

# IN THE SUPREME COURT OF THE STATE OF NEVADA

DAMIEN ALEXANDER PHILLIPS,  
A/K/A TRAVIS ALEXANDER PHILLIPS,  
Appellant(s),

vs.

THE STATE OF NEVADA  
DEPARTMENT OF CORRECTIONS,  
Respondent(s),

Electronically Filed  
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Elizabeth A. Brown  
Clerk of Supreme Court

Case No: A-21-831976-W

Docket No: 84115

# RECORD ON APPEAL VOLUME 3

**ATTORNEY FOR APPELLANT**  
DAMIEN PHILLIPS #1212760,  
PROPER PERSON  
P.O. BOX 650  
INDIAN SPRINGS, NV 89070

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

A-21-831976-W     Damien Phillips, Plaintiff(s) vs. Nevada Department of Correction,  
Defendant(s)

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1 .....  
2 19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing  
3 of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in  
4 response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the  
5 petition. Your response may not exceed five handwritten or typewritten pages in length.) No.  
6 .....

7 20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment  
8 under attack? Yes ..... No X....

9 If yes, state what court and the case number: .....  
10 .....

11 21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on  
12 direct appeal: KEITH C. BROWER (TRIAL)

13 SANDRA STEWART (DIRECT APPEAL)  
14 .....

15 22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under  
16 attack? Yes ..... No X....

17 If yes, specify where and when it is to be served, if you know: .....  
18 .....

19 23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the  
20 facts supporting each ground. If necessary you may attach pages stating additional grounds and facts  
21 supporting same.  
22  
23  
24  
25  
26  
27  
28

DAMIEN PHILLIPS #1212760  
HIGH DESERT STATE PRISON  
P.O. Box 650  
INDIAN SPRINGS, NV. 89070

THE 8<sup>TH</sup> JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA

DAMIEN A. PHILLIPS  
PETITIONER

(FEDERALIZE)

VS.

CASE NO:

DEPT. NO:

DOCKET NO:

THE WARDEN, HDSP  
RESPONDENT,

MOTION FOR WRIT OF  
HABEAS CORPUS (POST CONVICTION)

# PROCEDURAL HISTORY

1.) PHILLIPS AND OTHER CO-DEFENDANTS WERE ARRESTED ON AUGUST 9<sup>TH</sup>, 2018 FOR SEVERAL BANK ROBBERIES.

2.) PHILLIPS INVOKED HIS RIGHT TO 60 DAY SPEEDY TRIAL AND THE COURT COMPLIED

3.) PHILLIPS WAS FOUND GUILTY ON ~~THE~~ DECEMBER OF 2018. PHILLIPS APPEALED AND THE CONVICTION WAS AFFIRMED ON MAY ~~10<sup>TH</sup>~~ 6<sup>TH</sup>, 2020

4.) PHILLIPS FILES FOR WRIT OF HABEAS (POST CONVICTION) MARCH 30, 2021

5.) PETITION <sup>RECEIVES</sup> ~~RECEIVED~~ A FINDINGS OF FACTS FROM DISTRICT COURT ON THE 21<sup>ST</sup> DAY OF AUGUST, 2021 DENYING HIS HABEAS.

6.) PHILLIPS NOW BRINGS THIS INSTANT PETITION FOR A WRIT OF HABEAS (POST CONVICTION).

1 UNITED STATES CONSTITUTION 4<sup>TH</sup>, 6<sup>TH</sup>, AND 14<sup>TH</sup>  
2 AMENDMENT CLAIM... INEFFECTIVE ASSISTANCE  
3 OF COUNSEL (FEDERALIZE)

4  
5 PURSUANT TO JONES -V- WOOD, 114 F 3d  
6 1002 (1997) AND, STRICKLAND -V-  
7 WASHINGTON 466 U.S. 668 (1984) PHILIPS  
8 ASSERTS HERE THAT ; "TO ESTABLISH A CLAIM OF  
9 INEFFECTIVE ASSISTANCE OF COUNSEL, A PARTY  
10 MUST PROVE THAT:

11 (1) HIS COUNSELS PERFORMANCE WAS  
12 DEFICIENT, AND

13 (2) THE DEFICIENCY PREJUDICED THE DEFENSE.

14 'A COUNSEL'S PERFORMANCE IS DEFICIENT IF,  
15 CONSIDERING ALL THE CIRCUMSTANCES, IT FALLS  
16 BELOW THE OBJECTIVE STANDARD OF  
17 REASONABLENESS MEASURED UNDER PREVAILING  
18 PROFESSIONAL NORM',

19 AND,

20 "IN CONNECTION WITH AN INEFFECTIVE ASSISTANCE  
21 OF COUNSEL CLAIM PREJUDICE IS SHOWN WHEN  
22 THERE IS A REASONABLE PROBABILITY THAT, ABSENT  
23 COUNSEL'S ERRORS, THE FACT FINDER WOULD HAVE  
24 HAD A REASONABLE DOUBT RESPECTING GUILT."

25  
26 PHILIPS URGES THAT IN REGARDS TO THE  
27 SECTIONS MENTIONED HEREIN THIS PETITION, ITS

1 PLAIN AND CLEAR THAT COUNSEL'S ERRORS  
2 CAUSED PHILLIPS TO HAVE AN UNFAIR TRIAL  
3 BASED ON THE REASONING ALREADY MENTIONED  
4 HERE.

5 PHILLIPS URGES THE COURT TO VACATE  
6 ~~THE~~ THE ENTIRE SENTENCE/CONVICTION OR  
7 GRANT AN EVIDENTIARY HEARING.

8  
9 HERE PHILLIPS NOW BRINGS THIS CLAIM  
10 OF INEFFECTIVE ASSISTANCE OF COUNSEL. UNDER  
11 STRICKLAND -V- WASHINGTON 466 U.S. 668 (1984)  
12 PHILLIPS DOES DISPLAY SEVERAL WAYS IN  
13 WHICH HIS TRIAL COUNSEL WAS INEFFECTIVE.

14  
15 (1.) FAILURE TO ADEQUATELY INVESTIGATE  
16 MR. PHILLIPS' CASE IN THE PRE-TRIAL STAGES

17 (A) FAILING TO INVESTIGATE SEARCH  
18 WARRANTS

19 (B) FAILURE TO DUTIFULLY INVESTIGATE  
20 IDENTIFYING METHODS THE STATE USED  
21 TO ID MR. PHILLIPS AS A SUSPECT.

22  
23 UNDER STRICKLAND -V- WASHINGTON, 466  
24 U.S. 668 (1984), MR PHILLIPS URGES THAT  
25 HIS CONVICTION MUST BE REVERSED.

26 PURSUANT TO THE U.S. CONSTITUTION  
27 6<sup>TH</sup> AMENDMENT - RIGHT TO COUNSEL, THE

1 ACCUSED SHALL ENJOY THE RIGHT TO EFFECTIVE  
2 ASSISTANCE OF COUNSEL IN ALL CRIMINAL  
3 PROSECUTIONS.

4  
5 (1) PHILLIPS NOW CLAIMS THAT HIS TRIAL  
6 COUNSEL FAILED TO DUTIFULLY AND ADEQUATELY  
7 INVESTIGATE HIS CASE IN PRE-TRIAL STAGES.

8  
9 How ?

10 ~~PHILLIPS~~ PHILLIPS WAS ARRESTED ON AUGUST 9<sup>TH</sup>, 2018.  
11 THIS ARREST WAS MADE POSSIBLE ~~TO~~ DUE TO A  
12 MOBILE TRACKING DEVICE PLACED ON PHILLIPS'  
13 AND CO-DEFENDANTS CAR.

14 THE MOBILE TRACKING DEVICE KEPT  
15 HENDERSON POLICE DEPARTMENT AWARE OF THE  
16 VEHICLES WHEREABOUTS AT ALL TIMES. THE  
17 MOBILE TRACKING DEVICE WAS ACQUIRED BY  
18 WAY OF SEARCH WARRANT. AND THOUGH  
19 OFFICERS HAD A WARRANT, THEY DID NOT FOLLOW  
20 NOR CONFORM TO THE TERMS OF THE SEARCH  
21 WARRANT THEREFORE INVALIDATING THE  
22 PLACEMENT OF TRACK DEVICE, AND CAUSING  
23 ANY EVIDENCE OBTAINED THROUGH AND BY  
24 WAY OF THE SAID WARRANT AND DEVICE.

25 ~~THEIR~~  
26 (A) FAILURE TO INVESTIGATE SEARCH  
27 WARRANTS.

1 THREE WARRANTS WERE ISSUED FROM  
2 AUGUST 8<sup>TH</sup>, 2018 TO AUGUST 10<sup>TH</sup>, 2018. THE  
3 FIRST OF THE THREE BEING A WARRANT FOR  
4 A MOBILE TRACKING DEVICE, APPLIED FOR BY  
5 LEAD DETECTIVE KARL LIPPISCH #1710 OF THE  
6 HENDERSON POLICE DEPARTMENT

7 THE SECOND AND THIRD WARRANTS WERE  
8 ACQUIRED BY LEAD DETECTIVE OZAWA OF  
9 THE HENDERSON POLICE DEPARTMENT

10 PETITIONER WILL NOW DEMONSTRATE HOW  
11 THE MOBILE TRACKING DEVICE SEARCH WARRANT  
12 WAS NULL AND VOID IN ITS APPLICATION, AND  
13 HOW THE TWO SUBSEQUENT WARRANTS OBTAINED  
14 THEREAFTER ARE FRUITS OF A POISONOUS TREE.

15 AS STATED IN MY ORIGINAL PETITION,  
16 KEITH C. BROWER FAILED TO DUTIFULLY AND  
17 REASONABLY INVESTIGATE THE FOLLOWING  
18 3 SEARCH WARRANTS. FOR THE COURTS  
19 CONVENIENCE I'VE ALSO INCLUDED THE SEARCH  
20 WARRANTS IN EXHIBIT A.

21  
22 (1.) FIRST WARRANT

23 THIS IS A WARRANT AUTHORED BY  
24 ASSISTING DETECTIVE KARL LIPPISCH #1710 OF  
25 THE HENDERSON POLICE DEPARTMENT "HPD".  
26 THE WARRANT IS DATED "8/08/2018" AND  
27 SIGNED BY DISTRICT COURT JUDGE JERRY A.

1 WHESE. THE WARRANT DID AUTHORIZE THE EMPLOYEES  
2 OF "HPD", TO ATTACH A MOBILE TRACKING  
3 DEVICE TO THE VEHICLE (PHILLIPS AND BARR'S.  
4 1994 MERCURY GRAND MARQUISE). THE ISSUE  
5 HOWEVER, IS THAT THE POLICE INSTALLED  
6 THE SAID DEVICE ON PRIVATE PROPERTY  
7 WHEN THE WARRANT CLEARLY STATED...

8 "OFFICERS, AGENTS, AND EMPLOYEES OF  
9 THE POLICE DEPARTMENT ARE AUTHORIZED TO :

10 (1) ENTER UPON AREAS OPEN TO  
11 THE PUBLIC FOR THE PURPOSE OF INSTALLING,  
12 MAINTAINING AND/OR REMOVING A TRACKING  
13 DEVICE ON OR FROM THE SPECIFIED VEHICLE,  
14 AND..."

15 DETECTIVE LIPPISCH WITH THE  
16 ASSISTANCE OF OTHER OFFICERS VIOLATED  
17 THIS TERM BY ENCROACHING ON THE  
18 PREMISES OF "CIRCUS CIRCUS MANORS, 2880  
19 S. LAS VEGAS BLVD, LAS VEGAS, NV. 89109 (SEE  
20 EXHIBIT A-1 SW-MTD RETURN). THIS CLAIM  
21 IS BACKED UP BY MULTIPLE TESTIFYING  
22 OFFICERS INCLUDING DETECTIVE LIPPISCH BOTH  
23 AT PRE-UMINARY HEARINGS AND TRIAL (SEE  
24 EXHIBIT B-2 - TESTIFYING OFFICERS), TESTIFIED  
25 TO PHYSICALLY BEING ON, NOT ONE, BUT  
26 TWO PROPERTIES, BOTH OF WHICH ARE  
27 PRIVATE PROPERTY. THOSE PLACES ARE :



1 1.) 4244 N LAS VEGAS BLVD.

2 LAS VEGAS, NV. 89115

3  
4 - AND -

5 2) 2880 S. LAS VEGAS BLVD.

6 LAS VEGAS, NV. 89109

7  
8 THE ENCROACHMENT WAS ILLEGAL AND  
9 UNREASONABLE. OFFICERS ENTERED UPON  
10 PRIVATE PROPERTY WITHOUT A VALID  
11 WARRANT WHILE SIMULTANEOUSLY INVALIDAT-  
12 ING THE PRESCRIBED WARRANT.

13 AGAIN THEY WERE ALLOWED TO ENTER  
14 UPON AREAS OPEN TO THE PUBLIC. THE  
15 AVIATOR SUITES AND CIRCUS CIRCUS MANORS  
16 ARE BOTH PRIVATE PROPERTY WHICH WOULD  
17 REQUIRE A WARRANT PRESCRIBING THE OFFICERS  
18 TO ENTER ON PRIVATE PROPERTY.

19 THE FOURTH AMENDMENT READS...

20 "THE RIGHT OF THE PEOPLE TO BE SECURE  
21 IN THEIR PERSONS, HOUSES, PAPERS AND EFFECTS,  
22 AGAINST UNREASONABLE SEARCHES AND SEIZURES,  
23 SHALL NOT BE VIOLATED AND NO WARRANTS  
24 SHALL ISSUE, BUT UPON PROBABLE CAUSE,  
25 SUPPORTED BY OATH AND AFFIRMATION, AND  
26 PARTICULARLY DESCRIBING THE PLACE TO BE  
27 SEARCHED, AND THE PERSONS OR THINGS TO

1 BE SEIZED."

2 SO ACCORDING TO THE FOURTH AMENDMENT  
3 THE 'FIRST WARRANT'S PARTICULARITY WOULD  
4 BE AREAS OPEN TO THE PUBLIC. THE PARKING LOT  
5 OF THE AVIATOR SUITES IS PRIVATE PROPERTY AS  
6 THE SIGNS READ "NO PARKING, PRIVATE -  
7 PROPERTY". THE CIRCUS CIRCUS IS ALSO PRIVATE  
8 PROPERTY, AS ITS SIGNS READ THE ABOVE AS  
9 WELL AS "NO TRESSPASSING, PRIVATE PROPERTY".

10 POLICE WOULD HAVE HAD TO GO THRU  
11 A SECURITY POST TO FOLLOW THE VEHICLE.

12 ONCE THE POLICE ENCROACH,  
13 THEY FIND THE VEHICLE PARKED NEAR BUILDING  
14 C. OFFICERS GET OUT AND WATCH THE BUILDING  
15 AND AREA TO BE SURE THEY AREN'T SEEN.

16 IF YOU LOOK AT THE PHOTO'S IN EXHIBIT A-1  
17 IT IS EVIDENT THAT OFFICERS WOULD'VE BEEN  
18 AWARE THEY WERE ON PRIVATE PROPERTY  
19 IF THE SECURITY POST DIDN'T GIVE IT AWAY.

20 LIPPISCH #1710 ALSO TESTIFIED AS  
21 TO BEING ALERTED BY THE TRACKING DEVICE  
22 THE NEXT MORNING, THAT THE VEHICLE WAS  
23 IN MOVEMENT AWAY FROM THE CIRCUS  
24 CIRCUS MANORS.

25 OFFICERS FOLLOW THE GPS  
26 COORDINATES GIVEN BY THE TRACKER, CATCH  
27 UP TO THE GRAND MARQUISE, AND

1 FOLLOW THE VEHICLE UNTIL THEY PULL THE  
2 VEHICLE OVER AND ULTIMATELY/ APPREHEND  
3 PHILLIPS AND OTHER CO-DEFENDANTS. IT'S  
4 NOT HARD TO CONNECT THE DOTS AS TO THE  
5 WARRANT LEADING TO AN ARREST.

6 PHILLIPS ALONG WITH OTHER CO-DEFENDANTS  
7 BARR, HENDERSON, AND SUMMLEARS ARE ALL  
8 APPREHENDED. SUMMLEARS IS SOMEHOW LET  
9 GO. PHILLIPS, HOWEVER, IS NOT CHARGED WITH  
10 THE AUGUST 9TH, 2018 US BANK ROBBERY  
11 OR ASSOCIATED CHARGES UNTIL AFTER A VERY  
12 QUESTIONABLE PRELIMINARY HEARING ON  
13 OCTOBER 4TH, 2018, AND THOUGH VIDEO  
14 FOOTAGE EXISTS PHILLIPS IS NEVER POSITIVELY/  
15 IDENTIFIED, NOR WAS HE EVER PUT IN A  
16 LINE-UP TO BE IDENTIFIED (SEE SUB GROUND  
17 2 - 1D). PROOF OF THE CHARGES AGAINST PHILLIPS  
18 ON 8/09/2018 CAN BE FOUND IN "EXHIBIT  
19 C-1 CHARGING DOCUMENT."

20 AT THE TIME OF ARREST LEAD  
21 DETECTIVE OZAWA TELEPHONICALLY REQUESTED  
22 AND ACQUIRED A WARRANT SUBSEQUENT TO  
23 THE FIRST WARRANT.

## 24 THE SECOND WARRANT

25 THE WARRANT WAS OBTAINED BY DETECTIVE  
26 DENNIS OZAWA AT THE TIME OF ARREST. IT  
27

1 AUTHORIZED OFFICERS TO SEARCH MULTIPLE  
2 PREMISES TO INCLUDE:

3 (1) AVIATOR SUITES

4 • APARTMENT # 142, 742

5 (2) CIRCUS CIRCUS MANOR

6 • ROOM 2404

7 (3) MERCURY GRAND MARQUIS (P44)

8 (4) MAZDA PROTEGE 5 (2003)

9  
10 ... AND AUTHORIZED A SEARCH BETWEEN THE  
11 HOURS OF 0700 AND 1900 HOURS. HOWEVER,  
12 ITEMS FROM THE GRAND MARQUIS WERE NOT  
13 REMOVED UNTIL THE FOLLOWING DAY.

14 THIRD WARRANT

15 THEN ON 8/10/2018 OZAWA ACQUIRES  
16 ANOTHER WARRANT TO REMOVE A FIREARM,  
17 BUT INSTEAD REMOVES A BB GUN, SOME  
18 CELLULAR PHONES A TABLET, AND OTHER  
19 MISCELLANEOUS ITEMS, AGAIN FOR A THIRD  
20 TIME POLICE, AND DETECTIVES EXPRESS A  
21 WILLFUL DISREGARD AND NEGLECT AS TO  
22 THE PETITIONERS RIGHTS

23 TO BE VERY CLEAR THE OFFICERS  
24 INVALIDATED THE FIRST WARRANT BY NOT  
25 ADHERING TO THE TERMS SPECIFIED. THEN  
26 THRU THAT WARRANT, AND/OR EVIDENCE  
27 GATHERED FROM IT, ACQUIRED THE SECOND

1 AND THIRD WARRANT, FRUITS OF A POISONOUS  
2 TREE. ALL EVIDENCE AND THINGS SEIZED  
3 SHOULD HAVE BEEN SUPPRESSED, OR AT LEAST,  
4 HAD A SUPPRESSION HEARING.

5  
6 THE MAJESTRATE WOULD LIKELY  
7 FIND THE FOLLOWING:

8 ① DETECTIVE LIPPISCH <sup>PHILLIPS</sup> #7719 CONDUCTED  
9 AN INVESTIGATION

10 ② THROUGH SUCH INVESTIGATION  
11 A WARRANT FOR A MOBILE TRACKING  
12 DEVICE WAS ACQUIRED.

13 ③ SURVEILLANCE WAS DONE ON  
14 PRIVATE PROPERTY, AS WAS THE  
15 PLACEMENT OF THE MOBILE TRACKING DEVICE.

16 ④ PHILLIPS ALONG WITH CO-DEFENDANT  
17 BARR ARE BOTH ARRESTED AS FRUITS  
18 OF THE "MOBILE TRACKING DEVICE".

19 ⑤ TWO WARRANTS ARE OBTAINED  
20 THROUGH EVIDENCE LINKED TO  
21 A NOW "INVALIDATED WARRANT".

22 ⑥ PHILLIPS AND BARR ARE CONVICTED.

23  
24 A WARRANT GENERALLY AUTHORIZES  
25 NO MORE THAN WHAT IT EXPRESSLY PROVIDES.  
26 TO ACT UNREASONABLY BEYOND THE WARRANT  
27 IS akin to ACTIONS WITHOUT A WARRANT.

1 (HORTON -V- CALIFORNIA, 496 U.S. 128 (1990),  
2 U.S. -V- BERCHANSKY, 788 F 3D 102 (2<sup>ND</sup> CIR  
3 2015).

4 "IT IS SELF EVIDENT THAT A SEARCH  
5 AND SEIZURE MUST CONFORM TO THE TERMS  
6 OF THE WARRANT", (MILLER -V- KENNEBEE  
7 CITY, 219 F 3D 8 (1<sup>ST</sup> CIR 2000) ESPECIALLY  
8 IF PLACING THE TRACKER ON THE  
9 GRAND MARQUISE ON PRIVATE PROPERTY,  
10 WHEN THE WARRANT EXPRESSLY LIMITED  
11 APPLICATION OF THE TRACKER TO PUBLIC  
12 PROPERTY, IT WOULD DEEM ITS APPLICATION  
13 INVALID.

14 A SEARCH WARRANT IS CRIMINAL IN  
15 NATURE AND MAY ONLY BE ISSUED UPON  
16 A SWORN AFFIDAVIT FROM A LAW ENFORCEMENT  
17 OFFICER OR STATES ATTORNEY PROVIDING  
18 EVIDENCE OF PROBABLE CAUSE TO A  
19 MAGISTRATE TO ISSUE A WARRANT TO SEARCH  
20 OR SEIZE, AND THE WARRANT MUST IDENTIFY  
21 WITH PARTICULARITY, THE PROPERTY OR PERSON  
22 TO BE SEIZED, AND NAMING THE PERSON(S)  
23 OR PLACE(S) TO BE SEARCHED

24 IN CONCLUSION HERE ARE THE FACTS  
25 LAID OUT...

26 ① HENDERSON DETECTIVE LIPPISCH AUTHORED  
27 AN APPLICATION FOR SEARCH WARRANT FOR

1 A MOBILE TRACKING DEVICE

2 (2) LIPPISCH#1710, OZAWA#1531 AND  
3 OTHER ASSISTING PERSONEL ENCROACHED  
4 ON PRIVATE PROPERTY TO WIT:

5 (A) 2880 S. LAS VEGAS BLVD  
6 LAS VEGAS, NV.

7 (B) 4244 N. LAS VEGAS BLVD  
8 LAS VEGAS, NV.

9 (3) OFFICERS ILLEGALLY PLACED A  
10 TRANSMITTER ON PETITIONER AND  
11 CO-DEFENDANTS CAR.

12 (4) PETITIONER IS ARRESTED BASED  
13 ON EVIDENCE FROM THE TRANSMITTER.

14 (5) TWO SUBSEQUENT WARRANTS ARE  
15 ACQUIRED DUE TO ARREST.

16 (6) PETITIONER IS TRIED AND  
17 CONVICTED

18  
19 TRIAL COUNSEL'S DUTY AT BARE  
20 MINIMUM IS TO PROTECT HIS CLIENTS RIGHTS  
21 AT ALL COSTS. HE/SHE IS THE BODY GUARD  
22 OF HIS CLIENTS BILL OF RIGHTS. IF  
23 ANY CONSTITUTIONAL RIGHT IS VIOLATED  
24 THAT TRIAL WOULD BE RENDERED  
25 UNFAIR AND IN SOME FORM OR FASHION  
26 AFFECT HIS OR HER DUE PROCESS  
27 RIGHTS.

1 A PERSONS RIGHTS IS THE  
2 VITAL SIGNS TO THE PROCESS. THE  
3 INTEGRITY OF A CASE REVOLVES AROUND  
4 THE RIGHTS GUARENTEED BY THE  
5 UNITED STATES CONSTITUTION

6 HAD MR. BROWER DUTIFULLY AND  
7 ADEQUATELY INVESTIGATED PETITIONER'S  
8 CASE, HE'D HAVE UNCOVERED THE  
9 UNCONSTITUTIONAL CONDUCT BY THE POLICE  
10 THIS PREJUDICED THE PETITIONER  
11 BY THE STATE PRODUCING TAINTED EVIDENCE  
12 AT TRIAL. THE DETECTIVES WERE ABLE TO  
13 FOLLOW THE GRAND MARQUIS, DUE TO  
14 A MOBILE TRACKING DEVICE THAT ASSISTED  
15 THE INVESTIGATING OFFICERS WITH LIVE  
16 LOCATION OF THE VEHICLE.

17 BROWER NEVER INVESTIGATED THE  
18 SEARCH WARRANTS. AGAIN BROWER HAS A  
19 DUTY TO PROTECT HIS CLIENTS RIGHT. BY  
20 HIM FAILING TO CHECK THE VALIDITY OF  
21 NOT ONLY THE WARRANT, BUT THE  
22 PLACEMENT OF THE DEVICE, HE  
23 INADVERTENTLY ALLOWED PROSECUTION TO  
24 PRESENT TAINTED EVIDENCE IN TRIAL.

25 WHAT EVIDENCE IS TAINTED?

- 26 ① ANY AND ALL TRACKING INFORMATION  
27 ② ANY AUDIO/VIDEO TAKEN WHILE



1 TRACKING VEHICLE

2 ③ SEARCH WARRANTS AND THERE  
3 RETURN OF ANY ITEMS

4 ④ ANY STATEMENTS GATHERED AT  
5 PETITIONERS PLACE OF RESIDENCE  
6 WHILE SEARCH IS IN PROGRESS.

7 ⑤ ANY AND ALL EVIDENCE GATHERED  
8 BY WAY OF TRACKING DEVICE

9 THIS LIST IS NOT LIMITED TO  
10 THE ABOVE. HAD BROWER ADEQUATELY  
11 AND DUTIFULLY INVESTIGATED THE CLAIM  
12 THE RESULTS WOULD'VE BEEN DRAMATICALLY  
13 DIFFERENT.

14 AT BARE MINIMUM PETITIONER ASKS  
15 FOR AN EVIDENCIARY HEARING, TO GO  
16 OVER AND ASSESS THE FACTS. OR IF  
17 THE COURT FIND TRUTH IN THIS INSTANT  
18 PETITION TO GRANT A SUPPRESSION HEARING  
19 AND/OR REVERSE PETITIONERS CONVICTION.  
20  
21  
22  
23  
24  
25  
26  
27  
28

# 5<sup>TH</sup>, 6<sup>TH</sup>, AND 14<sup>TH</sup> AMENDMENT VIOLATIONS

## INEFFECTIVE ASSISTANCE OF COUNSEL

- ILLEGAL  
IN-COURT IDENTIFICATIONS
- FAILURE TO INVESTIGATE  
ID METHODS USED BY  
STATE.

1 SIXTH AND FOURTEENTH UNITED STATES CONSTITUTIONAL  
2 AMENDMENT VIOLATION

3  
4 PETITIONER NOW ASSERTS THAT THE STATE  
5 VIOLATED HIS SIXTH AMENDMENT OF THE UNITED STATES  
6 CONSTITUTION AS WELL AS HIS FOURTEENTH AMENDMENT.

7  
8 A) 6<sup>TH</sup> AMENDMENT VIOLATION

9 • RIGHT TO COUNSEL

10 STATE VIOLATED PETITIONER'S 6<sup>TH</sup> AMENDMENT  
11 OF THE UNITED STATES CONSTITUTION WHEN THEY FAILED  
12 TO NOTIFY COUNSEL OF MEETINGS THAT INVOLVED  
13 ANY TYPE OF IDENTIFICATION METHOD USED TO  
14 IDENTIFY PETITIONER.

15 • TRIAL COUNSEL WAS INEFFECTIVE FOR ~~NOT~~ FAILING  
16 TO DUTIFULLY INVESTIGATE ID METHOD USED  
17 BY STATE TO ID PETITIONER

18  
19 B) 14<sup>TH</sup> AMENDMENT

20 • RIGHT TO DUE PROCESS

21 PETITIONER'S RIGHT TO DUE PROCESS ~~GUARANTEED~~  
22 GUARANTEED BY THE UNITED STATES WHEN  
23 THE STATE ALLOWED THE "ILLEGAL IN-COURT  
24 ID METHOD. WITH SEVERAL VICTIMS / WITNESSES. TO  
25 INCLUDE: ALEX ORELLANA (EXHIBIT C)  
26 CHELSBY GRITTON (EXHIBIT C)  
27 ALLYSON SANTAMAURO (EXHIBIT C)

1 • REGINA COLEMAN

2 ALL IN-COURT IDENTIFICATIONS TAINTED  
3 THE MIND OF JURORS. ALL VICTIMS/WITNESSES  
4 TESTIFIED THEY WERE NOT GIVEN OR SHOWN  
5 ANY TYPE OF LINE-UP PRIOR TO TRIAL. THIS  
6 AFFECTED PETITIONER'S RIGHT TO DUE PROCESS  
7 BY ALLOWING THE IN-COURT IDENTIFICATION  
8 WITHOUT PRIOR LINE-UP, AND BEING THE  
9 FACT PETITIONER AND CO-DEFENDANT WAS  
10 THE ONLY TWO BLACK MALES IN COURT  
11 ROOM AND AT DEFENSE TABLE.

12  
13 A.) RIGHT TO COUNSEL

14 "IT WAS HELD THAT (1) THE DEFENDENT'S SIX  
15 AMENDMENT RIGHT TO COUNSEL ATTACHED AT THE  
16 TIME OF HIS PRELIMINARY HEARING, ~~WHICH~~ WHICH  
17 MARKED THE INITIATION OF ADVERSARY JUDICIAL  
18 PROCEEDING AGAINST HIM. (98 SCT 458, 54 LE2D 424, 431

19 US CO) THE PETITIONER AT BAR'S HAD A  
20 PRELIMINARY HEARING DATE OF OCTOBER 4TH, 2018,  
21 WHICH IF ACCORDING TO THE ABOVE CASE, MOORE  
22 V- STATE OF ILLINOIS, WOULD MEAN THE STATE  
23 WOULD BE WRONG IN SHOWING PHOTOS OF THE  
24 PETITIONER WITHOUT HIS COUNSEL BEING PRESENT.

25 THIS IS IN FACT WHAT HAPPENED AND  
26 PETITIONER AND COUNSEL ONLY FOUND THIS  
27 INFORMATION OUT THROUGH TESTIMONY OF

1 SUNNY SHAY COURTNER IN COURT DURING TRIAL.  
2 DURING CROSS-EXAMINATION BY MR. HUGHES  
3 HE ASKED SUNNY IF SHE REMEMBERED  
4 WHETHER THE INDIVIDUALS WHO ROBBED HER  
5 HAD ANY TATTOOS? SHE SAID:

6 A.) "YES. I DO RECALL SEEING SOME ONE ONE  
7 OF THEIR FACES. I DON'T REMEMBER WHAT'S ON  
8 THERE, BUT I DO REMEMBER SEEING THAT."

9 THEN WHEN ASKED OF A STATEMENT  
10 SHE GAVE TO POLICE THAT VERY SAME DAY, AND  
11 RE-ASKED THE QUESTION SHE SAID:

12 A.) "NO -- YES, I DID NOT SEE ANY."

13 Q.) "SO YOU TOLD POLICE NO, THERE WERE  
14 NO TATTOOS?"

15 A.) "YES"

16 Q.) "AND NOW YOU SAY THERE IS TATTOOS?"

17 A.) "YES"

18 SHE IS THEN ASKED IF SHE SEEN THE  
19 VIDEO THEY JUST WATCHED PRIOR TO TRIAL SHE  
20 SAID YES AND ALSO CLAIMED SHE WAS  
21 SHOWN A PHOTO ARRAY OF POSSIBLE SUSPECTS  
22 BY POLICE, SHE SAID YES BUT NOT BY POLICE.

23 SHE SAID IT WAS TWO PHOTOS SHOWN  
24 BY DISTRICT ATTORNEY BARBARA SCHIFALACQUA  
25 AND RICHARD SCOW AT A MEETING A COUPLE  
26 WEEKS PRIOR. (SEE EXHIBIT C)

27 A SHOWING THAT IS USED TO IDENTIFY

1 PETITIONER WITHOUT COUNSEL PRESENT IS  
2 A DIRECT VIOLATION OF PETITIONER'S RIGHT  
3 TO COUNSEL, 6<sup>TH</sup> AMENDMENT. THIS PREJUDGED  
4 PETITIONER BECAUSE THESE TYPE OF ID'S ARE  
5 HIGHLY SUGGESTIVE, AND ESPECIALLY NOT IN THE  
6 FORM OF A SIX MAN PHOTO LINE UP - VS,  
7 TWO SINGLE PHOTOS OF EACH SUSPECT.

8 PETITIONER ASKS FOR AN EVIDENCIARY  
9 HEARING AND AN ULTIMATE OVERTURNING  
10 OF CASE DUE TO ILLEGAL ID METHODS USED  
11 BY PROSECUTING ATTORNEY'S.

12  
13 TRIAL COUNSEL WAS INEFFECTIVE FOR  
14 FAILING TO DUTIFULLY INVESTIGATE ID METHODS  
15 USED TO IDENTIFY PETITIONER BY STATE, THE  
16 ABOVE ISSUE STATED ISSUE IS A PERFECT  
17 EXAMPLE OF SUCH METHODS.

18 FOUR INDIVIDUALS GAVE IN-COURT  
19 IDENTIFICATIONS AT TRIAL. ALL INDIVIDUALS  
20 THAT IDENTIFIED PETITIONER IN-COURT WERE  
21 VICTIMS OF THE JULY 23<sup>RD</sup>, 2018 AND  
22 JULY 31<sup>ST</sup>, 2018 INCIDENTS.

23 ALEX ORELLANA, CHELSEY GRITTON  
24 AND ALLYSON SANTAMAURO WERE ALL  
25 EITHER WITNESSES OR DIRECT VICTIMS IN  
26 THE JULY 23<sup>RD</sup> (2018) US BANK ROBBERY  
27 ~~AT~~ AT 10565 SOUTH EASTERN IN HENDERSON

1 REGINA COLEMAN IS A TELLER AT THE BANK OF THE  
2 WEST JULY 31ST (2018) INCIDENT.

3 PRIOR TO TRIAL AND AS FAR BACK AS  
4 WHEN LEAD DETECTIVE KARL LIPPISCH #1710 APPLIED  
5 FOR A MOBILE TRACKING DEVICE ON 08/08/2018,  
6 THE DETECTIVE WROTE AND I QUOTE...

7 "THE EMPLOYEES DID NOT NOTICE ANYTHING  
8 DISTINCT ABOUT THE SUSPECTS THAT WOULD ASSIST  
9 IN IDENTIFYING THE INDIVIDUALS, TO INCLUDE THEIR  
10 SPEECH". (PLEASE SEE SEARCH WARRANTS IN  
11 SME-B).

12 IF ANY INDICATORS AS TO SPECIFIC  
13 IDENTIFYING CHARACTERISTICS EXISTED, LEAD  
14 DETECTIVE LIPPISCH WOULD NOT HAVE GIVEN THAT  
15 TESTIMONY IN HIS AFFIDAVIT.

