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## Counsel for Respondent

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IN THE SUPREME COURT OF THE STATE OF NEVADA

VERNON NEWSON, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

Supreme Court No. 75932  
District Court Case No. C313919

**FILED**

**MAY 27 2020**

*Elizabeth A. Brown*  
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"Affirmed in part, reversed in part, and remanded."

Judgment, as quoted above, entered this 10th day of October, 2020.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"Appellant's and Respondent's rehearing denied."

Judgment, as quoted above, entered this 20th day of November, 2020.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"Petition granted; affirmed in part, reversed in part, and remanded."

Judgment, as quoted above, entered this 30th day of April, 2020.

C-16-313919-1  
CCJAR  
NV Supreme Court Clerks Certificate/Judgm  
4914715



IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
May 26, 2020.

Elizabeth A. Brown, Supreme Court Clerk

By: Monique Mercier  
Administrative Assistant



**135 Nev., Advance Opinion 50**  
**IN THE SUPREME COURT OF THE STATE OF NEVADA**

VERNON NEWSON, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 75932

**FILED**

OCT 10 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
CHIEF DEPUTY CLERK

Appeal from a judgment of conviction, pursuant to a jury verdict, of first-degree murder with use of a deadly weapon, two counts of child abuse, neglect or endangerment, and ownership or possession of a firearm by a prohibited person. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

*Affirmed in part, reversed in part, and remanded.*

Darin F. Imlay, Public Defender, and William M. Waters, Deputy Public Defender, Clark County,  
for Appellant.

Aaron D. Ford, Attorney General, Carson City; Steven B. Wolfson, District Attorney, and Alexander Chen, Chief Deputy District Attorney, Clark County,  
for Respondent.

BEFORE HARDESTY, STIGLICH and SILVER, JJ.

*OPINION*

By the Court, SILVER, J.:

Vernon Newson and Anshanette McNeil were driving in a rented SUV on a freeway on-ramp when Newson turned and shot Anshanette, who was seated in the backseat next to the couple's infant son and Anshanette's toddler. Newson pulled the vehicle over to the side of the road, and Anshanette either fled or was pulled from the vehicle. Newson shot her additional times before driving off, leaving her behind. Newson drove the children to Anshanette's friend, reportedly telling her that Anshanette had "pushed me too far to where I can't take it no more." Newson fled to California, where he was apprehended. The State charged Newson with open murder. Although Newson did not testify at trial, defense counsel conceded in closing argument that Newson shot Anshanette, arguing Newson did so in a sudden heat of passion and that the killing was not premeditated. The district court declined to instruct the jury on voluntary manslaughter, concluding the evidence did not establish that offense. The jury convicted Newson of first-degree murder, two counts of child abuse, neglect or endangerment, and ownership or possession of a firearm by a prohibited person.

In this appeal, we primarily consider whether the district court abused its discretion by declining to instruct the jury on voluntary manslaughter. We conclude it did, as the circumstantial evidence strongly suggested the killing occurred in a sudden heat of passion upon provocation. We reiterate that district courts must instruct juries on the defendant's theory of the case where there is any evidence, no matter how weak, to support it. We therefore reverse the first-degree murder conviction and

remand for a new trial on that charge. We reject Newson's remaining assertions of error and therefore affirm the judgment of conviction as to the other charges.

I.

Late one night, witnesses driving in Las Vegas on Lamb Boulevard near the I-15 heard rapid gunfire coming from a nearby freeway on-ramp. Looking in the direction of the gunfire, they observed an SUV on the on-ramp and thought they heard more than one car door slam before the SUV sped off. Persons who arrived at the scene shortly thereafter saw a badly injured woman lying on the road. She had been shot seven times: through her cheek and neck, chin and neck, chest, forearm, upper arm, and twice in the back. At least one of the shots—the one that entered through the victim's right cheek, exited her right neck, and reentered her right upper chest—was fired at a close range of six inches to two feet. Three of the shots were independently fatal, and the woman passed away shortly after the shooting. The victim had no shoes, and a cell phone damaged by a gunshot was on the ground a few feet away. Responding officers recovered six spent cartridges from the area, and the pavement showed evidence of fresh dents from bullet strikes. The toxicology report later showed that the victim had methamphetamine and its metabolite amphetamine, and hydrocodone and its metabolites in her system at the time of death.

Meanwhile, Zarharia Marshall was waiting at her residence for Anshanette McNeil to drop off Anshanette's infant son. Zarharia and Anshanette were close friends, and Zarharia often babysat for Anshanette. But Anshanette never arrived. Instead, Vernon Newson, Anshanette's boyfriend of three years and the infant's father, arrived in Anshanette's rental SUV to drop off the infant and, to Zarharia's surprise, Anshanette's two-year-old son.

As Newson exited the vehicle, bullets fell from his lap. Newson was acting frantic, irritated, and nervous. He struggled to extricate the infant's car seat from the SUV and, according to Zarharia, ordered the crying child "to shut up." Newson handed the car seat with the infant inside to Zarharia before retrieving a baby swing and diaper bag from the trunk. Newson went around the SUV to let the two-year-old out. The toddler looked frightened, and when Zarharia asked him whether he was staying with her and whether he was going to cry, the toddler looked at her without answering and then ran into the house. Newson followed Zarharia and the children inside and kissed his infant son before asking to speak with Zarharia. Zarharia followed Newson outside and watched him pick up a bullet from the driveway and place it in a gun magazine. Zarharia also noticed Anshanette's shoes and purse in the back seat of the SUV. Zarharia testified that Newson retrieved the purse from the SUV, handed it to her, and asked her to tell his son that he always loved him. Zarharia asked Newson what had happened, and she testified that he responded, "you know, just know that mother fucker's pushed me too far to where I can't take it no more." Newson drove off.

Zarharia retrieved several of the bullets that had fallen onto her driveway and tried to call Anshanette, who did not answer. Zarharia took the infant out of his car seat to change his diaper and realized he had blood on his pants and that there was blood in the car seat as well. She called Anshanette's mother, who in turn called the police. Based on her description, detectives identified Anshanette as the shooting victim.

Police located and arrested Newson more than a week later in California. Newson's watch had Anshanette's blood on it, and he was carrying bullets of the same caliber and make as those used in the shooting.

Police did not recover the murder weapon but did recover the SUV, which had been abandoned and still contained bloody clothing, a pair of flip-flops, a car seat, spent cartridges, and other items. Anshanette's blood was on the driver's side rear seat, seatbelt, door, and door handle, as well as on the steering wheel. Detectives also recovered six spent cartridges and one unfired round from the SUV, and those cartridges matched the cartridges recovered at the crime scene. The SUV had three bullet holes in the back seat, and there were bullet fragments in the vehicle.

The State charged Newson with murder with use of a deadly weapon, two counts of child abuse, neglect or endangerment, and ownership or possession of a firearm by a prohibited person. At trial, the State's theory of the case was that Newson was driving the SUV when he pulled the vehicle over to the side of the road, turned around, and shot Anshanette, who bled on the infant. Newson then exited the SUV, pulled Anshanette from the vehicle and threw her onto the road, stood over her, and shot her several additional times before climbing back into the SUV and driving off.

Newson did not testify at trial. However, Newson's counsel conceded that the evidence showed Newson shot Anshanette, but argued that the State's evidence fell short of proving first-degree murder. Newson's counsel contended that the circumstantial evidence showed that Newson became angry while driving and shot Anshanette while his passions were inflamed. Newson's counsel further argued the evidence did not show that Newson ever exited the SUV. In support, Newson's counsel pointed to evidence surrounding the shooting and testimony that the couple argued constantly, including while driving. He also pointed to evidence that Anshanette had high levels of methamphetamine in her system at the time

of the shooting, which an expert witness at trial agreed may have caused her to become unreasonable or threatening.

Pertinent here, Newson wished to have the jury instructed on voluntary manslaughter and his counsel proffered instructions to that end. The State argued that the instructions were not warranted because there was no evidence of any particular provocation that incited the killing. Newson's counsel countered that circumstantial evidence justified the instructions and that the State's provocation threshold would force Newson to testify and waive his Fifth Amendment right against self-incrimination. The district court agreed with the State that the evidence did not establish sufficient context to warrant the instructions. The court thereafter instructed the jury only as to first- and second-degree murder.

The jury convicted Newson of first-degree murder with use of a deadly weapon and the remaining charges. The district court sentenced him to an aggregate sentence of life with parole eligibility after 384 months. Newson appeals.

## II.

Newson alleges error only as to the convictions for first-degree murder and child abuse, neglect and endangerment. We first consider whether the district court abused its discretion by refusing to instruct the jury on voluntary manslaughter.<sup>1</sup> We thereafter examine whether the State

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<sup>1</sup>Newson also contends the district court erred by declining to give his proffered instruction on two reasonable interpretations of the evidence and that the district court gave an inaccurate flight instruction. The district court was not required to give the proffered two reasonable interpretations of the evidence instruction because the jury was properly instructed on reasonable doubt. *See, e.g., Bails v. State*, 92 Nev. 95, 96-98, 545 P.2d 1155, 1155-56 (1976). We do not address the flight instruction, as Newson did not raise his appellate arguments below. *See Grey v. State*, 124 Nev. 110, 120,



failed to adequately inform Newson of the child abuse, neglect or endangerment charges or prove the necessary elements of those charges.

A.

Newson first contends the district court erred by refusing to instruct the jury on his defense theory of voluntary manslaughter,<sup>2</sup> where that theory was supported by Newson's statement to Zarharia and by the circumstances of the crime. The State counters that the district court properly refused to instruct the jury on voluntary manslaughter because the evidence did not establish a provocation.

"The district court has broad discretion to settle jury instructions, and this court reviews the district court's decision for an abuse of that discretion or judicial error." *Crawford v. State*, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005). The failure to instruct the jury on a defendant's theory of the case that is supported by the evidence warrants reversal unless the error was harmless. *See Cortinas v. State*, 124 Nev. 1013, 1023-25, 195 P.3d 315, 322-23 (2008) (discussing when instructional error may be reviewed for harmlessness).

Existing case law treats voluntary manslaughter as a lesser-included offense of murder. *Williams v. State*, 99 Nev. 530, 531, 665 P.2d 260, 261 (1983); *see Collins v. State*, 133 Nev. 717, 727 & n.1, 405 P.3d 657,

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178 P.3d 154, 161 (2008) (holding that the defendant must object at trial to the same grounds he or she asserts on appeal); *Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991) (holding that this court need not consider arguments raised on appeal that were not presented to the district court in the first instance), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 103 P.3d 25 (2004).

<sup>2</sup>Because the parties did not brief the issue of whether the proffered voluntary manslaughter instructions were correct statements of law, we do not address it.

666 & n.1 (2017). Voluntary manslaughter involves “a serious and highly provoking injury inflicted upon the person killing, sufficient to excite an irresistible passion in a reasonable person, or an attempt by the person killed to commit a serious personal injury on the person killing.” NRS 200.050(1). Moreover, the killing must result from a sudden, violent, irresistible passion that was “caused by a provocation apparently sufficient to make the passion irresistible.” NRS 200.040(2); *see also* NRS 200.060.

We have frequently addressed the circumstances in which a trial judge should give voluntary manslaughter instructions at the request of a defendant charged with murder. *See, e.g., Collins*, 133 Nev. at 727-28, 405 P.3d at 666-67; *Williams*, 99 Nev. at 531, 665 P.2d at 261. In the seminal case of *Williams v. State*, the defendant claimed the killing happened in a heat of passion after he and the victim engaged in a fistfight and the victim threw the defendant to the floor, but the trial court refused to give the defendant’s proffered voluntary manslaughter instruction. 99 Nev. at 531-32, 665 P.2d at 261-62. In concluding that the district court erred, we reiterated that a criminal defendant “is entitled, upon request, to a jury instruction on his or her theory of the case, so long as there is some evidence, no matter how weak or incredible, to support it.” *Id.* at 531, 665 P.2d at 261. Applying that rule, we explained that the defendant’s theory of the altercation that led to the killing could support a voluntary manslaughter conviction because the victim’s actions during the fight could be viewed as an attempt to seriously injure the defendant, providing sufficient provocation under NRS 200.050. *Id.* at 532, 665 P.2d at 261-62.

Conversely, in *Collins v. State*, we upheld the district court’s decision not to give a voluntary manslaughter instruction where *no* evidence supported that charge. 133 Nev. at 728-29, 405 P.3d at 666. In

that case, circumstantial evidence linked the defendant to the killing, including the defendant's and the victim's prior history and cell phone records on the day the victim disappeared, the defendant's possession of the victim's jewelry, the victim's blood and acrylic nail in the defendant's home, and the victim's blood in the trunk of an abandoned car. *Id.* at 718-19, 405 P.3d at 660-61. The defendant requested a voluntary manslaughter instruction based upon his remark to a third party that the defendant thought he should delete text messages between himself and the victim for fear that the police might use those messages to link him to the victim's disappearance. *Id.* at 728, 405 P.3d at 667. We concluded that "[t]he cryptic reference to a text-message exchange" in no way "suggest[ed] the irresistible heat of passion or extreme provocation required for voluntary manslaughter," warning that to give a lesser-included offense instruction where no facts supported the lesser offense could lead a jury to return a compromise verdict unsupported by the evidence. *Id.*

Here, it is undisputed that Newson killed Anshanette. The sole question is whether the evidence warranted a voluntary manslaughter instruction where there was no direct evidence of the events immediately preceding the killing and the defendant chose to invoke his constitutional Fifth Amendment right to remain silent. In declining to instruct the jury on voluntary manslaughter, the district court specifically concluded that Newson's statement, according to Zarharia—that Anshanette had "pushed [him] too far to where [he] can't take it no more"—demonstrated neither a sudden passion nor sufficient provocation for voluntary manslaughter because the statement lacked context as to when Newson was "pushed . . . too far." We disagree that this statement lacked adequate

context under these circumstances and further disagree that the evidence taken as a whole does not support a voluntary manslaughter charge.

The State was not prohibited from arguing circumstantial evidence as a whole showed first-degree murder. Yet, Newson's counsel was prohibited from arguing Newson's theory regarding what crime the evidence showed. The record here shows abundant circumstantial evidence suggesting the killing was not planned and instead occurred in a sudden heat of passion. The circumstances of the killing itself suggest a sudden heat of passion. The shooting occurred in a rented SUV on a freeway on-ramp in a busy location, and witnesses heard rapid gunfire and at least one car door slam. Because Newson was in the driver's seat when he began shooting, he would have had to point the gun directly behind him—quite possibly while still driving the SUV—in order to fire those first few shots at Anshanette. Moreover, two young children were present in the car, and the one next to Anshanette was Newson's own baby. Either child could have easily been hit by a stray bullet or casing, to say nothing of the danger presented by two adults fighting in a moving vehicle. Meanwhile, Anshanette's friend, Zarharia, was expecting Anshanette to arrive at any moment to drop off the infant and would be sure to miss Anshanette when she did not arrive with Newson. All told, it is difficult to imagine a more unlikely setting for a deliberate, planned killing.

Newson's behavior and demeanor immediately after the killing further suggest that it may have happened in the heat of passion. Notably, Zarharia testified that Newson was very agitated when he arrived at her residence to drop off the children. Bullets fell from his lap as he stepped out of the SUV. Anshanette's purse and shoes were still in the back seat, and yet Newson made no attempt to hide these from Zarharia, and in fact

handed Zarharia Anshanette's purse. He also handed Zarharia the blood-stained baby carrier and proceeded to retrieve and load a bullet into the gun magazine while Zarharia looked on. He also openly blamed Anshanette for whatever had happened. These circumstantial facts suggest that Newson was still overwrought when he reached Zarharia's and that he was not taking any measures to conceal the evidence of the killing, such that a juror could infer that Newson had reacted in the heat of the moment when he killed Anshanette and had not planned to kill her.

Circumstantial evidence also suggests sufficient provocation. According to Zarharia, when she asked Newson what had happened, he responded that Anshanette had "pushed [him] too far to where [he] can't take it no more." This statement, viewed in light of the other evidence, supports an inference that Anshanette may have provoked Newson while they were driving to Zarharia's. The testimony that the couple fought frequently while driving, and the evidence that Anshanette was under the influence of methamphetamine that may have caused her to act unreasonably or even threateningly, further suggests the couple may have been fighting when Newson shot Anshanette. The physical evidence could provide some additional support for that view. At least one bullet—the shot that entered through Anshanette's right cheek, exited her right neck, and reentered her right upper chest—was fired at a very close range, possibly as close as six inches, which could suggest that Anshanette had moved out of her seat and had her upper body near Newson when he fired that shot. Newson's demeanor when he arrived at Zarharia's suggests that he had recently been enraged. Finally, Newson's statement came in response to Zarharia's question of "what happened," which implies Newson meant he

was “pushed . . . too far” and simultaneously could not “take [Anshanette’s pushing] no more” while driving to Zarharia’s.

While this evidence is all circumstantial, likewise, so is the State’s theory of how the killing occurred. We remind district courts “that a defendant is entitled to a jury instruction on his theory of the case, so long as there is evidence to support it, *regardless of whether the evidence is weak, inconsistent, believable, or incredible.*” *Hoagland v. State*, 126 Nev. 381, 386, 240 P.3d 1043, 1047 (2010) (emphasis added). We conclude that the evidence could support a voluntary manslaughter verdict and the district court was therefore required to instruct the jury on voluntary manslaughter. Moreover, the State’s case for first-degree murder was not strong, and we therefore are not convinced that the failure to instruct the jury on Newson’s theory of the case was harmless beyond a reasonable doubt. Accordingly, we reverse the judgment of conviction on first-degree murder and remand for a new trial on the murder charge. In light of our decision, we need not address Newson’s remaining assertions of error as to that charge.

B.

Newson next contends the State violated his Sixth Amendment rights by failing to inform him of the specific child abuse or neglect charges against him and failed to prove abuse or neglect at trial. Newson did not raise the first argument below, so we need not address it.<sup>3</sup> *See Davis v.*

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<sup>3</sup>The record belies Newson’s first argument. The complaint and information charged Newson with child abuse, neglect or endangerment under NRS 200.508(1) by placing each of the two children “in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect” by shooting their mother, Anshanette, in close proximity to them.

*State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991) (holding that this court need not consider arguments raised on appeal that were not presented to the district court in the first instance), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 103 P.3d 25 (2004). We therefore only consider whether the evidence supported the jury's verdict finding Newson guilty of two counts of child abuse, neglect or endangerment.

Evidence is sufficient to support a verdict if "*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Higgs v. State*, 126 Nev. 1, 11, 222 P.3d 648, 654 (2010) (internal quotations omitted). Under NRS 200.508(1), (4)(a), and (4)(d), the State could satisfy its burden of proof by showing that Newson placed the children in a situation where they may have suffered a physical injury. See *Clay v. Eighth Judicial Dist. Court*, 129 Nev. 445, 451-52, 305 P.3d 898, 902-03 (2013) (explaining that the State may prove its case by demonstrating the defendant caused the child "to be placed in a situation where the child may suffer physical pain or mental suffering"). Based on the evidence presented, a rational juror could reasonably conclude that Newson exposed the children to physical danger by discharging a firearm several times in a vehicle with the children present and, in the infant's case, seated immediately adjacent to the victim. Accordingly, the evidence overwhelmingly supports this verdict.<sup>4</sup>

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<sup>4</sup>We disagree with Newson's argument that cumulative error warrants reversal. See *United States v. Sager*, 227 F.3d 1138, 1149 (9th Cir. 2000) ("One error is not cumulative error."); see also *Valdez v. State*, 124 Nev. 1172, 1195, 196 P.3d 465, 481 (2008) (addressing the test for cumulative error).

III.

A district court must instruct the jury on voluntary manslaughter when requested by the defense so long as it is supported by some evidence, even if that evidence is circumstantial. We conclude the district court erred by declining to instruct the jury on voluntary manslaughter here, where Newson's statement to the victim's friend, viewed in light of the other evidence adduced at trial, suggests the shooting occurred in a heat of passion after Newson was provoked, and the error was not harmless. We therefore reverse the judgment of conviction as to the murder charge, affirm the judgment of conviction as to the remaining charges, and remand for a new trial on the murder charge.

*Silver* J.  
Silver

We concur:

*Hardesty* J.  
Hardesty

*Stiglich* J.  
Stiglich



IN THE SUPREME COURT OF THE STATE OF NEVADA

VERNON NEWSON, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 75932

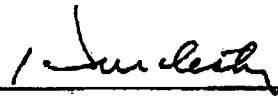
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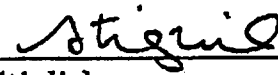
NOV 20 2019


ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

**ORDER DENYING REHEARING**

Appellant's and respondent's rehearing denied. NRAP 40(c).  
It is so ORDERED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Stiglich

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Douglas W. Herndon, District Judge  
Clark County Public Defender  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

136 Nev., Advance Opinion 22  
IN THE SUPREME COURT OF THE STATE OF NEVADA

VERNON NEWSON, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 75932

**FILED**

APR 30 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY: *[Signature]*  
CHIEF DEPUTY CLERK

Petition for en banc reconsideration of a panel opinion in an appeal from a judgment of conviction, pursuant to a jury verdict, of first-degree murder with use of a deadly weapon, two counts of child abuse, neglect or endangerment, and ownership or possession of a firearm by a prohibited person. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

*Petition granted; affirmed in part, reversed in part, and remanded.*

Darin F. Imlay, Public Defender, and William M. Waters, Chief Deputy Public Defender, Clark County,  
for Appellant.

Aaron D. Ford, Attorney General, Carson City; Steven B. Wolfson, District Attorney, and Alexander G. Chen, Chief Deputy District Attorney, Clark County,  
for Respondent.

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BEFORE THE COURT EN BANC.

## OPINION

By the Court, SILVER, J.:

Vernon Newson and Anshanette McNeil were driving in a rented SUV on a freeway on-ramp when Newson turned and shot Anshanette, who was seated in the backseat next to the couple's infant son and Anshanette's toddler. Newson pulled the vehicle over to the side of the road and Anshanette either fled or was pulled from the vehicle. Newson shot her additional times before driving off, leaving her behind. Newson drove the children to Anshanette's friend, reportedly telling her that Anshanette had "pushed me too far to where I can't take it no more." Newson fled to California, where he was apprehended. The State charged Newson with open murder. Although Newson did not testify at trial, defense counsel conceded in closing argument that Newson shot Anshanette, arguing Newson did so in a sudden heat of passion and that the killing was not premeditated. The district court declined to instruct the jury on voluntary manslaughter, concluding the evidence did not establish that offense. The jury convicted Newson of first-degree murder, two counts of child abuse, neglect or endangerment, and ownership or possession of a firearm by a prohibited person.

The primary issues raised on appeal are whether the district court abused its discretion by declining to instruct the jury on voluntary manslaughter and whether sufficient evidence existed to uphold Newson's two child abuse, neglect or endangerment convictions. On October 10, 2019, a panel of this court issued an opinion in this case, reversing the first-degree murder conviction because the district court erred by failing to instruct the jury on voluntary manslaughter but affirming the remaining convictions.

Newson petitioned for en banc reconsideration.<sup>1</sup> Having considered the petition, we conclude that en banc reconsideration is warranted to clarify the decision regarding the child abuse, neglect or endangerment convictions. See NRAP 40A(a). We therefore grant Newson's petition, withdraw the panel's opinion, and issue this opinion in place of the panel's withdrawn opinion.

We conclude the district court abused its discretion by declining to instruct the jury on voluntary manslaughter, as the circumstantial evidence suggested the killing occurred in a sudden heat of passion upon provocation. We reiterate that district courts must instruct juries on the defendant's theory of the case where there is any evidence, no matter how weak, to support it. We therefore reverse the first-degree murder conviction and remand for a new trial on that charge. We reject Newson's remaining assertions of error and therefore affirm the judgment of conviction as to the other charges.

#### I.

Late one night, witnesses driving in Las Vegas on Lamb Boulevard near the I-15 heard rapid gunfire coming from a nearby freeway on-ramp. Looking in the direction of the gunfire, they observed an SUV on the on-ramp and thought they heard more than one car door slam before the SUV sped off. Persons who arrived at the scene shortly thereafter saw a badly injured woman lying on the road. She had been shot seven times: through her cheek and neck, chin and neck, chest, forearm, upper arm, and twice in the back. At least one of the shots—the one that entered through

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<sup>1</sup>We previously denied the State's petition for en banc reconsideration.

the victim's right cheek, exited her right neck and reentered her right upper chest—was fired at a close range of six inches to two feet. Three of the shots were independently fatal, and the woman passed away shortly after the shooting. The victim had no shoes, and a cell phone damaged by a gunshot was on the ground a few feet away. Responding officers recovered six spent cartridges from the area, and the pavement showed evidence of fresh dents from bullet strikes. The toxicology report later showed that the victim had methamphetamine and its metabolite, and hydrocodone and its metabolite, in her system at the time of death.

Meanwhile, Zarharia Marshall was waiting at her residence for Anshanette McNeil to drop off Anshanette's infant son. Zarharia and Anshanette were close friends, and Zarharia often babysat for Anshanette. But Anshanette never arrived. Instead, Vernon Newson, Anshanette's boyfriend of three years and the infant's father, arrived in Anshanette's rental SUV to drop off the infant and, to Zarharia's surprise, Anshanette's two-year-old son.

As Newson exited the vehicle, bullets fell from his lap. Newson was acting frantic, irritated, and nervous. He struggled to extricate the infant's car seat from the SUV and, according to Zarharia, ordered the crying child "to shut up." Newson handed the car seat with the infant inside to Zarharia before retrieving a baby swing and diaper bag from the trunk. Newson went around the SUV to let the two-year-old out. The toddler looked frightened, and when Zarharia asked him whether he was staying with her and whether he was going to cry, the toddler looked at her without answering and then ran into the house. Newson followed Zarharia and the children inside and kissed his infant son before asking to speak with

Zarharia. Zarharia followed Newson outside and watched him pick up a bullet from the driveway and place it in a gun magazine. Zarharia also noticed Anshanette's shoes and purse in the back seat of the SUV. Zarharia testified that Newson retrieved the purse from the SUV, handed it to her, and asked her to tell his son that he always loved him. Zarharia asked Newson what had happened, and she testified that he responded, "you know, just know that mother fucker's pushed me too far to where I can't take it no more." Newson drove off.

Zarharia retrieved several of the bullets that had fallen onto her driveway and tried to call Anshanette, who did not answer. Zarharia took the infant out of his car seat to change his diaper and realized he had blood on his pants and that there was blood in the car seat as well. She called Anshanette's mother, who in turn called the police. Based on her description, detectives were able to identify Anshanette as the shooting victim.

Police located and arrested Newson more than a week later in California. Newson's watch had Anshanette's blood on it, and he was carrying bullets of the same caliber and make as those used in the shooting. Police did not recover the murder weapon but did recover the SUV, which had been abandoned and still contained bloody clothing, a pair of flip-flops, a car seat, spent cartridges, and other items. Anshanette's blood was on the driver's side rear seat, seatbelt, door, and door handle, as well as on the steering wheel. Detectives also recovered six spent cartridges and one unfired round from the SUV, and those cartridges matched the cartridges recovered at the crime scene. The SUV had three bullet holes in the back seat, and there were bullet fragments in the vehicle.

The State charged Newson with murder with use of a deadly weapon, two counts of child abuse, neglect or endangerment, and ownership or possession of a firearm by a prohibited person. At trial, the State's theory of the case was that Newson was driving the SUV when he pulled the vehicle over to the side of the road, turned around, and shot Anshanette, who bled on the infant. Newson then exited the SUV, pulled Anshanette from the vehicle and threw her onto the road, stood over her, and shot her several additional times before climbing back into the SUV and driving off.

Newson did not testify at trial. However, Newson's counsel conceded that the evidence showed Newson shot Anshanette, but argued that the State's evidence fell short of proving first-degree murder. Newson's counsel contended that the circumstantial evidence showed that Newson became angry while driving and shot Anshanette while his passions were inflamed. In support, Newson's counsel pointed to evidence surrounding the shooting and testimony that the couple argued constantly, including while driving. He also pointed to evidence that Anshanette had high levels of methamphetamine in her system at the time of the shooting, which an expert witness at trial agreed may have caused her to become irrational or aggressive. Newson's counsel further argued the physical evidence did not show that Newson ever exited the SUV.

Pertinent here, Newson wished to have the jury instructed on voluntary manslaughter, and his counsel proffered instructions to that end. The State argued that the instructions were not warranted because there was no evidence of any particular provocation that incited the killing. Newson's counsel countered that circumstantial evidence justified the instructions and that the State's provocation threshold would force Newson

to testify and waive his Fifth Amendment right against self-incrimination. The district court agreed with the State that the evidence did not establish sufficient context to warrant the instructions. The court thereafter instructed the jury only as to first- and second-degree murder.

The jury convicted Newson of first-degree murder with use of a deadly weapon and the remaining charges. The district court sentenced him to an aggregate sentence of life with parole eligibility after 384 months. Newson appeals.

## II.

Newson alleges error only as to the convictions for first-degree murder and child abuse, neglect and endangerment. We first consider whether the district court abused its discretion by refusing to instruct the jury on voluntary manslaughter.<sup>2</sup> We thereafter examine whether the State failed to adequately inform Newson of the child abuse, neglect or endangerment charges or prove the necessary elements of those charges.

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<sup>2</sup>Newson also contends the district court erred by declining to give his proffered instruction on two reasonable interpretations of the evidence and that the district court gave an inaccurate flight instruction. The district court was not required to give the proffered two reasonable interpretations of the evidence instruction because the jury was properly instructed on reasonable doubt. *See, e.g., Bails v. State*, 92 Nev. 95, 96-98, 545 P.2d 1155, 1155-56 (1976). We do not address the flight instruction, as Newson did not raise his appellate arguments below. *See Grey v. State*, 124 Nev. 110, 120, 178 P.3d 154, 161 (2008) (holding that the defendant must object at trial to the same grounds he or she asserts on appeal); *Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991) (holding that this court need not consider arguments raised on appeal that were not presented to the district court in the first instance), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 103 P.3d 25 (2004).



A.

Newson first contends the district court erred by refusing to instruct the jury on his defense theory of voluntary manslaughter,<sup>3</sup> where that theory was supported by Zarharia's testimony regarding Newson's apparent distress and statements made shortly after the crime, as well as by the physical evidence. The State counters that the district court properly refused to instruct the jury on voluntary manslaughter because the evidence did not establish a provocation.

"The district court has broad discretion to settle jury instructions, and this court reviews the district court's decision for an abuse of that discretion or judicial error." *Crawford v. State*, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005). The failure to instruct the jury on a defendant's theory of the case that is supported by the evidence warrants reversal unless the error was harmless. *See Cortinas v. State*, 124 Nev. 1013, 1023-25, 195 P.3d 315, 322-23 (2008) (discussing when instructional error may be reviewed for harmlessness).

Existing caselaw treats voluntary manslaughter as a lesser-included offense of murder. *Williams v. State*, 99 Nev. 530, 531, 665 P.2d 260, 261 (1983); *see also Collins v. State*, 133 Nev. 717, 727 & n.1, 405 P.3d 657, 666 & n.1 (2017). Voluntary manslaughter involves "a serious and highly provoking injury inflicted upon the person killing, sufficient to excite an irresistible passion in a reasonable person, or an attempt by the person killed to commit a serious personal injury on the person killing." NRS

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<sup>3</sup>Because the parties did not brief the issue of whether the proffered voluntary manslaughter instructions were correct statements of law, we do not address it.

200.050(1). Moreover, the killing must result from a sudden, violent, irresistible passion that was "caused by a provocation apparently sufficient to make the passion irresistible." NRS 200.040(2); *see also* NRS 200.060.

We have frequently addressed the circumstances in which a trial judge should give voluntary manslaughter instructions at the request of a defendant charged with murder. *See, e.g., Collins*, 133 Nev. at 727-28, 405 P.3d at 666-67; *Williams*, 99 Nev. at 531, 665 P.2d at 261. In the seminal case of *Williams v. State*, the defendant claimed the killing happened in the heat of passion after he and the victim engaged in a fistfight and the victim threw the defendant to the floor, but the trial court refused to give the defendant's proffered voluntary manslaughter instruction. 99 Nev. at 531-32, 665 P.2d at 261-62. In concluding that the district court erred, we reiterated that a criminal defendant "is entitled, upon request, to a jury instruction on his or her theory of the case, so long as there is some evidence, no matter how weak or incredible, to support it." *Id.* at 531, 665 P.2d at 261. Applying that rule, we explained that the defendant's theory of the altercation that led to the killing could support a voluntary manslaughter conviction because the victim's actions during the fight could be viewed as an attempt to seriously injure the defendant, providing sufficient provocation under NRS 200.050. *Id.* at 532, 665 P.2d at 261-62.

Conversely, in *Collins v. State*, we upheld the district court's decision not to give a voluntary manslaughter instruction where *no* evidence supported that charge. 133 Nev. at 728-29, 405 P.3d at 666. In that case, circumstantial evidence linked the defendant to the killing, including the defendant's and the victim's prior history, cell phone records

on the day the victim disappeared, the defendant's possession of the victim's jewelry, the victim's blood and acrylic nail in the defendant's home, and the victim's blood in the trunk of an abandoned car. *Id.* at 718-19, 405 P.3d at 660-61. The defendant requested a voluntary manslaughter instruction based upon his remark to a third party that the defendant thought he should delete text messages between himself and the victim for fear that the police might use those messages to link him to the victim's disappearance. *Id.* at 728, 405 P.3d at 667. We concluded that "[t]he cryptic reference to a text-message exchange" in no way "suggest[ed] the irresistible heat of passion or extreme provocation required for voluntary manslaughter," warning that to give a lesser-included offense instruction where no facts supported the lesser offense could lead a jury to return a compromise verdict unsupported by the evidence. *Id.*

Here, it is undisputed that Newson killed Anshanette. The sole question is whether the evidence warranted a voluntary manslaughter instruction where there was no direct evidence of the events immediately preceding the killing and the defendant chose to invoke his constitutional Fifth Amendment right to remain silent. In declining to instruct the jury on voluntary manslaughter, the district court specifically concluded that Newson's statement, according to Zarharia—that Anshanette had "pushed [him] too far to where [he] can't take it no more"—demonstrated neither a sudden passion nor sufficient provocation for voluntary manslaughter because the statement lacked context as to when Newson was "pushed . . . too far." We disagree that this statement lacked adequate context under these circumstances and further disagree that the evidence taken as a whole does not support a voluntary manslaughter charge.

The State was not prohibited from arguing circumstantial evidence as a whole showed first-degree murder. Yet, Newson's counsel was prohibited from arguing Newson's theory regarding what crime the evidence showed. The record here shows abundant circumstantial evidence suggesting the killing was not planned and instead occurred in a sudden heat of passion. The circumstances of the killing itself suggest a sudden heat of passion. The shooting occurred in a rented SUV on a freeway on-ramp in a busy location, and witnesses heard rapid gunfire and at least one car door slam. Because Newson was in the driver's seat when he began shooting, he would have had to point the gun directly behind him—quite possibly while still driving the SUV—in order to fire those first few shots at Anshanette. Moreover, two young children were present in the car, and the one next to Anshanette was Newson's own baby. Either child could have easily been hit by a stray bullet or casing, to say nothing of the danger presented by two adults fighting in a moving vehicle. Meanwhile, Anshanette's friend, Zarharia, was expecting Anshanette to arrive at any moment to drop off the infant and would be sure to miss Anshanette when she did not arrive with Newson. All told, it is difficult to imagine a more unlikely setting for a deliberate, planned killing.

Newson's behavior and demeanor immediately after the killing further suggest that it may have happened in the heat of passion. Notably, Zarharia testified that Newson was very agitated when he arrived at her residence to drop off the children. Bullets fell from his lap as he stepped out of the SUV. Anshanette's purse and shoes were still in the back seat, and yet Newson made no attempt to hide these from Zarharia, and in fact handed Zarharia Anshanette's purse. He also handed Zarharia the blood-

stained baby carrier, and proceeded to retrieve and load a bullet into the gun magazine while Zarharia looked on. He also openly blamed Anshanette for whatever had happened. These facts support the inference that Newson was still overwrought when he reached Zarharia's and that he was not taking any measures to conceal the evidence of the killing, such that a juror could infer that Newson had reacted in the heat of the moment when he killed Anshanette and had not planned to kill her.

