 encountered. (GJT, Vol. III, pp. 28-30).

## 21 **STATEMENT OF FACTS PERTINENT TO DEFENDANT'S OTHER ACTS**

### 22 ***Shaimaa Abdelhaleem***

23 On October 14, 2017, UNLV Police Officer R. Ljunquist responded to the Student  
24 Union at UNLV where he met with Shaimaa Abdelhalee. Shaimaa indicated that she had been  
25 walking from the Starbucks on Maryland Parkway toward her Office at the Technology  
26 Building. Shaimaa indicated that she walked across the street at Maryland Parkway and  
27 University Road and then walked between the Student Union and Beam Hall towards Wright  
28 Hall. Shaimaa further indicated that she walked between Wright B and C towards the Barrick

1 Museum through the garden area. Just after Shaimaa walked over the small bridge next to the  
2 museum an unknown black male grabbed her from behind and pulled her towards the shadows  
3 approximately 30 feet from the east doors of the Barrick Museum. Shaimaa was attempting  
4 to scream but the male put his hand over her mouth to keep her from screaming.

5 The male had Shaimaa sit down on the bench wall, took her keys, and told her to give  
6 him her money and her phone. Shaimaa gave the male fourteen dollars. The male took off  
7 Shaimaa's shoes and began talking about his love for feet. Shaimaa began speaking to the  
8 male in an effort to try to be friendly with him and told him that she needed money to take the  
9 bus home, so the male gave her two dollars back. Shaimaa stated that she received a small cut  
10 on her hand, which she received while the unknown male was covering her mouth and nose  
11 with his hand in attempt to stop her from screaming, which was bleeding slightly. Shaimaa  
12 noticed that the unknown male was also bleeding as they sat on the bench wall.

13 After approximately ten minutes, Shaimaa was able to put her shoes back on and the  
14 male walked her toward the Computing Services Building. Shaimaa gave the male a plastic  
15 package of wipes to clean the blood of his hands. The male told Shaimaa his name was "Juan"  
16 and he was expecting a baby girl with his girlfriend, who he lived with. When they reached  
17 the inner campus area between Wright Hall and The Moot Court Building the unknown male  
18 began feeling faint and fell to the ground, telling Shaimaa that he couldn't walk anymore.  
19 Shaimaa used that opportunity to run to the Student Union for help and the police were  
20 notified.

21 Shaimaa willingly walked Officer Ljunquist back through the path she and the  
22 unknown male walked. When they arrived at where the unknown male had fallen to the  
23 ground Shaimaa pointed out the plastic package of wipes that were on the ground. Office  
24 Ljunquist took photos and then placed the package into an evidence bag. When they walked  
25 to area where the wall bench was located, Officer Ljunquist observed blood on the wall and  
26 the ground. LVMPD Crime Scene Investigator T. Paine was dispatched to process the scene.  
27 In addition to the DNA evidence, Defendant was observed in the area where the crimes  
28 occurred on campus video cameras.

1 ***Jacob Weidner***

2 On August 4, 2012 Wichita Kansas Police were contacted to investigate an incident  
3 that occurred at Riverside Academy, located at 2050 W. 11<sup>th</sup>, Wichita, Kansas. The reporting  
4 victim, Jacob Weidner, then age 15, stated that his roommate, Juhjuan Washington  
5 (Defendant), then age 16, gave him some pornographic materials and stated that he was going  
6 to the staff to get him in trouble, unless Jacob provided certain sexual favors to Defendant.  
7 Jacob further stated that he was being blackmailed and was worried about getting a write-up  
8 and a charge if he did not comply with Defendant's demands. Defendant told Jacob if he  
9 cooperated he would give him some phone numbers for prostitutes and strippers in Las Vegas,  
10 Nevada.

11 Defendant described being under the blanket with his feet sticking out the end of the  
12 blanket when Defendant began rubbing his erect penis between Jacob's toes and feet.  
13 Defendant then forced Jacob to rub his erect penis with his hand. Jacob described Defendant's  
14 penis as being hard and thick. Defendant told Jacob if he didn't continue to cooperate he would  
15 report him to the staff. Defendant instructed Jacob to get on his hands and knees at which time  
16 Defendant pulled down Jacob's pants and inserted his erect penis into Jacob's butt cheeks,  
17 which caused Jacob pain. Defendant asked Jacob, "Do you like that?" and Jacob replied "No".  
18 Defendant stopped what he was doing and went back to rubbing his penis on Jacob's feet until  
19 he ejaculated on Jacob's feet. Defendant told Jacob to lick it, which he did, before wiping the  
20 rest of it off with his sheet. Defendant told Jacob to keep it a secret.

21 On August 5, 2012, Officer Huff spoke to Tyler, then age 17, who was in the room  
22 when the incident occurred. Tyler indicated that he observed Defendant rubbing his penis  
23 against Jacob's foot. Tyler looked away for a while and when he looked back over, Jacob had  
24 moved his foot to the ground and Defendant stopped what he was doing. Tyler stated that he  
25 did not see anything else.

26 On August 5, 2012, Officer Huff also spoke to Matthew Beagle, then age 14, who was  
27 another one of Jacob's roommates. Matthew stated that he was asleep the night of the incident  
28 but he did overhear Jacob telling Tyler that Defendant bribed him over sex pictures. Matthew

1 explained that he heard the incident involved Jacob having his clothes off and being raped.

2 On August 14, 2012, Defendant, was taken to EMCU, by his therapist from Riverside  
3 Academy, Sherry Medina. Defendant was advised of his rights by Detective Slaughter and  
4 Defendant invoked, at which time no questioning occurred. Later that same day, Defendant  
5 contacted Detective Slaughter and stated that he wanted to speak to him without a lawyer.  
6 Defendant was re-advised of his Miranda Warnings, stated her understood them and agreed to  
7 speak with Detective Slaughter. Defendant admitted that sometime in February he asked  
8 Jacob if he could jack off on his feet. Jacob told him no but Defendant took his penis out of  
9 his pants anyway and tapped it on Jacob's foot without his permission. Defendant told Jacob  
10 not to tell anyone.

11 Most recently, on August 4, 2012, Defendant provided pornographic pictures to Jacob  
12 and told him that he was going to report him if he didn't let him jack off on his feet. Defendant  
13 stated that he could tell Jacob was afraid because his eyes got really big. Defendant stated that  
14 he did "jack off" on Jacob's feet until he ejaculated. Defendant stated that he told Jacob to  
15 lick the "cum" off of his feet and Jacob complied. Defendant stated that Jacob wanted to do  
16 the other things so Defendant put his penis between Jacob's butt cheeks and let Jacob jack him  
17 off with his hand. Defendant signed a letter of apology to Jacob.

18 On April 3, 2013, Defendant entered a plea of No Contest to the crime of Aggravated  
19 Indecent Liberties.

20 ***Demia Edington***

21 On September 11, 2011, LVMPD Patrol Officers were dispatched to Mojave High  
22 School, located at 5302 Goldfield, reference a sexual assault that occurred off of the school  
23 campus. Upon arrival, Officer M. Gipson met with Demia Edington, then age 15, who had a  
24 bandage covering her left hand. Officer Gipson further observed that Demia appeared to have  
25 some type of learning disability because she was laughing and smiling and then she would  
26 start to cry. Officer Gipson was advised by Demia's counselor from Mojave High School that  
27 Demia had the mentality of a sixth grader.

28 //

1 Demia stated that on Sunday, September 4, 2011, a person she knows as “Jay” was  
2 calling her name. Demia was walking and “Jay” continued to call her name. Demia stated that  
3 she turned around and told “Jay” that she was going to a friend’s house to go to the bathroom.  
4 Demia stated that “Jay Jay” told her to walk with him to the Mojave gate. “Jay Jay” took  
5 Demia by a house and he had a metal pole. He told Demia, “Suck my dick bitch” at which  
6 time Demia tried to run. “Jay Jay” hit Demia in the hand with the metal bar causing a cut to  
7 her hand. Demia agreed to have oral sex with “Jay Jay” if he didn’t hit her again, and he stated,  
8 “Suck my dick or I will hit you again.” Demia stated that “Jay Jay” pulled out his penis and  
9 had her suck on it. “Jay Jay” then told her to pull down her pants which she didn’t want to do,  
10 but she was afraid that he would hit her again. “Jay Jay” put his penis inside Demia’s vagina  
11 and had sex with her. When he was finished, he told her that she would have to tell everyone  
12 that a dog bit her on the hand or he would kill her.

13 Demia stated that she told her mom the dog story, but yesterday she began to feel upset  
14 about what happened with “Jay Jay” and she told her mother what really happened.

15 Officer Gipson spoke to Demia’s mother, Marcella Woods, who told him that Demia  
16 had a learning disability and is very trusting. Marcella stated that Demia told her older sister,  
17 Semia, that “Jay Jay” made her perform oral sex on him. Semia convinced Demia to tell their  
18 mother. Marcella further indicated that she did not call the police the previous night when she  
19 found out because she wanted to go to Mojave High School and find out what “Jay Jay’s real  
20 name was first. The school dean advised Marcella that “Jay Jay’s” name was Juhjuan  
21 Washington. After speaking with the dean, the school contacted the police.

22 Officer Gipson met with Defendant, then age 15, at the school, in one of the Dean’s  
23 office. Defendant was provided his juvenile Miranda Warnings and stated that he understood  
24 but wanted one of his parent’s present prior to answering any questions. Defendant’s mother,  
25 Denise Townsend was called and a short time later she and her husband, Michael Jones  
26 arrived. Defendant admitted to engaging in sex with Demia, by force, stating that she did not  
27 want to have sex with him and he forced her to. Defendant further asked if he could tell Demia  
28 that he was sorry. Defendant was arrested and transported to the Clark County Juvenile Hall

1 on charges of sexual assault and battery with intent to commit sexual assault.

2 **STATEMENT OF THE CASE RELEVANT TO THIS REPLY**

3 On September 28, 2018, the State filed a Notice of Motion and Motion to Admit  
4 Evidence of Other Crimes, Wrongs or Acts in this matter.

5 On October 24, 2018, Defendant filed an Opposition to the State’s Notice of Motion  
6 and Motion to Admit Evidence of Other Crimes, Wrongs or Acts.

7 On December 7, 2018, at the time set for hearing of the State’s Motion to Admit  
8 Evidence of Other Crimes, Wrongs or Acts, the Court ordered State’s Motion granted in part  
9 and denied in part. The motion was granted as to an evidentiary hearing for the incidents  
10 taking place on August 4, 2012, involving victim Shaimaa Abdelhaleem; and, the October 14,  
11 2017, involving victim Jacob Weidner. However, the motion was denied as to the September  
12 11, 2011 incident involving victim Demia Edington, with the Court finding that the admission  
13 of the evidence would be more prejudicial than probative.

14 On January 3, 2019, the Nevada Supreme Court issued its opinion in Franks v. State,  
15 135 Nev.Adv.Op 1 (January 3, 2019).

16 On January 25, 2019, based upon the Nevada Supreme Court’s ruling in Franks, *supra*,  
17 the State filed a Renewed Notice of Motion and Motion to Admit Evidence of Separate Sexual  
18 Offense for Propensity Purpose as it relates to Defendant’s uncharged conduct of sexually  
19 assault Demia Edington, a minor under the age of 16. (A copy of the State’s Renewed Motion  
20 is attached hereto and incorporated herein by reference as State’s Exhibit “1”).

21 On February 26, 2019, Defendant filed his Opposition to State’s Renewed Notice of  
22 Motion and Motion to Admit Evidence of Other Crimes Wrongs or Acts. The State’s Reply  
23 follows.

24 **LEGAL ARGUMENT**

25 First, Defense counsel’s opposition begins with his citation of an Iowa case and a few  
26 Missouri cases, in which the Supreme Courts of those states “struck down” a portion of their  
27 statutory propensity law as it related to sexual offenses as they violated due process. In this  
28 case, Defendant’s citation of those cases from the other jurisdictions are not relevant to the

1 issue at bar. Defendant acknowledges this fact in his opposition and points out that unlike the  
2 courts in Iowa and Missouri<sup>1</sup>, this Court does not have to strike down any laws as Nevada has  
3 a balancing test provided by statute.

4 Defendant next argues that the State has failed to show the “specific need” to admit the  
5 evidence of Defendant’s prior sexual misconduct with Demia Edington. (Defendant’s  
6 Opposition, p. 4). As was delineated in Franks v. State, 135 Nev.Adv.Op 1, 432 P.3d 752  
7 (2019), the “specific need” factor is just one several nonexhaustive factors that the district court  
8 must consider prior to allowing the admission of propensity evidence.

9 In Franks, *supra*, the Court held:

10 We conclude that the plain language of NRS 48.045(3) permits the  
11 district court to admit evidence of a separate sexual offense for  
12 purposes of proving propensity in a sexual offense prosecution.

13 The Court noted that no Petrocelli hearing is necessary, as sexual offenses are excluded  
14 from the requirements of NRS 48.045(1) and (2). However, the set forth the following  
15 procedural safeguards with regard to evidence admissible under NRS 48.045(3), as follows:

16 First, similar to the Petrocelli framework, we conclude that the  
17 State must request the district court’s permission to introduce the  
18 evidence of the prior sexual offense for propensity purposes  
19 outside the presence of the jury. See Bigpond, 128 Nev. at 117,  
20 270 P.3d at 1250. The State must then proffer its explanation of  
21 how the prior sexual offense is relevant to the charged offense, i.e.,  
22 tends to make it more probable that the defendant engaged in the  
23 charged conduct. See NRS 48.015.

24 Second, we note that the relevancy of a prior sexual offense also  
25 “depends upon the fulfillment of a condition of fact, [wherein] the  
26 judge shall admit it upon the introduction of evidence sufficient to  
27 support a finding of the fulfillment of the condition.” NRS  
28 47.070(1)<sup>2</sup>. In light of the nature of prior sexual act evidence,  
federal courts require “district court[s] [to] make a preliminary  
finding that a jury could reasonably find by a preponderance of the

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24 <sup>1</sup> The Missouri Supreme Court’s ruling in State v. Ellison 239 S.W. 603 (2007) was superseded by Constitutional Amended  
25 as stated in State v. Williams, 548 S.W. 275 (2018), permitting the admission of propensity evidence after a finding that  
its probative value substantially outweighs the danger of unfair prejudice. (*Id.*).

26 <sup>2</sup> NRS 47.070 states:

- 27 1. When the relevancy of evidence depends upon the fulfillment of a condition of fact, the judge shall admit it upon the  
28 introduction of evidence sufficient to support a finding of the fulfillment of the condition.  
2. If under all the evidence upon the issue the jury might reasonably find that the fulfillment of the condition is not  
established, the judge shall instruct the jury to consider the issue and to disregard the evidence unless they find the  
condition was fulfilled.  
3. If under all the evidence upon the issue the jury could not reasonably find that the condition was fulfilled, the judge  
shall instruct the jury to disregard the evidence

1 evidence that the other act occurred.” See, e.g., United States v.  
2 Enjady, 134 F.3d 1427, 1433 (10th Cir. 1998) (internal quotation  
3 marks omitted); see also United States v. Oldrock, 867 F.3d 934,  
4 939 (8th Cir. 2017); United States v. Dillon, 532 F.3d 379, 387  
5 (5th Cir. 2008). **Therefore, prior to the admission of prior  
6 sexual offense evidence for propensity purposes under NRS  
7 48.045(3), the district court must make a preliminary finding  
8 that the prior sexual offense is relevant for propensity  
9 purposes, and that a jury could reasonably find by a  
10 preponderance of the evidence that the bad act constituting a  
11 sexual offense occurred.** (Emphasis added).

