

# IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Aug 25 2021 11:21 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

JEFFREY BERNARD GERMAN,  
Appellant(s),

vs.

THE STATE OF NEVADA,  
Respondent(s),

Case No: C-14-300979-2

Docket No: 83300

# RECORD ON APPEAL VOLUME 1

**ATTORNEY FOR APPELLANT**  
JEFFREY GERMAN # 92696,  
PROPER PERSON  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

**ATTORNEY FOR RESPONDENT**  
STEVEN B. WOLFSON,  
DISTRICT ATTORNEY  
200 LEWIS AVE.  
LAS VEGAS, NV 89155-2212

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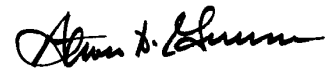
C-14-300979-2

State of Nevada  
vs  
Jeffrey German

I N D E X

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THIS SEALED  
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NUMBERED PAGE(S)  
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WILL FOLLOW VIA  
U.S. MAIL



CLERK OF THE COURT

INFM  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
LEAH BEVERLY  
Deputy District Attorney  
Nevada Bar #12556  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

I.A. 09/23/2014  
1:00 P.M.  
C. ALMASE, ESQ.  
D. FISCHER, ESQ.  
C. COLUCCI, ESQ.

THE STATE OF NEVADA,  
Plaintiff,

-vs-

CHRISTOPHER LEROY ROACH, aka  
Christopher Roach, #2757657  
JEFFREY B. GERMAN, aka  
Jeffery Bernard German, #1602073  
JAMES CURTIS IVEY, JR., #7010542  
Defendant.

CASE NO: C-14-300979-2

DEPT NO: XXIII

INFORMATION

STATE OF NEVADA     )  
COUNTY OF CLARK    ) ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That CHRISTOPHER LEROY ROACH, aka Christopher Roach, JEFFREY B. GERMAN, aka Jeffery Bernard German, and JAMES CURTIS IVEY, JR., the Defendant(s) above named, having committed the crimes of **CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147); ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); COERCION (Category B Felony - NRS 207.190 - NOC 53159); POSSESSION OF STOLEN PROPERTY (Category C Felony - NRS 205.275 - NOC 56057) and**

1 **POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S**  
2 **CONSENT (Category D Felony - NRS 205.690 - NOC 50790)**, on or between the 30th day  
3 of June, 2014 and the 1st day of July, 2014, within the County of Clark, State of Nevada,  
4 contrary to the form, force and effect of statutes in such cases made and provided, and against  
5 the peace and dignity of the State of Nevada,

6 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

7 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
8 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did wilfully,  
9 unlawfully, and feloniously conspire with each other to commit a robbery.

10 COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON

11 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
12 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did then and there  
13 wilfully, unlawfully, and feloniously take personal property, to-wit: a cellular telephone and  
14 a fanny pack and contents, from the person of BAYLIE KULL, or in their presence, by means  
15 of force or violence, or fear of injury to, and without the consent and against the will of  
16 BAYLIE KULL, with use of a deadly weapon, to-wit: a firearm, Defendants being criminally  
17 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly  
18 committing this crime; and/or (2) by aiding or abetting one another in the commission of this  
19 crime with the intent to commit this crime, by providing counsel and/or encouragement, by  
20 the Defendants acting in concert; and/or (3) pursuant to a conspiracy to commit this crime.

21 COUNT 3 - COERCION

22 did then and there wilfully, unlawfully, and feloniously use physical force, or the  
23 immediate threat of such force, against BAYLIE KULL, with intent to compel her to do, or  
24 abstain from doing, an act which she had a right to do, or abstain from doing, by defendants  
25 acting in concert and aiding or abetting each other by counsel and encouragement and by  
26 entering into a course of conduct whereby forcing the said BAYLIE KULL to move when she  
27 did not want to move.

28 ///

1 COUNT 4 - CONSPIRACY TO COMMIT ROBBERY

2 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
3 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did wilfully,  
4 unlawfully, and feloniously conspire with each other to commit a robbery.

5 COUNT 5 - ROBBERY

6 did then and there wilfully, unlawfully, and feloniously take personal property, to-wit:  
7 a purse, contents and cellular telephone, from the person of EOLA ROBINSON, or in her  
8 presence, by means of force or violence, or fear of injury to, and without the consent and  
9 against the will of EOLA ROBINSON, Defendants being criminally liable under one or more  
10 of the following principles of criminal liability, to-wit: (1) by directly committing this crime;  
11 and/or (2) by aiding or abetting one another in the commission of this crime with the intent to  
12 commit this crime, by providing counsel and/or encouragement, by the Defendants acting in  
13 concert; and/or (3) pursuant to a conspiracy to commit this crime.

14 COUNT 6 - CONSPIRACY TO COMMIT ROBBERY

15 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
16 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did wilfully,  
17 unlawfully, and feloniously conspire with each other to commit a robbery.

18 COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

19 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
20 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did then and there  
21 wilfully, unlawfully, and feloniously take personal property, to-wit: U.S. currency, two (2)  
22 credit and/or debit cards, and a cellular telephone, from the person of DONNA DIMARIA  
23 and/or JESUS MEDINA, JR., or in their presence, by means of force or violence, or fear of  
24 injury to, and without the consent and against the will of DONNA DIMARIA and/or JESUS  
25 MEDINA, JR., with use of a deadly weapon, to-wit: a firearm, Defendants being criminally  
26 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly  
27 committing this crime; and/or (2) by aiding or abetting one another in the commission of this  
28

1 crime with the intent to commit this crime, by providing counsel and/or encouragement, by  
2 the Defendants acting in concert; and/or (3) pursuant to a conspiracy to commit this crime.

3 COUNT 8 - POSSESSION OF STOLEN PROPERTY

4 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
5 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did wilfully,  
6 unlawfully, and feloniously, for their own gain, possess stolen property, to wit: U.S. currency,  
7 an Apple 5S iPhone and a Nokia cellular telephone, owned by DONNA DIMARIA and/or  
8 JESUS MEDINA, JR., having a value of \$650.00 or more, said Defendant knew it was stolen  
9 property and/or did possess it under circumstances which would have caused a reasonable  
10 person to know that it was stolen property, Defendants being criminally liable under one or  
11 more of the following principles of criminal liability, to-wit: (1) by directly committing this  
12 crime; and/or (2) by aiding or abetting one another in the commission of this crime with the  
13 intent to commit this crime, by providing counsel and/or encouragement, by the Defendants  
14 acting in concert; and/or (3) pursuant to a conspiracy to commit this crime.

15 COUNT 9 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S  
16 CONSENT

17 Defendant JEFFREY B. GERMAN, aka, Jeffery Bernard German did wilfully,  
18 unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a  
19 credit or debit card, to-wit: a Citibank card, ending in account number 4318, issued in the  
20 name of DONNA DIMARIA, with intent to circulate, use, sell, or transfer said card, with  
21 intent to defraud the cardholder and/or the issuer of said credit or debit card.

22 COUNT 10 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S  
23 CONSENT

24 Defendant JEFFREY B. GERMAN, aka, Jeffery Bernard German did wilfully,  
25 unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a  
26 credit or debit card, to-wit: a Wells Fargo Visa debit card, ending in account number 7283,

27 ///

28 ///

1 issued in the name of DONNA DIMARIA, with intent to circulate, use, sell, or transfer said  
2 card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

3  
4  
5 STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

6  
7 BY /s/ Leah Beverly  
8 LEAH BEVERLY  
Deputy District Attorney  
9 Nevada Bar #12556

10  
11 Names of witnesses known to the District Attorney's Office at the time of filing this  
12 Information are as follows:

| 13 <u>NAME</u>                      | <u>ADDRESS</u>       |
|-------------------------------------|----------------------|
| 14 ADAMS. K.A.                      | LVMPD #10017         |
| 15 ALDRICH, S. A.                   | LVMPD #4923          |
| 16 CUSTODIAN OF RECORDS or Designee | CCDC                 |
| 17 CUSTODIAN OF RECORDS or Designee | LVMPD Communications |
| 18 CUSTODIAN OF RECORDS or Designee | LVMPD Records        |
| 19 CUSTODIAN OF RECORDS or Designee | NLVPD Communications |
| 20 CUSTODIAN OF RECORDS or Designee | NLVPD Records        |
| 21 ENDOZO, R. B.                    | LVMPD #13146         |
| 22 FONBUENA, R. A.                  | LVMPD #6834          |
| 23 GARRIS, A. L.                    | LVMPD #4337          |
| 24 GROSS, K.                        | C/O CCDA's Office    |
| 25 LAVOIE, C. A                     | LVMPD #13817         |
| 26 PALMIRA, C. A.                   | LVMPD #13807         |
| 27 PARQUE, C.                       | LVMPD #1741          |
| 28 PARRA, M.                        | LVMPD #14415         |

|    |                     |             |
|----|---------------------|-------------|
| 1  | PELAYO, I.          | LVMPD #9850 |
| 2  | SCHOUTEN, D.        | NLVPD #1741 |
| 3  | WALKER, D. L.       | LVMPD #8533 |
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| 25 |                     |             |
| 26 |                     |             |
| 27 | DA#14F10476B/dj     |             |
| 28 | LVMPD EV#1407014137 |             |
|    | (TK6)               |             |

1 CASE NO.: C-14-300979-2

2 DEPT NO.: 6

3

4 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

5 COUNTY OF CLARK, STATE OF NEVADA

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7 STATE OF NEVADA, )

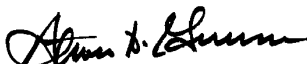
8 Plaintiff, )

9 vs. )

10 JEFFREY GERMAN, )

11 Defendant. )

12 \_\_\_\_\_ )

  
CLERK OF THE COURT

Case No. 14F10476B

13

14 REPORTER'S TRANSCRIPT OF

15 PRELIMINARY HEARING

16 BEFORE THE HONORABLE WILLIAM KEPHART  
17 JUSTICE OF THE PEACE

18 WEDNESDAY, SEPTEMBER 17, 2014

19

APPEARANCES

20

21 For the State: CAROLINE BATEMAN, ESQ.  
22 Deputy District Attorney  
LEAH BEVERLY, ESQ.  
Deputy District Attorney

23 For Defendant German: DAVID FISCHER, ESQ.  
For Defendant Ivey: CARMINE COLUCCI, ESQ.  
24 For Defendant Roach: CAESAR ALMASE, ESQ.

25 Reported By: Jennifer O'Neill, CCR No. 763

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1 LAS VEGAS, NEVADA; SEPTEMBER 17, 2014; 9:00 A.M.

2 -oOo-

3

4 THE COURT: Christopher Roach, Jeffrey  
5 German, and James Ivey, Jr. All three defendants are  
6 present in custody.

7 We're waiting for their attorneys.

8 MS. BATEMAN: Your Honor, I did speak with  
9 Mr. Fischer, as well as Mr. Colucci. They're all up  
10 in -- before Judge Miley. They said they would be back  
11 as soon as possible. We do have one out-of-state  
12 victim who is flying in from Philadelphia.

13 THE COURT: Everyone else are witnesses on  
14 this matter?

15 MS. BATEMAN: Yes. We have quite a number of  
16 witnesses.

17 THE COURT: Could you approach.

18 MS. BATEMAN: Yes.

19 **(Whereupon, a brief discussion was**  
20 **held at the bench.)**

21 THE COURT: Mr. Roach, Mr. German, and Ivey,  
22 I have to be someplace today in about a half an hour.  
23 I'm going to do this case today, though. If you guys  
24 don't get it resolved, we're going to do it today.  
25 Everyone is here, ready to go. The attorneys, though,

1 are being held up by another court doing some other  
2 matters upstairs.

3 I imagine by the time that they're done up  
4 there, I'll be back here. So if they're not here for  
5 me to get this started -- because I have to be gone by  
6 10:30, won't be back until about 12:30. I have a  
7 number of people here that are witnesses. I'm going to  
8 have you talk to them and see what we can do.

9 I'm just letting you know that's what I was  
10 discussing up here. Okay. So go ahead and have a seat  
11 and relax.

12 I'll probably let you take them out -- if I  
13 don't have the attorneys in here before 10:30, you can  
14 take off. I'll let you go ahead and take them out.

15 \* \* \* \* \*

16 THE COURT: Miss Bateman, Mr. Almase,  
17 Mr. Fischer, I have to leave. So what I'm going to do  
18 is I'm continuing this until 12:30.

19 MR. FISCHER: Yes, sir.

20 THE COURT: I'm going to ask that transport  
21 officers to -- 12:30. Have them back here by at least  
22 a quarter after.

23 THE CORRECTIONS OFFICER: Okay.

24 (Whereupon, a recess was taken.)

25 THE COURT: On the record in State of Nevada

1 versus Christopher Roach, Jeffrey German, James  
2 Ivey, Jr. This is the time set for preliminary  
3 hearing.

4 Mr. Roach is represented by Mr. Almase.  
5 Mr. German is represented by Mr. Fischer, and Mr. Ivey  
6 is represented by Mr. Colucci. The State is  
7 represented by the District Attorney's office.

8 Are we ready to go?

9 MS. BATEMAN: Your Honor, we are ready.  
10 However, I know Your Honor has been very patient. If  
11 we can get just about two minutes, there has been some  
12 interaction between me and the defense.

13 THE COURT: Sure. I'll be at ease then.

14 (Off-record discussion held.)

15 THE COURT: Ready to proceed. Okay. Jim,  
16 can you help them get some chairs here so I can get all  
17 counsel with their clients.

18 Okay. Are we ready to proceed in the State  
19 of Nevada versus Christopher Roach, Jeffrey German,  
20 James Ivey matter in Case No. 14F10476A through C? I  
21 have a second amended criminal complaint filed  
22 July 30th.

23 Is that what we're proceeding on today?

24 MS. BATEMAN: Yes, Your Honor.

25 THE COURT: Do you have any preliminary

1 motions before we get started?

2 MR. ALMASE: Exclusionary rule, please,  
3 Judge.

4 THE COURT: Anyone that's been subpoenaed in  
5 this matter to testify or anticipates testifying, I'll  
6 ask that you wait outside. You cannot discuss this  
7 amongst yourself. You can discuss it with the parties  
8 if they approach you. You don't have to if you don't  
9 want to. But if you are discussing it amongst  
10 yourself, it will affect your ability to testify here  
11 today.

12 Who's your first witness?

13 MS. BATEMAN: Your Honor, the State's first  
14 witness is Donna Dimaria.

15 THE COURT: Donna Dimaria.

16 THE MARSHAL: Step up here. Remain standing.  
17 Face the clerk over here and raise your right hand.  
18 Whereupon,

19 DONNA DIMARIA,  
20 was called as a witness, and having been first duly  
21 sworn, was examined and testified as follows:

22 THE CLERK: Please be seated. State and  
23 spell your name for the record.

24 THE WITNESS: Donna Dimaria. D-O-N-N-A  
25 D-I-M-A-R-I-A.

1 THE COURT: She's your witness.

2 MS. BATEMAN: Thank you, Your Honor.

3

4 DIRECT EXAMINATION

5 BY MS. BATEMAN:

6 Q. Ma'am, on July 1st of this year, were you in  
7 the area of 4251 West Rochelle in Las Vegas, Clark  
8 County, Nevada?

9 A. Yes.

10 Q. And who were you with that day?

11 A. My boyfriend.

12 Q. And what's your boyfriend's name?

13 A. Jesus.

14 Q. And what's his last name?

15 A. Medina.

16 Q. And what were you doing at that -- at that  
17 location?

18 A. I was visiting him. I was about to leave. I  
19 was sitting in my car about to leave.

20 Q. And where was Jesus?

21 A. Standing outside of my car with the door  
22 open.

23 Q. And as you're in your vehicle with Jesus  
24 outside, did something happen that caused you to have  
25 to call the police?

1           A.    Yes.  There was three males walking towards  
2 our car.  They passed our car, but I got an uneasy  
3 feeling about them.  They were staring at us.  And a  
4 couple of minutes later, I asked my boyfriend where  
5 they were and he -- at that time he said, You need to  
6 leave right now.

7           MR. ALMASE:  I'm going to object to hearsay,  
8 Judge.

9           THE COURT:  Sustained.

10 BY MS. BATEMAN:

11          Q.    Did your --

12          THE COURT:  Ma'am, you just can't tell us  
13 what somebody else said.

14          THE WITNESS:  Okay.

15 BY MS. BATEMAN:

16          Q.    So, ma'am, you were testifying that your  
17 boyfriend said something.

18                Did that --

19          A.    Yes.

20          Q.    Did the thing that he said, without telling  
21 us what it was, cause you to take some action?

22          A.    Yes.

23          Q.    And what did you do?

24          A.    I closed my door and locked it, started the  
25 car, looked out my window to say goodbye to my

1 boyfriend, and there was someone there standing with a  
2 gun to his head.

3 Q. When you say "his head," do you mean Jesus'  
4 head?

5 A. Yes.

6 Q. Do you see that person in the courtroom  
7 today?

8 A. Yes.

9 Q. Will you please point to him and describe  
10 something that he's wearing?

11 A. He has a beard, mustache, black.

12 Q. And --

13 A. On the left.

14 Q. Is he sitting next to a gentleman with a  
15 light-colored suit or a dark-colored suit?

16 A. Yes.

17 Q. Okay.

18 THE COURT: Can you point to him?

19 THE WITNESS: (Witness complies.)

20 THE COURT: Okay. So he's the second one  
21 from the left? The one that just kind of smiled?

22 THE WITNESS: Yes.

23 THE COURT: He's identified -- she's  
24 identified Defendant Ivey -- James Ivey, Jr. Okay.

25

1 BY MS. BATEMAN:

2 Q. And at that point does the person with the  
3 gun say anything to you?

4 A. My door was locked, so they were telling me  
5 to open the door. I opened my door.

6 MR. ALMASE: I'm going to object to vague,  
7 Judge. A little bit vague.

8 THE WITNESS: Okay.

9 THE COURT: You said the person with the gun  
10 told you to open the door, or was it --

11 THE WITNESS: I heard someone say, Open the  
12 door.

13 THE COURT: Okay.

14 THE WITNESS: I can't say who it was.

15 THE COURT: It came from outside the car?

16 THE WITNESS: Yes.

17 THE COURT: So after someone said, Open the  
18 door, what did you do?

19 THE WITNESS: I opened the door because I  
20 thought, okay, if I don't open the door, they're going  
21 to shoot my boyfriend or shoot me through the window.  
22 So I opened the door.

23 THE COURT: Okay.

24 BY MS. BATEMAN:

25 Q. At that point did anyone enter the vehicle?

1           A.    Yes.  Someone entered my -- grabbed me around  
2 my neck, pushed me over, made me get into the passenger  
3 side.

4           Q.    Let me stop you for just a minute.

5                   Do you see that person in the courtroom  
6 today?

7           A.    I believe it was him.  The same person that I  
8 pointed out before.

9           Q.    Okay.  I'm sorry.  Please continue.

10          A.    He got into the driver's side.  He kept my --  
11 he held on to my neck, to put my -- pushed my head  
12 down, and I realized it was for me not to look at him.

13                   The other two men made my boyfriend get in  
14 the back seat with them.  They put him in the middle.  
15 One got on each side of him, closed the doors, and then  
16 began to ask me for my money, driver's license, credit  
17 card, ATM card, took my cell phone, took my keys, asked  
18 Jesus for his cell phone, took the chain around his  
19 neck.

20          Q.    So I'm going to stop you and just clarify for  
21 a minute.  When you're saying he took your car keys and  
22 your personal property --

23          A.    The person sitting in the front seat with me.

24          Q.    And then you said another person -- or is it  
25 the same person who ordered Jesus to hand over his

1 property?

2 A. Another person in the back seat with him  
3 asked him for his necklace. Jesus pulled it off, gave  
4 it to him, gave them his cell phone.

5 At one point I grabbed my neck because he was  
6 digging into my neck and he told me, you know, Don't  
7 touch me. Don't f'n touch me. At one point I looked  
8 at him and he said, you know, Don't look at me. Don't  
9 f'n look at me.

10 And one person in the back seat with Jesus  
11 said, Tell your girlfriend to cooperate. You don't  
12 want to see her get hurt. You know the drill.

13 Q. And did you then hand over the property, or  
14 was it taken from you?

15 A. No. I went in my purse. I had money on me.  
16 I had \$500 in a white envelope. I handed it to him.

17 Q. And did you hand that to him out of fear?

18 A. Yeah.

19 Q. Now, at some point do the individuals then  
20 exit the vehicle?

21 A. After -- yes. They got what they wanted.  
22 Somebody was on the phone in the back seat. And then I  
23 heard them say, Are you ready? Yeah, we're ready.  
24 Okay. Let's go. And they were gone.

25 Q. Did you see where they left to?

1       A.    I didn't look. I didn't look. They just ran  
2 and ran out of the complex.

3       Q.    Now, ma'am, did you by any chance have a  
4 second set of keys on you?

5       A.    I had a second set of keys in my car. So we  
6 got in my car and we drove outside the complex. There  
7 was a security guard there -- standing there. We told  
8 him we had been robbed, call the cops.

9       Q.    Now, at some point are you contacted by  
10 officers?

11      A.    They came to the complex.

12      Q.    And did you provide them with a narration of  
13 what had happened to you?

14      A.    Yes.

15      Q.    And did you then later meet with them a  
16 second time?

17      A.    That night?

18      Q.    Yes.

19      A.    No. We stayed with them. They stayed with  
20 us in the complex. Eventually, they -- plus they sent  
21 police officers over to my house because they had my  
22 keys and my driver's license, so I was afraid for my  
23 family. So they sent police officers over to my house.  
24 We stayed with them until they were caught and then we  
25 had to go with them to identify them.

1 Q. So when you say "with them," you went with  
2 the police officers?

3 A. The police officers.

4 Q. You went to a separate location?

5 A. Another location.

6 Q. At that time were some individuals before  
7 you?

8 A. We were in the back seat of the police car,  
9 and they were handcuffed in front of the 7-Eleven, and  
10 we had to identify them.

11 Q. And did you identify them as the individuals  
12 who committed the robbery against you?

13 A. Yes.

14 MS. BATEMAN: Pass the witness, Your Honor.

15 THE COURT: Cross.

16 MR. ALMASE: Just do this in order, A, B, C?

17 THE COURT: That's fine.

18

19 CROSS-EXAMINATION

20 BY MR. ALMASE:

21 Q. Good afternoon, ma'am.

22 A. Good afternoon.

23 Q. With regard to what you stated on direct  
24 examination, you said that the two individuals were in  
25 the back seat with your boyfriend?

1           A.     Right.

2           Q.     And you stated that there was some demands or  
3 some things that those people said while in the back  
4 seat.   Okay?

5                     Is that "yes"?

6           A.     Yes.

7           Q.     Is it fair to say that you can't tell which  
8 individual said what?

9           A.     No, I can't.

10          Q.     Okay.   While they're in the back seat, your  
11 face or your head is forward and you're not looking  
12 back at them; is that correct?

13          A.     No.   My head is down, because he had ahold of  
14 my neck so I couldn't move and my head was down.

15          Q.     Fair enough.

16                     MR. ALMASE:   If the record could reflect that  
17 the witness did tilt her head downwards towards her  
18 chest?

19                     THE COURT:   It will.

20   BY MR. ALMASE:

21          Q.     And so how long was your head tilted down  
22 towards your chest like that?

23          A.     The whole time they were in the car.

24          Q.     Okay.   And that's because you're saying this  
25 individual had you by the neck?

1           A.     Uh-huh.

2           Q.     The back of your neck?

3           A.     The back of my neck, digging into my neck.

4           Q.     And pushing --

5           THE COURT:   For the record, Mr. Almase has

6 motioned towards Mr. Ivey.

7           MR. ALMASE:   I'll be more specific, Judge.

8 Thank you.

9           THE COURT:   All right.

10 BY MR. ALMASE:

11          Q.     And so when Mr. Ivey put his hand on your

12 neck and it -- the back of your neck?

13          A.     Uh-huh.

14          Q.     That was from the very beginning that he got

15 in the car with you?

16          A.     Uh-huh.

17          THE COURT:   Is that a "yes"?

18          THE WITNESS:   Yes.

19 BY MR. ALMASE:

20          Q.     To the time that he got out of the car?

21          A.     Yes.

22          Q.     So it's fair to say that for that entire

23 period of time that these individuals were in your car,

24 your head is down --

25          A.     Yes.

1 Q. -- towards your chest?  
2 Was the dome light on in your car?  
3 A. No. They shut it off.  
4 Q. Was it on previously when they approached the  
5 vehicle?  
6 A. Yes. When you open the door, the dome light  
7 goes on.  
8 Q. And then the door was shut immediately?  
9 A. Then the door was shut. And then when I  
10 opened the door back -- when they left and I opened the  
11 door to get out, the dome light was off.  
12 Q. Okay. So it had been manually turned off?  
13 A. Uh-huh.  
14 Q. Before they left?  
15 THE COURT: Is that a "yes"?  
16 THE WITNESS: Yes. Sorry.  
17 BY MR. ALMASE:  
18 Q. Just to be clear. Not picking on you.  
19 A. I know. I know.  
20 Q. It's got to be an affirmative yes.  
21 You also testified on direct examination you  
22 didn't see what direction they went?  
23 A. No, I didn't.  
24 Q. Okay. And is that because you still -- you  
25 had your head down?

1           A.    No.  I was too afraid to look.

2           Q.    Okay.  Fair to say that this was a very scary  
3 experience?

4           A.    Yes.

5           Q.    This is not something you've ever been  
6 through before?

7           A.    No.

8           Q.    It went very quickly, the incident itself?

9           A.    Yes.  Maybe ten minutes or so.

10          Q.    Ten minutes?

11          A.    Ten.  Fifteen.  It's hard to tell.  The whole  
12 time?  You mean from the time we were -- they  
13 approached our car till the time they left?

14          Q.    Well, from the time that they entered the  
15 vehicle to the time that they left the vehicle.  A span  
16 of maybe less than a minute?

17          A.    No.  It wasn't less than a minute.

18          Q.    How much time would you say?

19          A.    I'm going to say ten minutes.

20          Q.    Ten minutes.  So there was a dialogue and  
21 conversation and commands given and --

22          A.    Yes.

23          Q.    -- this interaction lasted about ten minutes  
24 to your --

25          A.    It seemed like it.

1 Q. It seemed like it?

2 A. Uh-huh.

3 Q. Again, it never happened to you before?

4 A. No.

5 Q. Okay. You stated that \$500 was taken from

6 you?

7 A. I had \$500 in a white envelope.

8 Q. This was \$500 cash?

9 A. Cash.

10 Q. Did you know any of these individuals before?

11 A. No.

12 Q. You'd never seen them before?

13 A. No.

14 Q. They would have no reason to believe that you

15 had this \$500 cash?

16 A. No.

17 Q. Okay.

18 A. And I never carry cash on me. I just

19 happened to have it that night.

20 Q. Was it for work?

21 A. I went to the ATM the morning before.

22 Q. I'm sorry?

23 A. That morning I went to the ATM.

24 Q. And you just happened to have it in that

25 envelope?

1           A.    Uh-huh.

2           Q.    You stated that you -- the officers who came  
3 to you, you stayed with them the entire time, until  
4 they brought you to the place where these individuals  
5 were arrested?

6           A.    Yes.

7           Q.    Okay. Did you give them a description of  
8 these individuals before you went to the place?

9           A.    Yes. We had to write a statement.

10          Q.    And that statement was written before you saw  
11 them?

12          A.    Yes.

13          Q.    Okay. And this was also true for your  
14 boyfriend. He wrote a statement before?

15          A.    Yes, he did.

16          Q.    When you went to the show-up or to the place  
17 where these individuals were arrested, were there any  
18 other African-American males who weren't officers at  
19 the scene?

20          A.    Not that I recall.

21          Q.    Okay. It was just the three of them?

22          A.    Yes.

23          Q.    And they were already in handcuffs?

24          A.    Yes. They were.

25          Q.    And when you saw them, how close did you get

1 to them?

2 A. We were -- they were right directly in front  
3 of the 7-Eleven, right by the doors. And we were in  
4 the back of the police officer car, holed up. Maybe we  
5 were, I don't know, 15 feet away. We were in the  
6 parking lot, 10 feet away.

7 Q. Okay.

8 A. Maybe from here to the back of the courtroom.

9 Q. To the back of the courtroom, to those doors?

10 A. Yes.

11 Q. Okay. So that is to say when you got there,  
12 you stayed in the back of the patrol vehicle?

13 A. Yes. They wanted us to stay in the back.

14 Q. And the three individuals here at the defense  
15 table were at the doors? This first set of doors?

16 A. About that.

17 Q. Okay. Was there lighting when you saw them?

18 A. Yes, there was lighting.

19 Q. Going back to the car, what was -- was there  
20 a streetlamp or something when you were there and when  
21 you were approached by those three suspects?

22 A. There was lighting from the complex, the  
23 apartment complex. I don't remember. I mean, there's  
24 lighting in the complex throughout it.

25 Q. Okay. It was some time ago, but to your

1 recollection, there was some lights on when the three  
2 suspects approached your vehicle?

3 A. Yeah. It wasn't total darkness, because the  
4 complex has to be lit up.

5 Q. Okay. I'm a little unclear. When you're  
6 sitting in the driver's side -- sitting in the driver's  
7 seat of your vehicle, was it one individual, Mr. Ivey,  
8 that came up to you? He was the first one you saw and  
9 he pointed a handgun at you?