Circumstantial evidence also suggests sufficient provocation. According to Zarharia, when she asked Newson what had happened, he responded that Anshanette had "pushed [him] too far to where [he] can't take it no more." This statement, viewed in light of the other evidence, supports an inference that Anshanette may have provoked Newson while they were driving to Zarharia's. The testimony that the couple fought frequently while driving, and the evidence that Anshanette was under the influence of methamphetamine along with the coroner's testimony that these types of illicit drugs can cause a person to become irrational or aggressive, further supports Newson's argument that the couple may have been fighting when Newson shot Anshanette. The physical evidence could provide some additional support for that view. At least one bullet—the shot that entered through Anshanette's right cheek, exited her right neck, and reentered her right upper chest—was fired at a very close range, possibly as close as six inches, which could suggest that Anshanette had moved out of her seat and had her upper body near Newson when he fired that shot. Newson's demeanor when he arrived at Zarharia's suggests that he had recently been enraged. Finally, Newson's statement came in response to Zarharia's question of "what happened," which implies Newson meant he

was “pushed . . . too far” and simultaneously could not “take [Anshanette’s pushing] no more” while driving to Zarharia’s.

While this evidence is all circumstantial, likewise, so is the State’s theory of how the killing occurred. We remind district courts “that a defendant is entitled to a jury instruction on his theory of the case, so long as there is evidence to support it, *regardless of whether the evidence is weak, inconsistent, believable, or incredible.*” *Hoagland v. State*, 126 Nev. 381, 386, 240 P.3d 1043, 1047 (2010) (emphasis added). We conclude that the evidence could support a voluntary manslaughter verdict and the district court was therefore required to instruct the jury on voluntary manslaughter. Moreover, the State’s case for first-degree murder was not strong, and we therefore are not convinced that the failure to instruct the jury on Newson’s theory of the case was harmless beyond a reasonable doubt. Accordingly, we reverse the judgment of conviction on first-degree murder and remand for a new trial on the murder charge. In light of our decision, we need not address Newson’s remaining assertions of error as to that charge.

B.

Newson next contends the State violated his Sixth Amendment rights by failing to inform him of the specific child abuse or neglect charges against him and failed to prove abuse or neglect at trial. Newson did not raise the first argument below, and we decline to address it. *See Davis v. State*, 107 Nev. 600, 606, 817 P.2d 1169, 1173 (1991) (holding that this court need not consider arguments raised on appeal that were not presented to the district court in the first instance), *overruled on other grounds by Means v. State*, 120 Nev. 1001, 103 P.3d 25 (2004). We therefore only consider

whether the evidence supported the jury's verdict finding Newson guilty of two counts of child abuse, neglect or endangerment.

Evidence is sufficient to support a verdict if "*any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.*" *Higgs v. State*, 126 Nev. 1, 11, 222 P.3d 648, 654 (2010) (internal quotations omitted). We conclude sufficient evidence was presented for a rational juror to find Newson guilty under NRS 200.508(1) based on negligent treatment or maltreatment of a child as defined by NRS 432B.140.<sup>4</sup>

NRS 200.508(1) makes it a crime to willfully cause a child "to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect." (Emphasis added.) In *Clay v. Eighth Judicial District Court*, we explained that subsection 1 sets forth two "alternative means of committing the offense." 129 Nev. 445, 451, 305 P.3d 898, 902 (2013). Under the first, the State must "prove that (1) a person willfully caused (2) a child who is less than 18 years of age (3) to suffer unjustifiable physical pain or mental suffering (4) as a result of abuse or neglect." *Id.* at 451-52, 305 P.3d at 902. Alternatively, the State must "prove that (1) a person willfully caused (2) a child who is less than 18 years of age (3) to be placed in a situation where the child may suffer physical pain or mental suffering (4) as the result of abuse or neglect." *Id.* at 452, 305 P.3d at 902-03 (emphasis added).

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<sup>4</sup>In light of our decision, we do not address the remaining types of abuse or neglect outlined in NRS 200.508(4)(a).

Under either alternative, the fourth element is “abuse or neglect.” NRS 200.508(4)(a) defines “abuse or neglect,” in relevant part, as “maltreatment of a child under the age of 18 years, as set forth in . . . [NRS] 432B.140[,] . . . under circumstances which indicate that the child’s health or welfare is harmed or threatened with harm.” In turn, NRS 432B.140, in relevant part, provides that “[n]egligent treatment or maltreatment” occurs where “a child has been subjected to harmful behavior that is terrorizing, degrading, painful or emotionally traumatic.”<sup>5</sup>

Here, the State charged Newson with two counts of child abuse, neglect or endangerment under NRS 200.508(1) for putting Anshanette’s two children “in a situation where the child *may suffer* physical pain or mental suffering as a result of abuse or neglect, by shooting at or into the body of ANSHANETTE MCNEIL, . . . while [each child] was seated next to and in close proximity to ANSHANETTE.” (Emphasis added.) The “may suffer” language communicated that the State was proceeding under the second theory of liability set forth in NRS 200.508(1). And the jury was instructed that negligent treatment or maltreatment was a type of “abuse or neglect” at issue.

The jury could reasonably infer from the evidence presented that Newson placed the children in a situation where they might suffer physical pain or mental suffering as the result of negligent treatment or maltreatment. *Clay*, 129 Nev. at 454, 305 P.3d at 904 (explaining that liability can attach under NRS 200.508(1) even in the absence of physical

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<sup>5</sup>This language was added to NRS 432B.140 in 2015, after *Clay* was decided, and it took effect before Newson committed the charged offenses. 2015 Nev. Stat., ch. 399, §§ 26, 27(3), at 2245.



pain or mental suffering "if the defendant placed the child in a situation where the child *may* suffer physical pain or mental suffering as the result of the negligent treatment or maltreatment"). In particular, by shooting Anshanette in a moving car while she was seated next to the two children, Newson subjected the children to "harmful behavior" that was "terrorizing" or "emotionally traumatic" and therefore amounted to negligent treatment or maltreatment. NRS 432B.140. And the circumstances surrounding that negligent treatment or maltreatment placed the children in danger of physical harm for purposes of the second theory in NRS 200.508(1) and the definition of "abuse or neglect" in NRS 200.508(4)(a). Unlike NRS 200.508(2), which this court also addressed in *Clay*, see 129 Nev. at 452-53, 305 P.3d at 903, NRS 200.508(1) imposes no requirement that Newson be responsible for the children, nor does NRS 432B.140 impose a responsibility requirement for the form of negligent treatment or maltreatment at issue here.<sup>6</sup>

Even assuming, arguendo, that NRS 432B.140 requires that the defendant have been responsible for the child's welfare regardless of the form of negligent treatment or maltreatment at issue, the jury could reasonably infer that Newson was responsible for both children's welfare at the time of the shooting. Specifically, the evidence established that Newson was the baby's father; that Newson, although not the older child's father, had been in a long-term dating relationship with Anshanette, the child's

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<sup>6</sup>The structure of NRS 432B.140 ties the responsibility requirement to the last type of neglect or maltreatment listed in that statute—when the child "lacks the subsistence, education, shelter, medical care or other care necessary for the well-being of the child."

mother; and that Newson was driving the car with the children inside at the time he shot into the backseat. See NRS 432B.130 (addressing the meaning of the phrase “[p]ersons responsible for child’s welfare”); *Clay*, 129 Nev. at 454, 305 P.3d at 904 (providing an example of liability under the second theory in NRS 200.508(1) based on negligent treatment or maltreatment as defined in NRS 432B.140 where an intoxicated driver places a child in the car and drives without getting into an accident). Accordingly, a rational juror could find Newson guilty beyond a reasonable doubt of two counts of child abuse, neglect or endangerment in violation of NRS 200.508(1).<sup>7</sup>

### III.

A district court must instruct the jury on voluntary manslaughter when requested by the defense so long as it is supported by some evidence, even if that evidence is circumstantial. We conclude that some evidence in this case suggests the shooting occurred in the heat of passion, including the physical evidence, the circumstances surrounding the shooting, the evidence regarding the couple’s relationship and the victim’s drug use, and the evidence regarding Newson’s demeanor and emotional state. The district court therefore erred by declining to instruct the jury on voluntary manslaughter. Because we are not convinced that the error was harmless considering all of the evidence presented, we reverse the

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<sup>7</sup>We disagree with Newson’s argument that cumulative error warrants reversal. See *United States v. Sager*, 227 F.3d 1138, 1149 (9th Cir. 2000) (“One error is not cumulative error.”); see also *Valdez v. State*, 124 Nev. 1172, 1195, 196 P.3d 465, 481 (2008) (addressing the test for cumulative error).

judgment of conviction as to the murder charge and remand for a new trial on that charge. But, we conclude that sufficient evidence supports the remaining convictions and that none of the other claims of error warrant relief. We therefore affirm the judgment of conviction as to the remaining charges.

Silver, J.  
Silver

We concur:

Pickering, C.J.  
Pickering

Gibbons, J.  
Gibbons

Hardesty, J.  
Hardesty

Parraguirre, J.  
Parraguirre

Stiglich, J.  
Stiglich

Cadish, J.  
Cadish

IN THE SUPREME COURT OF THE STATE OF NEVADA

VERNON NEWSON, JR.,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

Supreme Court No. 75932  
District Court Case No. C313919

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: May 26, 2020

Elizabeth A. Brown, Clerk of Court

By: Monique Mercier  
Administrative Assistant

cc (without enclosures):

Hon. Douglas W. Herndon, District Judge  
Clark County Public Defender \ Howard Brooks, Chief Deputy Public Defender  
Clark County District Attorney \ Alexander G. Chen, Chief Deputy District  
Attorney

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on MAY 27 2020.

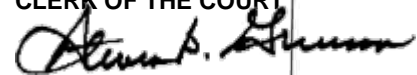
HEATHER UNGERMANN

Deputy District Court Clerk

RECEIVED  
APPEALS

MAY 27 2020

CLERK OF THE COURT



NOTC  
DARIN F. IMLAY, PUBLIC DEFENDER  
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RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER  
NEVADA BAR NO. 11914  
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*Attorneys for Defendant*

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

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO. C-16-313919-1
	)	
v.	)	DEPT. NO. X
	)	
VERNON NEWSON JR.,	)	
	)	
Defendant,	)	

**DEFENDANT'S NOTICE OF EXPERT WITNESSES, PURSUANT TO NRS 174.234(2)**  
**TO: CLARK COUNTY DISTRICT ATTORNEY:**

You, and each of you, will please take notice that the Defendant, VERNON NEWSON JR., intends to call, in addition to any expert witnesses noticed by the State, the following expert witnesses in his case in chief:

**POHL, MEL, M.D.** - is a medical doctor, and the Medical Director of Las Vegas Recovery Center who is certified by the American Society of Addiction Medicine (ASAM) and a Diplomate of the American Board of Addiction Medicine. Dr. Pohl is expected to testify as to the effects, both physical and behavioral, of ingestion of varying amounts of controlled substances on the human body. CV attached.

These witnesses are in addition to those witnesses endorsed by any party at any time.

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1 DATED this 9th of April, 2021.

2 DARIN F. IMLAY  
3 CLARK COUNTY PUBLIC DEFENDER

4 By: 

5 RYAN J. BASHOR, #11914  
6 Chief Deputy Public Defender

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By: *S. J. Ruona*  
An employee of the  
Clark County Public Defender's Office

# ***Mel Pohl, M.D.***

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## **PROFESSIONAL EXPERIENCE:**

2003 – Present	<b><u>Medical Director</u></b> Las Vegas Recovery Center/Las Vegas, NV
1991 – 2006	<b><u>Medical Director, Substance Abuse Services</u></b> Behavioral Healthcare Options, Inc. Las Vegas, NV
2000 – 2004	<b><u>Clinical Service Director, Addiction Services (Chief of Staff 2003-2004)</u></b> Montevista Hospital/Las Vegas, NV
1995 – 2000	<b><u>Service Director of Alcohol &amp; Drug Programs</u></b> Charter Behavioral Health System of Nevada/Las Vegas, NV
2004 – Present	<b><u>Clinical Asst. Professor, Dept. of Psychiatry and Behavioral Sciences</u></b> University of Nevada School of Medicine/ Las Vegas, NV
1991 – 1995	<b><u>Family Practice</u></b> Southwest Medical Associates/Las Vegas, NV
2003 – 2007	<b><u>Medical Staff</u></b> Westcare Clinical Triage Center, Las Vegas, NV
1988 – 1991	<b><u>Chief of Clinical Services</u></b> Pride Institute/Eden Prairie, MN
1979 – 1987	<b><u>Private Family Practice</u></b> (Gynecology, pediatrics, geriatrics, and outpatient alcoholism treatment)/Las Vegas, NV
1985 – 1988 and 1992 – 1994	<b><u>Clinical Director</u></b> Montevista Hospital, Inpatient Treatment for Alcoholism and Chemical Dependency/Las Vegas, NV
1984 – 1988	<b><u>Medical/Program Director</u></b> Growth Associates, Outpatient Treatment for Alcoholism and Chemical Dependency/Las Vegas, NV



➤ ***MEL POHL (Resume)Page 2***

1980 – 1983

**Medical Director**

Raleigh Hills Hospital and Alcoholism Treatment Center/Las Vegas, NV

1976 – 1979

**Residency in Family Medicine**

Deaconess Hospital/Buffalo, NY

**EDUCATION:**

- B.S., University of Michigan, Academic Honors (1972)
- M.D., State University of New York at Buffalo/School of Medicine (1976)
- Residency, Family Medicine, Deaconess Hospital, Buffalo, NY (1976-1979)

➤ **DEGREES, LICENSES, AND CERTIFICATION:**

- Nevada Medical License (#3712)
- DEA Registration (#AP8650245) (#XP8650245)
- Diplomate and Fellow – American Board of Family Practice (1979-present -re-certified – 2001, 2008)
- American Society of Addiction Medicine, (ASAM) – (re-certified 2004)
- Diplomate of the American Board of Addiction Medicine (ABAM)(2009-present)

➤ **PROFESSIONAL ASSOCIATIONS AND ACHIEVEMENTS:**

- Selected as one of the “Best Doctors in America” 2009-2012.
- Member, Governor’s Committee on Co-Occurring Disorders for the State of Nevada(2008-present)
- Member, Program Committee for ASAM’s Annual Med-Sci Conference (2007-present)
- Member, Credentialing Committee, ABAM (2011-present)
- Member of DTAG (Diagnostic and Descriptive Terminology Action Group) Committee for ASAM (2010-present)
- Member of ASAM’s Pain and Addiction: Common Threads Conference Committee (2008-present)
- Co-chair ASAM’s Pain and Addiction Work Group (2009-present)
- Trustee, Las Vegas and Clark County Library District (1995-2005)
- Chairman, Infectious Disease Committee, ASAM (2001-2004)
- Board Member, Community Counseling Centers, Las Vegas, Nevada (1993-2003)
- Chairman, AIDS Committee, American Society of Addiction Medicine (1991-2001)
- Co-Chair, ASAM’s 3rd, 4th, and 5th National Forums on AIDS and Chemical Dependency (1989-Present)
- Vice President, National Lesbian and Gay Health Foundation (1986-1992)
- The Counselor, NAADAC, Editorial Review Committee (1991-1992)
- Board Member, American Association of Physician for Human Rights (1984-1991)
- Medical Co-director, AIDS Treatment Unit, University Medical Center, Las Vegas, Nevada (1987-1988)
- American Medical Association, Member (1976-Present)

➤ **MEL POHL (Resume)Page 3**

➤ **PROFESSIONAL SPEAKING:**

- California Society of Addiction Medicine (CSAM) Review Course – “Sedative – Hypnotics” – San Francisco, CA 2012
- Southwest School for Behavioral Studies – Keynote - “Chronic Pain and Addiction – A Challenging Co-occurring Disorder” Tucson, AZ 2012
- Foundations Recovery Network – Freedom and Recovery – San Diego, CA Keynote with Claudia Black, PhD – “Pain Recovery – The Interplay of Trauma and Chronic Pain” 2012
- Alaska Annual School on Addictions and Behavioral Health – Keynote – Anchorage, AK– “Pain and Addiction: Challenging Co-occurring Disorders” 2012
- West Coast Symposium on Addictive Disorders – Palm Springs – Keynote – “Prescription Drug Abuse – How did we get here? How do we get out of here?” 2012
- St Mary’s Hospital Medical Staff –Reno, NV “Opioids, Pain and Addiction” 2012
- Fundamentals of Addiction Medicine Tulalip, WA – “Chronic Pain, Addiction and Pain Recovery” 2012
- New Jersey Prevention Network 11<sup>th</sup> Annual Addiction Conference, Atlantic City, NJ, Keynote Address “Chronic Pain and Addiction: The Most Challenging Co-occurring Disorder?”, 2011
- Counseling Advances Conference, Las Vegas, NV “Pain and Addiction: A Challenging Co-Occurring Disorder”, 2011
- American Society of Addiction Medicine Pain and Addiction Common Threads XII: Safety First: Best Practices, Washington, DC Co-presenter “Pain and Addiction: All in the Family” 2011
- Network of Independent Interventionists Workshop, Las Vegas, NV “Pain and Addiction”, 2011
- Florida Medical Professionals Group Annual Conference, Orlando, FL “Pain and Addiction: A Challenging Co-occurring Disorder” 2011
- Annual Merrill Scott Symposium on Alcoholism and Other Chemical Addictions, Yakima, WA “Chronic Pain, Addiction, and Pain Recovery”, 2011
- Annual World Employee Assistance Professionals Conference, Tampa, Florida “Pain and Addiction – A Challenging Co-occurring Disorder”, 2010
- Nevada Psychiatric Association Annual Conference – “Opioid Free Pain Treatment” Las Vegas, NV 2010
- University Medical Center Grand Rounds – “Addressing the Barriers to Effective pain Management and Issues of Opioid Misuse and Abuse”, Las Vegas, NV 2010
- University of Evansville Institute for Alcohol and Drug Studies – Keynote Speech: “Pain and Addiction, Challenges and Controversies, Evansville, IN 2010
- NCADD Turek Conference: “Prescription Drug Abuse: The New Epidemic”, Baltimore, MD 2010
- University of Utah School on Alcoholism and Other Drug Dependencies, Keynote Speech: “Pain and Addiction, Challenges and Controversies”, Salt Lake City, UT 2010.
- Western Occupational and Environmental Medical Association (WOEMA) Annual Conference – “Addiction, What You Need to Know” Phoenix, AZ, 2009
- Neuroscience Meets Recovery – “Pain: It’s All in Your Head”, Las Vegas, NV, 2009.
- Berkshire County Medical Society, Keynote Speech – Opioid Risk Management Pittsfield, MA, 2009.
- International Society of Addiction Medicine (ISAM) – Chronic Pain and Addiction Workshop, Calgary, CA, 2009.
- Washington Academy of Pain Management (WAPM) – Recovery from Chronic Pain, Opioid Free – Leavenworth, WA, 2009.

## **MEL POHL (Resume) Page 4**

- National Association of Alcoholism and Drug Abuse Counselors—"A Day Without Pain" – Salt Lake City, UT, 2009.
- American Society of Addiction Medicine's Annual Medical Scientific Conference – "Symposium on Medication Assisted Recovery – Point-Counterpoint", New Orleans, LA, 2009.
- American Society of Addiction Medicine's Pain and Addiction Conference – "Addiction Pain Syndrome: Approaches to Opioid-Free Treatment". New Orleans, LA, 2009.
- Federation of State Physician Health Programs Annual Meeting, Poster on Opioid Free Pain Recovery, 2009.
- Father Martin's Ashley Conference on Chemical Addiction – Aberdeen, Md. "A Day Without Pain", 2009.
- Behavioral Health and Addictive Disorders Conference – "A Day Without Pain" – Clearwater Beach, FL, 2009.
- Southeast Conference on Addictions (SECAD) – "Addictions and Pain – Challenges & Controversies", Atlanta, GA, 2009
- US Journal – Adult Children of Alcoholics – "Families in Pain", Orlando, FL 2008.
- Western Occupational and Environmental Medical Association (WOEMA) Annual Conference, "Pain and Addiction", Napa, CA 2008.
- US Journal – Counseling Skills Conference, Las Vegas, NV 2008. (Keynote talk) – "A Day Without Pain".
- US Journal – Interventions Conference – Family Interventions – "Patients with Pain and Addiction", Las Vegas, 2008.
- US Journal Adolescent Conference – "Drug Abuse in Adolescents: The Good News and Bad News", Las Vegas, 2008
- California Society of Addiction Medicine (CSAM) – State of the Art Conference – "Pain and Addiction" Los Angeles, CA, 2007.
- Nevada Association of Psychologists Conference, Addiction, Challenges and Controversies, Las Vegas, 2006.
- Marriage and Family Therapists Conference, Addiction, Challenges and Controversies, LV, 2006.
- California Society of Addiction Medicine Review Course – "Benzodiazepines", 2004.
- University of Rochester School of Medicine AIDS Conference; AIDS, Pain and Addictions, Challenges and Controversies, 2004.
- Nevada Bureau of Alcohol and Drug Abuse Summer School-Co-occurring disorders, 1998.
- Second Conference on Pain Management and Chemical Dependency, "Pain and Alcoholism", New York, New York, 1998.
- American Society of Addiction Medicine – AIDS and Addictions – Annual Meetings, 1993, 1994, 1995, 1996 and 1997.
- Betty Ford Center Conference on Chemical Dependency, "AIDS and Chemical Dependency", Palm Springs, 1992 and "The Caregivers' Journey", 1993.
- "Double Jeopardy II, AIDS and Chemical Dependency", Rochester, New York, keynote address, 1990.
- Rutgers University, Advanced School of Alcohol and Drug Studies, "AIDS and Chemical Dependency: 1990, 1991.
- American Society of Addiction Medicine, AIDS Lecture, Review Course for ASAM certification, Chicago and San Francisco, 1990, Los Angeles, 1992, San Francisco 1994.
- **PUBLICATIONS:**
- Pohl, M. 2011. *A Day Without Pain, Revised Edition*, Central Recovery Press, 2011.
- Pohl, M, Szabo, F, Hunter, R and Shiode, D., 2010, *Pain Recovery for Families, How to Questions*

➤ **MEL POHL (Resume)Page 5**

*Find Balance when Someone Else's Chronic pain Becomes Your Problem Too*, Central Recovery Press.

- Pohl, M, Szabo, F, Hunter, R and Shiode, D., 2009 *Pain Recovery, How to Find Balance and Reduce Suffering from Chronic Pain*, Central Recovery Press,.
- Pohl, M., *A Day 2008 Without Pain*, Central Recovery Press.
- Pohl, M and Smith, L., 2011 Chronic Pain Management Using Buprenorphine: Questions and Considerations, *J of Global Drug Policy and Practice* 5 (1).
- Pohl, M. and Smith, L., 2012 Chronic Pain and Addiction: Challenging Co-occurring Disorders *Journal of Psychoactive Drugs*, 44 (2), 1–6
- Pohl, M., 2012 The Prescription Drug Epidemic: The Counselor's Role, *Counselor Magazine* 13 (3), 20-22.
- Pohl, M., 2007 Chronic Pain, Opioids and Addiction: Challenges and Controversies, *Counselor Magazine*.
- Pohl, M. 1988 Counseling Patients in Chemical Dependence Treatment Programs about AIDS, *Journal of Psychoactive Drugs*, Vol. 20 (2), pgs. 223-226.
- Pohl, M. and Ryan, C., 1987 *Protocol for AIDS Education and Risk Reduction Counseling in Chemical Dependency Treatment Settings*, ARC Research Foundation.
- Pohl, M. 1987 Neurocognitive Impairments in Alcoholics: Review and Comparison with Cognitive Impairment Due to AIDS. *Advances in Alcohol and Substance Abuse*, Haworth Press, Vol. 7 (2), p. 107-116.
- Pohl, M. and Karon, L. 1989 Co-editors, *Journal of Psychoactive Drugs*, Integrating AIDS Prevention in Chemical Dependency Treatment, Vol. 21 (4).
- *The Caregivers Journey: When You Love Someone with AIDS*, Hazelden, 1990.
- Pohl, M. 1991. Residential Treatment for Chemically Dependent HIV Clients", *Journal of Chemical Dependence Treatment*, Haworth Press.
- *Sexuality and AIDS*, Hazelden, 1991.
- *Grief and AIDS*, Hazelden, 1991.
- *Staying Sane: When You Care for Someone with Chronic Illness*, Health Communications, 1992.
- *Principles of Addiction Medicine*, "Lesbians and Gay Men", Chapter 3, Section 18 American Society of Addiction Medicine, 1994.
- *Principles of Addiction Medicine*, "Pain in Special Populations", Chapter 2, Section 12, American Society of Addiction Medicine, 2003
- *Addiction Counseling Review, HIV/AIDS*, Chapter 12, p.273-292, Lawrence Erlbaum Associates, 2005.

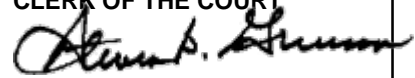
**BIOGRAPHICAL SKETCH:**

**Mel Pohl, MD, FASAM** is a Board Certified Family Practitioner. He is Vice President of Medical Affairs and the Medical Director of Las Vegas Recovery Center (LVRC). Dr. Pohl was a major force in developing LVRC's Chronic Pain Rehabilitation Program. He is certified by the American Board of Addiction Medicine, certified by the American Board of Addiction Medicine (ABAM), and a Fellow of the American Society of Addiction Medicine (ASAM). He is the former chairman of ASAM's AIDS Committee, a member of the Symposium Planning Committee, a member of the planning committee for ASAM's Annual "Common Threads, Pain and Addiction" Course and co-chair of ASAM's Pain and Addiction Workgroup. Dr. Pohl is a Fellow of the American Academy of Family Practice and a Clinical Assistant Professor in the Department of Psychiatry and Behavioral Sciences at the University of Nevada School of Medicine. He was elected by his peers for inclusion in Best Doctors in America® from 2009 to 2010. He is a nationally known public speaker and co-author of *Pain Recovery: How to Find Balance and Reduce Suffering from Chronic Pain* (Central Recovery Press, 2009); *Pain Recovery*

*for Families: How to Find Balance When Someone Else's Chronic Pain Becomes Your Problem Too* (Central Recovery Press, 2010); *The Caregiver's Journey: When You Love Someone with AIDS* (Hazelden, 1990); *Staying Sane: When You Care for Someone with Chronic Illness* (Health Communications, 1992). Dr. Pohl is the author of *A Day without Pain* (Central Recovery Press, 2008), which won a silver medal from Independent Publisher Book Award in May 2009.

Dr Pohl has testified many times in Federal and District Courts as an expert on addiction, chronic pain and recovery.

References available on request.



**MOT**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
PAMELA WECKERLY  
Chief Deputy District Attorney  
Nevada Bar #6163  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

VERNON NEWSON, JR.,  
#1946426

Defendant.

CASE NO: C-16-313919-1

DEPT NO: X

**STATE'S NOTICE OF MOTION  
AND MOTION TO APPEAR BY ALTERNATIVE MEANS**

DATE OF HEARING:  
TIME OF HEARING: 8:30 AM  
**HEARING REQUESTED**

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through PAMELA WECKERLY, Chief Deputy District Attorney, and files this Notice Of Motion And Motion To Appear By Alternative Means.

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

NOTICE OF HEARING

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing motion on for setting before the above entitled Court, in Department X thereof, on \_\_\_\_\_, the \_\_\_\_\_ day of June, 2021, at the hour of 8:30 o'clock AM,

1 or as soon thereafter as counsel may be heard.

2 DATED this 14th day of June, 2021.

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

5  
6 BY /s/PAMELA WECKERLY  
PAMELA WECKERLY  
7 Chief Deputy District Attorney  
Nevada Bar #6163  
8

9 STATEMENT OF FACTS

10 On December 13, 2015, at approximately 10:30 p.m., officers from North Las Vegas  
11 Police Department (NLVPD) responded to the I-15 Southbound on ramp at Lamb Boulevard  
12 in reference to a shooting victim. The first responding officer reported that Clark County Fire  
13 Department Rescue had transported the victim – later identified as Anshanette McNeil – to  
14 Sunrise Hospital. McNeil arrived at Sunrise Hospital Trauma at approximately 10:38 p.m.  
15 and was pronounced dead at 10:40 p.m. on December 13, 2015. The cause of death was later  
16 determined by Clark County Coroner Alane Olson as multiple gunshot wounds. The manner  
17 of death was ruled a homicide.

18 Officers spoke to a number of eyewitnesses at the scene. Preliminary investigation  
19 indicated that McNeil was the back seat passenger in a vehicle traveling onto the Interstate 15  
20 southbound ramp at Lamb Boulevard when she was pushed out of the vehicle onto the on  
21 ramp. A male driver got out of the vehicle, stood over McNeil and shot her several times. He  
22 then got back into the vehicle and drove away.

23 Detective Benjamin Owens of NLVPD arrived and took command of the scene. There,  
24 Detective Owens located a number of items of evidentiary value, including: six cartridge cases,  
25 all of a 9 millimeter caliber, with various headstamps, including “S&B 9x19 14”; portions of  
26 ammunition jacketing; apparent bullet strike defects; a shattered cellular phone; pieces of torn  
27 clothing with apparent blood stains; and several apparent bloodstains on the roadway.  
28

1 As the above evidence was being processed and impounded, NLVPD Dispatch notified  
2 Detective Owens that members of the Las Vegas Metropolitan Police Department (LVMPD)  
3 were at 3616 St. Bar Court to investigate a missing person report and that the missing person  
4 matched the victim's description. Detective Owens responded to the address, which was only  
5 3.7 miles from the crime scene, and interviewed resident Zarharia Marshall.

6 Marshall stated she was a friend of McNeil's and often babysits McNeil's children,  
7 five-month-old son Major Newson and two-year-old son Brandon Berger. Marshall stated  
8 that the last time she saw McNeil was at Marshall's house on December 10, 2015, when  
9 McNeil and Vernon Newson (Defendant) arrived to pick up Major. Marshall stated that  
10 Defendant and McNeil were in a dating relationship and had a history of domestic violence.  
11 Marshall had noticed on December 10, 2015, that McNeil had a black eye and was wearing  
12 sunglasses to cover the injury. Defendant and McNeil had been driving a dark colored four  
13 door compact SUV type vehicle, which was a rental.

14 On December 13, 2015, at approximately 9:15 p.m., McNeil called Marshall asking if  
15 she could drop off her children Major and Brandon. At approximately 10:45 p.m., Marshall  
16 was outside when the same dark colored four door SUV pulled up in front of her driveway.  
17 Defendant was driving the vehicle; McNeil was not present though Marshall could see  
18 McNeil's purse and shoes on the rear floorboard behind the driver's seat. Marshall stated that  
19 Major was in a car seat in the middle rear while Brandon was in the right rear seat.

20 Defendant removed the car seat with Mason in it and handed him to Marshall. He then  
21 removed a baby bag from the vehicle and took Brandon out of the car. Marshall went inside  
22 her house with both babies and Defendant followed them in. Defendant then asked Marshall  
23 to come outside with him. Once outside, Defendant said to Marshall "tell my son I'm always  
24 going to love him." As he said this, Marshall noticed Defendant loading ammunition into a  
25 pistol magazine. Defendant was in a hurry and dropped several rounds of live cartridges on  
26 the ground while loading the magazine.

27 Defendant then left in the same vehicle he arrived in. Marshall became worried for  
28 McNeil's safety and called both police and McNeil's mother, Tyra Atkins. Atkins arrived at



1 Marshall's house and they both noticed apparent blood on Mason's clothing, blanket and car  
2 seat. Marshall also picked up the live cartridges Defendant had dropped on the ground before  
3 leaving.

4 Detective Owens and crime scene investigators at the St. Bar Court address collected  
5 the three 9 millimeter live cartridges Marshall had seen Defendant drop. Each had a headstamp  
6 of "S&B 9x19 12" identical to the cartridge case located at the crime scene. Detective Owens  
7 also collected the bloody clothing and car seat covers, as well as McNeil's purse and contents,  
8 which included a blue registration card in her name for a Ruger 9mm handgun (currently  
9 missing), McNeil's identification, and Defendant's birth certificate.

10 An arrest warrant was issued for Defendant. On December 22, 2015, Detective Owens  
11 was notified that Defendant had been arrested in Claremont California. When arrested in  
12 Claremont, Defendant had in his possession eighteen rounds of live 9 millimeter ammunition  
13 with headstamp "S&B 9x19 12," multiple cellular phones, a significant amount of cash, and a  
14 wristwatch with blood on the inside of the watch band.

15 On January 8, 2016, LVMPD officers located an abandoned, unoccupied dark blue  
16 2016 Kia four door SUV that had been rented to McNeil by Hertz Vehicles, LLC. The vehicle  
17 had apparent bullet holes in the rear hatch and rear seats. NLVPD detectives responded, and  
18 had the vehicle sealed, impounded and towed for search pursuant to a warrant. A search of  
19 the vehicle revealed multiple blood stains throughout the vehicle, 9 millimeter cartridge  
20 casings in the front driver floor board and rear driver side floor board, an unspent 9 millimeter  
21 cartridge bearing "S&B 9x19 12" headstamps, paperwork tied to both McNeil and Defendant,  
22 and bullet holes in the left rear seat behind the driver. Based on the suspected trajectory of the  
23 shots inside the car, it appeared that Defendant fired from the driver seat multiple times at  
24 McNeil who was seated directly behind him. The two children – Major and Brandon – were  
25 seated in close proximity to the right of McNeil.

26 The case proceeded to trial in 2018. A jury found Defendant Newson guilty of first  
27 degree murder with use of a deadly weapon among other crimes. The Nevada Supreme Court  
28

1 reversed the finding of first degree murder, holding that the jury should have been instructed  
2 on the crime of voluntary manslaughter.

3 ARGUMENT

4 The case is set for re-trial before this Court on July 12, 2021. Two out-of-state  
5 witnesses have contacted the State and asked to appear via video: Zaharia Marshall and Boris  
6 Santana. The Defense opposes this request.

7 Page 4 of Administrative Order AO-21-04, Appearance by Alternative Means, states  
8 that District Court Judges should, to the extent possible, accommodate requests to appear by  
9 alternative means for any witness who is considered a vulnerable person by CDC guidelines.

10 With regard to witness Zaharia Marshall, she has explained to the State that she works  
11 every day but the occasional Monday and cannot afford to appear for trial other than by video.  
12 She currently lives in Phoenix, Arizona.

13 With regard to witness Boris Santana. He had explained to the State that he started a  
14 new job and has mandatory training scheduled to begin on July 12 and running through mid-  
15 August. He currently lives in Pasadena, California.

16 Based on these requests, the State has filed the instant motion. The State would be  
17 willing to conduct a videotape deposition prior to trial for either witness or have them appear  
18 by alternative means or any other means suggested by the Court.

19 DATED this 14th day of June, 2021.

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

23 BY /s/PAMELA WECKERLY  
24 PAMELA WECKERLY  
25 Chief Deputy District Attorney  
26 Nevada Bar #6163  
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CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of the above and foregoing was made this 14th day of June, 2021, by electronic transmission to:

RYAN BASHOR, Chief Deputy Public Defender  
Email: [bashorj@ClarkCountyNV.gov](mailto:bashorj@ClarkCountyNV.gov)

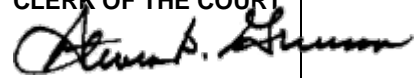
BY: /s/ Deana Daniels  
Secretary for the District Attorney's Office

15FN2243X/PW/dd/MVU

DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*

Electronically Filed  
6/14/2021 12:52 PM  
Steven D. Grierson  
CLERK OF THE COURT



State of Nevada  
vs  
Vernon Newson Jr

Case No.: C-16-313919-1  
Department 10

**NOTICE OF HEARING**

Please be advised that the State's Motion to Appear by Alternative Means in the above-entitled matter is set for hearing as follows:

**Date:** June 28, 2021  
**Time:** 8:30 AM  
**Location:** RJC Courtroom 14B  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89101

**NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.**

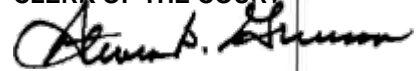
STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Imelda Murrieta  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Imelda Murrieta  
Deputy Clerk of the Court



DARIN F. IMLAY, PUBLIC DEFENDER  
NEVADA BAR NO. 5674  
RYAN J. BASHOR, DEPUTY PUBLIC DEFENDER  
NEVADA BAR NO. 11914  
**PUBLIC DEFENDERS OFFICE**  
309 South Third Street, Suite 226  
Las Vegas, Nevada 89155  
Telephone: (702) 455-4685  
Facsimile: (702) 455-5112  
BashorRJ@clarkcountynv.gov  
*Attorneys for Defendant*

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

THE STATE OF NEVADA,  
Plaintiff,

v.

VERNON NEWSON,  
Defendant,

CASE NO. C-16-313919-1

DEPT. NO. X

DATE: June 28, 2021  
TIME: 8:30 a.m.

**OPPOSITION TO STATE'S MOTION TO APPEAR BY ALTERNATE MEANS**

COMES NOW, the Defendant, VERNON NEWSON JR., by and through RYAN J. BASHOR, Deputy Public Defender and hereby requests that the State's Motion to Appear by Alternate Means be DENIED.

This Opposition is made and based upon all the papers and pleadings on file herein, and oral argument at the time set for hearing on the State's Motion.

DATED this 17th day of June, 2021.

