

# IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK HEARRING, JR.,  
Appellant(s),

vs.

THE STATE OF NEVADA,  
Respondent(s),

Electronically Filed  
Mar 14 2022 01:07 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Case No: C-13-291159-1  
*Related Case A-19-790102-W*  
Docket No: 84258

# RECORD ON APPEAL VOLUME 1

**ATTORNEY FOR APPELLANT**  
FRANK HEARRING # 1006445,  
PROPER PERSON  
P.O. BOX 1989  
ELY, NV 89301

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

**I N D E X**

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U.S. MAIL**

1 **INFM**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 LINDSEY D. JOSEPH  
6 Deputy District Attorney  
7 Nevada Bar #12232  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

  
CLERK OF THE COURT

7 I.A. 7/18/2013  
8 9:30 AM  
9 C. ARNOLD

DISTRICT COURT  
CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,  
11 Plaintiff,  
12 -vs-

Case No: C-13-291159-1  
Dept No: XX

13 FRANK HEARRING, aka,  
14 Frank Herring, Jr., #1774466  
15 Defendant.

INFORMATION

16 STATE OF NEVADA }  
17 COUNTY OF CLARK } ss.

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

20 That FRANK HEARRING, aka, Frank Herring, Jr., the Defendant(s) above named,  
21 having committed the crimes of **MURDER WITH USE OF A DEADLY WEAPON**  
22 **(Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH**  
23 **USE OF A DEADLY WEAPON (Category B Felony - NRS 193.330; 200.010; 200.030;**  
24 **193.165); DISCHARGING A FIREARM AT OR INTO STRUCTURE, VEHICLE,**  
25 **AIRCRAFT OR WATERCRAFT (NRS 202.285) and POSSESSION OF FIREARM**  
26 **BY EX-FELON (Category B Felony - NRS 202.360), on or about the 17th day of May,**  
27 **2013, within the County of Clark, State of Nevada, contrary to the form, force and effect of**

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1 statutes in such cases made and provided, and against the peace and dignity of the State of  
2 Nevada,

3 **COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON**

4 did then and there wilfully, feloniously, and without authority of law, and with  
5 malice aforethought kill MICHAEL JORDAN, a human being, in the following manner, to-  
6 wit: by shooting a firearm at MICHAEL JORDAN and/or CLIFTON WATKINS, striking  
7 MICHAEL JORDAN and resulting in the death of the said MICHAEL JORDAN; said  
8 killing having been done by (1) premeditation and deliberation in its commission; and/or (2)  
9 the Defendant lying in wait to commit the killing.

10 **COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON**

11 did then and there, without lawful authority of law, and with malice aforethought,  
12 willfully and feloniously attempt to kill CLIFTON WATKINS, a human being, by shooting  
13 at the body of said CLIFTON WATKINS with use of a deadly weapon, to-wit: a firearm.

14 **COUNT 3 - DISCHARGING A FIREARM AT OR INTO STRUCTURE, VEHICLE,**  
15 **AIRCRAFT OR WATERCRAFT**

16 did then and there willfully, unlawfully, and feloniously discharge a firearm at or into  
17 a vehicle, to-wit: a 2000 Chevrolet bearing California license plates belonging to  
18 MESHAWNDA ROBERTS , said vehicle not having been abandoned, located at 5201  
19 Walnut Avenue, Las Vegas, Clark County, Nevada.

20 **COUNT 4 - POSSESSION OF FIREARM BY EX-FELON**

21 did then and there wilfully, unlawfully, and feloniously own or have in his  
22 possession, or under his control, a weapon, to-wit: an unknown make or model .40 caliber  
23 firearm, the said Defendant being an ex-felon, having on August 29, 2006, been convicted of

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1 Robbery, in Case No. C224177, in the Eighth Judicial District Court, Clark County, Nevada  
2 a felony under the laws of the State of Nevada.

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

6 BY

7 LINDSEY D. JOSEPH  
8 Deputy District Attorney  
9 Nevada Bar #12232

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27 DA#13F08177X/mlb/L-4  
28 LVMPD EV#1305170127  
(TK1)

  
CLERK OF THE COURT

NWEW  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MICHAEL SCHWARTZER  
Deputy District Attorney  
Nevada Bar #10747  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,

-vs-

FRANK HEARRING, aka,  
Frank Herring, Jr., #1774466  
  
Defendant.

CASE NO: C-13-291159-1

DEPT NO: XX

NOTICE OF EXPERT WITNESSES  
[NRS 174.234(2)]

TO: FRANK HEARRING, aka, Frank Herring, Jr., Defendant; and

TO: CARL E. ARNOLD, ESQ., Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF NEVADA intends to call the following witnesses in its case in chief:

GAVIN, Lisa, M.D. a Medical Doctor employed by the Clark County Coroner Medical Examiner. She is an expert in the area of forensic pathology and will give scientific opinions related thereto. She is expected to testify regarding the cause and manner of death of MICHAEL JORDAN.

MACEO, Alice P#7828 a Latent Print Examiner or Designee – Las Vegas Metropolitan Police Department; will testify as an expert as to the procedures, techniques and science employed in the fingerprint analysis, all procedures employed in this case and reports provided.



1        AOYAMA, Kathryn P#8035 a Latent Print Examiner – Las Vegas Metropolitan  
2 Police Department; will testify as an expert as to the procedures, techniques and science  
3 employed in the fingerprint analysis, all procedures employed in this case and reports  
4 provided.

5        BEARD, Marcia P#3768 a Latent Print Examiner – Las Vegas Metropolitan Police  
6 Department; will testify as an expert as to the procedures, techniques and science employed  
7 in the fingerprint analysis, all procedures employed in this case and reports provided.

8        CAMERON, Cathryn P#9887 a Latent Print Examiner – Las Vegas Metropolitan  
9 Police Department; will testify as an expert as to the procedures, techniques and science  
10 employed in the fingerprint analysis, all procedures employed in this case and reports  
11 provided.

12        CARTER, Marnie P#8179 a Latent Print Examiner – Las Vegas Metropolitan Police  
13 Department; will testify as an expert as to the procedures, techniques and science employed  
14 in the fingerprint analysis, all procedures employed in this case and reports provided.

15        MURGA, Kimberly P#10140 a DNA Technical Leader or Designee with the Las  
16 Vegas Metropolitan Police Department. She is an expert in the area of DNA technology and  
17 will give scientific opinions related thereto. She is expected to testify regarding the DNA  
18 profiling analysis and related procedures she performed in this case.

19        ADAMS, Tiffany P#10072 a Criminalist with the Las Vegas Metropolitan Police  
20 Department. She is an expert in the area of DNA technology and will give scientific  
21 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
22 related procedures she performed in this case.

23        BAS, Jennifer P#9944 a Criminalist with the Las Vegas Metropolitan Police  
24 Department. She is an expert in the area of DNA technology and will give scientific  
25 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
26 related procedures she performed in this case.

27        Beaudette, Frances P#4361 a Criminalist with the Las Vegas Metropolitan Police  
28 Department. She is an expert in the area of DNA technology and will give scientific

1 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
2 related procedures she performed in this case.

3 GAUTHIER, Kelly P#8691 a Criminalist with the Las Vegas Metropolitan Police  
4 Department. She is an expert in the area of DNA technology and will give scientific  
5 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
6 related procedures she performed in this case.

7 KING, Craig P#9971 a Criminalist with the Las Vegas Metropolitan Police  
8 Department. He is an expert in the area of DNA technology and will give scientific opinions  
9 related thereto. He is expected to testify regarding the DNA profiling analysis and related  
10 procedures she performed in this case.

11 MARSCHNER, Julie P#8806 a Criminalist with the Las Vegas Metropolitan Police  
12 Department. She is an expert in the area of DNA technology and will give scientific  
13 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
14 related procedures she performed in this case.

15 MAY, Crystal P#9288 a Criminalist with the Las Vegas Metropolitan Police  
16 Department. She is an expert in the area of DNA technology and will give scientific  
17 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
18 related procedures she performed in this case.

19 PACHECO, Jessica P#13770 a Criminalist with the Las Vegas Metropolitan Police  
20 Department. She is an expert in the area of DNA technology and will give scientific  
21 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
22 related procedures she performed in this case.

23 RETAMOZO, Carol P#14280 a Criminalist with the Las Vegas Metropolitan Police  
24 Department. She is an expert in the area of DNA technology and will give scientific  
25 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
26 related procedures she performed in this case.

27 ROBERTSON, Cassandra P#14653 a Criminalist with the Las Vegas Metropolitan  
28 Police Department. She is an expert in the area of DNA technology and will give scientific

1 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
2 related procedures she performed in this case.

3 TAYLOR, Jennifer P#10074 a Criminalist with the Las Vegas Metropolitan Police  
4 Department. She is an expert in the area of DNA technology and will give scientific  
5 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
6 related procedures she performed in this case.

7 THOMAS, Jennifer P#13772 a Criminalist with the Las Vegas Metropolitan Police  
8 Department. She is an expert in the area of DNA technology and will give scientific  
9 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
10 related procedures she performed in this case.

11 VIDA, Beata P#14279 a Criminalist with the Las Vegas Metropolitan Police  
12 Department. She is an expert in the area of DNA technology and will give scientific  
13 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
14 related procedures she performed in this case.

15 STONE, Randall P#2887 A Firearm/Toolmark Examiner with the Las Vegas  
16 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis  
17 and will give opinions related thereto. He is expected to testify regarding the firearms and  
18 bullet trajectory comparison of certain evidence collected from the various crime scenes.

19 FRIED, Jonathan P#8174 A Firearm/Toolmark Examiner with the Las Vegas  
20 Metropolitan Police Department. He is an expert in the area of firearm/Toolmark analysis  
21 and will give opinions related thereto. He is expected to testify regarding the firearms and  
22 bullet trajectory comparison of certain evidence collected from the various crime scenes.

23 KRYLO, James P#5945 A Firearm/Toolmark Examiner with the Las Vegas  
24 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis  
25 and will give opinions related thereto. He is expected to testify regarding the firearms and  
26 bullet trajectory comparison of certain evidence collected from the various crime scenes.

27 MOSES, Angel P#8002 A Firearm/Toolmark Examiner with the Las Vegas  
28 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis

1 and will give opinions related thereto. He is expected to testify regarding the firearms and  
2 bullet trajectory comparison of certain evidence collected from the various crime scenes.

3 ORTON, Gary P#14579 A Firearm/Toolmark Examiner with the Las Vegas  
4 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis  
5 and will give opinions related thereto. He is expected to testify regarding the firearms and  
6 bullet trajectory comparison of certain evidence collected from the various crime scenes.

7 SANKO, Anya P#13771 A Firearm/Toolmark Examiner with the Las Vegas  
8 Metropolitan Police Department. She is an expert in the area of Firearm/Toolmark analysis  
9 and will give opinions related thereto. She is expected to testify regarding the firearms and  
10 bullet trajectory comparison of certain evidence collected from the various crime scenes.

11 ALBERT, Joel P#13204 a Crime Scene Analyst with the Las Vegas Metropolitan  
12 Police Department. He is an expert in the area of the identification, documentation,  
13 collection and preservation of evidence and will give opinions related thereto. He is  
14 expected to testify regarding the identification, documentation, collection and preservation of  
15 evidence in this case.

16 REINHARD, Louise P#5223 a Crime Scene Analyst with the Las Vegas  
17 Metropolitan Police Department. She is an expert in the area of the identification,  
18 documentation, collection and preservation of evidence and will give opinions related  
19 thereto. She is expected to testify regarding the identification, documentation, collection and  
20 preservation of evidence in this case.

21 DAHN, Robbie P#5947 a Crime Scene Analyst with the Las Vegas Metropolitan  
22 Police Department. He is an expert in the area of the identification, documentation,  
23 collection and preservation of evidence and will give opinions related thereto. He is  
24 expected to testify regarding the identification, documentation, collection and preservation of  
25 evidence in this case.

26 REED, Gary P#3731 a Crime Scene Analyst with the Las Vegas Metropolitan  
27 Police Department. He is an expert in the area of the identification, documentation,  
28 collection and preservation of evidence and will give opinions related thereto. He is

1 expected to testify regarding the identification, documentation, collection and preservation of  
2 evidence in this case.

3 MORTON, Larry P#4935 a Crime Scene Analyst with the Las Vegas Metropolitan  
4 Police Department. He is an expert in the area of the identification, documentation,  
5 collection and preservation of evidence and will give opinions related thereto. He is  
6 expected to testify regarding the identification, documentation, collection and preservation of  
7 evidence in this case.

8 KELLY, Janet P#5666 a Forensic Scientist with the Las Vegas Metropolitan Police  
9 Department. She is an expert in the area of footwear impressions and will give her opinions  
10 related thereto. She is expected to testify regarding the identification of footwear  
11 impressions in this case.

12 CUSTODIAN OF RECORDS – AT & T to testify as an expert in the analysis and  
13 explanation of complex phone record keeping documents as well as an expert in the field  
14 of cellular phone towers and their geographic proximity to the users of a certain cellular  
15 telephone.

16 CUSTODIAN OF RECORDS – CRICKET to testify as an expert in the analysis and  
17 explanation of complex phone record keeping documents as well as an expert in the field of  
18 cellular phone towers and their geographic proximity to the users of a certain cellular  
19 telephone.

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1 The substance of each expert witness' testimony and a copy of all reports made by or  
2 at the direction of the expert witness has been provided in discovery.

3 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

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

8 BY 

9 MICHAEL SCHWARTZER  
10 Deputy District Attorney  
11 Nevada Bar #10747

12 CERTIFICATE OF FACSIMILIE TRANSMISSION

13 I hereby certify that service of Notice of Expert Witnesses, was made this 26th  
14 day of July, 2013, by facsimilie transmission to:

15 CARL E. ARNOLD, ESQ.  
16 FAX: 474-4137

17 BY: 

18 MARY BAILEY  
19 Employee of the District Attorney's Office  
20  
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13F08177X/mlb/L-4

  
CLERK OF THE COURT

**NWEW**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MICHAEL SCHWARTZER  
Deputy District Attorney  
Nevada Bar #10747  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

FRANK HEARRING, aka,  
Frank Herring, Jr., #1774466  
Defendant.

CASE NO: C-13-291159-1

DEPT NO: XX

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

TO: FRANK HEARRING, aka, Frank Herring, Jr., Defendant; and

TO: C. ARNOLD, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
NEVADA intends to call the following witnesses in its case in chief:

| <u>NAME</u>   | <u>ADDRESS</u>                     |
|---------------|------------------------------------|
| AKE, P.       | LVMPD P#8100                       |
| ALBERT, J.    | LVMPD P#13204                      |
| ALSUP, T.     | LVMPD P#5782                       |
| ANDRADE, K.   | LVMPD P#6050                       |
| ATWOOD, C     | LVMPD P#10003                      |
| BASILOTTA, E. | LVMPD P#8447                       |
| BROWN, Brandy | 501 Walnut Ave, Apt No. 71, LV, NV |

|    |                                  |   |
|----|----------------------------------|---|
| 1  | BROWN, Tara                      | 5201 Walnut Ave, Apt No. 80, LV, NV     |
| 2  | BURRELL, Gregory                 | 3548 Gold Mist Ave, LV, NV              |
| 3  | BYBEE, R.                        | LVMPD P#13295                           |
| 4  | CHAPMAN, Shagela                 | 1653 Winchester Ave, Lincoln Park, MI   |
| 5  | COLON, M.                        | LVMPD P#7585                            |
| 6  | CUSTODIAN OF RECORDS or designee | AT & T                                  |
| 7  | CUSTODIAN OF RECORDS or designee | CCDC, 330 S. Casino Center Blvd, LV, NV |
| 8  | CUSTODIAN OF RECORDS or designee | CRICKET WIRELESS                        |
| 9  | CUSTODIAN OF RECORDS or designee | LAS PALMAS LIQUOR STORE, 714 N.         |
| 10 |                                  | Nellis Blvd, LV, NV                     |
| 11 | CUSTODIAN OF RECORDS or designee | LVMPD Dispatch, 400 E. Stewart Ave,     |
| 12 |                                  | LV,NV                                   |
| 13 | CUSTODIAN OF RECORDS or designee | NLVPD Records , 1301 E. Lake Mead Blvd  |
| 14 |                                  | NLV, NV                                 |
| 15 | DAHN, R.                         | LVMPD P#5947                            |
| 16 | DARR, A.                         | LVMPD P#5485                            |
| 17 | DAVIS, Kizzy                     | 5201 Walnut Ave, Apt No. 14, LV, NV     |
| 18 | DONALDSON, J.                    | LVMPD P#13237                           |
| 19 | EMBREY, B.                       | LVMPD P#8644                            |
| 20 | EVANS, M.                        | LVMPD P#13886                           |
| 21 | FEAZELL, Stevia                  | 3728 Shimmering Creek Ave., NLV, NV     |
| 22 | FRANKLIN, Perry                  | 2811 Promontory Vista PL, LV, NV        |
| 23 | GANDY, C.                        | LVMPD P#5117                            |
| 24 | GAVIN, LISA M.D.                 | CLARK COUNTY CORONER'S OFFICE           |
| 25 | GORDON, D.                       | LVMPD P#3965                            |
| 26 | HILL, C.                         | LVMPD P#13387                           |
| 27 | HOUGHTON, J.                     | LVMPD P#9789                            |
| 28 | HULLETT, E.                      | LVMPD P# 13662                          |

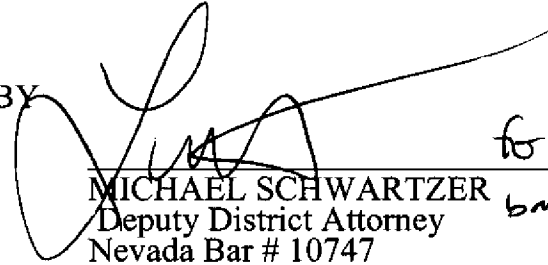


|    |                    |  |
|----|--------------------|--|
| 1  | JONES, Cherrice    | 5025 Nellis Oasis LN, Apt No. 52, LV, NV |
| 2  | KELLY, J.          | LVMPD P#5666                             |
| 3  | MAINES, M.         | LVMPD P#4040                             |
| 4  | MCKENZIE, K.       | LVMPD P#6743                             |
| 5  | MODGLIN, Amie      | CLARK COUNTY CORONER'S OFFICE            |
| 6  | MOGG, C.           | LVMPD P#5096                             |
| 7  | MORTON, L.         | LVMPD P#4935                             |
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| 9  | PAZOS, E.          | LVMPD P#6817                             |
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| 12 | REED, G.           | LVMPD P#3731                             |
| 13 | RENHARD, L.        | LVMPD P#5223                             |
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| 23 | WATKINS, Clifton   | c/o CCDA, 200 Lewis Avenue, LV, NV       |
| 24 | WHITEHEAD, J.      | LVMPD P#3487                             |
| 25 | WILDERMUTH, S.     | LVMPD P#8075                             |
| 26 | WILSON, R.         | LVMPD P#3836                             |
| 27 | ///                |  |
| 28 | ///                |  |

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

7 BY

8   
9 MICHAEL SCHWARTZER  
10 Deputy District Attorney  
11 Nevada Bar # 10747

to

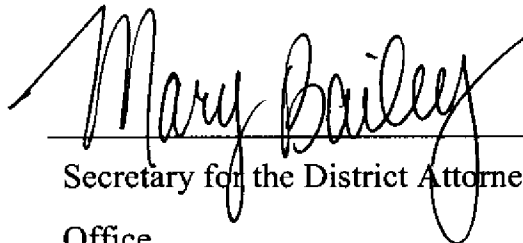
62232

12 CERTIFICATE OF ELECTRONIC FILING

13 I hereby certify that service of Notice of Witnesses, was made this 8th day of  
14 August, 2013, by Electronic Filing to:

15  
16 CARL ARNOLD, ESQ

17 Email: lvcegal@yahoo.com

18  
19   
20 Secretary for the District Attorney's  
21 Office  
22  
23  
24  
25  
26  
27

28 13F08177X/mlb/L-4

  
CLERK OF THE COURT

NWEW  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MICHAEL SCHWARTZER  
Deputy District Attorney  
Nevada Bar #10747  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

FRANK HEARRING, aka,  
Frank Herring, Jr., #1774466  
Defendant.

CASE NO: C-13-291159-1

DEPT NO: XX

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

TO: FRANK HEARRING, aka, Frank Herring, Jr., Defendant; and

TO: C. ARNOLD, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
NEVADA intends to call the following witnesses in its case in chief:

| <u>NAME</u>   | <u>ADDRESS</u>                     |
|---------------|------------------------------------|
| AKE, P.       | LVMPD P#8100                       |
| ALBERT, J.    | LVMPD P#13204                      |
| ALSUP, T.     | LVMPD P#5782                       |
| ANDRADE, K.   | LVMPD P#6050                       |
| ATWOOD, C     | LVMPD P#10003                      |
| BASILOTTA, E. | LVMPD P#8447                       |
| BROWN, Brandy | 501 Walnut Ave, Apt No. 71, LV, NV |

|    |                                  |   |
|----|----------------------------------|---|
| 1  | BROWN, Tara                      | 5201 Walnut Ave, Apt No. 80, LV, NV     |
| 2  | BURRELL, Gregory                 | 3548 Gold Mist Ave, LV, NV              |
| 3  | BYBEE, R.                        | LVMPD P#13295                           |
| 4  | CHAPMAN, Shagela                 | 1653 Winchester Ave, Lincoln Park, MI   |
| 5  | COLON, M.                        | LVMPD P#7585                            |
| 6  | CUSTODIAN OF RECORDS or designee | AT & T                                  |
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| 25 | *GODBOLT, Helene                 | c/o CCDA, 200 Lewis Avenue, LV, NV      |
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| 28 |                                  |   |

|    |                    |  |
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| 8  | MODGLIN, Amie      | CLARK COUNTY CORONER'S OFFICE            |
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2 \* denotes change

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

9 BY


10   
11 MICHAEL SCHWARTZER  
12 Deputy District Attorney  
13 Nevada Bar # 10747

14 CERTIFICATE OF ELECTRONIC FILING

15 I hereby certify that service of Notice of Witnesses, was made this 9th day of  
16 August, 2013, by Electronic Filing to:

17  
18 CARL ARNOLD, ESQ

19 Email: lvcegal@yahoo.com

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21   
22 Secretary for the District Attorney's  
23 Office  
24  
25  
26  
27

28 13F08177X/mlb/L-4

  
CLERK OF THE COURT

**NWEW**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MICHAEL SCHWARTZER  
Deputy District Attorney  
Nevada Bar #10747  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

FRANK HEARRING, aka,  
Frank Hearing, Jr., #1774466  
Defendant.

