

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMAL SNEED,

Petitioner,

v.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
COUNTY OF CLARK, THE
HONORABLE TIERRA JONES,
DISTRICT COURT JUDGE,

Respondent,

THE STATE OF NEVADA,

Real Party in Interest.

No.

(DC No.

Electronically Filed
No. C-20-348359-17
Dec 15 2021 04:02 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPENDIX TO
PETITION FOR WRIT OF MANDAMUS
VOLUME I PAGES 001-064

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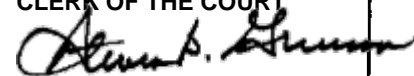
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INFM
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DISTRICT COURT
CLARK COUNTY, NEVADA

I.A. 06/01/20
8:00 AM
PD-VAN LUVEN

THE STATE OF NEVADA,

Plaintiff,

CASE NO: C-20-348559-1

-vs-

DEPT NO: X

JAMAL SNEED, aka
Jamal Lashawn Sneed, #2583410

Defendant.

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 JAMAL SNEED, aka Jamal Lashawn Sneed, the Defendant(s) above named, having committed the crimes of **BURGLARY (Category B Felony - NRS 205.060 - NOC 50424) and GRAND LARCENY (Category B Felony - NRS 205.220.1, 205.222.3 - NOC 56008)**, on or about the 29th day of November, 2019, 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,

COUNT 1 - BURGLARY


did willfully, unlawfully, and feloniously enter a building, owned or occupied by SUPER PAWN, located at 2645 South Decatur Boulevard, Las Vegas, Clark County, Nevada, with intent to commit larceny.

COUNT 2 - GRAND LARCENY

did then and there willfully, unlawfully, feloniously, and intentionally, with intent to deprive the owner permanently thereof, steal, take and carry away, lead away or drive away property owned by SUPER PAWN, having a value of \$3,500.00, or greater, to wit: Digital cameras.

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

BY


MEGAN THOMSON
Chief Deputy District Attorney
Nevada Bar #011002

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

<u>NAME</u>	<u>ADDRESS</u>
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	LVMPD – DISPATCH/COMMUNICATIONS
CUSTODIAN OF RECORDS	LVMPD – RECORDS
DOUGHERTY, EDWARD	DA INVESTIGATOR AND/OR DESIGNEE
JOVERO, RALPH JUSTIN	2645 S. DECATUR BLVD., LV, NV 89102
PAWN DECATUR COR-SUPER	2645 S. DECATUR BLVD., LV, NV 89102
ROSTON, JACUAR	LVMPD P#14005
TOLENTINO, MARK B.	LVMPD P#14730

20F02659X/eg/L4
LVMPD EV#191100137796
(TK3)

1 CASE NO. C348559

2

3 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
4 COUNTY OF CLARK, STATE OF NEVADA

5

6

7 THE STATE OF NEVADA,)

8 Plaintiff,)

9 vs.) CASE NO. 20F02659X

10 JAMAL SNEED,)

11 Defendant.)

12 _____)

13

14 REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING
15 BEFORE THE HONORABLE ANN E. ZIMMERMAN
16 JUSTICE OF THE PEACE
17 THURSDAY, MAY 28, 2020

16

9:30 A.M.

17

18 APPEARANCES:

19 For the State:

M. THOMSON, ESQ.
DEPUTY DISTRICT ATTORNEY

21 For the Defendant:

M. VAN LUVEN, ESQ.
DEPUTY PUBLIC DEFENDER

23

24

25 Reported by: CHRISTA BROKA, CCR. No. 574

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LAS VEGAS, CLARK COUNTY, NEVADA,

2

MAY 28, 2020 AT 9:30 A.M.

3

P R O C E E D I N G S

4

5

6

7

THE COURT: This is the time set for the
preliminary hearing in the State of Nevada versus Jamal Sneed,
20F02659X. Is the state ready to proceed.

9

MS. THOMSON: Yes, Your Honor.

10

THE COURT: Is the defense ready to proceed?

11

MR. VAN LUVEN: Yes, Your Honor.

12

13

THE COURT: Will the state please call their first
witness.

14

MS. THOMSON: State calls Ralph Jovero.

15

16

MR. VAN LUVEN: Your Honor, I know they only have
one witness but I'd like to invoke the exclusionary rule.

17

18

THE COURT: If there's any other witnesses in the
courtroom to testify in the matter of Mr. Sneed, you need to
wait outside in the hallway until your name is called. Good
morning.

20

21

THE CLERK: Please raise your right hand. Do you
swear to tell the truth, the whole truth, and nothing but the
truth?

24

THE WITNESS: I do.

25

THE CLERK: You may be seated. Please state your

1

name for the record and spell it first and last name.

2

THE WITNESS: My name is Ralph Jovero. R-A-L-P-H.

3

Last name J-O-V-E-R-O. Thank you, sir. Go head.

4

MS. THOMSON: Thank you.

5

6

DIRECT EXAMINATION

7

BY MS. THOMSON:

8

Q. Good morning. I'm going to direct your attention back

9

to November 29th of 2019. On that date were you working at the

10

Super Pawn located at 2645 South Decatur here in Clark County,

11

Nevada?

12

A. Yes.

13

Q. On that date did something occur that caused you or

14

another employee to call police?

15

A. Yes.

16

Q. Can you walk us through what occurred.

17

MR. VAN LUVEN: Objection. Calls for a narrative.

18

THE COURT: I will let him start. Overruled.

19

BY MS. THOMSON:

20

Q. What happened that day that caused police to be called?

21

A. I was showing a customer something from the glass case
we had on display. Then he was asking me about getting a
better price for it. When he asked about getting a better
price I walked to the manager's office and when I walked to the
manager's office and I walked out the glass had been smashed

1 and there were two items missing and the customer had left out
2 the door.

3 Q. The location where the glass was smashed is that the
4 same location where you had contact with the customer?

5 A. Could you repeat the question?

6 Q. The cabinet that had the glass smashed is that the
7 cabinet you were at with the customer or was it somewhere else?

8 A. It was the cabinet right next to it.

9 Q. And the customer that you had walked to the manager's
10 office is that individual present in the courtroom today?

11 A. Yes.

12 Q. Would you please to the individual and describe
13 something they are wearing today?

14 A. They are closest to the west of the courtroom.

15 Q. Will you point to them.

16 MS. THOMSON: Let the record reflect identity of
17 the defendant?

18 THE COURT: So ordered.

19 BY MS. THOMSON:

20 Q. Now, was this the only time you had contact with him on
21 that day?

22 A. Like in person?

23 Q. Mm-hmm.

24 THE COURT: You have to say yes.

25 / / /

1 there were two do. You remember roughly the price of each of
2 those?

3 MR. VAN LUVEN: Objection. Hearsay.

4 THE COURT: He can answer if he knows.

5 THE WITNESS: Cost to the company or the price?

6 BY MS. THOMSON:

7 Q. The price if they were sold from the store?

8 A. One was like 1,800 and one was like somewhere --

9 MR. VAN LUVEN: Again Your Honor, I'm going to
10 object to one was like is not personal knowledge.

11 THE COURT: Overruled.

12 THE WITNESS: One was priced at least 1,800. One
13 was priced at least \$2,000.

14 MR. VAN LUVEN: Same objection, Your Honor. One
15 was priced at least is still not personal knowledge. I renew
16 my objection as to hearsay --

17 THE COURT: Overruled.

18 MR. VAN LUVEN: -- and also add an objection as to
19 lack of foundation.

20 THE COURT: Overruled. Like I said before he can
21 testify if he knows. If he works there he knows how much it
22 cost and he can testify as to how much they had it for sale
23 for.

24 BY MS. THOMSON:

25 Q. I asked you were clerk at the store on this day?

1 BY MS. THOMSON:

2 Q. Yes.

3 A. He was there twice that day.

4 Q. Were you at the store earlier that day when he was
5 there previously?

6 A. Yes.

7 Q. Did you see him when he was there previously?

8 A. Yes.

9 Q. You recognized him when he came in the second time?

10 A. Yes.

11 Q. When you came out of the manager's office you said the
12 glass was smashed and he had left. Was there anything missing
13 from the smashed glass box?

14 A. Yes.

15 Q. What was missing?

16 A. There was two cameras that were missing.

17 Q. As you sit here today do you remember the brand of
18 those cameras?

19 A. No. I just know they were like high-priced cameras.

20 Q. Do you remember when we are talking about cameras
21 there's kind of that range of the old time where everyone had
22 to stand super still, you put in film, or digital cameras, do
23 you remember what type of cameras they were?

24 A. I'm assuming -- they were DSLR's or digital cameras.

25 Q. Okay. You said they were the high-priced cameras and

1 A. Yes.

2 Q. Roughly, if you know the answer to this, how long was
3 the defendant in the store from the time that he smashed the
4 glass versus -- let me re-ask. From time he came in to the
5 time the glass was smashed about how long was that, if you can
6 say?