DARIN F. IMLAY  
CLARK COUNTY PUBLIC DEFENDER

By:   
RYAN J. BASHOR, #11914  
Deputy Public Defender

## RELEVANT STATEMENT OF FACTS / PROCEDURAL HISTORY

The State has moved to have both Zaharia Marshall and Boris Santana to appear by alternate means pursuant to Administrative Order AO-21-04. As described by the State in its filing, Zaharia Marshall is a key witness in this case. Amongst providing other relevant testimony she: (1) is the first person to notice the decedent is missing; (2) took child care responsibilities from the defendant directly after the alleged homicide; (3) can describe the defendant's vehicle; (4) the location of critical pieces of evidence (the decedent's purse, blood spots, bullets, etc.); (5) the defendant's demeanor immediately after the alleged homicide; and (6) statements made by the defendant when he delivered the children.

Boris Santana is former Officer with the North Las Vegas Police Department. Amongst providing other relevant testimony he: (1) is one of the officers who responded to the crime scene where the alleged shooting occurred; (2) can provide the description and location of blood; (3) can provide the description of shell casings and bullet fragments; (3) can provide the description and location of the decedent's cellphone; (4) can describe the weather conditions which necessitated certain measures to attempt to ensure crime scene integrity; and (5) interacted with several lay eye-witnesses to the alleged shooting.

On June 14, 2021, the State filed the Instant Motion. A hearing on the motion is scheduled for June 28, 2021 at 8:30a.m.

## ARGUMENT IN OPPOSITION

### **I. THE STATE'S REQUEST DOES NOT SATISFY ADMINISTRATIVE ORDER: 21-04.**

On June 4, 2021 Chief Judge Linda Bell and Chief Justice James Hardesty entered Administrative Order: 21-04. See Exhibit A. On page 4 of the order, it reads in relevant part:

For trials, District Court Judges should, to the extent possible, accommodate requests to appear by alternate means for any attorney, *party or witness who is considered vulnerable person under the current CDC guidelines*. This includes persons who are over 65, pregnant, or suffering from an underlying health condition.

Id. at 4:5-8 (emphasis added).

1 The States requests for either Zaharia Marshall or Boris Santana are devoid of an  
2 explanation of their vulnerabilities under the current CDC guidelines. Ms. Marshall's request is  
3 due to her living out of state, her prohibitive work schedule, and her financial means. Mr.  
4 Santana's request is due to him living out of state, a new job, and mandatory training. Trials are  
5 inconvenient for everyone. Judges calendars become congested; jurors have domestic and  
6 financial responsibilities; attorneys have obligations outside of work; and witnesses, in addition  
7 to having to testify in open court, have their lives to live. The defense appreciates, especially  
8 after so many years have passed, that people have moved on. Nonetheless, these requests do not  
9 meet with language of Administrative Order: 21-04.

10 **II. EVEN IF THESE TWO WITNESSES HAD VULNERABILITIES UNDER THE CURRENT CDC**  
11 **GUIDELINES, ADMINISTRATIVE ORDER 21:04 ACCOMMODATIONS FOR**  
12 **APPEARANCES BY ALTERNATE MEANS ARE UNCONSTITUTIONAL IN THE CONTEXT OF**  
13 **A JURY TRIAL UNDER THIS CASE'S CIRCUMSTANCES.**

14 The Sixth Amendment of the United States Constitution reads:

15 In all criminal prosecutions, the accused shall enjoy the right to a  
16 speedy and public trial, by an impartial jury of the State and  
17 district wherein the crime shall have been committed, which  
18 district court shall have been previously ascertained by law, and to  
19 be informed of the nature and cause of the accusation; *to be*  
20 *confronted with the witnesses against him*; to have compulsory  
21 process for obtaining witnesses in his favor, and to have the  
22 Assistance of Counsel for his defense.

23 U.S. Const. amend. VI (emphasis added).

24 The United States Supreme Court in Maryland v. Craig, 497 U.S. 836 (1990) describes  
25 the elements of confrontation as follows: "physical presence, oath, cross-examination,  
26 observation of demeanor by the trier of fact," and to ensure "the reliability of the evidence  
27 against a criminal defendant by subjecting it to rigorous testing in the context of an adversary  
28 proceeding before the trier of fact." Id. at 845-846.

Craig does find that the right to a witness's physical presence at trial is not absolute. Id.  
at 849. Craig established a test by holding that "a defendant's right to confront accusatory  
witnesses may be satisfied absent a physical, face-to-face confrontation at trial only where denial

1 of such confrontation is necessary to further an important public policy and only where the  
2 reliability of the testimony is otherwise assured.” Id. at 850. In Craig, the Supreme Court  
3 concluded that the use of one-way closed circuit television procedure did not violate the  
4 defendant’s right to confrontation because (1) it was necessary to further the State’s interest in  
5 protecting a child victim from emotional trauma that the child would suffer by having to testify  
6 in the defendant’s presence, and (2) the procedure adequately preserved the other elements of  
7 confrontation, thereby providing indicia of reliability. Id. at 851-857. The State of Nevada  
8 adopted the Craig test in Lipsitz v. State, 135 Nev. 131 (2019).

9 In the instant case, inconveniences to these two witnesses does not rise to the level of an  
10 important interest which furthers an important public policy. These are two adults who are not  
11 vulnerable per the CDC guidelines. These adults would prefer not to have to take time off of  
12 work, travel to Nevada, and testify. Permitting them to testify by alternate means undercuts, and  
13 nearly eliminates, the physical presence element of the Confrontation Clause and does not meet  
14 the test established in Craig (supra) and adopted in Nevada in Lipsitz (supra).

15 While it is appreciated that the administration of justice has been frustrated by the current  
16 pandemic, causing great inconvenience to many, the United States Constitution, and the  
17 Confrontation Clause in particular, require these witnesses to be present in the courtroom at trial.

### 18 CONCLUSION

19 For all of the reasons discussed above, the defense opposes the instant motion and asks  
20 that it be **DENIED**.

21 DATED this 17th day of June, 2021.

22 DARIN F. IMLAY  
23 CLARK COUNTY PUBLIC DEFENDER

24 By:   
25 RYAN J. BASHOR, #11914  
26 Deputy Public Defender  
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By: Sara Ruano  
Sara Ruano  
Secretary for the Clark County Public Defender's Office

# EXHIBIT A

1  
2 **EIGHTH JUDICIAL DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**  
4

5 **IN THE ADMINISTRATIVE MATTER**  
6 **REGARDING ALL COURT OPERATIONS IN**  
7 **RESPONSE TO COVID-19.**

Administrative Order: 21-04

8 On March 12, 2020, Governor Steve Sisolak issued a Declaration of Emergency in  
9 response to the COVID-19 pandemic. The next day, March 13, 2020, the President of the United  
10 States declared a nationwide emergency pursuant to §501(6) of the Robert T. Stanford Disaster  
11 Relief and Emergency Assistance Act. 42 U.S.C. §§5121-5207.

12 After an initial reopening of businesses in 2020, on November 11, 2020, Governor Sisolak  
13 announced an alarming increase in new COVID-19 cases in Nevada. The Governor requested all  
14 individuals to stay in as much as possible, limit gatherings and wear face coverings at all times.  
15 Clark County also issued a requirement for employees to wear face coverings at all times. On  
16 February 15, 2021, Governor Sisolak increased the limit for gathering sizes based on the  
17 decreasing COVID-19 numbers and the increased availability of vaccinations.

18 On April 27, 2021, the State of Nevada's COVID-19 Mitigation and Management Task  
19 Force approved Clark County's Proposed Local Mitigation and Enforcement Plan effective May  
20 1, 2021. The approved plan increased capacity restrictions for public gatherings to 80 percent  
21 occupancy and reduced social distance requirements from six to three feet. On May 18, 2021, the  
22 Clark County Board of Commissioners approved elimination of all capacity and social distancing  
23 requirements effective June 1, 2021. Clark County also, with certain exceptions, approved the  
24 elimination of mask requirements for those who are vaccinated.

25 The Nevada Constitution provides in Article 3 §1 that, "The powers of the Government of  
26 the State of Nevada shall be divided into three separate departments, - the Legislative, - the  
27 Executive and the Judicial; and no persons charged with the exercise of powers properly belonging  
28 to one of these departments shall exercise any functions, appertaining to either of the others, except  
in the cases expressly directed or permitted in this constitution." The Nevada Supreme Court has  
also found that "In addition to the constitutionally expressed powers and functions of each

1 Department, each (the Legislative, the Executive, and the Judicial) possess inherent and incidental  
2 powers that are properly termed ministerial. Ministerial functions are methods of implementation  
3 to accomplish or put into effect the basic function of each Department.” Galloway v. Truesdell,  
4 83 Nev. 13, 21, 422 P.2d 234, 237 (1967).

5 The judicial power is vested in the state Court system comprised of the Nevada Supreme  
6 Court, the Nevada Court of Appeals, District Courts, Justice Courts and Municipal Courts. Nev.  
7 Const. art. VI, §1. The Nevada Constitution expressly recognizes the Chief Justice as the  
8 administrative head of the Court system. Nev. Const. art. VI §19. By expressly identifying the  
9 Chief Justice as the Court system’s administrative leader, the Chief Justice has “inherent power to  
10 take actions reasonably necessary to administer justice efficiently, fairly, and economically.”  
11 Halverson v. Hardcastle, 123 Nev. 245, 260, 163 P.3d 428, 439 (2007). Consequently, the Nevada  
12 Supreme Court, “through the Chief Justice, has the ultimately authority over the judiciary’s  
13 inherent administrative functions.” Id. at 260, 163 P.3d at 439.

14 Rule 1.30(b) of the Rules of Practice for the Eighth Judicial District Court charges the  
15 Chief Judge of the Eighth Judicial District Court with various responsibilities, including  
16 supervising the administrative business of the District Court, ensuring the quality and continuity  
17 of Court services, supervising the Court calendar, reassigning cases as convenience or necessity  
18 requires, assuring the Court’s duties are timely and orderly performed, and otherwise facilitating  
19 the business of the District Court.

20 During the COVID-19 pandemic, the District Court, in consultation with the Nevada  
21 Supreme Court, concurred with the Governor and exercised its ministerial judicial powers. On an  
22 emergency basis, the District Court entered Administrative Orders 20-01 through 20-14; 20-16;  
23 20-17; 20-22 through 20-24; 21-01; and 21-03. These Orders changed Court procedures to  
24 minimize person-to-person contact and mitigate the risk associated with the COVID-19 pandemic,  
25 while continuing to provide essential Court services.

26 This order continues the District Court’s response to the COVID-19 pandemic. For  
27 purposes of clarity and to avoid confusion, this order supersedes AO 20-01 through 20-13, 20-16,  
28 20-17, 20-22, 20-23, 20-24, and 21-03. Any portions of those orders that remain in effect are  
included in this order. AO 20-14 (the process for electronic processing of search warrants) remains  
in effect. Except where otherwise noted, this order takes effect upon filing.

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- a. Employers should encourage employees to receive a COVID-19 vaccine.
- b. Organizations may have mask policies that are more restrictive than the CDC guidance.
- c. All employers must provide face coverings for unvaccinated employees and shall require these employees to wear face coverings in all instances where required by emergency directives, including any space visited by the general public, even if no one else is present.
- d. Close or limit access to common areas where employees are likely to congregate and interact. When in common areas, face coverings\* are required for unvaccinated employees.
- e. Maintain regular housekeeping practices, including routine cleaning and disinfecting of surfaces and equipment
- f. Conduct daily surveys of changes to staff/labor health conditions.
- g. Post signage with the latest CDC mask guidance for vaccinated and unvaccinated guests.

## Screening Protocols

- (1) Persons not fully vaccinated who are not wearing a mask;
- (2) Persons who are ill or experiencing unexplained fever, cough, or shortness of breath.

///

## Appearances by Alternative Means

To ensure access to justice, minimize foot traffic in court facilities, and to reduce the potential for spread of infection, appearances by alternative means remains preferred in all case types with the exceptions of bench trials, jury trials, and in-custody defendants appearing in the Lower Level Arraignment Courtroom. For trials, District Court Judges should, to the extent possible, accommodate requests to appear by alternative means for any attorney, party or witness who is considered a vulnerable person under current CDC guidelines. This includes persons who are over 65, pregnant, or suffering from an underlying health condition. For proceedings other than trials, no in-person appearance shall be made unless the assigned District Court Judge or Hearing Master determines that the particular circumstances of the case require a personal appearance.

The District Court has four methods of appearance by alternative means: videoconference through BlueJeans, telephone conference through BlueJeans, regular telephone, and CourtCall. Since CourtCall involves a cost to the litigants, no party may be required to use CourtCall at this time. Use of BlueJeans is strongly favored given the number of people the system can accommodate and its compatibility with the JAVS system. Video appearance is strongly preferred over other methods of appearance by alternative means, and required in criminal, dependency, and delinquency cases unless a video appearance is prevented by technological issues. Lawyers are urged to provide assistance to clients who lack the independent ability to appear by alternative means.

Attorneys, parties, and witnesses are reminded that alternative means still constitutes a court appearance and attire should remain professional and court appropriate. Appearances should be made from a quiet place free of distractions. Also, for the safety of the community and for the quality of the audio recording, no appearances by alternative means should be made while driving.

The requirement for a formal written notice of any appearance by alternative means remains suspended. Arrangements for alternative appearances may be made via e-mail to the department JEA. E-mails about scheduling appearances should not be sent to the department inboxes.

Nevada Supreme Court Rules Part IX expressly excludes juvenile proceedings from the rules governing appearances by telephonic and audiovisual transmission. This rule is suspended due to the COVID-19 pandemic. Attorneys, probation officers, social workers, parents, guardians,

1 and any other necessary parties to a juvenile proceeding are strongly encouraged to appear by  
2 alternative means.

3 For convenience of the attorneys and litigants, each department is to set up a permanent  
4 BlueJeans link for court appearances. Hearing may be held in that session or in breakout sessions  
5 as determined by the department. All closed hearings should be held in breakout rooms for security  
6 purposes.

7 For civil and domestic cases, if the judge intends to hold a hearing before deciding a matter,  
8 the judicial department will contact attorneys or self-represented litigants two judicial days before  
9 the hearing to determine which method of appearance the party intends to use and gather the  
10 appropriate contact information to arrange for the appearance by alternative means.

11 For probate cases, attorneys appearing by alternative means or having clients appear by  
12 alternative means must notify the departments via e-mail two judicial days before the appearance.  
13 The e-mail to the department must include the case number for the proceeding and the names and  
14 e-mail addresses for each person appearing by video. This will allow the department to send a link  
15 to appear via video. If arrangements need to be made on shorter notice due to an emergency, the  
16 judicial department must be contacted by phone.

17 For criminal cases, juvenile dependency cases, and juvenile delinquency cases all  
18 appearances by alternative means for attorneys and out-of-custody defendant must be through  
19 BlueJeans video unless technology problems make a phone conference necessary. Attorneys  
20 appearing by video or having clients/witnesses/agency representatives/probation officers appear  
21 by alternative means must notify the department via e-mail at least one judicial day before the  
22 appearance. In juvenile cases, parents or guardians may provide their e-mail addresses to the  
23 juvenile's attorney to arrange for the appearance. The e-mail to the department must include the  
24 case number for the proceeding and the names and e-mail addresses for each person appearing by  
25 video. This will allow the department to send a link to appear via video. If arrangements need  
26 to be made on shorter notice due to an emergency, the judicial department must be contacted by  
27 phone.

28 Media reporters may request to attend any public court proceeding by alternative means  
for the purpose of observing the proceedings. Any reporter requesting an appearance in this manner  
must contact the department for a BlueJeans video link. Reporters appearing by alternative means

1 must remain on mute and are not permitted to interject or speak during any proceeding. A reporter  
2 violating this rule will lose the ability to appear by alternative means.

3  
4 **Mandatory Face Coverings for Those Who are Unvaccinated, in Courtrooms, in Jury**  
5 **Assembly and Other Designated Areas**

6  
7 For the health and safety of all, members of the public who are not fully vaccinated must  
8 wear face coverings that cover their noses and mouths. "Fully vaccinated" means two weeks after  
9 completion of the vaccination process. Face coverings must be worn at all times while in any  
10 Court facility and while in any security screening line to enter a Court facility. "Court facilities"  
11 include the Regional Justice Center, the Family Court building, District Court courtrooms and  
12 office space on the tenth and eleventh floors of the Phoenix building, District Court courtrooms  
13 and office space in the Greystone building and District Court office space in the Clark Place  
14 building.

15 All District Court judges and employees who are not fully vaccinated must cover their  
16 noses and mouths with face coverings while at work unless they are alone in unshared work space.  
17 This includes all common areas of any facility as well as parking lots, back hallways, employee-  
18 only elevators, shared restrooms and break rooms. Judges and employees who are fully vaccinated  
19 are still encouraged to wear face coverings while at work, but may choose not to do so outside of  
20 the courtroom or other designated mask-required areas.

21 All attorneys, vendors, and employees of any organization or entity who work in a Court  
22 facility who are not fully vaccinated must cover their noses and mouths with face coverings while  
23 in any common areas of the facilities. Common areas include, but are not limited to, security  
24 screening, lobby areas, public elevators, employee elevators, shared back hallways, public  
25 restrooms and courtrooms. This includes, but is not limited to, employees of Las Vegas Justice  
26 Court, Legal Aid Self-Help Centers, Clark County Clerk's Main Office, Clark County District  
27 Attorney's Office, Clark County Public Defender's Office, Clark County Department of Juvenile  
28 Justice Services, Clark County Department of Family Services, and contract counsel. Employees  
of other organizations or entities with space in Court facilities are subject to the policies of their  
individual employer while in their own organization's work space.



1 Those who are fully vaccinated are still encouraged to wear face coverings while in court  
2 facilities, but may choose not to do so outside of the courtroom or other designated mask-required  
3 areas.

4 Face covering requirements for those who are vaccinated have been eliminated by Clark  
5 County with some exceptions, including public transportation and detention facilities. The Court  
6 recognizes that, unlike most other facilities, attendance at court proceedings is often compelled  
7 and people are frequently required to remain in enclosed courtrooms for extended period of time  
8 (in excess of fifteen minutes). As a result, regardless of vaccination status, face coverings will be  
9 required in courtrooms, jury assembly rooms, and other designated enclosed spaces where  
10 members of the public congregate for extended periods of time.. These requirements will remain  
11 in place until the CDC lifts mask requirements for unvaccinated people.

12 Children under the age of two and individuals who are unable to remove the face covering  
13 without assistance do not have to comply with the above-referenced face covering directives.  
14 Individuals who are unable to wear a face covering should make arrangements to appear by  
15 alternative means.

16 Face coverings must cover the nose and mouth at all times. Face coverings with vents,  
17 bandanas, or face coverings made out of mesh are not permitted. Face shields may be worn with a  
18 mask as added protection, but may not be worn alone.

#### 19 **Meetings**

20 Meeting by telephone, teleconference, videoconference or e-mail remain preferred. This  
21 includes judges meetings; executive committee meetings; division judges meetings; bench-bar  
22 meetings; any meetings with community partners; specialty Court staffing; specialty Court  
23 graduations; administrative department meetings; continuing education meetings; meetings of  
24 judges, hearing masters and/or staff within a particular case assignment. Meeting organizers of  
25 in-person meetings should consider also providing a virtual option to encourage access for those  
26 who may be unable to attending meetings. Those attending in-person meetings must follow mask  
27 requirements provided in this order.

28 ///

1           **Social Distancing**

2           Social distancing requirements are being eliminated by Clark County on June 1, 2021. The  
3 current three-foot social distancing requirements set by Clark County will remain in effect until  
4 that date.

5           Even with the elimination of social distancing requirements, all District Court Judges are  
6 encouraged to manage courtrooms to allow comfortable space between people in the courtroom —  
7 for example, having the public sit in every other seat, or spacing jury chairs out to allow the  
8 maximum amount of space between jurors.

9                               **GENERAL PROVISIONS**

10          **Attorney Obligations**

11          Attorneys, as officers of the Court, have ethical obligations for cooperative civility under  
12 normal circumstances. This Court, under the present circumstances, reminds attorneys that they  
13 have an obligation to cooperate with the Courts and one another as we all navigate these  
14 challenging circumstances. This is not the time to press for unwarranted tactical advantages,  
15 unreasonably deny continuances or other accommodations, or otherwise take advantage of the  
16 challenges presented due to the current pandemic. Lawyers are expected to be civil, professional,  
17 and understanding of their colleagues, parties and witnesses who are ill or otherwise unable to  
18 meet obligations because of the current restrictions.

19          **Re-Opening of the Clerk's Office to In-Person Filing**

20          The Civil/Criminal Clerk's Office and the Family Clerk's Office will both be open to  
21 provide in-person services Mondays through Friday, 9:00 a.m. to 4:00 p.m. Litigants are  
22 encouraged to file electronically without a personal visit to the Clerk's Office when at all possible.  
23 For litigants who do not have the ability to electronically file documents, documents may be mailed  
24 to the following addresses:

25               District Court Civil/Criminal Division  
26               Attn: Clerk's Office  
27               Regional Justice Center  
28               200 Lewis Ave.  
                Las Vegas, NV 89155

1 District Court Family Division  
2 Attn: Clerk's Office  
3 Family Court  
4 601 N. Pecos Rd.  
5 Las Vegas, NV 89155

6 Original wills may be lodged with the Clerk. The Clerk's Office shall maintain a safety  
7 protocol for clerks tasked with opening mail and handling paper documents.

#### 8 **Continuances**

9 The continuance of any trial or evidentiary hearing will be considered on a case-by-case  
10 basis. Attorneys may have difficulty obtaining witnesses or being prepared for evidentiary  
11 proceedings in the period immediately following the duration of the administrative orders relating  
12 to COVID-19. Continuances should only be granted upon a showing of good cause to allow time  
13 for preparation or to obtain witnesses. Judges will need to examine the merits of any application  
14 for a continuance, balancing the consequences of a delay in the proceedings, the need to handle  
15 the current backlog of cases, and the constraints placed on attorneys and litigants to prepare for a  
16 trial or evidentiary hearing.

#### 17 **Courtesy Copies**

18 No paper courtesy copies of any documents filed in Odyssey may be sent to the Court for  
19 any case type. Judges are strongly discouraged from requesting e-mailed courtesy copies from  
20 parties due to the burden it places on the system as a result of additional storage required. District  
21 Court IT has created a Secure File Transfer Protocol for each department so that departments may  
22 obtain electronic courtesy copies of larger documents. To reduce the potential spread of infection  
23 through paper and to reduce Court operating costs, judges are strongly discouraged from having  
24 documents printed from Odyssey to read.

25 Counsel should contact the Court Clerk for handling of documents that cannot be converted  
26 to electronic format.

#### 27 **Depositions**

28 In-person depositions may go forward although counsel should be sensitive to any health  
issue and proceed by alternative means when appropriate. During the period this order is in effect  
the Court interprets NRCP 28(a)(1) and NRCP 30 to allow the deposition officer to be in a separate  
location from the deponent. See SCR Part IX-B(A) and (B) Rule 9.

1 Attorneys must cooperate in the scheduling of witnesses, in handling depositions by  
2 alternative means when any participant is part of a vulnerable population, and in continuing  
3 depositions when needed because of COVID-19 issues.

#### 4 **Discovery (Civil and Domestic)**

5 All discovery hearings in both the civil and domestic case types shall continue to be  
6 conducted by alternative means.

7 The tolling of discovery deadlines ended on July 1, 2020. This includes deposition by  
8 written questions, interrogatories, production of documents, entering onto land for inspection  
9 purposes and requests for admissions. The Court acknowledges that discovery may still be  
10 impeded by COVID-19 related issues and it may be difficult to obtain certain items such as medical  
11 records. Judges are encouraged to grant requests to continue discovery under these circumstances.

12 As of July 1, 2020, Rule 35 examinations may be scheduled as medical providers are  
13 available. Parties may agree to schedule the Rule 35 exam sooner. Parties may also file a motion  
14 with the Discovery Commissioner demonstrating good cause to proceed forward with a Rule 35  
15 examination. Good cause includes an emergency such as imminent destruction or loss of evidence.  
16 The motion shall also include protocols for ensuring the safety of the examiner and an affidavit  
17 from the medical provider indicating that the provider is able to conduct the examination following  
18 those protocols. Any issues with scheduling or health concerns of the party to be examined should  
19 be addressed with the Discovery Commissioner.

20 Discovery motions may be resolved on the papers by way of a written recommendation  
21 issued by the Discovery Commissioner. If the Commissioner determines oral argument is needed,  
22 the hearing will be held by alternative means unless the Commissioner determines a personal  
23 appearance is necessary.

#### 24 **Electronic Service**

25 All lawyers and self-represented litigants are required to register for electronic service and  
26 update any change of e-mail address with the Court. In the limited circumstance where a self-  
27 represented litigant does not have an e-mail address, the Court Clerk's Office is directed to assist  
28 the self-represented litigant in creating an e-mail address.

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1           **Hearings**

2           At this time, hearings of all sorts in all case types should go forward. Except as provided  
3 in this order, all District Court non-evidentiary hearings should be conducted by video or  
4 telephonic means or decided on the papers unless otherwise directed by a District Court Judge.

5           Evidentiary hearings should go forward. Appearances by witnesses, parties, and lawyers  
6 by alternative means are encouraged unless the District Court Judge finds that a personal  
7 appearance by an individual is necessary to the proceeding. To the extent possible, exhibits should  
8 be produced, displayed, and admitted in an electronic format.

9           **Original Signature Requirements**

10          With the exception of documents requiring the signature of a notary, an electronic signature  
11 will be considered an original signature. All documents filed with the Court may be electronically  
12 signed as provided in the Nevada Electronic Filing and Conversion Rules, Rule 11(a). All  
13 documents requiring a signature of another person may be electronically signed; however, the  
14 party submitting the document must obtain e-mail verification of the other person's agreement to  
15 sign electronically. That verification must be embedded in the document or attached as the last  
16 page of the document.

17          Filers are reminded that NRCP Rule 11 provides sanctions for filing with improper  
18 purpose, which would include a misrepresentation of a signature. Additionally, other civil or  
19 criminal penalties could apply for misrepresenting or fraudulently signing a document.

20          **Proposed Orders**

21          All proposed orders, requests for orders shortening time, stipulation and orders, or any  
22 other document submitted to a judge for signature shall be submitted to the appropriate department  
23 electronically and signed electronically by the judge. A department inbox list is attached to this  
24 order. DEPARTMENT INBOXES ARE TO BE USED ONLY FOR SUBMITTING  
25 DOCUMENTS FOR THE JUDGE'S SIGNATURE. NO OTHER E-MAILS MAY BE SENT TO  
26 DEPARTMENT INBOXES.

27          Proposed orders sent to a department's inbox should include only a blank line for the  
28 judge's signature, e.g. \_\_\_\_\_. Signature lines should not include a date,  
judge's name, or judge's title. Sufficient space should be allowed above and below the signature  
line for the judge's signature and the electronic stamp including date, title, and name of the judge.

1 Documents must be submitted as a PDF document. If a judge has significant revisions, the  
2 department will request a Microsoft Word version of the order from the submitting party for editing  
3 purposes. The Court notes that both WordPerfect and Pages allow documents to be saved in a  
4 Word format.

5 The e-mail subject line must identify the full case number, the filing event code, and the  
6 name of the case. The information must be in that order for the Court's automated filing system  
7 to work properly. This naming convention looks like: A-20-1234560-C - ORDR - Smith v. Doe

8 Documents not properly submitted may be returned.

9 NO ADDITIONAL ARGUMENT OR DISCUSSION SHOULD BE INCLUDED IN THE  
10 E-MAIL.

11 After reviewing submitted documents, the judge will electronically sign and file the order  
12 into the Odyssey system. The Court will not print or retain paper copies of the orders.

13 All documents submitted will be filed by the department and served to all parties registered  
14 for electronic service. Parties are responsible for filing the Notice of Entry of Order as well as  
15 serving orders by mail to any party who is not registered for electronic service.

16 For any self-represented litigant who is unable to submit an order by e-mail, the Court shall  
17 prepare and file the order.

18 To ensure the integrity of electronically signed and filed orders, the Clerk's Office will  
19 reject orders submitted for filing from outside of the Court.

#### 20 **Rule 16.1 (Civil), 16.2 (Domestic), and 16.205 (Custody) Early Case Conferences**

21 Rule 16.1, 16.2, and 16.205 conferences should proceed. To the extent possible, all initial  
22 disclosures, supplements and other written discovery should be exchanged through electronic  
23 means. If a conference cannot proceed because of issues related to COVID-19, an appropriate  
24 motion should be filed with the assigned District Court Judge.

25 Requests to continue deadlines should be filed with the assigned District Court Judge.

#### 26 **Settlement Conferences (Civil, Criminal and Family Divisions)**

27 In order to assist with the backlog of trials, judicial settlement conferences are highly  
28 encouraged. In all divisions, settlement briefs and supporting exhibits must be submitted  
electronically. Settlement conferences may be held by alternative means. For in-person

1 conferences, participants who are not fully vaccinated must wear face coverings that cover their  
2 noses and mouths at all times during the settlement conference.

3 In the Family Division, there are three possibilities for judicial settlement conferences: (1)  
4 the Senior Judge Settlement Conference Program; (2) the Family Division Settlement Conference  
5 Program; and (3) Senior Settlement Conferences. Settlement conferences should be requested  
6 through the assigned department.

7 In the Civil Division, judicial settlement conference may be set through the Civil  
8 Settlement Conference Program by contacting Department 30. Counsel may also contact  
9 individual judges to request settlement conferences or reach out to the assigned departments to  
10 submit a request for a senior judge to conduct a settlement conference. Attorneys and litigants may  
11 not schedule settlement conferences directly with the senior judge program.

12 In the Criminal Division, requests for settlement conferences should be submitted via e-  
13 mail on the settlement conference form to the Chief Judge. Settlement conferences may be  
14 requested for cases where the defendant is in-custody or out-of-custody. The form must be filled  
15 out completely or the conference will not be set. In-custody criminal settlement conferences will  
16 be scheduled to take place in the Lower Level Arraignment courtroom only. Priority will be given  
17 to trials where the defendant is in-custody and has invoked speedy trial rights and to older homicide  
18 cases.

### 19 **Specialty Courts (All Divisions)**

20 All status hearings should go forward by alternative means unless a judge or hearing master  
21 determines that circumstances warrant a personal appearance. No jail sanctions will be imposed  
22 by any specialty court program for non-compliance. This does not prevent arrest of a participant  
23 who is on probation for a probation violation. This also does not preclude a participant from being  
24 placed on electronic monitoring; however, no Specialty Court participant may be placed on CCDC  
25 house arrest with the exception of felony DUI participants in the first six months of the program  
26 who lack the current ability to self-pay.

27 The Court will work with the treatment providers to continue to provide treatment while  
28 balancing the safety of the participants and treatment provider staff.

1           **Sealed Documents**

2           If a party is requesting a document be sealed, the party must file a motion to file the  
3 document under seal. The party should separately file the document to be sealed, using the code  
4 TSPCA (Temporarily Sealed Pending Court Approval). The judge will review the motion and  
5 determine whether the document should be filed under seal. Failure to properly submit a motion  
6 to seal the documents, failure to submit the document separately, or failure to use the proper  
7 document code may result in the public electronic filing of the temporarily sealed document.

8           **Service of Process**

9           The Court recognizes that accomplishing personal service may continue to pose significant  
10 challenges at this time given that many businesses are closed or operating on a limited capacity.  
11 Properly documented service issues related to the COVID-19 pandemic will be considered good  
12 cause for a timely motion to extend service of process. For service issues between March 13, 2020  
13 and June 30, 2020, good cause exists regardless of whether the motion is made before or after the  
14 120-day service period. Effective July 1, 2020, motions to extend service of process must be filed  
prior to the expiration of the time to serve.

15           **Summonses and Certified Copies**

16           Summonses and certified copies shall be issued by the Court Clerk's Office. A lawyer or  
17 party seeking to have the Clerk of Court issue a summons under NRCP 4(b) shall e-file the  
18 summons. The filing code "SEI" must be used for the proper processing of the summons. The  
Clerk will issue the summons electronically. All certified copies will be issued electronically.

19           **Trials**

20           Bench trials in all case types should go forward in person. District Court Judges should,  
21 to the extent possible, accommodate requests to appear by alternative means for any attorney, party  
22 or witness who is considered a vulnerable person under current CDC guidelines or to appear by  
23 alternative means for any other reason deemed appropriate by the court. During bench trials, all  
24 participants in the trial, including the judge and court staff, must wear face coverings at all times.

25           If possible, trial exhibits should be produced, displayed, and admitted in an electronic  
26 format. If the use of electronic exhibits is not possible, exhibits should be submitted to the assigned  
27 judicial department at the direction of the Judge.  
28



1 The District Court will continue to follow the update COVID-19 Jury Trial Plan for safely  
2 conducting jury trials. The Jury Commissioner is to include health and safety information in the  
3 jury summons, including mask requirements. Until June 7, 2021, District Court jury selection will  
4 take place in the Jury Services Room or an alternate location designated by the court that allows  
5 for sufficient social distancing of the jurors. After June 7, 2021, jury selection will take place in  
6 individual courtrooms following all necessary protocols.

7 Effective the week of June 14, 2021, the individual District Courts will prioritize their own  
8 criminal trials, beginning with criminal cases involving interstate compact issues and criminal  
9 cases in which a defendant is in custody and has invoked speedy trial rights. District Court Judge  
10 will handle calendar calls for criminal cases no later than Tuesday the week before trial.

11 All cases set for trial by the department will then be set for a Central Calendar Call calendar  
12 the Wednesday prior to trial at 1:30 p.m. At that time, each case will receive a start date and time  
13 on either Monday or Tuesday.

14 Beginning with the June 28, 2021 stack, the individual District Courts will prioritize their  
15 own civil trials, beginning with NRCP 41(e) timeline concern; cases with statutory preferences;  
16 cases with preferential trial settings and then by case age. District Court Judges handling civil  
17 matters will handle calendar calls for civil cases no later than ten days prior to the beginning of the  
18 stack. Organization of the civil panels requires all civil-criminal departments to be on consistent  
19 5-week stacks, with the next stack beginning June 28.

20 Ten days prior to the beginning of the stack, each judge will provide the Chief Judge and  
21 the Civil Presiding Judge a list of cases going to trial, the start date for each case and the number  
22 of days anticipated for jury selection. Each case will then be assigned a day and time to receive a  
23 jury panel for jury selection. Jury selection for civil cases will begin on the Wednesday or  
24 Thursday prior to the start date for the trial.

25 For civil trials set the weeks of June 14 and June 18, 2021, by June 1, 2021 the District  
26 Court Judges must provide the Chief Judge and the Civil Presiding Judge with a list of the cases,  
27 start date and days for jury selection so jury panels can be organized for those cases.

28 Overflow calendars will not be resumed until the court resumes normal trial operations;  
cases, however, may be reassigned as necessary to ensure that trials are completed.

1 In order to address the current backlog of cases, judge handling trials are expected to  
2 provide full trial days for jury trials. Judges handling criminal assignments will necessarily require  
3 coverage of criminal calendars. Judges handling civil assignments may request/arrange coverage.  
4 The Chief and presiding judges will assist in coordinating calendar coverage if needed. Senior  
5 judge assistance may be requested for covering calendars.

6 Panels for other courts in Clark County will be summonsed provided that the court  
7 requesting the panel creates a safety plan for the juries. Key points of the plan will be included  
8 with the jury summons.

9 This order shall continue to stay trial in civil cases for purposes of tolling NRCP 41(e) until  
10 July 1, 2021, except where a District Court Judge makes findings to lift the stay in a specific case  
11 to allow the case to be tried.

12 The time period of any continuance entered as a result of this order shall be excluded for  
13 the purposes of calculating speedy trial under NRS 178.556(1) and NRS 174.511 as the Court finds  
14 that the ends of justice served by taking this action outweigh the interests of the parties and public  
15 in a speedy trial.

#### 16 **Writs of Execution and Writs of Garnishment**

17 Writs of execution and garnishment were previously stayed by Governor's Directive 017  
18 §1-2. The stay was lifted in Governor's Directive 026.

### 19 **CIVIL MATTERS**

#### 20 **Alternative Dispute Resolution**

21 All matters in the Court Annexed Arbitration Program, Court Annexed Mediation Program,  
22 and Nevada Foreclosure Mediation Program should proceed. These matters may be conducted by  
23 video or telephonic means when possible. If a personal meeting is necessary, CDC and Clark  
24 County guidelines should be followed.

25 For any cases assigned to the Court Annexed Arbitration program, none of the time  
26 between March 17, 2020 and June 1, 2020 shall count toward the one year deadline to hold any  
27 arbitration hearing pursuant to NAR 12(B). Additional requests to toll time should be addressed  
28 to the assigned District Court Judge on a case-by-case basis.