10 A. When I was sitting in the driver's side, the  
11 door was open and Jesus was standing talking to me.  
12 And so from this way, I saw three black males coming  
13 this way and --

14 MR. ALMASE: If the record could reflect  
15 she's motioning with her left hand.

16 THE COURT: Coming from the left towards her.

17 MR. ALMASE: The left side.

18 THE WITNESS: Coming from the left. And I  
19 got a bad feeling. I knew one of them looked at me and  
20 I looked at him and I'm thinking --

21 MR. ALMASE: I'm going to object to the  
22 speculation, Judge.

23 THE COURT: She said one of them looked at  
24 her. She looked at him. You're objecting to that?

25 MR. ALMASE: Well, she was going to go on

1 about I felt that he was...

2 THE WITNESS: Okay.

3 THE COURT: Well, that's her thought.

4 MR. ALMASE: Okay.

5 THE COURT: What she thought. Not what he  
6 was going to do. She's just saying this is what I  
7 thought.

8 BY MR. ALMASE:

9 Q. Go ahead, please.

10 A. I didn't think they -- I didn't -- but they  
11 kept walking by my car, but they were close enough  
12 where it gave me an uneasy feeling. So maybe two  
13 minutes later, I said to Jesus, you know, Where did  
14 those guys go? And that's when he said, You need to  
15 leave right now. So I knew it wasn't -- it wasn't  
16 good, because I didn't turn around to see exactly where  
17 they went. Jesus kept their [sic] eye on them.

18 At that point that's when I locked my door,  
19 rolled up the window, locked the door, started the car,  
20 looked out the window, and there was a gun to my  
21 boyfriend's head.

22 Q. Where was Jesus at the time when you saw the  
23 gun to his head?

24 A. He was standing directly outside my driver's  
25 side door.

1 Q. Just a few feet away from you?

2 A. Just right there. Like here. I'm here and

3 he's right there outside my door.

4 Q. Okay. And so you look up and he's got a gun

5 on him?

6 A. I look out to say goodbye and there's a gun

7 to his head.

8 Q. And then that's when you were ordered to move

9 over to the front passenger seat?

10 A. That's when one of them said, Open the door,

11 open the door.

12 And I'm trying to think quick enough to

13 think, okay, what do I do? Do I open the door? Do I

14 not open the door? I opened the door.

15 Q. They all entered through the driver's side

16 door?

17 A. One entered through my driver's side door,

18 grabbed me around my neck, pushed me over to the

19 passenger side. And the other two got in the back with

20 Jesus.

21 Q. Through the back doors?

22 A. Yes, the back doors. It's a four-door.

23 MR. ALMASE: Pass the witness.

24 THE COURT: Okay. Mr. Fischer.

25 MR. FISCHER: Nothing, Your Honor.

1 THE COURT: Mr. Colucci.

2 MR. COLUCCI: Thank you, Your Honor.

3

4 CROSS-EXAMINATION

5 BY MR. COLUCCI:

6 Q. When Mr. Ivey walked up to you initially, did  
7 he immediately instruct you to move over so he could  
8 get in the car?

9 A. Yes.

10 Q. So he was outside the car. He instructed you  
11 to move over, and then your testimony is, is he got  
12 into the car?

13 A. He got into the car as I was still sitting in  
14 the driver's side, and he was pushing me over. And I  
15 said, Hold on. There's a console here. I can't get  
16 over. But, you know, I just climbed over and got into  
17 the passenger's side.

18 Q. How long did that encounter with Mr. Ivey  
19 take?

20 A. Moving over?

21 Q. Yes. From the time he apparently started to  
22 push you until you were into the passenger's seat?

23 A. A couple seconds.

24 Q. A couple seconds. And then was the door  
25 immediately closed?

1           A.    Yes.

2           Q.    And it was dark inside the car; is that

3 right?

4           A.    Yes.

5           Q.    And from that point forward, your head was

6 down -- your chin was down on your chest?

7           A.    He grabbed me and my head was down.

8           Q.    When Mr. Ivey was outside of the car, that

9 was the first time you had actually looked at him?

10          A.    Yes. And I looked up at him once when I was

11 in the car.

12          Q.    And when did you look at him once -- the one

13 time inside the car?

14          A.    While I was being robbed. I just -- I don't

15 know. It was just a reflex. I just looked up at him,

16 and that's when he said, Don't f'n look at me.

17          Q.    And your dome light was off at that point,

18 correct?

19          A.    It was off.

20          Q.    Now, this happened in the parking lot of an

21 apartment complex, correct?

22          A.    Yes.

23          Q.    And was the car -- how was the car parked?

24 Was it parked facing toward the buildings --

25          A.    Yes.

1           Q.    -- or facing away from the buildings?  
2           A.    Towards the building.  
3           Q.    Was it in the first parking space closest to  
4 the buildings or another parking space?  
5           A.    No. It was right there in front of the  
6 building.  
7           Q.    Do you have any kind -- do you wear any kind  
8 of prescription lenses, glasses?  
9           A.    I wear contact lenses.  
10          Q.    Were you wearing them that night?  
11          A.    Yes.  
12          Q.    You said Jesus was standing at the side of  
13 the car when the three gentlemen approached the car,  
14 correct?  
15          A.    Uh-huh.  
16          Q.    Was he standing outside of your door or was  
17 he standing between your door and the front seat -- the  
18 driver's side seat?  
19          A.    He was standing -- the door was open and he  
20 was standing between the door and the driver's side  
21 seat.  
22          Q.    And so when you decided you were going to  
23 pull away -- when he said leave and you decided you  
24 were going to pull away, did he step back around the  
25 door, or did you just somehow close the door and start

1 the car?

2 A. He stepped -- well, he stepped around so I  
3 could close the door.

4 Q. And you closed the door at that point?

5 A. I closed the door immediately. Locked it.

6 Q. And at that point the dome light was also out  
7 when you closed the door, correct?

8 A. Right.

9 MR. COLUCCI: I have no other questions.

10 THE WITNESS: It eventually goes out.

11 THE COURT: Anything further?

12 MS. BATEMAN: Yes. Just a couple.

13

14 REDIRECT EXAMINATION

15 BY MS. BATEMAN:

16 Q. Ma'am, you testified that before the  
17 individuals approached your car, you had the  
18 opportunity to see them, correct, as they walked by?

19 A. I did.

20 Q. Were you able to see all three of their  
21 faces?

22 A. No.

23 Q. Who were you able to see?

24 A. Ivey.

25 Q. Now, Mr. Almase asked you some questions

1 about the lighting and whether there was streetlights,  
2 and you testified there were apartment lights.

3 Was the lighting sufficient where you could  
4 see Jesus when you were speaking with him?

5 A. Yes.

6 Q. And was the lighting sufficient that you  
7 could see Defendant Ivey's face when he was forcing you  
8 into the passenger's seat of the vehicle?

9 A. Yes.

10 Q. And you were able to see his face prior to  
11 him pushing your neck down so you couldn't see him  
12 anymore?

13 A. Yes.

14 MS. BATEMAN: No further questions, Your  
15 Honor.

16 THE COURT: Anything further?

17 MR. ALMASE: Just real quick.

18

19 RECROSS-EXAMINATION

20 BY MR. ALMASE:

21 Q. How much time elapsed between the robbery and  
22 the time that you did the show-up, that you went over  
23 to the three individuals who were arrested?

24 A. The robbery. The police officers came.  
25 There was a lot of statements to fill out. A lot of

1 paperwork. I don't even know. An hour, two hours.

2 Q. Because you went back to your house?

3 A. No. Never went back to my house. Stayed  
4 with the police officers the whole time.

5 Q. Oh, I'm sorry. I thought you said the  
6 officers went to your house -- or they sent a patrol  
7 car.

8 A. Yes, they sent a car to my house.

9 Q. But that was -- had nothing to do between the  
10 time --

11 A. Right.

12 Q. So maybe an hour or two?

13 A. Yes.

14 MR. ALMASE: Thanks.

15 THE COURT: Mr. Fischer.

16 MR. FISCHER: Nothing, Your Honor.

17

18 RECROSS-EXAMINATION

19 BY MR. COLUCCI:

20 Q. When you saw Mr. Ivey initially, you saw him  
21 with the other two gentlemen; is that correct?

22 A. Uh-huh.

23 Q. Were you in your car at the time that you  
24 made that observation?

25 A. I was sitting in my car.

1           Q.    You were sitting in your car.  And Jesus was  
2 standing next to you while you were sitting in the car?  
3           A.    Right.  
4           Q.    And how far away was Mr. Ivey when you first  
5 observed him?  
6           A.    A car's length away.  
7           Q.    What side of the car was he on?  
8           A.    Of my car?  
9           Q.    Yes.  
10          A.    My car was facing this way and he was coming  
11 from this way (witness indicating) so the back of my  
12 car -- the back of the car next to me.  
13          Q.    So he was coming from the rear when you first  
14 saw him?  
15          A.    Right.  
16          Q.    And you had to -- you turned around in  
17 your --  
18          A.    No.  I didn't have to turn.  I was sitting  
19 there talking to Jesus and there they were coming this  
20 way.  
21          Q.    From behind Jesus?  
22          A.    Right.  
23               MR. COLUCCI:  I have nothing further.  
24               MS. BATEMAN:  No further questions.  
25               THE COURT:  Okay.  Is Miss Dimaria, is she

1 free to leave?

2 MS. BATEMAN: Yes, sir.

3 THE COURT: Okay, ma'am. Thank you so much.

4 You're free to leave. You can step down.

5 Call your next witness.

6 MR. ALMASE: Judge, I'm sorry to interrupt,

7 but just before the next witness is called, has it been

8 measured off from the witness stand to the doors?

9 THE COURT: I've never done it.

10 MR. ALMASE: Okay.

11 THE COURT: I don't know. Jim, have you ever

12 done that?

13 THE MARSHAL: What?

14 THE COURT: Measured from the back doors to

15 the --

16 MR. ALMASE: These front doors is what she

17 said.

18 THE COURT: The doors right here, as you head

19 out to the witness stand?

20 THE MARSHAL: No.

21 THE COURT: Okay. We've never done it.

22 Your next witness.

23 MS. BATEMAN: Your Honor, the State's next

24 witness is Jesus Medina.

25 THE COURT: Jesus Medina.

1           THE MARSHAL: Step up here. Remain standing.  
2 Face the clerk and raise your right hand.  
3 Whereupon,  
4                       JESUS MEDINA,  
5 was called as a witness, and having been first duly  
6 sworn, was examined and testified as follows:  
7           THE CLERK: Please be seated. State and  
8 spell your name for the record.  
9           THE MARSHAL: Pull up the chair and speak  
10 into that microphone.  
11           THE WITNESS: Jesus Medina.  
12           THE COURT: Do you want to spell it for the  
13 record, sir.  
14           THE WITNESS: J-E-S-U-S, Jesus. Medina,  
15 M-E-D-I-N-A.  
16           THE COURT: Your witness.  
17           MS. BATEMAN: Thank you, Your Honor.  
18  
19                       DIRECT EXAMINATION  
20 BY MS. BATEMAN:  
21       Q. Sir, on July 1st of this year, did you reside  
22 at the Rancho Del Sol apartment complex at 4251 West  
23 Rochelle in Las Vegas, Clark County, Nevada?  
24       A. Yes, ma'am.  
25       Q. And do you have a girlfriend?

1           A.    Yes, ma'am.

2           Q.    What's her name?

3           A.    Donna Dimaria.

4           Q.    Is she the lady who just left the courtroom

5 right now?

6           A.    Yes, ma'am.

7           Q.    Now, July 1st, were you with Donna at your

8 apartment complex?

9           A.    Yes, ma'am.

10          Q.    And what were you doing?

11          A.    We were talking.

12          Q.    And where were you talking?

13          A.    I was walking her to her car that night. And

14 we was just like finishing talking about what we were

15 going to do the next day.

16          Q.    And at this time are you inside the vehicle?

17          A.    No. I was standing outside the vehicle.

18          Q.    And is Donna inside the vehicle?

19          A.    She was in the driver's seat, yes, ma'am.

20          Q.    And as you're talking, I'm assuming this is

21 the parking lot?

22          A.    Yes, ma'am.

23          Q.    Now, at some point does someone approach you

24 while you're at the vehicle?

25          A.    No, ma'am.

1 Q. So no one ever comes and approaches you while  
2 you're standing at the vehicle?

3 A. No.

4 Q. Now, then at some point does something happen  
5 that causes you to call the police?

6 A. Yes, ma'am.

7 Q. And what happens?

8 A. Well, when she was leaving --

9 Q. I'm going to stop you just for a minute.  
10 When you say "she," is that Donna?

11 A. Donna, yes.

12 Q. Please continue.

13 A. When she was leaving, we were apprehended by  
14 three gentlemens [sic]. At the time I pull out my  
15 phone and my ID.

16 Q. So three gentlemen came to where you and  
17 Donna were; is that right?

18 A. Yes, ma'am.

19 Q. Now, what happened when they came towards  
20 you?

21 A. One was pointing a gun at me. At the time I  
22 pulled out my phone. I'm assuming I was getting robbed  
23 so I gave my phone up with my ID.

24 Q. And do you see the person who had the gun in  
25 the courtroom today?

1           A.    Yes, ma'am.

2           Q.    Will you please point to him and describe  
3 something that he's wearing?

4           A.    The gentleman right there.

5           MS. BATEMAN:  Let the record reflect the  
6 identification of Defendant Roach.

7           THE COURT:  Okay.  The record will reflect  
8 that he's identified Defendant Christopher Roach.

9  BY MS. BATEMAN:

10          Q.    Sir, now, when Defendant Roach had the gun in  
11 his hand, did he do anything with the gun?

12          A.    No.  He was just pointing the gun at me all  
13 the time.

14          Q.    Did he say anything to you?

15          A.    Just asked me for my phone and my stuff, so I  
16 handed it over.

17          Q.    Was that because you were afraid?

18          A.    No.  I'm assuming it was a robbery, so.  I  
19 have been robbed before.

20          Q.    Now, do you hear Defendant Roach, the  
21 individual you pointed out, say anything else?

22          A.    No.

23          Q.    At some point do you enter the vehicle?

24          A.    Yes.

25          Q.    And do you do that because you want to or for

1 another reason?

2 A. No. I was forced into the vehicle.

3 Q. Who forced you into the vehicle?

4 A. Mr. Roach and...

5 Q. Does anyone else get into the vehicle with

6 you?

7 A. Yes, ma'am.

8 Q. And who is that?

9 A. The second gentleman, right here, in the

10 center.

11 Q. And is he sitting next to a gentleman in a

12 light-colored suit or a dark-colored suit?

13 A. A dark-colored suit.

14 MS. BATEMAN: May the record reflect

15 identification of Defendant German.

16 THE COURT: It shall.

17 BY MS. BATEMAN:

18 Q. So at some point are all three gentlemen that

19 you talked about in the vehicle with you?

20 A. Yes, ma'am.

21 Q. Now, where are you sitting in the vehicle?

22 A. I was sitting in the passenger seat in the

23 middle.

24 Q. So the passenger -- in the front or the back

25 of the vehicle?

1           A.     In the back of the vehicle.

2           Q.     Okay.  And was there someone to your left?

3           A.     Yes, ma'am.

4           Q.     And who was that?

5           A.     That was Mr. Roach.

6           Q.     And then you also testified that Mr. German

7 was to your right; is that correct?

8           A.     Correct, ma'am.

9           Q.     Now, do you see Defendant Roach with a gun at

10 any point while you're in the vehicle?

11          A.     Yes, ma'am.

12          Q.     What is he doing with the gun?

13          A.     He's just pointing it at me.

14          Q.     Is he saying anything to you at this time?

15          A.     He just told me to tell my girlfriend to

16 cooperate what she was -- what they were demanding.

17          Q.     Now, sir, were you wearing a necklace at this

18 time?

19          A.     Yes, ma'am.

20          Q.     Can you describe that necklace to us?

21          A.     It was a chain, silver chain with a silver

22 cross.

23          Q.     And did you provide that to the individuals

24 as well?

25          A.     Yes, ma'am.

1 Q. And did they demand it or did you just turn  
2 it over?

3 A. No, they demanded it.

4 Q. I'm sorry. I'm going to clarify. I said it,  
5 so it's my mistake when I said "they."

6 Will you clarify which defendant was the one  
7 who demanded the necklace from you?

8 A. Mr. Roach.

9 Q. Defendant Roach. Okay.

10 Now, eventually, do the individuals then exit  
11 the vehicle?

12 A. Yes, ma'am.

13 Q. And do you see where, if anywhere, they went?

14 A. No, ma'am.

15 Q. Now, at some point are you able to go to the  
16 front area of your apartment complex?

17 A. Yes, ma'am.

18 Q. And what do you do when you get there?

19 A. Try to get somebody to help me.

20 Q. And were you able to find a security officer?

21 A. At the time, yes, ma'am. She was patrolling  
22 the area.

23 Q. Now, while you're in that area of the  
24 apartment complex, did you see a vehicle pass by?

25 A. Yes, ma'am, I did.

1 Q. What kind of vehicle was that?

2 A. It was a dark car. I can say Celica, Toyota.

3 Q. And did that -- did you observe that Toyota

4 leave the complex?

5 A. Yes, ma'am.

6 Q. Did you provide that information to police

7 officers?

8 A. At the time I did.

9 Q. Did you also provide the police officers with

10 an account of what happened to you that day?

11 A. Yes, ma'am.

12 Q. Now, at some point later that day, do you go

13 with officers to another location?

14 A. Yes, ma'am.

15 Q. What do you do at that second location?

16 A. Identify the gentlemens.

17 Q. And were you able to identify the individuals

18 as the perpetrators of the robbery?

19 A. Yes, ma'am.

20 Q. And are those the defendants that you

21 identified in court today?

22 A. Yes, ma'am.

23 MS. BATEMAN: I'll pass the witness, Your

24 Honor.

25 THE COURT: Cross.

1 MR. ALMASE: Thanks, Judge.

2

3 CROSS-EXAMINATION

4 BY MR. ALMASE:

5 Q. Mr. Medina, you stated that my client,  
6 Mr. Roach, was the one who held the handgun on you?

7 A. Yes, sir.

8 Q. And he got in the back seat with you?

9 A. Yes, sir.

10 Q. And he -- there was only one handgun involved  
11 in this robbery?

12 A. Yes, sir.

13 Q. Okay. Is that fair to say -- is it fair to  
14 say, then, that nobody had -- or had pointed a handgun  
15 at your girlfriend at any time?

16 A. No. The handgun was always on me.

17 Q. And when you got into the vehicle, your  
18 testimony is the handgun was pointed at you the entire  
19 time?

20 A. Yes, sir.

21 Q. Did -- was there another individual in the  
22 front seat with your girlfriend?

23 A. Yes, sir.

24 Q. Where was that person seated? Driver or  
25 passenger side?

1           A.    Driver's side, sir.

2           Q.    And that person in the front seat with your  
3 girlfriend, he was holding her by the back of her neck?

4           A.    Yes, sir.

5           Q.    And based on that, is it fair to say she  
6 couldn't see really what was happening and who the  
7 individuals were?

8           A.    Correct, sir.

9           Q.    Okay.  When you're in the back seat with  
10 those two suspects, they're addressing you only, or are  
11 they talking to her as well?

12          A.    They talking to her as well.

13          Q.    Do you know what was taken from her?

14          A.    They was taking her ID, phone, keys, and a  
15 credit card.

16          Q.    And that's all that was taken from her?

17          A.    Yes, sir.

18          Q.    Okay.  Were you with her the whole day?

19          A.    I was, sir.

20          Q.    Did she, at any time, go to an ATM machine  
21 that day before the robbery?

22          A.    No, sir.

23          Q.    And you were with her the entire time?

24          A.    You can say not the entire time.

25          Q.    Well, for most of the day.  Is that fair to

1 say?

2 A. Yes, sir.

3 Q. How much time between the robbery and the  
4 time that you went to the location where there was --  
5 the defendants were arrested? How much time in  
6 between?

7 A. You can say two hours.

8 Q. About two hours?

9 A. About two hours.

10 Q. While in the vehicle, was the dome light on?  
11 While you were all seated inside your girlfriend's car,  
12 was the dome light on, the interior light?

13 A. No, sir.

14 Q. Was it on at any time?

15 A. No, sir. It was dark.

16 Q. It was dark inside that vehicle?

17 A. (Witness nods head.)

18 Q. Okay. Were there streetlamps at the  
19 apartment complex?

20 A. Yes, sir.

21 Q. And they were on?

22 A. They were on.

23 Q. How much time did you spend in the vehicle  
24 with these suspects?

25 A. I can say, like, around 20 minutes or so.

1           Q.    About 20 minutes. From the time that they  
2 entered the vehicle to the time that they left was  
3 about 20 minutes?

4           A.    Around there, yes, sir.

5           Q.    Okay. You stated on direct examination you  
6 didn't see the direction that they went.

7           A.    No, sir. We were told to put our heads down  
8 and don't move.

9           Q.    And that's what you did?

10          A.    That's what we did.

11          Q.    How long did you stay in the vehicle after  
12 they left?

13          A.    You can say, like, ten minutes.

14          Q.    Before you got out, about ten minutes passed?

15          A.    Yes, sir.

16          Q.    So ten minutes passed with your head down,  
17 correct?

18          A.    Correct.

19          Q.    And your girlfriend also has her head down  
20 for about ten minutes as well?

21          A.    Yes. She was in shock.

22          Q.    Okay. You get out of the vehicle and you go  
23 to the front of the apartment complex after ten  
24 minutes, correct?

25          A.    Correct.

1 Q. And you go see the security guard?

2 A. Yes, sir. Actually, we drove. She had an  
3 extra pair of keys, so we drove to the front of my  
4 complex.

5 Q. Okay. That's when you located the security  
6 guard?

7 A. Yes, sir.

8 Q. Okay. Was it at that time that you saw the  
9 Toyota Tercel [sic] drive by or leave?

10 A. Yes, sir.

11 Q. It was at that time?

12 A. Around that time when we were talking to the  
13 security guard.

14 Q. Okay. So while you're talking to the  
15 security guard and telling him what happened, you see a  
16 Toyota Tercel drive away?

17 A. Yes, sir.

18 Q. You don't see who's in the Toyota Tercel,  
19 correct?

20 A. Correct.

21 Q. You just see them drive away?

22 A. Yes, sir.

23 Q. And this was about ten minutes after those  
24 individuals ran away from the car?

25 A. About -- about so, yes.

1 Q. Officers arrive shortly thereafter?  
2 A. It took a while.  
3 Q. How long?  
4 A. About -- you can say 30 minutes or so.  
5 Q. Thirty minutes. Okay. And then they took  
6 you to the location of the 7-Eleven where the  
7 defendants were arrested?  
8 A. No, sir.  
9 Q. No?  
10 A. They filed a report. It takes time.  
11 Q. So then some more time filling out the  
12 report, writing the report. Yes?  
13 A. Yes.  
14 Q. And then you went to the 7-Eleven?  
15 A. Correct, sir.  
16 Q. Okay. So once you get to the 7-Eleven, you  
17 see these three defendants together?  
18 A. Yes, sir.  
19 Q. Are there any other African-American males  
20 there besides them?  
21 A. No, sir.  
22 Q. And the three of them are in handcuffs?  
23 A. Yes, sir.  
24 Q. And how far away from them would you say you  
25 were when you identified them as the people who were in

1 the car?

2 A. Well, 10 feet.

3 Q. Ten feet?

4 A. (Witness nods head.)

5 Q. Where were -- were you standing up outside of

6 the car or inside the patrol car? Where were you when

7 you saw --

8 A. Inside the patrol car.

9 Q. Did you ever get out of the patrol car?

10 A. No, sir.

11 Q. You said 10 feet. About this distance? Were

12 they about this distance from you when you identified

13 them?

14 A. No, sir.

15 Q. Closer?

16 A. A little more far.

17 Q. Far. Okay. Tell me when to stop. Just best

18 guess.

19 A. More.

20 Q. Okay.

21 A. Keep going.

22 Q. Okay.

23 A. About there.

24 Q. About right here?

25 A. Yes.

1           MR. ALMASE:  If the record could reflect -- I  
2 know this hasn't been measured off -- 20 feet?  
3 Twenty-five feet?

4           MS. BATEMAN:  I'd say closer to 30 feet.

5           MR. ALMASE:  Thirty feet?

6           THE COURT:  Twenty-five.  Between 20 and  
7 30 feet.

8           MR. ALMASE:  Between 20 and 30 feet?

9           THE COURT:  Is that fair?  Are you okay with  
10 that, State?  Are you okay with that, 20 to 30 feet?

11          MS. BATEMAN:  That's fine, Your Honor.

12 BY MR. ALMASE:

13         Q.    Would you agree that it's more than 10 feet,  
14 anyway?

15         A.    Yes, sir.

16         Q.    How well lit was it when you identified these  
17 individuals?  What was the lighting like?

18         A.    It was fair.

19         Q.    Fair.  When you say "fair," what do you mean?

20         A.    It was light enough to identify them.

21         Q.    Okay.  And this was after being in the car  
22 with them -- in the darkened car -- for what you say  
23 was about 20 minutes, you were able to identify them?

24         A.    Yes, sir.

25         MR. ALMASE:  Pass the witness.

1 THE COURT: Mr. Fischer.

2

3 CROSS-EXAMINATION

4 BY MR. FISCHER:

5 Q. Mr. Medina, just a few questions.

6 A. Okay.

7 Q. You said that you were forced in the back of  
8 the seat of the vehicle; is that correct?

9 A. Correct, sir.

10 Q. And then Mr. German was to your right; is  
11 that correct?

12 A. Yes, sir.

13 Q. And you got a good look at him?

14 A. I couldn't look at him. I was hearing him  
15 only. My focus was on my girlfriend.

16 Q. So you didn't actually see him, correct?

17 A. You can say -- I can say, no. It was like  
18 flash.

19 Q. So, no, you did not see him?

20 A. I see him, but I didn't -- my attention  
21 wasn't on him. It was on the gun.

22 Q. So the attention was to your left, then; is  
23 that correct?

24 A. Yes, sir.

25 Q. Okay. So can you be more specific then when

1 you say you did see him. I'm not -- I don't understand  
2 what you're saying, so just describe it a little more.

3 A. I see him, but I was paying attention more on  
4 the gun than on him.

5 Q. At what point in time did you see him?

6 A. When he was, like, next to me at the car --  
7 inside the car.

8 Q. The moment that he was getting in?

9 A. Yes, sir.

10 Q. So an estimate of how long did you look at  
11 him, would you say?

12 A. You can say no more than five minutes.

13 Q. Five minutes?

14 A. Or so.

15 Q. So you got a pretty good look at him, then,  
16 if it was five minutes?

17 A. Yeah. Well, I'm looking like I'm looking at  
18 the judge and then I turn around and I was paying  
19 attention on the gun.

20 Q. All right. Can you give any physical  
21 descriptions of him, as far as what he was wearing?  
22 Any details?

23 A. He was wearing bluejeans, and I believe it  
24 was a dark shirt. I don't remember the color, because  
25 it was kind of dark.

1 Q. Can you describe the gentleman who was  
2 sitting to your left?

3 A. (Witness indicating).

4 Q. What was he wearing?

5 A. He had pants -- jeans -- bluejeans as well,  
6 and a dark shirt.

7 Q. So not much different?

8 A. No, sir.

9 MR. FISCHER: Nothing further, Your Honor.

10 THE COURT: Mr. Colucci.

11

12 CROSS-EXAMINATION

13 BY MR. COLUCCI:

14 Q. What time of the day was it when you observed  
15 the defendants?

16 A. It was at nighttime, sir.

17 MS. BATEMAN: Can I ask for a clarification?  
18 Whether this is the incident or the show-up or, you  
19 know...

20 MR. COLUCCI: Yes.

21 BY MR. COLUCCI:

22 Q. When you observed them from the police car,  
23 what time of the day was it?

24 A. Nighttime.

25 Q. Was the police car window up or down?

1           A.     It was up.

2           Q.     And were you seated -- were you seated facing  
3 the defendants, or were you seated to the side of the  
4 defendants when you made your observation?

5           A.     No.   Facing the defendants.

6           Q.     You and your girlfriend had spent the day  
7 together, correct?

8           A.     The night, not the day.

9           Q.     Okay.  What time did she arrive at your  
10 place?

11          A.     About 7:00.

12          Q.     And did you have dinner, I assume?

13          A.     No, sir.  We were just talking.

14          Q.     Did you have anything to drink?

15          A.     No, sir.

16          Q.     Did she?

17          A.     None.

18          Q.     Okay.  Now, at some point in time, did the  
19 person with the gun put the gun away during the time  
20 that he was in the car with you?

21          A.     No, sir.

22          Q.     The gun was -- okay.

23                 When you were giving this person or the  
24 persons in the back seat the property, to whom were you  
25 handing the property to?

1       A.    To the gentleman right here (witness  
2 indicating).

3       Q.    And he was accepting -- he had the gun in one  
4 hand, and he was accepting the property with the other  
5 hand?

6           THE COURT:   Just for the record, he's  
7 identifying Mr. Roach.

8           MR. COLUCCI:   Thank you.   Sorry.

9 BY MR. COLUCCI:

10       Q.    You indicated Mr. Roach was the person with  
11 the gun.   You indicated Mr. Roach was the person you  
12 were handing the property to.

13       A.    Yes, sir.

14       Q.    And he kept the gun on you the whole time you  
15 were handing him the property?

16       A.    Yes, sir.

17       Q.    Your girlfriend was with you the entire time  
18 that -- from the time she arrived at your house around  
19 7:00 p.m. until you made the identification from the  
20 police car; is that correct?