16 REGINA'S TESTIMONY AT BEST IS SHAKY.  
17 SHE STARTS OFF BY EXPLAINING HOW SHE  
18 CAME INTO WORK LATE AND HAD INTERACTIONS  
19 WITH THE "MALE DRESSED AS A LADY". SHE  
20 STARTS HER NARRATIVE WITH THE INTERACTION  
21 WITH THAT INDIVIDUAL AND THEN CHANGES IT  
22 COMPLETELY LATER ON. BUT AGAIN SHE  
23 DOESN'T EVER ID PETITIONER IN ANY PHOTO  
24 ARRAY OF SUSPECTS, BUT IN OPEN COURT  
25 AND IN TRIAL, A HIGHLY SUGGESTIVE IDENTIFYING  
26 METHOD.

27 AT 10565 SOUTH EASTERN A US BANK

1 BRANCH IN HENDERSON ALL THE VICTIMS CLAIMED  
2 THEY COULD NOT ID SUSPECTS TO POLICE IN  
3 POLICE REPORTS BUT IN OPEN COURT AND  
4 IN TRIAL THE INDIVIDUALS LISTED GAVE  
5 TESTIMONY IDENTIFYING PETITIONER (SEE EXHIBIT  
6 C FOR EXACT TESTIMONY).

7 ALSO REGINA COLEMAN IN JULY 31ST  
8 INCIDENT CLAIMED IN TRIAL THAT ONE OF  
9 THE SUSPECTS HAD A LITTLE AFRO, BUT THE  
10 VIDEO SHOWS LONG STRAIGHT HAIR ON THE  
11 WOMAN DRESSED AS A WOMAN AND STRAIGHT  
12 HAIR ON THE MAN WITH THE TOWEL. PLEASE  
13 SEE EXHIBIT D).



1 IN UNITED STATES -V- BILLY JOE WADE IT WAS  
2 RULED THAT:  
3 (4) UNDER THE SIXTH AMEND. THE ACCUSED  
4 WAS ENTITLED TO THE AID OF COUNSEL AT THE LINEUP  
5 AND (3) COURT ROOM IDENTIFICATIONS SHOULD NOT BE EXCLUDED  
6 IF BASED ON OBSERVATIONS OF THE ACCUSED OTHER THAN  
7 THE LINEUP IDENTIFICATION..."

8  
9 SO ACCORDING TO WADE THE 2 PHOTOS  
10 SHOWN BY PROSECUTION WOULD BE IN DIRECT  
11 VIOLATION OF PETITIONER'S 6TH AMENDMENT RIGHT.  
12 (SEE ALLYSON SANTAMAURO'S STATEMENT, EXHIBIT C  
13 OF THIS PACKET).

14 AND THE IN-COURT IDENTIFICATION  
15 BY THE INDIVIDUALS AT TRIAL WOULD ALSO  
16 BE ILLEGAL DUE TO THE FACTS THAT ALL THE  
17 VICTIMS MENTIONED TOLD POLICE THEY <sup>DID</sup> ~~COULD~~ NOT  
18 NOTICE ANYTHING DISTINCT THAT WOULD ASSIST IN  
19 IDENTIFYING THE SUSPECTS TO INCLUDE THEIR SPEECH.  
20 ALSO POLICE REPORTS REFLECTED THAT NONE OF THE  
21 VICTIMS COULD ID ANY FACIAL FEATURES OF THE  
22 SUSPECTS. SO THE COURT IN-COURT IDENTIFICATION  
23 WOULD BE IN DIRECT VIOLATION OF U.S. -V- WADE  
24 AS WELL.

25 IN CONCLUSION PETITIONER PRAYS THE COURT  
26 GIVE AN EVIDENTIARY HEARING AND IF FACTS SO  
27 SURE MATCH THE FACTS PRESENTED, THE CASE

1  
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28

SHOULD BE OVERTURNED.

## CUMULATE ERROR.

1 PHILLIPS ASSERTS HERE THAT PURSUANT TO: VALDEZ-V-  
2 STATE, 72 F.3D 403, IT IS CUMULATIVE ERROR INVOLVED  
3 HERE. PHILLIPS, URGES THAT THE MAJOR U.S. CONCI-  
4 VIOLATIONS, ARE SO NUMEROUS, AND Egregious THAT  
5 IT AFFECTED THE TRULIQUITY OF PHILLIPS, PROCEEDINGS  
6 UP INTO THIS POINT. AND SO THE ENTIRE CASE  
7 SHOULD BE REVERSED.

## CONCLUSIONS

13 HEREIN THIS PETITION FOR WRIT OF HABEAS CORPUS  
14 MR. PHILLIPS, HAS RAISED MANY STRUCTURAL ERROR  
15 GROUNDS, AND MANY REVERSIBLE ERROR GROUNDS.

16 AND SO,

17 IN ACCORDANCE WITH THE CONSTITUTIONAL FAIRNESS,  
18 AND THE ADHERENCE TO THE IMPERATIVE CASELAW  
19 DECISIONS CITED HEREIN, PHILLIPS, DO URGE THE COURT  
20 TO REVERSE THE ENTIRE CONVICTION, AND REMAND FOR  
21 A NEW TRIAL.

# EXHIBIT

## A

### SEARCH WARRANTS

<u>PAGE NO.</u>	<u>WARRANT</u>
	SW-MTD/RETURN
	SW- MP
	SW- GM

# Henderson Police Department

223 Lead St. Henderson, NV 89015

## Booking Custody Record

Exhibit 1C

ENTERED  
04/21/01

DR NUMBER 1816972	FH NUMBER 18	MNI NUMBER	SUBJECT NAME Phillips, Damien Alexander	ARREST DATE 08/09/2018	ARREST TIME 1100
LOCATION OF CRIME 55 South Valle Verde Drive Henderson Nevada 89012			INTERSECTION <input type="checkbox"/> AT LOCATION		
LOCATION OF ARREST 705 East St. Louis Avenue Las Vegas Nevada 89104			INTERSECTION <input type="checkbox"/> AT LOCATION		
<input type="checkbox"/> INTERPRETOR NEEDED <input type="checkbox"/> SUBJECT COMBATIVE <input type="checkbox"/> SUBJECT SUICIDAL <input type="checkbox"/> ASK SUBJECT IF INJURED            INTAKE OFFICIAL/PH					
<input checked="" type="checkbox"/> MIRANDA GIVEN		<input type="checkbox"/> MIRANDA WAIVED		<input checked="" type="checkbox"/> MIRANDA INVOKED	
MIRANDA	DATE 08/09/2018	TIME 1335	GIVEN BY Lippisch #1710		
PERSON 1	PERSON NAME (LAST, FIRST, MID., SUFFIX) Phillips, Damien Alexander			SSN 409-61-1324	D.O.B. 09/28/1988
				AGE 29	
PERSON ADDRESS 4244 North Las Vegas Boulevard #242 Las Vegas Nevada 89115			HGT 6'0"	WGT 170	HAIR Black
			EYES Brown	RACE Black	GENDER Male
HOME PHONE	CELL PHONE	BUSINESS PHONE	OTHER PHONE	PLACE OF BIRTH Tennessee	
ALIAS (LASTNAME/MONIKER, FIRST, MIDDLE) ALIAS					
VIOLATION 1	STATUTE 200.360	CLASS Felony	NCC CODE 60120	COUNTS 4	
DESCRIPTION ROBBERY					
PCN NUMBER		WARRANT NUMBER			
VIOLATION 2	STATUTE 205.060.2	CLASS Felony	NCC CODE 60120	COUNTS 4	
DESCRIPTION BURGLARY, (1ST)					
PCN NUMBER		WARRANT NUMBER			
VIOLATION 3	STATUTE 200.320	CLASS Felony	NCC CODE 60147	COUNTS 4	
DESCRIPTION CONSP ROBBERY					
PCN NUMBER		WARRANT NUMBER			
VIOLATION 4	STATUTE 205.060.2	CLASS Gross Misdemeanor	NCC CODE 30445	COUNTS 4	
DESCRIPTION CONSP BURGLARY					
PCN NUMBER		WARRANT NUMBER			

ARRESTING OFFICER LIPPISCH, KARL	P NUMBER HP1710	TRANSPORTING OFFICER Vergason, Jordan	P NUMBER HP1623
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# Henderson Police Department

223 Lead St. Henderson, NV 89015

## Booking Custody Record

DR NUMBER 1816972	FH NUMBER 18	MNI NUMBER	SUBJECT NAME Phillips, Damien Alexander	ARREST DATE 06/09/2018	ARREST TIME 1100
P AND P	<input type="checkbox"/> DRINKING VIOLATION <input type="checkbox"/> CONTACT WITH CHILDREN	<input type="checkbox"/> CONTACT WITH VICTIM <input type="checkbox"/> DRIVING VIOLATION	<input type="checkbox"/> IN GAMING ESTABLISHMENT <input type="checkbox"/> CONTACT WITH CO-OFFENDER	<input type="checkbox"/> CONTACT WITH GANG MEMBER	
<b>PROBABLE CAUSE REVIEW</b>					
The undersigned Magistrate has reviewed the Affidavit and Declaration of Probable Cause for the arrest of the above-named defendant without warrant for the charge(s) shown.					
<b>TIME STAMP AT BOOKING</b>	<b>Finding</b>				
	<input type="checkbox"/> I find there is sufficient probable cause, for the purpose of continued incarceration, to believe that charged crime(s) have been committed and that said defendant has committed such crime(s). THEREFORE, IT IS ORDERED that the defendant may be held in custody until bail is posted.				
	BAIL: STANDARD <input type="checkbox"/> OTHER <input type="checkbox"/> \$ _____				
	<input type="checkbox"/> I find there is NOT sufficient probable cause shown to allow the defendant to be held in custody. THEREFORE, IT IS ORDERED that the defendant be immediately release from custody as to the charge(s). This order is without prejudice to the City or State to proceed with the charge(s) based upon additional evidence sufficient to establish probable cause.				
	DPCH <input type="checkbox"/> OR RELEASE <input type="checkbox"/> COR RELEASE <input type="checkbox"/> IAD RELEASE <input type="checkbox"/>				
	COMMENT: _____				
	RETURN DATE: NORMAL SCHEDULE <input type="checkbox"/> FIRST AVAILABLE <input type="checkbox"/> OTHER DATE _____				
	Signature of Magistrate _____ JUSTICE COURT <input type="checkbox"/> Date: _____ Time: _____ MUNICIPAL COURT <input type="checkbox"/>				

ARRESTING OFFICER LIPPISCH, KARL	P NUMBER HP1710	TRANSPORTING OFFICER Vargason, Jordan	P NUMBER HP1623
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**APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT  
(MOBILE TRACKING DEVICE)**

STATE OF NEVADA )

Event Number: 18-17110

) ss:

COUNTY OF CLARK )

2018 AUG 15 P 1:42

Det. K. Lippisch #1710, being first duly sworn, deposes and states that he is the Affiant herein, and is a Detective with the Henderson Police Department, currently assigned to the Investigative Service Division (ISD), having been employed by the Department for the past 9 years, since October 14, 2008, and having been assigned to (ISD) for the past 3 years.

There is probable cause to believe that certain evidence of criminal activity will be found through the seizure of the specified vehicle currently located within the Court's jurisdiction, to-wit:

a 1994 Mercury Grand Marquis, red in color, currently unregistered, and Vehicle Identification Number (VIN): 2MELM75W6RX655459,

said seizure occurring for the purpose of installing, maintaining and/or removing a tracking device on or from the specified vehicle and the subsequent use of that device to monitor the specified vehicle's movements and locations for a period of time, not to exceed forty-five (45) days.

The seizure of said specified vehicle hereinbefore described, and the continued monitoring of that specified vehicle's location will provide evidence tending to demonstrate that the criminal offenses of **Robbery NRS 200.380**, have been and continue to be committed, in that the specified vehicle is being used by certain subjects to facilitate said crimes and that particular activities concerning this offense will be obtained through installation and monitoring of the specified vehicle's movements and locations.

## APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT (MOBILE TRACKING DEVICE)

In support of Affiant's assertion of probable cause, the following facts are offered:

On 07/31/2018 at approximately 1143 hours HPD Units were dispatched to the Bank of the West located at 701 North Valle Verde Drive (N3) reference a reported robbery. Dispatch advised that 2 black male adults (one dressed as a female) had robbed the location and then fled, running out of sight through the business complex to the rear of the bank. Patrol Units arrived in the area, secured the scene, and attempted to locate the suspects in the area. ISD was contacted and I, Detective K. Lippisch, Detective Ozawa, and CSA M. Bone responded to assume the investigation.

Upon arrival Detectives made contact with the Patrol Units on scene and they provided details which included the fact that the two bma's had approached both (2) bankers that were assisting customers and after the suspects produced notes both bankers gave the suspects cash from their drawers. After being advised of the details of the call, the bank staff was contacted.

The two bankers (and victims), Nur Begum (DOB 12/15/195) and Grace Mones (DOB 06/19/1972), were then contacted and interviewed. Nur stated the following: She had been helping customers at her banker station when the two suspects entered the bank. She completed helping the guests in front of her and then Nur called the two suspects to her location and one of the suspects sat in front of her while the other suspect stood. The suspect seated in front of her then produced a piece of paper which he held up for her to read and on the paper was written: Do what the note says, we have a weapon, give me all your money, do not try anything funny. Nur placed all of the 1's, 5's and 10's from her drawer on the counter (which it was later determined totaled \$686.00) and the suspect took the money. The suspect then stood and walked to the door where he waited for the second suspect, who had moved to the second banker as Nur was emptying her drawer.

Grace stated the following: She had been helping a customer when the suspects had entered and she had not noticed them until she had completed helping the customer and the second suspect, who was the one that was dressed as a female, stood in front of her counter. The suspect who stood in front of Grace's counter was a bma and he was dressed to appear to be a female. The suspect was wearing a wig which made it appear as if he had long blonde hair and he placed a purse on Grace's counter. The suspect unzipped the purse and produced a piece of paper from the bag which he showed to Grace and she was able to read: You give me all of your money, I have a bomb tied in my bag, before the suspect put the paper back into the purse. Grace removed all of the cash from her drawer, placed it on the counter, and the suspect placed the money in the purse. Grace stated that she gave the suspect all of the 1's, 5's, 10's, and 20's in her drawer which totaled \$1900.00.

I The two suspects were described as dark skinned black males in their mid 20's to early 30's, approximately 5'5" – 5'7" (with one slightly taller than the other), and average build. One of



## APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT (MOBILE TRACKING DEVICE)

the subjects was wearing a ball cap, a white scarf around his neck, a long sleeve dark shirt, and dark pants. The other subject was wearing the wig that was dark colored on the very top and then had long blonde hair, a short sleeved dress, leggings, and carrying a purse. The employees did not notice anything distinct about the suspects that would assist with identifying the individuals, to include their speech.

After completing the investigation at the bank detectives located several businesses in the area with exterior surveillance cameras and contact was made. Video surveillance from the business complex directly behind (north) of the Bank of the West was collected and the suspects are observed arriving in an unregistered 1994 red Mercury Grand Marquis. The vehicle is observed to have oxidized paint, a black trailer hitch, a possible temporary moving permit in the rear window, and additional cosmetic blemishes. The suspects are observed exiting the vehicle, from passenger doors, and walking out of view in the direction of the bank. It appears that there is a third suspect driving the vehicle and this suspect remains in the driver seat. The suspects are then seen running back from the direction of the bank, entering passenger doors of the vehicle, and then the vehicle quickly drives away.

At this time it is determined that the suspects are related to and are the same suspects from two recent US Bank robberies (HPD DR#'s 18-15877 and 18-15420) due to their physical descriptions, similar clothing items, and identical MO. HPD DR#18-15877 is a robbery that occurred on 07/23/2018 at the US Bank located at 10565 S. Eastern Avenue in which two bma's enter, present a note almost identical to the first not listed above, receive cash, and then flee on foot northbound through the shopping center and into a nearby apartment complex. HPD DR#18-15420 is a robbery that occurred on 07/17/2018 at the US Bank located at 1440 Paseo Verde Parkway in which a single bma enters, presents a note (again, almost identical to the first note described), receives cash, and then flees on foot northbound out of sight into a shopping center. The bma from 18-15420 has been involved in all three robberies and the second bma was involved in the two incidents that now include two suspects.

A search of multiple law enforcement databases returned to reveal that an unregistered 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) had been stopped 4 times by LVMPD Officers and upon viewing the bodycam footage of the vehicle stops I was able to determine that the vehicle was the same as the suspect vehicle from the Bank of the West robbery based on the previously described details of the vehicle. A subject/driver was contacted in all four of the stops and he was identified as Anthony Barr (DOB 03/11/1990). A search of Anthony's criminal history returned to reveal that he had multiple criminal convictions to include robbery and aggravated robbery convictions in the state of Texas, as well as aggravated robbery in the state of Minnesota. Anthony provided LVMPD Officers with a Las Vegas address as his current residence, 870 N. Sloan #201.

## APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT (MOBILE TRACKING DEVICE)

A fourth robbery was committed by the same suspects on 08/06/2018 (HPD DR#18-16972) at the US Bank located at 55 S. Valle Verde (inside the Smith's). This time the same two suspects entered the Smith's, approached the tellers at the US Bank, displayed notes demanding money, and fled on foot through the shopping center with an undisclosed amount of cash. The suspects fled southbound and out of sight prior to HPD Patrol Units arriving.

Due to the fact that the same suspect(s) have committed 4 robberies and the fact that in all of the robberies the suspects have fled the immediate area on foot and into areas that a layoff vehicle could be parked and then used to flee the area, it is believed that the suspect vehicle has been utilized in all four of the robberies although video evidence of this was not available from all of the robberies.

Due to the following facts: that the same suspects have committed 4 robberies and the fact that in all of the robberies the suspects have fled the immediate area on foot, the fact that outlying surveillance provided images of the suspects fleeing to a waiting vehicle in the third robbery, and the fact that the vehicle used in the third robbery matches the vehicle operated by Anthony Barr, as well as, the fact that I believe the suspects will continue on the crime spree until finally brought to justice, a GPS tracking device would greatly assist in the furtherance of this investigation by allowing Detectives to track the locations of further criminal activities.

Furthermore, your Affiant prays this Court authorize a night service clause for installation, maintenance, removal and subsequent tracking / monitoring of said device for the following reasons: that there is currently an ongoing criminal investigation of an active suspect who operates at unscheduled and varied hours of the day and night. Therefore, contact with the listed specified vehicle and installation of equipment is completely dependent on the movements of the suspect. Installation often involves law enforcement personnel secreting themselves under a subject's vehicle to affix the tracking equipment. Safe and timely access to the subject's vehicle is crucial for any and all installations. For obvious safety concerns, this is often done under the cover of darkness. Furthermore, any surveillance is reliant upon the movements, methods and opportunities of the suspect. An ongoing surveillance may extend outside the hours of 0700 hours and 1900 hours based upon the actions and activities of the suspect. Termination of such surveillance could result in the loss of critical evidence, to include but not exclusive of: crimes in progress, casing of future criminal targets and the hidden storage of any evidence. In addition to possible criminal activities, the continuous 24/7 access, tracking and monitoring of the equipment is necessary for the safeguard of a valuable piece of law enforcement equipment.

## **APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT (MOBILE TRACKING DEVICE)**

Your Affiant also requests the ability to perform maintenance on the tracking device, if required. Battery operated equipment has a limited operational lifespan based on several factors to include law enforcement monitoring of said equipment coupled with the actual amount of movement of the specified vehicle in question. Therefore, as the length of an investigation extends, it is foreseeable that the equipment's battery may need to be changed or the equipment itself may need to be switched with matching equipment containing a full battery life due to a malfunction of the equipment. Safe and timely access to the specified vehicle for said battery switch and/or maintenance is completely reliant upon the movements of the suspect. That opportunity cannot be passed up based upon the time of day or night. As such, cover of darkness is often utilized for the safety of officers as well as the suspect and surrounding public by minimizing the chance for any possible confrontation with the suspect during such battery changes and/or maintenance. Therefore, your Affiant further prays that this Court authorize any additional contact with listed specified vehicle for reasons of changing batteries and/or performing maintenance at any time of day or night.


Furthermore, your Affiant requests the authorization to monitor the tracking device in the event the specified vehicle leaves the geographic boundaries of the State of Nevada, consistent with United States Code (18 USC § 3117). Specifically, your Affiant requests authorization to monitor the tracking device while outside the Court's jurisdictional boundary, so long as the device was installed and is being monitored within the Court's jurisdictional boundary.

Due to the currently ongoing criminal investigation involving a person believed to be connected to the specified vehicle described herein, the release of information in this Affidavit at the time of Search Warrant service would compromise the integrity of the investigation and surveillances associated therewith. Affiant therefore requests delay of the notification requirements of the person from whose premises or the place from which the specified vehicle was seized, as set forth in NRS 179.075, until conclusion of the investigation or further order of the Court. For the same reasons, Affiant prays that this Affidavit be sealed by the order of the Court.

WHEREFORE, Affiant requests that a Search Warrant be issued authorizing law enforcement officials, or their authorized representatives, including but not limited to other law enforcement agents and officers and technicians assisting in the above-described investigation, to surreptitiously maintain, service, repair, and ultimately remove a mobile tracking device in or on the "specified vehicle," and to surreptitiously enter the specified vehicle to effect said activities; and to monitor the signals from that tracking device, for a period of forty-five (45)

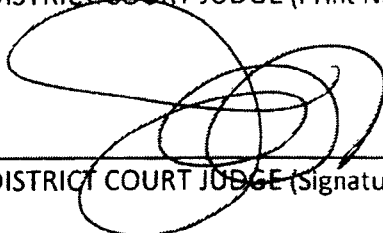
**APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT  
(MOBILE TRACKING DEVICE)**

days, on a 24-hour basis, following the issuance of this Court's order, including signals produced from inside private garages and other locations not open to public or visual surveillance, and to continue to monitor the signals produced during that time period.

  
DET. K. LIPPISCH #1710, AFFIANT

SUBSCRIBED and SWORN to before me by Jeffrey Wiese  
this 8 day of August, 2018, at 1030 hours.

Jeffrey A Wiese  
DISTRICT COURT JUDGE (Print Name)

  
DISTRICT COURT JUDGE (Signature)

\_\_\_\_\_  
\_\_\_\_\_

Reviewed for Probable Cause by:

Jacqueline R. Smith  
Clark County District Attorney's Office (Print Name)

CERTIFIED COPY  
DOCUMENT ATTACHED IS A  
TRUE AND CORRECT COPY  
OF THE ORIGINAL ON FILE

Alison L. Johnson  
CLERK OF THE COURT

SW 18-1140  
**SEARCH WARRANT**  
**(MOBILE TRACKING DEVICE)**  
FILED

STATE OF NEVADA )  
 ) 2018 AUG 15 P 1:42 Event Number: 18-17110  
 ) ss:  
COUNTY OF CLARK )

The State of Nevada, to any Peace Officer in the County of Clark, proof by Affidavit having been made before me by Det. K. Lippisch #1710, said Affidavit attached hereto and incorporated herein by reference, that there is probable cause to believe evidence of criminal activity will be found through the seizure of property currently located within the Court's jurisdiction, to-wit:

a **1994 Mercury Grand Marquis**, red in color, currently unregistered, and Vehicle Identification Number (VIN): 2MELM75W6RX655459,

and as I am satisfied that said seizure, occurring for the purpose of installing, maintaining and/or removing a tracking device on or from the specified vehicle, and the subsequent use of that device to monitor the specified vehicle's movements and locations for a period of time not to exceed forty-five (45) days, constitutes sufficient grounds, issuance of this search warrant IS HEREBY ORDERED.

Officers, agents and employees of the Police Department are authorized to:

1. Enter upon areas open to the public for purposes of installing, maintaining and/or removing a tracking device on or from the specified vehicle; and
2. Surreptitiously install, maintain and /or remove a tracking device on or from the specified vehicle, including repair, replacement of power source, or replacement of the device as necessary **at anytime day or night**; and
3. Use that device to monitor the vehicle's movements and locations twenty-four (24) hours daily, seven (7) days per week commencing from the time and date of this Order and continuing for a period of time contemplated by this order;

**SEARCH WARRANT  
(MOBILE TRACKING DEVICE)**

4. Retrieve the covert monitoring device at the conclusion of any time period contemplated by this order.

IT IS FURTHER ORDERED that the installation, maintenance and monitoring pursuant to this order shall be executed as soon as practicable, but in no event more than ten (10) days from the Court's signing of this order.

IT IS FURTHER ORDERED that officers are authorized to monitor the signals from the tracking device, including those signals produced from inside any private garage or other location not open to public or visual surveillance; and, in the event the specified vehicle travels outside Nevada, consistent with United States Code (18 USC § 3117), those signals produced outside Nevada but within the United States, so long as the monitoring takes place within the Court's jurisdiction.

IT IS FURTHER ORDERED that the officer executing the warrant must within ten (10) days of the installation of the tracking device file the Application and Affidavit for Search Warrant, the Warrant and the Initial Inventory with the Clerk of the Court:

IT IS FURTHER ORDERED that the Initial Inventory shall include:

1. A complete description of the vehicle; and,
2. The exact date and time the warrant was executed.

The Court finds that contemporaneous disclosure of the existence of this Order and Affidavit would jeopardize the criminal investigation.

IT IS THEREFORE ORDERED upon good cause shown that, to avoid potential prejudice to the criminal investigation, search warrant notice requirements will be delayed and that law enforcement officers are authorized not to disclose or cause a disclosure of this Order or Affidavit to any person other than those of its agents and employees who require this information to accomplish the purposes of the search.

**SEARCH WARRANT  
(MOBILE TRACKING DEVICE)**

IT IS FURTHER ORDERED that monitoring of the tracking device must cease no later than forty-five (45) days after this Court executes this Warrant, unless an application to extend the monitoring period, supported by good cause to do so, has been signed by this Court prior to the expiration of the initial and/or previous forty-five (45) day monitoring period.

IT IS FURTHER ORDERED that at the conclusion of the period authorized for tracking that the tracking device:

1. Be immediately turned off and/or disabled so it cannot transmit any further data concerning the location of said vehicle; and
2. Be removed, as quickly as is practicable, from said vehicle.

IT IS FURTHER ORDERED THAT within ten (10) days after the use of the tracking device has ended and the retrieval of said tracking device, the officer executing this warrant or his designee, must cause a final Inventory to be filed with the Clerk of the Court, which shall contain the following:

1. A complete description of the specified vehicle;
2. The exact date and time of any maintenance and/or replacement of the tracking device;
3. A statement that indicates the exact date and time that the police began monitoring location information for the specified vehicle mentioned above and the exact date and time the monitoring concluded;
4. The exact date and time the tracking device was turned off and/or disabled; and,
5. The exact date and time the device was removed from the specified vehicle.

IT IS FURTHER ORDERED THAT the Affidavit for this Order, this Order and any and all Inventories which must be filed pursuant to NRS 179.075 are to be placed in the custody of the

**SEARCH WARRANT  
(MOBILE TRACKING DEVICE)**

Clerk of Court, to remain sealed until further Order of the Court, or until the filing of charges arising from the investigation. This Order will take effect from the date and time of issuance.

IT IS SO ORDERED this 8 day of August, 2018 at 1030 hours.

Jersey A. Wise

DISTRICT COURT JUDGE (Print Name)

  
DISTRICT COURT JUDGE (Signature)

CERTIFIED COPY  
DOCUMENT ATTACHED IS A  
TRUE AND CORRECT COPY  
OF THE ORIGINAL ON FILE

Alan J. Johnson  
CLERK OF THE COURT

**AUG 15 2018**



FILE NO.

2013 AUG 15 P 1:42

\_\_\_\_\_

\_\_\_\_\_

1994 RE Mercury Grand Marquis, currently UNREGISTERED,  
w/ VIN: 2MELM7SW6RX655459

Circus Circus Manor, 2880 S. Las Vegas Blvd, Las Vegas, NV 89109  
IN THE PARKING LOT NEAR BUILDING C.

8/3/18 at 1509 hrs  
(exact date and time)

This return was made by: 1531

Witnessed by: 1531

Witnessed by: 1531

**Witnessed by:**

Arthur J. Schuman  
CLERK OF THE COURT

**SEARCH WARRANT  
(MOBILE TRACKING DEVICE)**

Event Number: 18-17110

**RETURN**

( Final Inventory for Search Warrant No.: \_\_\_\_\_ ) 2018 AUG 15 P 1:42

The Mobile Tracking Device Warrant authorizing a search and seizure and the removal of a tracking device occurred on the following described vehicle:

1994 Red Mercury Grand Marquis, CURRENTLY UNREGISTERED,  
W/ VIN: 2ME4M75W6RX655459

said tracking device removal occurring at the following geographic location(s):

HENDERSON POLICE DEPARTMENT MAIN STATION, 223 LEAD ST, HENDERSON  
NE 89015 IN THE BASEMENT COVERED PARKING.

and was executed on:

08/10/18 AT 1700 HRS  
(exact date and time)

A tracking device was removed from the specified vehicle described above and nothing was taken from said as a result of the seizure.

Monitoring of the aforementioned tracking device began on 08/08/18 at 1509  
hours and concluded on 08/10/18 at 1700 hours.  
(Date) (Time) (Date) (Time)

The following is a summary of the police activity concerning this specified vehicle pursuant to the Mobile Tracking Order (including maintenance and/or device replacement dates and times, as well as additional relevant information):

TRACKING WKS COMPLETED DURING THE DATES LISTED ABOVE AND  
NO ADDITIONAL MAINTENANCE/ACTIVITY OCCURRED.

This return was made by: [Signature] #1710

Witnessed by: [Signature] 1531

Witnessed by: [Signature] 1359

CERTIFIED COPY  
DOCUMENT ATTACHED IS A  
TRUE AND CORRECT COPY  
OF THE ORIGINAL ON FILE

[Signature]  
CLERK OF THE COURT

**APPLICATION AND AFFIDAVIT  
for  
SEARCH WARRANT**

STATE OF NEVADA )  
 ) SS:  
COUNTY OF CLARK)

Detective Dennis Ozawa, being first sworn deposes and states that he is the affiant herein and is a Police Officer with the City of Henderson Police Department. Currently assigned to the Criminal Investigations Division. That I have been employed with the Henderson Police Department since April 29, 2007.

There is probable cause to believe that certain property hereinafter described will be found at the following described premise(s), to wit:

- ① 4244 N. Las Vegas Boulevard Apartment 242 Las Vegas, NV 89115  
-Described as a two story/multi family residence. The building is red stucco with tan colored doors and has tan wrought iron fencing on the second floor. The building has tile roofing and Apartment 242 is located on the second floor. The Apartment number 242 is gold in color and affixed on the tan door.
2. 4244 N. Las Vegas Boulevard Apartment 142 Las Vegas, NV 89115  
-Described as a two story/multi family residence. The building is red stucco with tan colored doors and has tan wrought iron fencing on the second floor. The building has tile roofing and Apartment 142 is located on the first floor directly below Apartment 242. The Apartment number 142 is gold in color and affixed on the tan door.
3. Circus Circus Manor Building C room# 2404 2880 S. Las Vegas Boulevard LV, NV 89109  
- Described as a hotel with numerous hotel rooms. The Manors are a part of the Hotel and are on the north end of the property. Building C consists of white stucco and white brick. On the east side of building C is a dark colored placard with a white "C" on it. Room 2404 is on the third floor of building C and has a brown door that faces north. Affixed to the wall to the right of the door is a black placard with gold colored numbers "2404"
4. Unregistered 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459)
- ⑤ Silver Mazda Protégé 5 Hatchback with Black driver's door, Plate and VIN unknown parked in front of Apartment 142.

THIS IS A HISTORY  
OF THE COMING OF  
SECOND MUNDAY

JBM #1930  
B-3010

**The property referred to and sought to be seized consists of the following:**

- Clothing Items that were worn during the robberies
  - Black Shirt with the Character Gizmo picture on it
  - Light colored hat with design on the front
  - Aviator style sunglasses
  - White jacket with red stripe in the middle
  - Black hat
  - Red and white plaid long sleeve button up shirt
  - Black do-rag
  - Camouflage hat with blue bill
  - Wig (two tone black and white on bottom
  - Gray and white long sleeve shirt
  - Black wire frame glasses
- Electronic Storage Hardware
  - To include but not limited to computers, laptops, surveillance digital video recorders, digital cameras, gaming systems, tablets, Internet routers (with storage capabilities), internal / external data storage devices (i.e. HDD, SSD, USB, etc.), and any related components belonging to the aforementioned items.
- Cellular Phones
  - Any and all cellular phones, including any inserted data storage cards, power cords and/or charging materials, regardless of the phone's connection or service status.
- Forensic Search
  - That Affiant requests permission to forensically search the aforementioned electronic storage device(s) or media for all digital data files, records, documents and materials or otherwise evidence described in the warrant. Such search may be conducted on-scene or at an off-site location. Namely Affiant requests that a bit by bit image of all data storage devices be made by a forensic examiner to be searched through at a later date. All of the components could be seized and taken into the custody of the Henderson Police Department; if evidence relating to a felony is located the equipment may be seized as per the NRS.
  - A forensic search of the collected evidence may require a range of data analysis techniques, therefore affiant requests permission to use whatever data analysis techniques appear necessary to locate and retrieve the evidence described in this affidavit.
- Any and all written correspondences, notes, letters, diaries, or other materials that pertain to this case.
- Any papers, documents or other documentation which may lead to other storage places where evidence of this crime could be stored.

? where are items

I HEREBY CERTIFY THAT

THIS IS A TRUE COPY

RECORDED ON FILE AT

RECORDS SECTION

BY JEM #1930

DATE 8-30-19

- Limited items of personal property showing identity of persons having possessory interest or to establish or clarify who all the occupants in premises searched are, such as, but not limited to rent and utility receipts, addressed envelopes and photographs. Such located information is at the discretion to be collected or photographed.
- Processing of the scene to include photographs.
- US currency believed to be associated with the crime.

The property herein before described constitutes evidence, which tends to demonstrate that the criminal offense of Robbery (NRS 200.380) and Burglary (NRS 205.060.2). In support of your Affiant's assertion to constitute the existence of probable cause, the following facts are offered:

Through the investigation it has been found that four separate robberies have been committed in the city of Henderson. The first robbery occurred on 07-17-2018 at US Bank located at 1440 Paseo Verde Parkway under DR# 18-15420. The second robbery occurred on 07-23-2018 at US Bank located at 10565 S. Eastern Avenue under DR# 18-15877. The third robbery occurred on 07-31-2018 at the Bank of the West located at 701 N. Valle Verde Drive under DR # 18-16535. The fourth robbery occurred on 08/06/2018 at the US Bank located inside a Smith's grocery store with an address of 55 S. Valle Verde under DR# 18-16972.

On the first robbery incident (DR# 18-15420) there was only one black male adult, described as 5'10" to 6' in height, skinny build approximately 155-165 lbs in weight, wearing a hat, Aviator sunglasses and having a goatee that entered the US Bank, showed a note to a teller demanding money and committed a robbery. On the next three robbery incidents (DR# 18-15877, 18-16535 and 18-16972) two black male adults entered two US Banks and one Bank of the West and showed a note demanding money and committed a robbery. The black male adult from the first robbery incident (DR# 18-15420) has been observed on video surveillance at three (DR# 18-15420, 18-15877 and 18-16972) of the four robbery incidents. The second black male suspect has been described as 5'9" to 5'11" in height, skinny build approximately 150-165 lbs in weight, wearing a hat and having a mustache and goatee. The second black male has been observed on video surveillance on three (DR# 18-15877, 18-16535 and 18-16972) of the four robbery incidents.

On robbery incident 18-16535, both suspects that entered the Bank of the West ran out of the bank towards the rear of the bank. A canvass for video surveillance, produced surveillance footage from a neighboring business showing the suspects arrive and leave in an unregistered 1994 red Mercury Grand Marquis. The red Mercury Grand Marquis was very distinct looking and was observed to have oxidized paint, a black trailer hitch, a possible temporary moving permit in the rear window, and additional cosmetic blemishes on it.