12 Finally, while all “relevant evidence is inadmissible if its  
13 probative value is substantially outweighed by the danger of unfair  
14 prejudice,” State v. Eighth Judicial Dist. Court (Armstrong), 127  
15 Nev. 927, 933, 267 P.3d 777, 781 (2011) (internal quotation marks  
16 omitted), other courts have cautioned to “pay careful attention to  
17 both the significant probative value and the strong prejudicial  
18 qualities of that evidence” due to “the inherent strength of [prior  
19 sexual act] evidence,” LeMay, 260 F.3d 1018 at 1027 (internal  
20 quotation marks omitted). In order to address the highly probative  
21 yet prejudicial nature of this evidence, the Ninth Circuit Court of  
22 Appeals set forth a modified balancing analysis, stating that the  
23 district court must consider several nonexhaustive factors prior to  
24 allowing its admission:

- 25 (1) the similarity of the prior acts to the acts charged,
- 26 (2) the closeness in time of the prior acts to the acts
- 27 charged, (3) the frequency of the prior acts, (4) the
- 28 presence or lack of intervening circumstances, and
- (5) the necessity of the evidence beyond the  
testimonies already offered at trial. Id. at 1028  
(internal quotation marks omitted).

We conclude that the factors articulated by the Ninth Circuit are  
useful and account for the legislative intent to permit propensity  
evidence in sexual offense prosecutions—the purpose of NRS  
48.045(3)—while also taking into account the risk of unfair  
prejudice that accompanies this strong evidence. Therefore, after  
a defendant challenges the State’s intent to introduce prior sexual  
offense evidence for propensity purposes, the district court should  
evaluate whether that evidence is unfairly prejudicial under the  
LeMay factors prior to admitting such evidence.

Id., 135 Nev.Adv.Op 1, pp. 7-8, 432 P.3d 752, pp. 756-757.

In Franks, the Court addressed the “necessity of the evidence” factor as follows:

Lastly, while evidence regarding the prior bad acts may not have  
been necessary to establish the State's case, the "evidence need not  
be *absolutely necessary* to the prosecution's case in order to be  
introduced; it must simply be helpful or *practically necessary*."

Id., 135 Nev.Adv.Op 1, p. 9, 432 P.3d 753, p. 757.

1           This analysis also applies to the instant case. While the evidence of Defendant’s prior  
2 sexual assault of Demia Edington may or may not be absolutely necessary, it is certainly  
3 helpful to the State’s case. Demia is the first known victim of this Defendant. Defendant  
4 used a ruse to take advantage of a mentally disabled young girl who did not want to engage in  
5 sexual conduct with him. Defendant was violent with Demi and hit her with a metal bar,  
6 causing a cut to her hand, when she told him no. Defendant forced Demia to engage in fellatio  
7 and sexual intercourse with him under the threat of more violence. Defendant admitted that  
8 he forced Demia into the sex acts with him against her will. Also, it was Defendant’s sexual  
9 assault of Demia that landed him in the juvenile facility where he acquired access to his next  
10 victim, Jacob Weidner. Defendant’s prior sexual assault of Demia demonstrates his propensity  
11 to engage in all of the subsequent criminal sexual misconduct involving Jacob, Shaimaa,  
12 Ashley, Maricella, Kaylee, and Sasha. Also, the evidence as it relates to Demia is “practically  
13 necessary” in the sense that the State must prove to 12 people beyond a reasonable doubt that  
14 Defendant is capable of the acts alleged in this case. The probative value of the fact Defendant  
15 previously sexually abused a fifteen year old girl, with the use of force and threats of harm  
16 just a few years earlier is enormous, and cannot be said to be *substantially* outweighed by the  
17 risk of unfair prejudice. This is especially true in considering that in between the time he  
18 sexually abuse of Demia, and the victims in the instant case, he was in a juvenile treatment  
19 facility where he sexually abused Jacob Weidner.

20           Further, this evidence is especially probative when considering some of the conduct in  
21 the instant matter. For instance, Defendant’s interaction with Ms. Edwards when viewed in a  
22 vacuum and isolated from Defendant’s propensity to commit sexual abuse, can be seen as  
23 completely innocuous. Evidence of Defendant’s prior sexual abuse sheds light on his true  
24 intentions that day when interacting with Ms. Edwards and the jury should not be left in the  
25 dark regarding Defendant’s sexual propensity.

26           Given the fact that our Nevada Supreme Court has now made it clear that NRS  
27 48.045(3) illustrates the legislature’s intent to allow admission of the type of evidence the  
28 State seeks to admit in this case *for propensity purposes*. When the previous presiding judge

1 made her initial ruling on this issue, it was without the benefit or guidance of the recent  
2 Supreme Court opinion in Franks. Additionally, in her order denying the acts involving Demia  
3 she found “that the probative value of admission of the other sexual acts is outweighed by the  
4 prejudicial nature of the admission of the other sexual acts.” However, the standard is no  
5 longer merely that the prejudice outweigh the probative value, the prejudice has to  
6 *substantially* outweigh the probative value of the evidence.

7 As the 9th Circuit stated in United States v. Mahler, “evidence relevant to a defendant's  
8 motive is not rendered inadmissible because it is of a highly prejudicial nature. . . . The best  
9 evidence often is.” 452 F.2d 547 (9th Cir. 1971), *cert. denied*, 405 U.S. 1069, 92 S. Ct. 1517,  
10 31 L. Ed. 2d 801 (1972). Thus, evidence of Defendant’s prior sexual offenses involving Demia  
11 Edington should be admitted in this case for propensity purposes.

12 Next, Defendant’s opposition wrongfully suggest that the State is moving to admit a  
13 juvenile conviction of this Defendant into evidence. The State is moving this Court to admit  
14 evidence of Defendant’s acts of prior sexual misconduct with a juvenile female victim that  
15 occurred when Defendant was also under the age of 18. Evidence of those acts will be  
16 provided by Demia at the time of trial. Defendant cites to NRS 50.095(4)<sup>3</sup> which renders  
17 juvenile convictions inadmissible for purposes of impeachment by evidence of conviction of  
18 crime. This statute is completely inapplicable as it relates to the State’s motion to admit  
19 evidence of Defendant’s prior crimes, wrongs or acts. Defendant also cites to NRS 48.045(3)  
20 which permits the admission of evidence in a criminal prosecution for sexual offense that the  
21 person committed another crime, wrong or act that constitutes a separate sexual offense; and,  
22

23 \_\_\_\_\_  
24 <sup>3</sup> NRS 50.095 delineates Impeachment by evidence of conviction of a crime as follow:

- 25 1. For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime is  
26 admissible but only if the crime was punishable by death or imprisonment for more than 1 year under the law under which  
27 the witness was convicted.  
28 2. Evidence of a conviction is inadmissible under this section if a period of more than 10 years has elapsed since:  
(a) The date of the release of the witness from confinement; or  
(b) The expiration of the period of the witness’s parole, probation or sentence, whichever is the later date.  
3. Evidence of a conviction is inadmissible under this section if the conviction has been the subject of a pardon.  
4. Evidence of juvenile adjudications is inadmissible under this section.  
5. The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency  
of an appeal is admissible.  
6. A certified copy of a conviction is prima facie evidence of the conviction.

1 NRS 48.035<sup>4</sup> which governs the exclusion of relevant evidence on grounds of prejudice,  
2 confusion or waste of time. As the State has no intention of attempting to offer evidence of  
3 Defendant's prior actual juvenile adjudication for said conduct, Defendant's argument to the  
4 contrary is moot.

5 Lastly, although Defendant argues in his opposition that nothing substantive has  
6 changed since Judge Togliatti's ruling, the fact of the matter is that the Franks decision has  
7 since been issued by the Nevada Supreme Court and this Court must reconsider the evidence  
8 as it relates to Defendant sexual assault of Demia Edington applying the factors delineated in  
9 Franks and using the standard for admissibility as delineated in Franks.

10 **CONCLUSION**

11 For the reasons cited herein, the State respectfully requests this Court grant its Renewed  
12 Motion to Admit Evidence of Separate Sexual Offenses for Propensity Purposes.

13 DATED this 4th day of March, 2018.

14 STEVEN B. WOLFSON  
15 Clark County District Attorney  
Nevada Bar #001565

16 BY /s/ JAMES R. SWEETIN  
17 JAMES R. SWEETIN  
18 Chief Deputy District Attorney  
19 Nevada Bar #005144  
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21  
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25 <sup>4</sup> 48.035. Exclusion of relevant evidence on grounds of prejudice, confusion or waste of time  
26 1. Although relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair  
27 prejudice, of confusion of the issues or of misleading the jury.  
28 2. Although relevant, evidence may be excluded if its probative value is substantially outweighed by considerations of  
undue delay, waste of time or needless presentation of cumulative evidence.  
3. Evidence of another act or crime which is so closely related to an act in controversy or a crime charged that an ordinary  
witness cannot describe the act in controversy or the crime charged without referring to the other act or crime shall not be  
excluded, but at the request of an interested party, a cautionary instruction shall be given explaining the reason for its  
admission

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**CERTIFICATE OF SERVICE**

I hereby certify that service of the above and foregoing was made this 4th day of  
MARCH, 2019, to:

THOMAS BOLEY, ESQ.  
t.boleym@bandafirm.com

BY /s/ HOWARD CONRAD  
Secretary for the District Attorney's Office  
Special Victims Unit

hjc/SVU

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

March 12, 2019      09:00 AM      All Pending Motions

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

James R Sweetin	Attorney for Plaintiff
Juhjuan Washington	Defendant
State of Nevada	Plaintiff
Thomas D Boley	Attorney for Defendant

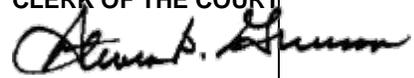
**JOURNAL ENTRIES**

ARGUMENT...STATE'S RENEWED NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF SEPARATE SEXUAL OFFENSE FOR PROPENSITY PURPOSES

CONFERENCE AT BENCH. Pursuant to discussions at the bench, COURT ORDERED, matter CONTINUED.

CUSTODY

3/28/19 9:00 AM CONTINUED: ARGUMENT...STATE'S RENEWED NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF SEPARATE SEXUAL OFFENSE FOR PROPENSITY PURPOSES



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE  
TUESDAY, MARCH 12, 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
ALL PENDING MOTIONS**

APPEARANCES:

For the State: JAMES R. SWEETIN, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE SISON COURT RECORDER

1 Las Vegas, Nevada, March 12, 2019

2  
3 [Hearing began at 10:21 a.m.]

4 THE COURT CLERK: State of Nevada versus Juhjuan  
5 Washington, C333798.

6 THE COURT: I called this because, in prepping this, I'm  
7 going to want some more time.

8 MR. SWEETIN: Okay.

9 THE COURT: I'm not 100% sure. I need to go back and  
10 see why Judge Togliatti ruled. If she ruled, and it appeared that she  
11 was aware of Franks and made all the Franks considerations, I don't  
12 know that I really technically should be reconsidering her ruling,  
13 absent the ability to do that frankly because I know it's a motion to  
14 renew. The law really -- it interprets the statute but I -- if she kind of  
15 even anticipated that or already built that interpretation into her  
16 ruling, then I don't know that I have the authority to revisit it.

17 MR. SWEETIN: Okay.

18 THE COURT: So, I'm going to -- we're going to pull the  
19 JAVS or transcript or something, and I want to look over that before  
20 I decide where we're going to go on it, so I don't want you to sit  
21 around too long so, two weeks. Is that all right with you guys?

22 MR. SWEETIN: That's fine, Judge.

23 MR. BOLEY: May we approach, just briefly?

24 THE COURT: Of course.

25 [Bench Conference]

1 MR. BOLEY: First of all, I'm sorry, I hung up my jacket  
2 downstairs, I forgot it.

3 THE COURT: Oh you're fine.

4 MR. BOLEY: I know the State is going to want an  
5 evidentiary hearing probably on some of this, I don't know -- but  
6 that's sort of inevitable.

7 MR. SWEETIN: Well, the Court already ordered an  
8 evidentiary hearing on the other two victims that were allowed in,  
9 so we're going to have to have that.

10 THE COURT: Okay.

11 MR. SWEETIN: The third victim is pending right now on  
12 the motion to reconsider --

13 THE COURT: Okay, hang on.

14 MR. BOLEY: What I'm going to ask is just we clear the  
15 courtroom so we don't --

16 THE COURT: Oh for the evidentiary hearing?

17 MR. BOLEY: Yeah, yeah.

18 THE COURT: Yes. So, all that's left right now is, we're  
19 reconsidering on Tamiya [phonetics] right?

20 MR. SWEETIN: Yes.

21 THE COURT: The disabled gal; so, we need an evidentiary  
22 hearing on which -- how many?

23 MR. SWEETIN: Two.

24 THE COURT: These two?

25 MR. SWEETIN: Yes, I think -- I can't remember their

1 names. I'd have to look at my notes.

2 THE COURT: Jacob and Shamiya [phonetics] --

3 MR. SWEETIN: Yeah.

4 THE COURT: -- yeah, we'll do it at the end of the calendar.

5 MR. SWEETIN: And the evidentiary hearing is just so the  
6 Court can make a determination of probative versus prejudicial;  
7 that's what Judge Togliatti wanted because --

8 THE COURT: She's already found it's proven by  
9 preponderance?

10 MR. SWEETIN: Well, she's already found that -- she said it  
11 would come in under paragraph 348.045 -- my understanding is, so  
12 long it's more probative than prejudicial, she wanted to have an  
13 evidentiary hearing to make that determination. So that's my  
14 understanding of the steps.

15 THE COURT: Okay, so I need to read this because my -- I  
16 was absolutely the opposite. My understanding was she found that  
17 these are more probative than prejudicial pending preponderance  
18 of the evidence, the standard being that.

19 MR. BOLEY: It was a very thick sort of dense ruling --

20 THE COURT: Okay.

21 MR. BOLEY: -- that she made with a lot of little caveats.

22 MR. SWEETIN: And you know, it was, you know, pre the  
23 recent ruling, the *Franks* ruling.

24 THE COURT: No, I -- like by phase -- two weeks, three  
25 weeks.

1 MR. SWEETIN: And I think that's what she was doing  
2 because like the other judges at the time, they were trying to find, if  
3 something came in, they were trying to find it under paragraph 3  
4 and paragraph 2 -- so --

5 THE COURT: Well here, at the end of the day, if it were  
6 mine, I probably would let it in, because I think that -- for sex -- not  
7 so much the foot fetish, but the fact that somebody is sexually  
8 assaulting someone against their will, that's the propensity I would  
9 be looking at.

10 MR. BOLEY: Okay.

11 THE COURT: But if -- but if she's already ruled, I don't  
12 think that's cool. I don't think revisiting rulings whether -- even if I  
13 disagree, is appropriate, absent the ability to do that.

14 MR. SWEETIN: Yeah, I don't think she had the -- you  
15 know, the *Franks* ruling though.

16 THE COURT: And that may be, because I do see that she's  
17 -- I don't want to say struggled, but she made a point of finding  
18 similarity amongst the acts.

19 MR. SWEETIN: Right.

20 THE COURT: And I think that is indicative of in --

21 MR. SWEETIN: Right.

22 THE COURT: -- pre *Franks* OBA [phonetics] ruling, so --

23 MR. BOLEY: Okay.

24 THE COURT: -- but, I just need some time.

25 MR. SWEETIN: Okay.

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MR. BOLEY: Sure. Thank you, Judge.

THE COURT: Thanks.

[Bench Conference Concluded]

THE COURT CLERK: That date will be March 28<sup>th</sup> at 9 a.m.

MR. BOLEY: I'm sorry, what was the date?

THE COURT CLERK: March 28<sup>th</sup>.