7 A. Approximately twenty minutes.

8 Q. Fair to say you didn't give him permission to take
9 those cameras?

10 A. Yes.

11 MS. THOMSON: I'll pass the witness.

12 THE COURT: Defense?

13
14 CROSS-EXAMINATION

15 BY MR. VAN LUVEN:

16 Q. Mr. Jovero?

17 A. Yes.

18 Q. It was your testimony that you turned around to go
19 speak to the manager about something; correct?

20 A. Yes.

21 Q. When you came back you found the display had been
22 smashed; correct?

23 A. Yes.

24 Q. So you did not personally see anybody smashing the
25 display case?

1 **A. I turned and I saw it had been smashed.**
 2 **Q.** Okay. Now you testified that the cameras were like a
 3 certain price at least a certain price but you don't know the
 4 exact price; correct?
 5 **A. I don't remember the exact price.**
 6 **Q.** Now, when you went to speak to the manager was this
 7 about a dispute over price?
 8 **A. Yes.**
 9 **Q.** Was there also a dispute over being able to pay for
 10 merchandise with a certain type of card, do you recall that?
 11 **A. Could you rephrase the question?**
 12 **Q.** Did you go see the manager because the customer in
 13 question had wanted to pay with a certain type of card, do you
 14 recall that?
 15 **A. Yes.**
 16 **Q.** You were going to ask the manager because he was trying
 17 to pay with a certain type of card and it wouldn't work?
 18 **A. He didn't have his ID.**
 19 **Q.** He was trying to pay with a type of card but he didn't
 20 have his ID and that required you to go speak to the manager?
 21 **A. Yes.**
 22 MR. VAN LUVEN: I'll pass the witness, Your Honor.
 23 THE COURT: Any redirect?
 24 MS. THOMSON: Briefly.
 25 / / /

1 REDIRECT EXAMINATION
 2 BY MS. THOMSON:
 3 **Q.** You said you turned around and the glass was smashed.
 4 Did you see him running from the store?
 5 **A. Yes.**
 6 **Q.** That was immediately after the glass was smashed?
 7 **A. Yes, right after I heard the sound of glass breaking.**
 8 MS. THOMSON: Thank you.
 9 THE COURT: Thank you, sir. You may step down.
 10 THE WITNESS: Thank you.
 11 THE COURT: State have any other witnesses?
 12 MS. THOMSON: No, Your Honor. Prior to resting
 13 I'd ask the Court to allow me to remove the brands of the
 14 cameras on lines 21 and 22. So that it reads only digital
 15 cameras. Not the word only though.
 16 THE COURT: Does the defense have any witnesses?
 17 MR. VAN LUVEN: No, Your Honor.
 18 THE COURT: Has your client been informed of his
 19 right to testify?
 20 MR. VAN LUVEN: Yes, Your Honor.
 21 THE COURT: Does he wish to exercise that right
 22 today?
 23 MR. VAN LUVEN: If Your Honor would canvas him
 24 please.
 25 THE COURT: Mr. Sneed, did your attorney discuss

1 with you that you have the right to testify and you also have
 2 the right to remain silent. It's your choice. If you choose
 3 to remain silent, the Court cannot hold that against you in
 4 making my decision today. Do you want to testify or stay
 5 silent?
 6 THE DEFENDANT: Stay silent, ma'am.
 7 MR. VAN LUVEN: Thank you, Your Honor.
 8 THE COURT: Defense rest?
 9 MR. VAN LUVEN: Yes, Your Honor.
 10 THE COURT: Any argument by the state?
 11 MS. THOMSON: Waive and reserve.
 12 THE COURT: Defense?
 13 MR. VAN LUVEN: With regard to the burglary count
 14 as Your Honor is aware burglary requires entering into a
 15 structure with that intent. We heard testimony from the
 16 witness that payment was attempted to be tendered and at that
 17 point he was unable to pay because he did not have proper ID at
 18 which point he went to speak to the manager. So assuming
 19 everything else is true, just submitting on all of other
 20 testimony that's been had today, the state has not evidenced
 21 that he entered that business with intent to commit any kind of
 22 grand larceny. With regard to the grand larceny itself, Your
 23 Honor, we heard testimony he could not remember the prices of
 24 cameras. He said at least or like I believe 1,800 and 1,200.
 25 The state has charged grand larceny 3,500 or above.

1 THE COURT: 1,800 and 2,000 is what he said. I
 2 wrote that down.
 3 MR. VAN LUVEN: Okay. With regard to that though
 4 like or at least is not sufficient evidence especially in light
 5 of the hearsay objection. With that we believe the state has
 6 not met their burden as to either of these counts.
 7 THE COURT: Okay. State?
 8 MS. THOMSON: Your Honor, I believe the totality
 9 of the circumstances demonstrates burglary. He had been in the
 10 store earlier. He left and came back and created a situation
 11 where he was able to have the clerk leave the counter and then
 12 executed the smash and grab from the counter. The grand
 13 larceny I think speaks for itself. I would ask the Court to
 14 bind over both counts.
 15 THE COURT: Mr. Sneed, please stand. Based on the
 16 evidence and testimony presented here today I believe the
 17 following crimes have been committed: Count 1, burglary; Count
 18 2, grand larceny and that there's probable cause to believe
 19 you, Mr. Sneed, have committed said crimes. I will hold you to
 20 answer in the Eighth Judicial District Court on the date my
 21 clerk gives you.
 22 THE CLERK: June 1st, 8:00 a.m. lower willful.
 23 THE COURT: Thank you. For the record I did grant
 24 the state's motion to amend lines 21 and 22 to reflect digital
 25 cameras as opposed to Lumex and Canon digital cameras.

MS. THOMSON: Thank you.

* * * * *

ATTEST: FULL, TRUE AND ACCURATE
TRANSCRIPT OF PROCEEDINGS.

\s\Christa Broka

CHRISTA D. BROKA, CCR 574

ATTEST: I further certify that I am not interested in
the events of this action.

\s\Christa Broka

CHRISTA D. BROKA, CCR 574

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

-oOo-

STATE OF NEVADA,)

Plaintiff,)

vs.) Case No. 20F02659X

JAMAL SNEED,) ATTEST RE: NRS 239B.030

Defendant,)

STATE OF NEVADA)

) ss

COUNTY OF CLARK)

I, Christa D. Broka, a Certified Shorthand Reporter
within and for the county of Clark and the State of Nevada, do
hereby certify:

That REPORTER'S TRANSCRIPT OF PROCEEDINGS was reported
in open court pursuant to NRS 3.360 regarding the above
proceedings in Las Vegas Justice Court 3, 2020, Lewis Avenue,
Las Vegas, Nevada.

That said TRANSCRIPT:

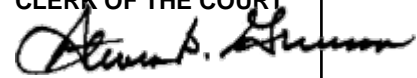
X Does not contain the Social Security number of any
person.

 Contains the Social Security number of a person.

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0014
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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C-20-348559-1
)	
v.)	DEPT. NO. X
)	
JAMAL SNEED,)	
)	
Defendant,)	DATE: July 29, 2020
)	TIME: 8:30 a.m.

PETITION FOR WRIT OF HABEAS CORPUS

TO: The Honorable Judge of the Eighth Judicial District Court of
The State of Nevada, in and for the County of Clark

The Petition of Jamal Sneed submitted by MICHAEL VAN LUVEN, Deputy
Public Defender, as attorney for the above-captioned individual, respectfully affirms:

1. That he/she is a duly qualified, practicing and licensed attorney in the City
of Las Vegas, County of Clark, State of Nevada.

2. That Petitioner makes application for a Writ of Habeas Corpus; that the
place where the Petitioner is imprisoned actually or constructively imprisoned and restrained of
his liberty is the Clark County Detention Center; that the officer by whom he is imprisoned and
restrained is the Sheriff of Clark County Nevada.

3. That the imprisonment and restraint of said Petitioner is unlawful in that:
the instant charges lack probable cause and should not have been bound over to district court.

4. That Petitioner consents that if Petition is not decided within 15 days

1 before the date set for trial, the Court may, without notice of hearing, continue the trial
2 indefinitely to a date designated by the Court.

3 5. That Petitioner personally authorized his aforementioned attorney to
4 commence this action.

5 WHEREFORE, Petitioner prays that this Honorable Court make an order
6 directing the County of Clark to issue a Writ of Habeas Corpus directed to the said the Sheriff of
7 Clark County Nevada, commanding him to bring the Petitioner before your Honor, and return the
8 cause of his imprisonment.

9 DATED this 14th of July, 2020.

10 DARIN F. IMLAY
11 CLARK COUNTY PUBLIC DEFENDER

12
13 By: /s/Michael Van Luven
14 MICHAEL VAN LUVEN, #13975
15 Deputy Public Defender
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DECLARATION

MICHAEL VAN LUVEN 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 I am the attorney of record for Petitioner in the above matter; that I have read the foregoing Petition, know the contents thereof, and that the same is true of my own knowledge, except for those matters therein stated on information and belief, and as to those matters, I believe them to be true; that Petitioner, JAMAL SNEED, personally authorizes me to commence this Writ of Habeas Corpus action.

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

EXECUTED this 14th day of July, 2020.

/s/Michael Van Luven
MICHAEL VAN LUVEN

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STATEMENT OF FACTS

The Petitioner in this matter is charged by way of Information with one (1) count of Burglary; and one (1) count of Grand Larceny. The two counts were bound over to district court following preliminary hearing held on May 28, 2020.

The Petitioner in this matter is charged by way of Information with one (1) count of Burglary; and one (1) count of Grand Larceny. The two counts were bound over to district court following preliminary hearing held on May 28, 2020.

At preliminary hearing, the State called a single witness: Ralph Jovero, the clerk on shift at the SuperPawn at the time of the alleged incident. Mr. Jovero testified to his alleged interaction with the Petitioner:

Exhibit A – Transcript of Prelim. Hrg., May 28, 2020 at 4-5.

Q: What was missing?

Q: As you sit here today do you remember the brand of those cameras?

A: No. I just know they were like high-priced cameras.

When pressed for additional details as to the type of cameras allegedly taken, Mr. Jovero could not be specific: “I’m assuming – they were DSLR’s or digital cameras.” *Id.* However, he

1 could not recall a specific price on the two items. Instead, Mr. Jovero attempted to provide
2 *estimates* of the price on both cameras, over multiple defense objections:

3 Q: Okay. You said they were the high-priced cameras and there were two
4 do. You [sic] remember roughly the price of each of those?

5 MR. VAN LUVEN: Objection. Hearsay.

6 THE COURT: He can answer if he knows.

7 THE WITNESS: Cost to the company or the price?

8 Q: The price if they were sold from the store?

9 A: One was like 1,800 and one was like somewhere –

10 MR. VAN LUVEN: Again Your Honor, I'm going to object to
11 ["one was like"] is not personal knowledge.

12 THE COURT: Overruled.

13 THE WITNESS: One was priced at least 1,800. One was priced at least
14 \$2,000.

15 MR. VAN LUVEN: Same objection, Your Honor. ["One was priced
16 at least"] is still not personal knowledge. I renew my objection as to
17 hearsay –

18 THE COURT: Overruled.

19 MR. VAN LUVEN: -- and also add an objection as to lack of
20 foundation.

21 THE COURT: Overruled. Like I said before he can testify if he knows.
22 If he works there he knows how much it cost and he can testify as to how
23 much they had it for sale for.

24 *Id.* at 6-7.