1           **Extension of Time Deadlines**

2           Pursuant to NRCP 6(b), the Court recognizes the COVID-19 emergency as constituting  
3 “good cause” and “excusable neglect” warranting the extension of time in non-essential civil case  
4 types. This provision expired July 1, 2020. This does not apply to time deadlines that must not  
5 be extended under NRCP 6(b)(2) (motions under NRCP 50(b), 52(b), 59, and 60 and motions made  
6 after NRCP 54(d)(2) time has expired).

7           **Evictions and Foreclosures**

8           Stays of residential and small business evictions and judicial foreclosures are not addressed  
9 by this order. Any change or termination of federal or local directives relating to evictions and  
10 foreclosures depend on the entity issuing the directive.

11           **Response Time for Offers of Judgment**

12           The tolling of time to respond to offers of judgment submitted pursuant to NRCP 68 ended  
13 July 1, 2020. After the tolling, parties had until July 10, 2020 to respond to any pending offer of  
14 judgment.

15           **Rule 16 Conferences**

16           Rule 16 conferences must be conducted by alternative means. The District Court Judges  
17 should continue to comply with the deadlines set in NRCP 16(b)(2) but should be mindful that  
18 attorneys and parties may face difficulties conducting discovery, obtaining discovery responses  
19 and communicating with their clients. These potential difficulties should be addressed and taken  
20 into consideration when issuing NRCP 16 scheduling orders.

21           **Subpoenas**

22           Attorneys no longer require advance approval from the discovery commissioner to issue  
23 subpoenas under NRCP 45. The subpoena provisions found in AO 20-17 were lifted by AO 20-  
24 22. Attorneys are reminded to notice and provide a copy of the subpoena to the other parties before  
25 service under NRCP 45(a)(4)(A). The District Court expects continued cooperation from attorneys  
26 when there are difficulties in obtaining documents due to issues arising from COVID-19.

27           **Short Trial Program**

28           The Short Trial Program will proceed. Short Trial Judge and Participants must comply  
with the Eighth Judicial District Court’s Jury Trial Plan. Short bench trials may proceed,

1 preferably using alternative means to the extent possible. Due to overtime restraints, short trials  
2 must conclude by 5:00 p.m.

### 3 4 **CRIMINAL MATTERS**

5 All criminal matters should proceed. Criminal law and motion hearing times will continue  
6 as designated by the Chief Judge. Each judge will have a time to hear in-custody matters and a  
7 separate time for out-of-custody matters. Judges are encouraged to limit status checks or requests  
8 status updates in writing and to consider ruling on the papers for motions that do not require oral  
9 argument.

#### 9 **Certified Copies**

10 Certified copies of prior felony convictions for the purpose of a habitual criminal  
11 determination shall be electronically filed in Odyssey prior to sentencing. The filing should be  
12 captioned "Certified Copies of Prior Felony Convictions." If the certification seal is on the back  
13 of a page, the page should be copied and attached to the last page of the Judgment of Conviction.

#### 14 **Grand Jury**

15 The three currently existing grand juries will continue to hear cases. The Court will replace  
16 the existing grand juries, beginning with the longest-serving grand jury in order to return to an  
17 annual rotation.

18 Any Grand Jurors who are unable to continue service to the Grand Jury due to COVID-19  
19 related health or employment issues will be excused on a case-by-case basis and replaced with  
20 alternates.

21 All Grand Juries will meet in the Grand Jury room, which has been marked to provide for  
22 social distancing of grand jurors, witnesses, court reporter, and attorneys. All Grand Jurors,  
23 witnesses, attorneys, and the court reporter will be required to wear face coverings covering their  
24 nose and mouth while in the RJC and throughout the grand jury proceedings. No food or beverages  
25 will be permitted in the Grand Jury room during presentments.

26 Nevada Revised Statute 172.138 provided for the use of audiovisual technology to present  
27 live testimony at grand jury proceedings "if good cause otherwise exists." The statute requires  
28 that the technology ensures that the witness may be "clearly heard and seen" and "examined." The

1 Nevada Supreme Court has also provided for use of audiovisual equipment in criminal proceedings  
2 in Supreme Court Rules Part IX-A(B).

3 During the current COVID-19 pandemic, good cause exists to allow witnesses to appear  
4 before the grand jury via audiovisual technology. In order for a witness to appear by alternative  
5 means, the State must notify the Chief Judge's department two judicial days prior to the  
6 proceeding. The State will provide the time of the witness's testimony and the name, telephone  
7 number and e-mail address of the witness to allow a BlueJeans link to be sent to the witness.  
8 District Court IT will assist with any issues with the audiovisual equipment on the Court side, but  
is not responsible for issues on the witness's side.

9 Grand jury returns will be conducted by alternative means to prevent the Grand Jury  
10 Forepersons from having to re-enter the Regional Justice Center.

### 11 **Guilty Pleas**

12 When the defendant is unable to provide a signed copy of the guilty plea due to appearance  
13 by alternative means, the guilty plea shall be signed by counsel in the following manner: "Signature  
14 affixed by (insert name of defense counsel) at the direction of (insert name of defendant)" The  
15 judge shall make a record that because of COVID-19 precautions that the defendant was unable to  
16 physically sign the guilty plea agreement. The defendant shall be canvassed by the judge taking  
the plea as follows:

17  
18 On page \_\_\_\_ of the plea agreement your attorney has signed your name with a  
notation that they signed it at your direction. Is that correct?

19  
20 Did you agree for your attorney to sign in place of your actual signature?

21  
22 Did you knowingly, willingly and voluntarily direct your attorney to sign the  
agreement on your behalf?

23  
24 Before directing your attorney to sign for you, did you read the guilty plea  
agreement and talk to your attorney about the terms of the guilty plea agreement?

25  
26 Did you discuss that your attorney signing your name at your direction will be  
treated the same as if you actually signed the plea agreement?

27  
28 Do you agree to have the signature placed on the agreement by your attorney to  
be treated the same as if you signed the plea agreement?

1           **In-Custody Appearances**

2           All in-custody defendants will appear by video to the assigned judicial departments for law  
3 and motion calendars. Arraignments, competency, and in-custody specialty court matters will  
4 continue to be heard in the lower-level arraignment Courtroom. Except for jury trials, no defendant  
5 will be transported to a District Court courtroom absent extraordinary circumstances. Due to  
6 limited access to alternative appearances, evidentiary hearings or lengthy sentencings for in-  
7 custody defendants should be coordinated through the Chief Judge's office. Also, no defendant  
8 who is in isolation pursuant to Detention Services protocol will be brought for any court  
9 appearance.

10           Defense attorneys will have limited ability to discuss matters with their clients during Court  
11 appearances. Attorney-client conversations will be facilitated if needed; however, attorneys are  
12 cautioned that it will be absolutely necessary for clients to be prepared in advance of court.

13           **Out-of-Custody Appearances**

14           Due to the limited capacity of the Regional Justice Center at this time, out-of-custody  
15 defendants must appear by alternative means whenever possible, including for entry of plea, status  
16 checks, motions, and sentencing where the negotiation contemplates probation. Out-of-custody  
17 defendants shall appear in person for probation revocation hearings where jail time or revocation  
18 is being sought, sentencings where the negotiation contemplates a prison or jail sentence, trials,  
19 and for any matter where the judge makes an individual determination that the defendant's  
20 presence is necessary for the determination of the matter.

21           Lawyers representing indigent defendants are urged to provide assistance to defendants  
22 who do not have the independent ability to appear by alternative means.

23           All attorneys are encouraged to appear by alternative means. Video appearance is required  
24 in criminal matters unless prevented by technological issues. In order to appear by alternative  
25 means in a criminal matter, attorneys must e-mail the department at least one judicial day in  
26 advance of the Court appearance and provide the e-mail the attorney intends to use to appear. In  
27 case of an emergency that does not allow for one day's notice, attorneys should contact the  
28 department.

## **DOMESTIC MATTERS**

### **Confidential Reports**

Notwithstanding the provisions of EDCR 5.203, confidential reports (including custody evaluations, child interviews, brief focus assessments, drug test results, and paternity test results) shall be transmitted electronically to retained counsel, subject to the limitations imposed on counsel pursuant to EDCR 5.301 and EDCR 5.304. For self-represented litigants, civil-domestic departments may convey the information contained in the foregoing confidential reports by telephone. The transmittal of this information by telephone shall include, where reasonably practical, the reading of the information to the self-represented litigant. If unusual circumstances exist, the Judge may have the self-represented litigant make a personal appearance to review the report.

### **Motions**

The Court may deny a motion at any time. The Court may grant all or any part of a motion after an opposition has been filed or 21 days after service of the motion if no opposition was filed. The Court may issue other written orders relating to the motion.

Motions related to emergency legal and physical custody issues should receive priority with respect to the scheduling of a hearing on an appropriate order shortening time.

## **GUARDIANSHIP**

All guardianship matters will proceed, including compliance hearings. Given the vulnerability of the guardianship populations, all proposed protected persons and protected persons must appear by alternative means.

## **JUVENILE DEPENDENCY CASES**

All juvenile dependency matters should proceed. Appearances by alternative means for lawyers, DFS workers, and others are strongly encouraged when possible.

1           **Adjudicatory Hearings**

2           When possible, pleas should be handled by alternative means. Pleas may be negotiated by  
3 the parties and electronically filed with the Court. If the Court accepts the electronically filed plea,  
4 a disposition hearing will be set within 15 business days.

5           Disposition hearings held pursuant to NRS 432B.540 and NRS 432B.550 may be heard by  
6 alternative means. Reports must be filed with the Court in advance to help narrow the focus of  
7 any hearing. Attorneys for the parents, the children and any CASA may file a report to supplement  
8 the DFS recommendations for disposition, placement, and services to further assist in narrowing  
9 the scope of the hearing.

10          All semi-annual reviews held pursuant to NRS 432B.580 may be decided on reports  
11 submitted to the Court by DFS. Annual reviews held pursuant to NRS 432B.580 and NRS  
12 432B.590 may be heard by alternative means.

13           **Termination of Parental Rights Proceedings**

14          Parents may appear in court for initial hearings on termination of parental rights; however,  
15 a video appearance by the parents will be considered an in-person appearance for purposes of the  
16 statute.

17          Termination of parental rights trials should go forward in person. District Court Judges  
18 should, to the extent possible, accommodate requests to appear by alternative means for any  
19 attorney, party or witness who is considered a vulnerable person under current CDC guidelines or  
20 to appear by alternative means for any other reason deemed appropriate by the court. During bench  
21 trials, all participants in the trial, including the judge and court staff, must wear face coverings at  
22 all times.

23          Other motions may be decided on the papers or heard through alternative means. Status  
24 checks maybe handled by written reports or, if necessary, heard by alternative means.

25          Mediations conducted pursuant to NRS 432B.5904 shall proceed by alternative means  
26 when possible. Otherwise, the mediation should proceed with appropriate social distancing. For  
27 in-person mediations, all participants must cover their noses and mouths with face coverings.

28           **Adoptions**

          Adoptions will proceed by alternative means or in person at the discretion of the Judge.

          ///



1           **Court-Ordered Admissions to Mental Health Facilities**

2           Hearings regarding court-ordered admissions to mental health facilities pursuant to NRS  
3 432B.607 et. seq. may be held by alternative means.

4           **Child Haven and Parent Visitation**

5           Placements at Child Haven should be strongly discouraged. Out-of-state visitation will be  
6 allowed unless the Court determines that visitation poses a health risk to the child. Visitation at  
7 Child Haven and parental visitation of children in foster care may proceed if precautions are taken  
8 to ensure the safety of the child and the well-being of others in the home in which the child resides.  
9 The Division of Family Services is directed to create policies for visitation given the current  
circumstances.

10          **Timely Filing of Orders**

11          Judicial departments will be responsible for timely filing orders from hearings. The  
12 Division of Family Services will electronically upload orders for the Court for review and the  
13 judicial departments will be responsible for reviewing and filing orders in a timely manner to  
14 prevent disruption of federal funding.

15                           **JUVENILE DELINQUENCY CASES**

16  
17          All juvenile delinquency matters will proceed. Audiovisual appearances should be used  
18 whenever possible for proceedings other than trials. No in-custody juvenile who is hospitalized,  
19 isolated, or quarantined will be transported to court or appear for a court proceeding. Those  
20 matters are to be continued until the juvenile is no longer under any hospitalization, isolation, or  
21 quarantine. No juvenile matter may proceed without the juvenile present either in person or by  
22 alternative means. If the juvenile is unavailable, the matter will be continued.

23          Juvenile delinquency trials should go forward in person. District Court Judges should, to  
24 the extent possible, accommodate requests to appear by alternative means for any attorney, party  
25 or witness who is considered a vulnerable person under current CDC guidelines or to appear by  
26 alternative means for any other reason deemed appropriate by the court. During bench trials, all  
27 participants in the trial, including the judge and court staff, must wear face coverings at all times.  
28

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If the juvenile is unable to personally sign the written admission due to coronavirus precautions, the written admission shall be signed by counsel in the following manner:

Defendant shall be canvassed by the judge taking the plea as follows:

Did you agree for your attorney to sign in place of your actual signature?

Did you discuss that your attorney signing your name at your direction will be treated the same as if you actually signed the [admission]?

Do you agree to have the signature placed on the [admission] by your attorney to be treated the same as if you signed the [admission]?

Probate hearings on the Probate Commissioner's calendar that are opposed or require a hearing shall go forward and be heard by alternative means unless the Probate Commissioner

1 determines a personal appearance is necessary. Matters that can be approved without a hearing  
2 will be on the approved list if no objection has been electronically filed and served by 9:30 a.m.  
3 on the day before the hearing. The approved list may be accessed on the probate section of the  
4 District Court's website at:

5 <http://www.clarkecountyCourts.us/departments/probate>

6 Once on the website, select the weekly probate calendar list.

7 Probate matters on the Probate Judges' calendars will be decided on the papers or heard by  
8 video or telephonic means, unless the Judge determines a personal appearance is necessary.

9 If a party electronically files an election to proceed before the District Judge pursuant to  
10 EDCR 4.08, any petitions on file will be set by the assigned judge.

11 Original wills may be lodged in person at the Clerk's Office.

12 Scheduling orders in contested matters may be requested by stipulation of the parties  
13 submitted to chambers electronically with an order approving the proposed schedule. The assigned  
14 Probate Judge or Probate Commissioner will set the evidentiary hearing or trial. Contested matters  
15 will be decided on the papers or heard by alternative means unless the Judge or Commissioner  
16 makes a determination that a personal appearance is necessary.

17 Sale confirmations currently set will be confirmed based upon the papers filed with the  
18 Court and without the necessity of placing the sale for public bid, unless a notice of intent to  
19 overbid is electronically filed and served 72 hours before the date of the sale confirmation hearing.  
20 Any petition to confirm a sale filed after issuance of this Administrative Order shall contain, in  
21 addition to the statutory requirements, language advising that the notice of intent to overbid must  
22 be electronically filed and served 72 hours before the scheduled hearing. After receiving an  
23 electronically filed notice of intent to overbid, the Court will set a remote hearing through video  
24 or telephonic means. Otherwise the sale will be approved in accordance with the notice. All orders  
25 on approved matters will be electronically filed by the Court and electronically served.

26  
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28  
///

## COURT FACILITIES

### Family Court and Services Complex

#### Family Law Self-Help Center

The Family Law Self-Help Center may begin providing in-person services. The Self-Help Center is encouraged to provide as many services as possible via telephone, e-mail, and other alternative means. Self-represented litigants may obtain help with family law forms and information at:

[www.FamilyLawSelfHelpCenter.org](http://www.FamilyLawSelfHelpCenter.org)

e-mail: [flshcinfo@lscn.org](mailto:flshcinfo@lscn.org)

Telephone: (702) 455-1500 or (702)386-1070

Before re-opening to provide services to the public, the Family Self-Help Center has agreed to develop protocols to ensure the health and safety of staff and patrons. The protocols should include methods of limiting waiting times for services, mask-wearing, observing social distancing, and sanitation measures.

#### Family Mediation Center

The Family Mediation Center may provide in-person mediation services. The Family Mediation Center may continue conducting mediations via telephone or other alternative means. Child interviews and parent-child observations may be scheduled. The Family Mediation Center shall develop and follow protocols to ensure the health and safety of staff and patrons. The protocols must include methods of limiting waiting times for services, mask-wearing, and sanitation measures.

#### Donna's House Central

Donna's House Central will continue providing supervised visitation, supervised custody exchanges and other in-person services. Donna's House will continue to follow protocols to ensure the health and safety of staff and patrons.

#### Court Appointed Special Advocate Program

The Court Appointed Special Advocate Program may resume in-person trainings, orientations and other meetings with members of the public consistent with this order. The CASA

1 program is encouraged to continue conducting as much business as possible by telephone or other  
2 alternative means.

3 **Regional Justice Center**

4 The District Court maintains responsibility for security in the RJC. In that regard, the  
5 District Court remains concerned about the number of people entering the building during business  
6 hours. Any efforts by building occupants to reduce the number of people entering the building are  
7 appreciated and the District Court remains willing to assist however possible in these efforts.

8 **Civil Law Self-Help Center**

9 The Civil Law Self-Help Center may begin providing in-person services on or before April  
10 1, 2021. The Self Help Center is encouraged to continue to serve as many individuals as possible  
11 by phone, e-mail, live chat, and other alternative means. Self-represented litigants may obtain help  
12 with civil forms, information, evictions and other matters from the Civil Law Self-Help Center:

13 [www.CivilLawSelfHelpCenter.org](http://www.CivilLawSelfHelpCenter.org)

14 e-mail: [clshcinfo@lascn.org](mailto:clshcinfo@lascn.org)

15 Telephone: (702) 671-3976

16 The Civil Law Self-Help Center has agreed to develop protocols to include methods of  
17 limiting waiting times for services, observing social distancing, and sanitation measures.

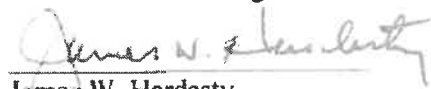
18 **FINAL PROVISIONS**

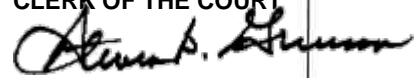
19 This order shall be reviewed no later than every 30 days and shall remain in effect until  
20 modified or rescinded by a subsequent order.

21 **Dated this 4th day of June, 2021**

22 

23 **DBA F6B C0E9 EB81**  
24 **Linda Marie Bell**  
25 **District Court Judge**

26   
27 **James W. Hardesty**  
28 **Chief Justice**  
**Nevada Supreme Court**



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NEVADA BAR NO. 11914  
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*Attorneys for Defendant*

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

THE STATE OF NEVADA,  
  
Plaintiff,  
  
v.  
  
VERNON NEWSON,  
  
Defendant,

CASE NO. C-16-313919-1  
DEPT. NO. X  
  
DATE: July 1, 2021  
TIME: 9:30 a.m.

**MOTION IN LIMINE – WITNESS FACE COVERINGS**

COMES NOW, the Defendant, VERNON NEWSON JR., by and through RYAN J. BASHOR, Deputy Public Defender, and hereby moves this Court to require all testifying persons at trial to do so without a face covering.

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

DATED this 22nd day of June, 2021.

DARIN F. IMLAY  
CLARK COUNTY PUBLIC DEFENDER

By:   
RYAN J. BASHOR, #11914  
Chief Deputy Public Defender

## DECLARATION

RYAN J. BASHOR makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.
2. That the instant case is scheduled for trial on July 12, 2021. That it is anticipated on June 30, 2021, at the Calendar Call, that both sides intend to announce ready for trial.
3. That on June 4, 2021 Chief Judge Linda Bell and Chief Justice James Hardesty signed the Eighth Judicial District Court Administrative Order: 21-04 requiring all persons, regardless of vaccinations status, to wear face coverings in the courtroom. See Exhibit A at 7:7-9.
4. That Administrative Order: 21-04 states that in the context of a bench trial, all participants must wear face coverings. Id. at 14:23-24.
5. That in the context of a criminal jury trial, Administrative Order 21:04 does not *specifically* address witness face coverings other than the general face covering requirement for persons in courtrooms.
6. That in the context of a criminal jury trial, Administrative Order 21:04's face covering requirement is unconstitutional as it violates the Sixth Amendment of the United States Constitution.
7. That for these reasons, and after approval from the defendant, defense counsel files the instant motion.

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

EXECUTED this 22nd day of June, 2021.

  
\_\_\_\_\_  
RYAN J. BASHOR

1                   **STATEMENT OF FACTS / PROCEDURAL HISTORY**

2           It is alleged that on December 13, 2015 the Defendant shot and killed Anshanette  
3 McNeil. On February 28, 2018 a jury convicted the Defendant of 1 count of First Degree  
4 Murder with a Deadly Weapon; 2 counts of Child Abuse, Neglect or Endangerment; and 1 count  
5 of Ownership or Possession of Firearm by Prohibited Person. On April 19, 2018 the Defendant  
6 was sentenced. On May 26, 2020 the Nevada Supreme Court reversed the First Degree Murder  
7 with Deadly Weapon conviction and affirmed the remaining counts.

8           The instant case is scheduled for re-trial on the single count of Murder on July 12, 2021.  
9 Administrative Order 21:04 requires all persons, regardless of vaccination status, to wear face  
10 coverings while in the courtroom. Administrative Order 21:04, effective June 4, 2021, reads in  
11 relevant part to this motion:

12                   Face covering requirements for those who are vaccinated have  
13 been eliminated by Clark County with some exceptions, including  
14 public transportation and detention facilities. The Court  
15 recognizes that, unlike most other facilities, attendance at court  
16 proceedings is often compelled and people are frequently required  
17 to remain in enclosed courtrooms for extended period of time (in  
18 excess of fifteen minutes). *As a result, regardless of vaccination  
19 status, face coverings will be required in courtrooms, jury  
20 assembly rooms, and other designated enclosed spaces where  
21 members of the public congregate for extended periods of time.*  
22 These requirements will remain in place until the CDC lifts mask  
23 requirements for unvaccinated people.

24           Exhibit A at 7:4-10 (emphasis added).

25                   **ARGUMENT**

26           Requiring witnesses in the context of a criminal jury trial, to wear face coverings violates  
27 the confrontation clause of the Sixth Amendment to the United States Constitution. The Sixth  
28 Amendment of the United States Constitution reads:

                  In all criminal prosecutions, the accused shall enjoy the right to a  
speedy and public trial, by an impartial jury of the State and  
district wherein the crime shall have been committed, which  
district court shall have been previously ascertained by law, and to  
be informed of the nature and cause of the accusation; *to be*



1 *confronted with the witnesses against him*; to have compulsory  
2 process for obtaining witnesses in his favor, and to have the  
3 Assistance of Counsel for his defense.

4 U.S. Const. amend. VI (emphasis added).

5 The United States Supreme Court in Maryland v. Craig, 497 U.S. 836 (1990) describes  
6 the elements of confrontation as follows: “physical presence, oath, cross-examination,  
7 *observation of demeanor by the trier of fact*,” and to ensure “the reliability of the evidence  
8 against a criminal defendant by subjecting it to rigorous testing in the context of an adversary  
9 proceeding before the trier of fact.” *Id.* at 845-846 (emphasis added).

10 “An unimpeded opportunity to cross-examine adverse witnesses face-to-face and in full  
11 view of the jury is core to the Sixth Amendment right of confrontation.”<sup>1</sup> Over 120 years ago the  
12 United States Supreme Court explained:

13 The primary object of [the confrontation clause] was to prevent  
14 depositions or ex parte affidavits, such as were sometimes admitted  
15 in civil cases, being used against the prisoner in lieu of a personal  
16 examination and cross-examination of the witness, in which the  
17 accused has an opportunity, not only of testing the recollection and  
18 sifting the conscience of the witness, *but of compelling him to  
19 stand face to face with the jury in order that they may look at  
20 him, and judge by his demeanor upon the stand and the manner  
21 in which he gives his testimony whether he is worthy of belief.*

22 Mattox v. United States, 156 U.S. 237, 242-243 (1895)(emphasis added).

23 The credibility jury instruction utilized in the first trial of this case, and in virtually every  
24 case in the Eighth Judicial District Court, emphasizes the importance of a juror’s ability to  
25 completely observe a witness on the stand:

26 The credibility or believability of a witness should be determined  
27 by *his manner upon the stand*, his relationship to the parties, his  
28 fears, motives, interests or feelings, his opportunity to have  
observed the matter to which he testified, the reasonableness of his  
statements and the strength or weakness of his recollections.

See Exhibit C, Instruction 23 from First Trial.

<sup>1</sup> In a slip copy filed June 11, 2021 in the case U.S. v. Thompson out of the United States District Court, D. New Mexico, United States District Judge Martha Vazquez found in a similar Motion in Limine that witnesses who do not remove their face masks would be required to wear a clear face shield in order to strike a balance between the confrontation clause’s constitutional protections and public safety. See Exhibit B – U.S. v. Thompson 2021 WL 2402203.


1 Face coverings simply impede a complete observation of a witness's demeanor. This  
2 impediment is so major that it rises to the level of a violation of the Defendant's constitutional  
3 rights.

4 **CONCLUSION**

5 For the foregoing reasons, the Defendant's Motion in Limine to require witnesses to  
6 testify without face coverings ought to be **GRANTED**.

7  
8 DATED this 22nd day of June, 2021.

9 DARIN F. IMLAY  
10 CLARK COUNTY PUBLIC DEFENDER

11 By   
12 RYAN J. BASHOR, #11914  
13 Chief Deputy Public Defender  
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**NOTICE OF MOTION**

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing MOTION IN LIMINE  
will be heard on July 1, 2021, at 9:30 a.m. in District Court, Department X.

DATED this 22nd day of June, 2021.

DARIN F. IMLAY  
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Ryan J. Bashor  
RYAN J. BASHOR, #11914  
Chief Deputy Public Defender

**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that service of the above and forgoing MOTION IN LIMINE –  
WITNESS FACE COVERINGS was hereby served this 23rd day of June 2021 via electronic e-  
filing service to:

CLARK COUNTY DISTRICT ATTORNEY'S OFFICE

Motions@clarkcountynyda.com

PAMELA WECKERLY, Chief Deputy District Attorney

E-mail: pamela.weckerly@clarkcountynyda.com

Attorney for Plaintiff, State of Nevada

By:   
Sara Ruano  
Secretary for the Clark County Public Defender's Office

# EXHIBIT A

1  
2 **EIGHTH JUDICIAL DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**  
4

5 IN THE ADMINISTRATIVE MATTER  
6 REGARDING ALL COURT OPERATIONS IN  
7 RESPONSE TO COVID-19.

Administrative Order: 21-04

8 On March 12, 2020, Governor Steve Sisolak issued a Declaration of Emergency in  
9 response to the COVID-19 pandemic. The next day, March 13, 2020, the President of the United  
10 States declared a nationwide emergency pursuant to §501(6) of the Robert T. Stanford Disaster  
11 Relief and Emergency Assistance Act. 42 U.S.C. §§5121-5207.

12 After an initial reopening of businesses in 2020, on November 11, 2020, Governor Sisolak  
13 announced an alarming increase in new COVID-19 cases in Nevada. The Governor requested all  
14 individuals to stay in as much as possible, limit gatherings and wear face coverings at all times.  
15 Clark County also issued a requirement for employees to wear face coverings at all times. On  
16 February 15, 2021, Governor Sisolak increased the limit for gathering sizes based on the  
17 decreasing COVID-19 numbers and the increased availability of vaccinations.

18 On April 27, 2021, the State of Nevada's COVID-19 Mitigation and Management Task  
19 Force approved Clark County's Proposed Local Mitigation and Enforcement Plan effective May  
20 1, 2021. The approved plan increased capacity restrictions for public gatherings to 80 percent  
21 occupancy and reduced social distance requirements from six to three feet. On May 18, 2021, the  
22 Clark County Board of Commissioners approved elimination of all capacity and social distancing  
23 requirements effective June 1, 2021. Clark County also, with certain exceptions, approved the  
24 elimination of mask requirements for those who are vaccinated.

25 The Nevada Constitution provides in Article 3 §1 that, "The powers of the Government of  
26 the State of Nevada shall be divided into three separate departments, - the Legislative, - the  
27 Executive and the Judicial; and no persons charged with the exercise of powers properly belonging  
28 to one of these departments shall exercise any functions, appertaining to either of the others, except  
in the cases expressly directed or permitted in this constitution." The Nevada Supreme Court has  
also found that "In addition to the constitutionally expressed powers and functions of each

1 Department, each (the Legislative, the Executive, and the Judicial) possess inherent and incidental  
2 powers that are properly termed ministerial. Ministerial functions are methods of implementation  
3 to accomplish or put into effect the basic function of each Department.” Galloway v. Truesdell,  
4 83 Nev. 13, 21, 422 P.2d 234, 237 (1967).

5 The judicial power is vested in the state Court system comprised of the Nevada Supreme  
6 Court, the Nevada Court of Appeals, District Courts, Justice Courts and Municipal Courts. Nev.  
7 Const. art. VI, §1. The Nevada Constitution expressly recognizes the Chief Justice as the  
8 administrative head of the Court system. Nev. Const. art. VI §19. By expressly identifying the  
9 Chief Justice as the Court system’s administrative leader, the Chief Justice has “inherent power to  
10 take actions reasonably necessary to administer justice efficiently, fairly, and economically.”  
11 Halverson v. Hardcastle, 123 Nev. 245, 260, 163 P.3d 428, 439 (2007). Consequently, the Nevada  
12 Supreme Court, “through the Chief Justice, has the ultimately authority over the judiciary’s  
13 inherent administrative functions.” Id. at 260, 163 P.3d at 439.

14 Rule 1.30(b) of the Rules of Practice for the Eighth Judicial District Court charges the  
15 Chief Judge of the Eighth Judicial District Court with various responsibilities, including  
16 supervising the administrative business of the District Court, ensuring the quality and continuity  
17 of Court services, supervising the Court calendar, reassigning cases as convenience or necessity  
18 requires, assuring the Court’s duties are timely and orderly performed, and otherwise facilitating  
19 the business of the District Court.

20 During the COVID-19 pandemic, the District Court, in consultation with the Nevada  
21 Supreme Court, concurred with the Governor and exercised its ministerial judicial powers. On an  
22 emergency basis, the District Court entered Administrative Orders 20-01 through 20-14; 20-16;  
23 20-17; 20-22 through 20-24; 21-01; and 21-03. These Orders changed Court procedures to  
24 minimize person-to-person contact and mitigate the risk associated with the COVID-19 pandemic,  
25 while continuing to provide essential Court services.

26 This order continues the District Court’s response to the COVID-19 pandemic. For  
27 purposes of clarity and to avoid confusion, this order supersedes AO 20-01 through 20-13, 20-16,  
28 20-17, 20-22, 20-23, 20-24, and 21-03. Any portions of those orders that remain in effect are  
included in this order. AO 20-14 (the process for electronic processing of search warrants) remains  
in effect. Except where otherwise noted, this order takes effect upon filing.

## **SAFETY AND PRECAUTIONS**

Consistent Nevada OSHA's Updated Guidance, effective May 14, 2021, the following work place safety protocols shall be incorporated to the maximum extent practicable:

- a. Employers should encourage employees to receive a COVID-19 vaccine.
- b. Organizations may have mask policies that are more restrictive than the CDC guidance.
- c. All employers must provide face coverings for unvaccinated employees and shall require these employees to wear face coverings in all instances where required by emergency directives, including any space visited by the general public, even if no one else is present.
- d. Close or limit access to common areas where employees are likely to congregate and interact. When in common areas, face coverings\* are required for unvaccinated employees.
- e. Maintain regular housekeeping practices, including routine cleaning and disinfecting of surfaces and equipment
- f. Conduct daily surveys of changes to staff/labor health conditions.
- g. Post signage with the latest CDC mask guidance for vaccinated and unvaccinated guests.

The District Court is committed to providing a safe and healthy workplace for all our employees and the public we serve. To mitigate the spread of COVID-19, we will need to continue to operate in a manner that reduces the risks associated with this public health emergency. Consequently, the following precautions are ordered:

### **Screening Protocols**

During this time, it remains critical to prevent the spread of illness among members of the Court, counsel, staff, the public, and our community partners. The Centers for Disease Control has advised people to take precautions to stay healthy and that the best way to prevent illness is to avoid exposure. As a result, District Court Administration shall maintain notices at the entrance of all District Court facilities advising the following people may not enter the Court facility:

(1) Persons not fully vaccinated who are not wearing a mask;

(2) Persons who are ill or experiencing unexplained fever, cough, or shortness of breath.

Anyone attempting to enter in violation of these protocols or refusing to comply with the protocols will be denied entry by District Court Marshals.

///

## **Appearances by Alternative Means**

To ensure access to justice, minimize foot traffic in court facilities, and to reduce the potential for spread of infection, appearances by alternative means remains preferred in all case types with the exceptions of bench trials, jury trials, and in-custody defendants appearing in the Lower Level Arraignment Courtroom. For trials, District Court Judges should, to the extent possible, accommodate requests to appear by alternative means for any attorney, party or witness who is considered a vulnerable person under current CDC guidelines. This includes persons who are over 65, pregnant, or suffering from an underlying health condition. For proceedings other than trials, no in-person appearance shall be made unless the assigned District Court Judge or Hearing Master determines that the particular circumstances of the case require a personal appearance.

The District Court has four methods of appearance by alternative means: videoconference through BlueJeans, telephone conference through BlueJeans, regular telephone, and CourtCall. Since CourtCall involves a cost to the litigants, no party may be required to use CourtCall at this time. Use of BlueJeans is strongly favored given the number of people the system can accommodate and its compatibility with the JAVS system. Video appearance is strongly preferred over other methods of appearance by alternative means, and required in criminal, dependency, and delinquency cases unless a video appearance is prevented by technological issues. Lawyers are urged to provide assistance to clients who lack the independent ability to appear by alternative means.

Attorneys, parties, and witnesses are reminded that alternative means still constitutes a court appearance and attire should remain professional and court appropriate. Appearances should be made from a quiet place free of distractions. Also, for the safety of the community and for the quality of the audio recording, no appearances by alternative means should be made while driving.

The requirement for a formal written notice of any appearance by alternative means remains suspended. Arrangements for alternative appearances may be made via e-mail to the department JEA. E-mails about scheduling appearances should not be sent to the department inboxes.

Nevada Supreme Court Rules Part IX expressly excludes juvenile proceedings from the rules governing appearances by telephonic and audiovisual transmission. This rule is suspended due to the COVID-19 pandemic. Attorneys, probation officers, social workers, parents, guardians,



1 and any other necessary parties to a juvenile proceeding are strongly encouraged to appear by  
2 alternative means.

3 For convenience of the attorneys and litigants, each department is to set up a permanent  
4 BlueJeans link for court appearances. Hearing may be held in that session or in breakout sessions  
5 as determined by the department. All closed hearings should be held in breakout rooms for security  
6 purposes.

7 For civil and domestic cases, if the judge intends to hold a hearing before deciding a matter,  
8 the judicial department will contact attorneys or self-represented litigants two judicial days before  
9 the hearing to determine which method of appearance the party intends to use and gather the  
10 appropriate contact information to arrange for the appearance by alternative means.

11 For probate cases, attorneys appearing by alternative means or having clients appear by  
12 alternative means must notify the departments via e-mail two judicial days before the appearance.  
13 The e-mail to the department must include the case number for the proceeding and the names and  
14 e-mail addresses for each person appearing by video. This will allow the department to send a link  
15 to appear via video. If arrangements need to be made on shorter notice due to an emergency, the  
16 judicial department must be contacted by phone.

17 For criminal cases, juvenile dependency cases, and juvenile delinquency cases all  
18 appearances by alternative means for attorneys and out-of-custody defendant must be through  
19 BlueJeans video unless technology problems make a phone conference necessary. Attorneys  
20 appearing by video or having clients/witnesses/agency representatives/probation officers appear  
21 by alternative means must notify the department via e-mail at least one judicial day before the  
22 appearance. In juvenile cases, parents or guardians may provide their e-mail addresses to the  
23 juvenile's attorney to arrange for the appearance. The e-mail to the department must include the  
24 case number for the proceeding and the names and e-mail addresses for each person appearing by  
25 video. This will allow the department to send a link to appear via video. If arrangements need  
26 to be made on shorter notice due to an emergency, the judicial department must be contacted by  
27 phone.

28 Media reporters may request to attend any public court proceeding by alternative means  
for the purpose of observing the proceedings. Any reporter requesting an appearance in this manner  
must contact the department for a BlueJeans video link. Reporters appearing by alternative means

1 must remain on mute and are not permitted to interject or speak during any proceeding. A reporter  
2 violating this rule will lose the ability to appear by alternative means.