21       A.    Correct.

22       Q.    She never left your presence?

23       A.    Correct.

24       Q.    You described how everybody was dressed, I  
25 think, except Mr. Ivey.

1                   Do you remember how Mr. Ivey was dressed that  
2 evening?

3           A.    I can say it was dark jeans and a dark shirt.

4           Q.    Anything covering his head or anything  
5 covering his head or face?

6           A.    No, sir.

7           MR. COLUCCI:  Nothing further.

8           THE COURT:  Anything further?

9           MS. BATEMAN:  No, Your Honor.

10          THE COURT:  I have a couple of questions.  
11          You said that a silver chain was taken with a  
12 cross?

13          THE WITNESS:  Yes, Your Honor.

14          THE COURT:  Was there anything else taken  
15 from you?

16          THE WITNESS:  My phone and my ID.

17          THE COURT:  Okay.  You said that you were  
18 seated in the back, in the middle of the passenger  
19 seat, and that Mr. Roach here was telling you to give  
20 the items.

21          Was the other individual talking at all?  
22 Because you said, I heard him.

23          THE WITNESS:  Yes, sir.  He only ask -- said  
24 to me just cooperate, so I just handed over the items.

25          THE COURT:  Do you know whether or not the

1 person in the front row said anything to you -- in the  
2 front seat, I mean, that was with your girlfriend?

3 THE WITNESS: He just told me to tell my  
4 girlfriend to cooperate or otherwise they're going to  
5 hurt her. So I was trying to calm the situation.

6 THE COURT: Do you know if anything was taken  
7 from your girlfriend that night?

8 THE WITNESS: Yes, sir.

9 THE COURT: Could you see that happening?  
10 Because you said you were seated up -- sitting up.  
11 They didn't put your head down, did they?

12 THE WITNESS: No.

13 THE COURT: Did you see anything taken from  
14 your girlfriend?

15 THE WITNESS: Yes, sir.

16 THE COURT: You testified a credit card,  
17 phone, and ID.

18 Was there anything else taken from her that  
19 you know of?

20 THE WITNESS: Her keys.

21 THE COURT: Nothing else?

22 THE WITNESS: And she handed an envelope.

23 THE COURT: Do you know what the envelope had  
24 in it?

25 THE WITNESS: It had, like, \$500 in it.

1 THE COURT: And you saw that happen?

2 THE WITNESS: I didn't see it at the time. I  
3 was between -- talking between one person and another.

4 THE COURT: You said that you went sometime  
5 later and identified -- and that you identified here  
6 today, Mr. Roach and Mr. German.

7 Did you see Mr. Ivey at the place you  
8 identified these other two as well?

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: These three were together?

11 THE WITNESS: Yes, Your Honor.

12 THE COURT: Were you given anything back by  
13 the police officers?

14 THE WITNESS: They give me my phone, my ID,  
15 and my chain.

16 THE COURT: And where did that -- when did  
17 you get that back?

18 THE WITNESS: At the 7-Eleven, after.

19 THE COURT: And those were the items that  
20 were taken by Mr. Roach?

21 THE WITNESS: Yes, Your Honor.

22 THE COURT: Do you have any questions as a  
23 result of my questions?

24 MS. BATEMAN: No, Your Honor.

25 MR. ALMASE: Yes.



1 Q. Okay. You work together and you were there  
2 together at work that day?

3 A. We don't work together.

4 Q. Okay.

5 A. We work separate casinos.

6 Q. But she was at work that day?

7 A. Yes, sir.

8 Q. All right. She didn't mention to you  
9 beforehand that she had this \$500 cash in an envelope  
10 while you were with her before the robbery?

11 A. No, sir.

12 MR. ALMASE: Pass the witness.

13 THE COURT: Mr. Fischer.

14 MR. FISCHER: Nothing, Your Honor.

15 THE COURT: Mr. Colucci.

16 MR. COLUCCI: Nothing, Your Honor.

17 THE COURT: Is Mr. Medina free to leave?

18 MS. BATEMAN: He is, Your Honor.

19 THE COURT: Mr. Medina, thank you for your  
20 testimony. You can step down. You're excused.

21 THE WITNESS: Thank you, Your Honor.

22 MR. ALMASE: Judge, may we approach?

23 THE COURT: Sure.

24 **(Whereupon, a brief discussion was**  
25 **held at the bench.)**

1 THE COURT: All right. Let's go. Call your  
2 next witness.

3 MS. BATEMAN: Your Honor, State's next  
4 witness is Baylie Kull.

5 THE COURT: Baylie Kull.

6 MS. BATEMAN: Kull, K-U-L-L.

7 THE MARSHAL: Step up here, please. Remain  
8 standing. Face the clerk over here and raise your  
9 right hand.

10 Whereupon,

11 BAYLIE KULL,  
12 was called as a witness, and having been first duly  
13 sworn, was examined and testified as follows:

14 THE CLERK: Please be seated. State and  
15 spell your name for the record.

16 THE MARSHAL: Pull your chair up and speak  
17 into that microphone.

18 THE WITNESS: Baylie Kull. B-A-Y-L-I-E.  
19 Last name is Kull, K-U-L-L.

20 THE COURT: Your witness.

21 MS. BATEMAN: Thank you, Your Honor.

22

23 DIRECT EXAMINATION

24 BY MS. BATEMAN:

25 Q. Ma'am, where do you reside?

1           A.    Palmetto, Florida.

2           Q.    And did you reside there back in June of this

3 year?

4           A.    No.  I was staying in Vegas for work.

5           Q.    Was that -- were you working at the Rio

6 casino?

7           A.    Yes, ma'am.

8           Q.    Now, what was that for?  Was that for a

9 specific event or...

10          A.    I was there to deal the World Series of

11 Poker.

12          Q.    Now, directing your attention to June 30th of

13 this year, did you find yourself in the area of Valley

14 View and Flamingo --

15          A.    Yes.

16          Q.    -- in Las Vegas, Clark County, Nevada?

17          A.    Yes, ma'am.

18          Q.    And had you just gotten off of work?

19          A.    Yes, ma'am.

20          Q.    And where were you heading?

21          A.    I was headed to the extended-stay on Valley

22 View.  That's where we were staying.

23          Q.    And at some point were you approached by

24 anyone?

25          A.    Yes.

1 Q. And what happened?

2 A. I was walking home. Well, home, and I passed  
3 these three gentlemen. They were walking towards the  
4 Rio. One of the gentlemen asked how I was doing and  
5 another asked for directions. At which point I  
6 stopped, and that's when they robbed me.

7 Q. So I'm going to take you back just to clarify  
8 things.

9 You identified -- you stated that there were  
10 three individuals who approached you; is that correct?

11 A. Yes.

12 Q. And you also testified that one of the  
13 individuals asked you for directions; is that correct?

14 A. Yes.

15 Q. And were you going to give them directions?

16 A. Yes.

17 Q. And so what did you do at that point?

18 A. When they asked for directions, I stopped and  
19 I turned around to face the Rio, where they were  
20 headed. And they asked for directions to Twain and  
21 Decatur. I went to indicate with my hands which way to  
22 go, at which point they grabbed my hand.

23 Q. Now, when you say they grabbed your hand, was  
24 it more than one person?

25 A. No. The gentleman in the middle grabbed my

1 hand and took my phone.

2 MS. BATEMAN: And for the record, let the  
3 record reflect the witness has identified Defendant  
4 German.

5 THE COURT: It shall.

6 BY MS. BATEMAN:

7 Q. Now, when Defendant German grabbed your arm,  
8 did he say anything to you?

9 A. He told me to be quiet or they were going to  
10 shoot me.

11 Q. Can you describe the area you were in when  
12 this occurred?

13 A. It was on Valley View. It's kind of like a  
14 deserted area. There's really not much there. Part of  
15 the road has no sidewalk. The sidewalk starts later on  
16 the road. There's like a little bridge overpass type  
17 of thing, and then there's a condo on the left and  
18 extended-stay is right next to it.

19 Q. Now, when Defendant German grabbed your arm,  
20 did he take any other action towards you?

21 A. He took my phone. And then they went over  
22 the little overpass and there was a fence, and they  
23 pushed me against the fence.

24 Q. And when you say "they," is it more than one  
25 individual or is it Defendant German?

1           A.    All three of them.  Well, he pushed me  
2 against the fence and the other two kind of crowded  
3 around.

4           Q.    Now, at some point do any of the other  
5 individuals there besides Defendant German take any  
6 action towards you?

7           A.    The gentleman right here (witness indicating)  
8 showed me that he had a gun.  He lifted his shirt to  
9 show a gun.

10                MS. BATEMAN:  And may the record reflect the  
11 identification of Defendant Ivey?

12                THE COURT:  It shall.

13 BY MS. BATEMAN:

14           Q.    And did he say anything toward -- I'm sorry.  
15 Did Defendant Ivey say anything towards you?

16           A.    This one?

17           Q.    Yes.

18           A.    No.  He didn't speak.

19           Q.    Okay.  But he -- did he show you anything?

20           A.    He lifted his shirt to show a gun and he kind  
21 of kept his shirt propped up to where I could see the  
22 handle of the gun.

23           Q.    What color was the handle of the gun?

24           A.    It was silver.

25           Q.    Now, in terms of Defendant German, you

1 originally identified as the person who grabbed your  
2 arm, what else did he do?

3       A.    He was the one that did most of the talking.  
4 He told me to keep my mouth shut or they were going to  
5 shoot me. And then he said that they needed the pin  
6 numbers to my credit cards and to my phone, which he  
7 had already taken. He had ripped the fanny pack that I  
8 was wearing for work. They ripped that when they  
9 pushed me against the fence.

10       Q.    What did you do when Defendant German asked  
11 you for the pin numbers and the cell phone code?

12       A.    I told them that I didn't have the pin  
13 numbers for the card and that the phone had a visual  
14 code. And he said, Don't lie to me, bitch, or I'll  
15 shoot you.

16       Q.    And what did you do at that point?

17       A.    I told them again I didn't have the pin  
18 numbers for the cards, that they were my mom's cards  
19 that I had for emergency use only, so I didn't have  
20 access to the pin code. And he put the phone in my  
21 face and let go of my hand at that point so I could  
22 unlock my phone.

23       Q.    And did you do that?

24       A.    Yes.

25       Q.    Was that out of fear?

1           A.    Yes.

2           Q.    Now, you testified that there were three  
3 individuals involved, and you previously identified  
4 Defendant Ivey and Defendant German.

5                   Do you see the third individual in the  
6 courtroom today?

7           A.    Yeah.  It's this one (witness indicating.)  
8 He was kind of standing behind where my back, like, on  
9 the side.  It was not in my direct, like, eyesight.

10                   MS. BATEMAN:  And may the record reflect  
11 identification of Defendant Roach?

12                   THE COURT:  It shall.

13 BY MS. BATEMAN:

14           Q.    I'm sorry.  Can you repeat what you just  
15 testified to regarding Defendant Roach?

16           A.    He didn't speak or anything.  He was kind of  
17 like crowded behind.  So after I walked past them, he  
18 was kind of, like, to my side when I was against the  
19 fence, not in the direct, like, eyesight.

20           Q.    Was he speaking at any point to the other two  
21 gentlemen?

22           A.    They were all talking, but it's, honestly, a  
23 blur what they were saying.

24           Q.    Now, at some point do you move from your  
25 present location?

1           A.    Yeah.  After they had taken everything and my  
2 phone was unlocked, the -- I don't remember what you  
3 said his name was in the middle -- had his hand down my  
4 shirt and then my back, and they were walking towards  
5 the Flamingo Palms condo, checking to see if I had any  
6 other money on me.

7           Q.    And could you feel them searching for other  
8 items on you?

9           A.    He was the only one that had his hands on me.

10           MS. BATEMAN:  And just for clarification,  
11 that's Defendant Roach -- or I'm sorry -- Defendant  
12 German who the witness has identified.

13           THE COURT:  The record will reflect such.

14 BY MS. BATEMAN:

15           Q.    Now, at some point do you reach the Flamingo  
16 Palms?

17           A.    Right.

18           Q.    And what happens next?

19           A.    They kind of push me into the like -- like  
20 they have a pebble entryway.  They kind of pushed me  
21 into there and they ripped the name tag off of my vest  
22 for work and then they --

23           MR. ALMASE:  Judge, I would object to the  
24 vagueness of "they."  If she could specify, please.

25           THE COURT:  Sustained.  Sustained.  Clarify

1 it.

2 BY MS. BATEMAN:

3 Q. Ma'am, were all three involved when you  
4 testified that they pushed you into that rocky area?

5 A. They were all three there. The one in the  
6 middle, Roach, I think you said.

7 MR. ALMASE: No.

8 THE WITNESS: He's the one --

9 MS. BATEMAN: Okay.

10 THE WITNESS: The one in the middle here.

11 MS. BATEMAN: For the record, that's  
12 Defendant German.

13 THE COURT: German.

14 THE WITNESS: German. He's the one that  
15 actually pushed me in there, but they were all three  
16 present.

17 BY MS. BATEMAN:

18 Q. And what happened after you were pushed into  
19 the rocks?

20 A. He -- they walked like they were going  
21 towards extended-stay. I started walking back towards  
22 extended-stay behind them. They turned around and  
23 said, Where are you going, bitch? And they said, Turn  
24 around and walk the other way and don't look back.

25 MR. ALMASE: Again, objection to the

1 vagueness.

2 THE COURT: That's the issue.

3 THE WITNESS: The vague? He was the one

4 speaking.

5 THE COURT: So clarify that. So you're

6 saying the individual in the middle is the one that

7 said, Where are you going, bitch. That kind of thing.

8 THE WITNESS: Yes.

9 THE COURT: If you heard somebody else say

10 something, tell us what they said.

11 THE WITNESS: He was the one that did all the

12 speaking.

13 MS. BATEMAN: And that's Defendant German,

14 for the record, Your Honor.

15 THE COURT: All right.

16 BY MS. BATEMAN:

17 Q. I'm sorry. So can you repeat what Defendant

18 German then said to you?

19 A. He said -- I was walking behind all three of

20 them. German said, Where are you going, bitch? Turn

21 around. Don't look back or we'll shoot you.

22 I kept -- I walked back towards the

23 intersection of Flamingo and Valley View. When I

24 turned around, I noticed they were gone, so I went back

25 to go to where I was staying at the time.

1 Q. At some point do you reach your residence?  
2 A. Yes.  
3 Q. And what do you do when you get there?  
4 A. I went up to the room. I didn't have a key  
5 at that point because it was in the fanny pack, and my  
6 roommate was home. He answered the door. I -- he got  
7 on the phone with the police and I called my mom.  
8 Q. Now, you testified that a fanny pack that you  
9 were wearing at the time was taken from you. You were  
10 wearing it, correct?  
11 A. Yes.  
12 Q. And that was taken from you off your person?  
13 A. Yes.  
14 Q. What other items were taken from you?  
15 A. My cell phone. In the fanny pack I had my  
16 two debit cards, my Florida driver's license, my  
17 employee badge, and approximately \$200 in cash.  
18 Q. And when you say cell phone, do you recall  
19 the type of cell phone you had?  
20 A. It was a Samsung Note 3. It was white.  
21 Q. Now, fast-forwarding to July 9th of this  
22 year, were you at the Rio on that day?  
23 A. Yes.  
24 Q. And did you have occasion to meet with a  
25 Detective Garris?

1 A. Yes.

2 Q. And at that point when you met with Detective  
3 Garris, did he show you some photographs?

4 A. Yes.

5 Q. And can you describe those photographs?

6 A. It was three different sheets with nine  
7 pictures each on them. And we went through one by one,  
8 and he told me to point out anyone that I recognized on  
9 each of the individual sheets.

10 Q. And did you do so?

11 A. Yes, ma'am.

12 Q. And did you explain the role that each of  
13 those individuals played during the robbery?

14 A. Yes.

15 MS. BATEMAN: I'll pass the witness, Your  
16 Honor.

17 THE COURT: Cross.

18 MR. ALMASE: Thank you, Judge.

19

20 CROSS-EXAMINATION

21 BY MR. ALMASE:

22 Q. Good afternoon. How are you?

23 A. Good. How are you?

24 Q. I'm good. To be clear, on direct examination  
25 you stated that this individual here was the one who

1 held up the shirt to show the firearm?

2 A. Yes.

3 Q. Okay. And we'll refer to him as Mr. Ivey.

4 A. Okay.

5 Q. So Mr. Ivey is the one who, as you sit here

6 now testifying, is the one who showed you the handgun?

7 A. Yes.

8 Q. And that -- there's no doubt in your mind

9 he's the individual?

10 A. There's no doubt in my mind.

11 Q. The DA just asked you about the photo lineups

12 that the officer showed you.

13 A. Right.

14 Q. And he asked you to detail and give your

15 information on the involvement of each of these

16 individuals, correct?

17 A. Correct.

18 Q. At the time that he showed you that, you

19 weren't saying it was Mr. Ivey, though; isn't that

20 true?

21 A. I don't remember what I said. Honestly, I

22 tried to block everything out of my mind when I went

23 home, so I haven't seen...

24 Q. If I showed you something, the report, do you

25 believe that would refresh your recollection as to who

1 did what?

2 A. Yes.

3 MR. ALMASE: May I approach?

4 THE COURT: Yes.

5 BY MR. ALMASE:

6 Q. Okay. I'm showing you this arrest report.

7 And if you can just read this silently to yourself, and

8 then look up at me when you're done.

9 Is your memory refreshed?

10 A. Yes, sir.

11 Q. The question again is: When the officers

12 questioned you about who did what, you actually at the

13 time said it was another individual, not Mr. Ivey, who

14 held up his shirt; is that correct?

15 A. Correct.

16 Q. But now after reflecting on it, you feel

17 without a doubt it was Mr. Ivey --

18 A. Yes.

19 Q. -- who held up his shirt and showed the

20 firearm?

21 A. Yes, sir.

22 Q. In your statement -- do you recall giving a

23 statement, a written statement?

24 A. Yes.

25 Q. You said that the third individual you

1 couldn't really identify; is that fair?

2 A. I couldn't give specifics on him.

3 Q. Couldn't guess [sic] the specifics? I'm

4 sorry.

5 A. I couldn't give specifics.

6 Q. As to his appearance?

7 A. Correct.

8 Q. Is that what you mean? Okay.

9 And actually it wasn't -- that's not how you

10 worded it. You said you could not recall what the

11 third guy looked like, other than he was wearing a

12 baseball hat; isn't that true?

13 A. I couldn't give specifics as to what -- I

14 mean, that whole night was a complete blur to me, so.

15 Q. Okay. And to be fair, this was a scary

16 experience? Yes?

17 A. Correct.

18 Q. It happened very quickly?

19 A. It felt like it took forever, but...

20 Q. In actuality, how much time do you think it

21 took?

22 A. Probably ten minutes.

23 Q. Ten minutes. Okay. But memory -- your

24 memory isn't as good as it was? To be fair, it was all

25 a blur?

1           A.     Correct. I mean, that's a fair assumption.

2 I've tried to block a lot of it out.

3           Q.     And that's a reaction of your fear and trying  
4 to remember but then not really wanting to remember; is  
5 that fair?

6           A.     That's fair.

7           Q.     On direct examination you stated that my  
8 client, Mr. Roach, was off and behind you, not in your  
9 direct line of sight.

10          A.     Correct.

11          Q.     And is that -- is it fair to say that he was  
12 never really in your direct line of sight? That he was  
13 off to the side?

14          A.     I mean, when I passed them, that's how I  
15 recognized the face, because I was passing them before  
16 it happened.

17          Q.     The question is -- the question is: Was he  
18 always just off to the side, or was he in your direct  
19 line of sight at any time?

20          A.     When it was happening, not in my direct line  
21 of sight. He was in my direct line of sight before the  
22 incident took place.

23          Q.     He didn't put any hands on you, correct?

24          A.     Correct.

25          Q.     He didn't address you. He didn't talk to you

1 directly?

2 A. Correct.

3 Q. You stated that there was some conversation  
4 among the three of them but you're not really sure what  
5 it was?

6 A. Correct. The one that did most of the  
7 talking was the gentleman in the middle. He did all  
8 the talking to me.

9 Q. Mr. German?

10 A. Yes.

11 Q. He was the only one that addressed you  
12 directly?

13 A. Yes.

14 Q. Okay.

15 A. One of them said, Hey, how are you, before it  
16 took place. He's the one that asked for directions.  
17 He's the one that grabbed my hand. He's the one that  
18 did the talking once the incident was occurring.

19 Q. So is it fair to say that you didn't get --  
20 Mr. Roach didn't speak to you at any time?

21 A. Correct.

22 Q. He didn't direct you to do anything at any  
23 time?

24 A. Correct.

25 Q. He didn't touch you in any way?

1           A.     Correct.

2           Q.     He didn't threaten you in any way?

3           A.     Correct.

4           Q.     Not directly, no?

5           A.     Correct.

6           Q.     Okay.

7           A.     He didn't speak to me.

8           Q.     When the three of them were talking amongst

9 themselves, you said it on direct -- and, again, it was

10 all a blur, not really sure what was being said?

11          A.     I wasn't really listening.

12          Q.     They could have been talking about anything.

13 Mr. Roach could have been saying anything to them?

14          A.     Correct.

15                 MR. ALMASE:  Pass the witness.

16                 THE COURT:  Mr. Fischer.

17                 MR. FISCHER:  Just a couple questions.

18

19                         CROSS-EXAMINATION

20 BY MR. FISCHER:

21          Q.     So you were approached and Mr. German is the

22 one who grabs your arm?

23          A.     The one?

24          Q.     The gentleman sitting to my right.

25          A.     Yes.  He's the one that grabbed my arm and

1 grabbed the cell phone out of my hand.

2 Q. And he didn't have any weapon, correct?

3 A. No. Not that I was aware of.

4 Q. What were the exact words he said?

5 A. He said, Shut up, bitch, be quiet or we'll  
6 shoot you.

7 Q. To the best of your recollection?

8 A. That was -- yeah.

9 Q. You were just coming back from work?

10 A. I was leaving work.

11 Q. Leaving work. Had you had anything to drink  
12 that night?

13 A. No, sir. I was at work.

14 MR. FISCHER: Nothing further.

15 THE COURT: Okay. Mr. Colucci.

16 MR. COLUCCI: Thank you.

17

18 CROSS-EXAMINATION

19 BY MR. COLUCCI:

20 Q. You did a review of some photographs for the  
21 detectives -- is that correct -- at some point?

22 A. Yes.

23 Q. Do you know when that was? How many days  
24 after the incident?

25 A. If it was July 9th, then it was nine days

1 after.

2 Q. And where did that take place?

3 A. At the Rio hotel.

4 Q. And you identified the three gentlemen here

5 sitting in court --

6 A. Yes.

7 Q. -- from those photographs?

8 Was your memory better then or was your

9 memory better of the incident at the time shortly

10 thereafter?

11 A. I mean, it was probably the same.

12 Q. Okay. You said Mr. Ivey lifted his shirt and

13 at that point you saw what appeared to be a gun,

14 correct?

15 A. Correct.

16 Q. What part of the gun did you see? Did you

17 see all of the gun?

18 A. No. Just the handle.

19 Q. And Mr. Ivey never pulled the gun out?

20 A. Correct.

21 Q. Never threatened you with it?

22 A. The only one that spoke was the gentleman in

23 the middle who said, Be quiet or we'll shoot you. That

24 was enough for me not to fight. They didn't pull the

25 actual gun out.

1           Q.    And in your presence Mr. Ivey never took any  
2 of your property into his possession; is that correct?

3           A.    He's not the one that ripped the fanny pack.  
4 I'm not sure who the fanny pack was given to after it  
5 was taken off. I didn't pay attention.

6           Q.    Would it be fair to say that during the  
7 course of this incident that most of your attention was  
8 focused on Mr. German?

9           A.    That's the one in the middle?

10          Q.    Yes.

11          A.    That's a fair assumption.

12          Q.    Okay. Would you say 80 percent of your  
13 attention was focused on Mr. German? 90 percent? What  
14 percent would you give?

15          A.    Probably 90 percent, and 10 percent was  
16 looking to see if there was any cars coming by to help,  
17 but there was nothing there.

18               MR. COLUCCI: No further questions.

19               THE COURT: Anything further?

20               MS. BATEMAN: Your Honor, just briefly.

21

22                               REDIRECT EXAMINATION

23 BY MS. BATEMAN:

24          Q.    Ma'am, you testified about the location of  
25 the robbery and then that you were walked over towards

1 Flamingo Palms; is that correct?

2 A. Yes.

3 Q. How long would you say that walk was?

4 A. From where?

5 Q. From the location of the robbery to the

6 condos.

7 A. I mean, it's not very far. Maybe -- I don't

8 know how many feet. It's -- it's a very short

9 distance. I don't know even. Probably 10, 20 feet at

10 the most.

11 Q. And from the location of the robbery where

12 all three individuals were present, did all three

13 individuals then walk with you to the Flamingo Palms?

14 A. Yes.

15 Q. And then did all three individuals leave the

16 scene of the Flamingo Palms together as well?

17 A. Yes.

18 Q. And they were walking together?

19 A. Yes.

20 Q. And you could hear them speaking with one

21 another?

22 A. I don't know if they were speaking. I was in

23 my own head at that point. I couldn't even breathe,

24 so.

25 MS. BATEMAN: No further questions, Your

1 Honor.

2 THE COURT: Anything further?

3 MR. ALMASE: No.

4 THE COURT: Mr. Fischer?

5 MR. FISCHER: No.

6 MR. COLUCCI: No, Your Honor.

7 THE COURT: Miss Kull, thank you for your  
8 testimony. You can step down.

9 Call your next witness.

10 MS. BATEMAN: Your Honor, the State's next  
11 witness is Eola Robinson.

12 THE MARSHAL: Step up here, please. Remain  
13 standing. Face the clerk over here and raise your  
14 right hand.

15 Whereupon,

16 EOLA ROBINSON,  
17 was called as a witness, and having been first duly  
18 sworn, was examined and testified as follows:

19 THE CLERK: Please be seated. State and  
20 spell your name for the record.

21 THE MARSHAL: Pull your chair up and speak  
22 into the microphone.

23 THE WITNESS: Eola Robinson. E-O-L-A  
24 R-O-B-I-N-S-O-N.

25 THE COURT: Your witness.

1           Miss Robinson, you speak a little quiet.  
2 Everything is being recorded here today, so I'd ask you  
3 to kind of slide up a little closer and make sure we  
4 can hear you. Okay?

5           THE WITNESS: I got you.

6           THE COURT: Your witness.

7           MS. BATEMAN: Thank you, Your Honor.

8

9                               DIRECT EXAMINATION

10 BY MS. BATEMAN:

11       Q.   Ma'am, how are you employed?

12       A.   I'm a blackjack dealer at Red Rock.

13       Q.   And were you so employed back on July 1st of  
14 this year?

15       A.   Yes, I was.

16       Q.   And did you work on July 1st?

17       A.   Yes, I did.

18       Q.   And when you got off work, how do you get  
19 home?

20       A.   The bus transit.

21       Q.   And did you take the bus on the 1st?

22       A.   Yes, I did.

23       Q.   And what exit do you usually take?

24       A.   I get off on Lake Mead and Decatur.

25       Q.   Now, when you got off the -- when you get off

1 the bus at Lake Mead and Decatur, where do you walk  
2 towards to get home?

3 A. I walk going east down Lake Mead.

4 Q. And what street are you approaching?

5 A. Rancho.

6 Q. Is that in Las Vegas, Clark County, Nevada?

7 A. Yes, it is.

8 Q. Now, while you're walking home on July 1st  
9 near Rancho and Lake Mead, does something happen that  
10 caused the police to respond?

11 A. Yes.

12 Q. What happened?

13 A. I was robbed.

14 Q. Now, can you go into a little bit more detail  
15 about that robbery?

16 A. I was prob -- approximately maybe ten minutes  
17 from my house. I was walking. I seen a young kid  
18 cross the street, maybe 5 feet in front of me. I  
19 nodded. He nodded. I noticed he had stopped. And I  
20 looked across the street. He was waiting for his boys,  
21 I guess.

22 After that I really ignored it because I  
23 didn't pay it any mind. Next thing I know, someone  
24 covered my eyes. Then they had their arm around my  
25 neck and told me to keep walking.

1           Q.    So I'm going to stop you just right there for  
2 a minute and clarify.

3                    You testified that an individual you  
4 testified about five-foot-five [sic] crossed the street  
5 in front of you; is that correct?

6           A.    Yes.

7           Q.    Do you see that individual in the courtroom  
8 today?

9           A.    I believe so.

10          Q.    Will you point to him and describe something  
11 that he's wearing?

12                  MR. COLUCCI:  I'm going to object, Your  
13 Honor.  She believes so is not an affirmative answer.  
14 It's not a yes or a no.  And she's spec --

15                  THE COURT:  Well, the question is do you see  
16 the person in the courtroom, and she says I believe so.  
17 That sounds like an affirmative answer to me.

18                  MR. COLUCCI:  It's not a yes or a no.  Maybe  
19 we can have a yes if that's -- if that's what she's  
20 saying.

21                  THE COURT:  Sustained -- overruled.  Go  
22 ahead.  She said I believe so.  The record will stand.

23 BY MS. BATEMAN:

24          Q.    Thank you, ma'am.  And will you please point  
25 to him and describe something that he's wearing?

1           A.   (Witness indicating.)  What he's wearing?  He  
2 has little things in his hair.

3           Q.   And what is he wearing in terms of clothes?

4           A.   Excuse me?

5           Q.   In terms of clothing.

6           A.   Blue jumpsuit.

7           MS. BATEMAN:  May the record reflect  
8 identification of Defendant Roach?

9           THE COURT:  It shall.

10          BY MS. BATEMAN:

11          Q.   And, ma'am, you testified that -- I believe  
12 your words were, "He was waiting for his boys;" is that  
13 correct?