25 On cross-examination, Mr. Jovero admitted that he did not know the price of the cameras:

26 Q: Okay. Now you testified that the cameras were like a certain price at
27 least a certain price but you don't know the exact price; correct?

28 A: I don't remember the exact price.

Id. at 9.

Furthermore, on cross-examination, Mr. Jovero clarified that the reason he went to speak
with the manager was because the customer in question was attempting to pay for the items but
did not have his identification:

Q: Was there also a dispute over being able to pay for merchandise with a
certain type of card, do you recall that?

A: Could you rephrase the question?

Q: Did you go see the manager because the customer in question had
wanted to pay with a certain type of card, do you recall that?

A: Yes.

Q: You were going to ask the manager because he was trying to pay with
a certain type of card and it wouldn't work?

A: He didn't have his ID.

Q: He was trying to pay with a type of card but he didn't have his ID and

that required you to go speak to the manager?

A: Yes.

Id. at 9.

Following Mr. Jovero's testimony, the defense argued that the State had not met its burden on either count. With regard to the Burglary count, the State failed to introduce any evidence that the Petitioner entered SuperPawn with any intent to commit an enumerated crime therein. As for Grand Larceny, the State did not introduce sufficient evidence of value due to Mr. Jovero's admitted inability to recall the price of the items in question. The State argued in rebuttal that the intent to commit a burglary could be inferred from the totality of the circumstances. The State did not offer any argument on the grand larceny count, instead claiming that "The grand larceny I think speaks for itself." *Id.* at 12.

The justice court bound over both counts.

LEGAL ARGUMENT

The State did not meet its burden with regard to either count. What evidence was offered is insufficient to show probable cause. Accordingly, both counts must be dismissed.

1. Legal Standard

a. Habeas Corpus

It has long been the law in Nevada that "in the absence of evidence legally sufficient to indicate that an offense has been committed and that there is sufficient cause to believe the accused guilty thereof, he should not be bound over for trial in the district court." *State v. Plas*, 80 Nev. 251, 253, 391 P.2d 867, 868 (1964). "It is fundamentally unfair to require a defendant to stand trial unless he is committed upon a charge with reasonable or probable cause." *Shelby v. Sixth Judicial Dist. Court*, 82 Nev. 204, 207, 414 P.2d 942 (1966); *see also Eureka Bank Cases*, 35 Nev. 80, 126 P. 655 (1912).

NRS 171.206 states, in pertinent part, the following:

If from the evidence it appears to the magistrate that there is probable cause to believe that an offense has been committed and that the defendant has committed it, the magistrate shall forthwith hold the defendant to

1 answer in the district court; otherwise the magistrate shall discharge the
2 defendant.

3 The probable cause necessary at a preliminary hearing has been defined as slight, even
4 marginal, evidence because it does not involve a determination of guilt or innocence of an
5 accused. *Sheriff, Washoe County v. Dhadda*, 980 P.2d 1062, 115 Nev. 175 (1999) (*rehearing*
6 *denied*). The Nevada Supreme Court (NSC) has held that although the State’s burden at the
7 preliminary hearing is “slight, it remains incumbent upon the State to produce some evidence” as
8 to each of the State’s burdens. *Woodall v. Sheriff*, 95 Nev. 218, 220 (1979); *see also Marcum v.*
9 *Sheriff*, 85 Nev. 175, 178 (1969) (“The state must offer some competent evidence on those points
10 to convince the magistrate that a trial should be held”). If the State fails to meet its burden, “an
11 accused is entitled to be discharged from custody under a writ of habeas corpus.” *State v. Plas*,
12 80 Nev. 251, 252 (1964).

13 However, probable cause is not to be found in a vacuum. Whatever evidence the State is
14 introducing to argue the existence of probable cause, it nevertheless must create a *reasonable*
15 inference that the accused committed the alleged offense. *LaPena v. Sheriff, Clark County*, 91
16 Nev. 692, 696, 541 P.2d 907, 910 (1975).

17 Such evidence introduced at a preliminary hearing must be legal evidence. *Goldsmith v.*
18 *Sheriff of Lyon County*, 85 Nev. 295, 303, 454 P.2d 86, 91 (1969). While the State is only
19 required to produce “slight or marginal evidence” at a preliminary hearing, this merely refers to
20 the quantum of evidence and not to the “sufficiency or weight of evidence and not to its
21 competency, relevancy or character.” *Id.* Furthermore, the *Goldsmith* case serves as a check on
22 the preliminary hearing process to ensure that only legally competent evidence is offered against
23 an accused.

24 b. Burglary

25 Burglary occurs when an accused, “by day or night, enters any ... shop... with the intent
26 to commit grand or petit larceny...” *NRS 205.060(1)*¹. Therefore, intent is a requisite element
27 that must be proven by evidence. Where intent is material to a charged offense, “the intent need
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¹ The statute has recently been amended, as of July 1, 2020. The cited language is from the preceding version of the statute.

1 not be proved by positive or direct evidence but may be inferred from the conduct of the parties
2 and the other facts and circumstances disclosed by the evidence.” *Larsen v. State*, 86 Nev. 451,
3 453, 470 P.2d 417, 418 (1970). Regardless, per the burglary statute, an accused must *enter* with
4 the intent to commit an underlying, enumerated crime; intent formulated post-entry is not
5 sufficient to satisfy the burglary statute. *State v. Adams*, 94 Nev. 503, 505, 581 P.2d 868, 869
6 (1978) (“A criminal intent formulated after a lawful entry will not satisfy the statute.”).

7 c. Grand Larceny

8 When attempting to prosecute any crime where value is at issue, such as grand larceny,
9 the State must present evidence of that value behind the mere recollection of an employee.

10 In the case *Stephans v. State*, 127 Nev. 712, 262 P.3d 727 (2011), the defendant was
11 accused of grand larceny for “felony shoplifting.” 127 Nev. at 713. The State’s only evidence of
12 value “came from the department store’s loss prevention officer. He testified, over the defense’s
13 foundation, hearsay, and best evidence objections, that the stolen goods he recovered bore price
14 tags adding up to \$477.” *Id.* The State did not offer any other evidence, such as the price tags or
15 duplicates of such. *Id.*

16 The Nevada Supreme Court held that this was error, and that the defense’s objections to
17 the testimony “should have been sustained.” *Id.* Specifically, the Court held that “While there are
18 several ways to establish value in a shoplifting case, testimony from a witness whose knowledge
19 rests on what he remembers reading on a price tag is not, without more, one of them.” *Id.*
20 Furthermore, the State’s loss prevention witness “was neither offered nor qualified as an expert
21 under NRS 50.275 ... Nor did the State establish that [the witness] had the personal knowledge
22 required to give lay opinion testimony under NRS 50.265...” *Id.* at 716. Regardless, such
23 “personal knowledge” of value only applies either where the witness is the owner of the
24 property, or where a non-owner has “some personal knowledge to on which to base their
25 estimate...” *Id.* at 716-17.

26 2. *The State did not show an intent to commit an underlying offense, even by the “totality of
27 the circumstances”*

1 At the close of evidence at preliminary hearing, the defense argued that the circumstances
2 argued against the finding of an intent to commit an offense at the time the Petitioner is alleged
3 to have entered the SuperPawn. The State, in rebuttal, argued that the “totality of circumstances”
4 demonstrated the Petitioner’s alleged intent. However, when the referenced “totality of
5 circumstances” are considered, they argue against burglarious intent at the time the Petitioner is
6 alleged to have entered SuperPawn.

7 Mr. Jovero did not offer extensive testimony in this matter. What he did offer was a
8 summary narrative that showed the Petitioner allegedly entered the SuperPawn but then went
9 about normal business for such an establishment: “I was showing the customer something from
10 the glass case we had on display. Then he was asking me about getting a better price for it. When
11 he asked about getting a better price, I walked to the manager’s office...” *Ex. A* at 4. On cross-
12 examination, Mr. Jovero then testified that *additional* issues had arisen with the customer-
13 namely that the customer had *attempted to pay* but did not have his identification. *Id.* at 9.

14 Moreover, the State, during direct examination, elicited testimony that this was the
15 second time the Petitioner had allegedly entered SuperPawn that day:

16 Q: Now, was this the only time you had contact with him on that day?

17 A: Like in person?

18 Q: Mm-hmm.

19 THE COURT: You have to say yes.

20 Q: Yes.

21 A: He was there twice that day.

22 Q: Were you at the store earlier that day when he was there previously?

23 A: Yes.

24 Q: Did you see him when he was there previously?

25 A: Yes.

26 *Id.* at 5-6.

27 Accordingly, the State’s “totality of circumstances” are that the Petitioner allegedly had
28 come into the store earlier that day; that he then returned later in the day; he spoke to Mr. Jovero
and discussed purchasing something; he haggled over price; and he attempted to pay for the
merchandise but was unable to use his payment card because he did not have his identification
on him. Based on the totality of these circumstances, the most reasonable interpretation is that
any intent to steal the items would have been formed *after* the Petitioner entered the SuperPawn

1 for the second time that day; *after* the Petitioner discussed buying merchandise; *after* the
2 Petitioner haggled over the price; and *after* the Petitioner attempted to purchase the merchandise.

3 Pursuant to the case law cited herein, any intent to commit a larceny formed *after* entry is
4 insufficient to support a charge of burglary. Based on the totality of circumstances, the State has
5 not demonstrated sufficient probable cause, even by slight or marginal evidence, as the evidence
6 introduced argues more reasonably for any such intent being formed when the Petitioner
7 allegedly was unable to pay for the items due to lacking his ID. As such, the burglary count must
8 be dismissed.