CASE NO: C-13-291159-1  
DEPT NO: XX

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

TO: FRANK HEARRING, aka, Frank Hearing, Jr., Defendant; and

TO: C. ARNOLD, Counsel of Record:

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| 2  | HOUGHTON, J.       | LVMPD P#9789                             |
| 3  | HULLETT, E.        | LVMPD P# 13662                           |
| 4  | *JOHNSON, Rayna    | 5201 Walnut, Apt. No. 6, LV, NV          |
| 5  | JONES, Cherrice    | 5025 Nellis Oasis LN, Apt No. 52, LV, NV |
| 6  | KELLY, J.          | LVMPD P#5666                             |
| 7  | *LNU, Benita       | 5201 Walnut, Apt. No. 85, LV, NV         |
| 8  | MAINES, M.         | LVMPD P#4040                             |
| 9  | MCKENZIE, K.       | LVMPD P#6743                             |
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Nevada Bar # 001565

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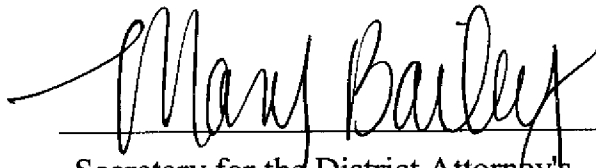
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13 MICHAEL SCHWARTZER  
14 Deputy District Attorney  
Nevada Bar # 10747

15 CERTIFICATE OF ELECTRONIC FILING

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17 I hereby certify that service of Notice of Witnesses, was made this 12<sup>th</sup> day of  
18 August, 2013, by Electronic Filing to:

19 CARL ARNOLD, ESQ

20 Email: lvcegal@yahoo.com

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22   
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24 Secretary for the District Attorney's

25 Office

26  
27  
28 13F08177X/mlb/L-4

1 CASE NO. C291159

2 DEPARTMENT NO. 1

3

4 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

5 COUNTY OF CLARK, STATE OF NEVADA

6

\* \* \* \* \*

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09/05/2013 01:15:42 PM

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THE STATE OF NEVADA,

)

8

Plaintiff,

)

9

vs.

)

10

FRANK HEARRING, JR.,

)

11

Defendant.

)

12

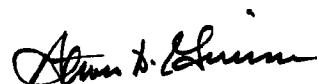
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CASE NO. 13F08177X



CLERK OF THE COURT

13

REPORTER'S TRANSCRIPT

14

OF

15

PRELIMINARY HEARING

16

BEFORE THE HONORABLE DEBORAH LIPPIS  
JUSTICE OF THE PEACE

17

THURSDAY, JULY 11, 2013  
10:00 A.M.

18

19

APPEARANCES:

20

For the State:

LINDSEY JOSEPH, ESQ.

21

MICHAEL SCHWARTZER, ESQ.

22

Deputies District Attorney

23

For the Defendant:

CARL ARNOLD, ESQ.

24

Attorney at Law

25

Reported by: Shawna J. McIntosh, RPR, CCR No. 770

SHAWNA J. MCINTOSH, RPR, CCR NO. 770  
(702) 671-3464

I N D E XWITNESSES FOR THE STATE: PAGECHERRICE JONES

|                                      |    |
|--------------------------------------|----|
| Direct Examination by Mr. Schwartz   | 8  |
| Cross-Examination by Mr. Arnold      | 19 |
| Redirect Examination by Mr. Schwartz | 29 |

CLIFTON WATKINS

|                                    |    |
|------------------------------------|----|
| Direct Examination by Ms. Joseph   | 34 |
| Cross-Examination by Mr. Arnold    | 66 |
| Redirect Examination by Ms. Joseph | 89 |

--o0o--

E X H I B I T S

| <u>STATE'S EXHIBITS</u>                        | <u>MARKED</u> | <u>ADMITTED</u> |
|--|---------------|-----------------|
| 1 - Judgment of Conviction for<br>Case C224177 | 4             | 91              |
| 2 - Autopsy report                             | 4             | 91              |
| 3 - LVMPD Photo Line-up                        | 4             | 16              |
| 4 - LVMPD Photo Line-up                        | 4             | 17              |
| 5 - LVMPD Photo Line-up                        | 61            | 63              |
| 6 - LVMPD Photo Line-up                        | 4             | 64              |

--o0o--

SHAWNA J. MCINTOSH, RPR, CCR NO. 770  
(702) 671-3464

1 LAS VEGAS, NEVADA, JULY 11, 2013

2 \* \* \* \* \*

3  
4  
5 (State's Proposed Exhibits 1 through 4 and 6,  
6 were marked for identification)  
7

8 THE COURT: Frank Herring, Junior.

9 Good morning, Mr. Arnold.

10 MR. ARNOLD: Good morning, Your Honor.

11 I'm ready to proceed with the  
12 preliminary hearing.

13 THE COURT: Yes. Who is doing this one?

14 MS. JOSEPH: Mr. Schwartz and myself,  
15 Your Honor.

16 THE COURT: How many witnesses will you need?

17 MS. JOSEPH: Two.

18 THE COURT: All right. The record reflect  
19 that Mr. Herring is present with his attorney,  
20 Mr. Arnold. Mr. Herring is in custody. Miss Joseph  
21 and Mr. Schwartz for the State.

22 Everybody has announced ready to  
23 proceed. You may take your seat and call your first  
24 witness.

25 MR. ARNOLD: Your Honor, as a preliminary

SHAWNA J. MCINTOSH, RPR, CCR NO. 770  
(702) 671-3464

1 matter, can we invoke the exclusionary rule?

2 THE COURT: Yes.

3 MR. ARNOLD: Thank you.

4 MS. JOSEPH: And that would be the State's  
5 request as well. I'm not sure who all the individuals  
6 in the back row are. There are a lot of potential  
7 witnesses, if you could have them stand and state their  
8 name, I would know if they are a potential witness.

9 THE COURT: Sure. Who's your first witness?

10 MS. JOSEPH: Cherrice Jones.

11 THE COURT: Is Miss Cherrice Jones here?

12 MR. SCHWARTZER: She's not in the courtroom.

13 THE COURT: All right. The State has no  
14 further witnesses in the courtroom?

15 MS. JOSEPH: The State doesn't that the State  
16 subpoenaed but I'm --

17 THE COURT: I'm sorry, I didn't ask that.

18 MS. JOSEPH: Okay. No.

19 THE COURT: Mr. Arnold, are you familiar with  
20 the people in -- any of the people in the courtroom?

21 MR. ARNOLD: No, Your Honor, except for my  
22 son, who has the white shirt on.

23 THE COURT: Welcome to the son with the white  
24 shirt on. Nice to see you, young man.

25 Ladies and gentlemen in the back row,

SHAWNA J. MCINTOSH, RPR, CCR NO. 770  
(702) 671-3464

1 are you here on behalf of Mr. Herring? Yes?

2 Ma'am, could you stand for me and just  
3 give me your name, please.

4 FEMALE SPEAKER: My name is Helene Guybolt  
5 (phonetic)

6 THE COURT: And your relationship to  
7 Mr. Herring?

8 FEMALE SPEAKER: I'm related to the guy that  
9 was killed. The guy that was killed, Michael Jordan,  
10 I'm his fiancée.

11 THE COURT: Okay. Thank you very much, ma'am.  
12 Good morning, sir. Would you state  
13 your name, please.

14 MALE SPEAKER 1: Johnny Dickerson. Just a  
15 friend.

16 THE COURT: I'm sorry?

17 MALE SPEAKER 1: Friend. Johnny Dickerson.

18 THE COURT: Thank you, Mr. Dickerson.

19 And, sir?

20 MALE SPEAKER 2: Otis Blake. A friend.

21 THE COURT: Thank you very much sir.

22 Miss Joseph.

23 MS. JOSEPH: None of those are witnesses,  
24 Your Honor.

25 THE COURT: Thank you.

SHAWNA J. MCINTOSH, RPR, CCR NO. 770  
(702) 671-3464



1 All right. Jim, if you'll get our  
2 first witness.

3 Again, the name is?

4 MS. JOSEPH: Cherrice Jones.

5 THE COURT: Good morning, ma'am.

6 THE WITNESS: Good morning.

7 THE COURT: You're welcome to set your bag  
8 anywhere you'd like. If you'd remain standing for me  
9 though, please, and raise your right hand, my clerk  
10 will swear you in.

11

12 Whereupon,

13 CHERRICE JONES,

14 having been first duly sworn to testify to the truth,  
15 the whole truth and nothing but the truth, was  
16 examined and testified as follows:

17

18 THE CLERK: Please be seated.

19 THE COURT: And if you can, scoot up to the  
20 mike. You don't have to lean into it, but if you'd  
21 just keep your voice up for me, please.

22 THE CLERK: And if you could state your full  
23 name and spell it for the record.

24 THE WITNESS: Cherrice Lanee Jones.

25 C-h-e-r-r-i-c-e, L-a-n-e-e, J-o-n-e-s.

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1 THE COURT: Thank you very much, ma'am.

2 MR. SCHWARTZER: May I proceed?

3 THE COURT: Mr. Schwartzer, yes.

4

5 DIRECT EXAMINATION

6 BY MR. SCHWARTZER:

7 Q. Ms. Jones, is there a person in this courtroom  
8 that you had a prior dating relationship with?

9 A. Yes.

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

11 A. Yes.

12 Q. Can you point to him and identify a piece of  
13 his clothing?

14 A. (Indicating) Right there.

15 MR. SCHWARTZER: The record reflect the  
16 witness has identified the defendant?

17 THE COURT: Yes, sir.

18 BY MR. SCHWARTZER:

19 Q. How do you know the defendant by, what name?

20 A. Frank.

21 Q. Did Frank go by any type of last name, did he  
22 have, like, a nickname?

23 A. Yeah.

24 Q. What was --

25 A. Netty --

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1 Q. I'm sorry, what was his nickname?

2 A. Netty. Frank Netty.

3 Q. So he went by Frank Netty. Do you know  
4 Frank's true last name?

5 A. No.

6 Q. Now, how long have you known Frank Netty?

7 A. Known him-known him or how long have I known  
8 of him?

9 Q. Known of him?

10 A. Maybe a year or so. I've seen him around the  
11 apartment complex.

12 Q. And how long have you had a romantic  
13 relationship with the defendant?

14 A. It was brief, a couple weeks.

15 Q. And when did that romantic relationship end?

16 A. April.

17 Q. Would that be April of 2013?

18 A. Yes.

19 Q. Now, you mentioned an apartment complex. Did  
20 you used to live at the Janice Brooks Bay Apartment?

21 A. Yes.

22 Q. Do you know what street that's located on?

23 A. Walnut Avenue.

24 Q. And is that in Clark County, Nevada?

25 A. Yes.

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1 Q. Now I want to direct your attention to late  
2 May 16, 2013, early morning May 17, 2013. Were you  
3 living in that apartment complex at the time?

4 A. Yes.

5 Q. You were not in a relationship with the  
6 defendant at the time?

7 A. No.

8 Q. Do you know where the -- what apartment  
9 number the defendant was living at the time?

10 A. Yes.

11 Q. What apartment number was that?

12 A. Thirty-nine.

13 Q. And --

14 THE COURT: I'm sorry, ma'am? I just didn't  
15 hear you.

16 THE WITNESS: Thirty-nine.

17 THE COURT: Thank you.

18 BY MR. SCHWARTZER:

19 Q. And are you familiar with that apartment?

20 A. It was my old apartment, yeah.

21 THE COURT: Okay. Your voice is dropping  
22 really softly, and see my court reporter right in  
23 front of you?

24 THE WITNESS: I'm sorry.

25 THE COURT: She's shaking her head yes that

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1 she can't hear you either. And we're the closest ones  
2 to you.

3 THE WITNESS: Yep.

4 THE COURT: So I need you to really project  
5 for me if you will.

6 THE WITNESS: Okay.

7 THE COURT: Thank you, ma'am.

8 MR. SCHWARTZER: Thank you, Your Honor.

9 BY MR. SCHWARTZER:

10 Q. Now, do you know if the defendant lived with  
11 anyone else in that Apartment 39?

12 A. Yes.

13 Q. And who was that?

14 A. I don't know her name or know her.

15 THE COURT: I'm sorry, ma'am?

16 THE WITNESS: Oh, I'm still too -- I'm still  
17 too soft? Okay.

18 THE COURT: I can't hear you.

19 THE WITNESS: I don't know her name, per se.

20 MR. SCHWARTZER: May I approach, Your Honor?

21 BY MR. SCHWARTZER:

22 Q. This might -- this is a microphone, you might  
23 want to speak --

24 A. She told me I didn't need to lean into it.

25 Okay.

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1 THE COURT: You really don't have to lean  
2 into it if you keep your voice up, but if you're going  
3 to whisper, you need to sit on it. All right.

4 BY MR. SCHWARTZER:

5 Q. Okay. Did you see -- during the nighttime  
6 hours of May 16th, did you see Frank Netty around  
7 the -- the defendant around the apartment complex?

8 A. Yes.

9 Q. Do you recall what he was wearing at the time?

10 A. He had on some shorts, tennis shoes and a  
11 T-shirt.

12 Q. What color was the T-shirt?

13 A. White.

14 Q. And you've known Frank Netty for over a year,  
15 the defendant for over a year, was he known to carry  
16 anything with him?

17 A. What do you mean?

18 Q. Was he known to carry any type of weapon with  
19 him?

20 A. I've never saw him with one. I've heard that  
21 he did, but I've never saw him with one.

22 Q. Okay. Now, are you aware that there was a  
23 shooting that occurred in that -- your apartment  
24 complex in the early morning of May 17, 2013?

25 A. Yes.

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1 Q. Were you actually at the apartment complex on  
2 May 17, 2013?

3 A. Not at the time the incident occurred, no.

4 Q. Were you in a dating relationship with  
5 someone on May 17, 2013?

6 A. Yes.

7 Q. And who were you in a dating relationship with?

8 A. Clifton Watkins.

9 Q. And were you aware that Mr. Watkins was  
10 injured in that shooting -- or was -- excuse me, that  
11 Mr. Watkins was with someone who was injured or killed  
12 in the shooting?

13 A. Yes.

14 Q. Now, does your daughter also sometimes park  
15 in this apartment complex?

16 A. Yes.

17 Q. And what's your daughter's name?

18 A. Mishonda Roberts (phonetic)

19 Q. And what kind of vehicle does she drive?

20 A. A silver Chevy Cavalier.

21 Q. And is that a -- what kind of license plate  
22 does she have?

23 A. California.

24 Q. California plates. Do you recall what year  
25 that the vehicle was?

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1           A.     I think it's a 2000.

2           Q.     Okay.  After this shooting occurred, did you  
3 have a chance to return to the apartment complex?

4           A.     Yes.

5           Q.     And this vehicle that you previously  
6 mentioned, is it a vehicle that your daughter uses on  
7 a daily basis?

8           A.     Yes.

9           Q.     Were there what appeared to be any damage --  
10 did there appear to be any damage to the vehicle after  
11 you returned after the shooting?

12          A.     Yes.

13          Q.     What kind of damage appeared on the vehicle?

14          A.     It had bullet holes in it.

15          Q.     Now, at some point in the next day or two, did  
16 you actually have a conversation with a Detective Mogg?

17          A.     Yes.

18          Q.     And during that conversation with --

19                 MR. SCHWARTZER:  May I approach your clerk,  
20 Your Honor?

21                 THE COURT:  Yes.

22                 BY MR. SCHWARTZER:

23          Q.     During that conversation with Detective Mogg,  
24 did he show you a photo line-up?

25          A.     Yes.

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1 Q. And, in fact, did you actually talk to  
2 Detective Mogg on two separate occasions?

3 A. Yes.

4 Q. And on both occasions did he show you a photo  
5 line-up?

6 A. Yes.

7 Q. Now, during the first photo line-up, the  
8 first time you talked with Detective Mogg, did he give  
9 you any instructions regarding the photo line-up?

10 A. He told me he was going to show me photos, and  
11 he wants me to point out anybody if I recognized them.

12 Q. Did he say you had to point anyone out?

13 A. No.

14 Q. In fact, in the first photo line-up, did you  
15 point anyone out?

16 A. No.

17 MR. SCHWARTZER: May I approach, Your Honor?

18 THE COURT: Yes.

19 BY MR. SCHWARTZER:

20 Q. Showing you State's Exhibit 3 --

21 MR. SCHWARTZER: Showing defense.

22 BY MR. SCHWARTZER:

23 Q. Showing you part one of Exhibit 3 and part two  
24 of Exhibit 3, do you recognize this?

25 A. Yes.

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1 Q. Is this the first photo line-up Mr. Mogg, or  
2 Detective Mogg, showed you?

3 A. Yes.

4 MR. SCHWARTZER: Move to admit State's  
5 Exhibit 3.

6 THE COURT: Mr. Arnold.

7 MR. ARNOLD: No objection, Your Honor.

8 THE COURT: It will be admitted.

9 (State's Exhibit 3  
10 was admitted into evidence)

11 BY MR. SCHWARTZER:

12 Q. And, in fact, were you unable -- you said you  
13 were unable to identify anyone?

14 A. Yes.

15 Q. Now, the -- the next day Detective Mogg --  
16 did you meet with Detective Mogg again?

17 A. I don't know if it was the next day but, yes,  
18 I did meet with Detective Mogg again.

19 Q. And did he show you another photo line-up?

20 A. Yes.

21 MR. SCHWARTZER: May I approach, Your Honor?

22 THE COURT: You may.

23 MR. SCHWARTZER: Showing defense State's  
24 Proposed Exhibit 4.

25 May I -- I already asked. I'm sorry,

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1 Your Honor.

2 THE COURT: And neither one of you have to  
3 ask, either of the three of you.

4 BY MR. SCHWARTZER:

5 Q. Now showing you this -- the -- when this --  
6 State's Proposed Exhibit 4. I'm showing you the first  
7 part of Exhibit 4 and page 2 of Exhibit 4. Do you  
8 recognize these documents?

9 A. Yes.

10 Q. Is this, in fact, the second line-up that  
11 Detective Mogg showed you?

12 A. Yes.

13 MR. SCHWARTZER: I move to admit State's  
14 Exhibit 4, Your Honor.

15 MR. ARNOLD: No objection, Your Honor.

16 THE COURT: Admitted.

17 (State's Exhibit 4  
18 was admitted into evidence)

19 BY MR. SCHWARTZER:

20 Q. And, in fact, in this line-up, you were  
21 actually able to identify someone; is that correct?

22 A. Yes.

23 Q. What individual did you identify?

24 A. Frank.

25 Q. And that would be the person in what position?

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1 A. Number 4.

2 Q. And you also wrote a brief statement; is that  
3 correct?

4 A. Yes.

5 Q. Is that your handwriting?

6 A. Yes.

7 Q. And you wrote: Number 4, Frank.

8 A. Yes.

9 Q. You -- at this point you didn't know what  
10 Frank's last name was?

11 A. No.

12 Q. And this person that you said was Frank,  
13 that's the person that you know as Frank Netty?

14 A. Yes.

15 MR. SCHWARTZER: Court's indulgence.

16 BY MR. SCHWARTZER:

17 Q. Now, ma'am, you said you dated Cliff Watkins  
18 before -- or excuse me, during May 17th of 2013?

19 A. Yes.

20 Q. Did you, in fact, date him before you had the  
21 romantic relationship with Frank Netty as well?

22 A. Yes.

23 Q. So in between your relationship with  
24 Mr. Watkins, you had a brief romantic relationship  
25 with the defendant?

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1 A. Yes.

2 Q. How long had you -- how long have you had a  
3 romantic relationship with Mr. Watkins, on and off?

4 A. Five and a half years.

5 MR. SCHWARTZER: Pass the witness, Your Honor.

6 THE COURT: Mr. Arnold, you may cross.

7 MR. ARNOLD: Thank you, Your Honor.

8

9 CROSS-EXAMINATION

10 BY MR. ARNOLD:

11 Q. Ma'am, you said that you saw Frank the night  
12 of May 16th; is that correct?

13 A. Yes.

14 Q. And approximately what time did you see him at?

15 A. He was there off and on all day.

16 Q. You said you saw him there that night though,  
17 approximately what time that night did you see him at?

18 A. Throughout the night.

19 Q. Okay. And I'm asking again, ma'am,  
20 approximately what time?

21 A. Eight o'clock, nine o'clock, ten o'clock,  
22 eleven o'clock, up until I left. I left there at,  
23 what, 11:45.

24 Q. And you saw him there up until 11:45 p.m.?

25 A. Yes.

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1 Q. And did he have his moped with him, ma'am?

2 A. It was sitting out in the parking lot area.

3 Q. It was sitting on the -- in the parking lot  
4 area?

5 A. Yes.

6 Q. And was he on that moped, ma'am?

7 A. No.

8 Q. And you also described him as having a white  
9 T-shirt; isn't that correct, ma'am?

10 A. Yes.

11 Q. What color -- what did he have on, pants or  
12 shorts?

13 A. He had on shorts.

14 Q. And what color were those shorts?

15 A. I don't know, I don't recall.

16 Q. Didn't you testify or do you recall giving a  
17 statement to the police that was recorded?

18 A. Yes.

19 Q. And do you recall telling the police that  
20 those were black shorts that he had on?

21 A. No.

22 MR. SCHWARTZER: Objection.

23 BY MR. ARNOLD:

24 Q. You don't recall that, ma'am?

25 A. No.

1 THE COURT: Hang on a second.

2 What's the nature of your objection?

3 MR. SCHWARTZER: Judge, I'll, I'll rescind it.

4 THE COURT: Okay.

5 BY MR. ARNOLD:

6 Q. So you don't recall making that statement --

7 A. No.

8 Q. -- to the police?

9 And do you recall, or did the police  
10 tell you that they had a recorded statement, that they  
11 were recording your statement?

12 A. Yes.

13 Q. Okay. So if your recorded statement said  
14 that he had black shorts on, would that have been an  
15 accurate reflection of your memory at that time?

16 MR. SCHWARTZER: Judge, I'm going to object  
17 again. This isn't, in fact, in evidence, and that's  
18 actually not what the voluntary statement or recorded  
19 statement says.

20 THE COURT: Well, you can take care of that  
21 on redirect, but the question is appropriate, so the  
22 objection is overruled.

23 MR. SCHWARTZER: Thank you, Your Honor.

24 BY MR. ARNOLD:

25 Q. I'll ask the question again just in case you

1 forgot. In -- if the recorded statement that you gave  
2 the police that day stated that he had black shorts  
3 on, would that have been an accurate reflection of  
4 your memory on May 16th?

5 A. Yes, if that's what the recording says.

6 Q. Thank you.

7 And do you recall what type of shoes  
8 he's -- he was wearing at that time?

9 A. Tennis shoes.

10 Q. Do you recall what brand of tennis shoes?

11 A. No.

12 Q. Do you recall telling the police that he was  
13 wearing Jordans at the time --

14 A. No.

15 Q. -- that you gave your recorded statement?

16 A. No.

17 Q. No, you don't recall that?

18 A. No.

19 Q. And again, if that's noted in your recorded  
20 statement, that would have been a more accurate  
21 reflection --

22 A. Yes.

23 Q. -- of your memory?

24 And I understand it's been a while, so  
25 these details may not stick out to you today as they

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1 did back then. And you gave that recorded statement  
2 approximately how many days after the shooting?

3 A. I don't know.

4 Q. It wasn't a month after the shooting?

5 A. No.

6 Q. It was like a couple of days --

7 A. Yes.

8 Q. -- after the shooting?

9 Just -- ma'am, let me finish my  
10 question before you answer, too, because the court  
11 reporter has to take down my question and then your  
12 answer. But if you interrupt me before I get out the  
13 whole entire question, she can't get it all down.  
14 Okay?