A search of multiple law enforcement databases returned to reveal that an unregistered 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) had been stopped 4

I HEREBY CERTIFY THAT  
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JEM #17930  
8-30-18

times by LVMPD Officers and upon viewing the bodycam footage of the vehicle stops it was confirmed that the vehicle was the same as the suspect vehicle from the Bank of the West robbery based on the previously described details of the vehicle. A subject/driver was contacted in all four of the stops and he was identified as Anthony Barr (DOB 03/11/1990). Also stopped in the vehicle was Anthony's girlfriend identified as Sabrina Henderson (DOB 07-29-1988).

A search of Anthony's criminal history returned to reveal that he had multiple criminal convictions to include robbery and aggravated robbery convictions in the state of Texas, as well as aggravated robbery in the state of Minnesota.

Additionally, during the processing of each incident, latent prints were lifted. Results were obtained from a latent print comparison from incident 18-16535 (Bank of the West), which came back to a black male named Damien Alexander Phillips (DOB 09-28-1988). Photos obtained for Damien Alexander Phillips revealed that he matched the suspect that has been observed in video surveillance in three of the four robberies.

After it was confirmed that the 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) vehicle that Anthony Barr has been seen driving was the suspect vehicle seen leaving the robbery incident that occurred at the Bank of the West, a tracking device warrant was authored by Detective Lippisch to place a tracking device on the 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) when located.

Further research conducted on Damien Phillips and Anthony Barr revealed a possible location that Damien Phillips was currently living at the Aviator Suites located at 4244 N. Las Vegas Boulevard Las Vegas, NV 89115. Active Surveillance was set up on 4244 N. Las Vegas Boulevard on 08-08-2018. At approximately 1220 hrs, the 1994 red Grand Marquis pulled into the parking lot near room number 242 and 142.

Active Surv.  
where the  
warrants  
that's fishing  
and is illegal

Anthony Barr then gets out of the driver's door of the vehicle and a black female, identified as Sabrina Henderson, with short haired gets out of the passenger side and they both go to apartment 242. Anthony knocks on door to room 242 and the door opens and the two of the go in. A short time later, Anthony comes out of room 242 and with bins of clothes and other unknown items and load them into the Grand Marquis vehicle.

After few more moments pass, Damien Phillips comes out of room 242 with a bin full of items loads the items into Grand Marquis and then goes to Room 142 and tries to immediately open the door but it doesn't open. Damien then knocks on the door to 142 and the door opens and Damien walks into room 142. A short time later, Damien comes out with items and loads them into another vehicle, a silver colored Mazda Protégé 5.

After Damien loads items into the Mazda Protégé 5, a black female with long hair comes out of room 242 and they both get into the Grand Marquis vehicle with Anthony as the driver and the Grand Marquis drives away. During the time, Damien, Anthony and the black female with short hair are seen going back and forth to room 242 and 142 a male juvenile was observed exiting and entering room 242.

Damien was observed wearing a gray shirt black and red checkered pants and Anthony was observed wearing a black shirt and jeans. It was later confirmed by Aviator Suites

Invasion of my  
privacy. The suit is  
private property.  
Is the warrant  
DATE?

I HEREBY CERTIFY THAT  
THIS IS A TRUE COPY  
OF THE ORIGINAL  
ON FILE AT  
HENDERSON POLICE DEPARTMENT  
JEM #1920  
B-30-18

Management that apartment number 242 is registered to Damien Phillips and apartment number 142 is registered to Vidal Holman. It was also advised that Damien has paid rent for apartment room number 242 and 142 at the same time, which shows that Damien is connected to both apartments. *who advised I paid for both apartments? We press that I did either as then.*

When the red Grand Marquis vehicle leaves the apartment, Detectives with the Henderson Police Department began surveillance on the Grand Marquis and followed the vehicle. At approximately 1430 hrs the Grand Marquis vehicle pulls into the Circus Circus Manor located at 2880 S. Las Vegas Boulevard LV, NV 89109 near Building C. When the Grand Marquis parks, Anthony, Damien, Sabrina and the other female exit out of the vehicle and enter building C and are seen taking items out of the Grand Marquis and going into Building C with the items. It was later confirmed that room number #2404 in Building C was the room rented to Anthony's girlfriend (Sabrina Henderson).

After everyone entered Building C, Detectives from the Henderson Police Department Intel Division placed a tracking device on the 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459).

On 08-09-2018, Detective Lippisch and I received an alert that the 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) was moving and Detectives from the Henderson Police Department Investigative Services Division began to conduct surveillance on the vehicle and located the 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) parked in an alley way north of Garces Avenue and near US Bank located at 801 E. Charleston Boulevard Las Vegas, NV 89104. Detectives then observed an unknown black female get out of the Grand Marquis and walk into the US Bank located at 801 E. Charleston Boulevard and then exit shortly after and walk back to the Grand Marquis.

After the female walked back to the Grand Marquis, Damien Phillips and Anthony Barr were observed exiting out of the Grand Marquis and walking into the US Bank located at 801 E. Charleston Boulevard. After a short period of time, Anthony and Damien were observed running out of the US Bank and got into the Grand Marquis. A traffic stop was conducted on the Grand Marquis vehicle, and Anthony and Damien were taken into custody. Also inside the vehicle were two black adult females, which were the same females that were seen at 4244 N. Las Vegas Boulevard Las Vegas, NV 89115. Evidence was recovered that showed Anthony and Damien had just committed a robbery at the US Bank.

Affiant contacted Deputy District Attorney Jacqueline Bluth and advised her of the details of the investigation verbally over the phone. DDA Bluth approved the above affidavit for warrant.

Due to the aforementioned facts and circumstances, Affiant request a search warrant be issued for the above premises mentioned and that the aforementioned occurred in the City of Henderson, County of Clark and State of Nevada.

I HEREBY CERTIFY THAT  
THIS IS A TRUE COPY  
OF THE COMPUTERIZED  
RECORD ON FILE AT  
HENDERSON POLICE DEPARTMENT

BY: *JDM*

DATE: *8-30-18*

That this affidavit does not contain each and every fact known to your affiant related to this investigation but rather includes that information related to the probable cause pertaining to the search of the location referred to above.

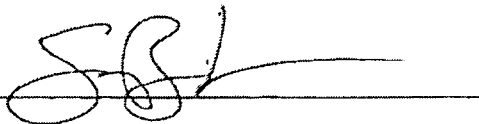
Affiant requests that a Search Warrant issued directing a search for and seizure of the aforementioned items at the location set forth herein between the hours of 0700 and 1900 hours.

I declare under penalty of perjury that the foregoing information is true and correct.

  
Dennis Ozawa, AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS DAY OF August 9, 2018.

Judge



HEREBY CERTIFY THAT  
THIS IS A TRUE COPY  
OF THE COMPUTERIZED  
RECORD ON FILE AT  
NEWTON POLICE DEPARTMENT  
BY: JEM #1930  
RECORDS BUREAU  
DATE: 8-30-18



## SEARCH WARRANT

STATE OF NEVADA )

SS:

COUNTY OF CLARK)

State of Nevada to any Peace Officer in the County of Clark, Proof by Affidavit having been made before me by Detective Dennis Ozawa, said Affidavit attached hereto and incorporated herein by reference, that there is probable cause to believe that certain property namely,

The property referred to and sought to be seized consists of the following:

- Clothing Items that were worn during the robberies
  - Black Shirt with the Character Gizmo picture on it
  - Light colored hat with design on the front
  - Aviator style sunglasses
  - White jacket with red stripe in the middle
  - Black hat
  - Red and white plaid long sleeve button up shirt
  - Black do-rag
  - Camouflage hat with blue bill
  - Wig (two tone black and white on bottom)
  - Gray and white long sleeve shirt
  - Black wire frame glasses
- Electronic Storage Hardware
  - To include but not limited to computers, laptops, surveillance digital video recorders, digital cameras, gaming systems, tablets, Internet routers (with storage capabilities), internal / external data storage devices (i.e. HDD, SSD, USB, etc.), and any related components belonging to the aforementioned items.
- Cellular Phones
  - Any and all cellular phones, including any inserted data storage cards, power cords and/or charging materials, regardless of the phone's connection or service status.
- Forensic Search
  - That Affiant requests permission to forensically search the aforementioned electronic storage device(s) or media for all digital data files, records, documents and materials or otherwise evidence described in the warrant. Such search may be conducted on-scene or at an off-site location. Namely Affiant requests that a bit by bit image of all data storage devices be made by a forensic examiner to be searched through at a later date. All of the components could be seized and taken into the custody of the Henderson

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HENDERSON POLICE DEPARTMENT  
BY: JEM #930  
R-20-18

Police Department; if evidence relating to a felony is located the equipment may be seized as per the NRS.

- o A forensic search of the collected evidence may require a range of data analysis techniques, therefore affiant requests permission to use whatever data analysis techniques appear necessary to locate and retrieve the evidence described in this affidavit.
- Any and all written correspondences, notes, letters, diaries, or other materials that pertain to this case.
- Any papers, documents or other documentation which may lead to other storage places where evidence of this crime could be stored.
- Limited items of personal property showing identity of persons having possessory interest or to establish or clarify who all the occupants in premises searched are, such as, but not limited to rent and utility receipts, addressed envelopes and photographs. Such located information is at the discretion to be collected or photographed.
- Processing of the scene to include photographs.
- US currency believed to be associated with the crime.

Is presently located at or in the custody of:

1. 4244 N. Las Vegas Boulevard Apartment 242 Las Vegas, NV 89115  
-Described as a two story/multi family residence. The building is red stucco with tan colored doors and has tan wrought iron fencing on the second floor. The building has tile roofing and Apartment 242 is located on the second floor. The Apartment number 242 is gold in color and affixed on the tan door.
2. 4244 N. Las Vegas Boulevard Apartment 142 Las Vegas, NV 89115  
-Described as a two story/multi family residence. The building is red stucco with tan colored doors and has tan wrought iron fencing on the second floor. The building has tile roofing and Apartment 142 is located on the first floor directly below Apartment 242. The Apartment number 142 is gold in color and affixed on the tan door.
3. Circus Circus Manor Building C 2880 S. Las Vegas Boulevard LV, NV 89109  
- Described as a hotel with numerous hotel rooms. The Manors are a part of the Hotel and are on the north end of the property. Building C consists of white stucco and white brick. On the east side of building C is a dark colored placard with a white "C" on it. Room 2404 is on the third floor of building C and has a brown door that faces north. Affixed to the wall to the right of the door is a black placard with gold colored numbers "2404"

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CLERK OF DISTRICT COURT  
JEM #12930  
8-30-18

4. Unregistered 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459)
5. Silver Mazda Protégé 5 Hatchback with Black driver's door, Plate and VIN unknown parked in front of Apartment 142.

The place to be searched includes the main residence and all attached and unattached rooms, attics, storage areas, floor, wall, combination safes, lockers, briefcases, containers, trash areas, surrounding grounds and outbuildings assigned to or part of the particular residence the time of the execution of this search warrant.

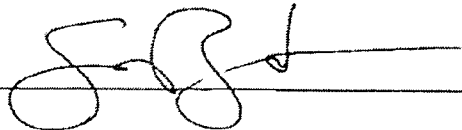
And as I am satisfied that there is probable cause to believe that the said property is located as set forth above and that based upon the Affidavit attached hereto there are sufficient grounds for the issuance of the Search Warrant.

You are hereby commanded to search forthwith said premises for said premises, serving this warrant between 0700 and 1900 hours, and if the property is there, to seize it, prepare a written inventory of the property seized and make a return for me within ten days.

08-09-2018

Date

Judge



HEREBY CERTIFY THAT  
THIS IS A TRUE COPY  
OF THE COMPUTERIZED  
RECORD ON FILE AT  
MEMPHIS POLICE DEPARTMENT  
BY JEM #4930  
RECORDS BUREAU  
DATE 8-30-18

**HENDERSON POLICE DEPARTMENT**  
**SEARCH WARRANT RETURN**  
(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

4244 N. LAS VEGAS BLVD APT. #242LAS VEGAS, NEVADA 89115

was executed on

08/09/2018  
(month, day, year)

A copy of this inventory was left with

APARTMENT.  
(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant:

SILVER/BLACK SAMSUNG CELL PHONE IN BLACK PAPER CASEBLACK LG CELL PHONESILVER HP LAPTOP S/N: 8 CG 72906 PY#235 IN US CURRENCYThis inventory was made by: P. CHRISTOPHER #1116[Signature] #1339  
(at least two officers including affiant if present. If person from whom property is taken is present include that person)

ORIGINAL - Return to Issuing Court    YELLOW - With HPD Report    PINK - With Suspect or Place of Search

JEM #1430  
8-30-18

**HENDERSON POLICE DEPARTMENT**  
**SEARCH WARRANT RETURN**  
 (Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

4244 N LAS VEGAS BLVD APT # 242

was executed on \_\_\_\_\_

5/9/15  
 (month, day, year)

A copy of this inventory was left with \_\_\_\_\_

AT PLACE OF SEARCH  
 (name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant:

NO ITEMS TAKEN

This inventory was made by: \_\_\_\_\_

Z #116

(at least two officers including affiant if present. If person from whom property is taken is present include that person)

ORIGINAL - Return to Issuing Court    YELLOW - With HPD Report    PINK - With Suspect or Place of Search

*JEM #1930*  
8-30-10

**HENDERSON POLICE DEPARTMENT**  
**SEARCH WARRANT RETURN**  
(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

UNREGISTERED 1994 RED Mercury GRAND MARQUIS

VIN# 2MELM75W6RX655459

was executed on

8/10/2018

(month, day, year)

A copy of this inventory was left with

PLACE OF SEARCH

(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant.

PHOTOS

10EA PHONES

1EA IPAD

This inventory was made by

(at least two officers including affiant if present. If person from whom property is taken is present include that person)

ORIGINAL - Return to Issuing Court    YELLOW - With HPD Report    PINK - With Suspect or Place of Search

**HENDERSON POLICE DEPARTMENT  
SEARCH WARRANT RETURN**

(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

2880 S. LAS VEGAS BLVD BLDG #2 ROOM #2404LAS VEGAS, NV 89109was executed on AUGUST 9<sup>th</sup> 2018  
(month, day, year)A copy of this inventory was left with AT THE PLACE OF SEARCH  
(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant:

- MISC MAKEUP
- 2 PAIRS OF JEANS
- GOLD GALAXY S/L CELL PHONE
- BLACK LG CELL PHONE
- CIRCUS CIRCUS ROOM RECEIPT
- 1 WHITE SHIRT

This inventory was made by: DET N. CALVANO #133A[Signature] #133A 1332

(at least two officers including affiant if present. If person from whom property is taken is present include that person)

ORIGINAL - Return to Issuing Court    YELLOW - With HPD Report    PINK - With Suspect or Place of Search

# HENDERSON POLICE DEPARTMENT

## SEARCH WARRANT RETURN

(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

MAZDA HATCHBACK VIN (JM1BJ245X3119468)

was executed on

8/9/18

(month, day, year)

A copy of this inventory was left with

PLACE OF SEARCH

(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant:

NO ITEMS TAKEN

This inventory was made by:

W. NICHOLS

[Signature] #1339

(at least two officers including affiant if present. If person from whom property is taken is present include that person)

ORIGINAL - Return to Issuing Court

YELLOW - With HPD Report

PINK - With Suspect or Place of Search

INDEXED  
OF THE COMPUTERIZED  
INDEXED  
BY [Signature] #12107  
DATE 8-30-18



**APPLICATION AND AFFIDAVIT  
for  
SEARCH WARRANT**

Exhibit  
2A

STATE OF NEVADA )  
 ) SS:  
COUNTY OF CLARK)

Detective Dennis Ozawa, being first sworn deposes and states that he is the affiant herein and is a Police Officer with the City of Henderson Police Department. Currently assigned to the Criminal Investigations Division. That I have been employed with the Henderson Police Department since April 29, 2007.

There is probable cause to believe that certain property hereinafter described will be found at the following described premise(s), to wit:

1. Unregistered 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459)  
Parked at the Henderson Police Main Station garage 223 Lead Street Henderson,  
NV 89015.

**The property referred to and sought to be seized consists of the following:**

- Any and all firearms, or firearm parts, ammunition, firearm accessories, and/or documents related to firearm possession or ownership which tend to establish ownership or possession of firearms.
- Any and all cartridges, expended bullets, expended cartridge cases or other firearms evidence present.
- Forensic Processing of the scene to complete a robbery investigation including DNA Swabbing and photographs.

The property herein before described constitutes evidence, which tends to demonstrate that the criminal offense of Robbery (NRS 200.380) and Burglary (NRS 205.060.2). In support of your Affiant's assertion to constitute the existence of probable cause, the following facts are offered:

Through the investigation it has been found that four separate robberies have been committed in the city of Henderson. The first robbery occurred on 07-17-2018 at US Bank located at 1440 Paseo Verde Parkway under DR# 18-15420. The second robbery occurred on 07-23-2018 at US Bank located at 10565 S. Eastern Avenue under DR# 18-15877. The third robbery occurred on 07-31-2018 at the Bank of the West located at 701 N. Valle Verde Drive under DR # 18-16535. The fourth robbery occurred on 08/06/2018 at the US Bank located inside a Smith's grocery store with an address of 55 S. Valle Verde under DR# 18-16972.

On the first robbery incident (DR# 18-15420) there was only one black male adult, described as 5'10" to 6' in height, skinny build approximately 155-165 lbs in weight, wearing a hat, Aviator sunglasses and having a goatee that entered the US Bank, showed

Bm #1930  
8-30-18

The first  
male had  
★  
been observed  
at 3 of 4  
robberies

a note to a teller demanding money and committed a robbery. On the next three robbery incidents (DR# 18-15877, 18-16535 and 18-16972) two black male adults entered two US Banks and one Bank of the West and showed a note demanding money and committed a robbery. The black male adult from the first robbery incident (DR# 18-15420) has been observed on video surveillance at three (DR# 18-15420, 18-15877 and 18-16972) of the four robbery incidents. The second black male suspect has been described as 5'9" to 5'11" in height, skinny build approximately 150-165 lbs in weight, wearing a hat and having a mustache and goatee. The second black male has been observed on video surveillance on three (DR# 18-15877, 18-16535 and 18-16972) of the four robbery incidents.

First  
clue

On robbery incident 18-16535, both suspects that entered the Bank of the West ran out of the bank towards the rear of the bank. A canvass for video surveillance, produced surveillance footage from a neighboring business showing the suspects arrive and leave in an unregistered 1994 red Mercury Grand Marquis. The red Mercury Grand Marquis was very distinct looking and was observed to have oxidized paint, a black trailer hitch, a possible temporary moving permit in the rear window, and additional cosmetic blemishes on it.

A search of multiple law enforcement databases returned to reveal that an unregistered 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) had been stopped 4 times by LVMPD Officers and upon viewing the bodycam footage of the vehicle stops it was confirmed that the vehicle was the same as the suspect vehicle from the Bank of the West robbery based on the previously described details of the vehicle. A subject/driver was contacted in all four of the stops and he was identified as Anthony Barr (DOB 03/11/1990). Also stopped in the vehicle was Anthony's girlfriend identified as Sabrina Henderson (DOB 07-29-1988).

A search of Anthony's criminal history returned to reveal that he had multiple criminal convictions to include robbery and aggravated robbery convictions in the state of Texas, as well as aggravated robbery in the state of Minnesota.

Additionally, during the processing of each incident, latent prints were lifted. Results were obtained from a latent print comparison from incident 18-16535 (Bank of the West), which came back to a black male named Damien Alexander Phillips (DOB 09-28-1988). Photos obtained for Damien Alexander Phillips revealed that he matched the suspect that has been observed in video surveillance in three of the four robberies.

After it was confirmed that the 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) vehicle that Anthony Barr has been seen driving was the suspect vehicle seen leaving the robbery incident that occurred at the Bank of the West, a tracking device warrant was authored by Detective Lippisch to place a tracking device on the 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) when located.

Further research conducted on Damien Phillips and Anthony Barr revealed a possible location that Damien Phillips was currently living at the Aviator Suites located at 4244 N. Las Vegas Boulevard Las Vegas, NV 89115. Active Surveillance was set up on 4244 N. Las Vegas Boulevard on 08-08-2018. At approximately 1220 hrs, the 1994 red Grand Marquis pulled into the parking lot near room number 242 and 142.

where is warrant for surveillance at  
Damien's place of residence. what  
is probable cause for surveillance.

what connect's  
Damien &  
Anthony?  
They did not look up  
Sabrina &  
Anthony  
my place  
JEM #1430  
8-30-18

Nothing  
to do with  
Damien at  
all

Still trying  
to gain  
info on  
him.  
(Damien Phillips)

Anthony Barr then gets out of the driver's door of the vehicle and a black female, identified as Sabrina Henderson, with short haired gets out of the passenger side and they both go to apartment 242. Anthony knocks on door to room 242 and the door opens and the two of the go in. A short time later, Anthony comes out of room 242 and with bins of clothes and other unknown items and load them into the Grand Marquis vehicle.

After few more moments pass, Damien Phillips comes out of room 242 with a bin full of items loads the items into Grand Marquis and then goes to Room 142 and tries to immediately open the door but it doesn't open. Damien then knocks on the door to 142 and the door opens and Damien walks into room 142. A short time later, Damien comes out with items and loads them into another vehicle, a silver colored Mazda Protégé 5.

Damien was observed wearing a gray shirt black and red checkered pants and Anthony was observed wearing a black shirt and jeans. It was later confirmed by Aviator Suites Management that apartment number 242 is registered to Damien Phillips and apartment number 142 is registered to Vidal Holman. It was also advised that Damien has paid rent for apartment room number 242 and 142 at the same time, which shows that Damien is connected to both apartments.

When the red Grand Marquis vehicle leaves the apartment, Detectives with the Henderson Police Department began surveillance on the Grand Marquis and followed the vehicle. At approximately 1430 hrs the Grand Marquis vehicle pulls into the Circus Circus Manor located at 2880 S. Las Vegas Boulevard LV, NV 89109 near Building C. When the Grand Marquis parks, Anthony, Damien, Sabrina and the other female exit out of the vehicle and enter building C and are seen taking items out of the Grand Marquis and going into Building C with the items. It was later confirmed that room number #2404 in Building C was the room rented to Anthony's girlfriend (Sabrina Henderson).

After everyone entered Building C, Detectives from the Henderson Police Department Intel Division placed a tracking device on the 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459).

On 08-09-2018, Detective Lippisch and I received an alert that the 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) was moving and Detectives from the Henderson Police Department Investigative Services Division began to conduct surveillance on the vehicle and located the 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) parked in an alley way north of Garces Avenue and near US Bank located at 801 E. Charleston Boulevard Las Vegas, NV 89104. Detectives then observed a black female, later identified as Melissa Summlears, get out of the Grand Marquis and walk into the US Bank located at 801 E. Charleston Boulevard and then exit shortly after and walk back to the Grand Marquis.

After the female walked back to the Grand Marquis, Damien Phillips and Anthony Barr were observed exiting out of the Grand Marquis and walking into the US Bank located at 801 E. Charleston Boulevard. After a short period of time, Anthony and Damien were observed running out of the US Bank and got into the Grand Marquis. A traffic stop was conducted on the Grand Marquis vehicle, and Anthony and Damien exited out of the vehicle and ran away from Officers and evaded Police custody. After a short foot

SEARCHED INDEXED  
SERIALIZED FILED  
HENDERSON POLICE DEPARTMENT  
BY: JBM #1980  
RECORDS BUREAU  
DATE: 8-30-18

pursuit, they were taken into custody. During the foot pursuit, a yellow bag with US Currency was dropped on the ground and recovered by Officers.

Additionally inside the vehicle were Sabrina and Melissa, which were the same females that were seen at 4244 N. Las Vegas Boulevard Las Vegas, NV 89115. When Sabrina and Melissa were taken out of the vehicle, a black handgun was observed on the rear driver's side passenger floor board of the Grand Marquis vehicle. After Anthony, Damien, Sabrina and Melissa were detained, it was discovered that Anthony and Damien had just committed a robbery with the use of a firearm at the US Bank located at 801 E. Charleston Boulevard.

Details of the Robbery that occurred at the US Bank located at 801 E. Charleston Boulevard were Damien and Anthony entered the US Bank and walked up to the teller window and Anthony produced a black handgun and pointed it at the Teller window and demanded money. Anthony and Damien were given US Currency from the Tellers cash drawer and both ran out of the US Bank.

Affiant contacted Deputy District Attorney Jacqueline Bluth and advised her of the details of the investigation verbally over the phone. DDA Bluth approved the above affidavit for warrant.

Due to the aforementioned facts and circumstances, Affiant request a search warrant be issued for the above premises mentioned and that the aforementioned occurred in the City of Henderson, County of Clark and State of Nevada.

That this affidavit does not contain each and every fact known to your affiant related to this investigation but rather includes that information related to the probable cause pertaining to the search of the location referred to above.

Affiant requests that a Search Warrant issued directing a search for and seizure of the aforementioned items at the location set forth herein between the hours of 0700 and 1900 hours.

I declare under penalty of perjury that the foregoing information is true and correct.

  
Dennis Ozawa, AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS DAY OF August 10, 2018.

Judge 

HERESY CERTIFICATE  
THIS IS A TRUE COPY  
OF THE COMPILED  
RECORD ON FILE AT  
HENDERSON POLICE DEPARTMENT  
BY: JEM #2930  
RECORDS SECTION  
DATE: 8-30-18

## SEARCH WARRANT

STATE OF NEVADA )

SS:

COUNTY OF CLARK)

State of Nevada to any Peace Officer in the County of Clark, Proof by Affidavit having been made before me by Detective Dennis Ozawa, said Affidavit attached hereto and incorporated herein by reference, that there is probable cause to believe that certain property namely,

The property referred to and sought to be seized consists of the following:

- Any and all firearms, or firearm parts, ammunition, firearm accessories, and/or documents related to firearm possession or ownership which tend to establish ownership or possession of firearms.
- Any and all cartridges, expended bullets, expended cartridge cases or other firearms evidence present.
- Forensic Processing of the scene to complete a robbery investigation including DNA Swabbing and photographs.

Is presently located at or in the custody of:

1. Unregistered 1994 red Mercury Grand Marquis (VIN: 2MELM75W6RX655459) Parked at the Henderson Police Main Station garage 223 Lead Street Henderson, NV 89015.

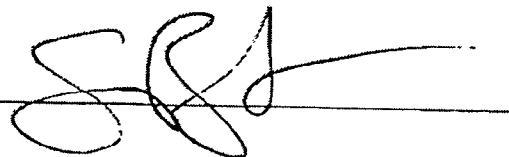
And as I am satisfied that there is probable cause to believe that the said property is located as set forth above and that based upon the Affidavit attached hereto there are sufficient grounds for the issuance of the Search Warrant.

You are hereby commanded to search forthwith said premises for said premises, serving this warrant between 0700 and 1900 hours, and if the property is there, to seize it, prepare a written inventory of the property seized and make a return for me within ten days.

08-10-2018

Date

Judge



HEREBY CORROBORATED  
THIS IS A TRUE COPY  
OF THE ORIGINAL  
RECORDED IN FILE #

RECEIVED BY THE CLERK OF THE COURT

JEM #17430  
8-30-18

**HENDERSON POLICE DEPARTMENT**

**SEARCH WARRANT RETURN**

(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

UNREGISTERED 1994 RED Mercury Grand MARQUIS

VIN# 2MELM75W6RX655459

was executed on

8/10/2018

(month, day, year)

A copy of this inventory was left with

PLAC OF SEARCH

(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant.

SIG SAUR X-5(FIVE) P226S CO2 BBGUN.

S/N# 60631954

This inventory was made by:

[Signature]

(at least two officers including affiant if present. If person from whom property is taken is present include that person)

ORIGINAL - Return to Issuing Court    YELLOW - With HPD Report    PINK - With Suspect or Place of Search

EXHIBIT

B

TESTIMONIES

C

DETECTIVE KARL  
LIPPISCH #1710

SWORN TESTIMONY



3:05PM

1

2

KARL LIPPISCH,  
having been first duly sworn, did testify as follows:

3

4

DIRECT EXAMINATION

3:05PM

5

BY MS. SCHIFALACQUA:

6

7

Q. Detective Lippisch, can you please tell  
the Court know how it is you are employed?

8

A. Police officer with the City of Henderson.

9

Q. How long have you been with the City of  
Henderson as a police officer?

3:05PM

10

11

A. Almost 10 years.

12

13

Q. Okay. And what is your current  
assignment, sir?

14

A. I'm a detective with our robbery/homicide  
department.

3:06PM

15

16

17

Q. And were you working in that capacity  
starting back in July of 2018 through currently?

18

A. Yes.

19

Q. Do you have occasion to work with

3:06PM

20

Detective Ozawa?

21

A. Yes, I do.

22

23

Q. Is he also a detective in the same unit as  
yourself?

24

A. Yes, he is.

3:06PM

25

Q. With regard to him and yourself were you

000233

3:06PM

1 both tasked with investigating a series of bank  
2 robberies that occurred in Henderson, Nevada?

3 A. Yes.

3:06PM

4 Q. Did those start on July 17<sup>th</sup> through  
5 August 9<sup>th</sup>?

6 A. Yes.

7 Q. And originally were you the first case  
8 agent on the July 17<sup>th</sup> investigation for a robbery?

9 A. No, I was not.

3:06PM

10 Q. Okay. Who was?

11 A. Detective Ozawa was.

12 Q. And then there was another robbery that  
13 occurred on July 23<sup>rd</sup> of 2018 that was investigated  
14 by the City of Henderson; is that correct?

3:07PM

15 A. Yes.

16 MR. BROWER: Judge, I have to do it again.  
17 I don't mind the investigation for a robbery claim, but  
18 I'm going to object to him saying it was actually a  
19 robbery that occurred.

3:07PM

20 THE COURT: Okay. Robbery claim.

21 MS. SCHIFALACQUA: An investigation for  
22 the crimes of robbery.

23 THE COURT: Actually they can say they  
24 were investigating a robbery.

3:08PM

25 MR. BROWER: I'm just making my objection,

000234

3:07PM

1 Judge.

2 THE COURT: What would you call it?

3 MR. BROWER: She said were you  
4 investigating a robbery and he said yes and so I think  
5 that's ultimately a question for a jury down the road.  
6 I'm just making sure for any claims that I'm doing for  
7 any potential appeal issues.

3:07PM

8 THE COURT: I understand. So the record  
9 is made. I'm allowing the question.

3:07PM

10 MS. SCHIFALACQUA: Thank you, your Honor.

11 THE COURT: Go ahead.

12 BY MS. SCHIFALACQUA:

13 Q. With regard to the July 23<sup>rd</sup>, 2018  
14 investigation for robbery were you the lead on that  
15 case?

3:07PM

16 A. No.

17 Q. Turning your attention to July 31<sup>st</sup> of  
18 2018 did you have occasion to investigate a robbery at  
19 the Bank of West?

3:08PM

20 A. Yes.

21 Q. Bank of the West, excuse me, is that a  
22 yes?

23 A. Yes.

24 Q. When you started your investigation on  
25 that particular date, did you have information of the

3:08PM

000235

3:08PM

1 previous two investigations that had taken place with  
2 regard to Detective Ozawa?

3 A. Yes.

3:08PM

4 Q. Obviously with part of investigating the  
5 same did you see similarities between some of the  
6 cases?

7 A. Yes, I did.

3:08PM

8 Q. Did you have occasion at some point to  
9 review video surveillance with regard to the Bank of  
10 the West investigation?

11 A. Yes.

12 Q. With regard to that video did you ever  
13 have a vehicle that became of interest to you and to  
14 the City of Henderson's detective bureau?

3:09PM

15 A. Yes. There was video located depicting  
16 that vehicle.

17 Q. With regard to that vehicle can you  
18 describe it for the Court, please.

3:09PM

19 A. It was a 1994 red Grand Marquis, a Mercury  
20 Grand Marquis and there were specifics about the  
21 vehicle. It had oxidized paint, had a trailer hitch  
22 and then just little distinctive aspects to it.

23 Q. In the midst of this investigation what  
24 were the similarities that you had seen throughout  
25 these robbery investigations?

3:09PM

000236

3:09PM

1 A. Similarities include notes that were  
2 provided every time that the two suspects -- or the  
3 suspects would come in the notes would always reference  
4 a weapon or a gun and would say to give the money.

3:10PM

5 Every single one of them that they would use a  
6 notebook -- the subject would use a note.

7 In addition, the subjects were always  
8 identified as black male adults. Similar descriptors  
9 were provided in terms of like height and weight to  
3:10PM 10 these people as well as similar clothing through most  
11 of them.

12 Q. Okay. Did it come a time then after the  
13 July 31<sup>st</sup> incident that another robbery investigation  
14 on August 6<sup>th</sup> occurred?

3:10PM

15 A. Yes.

16 Q. And did that match the same modus operandi  
17 that you're describing previously?

18 A. Yes, it did.

3:10PM

19 Q. With that information and with the video  
20 surveillance with regard to that 1994 Mercury Grand  
21 Marquis that was red or maroon in color did you have  
22 occasion to try to investigate that vehicle?

23 A. Yes, I did.

3:11PM

24 Q. And what did you do? Walk us through the  
25 steps that you took with regard to that vehicle

000237

3:11PM

1 investigation.

2 A. Once determining the specific year and  
3 type of vehicle, then using data bases, both public and  
4 for law enforcement, I did research on it and I was  
3:11PM 5 able to determine that there was a vehicle matching  
6 that description that had been contacted numerous times  
7 by Las Vegas Metro.

3:11PM

8 Q. And with regard to the contacts with the  
9 Las Vegas Metropolitan Police Department and that  
10 vehicle were there individuals that were stopped in  
11 that vehicle that you became aware of?

12 A. Yes.

13 Q. And what were the names of those  
14 individuals?

3:11PM

15 A. The two specific individuals were Anthony  
16 Barr and Sabrina Henderson.

17 Q. Okay. After which do you make an  
18 application with the Court for a warrant for a tracker  
19 to be placed on that Mercury Grand Marquis?

3:11PM

20 A. Yes, I did.

21 Q. What is the timeframe of that?

22 A. It was after the robbery on the sixth.  
23 Within the next couple days I authored the tracker  
24 warrant and had it signed.

3:11PM

25 Q. Were you granted that warrant then?

000238

3:12PM

1 A. Yes, I was.

2 Q. And after the August 6<sup>th</sup> robbery3 investigation did you have occasion to go to the area  
4 of the Aviator Suites located at 4244 North Las Vegas

3:12PM

5 Boulevard in Clark County, Nevada?

6 A. Yes.

7 Q. And did you and/or a team of your other  
8 officers set up surveillance in that area?

9 A. Yes, we did.

3:12PM

10 Q. Were you personally part of that  
11 surveillance team?

12 A. Yes, I was.

13 Q. On, I believe it was, and let me get the  
14 date, August 8th of 2018, did you observe that 1994

3:12PM

15 Mercury Grand Marquis that you had obtained a tracker  
16 warrant for?

17 A. Yes, I did.

18 Q. And where did you observe that vehicle?

19 A. I observed it in the parking lot of the

3:13PM

20 Aviator Suites.

21 Q. And were you with a team of other  
22 detectives?

23 A. Yes.

24 Q. During that timeframe was surveillance

3:13PM

25 then set up and maintained on that Mercury Grand

000239

3:13PM

1 Marquis?

2 A. Yes, it was.

3 Q. Did that surveillance include a mobile  
4 surveillance on the vehicle following the vehicle?

3:13PM

5 A. Yes.

6 Q. Did that vehicle have occasion to go to  
7 the Circus Circus Manor at 2880 South Las Vegas  
8 Boulevard?

9 A. Yes, it did.

3:13PM

10 Q. Was that Building C, sir?

11 A. Yes.

12 Q. Did you observe the vehicle there?

13 A. I observed when it pulled in, yes.

14 Q. Okay. Did any persons exit that vehicle  
15 that you're aware of?

3:13PM

16 A. Yes.

17 Q. Who exited that vehicle?

18 A. In terms of -- for the vehicle to end up  
19 empty, we saw Anthony Barr, Damien Phillips, Sabrina

3:13PM

20 Henderson and a female who we later identified Melissa  
21 Summerleas.22 Q. And to be fair later on did you have  
23 personal contact with each one of these individuals?