9 3. *The State did not introduce legal evidence of value sufficient to support its count of grand*
10 *larceny; alternatively, the justice court should have sustained the defense's objection to*
11 *Mr. Jovero's testimony as to value*

12 This matter is directly analogous to the *Stephans* case, above. As with that case, this
13 matter concerns grand larceny borne from shoplifting. Likewise, as with the *Stephans* case, the
14 State did not introduce any evidence of value of the items taken aside from the imperfect
15 recollection of its sole witness- a store employee. This evidence was admitted by the justice court
16 over defense counsel's repeated, contemporaneous objections

17 Here, Mr. Jovero's testimony was entirely speculative. Not only did he use speculative
18 language—he testified alternatively, between defense objections, that the items were worth
19 “like” a certain amount, or “at least” a certain amount—but he would admit on cross-
20 examination that he did not recall the exact price of the items in question. So imperfect was Mr.
21 Jovero's memory, in fact, that the State moved to amend its complaint *to strike the reference to*
22 *specific brands of cameras* because Mr. Jovero, despite coaxing from the State, could not even
recall the exact items that had allegedly been taken:

23 THE COURT: State have any other witnesses?

24 MS. THOMSON: No, Your Honor. Prior to resting I'd ask the Court to
25 allow me to remove the brands of the camera on lines 21 and 22. So that it
reads only digital cameras. Not the word only though.

26 *Ex. A* at 10.
27
28

1 Finally, the justice court should have sustained the defense's proper objections to Mr.
2 Jovero's testimony on the value of the items. In overruling the objections, the justice court ruled
3 that Mr. Jovero could testify as to value from his personal knowledge. This is obviously
4 antithetical to controlling authority. As set forth in the *Stephans* case, such "personal knowledge"
5 of price is only admissible where the witness is the owner of the property or has some
6 independent basis for their knowledge beyond merely reading the price tag.

7 Accordingly, as the State did not introduce any legal evidence to show the value of the
8 items in question, the State did not meet its burden to establish probable cause supporting the
9 grand larceny count. That count must also be dismissed.

10 CONCLUSION

11 Based on the foregoing, the counts alleged against the Petitioner in the State's
12 Information must be dismissed. The State failed to establish, even by slight or marginal
13 evidence, that probable cause exists to bind the counts over for trial.

14 DATED this 14th of July, 2020.

15 DARIN F. IMLAY
16 CLARK COUNTY PUBLIC DEFENDER

17
18 By: /s/Michael Van Luven
19 MICHAEL VAN LUVEN, #13975
20 Deputy Public Defender
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YOU WILL PLEASE TAKE NOTICE that the foregoing PETITION FOR WRIT OF HABEAS CORPUS will be heard on July 29, 2020, at 8:30 a.m. in District Court, Department X.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

CERTIFICATE OF ELECTRONIC SERVICE

By: /s/Kayleigh Lopatic
An employee of the
Clark County Public Defender's Office

EXHIBIT A

1 CASE NO. C348559

2

3 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
4 COUNTY OF CLARK, STATE OF NEVADA

5

6

7 THE STATE OF NEVADA,)

8 Plaintiff,)

9 vs.) CASE NO. 20F02659X

10 JAMAL SNEED,)

11 Defendant.)

12 _____)

13

14 REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING
15 BEFORE THE HONORABLE ANN E. ZIMMERMAN
16 JUSTICE OF THE PEACE
17 THURSDAY, MAY 28, 2020

16

9:30 A.M.

17

18 APPEARANCES:

19 For the State:

M. THOMSON, ESQ.
DEPUTY DISTRICT ATTORNEY

21 For the Defendant:

M. VAN LUVEN, ESQ.
DEPUTY PUBLIC DEFENDER

23

24

25 Reported by: CHRISTA BROKA, CCR. No. 574

1

LAS VEGAS, CLARK COUNTY, NEVADA,

2

MAY 28, 2020 AT 9:30 A.M.

3

P R O C E E D I N G S

4

5

6

7

THE COURT: This is the time set for the
preliminary hearing in the State of Nevada versus Jamal Sneed,
20F02659X. Is the state ready to proceed.

9

MS. THOMSON: Yes, Your Honor.

10

THE COURT: Is the defense ready to proceed?

11

MR. VAN LUVEN: Yes, Your Honor.

12

13

THE COURT: Will the state please call their first
witness.

14

MS. THOMSON: State calls Ralph Jovero.

15

16

MR. VAN LUVEN: Your Honor, I know they only have
one witness but I'd like to invoke the exclusionary rule.

17

18

THE COURT: If there's any other witnesses in the
courtroom to testify in the matter of Mr. Sneed, you need to
wait outside in the hallway until your name is called. Good
morning.

20

21

THE CLERK: Please raise your right hand. Do you
swear to tell the truth, the whole truth, and nothing but the
truth?

24

THE WITNESS: I do.

25

THE CLERK: You may be seated. Please state your

1

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1

name for the record and spell it first and last name.

2

THE WITNESS: My name is Ralph Jovero. R-A-L-P-H.

3

Last name J-O-V-E-R-O. Thank you, sir. Go head.

4

MS. THOMSON: Thank you.

5

6

DIRECT EXAMINATION

7

BY MS. THOMSON:

8

Q. Good morning. I'm going to direct your attention back

9

to November 29th of 2019. On that date were you working at the

10

Super Pawn located at 2645 South Decatur here in Clark County,

11

Nevada?

12

A. Yes.

13

Q. On that date did something occur that caused you or

14

another employee to call police?

15

A. Yes.

16

Q. Can you walk us through what occurred.

17

MR. VAN LUVEN: Objection. Calls for a narrative.

18

THE COURT: I will let him start. Overruled.

19

BY MS. THOMSON:

20

Q. What happened that day that caused police to be called?

21

A. I was showing a customer something from the glass case
we had on display. Then he was asking me about getting a
better price for it. When he asked about getting a better
price I walked to the manager's office and when I walked to the
manager's office and I walked out the glass had been smashed

1 and there were two items missing and the customer had left out
 2 the door.
 3 Q. The location where the glass was smashed is that the
 4 same location where you had contact with the customer?
 5 A. Could you repeat the question?
 6 Q. The cabinet that had the glass smashed is that the
 7 cabinet you were at with the customer or was it somewhere else?
 8 A. It was the cabinet right next to it.
 9 Q. And the customer that you had walked to the manager's
 10 office is that individual present in the courtroom today?
 11 A. Yes.
 12 Q. Would you please to the individual and describe
 13 something they are wearing today?
 14 A. They are closest to the west of the courtroom.
 15 Q. Will you point to them.
 16 MS. THOMSON: Let the record reflect identity of
 17 the defendant?
 18 THE COURT: So ordered.
 19 BY MS. THOMSON:
 20 Q. Now, was this the only time you had contact with him on
 21 that day?
 22 A. Like in person?
 23 Q. Mm-hmm.
 24 THE COURT: You have to say yes.
 25 / / /

1 BY MS. THOMSON:
 2 Q. Yes.
 3 A. He was there twice that day.
 4 Q. Were you at the store earlier that day when he was
 5 there previously?
 6 A. Yes.
 7 Q. Did you see him when he was there previously?
 8 A. Yes.
 9 Q. You recognized him when he came in the second time?
 10 A. Yes.
 11 Q. When you came out of the manager's office you said the
 12 glass was smashed and he had left. Was there anything missing
 13 from the smashed glass box?
 14 A. Yes.
 15 Q. What was missing?
 16 A. There was two cameras that were missing.
 17 Q. As you sit here today do you remember the brand of
 18 those cameras?
 19 A. No. I just know they were like high-priced cameras.
 20 Q. Do you remember when we are talking about cameras
 21 there's kind of that range of the old time where everyone had
 22 to stand super still, you put in film, or digital cameras, do
 23 you remember what type of cameras they were?
 24 A. I'm assuming -- they were DSLR's or digital cameras.
 25 Q. Okay. You said they were the high-priced cameras and

1 there were two do. You remember roughly the price of each of
 2 those?
 3 MR. VAN LUVEN: Objection. Hearsay.
 4 THE COURT: He can answer if he knows.
 5 THE WITNESS: Cost to the company or the price?
 6 BY MS. THOMSON:
 7 Q. The price if they were sold from the store?
 8 A. One was like 1,800 and one was like somewhere --
 9 MR. VAN LUVEN: Again Your Honor, I'm going to
 10 object to one was like is not personal knowledge.
 11 THE COURT: Overruled.
 12 THE WITNESS: One was priced at least 1,800. One
 13 was priced at least \$2,000.
 14 MR. VAN LUVEN: Same objection, Your Honor. One
 15 was priced at least is still not personal knowledge. I renew
 16 my objection as to hearsay --
 17 THE COURT: Overruled.
 18 MR. VAN LUVEN: -- and also add an objection as to
 19 lack of foundation.
 20 THE COURT: Overruled. Like I said before he can
 21 testify if he knows. If he works there he knows how much it
 22 cost and he can testify as to how much they had it for sale
 23 for.
 24 BY MS. THOMSON:
 25 Q. I asked you were clerk at the store on this day?

1 A. Yes.
 2 Q. Roughly, if you know the answer to this, how long was
 3 the defendant in the store from the time that he smashed the
 4 glass versus -- let me re-ask. From time he came in to the
 5 time the glass was smashed about how long was that, if you can
 6 say?
 7 A. Approximately twenty minutes.
 8 Q. Fair to say you didn't give him permission to take
 9 those cameras?
 10 A. Yes.
 11 MS. THOMSON: I'll pass the witness.
 12 THE COURT: Defense?
 13
 14 CROSS-EXAMINATION
 15 BY MR. VAN LUVEN:
 16 Q. Mr. Jovero?
 17 A. Yes.
 18 Q. It was your testimony that you turned around to go
 19 speak to the manager about something; correct?
 20 A. Yes.
 21 Q. When you came back you found the display had been
 22 smashed; correct?
 23 A. Yes.
 24 Q. So you did not personally see anybody smashing the
 25 display case?