3  
4 **Mandatory Face Coverings for Those Who are Unvaccinated, in Courtrooms, in Jury**  
5 **Assembly and Other Designated Areas**

6  
7 For the health and safety of all, members of the public who are not fully vaccinated must  
8 wear face coverings that cover their noses and mouths. "Fully vaccinated" means two weeks after  
9 completion of the vaccination process. Face coverings must be worn at all times while in any  
10 Court facility and while in any security screening line to enter a Court facility. "Court facilities"  
11 include the Regional Justice Center, the Family Court building, District Court courtrooms and  
12 office space on the tenth and eleventh floors of the Phoenix building, District Court courtrooms  
13 and office space in the Greystone building and District Court office space in the Clark Place  
14 building.

15 All District Court judges and employees who are not fully vaccinated must cover their  
16 noses and mouths with face coverings while at work unless they are alone in unshared work space.  
17 This includes all common areas of any facility as well as parking lots, back hallways, employee-  
18 only elevators, shared restrooms and break rooms. Judges and employees who are fully vaccinated  
19 are still encouraged to wear face coverings while at work, but may choose not to do so outside of  
20 the courtroom or other designated mask-required areas.

21 All attorneys, vendors, and employees of any organization or entity who work in a Court  
22 facility who are not fully vaccinated must cover their noses and mouths with face coverings while  
23 in any common areas of the facilities. Common areas include, but are not limited to, security  
24 screening, lobby areas, public elevators, employee elevators, shared back hallways, public  
25 restrooms and courtrooms. This includes, but is not limited to, employees of Las Vegas Justice  
26 Court, Legal Aid Self-Help Centers, Clark County Clerk's Main Office, Clark County District  
27 Attorney's Office, Clark County Public Defender's Office, Clark County Department of Juvenile  
28 Justice Services, Clark County Department of Family Services, and contract counsel. Employees  
of other organizations or entities with space in Court facilities are subject to the policies of their  
individual employer while in their own organization's work space.

1 Those who are fully vaccinated are still encouraged to wear face coverings while in court  
2 facilities, but may choose not to do so outside of the courtroom or other designated mask-required  
3 areas.

4 Face covering requirements for those who are vaccinated have been eliminated by Clark  
5 County with some exceptions, including public transportation and detention facilities. The Court  
6 recognizes that, unlike most other facilities, attendance at court proceedings is often compelled  
7 and people are frequently required to remain in enclosed courtrooms for extended period of time  
8 (in excess of fifteen minutes). As a result, regardless of vaccination status, face coverings will be  
9 required in courtrooms, jury assembly rooms, and other designated enclosed spaces where  
10 members of the public congregate for extended periods of time.. These requirements will remain  
11 in place until the CDC lifts mask requirements for unvaccinated people.

12 Children under the age of two and individuals who are unable to remove the face covering  
13 without assistance do not have to comply with the above-referenced face covering directives.  
14 Individuals who are unable to wear a face covering should make arrangements to appear by  
15 alternative means.

16 Face coverings must cover the nose and mouth at all times. Face coverings with vents,  
17 bandanas, or face coverings made out of mesh are not permitted. Face shields may be worn with a  
18 mask as added protection, but may not be worn alone.

#### 19 **Meetings**

20 Meeting by telephone, teleconference, videoconference or e-mail remain preferred. This  
21 includes judges meetings; executive committee meetings; division judges meetings; bench-bar  
22 meetings; any meetings with community partners; specialty Court staffing; specialty Court  
23 graduations; administrative department meetings; continuing education meetings; meetings of  
24 judges, hearing masters and/or staff within a particular case assignment. Meeting organizers of  
25 in-person meetings should consider also providing a virtual option to encourage access for those  
26 who may be unable to attending meetings. Those attending in-person meetings must follow mask  
27 requirements provided in this order.  
28

///

1           **Social Distancing**

2           Social distancing requirements are being eliminated by Clark County on June 1, 2021. The  
3 current three-foot social distancing requirements set by Clark County will remain in effect until  
4 that date.

5           Even with the elimination of social distancing requirements, all District Court Judges are  
6 encouraged to manage courtrooms to allow comfortable space between people in the courtroom –  
7 for example, having the public sit in every other seat, or spacing jury chairs out to allow the  
8 maximum amount of space between jurors.

9                                   **GENERAL PROVISIONS**

10          **Attorney Obligations**

11          Attorneys, as officers of the Court, have ethical obligations for cooperative civility under  
12 normal circumstances. This Court, under the present circumstances, reminds attorneys that they  
13 have an obligation to cooperate with the Courts and one another as we all navigate these  
14 challenging circumstances. This is not the time to press for unwarranted tactical advantages,  
15 unreasonably deny continuances or other accommodations, or otherwise take advantage of the  
16 challenges presented due to the current pandemic. Lawyers are expected to be civil, professional,  
17 and understanding of their colleagues, parties and witnesses who are ill or otherwise unable to  
18 meet obligations because of the current restrictions.

18          **Re-Opening of the Clerk's Office to In-Person Filing**

19          The Civil/Criminal Clerk's Office and the Family Clerk's Office will both be open to  
20 provide in-person services Mondays through Friday, 9:00 a.m. to 4:00 p.m. Litigants are  
21 encouraged to file electronically without a personal visit to the Clerk's Office when at all possible.  
22 For litigants who do not have the ability to electronically file documents, documents may be mailed  
23 to the following addresses:

24               District Court Civil/Criminal Division  
25               Attn: Clerk's Office  
26               Regional Justice Center  
27               200 Lewis Ave.  
28               Las Vegas, NV 89155

1 District Court Family Division  
2 Attn: Clerk's Office  
3 Family Court  
4 601 N. Pecos Rd.  
5 Las Vegas, NV 89155

6 Original wills may be lodged with the Clerk. The Clerk's Office shall maintain a safety  
7 protocol for clerks tasked with opening mail and handling paper documents.

#### 8 **Continuances**

9 The continuance of any trial or evidentiary hearing will be considered on a case-by-case  
10 basis. Attorneys may have difficulty obtaining witnesses or being prepared for evidentiary  
11 proceedings in the period immediately following the duration of the administrative orders relating  
12 to COVID-19. Continuances should only be granted upon a showing of good cause to allow time  
13 for preparation or to obtain witnesses. Judges will need to examine the merits of any application  
14 for a continuance, balancing the consequences of a delay in the proceedings, the need to handle  
15 the current backlog of cases, and the constraints placed on attorneys and litigants to prepare for a  
16 trial or evidentiary hearing.

#### 17 **Courtesy Copies**

18 No paper courtesy copies of any documents filed in Odyssey may be sent to the Court for  
19 any case type. Judges are strongly discouraged from requesting e-mailed courtesy copies from  
20 parties due to the burden it places on the system as a result of additional storage required. District  
21 Court IT has created a Secure File Transfer Protocol for each department so that departments may  
22 obtain electronic courtesy copies of larger documents. To reduce the potential spread of infection  
23 through paper and to reduce Court operating costs, judges are strongly discouraged from having  
24 documents printed from Odyssey to read.

25 Counsel should contact the Court Clerk for handling of documents that cannot be converted  
26 to electronic format.

#### 27 **Depositions**

28 In-person depositions may go forward although counsel should be sensitive to any health  
issue and proceed by alternative means when appropriate. During the period this order is in effect  
the Court interprets NRCP 28(a)(1) and NRCP 30 to allow the deposition officer to be in a separate  
location from the deponent. See SCR Part IX-B(A) and (B) Rule 9.

1 Attorneys must cooperate in the scheduling of witnesses, in handling depositions by  
2 alternative means when any participant is part of a vulnerable population, and in continuing  
3 depositions when needed because of COVID-19 issues.

#### 4 **Discovery (Civil and Domestic)**

5 All discovery hearings in both the civil and domestic case types shall continue to be  
6 conducted by alternative means.

7 The tolling of discovery deadlines ended on July 1, 2020. This includes deposition by  
8 written questions, interrogatories, production of documents, entering onto land for inspection  
9 purposes and requests for admissions. The Court acknowledges that discovery may still be  
10 impeded by COVID-19 related issues and it may be difficult to obtain certain items such as medical  
11 records. Judges are encouraged to grant requests to continue discovery under these circumstances.

12 As of July 1, 2020, Rule 35 examinations may be scheduled as medical providers are  
13 available. Parties may agree to schedule the Rule 35 exam sooner. Parties may also file a motion  
14 with the Discovery Commissioner demonstrating good cause to proceed forward with a Rule 35  
15 examination. Good cause includes an emergency such as imminent destruction or loss of evidence.  
16 The motion shall also include protocols for ensuring the safety of the examiner and an affidavit  
17 from the medical provider indicating that the provider is able to conduct the examination following  
18 those protocols. Any issues with scheduling or health concerns of the party to be examined should  
19 be addressed with the Discovery Commissioner.

20 Discovery motions may be resolved on the papers by way of a written recommendation  
21 issued by the Discovery Commissioner. If the Commissioner determines oral argument is needed,  
22 the hearing will be held by alternative means unless the Commissioner determines a personal  
23 appearance is necessary.

#### 24 **Electronic Service**

25 All lawyers and self-represented litigants are required to register for electronic service and  
26 update any change of e-mail address with the Court. In the limited circumstance where a self-  
27 represented litigant does not have an e-mail address, the Court Clerk's Office is directed to assist  
28 the self-represented litigant in creating an e-mail address.

///

1           **Hearings**

2           At this time, hearings of all sorts in all case types should go forward. Except as provided  
3 in this order, all District Court non-evidentiary hearings should be conducted by video or  
4 telephonic means or decided on the papers unless otherwise directed by a District Court Judge.

5           Evidentiary hearings should go forward. Appearances by witnesses, parties, and lawyers  
6 by alternative means are encouraged unless the District Court Judge finds that a personal  
7 appearance by an individual is necessary to the proceeding. To the extent possible, exhibits should  
8 be produced, displayed, and admitted in an electronic format.

9           **Original Signature Requirements**

10          With the exception of documents requiring the signature of a notary, an electronic signature  
11 will be considered an original signature. All documents filed with the Court may be electronically  
12 signed as provided in the Nevada Electronic Filing and Conversion Rules, Rule 11(a). All  
13 documents requiring a signature of another person may be electronically signed; however, the  
14 party submitting the document must obtain e-mail verification of the other person's agreement to  
15 sign electronically. That verification must be embedded in the document or attached as the last  
16 page of the document.

17          Filers are reminded that NRCP Rule 11 provides sanctions for filing with improper  
18 purpose, which would include a misrepresentation of a signature. Additionally, other civil or  
19 criminal penalties could apply for misrepresenting or fraudulently signing a document.

20           **Proposed Orders**

21          All proposed orders, requests for orders shortening time, stipulation and orders, or any  
22 other document submitted to a judge for signature shall be submitted to the appropriate department  
23 electronically and signed electronically by the judge. A department inbox list is attached to this  
24 order. DEPARTMENT INBOXES ARE TO BE USED ONLY FOR SUBMITTING  
25 DOCUMENTS FOR THE JUDGE'S SIGNATURE. NO OTHER E-MAILS MAY BE SENT TO  
26 DEPARTMENT INBOXES.

27          Proposed orders sent to a department's inbox should include only a blank line for the  
28 judge's signature, e.g. \_\_\_\_\_. Signature lines should not include a date,  
judge's name, or judge's title. Sufficient space should be allowed above and below the signature  
line for the judge's signature and the electronic stamp including date, title, and name of the judge.

1 Documents must be submitted as a PDF document. If a judge has significant revisions, the  
2 department will request a Microsoft Word version of the order from the submitting party for editing  
3 purposes. The Court notes that both WordPerfect and Pages allow documents to be saved in a  
4 Word format.

5 The e-mail subject line must identify the full case number, the filing event code, and the  
6 name of the case. The information must be in that order for the Court's automated filing system  
7 to work properly. This naming convention looks like: A-20-1234560-C - ORDR - Smith v. Doe

8 Documents not properly submitted may be returned.

9 NO ADDITIONAL ARGUMENT OR DISCUSSION SHOULD BE INCLUDED IN THE  
10 E-MAIL.

11 After reviewing submitted documents, the judge will electronically sign and file the order  
12 into the Odyssey system. The Court will not print or retain paper copies of the orders.

13 All documents submitted will be filed by the department and served to all parties registered  
14 for electronic service. Parties are responsible for filing the Notice of Entry of Order as well as  
15 serving orders by mail to any party who is not registered for electronic service.

16 For any self-represented litigant who is unable to submit an order by e-mail, the Court shall  
17 prepare and file the order.

18 To ensure the integrity of electronically signed and filed orders, the Clerk's Office will  
19 reject orders submitted for filing from outside of the Court.

20 **Rule 16.1 (Civil), 16.2 (Domestic), and 16.205 (Custody) Early Case Conferences**

21 Rule 16.1, 16.2, and 16.205 conferences should proceed. To the extent possible, all initial  
22 disclosures, supplements and other written discovery should be exchanged through electronic  
23 means. If a conference cannot proceed because of issues related to COVID-19, an appropriate  
24 motion should be filed with the assigned District Court Judge.

25 Requests to continue deadlines should be filed with the assigned District Court Judge.

26 **Settlement Conferences (Civil, Criminal and Family Divisions)**

27 In order to assist with the backlog of trials, judicial settlement conferences are highly  
28 encouraged. In all divisions, settlement briefs and supporting exhibits must be submitted  
electronically. Settlement conferences may be held by alternative means. For in-person



1 conferences, participants who are not fully vaccinated must wear face coverings that cover their  
2 noses and mouths at all times during the settlement conference.

3 In the Family Division, there are three possibilities for judicial settlement conferences: (1)  
4 the Senior Judge Settlement Conference Program; (2) the Family Division Settlement Conference  
5 Program; and (3) Senior Settlement Conferences. Settlement conferences should be requested  
6 through the assigned department.

7 In the Civil Division, judicial settlement conference may be set through the Civil  
8 Settlement Conference Program by contacting Department 30. Counsel may also contact  
9 individual judges to request settlement conferences or reach out to the assigned departments to  
10 submit a request for a senior judge to conduct a settlement conference. Attorneys and litigants may  
11 not schedule settlement conferences directly with the senior judge program.

12 In the Criminal Division, requests for settlement conferences should be submitted via e-  
13 mail on the settlement conference form to the Chief Judge. Settlement conferences may be  
14 requested for cases where the defendant is in-custody or out-of-custody. The form must be filled  
15 out completely or the conference will not be set. In-custody criminal settlement conferences will  
16 be scheduled to take place in the Lower Level Arraignment courtroom only. Priority will be given  
17 to trials where the defendant is in-custody and has invoked speedy trial rights and to older homicide  
18 cases.

#### 19 **Specialty Courts (All Divisions)**

20 All status hearings should go forward by alternative means unless a judge or hearing master  
21 determines that circumstances warrant a personal appearance. No jail sanctions will be imposed  
22 by any specialty court program for non-compliance. This does not prevent arrest of a participant  
23 who is on probation for a probation violation. This also does not preclude a participant from being  
24 placed on electronic monitoring; however, no Specialty Court participant may be placed on CCDC  
25 house arrest with the exception of felony DUI participants in the first six months of the program  
26 who lack the current ability to self-pay.

27 The Court will work with the treatment providers to continue to provide treatment while  
28 balancing the safety of the participants and treatment provider staff.

1           **Sealed Documents**

2           If a party is requesting a document be sealed, the party must file a motion to file the  
3 document under seal. The party should separately file the document to be sealed, using the code  
4 TSPCA (Temporarily Sealed Pending Court Approval). The judge will review the motion and  
5 determine whether the document should be filed under seal. Failure to properly submit a motion  
6 to seal the documents, failure to submit the document separately, or failure to use the proper  
document code may result in the public electronic filing of the temporarily sealed document.

7           **Service of Process**

8           The Court recognizes that accomplishing personal service may continue to pose significant  
9 challenges at this time given that many businesses are closed or operating on a limited capacity.  
10 Properly documented service issues related to the COVID-19 pandemic will be considered good  
11 cause for a timely motion to extend service of process. For service issues between March 13, 2020  
12 and June 30, 2020, good cause exists regardless of whether the motion is made before or after the  
13 120-day service period. Effective July 1, 2020, motions to extend service of process must be filed  
14 prior to the expiration of the time to serve.

15           **Summonses and Certified Copies**

16           Summonses and certified copies shall be issued by the Court Clerk's Office. A lawyer or  
17 party seeking to have the Clerk of Court issue a summons under NRCP 4(b) shall e-file the  
18 summons. The filing code "SEI" must be used for the proper processing of the summons. The  
Clerk will issue the summons electronically. All certified copies will be issued electronically.

19           **Trials**

20           Bench trials in all case types should go forward in person. District Court Judges should,  
21 to the extent possible, accommodate requests to appear by alternative means for any attorney, party  
22 or witness who is considered a vulnerable person under current CDC guidelines or to appear by  
23 alternative means for any other reason deemed appropriate by the court. During bench trials, all  
24 participants in the trial, including the judge and court staff, must wear face coverings at all times.

25           If possible, trial exhibits should be produced, displayed, and admitted in an electronic  
26 format. If the use of electronic exhibits is not possible, exhibits should be submitted to the assigned  
27 judicial department at the direction of the Judge.  
28

1 The District Court will continue to follow the update COVID-19 Jury Trial Plan for safely  
2 conducting jury trials. The Jury Commissioner is to include health and safety information in the  
3 jury summons, including mask requirements. Until June 7, 2021, District Court jury selection will  
4 take place in the Jury Services Room or an alternate location designated by the court that allows  
5 for sufficient social distancing of the jurors. After June 7, 2021, jury selection will take place in  
6 individual courtrooms following all necessary protocols.

7 Effective the week of June 14, 2021, the individual District Courts will prioritize their own  
8 criminal trials, beginning with criminal cases involving interstate compact issues and criminal  
9 cases in which a defendant is in custody and has invoked speedy trial rights. District Court Judges  
10 will handle calendar calls for criminal cases no later than Tuesday the week before trial.

11 All cases set for trial by the department will then be set for a Central Calendar Call calendar  
12 the Wednesday prior to trial at 1:30 p.m. At that time, each case will receive a start date and time  
13 on either Monday or Tuesday.

14 Beginning with the June 28, 2021 stack, the individual District Courts will prioritize their  
15 own civil trials, beginning with NRCP 41(e) timeline concern; cases with statutory preferences;  
16 cases with preferential trial settings and then by case age. District Court Judges handling civil  
17 matters will handle calendar calls for civil cases no later than ten days prior to the beginning of the  
18 stack. Organization of the civil panels requires all civil-criminal departments to be on consistent  
19 5-week stacks, with the next stack beginning June 28.

20 Ten days prior to the beginning of the stack, each judge will provide the Chief Judge and  
21 the Civil Presiding Judge a list of cases going to trial, the start date for each case and the number  
22 of days anticipated for jury selection. Each case will then be assigned a day and time to receive a  
23 jury panel for jury selection. Jury selection for civil cases will begin on the Wednesday or  
24 Thursday prior to the start date for the trial.

25 For civil trials set the weeks of June 14 and June 18, 2021, by June 1, 2021 the District  
26 Court Judges must provide the Chief Judge and the Civil Presiding Judge with a list of the cases,  
27 start date and days for jury selection so jury panels can be organized for those cases.

28 Overflow calendars will not be resumed until the court resumes normal trial operations;  
cases, however, may be reassigned as necessary to ensure that trials are completed.

1 In order to address the current backlog of cases, judge handling trials are expected to  
2 provide full trial days for jury trials. Judges handling criminal assignments will necessarily require  
3 coverage of criminal calendars. Judges handling civil assignments may request/arrange coverage.  
4 The Chief and presiding judges will assist in coordinating calendar coverage if needed. Senior  
5 judge assistance may be requested for covering calendars.

6 Panels for other courts in Clark County will be summonsed provided that the court  
7 requesting the panel creates a safety plan for the juries. Key points of the plan will be included  
8 with the jury summons.

9 This order shall continue to stay trial in civil cases for purposes of tolling NRCP 41(e) until  
10 July 1, 2021, except where a District Court Judge makes findings to lift the stay in a specific case  
11 to allow the case to be tried.

12 The time period of any continuance entered as a result of this order shall be excluded for  
13 the purposes of calculating speedy trial under NRS 178.556(1) and NRS 174.511 as the Court finds  
14 that the ends of justice served by taking this action outweigh the interests of the parties and public  
15 in a speedy trial.

#### 16 **Writs of Execution and Writs of Garnishment**

17 Writs of execution and garnishment were previously stayed by Governor's Directive 017  
18 §1-2. The stay was lifted in Governor's Directive 026.

### 19 **CIVIL MATTERS**

#### 20 **Alternative Dispute Resolution**

21 All matters in the Court Annexed Arbitration Program, Court Annexed Mediation Program,  
22 and Nevada Foreclosure Mediation Program should proceed. These matters may be conducted by  
23 video or telephonic means when possible. If a personal meeting is necessary, CDC and Clark  
24 County guidelines should be followed.

25 For any cases assigned to the Court Annexed Arbitration program, none of the time  
26 between March 17, 2020 and June 1, 2020 shall count toward the one year deadline to hold any  
27 arbitration hearing pursuant to NAR 12(B). Additional requests to toll time should be addressed  
28 to the assigned District Court Judge on a case-by-case basis.

1           **Extension of Time Deadlines**

2           Pursuant to NRCP 6(b), the Court recognizes the COVID-19 emergency as constituting  
3 “good cause” and “excusable neglect” warranting the extension of time in non-essential civil case  
4 types. This provision expired July 1, 2020. This does not apply to time deadlines that must not  
5 be extended under NRCP 6(b)(2) (motions under NRCP 50(b), 52(b), 59, and 60 and motions made  
6 after NRCP 54(d)(2) time has expired).

7           **Evictions and Foreclosures**

8           Stays of residential and small business evictions and judicial foreclosures are not addressed  
9 by this order. Any change or termination of federal or local directives relating to evictions and  
10 foreclosures depend on the entity issuing the directive.

11           **Response Time for Offers of Judgment**

12           The tolling of time to respond to offers of judgment submitted pursuant to NRCP 68 ended  
13 July 1, 2020. After the tolling, parties had until July 10, 2020 to respond to any pending offer of  
14 judgment.

15           **Rule 16 Conferences**

16           Rule 16 conferences must be conducted by alternative means. The District Court Judges  
17 should continue to comply with the deadlines set in NRCP 16(b)(2) but should be mindful that  
18 attorneys and parties may face difficulties conducting discovery, obtaining discovery responses  
19 and communicating with their clients. These potential difficulties should be addressed and taken  
20 into consideration when issuing NRCP 16 scheduling orders.

21           **Subpoenas**

22           Attorneys no longer require advance approval from the discovery commissioner to issue  
23 subpoenas under NRCP 45. The subpoena provisions found in AO 20-17 were lifted by AO 20-  
24 22. Attorneys are reminded to notice and provide a copy of the subpoena to the other parties before  
25 service under NRCP 45(a)(4)(A). The District Court expects continued cooperation from attorneys  
26 when there are difficulties in obtaining documents due to issues arising from COVID-19.

27           **Short Trial Program**

28           The Short Trial Program will proceed. Short Trial Judge and Participants must comply  
with the Eighth Judicial District Court’s Jury Trial Plan. Short bench trials may proceed,

1 preferably using alternative means to the extent possible. Due to overtime restraints, short trials  
2 must conclude by 5:00 p.m.

### 4 **CRIMINAL MATTERS**

5 All criminal matters should proceed. Criminal law and motion hearing times will continue  
6 as designated by the Chief Judge. Each judge will have a time to hear in-custody matters and a  
7 separate time for out-of-custody matters. Judges are encouraged to limit status checks or request  
8 status updates in writing and to consider ruling on the papers for motions that do not require oral  
argument.

#### 9 **Certified Copies**

10 Certified copies of prior felony convictions for the purpose of a habitual criminal  
11 determination shall be electronically filed in Odyssey prior to sentencing. The filing should be  
12 captioned "Certified Copies of Prior Felony Convictions." If the certification seal is on the back  
13 of a page, the page should be copied and attached to the last page of the Judgment of Conviction.

#### 14 **Grand Jury**

15 The three currently existing grand juries will continue to hear cases. The Court will replace  
16 the existing grand juries, beginning with the longest-serving grand jury in order to return to an  
annual rotation.

17 Any Grand Jurors who are unable to continue service to the Grand Jury due to COVID-19  
18 related health or employment issues will be excused on a case-by-case basis and replaced with  
19 alternates.

20 All Grand Juries will meet in the Grand Jury room, which has been marked to provide for  
21 social distancing of grand jurors, witnesses, court reporter, and attorneys. All Grand Jurors,  
22 witnesses, attorneys, and the court reporter will be required to wear face coverings covering their  
23 nose and mouth while in the RJC and throughout the grand jury proceedings. No food or beverages  
24 will be permitted in the Grand Jury room during presentments.

25 Nevada Revised Statute 172.138 provided for the use of audiovisual technology to present  
26 live testimony at grand jury proceedings "if good cause otherwise exists." The statute requires  
27 that the technology ensures that the witness may be "clearly heard and seen" and "examined." The  
28

1 Nevada Supreme Court has also provided for use of audiovisual equipment in criminal proceedings  
2 in Supreme Court Rules Part IX-A(B).

3 During the current COVID-19 pandemic, good cause exists to allow witnesses to appear  
4 before the grand jury via audiovisual technology. In order for a witness to appear by alternative  
5 means, the State must notify the Chief Judge's department two judicial days prior to the  
6 proceeding. The State will provide the time of the witness's testimony and the name, telephone  
7 number and e-mail address of the witness to allow a BlueJeans link to be sent to the witness.  
8 District Court IT will assist with any issues with the audiovisual equipment on the Court side, but  
is not responsible for issues on the witness's side.

9 Grand jury returns will be conducted by alternative means to prevent the Grand Jury  
10 Forepersons from having to re-enter the Regional Justice Center.

### 11 **Guilty Pleas**

12 When the defendant is unable to provide a signed copy of the guilty plea due to appearance  
13 by alternative means, the guilty plea shall be signed by counsel in the following manner: "Signature  
14 affixed by (insert name of defense counsel) at the direction of (insert name of defendant)" The  
15 judge shall make a record that because of COVID-19 precautions that the defendant was unable to  
16 physically sign the guilty plea agreement. The defendant shall be canvassed by the judge taking  
the plea as follows:

17  
18 On page \_\_\_\_ of the plea agreement your attorney has signed your name with a  
19 notation that they signed it at your direction. Is that correct?

20 Did you agree for your attorney to sign in place of your actual signature?

21 Did you knowingly, willingly and voluntarily direct your attorney to sign the  
22 agreement on your behalf?

23 Before directing your attorney to sign for you, did you read the guilty plea  
24 agreement and talk to your attorney about the terms of the guilty plea agreement?

25 Did you discuss that your attorney signing your name at your direction will be  
26 treated the same as if you actually signed the plea agreement?

27 Do you agree to have the signature placed on the agreement by your attorney to  
28 be treated the same as if you signed the plea agreement?

1           **In-Custody Appearances**

2           All in-custody defendants will appear by video to the assigned judicial departments for law  
3 and motion calendars. Arraignments, competency, and in-custody specialty court matters will  
4 continue to be heard in the lower-level arraignment Courtroom. Except for jury trials, no defendant  
5 will be transported to a District Court courtroom absent extraordinary circumstances. Due to  
6 limited access to alternative appearances, evidentiary hearings or lengthy sentencings for in-  
7 custody defendants should be coordinated through the Chief Judge's office. Also, no defendant  
8 who is in isolation pursuant to Detention Services protocol will be brought for any court  
9 appearance.

10           Defense attorneys will have limited ability to discuss matters with their clients during Court  
11 appearances. Attorney-client conversations will be facilitated if needed; however, attorneys are  
12 cautioned that it will be absolutely necessary for clients to be prepared in advance of court.

13           **Out-of-Custody Appearances**

14           Due to the limited capacity of the Regional Justice Center at this time, out-of-custody  
15 defendants must appear by alternative means whenever possible, including for entry of plea, status  
16 checks, motions, and sentencing where the negotiation contemplates probation. Out-of-custody  
17 defendants shall appear in person for probation revocation hearings where jail time or revocation  
18 is being sought, sentencings where the negotiation contemplates a prison or jail sentence, trials,  
19 and for any matter where the judge makes an individual determination that the defendant's  
20 presence is necessary for the determination of the matter.

21           Lawyers representing indigent defendants are urged to provide assistance to defendants  
22 who do not have the independent ability to appear by alternative means.

23           All attorneys are encouraged to appear by alternative means. Video appearance is required  
24 in criminal matters unless prevented by technological issues. In order to appear by alternative  
25 means in a criminal matter, attorneys must e-mail the department at least one judicial day in  
26 advance of the Court appearance and provide the e-mail the attorney intends to use to appear. In  
27 case of an emergency that does not allow for one day's notice, attorneys should contact the  
28 department.



1 **DOMESTIC MATTERS**

2 **Confidential Reports**

3 Notwithstanding the provisions of EDCR 5.203, confidential reports (including custody  
4 evaluations, child interviews, brief focus assessments, drug test results, and paternity test results)  
5 shall be transmitted electronically to retained counsel, subject to the limitations imposed on  
6 counsel pursuant to EDCR 5.301 and EDCR 5.304. For self-represented litigants, civil-domestic  
7 departments may convey the information contained in the foregoing confidential reports by  
8 telephone. The transmittal of this information by telephone shall include, where reasonably  
9 practical, the reading of the information to the self-represented litigant. If unusual circumstances  
10 exist, the Judge may have the self-represented litigant make a personal appearance to review the  
11 report.

11 **Motions**

12 The Court may deny a motion at any time. The Court may grant all or any part of a motion  
13 after an opposition has been filed or 21 days after service of the motion if no opposition was  
14 filed. The Court may issue other written orders relating to the motion.

15 Motions related to emergency legal and physical custody issues should receive priority  
16 with respect to the scheduling of a hearing on an appropriate order shortening time.

17 **GUARDIANSHIP**

18  
19 All guardianship matters will proceed, including compliance hearings. Given the  
20 vulnerability of the guardianship populations, all proposed protected persons and protected persons  
21 must appear by alternative means.

22 **JUVENILE DEPENDENCY CASES**

23  
24 All juvenile dependency matters should proceed. Appearances by alternative means for  
25 lawyers, DFS workers, and others are strongly encouraged when possible.  
26  
27  
28

1           **Adjudicatory Hearings**

2           When possible, pleas should be handled by alternative means. Pleas may be negotiated by  
3 the parties and electronically filed with the Court. If the Court accepts the electronically filed plea,  
4 a disposition hearing will be set within 15 business days.

5           Disposition hearings held pursuant to NRS 432B.540 and NRS 432B.550 may be heard by  
6 alternative means. Reports must be filed with the Court in advance to help narrow the focus of  
7 any hearing. Attorneys for the parents, the children and any CASA may file a report to supplement  
8 the DFS recommendations for disposition, placement, and services to further assist in narrowing  
9 the scope of the hearing.

10          All semi-annual reviews held pursuant to NRS 432B.580 may be decided on reports  
11 submitted to the Court by DFS. Annual reviews held pursuant to NRS 432B.580 and NRS  
12 432B.590 may be heard by alternative means.

13           **Termination of Parental Rights Proceedings**

14          Parents may appear in court for initial hearings on termination of parental rights; however,  
15 a video appearance by the parents will be considered an in-person appearance for purposes of the  
16 statute.

17          Termination of parental rights trials should go forward in person. District Court Judges  
18 should, to the extent possible, accommodate requests to appear by alternative means for any  
19 attorney, party or witness who is considered a vulnerable person under current CDC guidelines or  
20 to appear by alternative means for any other reason deemed appropriate by the court. During bench  
21 trials, all participants in the trial, including the judge and court staff, must wear face coverings at  
22 all times.

23          Other motions may be decided on the papers or heard through alternative means. Status  
24 checks maybe handled by written reports or, if necessary, heard by alternative means.

25          Mediations conducted pursuant to NRS 432B.5904 shall proceed by alternative means  
26 when possible. Otherwise, the mediation should proceed with appropriate social distancing. For  
27 in-person mediations, all participants must cover their noses and mouths with face coverings.

28           **Adoptions**

          Adoptions will proceed by alternative means or in person at the discretion of the Judge.

          ///

1           **Court-Ordered Admissions to Mental Health Facilities**

2           Hearings regarding court-ordered admissions to mental health facilities pursuant to NRS  
3 432B.607 et. seq. may be held by alternative means.

4           **Child Haven and Parent Visitation**

5           Placements at Child Haven should be strongly discouraged. Out-of-state visitation will be  
6 allowed unless the Court determines that visitation poses a health risk to the child. Visitation at  
7 Child Haven and parental visitation of children in foster care may proceed if precautions are taken  
8 to ensure the safety of the child and the well-being of others in the home in which the child resides.  
9 The Division of Family Services is directed to create policies for visitation given the current  
circumstances.

10          **Timely Filing of Orders**

11          Judicial departments will be responsible for timely filing orders from hearings. The  
12 Division of Family Services will electronically upload orders for the Court for review and the  
13 judicial departments will be responsible for reviewing and filing orders in a timely manner to  
14 prevent disruption of federal funding.

15                           **JUVENILE DELINQUENCY CASES**

16  
17          All juvenile delinquency matters will proceed. Audiovisual appearances should be used  
18 whenever possible for proceedings other than trials. No in-custody juvenile who is hospitalized,  
19 isolated, or quarantined will be transported to court or appear for a court proceeding. Those  
20 matters are to be continued until the juvenile is no longer under any hospitalization, isolation, or  
21 quarantine. No juvenile matter may proceed without the juvenile present either in person or by  
22 alternative means. If the juvenile is unavailable, the matter will be continued.

23          Juvenile delinquency trials should go forward in person. District Court Judges should, to  
24 the extent possible, accommodate requests to appear by alternative means for any attorney, party  
25 or witness who is considered a vulnerable person under current CDC guidelines or to appear by  
26 alternative means for any other reason deemed appropriate by the court. During bench trials, all  
27 participants in the trial, including the judge and court staff, must wear face coverings at all times.  
28

1           **Signatures on Juvenile Written Admissions**

2           In order to ensure the rights of juveniles are being protected while the court allows  
3 appearances by alternative means, all admissions must be in writing and include an  
4 acknowledgment of rights and an acknowledgment of the standard terms and conditions of  
5 probation or parole. Written admissions must be signed by the juvenile or signed by the juvenile's  
6 attorney and be e-filed and accepted by the court.

7           If the juvenile is unable to personally sign the written admission due to coronavirus  
8 precautions, the written admission shall be signed by counsel in the following manner:

9                       Signature affixed by (insert name of defense counsel) at the direction of  
10                      (insert name of defendant). The judge shall make a record that because of  
11                      COVID-19 precautions that the defendant was unable to physically sign  
                        the [admission].

12          The defendant shall be canvassed by the judge taking the plea as follows:

13                      On page [say page number] of the [admission] your attorney has signed your  
14                      name with a notation that they signed it at your direction. Is that correct?

15                      Did you agree for your attorney to sign in place of your actual signature?

16                      Before directing your attorney to sign for you, did you read the [admission] and  
17                      talk to your attorney about the terms of [probation or parole]?

18                      Did you discuss that your attorney signing your name at your direction will be  
19                      treated the same as if you actually signed the [admission]?

20                      Did you knowingly, willingly, and voluntarily direct your attorney to sign this  
21                      [admission] on your behalf?

22                      Do you agree to have the signature placed on the [admission] by your attorney to  
23                      be treated the same as if you signed the [admission]?

24   **PROBATE**

25  
26          Probate hearings on the Probate Commissioner's calendar that are opposed or require a  
27 hearing shall go forward and be heard by alternative means unless the Probate Commissioner  
28

1 determines a personal appearance is necessary. Matters that can be approved without a hearing  
2 will be on the approved list if no objection has been electronically filed and served by 9:30 a.m.  
3 on the day before the hearing. The approved list may be accessed on the probate section of the  
4 District Court's website at:

5 <http://www.clarkcountycourts.us/departments/probate>

6 Once on the website, select the weekly probate calendar list.

7 Probate matters on the Probate Judges' calendars will be decided on the papers or heard by  
8 video or telephonic means, unless the Judge determines a personal appearance is necessary.

9 If a party electronically files an election to proceed before the District Judge pursuant to  
10 EDCR 4.08, any petitions on file will be set by the assigned judge.

11 Original wills may be lodged in person at the Clerk's Office.

12 Scheduling orders in contested matters may be requested by stipulation of the parties  
13 submitted to chambers electronically with an order approving the proposed schedule. The assigned  
14 Probate Judge or Probate Commissioner will set the evidentiary hearing or trial. Contested matters  
15 will be decided on the papers or heard by alternative means unless the Judge or Commissioner  
16 makes a determination that a personal appearance is necessary.