24 A. Yes, I did.

3:13PM

25 Q. In fact, did you speak to them after they

000240



3:14PM

1 were arrested?

2 A. Yes, I did.

3 Q. And did taped statements with those  
4 persons that you just listed?

3:14PM

5 A. Yes, I did.

6 Q. Okay. With regard to Damien Phillips, do  
7 you see him in the courtroom here today?

8 A. Yes, I do.

9 Q. Can you please point to him and tell me  
10 what he's wearing today.

3:14PM

11 A. He has glasses on, black rim glasses.

12 MS. SCHIFALACQUA: Your Honor, let the  
13 record reflect that the witness has identified the  
14 defendant Damien Phillips.

3:14PM

15 THE COURT: It will so reflect.

16 BY MS. SCHIFALACQUA:

17 Q. Did you also have occasion after the  
18 arrest of Anthony Barr to speak with him in person?

19 A. Yes, I did.

3:14PM

20 Q. Do you see him in the courtroom here  
21 today?

22 A. Yes, I do.

23 Q. Can you please point to him and identify  
24 something that he's wearing today, sir?

3:14PM

25 A. He's wearing the blue jail clothing and he

000241

3:14PM

1 also has multiple tattoos.

2 Q. Where are those tattoos located?

3 A. His tattoos on his face and neck.

4 MS. SCHIFALACQUA: Your Honor, let the  
5 record reflect the witness has identified Anthony Barr.

6 THE COURT: It shall so reflect.

7 BY MS. SCHIFALACQUA:

8 Q. With regard to a person later identified  
9 as you said Melissa Summerleas, and for the record that  
10 is S-U-M-M-E-R-L-E-A-S, I'm showing you what's been  
11 previously admitted as State's Exhibit 17. Do you  
12 recognize her?

3:15PM

13 A. Yes.

14 Q. Did you also do a statement with her and  
15 speak to her in person?

3:15PM

16 A. Yes, I did.

17 Q. And that is Melissa?

18 A. Yes, it is.

19 Q. You observed her get out of the vehicle on  
20 August 8, 2018 as well as the defendants?

3:15PM

21 A. Yes.

22 Q. And I'm going to show you now State's  
23 Admitted Exhibit 19. You indicated that you'd also  
24 seen Sabrina Henderson. Is she depicted in State's  
25 Exhibit 19?

3:15PM

000242

3:15PM

1 A. Yes.

2 Q. Did you also observe her getting out of  
3 the Mercury Grand Marquis on August 8<sup>th</sup>, 2018?

4 A. Yes.

3:15PM

5 Q. With regard to going back to when that  
6 tracker warrant was placed on the vehicle, was that  
7 placed on the vehicle by one of the detectives that did  
8 mobile surveillance with yourself on August 8<sup>th</sup> of  
9 2018?

3:16PM

10 A. Yes.

11 MR. BROWER: Judge, I'm going to object to  
12 that. I don't know if he has any personal knowledge of  
13 how it was placed.

14 MR. HUGHES: I will join that.

3:16PM

15 THE COURT: Lay a foundation.

16 Q. Okay. You worked with a number of  
17 detectives on August 8<sup>th</sup>, 2018?

18 A. Yes.

19 Q. You observed the defendants as well as  
20 Sabrina Henderson and Melissa Summerleas exit the  
21 vehicle?

3:16PM

22 A. Yes.

23 Q. At which point did you continue to have  
24 eyes on the vehicle?

3:16PM

25 A. At that point the vehicle ultimately, when

000243

3:16PM

1 it finally was empty, it moved to a position where I  
2 did not have eyes on the vehicle.

3 Q. Okay. Were you in communications with  
4 officers in real time during this placement of the  
5 tracker?

3:16PM

6 A. Yes, I was.

7 Q. Were persons updating their steps as they  
8 completed them in real time?

9 A. Yes.

3:17PM

10 MR. BROWER: Judge, that would be hearsay.

11 THE COURT: I don't think it's hearsay if  
12 they were updating their -- she hasn't asked what they  
13 said.

14 MR. BROWER: I will reserve it for the  
15 placement of the tracker if he heard it.

3:17PM

16 BY MS. SCHIFALACQUA:

17 Q. Let's be clear. At some point are you  
18 responsible for a tracker that actually comes live?

19 A. For getting the tracks, yes.

3:17PM

20 Q. Okay. And were you with the person that  
21 placed the tracker on?

22 A. Yes.

23 Q. On August 8<sup>th</sup>?

24 A. Yes.

3:18PM

25 Q. Thereafter are you tasked with actually

000244

3:17PM

1 having the electronic information from that tracker via  
2 a computer?

3 A. Yes, I am.

3:17PM

4 Q. Okay. And so your position after the  
5 placement is to track that device?

6 A. Yes.

7 Q. Did you do so?

8 A. Yes.

9 Q. Thank you. Let me turn your attention to

3:18PM

10 August 9<sup>th</sup>. Did that tracker, that you were  
11 responsible then for tracking, if you will, the  
12 electronic information alert on August 9<sup>th</sup>?

13 A. Yes, it did.

14 Q. When it alerted where were you?

3:18PM

15 A. I was at our main police station.

16 Q. Did you give that information to other  
17 detectives?

18 A. Yes, I did.

19 Q. In real time?

3:18PM

20 A. Yes, I did.

21 Q. Did that include the detectives, at least  
22 Christopher Worley?

23 A. Yes, it did.

24 MS. SCHIFALACQUA: That he will be -- I

3:19PM

25 will reserve, your Honor, obviously to testify.

000245

3:18PM

1 Q. Did that include himself as one of the  
2 team members who was observing while you were giving  
3 updated information?

4 A. Yes.

3:18PM

5 Q. And so you worked in a team of not just  
6 him but some Las Vegas Metropolitan Police Department  
7 officers as well?

8 A. Yes.

3:18PM

9 Q. So on 8/9, when you get the alert, where  
10 is it that you direct officers to go?

11 A. The initial alert I got showed that the  
12 vehicle was leaving the area of Circus Circus and  
13 initially was proceeding westbound on Sahara. So I, at  
14 that point, put out the information and the officers  
15 started to head that direction.

3:19PM

16 Q. Do you know what timeframe that was?

17 A. I don't remember the exact time but I  
18 believe it was around 9:15, 9:20 in the morning, if I  
19 recall.

3:19PM

20 Q. So to be fair you're giving the updated  
21 information and other detectives like Detective Worley  
22 are what we have called eyes on or have the eye on the  
23 particular vehicle?

24 A. Correct. At some point they are finally  
25 able to get to that area and get the eyes on the

3:19PM

000246

3:19PM

1 vehicle.

2 Q. So are you giving updated information of  
3 where the vehicle goes throughout the entirety of  
4 August 9<sup>th</sup>, 2018?

3:19PM

5 A. Yes.

6 MS. SCHIFALACQUA: I'd pass the witness,  
7 your Honor.

8 THE COURT: Counsel.

3:20PM

9 MR. BROWER: I have nothing for this  
10 witness, Judge.

11 THE COURT: Mr. Hughes.

12

13 CROSS-EXAMINATION

14 BY MR. HUGHES:

3:20PM

15 Q. Officer, did you author the warrant that  
16 was for the tracker?

17 A. Yes, I did.

18 MR. HUGHES: Your Honor, I haven't seen a  
19 copy of that warrant. Could you have the State provide  
20 us a copy with the application for the tracker warrant?

3:20PM

21 THE COURT: Yes. If it's sealed, I'm  
22 going to unseal it now.

23 MS. SCHIFALACQUA: Sure. We don't have it  
24 yet, Judge. As soon as we get it, obviously we'll give  
25 it over to defense.

3:20PM

000247

3:20PM

1 BY MR. HUGHES:

2 Q. Officer, do you feel that you had probable  
3 cause to arrest either of these individuals prior to  
4 applying for that warrant?

3:21PM

5 MS. SCHIFALACQUA: Judge, at this point  
6 I'm going to object as to not only relevance -- we'll  
7 start with relevance.

8 THE COURT: What was the question again?

9 MR. HUGHES: I asked the --

3:21PM

10 THE COURT: If they had probable cause to  
11 arrest?

12 MR. HUGHES: Yes.

13 THE COURT: I'm going to allow that  
14 question. That doesn't have anything to do with  
15 placement.

3:21PM

16 BY MR. HUGHES:

17 Q. Do you remember what the question was?

18 A. Could you repeat the question?

19 Q. Prior to applying for the warrant do you  
20 believe that the department had probable cause to  
21 arrest either of these individuals for the robberies  
22 you were investigating?

3:21PM

23 A. I do not recall.

24 THE COURT: I'm sorry. I didn't hear the  
25 answer.

3:21PM

000248



3:22PM

1

THE WITNESS: I would have to review my notes.

2

3

BY MR. HUGHES:

4

Q. Do you have your notes with you?

3:22PM

5

A. I believe so. I have multiple reports. I just need to see if I have the one that would have that information.

6

7

Q. Would you have the information about whether or not there was cause to arrest these

8

9

3:22PM

individuals prior to the application for the --

10

11

A. Correct.

12

13

Q. Would you review your notes please and take your time.

14

A. Yes, I do.

3:22PM

15

Q. So you believe you had probable cause to arrest these individuals prior to applying for the tracker warrant?

16

17

18

A. Your question was whether or not I had probable cause to arrest either of the individuals and yes, I did.

19

3:22PM

20

21

Q. And were you aware that at least on one of these robberies there was mention of a weapon?

22

23

A. Yes.

24

25

Q. And so who made the decision, if you know, to allow these individuals to enter yet another bank

3:22PM

000249

3:23PM

1 when they may be armed without arresting them first?

2 MR. BROWER: Judge, I'm going to object to  
3 Mr. Hughes' question based on the fact that he's  
4 indicating that the individuals have already entered.

3:23PM

5 Apparently the way I read the question was whether --

6 THE COURT: I'll sustain it as to your  
7 client.

8 MR. BROWER: Thank you, Judge.

9 MR. HUGHES: Let me rephrase it.

3:23PM

10 MS. SCHIFALACQUA: Ask away.

11 MR. HUGHES: I'm going to withdraw that.

12 MS. SCHIFALACQUA: Ask away. Fantastic.

13 MR. HUGHES: No. I withdraw that.

14 Officer, that's all I have.

3:24PM

15 THE COURT: Anything else from the State?

16

17 REDIRECT EXAMINATION

18 BY MS. SCHIFALACQUA:

19 Q. Detective Lippisch, when you talk about

3:24PM

20 having probable cause to arrest, the defense now has

21 opened the door to some of the additional information

22 that you had received prior to getting that tracker

23 warrant. Did some of that information include, since

24 we're talking about your knowledge, in order to have

3:24PM

25 probable cause, did that include latent print analysis

000250

3:24PM

1 that was returned to you?

2 A. Yes, it did.

3 Q. And what latent prints were returned from  
4 some of the robberies, who did they come back as known  
5 prints to?

3:24PM

6 MR. BROWER: Judge, I'm going to object as  
7 hearsay as to the reports that were given to the  
8 officer as far as latent prints.

9 THE COURT: What she's asking is what  
10 she's basing -- the question was brought up -- the door  
11 was opened by the defense. And I'm going to overrule  
12 the objection.

3:24PM

13 THE WITNESS: Yes, I was provided  
14 information that led me to Damien Phillips as the  
15 person that was identified in latent prints.

3:25PM

16 BY MS. SCHIFALACQUA:

17 Q. And was that from one or more than one of  
18 the locations of the robberies prior to the tracker  
19 warrant?

3:25PM

20 A. At this time, prior to the tracker  
21 warrant, it was from one location.

22 MS. SCHIFALACQUA: If I may approach?

23 THE COURT: You may.

24 BY MS. SCHIFALACQUA:

3:25PM

25 Q. We did talk about this Grand Marquis,

000251

3:25PM

1 Detective Lippisch, and I wanted to show you what has  
2 been previously admitted as State's Exhibit 4. Do you  
3 recognize the vehicle depicted in that photograph?

4 A. Yes.

3:25PM

5 Q. And in fact is that a still photo from  
6 video surveillance that you had observed from the  
7 January 31<sup>st</sup> incident?

8 A. From July 31<sup>st</sup>?

9 Q. Excuse me. I said January, I apologize.  
10 I meant the July 31<sup>st</sup> incident.

3:25PM

11 A. Yes.

12 MS. SCHIFALACQUA: Nothing further, your  
13 Honor.

14

3:26PM

15 RECROSS EXAMINATION

16 BY MR. BROWER:

17 Q. Officer, you just testified that latent  
18 prints led you to deem or gave you suspicions as to  
19 Damien Phillips, correct?

3:26PM

20 A. Yes.

21 Q. You're also aware that latent prints can  
22 be left at any time by any person, correct, meaning I  
23 can leave latent prints on this table today and it  
24 doesn't mean that I was there three weeks from now or  
25 three weeks ago, correct?

3:26PM

000252

3:26PM

1 A. I'm not a latent print expert.

2 Q. So you don't know that those latent prints  
3 actually relate to a robbery, correct?

3:26PM

4 A. The process of recovering those latent  
5 prints was to watch the -- or have the video  
6 surveillance which showed specifically where the person  
7 had placed his hands during the course of the robbery.

8 Q. You did not recover the prints, correct?

9 A. I did not.

3:26PM

10 Q. And you don't know that there weren't  
11 other prints that were in that same area that were also  
12 recovered, correct?

13 A. I would have to review the report.

14 Q. I'm more than happy to let you review your  
15 report.

3:27PM

16 A. I don't have that latent print report in  
17 front of me.

18 Q. You've been shown a copy by the State and  
19 follow-up of Exhibit 4; is that correct?

3:27PM

20 A. Yes.

21 Q. When was that photograph taken?

22 A. That's from video which was from the day  
23 of the robbery.

3:28PM

24 Q. Which day of the robbery? We have  
25 multiple robberies that we've been talking about.

000253

3:27PM

1 A. That would have been July 31<sup>st</sup>.

2 Q. Do you know if the vehicle had any damage  
3 to the front end on July 31<sup>st</sup>?

3:27PM

4 A. I do not recall. I'd have to examine  
5 photos more.

6 Q. When you had a tracker put on the car, did  
7 you take any photos of the car to show what it looked  
8 like?

9 A. I did not, no.

3:27PM

10 Q. Do you know if any photos were taken of  
11 the car to show what it looked like?

12 A. I don't recall.

13 Q. Are you aware of any accidents the car was  
14 in after you placed the tracker on it?

3:27PM

15 A. Not that I'm aware of, no.

16 Q. Did you follow all movements of the  
17 vehicle after a tracker was put on?

18 A. By followed you mean electronically or  
19 mobile surveillance?

3:28PM

20 Q. Well, you said the next day you were in  
21 your office and you got an alert that the car was  
22 moving.

23 A. Yes.

24 Q. Did the car move at any time before that  
25 after the tracker was put on?

3:28PM

1 A. Yes, it did.

2 Q. And where did it go?

3 A. I do recall -- I don't recall the  
4 specifics of where it went.

3:28PM

5 Q. Do you have a report on that?

6 A. There's a report that was filed that has  
7 all the tracks, yes.

8 Q. Did you turn that over to the State?

9 MS. SCHIFALACQUA: And yourself. It's on  
3:28PM 10 one of the CDs that we provided. Yes, they've all  
11 gotten it, Judge. Thank you.12 MR. BROWER: I know of the one, Judge, and  
13 one of the maps that came up. Some of the programs are  
14 specific and they won't be opened by a Mac so I'm gonna  
3:28PM 15 be --16 MS. SCHIFALACQUA: And if not, we will  
17 provide what is appropriate. Obviously there's certain  
18 things with trackers that we can provide and there  
19 might be some that are not. But with regard to the  
3:29PM 20 movements obviously we will provide those.21 MR. BROWER: Judge, I was not making any  
22 comments about impropriety. I was just asking if he  
23 had turned it over so I can follow up with whoever at  
24 that point in time.

3:29PM

25 THE COURT: Okay.

000255

3:29PM

1 BY MR. BROWER:

2 Q. Does your office as a policy document the  
3 way a car looked before you put a tracker on it so that  
4 you can verify you did not damage the vehicle?

3:29PM

5 A. I would have to review policy.

6 Q. Do you place trackers on vehicle?

7 A. I do not.

8 Q. Do you know if vehicles are damaged when  
9 the tracker is put on?

3:29PM

10 A. From my experience the ones that I have  
11 been involved in when trackers have been placed, they  
12 have not been damaged.

13 Q. But you're not aware of any policies that  
14 are in place to document where you put a tracker so  
15 that you know that the police department didn't damage  
16 the vehicle?

3:29PM

17 A. I would have to review our policies.

18 Q. So you're not aware of any as we sit here,  
19 correct?

3:30PM

20 A. Correct.

21 MR. BROWER: I have no further questions,  
22 Judge.

23 MR. HUGHES: Nothing.

24 MS. SCHIFALACQUA: No further questions.

3:30PM

25 THE COURT: Thank you. You are excused.

000256



SUNNY STAY COURTNER  
TRIAL TESTIMONY

1 And the State may call its next witness.

2 MR. SCOW: Yes. Sunny Shay Cortner.

3 **SUNNY SHAY CORTNER**

4 [having been called as a witness and being first duly sworn,  
5 testified as follows:]

6 THE CLERK: Thank you. Please have a seat. State  
7 and spell both your first and last name for the record.

8 THE WITNESS: Sunny Shay Cortner. S-u-n-n-y,  
9 S-h-a-y, C-o-r-t-n-e-r.

10 THE COURT: All right. Thank you. Mr. Scow.

11 MR. SCOW: Thank you.

12 **DIRECT EXAMINATION**

13 BY MR. SCOW:

14 Q How are you currently employed?

15 A Full-time universal banker.

16 Q With which bank?

17 A US Bank.

18 Q How long have you worked for US Bank?

19 A Since May 23rd of 2017.

20 Q And is that the total time that you've worked in the  
21 banking industry?

22 A Yes.

23 Q And in August of 2018, earlier this year, were you  
24 working at the US Bank branch at 55 South Valle Verde Drive?

25 A Yes.

JD Reporting, Inc.

1 Q That's in Henderson, Clark County, Nevada?

2 A Yes.

3 Q Are you still working at that branch?

4 A I recently got transferred over.

5 Q I'm going to show you what's been marked as State's  
6 Exhibit 62. Do you recognize this?

7 A Yes.

8 Q What is it?

9 A A branch inside the Smith's.

10 Q And as was pointed out discreetly by the defense  
11 attorney last witness, is this label correct?

12 A Yes.

13 Q Okay. It's at this location, but is this the  
14 Smith's?

15 A Yes.

16 Q Okay. And if you go in the entrance to the Smith's,  
17 which way do you go to get to the US Bank branch that was  
18 there?

19 A On the right-hand side.

20 Q Okay. It's been a little while since you've been --

21 A Yeah.

22 Q -- been in that branch?

23 A Yeah. It's been a couple months.

24 Q Okay. So when you enter, you go to the right, and  
25 the US Bank branch is up towards the top?

1           A     The left side.

2           Q     What was the day like, August 6th, as far as  
3 customers and work wise?

4           A     It was a pretty steady day until two males came up to  
5 both mine and my coworker's branch area and passed us a note.

6           Q     Okay. And was that shortly before 2:00 p.m.?

7           A     Yes.

8           Q     So two males approach your branch. And you said you  
9 and Meghan were both working at that time?

10          A     Yes.

11          Q     Was anybody else there?

12          A     There was. She was in the office.

13          Q     Okay. So where you're located, those were the teller  
14 station areas?

15          A     Yes.

16          Q     So what happened when the two individuals approached?

17          A     They both went to -- each one of them went to both of  
18 our windows, passed -- well, they didn't give us the note, but  
19 they wrote a note. I'm not sure what it says.

20                But they were speaking to us, saying that they need  
21 everything that we have. So I started handing them everything  
22 that I had with my guy. And then once I gave him everything,  
23 he said this isn't enough. And then I said I don't have any  
24 more. So I showed him my top drawer which has only coins on  
25 it. He said he doesn't want that, so I showed him my bottom

1 drawer and he -- before he left, he says, Don't say anything or  
2 move or do anything or else I'll shoot you. And then they  
3 left.

4 Q The one that was in front of you, when he showed you  
5 the note, you said you couldn't read it?

6 A Yeah, it was upside down.

7 Q Did he say anything other than, Give me the money, at  
8 the time he showed you the note?

9 A I'm like -- I can't recall right now.

10 Q Okay. So holds up a note, says, Give me all your  
11 money, and so you proceed to do that upon request?

12 A Right. And then he said, If you guys say anything,  
13 I'll shoot you. If you move or do anything, I'll shoot you.

14 Q And he said that right before leaving?

15 A Yes.

16 Q After you showed that your second drawer was empty?

17 A Yes.

18 Q Did you -- describe the two individuals that  
19 approached yours and Meghan's teller stations.

20 A I didn't really take a look at Meghan's guy, but I do  
21 know they're both black males around, I want to say, like,  
22 5-6 to 5-8. They're pretty skinny. Around, I want to say,  
23 about 130, 150, around there.

24 Q Okay.

25 A Yeah.

1 Q And the police were called out and they came to your  
2 branch; is that right?

3 A Yes.

4 Q Did they take statements from you?

5 A They did.

6 Q And did somebody come and take pictures of that area  
7 of the bank?

8 A Yes.

9 Q And at some point after that, did -- was an  
10 accounting done of your drawer to see how much money was taken?

11 A There was.

12 Q I'm showing you what's been marked as State's  
13 Proposed Exhibit 369. Do you recognize this?

14 A Yes.

15 Q What is this?

16 A A balance sheet. We balance after -- at the end of  
17 the night.

18 Q Is that something that's done every day?

19 A Yes.

20 Q And on this particular day, it showed a shortage?

21 A Of fourteen thirty-nine, of 1,439.

22 Q And that's how much you gave, that --

23 A Yes.

24 Q -- you were robbed at that time?

25 A Yes.

1 Q Is your signature on there?

2 A It's right here.

3 Q On the right?

4 A Yes.

5 Q And Meghan had signed it first, but then it was  
6 crossed out?

7 A Yeah, we got mixed up, uh-huh.

8 MR. SCOW: Move for admission of State's 369.

9 MR. BROWER: Submitted, Judge.

10 THE COURT: All right. 369 is admitted.

11 (State's Exhibit Number 369 admitted)

12 MR. SCOW: I'm showing it now to the jury.

13 BY MR. SCOW:

14 Q This is the area you just indicated that Meghan's  
15 signature was scratched out; is that right?

16 A Yes.

17 Q Okay. And this was showing the shortage or the  
18 amount that was taken in the robbery?

19 A Yes.

20 Q I'm going to show you now portions of Exhibit 59.  
21 Just have you tell us what you recognize as it plays, okay.

22 First of all, who do you see there inside that --  
23 your branch, (indiscernible) store branch?

24 A Myself and Meghan Zitzmann.

25 Q And which one are you?

- 1           A    I am on the right-hand side, towards the sitdown.
- 2           Q    You're standing here?
- 3           A    Yes.
- 4           Q    And there's a mouse there if you want to --
- 5           A    Oh, okay.
- 6           Q    -- use it. You can move the cursor as well.
- 7                So what do we see here?
- 8           A    They're giving us a note right here.
- 9           Q    Okay.
- 10          A    Or showing us a note, shall I say.
- 11          Q    And this is the two individuals that approached?
- 12          A    Yes.
- 13          Q    You'd said you didn't really pay much attention to
- 14 the one in front of Meghan?
- 15          A    Yeah.
- 16          Q    But that's the one in front of you showing the note
- 17 at that time?
- 18          A    Yes.
- 19          Q    And what are you doing now?
- 20          A    Giving him everything that we have inside our
- 21 drawers. Showing him that I only have coins and that I have no
- 22 more cash.
- 23          Q    Did you push an alarm at that time?
- 24          A    I did, yes.
- 25          Q    And what did you do after that?



1 A I tell her to call 911. I close down the branch.

2 Q Was that you that pushed the (indiscernible)?

3 A Yes. And there's somebody inside the office that I  
4 inform that we just got robbed.

5 Q What's her name?

6 A Elizabeth Santiago.

7 Q Was part of those procedures to turn off the lights  
8 and --

9 A Yes.

10 Q -- that you're shutting down the branch?

11 A Uh-huh, yes.

12 MR. SCOW: I pass the witness, Judge.

13 THE COURT: Mr. Brower?

14 CROSS-EXAMINATION

15 BY MR. BROWER:

16 Q Ma'am, you just -- sorry. I need to get my  
17 microphone. You just watched that video; correct?

18 A Yes.

19 Q Do you recall giving a statement to the police at the  
20 time this event occurred?

21 A Yes.

22 Q And do you recall telling the police that the  
23 individuals that were with you, you thought one of them was  
24 wearing a maroon shirt?

25 A I thought my individual was wearing a white shirt.

JD Reporting, Inc.

1 Q Okay. But do you recall saying that -- I want to say  
2 that one was wearing a -- well, a reddish or maroon shirt?

3 MR. BROWER: May I approach the witness?

4 THE COURT: Sure.

5 BY MR. BROWER:

6 Q I'm just going to ask you to look at a transcript of  
7 a statement. You don't have to read it out loud. I just want  
8 you to look at it and see if what was printed there is  
9 something you recall saying.

10 A I do recall.

11 Q Okay. So do you recall saying somebody was wearing a  
12 reddish or maroon shirt?

13 A Yes.

14 Q Is that -- did you make that statement because you  
15 heard somebody else say they were wearing a red or maroon shirt  
16 or because that's what you believed that --

17 A That's what I -- I -- yeah, I assumed.

18 Q Okay. You never saw a weapon though; correct?

19 A No.

20 Q And you never changed that aspect of your testimony;  
21 correct?

22 A No.

23 MR. BROWER: Judge, I'm going to pass the witness.

24 THE COURT: All right. Mr. Hughes.

25 / / /

1 CROSS-EXAMINATION

2 BY MR. HUGHES:

3 Q Ma'am, do you remember whether the individuals who  
4 allegedly robbed you that day had any tattoos?

5 A Yes. I do recall seeing some on one of their faces.  
6 I don't remember what's on there, but I do remember seeing  
7 that.

8 Q Do you remember any facial piercings?

9 A I don't.

10 Q Do you remember giving a statement to the police that  
11 very same day?

12 A Yes.

13 Q I'm going to show you page 6 of that statement, lines  
14 9 and 10, and ask you to read that to yourself. Let me know  
15 when you're done.

16 A Okay.

17 Q I'd ask you again, did you tell the police that you  
18 saw any tattoos on either of the individuals that day?

19 A No -- yes, I did not see any.

20 Q So you told the police no, there were no tattoos?

21 A Yes.

22 Q And now you say there is tattoos?

23 A Yes.

24 Q Did you see the video that we just watched anytime  
25 prior to today?

JD Reporting, Inc.

- 1 A Yes.
- 2 Q When did you see it?
- 3 A A couple weeks ago, a couple days ago.
- 4 Q And where were you -- where did you see it?
- 5 A In the branch.
- 6 Q And were you shown any photo array of possible
- 7 suspects by the police?
- 8 A Yes.
- 9 Q You were? When would that have been?
- 10 A Well, not the police.
- 11 Q Oh. By whom?
- 12 A I can't recall but I remember seeing a photo.
- 13 Q A photo?
- 14 A Seeing the photos.
- 15 Q Tell me about the photos. Was there one photo?
- 16 A There was two, if I remember correctly.
- 17 Q And who showed you these photos?
- 18 A I can't -- I don't -- I don't remember.
- 19 Q Well, let's see if we can narrow it down. Was it mom
- 20 or dad?
- 21 A No.
- 22 Q Was it somebody you worked with?
- 23 A Possibly.
- 24 Q Did this come up in casual conversation or --
- 25 A No.

1 Q -- was there a meeting for you to look at these  
2 photos?

3 A A meeting. I remember that part.

4 Q You don't remember where the meeting was at?

5 A No.

6 Q Do you remember how many people were there?

7 A Most likely just me.

8 Q And whoever provided you with the photos?

9 A Yes.

10 Q But you can't remember who showed you the photos?

11 A (No audible response.)

12 Q And how long ago did this happen?

13 A A couple weeks ago probably.

14 Q And while you saw these photos, did they say anything  
15 to you about who the photos were of?

16 A They just showed us -- there was a picture of our  
17 branch?

18 Q They showed us. Was there somebody else with you  
19 that they showed it to?

20 A I meant myself.

21 Q There was a picture of your branch.

22 A And the robbery happening and then the close-up.

23 Q So the photos were a close-up of the video that we  
24 saw?

25 A Yeah. There's a camera right in front at the stand.

JD Reporting, Inc.

1 Q Was that the first time you ever saw the --

2 A Yes.

3 Q -- the close-up? However, the day that this  
4 supposedly happened, the man who robbed you was standing  
5 directly in front of you?

6 A Yes.

7 Q And you didn't see the photos that day?

8 A No, no.

9 Q But you say you saw some tattoos in the photos you  
10 were shown a few weeks ago; is --

11 A Yes.

12 Q -- that true? But you don't remember who showed you  
13 the photos or where it was?

14 A No.

15 Q Okay.

16 MR. HUGHES: All right. Thank you.

17 THE COURT: Any redirect?

18 MR. SCOW: Yes, Judge.

19 REDIRECT EXAMINATION

20 BY MR. SCOW:

21 Q So a couple weeks ago, Barbara and I met with you at  
22 your new branch location; is that right?

23 A Yes.

24 Q Okay. And we went over -- talked to you about what  
25 happened to you August 6th at the South Valle Verde location;

1 right?

2 A Yes.

3 Q And you reviewed surveillance video at that time; is  
4 that right?

5 A Yes.

6 Q We didn't show any pictures when we met with you;  
7 right?

8 A Yes.

9 THE COURT: Is that the meeting that you were telling  
10 Mr. Hughes about?

11 THE WITNESS: Yes.

12 THE COURT: Or is there some other different meeting  
13 that wasn't at your bank with Mr. Scow over here and  
14 Ms. Schifalacqua? Was that the meeting?

15 THE WITNESS: (Indiscernible.)

16 THE COURT: The meeting you just told Mr. Scow about,  
17 is that the same meeting that you were telling Mr. Hughes  
18 about?

19 THE WITNESS: No, I don't remember seeing a video  
20 that day, that couple of weeks. I don't remember seeing any  
21 pictures.

22 THE COURT: Okay. But is it one meeting or is it  
23 more than one meeting?

24 THE WITNESS: I actually may be talking about when --  
25 the last court date.

1 THE COURT: Okay. So you had two meetings?

2 THE WITNESS: Yes.

3 THE COURT: Okay.

4 MR. SCOW: So I'm just going to clarify that.

5 BY MR. SCOW:

6 Q So you met with us a couple weeks ago. Did you meet  
7 with anyone else about this case outside of court?

8 A No.

9 Q Other than when we met with you in the branch at the  
10 separate location?

11 A No.

12 Q Okay. But you came to court and testified back in  
13 October; is that right?

14 A Yes.

15 Q Is that the time that you remember seeing some photos  
16 or images?

17 A Yes.

18 Q Okay. Is that what you're talking about --

19 A Yes.

20 Q -- that you were asked about by Mr. Hughes?

21 A Yes.

22 Q That you saw what you think were two photos of what  
23 happened at your branch?

24 A Yes.

25 MR. SCOW: And just for the record, Judge, the clerk



1 is handing me exhibits from the preliminary hearing from  
2 October 4th and October 10th.

3 THE COURT: All right.

4 MR. SCOW: If Mr. Brower and Mr. Hughes want to  
5 confirm that, they should.

6 MR. BROWER: Judge, may I approach Mr. Scow?

7 THE COURT: Sure.

8 MR. SCOW: And just for the record, the clerk just  
9 tore the do-not-tamper tape on that exhibit envelope.

10 THE CLERK: Mr. Scow, it's 10 and 11.

11 MR. BROWER: And I witnessed that tearing as well.

12 THE COURT: All right. So it's been unsealed in open  
13 court.

14 THE CLERK: Exhibits 10 and 11.

15 MR. SCOW: I'm just saying everything for the record  
16 just so it's clear what's happening. I'm just taking off the  
17 staple because all of the images admitted at the preliminary  
18 hearing are stapled together.

19 Approaching the witness. I now have what's marked as  
20 next in line as well. What's the next --

21 THE CLERK: 391 and 392.

22 BY MR. SCOW:

23 Q I'm showing you what will be marked as State's 391  
24 and 392. Do you recognize these?

25 A Yes.

JD Reporting, Inc.

1 Q What are they?

2 A The day we got robbed, the two black males that came  
3 up to our teller window.

4 Q And these are still images or photos of that?

5 A Yes.

6 Q And this is from the surveillance video?

7 A Yes.

8 Q Are these the images that you were referring to that  
9 you were shown previously?

10 A Yes. I think there was a close-up, if I remember.

11 Q Okay.

12 MR. SCOW: Move for admission of these two.

13 MR. BROWER: I'll submit it, Judge.

14 MR. HUGHES: Submitted.

15 THE COURT: All right. Those will be admitted.

16 (State's Exhibit Number 391-392 admitted)

17 MR. SCOW: I'm displaying both as well. This is --  
18 it's 390 and 391?

19 THE CLERK: 391 and 392.

20 BY MR. SCOW:

21 Q Okay. This is 392. It's one of the further back  
22 shots; is that right?

23 A Yes.

24 Q And 391. So, again, the far back shot with the note  
25 being held?

1 A Yes.

2 Q Now I'm going to show you portions of the actual  
3 video and let me know if you see anything on here as being one  
4 of the other images that you saw. Okay?

5 A Okay.

6 Q And as this is coming up, the image -- the close-up  
7 image that you saw, was it of the individual that approached  
8 you or that approached Meghan?

9 A That approached me.

10 Q Okay.

11 MR. BROWER: Judge, I apologize. Just for note  
12 keeping, what video is he playing? Do we know?

13 THE COURT: What exhibit is this?

14 MR. SCOW: Exhibit 59.

15 MR. BROWER: Thank you.

16 MR. SCOW: And this is labeled, within that disk,  
17 Clip 2, right teller.

18 MR. BROWER: Thank you.

19 THE WITNESS: That was the close-up I was talking  
20 about.

21 BY MR. SCOW:

22 Q Okay. I was just trying to get to the beginning of  
23 that.

24 But what we're seeing there, that was a close-up  
25 image of what you had seen?

1 A Yes.

2 Q All right. Was it something like this?

3 A Yes.

4 Q It was from this surveillance video?

5 A Yes.

6 Q And the camera that's picking up this -- these  
7 images, where is that located in reference to where you were  
8 standing?

9 A On top of the counter where he was at. It's a little  
10 bit higher.

11 Q So it sits on top of the counter?

12 A Yes.

13 Q And is this something -- was this the image that  
14 you're talking about that you had seen a tattoo or something  
15 like that?

16 A No.

17 Q Okay. So in the questions by Mr. Hughes, I was --  
18 from what I heard, I thought he was asking about where you had  
19 seen a possible tattoo.