1 **A. I turned and I saw it had been smashed.**
 2 **Q.** Okay. Now you testified that the cameras were like a
 3 certain price at least a certain price but you don't know the
 4 exact price; correct?
 5 **A. I don't remember the exact price.**
 6 **Q.** Now, when you went to speak to the manager was this
 7 about a dispute over price?
 8 **A. Yes.**
 9 **Q.** Was there also a dispute over being able to pay for
 10 merchandise with a certain type of card, do you recall that?
 11 **A. Could you rephrase the question?**
 12 **Q.** Did you go see the manager because the customer in
 13 question had wanted to pay with a certain type of card, do you
 14 recall that?
 15 **A. Yes.**
 16 **Q.** You were going to ask the manager because he was trying
 17 to pay with a certain type of card and it wouldn't work?
 18 **A. He didn't have his ID.**
 19 **Q.** He was trying to pay with a type of card but he didn't
 20 have his ID and that required you to go speak to the manager?
 21 **A. Yes.**
 22 MR. VAN LUVEN: I'll pass the witness, Your Honor.
 23 THE COURT: Any redirect?
 24 MS. THOMSON: Briefly.
 25 / / /

1 REDIRECT EXAMINATION
 2 BY MS. THOMSON:
 3 **Q.** You said you turned around and the glass was smashed.
 4 Did you see him running from the store?
 5 **A. Yes.**
 6 **Q.** That was immediately after the glass was smashed?
 7 **A. Yes, right after I heard the sound of glass breaking.**
 8 MS. THOMSON: Thank you.
 9 THE COURT: Thank you, sir. You may step down.
 10 THE WITNESS: Thank you.
 11 THE COURT: State have any other witnesses?
 12 MS. THOMSON: No, Your Honor. Prior to resting
 13 I'd ask the Court to allow me to remove the brands of the
 14 cameras on lines 21 and 22. So that it reads only digital
 15 cameras. Not the word only though.
 16 THE COURT: Does the defense have any witnesses?
 17 MR. VAN LUVEN: No, Your Honor.
 18 THE COURT: Has your client been informed of his
 19 right to testify?
 20 MR. VAN LUVEN: Yes, Your Honor.
 21 THE COURT: Does he wish to exercise that right
 22 today?
 23 MR. VAN LUVEN: If Your Honor would canvas him
 24 please.
 25 THE COURT: Mr. Sneed, did your attorney discuss

1 with you that you have the right to testify and you also have
 2 the right to remain silent. It's your choice. If you choose
 3 to remain silent, the Court cannot hold that against you in
 4 making my decision today. Do you want to testify or stay
 5 silent?
 6 THE DEFENDANT: Stay silent, ma'am.
 7 MR. VAN LUVEN: Thank you, Your Honor.
 8 THE COURT: Defense rest?
 9 MR. VAN LUVEN: Yes, Your Honor.
 10 THE COURT: Any argument by the state?
 11 MS. THOMSON: Waive and reserve.
 12 THE COURT: Defense?
 13 MR. VAN LUVEN: With regard to the burglary count
 14 as Your Honor is aware burglary requires entering into a
 15 structure with that intent. We heard testimony from the
 16 witness that payment was attempted to be tendered and at that
 17 point he was unable to pay because he did not have proper ID at
 18 which point he went to speak to the manager. So assuming
 19 everything else is true, just submitting on all of other
 20 testimony that's been had today, the state has not evidenced
 21 that he entered that business with intent to commit any kind of
 22 grand larceny. With regard to the grand larceny itself, Your
 23 Honor, we heard testimony he could not remember the prices of
 24 cameras. He said at least or like I believe 1,800 and 1,200.
 25 The state has charged grand larceny 3,500 or above.

1 THE COURT: 1,800 and 2,000 is what he said. I
 2 wrote that down.
 3 MR. VAN LUVEN: Okay. With regard to that though
 4 like or at least is not sufficient evidence especially in light
 5 of the hearsay objection. With that we believe the state has
 6 not met their burden as to either of these counts.
 7 THE COURT: Okay. State?
 8 MS. THOMSON: Your Honor, I believe the totality
 9 of the circumstances demonstrates burglary. He had been in the
 10 store earlier. He left and came back and created a situation
 11 where he was able to have the clerk leave the counter and then
 12 executed the smash and grab from the counter. The grand
 13 larceny I think speaks for itself. I would ask the Court to
 14 bind over both counts.
 15 THE COURT: Mr. Sneed, please stand. Based on the
 16 evidence and testimony presented here today I believe the
 17 following crimes have been committed: Count 1, burglary; Count
 18 2, grand larceny and that there's probable cause to believe
 19 you, Mr. Sneed, have committed said crimes. I will hold you to
 20 answer in the Eighth Judicial District Court on the date my
 21 clerk gives you.
 22 THE CLERK: June 1st, 8:00 a.m. lower willful.
 23 THE COURT: Thank you. For the record I did grant
 24 the state's motion to amend lines 21 and 22 to reflect digital
 25 cameras as opposed to Lumex and Canon digital cameras.

MS. THOMSON: Thank you.

* * * * *

ATTEST: FULL, TRUE AND ACCURATE
TRANSCRIPT OF PROCEEDINGS.

\s\Christa Broka

CHRISTA D. BROKA, CCR 574

ATTEST: I further certify that I am not interested in
the events of this action.

\s\Christa Broka

CHRISTA D. BROKA, CCR 574

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

-oOo-

STATE OF NEVADA,)

Plaintiff,)

vs.) Case No. 20F02659X

JAMAL SNEED,) ATTEST RE: NRS 239B.030

Defendant,)

STATE OF NEVADA)

) ss

COUNTY OF CLARK)

I, Christa D. Broka, a Certified Shorthand Reporter
within and for the county of Clark and the State of Nevada, do
hereby certify:

That REPORTER'S TRANSCRIPT OF PROCEEDINGS was reported
in open court pursuant to NRS 3.360 regarding the above
proceedings in Las Vegas Justice Court 3, 2020, Lewis Avenue,
Las Vegas, Nevada.

That said TRANSCRIPT:

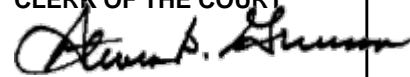
X Does not contain the Social Security number of any
person.

 Contains the Social Security number of a person.

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1 **RET**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MEGAN THOMSON
6 Chief Deputy District Attorney
7 Nevada Bar #011002
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 State of Nevada

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 In the Matter of Application,

10 of

11 JAMAL SNEED,
12 #2583410

13 for a Writ of Habeas Corpus.

CASE NO: C-20-348559-1

DEPT NO: X

14 **STATE'S RETURN TO WRIT OF HABEAS CORPUS**

15 DATE OF HEARING: 7/29/2020
16 TIME OF HEARING: 8:30 A.M.

17 COMES NOW, JOE LOMBARDO, Sheriff of Clark County, Nevada, Respondent,
18 through his counsel, STEVEN B. WOLFSON, Clark County District Attorney, through
19 MEGAN THOMSON, Chief Deputy District Attorney, in obedience to a writ of habeas corpus
20 issued out of and under the seal of the above-entitled Court on the 14 day of July, 2020, and
21 made returnable on the 29th day of July, 2020, at the hour of 8:30 o'clock A.M., before the
22 above-entitled Court, and states as follows:

23 1. Respondent admits the allegations of Paragraphs 1 and 2 of the Petitioner's
24 Petition for Writ of Habeas Corpus.

25 2. Respondent denies the allegations of Paragraph 3 of the Petitioner's Petition for
26 Writ of Habeas Corpus.

27 3. Paragraphs 4 and 5 do not require admission or denial.

28 //

1 4. The Petitioner is in the actual custody of JOE LOMBARDO, Clark County
2 Sheriff, Respondent herein, pursuant to a Criminal Information, a copy of which is attached
3 hereto as Exhibit 1 and incorporated by reference herein.


4 Wherefore, Respondent prays that the Writ of Habeas Corpus be discharged and the
5 Petition be dismissed.

6 DATED this 17th day of July, 2020.

7 Respectfully submitted,

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

10 BY

11 
12 MEGAN THOMSON
 Chief Deputy District Attorney
 Nevada Bar #011002

13
14 **POINTS AND AUTHORITIES**

15 **STATEMENT OF FACTS**

16 Twice on November 29, 2019, Jamal Sneed (hereinafter the Defendant) entered the
17 Super Pawn located at 2645 South Decatur and contacted employee Ralph Jovero both times.
18 Preliminary Hearing Transcript (PHT) p. 4, 6. Ralph showed the Defendant an item from a
19 glass case and the two discussed payment without identification, because the Defendant didn't
20 have his ID, and a better price on the item, which caused Ralph to leave the counter to speak
21 to his manager. PHT p. 4, 9. While walking to the manager's office Ralph heard the sound of
22 the glass breaking, turned around and saw the Defendant running from the store. PHT p. 4, 9.
23 The broken case was right next to the case where they had been standing and two digital
24 cameras were missing. PHT p. 5-6. Ralph testified the cameras were digital cameras and one
25 "was priced at least 1,800. One was priced at least \$2,000." PHT p. 6-7. The Defendant did
26 not have permission to take the times. PHT p. 8.

27 //

28 //

ARGUMENT

I. The Defendant Was Properly Held to Answer the Charge of Burglary

NRS 205.060 provides that a “person who, by day or night, enters any ... building... with the intent to commit grand or petit larceny, ... is guilty of burglary.” NRS 193.200 provides “[i]ntention is manifested by the circumstances connected with the perpetration of the offense....”

The testimony of the clerk provided the Court with the slight or marginal evidence of the intent necessary for the Defendant to be held to answer to the charges, when the entirety of the circumstances were considered in conjunction. Not only had the Defendant come into the store earlier in the day, but when he entered the second time he disputed with the clerk over the price of an item and the method of payment for the item until the clerk turned to consult the manager, and then the Defendant smashed the glass of the cabinet next to where the clerk had been looking at the item with him. PHT p. 4-6, 9. When taken together, the evidence suggests that the Defendant entered the store earlier in the day to “case” the store, identify the location of items and how many employees were working, later returning without identification and creating a situation where the clerk had to leave the counter and then smashing a different case than that of the item they had been discussing and running from the store. From the totality of the circumstances it can be inferred that the Defendant had the intent to commit larceny upon entry rather than deciding to commit the theft while inside, which is highlighted by the fact that he did not take the item he was bartering over. Thus, the Justice Court properly held him to answer to the charge.