15 A. Mm-hmm.

16 Q. You have to say yes or no.

17 A. Yes.

18 Q. Okay. Ma'am, you said that you left. And  
19 where did you go at 11:45 p.m.?

20 A. The casino.

21 Q. Okay. How long were you at the casino?

22 A. I walked in the door at 12:01 to get a phone  
23 call, to turn around and come back home.

24 Q. And who called you?

25 A. My daughter.

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1 Q. And why did -- why did your daughter tell you  
2 to come back home?

3 A. Because there had been a shooting.

4 Q. And did you return back --

5 A. Yes.

6 Q. -- to the apartment complex?

7 A. Yes.

8 Q. And when you returned back to the apartment  
9 complex, did you see that moped outside the apartment  
10 complex?

11 A. I couldn't even get in my side of the  
12 apartment complex because of the yellow tape.

13 Q. Because of what?

14 A. The yellow tape.

15 Q. Okay.

16 A. They had it all roped off with everything.

17 Q. Right. So the police had already arrived at  
18 that time?

19 A. Yes.

20 Q. Okay. Now, based upon your best recollection,  
21 do you recall the moped still being there at the  
22 apartment complex?

23 A. I don't, I didn't look for it. My concern  
24 was getting to my house at that point.

25 Q. You said that it was your daughter's car that

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1 was damaged during the shooting; is that correct?

2 A. Yes.

3 Q. And was that damage ever repaired to the  
4 vehicle?

5 A. No.

6 Q. So do you know where the vehicle is presently?

7 A. Yes.

8 Q. And where is that, ma'am?

9 A. With her.

10 Q. Okay. And -- and there are still bullet  
11 holes in that vehicle?

12 A. Yes.

13 Q. Now, you said that you were shown two photo  
14 line-ups; is that correct?

15 A. Yes.

16 Q. And the first photo line-up, do you recall  
17 how many days after the shooting that was?

18 A. A couple.

19 Q. And was that a couple you said?

20 A. (No response)

21 Q. Where did you actually view these photos?

22 A. The detective showed them to me.

23 Q. But where? At the detective's office? Your  
24 house? Where?

25 A. No. A meeting spot.

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1 Q. Where was the meeting spot?

2 A. I can't remember first time. In a parking  
3 lot.

4 Q. Do you recall the address? Is it the parking  
5 lot of McDonald's? Where is it, ma'am?

6 A. No, I don't recall the parking lot the first  
7 meeting was at.

8 Q. Okay. And was your -- I guess he's your  
9 boyfriend, was Mr. Watkins with you?

10 A. Yes.

11 Q. Okay. And do you recall who saw the photo --  
12 the first photo line-up first, yourself or Mr. Watkins?

13 A. He did. And I recall where we were at the  
14 first time the officer met with us.

15 Q. It was what?

16 A. I recall where we were at the first time the  
17 officer met with us, the detective.

18 Q. And where was that, ma'am?

19 A. We were at Clifton's job.

20 Q. At Clifton's job at a parking lot there?

21 A. Right.

22 Q. Okay. And when -- you said Mr. Watkins was  
23 with you; is that correct?

24 A. Yes.

25 Q. And were you present when Mr. Watkins looked

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1 at the photo line-up?

2 A. I wasn't sitting in the car with him, no.

3 Q. Oh, he saw the photo line-up in the car?

4 A. We saw -- we saw them separate.

5 Q. And that car, that was the detective's car?

6 A. Yes.

7 Q. And did Mr. Watkins, after he came out of the  
8 car, did he tell you anything in regards to his  
9 viewing of the photo line-up?

10 A. No.

11 Q. And then you went and saw the photo line-up?

12 A. Yes.

13 Q. Okay. And then what happened next after  
14 that, after you saw the photo line-up, you got out of  
15 the detective's car, did you go home?

16 A. Yes.

17 Q. Okay. And when you went home, did Mr. Watkins  
18 go back home with you?

19 A. Yes.

20 Q. Okay. And did Mr. Watkins tell you that he  
21 had identified the shooter in that photo line-up?

22 A. No.

23 Q. What did he tell you about that photo line-up?

24 A. We didn't discuss it.

25 Q. You didn't discuss that photo line-up

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1    whatsoever?

2           A.    No.  We were instructed not to.

3           Q.    So you both went home and you both didn't  
4 talk about it?

5           A.    Yes.

6           Q.    Then a couple of days later, you were given a  
7 second photo line-up?

8           A.    Yes.

9           Q.    And in the second photo line-up, did you all,  
10 before you went to the -- do the second photo line-up,  
11 did you have a discussion in regards to the photo  
12 line-up?

13          A.    Say that again.

14          Q.    Did you and Mr. Watkins, before you went and  
15 saw the second photo line-up, did you talk about that  
16 we have to do a second photo line-up?

17          A.    Yeah, he had told me he had talked to the  
18 detective, and we just go and meet with him for  
19 another line-up, yeah, that was the discussion.

20          Q.    Who told you that, Mr. Watkins?

21          A.    Yes.

22          Q.    And did he tell you the purpose of the second  
23 photo line-up?

24          A.    No, not per se.  I mean it's a line-up.

25          Q.    And during that first photo line-up, did

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1 Mr. Watkins tell you -- did he ever tell you that, in  
2 the first photo line-up, that he identified a shooter  
3 in that first photo line-up?

4 A. No, he didn't.

5 Q. And do you know what time the shooting was at?

6 A. I wasn't there so, no, I don't know exactly  
7 what time the shooting was.

8 Q. And -- and so you have no information or you  
9 did not witness the shooting at all?

10 A. No.

11 MR. ARNOLD: Okay. I have no further  
12 questions for this witness.

13 THE COURT: Anything further, Mr. Schwartzer?

14 MR. SCHWARTZER: Just briefly, Judge.

15

16 REDIRECT EXAMINATION

17 BY MR. SCHWARTZER:

18 Q. Now, Mr. Arnold asked you about if you recall  
19 what color shorts -- or if you gave the detective any  
20 indication what color the shorts were. Do you recall  
21 that questioning?

22 A. Yes.

23 Q. Do you recall that your initial answer was  
24 you didn't recall?

25 A. Yes.

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1       Q.     Would it help refresh your memory if you were  
2 actually able to review the statement you gave to the  
3 detective, see if you indicate a color of the shorts?

4       A.     I don't recall indicating the color of his  
5 shorts, but I can look at the report.

6           THE COURT:   Is it pertinent to the case?

7           MR. SCHWARTZER:   I'm just correcting  
8 something, Your Honor.   I'll be done right after  
9 this.

10          THE COURT:   It doesn't matter.   It's just  
11 that sometimes you don't need to do those things.   I  
12 mean if you want to show her, and she -- does she not  
13 need to read the whole transcript to make sure --

14          MR. SCHWARTZER:   I have a very brief  
15 portion, Your Honor.   I'll direct her to the very brief  
16 portion.

17          THE COURT:   Well, at least in that one very  
18 brief portion.

19          MR. SCHWARTZER:   Okay.

20          THE COURT:   Are you going to testify that  
21 it's nowhere else in this?

22          MR. SCHWARTZER:   I'm not, Your Honor.

23          THE COURT:   That's --

24          MR. SCHWARTZER:   I understand.

25          THE COURT:   Sometimes little things are made

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1 huge -- but go ahead.

2 BY MR. SCHWARTZER:

3 Q. Now, ma'am, I just wanted you to -- page 9 of  
4 your state -- your initial statement to Detective Mogg.  
5 Read the first four -- first two questions and  
6 answers.

7 THE COURT: I think you need to lay a  
8 foundation for the statement.

9 MR. SCHWARTZER: Absolutely.

10 THE COURT: Was it hers?

11 MR. SCHWARTZER: Absolutely, Your Honor.

12 THE COURT: Get the date and time.

13 MR. SCHWARTZER: Absolutely.

14 BY MR. SCHWARTZER:

15 Q. Now, you initially said you gave a statement  
16 to Detective Mogg?

17 A. Yes.

18 Q. And you gave -- you didn't give that statement  
19 the day of but the next day; is that correct?

20 A. The next day or the day after that --

21 Q. And you gave that statement you testified to  
22 not actually at the apartment complex where it  
23 happened but somewhere else?

24 A. Right.

25 Q. And that was where?

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1           A.     At Clifton's job.

2           Q.     And were you aware that that statement was  
3 being recorded?

4           A.     Yes.

5           Q.     In fact, Detective Mogg informed you that it  
6 was being --

7           A.     Yes.

8           Q.     And during that questioning, did he actually  
9 ask you specifically if you recall what the defendant  
10 was wearing the day of the shooting?

11          A.     Yes.

12          Q.     And did you provide him with an answer?

13          A.     I told him that he had on a white T-shirt. I  
14 don't recall the pants or the shoes.

15          Q.     And that's --

16          A.     I didn't pay attention to them.

17          Q.     And that's what you recall you put in the  
18 statement?

19          A.     Yes.

20                 MR. SCHWARTZER: I'll pass the witness,  
21 Your Honor.

22                 THE COURT: Did you show her the statement?

23                 MR. SCHWARTZER: I did not, Your Honor.

24                 THE COURT: Mr. Arnold.

25                 MR. ARNOLD: No further questions.

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1 THE COURT: Thank you very much, ma'am. You  
2 are excused.

3 Next witness.

4 MS. JOSEPH: Your Honor, the State calls  
5 Clifton Watkins.

6 THE COURT: Good morning, sir. Thank you for  
7 waiting. You just follow my marshal right up to the  
8 witness stand, and when you get up there, if you would  
9 remain standing, raise your right hand, we'll get you  
10 sworn in.

11  
12 Whereupon,

13 CLIFTON WATKINS,  
14 having been first duly sworn to testify to the truth,  
15 the whole truth and nothing but the truth, was  
16 examined and testified as follows:

17  
18 THE CLERK: Please be seated.

19 If you could state your full name and  
20 spell it for the record.

21 THE WITNESS: Clifton Watkins.

22 C-l-i-f-t-o-n; Watkins, W-a-t-k-i-n-s.

23 THE COURT: Thank you, sir.

24 You may proceed.

25 MS. JOSEPH: Thank you.

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DIRECT EXAMINATION

1  
2 BY MS. JOSEPH:

3 Q. Could you tell the Court, Mr. Watkins, where  
4 you were living back on May 16th and May 17th of this  
5 year?

6 A. At the apartments on Nellis and Walnut,  
7 Apartment 13.

8 Q. And do those -- does that apartment complex  
9 have a name?

10 A. I don't know the name of it.

11 Q. Do you still live at that apartment complex?

12 A. No.

13 Q. When you were living in Apartment 13, were you  
14 living with anyone, or were you living by yourself?

15 A. I was living with Cherrice.

16 Q. And what's Cherrice's full -- full name?

17 A. Cherrice Jones.

18 Q. And what is her relationship to you?

19 A. My current girlfriend.

20 Q. How long have you and Miss Jones been  
21 involved in a romantic relationship?

22 A. Five years.

23 Q. Has that been a continual five-year period,  
24 or has it been off and on?

25 A. No, we broke up in February.

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1 Q. February of this year?

2 A. Yes.

3 Q. How long were you broken up for?

4 A. About a couple days.

5 Q. So not very long?

6 A. No.

7 Q. When you and Miss Jones had a separated period  
8 in this year, do you know if she dated anyone else?

9 A. Yes.

10 Q. And do you know who that was?

11 A. Frank.

12 Q. Do you see Frank here in the courtroom today?

13 A. Yeah.

14 Q. Could you please point to where he's seated  
15 and identify an article of clothing?

16 A. (Indicating) He's in the Clark County  
17 Detention Center blue.

18 MS. JOSEPH: Your Honor, may the record  
19 reflect identification of the defendant?

20 THE COURT: It can.

21 And, Mr. Watkins, you can help me,  
22 please, sir, could you talk a little bit louder for  
23 us?

24 THE WITNESS: Yes, I can.

25 THE COURT: The court reporter will appreciate

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1 it, she's shaking her head yes.

2 Thank you, sir.

3 BY MS. JOSEPH:

4 Q. And how do you know the defendant?

5 A. He was coming around a lot.

6 Q. When you say coming around a lot, did he live  
7 in that apartment complex?

8 A. Yeah, he lived in 39.

9 Q. Do you know if he lived with anyone?

10 A. Another female.

11 Q. Do you know her name?

12 A. No, ma'am.

13 Q. And do you know -- I know you mentioned his  
14 name was Frank. Do you know his last name?

15 A. No.

16 Q. Did you know any names that he went by?

17 A. Frank Netty.

18 Q. But you didn't believe that Netty was his  
19 last name?

20 A. No.

21 Q. When do you first recall becoming associated  
22 with Mr. Netty, were you friends, or how did you meet  
23 him?

24 A. No, we weren't friends. We -- we had casual  
25 conversation. He was coming to my neighbor's house,

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1 talking with my neighbor next door.

2 Q. And who is your neighbor next door?

3 A. Kinsey (phonetic)

4 Q. Now, did -- were you and the defendant  
5 friends, or did you have a contentious relationship?

6 A. No, we just spoke and that was it.

7 Q. How long was he dating your current  
8 girlfriend, Cherrice?

9 A. From what she tells me, between March the 26th  
10 all the way to April the 6th, which was her birthday.

11 Q. And did the fact that she was dating someone  
12 other than yourself, did that cause any tension  
13 between you and the defendant?

14 A. I have no idea.

15 Q. Did you feel -- I mean were you upset that  
16 she was dating someone else?

17 A. No.

18 Q. Did it appear that he was -- that the  
19 defendant was upset with you?

20 A. I don't think so.

21 Q. I want to talk a little more about May 16,  
22 2013. Could you tell the Court where you're -- or  
23 where you were employed at that period of time?

24 A. I work for a company called Trinity Security.  
25 I'm a security supervisor.

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1 Q. What's your normal work hours?

2 A. At that current time, I was working from ten  
3 to six, ten at night until six in the morning.

4 Q. And on March -- or on May the 16th, would  
5 that have been a normal work night for you?

6 A. Yes.

7 Q. So you work five days a week or seven days a  
8 week?

9 A. I work five days week, off for two.

10 Q. Are you also acquainted with an individual by  
11 the name of Michael Jordan?

12 A. Yes.

13 Q. How did you know Mr. Jordan?

14 A. Well, my nephew brought him over to the  
15 house, and we had a brief -- a brief conversation, and  
16 him and I just connected.

17 Q. Okay. And we're still talking about the --  
18 the May 16th date?

19 A. Yes.

20 Q. So this was the first date that you had met  
21 Mr. Jordan?

22 A. Yes.

23 Q. When you say that you had a -- I think a  
24 conversation or a connection, what were you guys doing  
25 that evening? When did you first start talking?

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1           A.    My nephew brought him to the house. I was at  
2 home trying to get ready for work. He says, Uncle, I  
3 want you to meet some somebody. I said, Who is it?  
4 I'll come down.

5                        So I met him, he told me his name was  
6 Mike. I said, How you doin'? I'm Cliff.

7                        And from there him and I just started  
8 talking.

9           Q.    Did you guys stay in the apartment complex,  
10 or did you travel anywhere?

11          A.    Well, this particular night, we was standing  
12 outside my front door talking about my '98 Cadillac  
13 DeVille that needed to be fixed. He told me he was a  
14 mechanic. I said, Well, let's look at the car.

15                       At this particular time, we was trying  
16 to unlock the door because my nephew had locked the  
17 door to my car, and the keys was upstairs in my  
18 laundry room. So we had to break into it with a  
19 crowbar to -- to get inside my vehicle. Once we got  
20 inside the vehicle, I popped the hood. Here, here's  
21 your problem right here, your spark plugs are not --

22          Q.    Let me just stop you, sir, we don't have to  
23 specifically talk about what he was saying, but it  
24 sounds from your conversation that you guys were  
25 working on your vehicle.

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1 A. Yeah.

2 Q. Did you have to travel to an Auto Zone or  
3 anything to pick up more parts, or did you guys go to  
4 any local stores while you were talking?

5 A. No, we didn't even leave the parking lot.

6 Q. Okay. And who was with you?

7 A. It was myself, Mike, and my nephew --

8 Q. And what's your --

9 A. -- and my neighbor next door.

10 Q. Okay. What's your nephew's name?

11 A. His name is Jamal (phonetic)

12 Q. And your neighbor next door, what's his name?

13 A. They call him Kojak.

14 Q. About what time were you working on your  
15 vehicle, was this nighttime or was it during the day?

16 A. It was at night.

17 Q. And where was your vehicle parked within the  
18 complex?

19 A. In the parking lot.

20 Q. Is that in front of your apartment?

21 A. In front of my building.

22 Q. Is there any lighting in that area?

23 A. Yes.

24 Q. Would it be the lighting from, say, like a  
25 next apartment that's next to it, or is it the

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1 lighting from, like, an overhead?

2 A. It was the lighting from a pole, a pole light.

3 Q. How long would you say that you and these  
4 other three individuals were working on your vehicle?

5 A. It took us a long time to get -- to get up in  
6 there because Mike had to go to his vehicle to get out  
7 more stuff to even pry the window open.

8 Q. At some point in time, were you still working  
9 on this vehicle past ten o'clock at night?

10 A. Yes.

11 Q. And were you scheduled to be working that  
12 evening?

13 A. Yes.

14 Q. Did you just not go to work or what did you  
15 decide to do?

16 A. I end up going to work afterwards.

17 Q. But you didn't go right at ten o'clock?

18 A. I didn't go right away, no.

19 Q. Were you and these individuals drinking while  
20 you were working on this vehicle?

21 A. I wasn't drinking at that time but Mike and  
22 my -- and my nephew was.

23 Q. Were you guys being particularly loud?

24 A. No. We was conversating between us three.

25 Q. Earlier in the day, do you recall if you had

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1 seen the defendant in the complex?

2 A. Yes.

3 Q. I know I'm backing up a little bit for you, but  
4 do you recall what he was wearing earlier in the day?

5 A. Yes.

6 Q. What was he wearing?

7 A. A white Pro Club and gray -- gray -- had gray  
8 shorts with pockets on the side.

9 Q. When you say a white Pro Club, is that a --

10 A. White T-shirt.

11 Q. Do you recall what type of shoes he was  
12 wearing?

13 A. Jordans.

14 Q. And do you recall the color of those shoes?

15 A. Either black or white, I just looked at the  
16 shirt and the pants, I didn't pay too much attention  
17 to the shoes.

18 Q. And he was wearing, I think you said shorts,  
19 not pants though, right?

20 A. He was wearing shorts.

21 Q. Okay. Did -- the defendant, was he part of  
22 this conversation of guys working on cars?

23 A. No.

24 Q. While you were working on these vehicles, at  
25 some point did you see the defendant?

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1 A. Yes.

2 Q. I want to talk about earlier in the day. I  
3 know that we've spoken previously about this day, but  
4 did you have any fear of the defendant earlier in that  
5 day?

6 A. No.

7 Q. And now I'm not meaning to say that you would  
8 be fearful, you know, of another individual, but did you  
9 have any reason to believe that he was upset with you?

10 A. Not to my knowledge, no.

11 Q. Would you guys say that you were friends?

12 A. No.

13 Q. Kind of acquaintances or he was just a --

14 A. Not even that. We just spoke. And he went  
15 and did his thing, I did mine.

16 Q. Okay. Did you ever know the defendant to  
17 carry a weapon?

18 A. Yeah.

19 Q. Did you ever see the defendant carrying a  
20 weapon?

21 A. Until that night, yes.

22 Q. Prior to that night, had you ever seen the  
23 defendant carrying a weapon?

24 A. No.

25 MS. JOSEPH: Court's indulgence.

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1 BY MS. JOSEPH:

2 Q. Let's talk more about this night. When you  
3 saw the defendant -- actually, I have another question  
4 for you, Mr. Watkins. Do you remember giving that  
5 police statement to Detective Mogg in this case back  
6 on May 17th?

7 A. Yes.

8 Q. And in that statement, do you recall letting  
9 Detective Mogg know that you knew Mr. -- the defendant  
10 carried a .40 caliber weapon?

11 A. Yes.

12 Q. And do you recall that you said that that was  
13 before May 17th?

14 A. Yes.

15 Q. So you knew he carried a weapon before that  
16 date?

17 A. Yes.

18 Q. How did you know that?

19 A. A lot of the people that was around was  
20 talking. I had to listen and heard what they were  
21 saying.

22 Q. And do you recall also telling Detective Mogg  
23 that you've specifically seen the weapon prior to  
24 May 17th?

25 A. Yes.

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1 Q. Okay. So you had seen it, right?

2 A. Yes.

3 Q. And based on what you had seen, did it appear  
4 to be a .40 caliber weapon?

5 A. Yes.

6 Q. Do you recall anything about this weapon in  
7 terms of color or how it looked?

8 A. It was a black one, small, semiautomatic.

9 Q. Do you recall what brand it was?

10 A. No. It was either a Smith & Wesson or either  
11 a Taurus.

12 Q. And do you have some level of familiarity  
13 with guns?

14 A. Yes.

15 Q. Now, on this night of May 16th into May 17th,  
16 do you recall approximately what time it was when you  
17 saw the defendant on that night?

18 A. Like around eleven o'clock -- eleven o'clock,  
19 11:30.

20 Q. And where did you see him?

21 A. He was standing by Kinsey's van.

22 THE COURT: I'm sorry, he was what, sir?

23 THE WITNESS: He was standing by Kinsey's  
24 white van.

25 THE COURT: Thank you.

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1 BY MS. JOSEPH:

2 Q. And was this the first time that you had seen  
3 him on -- when it was the nighttime?

4 A. No.

5 Q. You had seen him earlier?

6 A. Earlier in the day, yes.

7 Q. Now, when you and Mr. Jordan and these two  
8 other individuals were working on this vehicle, did  
9 you see the defendant again?

10 A. Yes.

11 Q. Where was he at this time?

12 A. He was standing by Kinsey's van. This time  
13 it was Kinsey and him standing there.

14 Q. Okay. And did -- how close was Kinsey's van  
15 to you and your friends?

16 A. Parked right next to my car.

17 Q. Okay. Did -- did he remain at the van, or did  
18 he leave, or did you notice where he went from there?

19 A. No, he stayed at the van.

20 Q. Okay. At some point did you observe him near  
21 a bush in your parking lot?

22 A. Yes.

23 Q. Sorry, I know sometimes they seem like weird  
24 questions, but I need to -- we need to have a story  
25 of -- of how you saw him this evening.

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1                   Did you watch him walk from the van to  
2 the bushes, or were you not paying attention to him?

3           A.    No, at this particular time, we finally got  
4 the car open, we lift up the hood.

5           Q.    Okay.

6           A.    And Frank was still standing right there.

7                   Let me back up. Before that, Kojak,  
8 myself, and Mike, opening my door, Frank Netty said,  
9 Oh, you guys are with them busters. At this  
10 particular time, Kinsey was calling Kojak to come to  
11 the van, we gotta take Frank Netty somewhere. He  
12 said, Wait a minute, I'm with my friends right now.

13          Q.    Okay. So earlier in the evening -- and when  
14 you say Frank Netty, you're referring to the defendant?