17 Sale confirmations currently set will be confirmed based upon the papers filed with the  
18 Court and without the necessity of placing the sale for public bid, unless a notice of intent to  
19 overbid is electronically filed and served 72 hours before the date of the sale confirmation hearing.  
20 Any petition to confirm a sale filed after issuance of this Administrative Order shall contain, in  
21 addition to the statutory requirements, language advising that the notice of intent to overbid must  
22 be electronically filed and served 72 hours before the scheduled hearing. After receiving an  
23 electronically filed notice of intent to overbid, the Court will set a remote hearing through video  
24 or telephonic means. Otherwise the sale will be approved in accordance with the notice. All orders  
25 on approved matters will be electronically filed by the Court and electronically served.

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1 **COURT FACILITIES**

2 **Family Court and Services Complex**

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4 **Family Law Self-Help Center**

5 The Family Law Self-Help Center may begin providing in-person services. The Self-Help  
6 Center is encouraged to provide as many services as possible via telephone, e-mail, and other  
7 alternative means. Self-represented litigants may obtain help with family law forms and  
8 information at:

9 [www.FamilyLawSelfHelpCenter.org](http://www.FamilyLawSelfHelpCenter.org)

10 e-mail: [flshcinfo@lascn.org](mailto:flshcinfo@lascn.org)

Telephone: (702) 455-1500 or (702)386-1070

11 Before re-opening to provide services to the public, the Family Self-Help Center has agreed  
12 to develop protocols to ensure the health and safety of staff and patrons. The protocols should  
13 include methods of limiting waiting times for services, mask-wearing, observing social distancing,  
14 and sanitation measures.

15 **Family Mediation Center**

16 The Family Mediation Center may provide in-person mediation services. The Family  
17 Mediation Center may continue conducting mediations via telephone or other alternative means.  
18 Child interviews and parent-child observations may be scheduled. The Family Mediation Center  
19 shall develop and follow protocols to ensure the health and safety of staff and patrons. The  
20 protocols must include methods of limiting waiting times for services, mask-wearing, and  
sanitation measures.

21 **Donna's House Central**

22 Donna's House Central will continue providing supervised visitation, supervised custody  
23 exchanges and other in-person services. Donna's House will continue to follow protocols to ensure  
24 the health and safety of staff and patrons.

25 **Court Appointed Special Advocate Program**

26 The Court Appointed Special Advocate Program may resume in-person trainings,  
27 orientations and other meetings with members of the public consistent with this order. The CASA  
28

1 program is encouraged to continue conducting as much business as possible by telephone or other  
2 alternative means.

3 **Regional Justice Center**

4 The District Court maintains responsibility for security in the RJC. In that regard, the  
5 District Court remains concerned about the number of people entering the building during business  
6 hours. Any efforts by building occupants to reduce the number of people entering the building are  
7 appreciated and the District Court remains willing to assist however possible in these efforts.

8 **Civil Law Self-Help Center**

9 The Civil Law Self-Help Center may begin providing in-person services on or before April  
10 1, 2021. The Self Help Center is encouraged to continue to serve as many individuals as possible  
11 by phone, e-mail, live chat, and other alternative means. Self-represented litigants may obtain help  
12 with civil forms, information, evictions and other matters from the Civil Law Self-Help Center:

13 [www.CivilLawSelfHelpCenter.org](http://www.CivilLawSelfHelpCenter.org)

14 e-mail: [clshcinfo@lascn.org](mailto:clshcinfo@lascn.org)

15 Telephone: (702) 671-3976

16 The Civil Law Self-Help Center has agreed to develop protocols to include methods of  
17 limiting waiting times for services, observing social distancing, and sanitation measures.

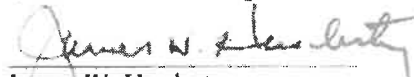
18 **FINAL PROVISIONS**

19 This order shall be reviewed no later than every 30 days and shall remain in effect until  
20 modified or rescinded by a subsequent order.

21 Dated this 4th day of June, 2021

22 

23 **DBA F6B C0E9 EB81**  
24 **Linda Marie Bell**  
25 **District Court Judge**

26 

27 **James W. Hardesty**  
28 **Chief Justice**  
**Nevada Supreme Court**

# **EXHIBIT B**



2021 WL 2402203

Only the Westlaw citation is currently available.  
United States District Court, D. New Mexico.

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
KARL THOMPSON, Defendant.

Crim. No. 19-1610 MV-4  
|  
Filed 06/11/2021

#### MEMORANDUM OPINION AND ORDER

MARTHA VÁZQUEZ UNITED STATES DISTRICT  
JUDGE

**\*1 THIS MATTER** is before the Court on the following Motions *in Limine* by the United States and Defendant Karl Thompson: (1) United States' Opposed Motion *in Limine* to Prohibit Discussion of Sentencing or Punishment at Trial [Doc. 191] ("Sentencing MIL"); (2) Defendant's Unopposed Motion *in Limine* to Exclude Hearsay [Doc. 221] ("Hearsay MIL"); (3) Defendant's Unopposed Motion *in Limine* to Exclude Testimony of Bruce Wilson [Doc. 224] ("Bruce Wilson MIL"); and (4) Defendant's Unopposed Motion *in Limine* to Allow Jurors During Voir Dire and Witnesses While They Testify to Remove Face Masks [Doc. 227] ("Face Mask MIL"). Mr. Thompson responded in opposition to the Sentencing MIL [Doc. 213] and the government filed a Reply [Doc. 233]. The government filed a Notice of Position in response to the Hearsay MIL, Bruce Wilson MIL, and Face Mask MIL [Doc. 248] stating that it did not object to the relief sought in these motions. Having carefully considered the Motions, relevant law, and being otherwise fully informed, the Court will **GRANT** the Sentencing MIL, **GRANT** the Hearsay MIL, **GRANT** the Bruce Wilson MIL, and **GRANT IN PART** the Face Mask MIL.

#### **BACKGROUND**

On April 18, 2019, four individuals allegedly robbed a Mustang convenience store of liquor items. Doc. 221 at 1. On June 12, 2019, a federal grand jury returned an indictment charging Karl Thompson and three others with one count of Interference with Interstate Commerce by Robbery and Violence, in violation of 18 U.S.C. §§ 1951(a) and 2, and one count of Using, Carrying, Brandishing, and Discharging a Firearm During and in Relation to a Crime of Violence, in violation of 18 U.S.C. §§ 924(c) and 2. Doc. 13. Mr. Thompson's codefendants are Julian C. Silversmith, Aurelius Jamal Eddie, and Kevin Marquez. *Id.*

In December 2019, Mr. Thompson pled guilty to an information [Doc. 82] charging him with one count of Interference with Interstate Commerce by Robbery and Violence, in violation of 18 U.S.C. §§ 1951(a) and 2, and one count of Using and Carrying a Firearm During and in Relation to a Crime of Violence, in violation of 18 U.S.C. § 924(c)(1)(A)(i), pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. Doc. 85. However, on March 10, 2021, this Court rejected the plea agreement and Mr. Thompson elected to withdraw his guilty plea and proceed to trial. Doc. 173. On April 22, 2021, a federal grand jury returned a superseding indictment charging Mr. Thompson with the same offenses as the first indictment and an additional charge of Conspiracy to Interfere with Interstate Commerce by Robbery and Violence, in violation of 18 U.S.C. § 1951(a). Doc. 196. In April 2021, the parties began filing a series of motions *in limine* to address certain issues prior to trial.

#### **DISCUSSION**

##### **I. The Sentencing Motion *in Limine***

The United States' Sentencing MIL requests that the Court exclude evidence related to the sentence that might be imposed if Mr. Thompson is convicted of the offenses charged. Doc. 191 at 1. The government notes that the Tenth Circuit has developed a bright line rule that "[u]nless a statute specifically requires jury participation in determining punishment, the jury shall not be informed of the possible penalties." *Id.* at 2 (citing *United States v. Parrish*, 925 F.2d 1293, 1299 (10th Cir. 1991), abrogated

on other grounds by *United States v. Wacker*, 72 F.3d 1453 (10th Cir. 1995)). The government argues that allowing discussion of possible penalties would contradict the jury instructions regularly given by this Court. *Id.* at 3-4 (citing Tenth Circuit Pattern Jury Instructions 1.04 at 9 (“It is also your duty to base your verdict solely upon the evidence, without prejudice or sympathy.”) and 1.20 at 34 (“If you find the defendant guilty, it will be my duty to decide what the punishment will be. You should not discuss or consider the possible punishment in any way while deciding your verdict.”)). Because the Supreme Court has held that “[t]he jury has no sentencing function and should reach its verdict without regard to what sentence might be imposed,” the government asserts that the parties should be precluded from making references to potential sentences. *Id.* (citing *Rogers v. United States*, 422 U.S. 35, 40 (1975)).

\*2 In response, Mr. Thompson recognizes that the Tenth Circuit and Supreme Court precedent prevents introduction of evidence of the potential penalties that he faces if convicted. Doc. 213 at 2. He notes, however, that the Supreme Court’s recent Sixth Amendment jurisprudence requires that this precedent be reevaluated. *Id.* He argues that when the Sixth Amendment was drafted, it contemplated that juries would consider punitive consequences in reaching their verdict, and that recent decisions “cast considerable doubt on the prohibition of the disclosure of possible penalties evidence to the jury.” *Id.* at 3-4. Mr. Thompson requests that the Court reconsider the prohibition on the presentation of possible penalties and allow such evidence to be presented to the jury. *Id.* at 8. This theoretical argument clearly contravenes existing—and controlling—precedent, however, and thus is unpersuasive.

Not only is the presentation of evidence of possible sentences to a jury prejudicial, but the Tenth Circuit has mandated that a jury is obligated to “reach its verdict without regard to what sentence might be imposed.” *United States v. Greer*, 620 F.2d 1383, 1384–85 (10th Cir. 1980) (citing *Rogers*, 422 U.S. at 40). Unless there is an explicit statutory requirement that the jury participate in the sentencing decision, “nothing is left ‘for jury determination beyond the guilt or innocence of an accused.’” *Id.* (quoting *Chapman v. United States*, 443 F.2d 917, 920 (10th Cir. 1971)); see also *Parrish*, 925 F.2d at 1299 (“Unless a statute specifically requires jury participation in determining punishment, the jury shall not be informed of the possible penalties.”). Accordingly, the Tenth Circuit has specifically held that “it is improper to inform the jury of the defendant’s possible punishment.” *United States v. Jones*, 933 F.2d 807, 811 (10th Cir.

1991). Furthermore, the Tenth Circuit has made clear that “there is no right to jury nullification.” *Crease v. McKune*, 189 F.3d 1188 (10th Cir. 1999) (citation omitted). Consistent with this case law, Tenth Circuit Criminal Pattern Jury Instructions 1.04 and 1.20 direct that the jury’s verdict should be based “solely upon the evidence, without prejudice or sympathy,” and that the jury should not discuss or consider the possible punishment when deciding the verdict. Tenth Cir. Crim. Pattern Jury Instr. 1.04 at 9, 1.20 at 34 (2021 update). Given this controlling authority, the Court is not at liberty to adopt Mr. Thompson’s theory that an originalist approach to the Sixth Amendment would establish a right to instruct the jury about possible penalties. Accordingly, the United States’ Sentencing MIL will be granted.

## II. The Hearsay Motion in Limine

Mr. Thompson’s Hearsay MIL asks the Court to exclude the introduction of hearsay statements and irrelevant evidence. Doc. 221. Specifically, as officers investigated the April 18, 2019 robbery of the Mustang convenience store, they interviewed several individuals and gathered information. *Id.* at 2. Additionally, during a jailhouse interview, an individual named Bruce Wilson told officers about statements made by Mr. Thompson’s codefendants (specifically, Mr. Silversmith and Mr. Eddie) after the robbery. *Id.* On April 24, 2019, officers received a crime stopper tip reporting that Karl Thompson may have been involved in the incident at the Mustang Store. *Id.* Finally, law enforcement officers interviewed Mr. Thompson’s mother, who told officers about statements made by codefendant Kevin Marquez after the alleged robbery. *Id.* Mr. Thompson argues that each of these statements cannot be introduced at trial because they are impermissible hearsay (out-of-court statements offered in evidence to prove the truth of the matter asserted). *Id.* (citing Fed. R. Evid. 801(c)). Mr. Thompson also argues that the introduction of these statements would violate his Sixth Amendment right to confront the witnesses against him under *Crawford v. Washington*, 541 U.S. 36 (2004). *Id.* at 3-4. He accordingly requests that the Court exclude hearsay statements made by Mr. Silversmith, Mr. Eddie, and Mr. Marquez to Mr. Wilson and Ms. Thompson, respectively, as inadmissible hearsay. *Id.* The government is unopposed to the Hearsay MIL. See Doc. 248. (“The United States does not object to the relief sought therein.”).

\*3 Hearsay testimony is generally inadmissible. Fed. R. Evid. 802. Under Rule 801(c) of the Federal Rules of Evidence: “‘Hearsay’ means a statement that: (1) the

declarant does not make while testifying at the current trial or hearing; and (2) a party offers in evidence to prove the truth of the matter asserted in the statement.” Fed. R. Evid. 801(c). A statement that is otherwise hearsay, however, may be offered for a permissible purpose other than to prove the truth of the matter asserted. *See United States v. DeLeon*, 418 F. Supp. 3d 682, 742 (D.N.M. 2019) (citing *United States v. Caraway*, 534 F.3d 1290, 1299 (10th Cir. 2008)). Hearsay is generally unreliable and untrustworthy. *See Chambers v. Mississippi*, 410 U.S. 284, 288 (1973) (noting that hearsay is generally untrustworthy and lacks traditional indicia of reliability); *United States v. Lozado*, 776 F.3d 1119, 1121 (10th Cir. 2015) (“Hearsay is generally inadmissible as evidence because it is considered unreliable.”). Courts use three devices to illuminate inaccuracies in testimony: (1) the oath; (2) personal presence at trial; and (3) cross examination. *See United States v. Baca*, No. CR 16-1613 JB, 2018 WL 6602216, at \*26 (D.N.M. Dec. 17, 2018) (unreported) (citing Weinstein’s Federal Evidence § 802.02[2][a], at 802-5)). Courts view hearsay evidence as unreliable because it is not subject to an oath, personal presence in court, or cross examination. *Id.*

The statements that Mr. Thompson asks the Court to exclude also implicate the Confrontation Clause of the Sixth Amendment. The Confrontation Clause states: “In all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him.” U.S. Const. amend. VI. In *Crawford*, the Supreme Court held that, under the Confrontation Clause, “[t]estimonial statements of witnesses absent from trial [are admissible] only where the declarant is unavailable, and only where the defendant has had a prior opportunity to cross-examine.” 541 U.S. at 59. The Tenth Circuit defines a testimonial statement not made during police interrogation as “a formal declaration made by the declarant that, when objectively considered, indicates that the primary purpose of the [statement is] to establish or prove past events potentially relevant to later criminal prosecution.” *United States v. Morgan*, 748 F.3d 1024, 1038 (10th Cir. 2014) (internal citation and quotation marks omitted).

Here, Mr. Thompson objects to (1) statements made by Mr. Silversmith and Mr. Eddie to Bruce Wilson after the robbery that Mr. Wilson reported to officers during a jailhouse interview; (2) a crime stopper tip that Mr. Thompson may have been involved in the incident at the Mustang store; and (3) statements made by Mr. Marquez to Mr. Thompson’s mother after the alleged robbery. Doc. 221 at 3. Each of these statements is hearsay evidence under Rule 801(c), as they constitute out-of-court statements offered for the truth of the matter asserted.

Fed. R. Evid. 801(c). Such hearsay statements are generally inadmissible, Fed. R. Evid. 802, and here there is no indication that these statements are otherwise admissible though any of the exceptions to the general hearsay prohibition. *See* Fed. R. Evid. 803, 804. For these reasons, Mr. Thompson’s Hearsay MIL will be granted.

### III. The Bruce Wilson Motion in Limine

Karl Thompson’s Bruce Wilson MIL asks the Court to exclude the introduction of testimony by Bruce Wilson as hearsay and irrelevant. Doc. 224. He states that during their investigation of the April 18, 2019 robbery of the Mustang convenience store, officers conducted a jailhouse interview with Bruce Wilson. *Id.* Mr. Wilson was arrested with Mr. Silversmith after the robbery, but Mr. Thompson asserts that there is no evidence that Mr. Wilson was involved in the robbery or that he ever spoke with or met Mr. Thompson. Doc. 261 at 2. Mr. Thompson argues that Mr. Wilson’s statements to the police are hearsay under Rule 801(c) and are irrelevant because neither Mr. Silversmith nor Mr. Eddie is on trial. *Id.* at 2. Mr. Thompson also argues that introducing these statements through Mr. Wilson’s testimony would violate his Sixth Amendment right to confront the witnesses against him. *Id.* (citing *Crawford*, 541 U.S. at 58). The government is unopposed to the Bruce Wilson MIL. *See* Doc. 248. (“The United States does not object to the relief sought therein but reserves its right to call any witness that may become necessary during rebuttal.”).

\*4 In a supplement to the Bruce Wilson MIL, Mr. Thompson submitted a summary of Bruce Wilson’s interview with police. Doc. 261. The interview is difficult to follow, as it does not appear to present events in a linear timeframe. Doc. 261-1. In the interview, Mr. Wilson informed police that it had been his birthday and so he caught a ride with Mr. Silversmith to celebrate. Doc. 261-1 at 2. Mr. Wilson stated that he woke up in the woods and learned from Mr. Eddie that there had been an armed robbery. *Id.* He saw alcohol in the possession of Mr. Silversmith, Mr. Eddie, and a “friend of theirs.” *Id.* Mr. Wilson explained that they picked up liquor that had been stashed and consumed it in a truck. *Id.* Mr. Wilson told officers that when he woke up at 8:00 A.M., he was in the vehicle and was “not aware of the incident” because he was “‘black out’ and too drunk.” *Id.*

As explained in the Court’s discussion of the Hearsay MIL, hearsay testimony is generally inadmissible unless there is an applicable exception. *See supra* Section II; Fed. R. Evid. 802, 803, 804. Here, Mr. Thompson objects

to testimony from Bruce Wilson regarding statements made by Mr. Silversmith and Mr. Eddie to him after the robbery. Doc. 224 at 3. The Court ruled above that such statements constitute hearsay and are inadmissible. Although the government does not object, it indicated that it reserves its right to call any witness that may become necessary during rebuttal. Doc. 248. To the extent that this may include Bruce Wilson's testimony as to this hearsay evidence, this motion *in limine* will be granted.

#### IV. The Face Mask Motion *in Limine*

Karl Thompson's Face Mask MIL requests that the Court allow jurors to remove their face masks during voir dire and witnesses to remove their face masks while they testify. Doc. 227. He notes that jury selection has been drastically altered since the COVID-19 pandemic began in March 2020. In support of his request, he notes that the ability to observe jurors' facial expressions and body language is essential to the intelligent and meaningful exercise of peremptory challenges. *Id.* at 2 (citing *United States v. Ruiz*, 894 F.2d 501, 506 (2d Cir. 1990) (allowing excusal of juror making "facial expressions" suggesting "that she really did not want to sit"); *Barfield v. Orange County*, 911 F.2d 644, 648 (11th Cir. 1990) (holding that hostile facial expressions and body language are race neutral)). He asks that jurors be provided clear face masks so that counsel can effectively evaluate each juror's demeanor during jury selection. *Id.* Additionally, he argues that face mask removal for witnesses while they testify is necessary to his Sixth Amendment right to physically face those who testify against him. *Id.* at 3 (citing *Crawford*, 541 U.S. at 42; *Coy v. Iowa*, 487 U.S. 1012, 1017 (1988)). He asserts that the removal of face masks will allow him to "actually hear" the witness and observe facial expressions, which "are a critical component of body language and demeanor" and "contribute significantly to the determination of credibility." *Id.* The government is unopposed to the Face Mask MIL. *See* Doc. 248. ("The United States does not object to the relief sought therein.").

The Court continues to evaluate its response to the spread of COVID-19 in order to balance the need to assist in the preservation of public safety and health while effectively administering justice during this period of national emergency. The Court is following all applicable Administrative Orders issued in the United States District Court for the District of New Mexico. On May 18, 2021, Administrative Order 21-MC-00004-17 was issued in accordance with the Centers for Disease Control and Prevention ("CDC") guidelines regarding COVID-19 safe

practices for fully vaccinated individuals' and the New Mexico Department of Health ("NMDOH") clarifying Public Health Emergency Order.<sup>2</sup> This Administrative Order states that all persons entering courthouse facilities who are not fully vaccinated are still required to wear a face mask and socially distance from other individuals. Individuals who are fully vaccinated do not need to wear a face mask or socially distance from others. The Court will not be inquiring about the vaccination status of potential jurors and witnesses, but it will inform them that if they are fully vaccinated then they are not required to wear a face mask.

\*5 The Court agrees with Mr. Thompson that an unimpeded opportunity to cross-examine adverse witnesses face-to-face and in full view of the jury is core to the Sixth Amendment right of confrontation. As the Supreme Court explained over 125 years ago:

The primary object of [this provision] was to prevent depositions or ex parte affidavits, such as were sometimes admitted in civil cases, being used against the prisoner in lieu of a personal examination and cross-examination of the witness, in which the accused has an opportunity, not only of testing the recollection and sifting the conscience of the witness, *but of compelling him to stand face to face with the jury in order that they may look at him, and judge by his demeanor upon the stand and the manner in which he gives his testimony whether he is worthy of belief.*

*Mattox v. United States*, 156 U.S. 237, 242-43 (1895) (emphasis added). The Court will require testifying witnesses who do not remove their masks after being informed that vaccinated individuals do not need to wear a face mask to replace their face mask with a clear face shield. This will appropriately strike the balance of minimizing health risks, as the witnesses will be situated apart from other trial participants on the witness stand, and retaining the full force of Mr. Thompson's Sixth Amendment rights.

However, prospective jurors during voir dire are not separated from one another in the way that testifying witnesses are. Requiring prospective jurors who have kept their face masks on to remove their masks will therefore create an unacceptable health risk in light of COVID-19. Unlike with the Confrontation Clause issue with masked witnesses, the Court is aware of no authority, nor has Mr. Thompson cited any, holding that the Sixth Amendment right to an impartial jury or Due Process demand that the defendant have unimpeded visual access to prospective jurors' facial expressions during jury selection. *See, e.g., United States v. Robertson*, No. 17-CR-02949-MV-1, 2020 WL 6701874, at \*2 (D.N.M. Nov. 13, 2020). The Court believes that Mr. Thompson's ability to ask

questions during voir dire and to see the upper half of prospective jurors' faces is enough to satisfy his constitutional rights during jury selection, at least during an ongoing a global pandemic.

For the foregoing reasons, Mr. Thompson's Face Mask MIL will be granted in part. The Court will announce that vaccinated individuals are not required to wear their face masks and will order testifying witnesses whose face masks remain on to replace their masks with clear face shields. The Court will not order jurors and prospective jurors who keep their face masks on to replace their masks with clear face shields.

## CONCLUSION

**IT IS THEREFORE ORDERED** that the United States'

### Footnotes

- 1 See CDC, *Interim Public Health Recommendations for Fully Vaccinated People* (May 13, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>.
- 2 See Tracie C. Collins, M.D., *Public Health Emergency Order Clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders Remain in Effect; and Amending Prior Public Health Emergency Orders to Impose County-by-County Restrictions Due to COVID-19* (May 14, 2021), <https://cv.nmhealth.org/wp-content/uploads/2021/05/NCOV-PHO-20210514-.pdf>.

Motion *in Limine* to Prohibit Discussion of Sentencing or Punishment at Trial [Doc. 191] is **GRANTED**; Mr. Thompson's Unopposed Motion *in Limine* to Exclude Hearsay [Doc. 221] is **GRANTED**; Mr. Thompson's Unopposed Motion *in Limine* to Exclude Testimony of Bruce Wilson [Doc. 224] is **GRANTED**; and Mr. Thompson's Unopposed Motion *in Limine* to Allow Jurors During Voir Dire and Witnesses While They Testify to Remove Face Masks [Doc. 227] is **GRANTED IN PART**.

ENTERED this 11th day of June 2021.

### All Citations

Slip Copy, 2021 WL 2402203

# EXHIBIT C

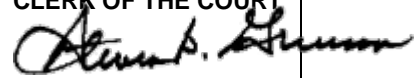
The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\*\*\*\*

Electronically Filed  
6/23/2021 4:49 PM  
Steven D. Grierson  
CLERK OF THE COURT



State of Nevada  
vs  
Vernon Newson Jr

Case No.: C-16-313919-1  
Department 10

**NOTICE OF HEARING**

Please be advised that the Motion in Limine - Witness Face Coverings in the above-entitled matter is set for hearing as follows:

**Date:** July 07, 2021  
**Time:** 8:30 AM  
**Location:** RJC Courtroom 14B  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89101

**NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.**

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Imelda Murrieta  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Imelda Murrieta  
Deputy Clerk of the Court



**OPI**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
PAMELA WECKERLY  
Chief Deputy District Attorney  
Nevada Bar #6163  
200 Lewis Avenue  
Las Vegas, Nevada, 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

VERNON NEWSON, JR.,  
#1946426

Defendant.

CASE NO. C-16-313919-1

DEPT NO. X

**ORDER FOR PRODUCTION OF INMATE  
VERNON NEWSON, JR., BAC #1051868**

DATE OF HEARING: 6/30/21  
TIME OF HEARING: 8:30 AM

TO: NEVADA DEPARTMENT OF CORRECTIONS; and

TO: JOSEPH LOMBARDO, Sheriff of Clark County, Nevada:

Upon the ex parte application of THE STATE OF NEVADA, Plaintiff, by STEVEN B. WOLFSON, District Attorney, through PAMELA WECKERLY, Chief Deputy District Attorney, and good cause appearing therefor,

IT IS HEREBY ORDERED that NEVADA DEPARTMENT OF CORRECTIONS shall be, and is, hereby directed to produce VERNON NEWSON, JR., Defendant in Case Number C-16-313919-1, wherein THE STATE OF NEVADA is the Plaintiff, inasmuch as the said VERNON NEWSON, JR. is currently incarcerated in the NEVADA DEPARTMENT OF CORRECTIONS located in Clark County, Nevada, and his presence will be required in Las

1 Vegas, Nevada, commencing on 6/30/21, at the hour of 8:30 o'clock AM and continuing until  
2 completion of the prosecution's case against the said Defendant.

3 IT IS FURTHER ORDERED that JOSEPH LOMBARDO, Sheriff of Clark County,  
4 Nevada, shall accept and retain custody of the said VERNON NEWSON, JR. in the Clark  
5 County Detention Center, Las Vegas, Nevada, pending completion of said matter in Clark  
6 County, or until the further Order of this Court; or in the alternative shall make all  
7 arrangements for the transportation of the said VERNON NEWSON, JR. to and from the  
8 Nevada Department of Corrections facility which are necessary to insure the VERNON  
9 NEWSON, JR.'s appearance in Clark County pending completion of said matter, or until  
10 further Order of this Court.

11 DATED this \_\_\_\_\_ day of June, 2021.

12   
13 \_\_\_\_\_  
14 DISTRICT JUDGE

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

1E8 538 AEC5 EE7A  
Tierra Jones  
District Court Judge

18 BY /s/PAMELA WECKERLY  
19 PAMELA WECKERLY  
20 Chief Deputy District Attorney  
21 Nevada Bar #6163  
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27 dd/MVU  
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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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6 State of Nevada

CASE NO: C-16-313919-1

7 vs

DEPT. NO. Department 10

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Vernon Newson Jr

**AUTOMATED CERTIFICATE OF SERVICE**

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 6/29/2021

"Ryan J. Bashor, Deputy Public Defender" . bashorj@clarkcountynv.gov

"Sara Ruano, Murder Team Secretary" . ruanosg@clarkcountynv.gov

"Weckerly, Pamela, Chief Deputy District Attorney" . pamela.weckerly@clarkcountynyda.com

Clark County DA MOTIONS . Motions@clarkcountynyda.com

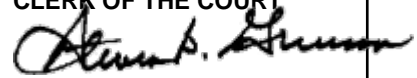
DC 21 Law Clerk . Dept21LC@clarkcountnycourts.us

District Court Master Calendar . clerkmastercalendar@clarkcountnycourts.us

Kambiz Shaygan-Fatemi Kambiz.Shaygan-Fatemi@clarkcountnynv.gov

PD Clerk pdclerk@clarkcountnynv.gov

DC 10 Law Clerk Dept10LC@clarkcountnycourts.us



NWEW  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
PAMELA WECKERLY  
Chief Deputy District Attorney  
Nevada Bar #6163  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

VERNON NEWSON, JR.,  
#1946426

Defendant.

CASE NO: C-16-313919-1

DEPT NO: X

**SECOND SUPPLEMENTAL NOTICE OF WITNESSES**  
**[NRS 174.234(1)(a)]**

TO: VERNON NEWSON, JR., Defendant; and  
TO: RYAN BASHOR, Deputy Public Defender, Counsel of Record:  
YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
NEVADA intends to call the following witnesses in its case in chief:

\*INDICATES ADDITIONAL WITNESSES

<u>NAME</u>	<u>ADDRESS</u>
ACOSTA, JUAN	4735 E. Cincinnati Ave., LVN, 89104
BANEZ, SHERWYNNE	4775 Swenson St., LVN, 89119
BREMMER, NAKIEA	4775 Swenson St., LVN, 89119
BROOKS, D.	NL2380
BROWN, TIFFANY	CCME-INVESTIGATOR, 1704 Pinto Lane, LVN
BURGUENO, GERARDO	4336 Santa Clarita Ave., LV, NV 89081

1	CARRINGTON, OLIVER	3237 Edinboro Ridge Ave., NLV, NV 89081
2	CENTULO, HENRY	NLVPD P#1247
3	CHADDOCK, DAVID	NLVPD P#1805
4	CORRALES, AUGUST	MEDIC WEST, 9 W. Delhi Ave, NLV, NV 89032
5	CUSTODIAN OF RECORDS	GUN REGISTRATION
6	CUSTODIAN OF RECORDS	LVMPD RECORDS
7	CUSTODIAN OF RECORDS	CCDC
8	CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
9	DINH, C.	LVMPD P#15084
10	FARGE, MICHAEL	NLVPD P#1669
11	*FOUQUET, I.	LVMPD # 9209
12	GLAZIER, T.	NLVPD P#701
13	HAWKINS, RICK	Claremont Police Dept., 570 W. Bonita Ave., Claremont, CA 91711
14		
15	*HAYNES, V.	LVMPD # 13004
16	HOWE, BRIAN	NLVPD P#2376
17	HUDSON, JIM	NLVPD P#1272
18	JERRAN, NICHOLAS	NHP P#2330
19	*LAFAVOR, MARK	LVMPD # 13387
20	REECE, WINSTON	4740 E. Cincinnati Ave., LVN, 89104
21	SANDERSON, PAUL	NLVPD P#1699
22	SCHWANITZ, IAN	NLVPD P#1237
23	TILLMAN, JACOB	Claremont Police Dept., 570 W. Bonita Ave., Claremont, CA 91711
24		
25	TING, JEFF	Claremont Police Dept., 570 W. Bonita Ave., Claremont, CA 91711
26		
27	WALTERS, JASON	Claremont Police Dept., 570 W. Bonita Ave., Claremont, CA 91711
28		

1        These witnesses are in addition to those witnesses endorsed on the Information or  
2        Indictment and any other witness for which a separate Notice of Witnesses and/or Expert  
3        Witnesses has been filed.

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

8                               BY /s/PAMELA WECKERLY  
9                               PAMELA WECKERLY  
10                              Chief Deputy District Attorney  
11                              Nevada Bar #6163

12  
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14                              CERTIFICATE OF ELECTRONIC TRANSMISSION

15        I hereby certify that service of the above and foregoing was made this 29th day of  
16        January, 2018, by electronic transmission to:

17                              PUBLIC DEFENDER'S OFFICE  
18                              E-mail: [pdclerk@clarkcountynv.gov](mailto:pdclerk@clarkcountynv.gov)

19                              RYAN BASHOR, Deputy Public Defender  
20                              Email: [bashorj@ClarkCountyNV.gov](mailto:bashorj@ClarkCountyNV.gov)

21                              SARA RUANO, Public Defender's Office  
22                              Email: [ruanosg@clarkcountynv.gov](mailto:ruanosg@clarkcountynv.gov)

23                              BY: /s/ Deana Daniels  
24                              Secretary for the District Attorney's Office

25  
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28        15FN2243X/saj/MVU

JUL 13 2021

AINF  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
PAMELA WECKERLY  
Chief Deputy District Attorney  
Nevada Bar #006163  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

BY,   
TERI BERKSHIRE, DEPUTY

**ORIGINAL**

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

VERNON NEWSON, JR.,  
#1946426

Defendant.

CASE NO: C-16-313919-1

DEPT NO: X

**FOURTH**  
AMENDED

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 VERNON NEWSON, JR., the Defendant(s) above named, having committed the crime of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001), on or about the 13th day of December, 2015, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada, did willfully, unlawfully, feloniously and with malice aforethought, kill ANSHANETTE MCNEIL, a human being, with use of a deadly weapon, to-wit: a firearm, by the Defendant shooting at and into the body of the said ANSHANETTE MCNEIL, the said killing having been willful, deliberate and premeditated; the Defendant being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this

1 crime; and/or (2) by aiding or abetting in the commission of this crime with the intent that this  
2 crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or  
3 otherwise procuring the other to commit the crime.

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

8 BY   
9 PAMELA WECKERLY  
10 Chief Deputy District Attorney  
11 Nevada Bar #006163  
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(TK)



ORIGINAL

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

JUL 14 2021

JURL

DISTRICT COURT  
CLARK COUNTY, NEVADA

BY,   
TERI BERKSHIRE, DEPUTY

The State of Nevada

Plaintiff(s),

CASE NO. C313919

DEPT. NO. X

-vs-

Vernon Newson

Defendant(s).

JURY

1. NATELIE LARSEN

7. STUART TAUB

2. ERIN LOFTIS

8. KELSEY MACSTRAVIC

3. GAIL CROWELL

9. CHRISTINE FULLIDO

4. RONALD STAFFIERI

10. MAYA FOWLER

5. LAURA SAKURAI

11. DARRYL LAMBERT

6. DAVID THOMSON

12. CANDICE GRAVITT

ALTERNATES SECRET FROM ABOVE

1. TIAWANDA BAITY

2. MIGUEL MORALES

1 VER

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

5 JUL 19 2021 4:22p.m.

6 DISTRICT COURT BY, Christopher Darling  
7 **CHRISTOPHER DARLING, DEPUTY**  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA, )

10 Plaintiff, )

11 -vs- )

12 VERNON NEWSON, JR., )

13 Defendant. )

CASE NO: C-16-313919-1

DEPT NO: X

14 VERDICT

15 We, the jury in the above entitled case, find the Defendant VERNON NEWSON, JR.,  
16 as follows:

17 COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

18 *(please check the appropriate box, select only one)*

19 ☒ Guilty of First Degree Murder with Use of a Deadly Weapon

20 ☐ Guilty of First Degree Murder

21 ☐ Guilty of Second Degree Murder with Use of a Deadly Weapon

22 ☐ Guilty of Second Degree Murder

23 ☐ Guilty of Voluntary Manslaughter with Use of a Deadly Weapon

24 ☐ Guilty of Voluntary Manslaughter

25 ☐ Not Guilty

26 DATED this 19 day of July, 2021

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INST

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

JUL 19 2021 4:22pm

DISTRICT COURT  
CLARK COUNTY, NEVADA

BY, Christopher Darling  
**CHRISTOPHER DARLING, DEPUTY**

THE STATE OF NEVADA, )  
 )  
Plaintiff, )  
 )  
-vs- )  
 )  
VERNON NEWSON, JR., )  
Defendant. )

CASE NO: C-16-313919-1  
DEPT NO: X

INSTRUCTIONS TO THE JURY (INSTRUCTION NO. I)  
MEMBERS OF THE JURY:

It is now my duty as judge to instruct you in the law that applies to this case. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

You must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

1  
2 A Fourth Amended Information is but a formal method of accusing a person of a  
3 crime and is not of itself any evidence of his guilt.

4 In this case, it is charged in a Fourth Amended Information that on or about the 13th  
5 day of December 2015, within the County of Clark, State of Nevada, contrary to the form,  
6 force and effect of statutes in such cases made and provided, and against the peace and  
7 dignity of the State of Nevada, the defendant committed the crime of MURDER WITH USE  
8 OF A DEADLY WEAPON, by willfully, unlawfully, feloniously and with malice  
9 aforethought, killing ANSHANETTE MCNEIL, a human being, with use of a deadly  
10 weapon, to-wit: a firearm, by the Defendant shooting at and into the body of the said  
11 ANSHANETTE MCNEIL, the said killing having been willful, deliberate and premeditated.

12 It is the duty of the jury to apply the rules of law contained in these instructions to the  
13 facts of the case and determine whether or not the defendant is guilty of the offense charged.  
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INSTRUCTION NO. 4

Murder is the unlawful killing of a human being with malice aforethought, either express or implied. The unlawful killing may be effected by any of the various means by which death may be occasioned.