II. The Testimony Regarding Value Was Sufficient to Hold the Defendant to Answer

NRS 205.251(1) provides “[t]he value of property involved in a larceny offense shall be deemed to be the highest value attributable to the property by any reasonable standard.” “A party to a lawsuit may testify as to the value of her personal or real property when that value is an issue in the case, and expert testimony is not required.” Dugan v. Gotsopoulos, 117 Nev. 285, 288, 22 P.3d 205, 207 (2001). Such a party may testify “at least so long as the owner has

1 personal knowledge... and non-owners who are called to testify to property value must have
2 some personal knowledge on which to base their estimate.” Stephans v. State, 127 Nev. 712,
3 716-17 (2011) The Nevada Supreme Court found that testimony from a Loss Prevention
4 Officer about what price tags read was not sufficient to establish value, however that does not
5 preclude an employee from testifying regarding the value of an item belonging to the business
6 where he works. Stephans v. State, 127 Nev. at 713 (2011). In Stephans the Defendant objected
7 to the testimony of the loss prevention officer that the amounts reflected on the price tags of
8 the stolen items. The Defense objected that the testimony violated the best evidence and was
9 hearsay. The Court cited several cases that in summary found that security officers who are
10 not involved in the pricing or selling of items do not have personal knowledge of value and as
11 such are not qualified to testify to value. Id. at 716. The Court clearly stated, however, that
12 “[a]ny witness with knowledge of facts that exist independent of the contents of a
13 writing...may testify without raising an issue under the best evidence rule... include[ing]
14 knowledge in the form of recollection that has been refreshed...” Id. at 719 (citations omitted).

15 The Defendant here challenges not a loss prevention officer’s testimony regarding
16 value, but rather the testimony of the store clerk. Furthermore, the testimony regarding value
17 was not analogous to that in Stephans as the clerk testified from his memory as to the price of
18 the items, not to the writing on a price tag. The Defendant complains that the witness, at the
19 preliminary hearing, did not remember the specific prices, however the testimony, the weight
20 of which is determined by the presiding magistrate, was that the value of the items were
21 roughly \$1,800 and \$2,000. PHT p. 7. For the purposes of preliminary hearing the State need
22 only establish a value over \$3,500 for the Court to properly hold the Defendant to answer to
23 the charge, while the Defendant may not like the lack of specificity it is not required for
24 adequate evidence to have been presented. Furthermore, the clerk had personal knowledge of
25 the prices as demonstrated by the testimony from the witness that he had conversed with the
26 Defendant “about getting a better price” regarding another item on sale, demonstrating not
27 only that he would have knowledge but that knowledge of pricing was within his job duties.
28 PHT p. 4.

1 Here, the testimony was sufficient to establish a value over \$3,500 and was received
2 from the clerk in the store, responsible for interaction with customers regarding merchandise
3 and the price of items for sale. Thus, the State presented sufficient evidence for the Court to
4 hold the Defendant to answer to the Count of Grand Larceny, value over \$3,500.

5 **CONCLUSION**


6 The State presented sufficient evidence to infer the Defendant's criminal intent upon
7 entry and the value of the items taken, thus the Defendant was properly held to answer, and
8 the Defendant's Pretrial Petition for Writ of Habeas Corpus should be DENIED.

9 DATED this 17th day of July, 2020.

10 Respectfully submitted,

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

14 BY

15 
16 MEGAN THOMSON
17 Chief Deputy District Attorney
18 Nevada Bar #11002

19 **CERTIFICATE OF SERVICE**

20 I hereby certify that service of Return To Writ of Habeas Corpus, was made this 17th
21 day of July, 2020, by email to:

22 MICHAEL VAN LUVEN, Deputy Public Defender
23 Email: Michael.VanLuven@ClarkCountyNV.gov

24 BY:

25 
26 Secretary of the District Attorney's Office

27 20F02659X/MT/mt/L4
28

EXHIBIT 1



1 INFM
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MEGAN THOMSON
6 Chief Deputy District Attorney
7 Nevada Bar #011002
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 I.A. 06/01/20
13 8:00 AM
14 PD-VAN LUVEN

DISTRICT COURT
CLARK COUNTY, NEVADA

15 THE STATE OF NEVADA,
16 Plaintiff,

CASE NO: C-20-348559-1

17 -vs-

DEPT NO: X

18 JAMAL SNEED, aka
19 Jamal Lashawn Sneed, #2583410
20 Defendant.

INFORMATION

21 STATE OF NEVADA }
22 COUNTY OF CLARK } ss.

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

25 That JAMAL SNEED, aka Jamal Lashawn Sneed, the Defendant(s) above named,
26 having committed the crimes of BURGLARY (Category B Felony - NRS 205.060 - NOC
27 50424) and GRAND LARCENY (Category B Felony - NRS 205.220.1, 205.222.3 - NOC
28 56008), on or about the 29th day of November, 2019, 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,

COUNT 1 - BURGLARY

did willfully, unlawfully, and feloniously enter a building, owned or occupied by
SUPER PAWN, located at 2645 South Decatur Boulevard, Las Vegas, Clark County, Nevada,
with intent to commit larceny.


V:\2020\061\12\202006112C-INFM-(SNEED, JAMAL)-001.DOCX

1 COUNT 2 - GRAND LARCENY

2 did then and there willfully, unlawfully, feloniously, and intentionally, with intent to
3 deprive the owner permanently thereof, steal, take and carry away, lead away or drive away
4 property owned by SUPER PAWN, having a value of \$3,500.00, or greater, to wit: Digital
5 cameras.

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

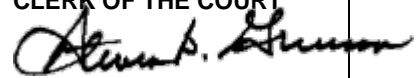
7
8 BY


9 MEGAN THOMSON
Chief Deputy District Attorney
Nevada Bar #011002

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

13 <u>NAME</u>	<u>ADDRESS</u>
14 CUSTODIAN OF RECORDS	CCDC
15 CUSTODIAN OF RECORDS	LVMPD - DISPATCH/COMMUNICATIONS
16 CUSTODIAN OF RECORDS	LVMPD - RECORDS
17 DOUGHERTY, EDWARD	DA INVESTIGATOR AND/OR DESIGNEE
18 JOVERO, RALPH JUSTIN	2645 S. DECATUR BLVD., LV, NV 89102
19 PAWN DECATUR COR-SUPER	2645 S. DECATUR BLVD., LV, NV 89102
20 ROSTON, JACQUAR	LVMPD P#14005
21 TOLENTINO, MARK B.	LVMPD P#14730

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26
27 20F02659X/eg/L4
28 LVMPD EV#191100137796
(TK3)



1 RTRAN
2
3
4

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 JAMAL SNEED,

12 Defendant.

CASE NO. C-20-348559-1
DEPT. 10

13
14 ***BEFORE THE HONORABLE TIERRA JONES, DISTRICT COURT JUDGE***

15 ***WEDNESDAY, JULY 29, 2020***
16 ***RECORDER'S TRANSCRIPT RE:***
17 ***MOTION TO CONSOLIDATE***

18 APPEARANCES:

19 For the State:

MEGAN THOMSON, Esq.
Chief Deputy District Attorney

20
21 For the Defendant:

MICHAEL VANLUVEN, Esq.
Deputy Public Defender

22
23
24
25 RECORDED BY: VICTORIA BOYD, COURT RECORDER

1
2 Las Vegas, Nevada, Wednesday, July 29, 2020 at 8:34 a.m.
3

4
5 THE COURT: Mr. Sneed is present in custody. Mr. Vanluven is here on his
6 behalf. Ms. Thomson is here on behalf of the State.

7 THE DEFENDANT: Good morning, Your Honor.

8 THE COURT: Good morning.

9 This is on for a couple things. It's on for petition for writ of habeas corpus and
10 a motion to consolidate. However, the motion to consolidate needs to be heard by
11 Judge Weiss because if this case is consolidated it's going to be consolidated into
12 his case because he has the lower case number so I don't get to decide whether or
13 not he's consolidating his case into his case. And I see that he has the motion to
14 consolidate set for hearing on August 13th. Okay. So what I'll do is I'll just do a
15 status check - - the motion to consolidate will be status checked until August 17th at
16 8:30.

17 In regards to the writ, we're going to argue the writ today. I have read the writ
18 as well as I've read the State's return. Mr. Vanluven, do you have anything you
19 want to add?

20 MR. VANLUVEN: Just briefly, Your Honor. They cited in the return
21 specifically that an owner can testify to value. We don't have an owner in this
22 situation. We have a clerk. And furthermore, this case law that I cited states that for
23 a clerk to testify to value sufficient to overcome both best evidence and hearsay
24 problems that clerk needs to have some independent basis for the value that he's
25 testifying to. In this case two digital cameras. I think we can do away with that.
One, he was not certified as an expert of any kind or otherwise testified to any

1 independent basis during the preliminary hearing. And second not only was his
2 knowledge of these items so limited that the State actually had to strike from the
3 complaint the specific mention of the range of the cameras, because he couldn't
4 even remember that. So based on that and the case law, Your Honor, I think it's
5 clear that him testifying imperfectly from memory is almost directly analogous to the
6 case law I've cited, therefore it was improper and that count should be dismissed.

7 With regard to the burglary itself again the State, they rely on that case law
8 and that authority that says you can infer intent or burglarious - - I never get that
9 word right - - burglarious intent from the surrounding circumstances. Okay. Let's
10 look at the surrounding circumstances in this case. Apparently, he comes to the
11 location once, leaves. Comes to the location again. However, instead of walking in,
12 smashing the display and stealing things he engages in conversation with the
13 employee for a while. They haggle over the price. He selects the item says, yep, I'd
14 like those. I'm going to pay for them now. She says well, we need an ID. He says I
15 don't have one, what can we do here. Let me go get the manager, at which point he
16 smashes the stuff and runs off.

17 Now the State said he's created a situation to distract the clerk away so that
18 he can't smash them. Well, Your Honor, if the intent to burglarize was present from
19 the moment he walked in I think he can dispense with going through the whole
20 haggling procedure, trying to get some kind of a better deal on the items and even
21 attempting to pay for them by handing them a card potentially could have linked him
22 to the subsequent crime, so based on that I think the more reasonable interpretation
23 of the actions is that the intent to form, if present, or the intent to steal, if present,
24 was formed after he came in and was unable to pay for the items. So based on that,
25 Your Honor, I'd ask that we dismiss these counts.