20 A It was -- I probably -- probably didn't even see it.

21 Q So is that something -- I just want to make sure it's  
22 clear. Do you remember seeing a tattoo on that day when you  
23 were robbed on August 6th?

24 A No.

25 Q And when you were asked by the police whether you saw

ALEX ORELLANA

TRIAL TESTIMONY

1 my understanding?

2 A There's other people in there that could have picked  
3 up the phone.

4 Q And I understand that.

5 MR. HUGHES: Okay. Thank you very much.

6 THE WITNESS: But I didn't pick it up myself.

7 MR. HUGHES: Okay. That's all I have. Thank you.

8 THE COURT: Any redirect?

9 MS. SCHIFALACQUA: No, Your Honor.

10 THE COURT: Any juror questions for this witness?

11 All right. I see no additional questions. Thank you for your  
12 testimony. Please don't discuss your testimony with any other  
13 witnesses in this case.

14 THE WITNESS: Okay.

15 THE COURT: Thank you. You are excused.

16 And, State, you may call your next witness.

17 MR. SCOW: Thank you, Judge. Alex Orellana.

18 ALEX ORELLANA

19 [having been called as a witness and being first duly sworn,  
20 testified as follows:]

21 THE CLERK: Thank you. Please have a seat. State  
22 and spell your first and your last name for the record.

23 THE WITNESS: Alex Orellana. O-R-E-L-L-A-N-A.

24 THE CLERK: And it's A-L-E-X?

25 THE WITNESS: Yeah.

1 THE CLERK: Thank you.

2 THE COURT: You may proceed.

3 MR. SCOW: Thank you, Judge.

4 DIRECT EXAMINATION

5 BY MR. SCOW:

6 Q How are you currently employed?

7 A My occupation?

8 Q Yes.

9 A Universal banker.

10 Q Where do you work?

11 A I work at U.S. Bank.

12 Q How long have you been in the banking industry?

13 A About three years, going on four.

14 Q I'm going to direct your attention back to July  
15 23rd, 2018. Were you working as a universal banker at that  
16 time?

17 A Correct.

18 Q At what location?

19 A At the Anthem location off of Eastern and Horizon  
20 Ridge.

21 Q Okay. And is the address for that location 10565  
22 Eastern Avenue?

23 A Correct.

24 Q And that's in Henderson, Clark County, Nevada?

25 A Correct.

1 Q At about 10:00 a.m., shortly before 10:00 a.m., what  
2 was going on inside the bank?

3 A There was a lot of activity going on, customers, the  
4 daily kind of thing, which is customers coming in, making  
5 deposits, customers wanting to open accounts, so on and so on;  
6 just an every day kind of, you know, workday.

7 Q Okay. And as we are going through your discussion  
8 of the bank, your location and what happened there, do you see  
9 that Anthem branch on this photograph?

10 A Correct.

11 Q Okay.

12 MR. SCOW: And actually I showed it prematurely.  
13 I'd move for admission of State's Proposed 28.

14 MR. BROWER: Submitted, Judge.

15 MR. HUGHES: Submitted.

16 THE COURT: All right.

17 MR. SCOW: It's admitted?

18 THE COURT: It's admitted.

19 MR. SCOW: Thank you.

20 [State's Exhibit 28 admitted]

21 BY MR. SCOW:

22 Q So that's the branch down in the right-hand corner?

23 A Correct.

24 Q And then the cross streets, Eastern is on the  
25 northeast side and what's on the other close cross street?



1           A     Horizon Ridge.

2           Q     Okay. And there's a couple of business to the left  
3 here, Seafood City and At Home?

4           A     Correct.

5           Q     So your branch was -- there were customers inside  
6 the bank. You said it was a fairly busy morning?

7           A     Correct. Uh-huh.

8           Q     What did you notice? What happened as that morning  
9 unfolded at about 10:00 a.m.?

10          A     Like I said, it just, you know, started off. I was  
11 actually with a customer at my desk, which is located right  
12 by the door. There's four desks and one of them is facing  
13 straight to the door. And I was sitting there with a customer  
14 just talking to him and, you know, getting to know the  
15 customer, doing my job, essentially just getting to know him  
16 and he wanted to open a checking account. And there was, like  
17 I said, there was two customers that were in front of -- you  
18 know, that were waiting in line, you know, just waiting to do  
19 their business and there were two tellers that were doing the  
20 transactions, which was deposits and whatever the customer  
21 pleaded, you know, needed to do. While I was opening the  
22 account --

23          Q     Let me interrupt just to kind of break things up a  
24 little bit. Your desk that you were at, that's near the front  
25 door of the bank branch?

1           A     Well, it's kind of weirdly shaped. There's a desk  
2 right by the door and then there's two desks -- there's four  
3 desks on one of the whole wall side. And my desk is pretty  
4 much in-between in the middle, so I get a perfect view of the  
5 whole entire lobby. I see the actual -- the center console  
6 and I see the door, so I see the whole entire thing.

7           Q     And just to help orient the jury and everyone else  
8 as we talk about these things, I'm showing you three proposed  
9 exhibits, 29, 32 and 33. Just look at these and let me know  
10 if you recognize them.

11          A     I do. Yes. Yeah, I do.

12          Q     Do each of these, 29, 32 and 33, do they accurately  
13 depict your bank branch at that Paseo -- or the Eastern  
14 location?

15          A     Correct.

16                MR. SCOW: Move for admission of these proposed  
17 exhibits.

18                MR. BROWER: Submitted.

19                MR. HUGHES: Submitted.

20                THE COURT: All right. Those will all be admitted.

21                [State's Exhibits 29, 32 and 33 admitted]

22 BY MR. SCOW:

23          Q     Showing you first 29, is that the exterior of that  
24 bank branch?

25          A     Correct.

1 Q Does it show the front door?  
2 A Yeah. It would be by these pillars right here.  
3 Q Okay. And that mouse that's in front of you --  
4 A Oh, okay.  
5 Q -- you can use that and the cursor will go where  
6 you're --  
7 A Right there.  
8 Q Okay. Now showing 32, let us know what we're  
9 looking at in this one.  
10 A This is our whole entire lobby. My desk is right  
11 here. Oh, this is -- right here. This is the closest desk  
12 but my desk is right here.  
13 Q Okay. And is that viewpoint from at or near the  
14 front door?  
15 A Pointed at the door. So I can see this whole entire  
16 lobby right here.  
17 Q Okay. And then 33, what is this showing?  
18 A This is just showing the picture from the door's  
19 aspect. So when you walk in through the door, this is the  
20 first thing you see, which is the chairs, the teller desk and  
21 the actual console right here.  
22 Q Okay. So what's at the end of that picture, those  
23 are the teller desks?  
24 A Correct.  
25 Q And that console, is that like an island, a check-

1 writing island or counter?  
2 A Correct. Uh-huh.  
3 Q And that check-writing counter you can see also in  
4 Number 32?  
5 A Yeah. I can see it right there. My desk is right  
6 here. I can see that and I can see everything else from here.  
7 Q So from your -- like you said, from your desk you  
8 have a good vantage point of the bank?  
9 A Correct.  
10 Q Okay. Let's go back to July 23rd. As you're there  
11 you were helping a customer. Is it kind of routine for you  
12 as people come in you're kind of watching to see who comes in?  
13 A All the time.  
14 Q All the time?  
15 A Yeah.  
16 Q Pretty much everybody that comes in?  
17 A Correct. Uh-huh.  
18 Q Is that -- is there training for that or is that  
19 just your --  
20 A Yeah, I was -- so technically I used to be a  
21 security guard, so I kind of know about this stuff. So I  
22 just, you know, was always looking out and I was always  
23 watching my surroundings and everything. And especially  
24 working at a bank, you know, I just, you know, always kept  
25 an eye out and everything. I always wanted to make sure,

1 you know, everything seemed in place and everything seemed  
2 [unintelligible], so I just kept my eye out.

3 Q And this back area here where your desk -- does my  
4 hand show it --

5 A Yeah.

6 Q -- this back area here, is there somebody else that  
7 sits at one of those desks as well next to you?

8 A Correct. Uh-huh. My co-worker banker, which is  
9 Matthew, he works on this area here.

10 Q Is that Matthew Pedroza?

11 A Correct.

12 Q All right. So as you're helping customers, watching  
13 people come in, what do you observe?

14 A On this instance, like I said, I was with a customer  
15 and then I was noticing that there was two customers that were  
16 waiting in line, patiently waiting. Then after that I noticed  
17 that, you know, two customers came in that actually didn't  
18 fit the picture, what it was, actually. I noticed that my --  
19 call it intuition or not, but my red flags, you know, woke up.  
20 It was just, you know, I just noticed something really odd  
21 about it.

22 When they first walked in I noticed that and then  
23 I sent a message to my, you know, my -- because they were  
24 sitting -- they were waiting in line but at the same time it  
25 just didn't seem very -- what's the right word -- they just

1 didn't fit to the scene. Typically the customers that we get  
2 on a day-to-day basis in that branch is mostly retired people  
3 or people that have -- you know, that they're working hard  
4 and just coming in to cash their checks on their lunch time  
5 or people going to work or people in their gym shorts. When  
6 I saw the -- when I saw the, well, the accusers (sic) come  
7 into the branch, I saw them come in and they were -- they  
8 stuck out to me just from the fact nobody really dresses up  
9 that way in our branch.

10           So right away I messaged my manager. We have a  
11 little messaging system that we -- all bankers, you know,  
12 and all tellers communicate. And I said, hey, heads up,  
13 you know, heads up -- you know, just heads up, I'm with a  
14 customer. So she got up --

15           Q     Let me just pause you right there.

16           A     Yeah.

17           Q     I just kind of want to clear up some things that  
18 you talked about. First -- and you described how they didn't  
19 fit the picture based on clothing.

20           A     Correct.

21           Q     And then age, also. You said a lot of retirees  
22 bank there --

23           A     Correct.

24           Q     -- and they didn't seem like retirees?

25           A     Uh-uh. Not whatever.

1 Q And then you sent a message to your manager,  
2 Chelsey, to say, hey, just my intuition, heads up?  
3 A Correct. Uh-huh.  
4 Q Okay. You also said something about -- I think you  
5 said the word accusers. Do you see the individuals in the  
6 courtroom today that went into your branch?  
7 A I do, actually.  
8 Q Can you point to them and describe what they're  
9 wearing in court today?  
10 A One of them is wearing khaki pants and one of them  
11 is wearing a grey shirt and one of them is wearing a button-up  
12 purple shirt.  
13 MR. SCOW: Your Honor, can the record reflect  
14 identification of the defendants?  
15 THE COURT: It will.  
16 BY MR. SCOW:  
17 Q So those are the individuals you saw that went into  
18 the branch and were waiting in the line?  
19 A Correct.  
20 Q Where does the line form?  
21 A The line -- can I use this?  
22 Q Yeah, use the mouse. It will kind of --  
23 A So the line forms right here. We have a little pole  
24 that stands right about here that says please wait while a  
25 teller reaches to you. It's just a little wait sign, pretty

1 much. And the line forms from here all the way back here.  
2 Q And that's next -- is it fair to say it's right next  
3 to that check-writing counter?  
4 A Correct. So literally just maybe right here, like  
5 around this area right here.  
6 Q Okay. And after you sent a message to Chelsey, what  
7 happened?  
8 A My manager got up and -- well, she sent a message to  
9 my other banker as well, which was Matthew Pedroza, which he  
10 sits right here. Sends another message --  
11 MR. BROWER: Judge, I'm going to object to what  
12 somebody else sent. Calls for speculation.  
13 THE COURT: Unless you saw her send.  
14 THE WITNESS: Oh, well, she --  
15 THE COURT: She told you later?  
16 THE WITNESS: Yeah.  
17 THE COURT: All right.  
18 THE WITNESS: Well, I mean, I saw him get up first.  
19 When I sent her the message, he got up first, which I'm  
20 assuming he --  
21 MR. BROWER: Judge, calls for --  
22 THE COURT: Lay a foundation how he knows about the  
23 message.  
24 BY MR. SCOW:  
25 Q So we'll just go through what you observed.



1           A     Okay.

2           Q     If you don't see or hear anything, we don't want  
3 you to kind of guess as to what's happening. Just say what  
4 you saw.

5           A     Okay.

6           Q     Okay.

7           A     And then --

8           Q     That's okay. So after you sent a message to Chelsey,  
9 what happened? What do you see?

10          A     I see my banker get up and go greet the customers.  
11 At this time the other two -- the other two customers that  
12 were ahead of them, they actually went to the tellers, each  
13 in one of them, which was located at each corner. They were  
14 helping them out and they were standing right here. My  
15 banker, Matthew, goes up to them and, you know, introduces  
16 himself. It's more of a technique that we have in U.S. Bank  
17 where, you know, just to deter -- you know, just to deter the  
18 actual -- you know, the accuser (sic) that's coming in or, you  
19 know, a robber or anybody that comes in to actually -- you  
20 know, just to prevent that from happening or just to see, oh,  
21 they're all alert.

22                So he goes up there and he introduces himself as  
23 Matthew, shakes his hand and everything. And I heard him even  
24 offer coffee to them, like, hey, you know, there's some free  
25 coffee, you guys can get some coffee if you guys want and

1 everything, and they said they don't need any help. Then  
2 after that he goes and he sits back down and that's when I  
3 go --

4 Q And just to be clear, when you say "he," who's he?

5 A Matthew. Sorry.

6 Q Matthew goes back to sit down?

7 A Uh-huh. Matthew goes back to sit down and then I  
8 see my manager get up. And at this time she goes back into  
9 the back counter and then that's when it was their turn to  
10 go up.

11 Q Let me pause you again. If you want to use the  
12 mouse to like direct where things are occurring, that's fine.

13 A Oh.

14 Q Just show us where Chelsey was when she got up.

15 A When she -- well, she sits right here, and then she  
16 got up and she came all the way back here to this location  
17 right here.

18 Q Okay. Is there a door to get to that back location  
19 or can you just walk back behind --

20 A Correct. It's right here. The door is right here  
21 and then there's another back door here, so there's two doors.  
22 There's a little small ledge and then there's another door  
23 that you actually need a key to get in.

24 Q Okay. So the first one, is that like a swinging  
25 door that you kind of push or pull to go through?

1           A     Correct. It's a little lock mechanism. You just  
2 unlatch it and then just walk to. Anybody could do that.  
3           Q     Okay. Then behind that is one with a key to get in?  
4           A     Correct. Uh-huh.  
5           Q     Okay. So you testified that Chelsey went back there  
6 to that door?  
7           A     Correct.  
8           Q     What happened then?  
9           A     After that I kind of lost -- that's when I didn't  
10 really focus on what was going on. I was helping the  
11 customer. And that's when I see my farthest teller -- on the  
12 other image, if you -- on the other image where the teller  
13 line shows.  
14          Q     I'm showing you now 33.  
15          A     Correct. My other teller, what she was looking at  
16 here. That's when I see, you know, the accuser (sic) that  
17 was here first. He walks out and then I see her crying and  
18 walking out and I see them both here just panicking and then  
19 I just see them walking out. And then once I saw that, I kind  
20 of got alerted and I was like, what happened? And my customer  
21 that was in front of me, he kind of noticed that I was acting  
22 really odd and not really focusing on him when I was -- you  
23 know, when I was trying to open this account for him.  
24          Q     So you're focused on what's happening at this  
25 point --

1           A     Correct.

2           Q     -- ignoring your customer?

3           A     Correct. Correct, because I saw my teller, which

4 was right here, just run --

5           Q     Do you know her name, the teller?

6           A     Allyson. Allyson.

7           Q     Sorry, I was talking over you. So the one on the

8 far right side of this image 33 was Allyson?

9           A     Correct. Allyson right here. I see her, you know,

10 just run, like literally run and then hold her hand on her

11 face and run all the way to the back. That's when I kind of

12 lost focus and I was, what's going on exactly, and then, like

13 I said, that's when I saw them both leave out of the branch.

14          Q     So, and then you said that one of the individuals,

15 one of the defendants went to this teller?

16          A     Correct. Uh-huh, which her name is Melanie.

17          Q     Sorry, what was her name?

18          A     Her name is Melanie Terada.

19          Q     Melanie Terada?

20          A     Uh-huh.

21          Q     So just to be clear, though, the two individuals

22 that you pointed out in court today, they're the ones that

23 approached each of those tellers, one on the right, one on

24 the left?

25          A     Correct.

1 Q And after a short interaction they both walked out?  
2 A Correct.  
3 MR. SCOW: And I'm going to publish now, Judge, for  
4 the jury some of Exhibit now 27.  
5 BY MR. SCOW:  
6 Q What do we see here, Alex?  
7 A I see the -- I see a customer and I see the front  
8 door and I see the camera to the actual lobby and then another  
9 one from the door, and then another one pointing at the actual  
10 teller line.  
11 Q Okay. So we'll start at the top left. Is this  
12 showing the teller stations of your branch?  
13 A Correct.  
14 Q The top right is similar to the pictures that we've  
15 been showing. That's the lobby area with the check-writing  
16 counter?  
17 A Correct.  
18 Q The bottom left, is that showing outside the front  
19 door?  
20 A Yes.  
21 Q And then on the bottom right, is that kind of near  
22 the door, the locked door to get back behind the tellers?  
23 A Correct.  
24 Q So as we're -- I'm going to pause it here. The  
25 bottom left, we'll focus on that one first. Do you recognize

1 what's in this image here?

2 A Yeah, I do.

3 Q What do we see?

4 A Well, we see the two accusers (sic) coming into the  
5 branch.

6 Q Okay. So you said the word again, accusers, do you  
7 know what an accuser is?

8 A Well, I mean -- well, I mean, let's just say the  
9 defendants. Sorry.

10 Q That's fine. An accuser is one that accuses someone  
11 of a crime.

12 A Oh, okay.

13 Q So were these the suspects? Is that --

14 A Correct.

15 Q -- kind of the word that you were looking for?

16 A Yes. Sorry.

17 Q So these are the ones that you had seen walking in  
18 the bank?

19 A Correct.

20 Q And these are the defendants you've identified in  
21 court as well?

22 A Correct.

23 Q You were in the lobby where you could see everything  
24 and you saw them in person?

25 A Correct.

1           Q     What you observed that day, did you see them walk in  
2 together?

3           A     I first saw them, if you look at the -- when you get  
4 to this part you see them walking in together, but you see  
5 them breaking up into like they don't know each other kind of  
6 situation where they both single filely -- you know, they --  
7 I don't know if they were talking to each other, but then you  
8 see them single-filely just stand in line and not interact  
9 with one another. And typically whenever you come in together  
10 you're talking to your friend or you're talking to your buddy  
11 or, you know, if you know the person you would come together  
12 kind of situation. But in this instance, you know, they came  
13 in and they single filely stand in line and not even talk to  
14 one another.

15          Q     So is this part of like -- from what you described  
16 before you said you had some flags going off, your own  
17 internal flags. Is that part of what was sending flags off  
18 for you?

19          A     Correct.

20          Q     And is this the area where you first noticed them  
21 then, by that -- in that line?

22          A     Correct. When they first walked in and then I saw  
23 -- well, pretty much in this area right here, yeah.

24          Q     So I was just wondering if you saw them actually  
25 walk in the door together.

1           A     Yeah.  Correct.

2           Q     Okay.

3           A     Uh-huh.

4           Q     I'm going to have this continue on.  And as it goes,

5 just kind of tell us what you observed and what you recognize

6 and who you know.

7           A     Okay.  As I see, like I said, I was sitting in this

8 area right here and I noticed that they were still -- and then

9 Allyson was still with a customer, which was on this end.

10          Q     And if you can speak up a little bit.  You said

11 Allyson was on the right side?

12          A     Correct.  On the far right-hand side right here

13 where my mouse is at.  And this is my banker walking up, you

14 know, greeting them.  And --

15          Q     And that's Matthew?

16          A     Correct.  And then, like I said, he even offered

17 them coffee and everything.  And that's when he walked away.

18          Q     From where your desk is at, can you see the customer

19 leaning back in the chair back where you're at over here?

20          A     Correct.  That's my customer that was there.

21          Q     And you're right on the other side of that customer?

22          A     Correct.

23          Q     So from over there to right here -- I mean, from

24 this camera it's hard to tell distance.  How close is that

25 from where you're seated?



1           A     Maybe at least ten, ten feet. Around -- yeah, ten  
2 feet. Around there pretty -- fairly close, so from like here  
3 to like where you're sitting at.

4           Q     From me to you?

5           A     Correct.

6           MR. SCOW: Marshal, is there an estimate of distance  
7 from the stand to me? Do you have any of those?

8           THE MARSHAL: I don't have --

9           MR. SCOW: No?

10          THE MARSHAL: I would say it's 20, 25 feet.

11          MR. SCOW: I don't know if you have measure -- I  
12 just wondered if you have measurements.

13          THE MARSHAL: No.

14 BY MR. SCOW:

15          Q     Okay. So you approximated ten feet, but somewhere  
16 around between me and you?

17          A     Correct.

18          Q     Now it's playing again and we'll just kind of watch.  
19 Who is that that just came out on the left?

20          A     That's my manager, Chelsey.

21          Q     In the white shirt?

22          A     Correct.

23          Q     This is when I saw them, yeah, just standing. This  
24 is when I kind of took my eyes off. I was trying to focus on  
25 the customer. And right here, this is when I kind of saw her

1 running back. And then -- yeah, this is Allyson leaving and  
2 then this is the defendant leaving. And that's when I got up.  
3 That's when I completely lost focus on what I was doing, which  
4 was opening an account and everything.

5 Q Okay. So after -- you've described what you had  
6 seen and when we reviewed some of the video you kind of walked  
7 us through it again. When they walk out of the branch, out of  
8 the front door, can you see outside? Do you know which  
9 direction they went?

10 A I did not see that part. Like I said, clearly my  
11 focus was at my tellers and, you know, trying to see what just  
12 exactly happened. Like I said, I was just like, is everything  
13 okay, what's going on? So -- uh-huh.

14 Q So just a couple questions. Did you -- were you  
15 ever -- did the police ever show you a lineup or anything like  
16 that to identify potential suspects?

17 A No.

18 Q And as you sit here today, how certain are you that  
19 these two individuals are the two that you saw in the branch  
20 that day?

21 A Very sure.

22 Q Very certain?

23 A Uh-huh.

24 MR. SCOW: Okay. I'll pass the witness, Judge.

25 THE COURT: All right. Mr. Brower, cross?

1 CROSS-EXAMINATION

2 BY MR. BROWER:

3 Q So, Alex, you said today that the typical people  
4 that come in your bank are retirees; correct?

5 A Correct.

6 Q Or people in gym shorts?

7 A Typically around there and hard-working people.

8 Q And so that's what caught your attention to these  
9 individuals, they weren't retirees and they weren't in gym  
10 shorts?

11 A Correct. Well, yeah.

12 Q Well, so didn't you tell the police what caught your  
13 attention is that it's kind of weird for skinny black people  
14 to come into your branch?

15 A Not necessarily. I wouldn't say that.

16 MR. BROWER: Judge, may I approach?

17 THE COURT: You may.

18 BY MR. BROWER:

19 Q I'm just going to ask you to read over that  
20 paragraph, okay?

21 A Which one? The whole thing?

22 THE COURT: Yeah, just read it --

23 MR. BROWER: Yeah, just read it to yourself, not out  
24 loud.

25 THE COURT: I'm sorry. Quietly to yourself.

1 MR. BROWER: Sorry, Judge.  
2 MS. SCHIFALACQUA: Did you have a page, counsel?  
3 I'm sorry.  
4 MR. BROWER: It's his statement. The second page.  
5 MS. SCHIFALACQUA: Right. A specific page, because  
6 he never said that exactly, so I just want to know what you're  
7 directing him to.  
8 MR. BROWER: I'll bring it back to you.  
9 MS. SCHIFALACQUA: Thank you.  
10 BY MR. BROWER:  
11 Q Are you done with that?  
12 A Correct. Okay, I did. Uh-huh.  
13 Q So did you tell the police that it was weird and  
14 what caught your attention was that when skinny black people  
15 come in that's kind of unusual?  
16 A I did.  
17 Q Okay. Is that what you thought?  
18 A At that instance?  
19 Q Sure.  
20 A Yeah. When that came in, when that happened, like  
21 I said, it was just more of the instance when they walked into  
22 the branch.  
23 Q Well, so you said, "Skinny black people, the way  
24 they're dressed, it always picks up my senses. They came in,  
25 it was very sketchy."

1 A Correct.

2 Q Okay. Just because they're black?

3 A No.

4 Q Because they're skinny?

5 A No.

6 Q Okay. That would be skinny and black?

7 A No.

8 Q All right. So when you look around the courtroom

9 today, how many skinny black people do you see in court?

10 A I see two of them.

11 Q Two. So that's the only two you could possibly pick

12 out today; correct?

13 A Well, yeah.

14 Q Did you tell the cops that you saw any tattoos?

15 A No, I did not. I don't think I did.

16 Q Did you tell the cops that you saw sweat?

17 A No.

18 Q No? Actually you weren't able to observe whether

19 people were sweating or not; correct?

20 A Correct.

21 Q Okay. So that didn't catch your attention, whether

22 somebody was hot or sweaty, just that they were skinny and

23 black?

24 A Yeah.

25 Q Okay. And I think you actually told the police the

1 only thing you noticed was their clothing; correct?  
2 A Correct.  
3 Q Okay. So you didn't say anything about facial  
4 features or facial hair?  
5 A No. None whatsoever.  
6 Q Or tattoos --  
7 A Uh-uh.  
8 Q -- or sweat or anything else, just their clothing?  
9 A I might have said the sweat part.  
10 Q Actually I think you said you didn't notice it. I  
11 can show you the page, but.  
12 A Oh.  
13 MR. BROWER: Judge, may I approach?  
14 THE COURT: Yes. You may move freely.  
15 BY MR. BROWER:  
16 Q You can look at that highlighted section. Just  
17 don't read it out loud.  
18 A Okay.  
19 Q So you said that you didn't notice whether anybody  
20 was sweating, you just noticed clothing; correct?  
21 A Correct.  
22 MR. BROWER: Court's indulgence.  
23 BY MR. BROWER:  
24 Q I'm just going to ask one more time, as you look  
25 around the courtroom today there's only two peopl

1 even close the identities that you gave the police; correct?

2 A Correct.

3 MR. BROWER: No further questions, Judge.

4 THE COURT: All right. Mr. Hughes.

5 CROSS-EXAMINATION

6 BY MR. HUGHES:

7 Q Sir, I think you said this, The usual customers in  
8 your bank are either retired people or hard-working people.

9 A Correct.

10 Q And I guess the two black people you saw weren't  
11 old enough to be retired, in your mind, is that right?

12 A Not necessarily.

13 Q They could have been retired?

14 A Well, I mean --

15 Q How old do you think these two people were that you  
16 saw at your bank?

17 A Around -- the defendants, right? Around 20's and  
18 30's. Late thirty-ish or mid-ish.

19 Q Late 30's?

20 A Uh-huh.

21 Q Generally do people retire at that age?

22 A No.

23 Q So did you think that the two people you saw in  
24 front of you couldn't be hard working?

25 A I don't know.

1 Q But you said this was -- your red flag went up  
2 because some people came into your bank that didn't fit the  
3 profile, is that right?  
4 A Correct.  
5 Q And the profile you gave us is retired people and  
6 hard-working people; right?  
7 A Correct.  
8 Q So your red flag going up meant that the people, the  
9 two black people that came into your bank were neither retired  
10 or hard working?  
11 A Correct.  
12 Q So you don't know any hard-working black people?  
13 A I do.  
14 Q What made you think that the two people at your bank  
15 weren't hard working?  
16 A I don't know. You may call it intuition, I guess,  
17 but.  
18 Q Was it -- Do you have a lot of experience with black  
19 people?  
20 A Correct.  
21 Q I'm sorry, it was a question.  
22 A Yeah.  
23 Q Do you have a lot of experience with black people?  
24 A I do. I come back -- I come from Long Beach, so  
25 I'm very familiar with that kind of demographics. I actually



1 went to a school that kind of dealt with that whole entire  
2 demographics, which was Hispanics and, you know, black people  
3 and then, you know, a little mixture of Asians back and forth.  
4 So I kind of know that whole demographics and how it is and  
5 I kind of know when somebody is up to no good kind of  
6 situation. I mean, that's just something that I kind of grew  
7 when I was living there.

8 Q And this is from your experience at high school?

9 A No. This is just being general, just being out in  
10 my day-to-day life. You know, they're going out --

11 Q In Long Beach?

12 A Correct.

13 Q Have you ever had some unhappy experiences with  
14 black people?

15 A Can you elaborate that?

16 Q Well, did you ever have a fight with a black person?

17 A Never.

18 Q Has a black person ever stolen something from you?

19 A Never.

20 Q Has a black person ever lied to authorities about  
21 you?

22 A Never.

23 Q I'm trying to guess at what would be a problem.  
24 Instead of you just saying no, I've never had a problem, you  
25 sort of wanted me to elaborate. So I can keep guessing or

1 you could --

2 MR. SCOW: Obection. Judge, I'm just going to

3 object. It's getting --

4 THE COURT: Well, that's sustained.

5 MR. SCOW: Thank you.

6 THE COURT: Just ask the question. You don't need

7 to preface it or --

8 THE WITNESS: Okay. So, never, okay. Never had an

9 issue with that.

10 BY MR. HUGHES:

11 Q Okay. I believe you said that your banker Matthew

12 approached these two individuals in line, is that right?

13 A Correct.

14 Q And you indicated you heard him, you heard the

15 verbal exchange between Matthew and these people?

16 A Correct.

17 Q Does that mean when I go to my bank and the banker

18 approaches me, they're trying to diffuse a potential

19 situation?

20 A What do you --

21 Q Because this has happened to me before. I'll be in

22 line and somebody will approach me and I'll wonder why. I'm

23 kind of offended now.

24 A Uh-huh.

25 Q It wasn't a question.

1 MS. SCHIFALACQUA: Really, Judge? I mean --

2 THE COURT: I think Mr. Hughes just sustained his  
3 own objection to his question, so.

4 MR. HUGHES: I even withdrew the question and  
5 answer.

6 BY MR. HUGHES:

7 Q What were the two individuals wearing that day in  
8 the bank?

9 A That day? Like I said on my description, like I  
10 said it was --

11 Q Well, I'm asking you right now.

12 A That day they were wearing black Air Force Ones.  
13 They were wearing jeans. One of them was wearing a sweater,  
14 was wearing a track sweater, was wearing a doo-rag as well  
15 and wearing a hat and wearing glasses and a button-up shirt  
16 which was kind of like a flannel kind of style.

17 Q And it's your testimony that from the -- this was  
18 in July of this year, the incident at the bank. You haven't  
19 -- you were not shown any police lineups. Did you have an  
20 opportunity to review any of the bank surveillance?

21 A No.

22 Q So your identification of these two individuals  
23 today is based solely upon the time in the bank five months  
24 ago?

25 A Correct.

ALLYSON SANTAMAURO  
TRIAL TESTIMONY

1 Q Okay. So on Paseo Verde Drive, you remember that.

2 With regard to the details that are sent out, are you  
3 given any information, or do you recall any information -- the  
4 juror asked about a weapon. Is that something you recall, or  
5 do you just remember whether or not a robbery occurred?

6 A Only a robbery occurred.

7 Q Okay. And so is that kind of your focus that you  
8 take note robberies in the area, the location?

9 A Yes.

10 MS. SCHIFALACQUA: Okay. Nothing further, Your  
11 Honor. I pass.

12 THE COURT: Okay. Any follow-up, Mr. Brower?

13 MR. BROWER: No, Judge.

14 THE COURT: Any follow-up, Mr. Hughes?

15 MR. HUGHES: No, Your Honor.

16 THE COURT: Any other juror questions?

17 All right. Ma'am, I see no other questions. Thank  
18 you for your testimony. Please don't discuss your testimony  
19 with anyone else who may be a witness in this case. Thank you  
20 and you are excused, and just follow the bailiff from the  
21 courtroom.

22 And is the State ready to call its next witness?

23 MR. SCOW: Yes, Judge. Allyson Santomauro.

24 **ALLYSON SANTOMAURO**

25 [having been called as a witness and being first duly sworn,

JD Reporting, Inc.

1 testified as follows:]

2 THE CLERK: Thank you. Please have a seat. State  
3 and spell both your first and last name for the record.

4 THE WITNESS: Allyson Santomauro. A-l-l-y-s-o-n,  
5 S-a-n-t-o-m-a-u-r-o.

6 THE COURT: All right. Thank you.

7 Mr. Scow.

8 MR. SCOW: Thank you, Judge.

9 DIRECT EXAMINATION

10 BY MR. SCOW:

11 Q Good morning.

12 A Good morning.

13 Q How are you currently employed?

14 A I'm a teller with U.S. Bank.

15 Q How long have you been a teller?

16 A I've been at Anthem for two years today actually.

17 Q Happy anniversary.

18 A Thank you.

19 Q And then in the banking industry?

20 A I've been in the banking industry for about three and  
21 a half years.

22 Q Okay. I'm going to direct your attention back to  
23 July 23rd, 2018. Were you working at your same branch at  
24 10565 Eastern Avenue in Henderson, Clark County, Nevada?

25 A Yes.

JD Reporting, Inc.

1 Q What are some of your duties as a -- I guess what's  
2 your current assignment or job title?

3 A A teller. So as a teller I have my cash drawer. I  
4 process transactions such as deposits, withdrawals, payments  
5 for customers, and then I have to balance my drawer at the end  
6 of the day every day.

7 Q So when you say your drawer, is there a specific  
8 drawer that you take and put in?

9 A Correct.

10 Q The slot of the cabinet or desk area you said?

11 A Yes.

12 Q And at the end of the day, you take it out and do an  
13 accounting of it?

14 A Yes.

15 Q At about 10:00 a.m. on July 23rd, tell us about the  
16 circumstances. What was happening in the bank at about that  
17 time?

18 A I was -- I was on the teller line. I was assisting  
19 customers, and then I called over my next customer, and at that  
20 point they had showed me a note instructing me to get them all  
21 the money in my drawer.

22 Q Okay. Now, I'm going to show you Exhibit 33. Can  
23 you point -- there's a mouse you can use to -- the cursor will  
24 move around with the mouse. Can you just point where you were.

25 A Right here is my station all the way at the end.

JD Reporting, Inc.

1 Q And that's the one on the very right-hand side of  
2 this photograph?

3 A Yes.

4 Q Describe the individual that approached you at that  
5 teller location.

6 A The individual that approached me, African-American  
7 male. He had a hat on, a white jacket with a red stripe.

8 Q Okay. And you said you had been helping a customer  
9 prior and then called the next person in line.

10 A Yes.

11 Q The one wearing that white jacket with the red  
12 stripe, that was the next person that you called?

13 A Correct.

14 Q And they approached your station?

15 A Yes.

16 Q What happened then?

17 A When he approached my station, he had first went over  
18 to the coffee station. It's hiding behind -- it's behind where  
19 the windows are, but there's a coffee station I guess adjacent  
20 to my station. He went over to the coffee station, but did not  
21 get coffee, then came over, turned around to my station, held  
22 up a note instructing me to give him the money from both  
23 drawers.

24 Q Did you see where the note came from? Where he  
25 pulled it from?

JD Reporting, Inc.



1           A     I believe it came from his pocket, but I do not  
2 recall to be honest.

3           Q     Okay. And then describe the note and the paper that  
4 was on the note as best as you remember.

5           A     I'm not -- again, it was back in July. So I don't  
6 remember word for word what it said. It just said -- it looked  
7 like it was on like a ripped piece of paper, and it said to  
8 give him the money from both drawers. I was -- at the point  
9 that it happened, I was really in shock that it was happening.  
10 So I kind of just skipped, you know, I didn't really read it  
11 word for word. I just was kind of in a panic mode and just did  
12 what I'm trained to do, to give -- just to comply.