INSTRUCTION NO. 5

Malice aforethought means the intentional doing of a wrongful act without legal cause or excuse or what the law considers adequate provocation. The condition of mind described as malice aforethought may arise, from anger, hatred, revenge, or from particular ill will, spite or grudge toward the person killed. It may also arise from any unjustifiable or unlawful motive or purpose to injure another, proceeding from a heart fatally bent on mischief or with reckless disregard of consequences and social duty. Malice aforethought does not imply deliberation or the lapse of any considerable time between the malicious intention to injure another and the actual execution of the intent but denotes an unlawful purpose and design as opposed to accident and mischance.

INSTRUCTION NO. 6

Express malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

Malice may be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.



INSTRUCTION NO. 7

Murder of the First Degree is murder which is perpetrated by means of any kind of willful, deliberate, and premeditated killing. All three elements -- willfulness, deliberation, and premeditation -- must be proven beyond a reasonable doubt before an accused can be convicted of first-degree murder.

INSTRUCTION NO. 8

Willfulness is the intent to kill. There need be no appreciable space of time between formation of the intent to kill and the act of killing.

INSTRUCTION NO. 9

Deliberation is the process of determining upon a course of action to kill as a result of thought, including weighing the reasons for and against the action and considering the consequences of the actions.

A deliberate determination may be arrived at in a short period of time. But in all cases the determination must not be formed in passion, or if formed in passion, it must be carried out after there has been time for the passion to subside and deliberation to occur. A mere unconsidered and rash impulse is not deliberate, even though it includes the intent to kill.

INSTRUCTION NO. 10

Premeditation is a design, a determination to kill, distinctly formed in the mind by the time of the killing.

Premeditation need not be for a day, an hour, or even a minute. It may be as instantaneous as successive thoughts of the mind. For if the jury believes from the evidence that the act constituting the killing has been preceded by and has been the result of premeditation, no matter how rapidly the act follows the premeditation, it is premeditated.

INSTRUCTION NO. 11

The law does not undertake to measure in units of time the length of the period during which the thought must be pondered before it can ripen into an intent to kill which is truly deliberate and premeditated. The time will vary with different individuals and under varying circumstances.

The true test is not the duration of time, but rather the extent of the reflection. A cold, calculated judgment and decision may be arrived at in a short period of time, but a mere unconsidered and rash impulse, even though it includes an intent to kill, is not deliberation and premeditation as will fix an unlawful killing as Murder of the First Degree.

When it is impossible to commit a particular crime without committing, at the same time and by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a "lesser included offense."

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the offense charged, he may, however, be found guilty of any lesser included offense, if the evidence is sufficient to establish his guilt of such lesser offense beyond a reasonable doubt.

The offense of Murder which actually charges the defendant with First Degree Murder necessarily includes the lesser offense of Second Degree Murder.

Voluntary Manslaughter is a lesser included offense of both First and Second Degree Murder. Thus, you may only return a verdict of Voluntary Manslaughter if you first rule out both First and Second Degree Murder.

INSTRUCTION NO. 13

All murder which is not Murder of the First Degree is Murder of the Second Degree. Murder of the Second Degree is murder with malice aforethought, but without the admixture of premeditation and deliberation.

Manslaughter is the unlawful killing of a human being without malice express or implied and without any mixture of deliberation.



Voluntary Manslaughter is the unlawful killing of a human being, without malice aforethought and without deliberation or premeditation. It is a killing upon a sudden quarrel or heat of passion, caused by a provocation sufficient to make the passion irresistible.

The provocation required for Voluntary Manslaughter must either consist of a serious and highly provoking injury inflicted upon the person killing, sufficient to excite an irresistible passion in a reasonable person, or an attempt by the person killed to commit a serious personal injury on the person killing.

For the sudden, violent impulse of passion to be irresistible resulting in a killing, which is Voluntary Manslaughter, there must not have been an interval between the assault or provocation and the killing sufficient for the voice of reason and humanity to be heard; for, if there should appear to have been sufficient time for a cool head to prevail and the voice of reason to be heard, the killing shall be attributed to deliberate revenge and determined by you to be murder. The law assigns no fixed period of time for such an interval but leaves its determination to the jury under the facts and circumstances of the case.

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2       The heat of passion which will reduce a Murder to Voluntary Manslaughter must be  
3 such an irresistible passion as naturally would be aroused in the mind of an ordinarily  
4 reasonable person in the same circumstances. A defendant is not permitted to set up his own  
5 standard of conduct and to justify or excuse himself because his passions were aroused  
6 unless the circumstances in which he was placed and the facts that confronted him were such  
7 as also would have aroused the irresistible passion of the ordinarily reasonable man if  
8 likewise situated. The basic inquiry is whether or not, at the time of the killing, the reason of  
9 the accused was obscured or disturbed by passion to such an extent as would cause the  
10 ordinarily reasonable person of average disposition to act rashly and without deliberation and  
11 reflection and from such passion rather than from judgment.

With regard to Voluntary Manslaughter, whether the interval between the provocation and the killing is sufficient for the passions of a reasonable person to cool is not measured exclusively by any precise time. What constitutes a sufficient cooling off period also depends upon the magnitude of the provocation and the degree to which passions are aroused.

INSTRUCTION NO. 18

The serious and highly provoking injury which causes the sudden heat of passion for purposes of voluntary manslaughter can occur without direct physical contact.

1  
2       You are instructed that if you find that the State has established that the Defendant  
3 has committed First Degree Murder you shall select First Degree Murder as your verdict.  
4 The crime of First Degree Murder includes the crime of Second Degree Murder and  
5 Voluntary Manslaughter. You may find the defendant guilty of Second Degree Murder if:

6       1. You have not found, beyond a reasonable doubt, that the defendant is Guilty of  
7 Murder of the First Degree, and

8       2. All twelve of you are convinced beyond a reasonable doubt the defendant is Guilty  
9 of the crime of Second Degree Murder.

10       You may find the defendant guilty of Voluntary Manslaughter if:

11       1. You have not found, beyond a reasonable doubt, that the defendant is Guilty of  
12 Murder of the First Degree or Murder of the Second Degree, and

13       2. All twelve of you are convinced beyond a reasonable doubt the defendant is Guilty  
14 of the crime of Voluntary Manslaughter

15       If you are convinced beyond a reasonable doubt that the crime of murder has been  
16 committed by the defendant, but you have a reasonable doubt whether such murder was of  
17 the first or of the second degree, you must give the defendant the benefit of that doubt and  
18 return a verdict of Murder of the Second Degree. If you have a reasonable doubt as to  
19 whether the crime was Second Degree Murder or Voluntary Manslaughter, you must give  
20 the defendant the benefit of that doubt and return a verdict of Voluntary Manslaughter.

INSTRUCTION NO. 20

You are instructed that if you find the defendant guilty of First or Second Degree Murder or Voluntary Manslaughter, you must also determine whether or not a deadly weapon was used in the commission of the crime.

If you find beyond a reasonable doubt that a deadly weapon was used in the commission of such an offense, then you shall return the appropriate guilty verdict reflecting "With Use of a Deadly Weapon".

If, however, you find that a deadly weapon was not used in the commission of such an offense, but you find that it was committed, then you shall return the appropriate guilty verdict reflecting that a deadly weapon was not used.

INSTRUCTION NO. 21

"Deadly weapon" means any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death, or, any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death.

A firearm is a deadly weapon.

INSTRUCTION NO. 22

The State is not required to have recovered the deadly weapon used in an alleged crime, or to produce the deadly weapon in court at trial, to establish that a deadly weapon was used in the commission of the crime.



INSTRUCTION NO. 23

The flight of a person after the commission of a crime is not sufficient in itself to establish guilt; however, if flight is proved, it is circumstantial evidence in determining guilt or innocence.

The essence of flight embodies the idea of deliberately going away with consciousness of guilt and for the purpose of avoiding apprehension or prosecution. The weight to which such circumstance is entitled is a matter for the jury to determine.

INSTRUCTION NO. 24

In arriving at a verdict in this case as to whether the defendant is guilty or not guilty, the subject of penalty or punishment is not to be discussed or considered by you and should in no way influence your verdict.

During the course of this trial, and your deliberations, you are not to:

- (1) communicate with anyone in any way regarding this case or its merits – either by phone, text, Internet or other means;
- (2) read, watch, or listen to any new or media accounts of commentary about the case;
- (3) do any research, such as consulting dictionaries, using the Internet, or using reference materials;
- (4) make any investigation, test a theory of the case, re-create any aspect of the case, or in any other way investigate or learn about the case on your own.

INSTRUCTION NO. 26

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

INSTRUCTION NO. 27

The Defendant is presumed innocent unless the contrary is proven beyond a reasonable doubt. This presumption places upon the State the burden of proving beyond a reasonable doubt every element of the crime charged and that the Defendant is the person who committed the offense.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.

INSTRUCTION NO. 28

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

INSTRUCTION NO. 29

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

INSTRUCTION NO. 30

Statements of a person who has been convicted of a felony have come into evidence.

The fact that a person has been convicted of a felony, if such be a fact, may be considered by you only for the purpose of determining the credibility of that person. The fact of such a conviction does not necessarily destroy or impair the person's credibility. It is one of the circumstances that you may take into consideration in weighing the statements of such a person.



INSTRUCTION NO. 31

Witnesses who have special knowledge, skill, experience, training or education in a particular subject have testified to certain opinions. This type of witness is referred to as an expert witness. In determining what weight to give to any opinion expressed by an expert witness, you should consider the qualifications and believability of the witness, the facts or materials upon which each opinion is based, and the reasons for each opinion.

An opinion is only as good as the facts and reasons on which it is based. If you find that any fact has not been proven, or has been disproved, you may consider that in determining the value of the opinion. Likewise, you must consider the strengths and weaknesses of the reasons on which it is based.

You are not bound by an opinion. Give each opinion the weight you find it deserves. You may disregard any opinion if you find it to be unreasonable.

INSTRUCTION NO. 32

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

INSTRUCTION NO. 33

When you retire to consider your verdict, you must select one of your number to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

INSTRUCTION NO. 34

If, during your deliberation, you should desire to be further informed on any point of law or hear again portions of the testimony, you must reduce your request to writing signed by the foreperson. The officer will then return you to court where the information sought will be given you in the presence of, and after notice to, the district attorney and the Defendant and her counsel.

Playbacks of testimony are time-consuming and are not encouraged unless you deem it a necessity. Should you require a playback, you must carefully describe the testimony to be read back so that the court recorder can arrange her notes. Remember, the court is not at liberty to supplement the evidence.

INSTRUCTION NO. 35

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN:

  
DISTRICT JUDGE

ORIGINAL

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

JUL 13 2021

BY:   
TERI BERKSHIRE, DEPUTY

SAO  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
PAMELA WECKERLY  
Chief Deputy District Attorney  
Nevada Bar #6163  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

C-16-313919-1  
SAO  
Stipulation and Order  
4962552



THE STATE OF NEVADA,  
Plaintiff,

-vs-

VERNON NEWSON,  
#1946426

Defendant.

CASE NO: C-16-313919-1

DEPT NO: X

STIPULATION AND ORDER

COMES NOW, the Defendant, VERNON NEWSON, by and through his counsel, RYAN BASHOR AND KAMBIZ SHAYGAN-FATEMI, and the State of Nevada, by and through PAMELA WECKERLY, Chief Deputy District Attorney, and pursuant to NRS 175.552(2), hereby agree and stipulate to the following:

1. Should the jury in the above-captioned case return a verdict of guilty on any offense, including First Degree Murder, the parties hereby waive the penalty hearing before the jury as normally required under NRS 175.552(1)(a);
2. Pursuant to NRS 175.552(2), both parties agree that the sentence on any charge for which the Defendant may be convicted shall be imposed by this Honorable Court after a pre-sentence investigation is conducted by the Department of Parole and Probation;
3. That as a result of the foregoing, counsel shall not discuss or mention the issue of penalty or punishment in the voir dire, opening statements or closing arguments, or otherwise discuss the nature of penalty or punishment at any time before the jury.

DATED this 13<sup>th</sup> day of JULY 2021.

1 ATTORNEY FOR DEFENDANT

2  
3 BY:

RYAN BASHOR  
Attorney for Defendant  
Nevada Bar #11914

CLARK COUNTY DISTRICT  
ATTORNEY

BY:

PAMELA WECKERLY  
Chief Deputy District Attorney  
Nevada Bar #6163

6  
7 ATTORNEY FOR DEFENDANT

8 BY:

KAMELZ SHAGAN-FATEMI  
Attorney for Defendant  
Nevada Bar #12491

11  
12 VERNON NEWSON

13  
14 IT IS SO ORDERED.

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DISTRICT JUDGE

pw/MVU





JOC

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

VERNON NEWSON JR.  
#1946426

Defendant.

CASE NO. C-16-313919-1

DEPT. NO. X

AMENDED JUDGMENT OF CONVICTION  
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crime of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165; and the matter having been tried before a jury, and the Defendant being represented by counsel, and having been found guilty of the crime of FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165; thereafter, on the 30<sup>th</sup> day of July, 2021, the Defendant was present in court for sentencing with counsel KAMBIZ SHAYGAN-FATEMI, Deputy Public Defender and Ryan J. Bashor, Deputy Public Defender, and good cause appearing,

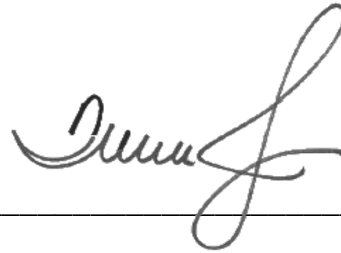
1  
2 THE DEFENDANT IS HEREBY ADJUDGED guilty of said crime as set forth in  
3 the jury's verdict and, in addition to the \$25.00 Administrative Assessment Fee,  
4 \$4,467.61 Restitution to Victims of Crime, \$300.00 Extradition Cost payable to The  
5 State of Nevada Attorney General's office, \$250.00 Indigent Defense Civil Assessment  
6 Fee and \$3.00 DNA Collection Fee, the Defendant is SENTENCED as follows: LIFE  
7 with a MINIMUM Parole Eligibility of TWENTY (20) YEARS plus a CONSECUTIVE  
8 term of TWO HUNDRED FORTY (240) MONTHS with a MINIMUM parole eligibility of  
9 NINETY-SIX (96) MONTHS for the Use of a Deadly Weapon; As the \$150.00 DNA  
10 Analysis Fee and Genetic Testing have been previously imposed, the Fee and Testing  
11 in the current case are WAIVED.  
12  
13

14 THE DEFENDANT WAS PREVIOUSLY SENTENCED on the 19<sup>th</sup> of April, 2018,  
15 COUNT 2 – A MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of  
16 SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC),  
17 CONSECUTIVE to COUNT 1;  
18  
19 COUNT 3 – A MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of  
20 SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC),  
21 CONCURRENT with COUNT 2;  
22  
23 COUNT 4 – A MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of  
24 SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC),  
25 CONSECUTIVE to COUNT 2;  
26  
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1 COURT FURTHERED ORDERED; The AGGREGATE TOTAL sentence is LIFE  
2 with a MINIMUM of THREE HUNDRED EIGHTY-FOUR (384) MONTHS, with TWO  
3 THOUSAND TWENTY-FOUR (2,024) DAYS credit for time served.  
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6 Dated this 3rd day of August, 2021

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A handwritten signature in black ink, appearing to read 'Tierra Jones', is written over a horizontal line.

C7A 3AE B45C 29DD  
Tierra Jones  
District Court Judge

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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5  
6 State of Nevada

CASE NO: C-16-313919-1

7 vs

DEPT. NO. Department 10

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Vernon Newson Jr

**AUTOMATED CERTIFICATE OF SERVICE**

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Amended Judgment of Conviction was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 8/3/2021

"Ryan J. Bashor, Deputy Public Defender" . bashorj@clarkcountynv.gov

"Sara Ruano, Murder Team Secretary" . ruanosg@clarkcountynv.gov

"Weckerly, Pamela, Chief Deputy District Attorney" . pamela.weckerly@clarkcountyda.com

Clark County DA MOTIONS . Motions@clarkcountyda.com

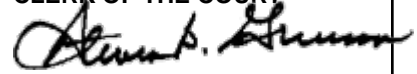
DC 21 Law Clerk . Dept21LC@clarkcountycourts.us

District Court Master Calendar . clerkmastercalendar@clarkcountycourts.us

Kambiz Shaygan-Fatemi Kambiz.Shaygan-Fatemi@clarkcountynv.gov

PD Clerk pdclerk@clarkcountynv.gov

DC 10 Law Clerk Dept10LC@clarkcountycourts.us



1 **NOAS**

2 DARIN F. IMLAY, PUBLIC DEFENDER  
3 NEVADA BAR No. 5674  
4 309 South Third Street, Suite 226  
5 Las Vegas, Nevada 89155  
6 (702) 455-4685  
7 Attorney for Defendant

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

10 THE STATE OF NEVADA, )  
11 )  
12 Plaintiff, ) CASE NO. C-16-313919-1  
13 v. ) DEPT. NO. X  
14 )  
15 VERNON NEWSON JR., )  
16 )  
17 Defendant. )

18 **NOTICE OF APPEAL**

19 TO: THE STATE OF NEVADA

20 STEVEN B. WOLFSON, DISTRICT ATTORNEY, CLARK COUNTY,  
21 NEVADA and DEPARTMENT NO. III OF THE EIGHTH JUDICIAL  
22 DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE  
23 COUNTY OF CLARK.

24 NOTICE is hereby given that Defendant, Vernon Newson  
25 Jr., presently incarcerated in the Nevada State Prison, appeals to  
26 the Supreme Court of the State of Nevada from the judgment entered  
27 against said Defendant on the 3<sup>rd</sup> day of August, 2021 whereby he  
28 was convicted of First Degree Murder With Use of a Deadly Weapon  
and sentenced to \$25 Admin. Fee; \$4,467.61 restitution payable to  
Victims of Crime; \$300 Extradition cost payable to State of Nevada  
Attorney General's office; \$250 Indigent Defense Civile Assessment  
fee; \$3 DNA collection fee and sentenced as follows: 20 years to  
Life in prison plus a consecutive term of 96-240 months in prison  
for use of a deadly weapon; the \$150 DNA analysis fee and genetic  
testing has been previously imposed, the fee and testing in the

1 current case are waived. The defendant was previously sentenced  
2 on the 19<sup>th</sup> day of April, 2018, Ct. 2 - 24-72 months in prison,  
3 consecutive to Ct. 1. Ct. 3 - 24-72 months in prison concurrent  
4 with Ct. 2; Ct. 4 - 24-72 months in prison consecutive to Ct. 2.  
5 Court further ordered, the aggregate total sentence is 384 months  
6 to life with 2,024 days CTS.

7 DATED this 5<sup>th</sup> day of August, 2021.

8 DARIN F. IMLAY  
9 CLARK COUNTY PUBLIC DEFENDER

10  
11 By: /s/ William M. Waters  
12 WILLIAM M. WATERS, #9456  
13 Chief Deputy Public Defender  
14 309 S. Third Street, Ste. 226  
15 Las Vegas, Nevada 89155  
16 (702) 455-4685  
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**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that service of the above and foregoing  
was made this 5<sup>th</sup> day of August, 2021, by Electronic Filing to:

District Attorneys Office  
E-Mail Address:

[PDMotions@clarkcountyda.com](mailto:PDMotions@clarkcountyda.com)

[Jennifer.Garcia@clarkcountyda.com](mailto:Jennifer.Garcia@clarkcountyda.com)

[Eileen.Davis@clarkcountyda.com](mailto:Eileen.Davis@clarkcountyda.com)

/s/ Carrie M. Connolly  
Secretary for the  
Public Defender's Office



C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

---

**November 07, 2019      09:00 AM      Reset Trial per Supreme Court Order**

**HEARD BY:**      Herndon, Douglas W.      **COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Schlitz, Kory

**RECORDER:**      Jacoby, Jill

**REPORTER:**

**PARTIES PRESENT:**

**Kambiz Shaygan-Fatemi      Attorney for Defendant**

**Pamela C. Weckerly      Attorney for Plaintiff**

**Ryan Bashor      Attorney for Defendant**

**State of Nevada      Plaintiff**

### **JOURNAL ENTRIES**

Defendant not present and in custody in the Nevada Department of Corrections.

COURT STATED both parties are seeking a rehearing and ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 2/5/20 9:30 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 05, 2020**

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C-16-313919-1      State of Nevada  
vs  
Vernon Newson Jr

---

**February 05, 2020      9:30 AM      Status Check: Reset Trial      Reset Trial per  
Date      Supreme Court Order**

**HEARD BY:** Herndon, Douglas W.      **COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Kory Schlitz

**RECORDER:** Trisha Garcia

**PARTIES**

**PRESENT:**      Bashor, Ryan      Attorney for Defendant  
Portz, Kenneth      Attorney for State  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Mr. Bashor stated the Supreme Court rejected the State reconsideration, and they are just waiting a decision on the Defense's, and requested the matter be continued. COURT ORDERED, matter CONTINUED; and DIRECTED the State to prepare a Transport Order.

NDC

CONTINUED TO: 3/18/2020 9:30 A.M.

Felony/Gross Misdemeanor

COURT MINUTES

June 19, 2020

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C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

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June 19, 2020      01:45 PM      Reset Trial per Supreme Court Order

HEARD BY:      Herndon, Douglas W.      COURTROOM: RJC Courtroom 16C

COURT CLERK: Schlitz, Kory

RECORDER:      Ray, Stacey

REPORTER:

PARTIES PRESENT:

Kambiz Shaygan-Fatemi      Attorney for Defendant

KENNETH PORTZ      Attorney for Plaintiff

State of Nevada      Plaintiff

Vernon Newson Jr      Defendant

#### JOURNAL ENTRIES

Mr. Shaygan-Fatemi requested the trial date be set. Mr. Portz stated the matter was litigation before the Nevada Supreme Court, who confirmed the matter will only proceed on the Murder charge only. COURT ORDERED, trial date SET; status check SET.

NDC

8/26/2020 9:30 A.M. STATUS CHECK: TRIAL READINESS

12/17/2020 9:00 A.M. CALENDAR CALL

1/4/2021 10:00 A.M. JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

August 28, 2020

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C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

---

August 28, 2020      01:45 PM      Status Check: Trial Readiness

HEARD BY:      Herndon, Douglas W.      COURTROOM: RJC Courtroom 16C

COURT CLERK: Garcia, Louisa

RECORDER:      Ray, Stacey

REPORTER:

PARTIES PRESENT:

KENNETH PORTZ	Attorney for Plaintiff
Ryan Bashor	Attorney for Defendant
State of Nevada	Plaintiff

#### JOURNAL ENTRIES

Defendant's presence WAIVED, in the Nevada Department of Prisons.

Court noted there was a pending trial date in January. Parties announced ready. Court noted this case was previously tried and reversed on the murder charge; the other charges were upheld. COURT ORDERED, matter SET for status check in Dept. 10,

NDC

9/22/20 9:30 AM STATUS CHECK: STATUS OF CASE (DEPT 10)

Felony/Gross Misdemeanor

COURT MINUTES

September 25, 2020

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C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

---

September 25, 2020      01:45 PM      Status Check: Status of Case

HEARD BY:      Jones, Tierra      COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER:      Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Pamela C. Weckerly      Attorney for Plaintiff

Ryan Bashor      Attorney for Defendant

State of Nevada      Plaintiff

#### JOURNAL ENTRIES

APPEARANCES CONTINUED: Mr. Bashor present via video, on behalf of deft. Ms. Weckerly present via video, on behalf of the State, through Bluejeans technology.

Deft. not present. Counsel agreed to waive deft's presence. Upon Court's inquiry, Mr. Weckerly advised this is a retrial and they are ready. Court so noted. COURT ORDERED, status check CONTINUED to the date given. Mr. Bashor advised deft. would like to be here on the next date. Ms. Weckerly to do an order to transport.

NDC

11/13/20 1:45 P.M. STATUS CHECK: TRIAL READINESS

Felony/Gross Misdemeanor

COURT MINUTES

November 16, 2020

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C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

---

November 16, 2020      08:30 AM      Status Check: Status of Case

HEARD BY:      Jones, Tierra      COURTROOM: RJC Courtroom 14B

COURT CLERK: Hurtado, Ro'Shell

RECORDER:      Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Chad N. Lexis      Attorney for Plaintiff

State of Nevada      Plaintiff

### JOURNAL ENTRIES

Deft. not present. COURT ORDERED, matter CONTINUED; State to prepare transport Order for Deft.

NDC

CONTINUED TO 11/20/2020 8:30 AM

Felony/Gross Misdemeanor

COURT MINUTES

November 20, 2020

C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

November 20, 2020      01:45 PM      Status Check: Status of Case

HEARD BY:      Jones, Tierra      COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER:      Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Pamela C. Weckerly      Attorney for Plaintiff

Ryan Bashor      Attorney for Defendant

State of Nevada      Plaintiff

#### JOURNAL ENTRIES

APPEARANCES CONTINUED: Ms. Weckerly present on behalf of the State, via video. Mr. Bashor present via video, on behalf of deft.

Deft. not present. Court noted the Court got a call from the prison that the prison is not transporting defts. right now. Upon Court's inquiry, as to status of trial readiness, Mr. Bashor advised this is a re-trial and counsel can be ready. Court noted the Court is still getting through the invoked, in custody defts and deft has waived. Colloquy regarding trial dates. COURT ORDERED, trial date VACATED and RE-SET on the date given. Mr. Bashor advised deft. wants to be transported for the next date. COURT FURTHER ORDERED, State to prepare an order to transport.

NDC

01/15/21 1:45 P.M. STATUS CHECK: TRIAL READINESS

04/20/21 9:30 A.M. CALENDAR CALL

05/03/21 10:30 A.M. JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

January 15, 2021

---

C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

---

January 15, 2021      08:30 AM      Status Check: Trial Readiness

HEARD BY:      Jones, Tierra      COURTROOM: RJC Courtroom 14B

COURT CLERK: Pannullo, Haly

RECORDER:      Boyd, Victoria

REPORTER:

PARTIES PRESENT:

John Giordani      Attorney for Plaintiff

Ryan Bashor      Attorney for Defendant

State of Nevada      Plaintiff

Vernon Newson Jr      Defendant

#### JOURNAL ENTRIES

Mr. Bashor requested a 60 days Status Check and keeping the current trial setting. COURT SO NOTED and ORDERED, matter CONTINUED regarding trial readiness.

NDC

CONTINUED TO: 03/19/21 8:30 AM



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 19, 2021**

---

C-16-313919-1	State of Nevada
	vs
	Vernon Newson Jr

---

<b>March 19, 2021</b>	<b>8:30 AM</b>	<b>Status Check: Trial Readiness</b>
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<b>HEARD BY:</b> Jones, Tierra	<b>COURTROOM:</b> RJC Courtroom 14B
--------------------------------	-------------------------------------

**COURT CLERK:** Teri Berkshire  
Madalyn Kearney/ mk

**RECORDER:** Victoria Boyd

**PARTIES**

<b>PRESENT:</b>	Bashor, Ryan	Attorney for Defendant
	Newson Jr, Vernon	Defendant
	State of Nevada	Plaintiff
	Weckerly, Pamela C.	Attorney for Plaintiff

**JOURNAL ENTRIES**

All parties present via BlueJeans.

Court noted the matter is set for Jury Trial on May 3rd and it is highly unlikely it will go to trial on that date. Mr. Bashor advised they are ready to go to trial. Upon Court's inquiry, Mr. Bashor agreed to come back at the time of Calendar Call and see where they are at. Court noted they will still be doing in custody invoked cases. COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 4/16/21 8:30 AM

CLERK'S NOTE: Minutes prepared upon a review of the JAVS recording. /mk 3/31/21

PRINT DATE: 03/31/2021

Page 1 of 1

Minutes Date: March 19, 2021

Felony/Gross Misdemeanor

COURT MINUTES

April 16, 2021

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C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

---

April 16, 2021      08:30 AM      Status Check: Trial Readiness

HEARD BY:      Jones, Tierra      COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER:      Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Giancarlo Pesci      Attorney for Plaintiff

Ryan Bashor      Attorney for Defendant

State of Nevada      Plaintiff

Vernon Newson Jr      Defendant

#### JOURNAL ENTRIES

APPEARANCES CONTINUED: Parties present via video, through bluejeans technology.

Court noted the court can't accommodate this trial as the court is processing invoked in custody trials first. Mr. Bashor requested to give the soonest date possible. COURT ORDERED, trial date VACATED and RE-SET on the date given.

NDC

07/02/21    8:30 A.M.    CALENDAR CALL

07/12/21    10:30 A.M.    JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

June 28, 2021

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C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

---

June 28, 2021      08:30 AM      State's Motion to Appear by Alternative Means

HEARD BY:      Jones, Tierra      COURTROOM: RJC Courtroom 14B

COURT CLERK: Pannullo, Haly

RECORDER:      Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Pamela C. Weckerly      Attorney for Plaintiff

Ryan Bashor      Attorney for Defendant

State of Nevada      Plaintiff

#### JOURNAL ENTRIES

Defendant not present. Following arguments by counsel, COURT ORDERED, State's Motion to Appear by Alternative Means GRANTED; State to provide the witnesses with the blue jeans link; State to prepare a transport order for the time of calendar call. COURT FURTHER ORDERED, Defendant's Motion in Limine regarding Face Coverings GRANTED IN PART in regards to while the witness is testifying.

NDC

Felony/Gross Misdemeanor

COURT MINUTES

June 30, 2021

---

C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

---

June 30, 2021      08:30 AM      Calendar Call

HEARD BY:      Jones, Tierra      COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER:      Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Kambiz Shaygan-Fatemi      Attorney for Defendant

Pamela C. Weckerly      Attorney for Plaintiff

Ryan Bashor      Attorney for Defendant

State of Nevada      Plaintiff

Vernon Newson Jr      Defendant

#### JOURNAL ENTRIES

APPEARANCES CONTINUED: Deft. present via video, from the Jail. Ms. Weckerly present via video, on behalf of the state, through bluejeans technology.

Upon Court's inquiry, both sides announced ready for trial. Ms. Weckerly advised one of the state's witnesses is on vacation and will not be able to testify until 7-19. Court noted trial start date would be 7-13-21. Counsel advised there are 16 witness for the state, and defense has one expert witness. Further, counsel will need 4-5 days for trial. Court so noted and ORDERED, matter SET for central calendar call on the date given. Further, Court noted the Court will remand deft. to CCDC on the central calendar call date.

NDC

07/07/21 2:00 P.M. CENTRAL CALENDAR CALL

Felony/Gross Misdemeanor

COURT MINUTES

July 07, 2021

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C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

---

July 07, 2021      02:00 PM      Central Calendar Call

HEARD BY:      Jones, Tierra      COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Berkshire, Teri

RECORDER:      Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Pamela C. Weckerly      Attorney for Plaintiff

Ryan Bashor      Attorney for Defendant

State of Nevada      Plaintiff

Vernon Newson Jr      Defendant

### JOURNAL ENTRIES

APPEARANCES CONTINUED: Parties present via video, through bluejeans technology.

Upon Court's inquiry, both sides announced ready for trial. Court so noted and directed counsel to submit their Jury questions by 5:00 p.m. Friday. FURTHER COURT ORDERED, Deft REMANDED to CCDC for trial prep. FURTHER COURT ORDERED, trial to start Tuesday at the time given.

REMANDED

7/13/21 9:00 AM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

July 13, 2021

C-16-313919-1      State of Nevada  
                                  vs  
                                  Vernon Newson Jr

July 13, 2021      09:00 AM      Jury Trial

HEARD BY:      Jones, Tierra      COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER:      Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Brandon B. Albright	Attorney for Plaintiff
Kambiz Shaygan-Fatemi	Attorney for Defendant
Pamela C. Weckerly	Attorney for Plaintiff
Ryan Bashor	Attorney for Defendant
State of Nevada	Plaintiff
Vernon Newson Jr	Defendant

### JOURNAL ENTRIES

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Fourth Amended Information submitted and FILED IN OPEN COURT. Stip and Order to have the Court sentence deft., should the Jury return a verdict of guilty, submitted and following review signed and FILED IN OPEN COURT. Colloquy regarding Jury selection process. Upon inquiry by the Court, counsel recited the offer, and deft., rejected that offer.

INSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Following introduction by the court, Voir dire commenced.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Cause for challenge arguments by counsel. Court excused named Jurors. Colloquy regarding the Hernandez case that was overturned by the Supreme Court. Court canvassed deft. on his understanding of the defense his counsels will be presenting in this case.

INSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Continued voir dire.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Court stated its concerns regarding Juror number 060's language barriers and lack of understanding. Both sides agreed to excuse named Juror. Named Jurors excused.

INSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Continued voir dire.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Mr. Bashor raised challenge for cause as to Juror # 241. There being no opposition, Court excused named Juror.

INSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Court noted the additional Jury

Printed Date: 7/29/2021

Page 1 of 2

Minutes Date:

July 13, 2021

Prepared by: Teri Berkshire

panel will be here tomorrow, and we are out of Jurors until then. Further, Court admonished the Jury and instructed them to return tomorrow at the given time.

Court adjourned.

**July 14, 2021**

C-16-313919-1      State of Nevada  
vs  
Vernon Newson Jr

<b>PRESENT:</b>	Albright, Brandon B.	Attorney
	Bashor, Ryan	Attorney
	Newson Jr, Vernon	Defendant
	Shaygan-Fatemi, Kambiz	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C.	Attorney

## 200



INSIDE THE PRESENCE OF THE PROSPECTIVE JURY: Continued Voir dire. 12 Jurors and 2 Alternates Selected and Sworn. Court thanked and the remaining panel.

OUTSIDE THE PRESENCE OF THE JURY: Argument by Mr. Kambiz-Shaygan regarding two photographs the state is seeking to admit. Opposition by Ms. Weckerly. Court noted the photo has relevance and the Court doesn't believe its prejudicial. Argument by Mr. Bashor regarding defendant's statement and using that in opening statements. Opposition by Ms. Weckerly, advising the state will seek to introduce deft's prior convictions. COURT ORDERED, the Court will allow the statement in as excited utterance and the Court RESERVES ruling on the GIBBS decision regarding the prior convictions. Upon Court's inquiry, Deft is in agreement.

INSIDE THE PRESENCE OF THE JURY: Following instructions by the Court, Opening statements given by Mr. Shaygan-Fatemi and Mr. Albright. State proceeded with its case in chief. Testimony and exhibits presented. (See worksheets). Following testimony, Court admonished the Jury and instructed them to return tomorrow at the given time.

OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding witness schedule. Court directed counsel to e-mail their preliminary Jury instructions to the law clerk by tomorrow.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 15, 2021**

---

C-16-313919-1      State of Nevada  
vs  
Vernon Newson Jr

---

**July 15, 2021      1:30 PM      Jury Trial**

**HEARD BY:** Jones, Tierra      **COURTROOM:** RJC Courtroom 14B

**COURT CLERK:** Teri Berkshire

**RECORDER:** Victoria Boyd

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Albright, Brandon B.	Attorney
	Bashor, Ryan	Attorney
	Newson Jr, Vernon	Defendant
	Shaygan-Fatemi, Kambiz	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C.	Attorney

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURY: Ms. Weckerly advised the state's witness Winston Reese requested to be by his sister's bedside as she is dying and the defense has agreed to state's request to have his testimony read into the record. COURT SO ORDERED. Counsel stipulated to admit state's exhibits 138-140. COURT SO ORDERED.

INSIDE THE PRESENCE OF THE JURY: State continued with its case in chief. Testimony and exhibits presented. (See worksheets). Court admonished the Jury and instructed them to return tomorrow as the given time.

Court adjourned.

Felony/Gross Misdemeanor

COURT MINUTES

July 16, 2021

---

C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

---

July 16, 2021              10:30 AM      Jury Trial

HEARD BY:      Jones, Tierra              COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER:      Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Kambiz Shaygan-Fatemi              Attorney for Defendant

Pamela C. Weckerly              Attorney for Plaintiff

Ryan Bashor              Attorney for Defendant

State of Nevada              Plaintiff

Vernon Newson Jr              Defendant

#### JOURNAL ENTRIES

INSIDE THE PRESENCE OF THE JURY: Defense witness taken out of order. Testimony and exhibits presented. (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Argument by Mr. Bashor requesting a mistrial. Opposition by Ms. Weckerly. Following arguments, Court Stated its Findings and ORDERED, Motion for Mistrial, DENIED. Argument by Ms. Weckerly in support of bringing in prior statements. Opposition by Mr. Bashor. Following arguments by counsel, Court noted it will allow the prior statements. Colloquy regarding prior JOCs to be read to the Jury. Court noted it will read the JOCs to the Jury and mark as Court's exhibit.