[Hearing concluded at 10:26 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.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

March 28, 2019      09:00 AM      All Pending Motions

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Reed, Keith

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

James R Sweetin	Attorney for Plaintiff
Juhjuan Washington	Defendant
State of Nevada	Plaintiff
Thomas D Boley	Attorney for Defendant

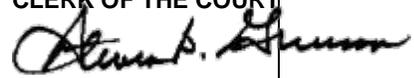
**JOURNAL ENTRIES**

Argument....State's Renewed Notice of Motion and Motion to Admit Evidence of Separate Sexual Offense for Propensity Purposes

CONFERENCE AT BENCH. After speaking, Court stated it's believed by counsel there's potential competency issues raised, and the Court notes some what of a decline from what's been seen and ORDERED, Defendant REFERRED to Competency Court; an Evidentiary Hearing for the Franks motion will be heard once he returns.

CUSTODY

4-12-19 10:00 AM FURTHER PROCEEDINGS: COMPETENCY



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE  
THURSDAY, MARCH 28, 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
ALL PENDING MOTIONS**

APPEARANCES:

For the State: JAMES R. SWEETIN, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE SISON COURT RECORDER

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Las Vegas, Nevada, Thursday, March 28, 2019

[Hearing began at 9:03 a.m.]

THE COURT CLERK: C-18-333798-1, State of Nevada  
versus Juhjuan Washington.

THE COURT: Hello.

MR. SWEETIN: Good Morning, Judge.

MR. BOLEY: Tom Boley on behalf of Mr. Washington who  
is present in custody.

MR. SWEETIN: James Sweetin for the State.

MR. BOLEY: May we approach briefly?

THE COURT: Sure.

[Bench Conference]

MR. BOLEY: I know we're here on this motion, and I just  
don't want to put him in danger if we talk about the facts in front of  
the other inmates. I don't know what you want to do with that.

THE COURT: Oh. You want to come back later?

MR. SWEETIN: I can.

THE COURT: Here's -- I mean I don't know how much  
more -- did we argue this at all, I can't even remember. I read it so  
many times now that --

MR. SWEETIN: No, we got to argue.

MR. BOLEY: We argued -- we did go into it in front of  
Judge Togliatti, but not since then.

THE COURT: Right; and here's kind of -- here's where we

1 are. We've reviewed, by we I mean she --

2 MR. BOLEY: Sure.

3 THE COURT: -- and told me about it, the JAVS and such  
4 to see where we are, and I have looked at a lot of her rulings. It  
5 appears that she made some preliminary rulings, she called them  
6 advisory rulings. She said, you know, they'll need to be hearing on  
7 certain things, so I don't think I'm precluded from ruling on them at  
8 this point. I don't -- I was concerned that it's more like a motion to  
9 reconsider. I don't think it really is, and I do think the *Franks* case  
10 has cleared things up -- so it changed the law, so what I'm inclined  
11 to do, and you can -- like I said, I don't know much you want to  
12 argue it, is on the 2012 Jacob and 2011 Damiya [phonetics] - she's  
13 already granted Shaimaa [phonetics] right?

14 MR. SWEETIN: Uhuh.

15 THE COURT: Well, I'm inclined -- do we -- I guess do we  
16 need hearings on all of them I suppose? On some level?

17 MR. SWEETIN: It's up to you. I mean, you know, the  
18 question was early on exactly, with the new statute, how are we  
19 going to handle it, do it with hearings? I don't know, in an  
20 abundance of caution.

21 I mean, the Court has made it pretty clear that we don't  
22 necessarily need an evidentiary hearing, but I think the Court can  
23 request one if they wanted to consider that in making their  
24 determination on any of the, you know, the elements that are kind  
25 of laid out in *Franks*.

1 THE COURT: I mean I don't -- let me ask you this, what is  
2 the issue in this one? Is it a, he did it or it's not relevant? Are you  
3 conceding that these other bad acts happened or are you not even  
4 going that far? Are we in a position - it's preponderance now,  
5 right? For *Franks*?

6 MR. SWEETIN: Yes.

7 MR. BOLEY: Sure.

8 MR. SWEETIN: He made a full admission in the case  
9 [unintelligible] --

10 THE COURT: No, I -- and he's got a conviction on the  
11 other, so -- that's what I'm saying --

12 MR. BOLEY: Sure.

13 THE COURT: -- that would be the only thing really, I think  
14 the hearing is necessary -- we can have a hearing without  
15 necessarily bringing live witnesses if you can concede that it  
16 happened. Now if not, then we need to bring in -- and then we  
17 could probably -- well Damiya's [phonetics] case, that's 2011.  
18 There's an admission by him, so I don't know how tricky that's  
19 going to be.

20 MR. BOLEY: I don't think the State has much of a burden  
21 there.

22 THE COURT: Sounds like not.

23 MR. BOLEY: I mean, he's already convicted of --

24 THE COURT: On the Jacob one, yeah.

25 MR. BOLEY: -- the only differentiation that I drew, was

1 the difference between a juvenile conviction and an adult  
2 conviction, that's one of the --

3 THE COURT: Yes, I -- I don't see it.

4 MR. BOLEY: Okay.

5 THE COURT: I mean, honestly, I think it is so wide open --

6 MR. BOLEY: Uhuh.

7 THE COURT: -- the way they've done it. I think it's a  
8 sexual offense, and I think the fact, quite frankly, that he started as a  
9 juvenile and has continued, it's -- this case -- it's an aberration, so I  
10 find that it's very probative in terms of -- that's his thing -- you  
11 know, he's doing sexual offenses against consent, and that's kind of  
12 -- feet aside, I don't care what body part --

13 MR. BOLEY: Sure.

14 THE COURT: -- it's sexual propensity. It's committing  
15 sexual offenses against people, against their will.

16 MR. BOLEY: Okay.

17 THE COURT: So, I don't know -- like I said, so my point is I  
18 don't know how much argument you want to do. So, do you want  
19 to come back at -- whenever we're done?

20 MR. BOLEY: I mean if that's what the Court -- I don't think  
21 there's much argument left to have really. If the Court is inclined -- I  
22 mean that pretty much opens the door for all of the previous bad  
23 acts.

24 THE COURT: Yes.

25 MR. BOLEY: I don't think there's much argument.

1 THE COURT: Again, the way I read *Franks* and everything  
2 else out there, I think it -- you know we kind of talked about what  
3 examples might be that were too far removed where it would  
4 become -- but I think it's extremely probative to -- obviously it's all  
5 prejudicial --

6 MR. BOLEY: Sure.

7 THE COURT: -- but I don't think -- I think that's what  
8 they're -- it's the law I think now.

9 MR. BOLEY: If the Court is willing to just rule on the  
10 pleadings and what's argued then -- argued, I guess --

11 THE COURT: Do you want to set some kind of a hearing?

12 MR. SWEETIN: If you want an evidentiary hearing, we  
13 can. I mean, like I said, I don't know that -- I guess before we  
14 weren't really sure whether that was something that was necessary.  
15 We were kind of doing it on an abundance of caution.

16 THE COURT: I talked to Herndon and stuff --

17 MR. SWEETIN: Yeah.

18 THE COURT: -- we kind of kicked it around a little bit, and  
19 he said if there's an issue regarding whether it happened so that  
20 you can make the determination --

21 MR. SWEETIN: Yeah.

22 THE COURT: -- then we probably should, right? Is that  
23 what you took away from that?

24 THE LAW CLERK: Yes.

25 THE COURT: Right, but if that's not really an issue then --

1 we're still having a hearing in which we discussed we have an offer  
2 of proof kind of in the --

3 MR. SWEETIN: And that's kind of what we just thought  
4 right --

5 THE COURT: -- pleadings in themselves and what not.

6 MR. BOLEY: There was just the one woman that, you  
7 know, was completely unproven and just accused but not indicted, I  
8 don't know if you're still moving to bring that in --

9 MR. SWEETIN: We are, yeah.

10 MR. BOLEY: -- then I guess we still need a hearing on  
11 that.

12 THE COURT: Okay.

13 MR. BOLEY: No matter what.

14 THE COURT: Is that Shaimaa from 2017, UNLV girl?

15 MR. SWEETIN: Yes. It's Shaimaa -- her last name.

16 THE COURT: Okay.

17 MR. BOLEY: But I think you just need to bring in one  
18 certified conviction from other ones or something, right?

19 THE COURT: Well, I don't know, what do you even have  
20 from the other ones?

21 MR. SWEETIN: We have police reports that have been  
22 provided, that showed the confession in Davia [phonetics], and I  
23 think there is a conviction in Weidner [phonetics].

24 THE COURT: Yes, Jacob, is that the one?

25 MR. SWEETIN: Uhuh.

1 THE COURT: He was convicted of indecent -- I don't know  
2 if you have that conviction or not, but maybe in an abundance of  
3 caution, you bring in a witness on each one.

4 MR. BOLEY: That'll be great.

5 THE COURT: Well, I don't know, what's your position?

6 MR. BOLEY: I understand that realistically, we have to,  
7 you know.

8 THE COURT: I mean I think that the -- like I said, at the  
9 end of the day, I don't think we have to at all, because I mean, even  
10 if we were back in *Petrocelli* days --

11 MR. BOLEY: Uhuh.

12 THE COURT: -- if we didn't have it, if it's proven up during  
13 trial, we're good enough, and so I mean I guess if it was a mistrial --

14 MR. BOLEY: Sure.

15 THE COURT: -- and let it in, he screws it up and doesn't  
16 prove it once we get to trial --

17 MR. SWEETIN: I mean, even under *Petrocelli*, there could  
18 be an offer of proof.

19 THE COURT: Right.

20 MR. SWEETIN: So, I don't know, I think the only one -- the  
21 -- short of the fact that you can see there's a conviction in Weidner  
22 [phonetics], Jacob --

23 THE COURT: Are you going to have that? Do you have it?

24 MR. SWEETIN: -- I think it was a juvenile conviction, so I  
25 don't know --

1 THE COURT: That's what I'm saying, so you may or not  
2 have that --

3 MR. SWEETIN: -- right.

4 THE COURT: -- technical paperwork, so -- a lot of it  
5 depends -- is it your position you're only contesting this one?

6 MR. BOLEY: Well, I mean --

7 THE COURT: In terms of preponderance of the evidence.

8 MR. BOLEY: -- I've had -- I'm assuming, because I don't  
9 have the conviction either, I'm only assuming he was convicted of  
10 that because we sort of talked about it -- I assume it's the State's  
11 motion, but I mean if we don't know if he was convicted or not.

12 MR. SWEETIN: I think that we have records that show the  
13 conviction, I think we have that.

14 MR. BOLEY: But I'd be satisfied with that.

15 MR. SWEETIN: The detail that was in fact adjudicated, put  
16 on some sort of plan in the juvenile system, so I think we have that,  
17 so I can provide that to you.

18 MR. BOLEY: And he was in juvie for some reason, so I  
19 mean --

20 MR. SWEETIN: Right, and that's the whole reason --

21 MR. BOLEY: - so what else would it be, but I get it. I get  
22 what you're saying.

23 THE COURT: Well, why don't we do this; why don't we  
24 set it for a hearing on Shaimaa --

25 MR. BOLEY: Uhuh.

1 THE COURT: -- and we'll do it later in the morning or  
2 something, so we can have him by himself, and at that point, you  
3 can also do the offer of proof on Jacob and Damiya [phonetics], and  
4 we can handle it all, but we can talk freely and whatever. But that's  
5 -- that's kind of where I am. I'm -- I'm inclined to think that it all  
6 comes in assuming that it meets the standard, because I think it's a  
7 graduation of sexual offenses, and now he's just appropriated it as  
8 a fetish, but it's still sex against your will.

9 MR. BOLEY: Sure. There's one other issue as well, and I  
10 know this is an address, I don't want to --

11 THE COURT: And just -- this is all recorded so, this is kind  
12 of technically argument, so we're all good?

13 MR. BOLEY: Oh yeah, yeah. I know the Special Public  
14 Defender when they had this case, they questioned his competency,  
15 and, he was sent up and found competent. He's got quite a bit  
16 worse since that point --

17 THE COURT: He doesn't look right.

18 MR. BOLEY: Huh?

19 THE COURT: He does not look right.

20 MR. BOLEY: Yep, basically all he does is -- I mean he's  
21 literally drooling over there. I -- like I said, I don't want to revisit an  
22 issue that's been hashed out, but I'm not sure he's competent to  
23 assist me in his defense.

24 THE COURT: Okay, well I can't go forward if you -- when  
25 you make that statement so --

1 MR. BOLEY: Yeah of course, I understand. I don't know if  
2 there's anything we can do short of sending him to competency.

3 THE COURT: No, not that I know of.

4 MR. SWEETIN: If that's what the representations are  
5 being made, that he can't communicate with his client, then I don't  
6 think we have a choice but to send him for a competency  
7 evaluation.

8 MR. BOLEY: I think there's already been one done  
9 already.

10 THE COURT: At the end of the day, the case isn't going  
11 anywhere --

12 MR. BOLEY: Sure.

13 THE COURT: -- as long as he's in custody and off the  
14 streets for the time being. I don't want to take anything -- he  
15 doesn't look quite right to me; that doesn't mean he's incompetent,  
16 but if you have a concern, and you're dealing with him then, I think  
17 we need to address that first.

18 MR. BOLEY: Yeah.

19 THE COURT: All right, well then all of this was for  
20 nothing.

21 MR. BOLEY: Probably --

22 THE COURT: But we have a preview of what's coming in  
23 the future.

24 MR. BOLEY: -- of course.

25 THE COURT: Somebody remind me of what I said I'm

1 going to do.

2 MR. BOLEY: Huh?

3 THE COURT: I said remind me of what I said I'm going to  
4 do eventually.

5 MR. SWEETIN: So, are you going to refer him to  
6 competency now or does the Defense have to file something or --

7 THE COURT: Does he have to do that paperwork or can  
8 he just --

9 THE LAW CLERK: I think -- I think they have to. I think you  
10 say it on the record and --

11 THE COURT: Do you have the competency paperwork?

12 THE CLERK: Yes.

13 MR. BOLEY: Okay. I just need him to file this? No  
14 problem.

15 THE COURT: You just fill it out and give it to us, right?

16 THE LAW CLERK: Yes.

17 THE COURT: And you just give it to Keith.

18 MR. BOLEY: I can do that right now?

19 THE COURT: Yes, I think so.

20 MR. BOLEY: Okay, no problem. Thank you, Judge.

21 THE COURT: Thank you guys.

22 [Bench Conference Concluded]

23 THE COURT: Okay, after discussions at the bench, we  
24 kind of discussed where we're going to go with this case; however,  
25 Mr. Boley believes that there have been some potential competency

1 issues raised, and I do notice that there's a -- appears to be  
2 somewhat of a decline from what I've seen last time, but so we're  
3 going to go ahead and refer this matter to Competency Court. Once  
4 we get back, then we'll go ahead and set the evidentiary hearings  
5 on the pending Franks motion. Is that what we're calling them  
6 Franks motions?

7 MR. SWEETIN: Yes, Judge.

8 THE DEFENDANT: Your Honor, I got a question.

9 THE COURT: Sure.

10 THE DEFENDANT: Is Competency Court the same as -- if  
11 I'm going to a mental hospital again?

12 THE COURT: It's going to see some doctors to make sure  
13 you know what's going on and stuff, yeah.

14 THE DEFENDANT: All right; that's all I wanted to know.

15 THE COURT: You good with that?

16 THE DEFENDANT: Yeah, I'm good with that, thank you so  
17 much.

18 THE COURT: You're welcome.

19 THE COURT CLERK: Competency Court will be April 12<sup>th</sup>,  
20 10 a.m., Department 7.

21 [Colloquy - The Court and The Court Clerk]

22 THE DEFENDANT: Mr. Boley?

23 MR. BOLEY: One second, is it okay if I just file this with  
24 the Court maybe later today or tomorrow, the competency forms?

25 THE COURT: That's fine.

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MR. BOLEY: Okay, thank you.

MR. SWEETIN: Thank you, Judge.

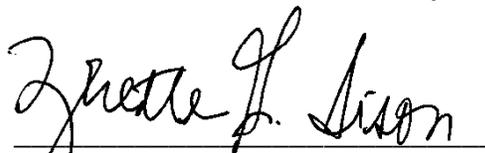
THE COURT CLERK: Counsel, just to make sure, I won't be able to refer him until I get the form.