15          A.    To the defendant.

16          Q.    And what was the statement that he made?

17          A.    He over there with them busters.

18          Q.    And that was made towards you or towards  
19 someone else?

20          A.    Toward all three of us.

21          Q.    Okay. And how did you respond to that comment?

22          A.    I didn't really say anything. I was just too  
23 busy in my car. I just looked at him.

24          Q.    So you ignored it?

25          A.    Yeah.

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1 Q. Okay. Now, did he end up leaving then with  
2 Kinsey and Kojak, I think you mentioned?

3 A. Yes.

4 Q. Did he ultimately come back?

5 A. They came back with -- his girl came back  
6 with pizza in his hand -- in her hand.

7 Q. And was he with her?

8 A. Not this particular time, no -- yes, he was,  
9 he was with her. He was with her.

10 Q. Okay. Now, when he was with her with the  
11 pizza, did they then leave, or did they stay outside?

12 A. No, they stayed outside for a minute.

13 Q. And then what -- what did the defendant do?

14 A. Well, that night he followed me -- he  
15 followed me, my nephew, and Mike around. Him and --  
16 him and his other buddy there.

17 Q. When you say followed you around, were you  
18 guys walking, or were you guys still -- still by the  
19 car at this point?

20 A. No, we was walking to -- to Mike's house.

21 Q. And was Mike at his house or was he with you?

22 A. He was with me.

23 Q. So it appeared that you were kind of just  
24 walking around you guys?

25 A. Yes.

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1 Q. Did you wonder why he was doing this?

2 A. It was strange. It was strange.

3 Q. Did it -- did it worry you or were you curious?

4 A. Didn't worry me.

5 Q. When was the next time that you saw him after  
6 he had been walking around you and your friends?

7 A. He was standing by the wall.

8 Q. What wall are you referring to?

9 A. His building. Building 39 has a wall just  
10 right by the side by the meter boxes, gas box is right  
11 there.

12 Q. Okay. And how close was that to where you  
13 and your friends were up near your car?

14 A. We can see him from Mike's apartment when we  
15 were standing on the outside in a circle, and all of  
16 us seen him.

17 Q. Did -- what did he appear to be doing by the  
18 wall?

19 A. He had his feet popped up on it.

20 Q. So when you say feet popped up, was he leaning  
21 back against the wall?

22 A. Yes.

23 Q. Okay. Did you notice what he was wearing at  
24 this point in time?

25 A. White shirt and gray pants -- and the gray

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1 shorts.

2 Q. So this was the same outfit he was wearing  
3 earlier in the day?

4 A. Yes.

5 Q. When you and these individuals were working on  
6 your car, did you ever notice the defendant -- I know  
7 you mentioned a wall and you mentioned several  
8 buildings, did you ever notice the defendant by a bush?

9 A. Yes.

10 Q. And describe for us when that occurred, after  
11 you saw him leaning up against the wall, did you watch  
12 him walk to the bush, or how did you become aware of it?

13 A. Well, my nephew -- well, we had all four of  
14 us had went to the store. I grabbed me a Budweiser  
15 and some more cigarettes, and Mike, my nephew, another  
16 friend of ours and myself was going back home.

17 I said, Hey, Mike, I'm ready to go to  
18 work. He said, No, Cliff, hang out for a little while  
19 longer. I said, No problem, I'll do that.

20 Q. Okay. So this was a trip to the liquor  
21 store. Did you drive there or did you walk there?

22 A. We walked.

23 Q. So you came back and you continued to work on  
24 the vehicle?

25 A. No. We had walked to Mike's apartment because

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1 my nephew was bugging me about his beer was a 211 malt  
2 liquor. I said, Nephew, be quiet about that beer, we'll  
3 get your beer, don't worry about it. And Mike said,  
4 Hey, man, it's at my house in my refrigerator, we can go  
5 get it. So that's when we started heading to Mike's  
6 apartment.

7 Q. Okay. So approximately what time do you  
8 remember when you went to the liquor store?

9 A. Around eleven-something.

10 Q. So after the liquor store, the -- the group  
11 that you were with moved the -- to Mike's apartment?

12 A. We got moved to Mike's apartment. We was  
13 standing outside in a circle. I was standing in front  
14 of Mike, my nephew was standing on the side of me, and  
15 the other guy, I don't know his name, he was with us,  
16 was standing across from my nephew. So we had like a  
17 circle to where we could all watch each other's backs.

18 Q. Okay. And so at this point in time, you  
19 weren't working on the vehicle --

20 A. No.

21 Q. -- you were just socializing?

22 A. We were socializing.

23 Q. Okay. Now, is this the point in time where  
24 you observe the defendant against a wall, or was that  
25 previously when you were working on the vehicle?

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1           A.     No. He was there when we were standing in  
2 front of Mike's apartment against the wall.

3           Q.     Okay. Now, when did you observe the defendant  
4 near a bush near Mike's apartment?

5           A.     Mike, myself, my nephew, and the other guy  
6 with us, we was walking towards that walkway because  
7 my nephew had met a female in the store he was talking  
8 to. I say, Nephew, that's the girl you was talking to  
9 in the store. He goes, Okay. He went to go talk to  
10 her. One other young lady was hugged up on me,  
11 talking to me, telling me to be careful. I said, I'm  
12 always careful.

13                         So my nephew went with her to the  
14 store. And I said, Hey, Mike, I'm going to go sit on  
15 my car. He said, All right. So myself, Mike, and the  
16 other guy, we walked back to my car. I sit -- I had  
17 sat on the passenger side of my hood. Mike come up,  
18 Hey, Cliff, let me sit down. So I slid over to the  
19 driver's side, that left Mike on the passenger side of  
20 my hood.

21           Q.     So this is the vehicle that you were working  
22 on earlier in the evening?

23           A.     Yes.

24           Q.     And so now at this vehicle is you, Mike, and --

25           A.     The other individual and the other guy that

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1 was with us.

2 Q. So three of you. And where was he located?

3 A. He was standing in front of them, the bumper,  
4 the grill, standing in front.

5 Q. So it was you three men talking?

6 A. Yeah. We -- actually, we was talking there,  
7 we was talking about the basketball court that they  
8 had put in the city a long time ago. And my other  
9 friend was telling me that they wanted him to take  
10 pictures.

11 Q. Okay. And again, we don't want to talk about  
12 what other people necessarily told you because that's  
13 stuff that we can't get into, but you were talking  
14 about a basketball court?

15 A. Yes.

16 Q. And then when did you notice -- like how long  
17 had you been there when you noticed the defendant again?

18 A. We was sitting there like five, ten minutes.

19 Q. What made you first notice the defendant?  
20 Were you just looking around? Did you hear something?

21 A. We heard the first shot ring out.

22 Q. Okay. When you say shot, what did it sound  
23 like to you?

24 A. A gunshot.

25 Q. Have you heard gunshots in the past?

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1           A.     I been shot at a couple times in my field of  
2 work.

3           Q.     Okay. And when you heard this noise, were  
4 you able to tell based on hearing it where it -- it  
5 came from?

6           A.     When I heard it, I turned towards where the  
7 bushes was at, and me and Frank met eye to eye.

8           Q.     Okay. Now, if you're sitting on your hood at  
9 the time you hear this; is that right?

10          A.     (Witness nods head)

11          Q.     Where was the bushes in relation to the hood  
12 of your vehicle?

13          A.     Like right across from us.

14          Q.     So within --

15          A.     About five -- maybe five or six feet away  
16 from us.

17          Q.     Five or six feet. And this is the same spot  
18 that you described earlier that was lit by an overhead  
19 light?

20          A.     Yeah.

21          Q.     Is that right?

22          A.     Yeah.

23          Q.     Now, you've looked over, and let's talk about  
24 these bushes a little bit. Are they -- are they like  
25 a bush wall? Are they circular?

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1           A.     Just a regular bush with red and white leaves  
2 on it -- red and white flowers.

3           Q.     Approximately, how tall would you say they are?

4           A.     (Indicating) About like here.

5           Q.     When you say "like here," meaning are they  
6 taller than you, or are they shorter than you?

7           A.     Taller than me.

8           Q.     They're taller than you. And where  
9 specifically was the defendant with regards to these  
10 bushes?

11          A.     He was in a squatting position on the side of  
12 the bush.

13          Q.     And did you observe anything in his hand?

14          A.     Not that time, no.

15          Q.     Okay. Did you say -- you said you met eyes  
16 with him. Were you able to recognize this individual?

17          A.     Yes.

18          Q.     And you recognized him as the defendant?

19          A.     Yes.

20                 MS. JOSEPH: Court's indulgence.

21 BY MS. JOSEPH:

22          Q.     I want to refer back to the statement that we  
23 were talking about that you gave to Detective Mogg.  
24 You recall giving this statement, right?

25          A.     Yes.

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1 Q. When you gave this statement, do you recall  
2 telling Detective Mogg that you saw Frank Netty  
3 squatting down with a gun in his arm, setting his body  
4 where he could take a good aim?

5 A. Yes.

6 Q. Okay. So you did see the gun in his hand?

7 A. Yes, that's when the first shot rang out.

8 Q. Okay. So I guess maybe I confused you with  
9 my question earlier.

10 A. Yes.

11 Q. You saw the gun at first after the first shot  
12 rang out or before the first shot rang out?

13 A. Before the shot -- we heard -- when the shot  
14 rang out, that's when I looked at him.

15 Q. Okay. So it was right after that?

16 A. Right after, yes.

17 Q. What did you do at that point when you saw  
18 him with a gun?

19 A. Myself and Mike and my other friend, we just  
20 still standing -- sitting on the car talking.

21 Q. So you -- you weren't planning on leaving  
22 after a gunshot?

23 A. Un-un, no.

24 Q. Okay. What happened after that?

25 A. After that we heard the second shot rang out.

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1 Me and Mike looked at each other. Hey, Mike, he's  
2 shooting. So we heard the other shot rang out. I  
3 said, Come on, Mike, we gotta go, he's shooting.

4 By that time, the third -- the person  
5 that was with us, he ran off. I grabbed Mike, I said,  
6 Come on, man, let's go, he's shooting. I started  
7 running towards my door.

8 Q. So it was after the third shot that you  
9 started to run?

10 A. Yeah.

11 Q. But then the third individual that was with  
12 you started to run before that?

13 A. Started before us, yeah.

14 Q. Okay. Now, let's talk about the way that you  
15 ran to get away from the shots. Was your house  
16 directly in front of your vehicle, or how did you have  
17 to run to try to get to your home?

18 A. I ran in an L shape, I ran up the middle, and  
19 I turned (indicating) towards my door.

20 Q. So you run directly forward?

21 A. Directly forward and I turned, that's when I  
22 dropped my beer and ran to my door.

23 Q. And once you made it to your door, did you  
24 look behind you to see if you could see anyone, or  
25 were you looking while you were running?

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1 A. I thought Mike was behind me.

2 Q. When did you realize that Mike wasn't behind  
3 you?

4 A. When I went back to the door and looked, and  
5 I saw him laying down with his hand on my car.

6 Q. Where was he, was he laying next to the  
7 vehicle or in front of the vehicle?

8 A. He was laying face forward next to my vehicle.

9 MS. JOSEPH: Court's indulgence.

10 BY MS. JOSEPH:

11 Q. Did you -- so I know, I think you said this  
12 was around 11:00 or 11:30, what time do you think  
13 this -- this was when the shots happened?

14 A. Around 12:00.

15 Q. Around 12:00. So you -- this was the time  
16 where you normally would be at work?

17 A. Yes.

18 Q. Did you attempt to see how Mr. Jordan was  
19 doing?

20 A. I went back to my vehicle and told him, Wake  
21 up, Mike, get up. Get up, Mike, get up.

22 Q. Did he get up?

23 A. He turned -- he turned -- I turned him over,  
24 and he looked at me and said, Get him.

25 Q. Now, when this happened, what -- what was

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1 your next step after noticing Mr. Jordan on the  
2 ground? Did you call the police?

3 A. No, not that moment, no.

4 Q. What did you do?

5 A. I was in shock.

6 Q. Did you go home?

7 A. Went back to my house, yes.

8 Q. Did you ultimately go to work that evening?

9 A. Yes, I did.

10 Q. Do you remember about what time you went to  
11 work?

12 A. Around one o'clock, 1:30.

13 Q. And did you call police officers at that time?

14 A. I did a round on my property, and something  
15 just told me to call.

16 Q. When you say you did a round of your  
17 property, is that when you were working?

18 A. I was in working foot patrol of my property.

19 Q. So after you'd been working for a while, you  
20 decided to call the police officers?

21 A. Yes.

22 Q. Did you speak with them that evening or was  
23 it the next day?

24 A. Same night.

25 Q. Same night. Now, you spoke with Detective Mogg

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1 on the 17th, which would have been the --

2 A. The next day.

3 Q. -- kind of the same evening that this occurred.

4 Did you speak with him at a later date as well?

5 A. Yes.

6 Q. Did he have a chance to show you a photo

7 line-up?

8 A. Yes.

9 Q. When he showed you that line-up, did he give  
10 you instructions on -- on what you were looking for?

11 A. Yes.

12 Q. Did he tell you that you had to pick someone  
13 out?

14 A. No.

15 MS JOSEPH: Court's indulgence, Your Honor.

16 BY MS. JOSEPH:

17 Q. Do you remember when this detective came to  
18 you with a photo line-up?

19 A. Yes. I was at work.

20 Q. So this was that same night or this was later?

21 A. This was later.

22 Q. Okay. Now, do you remember being read the  
23 instructions on the photo line-up?

24 A. Yes.

25 Q. Do you remember signing a sheet indicating

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1 you had read those instructions?

2 A. Yes.

3 MS. JOSEPH: Your Honor, permission to  
4 approach the witness?

5 THE COURT: Yes.

6 MS. JOSEPH: Can I have this marked?

7 (State's Proposed Exhibit 5  
8 was marked for identification)

9 BY MS. JOSEPH:

10 Q. Showing you what has been marked for  
11 identification as State's Proposed Exhibit 5. Does  
12 that look familiar to you? There are two pages to  
13 this document.

14 A. Yes.

15 Q. And does this appear to be the first photo  
16 line-up that the detective showed you?

17 A. Yes.

18 Q. Okay.

19 THE COURT: I can't hear you, I'm sorry, sir.

20 THE WITNESS: Yes.

21 THE COURT: Thank you.

22 BY MS. JOSEPH:

23 Q. Now, on this photo line-up, it appears that  
24 there are six individuals. Did you sign off on any of  
25 those individuals as being Frank Netty?

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1 A. Yes.

2 Q. And which individual did you sign off on?

3 A. Number 6.

4 Q. Okay. Now, why did you pick Number 6?

5 A. It looked like him.

6 Q. So you thought that it was Frank Netty?

7 A. Yes.

8 Q. Why did you think that?

9 A. The haircut, the eyes, the mustache, and the  
10 little goatee at the bottom.

11 Q. When you say the haircut, are you meaning the  
12 actual cut of the hair or the hairline, like across  
13 the forehead?

14 A. The actual cut of the hair.

15 Q. Okay. Now --

16 MS. JOSEPH: Your Honor, at this point in  
17 time, the State would move to admit State's Proposed  
18 Exhibit 5.

19 MR. ARNOLD: The only thing, Your Honor --  
20 can I approach? I want to say this one thing. And my  
21 only objection is that we don't have that, the second  
22 or third sheet that normally comes with it listing who  
23 these individuals were. And so we have identification  
24 of Number 6, but we don't know who Number 6 is.

25 THE COURT: Do you have the sheet that goes

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1 with it?

2 MS. JOSEPH: I didn't have a copy of that  
3 sheet, Your Honor. I know the other two line-ups that  
4 were admitted didn't have that sheet as well. This  
5 one -- right. And this would be outside his  
6 knowledge, he wouldn't know who these individuals are.

7 We're willing to stipulate that Number 6  
8 was not, in fact, Frank Netty. We have a second line-up  
9 that we would want to admit that shows the defendant.

10 THE COURT: Well, that's a two-page exhibit,  
11 right?

12 MS. JOSEPH: Yes, Your Honor. The front  
13 being the instruction, the second --

14 THE COURT: My question was, that's a  
15 two-page exhibit, right?

16 MS. JOSEPH: Yes.

17 THE COURT: Let's get it stapled so it  
18 doesn't get separated. Mr. Arnold's objection is  
19 noted for the record but overruled, and it is admitted  
20 with the stipulation from the State that the person  
21 selected by Mr. Watkins was not Mr. Frank Netty, also  
22 known as Frank Herring.

23 (State's Exhibit 5

24 was admitted into evidence)

25 MS. JOSEPH: Thank you.

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1 BY MS. JOSEPH:

2 Q. After you met with the detective with the  
3 photo line-up that we were just discussing, were you  
4 shown another photo line-up in the future?

5 A. Yes.

6 Q. And were you given the same instructions?

7 A. Yes.

8 Q. I'm showing you what has been marked as  
9 State's Proposed Exhibit 6, also two pages. Does that  
10 look familiar to you?

11 A. Yes.

12 Q. And what is -- on the second page, does this  
13 appear also to have six photographs as well?

14 A. Yes.

15 Q. And on this document, did you identify one of  
16 those individuals as being Frank Netty?

17 A. Yes.

18 Q. And which numbered individual was that?

19 A. Number 4.

20 MS. JOSEPH: Your Honor, at this point in  
21 time, the State would move to admit State's Proposed  
22 Exhibit 6.

23 MR. ARNOLD: No, objection, Your Honor.

24 THE COURT: Admitted.

25 (State's Exhibit 6

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1                   was admitted into evidence)

2 BY MS. JOSEPH:

3           Q.     So I guess my question for you, Mr. Watkins,  
4 is, I know previously you had identified someone as  
5 Mr. Netty and then again you identified someone as  
6 Mr. Netty. What -- which identification do you  
7 believe is correct?

8           A.     The second one.

9           Q.     And why is that?

10          A.     Because he's on this Number 4, he's Number 4  
11 in the picture.

12          Q.     So after looking at this picture, did it make  
13 you realize that the previous line-up you had seen,  
14 you had made an incorrect choice?

15          A.     Yes, I did.

16          Q.     Do you feel confident in your second choice  
17 that this individual was the individual you saw on  
18 this evening?

19          A.     Yes.

20          Q.     I know you told us earlier that you began to  
21 run after you heard the third shot. Do you recall  
22 approximately how many shots you heard on this evening?

23          A.     Approximately seven.

24          Q.     Approximately seven. So the following four  
25 shots that you heard, was that while you were running?

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1 A. No.

2 Q. That was after you had finished running?

3 A. Yes.

4 MS. JOSEPH: No further questions, Your Honor.

5 THE COURT: Before we start cross, I'll see  
6 Mr. Claus.

7 (Break in proceedings)

8 THE COURT: Back on the record with regard to  
9 Mr. Frank Herring, who is present with his attorney,  
10 Mr. Arnold. We are doing examination of  
11 Mr. Clifton Watkins by the State. You may proceed.

12 MR. ARNOLD: Thank you, Your Honor.

13 THE COURT: I mean cross-examination beginning.  
14 Thank you, Mr. Arnold.

15 MR. ARNOLD: Thank you.

16

17 CROSS-EXAMINATION

18 BY MR. ARNOLD:

19 Q. Mr. Watkins, I'm somewhat confused about the  
20 shooting. Previously, I thought that you testified  
21 that you heard one shot; is that correct?

22 A. That was the first shot that we heard.

23 Q. The first shot. Now, do you know who shot  
24 that first shot?

25 A. The defendant.

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1 Q. And how do you know that?

2 A. He was squatting behind a tree, on the side  
3 of the tree.

4 Q. And so you saw the defendant before the first  
5 shot squatting behind a tree?

6 A. Yes.

7 Q. And when you saw the defendant squatting behind  
8 a tree, what did he have in his hand, if anything?

9 A. He was taking aim at that time.

10 Q. He was taking aim with what, sir?

11 A. A gun.

12 Q. Okay. And are you able to identify that gun?

13 A. Yeah.

14 Q. And how are you able to identify that gun?

15 A. Because before the night -- before the  
16 shooting, I seen him put it -- tuck it up his white  
17 shirt.

18 Q. The night before the shooting?

19 A. The night of the shooting, he took it over  
20 his -- over his shirt, put it over his shirt.

21 Q. So which one was it, sir, the night before  
22 the shooting or the night of the shooting?

23 A. The night of the shooting.

24 Q. Okay. So you saw Mr. Netty with a gun the  
25 night of the shooting?

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1 A. Yes.

2 Q. And what time?

3 A. Like around eleven.

4 Q. Eleven o'clock?

5 A. Around eleven o'clock, 11:30-ish.

6 Q. And did it concern you that he had a gun?

7 A. No.

8 Q. And did he show you that gun?

9 A. I seen it.

10 Q. No. But did he show --

11 A. He didn't show me anything. He tucked it in  
12 his shirt.

13 Q. I understand, sir. Now can you answer my  
14 question? Did he come up to you and show you the gun?

15 A. No, he didn't.

16 Q. Okay. So you were at a distance when you saw  
17 the gun being tucked in his shirt?

18 A. I was walking with my friends, he was across  
19 the way from us. That's when I seen it. When I say  
20 across the way, he was by the Building 39, on the side  
21 of the wall. We was walking through the basketball  
22 court coming from the store, and I seen it.

23 Q. Okay. And so when you saw this gun, you're  
24 able to identify the length of the gun; is that correct?

25 A. Not length of the gun, no.

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1 Q. Well, I thought you said that it was a short  
2 gun?

3 A. It was a shorter .45. He had it tucked in  
4 his -- I could see the handle of the gun. I didn't  
5 see the barrel, I seen the handle of the gun.

6 Q. Well, sir, I'm going to ask you to be careful  
7 because you're talking on the record, and you have to  
8 be explicit as to what you say.

9 You just said .45. You didn't --  
10 previously you said it was a .40 caliber gun.

11 A. .45, .40, they're all the same.

12 Q. They're all the same gun --

13 A. One is --

14 Q. A .45 caliber gun is --

15 A. A .45 is --

16 Q. -- is the same as a .40 --

17 THE COURT: Gentlemen, stop.

18 THE WITNESS: -- is a bigger barrel than --

19 THE COURT: Stop.

20 MR. ARNOLD: You gotta let me --

21 THE COURT: No, you need to let me.

22 MR. ARNOLD: Sorry, Your Honor.

23 THE COURT: Please don't talk over each other.

24 MR. ARNOLD: Okay.

25 THE COURT: I want you to listen to

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1 Mr. Arnold's question, and then I want you to answer it  
2 when he's finished. He'll give you the same courtesy.

3 Mr. Arnold, ask the question again.

4 MR. ARNOLD: I apologize, Your Honor.

5 BY MR. ARNOLD:

6 Q. So was it a .45 or a .40?

7 A. It was a .40.

8 Q. And so why did you say .45 just a little  
9 while ago?

10 A. Because .45 and a .40 similar, the same.  
11 There are some short .45s, there are some short .40s.

12 Q. Okay. And so what was this one?

13 A. It was a .40.

14 Q. A short .40?

15 A. It was a shorter .40.

16 Q. Okay. And you're able to identify the color  
17 of this weapon, weren't you?

18 A. Yes.

19 Q. And what was the color of the weapon?

20 A. Black.

21 Q. Okay. And didn't you say it had some chrome  
22 or silver on it also?

23 A. The slide, the top part was.

24 Q. And didn't you know if it had a magazine?

25 A. Yes.

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1 Q. And didn't you know that it had an extended  
2 magazine?