14          A.   Yes.  He had crossed and he had stopped --

15          Q.   And did you see anyone else --

16          A.   -- in front of me.

17          Q.   I'm sorry to interrupt.  Did you see anyone  
18 else in the area?

19          A.   Not in that immediate area.  When he stopped,  
20 it looked like he was waiting for something.  He looked  
21 across the street.  I seen two individuals across the  
22 street, and I just assumed he was waiting for them.  So  
23 I passed him.  And then the next thing I knew, I was  
24 being stopped.

25          Q.   And you testified that you felt an arm around

1 your neck; is that correct?

2 A. Correct.

3 Q. And you also testified that someone covered  
4 your eyes; is that correct?

5 A. That's how it started off. When someone  
6 covered my eyes for, like, maybe three or four seconds  
7 and then the arm went around my neck.

8 Q. Now, did you see the -- you've previously  
9 testified that Defendant Roach is the one that crossed  
10 the street initially; is that correct?

11 A. If that's his name, yes.

12 Q. And did you see him at any point after you  
13 felt the arm around your neck?

14 MR. ALMASE: I'm going to object to the  
15 leading, Judge, at this point.

16 THE COURT: Did you see him any time after he  
17 had his arm around you?

18 MS. BATEMAN: She felt the arm around her.

19 THE COURT: Felt the arm. That's leading?

20 MR. ALMASE: Yes. I would ask for just  
21 open-ended questions, Judge, instead of all the leading  
22 at this point.

23 THE COURT: I'm going to overrule the  
24 objection, but...

25 MS. BATEMAN: I'll make it more general, Your

1 Honor.

2 THE COURT: Let her tell us.

3 MS. BATEMAN: That's fine.

4 BY MS. BATEMAN:

5 Q. Ma'am, did you see Defendant Roach at any  
6 time after you saw him cross the street?

7 A. Yes.

8 Q. And what was he doing?

9 A. He was walking next to me, as whoever had me  
10 around my neck was walking me down the street.

11 Q. And how many people total were around you?

12 A. I only seen the person that was walking next  
13 to me, but -- and whoever was behind me.

14 Q. Now, the individual who had his arm around  
15 your neck, did you hear him say anything to you?

16 A. Yes. He told me to keep walking. Do not  
17 turn around.

18 Q. And does he say anything else to you?

19 A. Yes.

20 Q. What is that?

21 A. He told me to keep walking, asked me for my  
22 purse. I told him no. I asked him why. We did that  
23 for a little bit. After that he asked me -- well, he  
24 said, Do you want to get shot over a purse, bitch. I  
25 said, No. And I let him have my purse.

1           Q.    Now, do you recall what was inside your purse  
2 on that day?

3           A.    My sunglasses. I had some money, my credit  
4 cards, my Nokia phone, my birth certificate, Social  
5 Security card, makeup, and just random little papers.

6           Q.    Now, do any of the individuals around you at  
7 that point say anything else towards you?

8           A.    They told me to keep walking. Don't turn  
9 around.

10          Q.    And did you comply with those orders?

11          A.    Yeah.

12          Q.    And do you at some point then contact the  
13 police?

14          A.    I went to my house, told my son, and then I  
15 called the police, yes.

16                MS. BATEMAN: I'll pass the witness, Your  
17 Honor.

18                THE COURT: Cross.

19                MR. ALMASE: Thanks, Judge.

20

21                               CROSS-EXAMINATION

22 BY MR. ALMASE:

23          Q.    Good afternoon, Miss Robinson.

24          A.    Good afternoon.

25          Q.    How are you?

1           A.    Okay.

2           Q.    One day after this incident took place, you  
3 were shown some photographs of the individuals; is that  
4 correct?

5           A.    I was.

6           Q.    And there were three sets of lineups. Six  
7 individuals in each of those three sets, correct?

8           A.    Correct.

9           Q.    And when you were shown each of those  
10 lineups, you were unable to determine which of those  
11 individuals were involved in the robbery?

12          A.    No. There was nothing distinctive about the  
13 person that I seen for me to pull him out of anything.

14          Q.    I'm sorry. If you can keep your voice up.

15          A.    There was nothing distinctive where I could  
16 say yes or no.

17          Q.    And that's in each three of those photo  
18 lineups?

19          A.    Yes.

20          Q.    Very truthfully, honestly, you were not able  
21 to pick out any of those individuals as the people who  
22 robbed you?

23          A.    No. I only seen one. And, no, I could not.  
24 Out of what he showed me, I could not, no.

25          Q.    And you weren't able to pick out the one

1 individual who you say you saw today, of those  
2 photographs?

3 A. I can't distinctively say, yes, that's him.  
4 No, I can't.

5 Q. Okay. I appreciate your honesty. Now, just  
6 to recount the events, you're walking down the street  
7 and someone grabs you from behind --

8 A. Uh-huh.

9 Q. -- correct?

10 And the first thing that they do is cover  
11 your eyes?

12 A. They cover my eyes first, and then it went to  
13 around my throat.

14 Q. Did it feel like it was one individual that  
15 covered your eyes --

16 A. Just one.

17 Q. -- and put their arm around your neck?

18 A. Yes. Just the one that was doing all the  
19 talking.

20 Q. Okay. So that is to say the person who put  
21 hands on you was the only person who did any  
22 communication with you?

23 A. Any talking, yes.

24 Q. You testified on direct examination that you  
25 thought that Mr. Roach was walking alongside you.

1       A.    No.  The person that -- when I was walking  
2 down and, I guess, Mr. Roach crossed in front of me, we  
3 made eye contact, but I really didn't pay attention to  
4 any details.  We head nod.  I kept rolling.  Then I  
5 felt -- I looked over and seen he was waiting for two  
6 other individuals.

7       Q.    Let me stop you there.  When you say he's  
8 waiting for two individuals, that's basically you just  
9 assuming that he's waiting for two individuals.

10            You didn't hear him say anything to anybody;  
11 is that correct?

12       A.    No.  He stopped and looked over at two people  
13 who were crossing the street.

14       Q.    Okay.  But they weren't crossing with him?

15       A.    No.  He had crossed over first.

16       Q.    Okay.  Please continue.

17       A.    After that I walked past him, maybe ten  
18 seconds later.

19       Q.    Maybe ten seconds?

20       A.    Maybe a little bit longer.  That's when I  
21 felt my eyes being covered and then the hand going  
22 around my neck.

23       Q.    So you walked past him?

24       A.    Yes.

25       Q.    And he's standing there while you walk past

1 him? He's standing on the sidewalk?

2 A. Yes. He's standing -- I'm here (witness  
3 indicating) and he's right there on the curb right in  
4 front of me. We pass each other.

5 Q. If the record could reflect, you're motioning  
6 with your right hand.

7 Are you saying that he was to your right?

8 A. Yeah. It's a sidewalk. I'm walking in the  
9 middle of the sidewalk. He's, like, right here, half  
10 sidewalk, half curb, waiting for the two individuals  
11 that were, I guess, coming across the street, because I  
12 had already passed him.

13 Q. But he's to your right?

14 A. Yes. He's on the same sidewalk I am.

15 Q. You passed him. You walk past him. And  
16 after you've walked past him, about ten seconds later  
17 you feel somebody come up to you, cover your eyes, and  
18 put their arm around your neck?

19 A. And then their arm -- their hand moves from  
20 my eyes and then their arm around my throat, yes.

21 Q. And it was not who you say you made eye  
22 contact with and nodded to?

23 A. No. Because that person was walking right --  
24 you know, walking with whoever was holding me. I'm in  
25 front. The person is behind me. We're both walking.

1 Mr. Roach, I guess, is walking, staring at me, like,  
2 waiting for me to say something, get mad, cry. I don't  
3 know what he was waiting on, but he was just staring at  
4 me.

5 Q. You saw him staring at you while your eyes  
6 were covered?

7 A. No. They covered my eyes. Then the arm --  
8 the hand went down and then around my throat. So my  
9 eyes was not covered the whole time.

10 Q. Okay. When afterwards they -- that person  
11 who put their arm down, did you see three individuals  
12 around you or was it just those two?

13 A. No. I only seen the person that was walking  
14 next to me and I heard the person that -- whoever had  
15 their hand around my throat and footprints [sic] behind  
16 me, whoever that was.

17 Q. The one that you made eye contact with and  
18 nodded to when you passed, it was just a few seconds  
19 that you passed by him; is that fair?

20 A. Yeah. I mean, it wasn't long. It wasn't  
21 like minutes or -- it was fairly quick.

22 Q. Okay. Did he have a baseball hat on?

23 A. I didn't see the two people.

24 Q. No. The person that you nodded at and made  
25 eye contact with.

1       A.    I believe they had something on their head,  
2 either a hood or might have had a hat.  I don't know.

3       Q.    When you say "they" --

4       A.    The person.

5       Q.    -- you mean the person who you made eye  
6 contact with?

7       A.    I only seen one person.

8       Q.    You only got to really see one person?

9       A.    Yeah.  The other people came up behind me and  
10 told me not to turn around, keep walking.

11      Q.    Okay.  Let's go back to your in-court  
12 identification of Mr. Roach.  Now, you did say "I  
13 believe" and then you sort of pointed to the table and  
14 then you pointed at Mr. Roach; is that correct?

15      A.    Right.

16      Q.    Is it fair to say you're not 100 percent?

17      A.    No.  I admit it's not 100.  There was  
18 nothing -- other than eyes, there was really nothing I  
19 can identify.  I mean, there was no identifying marks  
20 or he wasn't cockeyed or anything for me to say.  He's  
21 just a regular black individual.  I mean, there was  
22 nothing special that I could pick out to say, yes,  
23 that's him or, yes, that's him.  I can't.

24      Q.    Okay.  So is it fair to say that your  
25 identification of Mr. Roach this morning isn't close to

1 100 percent? That's fair?

2 A. I cannot say that, yes, that's him. I can't.

3 Q. You cannot say that?

4 A. I cannot say that.

5 Q. I appreciate your honesty. Now, one day

6 after -- let's go back to the one day after with the

7 six-pack lineup.

8 You studied those photographs, correct?

9 A. Uh-huh.

10 Q. You looked at them?

11 A. I looked at them, yes.

12 Q. Because you wanted to get these guys who did

13 this to you?

14 A. The right guys, yes.

15 Q. The right guys. It's important that you get

16 the right guys.

17 A. Yes.

18 Q. And you were not able to pick out any of

19 those individuals after studying those six-pack

20 lineups?

21 A. After looking at them, no. They all look

22 alike. Sorry.

23 Q. Not to say all African-American men look

24 alike.

25 A. Not to say that.

1 Q. Not to say that.  
2 A. But it's real.  
3 MR. ALMASE: Pass the witness.  
4 THE COURT: Mr. Fischer.  
5 MR. FISCHER: Nothing, Your Honor.  
6 THE COURT: Mr. Colucci.  
7 MR. COLUCCI: No questions.  
8 THE COURT: Do you have anything further?  
9 MS. BATEMAN: No, Your Honor.  
10 THE COURT: I have one question. Did you  
11 receive any of your items back?  
12 THE WITNESS: No, sir.  
13 THE COURT: Okay. Any questions as a result  
14 of my question?  
15 MS. BATEMAN: No, Your Honor.  
16 THE COURT: Anything further?  
17 MR. ALMASE: No.  
18 THE COURT: Okay. Miss Robinson, you are  
19 free to leave. You can step down. Thank you for your  
20 testimony.  
21 THE WITNESS: Thank you.  
22 MR. COLUCCI: Your Honor, could we ask for a  
23 very short break?  
24 THE COURT: It's 2:25 right now. Can we come  
25 back at 2:30.

1 MR. COLUCCI: Sure.

2 (Whereupon, a recess was taken.)

3 THE COURT: All right. We're back on the  
4 record in State of Nevada versus Christopher Roach,  
5 Jeffrey German, and James Ivey. So the defendants are  
6 back with their attorneys.

7 Call your next witness.

8 MS. BEVERLY: The State calls Officer Walker.

9 THE MARSHAL: Step up here. Remain standing.  
10 Face the clerk and raise your right hand.  
11 Whereupon,

12 DARRIN WALKER,  
13 was called as a witness, and having been first duly  
14 sworn, was examined and testified as follows:

15 THE CLERK: Please be seated. State and  
16 spell your name for the record.

17 THE WITNESS: Darrin Walker. D-A-R-R-I-N  
18 W-A-L-K-E-R.

19 THE COURT: Your witness.

20

21 DIRECT EXAMINATION

22 BY MS. BEVERLY:

23 Q. Sir, how are you currently employed?

24 A. I'm a police officer with the Las Vegas  
25 Metropolitan Police Department.

1 Q. How long have you been with Metro?  
2 A. A little over nine and a half years.  
3 Q. And what is your current assignment?  
4 A. Enterprise area of command, graveyard.  
5 Q. What are your general duties?  
6 THE COURT: I was just apologizing.  
7 THE WITNESS: It's all right, sir.  
8 BY MS. BEVERLY:  
9 Q. What are your general duties?  
10 A. Patrol of the Robert Paul area and Enterprise  
11 area of command.  
12 Q. And what area does that encompass?  
13 A. That encompasses basically everything from  
14 Charleston to sometimes the border of California, from  
15 north to south; and everything from east/west from the  
16 15 through Red Rock/Summerlin.  
17 Q. Okay. I want to direct your attention back  
18 to July the 2nd of 2014, at about 4:00 in the morning.  
19 Were you working on that day?  
20 A. Yes, ma'am, that's correct.  
21 Q. Did you respond to a 7-Eleven?  
22 A. Yes, ma'am, I did.  
23 Q. Is that 7-Eleven here in Las Vegas, Nevada,  
24 Clark County?  
25 A. Yes, ma'am, it is.

1 Q. What was the purpose of you responding to  
2 that location that day?

3 A. Earlier in the evening we had -- we were  
4 dispatched to a robbery in progress at 4200 Arville,  
5 the Rancho Mirage apartment complex.

6 Q. Did you have information that a vehicle had  
7 been stopped by North Las Vegas police officers at that  
8 7-Eleven?

9 A. Yes, ma'am.

10 Q. And was that -- is that in Metro's  
11 jurisdiction?

12 A. Borderline, yes, ma'am.

13 Q. And you as Metro, though, still responded  
14 because it's a borderline area?

15 A. That is correct.

16 Q. And North Las Vegas is still in Clark County;  
17 is that correct?

18 A. That is correct.

19 Q. Now, when you arrived on scene, what were  
20 your duties?

21 A. Earlier in the evening, when we had arrived  
22 at the original robbery, due to the fact that the  
23 suspect's taking a cell phone, we were able to track  
24 the cell phone to the location. With the assistance of  
25 the North Las Vegas Police Department, we were able to

1 locate the vehicle occupied by multiple suspects. At  
2 that point we arrived there to verify that these were  
3 the suspects that were involved in our robbery.

4 Q. And when you arrived at the location, you  
5 said there were multiple suspects there; is that  
6 correct?

7 A. That's correct.

8 Q. Do you see any of those suspects in court  
9 today?

10 A. Yes, ma'am, I do.

11 Q. Can you please point to each suspect and tell  
12 me something they're wearing?

13 A. That they're wearing now?

14 Q. Yes.

15 A. That is Mr. Ivey. He's wearing a black/blue  
16 top. That is Mr. German in the center -- he's also  
17 wearing a black/blue top -- with a beard. And that is  
18 Mr. Roach, also wearing a blackish top.

19 MS. BEVERLY: Okay. Let the record reflect  
20 identification of all three defendants.

21 THE COURT: It shall.

22 BY MS. BEVERLY:

23 Q. Now, as part of your duties on the scene that  
24 day, were you tasked with searching one of the  
25 suspects?

1           A.     That is correct.

2           Q.     Okay.  And did you, in fact, search Defendant

3 German?

4           A.     That is correct.

5           Q.     And did you find some items of relevance on

6 Defendant German?

7           A.     That is correct.

8           Q.     Were some of those items found in the rear

9 pockets of Mr. German?

10                  MR. FISCHER:  Objection.  Leading.

11                  THE COURT:  Sustained.

12 BY MS. BEVERLY:

13           Q.     Where were those -- well, let me ask you

14 this:  Did you find some items of relevance on

15 Mr. German?

16           A.     Yes, ma'am, I did.

17           Q.     Let's talk about the items that you found on

18 Mr. German.

19                  Where did you find those items of interest?

20           A.     I located two debit cards in the name of one

21 of the victims in the right rear pocket of Mr. German.

22           Q.     Okay.  And you said one of the victims.

23 Would that be Miss Donna Dimaria?

24           A.     That is correct.

25           Q.     You said you located two debit or credit

1 cards in her name; is that correct?

2 A. Yes, ma'am. One Wells Fargo and one Citibank  
3 card in her name.

4 Q. And what other items, if any, did you locate?

5 A. I recovered a black Huawei cell phone by the  
6 courier Cricket, also in the rear pocket of Mr. German.  
7 As well as a broken silver necklace in the right front  
8 pocket of Mr. German.

9 Q. And did you have any information as to who  
10 those items belonged to?

11 A. It wasn't until later on, during the  
12 investigation, that we found out who they belonged to.  
13 Originally we did not. We were unaware.

14 Q. Did you later learn who they belonged to?

15 A. Yes, ma'am.

16 Q. Who did they belong to?

17 A. They belonged to the male half victim. I  
18 can't recall his name at the time right now.

19 Q. Does the name Jesus Medina ring a bell?

20 A. That's correct.

21 Q. So just to clarify: You found two credit  
22 and/or debit cards in the name of Donna Dimaria on  
23 Mr. Roach -- I'm sorry -- on Mr. German; is  
24 that correct?

25 A. That is correct.

1 Q. And then you found a Huawei -- and for the  
2 record it's H-U-A-W-E-I -- cell phone and a broken  
3 necklace also on Mr. German that you later learned  
4 belonged to Mr. Medina?

5 A. That is correct.

6 MS. BEVERLY: Court's indulgence.

7 Okay. Nothing further at this point.

8 THE COURT: Cross.

9 MR. ALMASE: Yes. Thank you, Judge.

10

11 CROSS-EXAMINATION

12 BY MR. ALMASE:

13 Q. With regard to Mr. Roach, you didn't have any  
14 communication with him?

15 A. Yes. I did speak to Mr. Roach.

16 Q. Okay. All the items of evidentiary value  
17 were recovered from one individual?

18 A. That is correct.

19 Q. That being Mr. German?

20 A. That is correct.

21 Q. Okay. Were you the one who made the arrests?

22 A. That is correct.

23 Q. Who else was with you at the time?

24 A. I had a secondary officer, Officer Sheri  
25 Aldrich.

1 Q. Aldrich?

2 A. Yes, that's correct.

3 Q. And she was with you the entire time?

4 A. That is correct.

5 Q. And it's just the two of you who effectuated

6 the arrests?

7 A. That is correct.

8 Q. And were you there during the show-up?

9 A. Yes, I was.

10 Q. Okay. The show-up, when it was conducted

11 between Mr. Dimaria -- Miss Dimaria and Mr. Medina,

12 when they identify these individuals, where were they

13 located? The two alleged victims, where were they?

14 A. They were in the rear of a marked patrol

15 vehicle.

16 Q. And the three defendants, where were they?

17 A. They were positioned -- two -- we did them

18 one at a time. One was -- two were sitting down. And

19 as we went through each suspect, we stood them up

20 facing the patrol vehicle with the take-down lights on

21 and the side strobe [sic] light.

22 Q. The side what light?

23 A. Strobe light that we have on marked patrol --

24 spotlight. I'm sorry.

25 Q. Spotlight. It's not a strobe light.

1           A.    I'm sorry.  It's been a long day.  I have  
2   been up since 7:00.

3           Q.    The spotlight?

4           A.    That is correct.

5           Q.    And it was a steady light?

6           A.    That is correct.

7           Q.    On the individuals?

8           A.    Yes.  One at a time, at the time, we put them  
9   in front of our patrol car.  That is correct.

10          Q.    Were there any other African-American males  
11   there at the time?

12          A.    No, sir.

13          Q.    Were there any other individuals in custody  
14   at the time?

15          A.    No, sir.  We had somebody detained but not in  
16   custody.

17          Q.    Were they in handcuffs at the time?

18          A.    No, sir.

19          Q.    The three defendants were not in handcuffs?

20          A.    The three -- okay.  I misunderstood.  The  
21   three suspects were in custody.  The other individual  
22   was not in custody.

23          Q.    Okay.  The three males --

24          A.    That is correct.

25          Q.    -- they were in handcuffs?

1           A.     That is correct.

2           Q.     And they were in handcuffs during the  
3 show-up?

4           A.     That is correct.

5           Q.     There was no way that anybody could mistake  
6 them for any other people as suspects?

7           A.     That is correct, based on the details from  
8 the victims, the clothing.

9           Q.     Well, I'm saying for purposes of the show-up.  
10 For purposes of identification. They're not -- you're  
11 not confusing these three individuals for anybody else?

12          A.     No, sir.

13                 MR. ALMASE: Pass the witness.

14                 THE COURT: Mr. Fischer.

15                 MR. FISCHER: Nothing, Your Honor.

16                 MR. COLUCCI: No questions.

17                 THE COURT: Okay. Do you have something  
18 else?

19                 MS. BEVERLY: Yes, just briefly. I forgot to  
20 ask this earlier.

21

22                         REDIRECT EXAMINATION

23 BY MS. BEVERLY:

24           Q.     To your knowledge, you said that you were  
25 present at the scene when this vehicle was stopped at

1 the 7-Eleven, correct?

2 A. Negative.

3 Q. I'm sorry.

4 A. The vehicle was stopped prior to my arrival

5 by North Las Vegas Police. They made notification to

6 Metro, gave us a location, and then we arrived on

7 scene.

8 Q. Okay. But the vehicle that was stopped was

9 still present when you were there; is that correct?

10 A. That is correct.

11 Q. Were any weapons located in the vehicle?

12 A. Yes. That is correct.

13 Q. What weapons were located in the vehicle?

14 A. There were two firearms that originally we

15 thought were actual firearms. It turned out to be BB

16 guns.

17 Q. Okay. And can you describe how these guns

18 looked?

19 A. From all intents and purposes, they looked

20 real.

21 Q. And can you describe them?

22 A. They looked like semiautomatic handguns.

23 Black in color.

24 Q. Okay. And to the layperson -- and even to

25 yourself, you said, because you originally thought they

1 were actual firearms -- they looked like real firearms?

2 MR. ALMASE: I'm going to object to the  
3 speculation as to what a layperson would think.

4 THE COURT: That's fine. That's fine. I'll  
5 sustain that. However, you can ask him questions about  
6 his training and experience based on what he saw.

7 MS. BEVERLY: Okay.

8 BY MS. BEVERLY:

9 Q. From your training and experience, looking at  
10 these items -- these what you described as BB guns, how  
11 did they appear to you?

12 A. From my training and experience, they  
13 appeared to be real firearms.

14 Q. What gave you that impression?

15 A. Just the make, design of the BB guns appeared  
16 to be that of a real caliber firearm.

17 Q. And also, to your knowledge, were other items  
18 belonging to potential victims found in the vehicle?

19 A. That is correct.

20 MS. BEVERLY: Court's indulgence. Okay.  
21 Nothing further.

22 THE COURT: Anything further?

23 MR. ALMASE: No.

24 MR. COLUCCI: No.

25 THE COURT: I didn't catch it, but you said

1 there was two cards found on Mr. German in his -- in  
2 his pocket. You said two debit cards in the name of  
3 Donna Dimaria.

4 Do you remember what kind of cards they were?

5 THE WITNESS: One was a Citibank Visa, I  
6 believe, and the other was a Wells Fargo debit card. I  
7 believe it was also a Visa.

8 THE COURT: Now, you said there was items  
9 found in the car belonging to these same victims?

10 THE WITNESS: Other -- other victims. We  
11 have our ID unit. They came out to process the  
12 vehicle. During the processing of the vehicle, they  
13 located other property from other victims. They gave  
14 that property to Officer Palmira and subsequently, we  
15 impounded it.

16 THE COURT: All right. Do you have any  
17 questions as a result of those questions?

18 MS. BEVERLY: I do not.

19 MR. ALMASE: No.

20 MR. COLUCCI: No, Your Honor.

21 THE COURT: Thank you very much. Go home and  
22 go to bed for about an hour and be back to work  
23 tonight.

24 THE WITNESS: Four hours.

25 THE COURT: Call your next witness.

1 MS. BEVERLY: Officer Palmira.

2 THE MARSHAL: Remain standing. Face the  
3 clerk and raise your right hand.

4 Whereupon,

5 CHAD PALMIRA,  
6 was called as a witness, and having been first duly  
7 sworn, was examined and testified as follows:

8 THE CLERK: Please be seated. State and  
9 spell your name for the record.

10 THE WITNESS: Chad Palmira. C-H-A-D  
11 P-A-L-M-I-R-A.

12 THE COURT: Your witness.

13 MS. BEVERLY: Thank you, Your Honor.

14

15 DIRECT EXAMINATION

16 BY MS. BEVERLY:

17 Q. Sir, how are you currently employed?

18 A. With Las Vegas Metropolitan Police  
19 Department.

20 Q. How long have you been with Metro?

21 A. Five years.

22 Q. And what is your current assignment?

23 A. Police officer, patrol.

24 Q. And what area of town do you work in?

25 A. Enterprise. Southwest.

1 Q. Were you working on July the 2nd of 2014?  
2 A. Yes.  
3 Q. And were you working the graveyard shift?  
4 A. Yes.  
5 Q. During that shift did you respond to a  
6 7-Eleven located on the border of North Las Vegas and  
7 Las Vegas, all here in Clark County?  
8 A. Yes.  
9 Q. And what was the purpose of you responding to  
10 that 7-Eleven that day?  
11 A. For recovery -- to help with a robbery. They  
12 had suspects in custody.  
13 Q. And when you arrived on scene, was there a  
14 particular vehicle of interest in the -- at the  
15 location?  
16 A. There was.  
17 Q. And, to your knowledge, was that vehicle  
18 where the potential suspects had been stopped in?  
19 A. Yes.  
20 Q. Okay. And as part of your duties on scene  
21 that day, was part of those duties impounding  
22 particular evidence?  
23 A. Yes.  
24 Q. And have you had a chance actually to  
25 review -- well, actually, let me ask you this: Did you

1 do a property report based on that search of the  
2 vehicle?

3 A. I did.

4 Q. And have you had a chance to review  
5 that prior to testifying today?

6 A. I did.

7 Q. And were certain items recovered during the  
8 search of that vehicle?

9 A. Yes.

10 Q. What items were recovered?

11 A. There was multiple items. There was IDs,  
12 driver's licenses, phones, Social Security cards.

13 Q. And you had indicated specifically that you  
14 were there to assist in a robbery investigation; is  
15 that correct?

16 A. Yes.

17 Q. And, to your knowledge, was one of the  
18 victims of a robbery named Eola Robinson?

19 A. Yes.

20 Q. And were any items belonging to Eola  
21 Robinson, specifically Miss Robinson, found in the  
22 vehicle?

23 A. Yes. I believe there was a driver's license  
24 and a Social Security card.

25 Q. Okay. Was there a cell phone?

1           A.    There was cell phones in there.  Honestly,  
2 I'm not sure which ones they came back to -- which  
3 victims they came back to.

4           Q.    But you specifically said in terms of  
5 Miss Robinson, a driver's license and a Social Security  
6 card --

7           A.    Yes.

8           Q.    -- is that correct?

9                   MS. BEVERLY:  Court's indulgence.

10 BY MS. BEVERLY:

11          Q.    And then you also said various cell phones  
12 were also found; is that correct?

13          A.    Yes.

14          Q.    Would one of those phones be a Nokia Windows  
15 cell phone?

16          A.    Yes.

17          Q.    And another phone being an Apple iPhone?

18                   MR. COLUCCI:  I'm going to object, Judge.

19                   MR. ALMASE:  I'm going to object to the  
20 leading, Judge.

21                   MR. COLUCCI:  She's been leading.

22                   THE COURT:  Sustained.

23                   MR. COLUCCI:  Thank you.

24 BY MS. BEVERLY:

25          Q.    Do you know what types of phones were --

1 specifically, what types of phones were found in the  
2 vehicle?

3 A. There was an iPhone. There was a Cricket  
4 phone. I'm not sure on the model, but it had Cricket  
5 on it. As well as the Nokia phone.

6 Q. Okay. Were there any movies found in the  
7 car?

8 A. Yes. The Redbox DVDs.

9 Q. And Redbox is that like the --

10 A. The rental box, yes.

11 Q. So they were Redbox kind of rentals in the  
12 vehicle?

13 A. Yes.

14 MS. BEVERLY: Nothing further.

15 THE COURT: Cross.

16 MR. ALMASE: Yes. Thank you.

17

18 CROSS-EXAMINATION

19 BY MR. ALMASE:

20 Q. Officer, you were not the one who pulled over  
21 the defendants, correct?

22 A. I was not.

23 Q. You only arrived to collect the property?

24 A. To help with the investigation, yes.

25 Q. Impound the evidence?

1           A.    Yes.

2           Q.    Okay.  You were not one of the individuals  
3 who was called out for the arrest?

4           A.    Not for the arrest, no.

5           MR. ALMASE:  Pass the witness.

6           THE COURT:  Mr. Fischer.

7           MR. FISCHER:  Nothing, Your Honor.

8           MR. COLUCCI:  No questions.

9           THE COURT:  Okay.  Is Mr. Palmira -- Officer  
10 Palmira free to leave?

11          MS. BEVERLY:  Yes, Your Honor.

12          THE COURT:  Officer, thank you for your  
13 testimony.  You may step down.  You're excused.

14          MS. BEVERLY:  If I can just have the Court's  
15 indulgence for one minute.

16          THE COURT:  Yes.

17          MS. BEVERLY:  With that, Your Honor, I'm  
18 going to rest.

19          THE COURT:  The State has rested.

20          Mr. Almase.

21          MR. ALMASE:  Court's indulgence.

22          Judge, with regard to my client, Mr. Roach, I  
23 have explained to him his right to testify.  He will  
24 not be testifying per my advice.  We will not be  
25 calling any witnesses.