MR. BOLEY: Oh, I'll just fill it out now then.

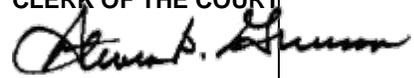
[Hearing concluded at 9:16 a.m.]

\* \* \* \* \*

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.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder





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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. XXI

BEFORE THE HONORABLE LINDA MARIE BELL, DISTRICT COURT JUDGE  
FRIDAY, APRIL 12, 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
FURTHER PROCEEDINGS: COMPETENCY**

APPEARANCES:

For the State: GLEN O'BRIEN, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS BOLEY, ESQ.,

RECORDED BY: RENEE VINCENT, COURT RECORDER

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Las Vegas, Nevada, Friday, April 12, 2019

[Case called at 10:28 a.m.]

THE COURT: He was found incompetent. Any challenge to that finding?

MR. BOLEY: No, ma'am.

THE COURT: Pursuant to NRS 178.425 I find Mr. Washington incompetent to proceed with adjudication based on the reports of Doctor Kapel and Doctor Colosimo and remand him to the custody of the sheriff for transport to Lakes Crossing or Stein for further treatment and restoration to competency.

MR. O'BRIEN: We will submit an order, Your Honor.

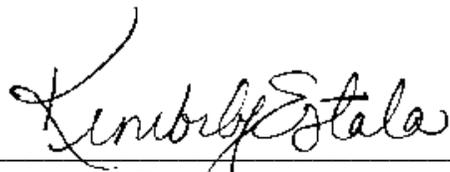
THE COURT: Great, thank you.

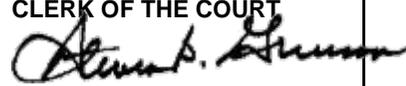
MR. BOLEY: Thank you Judge.

[Proceedings concluded at 10:29 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.

  
\_\_\_\_\_  
Kimberly Estala  
Court Recorder/Transcriber



1 **OCNRS**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 GLEN O'BRIEN  
6 Chief Deputy District Attorney  
7 Nevada Bar #007849  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12 JUHJUAN WASHINGTON,  
13 #8124794  
14 Defendant.

CASE NO: C-18-333798-1  
DEPT NO: VII

15 **ORDER OF COMMITMENT**

16 THIS MATTER came before the Court on the 12th day of April, 2019, when doubt  
17 arose as to competence of the Defendant, the Defendant being present with counsel, THOMAS  
18 D. BOLEY, ESQ., the State being represented by STEVEN B. WOLFSON, District Attorney,  
19 through GLEN O'BRIEN, his Deputy, and the Court having considered the reports of Doctors  
20 Lawrence Kapel and C. Phillip Colosimo, licensed and practicing psychologists and/or  
21 psychiatrists in the State of Nevada, finds the Defendant incompetent, and that he is dangerous  
22 to himself and to society and that commitment is required for a determination of his ability to  
23 receive treatment to competency and to attain competence, and good cause appearing, it is  
24 hereby

25 ORDERED that, pursuant to NRS 178.425(1), the Sheriff and/or a designee(s) of the  
26 Division of Public and Behavioral Health of the Department of Health and Human Services,  
27 shall convey the Defendant forthwith, together with a copy of the complaint, the commitment  
28 and the physicians' certificate, if any, into the custody of the Administrator of the Division of

APR 18 2019  
SMA

1 Public and Behavioral Health of the Department of Health and Human Services or his or her  
2 designee for detention and treatment at a secure facility operated by that Division; and, it is

3 FURTHER ORDERED that, pursuant to NRS 433A.165, before the defendant may be  
4 transported to a public or private mental health facility he must:

5 1. First be examined by a licensed physician or physician assistant or an  
6 advanced practitioner of nursing to determine whether the person has a medical problem, other  
7 than a psychiatric problem, which requires immediate treatment; and

8 2. If such treatment is required, be admitted to a hospital for the appropriate  
9 medical care; and, it is

10 FURTHER ORDERED that the Defendant is required to submit to said medical  
11 examination which may include, but is not limited to, chest x-rays and blood work; and, it is

12 FURTHER ORDERED that the cost of the examination must be paid by Clark County,  
13 unless the cost is voluntarily paid by the Defendant or on his behalf, by his insurer or by a state  
14 or federal program of medical assistance; and, it is

15 FURTHER ORDERED that, pursuant to NRS 178.425(2), the Defendant must be held  
16 in such custody until a court orders his release or until he is returned for trial or judgment as  
17 provided in NRS 178.450, 178.455 and 178.460; and, it is

18 FURTHER ORDERED that, pursuant to NRS 178.425(4), these proceedings against  
19 the Defendant are suspended until the Administrator or his or her designee finds him capable  
20 of standing trial as provided in NRS 178.400; and, it is

21 FURTHER ORDERED that, pursuant to NRS 178.435, the expenses of the examination  
22 and of the transportation of the Defendant to and from the custody of the Administrator of the  
23 Division of Public and Behavioral Health of the Department of Health and Human Services or  
24 his or her designee are chargeable to Clark County; and, it is

25 FURTHER ORDERED that the Administrator of the Division of Public and Behavioral  
26 Health of the Department of Health and Human Services or his or her designee shall keep the  
27 Defendant under observation and evaluated periodically; and, it is

28 //

1 FURTHER ORDERED that the Administrator or his or her designee shall report in  
2 writing to this Court and the Clark County District Attorney whether, in his opinion, upon  
3 medical consultation, the Defendant is of sufficient mentality to be able to understand the  
4 nature of the criminal charge against him and, by reason thereof, is able to aid and assist his  
5 counsel in the defense interposed upon the trial or against the pronouncement of the judgment  
6 thereafter. The administrator or his or her designee shall submit such a report within 6 months  
7 after this order and at 6 month intervals thereafter. If the opinion of the Administrator or his  
8 or her designee about the Defendant is that he is not of sufficient mentality to understand the  
9 nature of the charge against him and assist his own defense, the Administrator or his or her  
10 designee shall also include in the report his opinion whether:

11 1. There is a substantial probability that the Defendant can receive treatment  
12 to competency and will attain competency to stand trial or receive pronouncement of judgment  
13 in the foreseeable future; and

14 2. The Defendant is at that time a danger to himself or to society.

15 DATED this 19 day of April, 2019.

17 Nancy L. Allie #27 FR  
18 DISTRICT JUDGE LN

19 STEVEN B. WOLFSON  
20 District Attorney  
21 Nevada Bar #001565

22 BY

23 Glen O'Brien  
24 GLEN O'BRIEN  
25 Chief Deputy District Attorney  
26 Nevada Bar #007849  
27

28 mc

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

June 04, 2019                      09:00 AM      Status Check: Competency/Trial Readiness

HEARD BY:      Holthus, Mary Kay                      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

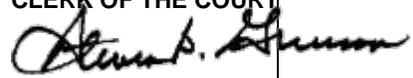
James R Sweetin	Attorney for Plaintiff
State of Nevada	Plaintiff
Thomas D Boley	Attorney for Defendant

**JOURNAL ENTRIES**

Deft. not present. Mr. Boley indicated Deft. was still at Lakes Crossing. Mr. Sweetin requested trial be vacated and placed back on calendar later. COURT ORDERED, trial VACATED, and matter SET for status check in 60 days.

LAKES CROSSING

8/6/19 9:00 AM STATUS CHECK: TRIAL READINESS



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE  
TUESDAY, JUNE 4, 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
STATUS CHECK: COMPETENCY/TRIAL READINESS**

APPEARANCES:

For the State: JAMES R. SWEETIN, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE SISON COURT RECORDER

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Las Vegas, Nevada, Tuesday, June 4, 2019

[Hearing began at 9:04 a.m.]

THE COURT CLERK: State of Nevada versus Juhjuan Washington, C333798.

THE COURT: Good Morning.

MR. BOLEY: Good Morning.

THE COURT: What do we got?

MR. BOLEY: Tom Boley on behalf of Mr. Washington. He's not present in custody so; my assumption will be that he's still in the Psych Department for restoration.

THE COURT: Oh, at Lakes Crossing?

MR. BOLEY: Yes.

THE COURT: Anybody know?

MR. SWEETIN: Judge, I think -- I'm guessing he is not in jail, so I'm guessing that he's somewhere --

THE COURT: Not ready.

MR. SWEETIN: -- Steinberg or Lakes, so. Yeah, so we would ask -- I think we still have an active trial date. We would just ask to vacate the trial date and put it back on calendar whenever he gets back.

THE COURT: Okay. Do we want a status check just in case or no?

MR. SWEETIN: We can, if you want.

MR. BOLEY: Up to the Court.

1 THE COURT: So, we don't lose him or something.

2 MR. SWEETIN: That's fine.

3 THE COURT: Okay.

4 MR. BOLEY: Okay.

5 THE COURT: We'll vacate the trial date. Want to do 90  
6 days, 60 days, 30 days?

7 MR. SWEETIN: Probably 60 days, just to be safe.

8 MR. BOLEY: Let's do 60.

9 THE COURT: Let's just do a status check in 60 days. And  
10 somebody see if you can find him, so we know what's going on.

11 THE LAW CLERK: He's still at Lakes, and usually when  
12 they do a return from competency [unintelligible] --

13 THE COURT: Right.

14 THE LAW CLERK: -- but he's still up there right now.

15 THE COURT: Okay, he is still in Lakes, I guess. Can you  
16 guys approach?

17 MR. BOLEY: Yes ma'am.

18 [Bench Conference]

19 THE COURT: I don't really need you, but I don't want him  
20 alone. You got my message about this afternoon?

21 MR. SWEETIN: Yeah, I did.

22 THE COURT: I'm going to try -- if I get out of here early,  
23 I'll see if they can take me early, so I can get out and back.

24 MR. SWEETIN: I called the detective because he's in this  
25 class, and working with him, so now he's planning on coming in at

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THE COURT: All right.

MR. SWEETIN: Okay.

THE COURT: Okay, we'll just leave it.

MR. SWEETIN: Okay.

THE COURT: All right.

[Bench Conference Concluded]

THE COURT: Thanks. Okay.

THE COURT CLERK: August 6th, 9 a.m.

MR. BOLEY: August 6<sup>th</sup> at 9 a.m.

THE COURT: And I vacated the trial date, right?

THE COURT CLERK: Yes.

[Hearing concluded at 9:06 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.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

August 06, 2019      09:00 AM      Status Check: Competency/Trial Readiness

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

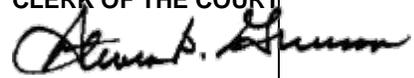
James R Sweetin	Attorney for Plaintiff
State of Nevada	Plaintiff
Thomas D Boley	Attorney for Defendant

**JOURNAL ENTRIES**

Deft. not present. Mr. Boley indicated he heard from Deft. and he was still in Competency Court at Lakes Crossing. Court inquired how long to continue, which parties agreed 90 days. COURT ORDERED, matter CONTINUED for 90 days.

LAKES CROSSING- REMANDED

11/5/19 9:00 AM CONTINUED: STATUS CHECK: COMPETENCY/ TRIAL READINESS



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE  
TUESDAY, AUGUST 6, 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
STATUS CHECK: COMPETENCY/TRIAL READINESS**

APPEARANCES:

For the State: JAMES R. SWEETIN, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE SISON COURT RECORDER

1 Las Vegas, Nevada, Tuesday, August 6, 2019

2  
3 [Hearing began at 9:21 a.m.]

4 THE COURT CLERK: State of Nevada versus Juhjuan  
5 Washington, C333798.

6 MR. SWEETIN: I believe he's still in Competency Court.

7 THE COURT: He's at Lakes, right?

8 MR. BOLEY: Tom Boley on behalf of Mr. Washington. I  
9 have heard from him, and his counselors recently. He is still  
10 deemed to be incompetent and at Lakes Crossing.

11 THE COURT: At Lakes Crossing?

12 MR. BOLEY: Yes ma'am.

13 THE COURT: Okay. Should we go out 60 days, 90 days? I  
14 mean I know they'll bring him back and put it on, but I just don't like  
15 it to slip through, so --

16 MR. BOLEY: Sure.

17 THE COURT: Let's go 90 days, yes?

18 MR. SWEETIN: Okay.

19 THE COURT: You think?

20 MR. SWEETIN: That's fine, Judge.

21 MR. BOLEY: Perfect, let's do it.

22 THE COURT CLERK: November 5<sup>th</sup> at 9 a.m.

23 THE COURT: Obviously if we get him back before --

24 MR. BOLEY: Of course.

25 MR. SWEETIN: Thank you, Judge.

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THE COURT: Thank you.

[Hearing concluded at 9:22 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.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber



1 **FOC**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 CHRISTOPHER J. LALLI  
6 Assistant District Attorney  
7 Nevada Bar #005398  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12 JUJUAN WASHINGTON,  
13 #8124794

14 Defendant.

CASE NO: C-18-333798-1

DEPT NO: VII

15  
16 **FINDINGS OF COMPETENCY**

17 THIS MATTER having come on for hearing before the above-entitled Court on the  
18 12th day of April, 2019, and it appearing to the Court that, pursuant to NRS 178.425(1), the  
19 Sheriff was ordered to convey the Defendant forthwith, together with a copy of the complaint,  
20 the commitment and the physicians' certificate, if any, into the custody of the Administrator  
21 of the Division of Public and Behavioral Health of the Department of Health and Human  
22 Services or his or her designee for detention or treatment at a secure facility operated by that  
23 Division or his designee; and, it appearing that, upon medical consultation, the Administrator  
24 or his or her designee has reported to the Court in writing his specific findings and opinion  
25 that the Defendant is of sufficient mentality to be able to understand the nature of the criminal  
26 charge against him and, by reason thereof, is able to assist his counsel in the defense interposed  
27 upon the trial or against the pronouncement of the judgment thereafter; now, therefore,

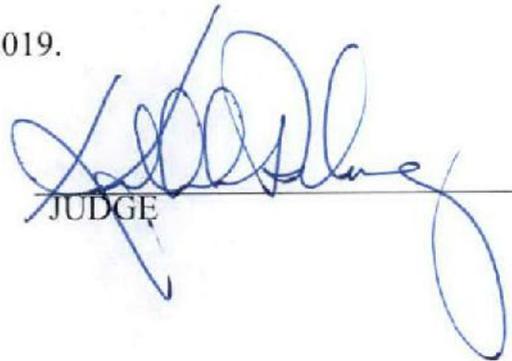
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1 THE COURT FINDS, pursuant to NRS 178.460, that the said Defendant is competent  
2 to stand trial in the above-entitled matter; and,

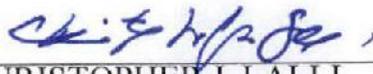
3 IT IS HEREBY ORDERED that you, the Administrator of the Division of Public and  
4 Behavioral Health of the Department of Health and Human Services or his or her designee,  
5 shall provide forthwith to the Director of Mental Health of the Clark County Detention Center,  
6 true and complete copies of the Defendant's psychological evaluations, hospital course of  
7 treatment and discharge summary; and,

8 IT IS FURTHER ORDERED that you, the Sheriff of Clark County, Nevada, shall  
9 accept and retain custody of said Defendant in the Clark County Detention Center pending  
10 completion of proceedings in the above-captioned matter, or until the further Order of this  
11 Court.