1 THE COURT: State.

2 MS. THOMSON: With regard to the value it's not best evidence or hearsay,
3 it's the weight of the testimony was subject to what the magistrate deemed
4 appropriate. It was the witnesses' memory not testifying that the price tag read
5 anything, which is the case that was cited by Mr. Vanluven. With regard to the
6 burglary just going in and smashing he runs the risk of being stopped. He runs the
7 risk of being tackled putting himself in a situation where he can get the employees at
8 a distance where he can then smash the cabinet makes sense, and so given the
9 totality of the circumstances and with the very low burden at preliminary hearing it's
10 the State's position that we properly presented evidence and the Court properly held
11 with an answer.

12 THE COURT: Mr. Vanluven, do you have any response to that?

13 MR. VANLUVEN: I do. Just briefly, Your Honor. It's right in the case law.
14 The Court even says in its holding that the accused cannot be subject to the
15 imperfect memory of a witness with regard to value, Your Honor. So with that I'll
16 submit.

17 THE COURT: Okay. Well, for the purposes of slight or marginal evidence
18 which is the State's burden at preliminary hearing this Court finds the State has met
19 that burden in regards to the grand larceny as well as in regards to the burglary
20 based on the evidence that was presented, and the Justice Court properly held the
21 defendant to answer the petition will be denied.

22 MS. THOMSON: Thank you.

23 THE COURT: And then we'll be back here for a status check after Judge
24 Weiss makes a call as to what to do on the motion to consolidate.

25 THE DEFENDANT: Appreciate you, Mr. Vanluven. Thank you, Your Honor.

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MR. VANLUVEN: No problem.

THE COURT: Thank you.

MS. THOMSON: Thank you, Your Honor.

(Proceedings concluded at 8:39 a.m.)

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

Victoria W. Boyd

11-2-21

Victoria W. Boyd
Court Recorder/Transcriber

Date

Felony/Gross Misdemeanor

COURT MINUTES

June 01, 2020

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

June 01, 2020 08:00 AM Initial Arraignment

HEARD BY: Wiese, Jerry A. COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Brown, Kristen

RECORDER: Reiger, Gail

REPORTER:

PARTIES PRESENT:

Bryan A Cox Attorney for Defendant

Jamal Sneed Defendant

Public Defender Attorney for Defendant

JOURNAL ENTRIES

Deputized Law Clerk, Skyler Sullivan appearing for the State.

DEFT. SNEED ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. Court stated that due to the COVID-19 outbreak and Administrative Order 20-17, the trial date will be set on the soonest date that the assigned Department can accommodate and ORDERED, matter SET for trial. COURT FURTHER ORDERED, Deft s request for discovery and State s request for reciprocal discovery is GRANTED pursuant to Statute and State law.

CUSTODY

7/20/20 8:30 AM CALENDAR CALL (DEPT. 10)

7/27/20 10:30 AM JURY TRIAL (DEPT. 10)

Felony/Gross Misdemeanor

COURT MINUTES

July 20, 2020

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

July 20, 2020 08:30 AM All Pending Motions

HEARD BY: Jones, Tierra COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Daniel R. Jenkins Attorney for Defendant

Jamal Sneed Defendant

Megan Thomson Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

CALENDAR CALL...STATE'S MOTION TO CONSOLIDATE C-20-348559-1 INTO DISTRICT COURT XXX'S CASE C-20-346752-

APPEARANCES CONTINUED: Deft. present Via Video from the Jail Via Video, through Bluejeans technology.

Colloquy regarding deft's other case. Court noted the Court will make a decision of the Writ first before hearing the Motion to Consolidate. COURT ORDERED, trial date VACATED, and Motion CONTINUED to the date given. Further, Court noted it will hear the Writ on 7-29-20.

07/29/20 8:30 A.M. PETITION FOR WRIT OF HABEAS CORPUS....STATE'S MOTION TO CONSOLIDATE C-20-348559-1 INTO DISTRICT COURT XXX'S CASE C-20-346752.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 27, 2020

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

**July 27, 2020 8:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Jones, Tierra **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Teri Berkshire

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT:	Sneed, Jamal	Defendant
	State of Nevada	Plaintiff
	Thomson, Megan	Attorney
	Van Luven, Michael L.	Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Deft. present Via Video, from the jail, through bluejeans technology.

Upon Court's inquiry, Counsel advised a Valdez-Jimenez hearing was not held in lower level. Following arguments by counsel, Court stated its Findings and ORDERED, \$10,000.00 Bail STANDS.

CUSTODY

Felony/Gross Misdemeanor

COURT MINUTES

July 29, 2020

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

July 29, 2020 08:30 AM All Pending Motions

HEARD BY: Jones, Tierra COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Jamal Sneed Defendant

Megan Thomson Attorney for Plaintiff

Michael L. Van Luven Attorney for Defendant

State of Nevada Plaintiff

JOURNAL ENTRIES

APPEARANCES CONTINUED: Deft. present Via Video, from the Jail, through Bluejeans technology.

Petition For Writ Of Habeas Corpus...Motion to Consolidate

Court noted the motion to consolidate needs to be heard by DC30. Further, COURT ORDERED, matter set for status check on the date given. Following arguments by counsel, Court Stated its Findings and ORDERED, Petition For Writ Of Habeas Corpus, DENIED.

CUSTODY

08/17/20 8:30 A.M. Motion to Consolidate

Felony/Gross Misdemeanor

COURT MINUTES

August 05, 2020

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

August 05, 2020 11:30 AM Central Trial Readiness Conference

HEARD BY: Barker, David COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Jamal Sneed Defendant

Megan Thomson Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

State advised a motion is set in another case for 8/13/20 in DC 6 as well as a pending writ on this case. COURT ORDERED, matter OFF CALENDAR.

CUSTODY

Felony/Gross Misdemeanor

COURT MINUTES

August 17, 2020

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

August 17, 2020 08:30 AM Status Check: Motion to Consolidate

HEARD BY: Jones, Tierra COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Jamal Sneed Defendant

Laura Goodman Attorney for Plaintiff

Michael L. Van Luven Attorney for Defendant

State of Nevada Plaintiff

JOURNAL ENTRIES

APPEARANCES CONTINUED: Deft. present Via Video, from the Jail, through Blue Jeans technology.

Mr. Van Luven requested trial setting. Court noted deft. waived based on the Writ filed. Further, COURT ORDERED, trial date set on the date given.

CUSTODY

11/09/20 8:30 A.M. CALENDAR CALL

11/16/20 10:30 A.M. JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

October 05, 2020

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

October 05, 2020 08:30 AM State's Motion to Admit Evidence Pursuant to the Doctrine of Res
Gestae and Pursuant to 48.045

HEARD BY: Jones, Tierra COURTROOM: RJC Courtroom 14B

COURT CLERK: Darling, Christopher

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Megan Thomson	Attorney for Plaintiff
Michael L. Van Luven	Attorney for Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

Hearing held live and by BlueJeans videoconferencing.

Court noted Deft. refused transport. Upon Court's inquiry, Mr. Van Luven deferred to State as to whether to proceed; Ms. Thomson requested matter proceed. Court stated Motion, Opposition, and related exhibit one were reviewed. COURT ORDERED, exhibit one admitted into evidence. Arguments by counsel. Court FINDS no indication of the necessary evidence; therefore, FURTHER ORDERED, Motion to Admit Evidence DENIED. Prevailing party to prepare the order. Court noted trial is 11/16/20. Court directed counsel to contact Department 7 for setting a trial readiness hearing.

Felony/Gross Misdemeanor

COURT MINUTES

October 21, 2020

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

October 21, 2020 11:30 AM Central Trial Readiness Conference

HEARD BY: Bell, Linda Marie COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Megan Thomson

Attorney for Plaintiff

Michael L. Van Luven

Attorney for Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

Defendant not present having refused transport. Counsel appearing via Bluejeans.

Mr. Van Luven advised he has spoke with Defendant and the social worker will also be speaking with Defendant. Colloquy regarding possible competency concerns. COURT ORDERED, matter CONTINUED for Defendant to appear.

CUSTODY

CONTINUED TO: 10/28/20 11:30 AM (LLA)

Felony/Gross Misdemeanor

COURT MINUTES

October 28, 2020

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

October 28, 2020 11:30 AM Central Trial Readiness Conference

HEARD BY: Bell, Linda Marie COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Vincent, Renee

REPORTER:

PARTIES PRESENT:

Megan Thomson

Attorney for Plaintiff

Michael L. Van Luven

Attorney for Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

Ms. Thomson appearing via Bluejeans.

Mr. Van Luven requested Defendant be referred to competency. COURT SO ORDERED, additionally trial date and calendar call VACATED.

CUSTODY

11/20/20 11:30 AM FURTHER PROCEEDINGS: COMPETENCY (DEPT 7)

Felony/Gross Misdemeanor

COURT MINUTES

December 04, 2020

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

December 04, 2020 11:30 AM Further Proceedings: Competency

HEARD BY: Bell, Linda Marie COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Takas, De'Awna

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

Also present: Glen O'Brien, Deputy District Attorney, Claudia Romney, Deputy Public Defender, and Denise Baker of the Specialty Courts. Defendant present.

COURT ORDERED, pursuant to NRS 178.415, Defendant REMANDED to the custody of the Administrator of the Division of Mental Health Development Services for the Department of Human Resources for detention, further evaluation, and treatment at a secure facility operated by that Division. Once competency has been established, Defendant will be returned to this Court for findings and referred back to the originating department for further proceedings.

CUSTODY

Felony/Gross Misdemeanor

COURT MINUTES

February 19, 2021

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

February 19, 2021 10:30 AM Further Proceedings: Competency-Return From Lakes Crossing

HEARD BY: Yeager, Bitia COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Berndt, Kaihla

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

Also present: Glen O'Brien, Deputy District Attorney, Arleen Heshmati, Deputy Public Defender, and Denise Baker of the Specialty Courts. Defendant present.

Mr. Almase requested a continuance to review the reports. COURT SO ORDERED.

CUSTODY

CONTINUED TO: 02/26/21 10:30 AM

Felony/Gross Misdemeanor

COURT MINUTES

February 26, 2021

C-20-348559-1 State of Nevada
vs
Jamal Sneed

February 26, 2021 10:30 AM Further Proceedings: Competency-Return From Lakes Crossing

HEARD BY: Craig, Christy COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Tapia, Michaela

RECORDER: Berndt, Kaihla

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

Also present: Arlene Heshmati, Deputy Public Defender, Glen O'Brien, Deputy District Attorney, and Denise Baker of the Specialty Courts.