1           THE COURT: Mr. Roach, you understand you  
2 have a constitutional right to give testimony at this  
3 proceeding today?

4           DEFENDANT ROACH: Yes.

5           THE COURT: Are you going to be waiving  
6 that right or are you going to be exercising that  
7 right?

8           DEFENDANT ROACH: Waiving.

9           THE COURT: You're waiving it?

10          DEFENDANT ROACH: Yes.

11          THE COURT: So you have no intention of  
12 testifying?

13          DEFENDANT ROACH: No.

14          THE COURT: Is there anything additional that  
15 you would like your attorney to present at this time?

16          DEFENDANT ROACH: No.

17          THE COURT: Okay. Mr. Fischer.

18          MR. FISCHER: Your Honor, I have discussed  
19 Mr. German's right to testify and he is going to not  
20 testify.

21          THE COURT: Mr. German, you understand you  
22 have a constitutional right to give testimony at this  
23 proceeding today?

24          DEFENDANT GERMAN: Yes, I do.

25          THE COURT: Are you going to be exercising

1 that right or waiving it?

2 DEFENDANT GERMAN: I'm not going to testify.

3 THE COURT: So you're waiving that right?

4 DEFENDANT GERMAN: Yes.

5 THE COURT: You have no intention of

6 testifying today?

7 DEFENDANT GERMAN: No.

8 THE COURT: Do you have anything additional

9 you would like your attorney to present at this

10 proceeding today?

11 DEFENDANT GERMAN: No.

12 THE COURT: Mr. Colucci.

13 MR. COLUCCI: Your Honor, with respect to

14 Mr. Ivey, I have also advised him of his right to

15 testify in this proceeding. It is his desire to waive

16 that right.

17 THE COURT: Okay. Mr. Ivey, you understand

18 you have a constitutional right to give testimony at

19 this proceeding today?

20 DEFENDANT IVEY: Yes.

21 THE COURT: Are you waiving that or

22 exercising that?

23 DEFENDANT IVEY: Waiving.

24 THE COURT: So you have no intention of

25 testifying here today?

1           DEFENDANT IVEY:  Correct.

2           THE COURT:  Do you have anything additional

3 you would like Mr. Colucci to present at this time?

4           DEFENDANT IVEY:  No.

5           THE COURT:  Okay.  With that being said, are

6 you resting, Mr. Almase?

7           MR. ALMASE:  Yes, Judge.

8           THE COURT:  Mr. Fischer, are you resting?

9           MR. FISCHER:  Yes, Your Honor.

10          THE COURT:  Mr. Colucci.

11          MR. COLUCCI:  Yes, Your Honor.

12          THE COURT:  State.

13          MS. BEVERLY:  Waive and reserve.

14          THE COURT:  Do you want to argue?

15          MR. ALMASE:  Yes, please, Judge.

16          With regards to Count 1, 2, and 3, I'm going

17 to ask the Court to dismiss each of those as to my

18 client, Mr. Roach.

19          Miss Kull testified today, and given her

20 testimony, there is nothing there to show there was a

21 conspiracy to commit robbery, a coercion, or a robbery.

22 He was merely present.  There simply was not enough to

23 bind this case over.  I fully appreciate slight or

24 marginal evidence and the standard of proof here, but

25 the State didn't satisfy that.

1           She stated that Mr. Roach didn't talk to her,  
2 didn't say one single thing to her, let alone make any  
3 threats. Didn't put hands on her. She believes he was  
4 off to the side at one point.

5           Based on all the favorable evidence in the  
6 State's favor here and in the light most favorable to  
7 the State, I can't say that they have shown enough by  
8 slight or marginal evidence to say that my client was  
9 anything more than merely present for that alleged  
10 robbery.

11           With regard to Count 4, 5 -- Count 4 and 5,  
12 robbery as to Miss Robinson, she was very honest here  
13 in court. She very reluctantly pointed to Mr. Roach  
14 and then during cross-examination stated that she just  
15 wasn't sure. One day after the robbery, she wasn't  
16 able to identify anybody.

17           This case -- again, this incident gives rise  
18 to identity. She said a mere -- mere seconds passed  
19 when she nodded at an individual who she may have  
20 believed was Mr. Roach. That he was walking alongside  
21 her at some point, but he didn't put hands on her,  
22 didn't say anything to her either. I don't know  
23 that there's even enough here to say that he was there.

24           During cross-examination she revisited the  
25 issue of the six-pack lineup and she said -- she

1 reiterated she studied those six-pack lineups, wasn't  
2 able to find anybody, and she understood how important  
3 it was to get the responsible parties and she was not  
4 able to point anybody out.

5               So her memory was better one day after and  
6 here in court -- after the in-court identification,  
7 which was shaky to begin with, she sort of retracted,  
8 backpedaled and said, you know, I can't be sure.

9               With regard to the remaining counts as to  
10 Miss Dimaria and Mr. Medina, perhaps slightly stronger  
11 there. But, again, given the discrepancies, which the  
12 Court heard, I'm not going to belabor those points, but  
13 they can -- they're not even agreed as to who had the  
14 firearm.

15              They -- well, as to Miss Dimaria, she  
16 testified that her head was pushed forward down into  
17 her chest. She was in the front seat while two  
18 individuals, ostensibly one of them being my client,  
19 was in the back seat. Never looked at him. Never  
20 looked in the back. Only heard voices. Wasn't sure  
21 who said what.

22              And then given what Mr. Medina said, they ran  
23 off and they had their heads down for a good ten  
24 minutes before they drove off to the front of the  
25 complex. And then he says he sees the Toyota Tercel

1 ten minutes after those individuals went out of the  
2 car.

3           There simply is so much here, Judge, I would  
4 ask that those counts be dismissed as to Mr. Roach as  
5 well.

6           THE COURT: Mr. Fischer.

7           MR. FISCHER: Thank you, Your Honor.

8           I would ask the Court to dismiss Count 1,  
9 Count 2 as to the deadly weapon, Count 4, Count 5,  
10 Count 6, 7. And then I will submit on the remaining  
11 counts.

12           Your Honor, I think the only evidence  
13 that seems to point towards my client was Miss Kull's  
14 testimony. I'll join in the comments. Otherwise, I'll  
15 submit it on that.

16           THE COURT: Mr. Colucci.

17           MR. COLUCCI: Your Honor, I'm going to join  
18 in the comments of the other two counsel as to the  
19 respective counts that they have mentioned.

20           With respect to Count 4 and 5, I would ask  
21 the Court to specifically dismiss those two counts, as  
22 I don't think there was any evidence -- competent  
23 evidence to establish those counts as to my client for  
24 sure, but possibly to all of the defendants in this  
25 case.

1 THE COURT: State.

2 MS. BEVERLY: Thank you, Your Honor.

3 In terms of all the counts, they're charged  
4 as either directly did or under the theory of  
5 conspiracy, which means each person doesn't have to do  
6 all of the acts. Each person doesn't have to be the  
7 one yelling, screaming with the gun, as long as they  
8 are acting in concert and pursuant to an agreement  
9 which can be implied from the nature and the  
10 circumstances of the crime.

11 And so for each of these various events, if  
12 you look at how closely in time they were to each  
13 other, the fact that in each one there was three -- all  
14 three defendants were present.

15 In terms of the one with Donna and Jesus, we  
16 have the three of them acting in concert. They were  
17 ID'd. One of them had a weapon. They were all acting  
18 together to commit this robbery.

19 Same thing with Miss Kull, Miss Baylie Kull.  
20 All three of them arriving together, leaving together,  
21 walking together. While one person talked -- all three  
22 of them don't have to talk. They are acting in concert  
23 pursuant to a conspiracy.

24 And in terms of Miss Robinson, the robbery  
25 against her, we have her not being 100 percent but

1 pointing to Mr. Roach as the person she saw crossing  
2 the street. He even had two other people with him.

3 All of these robberies, when you look at how  
4 they were performed, in terms of these young women, the  
5 items that they're asking for -- cell phones, credit  
6 cards, purses -- they all have a very similar MO.

7 And in terms of, specifically,  
8 Miss Robinson's robbery, we then have items belonging  
9 to Miss Robinson found on Mr. German when they -- when  
10 he and the other two defendants are arrested a short  
11 time after the robbery of Donna and Jesus.

12 Given all that, Your Honor, given that this  
13 is pled as conspiracy language, I believe there is  
14 slight or marginal evidence to bind up all of the  
15 charges for all of the defendants.

16 THE COURT: I'm not sure what items were  
17 identified as being found on Mr. Roach.

18 MR. ALMASE: I think that was a misstatement  
19 of the testimony, Judge. Eola Robinson's property was  
20 found in the car.

21 MS. BEVERLY: I'm sorry. I apologize. I'm  
22 sorry. That was a mistake.

23 THE COURT: You know, I -- the only hang-up I  
24 have was with Miss Robinson initially until I heard  
25 testimony as to the fact that items were found, in the

1 car, belonging to her. You remember the question I  
2 asked, if you received any items back? That was the  
3 concern I had. She said no, but then they did find  
4 items belonging to her.

5           The slight or marginal issue really comes  
6 into play here in this case; specifically, I'm dealing  
7 with Counts 4 and 5 involving Miss Robinson. The  
8 testimony I recall from her is that -- is that who she  
9 identifies here today as Mr. Roach was at the corner  
10 and appeared to be waiting for someone coming across  
11 the street. As she passed them, then a person put his  
12 hands on her eyes and put an arm around her throat,  
13 spoke to her, made comments similar to the other  
14 robberies about do you want to get shot over a purse,  
15 and then identified Mr. Roach as walking alongside her.

16           I am going to -- I am going to hold all the  
17 defendants to answer to all of these counts. The issue  
18 in 4 and 5 is going to be something that you're going  
19 to have to argue with the jury. There's no doubt in my  
20 mind that the other cases are very proveable as well.

21           I'll tell you right now, I know that you guys  
22 were working very hard in trying to negotiate this  
23 case. And, Mr. Roach, Mr. German, Mr. Ivey, I don't  
24 know what you guys are trying to pull here, but you  
25 need to listen to your attorneys, because you're going

1 to find yourself in a prison for a very long time.

2           This is a great case for the State, a great  
3 case. Not only do they find you with items belonging  
4 to other individuals, they find you with items  
5 belonging almost immediately after in certain people's  
6 pockets.

7           And I know what your arguments are with  
8 regards to the guns maybe not being firearms, but they  
9 are. And the fact that two people saw the individuals  
10 with weapons on the day of the 3rd, it's not -- it  
11 doesn't compel me to believe that they made a mistake.  
12 I believe that you possibly both had weapons. Mr. Ivey  
13 had a weapon and Mr. Roach had a weapon.

14           So with that being said, I am going to hold  
15 you all to answer to the crimes of Count 1, Count 2, 3,  
16 4, 5, 6, 7, 8, 9, and 10, as alleged in the criminal  
17 complaint.

18           Mr. German, you're only facing the charges  
19 with regards to Counts 9 and 10. So he'll be bound up  
20 on that.

21           MS. BEVERLY: I'm sorry. Mr. German is named  
22 in all of them. Mr. Roach --

23           THE COURT: Right. What I'm saying is he's  
24 the only one named in Count 9 and 10.

25           MS. BEVERLY: Yes, in 9 and 10. Yes.

1 THE COURT: The other individuals for  
2 1 through 8 will be held to answer. And Mr. German  
3 will be held 1 through 10.

4 MS. BEVERLY: Thank you.

5 THE CLERK: The next court date will be  
6 September the 23rd at 1:00 p.m., district court, lower  
7 level, Courtroom A.

8 MS. BEVERLY: Thank you, Judge.

9 MR. ALMASE: I'm sorry. What was the date?

10 THE CLERK: September 23rd at 1:00 p.m.

11 THE COURT: All right. Thank you. We're in  
12 recess.

13 (The proceedings concluded.)

14

15 \* \* \* \* \*

16 ATTEST: Full, true, and accurate  
17 transcript of proceedings.

18

19

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21

/s/   
JENNIFER O'NEILL, CCR No. 763

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REPORTER'S DECLARATION

STATE OF NEVADA)  
COUNTY OF CLARK)

I, Jennifer O'Neill, a certified court reporter  
in and for the State of Nevada, hereby declare that  
pursuant to NRS 239B.030 I have not included the Social  
Security number of any person within this document.

I further declare that I am not a relative or  
employee of any party involved in said action, nor a  
person financially interested in the action.

Dated in Las Vegas, Nevada this 25th day of  
September, 2014.

/s/   
JENNIFER O'NEILL, CCR No. 763

|  |   |  |
|--|---|--|
| <b>\$</b>  | <b>7</b>  | <b>afternoon [5]</b> 14/21 14/22 70/22 88/23 88/24   |
| <b>\$200 [1]</b> 69/17                                 | <b>7-Eleven [10]</b> 21/3 46/6 46/14 46/16 56/18 98/21 98/23 99/8 107/1 111/6   | <b>afterwards [1]</b> 93/10  |
| <b>\$500 [7]</b> 12/16 19/5 19/7 19/8 19/15 55/25 58/9 | <b>70 [1]</b> 2/15  | <b>again [7]</b> 19/3 64/17 67/25 72/11 76/9 119/17 120/11   |
| <b>-</b>   | <b>76 [1]</b> 2/16  | <b>against [6]</b> 14/12 62/23 63/2 64/9 65/18 122/25  |
| <b>-oOo [2]</b> 1/6 3/2                                | <b>763 [3]</b> 1/25 126/21 127/15   | <b>ago [1]</b> 21/25   |
| <b>1</b>   | <b>77 [1]</b> 2/16  | <b>agree [1]</b> 48/13   |
| <b>1 through 10 [1]</b> 126/3                          | <b>79 [1]</b> 2/17  | <b>agreed [1]</b> 120/13   |
| <b>1 through 8 [1]</b> 126/2                           | <b>7:00 [2]</b> 52/11 105/2   | <b>agreement [1]</b> 122/8   |
| <b>10 [6]</b> 80/9 125/16 125/19 125/24 125/25 126/3   | <b>7:00 p.m [1]</b> 53/19   | <b>ahead [4]</b> 4/10 4/14 23/9 84/22  |
| <b>10 feet [4]</b> 21/6 47/2 47/11 48/13               | <b>8</b>  | <b>ahold [1]</b> 15/13   |
| <b>10 percent [1]</b> 79/15                            | <b>80 percent [1]</b> 79/12   | <b>Aldrich [2]</b> 103/25 104/1  |
| <b>100 [3]</b> 94/16 94/17 122/25                      | <b>82 [1]</b> 2/19  | <b>alike [2]</b> 95/22 95/24   |
| <b>100 percent [1]</b> 95/1                            | <b>88 [1]</b> 2/19  | <b>all [58]</b> 3/5 3/9 5/16 16/9 24/15 28/20 36/12 37/18 42/16 43/11 50/20 54/21 58/8 59/1 63/1 65/22 67/3 67/5 67/15 68/11 68/15 68/19 73/24 75/7 76/10 78/17 80/12 80/12 80/15 86/21 90/18 95/21 95/23 97/3 98/7 100/20 103/16 107/19 109/16 111/7 119/5 121/24 122/3 122/6 122/13 122/17 122/20 122/21 123/3 123/6 123/12 123/14 123/15 124/16 124/17 125/15 125/22 126/11 |
| <b>103 [1]</b> 2/22                                    | <b>9</b>  | <b>alleged [3]</b> 104/13 119/9 125/16   |
| <b>106 [1]</b> 2/22                                    | <b>90 percent [2]</b> 79/13 79/15   | <b>ALMASE [15]</b> 1/24 2/6 2/8 2/11 2/13 2/15 2/19 2/22 2/25 4/16 5/4 16/5 28/25 115/20 118/6   |
| <b>10:30 [2]</b> 4/6 4/13                              | <b>97 [1]</b> 2/21  | <b>almost [1]</b> 125/5  |
| <b>110 [1]</b> 2/24                                    | <b>9:00 [1]</b> 3/1   | <b>alone [1]</b> 119/2   |
| <b>114 [1]</b> 2/25                                    | <b>9th [2]</b> 69/21 77/25  | <b>alongside [3]</b> 90/25 119/20 124/15   |
| <b>12:30 [3]</b> 4/6 4/18 4/21                         | <b>A</b>  | <b>already [3]</b> 20/23 64/7 92/12  |
| <b>14 [1]</b> 2/6                                      | <b>A.M [1]</b> 3/1  | <b>also [17]</b> 17/21 20/13 28/6 38/6 40/9 44/19 61/12 86/3 100/16 100/18 102/6 103/3 108/17 109/7 113/11 113/12 117/14   |
| <b>14F10476A [1]</b> 5/20                              | <b>ability [1]</b> 6/10   | <b>always [2]</b> 41/16 74/18  |
| <b>14F10476B [1]</b> 1/9                               | <b>able [15]</b> 28/20 28/23 29/10 39/15 39/20 40/17 48/23 89/20 89/25 95/18 99/23 99/25 119/16 120/2 120/4   | <b>am [5]</b> 92/14 124/16 124/16 125/14 127/9   |
| <b>15 feet [1]</b> 21/5                                | <b>about [42]</b> 3/22 4/6 5/11 7/18 7/19 8/3 18/23 21/16 23/1 29/1 34/14 37/19 43/8 43/9 44/1 44/3 44/14 44/20 45/23 45/25 45/25 46/4 47/11 47/12 47/23 47/24 48/23 52/11 57/8 71/11 72/12 76/12 79/24 83/15 84/4 89/12 92/16 98/18 101/17 108/5 109/22 124/14 | <b>amended [1]</b> 5/21  |
| <b>15 through [1]</b> 98/16                            | <b>accepting [2]</b> 53/3 53/4  | <b>American [4]</b> 20/18 46/19 95/23 105/10   |
| <b>17 [2]</b> 1/18 3/1                                 | <b>access [1]</b> 64/20   | <b>among [1]</b> 75/4  |
| <b>1:00 p.m [2]</b> 126/6 126/10                       | <b>account [1]</b> 40/10  | <b>amongst [3]</b> 6/7 6/9 76/8  |
| <b>1st [7]</b> 7/6 33/21 34/7 82/13 82/16 82/21 83/8   | <b>accurate [1]</b> 126/16  | <b>and it [1]</b> 16/12  |
| <b>2</b>   | <b>across [5]</b> 83/20 85/21 85/21 92/11 124/10  | <b>and/or [1]</b> 102/22   |
| <b>20 [7]</b> 43/25 44/1 44/3 48/6 48/8 48/10 48/23    | <b>acting [4]</b> 122/8 122/16 122/17 122/22  | <b>another [13]</b> 4/1 11/24 12/2 14/5 27/4 37/1 40/13 41/21 56/3 61/5 72/13 80/21 113/17   |
| <b>20 feet [2]</b> 48/2 80/9                           | <b>action [5]</b> 8/21 62/20 63/6 127/10 127/11   | <b>answer [5]</b> 84/13 84/17 124/17 125/15 126/2  |
| <b>2014 [5]</b> 1/18 3/1 98/18 111/1 127/13            | <b>acts [1]</b> 122/6   | <b>answered [1]</b> 69/6   |
| <b>239B.030 [1]</b> 127/7                              | <b>actual [3]</b> 78/25 107/15 108/1  | <b>anticipates [1]</b> 6/5   |
| <b>23rd [2]</b> 126/6 126/10                           | <b>actuality [1]</b> 73/20  | <b>any [57]</b> 5/25 13/3 19/10 20/17 27/7 27/7 38/10 41/15 42/20 43/14 46/19 50/20 50/22 56/22 62/20 63/4 63/5 65/20 66/5 74/19 74/23 75/20 75/22 75/25 76/2 77/2 79/1 79/16 83/23 86/12 86/16 87/5 88/6 89/21 90/21 90/23 91/4 95/18 96/11 96/13 100/8 102/4 102/9 103/13 105/10 105/13 106/6 107/11 109/16 112/20 114/6 115/25 119/2 121/22 124/2 127/8 127/10              |
| <b>25 [1]</b> 2/7                                      | <b>actually [9]</b> 26/9 45/2 49/16 57/5 67/15 72/12 73/9 111/24 111/25   | <b>anybody [6]</b> 91/10 106/5 106/11 119/16 120/2 120/4   |
| <b>25th [1]</b> 127/12                                 | <b>additional [3]</b> 116/14 117/8 118/2  | <b>anymore [1]</b> 29/12   |
| <b>28 [1]</b> 2/7                                      | <b>address [1]</b> 74/25  | <b>anyone [7]</b> 6/4 10/25 37/5 60/24   |
| <b>29 [1]</b> 2/8                                      | <b>addressed [1]</b> 75/11  |  |
| <b>2:25 [1]</b> 96/24                                  | <b>addressing [1]</b> 42/10   |  |
| <b>2:30 [1]</b> 96/25                                  | <b>admit [1]</b> 94/17  |  |
| <b>2nd [2]</b> 98/18 111/1                             | <b>advice [1]</b> 115/24  |  |
| <b>3</b>   | <b>advised [1]</b> 117/14   |  |
| <b>30 [3]</b> 2/8 46/4 48/8                            | <b>affect [1]</b> 6/10  |  |
| <b>30 feet [3]</b> 48/4 48/7 48/10                     | <b>affirmative [3]</b> 17/20 84/13 84/17  |  |
| <b>30th [1]</b> 5/22                                   | <b>afraid [3]</b> 13/22 18/1 36/17  |  |
| <b>33 [1]</b> 2/11                                     | <b>African [4]</b> 20/18 46/19 95/23 105/10   |  |
| <b>3rd [1]</b> 125/10                                  | <b>African-American [4]</b> 20/18 46/19 95/23 105/10  |  |
| <b>4</b>   | <b>after [33]</b> 4/22 10/17 12/21 44/11 44/23 45/23 48/21 56/18 65/17 66/1 67/18 72/16 77/24 78/1 79/4 83/22 86/12 86/16 87/6 87/23 89/2 91/17 92/16 95/6 95/6 95/19 95/21 119/15 120/5 120/6 121/1 123/11 125/5   |  |
| <b>41 [1]</b> 2/11                                     |   |  |
| <b>4200 Arville [1]</b> 99/4                           |   |  |
| <b>4251 [1]</b> 7/7                                    |   |  |
| <b>4251 West [1]</b> 33/22                             |   |  |
| <b>49 [1]</b> 2/12                                     |   |  |
| <b>4:00 in [1]</b> 98/18                               |   |  |
| <b>5</b>   |   |  |
| <b>5 feet [1]</b> 83/18                                |   |  |
| <b>51 [1]</b> 2/12                                     |   |  |
| <b>57 [1]</b> 2/13                                     |   |  |
| <b>59 [1]</b> 2/15                                     |   |  |