12 DATED this 20<sup>th</sup> day of August, 2019.

13  
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15 \_\_\_\_\_  
16 JUDGE

16 STEVEN B. WOLFSON  
17 District Attorney  
18 Nevada Bar #001565

19 BY   
20 \_\_\_\_\_  
21 CHRISTOPHER J. LALLI  
22 Assistant District Attorney  
23 Nevada Bar #005398

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C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

September 20, 2019      10:00 AM      Further Proceedings: Competency-Return From Stein

HEARD BY:      Delaney, Kathleen E.      COURTROOM: RJC Courtroom 15B

COURT CLERK: Estala, Kimberly

RECORDER:      Vincent, Renee

REPORTER:

PARTIES PRESENT:

Glen O'Brien	Attorney for Plaintiff
Juhjuan Washington	Defendant
State of Nevada	Plaintiff
Thomas D Boley	Attorney for Defendant

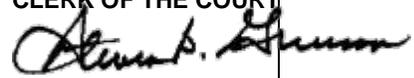
**JOURNAL ENTRIES**

Also present: Danika Navar of the Specialty Courts.

There being no challenge by Defense Counsel, COURT FINDS Defendant COMPETENT pursuant to the Dusky Standard as Defendant is capable of understanding the nature of the charges against him and is able to assist counsel in his defense and ORDERED, pursuant to 178.420, matter TRANSFERRED back to the originating court for further proceedings.

CUSTODY

09/26/19 9:00 AM FURTHER PROCEEDINGS: RETURN FROM COMPETENCY COURT  
DEPT. 18



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. XXI

BEFORE THE HONORABLE KATHLEEN DELANEY, DISTRICT COURT JUDGE  
FRIDAY, SEPTEMBER 20, 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
FURTHER PROCEEDINGS: COMPETENCY-RETURN FROM STEIN**

APPEARANCES:

For the State: GLEN O'BRIEN, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS BOLEY, ESQ.,

RECORDED BY: RENEE VINCENT, COURT RECORDER

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Las Vegas, Nevada, Friday, September 20, 2019

[Case called at 12:19 p.m.]

THE COURT: I have State of Nevada versus --

THE DEFENDANT: Juhjuan.

THE COURT: Juhjuan --

THE DEFENDANT: Yeah.

THE COURT: Thank you Mr. Washington for helping me pronounce your name correctly. We are -- you have returned to us from Stein Hospital and it does appear that doctors Bossi, Roley, and Paul have found that you do now meet the criteria and you can return to District Court Department 18 Judge Holthus to -- for adjudication that is if there are no challenges.

Are there any challenges to these findings?

MR. BOLEY: There are no challenges, Your Honor.

THE COURT: All right thank you. Then I am going to find pursuant to NRS 178.420 that the defendant is competent at this time to proceed with adjudication pursuant again to those findings of doctors Bossi, Roley, and Paul. And we will give him a date to go back and see Judge Holthus in Department 18. Here's your date sir.

THE CLERK: September --

MR. O'BRIEN: I'm sorry.

THE CLERK: Go ahead.

MR. O'BRIEN: I also have an order, Your Honor, may I approach?

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THE COURT: Yes please, you're welcome to approach. You have a standing invitation to approach with any orders Mr. O'Brien, thank you. I'll sign the *Finding of Competency* and I'll have the clerk just one more time to announce the return date to Department 18.

THE CLERK: September 26th at 9:00 a.m.

THE COURT: All right thank you counsel do you have any other matters today?

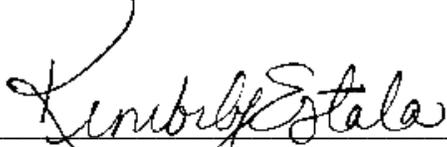
MR. BOLEY: No ma'am, thank you Judge.

THE COURT: All right I've provided the *Findings of Competency* to the Clerk for Mr. Washington thank you.

[Proceedings concluded at 12:20 p.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.

  
\_\_\_\_\_  
Kimberly Estala  
Court Recorder/Transcriber

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

September 26, 2019      09:00 AM      Further Proceedings: Return from Competency Court

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

James R Sweetin	Attorney for Plaintiff
Juhjuan Washington	Defendant
State of Nevada	Plaintiff
Thomas D Boley	Attorney for Defendant

**JOURNAL ENTRIES**

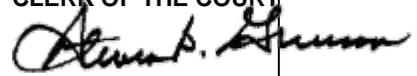
Court noted Deft. had been found competent; therefore, a trial date would need to be set. Mr. Boley noted the State was requesting an evidentiary hearing on previous Motion prior to trial. Mr. Sweetin concurred indicating there was a bad acts Motion pending prior to Deft. being sent to Competency Court. Further statements by Mr. Sweetin. CONFERENCE AT BENCH. COURT ORDERED, trial date and evidentiary hearing SET.

CUSTODY

11/1/19 10:00 AM EVIDENTIARY HEARING

1/14/20 9:00 AM CALENDAR CALL

1/21/20 1:00 PM JURY TRIAL



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE  
THURSDAY, SEPTEMBER 26, 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
FURTHER PROCEEDINGS: RETURN FROM COMPETENCY COURT**

APPEARANCES:

For the State: JAMES R. SWEETIN, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE SISON COURT RECORDER

1 Las Vegas, Nevada, Thursday, September 26, 2019

2  
3 [Hearing began at 9:19 a.m.]

4 THE COURT CLERK: State of Nevada versus Juhjuan  
5 Washington, C333798.

6 MR. SWEETIN: James Sweetin for the State.

7 MR. BOLEY: Tom Boley for Mr. Washington.

8 THE COURT: Okay, the Defendant was found competent,  
9 we just need to set a trial date, is that right?

10 MR. BOLEY: Yes, he was, but I think the State is  
11 requesting an evidentiary hearing on the previous motion prior to  
12 the trial date.

13 MR. SWEETIN: Yeah, prior to him going to Competency  
14 Court, there was another bad acts motion pending before the Court,  
15 and we had a discussion that I think to set a previous evidentiary  
16 hearing.

17 As I understand it, we had discussed - -there's actually  
18 three victims; two of those victims, the State will provide police  
19 reports, full confession with regards to one, and a proof of the  
20 juvenile finding in regards to the other. The third, however, we  
21 need to present testimony to the Court, so it would be only one  
22 witness that the State would be calling for an evidentiary hearing,  
23 and we also need to set it for trial.

24 THE COURT: Okay.

25 MR. BOLEY: Agreed.

1 THE COURT: Let's set the trial date first, and then see  
2 where we want to put the evidentiary hearing. Will you guys  
3 approach while she's looking.

4 MR. BOLEY: Yes ma'am.

5 [Bench Conference]

6 THE COURT: Do you want a November date or further  
7 out?

8 MR. SWEETIN: Yeah, I mean -- you know, do you want to  
9 try it in November?

10 MR. BOLEY: Maybe --

11 MR. SWEETIN: I mean, he's talking about --

12 MR. BOLEY: -- maybe further out. I think we've got some  
13 things to do --

14 THE COURT: Then it's going to go to January.

15 MR. BOLEY: Okay, that's fine.

16 MR. SWEETIN: So, January through the whole month? It  
17 would be better for me later in the month of January, like the 21<sup>st</sup> or  
18 later --

19 THE COURT: Yes, it's all the whole month of January.

20 [Bench Conference Concluded]

21 THE COURT CLERK: Calendar call will be January 14<sup>th</sup> at  
22 9 a.m., Jury trial January 21<sup>st</sup> at 1 p.m.

23 THE COURT: So, when would you -- how soon would you  
24 like the evidentiary hearing. Doesn't sound like it's a big deal.

25 MR. SWEETIN: Yeah, it doesn't matter. I mean if the

1 Court has any time available toward the end of October, that would  
2 work best for the State.

3 THE COURT: We can do it at the end of -- we can set it at  
4 11:00 on a criminal calendar day or we can do 10:00 on a Friday.  
5 What's your pleasure?

6 MR. BOLEY: I would prefer the Friday setting, but --

7 MR. SWEETIN: Yeah, I would expect my witness to be --  
8 my direct on the witness to be like 15 minutes or so, so it's not  
9 going to be I don't think a lengthy hearing.

10 THE COURT: All right. Friday, end of October, 10:00.

11 THE COURT CLERK: It probably be -- would November 1<sup>st</sup>

12 --

13 MR. SWEETIN: That's fine.

14 THE COURT CLERK: November 1<sup>st</sup> at 10 a.m.

15 MR. BOLEY: All right. Thank you.

16 THE COURT: Thank you.

17 [Hearing concluded at 9:23 a.m.]

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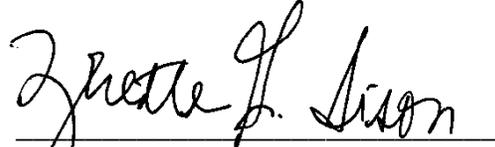
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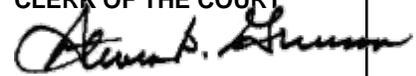
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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder



1 **ATEAR**  
STEVEN B. WOLFSON  
2 Clark County District Attorney  
Nevada Bar #001565  
3 **JAMES R. SWEETIN**  
Chief Deputy District Attorney  
4 Nevada Bar #005144  
200 Lewis Avenue  
5 Las Vegas, Nevada 89155-2212  
(702) 671-2500  
6 Attorney for Plaintiff

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

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 **JUHJUAN WASHINGTON**  
14 **#8124794**

Defendant.

CASE NO: **C-18-333798-1**

DEPT NO: **XVIII**

15  
16 **AUDIOVISUAL TRANSMISSION EQUIPMENT APPEARANCE REQUEST**  
17

18 Pursuant to Rule 4 of the Nevada Supreme Court RULES GOVERNING  
19 APPEARANCE BY AUDIOVISUAL TRANSMISSION EQUIPMENT, the State of Nevada,  
20 by and through JAMES R. SWEETIN, Chief Deputy District Attorney, requests that NOREEN  
21 CHARLTON be permitted to testify by remote court appearance via video conference for the  
22 evidentiary hearing scheduled for NOVEMBER 19, 2019.

23 ***Date:* NOVEMBER 19, 2019**

24 ***Time:* 11:00 AM**

25 ***Courtroom:* 3F**

26 NOREEN CHARLTON agrees to be bound by the oath given by the Court Clerk,  
27 Eighth Judicial District Court, and to be subject to the jurisdiction of this Court for purposes  
28 related to this testimony.

1 Any objection to this request must be made in writing within two (2) judicial days of  
2 service of this request.

3 The State of Nevada agrees that by submitting this request, the State of Nevada and  
4 NOREEN CHARLTON, or their respective representatives, will test and verify the  
5 functionality of the video conference connectivity with the Court's IT department at least two  
6 (2) judicial days before the scheduled appearance. Contact information for the test is:

7 *Name of Party:* State of Nevada / JAMES R. SWEETIN

8 *Email Address:* james.sweetin@clarkcountyda.com

9 *Phone Number:* (702) 671-2788

10 *Name of Witness:* NOREEN CHARLTON

11 *Email Address:* noreen@casefilesconsulting.com

12 *Phone Number:* 440-590-0079

13 Counsel certifies that the video connection has been successfully tested at  
14 <http://bluejeans.com/111>, prior to submitting this application.

15 DATED this 8th day of November, 2019.

16 STEVEN B. WOLFSON  
17 Clark County District Attorney  
18 Nevada Bar #1565

19 BY /s/ JAMES R. SWEETIN  
20 JAMES R. SWEETIN  
21 Chief Deputy District Attorney  
22 Nevada Bar #005144  
23  
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27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that service of the above and foregoing was made this 8th day of  
NOVEMBER, 2019, to:

THOMAS BOLEY, ESQ.  
t.boleym@bandafirm.com

BY /s/ HOWARD CONRAD  
Secretary for the District Attorney's Office  
Special Victims Unit

hjc/SVU

C-18-333798-1      State of Nevada  
   vs  
   Juhjuan Washington

November 19, 2019      11:00 AM      Evidentiary Hearing

HEARD BY:      Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER:      Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

James R Sweetin	Attorney for Plaintiff
Juhjuan Washington	Defendant
State of Nevada	Plaintiff
Thomas D Boley	Attorney for Defendant

**JOURNAL ENTRIES**

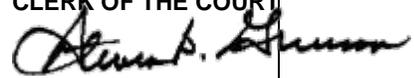
Exhibits presented (see worksheets). Testimony presented (see worksheet).

Arguments by Mr. Sweetin. Court advised parties it understood that Judge Togliatti previously ruled on State's other bad acts which were said to be more probative than prejudicial; further, Court noted its understanding was that parties were just revisiting Demia's account as a result of Franks vs. State. Statements by Mr. Boley. Mr. Sweetin noted Judge Togliatti was inclined to bring it in subject to a hearing. Arguments by Mr. Boley requesting that Court exclude. Statements by Deft. Court advised parties to the extent Togliatti already ruled with respect to the two incidents, it didn't see the need to disturb those rulings, which she found they were admissible. COURT ORDERED, previous ruling STANDS. Court didn't FIND that the two bad acts were unfairly prejudicial beyond probative value; therefore, Court would reaffirm and find support in evidence for Judge Togliatti's ruling with respect to the Demia incident. Court noted Franks decision would change balance between prejudicial and probative. Additionally, the prior with Demia would be admissible. State to prepare the Order and submit to opposing counsel for approval as to form and content.

**CUSTODY**

1/14/20 9:00 AM CALENDAR CALL

1/21/20 1:00 PM JURY TRIAL



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. IX

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE  
TUESDAY, NOVEMBER 19, 2019

**RECORDER'S TRANSCRIPT OF HEARING:  
EVIDENTIARY HEARING**

APPEARANCES:

For the State: JAMES SWEETIN, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE SISON, COURT RECORDER

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<b>CASSANDRA ROBERTSON</b>	
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1 Las Vegas, Nevada, Tuesday, November 19, 2019

2  
3 [Hearing began at 12:23 p.m.]

4 THE COURT: State of Nevada versus Juhjuan Washington,  
5 C333798-1.

6 MR. SWEETIN: James Sweetin for the State, Judge.

7 MR. BOLEY: Tom Boley on behalf of Mr. Washington. He's  
8 present in custody, to my left.

9 THE COURT: Okay. We're on for a Petrocelli hearing right,  
10 regarding the one act?

11 MR. SWEETIN: It is Judge. It's an evidentiary hearing. I  
12 might note that in our motion to admit other bad acts, we proceeded  
13 under 48.045, paragraph 3 and 48.045 paragraph 2.

14 I believe that the act -- the acts that we are discussing all have  
15 a sexual element, so I think that they could come under 48.045,  
16 paragraph 3 or 2. So, you mentioned Petrocelli hearing --

17 THE COURT: You're right -- evidentiary hearing, I'm sorry.

18 MR. SWEETIN: -- so I would just make that record. And then  
19 I would note that we had previously had a discussion in regards to --  
20 there's actually three incidents that we're talking about. One of those  
21 incidents involves victim S.A. The other two involve victims J.W. and D.  
22 E.

23 We previously talked about presenting the reports in regards  
24 to J.W. and D.E. There was actually a juvenile adjudication as to both of  
25 those victims. I have marked those as exhibits, documents, and the

1 adjudication as Exhibits 9 and 10. I would ask that they be admitted  
2 under seal because I haven't redacted them of names, but I present  
3 those to you in relation to those two incidents.

4 THE COURT: Okay. Mr. Boley you have copies of those?  
5 You've looked them over?

6 MR. BOLEY: I do; and I have -- you know, of course I  
7 recognize the validity of the documents, with the same objection I've  
8 always made. I'll just reiterate that.

9 THE COURT: Which is --

10 MR. BOLEY: Which is basically in my pleadings from before,  
11 that some of these acts weren't related to the common scheme that he --  
12 you know, his proclivities in these -- what he's apparently charged with.

13 THE COURT: Okay --

14 MR. BOLEY: I know you're --

15 THE COURT: -- you're not objecting to the evidence itself or  
16 the existence of the priors but rather the appropriateness for coming in.

17 MR. BOLEY: -- exactly.

18 THE COURT: Okay.

19 MR. BOLEY: I'm not questioning the validity of the documents  
20 at all.

21 THE DEFENDANT: Can I say something.

22 MR. BOLEY: I wouldn't.

23 THE DEFENDANT: I want to say something.

24 THE COURT: All right, so -- well that is what it is. We'll get to  
25 the -- you want to call your first witness?

1 MR. SWEETIN: And we would call Noreen Brigitte [phonetics]  
2 -- who I believe is appearing via electronic connection -- Noreen  
3 Charlton, I'm sorry.