Statement by Deft. Mr. Almase requested matter be CONTINUED to speak with Deft. and have an evaluation done; COURT SO ORDERED.

CUSTODY

CONTINUED TO: 3/5/21 10:30 AM

Felony/Gross Misdemeanor

COURT MINUTES

March 05, 2021

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

March 05, 2021 10:30 AM Further Proceedings: Competency-Return From Lakes Crossing

HEARD BY: Craig, Christy COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly; Snow, Grecia

RECORDER: Berndt, Kaihla

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

Also present: Glen O'Brien, Deputy District Attorney, Arlene Heshmati, Deputy Public Defender, and Denise Baker of the Specialty Courts. Defendant present.

Mr. Almase advised he had tried multiple times to have a meaningful conversation with Deft. and was not able to do so. Ms. Heshmati indicated Mr. Van Luven had a similar experience with Deft. Court advised Deft. was not corporative and his actions was delaying his case. There being no challenge by Defense Counsel, COURT FINDS Defendant COMPETENT pursuant to the Dusky Standard as Defendant is capable of understanding the nature of the charges against him and is able to assist counsel in his defense and ORDERED, pursuant to 178.420, matter TRANSFERRED back to the originating court for further proceedings.

CUSTODY

3/10/21 8:30 AM - FURTHER PROCEEDINGS: RETURN FROM COMPETENCY COURT
DEPT. 10

Felony/Gross Misdemeanor

COURT MINUTES

March 10, 2021

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

March 10, 2021 08:30 AM Further Proceedings: Return from Competency Court

HEARD BY: Barker, David COURTROOM: RJC Courtroom 14B

COURT CLERK: Ortega, Natalie

RECORDER: Berndt, Kaihla

REPORTER:

PARTIES PRESENT:

Hetty O. Wong Attorney for Plaintiff

Jamal Sneed Defendant

Michael L. Van Luven Attorney for Defendant

State of Nevada Plaintiff

JOURNAL ENTRIES

Upon Court's inquiry Mr. Van Luven advised Defendant would remain invoked status. COURT ORDERED, matter SET for Status Check regarding Central Trial Readiness per Judge Jones's request.

CUSTODY

03/17/21 8:30 AM STATUS CHECK: CTR

Felony/Gross Misdemeanor

COURT MINUTES

March 17, 2021

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

March 17, 2021 08:30 AM STATUS CHECK: CENTRAL TRIAL READINESS

HEARD BY: Jones, Tierra COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Hetty O. Wong Attorney for Plaintiff

Michael L. Van Luven Attorney for Defendant

State of Nevada Plaintiff

JOURNAL ENTRIES

APPEARANCES CONTINUED: Ms. Wong present via video, on behalf of the State. Mr. Van Luven present via video, on behalf of deft., through bluejeans technology.

Deft. not present. Court noted deft. refused transport. COURT ORDERED, matter SET for central trial readiness on the date given.

CUSTODY

03/31/21 11:30 A.M. CENTRAL TRIAL READINESS

Felony/Gross Misdemeanor

COURT MINUTES

March 31, 2021

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

March 31, 2021 11:30 AM Central Trial Readiness Conference

HEARD BY: Jones, Tierra COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Lott, Jennifer

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Megan Thomson

Attorney for Plaintiff

Michael L. Van Luven

Attorney for Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

COURT ORDERED, Central Jury Trial SET. The State and Mr. Van Luven anticipate being ready for Trial.

IN CUSTODY

4-26-2021 9:00 A.M. Central Jury Trial

4-21-2021 2:00 P.M. Central Calendar Call

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 21, 2021

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

April 21, 2021

2:00 PM

Central Calendar Call

HEARD BY: Jones, Tierra

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Teri Berkshire

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT:	Sneed, Jamal	Defendant
	State of Nevada	Plaintiff
	Thomson, Megan	Attorney
	Van Luven, Michael L.	Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Ms. Thomson present via video, on behalf of the State, through bluejeans technology.

Upon Court's inquiry, Mr. Van Luven advised he's not ready, as he hasn't had any meaningful contact with deft., and there's a much more serious case, that deft has filed a motion to dismiss. Statements by deft. Court noted this case is set for trial, however, the Court will give counsel a week to speak with deft. Mr. Thomson advised the State is ready. COURT ORDERED, central Jury trial SET on the date given.

CUSTODY

PRINT DATE: 04/27/2021

Page 1 of 2

Minutes Date: April 21, 2021

04/28/21 2:00 P.M. CENTRAL CALENDAR CALL - LLA

05/03/21 9:00 A.M. CENTRAL JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

April 28, 2021

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

April 28, 2021 02:00 PM Central Calendar Call

HEARD BY: Jones, Tierra COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Berkshire, Teri

RECORDER: Corcoran, Lara

REPORTER:

PARTIES PRESENT:

Elissa Luzaich Attorney for Plaintiff

Jamal Sneed Defendant

Michael L. Van Luven Attorney for Defendant

State of Nevada Plaintiff

JOURNAL ENTRIES

APPEARANCES CONTINUED: Ms. Luzaich present via video, on behalf of the State, through bluejeans technology.

Upon Court's inquiry, Mr. Van Luven advised he's not ready for trial, as he has further investigation and deft. will waive. Upon Court's inquiry, deft. WAIVED his right to speedy trial. COURT ORDERED, case REMOVED from central trial readiness and SET in DC10 on the date given.

CUSTODY

05/12/21 8:30 A.M. STATUS CHECK: TRIAL SETTING

Felony/Gross Misdemeanor

COURT MINUTES

May 12, 2021

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

May 12, 2021 08:30 AM Status Check: Trial Setting

HEARD BY: Jones, Tierra COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Jamal Sneed Defendant

Michael L. Van Luven Attorney for Defendant

State of Nevada Plaintiff

William J. Merback Attorney for Plaintiff

JOURNAL ENTRIES

APPEARANCES CONTINUED: Deft. present via video, from the Jail. Mr. Van Luven present via video, on behalf of deft., through bluejeans technology.

Court noted deft. waived the last time. Colloquy regarding trial setting. Mr. Van Luven advised he spoke with deft., and there's some things counsel would like to look into. COURT ORDERED, trial date SET on the date given.

CUSTODY

11/08/21 8:30 A.M. CALENDAR CALL

11/15/21 10:30 A.M. JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

June 02, 2021

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

June 02, 2021 08:30 AM All Pending Motions

HEARD BY: Becker, Nancy COURTROOM: RJC Courtroom 14B

COURT CLERK: Albrecht, Samantha

RECORDER: Garcia, Trisha

REPORTER:

PARTIES PRESENT:

Hetty O. Wong	Attorney for Plaintiff
Jamal Sneed	Defendant
Michael L. Van Luven	Attorney for Defendant
Public Defender	Attorney for Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

STATE'S NOTICE OF MOTION AND MOTION TO CHANGE TRIAL DATE...PD'S MOTION TO REINSTATE DEFENDANT'S BAIL

Court noted there was no Opposition filed to the Motion to Change Trial Date, Defendant had waived his speedy trial rights and the State was requesting a week continuance of the trial date. Mr. Van Luven confirmed there was no opposition to the Motion and requested this case continue to trail Defendant's other case. COURT ORDERED, Motion to Change Trial Date GRANTED, trial date VACATED and RESET.

Court noted there was no Opposition filed for the Motion to Reinstate. Ms. Wong confirmed there was no objection. COURT FURTHER ORDERED, Motion to Reinstate Defendant's Bail GRANTED, \$10,000.00 BAIL REINSTATED.

CUSTODY

11/15/2021 8:30 AM CALENDAR CALL

11/22/2021 10:30 AM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

November 15, 2021

C-20-348559-1 State of Nevada
 vs
 Jamal Sneed

November 15, 2021 08:30 AM All Pending Motions

HEARD BY: Jones, Tierra COURTROOM: RJC Courtroom 14B

COURT CLERK: Berkshire, Teri; Naumec-Miller, Anntoinette

RECORDER: Boyd, Victoria

REPORTER:

PARTIES PRESENT:

Jamal Sneed	Defendant
John T. Jones, Jr.	Attorney for Plaintiff
Michael L. Van Luven	Attorney for Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIESCALENDAR CALL...DEFT'S MOTION FOR STAY TO PURSUE WRIT RELIEF OR, IN THE
ALTERNATIVE MOTION TO CONTINUE TRIAL DATE

Upon Court's inquiry, Mr. Van Luven confirmed he received the transcripts on November 1st and intends to file a Writ of Mandamus. Mr. Van Luven noted Deft. waived his right to speedy trial upon his return from Competency Court. Mr. Jones indicated he is handling the matter for Ms. Rhoades and Ms. Rhoades has no objection to the continuance; however, she objects to the stay as it does not articulate the elements required for a stay. COURT ORDERED, Motion GRANTED with respect to the continuance of the trial date, DENIED with respect to the stay. COURT FURTHER ORDERED, trial date VACATED, Status Check regarding Supreme Court Stay SET.

CUSTODY

12/13/21 8:30 AM STATUS CHECK: STAY

CLERK'S NOTE: Minutes prepared from JAVS recording. anm/11/29/21

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMAL SNEED,)	No.
)	(DC No. C-20-348559-1)
Petitioner,)	
)	
v.)	
)	
THE EIGHTH JUDICIAL DISTRICT)	
COURT OF THE STATE OF NEVADA,)	
COUNTY OF CLARK, THE)	
HONORABLE TIERRA JONES,)	
DISTRICT COURT JUDGE,)	
)	
Respondent,)	
)	
THE STATE OF NEVADA,)	
)	
Real Party in Interest.)	
)	

APPENDIX TO
PETITION FOR WRIT OF MANDAMUS
VOLUME I PAGES 001-064

DARIN IMLAY
Clark County Public Defender
309 South Third Street
Las Vegas, Nevada 89155-2610

Attorney for Appellant

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Counsel for Respondent

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on 15 of Dec 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows: AARON FORD MICHAEL VAN LUVEN ALEXANDER CHEN

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

BY /s/ Carrie Connolly
Employee, Clark County Public Defender's Office