|   |  |  |
|---|--|--|
| <p><b>A</b></p> <p><b>anyone...</b> [3] 70/8 85/15 85/17</p> <p><b>anything</b> [42] 10/3 28/11 29/16<br/>36/11 36/14 36/21 38/14 52/14 54/4<br/>54/4 54/8 54/14 55/1 55/6 55/13<br/>55/18 56/12 62/8 63/14 63/15 63/19<br/>65/16 75/22 76/12 76/13 77/11 79/19<br/>81/2 87/15 87/18 88/7 89/13 91/10<br/>94/20 96/8 96/16 108/22 116/14<br/>117/8 118/2 119/9 119/22</p> <p><b>anyway</b> [1] 48/14</p> <p><b>anywhere</b> [1] 39/13</p> <p><b>apartment</b> [11] 21/23 26/21 29/2<br/>33/22 34/8 39/16 39/24 43/19 44/23<br/>57/24 99/5</p> <p><b>apologize</b> [1] 123/21</p> <p><b>apologizing</b> [1] 98/6</p> <p><b>apparently</b> [1] 25/21</p> <p><b>appear</b> [1] 108/11</p> <p><b>appearance</b> [1] 73/6</p> <p><b>APPEARANCES</b> [1] 1/19</p> <p><b>appeared</b> [4] 78/13 108/13 108/15<br/>124/10</p> <p><b>Apple</b> [1] 113/17</p> <p><b>appreciate</b> [3] 90/5 95/5 118/23</p> <p><b>apprehended</b> [1] 35/13</p> <p><b>approach</b> [5] 3/17 6/8 34/23 58/22<br/>72/3</p> <p><b>approached</b> [9] 17/4 18/13 21/21<br/>22/2 27/13 28/17 60/23 61/10 76/21</p> <p><b>approaches</b> [1] 35/1</p> <p><b>approaching</b> [1] 83/4</p> <p><b>approximately</b> [2] 69/17 83/16</p> <p><b>are</b> [49] 3/5 3/13 4/1 4/7 5/8 5/9<br/>5/18 6/9 12/23 13/9 34/16 37/18<br/>37/21 39/15 40/20 42/10 46/19 46/22<br/>48/9 48/10 67/23 68/7 68/20 70/22<br/>70/23 75/15 82/11 83/4 88/25 92/7<br/>96/18 97/5 97/23 98/5 98/9 110/17<br/>116/5 116/6 116/25 117/21 118/5<br/>118/8 122/8 122/22 123/10 124/20<br/>124/24 125/7 125/9</p> <p><b>area</b> [16] 7/7 39/16 39/22 39/23<br/>60/13 62/11 62/14 67/4 85/18 85/19<br/>98/4 98/10 98/11 98/12 99/14 110/24</p> <p><b>argue</b> [2] 118/14 124/19</p> <p><b>arguments</b> [1] 125/7</p> <p><b>arm</b> [20] 62/7 62/19 64/2 76/22<br/>76/25 83/24 85/25 86/7 86/13 86/17<br/>86/18 86/19 87/14 90/17 92/18 92/19<br/>92/20 93/7 93/11 124/12</p> <p><b>around</b> [40] 11/1 11/18 23/16 24/18<br/>27/24 28/2 31/16 43/25 44/4 45/12<br/>50/18 53/18 61/19 63/3 67/22 67/24<br/>68/21 68/24 83/24 85/25 86/7 86/13<br/>86/17 86/18 87/10 87/11 87/14 87/17<br/>88/6 88/9 90/13 90/17 91/22 92/18<br/>92/20 93/8 93/12 93/15 94/10 124/12</p> <p><b>arrest</b> [3] 72/6 115/3 115/4</p> <p><b>arrested</b> [6] 20/5 20/17 29/23 43/5<br/>46/7 123/10</p> <p><b>arrests</b> [2] 103/21 104/6</p> <p><b>arrival</b> [1] 107/4</p> <p><b>arrive</b> [2] 46/1 52/9</p> <p><b>arrived</b> [8] 53/18 99/19 99/21 100/2<br/>100/4 107/6 111/13 114/23</p> <p><b>arriving</b> [1] 122/20</p> <p><b>Arville</b> [1] 99/4</p> <p><b>as</b> [81] 3/9 3/9 3/11 3/11 6/20 6/21<br/>7/23 14/11 25/13 28/18 32/18 33/5</p> | <p>33/6 34/20 38/24 40/18 42/11 42/12<br/>44/20 46/25 50/21 50/21 51/5 56/8<br/>56/22 59/12 59/13 64/1 71/3 71/5<br/>71/25 73/6 73/13 73/24 73/24 80/16<br/>81/17 81/18 87/9 89/21 96/13 97/13<br/>97/14 99/13 100/23 102/7 102/7<br/>102/9 104/19 106/6 108/3 108/10<br/>109/17 110/6 110/7 111/20 114/5<br/>114/5 118/17 119/12 120/9 120/13<br/>120/15 121/4 121/4 121/9 121/18<br/>121/21 121/23 122/4 122/7 122/7<br/>123/1 123/13 123/17 123/25 124/9<br/>124/11 124/15 124/20 125/16</p> <p><b>ask</b> [16] 4/20 6/6 11/16 51/17 54/23<br/>82/2 86/20 96/22 101/13 106/20<br/>108/5 111/25 118/17 121/4 121/8<br/>121/20</p> <p><b>asked</b> [21] 8/4 11/17 12/3 28/25<br/>36/15 57/4 57/11 57/21 61/4 61/5<br/>61/13 61/18 61/20 64/10 71/11 71/14<br/>75/16 87/21 87/22 87/23 124/2</p> <p><b>asking</b> [1] 123/5</p> <p><b>assignment</b> [2] 98/3 110/22</p> <p><b>assist</b> [1] 112/14</p> <p><b>assistance</b> [1] 99/24</p> <p><b>assume</b> [1] 52/12</p> <p><b>assumed</b> [1] 85/22</p> <p><b>assuming</b> [4] 34/20 35/22 36/18<br/>91/9</p> <p><b>assumption</b> [2] 74/1 79/11</p> <p><b>at</b> [172]</p> <p><b>ATM</b> [5] 11/17 19/21 19/23 42/20<br/>57/12</p> <p><b>attention</b> [10] 49/20 49/22 50/3<br/>50/19 60/12 79/5 79/7 79/13 91/3<br/>98/17</p> <p><b>ATTEST</b> [1] 126/16</p> <p><b>attorney</b> [4] 1/21 1/22 116/15 117/9</p> <p><b>Attorney's</b> [1] 5/7</p> <p><b>attorneys</b> [5] 3/7 3/25 4/13 97/6<br/>124/25</p> <p><b>aware</b> [1] 77/3</p> <p><b>away</b> [13] 21/5 21/6 24/1 27/1 27/23<br/>27/24 31/4 31/6 45/16 45/21 45/24<br/>46/24 52/19</p> <p><b>B</b></p> <p><b>B-A-Y-L-I-E</b> [1] 59/18</p> <p><b>back</b> [66] 3/10 4/4 4/6 4/21 11/14<br/>12/2 12/10 12/22 14/8 14/25 15/3<br/>15/10 15/12 16/2 16/3 16/12 17/10<br/>21/4 21/8 21/9 21/12 21/13 21/19<br/>24/19 24/21 24/22 27/24 30/2 30/3<br/>31/11 31/12 32/14 37/24 38/1 41/8<br/>42/3 42/9 49/7 52/24 54/18 56/12<br/>56/17 60/2 61/7 65/8 66/4 67/21<br/>67/24 68/21 68/22 68/24 77/9 82/13<br/>94/11 95/6 96/11 96/25 97/3 97/6<br/>98/17 109/22 113/2 113/3 120/19<br/>120/20 124/2</p> <p><b>backpedaled</b> [1] 120/8</p> <p><b>bad</b> [1] 22/19</p> <p><b>badge</b> [1] 69/17</p> <p><b>baseball</b> [2] 73/12 93/22</p> <p><b>based</b> [5] 42/5 106/7 108/6 112/1<br/>119/5</p> <p><b>basically</b> [2] 91/8 98/13</p> <p><b>BATEMAN</b> [8] 1/20 2/6 2/7 2/11 2/15<br/>2/17 2/19 4/16</p> <p><b>BAYLIE</b> [6] 2/14 59/4 59/5 59/11<br/>59/18 122/19</p> | <p><b>BB</b> [3] 107/15 108/10 108/15</p> <p><b>be</b> [46] 3/10 3/22 4/4 4/5 4/6 5/13<br/>6/22 16/7 17/18 17/20 22/4 33/7<br/>49/25 59/14 62/9 70/24 73/15 73/24<br/>77/5 78/13 78/23 79/6 81/19 97/15<br/>101/23 107/15 108/13 108/16 109/22<br/>110/8 113/14 115/24 115/24 116/5<br/>116/6 116/25 120/8 121/4 122/6<br/>122/9 124/10 124/18 125/19 126/2<br/>126/3 126/5</p> <p><b>beard</b> [2] 9/11 100/17</p> <p><b>because</b> [25] 4/5 10/19 12/5 13/21<br/>15/13 15/24 17/24 22/3 23/16 30/2<br/>36/17 36/25 50/24 54/22 55/10 57/9<br/>69/5 74/15 83/22 92/11 92/23 95/12<br/>99/14 107/25 124/25</p> <p><b>bed</b> [1] 109/22</p> <p><b>been</b> [25] 5/10 5/11 6/4 6/20 13/8<br/>17/12 18/5 32/7 33/5 36/19 48/2<br/>57/12 59/12 76/12 76/13 81/17 97/13<br/>98/1 99/7 105/1 105/2 110/6 110/20<br/>111/18 113/21</p> <p><b>before</b> [26] 1/16 3/10 4/13 6/1 11/8<br/>14/6 17/14 18/6 19/3 19/10 19/12<br/>19/21 20/8 20/10 20/14 28/16 32/7<br/>36/19 42/21 44/14 57/18 58/10 74/15<br/>74/21 75/15 120/24</p> <p><b>beforehand</b> [1] 58/9</p> <p><b>began</b> [1] 11/16</p> <p><b>begin</b> [1] 120/7</p> <p><b>beginning</b> [1] 16/14</p> <p><b>behind</b> [11] 31/21 65/8 65/17 67/22<br/>68/19 74/8 87/13 90/7 92/25 93/15<br/>94/9</p> <p><b>being</b> [15] 4/1 26/14 48/21 76/10<br/>82/2 85/24 91/21 103/19 113/17<br/>118/5 120/18 122/25 123/17 125/8<br/>125/14</p> <p><b>belabor</b> [1] 120/12</p> <p><b>believe</b> [16] 11/7 19/14 50/23 71/25<br/>84/9 84/16 84/22 85/11 94/1 94/13<br/>109/6 109/7 112/23 123/13 125/11<br/>125/12</p> <p><b>believed</b> [1] 119/20</p> <p><b>believes</b> [2] 84/13 119/3</p> <p><b>bell</b> [1] 102/19</p> <p><b>belong</b> [1] 102/16</p> <p><b>belonged</b> [5] 102/10 102/12 102/14<br/>102/17 103/4</p> <p><b>belonging</b> [8] 108/18 109/9 112/20<br/>123/8 124/1 124/4 125/3 125/5</p> <p><b>bench</b> [2] 3/20 58/25</p> <p><b>besides</b> [2] 46/20 63/5</p> <p><b>best</b> [2] 47/17 77/7</p> <p><b>better</b> [3] 78/8 78/9 120/5</p> <p><b>between</b> [12] 5/12 27/17 27/20<br/>29/21 30/9 43/3 43/6 48/6 48/8 56/3<br/>56/3 104/11</p> <p><b>BEVERLY</b> [4] 1/21 2/21 2/22 2/24</p> <p><b>bind</b> [2] 118/23 123/14</p> <p><b>birth</b> [1] 88/4</p> <p><b>bit</b> [4] 10/7 83/14 87/23 91/20</p> <p><b>bitch</b> [6] 64/14 67/23 68/7 68/20<br/>77/5 87/24</p> <p><b>black</b> [7] 9/11 22/12 94/21 100/15<br/>100/17 102/5 107/23</p> <p><b>black/blue</b> [2] 100/15 100/17</p> <p><b>blackish</b> [1] 100/18</p> <p><b>blackjack</b> [1] 82/12</p> <p><b>block</b> [2] 71/22 74/2</p> |
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| <b>P</b> | 74/22 75/16 78/2 89/2<br><b>Plaintiff [1]</b> 1/8<br><b>play [1]</b> 124/6<br><b>played [1]</b> 70/13<br><b>please [19]</b> 6/2 6/22 9/9 11/9 23/9 33/7 35/12 36/2 59/7 59/14 66/24 81/12 81/19 84/24 91/16 97/15 100/11 110/8 118/15<br><b>pled [1]</b> 123/13<br><b>plus [1]</b> 13/20<br><b>pocket [4]</b> 101/21 102/6 102/8 109/2<br><b>pockets [2]</b> 101/9 125/6<br><b>point [54]</b> 9/9 9/18 10/2 10/25 12/5 12/7 12/19 13/9 23/18 26/5 26/17 28/4 28/6 34/23 35/4 36/2 36/23 37/18 38/10 39/15 40/12 50/5 52/18 60/23 61/5 61/17 61/22 63/4 64/16 64/21 65/20 65/24 66/15 69/1 69/5 70/2 70/8 77/21 78/13 80/23 84/10 84/24 86/12 86/15 86/22 88/7 88/12 100/2 100/11 103/7 119/4 119/21 120/4 121/13<br><b>pointed [8]</b> 11/8 22/9 36/21 41/14 41/18 94/13 94/14 119/13<br><b>pointing [4]</b> 35/21 36/12 38/13 123/1<br><b>points [1]</b> 120/12<br><b>Poker [1]</b> 60/11<br><b>police [27]</b> 7/25 13/21 13/23 14/2 14/3 14/8 21/4 29/24 30/4 35/5 40/6 40/9 51/22 51/25 53/20 56/13 69/7 83/10 88/13 88/15 97/24 97/25 99/7 99/25 107/5 110/18 110/23<br><b>positioned [1]</b> 104/17<br><b>possession [1]</b> 79/2<br><b>possible [1]</b> 3/11<br><b>possibly [2]</b> 121/24 125/12<br><b>potential [2]</b> 108/18 111/18<br><b>preliminary [3]</b> 1/15 5/2 5/25<br><b>prescription [1]</b> 27/8<br><b>presence [2]</b> 53/22 79/1<br><b>present [12]</b> 3/6 65/25 67/16 80/12 106/25 107/9 116/15 117/9 118/3 118/22 119/9 122/14<br><b>pretty [1]</b> 50/15<br><b>previously [3]</b> 17/4 65/3 86/8<br><b>prior [3]</b> 29/10 107/4 112/5<br><b>prison [1]</b> 125/1<br><b>prob [1]</b> 83/16<br><b>probably [5]</b> 4/12 73/22 78/11 79/15 80/9<br><b>proceed [2]</b> 5/15 5/18<br><b>proceeding [6]</b> 5/23 116/3 116/23 117/10 117/15 117/19<br><b>proceedings [2]</b> 126/13 126/16<br><b>process [1]</b> 109/11<br><b>processing [1]</b> 109/12<br><b>progress [1]</b> 99/4<br><b>proof [1]</b> 118/24<br><b>property [14]</b> 11/22 12/1 12/13 52/24 52/25 53/4 53/12 53/15 79/2 109/13 109/14 112/1 114/23 123/19<br><b>propped [1]</b> 63/21<br><b>proveable [1]</b> 124/20<br><b>provide [4]</b> 13/12 38/23 40/6 40/9<br><b>pull [9]</b> 27/23 27/24 33/9 35/14 59/16 78/24 81/21 89/13 124/24<br><b>pulled [4]</b> 12/3 35/22 78/19 114/20<br><b>purpose [2]</b> 99/1 111/9<br><b>purposes [3]</b> 106/9 106/10 107/19<br><b>purse [6]</b> 12/15 87/22 87/24 87/25 | 88/1 124/14<br><b>purses [1]</b> 123/6<br><b>pursuant [3]</b> 122/8 122/23 127/7<br><b>push [2]</b> 25/22 66/19<br><b>pushed [11]</b> 11/2 11/11 24/18 62/23 63/1 64/9 66/20 67/4 67/15 67/18 120/16<br><b>pushing [3]</b> 16/4 25/14 29/11<br><b>put [17]</b> 11/11 11/14 16/11 44/7 52/19 55/11 64/20 74/23 90/17 90/20 92/18 93/11 105/8 119/3 119/21 124/11 124/12<br><b>put my [1]</b> 11/11 |
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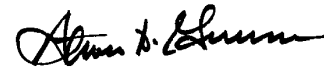
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62/20 63/6 63/15 66/4 67/21 67/21 68/22 79/25 83/2 88/7 121/13</p> <p><b>town [1]</b> 110/24</p> <p><b>TOWNSHIP [1]</b> 1/4</p> <p><b>Toyota [6]</b> 40/2 40/3 45/9 45/16 45/18 120/25</p> <p><b>track [1]</b> 99/23</p> <p><b>training [3]</b> 108/6 108/9 108/12</p> <p><b>transcript [2]</b> 1/14 126/16</p> <p><b>transit [1]</b> 82/20</p> | <p><b>transport [1]</b> 4/20</p> <p><b>tried [2]</b> 71/22 74/2</p> <p><b>true [4]</b> 20/13 71/20 73/12 126/16</p> <p><b>truthfully [1]</b> 89/20</p> <p><b>Try [1]</b> 39/19</p> <p><b>trying [5]</b> 24/12 55/5 74/3 124/22 124/24</p> <p><b>turn [9]</b> 23/16 31/18 39/1 50/18 67/23 68/20 87/17 88/8 94/10</p> <p><b>turned [6]</b> 17/12 31/16 61/19 67/22 68/24 107/15</p> <p><b>Twain [1]</b> 61/20</p> <p><b>Twenty [2]</b> 48/3 48/6</p> <p><b>Twenty-five [1]</b> 48/6</p> <p><b>Twenty-five feet [1]</b> 48/3</p> <p><b>two [40]</b> 5/11 11/13 14/24 23/12 24/19 30/1 30/12 30/21 42/10 43/7 43/8 43/9 56/8 63/2 65/20 69/16 85/21 91/5 91/8 91/9 91/12 92/10 93/12 93/23 101/20 101/25 102/21 104/5 104/13 104/17 104/18 107/14 109/1 109/2 120/17 121/18 121/21 123/2 123/10 125/9</p> <p><b>type [2]</b> 62/16 69/19</p> <p><b>types [2]</b> 113/25 114/1</p> <p><b>U</b></p> <p><b>Uh [10]</b> 16/1 16/13 16/16 17/13 19/2 20/1 27/15 30/22 90/8 95/9</p> <p><b>Uh-huh [10]</b> 16/1 16/13 16/16 17/13 19/2 20/1 27/15 30/22 90/8 95/9</p> <p><b>unable [1]</b> 89/10</p> <p><b>unaware [1]</b> 102/13</p> <p><b>unclear [1]</b> 22/5</p> <p><b>under [1]</b> 122/4</p> <p><b>understand [4]</b> 50/1 116/1 116/21 117/17</p> <p><b>understood [1]</b> 120/2</p> <p><b>uneasy [2]</b> 8/2 23/12</p> <p><b>unit [1]</b> 109/11</p> <p><b>unlock [1]</b> 64/22</p> <p><b>unlocked [1]</b> 66/2</p> <p><b>until [8]</b> 4/6 4/18 13/24 20/3 25/22 53/19 102/11 123/24</p> <p><b>up [49]</b> 3/9 4/1 4/3 4/10 6/16 20/16 21/4 22/4 22/8 23/19 24/4 25/6 26/10 26/15 29/22 33/1 33/9 35/23 47/5 51/18 51/25 52/1 55/10 55/10 59/7 59/16 63/21 69/4 71/1 72/8 72/14 72/19 77/5 81/12 81/21 82/3 89/14 92/17 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<p><b>we're [7]</b> 3/7 3/24 5/23 12/23 92/25 97/3 126/11</p> |
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| <p><b>W</b></p> <p><b>We've [1]</b> 32/21</p> <p><b>weapon [5]</b> 77/2 121/9 122/17 125/13 125/13</p> <p><b>weapons [4]</b> 107/11 107/13 125/10 125/12</p> <p><b>wear [2]</b> 27/7 27/9</p> <p><b>wearing [20]</b> 9/10 27/10 36/3 38/17 50/21 50/23 51/4 64/8 69/9 69/10 73/11 84/11 84/25 85/1 85/3 100/12 100/13 100/15 100/17 100/18</p> <p><b>WEDNESDAY [1]</b> 1/18</p> <p><b>well [31]</b> 3/9 18/14 22/25 23/3 28/2 35/8 38/24 42/11 42/12 42/25 44/20 47/2 48/16 50/17 51/5 56/8 57/18 57/23 61/2 63/1 80/16 84/15 87/23 101/13 102/7 106/9 111/25 114/5 120/15 121/5 124/20</p> <p><b>Wells [2]</b> 102/2 109/6</p> <p><b>went [31]</b> 12/15 14/1 14/4 17/22 18/8 19/21 19/23 20/8 20/16 23/17 29/22 30/2 30/3 30/6 39/13 43/4 44/6 46/14 56/4 61/21 62/21 68/24 69/4 70/7 71/22 86/7 88/14 90/12 93/8 104/19 121/1</p> <p><b>were [198]</b></p> <p><b>weren't [4]</b> 20/18 71/19 89/25 91/14</p> <p><b>west [3]</b> 7/7 33/22 98/15</p> <p><b>what [115]</b> 4/8 4/9 4/17 5/23 7/16 8/13 8/21 8/23 10/18 12/21 13/13 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69/22 82/14</p> <p><b>years [2]</b> 98/2 110/21</p> <p><b>yelling [1]</b> 122/7</p> <p><b>yes [242]</b></p> <p><b>you [704]</b></p> <p><b>You'd [1]</b> 19/12</p> <p><b>you're [30]</b> 7/23 11/21 15/11 15/24 22/5 22/24 32/4 34/20 34/24 35/2 38/10 39/23 42/9 45/14 50/2 58/20 68/5 72/8 75/4 83/8 90/6 92/5 94/16 106/10 115/13 116/9 117/3 124/18 124/25 125/18</p> <p><b>you've [3]</b> 18/5 86/8 92/16</p> <p><b>young [2]</b> 83/17 123/4</p> <p><b>your [220]</b></p> <p><b>yourself [6]</b> 6/7 6/10 60/13 72/7 107/25 125/1</p> |
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8 Attorney for Petitioner

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CLERK OF THE COURT

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

8 IN THE MATTER OF THE APPLICATION OF, )  
9 )  
10 )  
11 )  
12 )

JEFFREY GERMAN

FOR A WRIT OF HABEAS CORPUS.

CASE NO. C-14-300979-2

DEPT. NO. XXIII

13 **PETITION FOR WRIT OF HABEAS CORPUS**

14 TO: The Honorable Judge of the Eighth Judicial District Court  
15 Of the State of Nevada, in and for the County of Clark

16 The petition for JEFFREY GERMAN is submitted by DAVID R. FISCHER, his attorney,  
17 who affirms:

18 (1) He is a duly qualified, practicing and licensed attorney in the City of Las Vegas,  
19 County of Clark, Nevada.

20 (2) Petitioner applies for a Writ of Habeas Corpus; he is imprisoned actually and  
21 restrained of his liberty at the Clark County Detention Center; the officer by whom he is  
22 imprisoned and restrained is Doug Gillespie, Sheriff.

23 (3) The imprisonment and restraint of Petitioner is unlawful in that Petitioner is  
24 being held to answer charges in District Court where the State did not provide legal probable  
25 cause at the Preliminary Hearing in Justice Court.

26 (4) Petitioner waives his right to be brought to trial within 60 days.  
27  
28

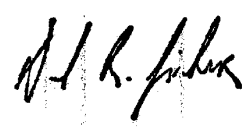
1           (5)     Petitioner consents that if this petition is not decided within 15 days before the  
2 date set for trial, the court may without notice or hearing continue the trial indefinitely to a  
3 date designated by the court.

4           (6)     Petitioner personally authorized his aforementioned attorney to commence  
5 this action.

6                     WHEREFORE, Petitioner prays this Honorable Court make an Order directing  
7 the County of Clark to issue a Writ of Habeas Corpus to Doug Gillespie, Sheriff, commanding  
8 him to bring the Petitioner before your Honor and return the cause of his imprisonment.

9                     DATED this 23<sup>rd</sup> day of October 2014.

10  
11                     By

  
\_\_\_\_\_  
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**DECLARATION**

DAVID R. FISCHER makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; that I am the attorney of record for the Defendant in the instant matter, and that I am familiar with the facts and circumstances of this case.
2. I am the attorney of record for Petitioner in the above matter; that I have read the foregoing Petition, know the contents thereof, and that the same is true of my own knowledge, except for those matters therein stated on information and belief, and as to those matters, I believe them to be true; that Petitioner, JEFFREY GERMAN, personally authorizes me to commence this Writ of Habeas Corpus action.

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

EXECUTED this 23<sup>rd</sup> day of October 2014.



\_\_\_\_\_  
David R. Fischer, Esq.  
Attorney For The Petitioner

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**MEMORANDUM OF POINTS AND AUTHORITIES  
IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

COMES NOW, the Petitioner, JEFFREY GERMAN, by and through his counsel, DAVID R. FISCHER, and submits the following Points and Authorities in Support of the Petition for a pre-trial Writ of Habeas Corpus.

**I. STATEMENT OF FACTS AS ALLEGED AT THE PRELIMINARY HEARING AND  
PROCEDURAL HISTORY**

On September 17, 2014, Eola Robinson, the putative victim in counts 4 and 5 of the Criminal Information testified at the preliminary hearing in this matter. Ms. Robinson never identifies Mr. German as being present or having any involvement with the alleged robbery.<sup>1</sup> The magistrate judge, at the conclusion of the preliminary hearing states, "The slight or marginal issue really comes into play here in this case; specifically I'm dealing with Counts 4 and 5 involving Miss Robinson." PHT pg. 12 Lines 5-7. Despite this, the magistrate incorrectly determined probable cause to bind Mr. German over on counts 4 and 5.

**II. ARGUMENT**

The finding of probable cause to support a criminal charge "may be based on slight, even 'marginal' evidence, . . . because it does not involve a determination of the guilt or innocence of an accused." Sheriff v. Hodes, 96 Nev. 184, 186 (1980)(citations omitted). "To commit an accused for trial, the State is not required to negate all inferences which might explain his conduct, but only to present enough evidence to support a reasonable inference that the accused committed the offense." Kinsey v. Sheriff, 87 Nev. 361, 363 (1971). A writ of habeas corpus will not be denied if there is a showing of a lack of probable cause that a crime was committed and that the defendant committed the crime. In re Rowland, 74 Nev. 215,

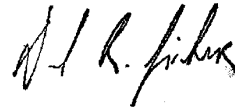
<sup>1</sup> On direct examination she identifies Christopher Roach only. PHT pg. 85 lines 7-9. But later acknowledges on cross-examination, that she is not even 100% certain as to Christopher Roach's identity either. PHT pg. 94 lines 15-17.

1 218, 326 P. 2d 1102, 1103 (1958). Moreover, only legal evidence may be received at a  
2 preliminary hearing. Goldsmith v. Sheriff, 85 Nev. 295, 303 (1969).

3 There simply is no probable cause to hold Mr. German to answer to counts 4 and 5 as  
4 Ms. Robinson does not identify him nor does she place him at the scene of the alleged  
5 robbery.

### 6 III. CONCLUSION

7  
8 This Honorable Court should grant Petitioner's Writ of Habeas Corpus and dismiss  
9 Count 4 and 5 of the Criminal Information, as the evidence presented by the state at  
10 preliminary hearing failed to establish probable cause.

11  
12 

13  
14 DAVID R. FISCHER  
15 Nevada Bar No. 10348  
16 7455 Arroyo Crossing Pkwy. #220  
17 Las Vegas, Nevada 89113  
18 Telephone: (702) 547-3944  
19 Attorney for Petitioner  
20  
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NOTICE OF HEARING

TO: CLARK COUNTY DISTRICT ATTORNEY

YOU WILL PLEASE TAKE NOTICE that the foregoing Petition For Writ of Habeas Corpus will be heard on the 10 day of NOV. 2014, at 9:30 a.m., in District Court Department XXIII.

DATED this 23<sup>rd</sup> day of October 2014.

By:

  
David R. Fischer, Esq.  
Attorney for the Petitioner

**CERTIFICATE OF SERVICE VIA FACSIMILE OR E-MAIL TRANSMISSION**

I certify that I am an employee or agent of DAVID R. FISCHER, Esq., and that on the 23<sup>rd</sup> day of October, 2014, I served the foregoing PETITION FOR WRIT OF HABEAS CORPUS by delivering a copy to the following person(s), or his/their agent, at the following address(es):

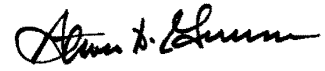
leah.beverly@clarkcountyda.com  
pdmotions@clarkcountyda.com

  
an employee or agent of David R. Fischer, Esq.

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CLERK OF THE COURT

1 **RET**

2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 LEAH C. BEVERLY  
6 Deputy District Attorney  
7 Nevada Bar #12556  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 State of Nevada

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

10 In the Matter of Application,  
11 of

12 JEFFREY B. GERMAN, aka  
13 Jeffrey Bernard German, #1602073

14 for a Writ of Habeas Corpus.

CASE NO: C-14-300979-2  
DEPT NO: XXIII

16 **RETURN TO WRIT OF HABEAS CORPUS**

17 DATE OF HEARING: 11/10/14

18 TIME OF HEARING: 9:30 A.M.

19 COMES NOW, DOUGLAS C. GILLESPIE, Sheriff of Clark County, Nevada,  
20 Respondent, through his counsel, STEVEN B. WOLFSON, Clark County District Attorney,  
21 through LEAH C. BEVERLY, Deputy District Attorney, in obedience to a writ of habeas  
22 corpus issued out of and under the seal of the above-entitled Court on the 23rd day of October,  
23 2014, and made returnable on the 10th day of November, 2014, at the hour of 9:30 o'clock  
24 A.M., before the above-entitled Court, and states as follows:

25 1. Respondent admits the allegations of Paragraph(s) 1, 2, 4, 5 and 6, of the  
26 Petitioner's Petition for Writ of Habeas Corpus.

27 2. Respondent denies the allegations of Paragraph 3 of the Petitioner's Petition  
28 for Writ of Habeas Corpus.

3. The Petitioner is in the actual custody of DOUGLAS C. GILLESPIE, Clark County Sheriff, Respondent herein, pursuant to a Criminal Information, a copy of which is attached hereto as Exhibit 1 and incorporated by reference herein.

Wherefore, Respondent prays that the Writ of Habeas Corpus be discharged and the Petition be dismissed.

DATED this 5<sup>th</sup> day of November, 2014.

Respectfully submitted,

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

BY /s/ Leah C. Beverly  
LEAH C. BEVERLY  
Deputy District Attorney  
Nevada Bar #12556

## POINTS AND AUTHORITIES

## STATEMENT OF THE CASE

An Information was filed on September 22, 2014 charging Jeffrey German (hereinafter "Defendant") as follows: Count 1: Conspiracy to Commit Robbery; Count 2: Robbery with Use of a Deadly Weapon; Count 3: Coercion; Count 4: Conspiracy to Commit Robbery; Count 5: Robbery; Count 6: Conspiracy to Commit Robbery; Count 7: Robbery with Use of a Deadly Weapon; Count 8: Possession of Stolen Property and Counts 9-10: Possession of Credit or Debit Card Without Cardholder's Consent. Trial is currently set for March 16, 2015. The instant Petition was filed on October 23, 2014. The State's Opposition follows.

## STATEMENT OF FACTS

On June 30, 2014, victim Baylie Kull (“Kull”) was in the area of Valley View and Flamingo Road walking home from her job at the Rio Hotel and Casino. Preliminary Hearing Transcript (“PHT”), 60-61. As she was walking home, Kull passed three men, later identified

1 as Defendant Christopher Roach ("Roach"), Defendant Jeffrey German ("German") and  
2 Defendant James Ivey ("Ivey") who were walking towards the Rio. PHT, 61. Defendant  
3 German asked Kull how she was doing and then asked for directions to Twain and Decatur.  
4 Id. When German asked for directions, Kull stopped walking and indicated with her hands  
5 which way to go. Id. As she did this, Defendant Jeffrey German grabbed her hand and took  
6 her phone. PHT, 61-62. Defendant German told Kull to be quiet or they were going to shoot  
7 her. PHT, 62. After taking her phone, Defendant German, Roach and Ivey took Kull over a  
8 little overpass and pushed her against a fence. PHT, 63. Defendant Ivey lifted his shirt  
9 exposing the handle of a silver gun. Id. During the robbery, Defendant German told Kull to  
10 keep her mouth shut or they were going to kill her. PHT, 64. He also told Kull that they needed  
11 the pin numbers to her credit card and her phones. Id. As the Defendants were pushing Kill  
12 against the fence, Defendant German ripped Kull's fanny pack from her waist. Id. When Kull  
13 informed all three Defendants that she did not have pin numbers for her cards, Defendant  
14 German told her "Don't lie to me bitch or I'll shoot you." Id. Defendant German then put the  
15 phone in Kull's face and forced her to unlock her phone which she did out of fear. PHT, 64.

16 After the Defendants took Kull's phone and made her unlock her phone, Defendant  
17 German placed his hand down Kull's shirt searching for other items. PHT, 66. All three  
18 Defendants then began walking with Kull towards the Flamingo Palm Condo and Defendant  
19 German pushed her into the pebble entryway. PHT, 66-67. After pushing her into the  
20 entryway, all three Defendants began walking back towards the extended stay. PHT, 67. When  
21 Kull attempted to follow them, Defendant German told Kull "Where are you going bitch? Turn  
22 around. Don't look back or we'll shoot you." PHT, 68. Kull then began walking towards the  
23 intersection of Valley View and Flamingo. In total, the Defendant's stole Kull's Samsung  
24 Note 3 cell phone, two debit cards, her Florida Driver's License, her employee badge and  
25 approximately \$200 in cash. PHT, 69. Kull later identified all three Defendants as the people  
26 who robbed her in a photo lineup. PHT, 70.

27 On July 1<sup>st</sup>, 2014, victim Eola Robinson ("Robinson") was in the area of Lake Mead  
28 and Decatur walking home from work. PHT, 82. As Robinson was walking east on Lake Mead

1 toward Rancho, she observed a young male cross the street. PHT, 83. As the male crossed the  
2 street, Robinson noticed that the male stopped, looked back across the street and waited for  
3 two other males who were across the street. PHT, 83, 85. Robinson initially ignored the males  
4 but almost immediately, she felt someone cover her eyes, put their arm around her neck and  
5 the person told her to keep walking. PHT, 83. Robinson believed that the male who initially  
6 crossed the street was Defendant Roach. PHT, 85. Robinson was unable to identify the male  
7 who covered her eyes or the third male.

8 After the male took his hands from Robinson's eyes, she noticed that Defendant Roach  
9 was walking next to her while a second male was behind her with his hand around her neck  
10 walking her down the street. PHT, 87. The male with his arm around her neck told Robinson  
11 to keep walking. Id. He then demanded her purse. Id. When Robinson refused to turn her purse  
12 over, the male told her "Do you want to get shot over a purse bitch?" Id. Robinson then handed  
13 over her purse in fear. Id. Inside Robinson's purse were sunglasses, money, credit cards, a  
14 Nokia cell phone, a birth certificate, social security card and other random papers. PHT, 88.