4 THE COURT: Okay.

5 NOREEN CHARLTON

6 having been first duly sworn to testify to the truth, the whole truth, and  
7 nothing but the truth, was examined and testified as follows:

8 THE COURT CLERK: Please state your full name and spell  
9 your first and last name for the record.

10 THE WITNESS: Noreen Charlton, N-o-r-e-e-n C-h-a-r-l-t-o-n.

11 MR. SWEETIN: May I proceed Judge?

12 THE COURT: You may.

13 DIRECT EXAMINATION

14 BY MR. SWEETIN:

15 Q. Ms. Charlton, I want to turn your attention back to November  
16 of 2017. How were you employed then?

17 A. I was a Senior Crime Scene Analysis with the Las Vegas  
18 Metropolitan Police Department.

19 Q. Okay. And on that particular date, did you have occasion to  
20 have contact in the course of your employment with an individual by the  
21 name of Juhjuan Washington?

22 A. Yes I did.

23 Q. And was that contact had in relation to investigation under  
24 LVMPD event #1710200829?

25 A. Yes it was.

1 Q. And what was the purpose of your contact with Mr.  
2 Washington at that time?

3 A. I responded to the LVMPD Headquarters in regards to a  
4 search warrant as a follow-up to a sexual assault case.

5 Q. Okay. And what did you do specifically in regards to that  
6 search warrant?

7 A. I took overall and identification photographs of the subject. I  
8 recovered his clothing. I recovered a penis swab as well as a buccal  
9 swab kit.

10 Q. Okay. And when you say buccal swab, that would be a swab  
11 from the mouth of the Defendant, Mr. Washington?

12 A. That's correct.

13 Q. Now speaking specifically to that buccal swab, what happened  
14 to it after you obtained it from Mr. Washington, the Defendant?

15 A. The two swabs were placed in the box that is within the  
16 individual kit. It was then closed up, and the Defendant's name and date  
17 of birth were placed on the outside of the box. The box was then placed  
18 into an envelope, and an evidence label was affixed to the outside and  
19 the envelope was sealed with my initials, P number, and the date.

20 Q. Okay. Was that evidence envelope ultimately deposited in the  
21 evidence vault?

22 A. Yes it was.

23 Q. Did the item remain in your sole care and custody from the  
24 time you retrieved it until it was secured in the evidence vault?

25 A. Yes it did.

1 Q. Okay, and when it was booked in, was it booked in to the  
2 evidence vault under that same event number we discussed,  
3 #1710200829?

4 A. That's, correct.

5 MR. SWEETIN: Nothing further, Judge.

6 THE COURT: Okay, Defense?

7 MR. BOLEY: No questions.

8 THE COURT: The witness excused?

9 MR. SWEETIN: Yes.

10 THE COURT: Thank you very much for your testimony,  
11 appreciate your time.

12 THE WITNESS: Thank you.

13 THE COURT: Is that the only video conference?

14 MR. SWEETIN: It's the only video conference, yes.

15 THE COURT: That's a whole lot of pre-game.

16 MR. SWEETIN: The State would call -- may I call my next  
17 witness Judge?

18 THE COURT: Yes.

19 MR. SWEETIN: The State would call Shaimaa Ardelhaleem.

20 SHAIMAA ARDELHALEEM

21 having been first duly sworn to testify to the truth, the whole truth, and  
22 nothing but the truth, was examined and testified as follows:

23 THE COURT CLERK: Please state your full name and spell  
24 your first and last name for the record.

25 THE WITNESS: My name is Shaimaa Abdelhaleem, my first

1 name is S-h-a-i-m-a-a; my last name is A-b-d-e-l-h-a-l-e-e-m.

2 THE COURT: Mr. Sweetin.

3 MR. SWEETIN: Thank you.

4 DIRECT EXAMINATION

5 BY MR. SWEETIN:

6 Q. Ma'am, I want to turn your attention to October 14, 2017 at  
7 about 8:15 p.m. Do you know what you were doing on or around that  
8 time?

9 A. Yeah, I was studying at the Starbucks at Maryland and  
10 Elizabeth Avenue, and then I decided to go to my office to bring some  
11 books to study at home the next day; it was a Saturday night. So I  
12 decided to study at home on Sunday, so I was going to my office,  
13 walking to my office.

14 Q. Now at this particular time on that date of 10/14/2017, were  
15 you associated with UNLV?

16 A. Yes.

17 Q. Okay; how are you associated with UNLV?

18 A. I'm a PhD student at UNLV.

19 Q. Okay. Now you mentioned that you were at a Starbucks  
20 around this time. Is that correct?

21 A. Yes.

22 Q. What's the proximity of that Starbucks to UNLV?

23 A. Right across the street.

24 Q. Okay. You indicated that you were going to an office at about  
25 that time, where would that office be located?

1           A.     My office is at the tech building, technology building. It's right  
2 across the parking lot from Barrick Museum.

3           Q.     Okay, and that would be on the UNLV Campus, is that right?

4           A.     Yes.

5           Q.     And that's here in Clark County, Nevada?

6           A.     Yes.

7           Q.     Now, in regards to -- you indicated going to your office, did  
8 you come into any contact with anyone as you were doing that?

9           A.     No, only him. Yeah so, as I was walking to my office from the  
10 WURI building, towards the parking lot, in front of the tech building, I was  
11 crossing the bridge. There's a little bridge over a little creek in front of  
12 Barrick Museum, so I was crossing the bridge, and then all of a sudden  
13 somebody came from behind me and he grabbed me, and he covered  
14 my -- my face, my mouth, and nose. I started screaming and not -- and  
15 he started saying; I don't want to hurt you, I don't want to stab you, calm  
16 down, calm down. I --

17          Q.     Okay, let me stop you there for a minute.

18          A.     -- okay.

19          Q.     Now you indicated that it was right across from the, I think  
20 Barrick Museum, you indicated that right?

21          A.     Yes.

22          Q.     And that's on the UNLV Campus or no?

23          A.     Yes.

24          Q.     Okay. Now at the time that this individual comes up behind  
25 you, is there anybody else in the area?

1 A. No.

2 Q. Do you see that individual who came up and approached you  
3 on that particular day here in the courtroom today?

4 A. Yes.

5 Q. Can you point that person out and identify an item of clothes  
6 he or she is wearing?

7 A. What was that, I'm sorry.

8 Q. Yeah, could you point that person out for the Judge with your  
9 finger --

10 A. He's there.

11 Q. -- okay. And can you tell the Judge something that that  
12 person's wearing today.

13 A. The dark blue shirt.

14 MR. SWEETIN: May the record reflect the witness identified  
15 the Defendant.

16 THE COURT: It will.

17 Q. Now, you indicated that the Defendant made a comment to  
18 you that he didn't want to stab you, is that correct?

19 A. Yes.

20 Q. Did you ever see a knife or anything of that sort?

21 A. I didn't see a knife but I got hurt. I got cut on my hand, and I  
22 still have a scar.

23 Q. I'm going to you what's marked as State's Proposed Exhibit #1  
24 and ask you if you recognize this.

25 A. Yes that's my hand, that's my cut, it's still -- I have a scar from

1 it.

2 Q. Is that a clear and accurate depiction of the way your hand  
3 looked on that particular night after you received that cut?

4 A. It was bleeding more than that, before I wiped it.

5 MR. SWEETIN: All right. State will move for the admission of  
6 what's been marked as State's Proposed Exhibit 1.

7 THE COURT: Defense?

8 MR. BOLEY: No objection.

9 THE COURT: It will be admitted.

10 Q. Now just to be clear, this happened in October of 2017, is that  
11 right?

12 A. Right.

13 Q. Now as you held up your hand, do you still have a scar from  
14 that scratch?

15 A. Yes.

16 Q. Now, at the time that you were approached from behind, what  
17 happens next?

18 A. He was covering my mouth and my nose. I was trying to  
19 scream and defend myself back, like fight back, but he started saying; I  
20 don't want to stab you, I don't want to hurt you. I got scared, so I just  
21 stopped screaming and stopped fighting back. So he grabbed -- he  
22 pulled me back towards that bench in front of the museum, and he sat  
23 me down and he sat right in front of me, right next to me. I -- and then  
24 he started looking at his -- he got hurt too. He started looking at his  
25 blood, and he was bleeding and spreading blood everywhere.

1 Q. Okay, let me stop you there for a minute; you made reference  
2 to, as you were saying, that he was bleeding to your hand; do you  
3 remember where he was bleeding from?

4 A. No, I don't.

5 Q. Okay, did you see blood coming from his body?

6 A. Yes.

7 Q. Okay. Did you see where that blood was going as you were  
8 sitting there on that bench?

9 A. So he -- he was spreading the blood everywhere, and I was  
10 scared that -- I'm not sure if I'm going to get an infection or anything, so I  
11 gave him a tissue to wipe his blood. I think it was on his hand because  
12 he wiped his hand with the tissue that I gave him -- ummm -- yeah.

13 Q. Did you see whether or not that blood got on anything in the  
14 area that you were sitting?

15 A. It was on the bench, and on the bench on the -- I had my class  
16 notes; it was on my class notes, and the police took the paper that the  
17 blood was on. Later, he got his blood on the money, and the police took  
18 the money too.

19 Q. Okay, so as you're sitting on the bench, you indicated that --  
20 that the Defendant -- you see the Defendant bleeding is that correct?

21 A. Yes.

22 Q. Is there any conversation happening between you and the  
23 Defendant at that time?

24 A. Yeah -- yeah -- he was silent first, and then he -- and then he  
25 started saying -- when he saw my blood coming out of me, he kept on

1 saying I didn't mean to stab you. I didn't mean to scare you -- I didn't  
2 mean to stab you -- I was just thinking like how to get away from that,  
3 de-escalate it. I didn't want to -- I don't know, I thought he was  
4 kidnapping me or something, so I wanted to force his thinking away from  
5 the situation, so I started making a conversation with him.

6 He said, why are you scared? Because you scared me; and  
7 then he asked me if I have a car. He started telling me stories that he  
8 wants to go somewhere. He wanted me to take him in his car -- in my  
9 car, take him someplace because he wanted to get help --

10 Q. And how did you respond to that?

11 A. I told him that I don't have a car. So he took my office keys  
12 from me. I had my office keys in my hands; he took my office keys from  
13 me, and he checked them, if I have any keys -- any car keys in them.  
14 He didn't find any car keys, so he gave me the keys back, and he asked  
15 me if I have a phone because he wants to make a phone call. So I told  
16 him that I don't have a phone. He was like why -- how don't you have a  
17 phone, like everybody has a phone; and I was like, I just came to the  
18 U.S. yesterday, I don't have a phone.

19 I wanted to give him anything in exchange to that idea of  
20 having any -- of taking anything from me, so I told him that I have  
21 money. Do you want money? So he was like yes, I can take the money.  
22 So I gave him all the money I have and then --

23 Q. And how much money did you have at that time?

24 A. I had \$14.

25 Q. Okay.

1           A.     And I remember because I never carry cash, and these were  
2 the only \$14 I ever carried. And then he -- and then we were silent for a  
3 while, and then he started -- he took my shoes off of me, my right shoe  
4 off of me, and he started touching my feet. So I grabbed my feet back; I  
5 was like, no don't do this. He was like why? I'll just touch it; I like feet.  
6 So I was like, no you can't do that because my culture doesn't allow me  
7 that you touch my feet; and he was like why? Why do you have to be  
8 your culture? I was like, don't you have a culture? I was like yes, I have  
9 a culture. So I said we have to obey our culture; that's my culture.

10          Q.     Now when he was touching your feet, can you describe what  
11 was he touching your feet with?

12          A.     His hand.

13          Q.     And that was your bare feet?

14          A.     My socks were on.

15          Q.     And how was he touching your feet with his hands?

16          A.     He bent down and he took my shoes off, and he started  
17 touching my feet, but I took my feet away right away. He -- yeah --

18          Q.     And what happens next?

19          A.     And then I put my shoes on, and at that time, he asked me  
20 where I lived. I told him that I live North; and he asked me how I'm going  
21 to go home because I don't have a car. I told him that I'm taking the bus,  
22 and then he took all the money I had; and he was like how are you going  
23 to take the bus and I was like you took all my money, so I asked him to  
24 give me -- can you give me \$2 back to take the bus? So he gave me the  
25 \$2, and then we sat in silence for a while.

1 I wanted to divert his thinking. I didn't want him to think about  
2 anything that he can do, so I started asking him if he can walk me to the  
3 bus station, because it's getting late. So he walked me to the bus  
4 station --

5 Q. Okay --

6 A. -- and then on the way, he was silent. I didn't want him to -- I  
7 didn't want us to be silent because I didn't want him to be thinking of  
8 anything, so I started a conversation with him. I asked him about his  
9 name, he told me his name is Juan -- Juhjuan.

10 He told me that he's living with his girlfriend, and he was  
11 expecting a baby.

12 MR. BOLEY: Judge, I'm going to object. This is non-  
13 responsive to the question.

14 MR. SWEETIN: Well, I mean I can clarify obviously that's very  
15 relevant to the motion. You had this --

16 Q. Let me ask you this; you indicated that at some point, that you  
17 got up and you began to walk from that bench, is that correct?

18 A. Yeah, after he agreed to walk with me. So he took me -- he  
19 was like yes, and he stood up and I stood up, and we walked together  
20 towards the -- it was supposed to be the bus station.

21 Q. Okay. Now just to be clear, you indicated that you were  
22 initially approached by the Defendant while you were at this bridge that  
23 was in front of the museum, is that correct?

24 A. Yep, right.

25 Q. Was the area that he took you to a more isolated area or a

1 less isolated area than where he first got you?

2 A. Less isolated. It's kind of hidden. It's around the corner, front  
3 of the museum, it's hidden.

4 Q. Okay. So it would be more isolated?

5 A. Yes.

6 Q. Okay. I just wanted to make sure because you said less  
7 isolated before, but that would be more isolated?

8 A. No, more isolated. I'm sorry. I'm not an English speaker.

9 Q. Okay. And then you said that you got up and you walked from  
10 that location, is that right? Where did you walk specifically?

11 A. We walked past the computing building; so here is the Barrick  
12 Museum, and here is the WRI, we walked -- and then around the corner,  
13 there is the computation building we walked in that little street towards  
14 the sidewalk, towards the Student Union.

15 Q. Okay. Now would it be fair to say during the time that you're  
16 walking, are there other people walking around or is it --

17 A. No, no it was a Saturday night, nobody was there. It's a  
18 weekend.

19 Q. Okay. Now, you mentioned that as you were walking, that  
20 there was some conversation, is that correct?

21 A. Yes.

22 Q. And the Defendant told you some things that he indicated  
23 were about him, is that correct?

24 A. Yes.

25 Q. What was that exactly?

1           A.     He told me his name. I asked him what's his name, so he told  
2 me his name is Juhjuan; and I asked him where he lives because he  
3 asked me where I lived. So he told me that -- he didn't tell me where he  
4 lives, but he told me that he lives with his girlfriend and he's expecting a  
5 baby.

6           Q.     Okay. Now, did something happen as you were -- you were  
7 walking away from that location that you were originally sitting at?

8           A.     He threw the tissue with the blood in that -- in that aisle or that  
9 alley, between the two buildings, and then once we got to the sidewalk,  
10 he laid down on the floor pretending that he passed out, and at that  
11 point, I ran to the Student Union, and we called the police.

12          Q.     And when you said you went into the Student Union, was  
13 there somebody in the Student Union when you went in?

14          A.     Yeah, the Student Union is typically open until midnight or late  
15 that day, so there was a - -the front desk, with two students, two student  
16 workers over there.