13          Q     So as you sit here today, you don't remember exactly  
14 word for word what the note says?

15          A     No.

16          Q     You gave a handwritten statement to the police that  
17 same day; correct?

18          A     I did.

19          Q     And if you wrote in here about what the note says,  
20 would that help refresh your recollection?

21          A     It would.

22          Q     Showing you -- go ahead and read it to yourself, and  
23 then when it's refreshed your recollection, look up at me.

24                 Does that refresh your recollection?

25          A     Yes. Thank you.

JD Reporting, Inc.

1 Q So you know what the note -- you wrote down what the  
2 note said?

3 A Yes.

4 Q On this. What did the note say?

5 A The note said to give him both money from both  
6 drawers, and then at the end it said, No bullshit.

7 Q Okay. Did the first part of it say, This is a  
8 robbery?

9 A Yes.

10 Q Okay. So after you saw the note, the note was  
11 presented to you. Did you take the note from the individual?

12 A No. The individual retained the note and put it in  
13 his pocket.

14 Q Okay. What happened then?

15 A At that point I stepped back from my station. I was  
16 looking for my manager to inform her of what happened. I  
17 noticed she was -- she was at the first teller window right  
18 here with my teller supervisor. Then when I went over to  
19 inform her, then that's when I found out that my teller  
20 supervisor had also been robbed at the same time by a different  
21 individual.

22 Q Okay. And did you notice another individual or even  
23 know if anything else may have been going on?

24 A I did not.

25 Q What's your teller supervisor's name?

JD Reporting, Inc.

1 A Melanie.

2 Q Okay. And the manager?

3 A Chelsey.

4 Q So after you learn about another individual, another  
5 robbery occurring with Melanie, what happened? What did you  
6 do?

7 A I was -- you know, then my kind of emotion started to  
8 kind of kick in. I was still in shock that it had happened  
9 because that was the first time in my, you know, banking  
10 experience that I've been robbed. So I was shocked that it had  
11 actually happened. So I went over to inform my manager. I was  
12 very emotional, and so was my teller supervisor, and she was --  
13 she said me too, me too, that it happened to her too, and we  
14 hugged, and I went over to our break room area just to kind of  
15 sit down and just relax.

16 Q So that's in the back.

17 A Correct.

18 Q Can you kind of indicate with the mouse.

19 A So, well, it's hard to see here, but in this area  
20 there's a door behind this wall right here, and that's where  
21 our break room is.

22 Q So you had gone back there, and that's where you're  
23 kind of --

24 A Yes.

25 Q You said very emotional. Were you crying at that

JD Reporting, Inc.

1 point?

2 A I was.

3 Q At the -- so the police were called. The police  
4 come, and you write a statement and --

5 A Yes.

6 Q -- speak with the police?

7 A Uh-huh.

8 Q And then that's a yes?

9 A Yes. Sorry.

10 Q Yeah. When they record it, uh-huh and huh-uh sound  
11 the same. So --

12 A Gotcha.

13 Q -- yes or no --

14 A Okay. Sorry.

15 Q -- is a little bit better.

16 Was there an accounting done of your drawer from your  
17 teller station on the right?

18 A Yes.

19 Q Showing you what's been marked as State's Proposed  
20 Exhibit 56. Do you recognize this?

21 A I do, yes.

22 Q What is it?

23 A This is my teller balancing sheet. We fill these out  
24 every single day at the end of the day. This in particular one  
25 is the balancing sheet from the robbery.

JD Reporting, Inc.

1 Q Okay. And that indicates the date, your name, and  
2 then your signature is on here as well?

3 A Correct.

4 MR. SCOW: I move to admit State's Proposed 56.

5 MR. BROWER: Submit it, Judge.

6 THE COURT: Submitted?

7 MR. HUGHES: Submitted.

8 THE COURT: All right. That'll be admitted.

9 (State's Exhibit Number 56 admitted)

10 BY MR. SCOW:

11 Q Showing now 56. From the top, zooming in a little  
12 bit, there is the date and then your name. It says 7/4. What  
13 happened on that day?

14 A [No audible response.]

15 Q Is that correct?

16 A Yes.

17 Q Okay. And then there's your signature here?

18 A Yes.

19 Q And what's the amount that was taken during that  
20 robbery?

21 A \$5,775.

22 Q Okay. Is that what's starred and underlined on the  
23 picture?

24 A Yes.

25 Q Or on this document. Okay.

JD Reporting, Inc.

1           Now I'm going to show you portions of the video, and  
2 I'll try and move through it quickly because it's been shown  
3 with other witnesses previously, but I just want to -- want you  
4 to be able to indicate where you and -- so you can indicate  
5 where you were and what you observed.

6           A     Okay.

7           Q     So the jury can understand your perspective here.  
8 And as this is happening, you're assisting a customer; is that  
9 correct?

10          A     Correct.

11          Q     So at this point you see some individuals in line; is  
12 that correct?

13          A     Yes.

14          Q     Is one of the two one of the ones you called over?

15          A     Yes.

16          Q     And is that -- and you recognize that by the  
17 clothing?

18          A     I do, yes.

19          Q     Who's the employee that just walked up to them?

20          A     That's Matthew. He's our personal banker. He had  
21 went up to greet them as he does with most customers when  
22 there's a line to see if there's anything he can help them  
23 with.

24          Q     Now, as we're looking at this can you see your teller  
25 station on this camera view?

1 A No, I don't see it on the teller view.

2 Q Is it over here on the right?

3 A It is.

4 Q And do you see couches or chairs over here that  
5 they're kind of getting cut off as well as it goes further  
6 down?

7 A Yes.

8 Q So it doesn't quite capture your teller station?

9 A Correct.

10 Q So what's happening there?

11 A So he is at the coffee station how I had mentioned,  
12 and then he came over to my station, and then you can see me.  
13 It's kind of hard to tell from this angle, but I'm right there.

14 Q Okay. And do you see him pull out a note from  
15 somewhere on his person?

16 A Yes.

17 Q And so now would that be you giving money from your  
18 drawers?

19 A Correct.

20 Q Did he say anything to you while that was going on?

21 A When I first called him over, I asked him how he was  
22 doing today, and he mumbled something. I'm not sure what he  
23 said, but he did not say anything as I was giving him the  
24 money.

25 Q Okay. I can zoom out or zoom in further.

JD Reporting, Inc.

1           That's the individual that was at your station?

2           A     Yes.

3           Q     And what you see on there, you indicated a jacket,  
4 and he was wearing a hat, and were there glasses hanging on the  
5 jacket as well?

6           A     Yes.

7           Q     And now we're seeing all four camera angles; correct?

8           A     Correct.

9           Q     And that one that you -- was with you waited at the  
10 door.

11          A     Uh-huh. Yes.

12          Q     And it shows him go off view to the right. Did it  
13 show him go off view to the right?

14          A     Yes.

15          Q     In your drawer, do you know if there is any tracker  
16 or bait money or anything like that?

17          A     My drawer does not have bait.

18               MR. SCOW: All right. I will pass the witness.

19               THE COURT: All right. Mr. Brower.

20                               CROSS-EXAMINATION

21 BY MR. BROWER:

22          Q     I'm going to be very brief, I hope.

23          A     Okay.

24          Q     So you never saw a weapon; correct?

25          A     Correct.

JD Reporting, Inc.



1 Q And you don't remember the note that you saw  
2 referencing a weapon; correct?

3 A Correct.

4 Q And nobody touched you or physically came in contact  
5 with you either; correct?

6 MR. BROWER: I'll pass the witness, Judge.

7 THE COURT: All right. Mr. Hughes, any questions?

8 CROSS-EXAMINATION

9 BY MR. HUGHES:

10 Q Ma'am, is it true that you've received training on  
11 what to do in a robbery?

12 A Yes, sir.

13 Q And is it true that that training instructed you to  
14 comply with demands even if you didn't see a weapon?

15 A Yes, sir.

16 Q And were you also instructed to comply with  
17 instructions even if they didn't say they had a weapon?

18 A Yes, sir.

19 Q Okay. Did you receive any notification from your  
20 bank that another branch had been robbed in the vicinity?

21 A Prior?

22 Q Yes.

23 A Yes.

24 Q Do you remember whether the note indicated a weapon  
25 was seen or used?

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1           A     When it was me at that time, no. I -- like I had  
2 mentioned before, when I first started to read the note and  
3 realized what was happening, I kind of skipped over the whole  
4 note. So I don't remember exactly what it had said.

5           Q     Although you -- you want to comply with all of the  
6 instructions you've got to read them?

7           A     Yes. Well, that was my first time getting robbed.  
8 So being in the moment, I was in shock. So --

9           Q     Okay.

10          A     Yes.

11               MR. HUGHES: Thank you, ma'am.

12               THE WITNESS: You're welcome.

13               THE COURT: Redirect?

14               MR. SCOW: No, nothing further. .

15               THE COURT: Any juror questions for the witness?

16               All right. Counsel, approach.

17               (Conference at the bench not recorded)

18               THE COURT: We have a juror question here. A juror  
19 asks, Can you identify the suspect in the courtroom today?

20               THE WITNESS: Yes.

21               THE COURT: All right. And can you point to that  
22 person and tell us what he is wearing in court today.

23               THE WITNESS: He's right here, and he's wearing a  
24 blue button up shirt, long pants.

25               THE COURT: All right. The person at the end by the

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1 bailiff?

2 THE WITNESS: Yes.

3 THE COURT: Okay. Thank you.

4 THE WITNESS: You're welcome.

5 MR. SCOW: And just so the record reflect the  
6 identification of Damien Phillips?

7 THE COURT: Yes, it will.

8 MR. SCOW: I don't have anything further.

9 THE COURT: All right. Follow-up by the State?

10 MR. SCOW: No.

11 THE COURT: Any follow-up by Mr. Brower?

12 MR. BROWER: Yes, Judge.

13 FOLLOW-UP EXAMINATION

14 BY MR. BROWER:

15 Q You previously testified at a preliminary hearing;  
16 correct?

17 A Correct.

18 Q And you didn't identify Mr. Phillips at that hearing;  
19 correct?

20 A Correct.

21 Q And you had an opportunity to see only two people at  
22 that hearing, just like there's only two people here today;  
23 correct?

24 A Correct.

25 Q And just to be clear, you never identified him at

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1 that hearing; correct?

2 A I did not, but I was not explicitly asked to identify  
3 him.

4 MR. BROWER: No further questions, Judge.

5 THE COURT: Any follow-up, Mr. Hughes?

6 MR. HUGHES: No follow-up, Your Honor.

7 THE COURT: Anything else?

8 MR. SCOW: Just one or two.

9 THE COURT: Any other -- oh, I'm sorry.

10 MR. SCOW: Is that okay, just one or two questions?

11 THE COURT: Sure.

12 REDIRECT EXAMINATION

13 BY MR. SCOW:

14 Q What happens in a courtroom is you don't just talk  
15 about what happened or what you see or know. It's based on us  
16 asking you questions and you're responding to those questions?

17 A Correct.

18 Q And as you indicated at that prior hearing, you  
19 weren't asked whether you could or couldn't identify the  
20 suspect in the courtroom?

21 A Exactly. Yes.

22 Q At that time, if you were asked, would you have been  
23 able to identify the suspect?

24 A Definitely.

25 MR. SCOW: Okay. Nothing further.

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1 THE COURT: Any follow-up?

2 MR. BROWER: Just briefly.

3 RECROSS-EXAMINATION

4 BY MR. BROWER:

5 Q You were asked to describe the individual at the last  
6 hearing; correct?

7 A I believe so, yes.

8 Q And when you were describing that individual, did you  
9 point to the person and say he's right there; that's what he  
10 looks like; he looked the same?

11 A I don't believe I did.

12 Q Okay. And today you were asked to describe the  
13 individual, and you could have done the same thing; correct?

14 A Yes.

15 MR. BROWER: No further questions, Judge.

16 MR. HUGHES: No follow-up.

17 MR. SCOW: Nothing.

18 THE COURT: Any other juror questions?

19 All right. I see no additional questions.

20 Thank you for your testimony. Please don't discuss  
21 your testimony with anyone else who may be a witness in this  
22 case.

23 THE WITNESS: Okay.

24 THE COURT: Thank you. And you are excused.

25 THE WITNESS: Thank you.

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CHELSEY GRITTON

TRIAL TESTIMONY

1 THE COURT: All right. Cross?  
2 MR. BROWER: Court's indulgence. Judge, I'm going  
3 to pass at this point in time.  
4 THE COURT: Okay. Mr. Hughes, do you have any  
5 cross?  
6 MR. HUGHES: No, Your Honor. I have no questions.  
7 THE COURT: All right. Do we have any juror  
8 questions for the witness? All right. I see no additional  
9 questions. Thank you for your testimony. Please do not  
10 discuss your testimony with anyone else who may be a witness  
11 in the case.  
12 THE WITNESS: Thank you.  
13 THE COURT: Thank you, sir. You are excused.  
14 THE MARSHAL: Right this way.  
15 THE COURT: And the State may call its next witness.  
16 MR. SCOW: Chelsey Gritton.  
17 THE COURT: And please remain standing and face our  
18 court clerk right there.  
19 CHELSEY GRITTON  
20 [having been called as a witness and being first duly sworn,  
21 testified as follows:]  
22 THE CLERK: Thank you. Please have a seat. State  
23 and spell both your first and last name.  
24 THE WITNESS: My name is Chelsey Gritton.  
25 C-H-E-L-S-E-Y G-R-I-T-T-O-N.

1 THE CLERK: Thank you.

2 THE COURT: All right. Thank you.

3 You may proceed.

4 MR. SCOW: Thank you, Judge.

5 DIRECT EXAMINATION

6 BY MR. SCOW:

7 Q How are you currently employed?

8 A I work for U.S. Bank as the bank manager.

9 Q Which branch are you the manager of?

10 A I am the manager of 10565 South Eastern Avenue,  
11 Henderson, Nevada 89052, the Anthem location.

12 Q Okay. And we just had Matthew leave the courtroom.  
13 Did you see him leave the courtroom?

14 A I did.

15 Q Is he one of your employees?

16 A He's my personal banker.

17 Q And Alex Orellana was in here earlier. Did you see  
18 him here, too?

19 A I did. He's my universal banker.

20 Q Okay. How long have you been working at that branch  
21 location?

22 A I've been at that location for three, almost four  
23 years.

24 Q Okay. And how long have you been in the banking  
25 industry?



1           A     I've been in the banking industry going on fifteen,  
2 almost sixteen years.

3           Q     I'm going to turn your attention to July 23rd, 2018.  
4 At about ten o'clock in the morning what were things like in  
5 the bank that day?

6           A     So, the branch that I work at is a -- it's a smaller  
7 niche market. We're in a retirement type of branch. Our  
8 customers are basically retirees. So it was busy. We had  
9 customers in line. I was with a customer on the phone. So  
10 it was relatively a busy branch, but it wasn't crazy like we  
11 wouldn't notice people in the bank.

12          Q     Okay. You said you're like a niche market, you have  
13 a lot of retirees. Are there other types of clients that come  
14 to your bank location or have accounts with that particular  
15 branch?

16          A     That is correct. So a majority of the clients,  
17 we service the Anthem area so there's a lot of retirement  
18 communities around my branch. So we service Sun City Anthem,  
19 we service some of the different retirement communities there,  
20 so we know the majority of our customers that come in.

21          Q     Okay. So if someone was going to come in and open  
22 an account for the first time, there's a good chance that you  
23 would recognize that they haven't been there before?

24          A     That is correct.

25          Q     So this morning, July 23rd of this year, what

1 happened? Was there anything that came to your attention that  
2 something might be off?

3 A So in our branch and throughout the entire U.S. Bank  
4 we use a system called Skype, which is instant messaging, and  
5 I received a Skype message from my universal banker that said,  
6 "Heads up." So we use that type of communication if we feel  
7 that maybe something in the branch is not the way it normally  
8 is. Like I said, we know our customers that come in, we  
9 service them. And so I looked up and I saw two gentlemen  
10 standing in the lobby of the branch and I did not recognize  
11 them as our normal customers.

12 Q Okay. Who sent you the message saying, "Heads up"?

13 A Alex.

14 Q Okay. What did you do after you got that message?

15 A So I was currently on the phone with a customer, and  
16 so one of the things that we do with everyone in the branch  
17 is we rely on service, so at that point I wanted to greet the  
18 people in the lobby and provide them service because I didn't  
19 recognize them in the branch. I had never seen them before.

20 Q Were you able to get up and greet them?

21 A I was still on the phone. I was speaking to a  
22 customer on the phone and I was trying to finish up my  
23 transaction, so my personal banker, Matthew, actually had  
24 gotten up and approached them first before I was able to get  
25 over and greet them in the lobby.

1 Q So you're thinking we need to greet them, you're  
2 busy, and before you could do anything about it, Matthew had  
3 gotten up?

4 A That is correct.

5 Q What happens after Matthew greeted those two?

6 A So Matthew greeted them in the lobby and then he  
7 went back to his desk. I had finished my customer on the  
8 telephone and I got up and I then -- because I sit in the  
9 corner, and so I got up and I proceeded to go back behind the  
10 teller line.

11 Q Okay. I'm going to use a couple pictures to help  
12 you as you describe what you do and where you go. Showing  
13 you first Exhibit 32.

14 A Uh-huh.

15 Q The mouse that's on that desk there in front of you,  
16 you can use that and move the cursor and kind of show on the  
17 screen.

18 A Okay.

19 Q Can you show first where your desk is located?

20 A My desk is located back here in the corner.

21 Q Okay.

22 A And then my assistant manager's desk is right here.  
23 And then Alex, his desk is right here and then Matthew, my  
24 personal banker, his desk is right there. This is  
25 approximately where they were standing, where Matthew came

1 over and greeted them. And then Melanie, my teller, was  
2 standing here, so she is the first window. So when I left my  
3 desk I walked over back behind the teller line and stood back  
4 by Mel.

5 Q Okay. Is there a door that you have to actually go  
6 through to get behind there?

7 A Yeah, it's like a pony wall so it's short, which is  
8 like right -- well, it's back behind this check-writing stand.

9 Q Okay. And is there another door that you have to  
10 go through as well?

11 A Yes. So there is a pony wall here and then there  
12 is a door that's back behind this way that gains access back  
13 to the teller line and the break room.

14 Q And so you went through that to stand behind Mel,  
15 as you testified to?

16 A That is correct.

17 Q And now 33 might give a better angle as to where  
18 we're at now. Can you point on there where you are standing  
19 behind Mel, your teller?

20 A So I'm standing back behind her this way. That's  
21 where I was standing.

22 Q Okay. And Mel is at that teller station?

23 A Yes. So she was at this teller station here and  
24 then these three teller stations there was nobody there and  
25 then Allyson, my other teller, was standing over here.

1 Q Okay. Is there -- on the right over here, is there  
2 a portion of that that is -- that can't be seen that's blocked  
3 or does that get most of that teller station there?

4 A So that gets most of the teller station, if not all  
5 of the teller station.

6 Q Okay. And it's about as wide out as where you could  
7 see the chair there at the end?

8 A That is correct.

9 Q So what happens and what do you do after you come  
10 back there behind Mel?

11 A So I come back behind the teller station and he was  
12 standing there and Mel was standing to this side of me.

13 Q Now, let me just pause. You said he was standing  
14 there. Who?

15 A Yes. That gentleman right there -- [pointing] --

16 Q Okay.

17 A -- was standing there. And he let us know that he  
18 was there to collect the money and he wanted the money in both  
19 drawers. And I just wanted to make sure that my team is okay  
20 because that's what's most important to us when we work in the  
21 bank, so she looked at me and I said yes, and then she started  
22 to give him the money. And then while she was handing him and  
23 giving him money, the other gentleman was actually standing  
24 over here at Allyson's window. So when they went up to the  
25 teller line, they split off, and so I had two tellers that

1 were being robbed. And so I went to Mel first because she was  
2 closest to me right there at that first station, but then  
3 Allyson started to cry and she was very upset. And so --

4 MR. BROWER: Judge, objection as to whether she was  
5 upset or not. Calls for speculation.

6 THE COURT: I'm going to overrule.

7 So she appeared upset to you?

8 THE WITNESS: Yes, she appeared upset. Yes.

9 THE COURT: Okay. Go on.

10 BY MR. SCOW:

11 Q And you described to us crying?

12 A Yes. She was crying.

13 Q And what did you do when you saw that?

14 A So when she started to cry, she actually turned to  
15 walk towards me and I put her back over in her teller station  
16 because as managers in the bank the most important thing is  
17 our team safety, and so because we don't know what's ever  
18 going to happen, the most important thing is to give them the  
19 money so that they leave the branch and then we can take care  
20 of the team and if there are any customers.

21 So then she gave him the money, the other gentleman  
22 the money, and then after she did that she continued to walk  
23 towards me. So I then -- so she was walking towards -- so she  
24 -- so Mel gave him the money, and then she had the money and  
25 then she turns towards me and then she's starting to walk

1 away, and so I pull her -- I put my arm around her and then  
2 I pull her back into this area where our break room is just  
3 to calm her down, so she's not on the platform anymore.

4 Q Okay. And did you see the two individuals leave  
5 the bank?

6 A So they -- I had come around and she was over here  
7 and then I came back around because -- and you see them  
8 leaving. They were in front of me and then I locked the door  
9 behind them.

10 Q So you came from back there to walk to the front  
11 door?

12 A Uh-huh. Yes.

13 Q And you locked it?

14 A Yes.

15 Q Did you see what direction they had gone after they  
16 walked out the front door?

17 A So our front door of our building is kind of angled,  
18 like it kind of comes to a point, and so once they go around  
19 the corner I did not see them. And we're trained that you  
20 never go outside, you never look, you always stay inside the  
21 building.

22 Q From your vantage point -- and it looked like you  
23 motioned to the right?

24 A Yeah.

25 Q They went to the right?

1           A     So it's glass so you can see, but that's what it  
2 looked like, yes.

3           Q     Showing you what's been marked as State's Proposed  
4 Exhibit 30, do you recognize this?

5           A     Yes. That's the front of our building.

6           Q     Okay. And is the entrance off to the right?

7           A     It's over here, yes.

8           MR. SCOW: I'd move for admission of State's  
9 Proposed 30.

10           THE COURT: Any objection to 30?

11           MR. HUGHES: Submitted.

12           MR. BROWER: Submitted, Judge.

13           THE COURT: All right, 30 is admitted.  
14                   [State's Exhibit 30 admitted]

15 BY MR. SCOW:

16           Q     Showing you first already admitted Exhibit 29, is  
17 this the front of the bank?

18           A     Yes.

19           Q     And the front entry is in here?

20           A     Yes.

21           Q     Okay. And then from there where did you see them  
22 veer off to the right, what you described?

23           A     This way.

24           Q     Okay. And does Exhibit 30 show that area?

25           A     Yes.



1 Q And then again, can you show the direction you had  
2 seen them go?

3 A So it's out this way here.

4 Q And then you lose sight of them going to the right  
5 in that direction?

6 A Correct.

7 Q As far as going this way, I mean?

8 A Yeah, I can't see. And like I said, once I locked  
9 the door, that's as far as I can go.

10 Q And the building prevents you from seeing them?

11 A Correct.

12 Q Somebody called the police from your branch?

13 A Yes.

14 Q And the police eventually respond?

15 A Yes.

16 MR. SCOW: Court's brief indulgence.

17 BY MR. SCOW:

18 Q Okay. I'm going to do a couple things now. First  
19 I'm going to pull up some video, but as this is coming up I  
20 just wanted to clarify a couple things or just kind of follow  
21 through. You didn't call the police, but at some point did  
22 you get on the phone with the 911 operator or the police to  
23 kind of get more updates than what the first person could  
24 give?

25 A That is correct.

1 Q Okay. And then did you do a search for U.S. Bank  
2 records to see if Damien Phillips or Anthony Barr had accounts  
3 with U.S. Bank?  
4 A We did.  
5 Q And you were given their identifying information?  
6 A We were.  
7 Q Did they have accounts with U.S. Bank?  
8 A They do not.  
9 Q And as the branch manager, do you have access to  
10 surveillance video at your branch location?  
11 A So we -- for surveillance video we do have cameras  
12 in our branch, but we don't have access to it directly. It  
13 has to be requested for corporate security.  
14 Q Corporate security?  
15 A Yes.  
16 Q So like a regional security director would need to  
17 do that?  
18 A That is correct.  
19 MR. SCOW: Do you know what to do if a computer says  
20 not responding?  
21 THE WITNESS: I just turn it off and turn it back on.  
22 MR. SCOW: Turn it off and turn it back on. I'll  
23 try that.  
24 THE COURT: That usually works, right?  
25 MR. SCOW: Let's try again.

1 THE WITNESS: Or ask someone else.  
2 MR. SCOW: That's what I usually do.  
3 THE COURT: I find a younger person.  
4 MS. SCHIFALACQUA: That's what he was doing, right?  
5 BY MR. SCOW:  
6 Q Okay. So now just orient us as to what you know  
7 about the bank location. Is this part of your branch, these  
8 different --  
9 A That's my entrance. Yes.  
10 Q Okay. And then these other four camera angles show  
11 the interior of the bank?  
12 A That is correct.  
13 Q What's -- let me pause it real quick. This camera  
14 shows what?  
15 A So that would be looking over approximately from  
16 where Matthew's desk is. So he gets a little bit of the  
17 teller line and then he gets the lobby, part of the lobby.  
18 Q Okay. So the teller line, who is this teller here  
19 again?  
20 A That's Melanie.  
21 Q And in the back?  
22 A Is Allyson.  
23 Q And from what you describe in the picture in one of  
24 the exhibit, the one closest to Matthew's desk, that one is  
25 teller station one?

1           A     Yes. That's Melanie.  
2           Q     Okay. And is this a view from the front entry?  
3           A     That is correct.  
4           Q     And this -- right here in the back, who's that?  
5           A     That's Matthew Pedroza.  
6           Q     Okay. So I'll let it play now and I might pause  
7 here and there to ask you questions. The people that you see  
8 right now customer-wise, do you recognize them?  
9           A     I don't recognize them from this angle, no.  
10          Q     Okay. Do you see anything that you recognize from  
11 that particular day?  
12          A     I recognize the two gentlemen coming in, just going  
13 in through the entrance.  
14          Q     Okay. From where you were seated, you couldn't see  
15 the exterior like that?  
16          A     I'm sorry, what?  
17          Q     That was a bad question. From where you were  
18 seated, you couldn't see the front doors or outside the front  
19 doors?  
20          A     No, I cannot, because my desk is in the corner.  
21          Q     You could just see after they're in and starting to  
22 walk into the bank?  
23          A     Correct. So once they get to where the middle part  
24 of the credenza is there, then I can see them because I looked  
25 this way.

1 Q So are you talking about like the middle of this  
2 credenza?  
3 A Yes, sir.  
4 Q Okay. So at this point right here you couldn't see  
5 them, still?  
6 A No, I cannot.  
7 Q So we'll go to that view. So about right --  
8 A So the gentlemen -- yes, now I can see them --  
9 Q Okay.  
10 A -- because now they're in the line. So, yes,  
11 they're in my scope of view.  
12 Q And just to kind of help fill things through, is it  
13 about this time that you're receiving a message from Alex?  
14 A That is correct, yes.  
15 Q So they were already in this line, from your  
16 observations, when you got that message?  
17 A Yes.  
18 Q And we'll want to focus on your actions, but you see  
19 right here, who's that?  
20 A That's Matthew. He's going up to greet them and ask  
21 them, I'm assuming, if they need help today, just like we're  
22 told.  
23 Q Just let us know when you see yourself.  
24 A There I am.  
25 Q Can you use the mouse just to identify yourself?

1 A Oh, sorry. That's me.  
2 Q Is then when you go to kind of stand behind Mel?  
3 A That is correct.  
4 Q The little pony wall?  
5 A Correct.  
6 Q And then there's a door in the back?  
7 A Yes.  
8 Q Now, when you were standing right there and as you  
9 make your way over towards --  
10 A Allyson.  
11 Q -- Allyson --  
12 A Uh-huh.  
13 Q -- the individuals that are on the other side of  
14 those teller stations, how far away is that?  
15 A The teller station is probably -- it's probably  
16 similar, actually, to this, so it's fairly close. We have a  
17 computer that looks similar to like this and a keyboard, so  
18 it's relatively close distance.  
19 Q Okay. And so you're standing behind Mel, so you're  
20 pretty close to them?  
21 A That is correct.  
22 Q And this is still you in the background here?  
23 A That is correct. Yep. And that's where she is  
24 coming back and then I take her back around that corner.  
25 Q Okay. And was she crying then at that point?

1 A She is.  
2 Q And what are you doing here?  
3 A So I'm going to lock the front door.  
4 Q And is that where you see them going -- losing sight  
5 of them, going to the right of the building?  
6 A Yes.  
7 Q Do you know if your bank location uses trackers or  
8 bait money?  
9 A So they do. Not every drawer carries bait and not  
10 every -- the drawers have trackers, but not -- not all the  
11 branches use them. So in my particular location we do not  
12 use bait money.  
13 Q Okay. Earlier when you were testifying and as you  
14 were describing the individuals that were in the store or your  
15 branch at that time that had walked up to your tellers and you  
16 were indicating that -- you were pointing to them. They're  
17 in the courtroom?  
18 A They are, yes.  
19 Q And can you point to them in the courtroom and  
20 describe an article of clothing they're wearing?  
21 A What they're wearing now?  
22 Q Right now. Yes.  
23 A So one gentleman is wearing khaki pants and the  
24 other gentleman is wearing a purple shirt.  
25 Q Which one is in the khaki pants? I can't see --

1           A     Oh, I'm sorry. This gentleman right here in the  
2 glasses.

3           MR. SCOW: Okay. Your Honor, can the record reflect  
4 identification of the defendants?

5           THE COURT: It will.

6           MR. SCOW: Damien Phillips with the glasses and  
7 Anthony Barr in the purple shirt.

8           THE COURT: All right.

9 BY MR. SCOW:

10          Q     And you had indicated one went to one station and  
11 one went to the other. Can you help clarify that for us?  
12 Do you know which one went to which window?

13          A     Oh, yes. So that gentleman went to Melanie and I  
14 believe that gentleman went to Allyson, I believe.

15          THE COURT: And the first gentleman that you said  
16 "that gentleman," are you talking about the person in the  
17 glasses and the khaki pants?

18          THE WITNESS: I think so.

19          THE COURT: Okay. That wasn't clear because she  
20 was pointing.

21          MR. SCOW: Yeah. I was going to try to clarify.

22          THE COURT: All right. Sorry.

23 BY MR. SCOW:

24          Q     So when you say you think so, is that -- are you as  
25 positive about which one was where as the fact that these are



1 the two individuals that were there?

2 A I know that those are the two individuals. I'm just  
3 not 100 percent sure who went to who. It's very fast when it  
4 happens.

5 Q Okay. So you're not sure which one went to which,  
6 but how sure are you that these are the two guys that were --

7 A I am 100 percent sure.

8 MR. SCOW: Okay. I have no more questions.

9 THE COURT: All right. Mr. Brower, cross.

10 MR. BROWER: Just very brief.

11 CROSS-EXAMINATION

12 BY MR. BROWER:

13 Q Did you notice any tattoos on any faces, hands,  
14 necks, anything like that?

15 A I did not.

16 Q Okay. And did you see any weapons?

17 A I did not.

18 MR. BROWER: No further questions, Judge.

19 THE COURT: Mr. Hughes.

20 CROSS-EXAMINATION

21 BY MR. HUGHES:

22 Q Ma'am, you say there was two individuals in the bank  
23 that day. One of them was at the window directly in front of  
24 you; right?

25 A Yes.

1 Q Mere feet from you; correct?  
2 A Yes.  
3 Q And the other individual was at the other end of the  
4 teller windows, for want of a better description. Is that  
5 right?  
6 A Yes.  
7 Q So you got a much closer look at one of these  
8 individuals than the other; correct?  
9 A Yes.  
10 Q Yet you seem unsure about which one of the  
11 individuals was in front of you?  
12 A Correct.  
13 Q How do you explain that?  
14 A Because when you're being robbed the most important  
15 thing is the safety of your team members.  
16 Q Agreed.  
17 A And so my point is to get them out of the branch.  
18 So I recognize them because they were standing close to us,  
19 but it's the best I can say.  
20 Q Okay. So it is fair to say that you are unsure as  
21 to which of these individuals was face-to-face with you and  
22 which one was further away?  
23 A Yes.  
24 Q But you are sure that you saw no weapon that day,  
25 is that right?

1           A     I did not. No.  
2           MR. HUGHES: Thank you.  
3           THE COURT: All right. Any redirect from the State?  
4           MR. SCOW: I'm just going to ask maybe one or two  
5 questions.  
6           THE COURT: All right.  
7           MR. SCOW: And I'm just getting the video cued up  
8 to do that.  
9                               REDIRECT EXAMINATION  
10          BY MR. SCOW:  
11           Q     I'm just going to have you look at the screen. I'm  
12 probably just going to ask two things. This is the overview  
13 lobby area; correct?  
14           A     Yes.  
15           Q     Is this about how close you were to that individual  
16 as you were standing behind Melanie?  
17           A     Yes.  
18           Q     Okay. You didn't stay over there, though; right?  
19           A     I'm sorry, what?  
20           Q     Sorry. You didn't stay over there, like you see  
21 yourself --  
22           A     No. I walked towards Allyson.  
23           Q     Okay. And about --relatively speaking, are you  
24 about the same distance from the other guy when you're over  
25 there on the right as to where you were on the left to the

1 other guy?

2 A Yes.

3 Q The distance is about the same?

4 A Yes.

5 Q But as you described, when you're in a robbery

6 situation you're trying to focus on the safety of the

7 employees --

8 A That is correct.

9 Q -- and you're not trying to distinguish, okay, which

10 guy is where, you just know that these two are those guys in

11 the video?

12 A That is correct.

13 MR. SCOW: All right. I don't have anything else.

14 THE COURT: Any recross?

15 MR. BROWER: No, Judge.

16 MR. HUGHES: No.

17 THE COURT: Any juror questions for the witness?

18 All right. Ma'am, I see no questions. Thank you for your

19 testimony.

20 THE WITNESS: Thank you.

21 THE COURT: Please don't discuss your testimony with

22 anyone else who may be called as a witness in this case.

23 THE WITNESS: Thank you.

24 THE COURT: Thank you, and you are excused.

25 And it's almost 5:00, so we should probably take

# REGINA COLEMAN TRIAL TESTIMONY

1 MR. SCOW: Okay. All right. Thank you.

2 THE WITNESS: You're welcome.

3 MR. SCOW: No more questions.

4 THE COURT: Anything else?

5 MR. BROWER: Nothing further, Judge.

6 MR. HUGHES: Nothing.

7 THE COURT: Any juror questions for this witness?

8 All right, ma'am, I see no other questions. Thank  
9 you for your testimony. Please do not discuss your testimony  
10 with anyone else who may be a witness in this case. Thank you  
11 and you are excused.

12 THE WITNESS: Thank you.

13 THE COURT: And the State may call its next witness.

14 MS. SCHIFALACQUA: Your Honor, the State calls Regina  
15 Coleman.

16 MR. BROWER: And, Judge, may we approach very briefly  
17 while they're --

18 THE COURT: Sure.

19 MR. BROWER: -- their witness in?

20 (Conference at the bench not recorded)

21 THE COURT: And, ma'am, please remain standing and  
22 face that lady right there.

23 **REGINA COLEMAN**

24 [having been called as a witness and being first duly sworn,  
25 testified as follows:]

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1 THE CLERK: Thank you. Please have a seat. State  
2 spell both your first and last name for the record.