3 A. Yes.

4 Q. And so you were able to see this all from  
5 his --

6 A. Waist --

7 Q. -- pants -- his waist -- on his shorts?

8 A. Yeah.

9 Q. Okay. And prior to the shot you said he was  
10 taking aim at you. You were able to see that weapon,  
11 the same weapon that you saw previously that night, in  
12 his hands?

13 A. Yes.

14 Q. Okay. And you said you were only about five  
15 or six feet away from him; is that correct?

16 A. Yeah.

17 Q. And in the five or six feet that you were  
18 away from him, was he pointing the weapon at you?

19 A. He was pointing the weapon towards us.

20 Q. When you say us, the whole group?

21 A. Yes.

22 Q. Was he pointing the weapon directly at you do  
23 you believe?

24 A. I didn't know.

25 Q. You didn't know?

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1 A. No.

2 Q. Do you know if Mr. Herring had any  
3 relationship to the gentleman you're referring to as  
4 Mike?

5 A. No.

6 Q. And when he was pointing the weapon at you,  
7 how come you didn't run?

8 A. We started talking.

9 Q. So a man is pointing a weapon at you and you  
10 don't run?

11 A. Myself, Mike, and my other friend, we was  
12 talking.

13 Q. You didn't say, Hey, boys, a guy's pointing a  
14 weapon at us back here?

15 A. No, I didn't.

16 Q. And so after the first shot, you testified  
17 that you didn't run either?

18 A. No.

19 Q. Where did the first shot land?

20 A. It landed in Cherrice's daughter's car.

21 Q. And where was Cherrice's daughter's car in  
22 location to where you were standing?

23 A. It was parked next to my vehicle.

24 Q. Okay. How far away?

25 A. Right next to -- my car is here -- her car is

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1 here (indicating) and my car is here.

2 Q. And you were standing in front of your car?

3 A. I was sitting on the driver's side of my car.

4 Q. Okay. So according to your testimony then, the  
5 car would have been to your right; is that correct?

6 A. Correct.

7 Q. And so the bullet struck that car?

8 A. Yes.

9 Q. And so if it struck that car, he's only five  
10 or six feet away, was he aiming at that car?

11 A. I have no idea.

12 MS. JOSEPH: Objection, Your Honor, I don't  
13 think he knows what the defendant was aiming at.

14 THE COURT: That's what his answer was.

15 MR. ARNOLD: Yeah, that's what we're trying  
16 to figure out, if he has any knowledge, Your Honor.

17 THE WITNESS: I don't know if he was aiming  
18 at the vehicle.

19 THE COURT: The objection is overruled.

20 THE WITNESS: I don't know if he was looking  
21 for a shot at the vehicle.

22 MR. ARNOLD: And for the record, that  
23 objection was overruled?

24 THE COURT: I did overrule that.

25 MR. ARNOLD: Thank you, Your Honor.

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1 BY MR. ARNOLD:

2 Q. And so after the first shot, you kept on  
3 talking. How long was it before the second shot?

4 A. Right after.

5 Q. Say that again, sir.

6 A. Right after.

7 Q. I'm not understanding you. Say that again.

8 A. He shot the first shot, then the second shot  
9 rang out.

10 Q. So how -- how much time elapsed?

11 A. I don't know. We heard the second shot, then  
12 Mike -- this guy's shooting at this particular point,  
13 I said, Let's go.

14 Q. So did you run away? Did you walk away?

15 A. We ran.

16 Q. So it was only after the second shot that you  
17 realized that these bullets were coming in your  
18 direction?

19 A. Yes.

20 Q. Now, I see that you're wearing glasses. Did  
21 you have those glasses on that night?

22 A. Nope.

23 Q. When is the last time you had your glasses  
24 checked -- or your eyes checked? Excuse me.

25 A. Had my eyes checked around December.

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1 Q. December of 2012?

2 A. Yes.

3 Q. Okay. And did you get a new pair of glasses,  
4 or did they tell you that the glasses were okay? What?

5 A. These glasses are new.

6 Q. So those are new glasses that you got. And  
7 so did they diagnose your sight? Did they tell you if  
8 you were nearsighted, farsighted?

9 A. Farsighted.

10 Q. So you're farsighted. Did they tell you what  
11 your vision was, is it 20/20? What is --

12 A. 20/40.

13 Q. 20/40, farsighted.

14 A. Yes.

15 Q. And you said there was a light pole that  
16 night. Was the light on?

17 A. Yes.

18 Q. You stated that you were supposed to be  
19 working that night; is that correct?

20 A. Correct.

21 Q. How come you didn't leave when your shift  
22 started?

23 A. Because at that particular time, my nephew  
24 brought Mike over. And myself, Mike, and my nephew  
25 was coming, sitting in front of my front door.

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1 Q. How were you going to get to work that night?  
2 A. Cherrice takes me to work.  
3 Q. So were you planning on not going to work  
4 that night?  
5 A. No, I was going to work.  
6 Q. How were you going to get there that night?  
7 A. Cherrice was taking me to work.  
8 Q. What time was Cherrice planning to take you  
9 to work that night?  
10 A. Ten o'clock.  
11 Q. Did you go tell Cherrice that you weren't  
12 going to work that night?  
13 A. No.  
14 Q. Were you aware that Cherrice wasn't at home,  
15 that she went to the casino that night?  
16 A. Before she was at home.  
17 Q. Well, she testified that she was home till  
18 10:45.  
19 A. She was at home we were all outside talking.  
20 Q. What was that?  
21 A. We were all outside talking.  
22 Q. And so that's why I'm asking, did you ever  
23 tell her that you weren't going to work that night?  
24 A. No, I didn't.  
25 Q. And she didn't say 10:45, she said 11:45 is

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1 when she went to the casino. And by 11:45 you didn't  
2 make up your mind as to whether you were going to work  
3 or not?

4 A. My mind was made up, I was going in later  
5 probably.

6 Q. At what time?

7 A. Around 12:00 or 1:00.

8 Q. How were you going to get there at 12:00 if  
9 she left to the casino at 11:45?

10 A. She left to go get her cousins from the  
11 casino. She was coming back.

12 Q. So she was -- she left to go get what, her  
13 cousins?

14 A. Her cousins.

15 Q. Okay. Now, you stated that you weren't upset  
16 that when you broke up with Cherrice that you were  
17 upset that she dated Frank during that time. Isn't  
18 that what you testified earlier to today?

19 A. Yeah. Yes.

20 Q. Do you recall telling the police that there  
21 was going to be problems between you and Frank?

22 A. Yes.

23 Q. And so, again, knowing that you were going to  
24 have problems with Frank, and you saw him pointing a  
25 gun at you before the first shot, how come you didn't

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1 take off?

2 A. At that particular time, my friend, Mike;  
3 myself; and my other friend, we was still talking.

4 Q. So it was more important to have that  
5 conversation as opposed to run away?

6 A. At that time, yeah, we was talking.

7 Q. Okay. After the shooting how come you didn't  
8 call 911 right away?

9 A. Reason I didn't call 911 is because another  
10 young lady came up when I told her I was going to call  
11 911, but I didn't want to call them while I'm still on  
12 that premises.

13 Q. Why not?

14 A. Because Frank just got done shooting at me.  
15 What makes you think I'm going to sit around and call  
16 the police when everybody going to find out that I  
17 called? I wanted to do it in a secret place where I  
18 was safe at, and that's my job.

19 Q. So when you ran didn't you run to the  
20 apartments?

21 A. Yes, I ran to my apartment.

22 Q. The apartment that you were living in?

23 A. Yes.

24 Q. And that wasn't a safe enough place to call  
25 911?

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1 A. No.

2 Q. Were shots being fired at your apartment?

3 A. No.

4 Q. And you said that you went to a liquor store  
5 prior to the shooting; is that correct?

6 A. Correct.

7 Q. And what were you drinking at that time?

8 A. I was drinking a Budweiser, a 16-ounce can.

9 Q. Prior to that 16-ounce Budweiser that you  
10 were drinking, did you drink anything else?

11 A. No, sir, I didn't.

12 Q. So did you have more than one 16-ounce  
13 Budweiser?

14 A. Only one.

15 Q. How do you recall specifically that he was  
16 wearing gray shorts?

17 A. Because we was at the car getting my car  
18 unlocked, and I seen his outfit.

19 Q. Under the streetlights?

20 A. No. He was standing right there by Kinsey's  
21 van, and I looked over and seen his outfit.

22 Q. And you said it was gray cargo pants with a  
23 white T-shirt?

24 A. Pro Club, yeah, a T-shirt.

25 Q. Do you recall telling the police you also saw

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1 a white Chevrolet Caprice drive off at a high rate of  
2 speed?

3 A. Yes.

4 Q. Did you see Mr. Herring's moped that day?

5 A. Nope.

6 Q. It wasn't next to the two vehicles that you  
7 were standing by?

8 A. No.

9 Q. Did you see him arrive on that moped?

10 A. No.

11 Q. Any time during that day did you see him on  
12 that moped?

13 A. No.

14 Q. Now, previously you're aware that that's how  
15 he got around was on his moped; is that correct?

16 A. Correct.

17 Q. But you didn't see that moped that day?

18 A. No.

19 Q. Do you know how he [sic] arrove?

20 A. No.

21 Q. Do you believe that he arrove there by the  
22 Chevrolet Caprice?

23 A. No.

24 Q. After the shots were fired, do you know how --  
25 did you see who you believed to be Mr. Herring run off?

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1 A. Yes.

2 Q. And was it by foot? By car?

3 A. Foot.

4 Q. By moped?

5 A. Foot.

6 Q. By foot?

7 A. He was on foot.

8 Q. What direction?

9 A. Running back away from the apartment complex,  
10 probably to another apartment complex in the back --  
11 another set of apartments.

12 Q. So not towards the car and the parking lot  
13 but towards the bushes?

14 A. Yes.

15 Q. Okay. Let's talk about the photo line-up.  
16 In regards to the first photo line-up, you identified  
17 an individual in Box Number 6?

18 A. Correct.

19 Q. And you said that you believe that was the  
20 shooter?

21 A. Correct.

22 Q. And didn't you say that you were 100 percent  
23 sure that that was the shooter?

24 A. Yes.

25 Q. And after you did -- well, let me ask you,

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1 where did you do that first viewing of that photo  
2 line-up?

3 A. The detectives -- the detectives came to my  
4 job.

5 Q. Okay. And did you do it in your office?

6 A. No. We did it in the detective's car.

7 Q. Okay. When you were in the car, was there  
8 anyone in that car other than you and the detective?

9 A. No.

10 Q. And wasn't Cherrice Jones there also?

11 A. When I did the first line-up she was not there.

12 Q. Okay. But wasn't she in the parking lot also?

13 A. She was in the parking lot, yes.

14 Q. Okay. And then she had an opportunity to  
15 look at the photo line-up also?

16 A. Yes.

17 Q. And then she came back to your office or to  
18 your car?

19 A. She came back to her vehicle.

20 Q. And did you all talk about the photo line-up?

21 A. No.

22 Q. You didn't tell her that you identified Frank  
23 in that photo line-up?

24 A. Yeah, yes, I did. Yes.

25 Q. Okay. And then what did she tell you when

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1 she said -- when you said that you identified Frank in  
2 that first photo line-up?

3 MS. JOSEPH: Objection, Your Honor, calls for  
4 hearsay.

5 THE COURT: Sustained.

6 BY MR. ARNOLD:

7 Q. But you do recall discussing it with her that  
8 you thought Frank was in that first photo line-up; is  
9 that correct?

10 A. Correct.

11 Q. Then the detectives call you -- called you  
12 and said that you need to do a second photo line-up;  
13 is that correct?

14 A. Correct.

15 Q. And then did you have a discussion with  
16 Cherrice about that we gotta go back and have a second  
17 photo line-up?

18 A. We gotta go back before the line-up, SWAT had  
19 came in to do a warrant -- a raid on 39.

20 Q. Okay. I'm not worried about that, I'm  
21 worried about the photo line-up.

22 A. Okay.

23 Q. Okay. So in regards to the second photo  
24 line-up, did you have a discussion with Cherrice that  
25 we have to go do another photo line-up?

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1           A.     Yes.  When she came home from work, yes.

2           Q.     And were you told a reason why that you had  
3 to do a second photo line-up?

4           A.     No.  The detective said that we had to do a  
5 second line-up.

6           Q.     Okay.  And did you -- and what did you tell  
7 Cherrice in regards to that photo line-up?

8           A.     I told her we gotta do a second one, that's  
9 all I said to her.

10          Q.     And where did you do that second photo line-up?

11          A.     We had it at Chuck E. Cheese.

12          Q.     Were you at home before you went to the  
13 Chuck E. Cheese or at work?

14          A.     I was at home.

15          Q.     And they asked you to meet at a  
16 Chuck E. Cheese?

17          A.     Yes.  He asked me where I want to meet at.

18          Q.     How come you didn't meet at the house?

19          A.     SWAT was there and all the detectives were  
20 there.

21          Q.     At -- but I thought you said at Apartment 39?

22          A.     Yes.

23          Q.     They weren't there at your apartment?

24          A.     They was parked in the street.

25          Q.     So the significance of that is that -- what?

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1       A.     The detectives wanted us to meet in a safer  
2 environment.

3       Q.     Okay. Prior to all the shooting and the --  
4 this night of May 17th -- night of May 16th, morning  
5 of May 17th, did you have an incident with Frank's  
6 girlfriend?

7       A.     Yes.

8       Q.     And she was sitting on your vehicle?

9       A.     Yes.

10      Q.     And did you tell her to get off your vehicle?

11      A.     I told her politely, Could you please get off  
12 my vehicle?

13      Q.     And isn't it true that Frank didn't like how  
14 you talked to her?

15      A.     Yes.

16      Q.     And you all had a discussion; is that correct?

17      A.     Correct.

18      Q.     And during that discussion how did it go?

19      A.     He told me that he didn't like what I said,  
20 that he -- that I didn't talk to -- he didn't say --  
21 he said he didn't talk to my B like that, so why you  
22 want to talk to his girl like that? He told me to  
23 move my car. I said, No, you move it.

24      Q.     And then how was it resolved?

25      A.     He walked away, I sat on my porch smoking my

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1 cigarette and drinking a Pepsi.

2 Q. Okay. Was any fists thrown or anything?

3 A. Nope.

4 Q. Was any guns being shown to each other at  
5 that time or anything?

6 A. Nothing.

7 Q. So it was just words?

8 A. Just words.

9 Q. You're all separating and left?

10 A. He went his way I stayed on my porch.

11 Q. And there was also another incident where you  
12 thought that he owed you \$300; is that correct?

13 A. Correct.

14 Q. That was over a purchase of drugs; is that  
15 correct?

16 A. Correct.

17 Q. And you felt that you didn't get the what,  
18 the right quality of drugs?

19 A. Correct.

20 Q. And did you all have a discussion about that?

21 A. Yep.

22 Q. Man to man?

23 A. Yep.

24 Q. Okay. And in that discussion, again, was it  
25 just words?

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1           A.     On my half it was words but not on his.

2           Q.     On his what happened?

3           A.     Because he kept talking with Kinsey saying I  
4     ain't never owed nobody no -- no money in my life. He  
5     the one who had the attitude, not me.

6           Q.     But he had attitude about it, but he went and  
7     talked to Kinsey about it?

8           A.     Yeah.

9           Q.     Okay. But when he was talking to you, you  
10    guys were just having a conversation; is that correct?

11          A.     Correct.

12          Q.     It never resolved it in a fistfight, he  
13    didn't move up and get in your face or anything like  
14    that, did he?

15          A.     Nope.

16          Q.     Okay. And he didn't show you a weapon or  
17    anything like that at that time?

18          A.     No.

19          Q.     And when did that incident, the beef over the  
20    quality of the drugs, when did that occur?

21          A.     That was sometime in April, either April or  
22    March, I'm not sure.

23          Q.     Of 2013?

24          A.     Yes, this year.

25          Q.     And then the incident with his girlfriend

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1 being on the car, when did that occur?

2 A. Around about March.

3 Q. Of 2013?

4 A. Yes.

5 Q. But outside of those two incidences, for the  
6 most part, you guys were just casual acquaintances,  
7 saying hi to each other when you saw --

8 A. We wasn't acquaintances, he spoke, I spoke.  
9 That was it.

10 Q. So casual conversation?

11 A. Hi and bye.

12 Q. Hi and bye.

13 So do you know if that was a .40 caliber  
14 weapon that he had in his hand or a .45 caliber weapon  
15 that he had in his hand?

16 A. It was a .40.

17 Q. Okay. And you're -- I thought previously you  
18 testified that you weren't sure if it was a .40 or a  
19 .45, they were all the same?

20 A. It was .40.

21 THE COURT: Counsel, we've been over that.  
22 You've clarified it, so.

23 MR. ARNOLD: Okay. Thank you, Your Honor.

24 Court's indulgence, just need a brief  
25 minute to confer with my client.

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1 THE COURT: Take your time.

2 MR. ARNOLD: No further questions, Your Honor.

3 THE COURT: Any redirect, Counsel?

4 MS. JOSEPH: I just briefly have two or three  
5 questions, Your Honor.

6

7 REDIRECT EXAMINATION

8 BY MS. JOSEPH:

9 Q. When you gave the statement to the detectives  
10 on the day after the shooting, do you recall telling  
11 that -- the detective that you felt like Frank Netty  
12 was going to shoot and kill you that evening?

13 A. Yes.

14 Q. And when all of this shooting occurred, did  
15 you observe anyone else in the area with a gun?

16 A. Not to my recollection, no.

17 Q. You didn't see anyone else holding a gun?

18 A. No.

19 Q. Or anyone else -- see anyone else shooting a  
20 gun?

21 A. (Witness shakes head)

22 MS. JOSEPH: No further questions, Your Honor.

23 THE COURT: Mr. Arnold.

24 MR. ARNOLD: Nothing further, Your Honor.

25 THE COURT: Thank you very much, sir.

1                   State, how many more witnesses do you  
2 need?

3                   MS. JOSEPH: Your Honor, State doesn't have  
4 any more witnesses.

5                   I do have a copy of the coroner's  
6 report. I spoke with Mr. Arnold previously, he  
7 indicated that he would stipulate to cause and manner  
8 as well as ID of the decedent.

9                   I also have a certified judgment of  
10 conviction for the defendant for a robbery case out of  
11 this jurisdiction, Case C224177. It's marked as  
12 State's Exhibit 1.

13                  THE COURT: Have you seen --

14                  MR. ARNOLD: Was that provided in discovery?

15                  MS. JOSEPH: It's the one that's alleged as  
16 his basis for the --

17                  MR. ARNOLD: Okay.

18                  THE COURT: Are we on the record or not?

19                  MS. JOSEPH: Sorry, Your Honor, he just asked  
20 if this was --

21                  THE COURT: I know, and you started to answer  
22 but your voice went away.

23                  MS. JOSEPH: I apologize, Your Honor.

24                  THE COURT: That's okay.

25                  Mr. Arnold, have you seen both exhibits?

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1 MR. ARNOLD: Yes, Your Honor.

2 THE COURT: How about the certified copy of  
3 judgment of conviction, what is your position on  
4 admission of that?

5 MR. ARNOLD: I have no objection, Your Honor.

6 THE COURT: State's Proposed 1 is admitted.

7 (State's Exhibit 1

8 was admitted into evidence)

9 THE COURT: And with regard to the coroner's  
10 report, sir, State's Proposed 2?

11 MR. ARNOLD: We'll -- no objection, Your Honor.

12 THE COURT: For purposes of preliminary  
13 hearing?

14 MR. ARNOLD: That's correct, Your Honor.

15 THE COURT: State's 2 is admitted.

16 (State's Exhibit 2

17 was admitted into evidence)

18 MS. JOSEPH: Thank you, Your Honor.

19 THE COURT: With that does the State rest?

20 MS. JOSEPH: Yes, Your Honor.

21 Oh, I apologize. We -- we just wanted  
22 to make an amendment to Count III, how the testimony  
23 came out with regard to the discharging a firearm,  
24 striking the license plate number and having it say:  
25 California license plates.

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1 THE COURT: Any objection to that, Mr. Arnold?  
2 It does conform with the evidence.

3 MR. ARNOLD: No, Your Honor.

4 THE COURT: Line 4 will be amended.

5 MS. JOSEPH: Thank you, Your Honor.

6 THE COURT: On page 2.

7 We're done?

8 MS. JOSEPH: Yes, Your Honor.

9 THE COURT: State has rested, Mr. Arnold.

10 MR. ARNOLD: Your Honor, I've advised my  
11 client of his right to testify. He is going to follow  
12 my advice and not testify for the preliminary hearing.

13 And the defense has no evidence to  
14 present at the preliminary hearing.

15 THE COURT: Thank you. Submitted or is there  
16 argument, Mr. Arnold?

17 MR. ARNOLD: On behalf of the defense we'd  
18 submit, Your Honor.

19 THE COURT: If you would stand for me,  
20 please, Mr. Herring.

21 It appears to the Court from the  
22 Complaint on file that the crimes alleged in Counts I  
23 through IV have been committed, and that you are the  
24 person who committed them, sir.

25 I'm going to hold you to answer. You

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1 are to appear for your district court arraignment on  
2 this date.