17          Q.     And upon approaching those student workers, is that how you  
18 ultimately called the police?

19          A.     Yeah they called the police for me.

20          Q.     Okay. And it was at that very time?

21          A.     Yes.

22          Q.     Were you able to talk to the police subsequent to that?

23          A.     Yes. And they -- they walked me back in the place, and I had  
24 to tell the story and show them everything, where the blood was and --  
25 and the tissue with the blood, and they took my class notes with the

1 blood on them. They took the \$2 that he gave back to me with the blood  
2 on them. Yeah, that's it.

3 Q. Okay. And did you see the Defendant anymore on that  
4 evening?

5 A. No.

6 Q. Okay. I'm going to show you what's marked as State's  
7 Proposed Exhibits 2 through 8. So I'd just like you to look through these  
8 if you could, by yourself and let me know when you've looked through  
9 them all.

10 A. Yes.

11 Q. Okay. What's depicted in those exhibits?

12 A. This is the Barrick Museum. This is where we sat down.

13 Q. Would it be fair to say that those were all pictures of the area  
14 that you've been describing --

15 A. Yes.

16 Q. -- the front of that museum and where you sat?

17 A. Yes. This is his blood and this is the bridge.

18 Q. Okay, and we'll get to that in just a minute.

19 A. Okay.

20 Q. So are these all fair and accurate depictions of the way that  
21 that area appeared on that particular night?

22 A. Yes.

23 MR. SWEETIN: State would move for the admission of what's  
24 been marked as State's Proposed Exhibits 2 through 8.

25 THE COURT: Defense?

1 MR. BOLEY: No objection.

2 THE COURT: They're admitted.

3 Q. Now going through them one at a time, State's proposed  
4 Exhibit 2, you indicated is what?

5 A. We were sitting like in that corner.

6 Q. Okay. So would it be fair to say that this is the front of that  
7 museum we've been talking about?

8 A. Yes, this is the door, yes.

9 Q. Okay; and you've indicated that you were sitting over to the  
10 right of that front entry?

11 A. Uhuh.

12 Q. Looking at what's marked as State's Proposed Exhibit 3, do  
13 you recognize that? Is that sort of a different perspective with that same  
14 front?

15 A. Yes, we're sitting there.

16 Q. Okay. So, it's sort of from the area where you're sitting toward  
17 the front, is that right?

18 A. Yeah.

19 Q. So the opposite angle?

20 A. Yeah, yeah.

21 Q. Showing you what's marked as State's Proposed Exhibit 3, is  
22 that that same area?

23 A. Yeah, we were sitting there.

24 Q. Okay. And State's Proposed Exhibit 4.

25 A. This is where we were sitting, and this is the bridge that I was

1 crossing, and he grabbed me here and he pulled me back around.

2 Q. Okay. And then showing you what's marked as State's  
3 Proposed Exhibit -- or sorry, State's Exhibit 6, 7, and 8.

4 A. Yeah --

5 Q. Is that the location where you were sitting?

6 A. -- yes.

7 Q. Okay; and there appears to be blood drops, is that correct?

8 A. Yes.

9 Q. Did you see the Defendant deposit those blood drops from his  
10 body --

11 A. Yes, yes.

12 Q. Okay.

13 MR. SWEETIN: No further questions, Judge.

14 THE COURT: Mr. Boley.

15 MR. BOLEY: Yes ma'am, briefly.

16 CROSS EXAMINATION

17 BY MR. BOLEY:

18 Q. Between the day in question and today, have you ever seen  
19 this gentleman's face, Mr. Washington's face?

20 A. No.

21 Q. So, were you ever presented a lineup of photos and asked to  
22 identify Mr. Washington?

23 A. No.

24 Q. So today is the first time, you've identified him positively since  
25 -- excuse me, October 14, 2017, is that right?

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A. Yes.

Q. Did he look any different then than he does now?

A. He had shorter hair.

Q. He had shorter hair?

A. Yeah.

Q. Anything else?

A. No.

Q. No, okay. So, let's walk back through this, just a little bit. I won't be too thorough here. When he originally approached you, he approached you from behind right?

A. Yes.

Q. And then eventually, he takes you, and he sits you on a bench and you're next to him right?

A. Yes.

Q. At what point there did you get a perfect look at his face?

A. When we were -- all the time when we were sitting, I was looking at him, making eye contact to see him, what he was about to do, and when we were walking to the bus station, this place had light, so I could see him.

MR. BOLEY: No further questions.

THE COURT: Anything else Mr. Sweetin?

MR. SWEETIN: No, Your Honor.

THE COURT: This witness excused?

MR. SWEETIN: Yes.

THE COURT: Thank you for your testimony.

1 THE WITNESS: Thank you.

2 MR. SWEETIN: Judge, the State's going to call Tabitha  
3 Paine.

4 TABATHA PAINE

5 having been first duly sworn to testify to the truth, the whole truth, and  
6 nothing but the truth, was examined and testified as follows:

7 THE COURT CLERK: My name is Tabitha Paine, T-a-b-a-t-h-  
8 a; last name Paine, P-a-i-n-e.

9 DIRECT EXAMINATION

10 BY MR. SWEETIN:

11 Q. Ms. Paine, how are you currently employed?

12 A. I'm a Senior Crime Scene Analyst for the Las Vegas  
13 Metropolitan Police Department.

14 Q. And how long you been so employed?

15 A. I have been with Las Vegas Metropolitan Police Department  
16 for almost six years; January 24<sup>th</sup> will be my anniversary.

17 Q. I want to turn your attention back a few years ago to October  
18 14, 2017, at approximately 11:41 p.m.; were you still employed on duty  
19 that day?

20 A. Yes.

21 Q. On that particular day, did you have occasion to be dispatched  
22 to the Barrick Museum at UNLV?

23 A. Yes.

24 Q. And what was the purpose of your dispatch?

25 A. I was requested by the UNLV police to respond to an area

1 where an attack had occurred.

2 Q. Okay. And upon arriving at that location, were you asked to  
3 gather any specific evidence?

4 A. I was asked to photograph an area on the campus near the  
5 Barrick Museum and to also collect any potential evidence that I could  
6 find.

7 Q. I'm showing you what's marked as State's Proposed Exhibits -  
8 - or State's Exhibits 2 through 8, and ask if you could look through these  
9 and let me know where your done.

10 A. Okay.

11 Q. Do you recognize what's depicted in those exhibits?

12 A. I do.

13 Q. And what is it?

14 A. That's the crime scene that I responded to on that evening.

15 Q. Now making specific reference to what's marked as State's  
16 Exhibits 6 through 8, there appears to be a red substance on a cement  
17 bench in those photos. You recognize that?

18 A. I do recognize this, yes.

19 Q. In the course of your documentation retrieval of evidence from  
20 this particular crime scene, was your attention directed to those drops?

21 A. Yes.

22 Q. How so?

23 A. Well first, upon walk-through with the officers when I arrived,  
24 they directed me to this area and said that this was the area that the  
25 attack had occurred and then pointed out the substance on the bench,

1 and then of course I did my own walk-through of the area and also  
2 identified the substance on the bench as apparent blood.

3 Q. Once you identified that particular substance, did you do  
4 anything to preserve it?

5 A. I did.

6 Q. What did you do?

7 A. I utilized a sterile swab to collect it from the bench, and then I  
8 put that sterile swab into what's called a capture, so there's a plastic tip  
9 with the swab that closes it, so that nothing else can touch it; placed it  
10 inside of an envelope, which I then closed, placed into -- with of course  
11 the case information where I retrieved it from, what was inside the  
12 package, an item number, and the event number for the case; placed it  
13 inside of an envelope that I then sealed with my P number and initials,  
14 and the date that I sealed it, and then later on placed a label on the  
15 outside of the package that contained all the same information, the event  
16 number, the location, what was inside the envelope, my P number and  
17 initials and my signature.

18 Q. Was that particular item later booked or placed within the  
19 evidence vault in the Las Vegas Metropolitan Police Department?

20 A. Yes, it was later impounded as evidence.

21 Q. Did it remain in your sole care and custody from the time you  
22 retrieved it until it was secured as evidence?

23 A. Yes.

24 Q. And was it booked into evidence under the event number that  
25 you responded to, which would be event number 1710143805?

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A. Yes.

MR. SWEETIN: Thanks, nothing further.

THE COURT: Mr. Boley.

MR. BOLEY: No questions.

THE COURT: Thank you for your testimony, appreciate it.

THE WITNESS: No problem.

MR. SWEETIN: The State would call Cassandra Robertson.

THE MARSHAL: What was the name again sir?

MR. SWEETIN: Cassandra Robertson.

THE MARSHAL: Thank you.

CASSANDRA ROBERTSON

having been first duly sworn to testify to the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

THE COURT CLERK: Please state your full name and spell your first and last name for the record.

THE WITNESS: Cassandra Robertson,C-a-s-s-a-n-d-r-a, R-o-b-e-r-t-s-o-n.

DIRECT EXAMINATION

BY MR. SWEETIN:

Q. Ms. Robertson, how are you currently employed?

A. I am currently the quality manager at Las Vegas Metropolitan Police Department; however when I work a case, I'm a forensic scientist in the biology DNA section.

Q. How long have you been employed with the police department?

1 A. Since October, 2012.

2 Q. Okay. And how long were you assigned working DNA cases?

3 A. I've been in DNA since December 2017; that's when I got  
4 promoted.

5 Q. Okay. And what qualified you during the time that you were  
6 working those cases at LVMPD to do that work?

7 A. I have a Bachelors of Science degree in molecular biology and  
8 microbiology from the University of Central Florida, and as part of that  
9 position, I have to undergo an extensive training program; which my  
10 previous employer was in Florida, Department of Law Enforcement; I  
11 worked in the forensic lab.

12 I underwent a year, year-and-a-half training program, so when  
13 I came to Metro, I underwent an abbreviated training program because  
14 [unintelligible] --

15 Q. Okay. Have you previously testified as an expert in regards to  
16 DNA analysis in the Courts of the Eighth Judicial District?

17 A. Yes.

18 Q. About how many times?

19 A. Approximately 15 times.

20 Q. Okay. Now, I want to turn your attention to an analysis that  
21 you performed in regards to a Defendant by the Juhjuan Washington. I  
22 would specifically turn your attention to a swab of blood booked into  
23 evidence under event #1710143805, and a buccal swab taken from Mr.  
24 Washington, booked into evidence under #1710200829 event number.  
25 Did you perform an analysis relating to these particular evidentiary

1 items?

2 A. Yes I did.

3 Q. Could you describe that analysis?

4 A. I -- first I looked at the swab which was the evidence that was  
5 taken from the concrete bench area. I visually examined it for possible  
6 blood, which I saw some red/brown staining, which is consistent with  
7 what could be blood, so I further took a sampling of it to determine if it is  
8 blood -- potentially blood, using chemicals, which came up positive, and  
9 then I took a sample of -- another sampling for DNA analysis.

10 Q. And what did you do at that point?

11 A. I took the sample through the DNA process, which is just four  
12 steps through, and tried to obtain a DNA profile, and once I did that, I  
13 would try to compare it to a -- the DNA profile that I obtained from the  
14 buccal swab.

15 Q. So once you had a DNA profile for both the buccal swab, as  
16 well as the swab taken from the bench, you indicated that you compared  
17 those profiles, is that correct?

18 A. Yes, I got a DNA profile consistent with one male, the swab  
19 from the bench; and then I compared that to the buccal swab.

20 Q. Okay; and what were the results of the comparison?

21 A. The DNA profile from the bench is consistent with the DNA  
22 profile obtained from Mr. Washington.

23 Q. Okay. Now, do you have a manner in which you -- you  
24 calculate the likelihood of such a match?

25 A. Yes. Whenever there is consistence between the evidence to

1 the buccal swab, I do the statistic calculation, which in this case I did the  
2 likelihood ratio.

3 Q. Could you describe that very briefly to the Court?

4 A. Yes, we utilize extensive software that helps us interpret  
5 mixtures, which in this case I did not have, but it also allows us to do the  
6 calculation for statistics. And what the likelihood ratio is, it's comparing  
7 two theories; one theory over the other theory to determine, which is  
8 more likely.

9 And in this case, I obtained a -- did the statistic and it --the  
10 probability -- do you mind-- can I refer to my report so I can make sure I  
11 state it correctly?

12 Q. Would that refresh your recollection?

13 A. Yes.

14 Q. Go ahead.

15 A. The probability of observing the DNA profile from the evidence  
16 is approximately 292 septillion times more likely if it originated from Mr.  
17 Washington, then it -- if it has originated from a single unknown random  
18 contributor.

19 Q. And just for the record, how many zeros is septillion?

20 A. Septillion has 24 zeros followed by the number.

21 Q. Thank you.

22 MR. SWEETIN: Nothing further.

23 THE COURT: Mr. Boley?

24 MR. BOLEY: No questions.

25 THE COURT: Thank you for your testimony, appreciate it.

1 Next.

2 MR. SWEETIN: The State has no further witnesses, Judge.

3 THE COURT: Okay. Mr. Boley.

4 MR. BOLEY: And we have no witnesses as well.

5 THE COURT: Argument.

6 MR. SWEETIN: And Judge, I know that we -- we have made  
7 our argument I know in regards to the admission previously. I would  
8 note that I believe that we made a showing of clear and convincing  
9 evidence clearly by the proffer that's been made, you know, as to victims  
10 J.W. and D.E.

11 We have proffered to the Court a record that reflects an  
12 adjudication in Juvenile Court. Also attached to that is reports that  
13 support that conviction that in fact detail a confession made in both  
14 cases by the Defendant. So I think that that's a sufficient proffer.

15 In regards to S.A., the State, would submit that clearly S.A.,  
16 testified to specific acts being committed upon her on the night in  
17 question. I think that she makes reference to an individual who she  
18 actually identifies as the Defendant in the courtroom, but beyond that, to  
19 make certain that he is the correct one, she literally sees blood coming  
20 out of his body and being deposited on the cement seat, and we've  
21 determined that that blood is in fact his blood. So we know that he's the  
22 person.

23 You know of note -- I would note that, you know, as we go  
24 through the evidence in this case, we note a number of similarities, as  
25 the Court might recall in some of the other incidents. There is specific

1 reference made to certain things.

2 In two of the charged incidents, the Defendant specifically  
3 details stories about his -- his baby's mama being pregnant or being at  
4 the hospital or him being in an argument with his -- with his wife, and  
5 things of that sort, and in this particular case, as the Court now sees  
6 through victim, S.A., he makes the same sort of statements, making  
7 reference to him being Juhjuan and to -- to family members.

8 I would also note that in these other incidents, in at least one  
9 of these incidents charged, and that would be in regards to victim A.T., it  
10 was an incident that happened at UNLV where this victim was in fact  
11 grabbed, and a knife placed to her neck, at which point she was asked  
12 for car keys; almost identical to what we have in this particular incident.

13 I would note that all of the -- or a number of these, the prior  
14 incidents, relate to a fixation of the Defendant on the feet. I'd note in this  
15 case that the Defendant goes out of his way to remove the shoes of the  
16 victim, S.A., and also begins to sort of touch and massage those feet.

17 I would also note that all of these things happened in very  
18 close proximity of time. We have -- all of these things happening in the  
19 summer toward the end of the year of 2017; the particular incident in  
20 regards to victim, S.A., literally happens within days of the other  
21 incidents that we -- we have laid out.

22 For these reasons, the State would submit that clearly as  
23 we've argued before and as the evidence has shown in the course of  
24 this hearing, there is great probative value to this particular evidence in  
25 this case; not only to show the Defendant's propensity, which is clear

1 based on his fixation with the feet of the victim in this case and some of  
2 the incidents that we have dealing with but also the similarity of him  
3 basically having a motive to obtain money, having a motive to isolate a  
4 female in order to do what he's going to do, having that intent. Certainly  
5 there's no mistake or accident here when you put everything together,  
6 that these incidents are just innocent.