3 THE WITNESS: My name is Regina Coleman.  
4 R-e-g-i-n-a, C-o-l-e-m-a-n.

5 THE COURT: All right. Thank you.  
6 Ms. Schifalacqua.

7 MS. SCHIFALACQUA: Thank you.

8 DIRECT EXAMINATION

9 BY MS. SCHIFALACQUA:

10 Q Ms. Coleman, can you let the members of our jury know  
11 how you're employed.

12 A I work for Bank of the West. I am a teller.

13 Q Okay. And how long have you worked at Bank of the  
14 West?

15 A About six months.

16 Q Okay. And so you were working there how long on July  
17 31st of 2018?

18 A Probably my third week.

19 Q Oh, my goodness. So on your third week at Bank of  
20 the West --

21 MS. SCHIFALACQUA: Thank you --

22 BY MS. SCHIFALACQUA:

23 Q Where is that located in town?

24 A It's on Valle Verde and Sunset.

25 Q Okay. And I'm going to show you what's been admitted

JD Reporting, Inc.

1 as State's 106. Do you see -- I keep doing that.

2 Do you see the branch depicted in this overhead map?

3 A I see something. Yeah, in the middle there.

4 Q Okay. Have you got yourself oriented now?

5 A Yeah.

6 Q I'm sorry. It's kind of hard to --

7 A Yes.

8 Q You have a mouse in front of you, Ms. Coleman, and so  
9 you can kind of point to where the branch is.

10 Are you aware of what's around the branch, or are you  
11 not -- when you're new to a location, are you aware what  
12 businesses are around the branch, et cetera?

13 A Oh, yeah. New to the bank, not to the area.

14 Q Okay. Not the area, just to the bank. Okay. Is  
15 there a church that's nearby?

16 A Yes.

17 Q Okay. Let me pull this, zoom this map out? Is  
18 that -- can you see the church on this overhead map?

19 A No. It's --

20 Q If I direct your attention further higher up on the  
21 map, do you see it?

22 A Because of the way it's in the back of us. So it's  
23 kind of a --

24 Q Okay. So when you say it's in the back of us, where  
25 the branch is located, is it fair to say for our jurors that if

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1 obviously if they've not been there, it's kind of located  
2 further down below, and the church goes up --

3 A Right.

4 Q -- towards a hill; is that right?

5 A So we're towards the street, and then the church is  
6 here.

7 Q Okay. You'd only been working for Bank of the West a  
8 couple of weeks, and then on July 31st of 2018, were you  
9 present or at work when the branch got robbed?

10 A Yes.

11 Q Okay. With regard to that day, about 11:30 in the  
12 morning or so, describe for the members of our jury what it is  
13 you were doing, what were your duties, and kind of your day  
14 when this occurred.

15 A I had just got to work. I was running late. So I  
16 was agitated. I was logging on to my computer. I hadn't even  
17 put my purse away or anything like that --

18 Q Let me back up and stop you for a second. I'm going  
19 to show you State's 113.

20 A Okay.

21 Q You said that, you know, obviously you work as a  
22 teller.

23 A Uh-huh.

24 Q On State's 113, does that show the teller stations at  
25 the branch?

JD Reporting, Inc.

1 A Yes.

2 Q Okay. And when you say you were logging on and you  
3 hadn't even put your purse, what do you do to log -- log on?  
4 Tell the jurors like these steps to get yourself set up.

5 A Well, I come in, and I put my purse down on the desk,  
6 and then I will put in all my codes on the computer and wait  
7 for it to log up, and then it opens the screen, and then you  
8 have to go in there, and there's, like, four more steps to get  
9 to where I can actually do any transactions.

10 Q Okay. So prior to that, if a customer approaches  
11 you, can you help them?

12 A No.

13 Q On this particular occasion, on July 31st of 2018,  
14 you were talking about just kind of just getting in a little  
15 late, you know, logging on, and what happens? Describe for me.

16 A A woman approached me to my desk and just stand  
17 there, and like I said, I was running late. So I was agitated,  
18 and I said, I did not call you over here.

19 Q You're kind of laughing now. Is it fair to say as  
20 far as the branch goes, for customer service industry, normally  
21 that's not a type of thing that you would say?

22 A No.

23 Q But nonetheless, it might have been irritating to  
24 you, I take it, for a person physically to walk up when they  
25 weren't called to your window?

JD Reporting, Inc.

1 A Yes.

2 Q Okay. And that's what happened?

3 A Yes.

4 Q Okay. After you told that individual that you didn't  
5 call them, what did you do next?

6 A We had a staring match because she didn't leave.

7 Q Okay.

8 A And I said, I think it's best that you get back in  
9 line. So when the next teller is available they can help you  
10 because I can't do anything for you.

11 Q And as you explain to our jurors, I mean, physically  
12 you could not have done a transaction; is that fair?

13 A No. I didn't even have a cash drawer yet.

14 Q Okay. When you say that you saw a woman, describe  
15 this woman.

16 A The wig was black and white, two tone, black and  
17 white, something that looked like it could have been like a  
18 half jacket vest for I don't know, blue or black leggings, a  
19 long burgundy dress, gold sandals.

20 Q Okay. And could you identify the person actually as  
21 the gender of female?

22 A No.

23 Q No. So describe that for our jury.

24 A It appeared to be a man dressed as a woman.

25 Q Okay. And, in fact, your characterization, is it

1 fair to say, of that woman was maybe not so nice? What was  
2 your characterization of that woman?

3 A A very ugly woman.

4 Q I'm going to -- and it's what you observed; right?  
5 You first thought a woman had approached you. You looked up,  
6 and you see it's --

7 A It's a guy.

8 Q It's a guy. Is that fair?

9 A Yeah.

10 Q Okay. And, in fact, that's what you told police;  
11 right?

12 A Uh-huh.

13 Q When they eventually interviewed --

14 A Yes.

15 Q Okay. So this man that had on the dress, the  
16 leggings, et cetera, is the one that you end up kind of having  
17 the staring match with?

18 A Yes.

19 Q Eventually does that man that's dressed as a female  
20 get back in line?

21 A He doesn't go all the way back. So this would be my  
22 desk.

23 Q Okay.

24 A And he probably went as far as this end of this desk  
25 right here.

1 Q Okay.

2 A And just stood there.

3 Q Did he say anything?

4 A No, never said a word.

5 Q Okay. After that, did you -- were you able to  
6 observe where he went?

7 A He went next to Grace.

8 Q Okay.

9 A So he just went and sat down with Grace.

10 Q So directing your attention to the teller kind of  
11 windows that are up on the screen, if I zoom into this,  
12 where -- with that mouse, where was your teller station? If  
13 you can point it out for our jurors.

14 A So my station is normally next to Grace, which is  
15 Grace right here, and this is normally my station. So my  
16 station had been down. So I had to use Serena's, which is the  
17 station is here.

18 Q So you weren't directly next to Grace. You were one  
19 more over at Serena's station?

20 A Yes.

21 Q And then when the man dressed as a woman couldn't get  
22 service from you, you watched him go over to Grace's window?

23 A Yes.

24 Q Did you --

25 A So we were here.

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1 Q Okay. Did you keep an eye on what happened? Or  
2 describe for the jurors kind of what you did next in your day.

3 A I finished logging on, and then by that time,  
4 everything had happened.

5 Q Okay. Where did you go after when you say everything  
6 has happened? Were you alerted that a robbery had occurred?

7 A Yes.

8 Q Who alerted you?

9 A Grace.

10 Q Okay. Did you also work with Nur on that day?

11 A Yes. Nur was there too.

12 Q Okay. And were you alerted to the robbery that  
13 occurred with her?

14 A Yes. So first Nur was standing by Grace right here,  
15 and then Grace stood up, and then Nur said, I was just robbed,  
16 and then Grace said, Me too.

17 Q Were they both upset?

18 A Yeah. More Nur than Grace.

19 Q Okay. When they said that, had the individual  
20 addressed that the male already left?

21 A Yes. Ran out the door.

22 Q Did you see if he was with anybody else?

23 A There was a gentleman on the outer door holding the  
24 door.

25 Q Okay. And did you observe that gentleman holding the

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1 door for the man dressed as the female?

2 A Yes.

3 Q Okay. And then what, if anything, did you see? When  
4 that man dressed as a female went to leave, did you see was it  
5 in a hurry? Was it leisurely? Describe that for our jury,  
6 please.

7 A Ran. They ran out the front door.

8 Q Okay.

9 A And we could see because we had windows. So you  
10 could see them run, and then we could see them go up the hill  
11 by the church.

12 Q Okay. So where -- that map that we just talked about  
13 of up that hill, you observed the two men running up that way;  
14 is that fair?

15 A Yes.

16 Q With regard to the man that held the door for the man  
17 dressed as a woman, can you describe that man for our jurors,  
18 please.

19 A He had on a baseball cap, little Afro, all black.  
20 He had a towel around his neck and you would just think because  
21 maybe it was wet because it was hot. And like he might have  
22 had tattoos on his neck on something on his face.

23 Q Okay. And that's -- and I never asked you, but was  
24 he white, black, Hispanic or Asian?

25 A Black.

JD Reporting, Inc.

1 Q Okay. Also, with regard to the man dressed as a  
2 woman, was he white, black, Hispanic or Asian?

3 A Black.

4 Q Okay. And they both ran out together; is that right?

5 A Yes.

6 Q Or after the one held the door?

7 A Yeah, the door, out together.

8 Q When that happened, did you hit any alarms, or what  
9 was your procedure?

10 A I hit the -- well, I was fairly new so I didn't  
11 really know, but working at the bank before I hit the alarm,  
12 and then I called 9-1-1.

13 Q Okay. And you called 9-1-1 and gave them the  
14 information; is that correct?

15 A Yes.

16 MS. SCHIFALACQUA: Court's brief indulgence.

17 With regard to State's Proposed 104, I'm going to  
18 play a portion of that 9-1-1 with your permission, Your Honor,  
19 for identification purposes.

20 THE COURT: All right.

21 MS. SCHIFALACQUA: Thank you.

22 BY MS. SCHIFALACQUA:

23 Q At some point, before we get that up and running,  
24 Ms. Coleman, at some point when you are on 9-1-1, does Manny  
25 take over the 9-1-1 call?



1 A Yes.

2 Q Okay. You're familiar with his voice?

3 A Manny's, yes.

4 Q As well.

5 Okay. And you work with him?

6 A Yes.

7 (Publishing State's Proposed Exhibit Number 104.)

8 BY MS. SCHIFALACQUA:

9 Q Do you recognize your voice, Ms. Coleman?

10 A Yeah. Yeah, that's that -- that's me.

11 Q Okay. That's you. That's you calling 9-1-1 after  
12 the bank was robbed?

13 A Yes.

14 Q Is that a fair and accurate depiction of your voice  
15 as you hear it --

16 A Yes.

17 Q -- when you made the call?

18 MS. SCHIFALACQUA: I would move for admission, Your  
19 Honor, of State's 104.

20 MR. BROWER: I'll submit it, Judge.

21 MR. HUGHES: Submitted.

22 THE COURT: All right. That will be admitted.

23 (State's Exhibit Number 104 admitted)

24 (Publishing State's Exhibit Number 104.)

25 / / /

1 BY MS. SCHIFALACQUA:

2 Q Regina, you recognized your voice and Manny's voice  
3 on that 9-1-1 call; is that right?

4 A Yes.

5 Q Okay. Let's go back and talk about some things.  
6 Manny, as you heard, talked about the two gentlemen that had  
7 committed the robberies running out to the left. Did you  
8 actually watch them go up towards the church area?

9 A Yes.

10 Q Okay. So you knew that that was off to the right of  
11 the building if you will?

12 A Yes.

13 Q Let's talk about -- it looks -- well, we heard you  
14 trying to get Nur or Mary Grace on the phone, and you said they  
15 couldn't speak. Describe their demeanor. What did you observe  
16 them acting like that they couldn't get on the phone at the  
17 time?

18 A Nur was crying, and Grace was just really shaky and  
19 nervous.

20 Q Okay. Were you nervous?

21 A Yeah.

22 Q Okay.

23 A Because I've never been in that situation or worked  
24 with people where it's happened.

25 Q Okay. With regard to the second male, the male that

1 you described with the towel around his head and potentially  
2 some sort of neck tattoos and/or something on his face, let's  
3 go back and make sure the jurors understand. Where did you see  
4 him in relation -- I mean, you talked about -- and I'm sorry.  
5 I'm kind of jumping ahead, but you talked about the male  
6 approaching you that was dressed as a female. Where was the  
7 male that you observed that had that towel and the potential  
8 something on his neck or face?

9 A In the lobby. So when you first come in, there is  
10 the new accounts area.

11 Q Okay. Let me back up. I'm going to show you while  
12 you're talking about new accounts --

13 A Okay.

14 Q -- and kind of the lobby. I'm going to show you  
15 State's 114 that's been previously admitted.

16 A Okay.

17 Q What's that area?

18 A This is the door to come in is right here.

19 Q Okay. And when you say new accounts area, is that  
20 where Manny sits?

21 A Yes.

22 Q Okay. So showing you State's 112, is this depicting  
23 that new accounts area?

24 A Yes.

25 Q Okay. So continue on. Where did you observe the

1 male with a towel and the potential either tattoos or something  
2 on his face?

3 A In this area. He was looking at this. He asked Nur  
4 if we did foreign wires.

5 Q Okay.

6 A So he hung out right here.

7 Q Okay.

8 A And this is where I saw him.

9 Q Okay. Then I want to go back to where the teller  
10 stations are. If you saw him over here, the teller stations  
11 are further to the left of what we were just looking at; is  
12 that right?

13 A Yeah. Right.

14 Q So how did you see him over there, and then like were  
15 you over at that area and then walked back over to your area or  
16 what? Describe for the jury.

17 A Coming in to work.

18 Q So when you made entry into --

19 A Yeah. He was already in there.

20 Q Got it. And later on do you ever observe him? And  
21 showing you State's 113. Do you ever observe him and/or the  
22 man with the dress on at the -- that -- I don't know what kind  
23 of station is this called --

24 A The check writing stand.

25 Q Yes.

1 A Just the man dressed like a woman.

2 Q Okay. Where were you then at that time?

3 A Over by the desk, my desk.

4 Q Okay. Were you focusing on the other man, or were  
5 you just focusing on the man dressed as a woman at that time by  
6 the time you got to your station?

7 A The man dressed as a woman.

8 Q Okay. So that conduct of the other man, the one with  
9 the towel, were you focused on that after the man dressed as a  
10 woman approached you at all?

11 A No.

12 Q Okay. Your focus, is it fair to say, was just on the  
13 man dressed as a woman?

14 A Yes.

15 Q Describe -- you said that you thought you saw  
16 something on the face of the man that had the towel. Can you  
17 describe what you thought you saw.

18 A Maybe like moles.

19 Q Moles.

20 A You know, you have the cluster moles.

21 Q Okay. Do you remember describing it to police as  
22 potentially also pimples or something like that?

23 A Yeah.

24 Q Is that a yes?

25 A Yes. Sorry.

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1 MS. SCHIFALACQUA: Okay. Court's indulgence.

2 I'd pass the witness, Your Honor.

3 THE COURT: All right. Mr. Brower.

4 CROSS-EXAMINATION

5 BY MR. BROWER:

6 Q I guess it's good afternoon now. So --

7 A Yes, it is.

8 Q You've probably been here for a while. You said that  
9 the people that came in they sat down at the tellers next to  
10 you?

11 A The first guy sat down.

12 Q Okay. And was that the male or the female?

13 A The female sat down after she left my window.

14 Q Okay. And they both sat down with the other tellers;  
15 correct?

16 A One sat down with Grace. One sat down with Nur.

17 Q And did you give a description to the police at an  
18 interview on the date that this occurred?

19 A When all the police came in --

20 Q Yes --

21 A -- or on the phone?

22 Q -- did you give an interview?

23 A When they came -- yes.

24 Q Okay.

25 A I believe so.

JD Reporting, Inc.

1 Q And do you recall describing the person who you said  
2 was a male as being very dark, very dark skin, but he had on a  
3 hat?

4 A I know I said he had on a hat. I don't know about  
5 dark skin, but --

6 MR. BROWER: May I approach, Judge?

7 THE WITNESS: -- dark.

8 BY MR. BROWER:

9 Q Ma'am, I have a highlighted sentence. If you can  
10 just look, and don't read it out loud. Just look at it and see  
11 if that refreshes your recollection as to what you may have  
12 said to the police?

13 A He had dark skin, yes.

14 Q Well, I'm not there yet. I'll ask you in a minute.

15 A Dark skin.

16 Q So did that refresh your recollection as to what you  
17 may -- you said to the police?

18 A A little bit.

19 Q Okay. And you said dark, and I think you said very  
20 dark. I'm just curious. How do you describe complexions of  
21 people? Like the two gentlemen sitting over here, are they  
22 dark skinned to you or light skinned or --

23 A Yeah, they're dark.

24 Q They're dark. Okay.

25 A Yeah, they're dark skinned.

1 Q Okay.

2 A I don't have no light complected --

3 Q Okay. [Unintelligible] --

4 A -- brown people.

5 Q Light complected or dark skinned?

6 A No. I said I don't have a light-complected black  
7 person in here to show you the difference.

8 Q Okay.

9 A They're dark.

10 Q I'm just trying to get an idea of your description,  
11 not, you know -- because I --

12 Okay. And you described the one male that came in I  
13 think as about -- hold on. Let me find it -- 5-foot 2; is that  
14 correct?

15 A No. No.

16 Q Okay. Oh, wait. You said you were 5-foot 2, and  
17 they were a little taller. I misread that. You said they were  
18 a little taller, about 5-foot 6, or 5-foot 7; correct?

19 A Anything taller than me, yes.

20 Q Okay. And you never saw any weapons; correct?

21 A No.

22 Q And you never saw anything physical occur, like  
23 somebody getting hit or punched or anything like that?

24 A No.

25 Q Okay. And I think you didn't even know anything was



1 occurring until afterwards; correct?

2 A Right.

3 Q Okay. So it wasn't really noisy? There's no yelling  
4 or screaming?

5 A No.

6 Q This was unusual for you though; correct?

7 A Very.

8 Q And that's because I think you testified you've  
9 worked at a bank before that had all kinds of bulletproof glass  
10 and stuff; right?

11 A I've been in banking for 14 years.

12 MR. BROWER: Court's indulgence, Judge. I just need  
13 to --

14 BY MR. BROWER:

15 Q And you don't remember seeing any tattoos or  
16 anything; correct?

17 A On who?

18 Q On anybody, either of the two people that we talked  
19 about, the female or the male?

20 A Remember, I said I could see the things on their face  
21 and --

22 Q Right. But no actual tattoos, nothing, like --

23 A Not a physical like --

24 Q -- you know, I love mom or --

25 A -- I couldn't tell you if it was a dove or anything

JD Reporting, Inc.

1 like that.

2 MR. BROWER: Okay. I'll pass the witness, Judge.

3 THE COURT: Mr. Hughes.

4 CROSS-EXAMINATION

5 BY MR. HUGHES:

6 Q Ma'am, as I understand your testimony, you were  
7 running late to work that day?

8 A Sure.

9 Q And when you -- when you arrived at the bank, it's  
10 your testimony that both of these individuals, the one dressed  
11 as a woman and the one with a towel were already in the bank?

12 A No. There was one in the bank, and that was the  
13 gentleman with the hat on.

14 Q Only the gentleman with the hat on?

15 A Yes. That is what I said.

16 Q So it's -- now I understand that both the gentleman  
17 with a towel and the gentleman with the long wig came into the  
18 bank after you had arrived?

19 A No. The gentleman with the towel was already in the  
20 bank when I got there. By the time I got to my station, the  
21 woman came in and approached me.

22 Q So therefore the one dressed as a woman must have  
23 been the second of the two to arrive. Is that my  
24 understanding?

25 A Okay. Yes.

JD Reporting, Inc.

1 Q When you enter your bank, do you come in the front  
2 entrance, or do you have an employee entrance?

3 A No, I come through the front door. I can do that.

4 Q And when you walked from the front door to your  
5 station, you passed by the man with the hat as you described  
6 him; is that right?

7 A Yes.

8 Q And you -- you looked at him and noticed these  
9 things. Is that your testimony?

10 A Yes.

11 Q But you were late; is that right?

12 A Uh-huh.

13 Q You weren't rushing to your station?

14 A No.

15 Q You would have casually walked through and observed  
16 things?

17 A I do every day.

18 Q No hurry?

19 A I walk in, pass Manny. Hi, Manny. Hi, Nur. Hi,  
20 Grace. Hey, Barbara, then I go to my station every day. I  
21 don't have to punch a clock. So --

22 Q Okay. But you said you were late --

23 A Yeah.

24 Q -- so in your mind you must have been running late?

25 A No, but I don't have to rush because I don't have to

1 punch a clock. If I had to punch a clock, then, yes, I will be  
2 coming through with a rush, but I don't have to punch a clock.

3 THE COURT: So you don't get in trouble for being a  
4 little bit late?

5 THE WITNESS: No.

6 BY MR. HUGHES:

7 Q How close did you get to the man with the hat when  
8 you walked by?

9 A If he was standing where the second chair is, I will  
10 walk through the front door, pass him, come past the teller  
11 line and go into my station. So I would've passed him.

12 Q When you say pass him, could you have reached out and  
13 touched him?

14 A Would've walked right by him.

15 Yeah, if I wanted to.

16 Q Okay.

17 A Yes, I could've.

18 MR. HUGHES: Thank you, ma'am. That's all I have.

19 THE COURT: All right. Ms. Schifalacqua.

20 MS. SCHIFALACQUA: Thank you, Your Honor.

21 REDIRECT EXAMINATION

22 BY MS. SCHIFALACQUA:

23 Q Ms. Coleman, let's talk a little bit about what  
24 Mr. Brower asked you questions about. He showed you a  
25 statement, and he said -- he characterized that you said that

JD Reporting, Inc.

1 the individual was very dark. As you sit here today, do you  
2 remember just talking about him being dark skinned?

3 A Yes --

4 Q Okay. You didn't actually say.

5 A -- I did say dark skinned.

6 Q -- very dark; right?

7 A I don't remember the very dark --

8 Q If I approach --

9 A -- but I did say dark.

10 Q -- with --

11 MS. SCHIFALACQUA: Page 9, Counsel.

12 BY MS. SCHIFALACQUA:

13 Q -- showing you a transcript of your statement, I'm  
14 going to direct your attention to line 11. Go ahead and look  
15 at that, and when you're done reading that sentence, if you  
16 want to look up at me.

17 A Okay.

18 Q Did you say very dark, or did you say very and have a  
19 pause and then continue to describe him as African American?

20 A That's it because that's what we are.

21 Q Okay. And so you're -- for the record, you're  
22 African American?

23 A Yes.

24 Q Okay. And how would you describe yourself as far as  
25 complexion?

1 A Dark.

2 Q Okay.

3 A Dark skinned.

4 Q So there's not -- I mean, I'm white. Obviously I  
5 don't have a medium or light-skinned tone --

6 A And I wouldn't say you were white either. So --

7 Q Right. Okay. So there you go. Right.

8 But you were trying to give a description as best you  
9 could to police; is that fair to say?

10 A Yes.

11 Q Right?

12 A Yes.

13 Q Okay. And so in your own terms of describing the  
14 men, they were dark complected; is that right?

15 A Yes.

16 Q Okay. Additionally, when you talked about the man  
17 with the towel around his neck, you know, Mr. Brower talked  
18 about with you that you couldn't really see tattoos, but you  
19 described them as tattoos?

20 A Yeah, that's what they looked like.

21 Q Okay. So it looked like that. Fair to you that you  
22 might not have known what they were of? Is that right?

23 A No.

24 Q Okay. But you could kind of see something was there?

25 A Yes.

JD Reporting, Inc.

1 Q Okay. With regard to the face, I believe to police  
2 you indicated there was something, maybe pimples or something  
3 like that. How would you describe, as you sit here today and  
4 remember what occurred, how would you describe what was on the  
5 person's face?

6 A It just -- it just looked like there was something  
7 there, like either moles. You guys know those cluster moles  
8 that people have.

9 Q Okay.

10 A Like, that were teardrops, you know, you know how you  
11 do the teardrops.

12 Q Okay. And so you got -- that's what you describe as  
13 the male with the towel around his neck; is that right?

14 A Yes. Yes.

15 Q With regard to the timing or the entry of the person  
16 dressed a female and of the male with the towel around his  
17 neck, were you guarding the door, I mean, of the branch of who  
18 entered when?

19 A No.

20 Q Is that a no, Regina?

21 A No.

22 Q Okay. And, I mean, because there was kind of this  
23 big deal of who you assumed entered when. Can you sit here  
24 today and tell this jury, hey, no, this guy entered first, and  
25 this guy entered second? I mean, were you paying attention to

1 the order?

2 A No, not the order.

3 Q Okay. When you observed them, you personally first  
4 observed the man with the towel; is that fair?

5 A Yes.

6 Q Okay. So you talked with him first then?

7 A Yes.

8 Q And then you observed the man dressed as a female?

9 A Yes.

10 Q Okay. And so in that way in your mind is it fair to  
11 say that that's kind of the order?

12 A That is the order.

13 Q If I showed you video surveillance that showed the  
14 opposite of the entry into the branch, would that surprise you  
15 at all?

16 A No.

17 Q No. Because that wasn't your focus?

18 A No.

19 Q Okay. With regard to the gentleman, do you think you  
20 can identify them?

21 A Yeah.

22 Q Is that a yes?

23 A Yes. I'm sorry.

24 Q Do you see them here today in court?

25 A Yes.

JD Reporting, Inc.



1 Q Can you please point to them and identify something  
2 they're wearing today.

3 A The gentleman with a towel has on a white shirt, and  
4 my -- my lady has on a blue shirt.

5 MS. SCHIFALACQUA: And, Your Honor, for the record,  
6 let it reflect that the witness has identified Defendant Barr  
7 as the man with the towel and Defendant Phillips as the man  
8 dressed as a female.

9 THE COURT: Yes, the record will reflect that  
10 Mr. Barr is wearing the blue shirt today, and Mr. Phillips is  
11 wearing the white shirt today -- oh, I'm sorry. I misspoke.

12 MS. SCHIFALACQUA: Yes. I --

13 THE COURT: Mr. Phillips --

14 MS. SCHIFALACQUA: Is wearing the blue shirt.

15 THE COURT: -- is wearing the blue shirt.

16 MS. SCHIFALACQUA: Correct.

17 THE COURT: And Mr. Barr is wearing the white shirt.

18 BY MS. SCHIFALACQUA:

19 Q And, Regina, let me make this clear for our record.  
20 The man wearing the blue shirt today in court, that was the man  
21 dressed as the woman?

22 A Yes. He didn't have the facial hair though.

23 Q Any didn't have facial hair on that day?

24 A No.

25 Q Do you observe facial hair today?

1 A Yes.

2 Q And did you get close to him when he was, well,  
3 frankly like I am walking up to your teller station wanting to  
4 be assisted?

5 A Yeah. I mean --

6 Q How close?

7 A -- it was closer because his handbag he put down on  
8 the counter.

9 Q Let me stand to where he was. Was he this close to  
10 you, ma'am?

11 A [No audible response.]

12 Q Closer?

13 A Yes.

14 Q This close?

15 A Yes, because he was on my desk --

16 Q His hands touched your desk?

17 MR. BROWER: Judge, this is leading?

18 THE WITNESS: Yes.

19 MS. SCHIFALACQUA: Okay.

20 THE COURT: And just it is a little bit leading.

21 MS. SCHIFALACQUA: I'm sorry.

22 THE COURT: But for the record --

23 MS. SCHIFALACQUA: For the record --

24 THE COURT: -- Ms. Schifalacqua --

25 MS. SCHIFALACQUA: -- I'm standing --

JD Reporting, Inc.

1 THE COURT: -- is standing at the end edge of the  
2 witness stand. And what is that, about 3 feet?

3 MS. SCHIFALACQUA: I would say about that.

4 THE COURT: Does that sound; right?

5 MR. BROWER: I'm not going to object to your  
6 measurements, Judge.

7 THE COURT: Okay.

8 BY MS. SCHIFALACQUA:

9 Q Let me -- let me make this clear, Ms. Coleman. If  
10 you could describe for the jury, could you touch him if he  
11 reached out your arm?

12 A Yes.

13 Q Okay. With regard to the man that had the towel  
14 around his neck, that is the man that you've identified in the  
15 white shirt here today?

16 A Yes.

17 MS. SCHIFALACQUA: Okay. Nothing further, Your  
18 Honor.

19 THE COURT: All right. Any recross, Mr. Brower?

20 MR. BROWER: I just have to ask one thing about her  
21 statement on page 9.

22 THE COURT: That's fine.

23 RECROSS-EXAMINATION

24 BY MR. BROWER:

25 Q So I don't have the benefit of an audio, and you were

JD Reporting, Inc.

1 just asked to read this a moment ago. It says dark, and then  
2 there's a period in here, but I don't have the audio right now,  
3 and then it says very. When you were saying dark, did you mean  
4 very dark, or did you just mean dark? And what is the very  
5 about? Because then there's a break.

6 A I was trying to just get to the point of saying  
7 African American instead of basing it on color of skin.

8 Q Okay. I'm just --

9 A So --

10 Q I'm not -- all I can see is what's written on this  
11 paper, and it doesn't always translate to what you were --

12 A So dark skinned, dark complected.

13 Q Okay.

14 A That's my terminology of my color, their color.

15 MR. BROWER: Okay. That's fine. All right. Thank  
16 you.

17 THE COURT: Mr. Hughes.

18 MR. HUGHES: Yeah, briefly.

19 I'm asking Mr. Scow if he would reup the video of the  
20 two individuals entering this bank branch.

21 (Pause in the proceedings)

22 RECROSS-EXAMINATION

23 BY MR. HUGHES:

24 Q And, ma'am, is this once again the video that we saw  
25 earlier of the entry of your branch?

JD Reporting, Inc.

1 A I didn't see this video.

2 Q Oh.

3 MS. SCHIFALACQUA: She can't see the video.

4 MR. HUGHES: I'm sorry. Excuse me. Freeze that.

5 THE COURT: Oh, and just look --

6 MS. SCHIFALACQUA: For the record --

7 THE COURT: -- at the monitor there.

8 (Pause in the proceedings)

9 BY MR. HUGHES:

10 Q Ma'am, does that look like the entry of your branch?

11 A It is.

12 Q And does that look like the individual you keep  
13 referring to as a man with a wig entering?

14 A Yes.

15 MR. HUGHES: Okay. Would you play it some more,  
16 please.

17 MR. SCOW: Just tell me when to pause.

18 BY MR. HUGHES:

19 Q So that individual is now in your bank; right?

20 A Yes.

21 MR. HUGHES: Will you pause it.

22 BY MR. HUGHES:

23 Q Is that the man with the towel?

24 A Yes.

25 Q Is he entering the bank before or after the woman

1 with the wig -- or the man with the wig?

2 A He's entering after, but that has nothing to do with  
3 when I saw him.

4 Q But you indicated that the man with the wig wasn't  
5 there when you went in. You only noticed the man with the hat.

6 A When I walked in, I noticed the man with the hat when  
7 I walked in the branch.

8 Q So bear with me for just a minute. You walk into a  
9 bank branch, and do you see a black male adult with a hat and a  
10 towel, and also in the same lobby there is a black male adult  
11 with a long blond and black wig wearing a dress, and the one  
12 that you notice is the one with the hat?

13 A Because he's by the door right where I walked in.  
14 The first person I see is the gentleman with the hat. I go --

15 Q I thought you saw Manny first.

16 A Yeah, but we're talking about the two right here.

17 Q Well, as you described earlier, you said you walk in.  
18 There's a grand entrance, and you wish good morning to all your  
19 coworkers around you, and you're looking around --

20 A Right.

21 Q -- and despite looking around and seeing all these  
22 people, you don't notice a large black man and a blonde wig and  
23 a dress?

24 A He may not have been in line.

25 Q Okay.

1           A     He may not have been in line. There's chairs where  
2 you can sit and wait. I don't know. When I walked in, I saw  
3 this gentleman first. I went behind the teller line, and then  
4 later I was approached by the one dressed like a woman. So --

5           MR. HUGHES: Thank you.

6           THE COURT: Ms. Schifalacqua, anything --

7           MS. SCHIFALACQUA: No further questions, Your Honor.

8           THE COURT: Do we have any juror questions for the  
9 witness?

10           All right, ma'am. I see no additional questions.  
11 Thank you for your testimony. Please don't discuss your  
12 testimony with anybody else who may be a witness in this case.

13           THE WITNESS: Okay.

14           THE COURT: Thank you. And just follow the bailiff  
15 from the courtroom. You are excused.

16           All right, ladies and gentlemen. We're going to go  
17 ahead and take our lunch break. It's almost 12:50. So we will  
18 take an hour. That'll put us at 1:50.