3 THE CLERK: July 18th, 9:30, lower level  
4 district court arraignment.

5

6 (Proceedings concluded)

7 --o0o--

8

9 Attest: Full, true, and accurate transcript of  
10 proceedings.

11

12 \_\_\_\_\_ /s/ Shawna J. McIntosh

13 Shawna J. McIntosh, RPR, CCR No. 770

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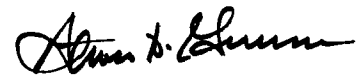
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| <p>57:18, 58:21, 58:22, 60:7, 60:9, 60:18, 60:23, 61:16, 61:23, 63:8, 64:3, 64:4, 65:13, 67:16, 68:14, 77:2, 77:4, 77:16, 78:10, 81:15, 81:16, 82:2, 82:11, 82:15, 82:20, 82:23, 83:2, 83:8, 83:12, 83:17, 83:18, 83:21, 83:24, 83:25, 84:3, 84:5, 84:7, 84:10, 87:13</p> <p><b>ups</b> <sup>[2]</sup> - 25:14, 63:3</p> <p><b>upset</b> <sup>[5]</sup> - 37:15, 37:19, 43:9, 77:15, 77:17</p> <p><b>upstairs</b> <sup>[1]</sup> - 39:17</p> <p><b>uses</b> <sup>[1]</sup> - 14:6</p> <p style="text-align: center;"><b>V</b></p> <p><b>van</b> <sup>[9]</sup> - 45:21, 45:24, 46:12, 46:14, 46:17, 46:19, 47:1, 47:11, 79:21</p> <p><b>VEGAS</b> <sup>[2]</sup> - 1:4, 4:1</p> <p><b>vehicle</b> <sup>[37]</sup> - 13:19, 13:25, 14:5, 14:6, 14:10, 14:13, 25:4, 25:6, 25:11, 39:19, 39:20, 39:25, 40:15, 40:17, 41:4, 41:6, 41:9, 41:20, 46:8, 50:24, 51:19, 51:25, 52:21, 52:24, 54:12, 57:16, 58:7, 58:8, 58:20, 72:23, 73:18, 73:21, 82:19, 85:8, 85:10, 85:12</p> <p><b>vehicles</b> <sup>[2]</sup> - 42:24, 80:6</p> <p><b>view</b> <sup>[1]</sup> - 25:21</p> <p><b>viewing</b> <sup>[2]</sup> - 27:9, 82:1</p> <p><b>vision</b> <sup>[1]</sup> - 75:11</p> <p><b>voice</b> <sup>[4]</sup> - 7:21, 10:21, 12:2, 90:22</p> <p><b>voluntary</b> <sup>[1]</sup> - 21:18</p> <p><b>vs</b> <sup>[1]</sup> - 1:9</p> | <p>43:23, 44:10, 44:15, 44:23, 45:4, 45:6, 70:17, 70:19, 71:10, 71:11, 71:18, 71:19, 71:22, 72:6, 72:9, 72:14, 87:16, 88:14</p> <p><b>wearing</b> <sup>[13]</sup> - 12:9, 22:8, 22:13, 32:10, 42:4, 42:6, 42:12, 42:18, 42:20, 49:23, 50:2, 74:20, 79:16</p> <p><b>week</b> <sup>[3]</sup> - 38:7, 38:8, 38:9</p> <p><b>weeks</b> <sup>[1]</sup> - 9:14</p> <p><b>weird</b> <sup>[1]</sup> - 46:23</p> <p><b>welcome</b> <sup>[2]</sup> - 5:23, 7:7</p> <p><b>Wesson</b> <sup>[1]</sup> - 45:10</p> <p><b>whatsoever</b> <sup>[1]</sup> - 28:1</p> <p><b>whisper</b> <sup>[1]</sup> - 12:3</p> <p><b>white</b> <sup>[16]</sup> - 5:22, 5:23, 12:13, 20:8, 32:13, 42:7, 42:9, 42:10, 42:15, 45:24, 49:25, 55:1, 55:2, 67:16, 79:23, 80:1</p> <p><b>whole</b> <sup>[5]</sup> - 7:15, 23:13, 30:13, 33:15, 71:20</p> <p><b>willing</b> <sup>[1]</sup> - 63:7</p> <p><b>window</b> <sup>[1]</sup> - 41:7</p> <p><b>witness</b> <sup>[12]</sup> - 4:24, 5:8, 5:9, 7:2, 8:16, 19:5, 29:9, 29:12, 32:20, 33:3, 33:8, 61:4</p> <p><b>Witness</b> <sup>[2]</sup> - 54:10, 89:21</p> <p><b>WITNESS</b> <sup>[15]</sup> - 7:6, 7:24, 10:16, 10:24, 11:3, 11:6, 11:16, 11:19, 33:21, 35:24, 45:23, 61:20, 69:18, 73:17, 73:20</p> <p><b>WITNESSES</b> <sup>[1]</sup> - 2:4</p> <p><b>witnesses</b> <sup>[6]</sup> - 4:16, 5:7, 5:14, 6:23, 90:1, 90:4</p> <p><b>wonder</b> <sup>[1]</sup> - 49:1</p> <p><b>words</b> <sup>[4]</sup> - 86:7, 86:8, 86:25, 87:1</p> <p><b>worried</b> <sup>[2]</sup> - 83:20, 83:21</p> <p><b>worry</b> <sup>[3]</sup> - 49:3, 49:4, 51:3</p> <p><b>wrote</b> <sup>[2]</sup> - 18:2, 18:7</p> <p style="text-align: center;"><b>Y</b></p> <p><b>year</b> <sup>[9]</sup> - 9:10, 12:14, 12:15, 13:24, 34:5, 34:23, 35:1, 35:8, 87:24</p> <p><b>years</b> <sup>[2]</sup> - 19:4, 34:22</p> <p><b>yellow</b> <sup>[2]</sup> - 24:12, 24:14</p> <p><b>young</b> <sup>[3]</sup> - 5:24, 52:10, 78:10</p> <p><b>yourself</b> <sup>[3]</sup> - 26:12, 34:14, 37:12</p> |
| <b>W</b>   | <b>Z</b>  |
| <p><b>W-a-t-k-i-n-s</b> <sup>[1]</sup> - 33:22</p> <p><b>waist</b> <sup>[2]</sup> - 71:6, 71:7</p> <p><b>Wait</b> <sup>[1]</sup> - 47:12</p> <p><b>waiting</b> <sup>[1]</sup> - 33:7</p> <p><b>Wake</b> <sup>[1]</sup> - 58:20</p> <p><b>walk</b> <sup>[4]</sup> - 47:1, 50:12, 50:21, 74:14</p> <p><b>walked</b> <sup>[5]</sup> - 23:22, 50:22, 50:25, 52:16, 85:25</p> <p><b>walking</b> <sup>[7]</sup> - 48:18, 48:20, 48:24, 49:6, 52:6, 68:18, 68:21</p> <p><b>walkway</b> <sup>[1]</sup> - 52:6</p> <p><b>wall</b> <sup>[11]</sup> - 49:7, 49:8, 49:9, 49:18, 49:21, 50:7, 50:11, 51:24, 52:2, 54:25, 68:21</p> <p><b>Walnut</b> <sup>[2]</sup> - 9:23, 34:6</p> <p><b>wants</b> <sup>[1]</sup> - 15:11</p> <p><b>warrant</b> <sup>[1]</sup> - 83:19</p> <p><b>watch</b> <sup>[3]</sup> - 47:1, 50:11, 51:17</p> <p><b>WATKINS</b> <sup>[2]</sup> - 2:12, 33:13</p> <p><b>Watkins</b> <sup>[26]</sup> - 13:8, 13:9, 13:11, 18:17, 18:24, 19:3, 26:9, 26:12, 26:22, 26:25, 27:7, 27:17, 27:20, 28:14, 28:20, 29:1, 33:5, 33:21, 33:22, 34:3, 35:21, 44:4, 63:21, 65:3, 66:11, 66:19</p> <p><b>weapon</b> <sup>[22]</sup> - 12:18, 43:17, 43:20,</p>   | <p><b>Zone</b> <sup>[1]</sup> - 40:2</p>  |

SHAWNA J. MCINTOSH, RPR, CCR NO. 770  
(702) 671-3464



CLERK OF THE COURT

1 NNEW  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 MICHAEL SCHWARTZER  
6 Deputy District Attorney  
7 Nevada Bar #10747  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12 FRANK HEARRING, aka,  
13 Frank Hearing, Jr., #1774466  
14 Defendant.

CASE NO: C-13-291159-1

DEPT NO: XX

15 SUPPLEMENTAL  
16 NOTICE OF EXPERT WITNESSES  
17 [NRS 174.234(2)]

18 TO: FRANK HEARRING, aka, Frank Hearing, Jr., Defendant; and

19 TO: CARL E. ARNOLD, ESQ., Counsel of Record:

20 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
21 NEVADA intends to call the following witnesses in its case in chief:

22 \* Denotes change

23 \*DUTRA, Timothy, M.D. a Medical Doctor employed by the Clark County Coroner  
24 Medical Examiner. She is an expert in the area of forensic pathology and will give scientific  
25 opinions related thereto. She is expected to testify regarding the cause and manner of death  
26 of MICHAEL JORDAN.

27 MACEO, Alice P#7828 a Latent Print Examiner or Designee – Las Vegas  
28 Metropolitan Police Department; will testify as an expert as to the procedures, techniques  
and science employed in the fingerprint analysis, all procedures employed in this case and

1 reports provided.

2 AOYAMA, Kathryn P#8035 a Latent Print Examiner – Las Vegas Metropolitan  
3 Police Department; will testify as an expert as to the procedures, techniques and science  
4 employed in the fingerprint analysis, all procedures employed in this case and reports  
5 provided.

6 BEARD, Marcia P#3768 a Latent Print Examiner – Las Vegas Metropolitan Police  
7 Department; will testify as an expert as to the procedures, techniques and science employed  
8 in the fingerprint analysis, all procedures employed in this case and reports provided.

9 CAMERON, Cathryn P#9887 a Latent Print Examiner – Las Vegas Metropolitan  
10 Police Department; will testify as an expert as to the procedures, techniques and science  
11 employed in the fingerprint analysis, all procedures employed in this case and reports  
12 provided.

13 CARTER, Marnie P#8179 a Latent Print Examiner – Las Vegas Metropolitan Police  
14 Department; will testify as an expert as to the procedures, techniques and science employed  
15 in the fingerprint analysis, all procedures employed in this case and reports provided.

16 MURGA, Kimberly P#10140 a DNA Technical Leader or Designee with the Las  
17 Vegas Metropolitan Police Department. She is an expert in the area of DNA technology and  
18 will give scientific opinions related thereto. She is expected to testify regarding the DNA  
19 profiling analysis and related procedures she performed in this case.

20 ADAMS, Tiffany P#10072 a Criminalist with the Las Vegas Metropolitan Police  
21 Department. She is an expert in the area of DNA technology and will give scientific  
22 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
23 related procedures she performed in this case.

24 BAS, Jennifer P#9944 a Criminalist with the Las Vegas Metropolitan Police  
25 Department. She is an expert in the area of DNA technology and will give scientific  
26 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
27 related procedures she performed in this case.

28 ///

1        \*BASILOTTA, Eugenio P#8447 to testify as an expert in the analysis and  
2 explanation of complex phone record keeping documents as well as an expert in the field of  
3 cellular phone towers and their geographic proximity to the users of a certain cellular  
4 telephone.

5        BEAUDETTE, Frances P#4361 a Criminalist with the Las Vegas Metropolitan  
6 Police Department. She is an expert in the area of DNA technology and will give scientific  
7 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
8 related procedures she performed in this case.

9        \*GANDY, Christopher P#5117 to testify as an expert in the analysis and  
10 explanation of complex phone record keeping documents as well as an expert in the field of  
11 cellular phone towers and their geographic proximity to the users of a certain cellular  
12 telephone.

13        GAUTHIER, Kelly P#8691 a Criminalist with the Las Vegas Metropolitan Police  
14 Department. She is an expert in the area of DNA technology and will give scientific  
15 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
16 related procedures she performed in this case.

17        KING, Craig P#9971 a Criminalist with the Las Vegas Metropolitan Police  
18 Department. He is an expert in the area of DNA technology and will give scientific opinions  
19 related thereto. He is expected to testify regarding the DNA profiling analysis and related  
20 procedures she performed in this case.

21        MARSCHNER, Julie P#8806 a Criminalist with the Las Vegas Metropolitan Police  
22 Department. She is an expert in the area of DNA technology and will give scientific  
23 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
24 related procedures she performed in this case.

25        MAY, Crystal P#9288 a Criminalist with the Las Vegas Metropolitan Police  
26 Department. She is an expert in the area of DNA technology and will give scientific  
27 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
28 related procedures she performed in this case.

1        PACHECO, Jessica P#13770 a Criminalist with the Las Vegas Metropolitan Police  
2 Department. She is an expert in the area of DNA technology and will give scientific  
3 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
4 related procedures she performed in this case.

5        RETAMOZO, Carol P#14280 a Criminalist with the Las Vegas Metropolitan Police  
6 Department. She is an expert in the area of DNA technology and will give scientific  
7 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
8 related procedures she performed in this case.

9        ROBERTSON, Cassandra P#14653 a Criminalist with the Las Vegas Metropolitan  
10 Police Department. She is an expert in the area of DNA technology and will give scientific  
11 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
12 related procedures she performed in this case.

13        TAYLOR, Jennifer P#10074 a Criminalist with the Las Vegas Metropolitan Police  
14 Department. She is an expert in the area of DNA technology and will give scientific  
15 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
16 related procedures she performed in this case.

17        THOMAS, Jennifer P#13772 a Criminalist with the Las Vegas Metropolitan Police  
18 Department. She is an expert in the area of DNA technology and will give scientific  
19 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
20 related procedures she performed in this case.

21        VIDA, Beata P#14279 a Criminalist with the Las Vegas Metropolitan Police  
22 Department. She is an expert in the area of DNA technology and will give scientific  
23 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
24 related procedures she performed in this case.

25        STONE, Randall P#2887 A Firearm/Toolmark Examiner with the Las Vegas  
26 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis  
27 and will give opinions related thereto. He is expected to testify regarding the firearms and  
28 bullet trajectory comparison of certain evidence collected from the various crime scenes.

1        FRIED, Jonathan P#8174 A Firearm/Toolmark Examiner with the Las Vegas  
2 Metropolitan Police Department. He is an expert in the area of firearm/Toolmark analysis  
3 and will give opinions related thereto. He is expected to testify regarding the firearms and  
4 bullet trajectory comparison of certain evidence collected from the various crime scenes.

5        KRYLO, James P#5945 A Firearm/Toolmark Examiner with the Las Vegas  
6 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis  
7 and will give opinions related thereto. He is expected to testify regarding the firearms and  
8 bullet trajectory comparison of certain evidence collected from the various crime scenes.

9        MOSES, Angel P#8002 A Firearm/Toolmark Examiner with the Las Vegas  
10 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis  
11 and will give opinions related thereto. He is expected to testify regarding the firearms and  
12 bullet trajectory comparison of certain evidence collected from the various crime scenes.

13       ORTON, Gary P#14579 A Firearm/Toolmark Examiner with the Las Vegas  
14 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis  
15 and will give opinions related thereto. He is expected to testify regarding the firearms and  
16 bullet trajectory comparison of certain evidence collected from the various crime scenes.

17       SANKO, Anya P#13771 A Firearm/Toolmark Examiner with the Las Vegas  
18 Metropolitan Police Department. She is an expert in the area of Firearm/Toolmark analysis  
19 and will give opinions related thereto. She is expected to testify regarding the firearms and  
20 bullet trajectory comparison of certain evidence collected from the various crime scenes.

21       ALBERT, Joel P#13204 a Crime Scene Analyst with the Las Vegas Metropolitan  
22 Police Department. He is an expert in the area of the identification, documentation,  
23 collection and preservation of evidence and will give opinions related thereto. He is  
24 expected to testify regarding the identification, documentation, collection and preservation of  
25 evidence in this case.

26       REINHARD, Louise P#5223 a Crime Scene Analyst with the Las Vegas  
27 Metropolitan Police Department. She is an expert in the area of the identification,  
28 documentation, collection and preservation of evidence and will give opinions related

1 thereto. She is expected to testify regarding the identification, documentation, collection and  
2 preservation of evidence in this case.

3 DAHN, Robbie P#5947 a Crime Scene Analyst with the Las Vegas Metropolitan  
4 Police Department. He is an expert in the area of the identification, documentation,  
5 collection and preservation of evidence and will give opinions related thereto. He is  
6 expected to testify regarding the identification, documentation, collection and preservation of  
7 evidence in this case.

8 REED, Gary P#3731 a Crime Scene Analyst with the Las Vegas Metropolitan  
9 Police Department. He is an expert in the area of the identification, documentation,  
10 collection and preservation of evidence and will give opinions related thereto. He is  
11 expected to testify regarding the identification, documentation, collection and preservation of  
12 evidence in this case.

13 MORTON, Larry P#4935 a Crime Scene Analyst with the Las Vegas Metropolitan  
14 Police Department. He is an expert in the area of the identification, documentation,  
15 collection and preservation of evidence and will give opinions related thereto. He is  
16 expected to testify regarding the identification, documentation, collection and preservation of  
17 evidence in this case.

18 KELLY, Janet P#5666 a Forensic Scientist with the Las Vegas Metropolitan Police  
19 Department. She is an expert in the area of footwear impressions and will give her opinions  
20 related thereto. She is expected to testify regarding the identification of footwear  
21 impressions in this case.

22 CUSTODIAN OF RECORDS – AT & T to testify as an expert in the analysis and  
23 explanation of complex phone record keeping documents as well as an expert in the field  
24 of cellular phone towers and their geographic proximity to the users of a certain cellular  
25 telephone.

26 CUSTODIAN OF RECORDS – CRICKET to testify as an expert in the analysis and  
27 explanation of complex phone record keeping documents as well as an expert in the field of  
28 cellular phone towers and their geographic proximity to the users of a certain cellular

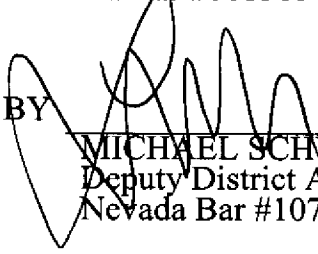
1 telephone.

2 The substance of each expert witness' testimony and a copy of all reports made by or  
3 at the direction of the expert witness has been provided in discovery.

4 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

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

9 BY

10   
11 MICHAEL SCHWARTZER  
12 Deputy District Attorney  
13 Nevada Bar #10747

to  
bmt 12232

12 CERTIFICATE OF FACSIMILIE TRANSMISSION

13 I hereby certify that service of Notice of Expert Witnesses, was made this 16<sup>th</sup>  
14 day of July, 2013, by facsimilie transmission to:

15 CARL E. ARNOLD, ESQ. .  
16 FAX: 474-4137

17  
18 BY:

19   
20 MARY BAILEY  
21 Employee of the District Attorney's Office  
22  
23  
24  
25  
26  
27

28 13F08177X/mlb/L-4



## Curriculum Vitae

### **Timothy Franklin Dutra, M.D., M.S., Ph.D.**

#### **Current Occupation:**

Medical Examiner (Forensic Pathologist)  
Clark County Coroner's Office  
1704 Pinto Lane  
Las Vegas, NV 89106  
Tel. (702) 455-3210  
E-mail: tdutra@co.clark.nv.us

#### **Personal Data:**

Languages: English & Spanish

#### **Board Certifications:**

Forensic Pathology  
ABP Diplomate and certified, September 9, 2009

Blood Banking and Transfusion Medicine  
ABP Diplomate and certified, September 9, 2005

Anatomic and Clinical Pathology  
ABP Diplomate and certified, November 11, 1998

#### **Most Recent Fellowship:**

Fellowship, Forensic Pathology  
St. Louis University  
(A.C.G.M.E. accredited: 10/01/08 – 9/30/09)  
St. Louis City Medical Examiner's Office

#### **Recent Colleague:**

Visiting Colleague, Forensic Pathology  
(10/05/09 – 10/31/09)  
Servicio Medico Forense  
Mexico, D.F. 06720

**Recent Teaching:**

Instructor: Physiology Laboratory  
Monterey Peninsula College  
Monterey, CA 93940

**Recent Research:**

Co-Investigator: "Marrow Tissue Cultivation ex vivo  
in vitro for Blood Cell Collection (animal cell model)"  
LABioMed Research Institute  
Torrance, CA 90502

**Previous Fellowship:**

Fellowship, Blood Bank and Transfusion Medicine  
University of Wisconsin  
(A.C.G.M.E. accredited: 08/01/04 – 07/31/05)  
University of Wisconsin Hospital  
Madison, WI 53792-2472

**Previous Pathology Practice:**

Post-Certification Pathology Practice (1999 – 2003)  
Physician Specialist, Anatomic and Clinical Pathology,  
including gross and microscopic surgical pathology,  
aspiration cytopathology and bone marrow pathology.  
Section Chief of Clinical and Special Chemistry.  
Blood Bank and Transfusion Medicine acting Chief,  
during absences of BB & TM Section Chief.  
Pathology Department  
Martin Luther King, Jr. Hospital  
Los Angeles, CA 90059

**Locum Tenens Practice:**

Locum tenens Pathology Practice (9/00, 9/01, 9/02, & 9/03)  
One month locum tenens for each of four years, as Acting Director  
for a solo practice Pathology Department, including coverage  
of surgical pathology and clinical laboratory.  
Pathology Department  
Orthopaedic Hospital  
Los Angeles, CA 90007

**Current Licensure:**

Active Status Medical Doctor, Nevada, renewal 7/1/2011  
Physician and Surgeon, California, renewal 3/2011  
Practitioner, D.E.A., U.S., renewal 7/2011

**Educational Degrees:**

|                  |   |
|------------------|---|
| University:      | University of California at Berkeley,<br>B.A. in Chemistry and Zoology, 1968        |
| Medical School:  | University of Southern California,<br>M.D., 1972                                    |
| Graduate School: | University of Southern California,<br>M.S. in Anatomy and Cell Biology, 1986        |
| Graduate School: | University of California at Los Angeles,<br>Ph.D. in Anatomy and Cell Biology, 1993 |

**Professional Societies:**

Fellow, National Association of Medical Examiners, 2009 –  
Fellow, College of American Pathologists, 1999 –  
Fellow, American Society of Clinical Pathologists, 1999 –  
Member, American Association for the Advancement of Science, 1994 –

**Recent Meetings and Courses:**

Annual Meeting, American Society for Clinical Pathology  
San Francisco, CA, 10/27 – 10/31/10  
Interim Meeting, National Association of Medical Examiners  
Seattle, WA, 2/23/10  
Segunda Conferencia Internacional de la Medicina Forense  
Mexico City, 4/28 – 4/30/10  
Annual Meeting, National Association of Medical Examiners  
San Francisco, CA, 10/11 – 10/15/09  
Osler Anatomic Pathology Review Course  
Los Angeles, CA, 3/9 – 3/12/09  
Medicolegal Death Investigator Training Course  
St. Louis, MO, 4/17 – 4/21/09

### **Professional Training/Practice Chronology:**

Internship: Cottage Hospital (Santa Barbara, CA),  
rotating internship, 1972-73

Residency: Cottage Hospital (Santa Barbara, CA),  
first year, Pathology, 1973-74

General Practice: Santa Barbara, CA, 1974-77. General admission privileges  
for Cottage and Goleta Valley Hospitals.

General Practice: King City, CA, 1977-78. General admission privileges  
for George L. Mee Memorial Hospital.