7 For all those reasons, the State submits that under 48.0453,  
8 that the incidents that the State's proposing should come in as  
9 propensity, but beyond that the State submits that they should even  
10 come in under 48.0452, relating to just the -- the motive, the intent, the  
11 absence of mistake or accident; and we would submit it on that.

12 THE COURT: Am I mistaken? My understanding was Judge  
13 Togliatti has already ruled upon two of them, and furthermore even  
14 found that they were more probative than prejudicial, and all that was left  
15 was the one with respect to Demia --

16 THE DEFENDANT: Demia.

17 THE COURT: -- Demia. Thank you.

18 MR. BOLEY: So -- yeah --

19 MR. SWEETIN: My understanding --

20 THE COURT: So are we just reinforcing? Are you making a  
21 further record in support of Judge Togliatti's earlier ruling? Or are you  
22 looking to revisit that? Like I said I -- my understanding was we were just  
23 revisiting Demia's count as a result of Franks.

24 MR. BOLEY: Sure. I think there is a little unclarity there,  
25 because I know at one time, Judge Togliatti bifurcated the second

1 incident with the male victim; as to part of it goes to propensity and part  
2 of it did not. But I think the Franks decision is what changed that in the  
3 previous hearing months ago in this courtroom.

4 As far as Demia, I was unclear up until now whether or not  
5 that was going to come in under Judge Togliatti's ruling or we've ruled  
6 on that in this courtroom. I'm not a 100% sure.

7 THE COURT: Well, like I said, I just told you my  
8 understanding was that -- that Judge Togliatti had ruled on the State's  
9 other bad acts motion in its entirety, and that -- but when after the  
10 Franks decision came out, the State brought a motion -- kind of  
11 reconsideration or look at it again in light of this, and that's where we  
12 were, but now I'm not clear where we are. And so is this hearing just  
13 generally in support of her ruling and seeking it -- there was only one  
14 thing left out right? Well there was the one act with the boy, but I  
15 thought that already came in under propensity.

16 MR. BOLEY: I think that Your Honor's ruling was that that  
17 does come under Franks if I'm right.

18 MR. SWEETIN: Yes. So my understand is that Judge  
19 Togliatti ruled, that everything in regards to Jacob and in regards to our  
20 witness who just testified would be admissible subject to a hearing,  
21 which we're having today.

22 THE COURT: Okay. I was not made aware of that.

23 MR. SWEETIN: She -- she essentially --

24 THE COURT: Because -- usually the hearing we would make  
25 the determination of more probative than prejudicial --

1 MR. SWEETIN: -- right.

2 THE COURT: -- she already made that though.

3 MR. SWEETIN: I think that she indicated that she was  
4 inclined --

5 THE COURT: I'll just make it -- I guess I can make it again.

6 MR. SWEETIN: -- inclined to bring it in subject to a hearing --

7 THE COURT: Okay.

8 MR. SWEETIN: -- I think is the record that she made. I had  
9 thought that we had argued Demia last time, so maybe I'm in error.  
10 Because maybe it wasn't an official argument, now that I'm thinking  
11 about it. I'm getting old. I lose track of things every now and then;  
12 maybe I lost track of this.

13 But -- but I would note -- I would note that I think that the  
14 changing factor between what Judge Togliatti had to rule with and what  
15 this Court has to rule with, you know is essentially the case law that has  
16 come out in this case, the Franks case.

17 Prior to the Franks case, one of the issues Judge Togliatti had  
18 was in regards to propensity evidence, the admissibility of propensity  
19 evidence and to what extent it might be admitted, and I think that the  
20 Franks case was sort of the game changer in that because the Franks  
21 case specifically made reference to the fact that propensity evidence is  
22 admissible in these cases.

23 Now, I would note that, you know, in regards to Demia, you  
24 know, we have sexual acts that are committed upon -- on Demia that do  
25 not have anything to do with feet, but they do indicate the Defendant's

1 propensity to isolate victims and perform sexual acts on those victims.  
2 For that reason, the State submitted -- and we filed our motion to  
3 reconsider, based upon the new case law asking that that be admitted.

4 Now, if you're talking about the probative value versus the  
5 prejudicial effect, we have in this case, we have multiple sexual acts  
6 that's been committed by this Defendant on a variety of people. This is  
7 merely another sexual act that's being committed. So, the prejudicial  
8 effect the State submits is not substantial when compared to the  
9 probative value because we have the Defendant acting out on a  
10 consistent basis over an extended period of time in a sexual manner to  
11 isolate and commit sexual crimes on females, that's what we have here;  
12 and the State submits for that reason, that evidence should come in.

13 MR. BOLEY: Okay. So, I understand that the Franks decision  
14 did change the Court's position on a couple of these prior bad acts, but  
15 you have to separate two categories here. We've got these previous  
16 convictions, which we understand we have valid documents, and I do  
17 have -- you know, I've already written an argument about how juvenile  
18 convictions are completely different than adult convictions; and I believe  
19 this court has already considered that, so I would reiterate that.

20 But as far as this allegation today, that -- the probative value  
21 versus prejudice still applies, because if we have a jury trial where he's  
22 accused of, you know, a myriad of crimes, and then we bring in this  
23 other woman, who he's accused on some level of assaulting but he's not  
24 charged with that, that is completely shifting the burden to the Defense,  
25 because there's a real fear that the jury is going to assume that he

1 actually committed that crime and the burden on the State doesn't apply  
2 anymore at all, and they're just going to take her word for it simply  
3 because it's consistent with the other victims that they have pled.

4 I would say that the State still has its burden to take it to a  
5 Grand Jury and charge him if they're going to put it in front of a jury.  
6 You know, before we can put it -- you know, just jamming it into another  
7 trial. It's an in run around their burden here; so I would ask the Court to  
8 exclude all of this.

9 THE COURT: Anything else?

10 MR. SWEETIN: Well I -- I would say that I don't know if the  
11 State could bring charges in regards to the juvenile adjudications at this  
12 point. I think those cases have been adjudicated.

13 THE COURT: I think he's referencing this one.

14 MR. BOLEY: Yeah, I'm talking about --

15 MR. SWEETIN: I would say to the Court that I don't know that  
16 whether it's been -- you know, we've got two months. It might get grand  
17 juried, I don't know; but at this point, I don't think that that's a  
18 consideration for the Court; it's just whether or not it's admissible in this  
19 proceeding.

20 THE COURT: Okay. Your client is raising his hand. Do you  
21 want to talk to him?

22 MR. BOLEY: I've advised him not to weigh in on this hearing.

23 THE COURT: Well I'm -- I'm not -- do you want to talk to your  
24 lawyer?

25 THE DEFENDANT: I feel like I'm not being acknowledged,

1 and I feel like he just ignores my request; and I just gotta same  
2 something about -- I gotta say something about this because it's not  
3 right, and I just really need to get this off my chest because it's been  
4 bothering me since day one, since all of this happened, since all of this  
5 occurred, it's been bothering me.

6 MR. BOLEY: Well I advised you not to speak in this hearing,  
7 but if you have to --

8 THE COURT: You want to take your attorneys advice and not  
9 speak?

10 THE DEFENDANT: I just gotta say something about the  
11 whole thing about Demia, that's it; the whole thing about Demia.

12 THE COURT: I can't hear you.

13 THE DEFENDANT: I just gotta say something about the  
14 whole thing that happened with Demia, that's it; that's all I gotta say.

15 THE COURT: Did I ask you if you were calling any witnesses  
16 or putting on any evidence?

17 MR. BOLEY: You did.

18 THE COURT: Okay. You said no?

19 MR. BOLEY: I said no.

20 THE COURT: Thank you.

21 THE DEFENDANT: But -- Mary Kay -- Your Honor, like back  
22 in 2011, me and Demia we been knowing each other for like a long time.  
23 I been knowing her since Junior High School, since the 6<sup>th</sup> grade, and  
24 she was -- how could I say it, attracted to me, like infatuated with me,  
25 and like her and her sister, her older sister, Semia and her younger

1 sister, Debra, they would come over to my house asking for me to come  
2 out, you know, and hang out with me. And then my mom -- like I would  
3 tell my mom, like I don't want to go out there; like please tell them I'm not  
4 home. So, my mom would go out there and tell them, oh he's not home  
5 right now; he's at a friend's house or he's at his Grandma's; and then  
6 they just constantly keep coming back.

7           And then one day, my sister had to say something to the girls,  
8 like just stop coming over here because my brother don't want to talk to  
9 you guys; and then at some point, when I got to high school, me and  
10 Demia -- my first day of high school, my freshman year, I ended up  
11 seeing her. I ended up having a class with her because I was in special  
12 education classes since kindergarten, and when I saw her in my class,  
13 she walked up to me and she was like oh hi Jay-Jay hi, and I just looked  
14 at her and I was like hi uhhh Demia, because like my girlfriend was  
15 sitting next to me too; and then my girlfriend was all like why is she  
16 speaking to my man like stop speaking to him; like he don't want to  
17 associate with you and her name is Shalisa Barefield-Johnson  
18 [phonetics] and she told her to leave me alone.

19           Then she was like, I'm going to tell the Dean that she keep  
20 bothering you. And then I said don't do that like -- I said please don't do  
21 nothing because I don't want no drama. And then one day, she came  
22 over to my house and then my nieces and nephews opened the door,  
23 and my nieces and nephews are like oh, he's right here. So I came to  
24 the door, and then I said -- I finally gave up, because like it was -- it was  
25 just like nonstop of her coming to my house, you know, asking to hang

1 out me and like you know, talk.

2 So, I finally gave up and I said, if this is what you really want --

3 MR. BOLEY: I'm going to reiterate my advice and not go any  
4 further with this.

5 THE COURT: Yeah, you know, Mr. Washington, I don't think  
6 that at this point you're doing yourself any service.

7 THE DEFENDANT: No, it just don't make sense to me  
8 because like now that she's deceased and stuff, like it's just been  
9 bothering me, and she's been deceased for like so many years, like she  
10 died from sickle cell, and it's not -- and then like it just hurts your feelings  
11 because like -- I was like -- I don't know --

12 THE COURT: Okay.

13 THE DEFENDANT: -- yeah, I'm not gonna say nothing  
14 because Demia is just gone -- mess with my head even more.

15 MR. BOLEY: I think that's all.

16 THE COURT: Okay. All right. Well, I mean I guess to the  
17 extent that Judge Togliatti already ruled with respect two of the  
18 incidences, nothing I see here causes me to disturb those rulings  
19 because she's already found that they were admissible.

20 I do believe they've been proven by clear and convincing  
21 evidence, certainly relevant with respect to the issues in the case, and I  
22 do not find that they are unfairly prejudicial beyond the probative value,  
23 and so I'm re-affirming and finding support in the evidence for Judge  
24 Togliatti's previous rulings.

25 With respect to the Demia incident being asked to reconsider,

1 obviously it's been proven by clear and convincing evidence. I do  
2 believe that the Franks decision in some ways would change the  
3 prejudicial versus probative balance insofar as before when there was a  
4 question and a concern regarding proving propensity, I think an act  
5 would be more likely to be unfairly prejudicial when you're avoiding  
6 propensity.

7           Once Franks clears it up and says it's absolutely propensity is  
8 relevant and fair, and that's -- it's not prejudicial, unfairly prejudicial to  
9 prove propensity, I think that does change the balance, and so I do  
10 believe that after the Franks case, the prior with Demia would also be  
11 admissible. It might be a different issue if it was a juvenile crime, and  
12 then we had a long gap in time, but where essentially all the offenses  
13 occur over the course of time with never really a long period of not, I  
14 think it becomes more probative the fact that he's been essentially  
15 forcing himself on women since his juvenile, and that hasn't changed  
16 now at the time he picked somebody vulnerable, a young girl with  
17 apparently mental health issues. He picks isolated females; now, just  
18 coincidentally, she ends up with a wound to her left hand as a result of  
19 being hit by a pole. The witness that testified today also described being  
20 cut by a knife that he used in her attack.

21           Demia was, again hit with a pole. Blood was left at the scene,  
22 on the weapon, similar to blood being left at the scene in this particular  
23 case; and overall, at the end of the day, the State has a burden of  
24 beyond a reasonable doubt, and it's a big burden for a jury, and I do  
25 believe that on these facts, it's not at all unfairly prejudicial to admit

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evidence of all of the cases.

I don't know that I need to make a record with respect to the others. I think this was the only one left out there, but to the extent, for the same reasons, I find them all relevant. I find them more probative than unfairly prejudicial and certainly have been proven by clear and convincing. Anything else? If the State will prepare an order and have Defense sign off, I'd appreciate it.

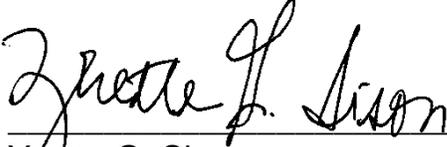
MR. SWEETIN: Thank you, Judge.

THE COURT: Thank you.

[Hearing concluded at 1:17 p.m.]

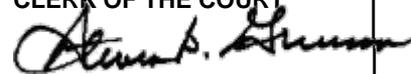
\* \* \* \* \*

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.

  
\_\_\_\_\_  
Yvette G. Sison  
Court Recorder/Transcriber

**ORIGINAL**

Electronically Filed  
12/9/2019 2:13 PM  
Steven D. Grierson  
CLERK OF THE COURT



**ORDR**  
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Nevada Bar #005144  
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Las Vegas, NV 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,  
Plaintiff,

-vs-

**JUHJUAN WASHINGTON,  
#8124794**

Defendant.

CASE NO: C-18-333798-1

DEPT NO: XVIII

**ORDER REGARDING STATE'S MOTION TO ADMIT EVIDENCE**

**OF OTHER CRIMES, WRONGS OR ACTS**

DATE OF HEARING: **NOVEMBER 19, 2019**  
TIME OF HEARING: **9:00 A.M.**

THIS MATTER having presented before the above entitled Court on the 19TH day of NOVEMBER, 2019; Defendant being present, represented by THOMAS BOLEY, ESQ.; Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney; and having heard the arguments of counsel and good cause appearing therefor,

The Court advised parties that it understood Judge Togliatti previously ruled on State's other bad acts which were said to be more probative than prejudicial; further, the Court noted its understanding was that parties were just revisiting Demia's account as a result of Franks vs. State. the Court advised parties to the extent Togliatti already ruled with respect to the two incidents, it didn't see the need to disturb those rulings, which she found they were admissible.



DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

January 14, 2020

C-18-333798-1      State of Nevada  
vs  
Juhjuan Washington

January 14, 2020      9:00 AM      Calendar Call

HEARD BY: Holthus, Mary Kay      COURTROOM: RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

**PARTIES**

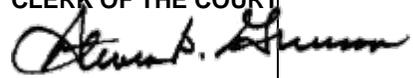
**PRESENT:**      Boley, Thomas D      Attorney  
Rowles, William C.      Attorney  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Deft not present. CONFERENCE AT BENCH. Court noted Deft. refused transport; therefore, calendar call would be continued until Tuesday, January 21, 2020 with the understanding trial would start on January 27, 2020. COURT ORDERED, calendar call CONTINUED. COURT FURTHER ORDERED, Deft. to be transported by any means necessary.

CUSTODY

1/21/20 9:00 AM CONTINUED: CALENDAR CALL



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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,  
vs.  
JUHJUAN WASHINGTON,  
Defendant.

CASE#: C-18-333798-1  
DEPT. XVIII

BEFORE THE HONORABLE MARY KAY HOLTHUS, DISTRICT COURT JUDGE  
TUESDAY, JANUARY 14, 2020

**RECORDER'S TRANSCRIPT OF HEARING:  
CALENDAR CALL**

APPEARANCES:

For the State: WILLIAM C. ROWLES, ESQ.  
Deputy District Attorney

For the Defendant: THOMAS D. BOLEY, ESQ.

RECORDED BY: YVETTE SISON COURT RECORDER