15 On July 1, 2014, victim Donna Dimaria ("Dimaria") was sitting in her car talking to her  
16 boyfriend, victim Jesus Medina ("Medina"). PHT, 7. Dimaria was sitting inside the driver's  
17 seat of the car while Medina was standing outside next to the open driver's side car door. PHT,  
18 7, 34. As they were talking, Dimaria and Jesus noticed three black males, later identified as  
19 Defendants Roach, German and Ivey, walking towards Dimaria's car. PHT, 8. Upon noticing  
20 the Defendants, Dimaria closed and locked her car door and prepared to leave. Id. As Dimaria  
21 looked out her window to say goodbye to Medina, she saw Defendant Ivey standing outside  
22 the car with a gun to Medina's head. PHT, 9. One of the Defendants began demanding that  
23 Dimaria open her car door. PHT, 10. Out of fear for Medina, Dimaria opened her car door. Id.  
24 After opening her car door, Defendant Ivey entered the driver's seat of the car, grabbed  
25 Dimaria by the neck and pushed her head down. PHT, 11. At the same time, Defendants  
26 German and Roach forced Medina into the backseat of the vehicle into the middle seat with  
27 Roach on the left side and German on the right side of Medina and closed the car doors. PHT,  
28 11, 37-38. Defendant Roach also had a gun pointed at Medina. PHT, 36. Roach told Medina

1 to tell his girlfriend to cooperate so he wouldn't see her get hurt. PHT, 12, 38. Defendant Ivey  
2 began asking Dimaria for her money, driver's license, credit card and atm card. Id. Ivey also  
3 took Dimaria's cell phone, \$500 in cash and car keys. PHT, 11-12. Ivey continuously told  
4 Dimaria not to fucking look at him. PHT, 12. In the back seat, Defendants Roach and German  
5 demanded and took Medina's silver cross necklace and cell phone. PHT, 12, 36, 38. After  
6 taking Dimaria and Medina's property, all three Defendants exited the vehicle and ran out of  
7 the apartment complex. PHT, 13.

8 Later that evening, North Las Vegas officers and officers from the Las Vegas  
9 Metropolitan Police Department were able to track the location of the vehicle all three  
10 Defendants were riding in. PHT, 99. The vehicle was tracked to a 7-11 convenience store on  
11 the boarder of North Las Vegas and Las Vegas. PHT, 98. All three Defendants had been  
12 located inside the vehicle by North Las Vegas Officers. PHT, 99-100, 111. During a search  
13 of the vehicle, two BB guns, that appeared identical to semiautomatic firearms, were found.  
14 PHT, 107. Additionally, inside the vehicle were the driver's license and social security card  
15 of victim Robinson and a Nokia Windows cell phone. PHT, 112. While at 7-11, Officer Darrin  
16 Walker also conducted a search of Defendant German. Inside German's right rear pocket were  
17 two debit cards in the name of Donna Dimaria. PHT, 101. Also in German's pockets were a  
18 Huawei cell phone and a broken silver necklace belonging to Jesus Medina. PHT, 102.

### 19 POINTS AND AUTHORITIES

20 In a preliminary hearing, the State needs only to show that a crime has been committed  
21 and that the accused probably committed it. The finding of probable cause to support a  
22 criminal charge may be based on "slight, even 'marginal' evidence...because it does not involve  
23 a determination of the guilt or innocence of an accused." Sheriff v. Hodes, 96  
24 Nev. 184, 186, 606 P.2d 178, 180 (1980); Sheriff v. Potter, 99 Nev. 389, 391, 663 P.2d 350,  
25 352 (1983).

26 Moreover, to commit an accused for trial, the State is not required to negate all  
27 inferences which might explain his conduct, but only to present enough evidence to support a  
28 reasonable inference that the accused committed the offense." Kinsey v. Sheriff, 87 Nev. 361,

1 363, 487 P.2d 340, 341 (1971). The Court need not consider whether the evidence presented  
2 in the record may, by itself, sustain a conviction, since the State at a preliminary hearing need  
3 not produce the quantum of proof required to establish guilt of the accused beyond a  
4 reasonable doubt. Sheriff v. Hodes, *supra*; Miller v. Sheriff, 95 Nev. 255, 592 P.2d 952  
5 (1979).

6 Neither the preliminary hearing nor a hearing on a Petition for Writ of Habeas Corpus  
7 is designed to resolve factual disputes or matters of defense which are functions of the trier of  
8 fact at trial. Brymer v. Sheriff, 92 Nev. 598, 555 P.2d 844 (1976); Wrenn v. Sheriff, 87 Nev.  
9 85, 482 P.2d 289 (1971). Likewise, it is not incumbent upon the state to negate all other  
10 inferences at the preliminary hearing. Graves v. Sheriff, 88 Nev. 436, 498 P.2d 1324 (1972).

11 **1. SUFFICIENT EVIDENCE WAS PRESENTED THAT DEFENDANT**  
12 **COMMITTED THE ROBBERY AGAINST VICTIM ROBINSON.**

13 Defendant German's only claim in the instant Petition is that counts 4 and 5 of the  
14 Information relating to victim Robinson should be dismissed because she never identified  
15 German as being present or involved in the robbery. This claim is without merit and should be  
16 denied. Defendant fails to acknowledge that he is charged under a conspiracy theory of  
17 criminal liability for the crimes related to Robinson. Under a conspiracy theory, each  
18 defendant does not have to do every act involved in the crime to be liable. As long as the  
19 defendants are acting as part of a concerted effort, each person is liable for the crimes.

20 In the instant case, while Robinson did not specifically identify German as one of the  
21 people involved in robbing her, other sufficient circumstantial evidence was presented at  
22 preliminary hearing to support the charges. Robinson testified that on July 1, 2014, she was  
23 walking home from work when she observed one male crossing the street 5 feet in front of  
24 her. PHT, 83. Robinson noticed that the male who crossed the street stopped. Id. When he  
25 stopped, he looked across the street and Robinson saw that he was waiting for two other  
26 individuals to cross the street. PHT, 85. Within seconds of noticing the other two individuals  
27 and passing the original male, Robinson was being stopped and robbed from behind. PHT, 85.  
28 The male behind her covered her eyes, placed his arm around her neck and told her to keep

1 walking and not turn around. PHT, 83, 87. The male behind her then demanded her purse and  
2 when she refused, he told her "Do you want to get shot over a purse bitch?" PHT, 87. In fear,  
3 Robinson let go of her purse containing her Nokia phone, driver's license, social security card  
4 and other items. PHT, 87-88.

5 Later that same night, officers located and searched the car occupied by Defendant  
6 German, Roach and Ivey. PHT, 112. Inside the vehicle was the driver's license and social  
7 security card belonging to Robinson. Id. Also located was a Nokia cell phone. PHT, 113.

8 The combination of this evidence is slight or marginal evidence that Defendant German  
9 was involved in the robbery of Robinson. In addition to fruits of the Robinson robbery being  
10 found in the vehicle occupied by Defendant German the same day of the robbery, Defendant  
11 German fails to acknowledge that the circumstances of the Robinson robbery are almost  
12 identical to the Kull robbery which occurred the day before. Defendant does not challenge his  
13 involvement in the Kull robbery. In the Kull robbery, Defendant German asked Kull how she  
14 was doing and then asked for directions to Twain and Decatur. German then grabbed Kull's  
15 hand and took her phone. German told Kull to be quiet or they were going to shoot her. During  
16 the robbery, German told Kull to keep her mouth shut or they were going to kill her. Defendant  
17 German then ripped Kull's fanny pack from her waist. When Kull informed German that she  
18 did not have pin numbers for her cards, German told her "Don't lie to me bitch or I'll shoot  
19 you." After the Defendants took Kull's phone and made her unlock her phone, Defendant  
20 German placed his hand down Kull's shirt searching for other items. All three Defendants  
21 then began walking with Kull towards the Flamingo Palm Condo and Defendant German  
22 pushed her into the pebble entryway. In total, the Defendant's stole Kull's Samsung Note 3  
23 cell phone, two debit cards, her Florida Driver's License, her employee badge and  
24 approximately \$200 in cash.

25 The circumstances and similarities between the Kull and Robinson robberies, the fact  
26 that Robinson testified about seeing three individuals and then immediately being robbed and  
27 the fact that Robinson's items were found in the car German occupied less than 24 hours later  
28 ///

1 is all sufficient evidence for probable cause of Defendant's German involvement in the  
2 Robinson Robbery. As such, his claim is without merit and should be denied.

3 **CONCLUSION**

4 Wherefore, the State respectfully requests that Defendant's Petition for Writ of Habeas  
5 Corpus be DENIED.

6 DATED this 5<sup>th</sup> day of November, 2014.

7 Respectfully submitted,

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

10  
11 BY /s/ Leah C. Beverly

12 LEAH C. BEVERLY  
13 Deputy District Attorney  
Nevada Bar #12556

14  
15 **CERTIFICATE OF FACSIMILE TRANSMISSION**

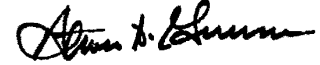
16 I hereby certify that service of Return To Writ of Habeas Corpus, was made this  
17 5<sup>th</sup> day of November, 2014, by facsimile transmission to:

18  
19 D. FISCHER, ESQ.  
20 702-974-1458

21  
22 BY: /s/ D. Jason

23 Employee of the District Attorney's Office  
24  
25  
26  
27  
28

## EXHIBIT 1

  
CLERK OF THE COURT

1 INFM  
STEVEN B. WOLFSON  
2 Clark County District Attorney  
Nevada Bar #001565  
3 LEAH BEVERLY  
Deputy District Attorney  
4 Nevada Bar #12556  
200 Lewis Avenue  
5 Las Vegas, Nevada 89155-2212  
(702) 671-2500  
6 Attorney for Plaintiff

7 I.A. 09/23/2014 DISTRICT COURT  
1:00 P.M. CLARK COUNTY, NEVADA  
8 C. ALMASE, ESQ.  
9 D. FISCHER, ESQ.  
C. COLUCCI, ESQ.

10 THE STATE OF NEVADA,  
11 Plaintiff,

CASE NO: C-14-300979-2

12 -vs-

DEPT NO: XXIII

13 CHRISTOPHER LEROY ROACH, aka  
Christopher Roach, #2757657  
14 JEFFREY B. GERMAN, aka  
Jeffery Bernard German, #1602073  
15 JAMES CURTIS IVEY, JR., #7010542  
16 Defendant.

INFORMATION

17  
18 STATE OF NEVADA )  
19 COUNTY OF CLARK ) ss.

20 STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State  
21 of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

22 That CHRISTOPHER LEROY ROACH, aka Christopher Roach, JEFFREY B.  
23 GERMAN, aka Jeffery Bernard German, and JAMES CURTIS IVEY, JR., the Defendant(s)  
24 above named, having committed the crimes of **CONSPIRACY TO COMMIT ROBBERY**  
25 **(Category B Felony - NRS 200.380, 199.480 - NOC 50147); ROBBERY WITH USE OF**  
26 **A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138);**  
27 **COERCION (Category B Felony - NRS 207.190 - NOC 53159); POSSESSION OF**  
28 **STOLEN PROPERTY (Category C Felony - NRS 205.275 - NOC 56057) and**

1 **POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S**  
2 **CONSENT (Category D Felony - NRS 205.690 - NOC 50790)**, on or between the 30th day  
3 of June, 2014 and the 1st day of July, 2014, within the County of Clark, State of Nevada,  
4 contrary to the form, force and effect of statutes in such cases made and provided, and against  
5 the peace and dignity of the State of Nevada,

6 **COUNT 1 - CONSPIRACY TO COMMIT ROBBERY**

7 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
8 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did wilfully,  
9 unlawfully, and feloniously conspire with each other to commit a robbery.

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

11 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
12 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did then and there  
13 wilfully, unlawfully, and feloniously take personal property, to-wit: a cellular telephone and  
14 a fanny pack and contents, from the person of BAYLIE KULL, or in their presence, by means  
15 of force or violence, or fear of injury to, and without the consent and against the will of  
16 BAYLIE KULL, with use of a deadly weapon, to-wit: a firearm, Defendants being criminally  
17 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly  
18 committing this crime; and/or (2) by aiding or abetting one another in the commission of this  
19 crime with the intent to commit this crime, by providing counsel and/or encouragement, by  
20 the Defendants acting in concert; and/or (3) pursuant to a conspiracy to commit this crime.

21 **COUNT 3 - COERCION**

22 did then and there wilfully, unlawfully, and feloniously use physical force, or the  
23 immediate threat of such force, against BAYLIE KULL, with intent to compel her to do, or  
24 abstain from doing, an act which she had a right to do, or abstain from doing, by defendants  
25 acting in concert and aiding or abetting each other by counsel and encouragement and by  
26 entering into a course of conduct whereby forcing the said BAYLIE KULL to move when she  
27 did not want to move.

28 ///

1 COUNT 4 - CONSPIRACY TO COMMIT ROBBERY

2 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
3 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did wilfully,  
4 unlawfully, and feloniously conspire with each other to commit a robbery.

5 COUNT 5 - ROBBERY

6 did then and there wilfully, unlawfully, and feloniously take personal property, to-wit:  
7 a purse, contents and cellular telephone, from the person of EOLA ROBINSON, or in her  
8 presence, by means of force or violence, or fear of injury to, and without the consent and  
9 against the will of EOLA ROBINSON, Defendants being criminally liable under one or more  
10 of the following principles of criminal liability, to-wit: (1) by directly committing this crime;  
11 and/or (2) by aiding or abetting one another in the commission of this crime with the intent to  
12 commit this crime, by providing counsel and/or encouragement, by the Defendants acting in  
13 concert; and/or (3) pursuant to a conspiracy to commit this crime.

14 COUNT 6 - CONSPIRACY TO COMMIT ROBBERY

15 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
16 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did wilfully,  
17 unlawfully, and feloniously conspire with each other to commit a robbery.

18 COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

19 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
20 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did then and there  
21 wilfully, unlawfully, and feloniously take personal property, to-wit: U.S. currency, two (2)  
22 credit and/or debit cards, and a cellular telephone, from the person of DONNA DIMARIA  
23 and/or JESUS MEDINA, JR., or in their presence, by means of force or violence, or fear of  
24 injury to, and without the consent and against the will of DONNA DIMARIA and/or JESUS  
25 MEDINA, JR., with use of a deadly weapon, to-wit: a firearm, Defendants being criminally  
26 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly  
27 committing this crime; and/or (2) by aiding or abetting one another in the commission of this  
28

1 crime with the intent to commit this crime, by providing counsel and/or encouragement, by  
2 the Defendants acting in concert; and/or (3) pursuant to a conspiracy to commit this crime.

3 COUNT 8 - POSSESSION OF STOLEN PROPERTY

4 Defendants CHRISTOPHER LEROY ROACH, aka, Christopher Roach, JEFFREY B.  
5 GERMAN, aka, Jeffery Bernard German, and JAMES CURTIS IVEY, JR. did wilfully,  
6 unlawfully, and feloniously, for their own gain, possess stolen property, to wit: U.S. currency,  
7 an Apple 5S iPhone and a Nokia cellular telephone, owned by DONNA DIMARIA and/or  
8 JESUS MEDINA, JR., having a value of \$650.00 or more, said Defendant knew it was stolen  
9 property and/or did possess it under circumstances which would have caused a reasonable  
10 person to know that it was stolen property, Defendants being criminally liable under one or  
11 more of the following principles of criminal liability, to-wit: (1) by directly committing this  
12 crime; and/or (2) by aiding or abetting one another in the commission of this crime with the  
13 intent to commit this crime, by providing counsel and/or encouragement, by the Defendants  
14 acting in concert; and/or (3) pursuant to a conspiracy to commit this crime.

15 COUNT 9 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S  
16 CONSENT

17 Defendant JEFFREY B. GERMAN, aka, Jeffery Bernard German did wilfully,  
18 unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a  
19 credit or debit card, to-wit: a Citibank card, ending in account number 4318, issued in the  
20 name of DONNA DIMARIA, with intent to circulate, use, sell, or transfer said card, with  
21 intent to defraud the cardholder and/or the issuer of said credit or debit card.

22 COUNT 10 - POSSESSION OF CREDIT OR DEBIT CARD WITHOUT CARDHOLDER'S  
23 CONSENT

24 Defendant JEFFREY B. GERMAN, aka, Jeffery Bernard German did wilfully,  
25 unlawfully, and feloniously, have in his possession, without the consent of the cardholder, a  
26 credit or debit card, to-wit: a Wells Fargo Visa debit card, ending in account number 7283,

27 ///

28 ///

1 issued in the name of DONNA DIMARIA, with intent to circulate, use, sell, or transfer said  
2 card, with intent to defraud the cardholder and/or the issuer of said credit or debit card.

3  
4 STEVEN B. WOLFSON  
5 Clark County District Attorney  
6 Nevada Bar #001565

7 BY /s/ Leah Beverly  
8 LEAH BEVERLY  
9 Deputy District Attorney  
10 Nevada Bar #12556

11 Names of witnesses known to the District Attorney's Office at the time of filing this  
12 Information are as follows:

| 13 <u>NAME</u>                      | <u>ADDRESS</u>       |
|-------------------------------------|----------------------|
| 14 ADAMS. K.A.                      | LVMPD #10017         |
| 15 ALDRICH, S. A.                   | LVMPD #4923          |
| 16 CUSTODIAN OF RECORDS or Designee | CCDC                 |
| 17 CUSTODIAN OF RECORDS or Designee | LVMPD Communications |
| 18 CUSTODIAN OF RECORDS or Designee | LVMPD Records        |
| 19 CUSTODIAN OF RECORDS or Designee | NLVPD Communications |
| 20 CUSTODIAN OF RECORDS or Designee | NLVPD Records        |
| 21 ENDOZO, R. B.                    | LVMPD #13146         |
| 22 FONBUENA, R. A.                  | LVMPD #6834          |
| 23 GARRIS, A. L.                    | LVMPD #4337          |
| 24 GROSS, K.                        | C/O CCDA's Office    |
| 25 LAVOIE, C. A                     | LVMPD #13817         |
| 26 PALMIRA, C. A.                   | LVMPD #13807         |
| 27 PARQUE, C.                       | LVMPD #1741          |
| 28 PARRA, M.                        | LVMPD #14415         |

|   |               |             |
|---|---------------|-------------|
| 1 | PELAYO, I.    | LVMPD #9850 |
| 2 | SCHOUTEN, D.  | NLVPD #1741 |
| 3 | WALKER, D. L. | LVMPD #8533 |

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27 DA#14F10476B/dj  
28 LVMPD EV#1407014137  
(TK6)

MEMORY TRANSMISSION REPORT

TIME : 11-05-2014 15:18  
FAX NO.1 :  
NAME :

FILE NO. : 908  
DATE : 11.05 15:03  
TO : 7029741458  
DOCUMENT PAGES : 15  
START TIME : 11.05 15:12  
END TIME : 11.05 15:18  
PAGES SENT : 15  
STATUS : OK

\*\*\*SUCCESSFUL TX NOTICE\*\*\*

1 **RET**  
2 **STEVEN B. WOLFSON**  
3 **Clark County District Attorney**  
4 **Nevada Bar #001563**  
5 **LEAH C. BEVERLY**  
6 **Deputy District Attorney**  
7 **Nevada Bar #12556**  
8 **200 Lewis Avenue**  
9 **Las Vegas, Nevada 89155-2212**  
10 **(702) 671-2500**  
11 **State of Nevada**  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

In the Matter of Application,  
of  
**JEFFREY B. GERMAN, aka**  
**Jeffrey Bernard German, #1602073**  
for a Writ of Habeas Corpus.

**CASE NO: C-14-300979-2**  
**DEPT NO: XXIII**

**RETURN TO WRIT OF HABEAS CORPUS**

**DATE OF HEARING: 11/10/14**  
**TIME OF HEARING: 9:30 A.M.**

**COMES NOW, DOUGLAS C. GILLESPIE, Sheriff of Clark County, Nevada,**  
**Respondent, through his counsel, STEVEN B. WOLFSON, Clark County District Attorney,**  
**through LEAH C. BEVERLY, Deputy District Attorney, in obedience to a writ of habeas**  
**corpus issued out of and under the seal of the above-entitled Court on the 23rd day of October,**  
**2014, and made returnable on the 10th day of November, 2014, at the hour of 9:30 o'clock**  
**A.M., before the above-entitled Court, and states as follows:**

- 1. Respondent admits the allegations of Paragraph(s) 1, 2, 4, 5 and 6, of the**  
**Petitioner's Petition for Writ of Habeas Corpus.**
- 2. Respondent denies the allegations of Paragraph 3 of the Petitioner's Petition**  
**for Writ of Habeas Corpus.**

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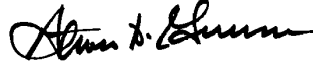
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DISTRICT COURT  
CLARK COUNTY, NEVADA

Electronically Filed  
11/07/2014 11:20:03 AM

STATE OF NEVADA

Plaintiff,



CLERK OF THE COURT

vs.

CASE NO. C300979-2  
DEPT NO. XXIII

JEFFREY GERMAN,

Defendant.

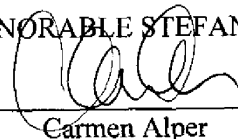
**NOTICE RESETTING DATE and TIME OF HEARING**

Please be advised that the date and time of the PETITION FOR WRIT OF HABEAS CORPUS hearing set before Honorable Stefany A. Miley has been changed. At the COURT's request, PLEASE TAKE NOTICE that the above matter has been reset from NOVEMBER 10, 2014 at 9:30 am to NOVEMBER 19, 2014 at 11:00 a.m.

**DATED** this 6th day of November, 2014.

HONORABLE STEFANY A. MILEY

By:

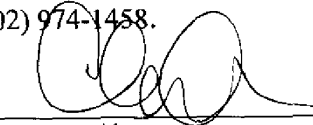


Carmen Alper  
Judicial Executive Assistant to  
Honorable Stefany A. Miley

**CERTIFICATE OF FACSIMILE**

I hereby certify that on the 6<sup>th</sup> day of November 2014, I caused a copy of the foregoing Notice Resetting Date and Time of Hearing to be faxed to Leah Beverly, Esq. at (702) 455-6980 and to David R. Fischer, Esq. at (702) 974-1458.

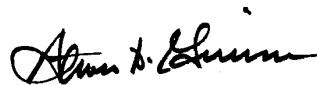
By:



Carmen Alper  
Judicial Executive Assistant to  
Honorable Stefany A. Miley

**STEFANY A. MILEY**  
DISTRICT JUDGE

DEPARTMENT TWENTY THREE  
LAS VEGAS NV 89101-2408



CLERK OF THE COURT

**MOT**

DAVID R. FISCHER, Esq.  
Nevada Bar No. 010348  
7455 Arroyo Crossing Pkwy. Suite #220  
Las Vegas, Nevada 89113  
Telephone: (702) 547-3944  
Facsimile: (702) 974-1458  
Attorney for Defendant

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,  
Plaintiff,

vs.

JEFFEREY GERMAN,  
Defendant.

CASE NO.: C-14-300979-2

DEPT. NO.: XXXIII

Date: 9:30

Time: March 11, 2015

**DEFENDANT'S MOTION FOR OWN RECOGNIZANCE RELEASE, OR, IN THE  
ALTERNATIVE, MOTION TO SET REASONABLE BAIL**

COMES NOW, the Defendant, JEFFEREY GERMAN, by and through his attorney, DAVID R. FISCHER, ESQ., and respectfully moves that this Honorable Court place to release the Defendant on his own recognizance, or, in the alternative, lower bail in the instant action. This motion is made and based upon the papers and pleadings on file herein, NRS 178.484 et seq., and any arguments of counsel entertained at the hearing of this matter.

DATED this 2<sup>nd</sup> day of December, 2014.



By: \_\_\_\_\_

DAVID R. FISCHER, ESQ.  
Nevada Bar No. 010348  
Attorney for Defendant

1  
2 **NOTICE OF MOTION**

3 TO: STATE OF NEVADA, Plaintiff;

4 TO: STEVE WOLFSON, ESQ., District Attorney

5 PLEASE TAKE NOTICE that the undersigned will bring the foregoing MOTION FOR  
6 OWN RECOGNIZANCE RELEASE, OR, IN THE ALTERNATIVE, MOTION TO SET  
7 REASONABLE BAIL on for hearing before the above-entitled Court on the 8 day of  
8 DEC., 2014, at the hour of 9:30 a.m. in Dept. 23, or soon thereafter as  
9 Counsel may be heard.  
10

11 DATED this 2<sup>nd</sup> day of December, 2014.

12 

13  
14 By: \_\_\_\_\_

15 DAVID R. FISCHER, ESQ.  
16 Nevada Bar No. 010348  
17 Attorney for Defendant  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. FACTS**

The Defendant, Jefferey German, is charged with Robbery with use of a deadly weapon and related charges. Mr. German reports that if released from custody, he would be able to stay locally with his mother, Dorothy who is a shuttle bus driver for Windom Resorts. Mr. German was previously residing with his sister Mehgan and her family, which consists of 3 kids and her husband. Mr. German was previously employed by Red Dragon which is a special events coordinating company where Mr. German was a bartender. Mr. German was also currently enrolled in school at Crescent Gaming and Bartending School. Mr. German has been legally blind since birth and being incarcerated has made it extremely difficult as he is constantly running into things and inmates.

**II. ARGUMENT**

**DEFENDANT REQUESTS RELEASE ON HIS OWN RECOGNIZANCE**

**OR, IN THE ALTERNATIVE, A BAIL REDUCTION.**

In Nevada, a criminal defendant may be released without bail. NRS 178.4853. In deciding whether there is good cause to release a person without bail, the Court, at a minimum, must consider the following factors concerning the Defendant:

1. The length of his residence in the community;
2. The status and history of his employment;
3. His relationships with his spouse and children, parents or other members of his family and with his close friends;
4. His reputation, character and mental condition;
5. His prior criminal record, including, without limitation, any record of his appearing or failing to appear after release on bail or without bail;
6. The identity of responsible members of the community who would vouch for the reliability of the person;
7. The nature of the offense with which he is charged, the apparent probability of conviction and the likely sentence, insofar as these factors relate to the risk of his not appearing;
8. The nature and seriousness of the danger to the alleged victim, any other person or the community that would be posed by the person's release;

- 1 9. The likelihood of more criminal activity by him after he is  
2 released; and
- 3 10. Any other factors concerning his ties to the community or  
4 bearing on the risk that he may wilfully fail to appear.

5 NRS 178.484 mandates the right to bail before conviction. Pursuant to NRS 178.484,  
6 “[a] person arrested for an offense other than murder in the first degree shall be admitted to  
7 bail.” In setting bail, the court should consider the nature of the offense charged, the penalty  
8 which may be inflicted, the probability of the appearance of the accused, his pecuniary  
9 condition, his character and reputation, and the circumstances surrounding the case relative to  
10 the likelihood of conviction. *Id.*

11 Pursuant to NRS 178.498, if the defendant is admitted to bail, the bail must be set at an  
12 amount which in the judgment of the magistrate will reasonably ensure the appearance of the  
13 defendant and the safety of other persons and of the community, having regard to:

- 14 1. The nature and circumstances of the offense charged;
- 15 2. The financial ability of the defendant to give bail;
- 16 3. The character of the defendant; and
- 17 4. The factors listed in NRS 178.4853.

18 Based on Mr. German’s minimal criminal history and his ties to the community outlined  
19 above, Defendant requests own recognizance release with appropriate conditions or a reduction  
20 of bail.

### 21 III. CONCLUSION

22 In light of the foregoing, Defendant respectfully requests that this Honorable Court  
23 release the Defendant on his own recognizance or, in the alternative, lower his bail

24 DATED this 2<sup>nd</sup> day of December 2014.

25 

26 By: \_\_\_\_\_  
27 DAVID R. FISCHER, ESQ.  
28 Nevada Bar No. 010348  
Attorney for Defendant

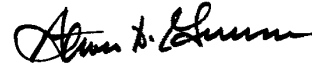
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pdmotions@clarkcountyda.com

an employee or agent of David R. Fischer, Esq.

1 **OPPS**

2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 LEAH C. BEVERLY  
6 Deputy District Attorney  
7 Nevada Bar #012556  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

  
CLERK OF THE COURT

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA, )  
10 Plaintiff, )  
11 -vs- )  
12 JEFFREY B. GERMAN, )  
13 aka Jeffery Bernard German, ID# 1602073 )  
14 Defendant. )

CASE NO: C-14-300979-2  
DEPT NO: XXIII

15 STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR OWN RECOGNIZANCE  
16 RELEASE OR, IN THE ALTERNATIVE, MOTION TO SET REASONABLE BAIL

17 DATE OF HEARING: DECEMBER 8, 2014  
18 TIME OF HEARING: 9:30 A.M.

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney,  
20 through LEAH C. BEVERLY, Deputy District Attorney, and hereby submits the attached  
21 Points and Authorities in Opposition to Defendant's Motion for Own Recognizance Release  
22 or, in the Alternative, Motion to Set Reasonable Bail.

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

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1 After the Defendants took Kull's phone and made her unlock her phone, Defendant  
2 German placed his hand down Kull's shirt searching for other items. PHT, 66. All three  
3 Defendants then began walking with Kull towards the Flamingo Palm Condo and Defendant  
4 German pushed her into the pebble entryway. PHT, 66-67. After pushing her into the  
5 entryway, all three Defendants began walking back towards the extended stay. PHT, 67. When  
6 Kull attempted to follow them, Defendant German told Kull "Where are you going bitch? Turn  
7 around. Don't look back or we'll shoot you." PHT, 68. Kull then began walking towards the  
8 intersection of Valley View and Flamingo. In total, the Defendant's stole Kull's Samsung  
9 Note 3 cell phone, two (2) debit cards, her Florida Driver's License, her employee badge and  
10 approximately \$200.00 in cash. PHT, 69. Kull later identified all three Defendants as the  
11 people who robbed her in a photo lineup. PHT, 70.