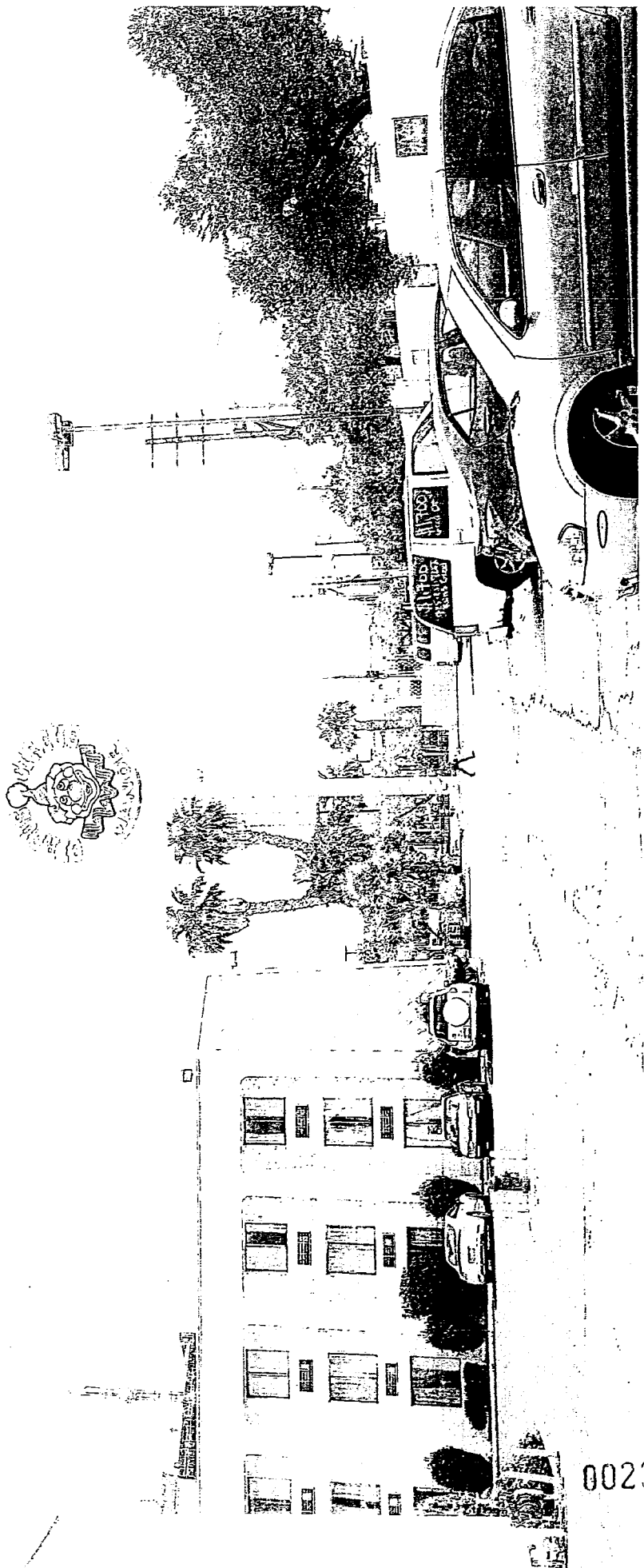
19           During the lunch break, you are all reminded you are  
20 not to discuss the case or anything relating to the case with  
21 each other or with anyone else. You're not to read, watch or  
22 listen to any reports of or commentaries on the case, person or  
23 subject matter relating to the case. Do not do any independent  
24 research by way of the Internet or any other medium. Do not  
25 visit any of the locations at issue, and please do not form or

EXHIBIT

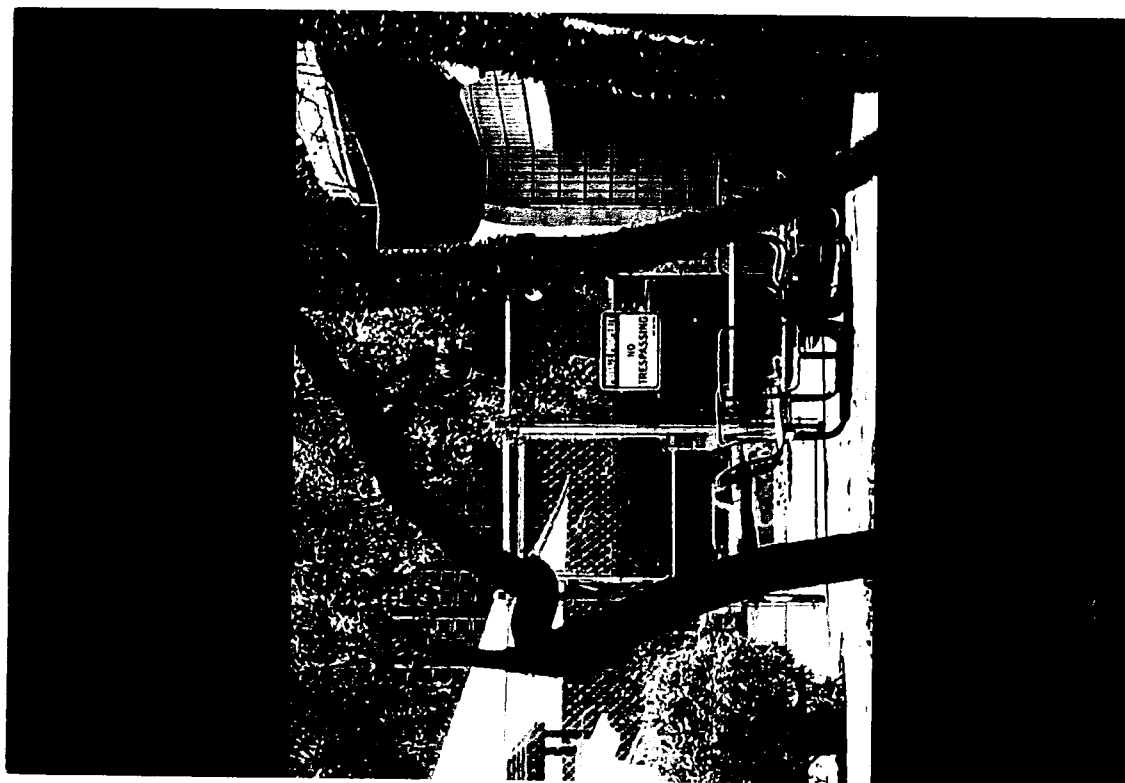
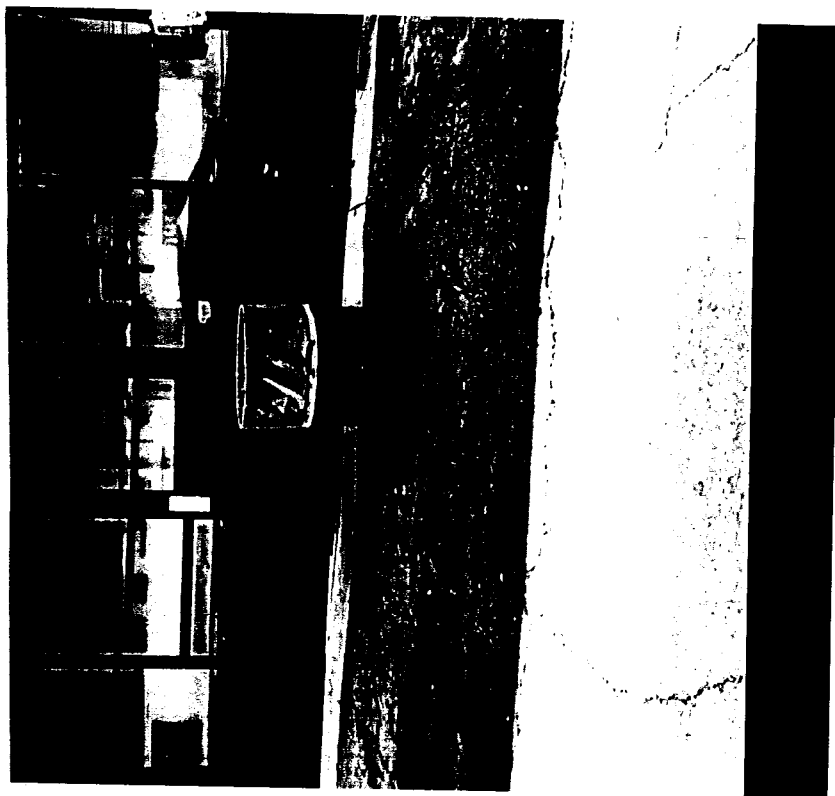
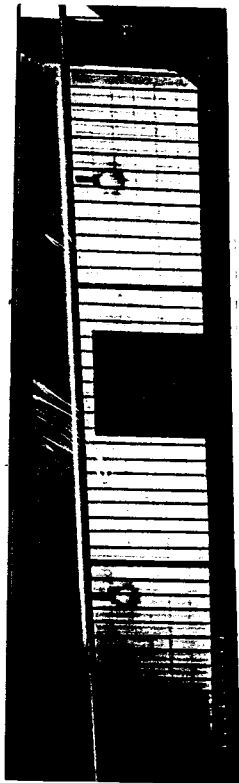
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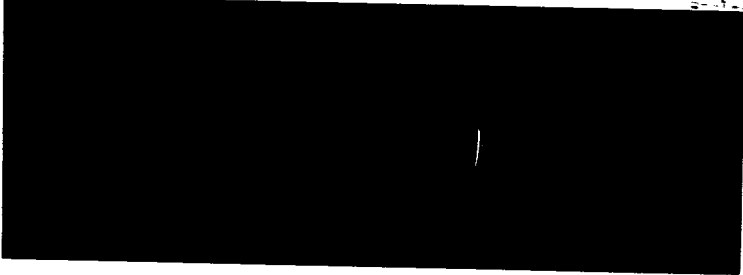
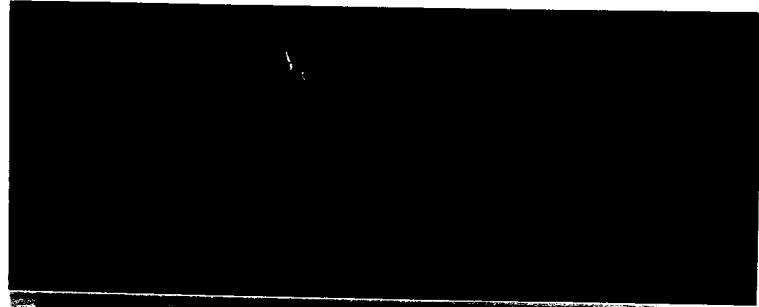
PHOTO'S OF PRIVATE  
PROPERTY





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EXHIBIT D

JUDGEMENT  
OF  
CONVICTION

*Steven D. Grierson*

AJOC

Exhibit  
7B

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

**DAMIEN ALEXANDER PHILLIPS** aka  
Travis Alexander Phillips  
#8437102

Defendant.

CASE NO. C-18-335500-1

DEPT. NO. XXI

AMENDED JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS 205.060, 199.480; COUNT 2 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480; COUNT 3, 5, 8, 11, 14 and 15 – BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of NRS 205.060; COUNT 4, 6, 7, 9, 10, 12, 13, 16, and 17 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; COUNT 18, 19 and 20 –

USJR Statistical Closure: Other Manner of Disposition

1 ASSAULT WITH A DEADLY WEAPN (Category B Felony) in violation of NRS 200.471, of  
2 COUNT 21 – ASSAULT WITH A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR  
3 OLDER (Category C Felony) in violation of NRS 202.350; and the matter having been tried  
4 before a jury and the Defendant having been found guilty of the crimes of COUNT 1 –  
5 CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS  
6 205.060, 199.480; COUNT 2 – CONSPIRACY TO COMMIT ROBBERY (Category B Felony)  
7 in violation of NRS 200.380, 199.480; COUNT 3, 5, 8, 11, 14 and 15 – BURGLARY WHILE  
8 IN POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of NRS  
9 205.060; COUNT 4, 6, 7, 9, 10, 12, 13, 16, and 17 – ROBBERY WITH USE OF A DEADLY  
10 WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; COUNT 18, 19 and 20 –  
11 ASSAULT WITH A DEADLY WEAPN (Category B Felony) in violation of NRS 200.471, of  
12 COUNT 21 – ASSAULT WITH A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR  
13 OLDER (Category C Felony) in violation of NRS 202.350; thereafter, on the 29<sup>th</sup> day of  
14 January, 2019, the Defendant was present in court for sentencing with counsel KEITH C.  
15 BROWER, ESQ., and good cause appearing,  
16  
17  
18

19 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition  
20 to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil Assessment Fee,  
21 and \$150.00 DNA Analysis Fee including testing to determine genetic markers plus \$3.00 DNA  
22 Collection Fee, the Defendant is SENTENCED as follows: **COUNT 1 - THREE HUNDRED**  
23 **SIXTY-FOUR (364) DAYS** in the Clark County Detention Center (CCDC); **COUNT 2 - a**  
24 **MAXIMUM of FORTY-EIGHT (48) MONTHS** with a **MINIMUM Parole Eligibility of**  
25 **TWELVE (12) MONTHS**, in the Nevada Department of Corrections (NDC), **CONCURRENT**  
26  
27  
28



1 with COUNT 1; **COUNT 3** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS  
2 with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, in the Nevada  
3 Department of Corrections (NDC), CONCURRENT with COUNT 2; **COUNT 4** - a  
4 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
5 Eligibility of THIRTY-SIX (36) MONTHS plus a CONSECUTIVE term of ONE HUNDRED  
6 TWENTY (120) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36)  
7 MONTHS for the Use of a Deadly Weapon, in the Nevada Department of Corrections (NDC),  
8 CONCURRENT with COUNT 3; **COUNT 5** - a MAXIMUM of ONE HUNDRED TWENTY  
9 (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, in the  
10 Nevada Department of Corrections (NDC), CONCURRENT with COUNT 3; **COUNT 6** - a  
11 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
12 Eligibility of THIRTY-SIX (36) MONTHS plus a CONSECUTIVE term of ONE HUNDRED  
13 TWENTY (120) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36)  
14 MONTHS for the Use of a Deadly Weapon, in the Nevada Department of Corrections (NDC),  
15 CONSECUTIVE to COUNT 4; **COUNT 7** - a MAXIMUM of ONE HUNDRED TWENTY  
16 (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS plus a  
17 CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM  
18 parole eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, in the  
19 Nevada Department of Corrections (NDC), CONSECUTIVE to COUNT 6; **COUNT 8** - a  
20 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
21 Eligibility of THIRTY-SIX (36) MONTHS, in the Nevada Department of Corrections (NDC),  
22 CONCURRENT with COUNT 5; **COUNT 9** - a MAXIMUM of ONE HUNDRED TWENTY  
23  
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1 (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS plus a  
2 CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM  
3 parole eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, in the  
4 Nevada Department of Corrections (NDC), CONSECUTIVE to COUNT 7; **COUNT 10** - a  
5 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
6 Eligibility of THIRTY-SIX (36) MONTHS plus a CONSECUTIVE term of ONE HUNDRED  
7 TWENTY (120) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36)  
8 MONTHS for the Use of a Deadly Weapon, in the Nevada Department of Corrections (NDC),  
9 CONCURRENT with COUNT 9; **COUNT 11** - a MAXIMUM of ONE HUNDRED TWENTY  
10 (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, in the  
11 Nevada Department of Corrections (NDC), CONCURRENT with COUNT 8; **COUNT 12** - a  
12 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
13 Eligibility of THIRTY-SIX (36) MONTHS plus a CONSECUTIVE term of ONE HUNDRED  
14 TWENTY (120) MONTHS with a MINIMUM parole eligibility of THIRTY-SIX (36)  
15 MONTHS for the Use of a Deadly Weapon, in the Nevada Department of Corrections (NDC),  
16 CONCURRENT with COUNT 10; **COUNT 13** - a MAXIMUM of ONE HUNDRED  
17 TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36)  
18 MONTHS plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with  
19 a MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly  
20 Weapon, in the Nevada Department of Corrections (NDC), CONCURRENT with COUNT 12;  
21 **COUNT 14** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a  
22 MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, in the Nevada Department of  
23  
24  
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1 Corrections (NDC), CONCURRENT with COUNT 11; **COUNT 15** - a MAXIMUM of ONE  
2 HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX  
3 (36) MONTHS, in the Nevada Department of Corrections (NDC), CONCURRENT with  
4 COUNT 14; **COUNT 16** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS  
5 with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS plus a CONSECUTIVE  
6 term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of  
7 THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, in the Nevada Department of  
8 Corrections (NDC), CONCURRENT with COUNT 13; **COUNT 17** - a MAXIMUM of ONE  
9 HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX  
10 (36) MONTHS plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS  
11 with a MINIMUM parole eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly  
12 Weapon, in the Nevada Department of Corrections (NDC), CONCURRENT with 16; **COUNT**  
13 **18** - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of  
14 TWELVE (12) MONTHS, in the Nevada Department of Corrections (NDC), CONCURRENT  
15 with COUNT 15; **COUNT 19** - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a  
16 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, in the Nevada Department of  
17 Corrections (NDC), CONCURRENT with COUNT 18; **COUNT 20** - a MAXIMUM of  
18 FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12)  
19 MONTHS, in the Nevada Department of Corrections (NDC), CONCURRENT with COUNT  
20 19; **COUNT 21** - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole  
21 Eligibility of TWELVE (12) MONTHS, plus a CONSECUTIVE term of FORTY-EIGHT (48)  
22 MONTHS with a MINIMUM parole eligibility of TWELVE (12) MONTHS for Victim Over  
23  
24  
25  
26  
27  
28

1 60 Years of Age, in the Nevada Department of Corrections (NDC), CONCURRENT with  
2 COUNT 17; with ONE HUNDRED SEVENTY-FOUR (174) DAYS credit for time served as  
3 of January 29, 2019. The AGGREGATE TOTAL sentence is EIGHTY (80) YEARS  
4 MAXIMUM with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) YEARS.  
5

6 IT IS HEARBY ORDERED by the COURT per minute order dated April 30, 2020 the  
7 Judgment of Conviction filed on February 27, 2019 and the Amended Judgment of Conviction  
8 filed on March, 30, 2020 have been STRICKEN from the record and this new original  
9 Judgment of Conviction has been prepared and filed in this case.  
10

11 THEREAFTER, a clerical error having been discovered, the Amended Judgment of  
12 Conviction reflects the following correction: **the correct spelling of the Defendant's Name**  
13 **DAMIEN ALEXANDER PHILLIPS.**  
14

15 DATED this 6th day of May, 2020.

16 

17 VALERIE ADAIR TW  
18 DISTRICT COURT JUDGE  
19  
20  
21  
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26  
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Exhibit  
6C

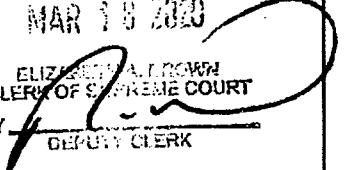
IN THE SUPREME COURT OF THE STATE OF NEVADA

DAMIEN ALEXANDER PHILLIPS,  
A/K/A TRAVIS ALEXANDER PHILLIPS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 78270

FILED

MAR 18 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of conspiracy to commit burglary,<sup>1</sup> conspiracy to commit robbery, six counts of burglary while in possession of a deadly weapon, nine counts of robbery with use of a deadly weapon, three counts of assault with a deadly weapon, assault with a deadly weapon of victim 60 years of age or older, carrying a concealed pneumatic gun, and preventing or dissuading a witness or victim from reporting a crime or commencing prosecution. Eighth Judicial District Court, Clark County; Douglas Smith,<sup>2</sup> Judge.

Damien Phillips and Anthony Barr robbed a string of Las Vegas banks in July and August 2018. Phillips robbed the first bank—a U.S. Bank on Paseo Verde in Henderson—alone, but Barr joined him for the

<sup>1</sup>The judgment of conviction states that Phillips was convicted of “counts 1 and 2 – conspiracy to commit burglary,” which appears to be a clerical error as count 2 was conspiracy to commit robbery. We direct the district court to enter a corrected judgment of conviction fixing this clerical error.

<sup>2</sup>Judge Valerie Adair presided over the trial.

subsequent four banks: a U.S. Bank on Eastern Avenue, a Bank of the West on North Valley Verde, a U.S. Bank inside of a Smith's Food and Drug on South Valley Verde, and a U.S. Bank on Charleston. During each of the first four robberies, Phillips or Barr or both presented the bank tellers with a note demanding money and threatening to use "a weapon," "a gun," and/or "a bomb" in order to secure compliance. Officers began tracking Phillips and Barr following the fourth robbery. Immediately prior to the fifth robbery, officers observed Phillips and Barr briefly enter a busy Smith's store that housed a U.S. Bank; there was a bulge in Barr's waistband that suggested a firearm. The pair then proceeded to the U.S. Bank on Charleston, where Phillips and Barr robbed the bank at gunpoint. Officers apprehended them as they fled from the fifth robbery. A jury found Phillips guilty on 21 counts, including burglary related to the Smith's he entered immediately before the fifth robbery (count 14). The jury also found Phillips guilty of using a deadly weapon in the commission of each of the crimes.

On appeal, Phillips contends that the evidence presented at trial was insufficient to support the jury's finding of guilt on counts 3 and 4 regarding the robbery of the Paseo Verde branch, the deadly weapon enhancement on counts 3-14 regarding the first four robberies, and the burglary conviction on count 14 regarding the Smith's. We disagree.

Evidence is sufficient to support a verdict if, "viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Hager v. State*, 135 Nev., Adv. Op 34, 447 P.3d 1063, 1070 (2019), quoting *Middleton v. State*, 114 Nev. 1089, 1103, 968 P.2d 296, 306 (1998) (internal quotation marks omitted). Circumstantial evidence may support a conviction. *Collman v. State*, 116 Nev. 687, 711, 7 P.3d 426,

441 (2000). “[I]t is the function of the jury, not the appellate court, to weigh the evidence and pass upon the credibility of the witness.” *Walker v. State*, 91 Nev. 724, 726, 542 P.2d 438, 439 (1975).

Here, the jury could reasonably infer from the evidence presented at trial that Phillips committed these crimes. See NRS 193.165(1); NRS 200.380(1); NRS 205.060(1). As to counts 3 and 4, U.S. Bank provided video surveillance of the robbery at the Paseo Verde branch, and witnesses identified Phillips as the suspect who robbed that bank.<sup>3</sup> Moreover, officers tied the suspect in the first robbery to one suspect in the second robbery based upon his clothing, notably his glasses, and a witness testified that those glasses belonged to Phillips. It was for the jury to weigh that evidence, which we conclude provided sufficient grounds for the verdict on those counts.

As to the deadly weapon enhancement on counts 3-14, this court has broadly construed NRS 193.165(1), see *State v. Dunckhurst*, 99 Nev. 696, 697, 669 P.2d 243, 243 (1983), and explained that a defendant need not activate a weapon during the crime to receive a deadly weapon enhancement, see *Culverson v. State*, 95 Nev. 433, 435, 596 P.2d 220, 221 (1979). Even where the victim does not actually see the weapon, a deadly weapon enhancement will be warranted if the evidence overall suggests the defendant used a deadly weapon to facilitate the crime. See *Bartle v. Sheriff*, 92 Nev. 459, 460, 552 P.2d 1099, 1099 (1976). Here, although the victims in the first four robberies did not observe a weapon, the evidence as

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<sup>3</sup>We have carefully reviewed the record and considered Phillips’ arguments regarding the video surveillance, and conclude that the evidence as a whole supports that the witnesses identified Phillips as the suspect who robbed the Paseo Verde branch.

a whole supports the deadly weapon enhancement. Phillips and Barr threatened the bank tellers with use of a weapon, generally a gun, to facilitate those robberies, and during one robbery, Phillips placed a bag on the counter and indicated it contained a bomb. During the burglary at the Smith's, officers observed that Barr had a bulge in his waistband, and immediately after leaving the Smith's, Phillips and Barr robbed a bank at gunpoint. Officers found guns in the getaway car and in another car owned by Phillips. This is sufficient evidence by which the jury could determine that Phillips used a gun or other deadly weapon during each of the robberies.

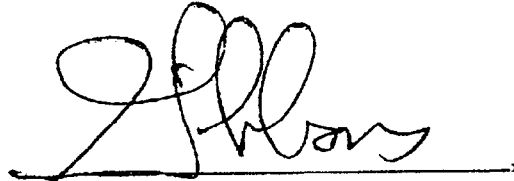
Finally, as to count 14 regarding the Smith's burglary, the evidence established that Phillips and Barr parked in an apartment complex behind a Smith's that contained a U.S. Bank, observed the busy area before entering, and were inside only a short time. As noted above, officers observed a bulge in Barr's waistband indicating the presence of a firearm. Phillips and Barr proceeded to rob a U.S. Bank at gunpoint immediately after leaving the Smith's. This evidence, although circumstantial, supports an inference that Phillips and Barr entered the Smith's with intent to commit a robbery, *see* NRS 205.060(1), and no evidence was adduced at trial to demonstrate that Phillips and Barr entered the store for another purpose. Accordingly, there was sufficient evidence by which a rational juror could find Phillips guilty of burglary on count 14. *See*




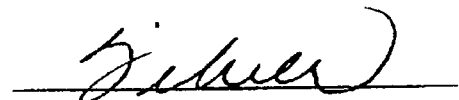
*Sheriff v. Stevens*, 97 Nev. 316, 317-18, 630 P.2d 256, 257 (1981) (explaining the crime of burglary is complete once the defendant enters the building with the intent to commit a felony).

Accordingly, we

ORDER the judgment of conviction AFFIRMED.

 J.  
Gibbons

 J.  
Stiglich

 J.  
Silver

cc: Chief Judge, Eighth Judicial District Court  
Hon. Valerie Adair, District Judge  
Sandra L. Stewart  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAMIEN ALEXANDER PHILLIPS, A/K/A  
TRAVIS ALEXANDER PHILLIPS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

Supreme Court No. 78270  
District Court Case No. C335500

Exhibit  
7A

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: April 14, 2020

Elizabeth A. Brown, Clerk of Court

By: Monique Mercier  
Administrative Assistant

cc (without enclosures):

Douglas Smith  
Sandra L. Stewart

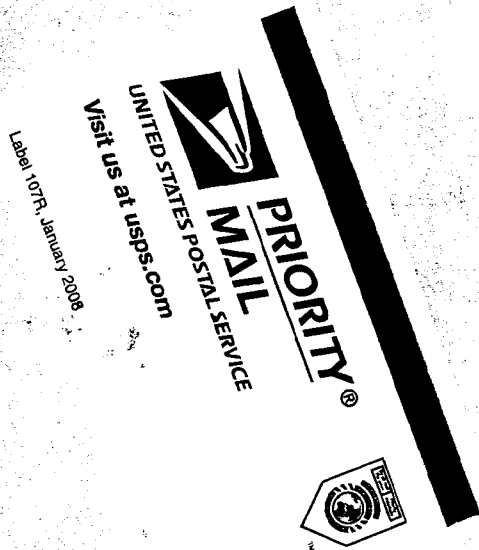
Clark County District Attorney \ Jonathan VanBoskerck, Deputy District Attorney

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 \_\_\_\_\_.

\_\_\_\_\_  
District Court Clerk

DAMEN A. PHILLIPS #1212760  
H.D.S.P.  
P.O. Box 660  
INDIAN SPRINGS, NV. 89070



CLERK OF THE COURT  
200 LEWIS AVE  
LAS VEGAS, NV. 89155

quadrant  
10/07/2021  
USPS POSTAGE \$009.30  
ZIP 89107  
041M120547

RECEIVED  
OCT 11 2021  
CLERK OF THE COURT

ST 10

*Steven D. Grierson*

DAMIAN A. PHILLIPS #1212760

In Proper Person  
P.O. Box 650 H.D.S.P.  
Indian Springs, Nevada 89018

EIGHTH DISTRICT COURT

CLARK COUNTY NEVADA

DAMIAN PHILLIPS #1212760,

APPELLANT,

-v-

THE WARDEN, HDSP,

RESPONDENT,

Case No. A-21-831976-W

Dept. No. 9

Docket \_\_\_\_\_

NOTICE OF APPEAL

Notice is hereby given that the APPELLANT, DAMIAN  
PHILLIPS, by and through himself in proper person, does now appeal  
to the Supreme Court of the State of Nevada, the decision of the District  
Court DENIAL OF PETITION OF HABEAS CORPUS  
(POST CONVICTION).

Dated this date, 12-6-2021.

Respectfully Submitted,

*[Signature]*

In Proper Person

CLERK OF THE COURT

JAN 10 2022

RECEIVED  
JAN 10 2022

**CERTIFICATE OF SERVICE BY MAILING**


I, DAMIEN PHILLIPS, hereby certify, pursuant to NRCP 5(b), that on this 6  
day of DECEMBER, 2021, I mailed a true and correct copy of the foregoing " \_\_\_\_\_

NOTICE OF APPEAL

by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,  
addressed as follows:

CLERK OF TAB COURT  
200 LEWIS AVE  
3RD FLOOR  
LAS VEGAS, NV. 89155

DATED: this 6 day of DECEMBER, 2021

  
DAMIEN A. PHILLIPS # 121760  
/In Propria Persona  
Post Office box 650 [HDSP]  
Indian Springs, Nevada 89018

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

NOTICE OF APPEAL

(Title of Document)

filed in District Court Case number A-21-831976-W

☐ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

B. For the administration of a public program or for an application  
for a federal or state grant.

  
\_\_\_\_\_  
Signature

12-6-21  
Date

DAMIEN PHILLIPS  
Print Name

PRO-SE  
Title

DAVID PHILIPS  
ADSP  
P.O. BOX 660  
INDIAN SPRINGS, NV. 89470

Clerk of the Court  
200 LEWIS AVE  
3RD FLOOR  
LAS VEGAS, NV. 89101

89101\$6300

11/11/11 11:11:11





1 ASTA

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3  
4  
5  
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**  
9

10 DAMIEN A. PHILLIPS,

11 Plaintiff(s),

12 vs.

13 NEV. DEPT. OF CORRECTIONS,

14 Defendant(s),  
15

Case No: A-21-831976-W

Dept No: IX

16  
17 **CASE APPEAL STATEMENT**  
18

19 1. Appellant(s): Damien Phillips

20 2. Judge: Cristina D. Silva

21 3. Appellant(s): Damien Phillips

22 Counsel:

23 Damien Phillips #1212760  
24 P.O. Box 650  
Indian Springs, NV 89070

25 4. Respondent (s): Nev. Dept. of Corrections

26 Counsel:

27 Steven B. Wolfson, District Attorney  
28 200 Lewis Ave.  
Las Vegas, NV 89155-2212



1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
2 Permission Granted: N/A

3 Respondent(s)'s Attorney Licensed in Nevada: Yes  
4 Permission Granted: N/A

5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

6 7. Appellant Represented by Appointed Counsel On Appeal: N/A

7 8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: Yes, April 1, 2021  
8 *\*\*Expires 1 year from date filed*  
9 Appellant Filed Application to Proceed in Forma Pauperis: N/A  
Date Application(s) filed: N/A

10 9. Date Commenced in District Court: March 30, 2021

11 10. Brief Description of the Nature of the Action: Civil Writ

12 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus

13 11. Previous Appeal: No

14 Supreme Court Docket Number(s): N/A

15 12. Child Custody or Visitation: N/A

16 13. Possibility of Settlement: Unknown

17 Dated This 18 day of January 2022.

18  
19 Steven D. Grierson, Clerk of the Court

20  
21 /s/ Heather Ungermann  
22 Heather Ungermann, Deputy Clerk  
23 200 Lewis Ave  
24 PO Box 551601  
Las Vegas, Nevada 89155-1601  
(702) 671-0512

25 cc: Damien Phillips  
26  
27  
28

*Heather S. Hume*

CLERK OF THE COURT

**FFCO**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
KAREN MISHLER  
Chief Deputy District Attorney  
Nevada Bar #013730  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Respondent

DISTRICT COURT  
CLARK COUNTY, NEVADA

DAMIEN ALEXANDER PHILLIPS,  
#8437102

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-21-831976-W

DEPT NO: IX

FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDER

DATE: November 18, 2021  
TIME OF HEARING: Chambers

THIS CAUSE having been decided by the Honorable CRISTINA D. SILVA, District Court Judge, on the 18th day of November 2021, in chambers and the Court having reviewed the matter, including briefs, transcripts, and documents on file herein; now therefore, the Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT, CONCLUSIONS OF LAW**

**STATEMENT OF THE CASE**

On October 23, 2018, DAMIEN ALEXANDER PHILLIPS (hereinafter "Petitioner") was charged by way of Information with CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor - NRS 205.060, 199.480); CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony - NRS 205.060); ROBBERY WITH USE OF A DEADLY

1 WEAPON (Category B Felony – NRS 200.380, 193.165); ASSAULT WITH A DEADLY  
2 WEAPON (Category B Felony – NRS 200.471); and ASSAULT WITH A DEADLY  
3 WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (Category B Felony – NRS 200.471,  
4 193.167) for actions on or between July 17, 2018 and August 6, 2018.

5 On December 3, 2018, Petitioner’s case proceeded to trial before a jury. After eight (8)  
6 days of trial, the jury its Verdict as follows: Count 1 – Guilty of Conspiracy to Commit  
7 Burglary; Count 2 – Guilty of Conspiracy to Commit Robbery; Count 3 – Guilty of Burglary  
8 While in Possession of a Deadly Weapon; Count 4 – Guilty of Robbery with Use of a Deadly  
9 Weapon; Count 5 – Guilty of Burglary While in Possession of a Deadly Weapon; Count 6 –  
10 Guilty of Robbery with Use of a Deadly Weapon; Count 7 – Guilty of Robbery with Use of a  
11 Deadly Weapon; Count 8 – Guilty of Burglary While in Possession of a Deadly Weapon;  
12 Count 9 – Guilty of Robbery with Use of a Deadly Weapon; Count 10 – Guilty of Robbery  
13 with Use of a Deadly Weapon; Count 11 – Guilty of Burglary While in Possession of a Deadly  
14 Weapon; Count 12 – Guilty of Robbery with Use of a Deadly Weapon; Count 13 – Guilty of  
15 Robbery with Use of a Deadly Weapon; Count 14 – Guilty of Burglary While in Possession  
16 of a Deadly Weapon; Count 15 – Guilty of Burglary While in Possession of a Deadly Weapon;  
17 Count 16 – Guilty of Robbery with Use of a Deadly Weapon; Count 17 – Guilty of Robbery  
18 with Use of a Deadly Weapon; Count 18 – Guilty of Assault with a Deadly Weapon; Count  
19 19 – Guilty of Assault with a Deadly Weapon; Count 20 – Guilty of Assault with a Deadly  
20 Weapon; and Count 21 – Guilty of Assault with a Deadly Weapon, Victim 60 Years of Age  
21 or Older.

22 On January 29, 2019, Petitioner was sentenced as follows: Count 1 – three hundred  
23 sixty-four (364) days in the Clark County Detention Center (“CCDC”); Count 2 – twelve (12)  
24 to forty-eight (48) months in the Nevada Department of Corrections (“NDC”), concurrent with  
25 Count 1; Count 3 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count  
26 2; Count 4 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six  
27 (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with  
28 Count 3; Count 5 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count

3; Count 6 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, consecutive to Count 4; Count 7 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, consecutive to Count 6; Count 8 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count 5; Count 9 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, consecutive to Count 7; Count 10 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with Count 9; Count 11 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count 8; Count 12 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with Count 10; Count 13 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with Count 12; Count 14 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count 11; Count 15 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count 14; Count 16 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with Count 13; Count 17 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with Count 16; Count 18 – twelve (12) to forty-eight (48) months, concurrent with Count 15; Count 19 – twelve (12) to forty-eight (48) months, concurrent with Count 18; Count 20 – twelve (12) to forty-eight (48) months, concurrent with Count 19; and Count 21 – twelve (12) to forty-eight (48) months, with a consecutive twelve (12) to forty-eight (48) months for the victim 65 years of age or older, concurrent with Count 17. Petitioner’s total aggregate sentence was announced as twenty-four (24) to eighty (80) years, with one hundred seventy-four (174) days credit for time served. Petitioner’s Judgment of Conviction was filed on February 27, 2019.

1 The Court filed an Amended Judgment of Conviction on May 6, 2020, to correct a clerical  
2 error in Petitioner's Judgment of Conviction.

3 On February 28, 2019, Petitioner filed a Notice of Appeal from his Judgment of  
4 Conviction. On March 18, 2020, the Nevada Supreme Court filed its Order of Affirmance.  
5 Remittitur issued on April 15, 2020.

6 On March 30, 2021, Petitioner filed a Petition for Writ of Habeas Corpus (Post-  
7 Conviction), as well as a Motion to Preserve All Evidence in Case C-18-335500-1, and a  
8 Motion to Appoint Counsel. The State filed its Response to Petitioner's Petition on May 25,  
9 2021. Also on May 25, 2021, Petitioner filed a "Motion and Order for Transportation of  
10 Inmate." On June 9, 2021, this Court denied Petitioner's Petition for Writ of Habeas Corpus  
11 (Post-Conviction), Motion to Appoint Counsel, Request for Transport; granted Petitioner's  
12 Motion to Preserve Evidence, and deferred law library issues. On August 21, 2021, the  
13 Findings of Fact, Conclusions of Law and Order was filed.

14 On August 4, 2021, Petitioner filed "Motion for Amended Habeas Corpus (Post-  
15 Conviction).

16 On October 13, 2021, Petitioner filed a second Petition for Writ of Habeas Corpus and  
17 a Motion for Appointment of Attorney and Request for Evidentiary Hearing. After reviewing  
18 the Petition, this Court determined that a response would not assist the Court in determining  
19 whether Petitioner is illegally imprisoned and restrained of his liberty. Petitioner previously  
20 filed a Petition for Writ of Habeas Corpus on March 30, 2021, which was denied on June 9,  
21 2021. Petitioner did not raise any new issues in his second Petition; therefore, on November  
22 18, 2021, this Court denied the Petition for Writ of Habeas Corpus without prejudice for the  
23 same reasons set forth in the Findings of Fact and Conclusions of Law signed on August 24,  
24 2021.

25 //

26 //

27 //

**PLEADING  
CONTINUES  
IN NEXT  
VOLUME**