Residency: Highland/Alameda County Hospital (Oakland, CA),  
second and third years, General Surgery, 1978-80

Residency: Duke University Medical Center (Durham, NC),  
first and second years, Orthopaedics, 1980-82

Residency: Los Angeles County/U.S.C. Medical Center,  
third year, Orthopaedics, 1982-83

Graduate School: University of Southern California School of Medicine,  
Department of Anatomy and Cell Biology, 1984-86

Graduate School: University of California at Los Angeles School of Medicine,  
Department of Anatomy and Cell Biology, 1987-93

Residency: Harbor-U.C.L.A. Medical Center (Torrance, CA), second through  
fifth years, Anatomic and Clinical Pathology, 1994-9

Fellowship: Orthopaedic Hospital (Los Angeles, CA), six months of  
Fellowship, Bone and Soft Tissue Pathology, 1998-99

Pathology Practice: Los Angeles, CA, 1999-2003. Anatomic and Clinical  
Pathology privileges at King-Drew Medical Center

Fellowship: University of Wisconsin (Madison, WI), one year Fellowship,  
Blood Banking and Transfusion Medicine, 2004-05

Research Scientist: LABioMed Research Institute, 2005-07. Co-investigator:  
"Marrow stromal fibroblastic cell cultivation in vitro on  
de-cellularized bone marrow extracellular matrix"

Instructor: Physiology Laboratory, Fall and Spring semesters, 2007-08  
Monterey Peninsula College (Monterey, CA)

Fellowship: St. Louis City Medical Examiner's Office (St. Louis, MO),  
one year Fellowship, Forensic Pathology, 2008-09

### **Teaching Experience:**

Teaching Assistant: Anatomy Dissection Laboratory, Fall semester, 1985  
University of Southern California School of Medicine

Teaching Assistant: Anatomy Dissection Laboratory, Fall semesters. 1987-88  
University of California at Los Angeles School of Medicine

Assistant Lecturer: "Head, Neck, & Dental Embryology", Fall semesters, 1990-91  
University of California at Los Angeles School of Medicine

# **Detective Christopher Gandy**

Las Vegas Metropolitan Police Department (702)828-4535 C5117G@lvmpd.com

## **Objective**

**Job experience related to using cell phone records to determine a general location of a cell phone.**

## **Experience**

### **Police Officer**

03/1996 – 11/2001 Las Vegas Metropolitan Police Department

- Patrol Officer

### **Police Detective**

11/2001 - Present LVMPD Technical Detail

- Primary job responsibility – Phone Intercepts
- Built and Manage the LVMPD Phone Intercept Equipment
- Daily duties include locating cell phones via cell phone records with cell tower information
- Daily interaction with cell phone carriers on location information and techniques.
- Maintain the Cell Site Database Records for LVMPD
- Numerous cases where direct contact with cell phone company engineers helped in gaining education about the cell phone networks and the phones interaction with the towers.
- Conducted over 1000 phone intercepts
- Since 2003 Designed and built the city wide wireless system for transporting video for the LVMPD. Systems include the wireless transmission for the Downtown Crime Cameras, and systems to relay video from the Las Vegas Blvd Strip corridor to LVMPD command.
- Speaker – 2009 Milestone Integration Platform Symposium on LVMPD Wireless integration of video systems.
- Speaker – 2009 and 2010 Security Info Watch Live Webcast presentation on Municipal Surveillance – presentation included wireless integration principles used in my designs.

## **Education**

1992 - 1996 University of Nevada Las Vegas, Las Vegas, NV

- 4 Years Course work in the Electrical Engineering Program
- 3 Semesters of Calculus Based Physics included radio wave properties

FBI Communication Act for Law Enforcement Assistance (CALEA) Law Enforcement Technical Forum (LETF) Member

- Nevada State representative Since 2002
- Forum meets 2 to 4 times a year for training and meetings

Firetide Certified Mesh Engineer Course

- 01/2009, 27 Hour Course, Completed Course on building wireless networks and radio wave properties



  
CLERK OF THE COURT

1 NWEW  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 MICHAEL SCHWARTZER  
6 Deputy District Attorney  
7 Nevada Bar #10747  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-13-291159-1

12 FRANK HEARRING, aka,  
13 Frank Herring, Jr., #1774466

DEPT NO: XX

14 Defendant.

15 SECOND SUPPLEMENTAL  
16 NOTICE OF EXPERT WITNESSES  
[NRS 174.234(2)]

17 TO: FRANK HEARRING, aka, Frank Herring, Jr., Defendant; and

18 TO: CARL E. ARNOLD, ESQ., Counsel of Record:

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
20 NEVADA intends to call the following witnesses in its case in chief:

21 \* Denotes change

22 \*DUTRA, Timothy, M.D. a Medical Doctor employed by the Clark County Coroner  
23 Medical Examiner. He is an expert in the area of forensic pathology and will give scientific  
24 opinions related thereto. He is expected to testify regarding the cause and manner of death  
25 of MICHAEL JORDAN.

26 MACEO, Alice P#7828 a Latent Print Examiner or Designee – Las Vegas  
27 Metropolitan Police Department; will testify as an expert as to the procedures, techniques  
28 and science employed in the fingerprint analysis, all procedures employed in this case and

1 reports provided.

2 AOYAMA, Kathryn P#8035 a Latent Print Examiner – Las Vegas Metropolitan  
3 Police Department; will testify as an expert as to the procedures, techniques and science  
4 employed in the fingerprint analysis, all procedures employed in this case and reports  
5 provided.

6 BEARD, Marcia P#3768 a Latent Print Examiner – Las Vegas Metropolitan Police  
7 Department; will testify as an expert as to the procedures, techniques and science employed  
8 in the fingerprint analysis, all procedures employed in this case and reports provided.

9 CAMERON, Cathryn P#9887 a Latent Print Examiner – Las Vegas Metropolitan  
10 Police Department; will testify as an expert as to the procedures, techniques and science  
11 employed in the fingerprint analysis, all procedures employed in this case and reports  
12 provided.

13 CARTER, Marnie P#8179 a Latent Print Examiner – Las Vegas Metropolitan Police  
14 Department; will testify as an expert as to the procedures, techniques and science employed  
15 in the fingerprint analysis, all procedures employed in this case and reports provided.

16 MURGA, Kimberly P#10140 a DNA Technical Leader or Designee with the Las  
17 Vegas Metropolitan Police Department. She is an expert in the area of DNA technology and  
18 will give scientific opinions related thereto. She is expected to testify regarding the DNA  
19 profiling analysis and related procedures she performed in this case.

20 ADAMS, Tiffany P#10072 a Criminalist with the Las Vegas Metropolitan Police  
21 Department. She is an expert in the area of DNA technology and will give scientific  
22 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
23 related procedures she performed in this case.

24 BAS, Jennifer P#9944 a Criminalist with the Las Vegas Metropolitan Police  
25 Department. She is an expert in the area of DNA technology and will give scientific  
26 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
27 related procedures she performed in this case.

28 ///



1        \*BASILOTTA, Euginio P#8447 to testify as an expert in the analysis and  
2 explanation of complex phone record keeping documents as well as an expert in the field of  
3 cellular phone towers and their geographic proximity to the users of a certain cellular  
4 telephone.

5        BEAUDETTE, Frances P#4361 a Criminalist with the Las Vegas Metropolitan  
6 Police Department. She is an expert in the area of DNA technology and will give scientific  
7 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
8 related procedures she performed in this case.

9        \*GANDY, Christopher P#5117 to testify as an expert in the analysis and  
10 explanation of complex phone record keeping documents as well as an expert in the field of  
11 cellular phone towers and their geographic proximity to the users of a certain cellular  
12 telephone.

13        GAUTHIER, Kelly P#8691 a Criminalist with the Las Vegas Metropolitan Police  
14 Department. She is an expert in the area of DNA technology and will give scientific  
15 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
16 related procedures she performed in this case.

17        KING, Craig P#9971 a Criminalist with the Las Vegas Metropolitan Police  
18 Department. He is an expert in the area of DNA technology and will give scientific opinions  
19 related thereto. He is expected to testify regarding the DNA profiling analysis and related  
20 procedures she performed in this case.

21        MARSCHNER, Julie P#8806 a Criminalist with the Las Vegas Metropolitan Police  
22 Department. She is an expert in the area of DNA technology and will give scientific  
23 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
24 related procedures she performed in this case.

25        MAY, Crystal P#9288 a Criminalist with the Las Vegas Metropolitan Police  
26 Department. She is an expert in the area of DNA technology and will give scientific  
27 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
28 related procedures she performed in this case.

1        PACHECO, Jessica P#13770 a Criminalist with the Las Vegas Metropolitan Police  
2 Department. She is an expert in the area of DNA technology and will give scientific  
3 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
4 related procedures she performed in this case.

5        RETAMOZO, Carol P#14280 a Criminalist with the Las Vegas Metropolitan Police  
6 Department. She is an expert in the area of DNA technology and will give scientific  
7 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
8 related procedures she performed in this case.

9        ROBERTSON, Cassandra P#14653 a Criminalist with the Las Vegas Metropolitan  
10 Police Department. She is an expert in the area of DNA technology and will give scientific  
11 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
12 related procedures she performed in this case.

13        TAYLOR, Jennifer P#10074 a Criminalist with the Las Vegas Metropolitan Police  
14 Department. She is an expert in the area of DNA technology and will give scientific  
15 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
16 related procedures she performed in this case.

17        THOMAS, Jennifer P#13772 a Criminalist with the Las Vegas Metropolitan Police  
18 Department. She is an expert in the area of DNA technology and will give scientific  
19 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
20 related procedures she performed in this case.

21        VIDA, Beata P#14279 a Criminalist with the Las Vegas Metropolitan Police  
22 Department. She is an expert in the area of DNA technology and will give scientific  
23 opinions related thereto. She is expected to testify regarding the DNA profiling analysis and  
24 related procedures she performed in this case.

25        STONE, Randall P#2887 A Firearm/Toolmark Examiner with the Las Vegas  
26 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis  
27 and will give opinions related thereto. He is expected to testify regarding the firearms and  
28 bullet trajectory comparison of certain evidence collected from the various crime scenes.

1        FRIED, Jonathan P#8174 A Firearm/Toolmark Examiner with the Las Vegas  
2 Metropolitan Police Department. He is an expert in the area of firearm/Toolmark analysis  
3 and will give opinions related thereto. He is expected to testify regarding the firearms and  
4 bullet trajectory comparison of certain evidence collected from the various crime scenes.

5        KRYLO, James P#5945 A Firearm/Toolmark Examiner with the Las Vegas  
6 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis  
7 and will give opinions related thereto. He is expected to testify regarding the firearms and  
8 bullet trajectory comparison of certain evidence collected from the various crime scenes.

9        MOSES, Angel P#8002 A Firearm/Toolmark Examiner with the Las Vegas  
10 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis  
11 and will give opinions related thereto. He is expected to testify regarding the firearms and  
12 bullet trajectory comparison of certain evidence collected from the various crime scenes.

13        ORTON, Gary P#14579 A Firearm/Toolmark Examiner with the Las Vegas  
14 Metropolitan Police Department. He is an expert in the area of Firearm/Toolmark analysis  
15 and will give opinions related thereto. He is expected to testify regarding the firearms and  
16 bullet trajectory comparison of certain evidence collected from the various crime scenes.

17        SANKO, Anya P#13771 A Firearm/Toolmark Examiner with the Las Vegas  
18 Metropolitan Police Department. She is an expert in the area of Firearm/Toolmark analysis  
19 and will give opinions related thereto. She is expected to testify regarding the firearms and  
20 bullet trajectory comparison of certain evidence collected from the various crime scenes.

21        ALBERT, Joel P#13204 a Crime Scene Analyst with the Las Vegas Metropolitan  
22 Police Department. He is an expert in the area of the identification, documentation,  
23 collection and preservation of evidence and will give opinions related thereto. He is  
24 expected to testify regarding the identification, documentation, collection and preservation of  
25 evidence in this case.

26        REINHARD, Louise P#5223 a Crime Scene Analyst with the Las Vegas  
27 Metropolitan Police Department. She is an expert in the area of the identification,  
28 documentation, collection and preservation of evidence and will give opinions related

1 thereto. She is expected to testify regarding the identification, documentation, collection and  
2 preservation of evidence in this case.

3 DAHN, Robbie P#5947 a Crime Scene Analyst with the Las Vegas Metropolitan  
4 Police Department. He is an expert in the area of the identification, documentation,  
5 collection and preservation of evidence and will give opinions related thereto. He is  
6 expected to testify regarding the identification, documentation, collection and preservation of  
7 evidence in this case.

8 REED, Gary P#3731 a Crime Scene Analyst with the Las Vegas Metropolitan  
9 Police Department. He is an expert in the area of the identification, documentation,  
10 collection and preservation of evidence and will give opinions related thereto. He is  
11 expected to testify regarding the identification, documentation, collection and preservation of  
12 evidence in this case.

13 MORTON, Larry P#4935 a Crime Scene Analyst with the Las Vegas Metropolitan  
14 Police Department. He is an expert in the area of the identification, documentation,  
15 collection and preservation of evidence and will give opinions related thereto. He is  
16 expected to testify regarding the identification, documentation, collection and preservation of  
17 evidence in this case.

18 KELLY, Janet P#5666 a Forensic Scientist with the Las Vegas Metropolitan Police  
19 Department. She is an expert in the area of footwear impressions and will give her opinions  
20 related thereto. She is expected to testify regarding the identification of footwear  
21 impressions in this case.

22 CUSTODIAN OF RECORDS – AT & T to testify as an expert in the analysis and  
23 explanation of complex phone record keeping documents as well as an expert in the field  
24 of cellular phone towers and their geographic proximity to the users of a certain cellular  
25 telephone.

26 CUSTODIAN OF RECORDS – CRICKET to testify as an expert in the analysis and  
27 explanation of complex phone record keeping documents as well as an expert in the field of  
28 cellular phone towers and their geographic proximity to the users of a certain cellular

1 telephone.

2 The substance of each expert witness' testimony and a copy of all reports made by or  
3 at the direction of the expert witness has been provided in discovery.

4 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

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

9 BY

10 MICHAEL SCHWARTZER  
11 Deputy District Attorney  
12 Nevada Bar #10747

for  
bar #12232

13 CERTIFICATE OF FACSIMILIE TRANSMISSION

14 I hereby certify that service of Notice of Expert Witnesses, was made this 17<sup>th</sup>  
15 day of July, 2013, by facsimilie transmission to:

16 CARL E. ARNOLD, ESQ.  
17 FAX: 474-4137

18 BY:

19 MARY BAILEY  
20 Employee of the District Attorney's Office

21  
22  
23  
24  
25  
26  
27  
28 13F08177X/mlb/L-4

## Curriculum Vitae

### **Timothy Franklin Dutra, M.D., M.S., Ph.D.**

#### **Current Occupation:**

Medical Examiner (Forensic Pathologist)  
Clark County Coroner's Office  
1704 Pinto Lane  
Las Vegas, NV 89106  
Tel. (702) 455-3210  
E-mail: tdutra@co.clark.nv.us

#### **Personal Data:**

Languages: English & Spanish

#### **Board Certifications:**

Forensic Pathology  
ABP Diplomate and certified, September 9, 2009

Blood Banking and Transfusion Medicine  
ABP Diplomate and certified, September 9, 2005

Anatomic and Clinical Pathology  
ABP Diplomate and certified, November 11, 1998

#### **Most Recent Fellowship:**

Fellowship, Forensic Pathology  
St. Louis University  
(A.C.G.M.E. accredited: 10/01/08 – 9/30/09)  
St. Louis City Medical Examiner's Office

#### **Recent Colleague:**

Visiting Colleague, Forensic Pathology  
(10/05/09 – 10/31/09)  
Servicio Medico Forense  
Mexico, D.F. 06720

**Recent Teaching:**

Instructor: Physiology Laboratory  
Monterey Peninsula College  
Monterey, CA 93940

**Recent Research:**

Co-Investigator: "Marrow Tissue Cultivation ex vivo  
in vitro for Blood Cell Collection (animal cell model)"  
LABioMed Research Institute  
Torrance, CA 90502

**Previous Fellowship:**

Fellowship, Blood Bank and Transfusion Medicine  
University of Wisconsin  
(A.C.G.M.E. accredited: 08/01/04 – 07/31/05)  
University of Wisconsin Hospital  
Madison, WI 53792-2472

**Previous Pathology Practice:**

Post-Certification Pathology Practice (1999 – 2003)  
Physician Specialist, Anatomic and Clinical Pathology,  
including gross and microscopic surgical pathology,  
aspiration cytopathology and bone marrow pathology.  
Section Chief of Clinical and Special Chemistry.  
Blood Bank and Transfusion Medicine acting Chief,  
during absences of BB & TM Section Chief.  
Pathology Department  
Martin Luther King, Jr. Hospital  
Los Angeles, CA 90059

**Locum Tenens Practice:**

Locum tenens Pathology Practice (9/00, 9/01, 9/02, & 9/03)  
One month locum tenens for each of four years, as Acting Director  
for a solo practice Pathology Department, including coverage  
of surgical pathology and clinical laboratory.  
Pathology Department  
Orthopaedic Hospital  
Los Angeles, CA 90007

**Current Licensure:**

Active Status Medical Doctor, Nevada, renewal 7/1/2011  
Physician and Surgeon, California, renewal 3/2011  
Practitioner, D.E.A., U.S., renewal 7/2011

**Educational Degrees:**

|                  |   |
|------------------|---|
| University:      | University of California at Berkeley,<br>B.A. in Chemistry and Zoology, 1968        |
| Medical School:  | University of Southern California,<br>M.D., 1972                                    |
| Graduate School: | University of Southern California,<br>M.S. in Anatomy and Cell Biology, 1986        |
| Graduate School: | University of California at Los Angeles,<br>Ph.D. in Anatomy and Cell Biology, 1993 |

**Professional Societies:**

Fellow, National Association of Medical Examiners, 2009 –  
Fellow, College of American Pathologists, 1999 –  
Fellow, American Society of Clinical Pathologists, 1999 –  
Member, American Association for the Advancement of Science, 1994 –

**Recent Meetings and Courses:**

Annual Meeting, American Society for Clinical Pathology  
San Francisco, CA, 10/27 – 10/31/10  
Interim Meeting, National Association of Medical Examiners  
Seattle, WA, 2/23/10  
Segunda Conferencia Internacional de la Medicina Forense  
Mexico City, 4/28 – 4/30/10  
Annual Meeting, National Association of Medical Examiners  
San Francisco, CA, 10/11 – 10/15/09  
Osler Anatomic Pathology Review Course  
Los Angeles, CA, 3/9 – 3/12/09  
Medicolegal Death Investigator Training Course  
St. Louis, MO, 4/17 – 4/21/09



### **Professional Training/Practice Chronology:**

Internship: Cottage Hospital (Santa Barbara, CA),  
rotating internship, 1972-73

Residency: Cottage Hospital (Santa Barbara, CA),  
first year, Pathology, 1973-74

General Practice: Santa Barbara, CA, 1974-77. General admission privileges  
for Cottage and Goleta Valley Hospitals.

General Practice: King City, CA, 1977-78. General admission privileges  
for George L. Mee Memorial Hospital.

Residency: Highland/Alameda County Hospital (Oakland, CA),  
second and third years, General Surgery, 1978-80

Residency: Duke University Medical Center (Durham, NC),  
first and second years, Orthopaedics, 1980-82

Residency: Los Angeles County/U.S.C. Medical Center,  
third year, Orthopaedics, 1982-83

Graduate School: University of Southern California School of Medicine,  
Department of Anatomy and Cell Biology, 1984-86

Graduate School: University of California at Los Angeles School of Medicine,  
Department of Anatomy and Cell Biology, 1987-93

Residency: Harbor-U.C.L.A. Medical Center (Torrance, CA), second through  
fifth years, Anatomic and Clinical Pathology, 1994-9

Fellowship: Orthopaedic Hospital (Los Angeles, CA), six months of  
Fellowship, Bone and Soft Tissue Pathology, 1998-99

Pathology Practice: Los Angeles, CA, 1999-2003. Anatomic and Clinical  
Pathology privileges at King-Drew Medical Center

Fellowship: University of Wisconsin (Madison, WI), one year Fellowship,  
Blood Banking and Transfusion Medicine, 2004-05

Research Scientist: LABioMed Research Institute, 2005-07. Co-investigator:  
"Marrow stromal fibroblastic cell cultivation in vitro on  
de-cellularized bone marrow extracellular matrix"

Instructor: Physiology Laboratory, Fall and Spring semesters, 2007-08  
Monterey Peninsula College (Monterey, CA)

Fellowship: St. Louis City Medical Examiner's Office (St. Louis, MO),  
one year Fellowship, Forensic Pathology, 2008-09

### **Teaching Experience:**

Teaching Assistant: Anatomy Dissection Laboratory, Fall semester, 1985  
University of Southern California School of Medicine

Teaching Assistant: Anatomy Dissection Laboratory, Fall semesters, 1987-88  
University of California at Los Angeles School of Medicine

Assistant Lecturer: "Head, Neck, & Dental Embryology", Fall semesters, 1990-91  
University of California at Los Angeles School of Medicine

# **Detective Christopher Gandy**

Las Vegas Metropolitan Police Department (702)828-4535 C5117G@lvmpd.com

## **Objective**

**Job experience related to using cell phone records to determine a general location of a cell phone.**

## **Experience**

### **Police Officer**

03/1996 – 11/2001 Las Vegas Metropolitan Police Department

- Patrol Officer

### **Police Detective**

11/2001 - Present LVMPD Technical Detail

- Primary job responsibility – Phone Intercepts
- Built and Manage the LVMPD Phone Intercept Equipment
- Daily duties include locating cell phones via cell phone records with cell tower information
- Daily interaction with cell phone carriers on location information and techniques.
- Maintain the Cell Site Database Records for LVMPD
- Numerous cases where direct contact with cell phone company engineers helped in gaining education about the cell phone networks and the phones interaction with the towers.
- Conducted over 1000 phone intercepts
- Since 2003 Designed and built the city wide wireless system for transporting video for the LVMPD. Systems include the wireless transmission for the Downtown Crime Cameras, and systems to relay video from the Las Vegas Blvd Strip corridor to LVMPD command.
- Speaker – 2009 Milestone Integration Platform Symposium on LVMPD Wireless integration of video systems.
- Speaker – 2009 and 2010 Security Info Watch Live Webcast presentation on Municipal Surveillance – presentation included wireless integration principles used in my designs.

## **Education**

1992 - 1996 University of Nevada Las Vegas, Las Vegas, NV

- 4 Years Course work in the Electrical Engineering Program
- 3 Semesters of Calculus Based Physics included radio wave properties

FBI Communication Act for Law Enforcement Assistance (CALEA) Law Enforcement Technical Forum (LETF) Member

- Nevada State representative Since 2002
- Forum meets 2 to 4 times a year for training and meetings

Firetide Certified Mesh Engineer Course

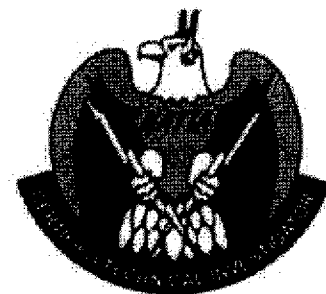
- 01/2009, 27 Hour Course, Completed Course on building wireless networks and radio wave properties

# **The Curriculum Vitae Of:**

**E. “Gino” Basilotta**

**Currently Employed By:  
Las Vegas Metropolitan Police Department**

Updated: September 2013



Curriculum Vitae of E. “Gino” Basilotta

## **INTRODUCTION and SUMMARY:**

Detective Eugenio "Gino" Basilotta is employed by the Las Vegas Metropolitan Police Department (LVMPD) and is currently assigned to the Organized Crime Bureau's Technical and Surveillance Section (TASS). The Organized Crime Bureau is a part of the Homeland Security Division of Metro Police.

Gino also has experience as an Accident Investigator for almost 3 ½ years working for LVMPD's Traffic Division. Prior to that, he worked for Bolden Area Command and for the Sheriff's Mobile Crime Saturation Team focusing on the highest crime areas in Las Vegas. Gino began his career with LVMPD in August 2004 and has been employed by the Las Vegas Metropolitan Police Department for 9 years as of this writing.