12 On July 1, 2014, victim Eola Robinson ("Robinson") was in the area of Lake Mead and  
13 Decatur walking home from work. PHT, 82. As Robinson was walking east on Lake Mead  
14 toward Rancho, she observed a young male cross the street. PHT, 83. As the male crossed the  
15 street, Robinson noticed that the male stopped, looked back across the street and waited for  
16 two other males who were across the street. PHT, 83, 85. Robinson initially ignored the males  
17 but almost immediately, she felt someone cover her eyes, put their arm around her neck and  
18 the person told her to keep walking. PHT, 83. Robinson believed that the male who initially  
19 crossed the street was Defendant Roach. PHT, 85. Robinson was unable to identify the male  
20 who covered her eyes or the third male.

21 After the male took his hands from Robinson's eyes, she noticed that Defendant Roach  
22 was walking next to her while a second male was behind her with his hand around her neck  
23 walking her down the street. PHT, 87. The male with his arm around her neck told Robinson  
24 to keep walking. Id. He then demanded her purse. Id. When Robinson refused to turn her purse  
25 over, the male told her "Do you want to get shot over a purse bitch?" Id. Robinson then handed  
26 over her purse in fear. Id. Inside Robinson's purse were sunglasses, money, credit cards, a  
27 Nokia cell phone, a birth certificate, social security card and other random papers. PHT, 88.

28 ///

On July 1, 2014, victim Donna Dimaria ("Dimaria") was sitting in her car talking to her boyfriend, victim Jesus Medina ("Medina"). PHT, 7. Dimaria was sitting inside the driver's seat of the car while Medina was standing outside next to the open driver's side car door. PHT, 7, 34. As they were talking, Dimaria and Jesus noticed three black males, later identified as Defendants Roach, German and Ivey, walking towards Dimaria's car. PHT, 8. Upon noticing the Defendants, Dimaria closed and locked her car door and prepared to leave. Id. As Dimaria looked out her window to say goodbye to Medina, she saw Defendant Ivey standing outside the car with a gun to Medina's head. PHT, 9. One of the Defendants began demanding that Dimaria open her car door. PHT, 10. Out of fear for Medina, Dimaria opened her car door. Id. After opening her car door, Defendant Ivey entered the driver's seat of the car, grabbed Dimaria by the neck and pushed her head down. PHT, 11. At the same time, Defendants German and Roach forced Medina into the backseat of the vehicle into the middle seat with Roach on the left side and German on the right side of Medina and closed the car doors. PHT, 11, 37-38. Defendant Roach also had a gun pointed at Medina. PHT, 36. Roach told Medina to tell his girlfriend to cooperate so he wouldn't see her get hurt. PHT, 12, 38. Defendant Ivey began asking Dimaria for her money, driver's license, credit card and atm card. Id. Ivey also took Dimaria's cell phone, \$500.00 in cash and car keys. PHT, 11-12. Ivey continuously told Dimaria not to fucking look at him. PHT, 12. In the back seat, Defendants Roach and German demanded and took Medina's silver cross necklace and cell phone. PHT, 12, 36, 38. After taking Dimaria and Medina's property, all three Defendants exited the vehicle and ran out of the apartment complex. PHT, 13.

Later that evening, North Las Vegas officers and officers from the Las Vegas Metropolitan Police Department were able to track the location of the vehicle all three Defendants were riding in. PHT, 99. The vehicle was tracked to a 7-11 convenience store on the boarder of North Las Vegas and Las Vegas. PHT, 98. All three Defendants had been located inside the vehicle by North Las Vegas Officers. PHT, 99-100, 111. During a search of the vehicle, two BB guns, that appeared identical to semiautomatic firearms, were found. PHT, 107. Additionally, inside the vehicle were the driver's license and social security card

1 of victim Robinson and a Nokia Windows cell phone. PHT, 112. While at 7-11, Officer Darrin  
2 Walker also conducted a search of Defendant German. Inside German's right rear pocket were  
3 two debit cards in the name of Donna Dimaria. PHT, 101. Also in German's pockets were a  
4 Huawei cell phone and a broken silver necklace belonging to Jesus Medina. PHT, 102.

### 5 ARGUMENT

6 NRS 178.498 provides:

7 **NRS 178.498 Amount.** If the defendant is admitted to bail, the bail must  
8 be set at an amount which in the judgment of the magistrate will reasonably  
9 ensure the appearance of the defendant and the safety of other persons and of  
10 the community, having regard to:

- 11 1. The nature and circumstances of the offense charged;
- 12 2. The financial ability of the defendant to give bail;
- 13 3. The character of the defendant; and
- 14 4. The factors listed in NRS 178.4853.

15 NRS 178.4853 provides as follows:

16 **NRS 178.4853 Factors considered before release without bail.** In  
17 deciding whether there is good cause to release a person without bail, the court  
18 as a minimum shall consider the following factors concerning the person:

- 19 1. The length of his residence in the community;
- 20 2. The status and history of his employment;
- 21 3. His relationship with his spouse and children, parents or  
22 other members of his family and with his close friends;
- 23 4. His reputation, character and mental condition;
- 24 5. His prior criminal record, including, without limitation, any  
25 record of his appearing or failing to appear after release on bail or  
26 without bail;
- 27 6. The identity of responsible members of the community  
28 who would vouch for the reliability of the person;
- 1 7. The nature of the offense with which he is charged, the  
2 apparent probability of conviction and the likely sentence insofar  
3 as these factors relate to the risk of his not appearing;
- 4 8. The nature and seriousness of the danger to the alleged  
5 victim, any other person or the community that would be posed by  
6 the person's release;
- 7 9. The likelihood of more criminal activity by him after he is  
8 released; and
- 9 10. Any other factors concerning his ties to the  
10 community or bearing on the risk that he may willfully fail to  
11 appear.

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1 The intent of bail is to ensure both the defendant's appearance at future proceedings  
2 and to protect the community by ensuring that the defendant not engage in further criminal  
3 activities while released. In the instant case, Defendant was arrested for multiple counts of  
4 Robbery, Coercion and Conspiracy to Commit Robbery- violent offenses. Trial is currently  
5 set for March 16, 2015.

6 Defendant is seeking an own recognizance release or reduction of bail while he awaits  
7 sentencing. The State opposes this Motion due to the underlying nature of the crime in this  
8 case and Defendant's prior criminal history. In the instant case, Defendant and his co-  
9 defendants robbed four unsuspecting victims over a two (2) day time period. In two (2) of the  
10 robberies, the Defendants used a firearm. During the robberies the victims were threatened  
11 with serious bodily harm if they did not comply with the Defendants' demands to relinquish  
12 their items.

13 In addition to the heinous nature of the instant crime, Defendant has a horrific criminal  
14 history which includes: 2010- Larceny from the Person, 2006- Burglary, 2005- Conspiracy to  
15 Commit a Crime, 2000- Attempt Possession of Stolen Vehicle, 2000- Battery Domestic  
16 Violence, and 2001- Battery Domestic Violence 2<sup>nd</sup>. Defendant has a history of violence and  
17 a history of depriving victims of their belongings. If Defendant is convicted in the instant case,  
18 the State fully intends to seek the highest punishment allowable under the law. Defendant also  
19 has at least eleven (11) failures to appear. Considering that Defendant is facing significant  
20 prison time if convicted, if released, he has little to no incentive to return to court for future  
21 proceedings. Finally, Defendant claims in his motion that he is legally blind however, in the  
22 same motion, he claims that he previously worked as a bartender. The State is a little confused  
23 as to the accuracy of either Defendant's medical condition and/or previous employment.  
24 Furthermore, Defendant's alleged medical condition did not prevent him for robbing four  
25 unsuspecting victims at gunpoint. The current bail setting is appropriate given the charges. As  
26 Defendant is alleged to have committed violent offenses, has a history of violence and fails to  
27 appear for court, the State would ask that the Motion be denied and that current bail setting  
28 remain in the case.

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**CONCLUSION**

Wherefore, the State respectfully requests that this Court deny Defendant's Motion for Own Recognizance Release or Setting of Reasonable Bail.

DATED this 3rd day of December, 2014.

Respectfully submitted,


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

BY  f.07  
LEAH C. BEVERLY  
Deputy District Attorney  
Nevada Bar #012556

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that service of State's Opposition To Defendant's Motion For Own Recognizance Release Or, In The Alternative, Motion To Set Reasonable Bail, was made this 3rd day of December, 2014, by facsimile transmission to:

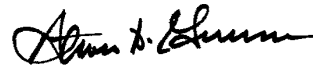
DAVID FISCHER, ESQ.  
702-974-1458

BY:   
C. Cintola  
Employee of the District Attorney's Office

LB/cc/L3

1 **NWEW**  
2 **STEVEN B. WOLFSON**  
3 **Clark County District Attorney**  
4 **Nevada Bar #001565**  
5 **LEAH C. BEVERLY**  
6 **Deputy District Attorney**  
7 **Nevada Bar #012556**  
8 **200 Lewis Avenue**  
9 **Las Vegas, Nevada 89155-2212**  
10 **(702) 671-2500**  
11 **Attorney for Plaintiff**

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CLERK OF THE COURT

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

9 **THE STATE OF NEVADA,**  
10 **Plaintiff,**

11 **-vs-**

**CASE NO: C-14-300979-2**

12 **CHRISTOPHER LEROY ROACH, aka**  
13 **Christopher Roach, #2757657**  
14 **JEFFREY B. GERMAN, aka**  
15 **Jeffery Bernard German, #1602073**  
16 **JAMES CURTIS IVEY, JR., #7010542**

**DEPT NO: XXIII**

17 **Defendant.**

18 **NOTICE OF EXPERT WITNESSES**  
19 **[NRS 174.234(2)]**

20 **TO: CHRISTOPHER LEROY ROACH, aka Christopher Roach,**  
21 **Defendant; and**

22 **TO: C. ALMASE, ESQ, Counsel of Record:**

23 **TO: JEFFREY B. GERMAN, aka Jeffery Bernard German,**  
24 **Defendant; and**

25 **TO: D. FISCHER, ESQ., Counsel of Record:**

26 **TO: JAMES CURTIS IVEY, JR., Defendant; and**

27 **TO: C. COLUCCI, ESQ., Counsel of Record:**

28 **YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF**  
**NEVADA intends to call the following expert witnesses in its case in chief:**

1           **JONATHAN A. FRIED, P #8174, Forensic Scientist, LVMPD or Designee:**

2           He is an expert in the area of firearm/toolmark analysis, Gun ID, ballistics, burn  
3 stippling and muzzle flash and will give opinions related thereto. He is expected to testify  
4 regarding evidence collected from the crime scene.

5           **LOUISE RENHARD, P #5223, Crime Scene Analyst, LVMPD, or Designee:**

6           She is an expert in the area of the identification, documentation, collection and  
7 preservation of evidence and will give opinions related thereto. She is expected to testify  
8 regarding the identification, documentation, collection and preservation of evidence in this  
9 case.

10          **BEATA VIDA, P #14279, Forensic Scientist, LVMPD, or Designee:** She is an  
11 expert in the area DNA technology and will give scientific opinions related thereto. She is  
12 expected to testify regarding the DNA profiling analysis and related procedures he performed  
13 in this case.

14          These witnesses are in addition to those witnesses endorsed on the Information or  
15 Indictment and any other witnesses for which a separate Notice of Witnesses and/or Expert  
16 Witnesses has been filed

17          The substance of each expert witness' testimony and a copy of all reports made by or  
18 at the direction of the expert witness has been provided in discovery.

19          A copy of each expert witness' curriculum vitae, if available, is attached hereto.

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

23                               BY /s/ Leah C. Beverly  
24                               LEAH C. BEVERLY  
25                               Deputy District Attorney  
26                               Nevada Bar #012556

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of the above and foregoing, was made this  
18th day of February, 2015, by facsimile transmission to:

C. ALMASE, ESQ.  
702-474-0445

**D. FISCHER, ESQ.**  
**702-974-1458**

C. COLUCCI, ESQ.  
702-384-4453

By: /s/ D. Jason  
Secretary for the District Attorney's Office

djj/L5

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
FORENSIC LABORATORY  
STATEMENT OF QUALIFICATIONS**

Date: 10/31/12

Name: Jonathan A. Fried P#: 8174 Classification: Forensic Scientist II

Current Discipline of Assignment: Firearms/Toolmarks

| EXPERIENCE IN THE FOLLOWING DISCIPLINE(S) |   |                                      |   |
|---|---|--------------------------------------|---|
| Controlled Substances                     |   | Toxicology/Blood Alcohol             |   |
| Toolmarks                                 | X | Toxicology/Breath Alcohol            |   |
| Trace Evidence                            |   | Toxicology/Drugs                     |   |
| Arson Analysis                            |   | Firearms                             | X |
| Latent Prints                             |   | Crime Scene Investigations           | X |
| Serology                                  |   | Clandestine Laboratory Response Team |   |
| Document Examination                      |   | DNA Analysis                         |   |
| Quality Assurance                         |   | Technical Support /                  |   |

| EDUCATION               |                |   |                  |
|-------------------------|----------------|---|------------------|
| Institution             | Dates Attended | Major                                     | Degree Completed |
| University of New Haven | 1999 – 2001    | Forensic Science –Advanced Investigations | M.S.             |
| Sacred Heart University | 1994 – 1998    | Computer Science – Information Systems    | B.S.             |

| ADDITIONAL TRAINING / SEMINARS  |               |                 |
|---|---------------|-----------------|
| Course / Seminar  | Location      | Dates           |
| GSR Testing & Analysis: Separating Fact From Fiction                        | Las Vegas, NV | 01/19/12        |
| Hi-Point Firearms Armorer's Course (at AFTE Training Seminar)               | Chicago, IL   | 6/3/11          |
| BATFE Machine Gun Conversions/Silencers Workshop (at AFTE Training Seminar) | Chicago, IL   | 6/2/11          |
| AFTE Annual Training Seminar  | Chicago, IL   | 5/29 – 6/3/2011 |
| Remington Model 11-87 Shotgun Armorer's School                              | Las Vegas, NV | 5/4/2011        |
| Remington Model 870 Shotgun Armorer's School                                | Las Vegas, NV | 5/2 – 5/3/2011  |

| ADDITIONAL TRAINING / SEMINARS                   |   |                   |
|--|---|-------------------|
| <i>Course / Seminar</i>                          | <i>Location</i>                               | <i>Dates</i>      |
| Basic Shooting Reconstruction Course             | Las Vegas, NV                                 | 01/24/11-01/26/11 |
| ATF Serial Number Restoration Course             | Las Vegas, NV                                 | 9/27-9/29/2010    |
| Colt .45/Model "O" 1911 Armorer's School         | Las Vegas, NV                                 | 8/5-6/2010        |
| Colt M16/AR-15 Rifle Armorer's School            | Las Vegas, NV                                 | 8/2-4/2010        |
| LAR Manufacturing Factory Tour                   | West Jordan, UT                               | 7/14/2010         |
| North American Arms Factory Tour                 | Provo, UT                                     | 7/13/2010         |
| Barnes Bullets Ammunition Factory Tour           | Mona, UT                                      | 7/13/2010         |
| Sig Sauer Classic Pistols Armorer's School       | Las Vegas, NV                                 | 7/7-8/2010        |
| Sturm Ruger Firearms Factory Tour                | Prescott, AZ                                  | 6/19/2010         |
| Dillon Precision Reloading Factory Tour          | Scottsdale, AZ                                | 6/18/2010         |
| Schneider Rifle Barrels Factory Tour             | Payson, AZ                                    | 6/18/2010         |
| NIBIN Entry                                      | LVMPD-Criminalistics                          | 6/24/2010         |
| Benelli M1, M2, M4 Armorer's School              | Las Vegas, NV                                 | 6/16-17/2010      |
| Beretta 90 Series and Px4 Armorer's School       | Las Vegas, NV                                 | 6/14-15/2010      |
| AFTE Annual Training Seminar                     | Henderson, NV                                 | 5/2-7/2010        |
| Innov-x XRF Safety and Operator Training         | LVMPD-Criminalistics                          | 4/8/2010          |
| ATF IBIS Data Acquisition Training               | Largo, FL (FTI)                               | 6/24-29/2010      |
| Glock Armorer's School                           | Las Vegas, NV                                 | 1/20/2010         |
| 2009 Clan Lab Recert                             | LVMPD-Criminalistics                          | 5/27/2009         |
| Detecting Staged Crime Scenes                    | LVMPD-ISD                                     | 5/5/2009          |
| Basic Instructor Development                     | LVMPD-Advanced Training                       | 4/2009            |
| Integrated Ballistic Identification System       | West Virginia University<br>Extended Learning | 4/17/2009         |
| Introduction to Firearms and Toolmarks           | West Virginia University<br>Extended Learning | 4/17/2009         |
| Hexagon OBTI Blood Test                          | Las Vegas, NV                                 | 3/11/2009         |
| Crime Scene and DNA Basics for Forensic Analysts | Las Vegas, NV                                 | 3/4/2009          |

| <b>ADDITIONAL TRAINING / SEMINARS</b>  |                 |               |
|--|-----------------|---------------|
| <i>Course / Seminar</i>  | <i>Location</i> | <i>Dates</i>  |
| What Every Law Enforcement Officer Should Know About DNA Evidence: Investigators and Evidence Techs  | Las Vegas, NV   | 3/4/2009      |
| Communication Skills, Report Writing, and Courtroom Testimony for Forensic Analysts  | Las Vegas, NV   | 3/4/2009      |
| Collecting DNA Evidence at Property Crime Scenes   | Las Vegas, NV   | 2/28/2009     |
| EEOC Basics Class  | Las Vegas, NV   | 2/25/2009     |
| NCIC Recertification   | Las Vegas, NV   | 1/29/2009     |
| Nevada Workplace Safety Rights and Responsibilities  | Las Vegas, NV   | 1/20/2009     |
| Advanced Forensic Investigations for Hazardous Environments Performance Level  | Las Vegas, NV   | 10/3/2008     |
| IS-00200 ICS for Single Resources and Initial Action Incidents   | Las Vegas, NV   | 7/30/2008     |
| IS-00700 National Incident Management System   | Las Vegas, NV   | 7/30/2008     |
| Introduction of the Incident Command System 1-100 for Law Enforcement  | Las Vegas, NV   | 7/30/2008     |
| Major Case Prints  | Las Vegas, NV   | 5/14/2008     |
| Forensic Entomology Evidence Recovery Techniques   | Las Vegas, NV   | 3/3-4/2008    |
| Ground Penetrating Radar   | Las Vegas, NV   | 1/23-24/2008  |
| Use of Force (Civilians)   | Las Vegas, NV   | 1/2/2008      |
| Finding Latent Evidence with Chemistry & Light   | Henderson, NV   | 12/11-14/2007 |
| Bomb Investigations  | Las Vegas, NV   | 12/5-7/2007   |
| Clandestine Laboratory Safety Re-Certification   | Las Vegas, NV   | 10/24/2007    |
| Forensic Entomology Evidence Collection Protocol   | Las Vegas, NV   | 8/2007        |
| (RT02) NCIC Recertification Phase II   | Las Vegas, NV   | 5/23/2007     |
| ROFIN Polilight PL500 (Instructor: Sheree Norman)  | Las Vegas, NV   | 5/2/2007      |
| Bloodstain Pattern Analysis (10-hour refresher course)   | Las Vegas, NV   | 2/20/2007     |
| Death in Infancy & Childhood - Investigation & Pathology Seminar (Instructor: Dr. Tracy Corey, Chief Medical Examiner for the State of Kentucky) | Las Vegas, NV   | 11/16-17/2006 |
| Diversity Training   | Las Vegas, NV   | 11/1/2006     |
| Forensic Medical Investigation   | Las Vegas, NV   | 8/16-18/2006  |

| ADDITIONAL TRAINING / SEMINARS  |                     |              |
|---|---------------------|--------------|
| <i>Course / Seminar</i>   | <i>Location</i>     | <i>Dates</i> |
| How to be the Best Expert Witness You Can be  | Las Vegas, NV       | 8/9/2006     |
| Presumptive Standards (Instructor: Shannon Merges)  | Las Vegas, NV       | 7/19/2006    |
| Bloodstain Pattern Recognition and Examination of Bloodstained Clothing Workshop                      | Las Vegas, NV       | 5/11/2006    |
| Shooting Incident Reconstruction (Basic)  | Las Vegas, NV       | 4/5-7/2006   |
| Bloodstain Pattern Recognition - Instructor: Craig C. Moore, Niagara Regional Police Service (Canada) | Las Vegas, NV       | 1/120/2006   |
| Basic Bloodstain Pattern Recognition  | Las Vegas, NV       | 1/16-20/2006 |
| Terrorism and Travel Documents  | Las Vegas, NV       | 12/13/2005   |
| Merging Digital Photography/Crime Scene Investigations  | Las Vegas, NV       | 12/7/2005    |
| Completion of Proficiency Exercise - "Recording Major Case Prints"                                    | Las Vegas, NV       | 11/16/2005   |
| FATS Training   | Las Vegas, NV       | 10/5/2005    |
| National Incident Management System (NIMS) -IS-00700  | Las Vegas, NV       | 9/6/2005     |
| Digital Workstation Training  | Las Vegas, NV       | 7/5/2005     |
| Homicide Issues: A Prosecutor's Perspective on Presenting Cases to a Jury                             | Las Vegas, NV       | 3/23/2005    |
| Nighttime Photography Techniques  | Las Vegas, NV       | 3/23/2005    |
| Excited Delirium and Restraint Deaths   | Las Vegas, NV       | 3/23/2005    |
| Crime Scene Technology 2: A Crime Scene Practicum   | North Las Vegas, NV | 3/14-18/2005 |
| Practical Homicide Investigation  | Las Vegas, NV       | 3/7-9/2005   |
| Clandestine Laboratory Safety Certification   | Las Vegas, NV       | 2/23-25/2005 |
| Forensic Science Program 101 - Certified  | Las Vegas, NV       | 10/6/2004    |
| Brooke Lee West Case - "Coffin Flies"   | Las Vegas, NV       | 4/7/2004     |
| Bite Marks  | Las Vegas, NV       | 4/7/2004     |
| Nighttime Photographic Techniques   | Las Vegas, NV       | 4/7/2004     |
| Criminalistics Bureau - Field Training  | Las Vegas, NV       | 3/31/2004    |
| Civilian Use of Force & Firearm Training  | Las Vegas, NV       | 2/3-5/2004   |
| Defensive Tactics - CSA's   | Las Vegas, NV       | 2/2/2004     |

**ADDITIONAL TRAINING / SEMINARS**

| <i>Course / Seminar</i>                                | <i>Location</i> | <i>Dates</i> |
|--|-----------------|--------------|
| Orientation for Civilian Employees - Advanced Training | Las Vegas, NV   | 1/22-30/2004 |
| Crime Scene Analyst Academy                            | Las Vegas, NV   | 1/15/2004    |
| Testifying in Court                                    | Las Vegas, NV   | 12/11/2003   |
| WordPerfect 8 - Basic                                  | Las Vegas, NV   | 12/9/2003    |
| Understanding Death & Grief Issues                     | Las Vegas, NV   | 12/8/2003    |
| L.E. Response to Alzheimer Victims, Abuse/Neglect      | Las Vegas, NV   | 12/4/2003    |
| Driver Training  | Las Vegas, NV   | 12/1/2003    |
|  |                 |              |
|  |                 |              |
|  |                 |              |

**COURTROOM EXPERIENCE**

| <i>Court</i>                              | <i>Discipline</i>          | <i>Number of Times</i> |
|---|----------------------------|------------------------|
| District Court, Justice Court, Grand Jury | Crime Scene Investigations | Approx. 20             |
| Federal Court                             | Crime Scene Investigations | 1                      |

**EMPLOYMENT HISTORY**

| <i>Employer</i>                          | <i>Job Title</i>                    | <i>Date</i>       |
|--|-------------------------------------|-------------------|
| Las Vegas Metropolitan Police Department | Forensic Scientist I                | 10/2010 - Present |
| Las Vegas Metropolitan Police Department | Forensic Scientist Trainee          | 10/2009 - Present |
| Las Vegas Metropolitan Police Department | Crime Scene Analyst (I, II, Senior) | 11/2003 - 10/2009 |
| Stratford Police Department              | Police Officer                      | 1/2002 - 11/2003  |

**PROFESSIONAL AFFILIATIONS**

| <i>Organization</i>   | <i>Date(s)</i>       |
|---|----------------------|
| Provisional Member of Association of Firearms and Toolmark Examiners (AFTE) | July, 2011 - Present |
| Member of International Association for Identification                      | Current              |

**PROFESSIONAL AFFILIATIONS***Organization**Date(s)***PUBLICATIONS / PRESENTATIONS:**

## Poster Presentations:

"Evaluation of the Forensics Source Short Length Ballistic Fiber Filled Bullet Catcher,"

"Remington HD Ultimate Home Defense 12 Gauge Shot Shell Ammunition,"

"Sub-Caliber Shenanigans," and "Proof of Concept (Preliminary) Results on a Method to Cross Check Chronograph Velocities Using Hi-Speed Video Camera," Association of Firearm and Tool Mark Examiners Annual Training Seminar, May 2010, Henderson, NV

*Curriculum Vitae*  
**Las Vegas Criminalistics Bureau**  
**Statement of Qualifications**

Name: Louise Renhard

P# 5223

Date: 11-24-03

DOH: 07-29-96

| <b>CURRENT CLASSIFICATION</b> |                                |   |
|-------------------------------|--------------------------------|---|
|                               | <i>Classification</i>          | <i>Minimum Qualifications</i>   |
|                               | Crime Scene Analyst I          | AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene Investigation.   |
|                               | Crime Scene Analyst II         | 18 months - 2 years continuous service with LVMPD as a Crime Scene Analyst I.   |
| X                             | Senior Crime Scene Analyst     | Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.   |
|                               | Crime Scene Analyst Supervisor | Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field. |

| <b>FORMAL EDUCATION</b> |                       |                    |
|-------------------------|-----------------------|--------------------|
| <i>Institution</i>      | <i>Major</i>          | <i>Degree/Date</i> |
| University of Alaska    | Police Administration | AA degree/1976     |

| <b>TESTIMONY</b> |    |  |
|------------------|----|--|
| Yes              | No |  |
|                  |    |  |

| <b>EMPLOYMENT HISTORY</b> |                         |             |
|---------------------------|-------------------------|-------------|
| <i>Employer</i>           | <i>Title</i>            | <i>Date</i> |
| LVMPD                     | Sr. Crime Scene Analyst | 7-29-96     |

Education

| DATE              | CLASS TITLE                 | AGENCY      | CREDIT HOURS           |
|-------------------|-----------------------------|-------------|------------------------|
| 12-1977           | Police Administration       | U of Alaska | Associates Degree 1976 |
| 07-29 to 08-16-96 | Crime Scene Analyst Academy | LVMPD       | 105                    |
|                   |                             |             |                        |

Renhard Louise  
Curriculum Vitae  
LVMPD

- 1 -

|                             |   |   |         |
|-----------------------------|---|---|---------|
| 08-16-96                    | CAPSTUN for Civilians   | LVMPD   | 1.5     |
| 09-18,19<br>&<br>09-26-96   | Civilian Firearm/Use of Force   | LVMPD   | 21      |
| 09-20-96                    | NCIC - Phase II - Limited Access  | LVMPD   | 4       |
| 09-27-96                    | DT Weaponless Defense/Handcuff  | LVMPD   | 3       |
| 09-27-96                    | Combat Shooting Simulator/FATS  | LVMPD   | 1       |
| 09-30-96                    | Duty Weapon Qualification   | LVMPD   | 2       |
| 10-24-96                    | Driver Training - Level 2   | LVMPD   | 8       |
| 11-27-96                    | Ultraviolet (UV) Light Orientation and Safety Presentation                      | LVMPD   | 1       |
| 02-25-97<br>to 02-27-<br>97 | Top Gun Training  | LVMPD   | 21      |
| 02-27-97                    | Moot Court - Video  | LVMPD   | 2       |
| 03-05-97                    | Basic Windows 3.1   | LVMPD   | 4       |
| 03-30-97                    | Duty Weapon Qualification   | LVMPD   | 2       |
| 04-07-97                    | Forensic Science  | American Institute of Applied Science (AIAS)  | 260     |
| 06-13-97                    | NCIC - Phase I - Video  | LVMPD   | 20 Min. |
| 07-02-97                    | Duty Weapon Qualification   | LVMPD   | 2       |
| 09-08 to<br>09-12-97        | Crime Scene Technology Workshop 2   | Northwestern University,<br>Traffic Institute | 40      |
| 09-30-97                    | Duty Weapon Qualification   | LVMPD   | 2       |
| 10-02-97                    | Critical Procedures Test  | LVMPD   | 2       |
| 11-03 to<br>11-07-97        | Courtroom Presentation of Evidence: Effective Expert Witness Testimony Workshop | CAT/NWAFS/SWAFS/S<br>AT Joint Meeting         | 7       |
| 12-15 to<br>12-19-97        | Advanced On-Scene Accident Investigation  | LVMPD   | 40      |
| 12-31-97                    | Duty Weapon Qualification   | LVMPD   | 2       |
| 01-09-98                    | Combat Shooting Simulator/FATS  | LVMPD   | 1       |
|                             |   |   |         |

Renhard Louise  
Curriculum Vitae  
LVMPD

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**PLEADING  
CONTINUES  
IN NEXT  
VOLUME**