INSIDE THE PRESENCE OF THE JURY: Defendant's Prior JOC's read to the Jury and marked as Court's exhibit. Continued testimony and exhibits presented. (See worksheets). Court admonished the Jury and instructed them to return on Monday, 7-19-21 at the time given.

OUTSIDE THE PRESENCE OF THE JURY: Court admonished deft. on his right to testify or not and that he doesn't have to decide today. Jury instructions partially settled. Court noted they can finish up Monday. Ms. Weckerly advised that state has one more witness. Court noted it will take a break, should deft. decide to testify, to figure out logistics.

COURT ADJOURNED.

Felony/Gross Misdemeanor

COURT MINUTES

July 19, 2021

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C-16-313919-1      State of Nevada  
                                 vs  
                                 Vernon Newson Jr

---

July 19, 2021              10:30 AM      Jury Trial

HEARD BY:      Jones, Tierra              COURTROOM: RJC Courtroom 14B

COURT CLERK: Darling, Christopher

RECORDER:      Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Brandon B. Albright	Attorney for Plaintiff
Kambiz Shaygan-Fatemi	Attorney for Defendant
Pamela C. Weckerly	Attorney for Plaintiff
Ryan Bashor	Attorney for Defendant
State of Nevada	Plaintiff
Vernon Newson Jr	Defendant

#### JOURNAL ENTRIES

##### OUTSIDE THE PRESENCE OF THE JURY

Colloquy regarding anticipated testimony and evidence. Jury instructions settled. After Verdict, COURT ORDERED, Sentencing SET.

##### JURY PRESENT

Testimony and exhibits presented (see worksheets). CONFERENCE AT BENCH. State rested. Defense rested. Jury instructions read. Closing arguments. CONFERENCE AT BENCH. Jury retired to deliberate. 4:22 p.m., Jury returned with the verdict of Guilty of First Degree Murder with Use of a Deadly Weapon. Jury polled.

NDOC

7/30/21 8:30 AM SENTENCING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 30, 2021**

C-16-313919-1      State of Nevada  
vs  
Vernon Newson Jr

**July 30, 2021      8:30 AM      Sentencing**

**HEARD BY:** Jones, Tierra      **COURTROOM:** RJC Courtroom 14B

**COURT CLERK:** Teri Berkshire

**RECORDER:** Angelica Michaux

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Bashor, Ryan	Attorney
	Newson Jr, Vernon	Defendant
	Shaygan-Fatemi, Kambiz	Attorney
	State of Nevada	Plaintiff
	Weckerly, Pamela C.	Attorney

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Deft. present via video, from the Jail through bluejeans technology.

DEFT NEWSON ADJUDGED GUILTY of COUNT 1 - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F), Arguments by counsel. Statements by deft. Victim speaker Sworn statements given. Matter submitted. COURT ORDERED, in addition to the \$25.00 Administrative Assessment Fee, DNA Analysis Fee including testing to determine genetic markers, WAIVED, if previously ordered and/or taken, \$250.00 Indigent Defense Civil Assessment Fee, \$3.00 DNA Collection Fee, \$4,467.61 Restitution payable to Victims of Crime, and a \$300.00 Extradition Fees, Deft. SENTENCED on COUNT 1 to a term of LIFE in the Nevada Department of Corrections (NDC) with eligibility for parole beginning after a minimum of TWENTY (20) YEARS has been served, plus a CONSECUTIVE sentence of a MINIMUM of NINETY-SIX (96) MONTHS and a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS for the Deadly Weapon Enhancement.

PRINT DATE: 07/30/2021

Page 1 of 2

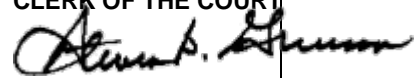
Minutes Date: July 30, 2021

PREVIOUSLY ORDERED

DEFT ADJUDGED GUILTY of COUNT 2 - CHILD ABUSE, NEGLECT OR ENDANGERMENT (F), COUNT 3 - CHILD ABUSE, NEGLECT OR ENDANGERMENT (F), and COUNT 4 - OWNERSHIP OR POSSESSION OF A FIREARM BY PROHIBITED PERSON (F). COURT ORDERED As to COUNT 2 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to COUNT 1, As to COUNT 3 - a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC), CONCURRENT with Count 2, As to COUNT 4 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to Count 2.

COURT FURTHER ORDERED, TOTAL AGGREGATE sentence of a term of LIFE in the Nevada Department of Corrections (NDC), with eligibility of parole beginning after a minimum of THREE HUNDRED EIGHTY-FOUR (384) MONTHS has been served, with 2024 DAYS credit for time served.

BOND, if any, EXONERATED.



1 RTRAN

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6  
7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 VERNON NEWSON, JR.,

11 Defendant.

CASE#: C-16-313919-1

DEPT. III

12  
13 BEFORE THE HONORABLE DOUGLAS W. HERNDON,  
14 DISTRICT COURT JUDGE  
15 THURSDAY, NOVEMBER 07, 2019

16 **RECORDER'S TRANSCRIPT OF HEARING:**  
17 **RESET TRIAL PER SUPREME COURT ORDER**

18  
19 ALL APPEARANCES VIA BLUEJEANS:

20 For the State:

PAMELA WECKERLY, ESQ.  
Chief Deputy District Attorney

21 For the Defendant:

22 RYAN J. BASHOR, ESQ.  
KAMBIZ SHAYGAN-FATEMI, ESQ.  
23 Deputy Public Defenders

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25 RECORDED BY: JILL JACOBY, COURT RECORDER

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Las Vegas, Nevada, Thursday, November 7, 2019

[Case called at 9:41 a.m.]

THE COURT: So, Mr. Newson's matter is back on from a remand from the Supreme Court. My understanding is both sides are kind of cross seeking --

MS. WECKERLY: Rehearing.

THE COURT: -- rehearing involved.

MR. BASHOR: Yes, Your Honor.

THE COURT: So, my inclination would be to set a status check in like 90 days?

MS. WECKERLY: Sure.

MR. BASHOR: That's fine.

THE COURT: Is that good? Okay.

And we'll note that Mr. Newson is in the Nevada Department of Corrections.

THE CLERK: Be February 6<sup>th</sup> at 9:00.

[Colloquy between the Court and the Clerk]

THE CLERK: That will be February 5<sup>th</sup> at 9:30.

MS. WECKERLY: Thank you.

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MR. BASHOR: Thank you.


MR. SHAYGAN-FATEMI: Thank you, Your Honor.

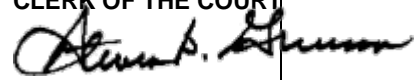
THE COURT: All right. Thank you, guys.

[Hearing concluded at 9:42 a.m.]

\* \* \* \* \*

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

  
\_\_\_\_\_  
Rebeca Gomez  
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,  
9 Plaintiff,

CASE#: C-16-313919-1  
DEPT. III

10 vs.

11 VERNON NEWSON, JR.,  
12 Defendant.

13  
14 BEFORE THE HONORABLE DOUGLAS W. HERNDON,  
15 DISTRICT COURT JUDGE  
16 WEDNESDAY, FEBRUARY 5, 2020

17 **RECORDER'S TRANSCRIPT OF HEARING:**  
18 **RESET TRIAL PER SUPREME COURT ORDER**

19  
20 ALL APPEARANCES:

21 For the State:

KENNETH N. PORTZ, ESQ.  
Chief Deputy District Attorney

22 For the Defendant:

23 RYAN J. BASHOR, ESQ.  
Deputy Public Defender

24  
25 RECORDED BY: TRISHA GARCIA, COURT RECORDER

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Las Vegas, Nevada, Wednesday, February 5, 2020

[Case called at 9:57 a.m.]

THE COURT: Vernon Newson. He is not present, in the Nevada Department of Prisons.

This is on from a Supreme Court reversal, but it's on reconsideration, I guess for both sides, right?

MR. BASHOR: They've rejected the State's, so it's just ours for en banc reconsideration. Our appellate attorneys filed a petition to file a reply.

THE COURT: Okay.

MR. BASHOR: I have a feeling they're close, Judge.

THE COURT: Okay.

MR. BASHOR: So, maybe 45 days.

THE COURT: All right. We will reset our status check in 45 days.

THE CLERK: March 18<sup>th</sup> at 9:30.

THE COURT: And assuming you have a decision at that point, and we're going to be talking about resetting the trial, do you want to have Mr. Newson brought down?

MR. BASHOR: Yes.

THE COURT: All right. So go ahead and do an order to transport. Thank you.

MR. PORTZ: We will. Thanks, Judge.

THE COURT: Thank you.

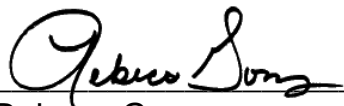
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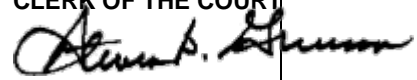
What was the date?  
THE CLERK: March 18<sup>th</sup>.  
MR BASHOR: Thank you very much.  
THE COURT: All right. Thank you gentlemen  
MR. PORTZ: Thank you.

[Hearing concluded at 9:58 a.m.]

\* \* \* \* \*

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

  
\_\_\_\_\_  
Rebeca Gomez  
Court Recorder/Transcriber



1 RTRAN

2  
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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6  
7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 VERNON NEWSON, JR.,

11 Defendant.

CASE#: C-16-313919-1

DEPT. III

12  
13 BEFORE THE HONORABLE DOUGLAS W. HERNDON,  
14 DISTRICT COURT JUDGE  
15 FRIDAY, JUNE 19, 2020

16 **RECORDER'S TRANSCRIPT OF HEARING:**  
17 **RESET TRIAL PER SUPREME COURT ORDER**

18  
19 ALL APPEARANCES VIA BLUEJEANS:

20 For the State:

KENNETH N. PORTZ, ESQ.  
Chief Deputy District Attorney

22 For the Defendant:

KAMBIZ SHAYGAN-FATEMI, ESQ.  
Deputy Public Defender

24  
25 RECORDED BY: STACEY RAY, COURT RECORDER

1 Las Vegas, Nevada, Friday, June 19, 2020

2  
3 [Case called at 1:58 p.m.]

4 THE COURT: Jeremy, are you there on Mr. Newson's  
5 matter?

6 MR. SHAYGAN-FATEMI: Your Honor, good morning, Kambiz  
7 Shaygan with the Public Defender's Office.

8 THE COURT: Thank you.

9 MR. PORTZ: And Nick Portz for the State, Your Honor.

10 THE COURT: Thank you.

11 All right. This matter is on, I believe we continued it last time  
12 awaiting the -- well, first of, is Mr. Newson present?

13 Yes, he's present in custody.

14 Awaiting, I believe, the State's request for reconsideration had  
15 been denied, but the defense request for reconsideration to the  
16 Supreme Court was still pending. Is that correct?

17 MR. SHAYGAN-FATEMI: Judge, my understanding is we're  
18 here to set a trial date.

19 THE COURT: Well, that's -- that's -- when we came back last  
20 time, pursuant to the remand, and I was going to set a trial date and I  
21 thought it was -- Jeremy had indicated that there had been motions -- or  
22 a request for reconsideration by the en banc court filed by both sides,  
23 and so we set a status check. And then I had an indication, I thought  
24 that the State's request was denied but the defense request was still  
25 pending.

1                   So, if both of those are --

2                   MR. PORTZ: That's correct, Your Honor, that matter's been  
3 litigated at this point.

4                   THE COURT: Okay.

5                   MR. PORTZ: The Nevada Supreme Court confirmed the two  
6 child abuse and neglect convictions, so I think it's just a reset on the  
7 murder -- on the murder charge only.

8                   THE COURT: Got it. Okay.

9                   So what's you-all's pleasure in terms of a resetting, how much  
10 time are you looking at needing?

11                  MR. PORTZ: I'll leave that to the Court and the defense, Your  
12 Honor.

13                  MR. SHAYGAN-FATEMI: Your Honor, I spoke with  
14 Mr. Bashor and we wanted to ask the Court for either a January court  
15 date, a trial date, or a June trial date. But obviously if the Court can't  
16 accommodate, whatever the Court gives us time.

17                  THE COURT: So I can tell you that January is getting a little  
18 dicey. Well actually, I mean, we can do something in the very beginning  
19 of January, like the first week of January, if you-all are available?

20                  MR. SHAYGAN-FATEMI: That's fine with the defense, Your  
21 Honor.

22                  MR. PORTZ: That's fine with the State, Your Honor.

23                               [Colloquy between the Court and the Clerk]

24                  THE COURT: January 4<sup>th</sup>, okay?

25                  MR. SHAYGAN-FATEMI: That's fine.

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THE COURT: Okay.

MR. PORTZ: Yes, sir.

THE COURT: So we will set trial for January 4<sup>th</sup>, '21 at  
10:00 a.m.; calendar call would be December --

THE CLERK: 17<sup>th</sup> at 9:00 a.m.

THE COURT: And then we'll set a status check in 60 days.

THE CLERK: August 26<sup>th</sup> at 9:30.

MR. SHAYGAN-FATEMI: Thank you, Your Honor.


THE COURT: All right. Thank you.

MR. PORTZ: Thank you, Your Honor.

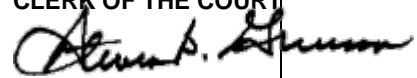
[Hearing concluded at 2:01 p.m.]

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ATTEST: I do hereby certify that I have truly and correctly transcribed the  
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Rebeca Gomez  
Court Recorder/Transcriber





1 RTRAN

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 THE STATE OF NEVADA,  
9 Plaintiff,

CASE#: C-16-313919-1  
DEPT. III

10 vs.

11 VERNON NEWSON, JR.,  
12 Defendant.

13  
14 BEFORE THE HONORABLE DOUGLAS W. HERNDON,  
15 DISTRICT COURT JUDGE  
16 FRIDAY, AUGUST 28, 2020

17 **RECORDER'S TRANSCRIPT OF HEARING:**  
18 **STATUS CHECK: TRIAL READINESS**

19  
20 ALL APPEARANCES VIA BLUEJEANS:

21 For the State:

PAMELA WECKERLY, ESQ.  
Chief Deputy District Attorney

22 For the Defendant:

RYAN J. BASHOR, ESQ.  
Deputy Public Defender

23  
24  
25 RECORDED BY: STACEY RAY, COURT RECORDER

1 Las Vegas, Nevada, Friday, August 28, 2020

2  
3 [Case called at 2:41 p.m.]

4 THE COURT: Newson is on page 10. He is not present, in  
5 the Nevada Department of corrections. We --

6 MR. BASHOR: Correct. He contacted me and asked to be  
7 waived.

8 THE COURT: Yeah, we'll waive his presence.

9 We have a pending trial date in January of next year. This  
10 was just on for a status check on trial readiness.

11 So what's happening?

12 MR. BASHOR: We're ready, Judge.

13 THE COURT: State?

14 MS. WECKERLY: We'll be ready, Your Honor.

15 THE COURT: Thank you.

16 All right. Just for the record, Mr. Newson's matter was  
17 previously tried, it was reversed on the murder charge, the other charges  
18 were all upheld and there was no en banc reconsideration; right, isn't  
19 that what we were pending on before?

20 MR. BASHOR: That's correct.

21 MS. WECKERLY: Right.

22 THE COURT: Okay. So, it's just going back to trial on the  
23 murder charge. There shouldn't be, I would imagine, any discovery  
24 issues since everything was already known previously, correct?

25 MR. BASHOR: That's correct.

1 THE COURT: Okay. All right. So, we'll go ahead and set  
2 another status check in 30 days just to keep on track.

3 THE CLERK: September 25<sup>th</sup> and that's at 3:00 -- or 1:45?

4 THE COURT: Yeah, its at -- well it'll be -- no, they're all going  
5 to be Tuesdays now for Judge Jones.

6 THE CLERK: All Tuesdays; okay.

7 THE COURT: Yeah, anything after September 8<sup>th</sup>, that's  
8 when she takes over, sorry.

9 THE CLERK: September 22<sup>nd</sup>.

10 THE COURT: September 22<sup>nd</sup> at 9:30.

11 MR. BASHOR: Thank you, Your Honor.

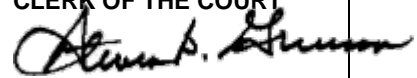
12 THE COURT: Thank you.

13 [Hearing concluded at 2:43 p.m.]

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

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24 Rebeca Gomez  
25 Court Recorder/Transcriber



RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

VERNON NEWSON, JR.,

Respondent.

CASE NO. C-16-314919-1

DEPT. X

***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

***FRIDAY, SEPTMEBER 25, 2020  
RECORDER'S TRANSCRIPT RE:  
STATUS CHECK***

APPEARANCES:

For the State:

PAMELA WECKERLY, Esq.  
Chief Deputy District Attorney

For the Defendant:

RYAN BASHER, Esq.  
Public Defender

RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Friday, September 25, 2020 at 2:01 p.m.

2  
3 THE COURT: State of Nevada v. Newson.

4 MR. BASHOR: Good afternoon, Your Honor. Ryan Bashor on his behalf.  
5 He's in High Desert and his appearance is waived for this appearance.

6 MS. WECKERLY: Pam Weckerly for the State.

7 THE COURT: This is on for a status check on the case. What is happening?

8 MR. BASHOR: We're ready to rock, Judge.

9 MS. WECKERLY: We're set in January. This is a retrial so I think we're just  
10 waiting to go to trial.

11 THE COURT: So we will have a status check trial readiness for you guys on  
12 November 13<sup>th</sup> at 1:45.

13 Mr. Bashor, do you still want your client's presence waived?

14 MR. BASHOR: Actually, Judge, he contacted me yesterday at least through  
15 his mother and would like to be present for the next one.

16 THE COURT: Ms. Weckerly, can you do an order to transport so he can be  
17 here for that date?

18 MS. WECKERLY: Yes.

19 THE COURT: Okay. Thank you very much.

20 MR. BASHOR: Thank you.

21 MS, WECKERLY: Thank you.

22  
23 (Proceedings concluded at 2:02 p.m.)  
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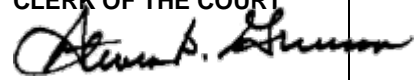
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6 *Victoria W. Boyd*

9-27-21

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8 Victoria W. Boyd  
Court Recorder/Transcriber

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1 RTRAN  
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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

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8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 VERNON NEWSON, JR.,

12 Respondent.

CASE NO. C-16-31319-1

DEPT. X

13  
14 ***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

15 ***MONDAY, NOVEMBER 16, 2020***  
16 ***RECORDER'S TRANSCRIPT RE:***  
17 ***STATUS CHECK***

18 APPEARANCES:

19 For the State:

CHAD LEXIS, Esq.  
Deputy District Attorney

21 For the Defendant:

22 RYAN BASHOR, Esq.  
Deputy Public Defender

23  
24  
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Monday, November 16, 2020 at 10:14 a.m.

2  
3 THE COURT: Mr. Bashor is here on his case. Who has this case from the  
4 State?

5 MR. BASHOR: Ms. Weckerly and Mr. Portz.

6 THE COURT: Is Ms. Weckerly or Mr. Portz here?

7 Okay. Mr. Lexis, can you please take a note for me on this page? And this is  
8 on for a status check on the status of the case, Mr. Bashor.

9 MR. BASHOR: Yes, Your Honor.

10 THE COURT: And you had indicated when we were here last time that your  
11 client wanted to be here, and I ordered the State to do a transport order which they  
12 did not do and that's why your client is not here today. So, Mr. Bashor, I'm going to  
13 put this over to Friday.

14 MR. BASHOR: Okay.

15 THE COURT: Can you please let the State know that they need to appear  
16 and they need to do a transport order to get the defendant here.

17 MR. LEXIS: The transport order for this guy?

18 THE COURT: Yes, because I ordered them to do it in September and they  
19 didn't do it. So we'll put this back on calendar. It will be on for November 20th at  
20 1:45.

21 MR, BASHOR: Thank you, Your Honor.

22 THE COURT: Thank you.

23  
24 (Proceedings concluded at 10:15 a.m.)  
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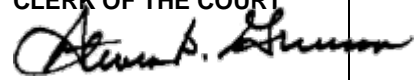
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*Victoria W. Boyd*

9-27-21

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Victoria W. Boyd  
Court Recorder/Transcriber

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Date



RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

VERNON NEWSON, JR.,

Respondent.

CASE NO. C-16-313919-1

DEPT. X

***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

***FRIDAY, NOVEMBER 20, 2020  
RECORDER'S TRANSCRIPT RE:  
STATUS CHECK***

APPEARANCES:

For the State:

PAMELA WECKERLY, Esq.  
Chief Deputy District Attorney

For the Defendant:

RYAN BASHER, Esq.  
Deputy Public Defender

RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Friday, November 20, 2020 at 2:26 p.m.

2  
3 THE COURT: He's in custody at the Nevada Department of Corrections.  
4 Who is here on his behalf?

5 MR. BASHOR: Ryan Bashor, Your Honor.

6 THE COURT: Mr. Bashor is here on his behalf.

7 Ms. Weckerly, is this your case?

8 MS. WECKERLY: Yes, Your Honor.

9 MR. PORTZ: Nick Portz.

10 THE COURT: And Mr. Portz is also here.

11 We got a call from the prison that they are not transporting anyone so that is  
12 the reason that he's not here today because they were aware of the hearing from  
13 Wednesday, I believe, or whatever day this was on earlier this week. But the prison  
14 is not transporting so this is also a status of the case with a calendar call of 12-18.  
15 Where are you guys?

16 MR. BASHOR: Judge, it's a retrial. Theoretically we can be ready. I think it's  
17 more of whether or not - -

18 THE COURT: The Court can't be ready. The Court cannot be ready I can tell  
19 you that right now because we're still getting through the invoked, in custody  
20 defendants and he has waived, so there is no way the Court can accommodate your  
21 January trial setting. So without your client here, Mr. Bashor, do you want to reset it  
22 now or what is your request?

23 MR. BASHOR: I had a conversation with him last week and said look, we're  
24 going to say we're ready but I'm not confident that under the circumstances we're  
25 going to be able to go and he understood that.

1 THE COURT: Okay. So the calendar call date for December 18<sup>th</sup> will be  
2 vacated. The jury trial date for January 4<sup>th</sup> will be vacated. Have you guys had any  
3 discussions on when we can set it?

4 MR. BASHOR: We have not. Whatever the Court and my colleagues'  
5 convenience.

6 THE COURT: Ms. Weckerly, can you go in May?

7 MS. WECKERLY: Yes.

8 THE COURT: So let's give you guys a jury trial date of May 3<sup>rd</sup> at 10:30 with  
9 a calendar call date of April 20<sup>th</sup> at 9:30. We'll have a status check trial readiness of  
10 January 15<sup>th</sup>, 2021 at 1:45.

11 Mr. Bashor, if you communicate with your client if he wants to be transported  
12 to that Mr. Weckerly, can you submit an order transport and if he doesn't then we  
13 won't do one.

14 MS. WECKERLY: That's fine.

15 MR. BASHOR: He does. And I understand and I'm not objecting or  
16 demanding that they bring him. It's just that if an order could be produced I'd  
17 appreciate that, State.

18 MS. WECKERLY: I'll note that.

19 THE COURT: Send it over and I'll sign it. Thank you guys.

20 MS. WECKERLY: Thank you.

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24 (Proceedings concluded at 2:29 p.m.)  
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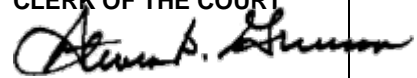
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6 *Victoria W. Boyd*

9-27-21

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8 Victoria W. Boyd  
Court Recorder/Transcriber

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 VERNON NEWSON, JR.,

12 Respondent.

CASE NO. C-16-313919-1

DEPT. X

13  
14 ***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

15 ***FRIDAY, JANUARY 15, 2021***  
16 ***RECORDER'S TRANSCRIPT RE:***  
17 ***STATUS CHECK***

18 APPEARANCES:

19 For the State:

JOHN GIORDANI, Esq.  
Chief Deputy District Attorney

20 For the Defendant:

21 RYAN BASHOR, Esq.  
Deputy Public Defender

22  
23  
24  
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Friday, January 15, 2021 at 8:41 a.m.

2  
3 MR. BASHOR: Good morning, Your Honor. Ryan Bashor on his behalf.

4 THE COURT: I'm sorry.

5 MR. BASHOR: Good morning, Your Honor. Ryan Bashor on his behalf.

6 THE COURT: He's present in custody. Mr. Bashor is here on his behalf.  
7 Who has this case from the State?

8 MS. BASHOR: Judge, this is Ms. Weckerly or Mr. Portz.

9 THE COURT: I don't see either of them here.

10 MR. GIORDANI: Your Honor, this is John Giordani. I can stand in.

11 THE COURT: Perfect. Mr. Giordani is here on behalf of the State. So this is  
12 the date and time set for a status check trial readiness. Where are you guys?

13 MR. BASHOR: Judge, we're on that cusp it sounds like from what I've been  
14 hearing so far this morning. We have a May trial date. I'd ask that we keep that for  
15 now. Maybe come back in 60 days and see the progress. It's a retrial, Judge.

16 THE COURT: Mr. Giordani, I know this isn't your case but I think that's more  
17 than reasonable to keep the May trial date now. We'll come back for a status check  
18 in March and see where we are. So we'll have you guys back here March 19<sup>th</sup> of  
19 2021 at 8:30 for a status check trial readiness.

20 MR. GIORANI: Thank you, Your Honor, and what was the defendant's last  
21 name.

22 THE COURT: Newson.

23 THE DEFENDANT: Excuse me, Your Honor, I don't know the District Court's  
24 name. Herndon was my Judge previous to you. What District Court is this?

25 THE COURT: Department 10.

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THE DEFENDANT: Thank you.

THE COURT: You're welcome.

(Proceedings concluded at 8:42 a.m.)

ATTEST: I do hereby certify that I have truly and correctly transcribed the  
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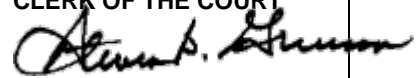
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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 )  
8 STATE OF NEVADA, )

9 Plaintiff, )

10 vs. )

11 VERNON NEWSON, JR., )

12 Defendant. )

CASE NO. C-16-313919-1

DEPT. X

13 ***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

14 ***FRIDAY, MARCH 19, 2021***  
15 ***RECORDER'S TRANSCRIPT RE:***  
16 ***STATUS CHECK – TRIAL READINESS***

17 APPEARANCES:

18 For the State:

19 PAMELA WECKERLY, Esq.  
Chief Deputy District Attorney

20 For the Defendant:

21 RYAN BASHOR, Esq.  
Deputy Public Defender

22  
23  
24  
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Friday, March 19, 2021 at 8:56 a.m.

2  
3 THE COURT: He is present - -

4 THE DEFENDANT: Good morning.

5 THE COURT: Good morning. He's present in custody. Who is here on  
6 behalf of the Public Defender's Office?

7 MR. BASHOR: Ryan Bashor on behalf of Mr. Newson.

8 THE COURT: And who has this case from the State?

9 MS. WECKERLY: Pam Weckerly, Your Honor.

10 THE COURT: Ms. Weckerly is here on behalf of the State. So this is the date  
11 and time set for status check trial readiness. You guys have a jury trial that is set for  
12 May. That is highly unlikely to go forward in light of our Covid situation so I don't  
13 know what your pleasure is today, but I just don't see you guys going to trial on May  
14 3<sup>rd</sup>.

15 MR. BASHOR: Court's pleasure. We are ready.

16 THE COURT: So you want me to bring you back for the calendar call date  
17 and we'll see where we are?

18 MR. BASHOR: I think that will work, yeah.

19 THE COURT: All right. It's just we'll still be doing invoked in custodies but  
20 right now your calendar call date is on April 22<sup>nd</sup>. I'm going to continue that date to -  
21 - no, I'm not here April 23<sup>rd</sup> so I'll have you guys back here April 16<sup>th</sup> of 2021 at 8:30  
22 for trial readiness.

23 MR. BASHOR: I don't want to inconvenience the folks with subpoenas if - -  
24 does that give the State enough lead time?

25 MS. WECKERLY: Yeah, that's fine. So, Your Honor, I guess on the 16<sup>th</sup> we'll

1 know if it looks like we can go on the 3<sup>rd</sup>, is that what the Court is saying?

2 THE COURT; Yes, that's what we'll do but it's highly unlikely.

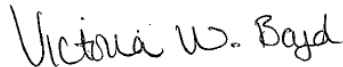
3 MS. WECKERLY: Okay. Thank you. I appreciate it.

4 THE COURT: Thank you.

5 MR. BASHOR: Thank you, Your Honor.

6  
7 (Proceedings concluded at 8:58 a.m.)  
8

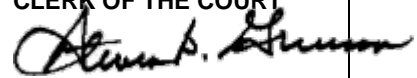
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17 Victoria W. Boyd  
18 Court Recorder/Transcriber

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 )  
8 STATE OF NEVADA, )

9 Plaintiff, )

10 vs. )

11 VERNON NEWSON, JR., )

12 Defendant. )

CASE NO. C-16-313919-1

DEPT. X

13 ***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

14 ***FRIDAY, APRIL 16, 2021***  
15 ***RECORDER'S TRANSCRIPT RE:***  
16 ***STATUS CHECK – TRIAL READINESS***

17 APPEARANCES:

18 For the State:

19 GIANCARLO PESCI, Esq.  
Chief Deputy District Attorney

20 For the Defendant:

21 RYAN BASHOR, Esq.  
Deputy Public Defender

22  
23  
24  
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1 Las Vegas, Nevada, Friday, April 16, 2021 at 8:49 a.m.

2  
3 THE COURT: He is present in custody. Who is here on his behalf?

4 MR. BASHOR: Good morning, Your Honor. Ryan Bashor on his behalf.

5 THE COURT: Mr. Bashor is here on behalf of Mr. Newson. Who has this  
6 case from the State?

7 MR. PESCI: Giancarlo Pesci on behalf of the State standing in.

8 THE COURT: All right. Mr. Pesci is here on behalf of the State. This is the  
9 date and time set for a status check on trial readiness. You guys have a jury trial  
10 that is set to go May 3<sup>rd</sup> that cannot go forward on May 3<sup>rd</sup> because at this point in  
11 time the Court is only able to do two jury trials at a time, and the Court is processing  
12 invoked in custody jury trials.

13 THE DEFENDANT: I've been waiting 18 months, Your Honor.

14 THE COURT: I get it, Mr. Newson.

15 THE DEFENDANT: On a retrial.

16 THE COURT: I totally understand, sir. I understand. But you can't go to trial  
17 on May 3<sup>rd</sup>.

18 Mr. Bashor, have you guys had any discussions regarding this?

19 MR. BASHOR: Judge, the soonest you think this case could be  
20 accommodated. Obviously Mr. Newson is raring to go. It is a retrial and we would  
21 have had the ability to announce ready if there were some availability.

22 THE COURT: And I totally understand and I know this is no fault of Mr.  
23 Newson. This is no fault of Mr. Bashor nor is it any fault of the State. But  
24 unfortunately with the Covid precautions the Court just can't accommodate it at this  
25 time. I'll reset it in July and we can keep our fingers crossed that you guys will be

1 able to go but I can't make you any promises. The jury trial and calendar call will be  
2 vacated. The jury trial will be set for July 12<sup>th</sup>, 2021 at 10:30. The calendar call date  
3 will be set for July 1<sup>st</sup> - - no, the calendar call will be July 2<sup>nd</sup>, 2021 at 8:30. And  
4 since you guys said you were prepared to announce ready I'm not going to set  
5 another trial readiness.

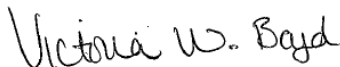
6 MR. BASHOR: Okay, Judge.

7 THE DEFENDANT: Thank you, Your Honor.

8 THE COURT: Thank you.

9  
10 (Proceedings concluded at 8:51 a.m.)  
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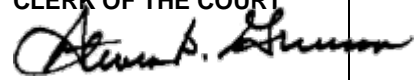
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18 9-27-21

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Victoria W. Boyd  
Court Recorder/Transcriber

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 )  
8 STATE OF NEVADA, )

9 Plaintiff, )

10 vs. )

11 VERNON NEWSON, JR., )

12 Defendant. )

CASE NO. C-16-313919-1

DEPT. X

13 ***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

14 ***MONDAY JUNE 28, 2021***  
15 ***RECORDER'S TRANSCRIPT RE:***  
16 **STATE'S MOTION TO HAVE WITNESS APPEAR BY ALTERNATE MEANS**

17 **APPEARANCES:**

18 For the State:

PAMELA WECKERLY, Esq.  
Chief Deputy District Attorney

19  
20 For the Defendant:

RYAN BASHOR, Esq.  
Deputy Public Defender

21  
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25 **RECORDED BY: VICTORIA BOYD, COURT RECORDER**

1 Las Vegas, Nevada, Monday, June 28, 2021 at 8:29 a.m.

2  
3 THE COURT: Mr. Newson.

4 MR. BASHOR: He's in the Nevada Department of Corrections. This motion  
5 was put on - - I don't know if a transport was arranged for today's date.

6 THE COURT: Okay. I don't think it was so he's not present. Are you willing  
7 to waive his appearance for today, Mr. Bashor?

8 MR. BASHOR: Yes, Judge. I know we have a calendar call on Wednesday.  
9 At that point I'm going to be requesting that he be remanded to Clark County  
10 Detention Center.

11 THE COURT: So we'll waive his appearance for today. Ms. Weckerly is here  
12 on behalf of the State.

13 MS. WECKERLY: Good morning, Your Honor, yes.

14 THE COURT: Okay. So this is on for the State's motion to have the  
15 witnesses appear by alternative means. State, I have read your motion. Mr.  
16 Bashor, I've also read your opposition. State, do you have anything you'd like to  
17 add to your motion?

18 MS, WECKERLY: No, Your Honor. I asked both the witnesses to log on in  
19 case the Court had any questions but I don't see them in the list of participants this  
20 morning so I'll submit it.

21 THE COURT: Mr. Bashor, do you have anything you want to add to your  
22 opposition?

23 MR. BASHOR: No, Your Honor.

24 THE COURT: All right. I'm going to grant the State's motion to allow the  
25 witnesses to appear by alternative means. State, we will need to know when we're



1 going to do that and you will need to provide them with the appropriate Blue Jeans  
2 link so that they can appear.

3 MS. WECKERLY: Okay.

4 THE COURT: We have calendar on Wednesday. Can we make sure that  
5 there is a transport order - - hold on, let me check. I don't know that there is one for  
6 Wednesday.

7 MS, WECKERLY: I'll get one done, Your Honor,

8 THE COURT: Can you get it over to me today and I'll sign it so we can make  
9 sure Mr. Newson is here for Wednesday.

10 MS. WECKERLY: Yes.

11 THE COURT: Mr. Bashor, you filed a motion in limine regarding witness face  
12 coverings that's calendared for July 7<sup>th</sup>. My July 7<sup>th</sup> calendar is humongous so I  
13 want to go ahead and deal with that today so then we don't have to come back.

14 MR. BASHOR: Okay.

15 THE COURT: What I do in trial is when the witness is testifying I do allow the  
16 witness to remove their mask. Does that solve your problem?

17 MR. BASHOR: Yes, that is all I'm requesting, yes.

18 THE COURT: So your motion will be granted in regards to while the witness  
19 is testifying. I just did two back to back jury trials and that's the way we did it. It's a  
20 lot easier to hear but if you guys make an agreement where they can come in after  
21 they testify and watch the trial they'll have to wear a mask at that time but while they  
22 are on the witness stand they will be allowed to remove their mask.

23 MR. BASHOR: Judge, as to the other motion my one concern - - I understand  
24 you'll be granting it. What assurances are going to be done to show that they are  
25 alone in the room?

1 THE COURT: Well, I mean I'm going to ask them after the clerk has sworn  
2 them in under oath to insure that they are alone in the room and they will have  
3 already been sworn to tell the truth.

4 MR. BASHOR: Very good.

5 THE COURT: Okay.

6 MS. WECKERLY: Thank you.

7 THE COURT: All right. Thank you.

8 So we can vacate the July 7<sup>th</sup> date but calendar call stands for June 30<sup>th</sup>.

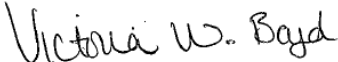
9 MR. BASHOR: And, Judge, is there anything I need to do special to have him  
10 remanded or just request it on Wednesday?

11 THE COURT: Request it on Wednesday and I'll order it on Wednesday while  
12 he's here.

13 MR. BASHOR: Awesome. Thank you.

14  
15 (Proceedings concluded at 8:32 a.m.)  
16  
17

18 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
19 audio/video proceedings in the above-entitled case to the best of my ability.  
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23 9-27-21

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Victoria W. Boyd  
Court Recorder/Transcriber

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Date

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VERNON NEWSON JR., ) No. 83335  
)  
Appellant, )  
)  
v. )  
)  
THE STATE OF NEVADA, )  
)  
Respondent. )  
)

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I hereby certify that this document was filed electronically with the Nevada Supreme Court 3rd on the day of February, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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