Prior to joining The Las Vegas Metropolitan Police Department, Gino spent 20 years in the private sector working with various computer technologies including specific expertise with Hospitality and Gaming Systems from 1993 until 2004. He worked in the corporate Information Technology departments with Hilton Gaming and Venetian. While employed, he opened 3 casinos – 2 with Hilton gaming (one in South America) and the Venetian Casino in Las Vegas, Nevada. Gino was also a Sales Director for a large Hospitality Technology Company managing West Coast Major Casino Accounts. Gino started his 'computer' career as an installer/technician in the 1980's during the personal computer genesis involved with IBM and Apple computer products. Gino has an Undergraduate degree in Management Information Systems (Business Administration) from The University of Arizona, in Tucson.

Currently Gino is a member in good standing with the National Technical Investigators Association and holds a Certified Technical Investigator Status.

**Detective, Technical and Surveillance Section (T.A.S.S.)  
Las Vegas Metropolitan Police, Organized Crime Division  
November 2010 to Present**

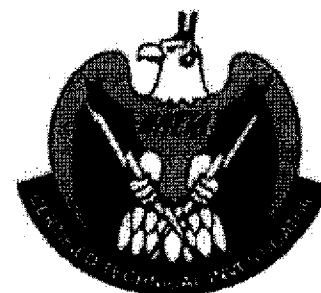
Gino has worked in this unit Since November of 2010. The Technical and Surveillance Section is responsible for providing technical and surveillance support to the department's commitment to the investigation of all crimes and the suppression and prevention of terrorist acts. This is accomplished through the provisioning of a myriad of electronic surveillance & technical solutions. The technical and surveillance functions support is provided to all department sections and task forces conducting criminal investigations.

**TASS Unit Goals:**

- Provide electronic surveillance support
- Provide physical surveillance support
- Provide technical support for barricade and/or hostage situations
- Conduct audio/video enhancements
- Provide anti-terrorism and counter-terrorism support
- Facilitate Pen Register implementation
- Facilitate Precision Location
- Facilitate Title III implementation

Gino is currently a Member of NATIA, (National Technical Investigators Association). Membership in NATIA is restricted to full time employees of Law Enforcement agencies who are actively engaged in technical surveillance, communications, and specialized support of law enforcement or intelligence activities. These individuals must represent Municipal, County, State, Federal and Military involved in the application of electronic surveillance technologies.

Gino currently holds a "Certified Technical Investigator" (CTI) certification from NATIA. CTI certification is awarded to NATIA members who have undergone extensive specialized training and have passed a rigorous examination in technical electronic surveillance techniques, procedures, equipment, and related issues. Continued advanced education is required.



During Gino's time in TASS, he has worked with many different technologies, including GPS Tracking, Cell Phone technologies, Wire Taps (Title IIIs), Pen Registers, Audio and Video Surveillance, and more proprietary technologies used within the unit, requiring a commitment to non-disclosure and OPSEC / Privacy policies.

One of Gino's main responsibilities is the maintenance and operation of the Pen Registers installed department wide by detectives and investigators. This involves handling and the provisioning of lawful Pen Register orders filed to the court by investigators.

Gino also serves on the SWAT callout resource team within TASS. TASS is deployed to active crime scenes involving Hostage and/or Barricaded suspects. TASS deploys technology to aid SWAT and Negotiators in their critical decision making processes.

Gino developed a POST certified Pen Register class which he currently teaches for LVMPD Police Detectives and other agencies. This class educates detectives on the latest technologies used by criminals to avoid law enforcement and the procedures to obtain Pen Registers and Title III's. Gino also teaches this Pen Class in the "New Detective School" and the "Advanced Investigators School" which are offered yearly to LVMPD qualified officers and detectives.

Gino testified on record to Nevada Senator's, supporting the passage of Nevada Senate Bill 268, in April 2013. The bill was nicknamed the "Kelsey Smith Act". This involved giving real world examples on how law enforcement has used cellular phone techniques in the location of missing or endangered persons. The Bill received support and has since passed and will come into effect October 2013. Gino testified on record to Nevada Senator's with regards to Assembly Bill 313. This was involving the proposal of language modification for NRS 179.530. This involved citing real world examples involving Law Enforcement and the use of Pen Registers.

**Traffic Investigator / Motor Officer, Traffic Bureau  
Las Vegas Metropolitan Police, Patrol Division  
May 2007 to November 2010**

Gino was assigned to the Traffic Section from May 2007 until November 2011 with his duties including DUI enforcement, accident/fatal investigation and handling calls for the valley wide Las Vegas area. Gino's goal, while in traffic, was to reduce traffic deaths and injuries by improving driving environments through education and enforcement of traffic laws. In addition, Gino's approach was to work high crime areas, to contribute to reduction in crime. Gino immediately obtained his Drug Recognition Expert certification to aid in identifying drug impaired drivers.

His work experience included setting up DUI checkpoints, Accident Investigation, Fatal Investigation, Hit and Run, and various other Traffic Enforcement Duties. His Certifications included:

- Drug Recognition Expert

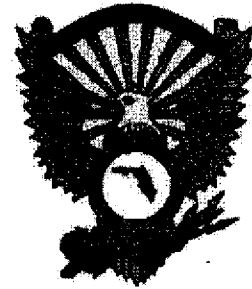
Curriculum Vitae of E. "Gino" Basilotta

- RADAR,
- HGN (Horizontal Gaze Nystagmus),
- PBT (Portable Breath Testing Device),
- Intoxilyzer 5000 Breath Machine (used during booking)

While in traffic, Gino investigated over 500 accidents over a 3 ½ year period including close to 100 DUI arrests. Basilotta has also testified many times in court and has much experience regarding testifying for DUI's.

Basilotta attended classes for Accident Investigation, DUI Detection, Standardized Field Sobriety Testing, Mobile Field Force/Tactics, Incident Command Systems, National Incident Management Systems, and Excited Delirium. Basilotta attended Metro's 160 hour Motorcycle Safety course which is known to be one of the most challenging in the United States and is based on Northwestern University's techniques.

Gino obtained a D.R.E. (Drug Recognition Expert) status on July 2007 by the National Highway Traffic Safety Administration. This certification allows D.R.E.'s to evaluate individuals and accurately categorize them as users of a particular type of drug. Less than 1% of Las Vegas Metropolitan Police officers held this certification at the time.



## ***DEGREES, EXPERIENCE AND CERTIFICATIONS***

### **DEGREES**

*High School Diploma, 1984*

Valley High School, Las Vegas, Nevada

*BSBA, Business Administration, Management Information Systems, 1991*

University of Arizona, Tucson, Arizona

### **LAW ENFORCEMENT TIMELINE:**

November 2010 to Present

Detective, Organized Crime Bureau,  
Technical and Surveillance Section

April 2007 to November 2010

Investigator, Traffic Division

January 2005 to March 2007

Patrol, Bolden Area Command  
Mobile Saturation Crime Team  
Problem Solving Unit  
Community Oriented Policing

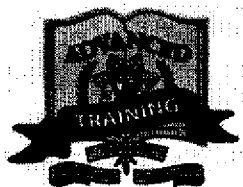
### **CERTIFICATIONS OBTAINED:**



Drug Recognition Expert, May 2007



Certified Technical Investigator, March 2011,  
Expiration, February 17<sup>th</sup>, 2014  
Certification Number 2-021711



Certified Instructor, Advanced Training  
Las Vegas Metropolitan Police Department



## LAW ENFORCEMENT RELATED TRAINING

January 21<sup>st</sup>, 2011



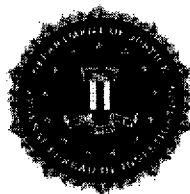
Orion GPS Tracking Devices  
COBHAM

February 2011



CESP 102  
Covert Electronic Surveillance Program  
Federal Law Enforcement Training Center,  
Glynco, Georgia

August 2011



FBI DA/IS Conference  
Surveillance, Intercepts and related  
Technologies

August 29<sup>th</sup> – 30<sup>th</sup>, 2012



Pen-Link CIA  
Pen Registers / Title IIIs  
Lincoln, Nebraska

June 2012



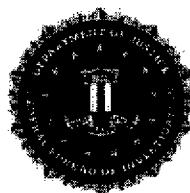
Cellular Phone Training

August 27<sup>th</sup> – 28<sup>th</sup>, 2013



Pen-Link CIA  
Pen Registers / Title IIIs  
Lincoln, Nebraska

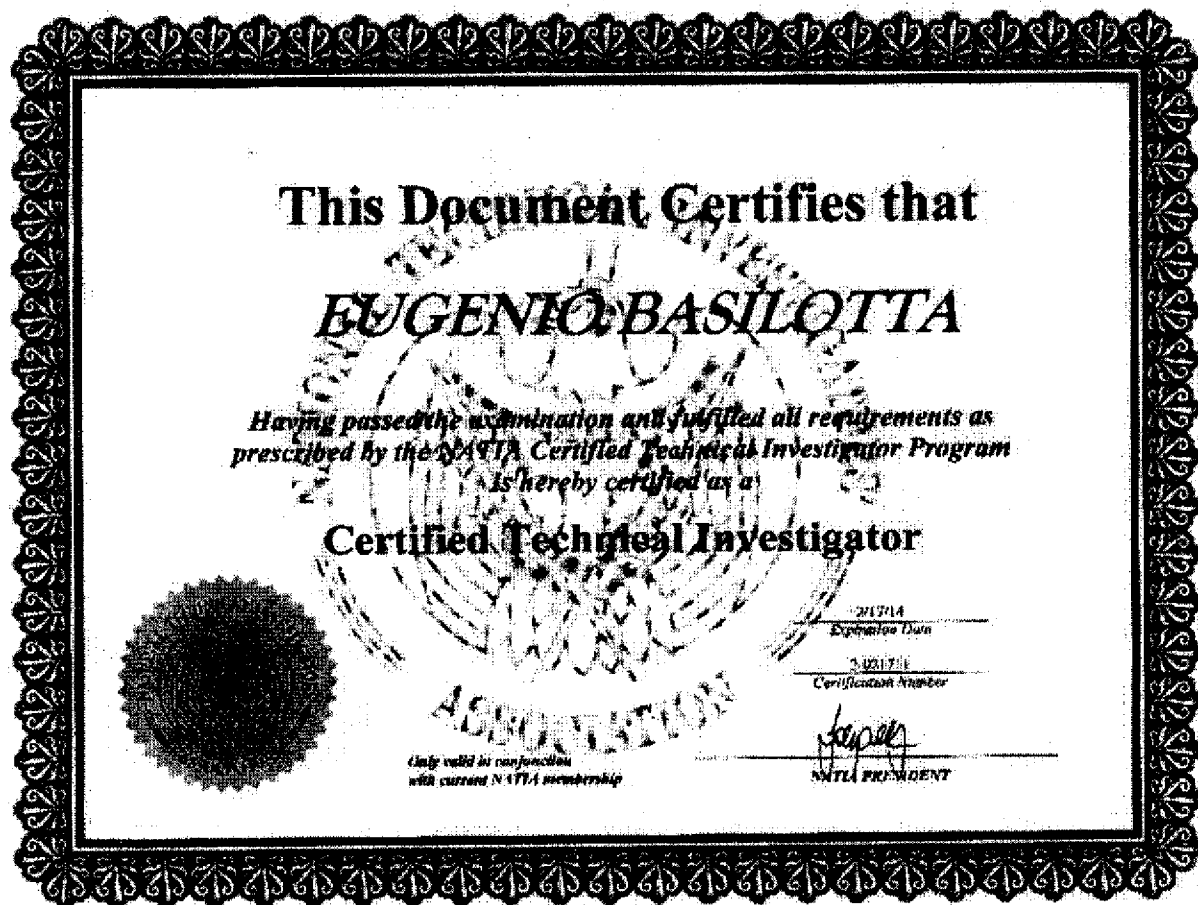
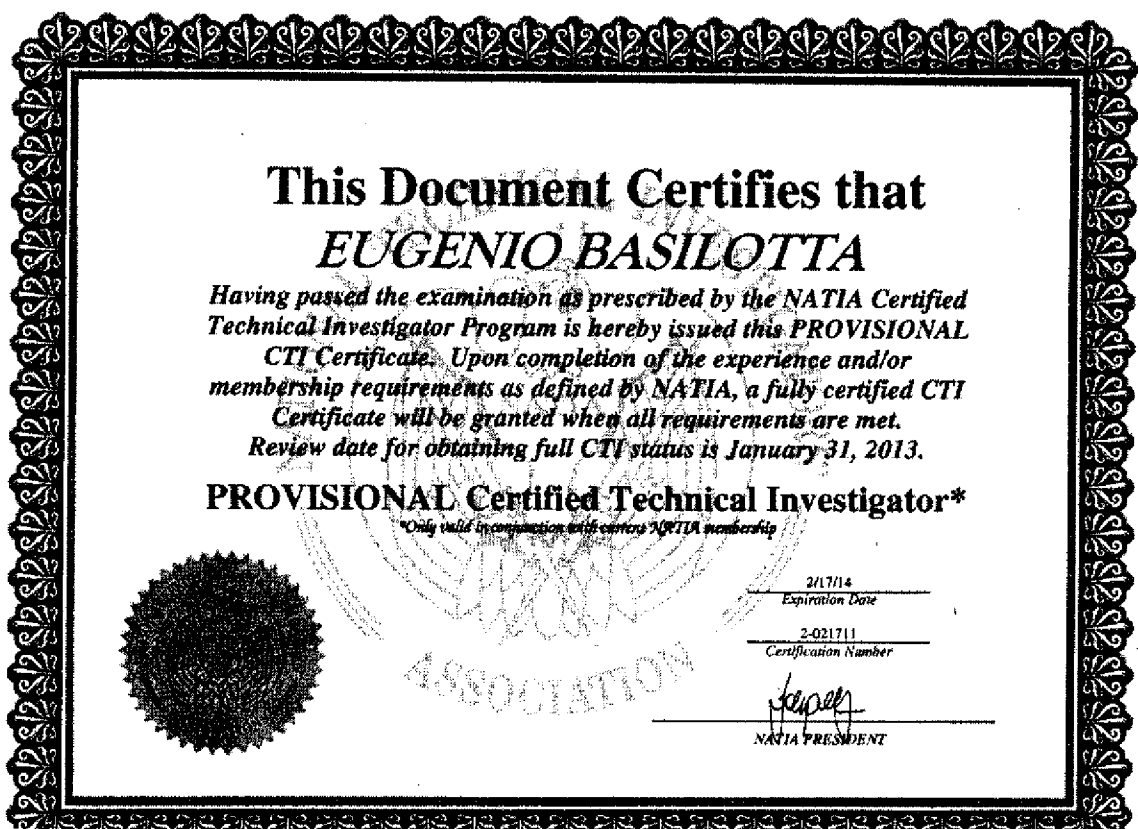
September 9<sup>th</sup> – 10<sup>th</sup> 2013



NDCAC – US DOJ/FBI  
(National Domestic Communications  
Assistance Center)  
FBI CAST – PPP (Project Pin Point)  
Project Pin Point (PPP) is a geo-spatial intelligence tool  
developed in 2004 by a Special Agent on the FBI's Violent  
Crimes Task Force in Philadelphia. The tool was initially  
intended for fugitive apprehension, but evolved to include  
historical cell site analysis, informant development, and targeting  
capabilities for intelligence related functions. It is now used by  
most FBI field offices.

# MISCELLANEOUS SUPPORTING DOCUMENTATION

Curriculum Vitae of E. "Gino" Basilotta



**COBHAM**

**Orion Training Course**

The most important thing we build is trust

Congratulations to

**Gino Basilotta**  
Las Vegas Metropolitan Police Dept.

for successfully completing an Orion training course on

**Orion GPS Tracking Devices**



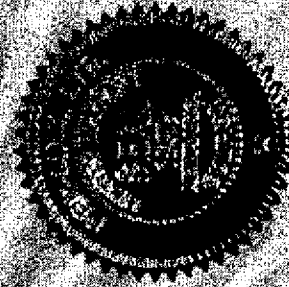
Inspector

Jan 21, 2011  
Las Vegas, NV

Curriculum Vitae of E. "Gino" Basilotta

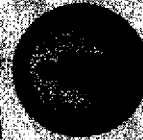
# CIA

*This certificate hereby notes that  
Gino Bashiotta  
successfully completed Pen-Link CIA Training at the  
CIA Technology & Training event on August 29<sup>th</sup>, 2012*



In witness thereto:

PEN-LINK



P. Kevin Pava, President

# CIA

*This certificate duly notes that*

*Gino Basilotta*

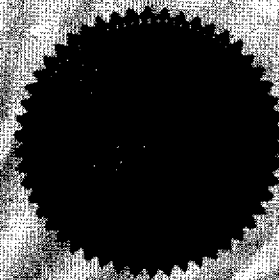
*successfully completed Pen-Link CIA Training at the  
CIA Technology & Training event on August 28<sup>th</sup>, 2013.*

*In witness whereof*

PEN-LINK



*P. Kevin Ryan, President*





# HARRIS

Certificate of Completion

This Certifies that

**Gino Basilotta**

**Las Vegas Metropolitan Police Department**

**has satisfactorily completed training on**

**Hailstorm - LTE**

**Jun 21, 2013**

**Completion Date**

*William P. [Signature]*  
William P. [Name], Instructor





  
CLERK OF THE COURT

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
LINDSEY JOSEPH  
Deputy District Attorney  
Nevada Bar #12232  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

FRANK HEARRING,  
#1774466.  
Defendant.

CASE NO:  
C291159  
DEPT NO:  
XX

**RECEIPT OF COPY**

**RECEIPT OF COPY** of the following attached listing of documents in **Case No. C291159, DEFENDANT FRANK HEARRING**\_\_ is hereby acknowledged

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1 ///

2  
3 this 2 day of August, 2013.

4 ATTORNEY FOR DEFENDANT  
5 ---

6 BY

*Carl E. B. Arnold*

7  
8 PREPARED BY:  
9 STEVEN B. WOLFSON  
10 District Attorney  
11 Nevada Bar #001565

12 BY

*[Signature]*  
13 LINDSEY JOSEPH  
14 Deputy District Attorney  
15 Nevada Bar #12232

16 **Produced on :**

17 **1. CD/DVD containing DISCOVERY DESIGNATED AS FOLLOWS:**

18 **a. Audiotaped Interviews of the following individuals:**

- 19 **i. Cherice Jones photo-lineup**
- 20 **ii. Gregory Burrell**
- 21 **iii. Tara Brown**
- 22 **iv. Brandy Brown**
- 23 **v. Officer Stafford**
- 24 **vi. Stevia Fenzell**
- 25 **vii. Tanya Warren**
- 26 **viii. Clifton Watkins**
- 27 **ix. Clifton Watkins photo-lineup**
- 28 **x. Clifton Watkins photo-lineup #2**
- xi. Victor Walker**
- xii. Officer Schmidt**

xiii. Cherice Jones photo lineup 2

xiv. Kizzy Davis

xv. Frank Herring

b. Autopsy photographs

c. 911 and all radio traffic recordings

d. Video Surveillance from Las Palmas Liquor Store

2. Transcribed Interviews of the following individuals:

a. Tanyea Warren

b. Gregory Burrell

c. Victor Walker

3. Documents:

a. Search Warrant for White Cricket Cellular Phone serial# T8u9MA1261607226

b. Evidence Impound Report from: Autopsy, Las Palmas Liquor Store, Search Warrant 5201 Walnut Ave and 2521 Living Rock

c. Forensic Multimedia Report

d. CSI Report from 5201 Walnut

e. CSI Report Living Rock

f. LVMPD AFIS Screening from 5201 Walnut Ave

g. Major Incident Log for 130517-0127

h. Lease Information for Apartment for #39 and 10

i. Cricket Phone records and cell phone tower for 702-556-5524

j. Documents from Defendant's prior cases

k. Pen Register Order and Application for 702-771-6282

l. Pen Register Order and Application for 702-556-5524

m. Consent to search card for car

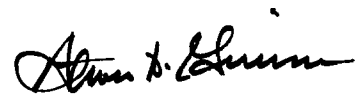
n. Teletype for warrant in this case

o. SWAT officer report for 5201 Walnut

p. Incident Recall for 5201 Walnut

q. CAD

- r. Search Warrant Application, Order and Return for 2521 Living Rock
- s. Search Warrant Application, Order and Return for 5201 Walnut Ave



CLERK OF THE COURT

**MOT**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MICHAEL J. SCHWARTZER  
Deputy District Attorney  
Nevada Bar #010747  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

FRANK HEARRING, aka,  
Frank Herring, Jr.,  
#1774466

Defendant.

CASE NO: C-13-291159-1

DEPT NO: XX

**MOTION IN LIMINE**

**DATE OF HEARING:** October 1, 2013

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

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through MICHAEL J. SCHWARTZER, Deputy District Attorney, and files this Motion in Limine.

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

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1 **STATEMENT OF CASE**

2 On June 18, 2013, Defendant Frank Herring (“Defendant”) was charged via  
3 Amended Criminal Complaint with one (1) count Murder with Use of a Deadly Weapon, one  
4 (1) count of Attempt Murder with Use of a Deadly Weapon, one (1) count Discharging a  
5 Firearm into a Structure, Vehicle, Aircraft or Watercraft and (1) count of Possession of a  
6 Firearm by an Ex-Felon. On July 11, 2013, a preliminary hearing was conducted and  
7 Defendant was held to answer on all charges in district court. On August 13, 2013,  
8 Defendant’s counsel announced not ready for trial and the trial was continued. On  
9 September 5, 2013, the preliminary hearing transcripts were filed with this court. Trial is  
10 currently set for October 7, 2013.

11 **STATEMENT OF FACTS<sup>1</sup>**

12 In the early morning hours of May 17, 2013, Defendant shot and killed Michael  
13 Jordan (“Michael”) at Janice Bay Brooks Apartment Complex in Clark County, Nevada.  
14 Defendant also shot at and attempted to kill Clifton Watkins (“Clifton”). In May of 2013,  
15 Defendant and Clifton lived in the same apartment complex and had several disputes with  
16 each other. Defendant had a brief romantic relationship with Clifton’s longtime girlfriend  
17 (“Cherice”). Additionally, Defendant and Clifton had a financial dispute over a \$300  
18 narcotic transaction, wherein Clifton believed Defendant owed him money.

19 Finally, Defendant and Clifton also had an argument over the way Clifton talked to  
20 Defendant’s girlfriend. In the evening of May 16, 2013, Clifton was socializing with other  
21 residents of his apartment complex in the parking lot. These people included his nephew,  
22 Cherice, Michael and another unknown individual. Around 11:45 PM, Cherice left the  
23 group to gamble at a casino but before she left, she noticed Defendant in the area of the  
24 group. Additionally, Clifton’s nephew also left the group to walk a woman to a nearby store.

25 Around Midnight, Michael and Clifton were sitting on the hood of Clifton’s vehicle in  
26 the parking lot talking while the other individual was facing them. Clifton heard a single  
27 gunshot and turned toward where he believed the gunshot came from and made eye contact  
28

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<sup>1</sup> Taken from the July 11, 2013 preliminary hearing testimony of Cherice Jones and Clifton Watkins

1 with Defendant. Clifton estimated Defendant was five to six feet away from his group.  
2 Clifton further stated that he saw Defendant squatting down with a firearm in his arm and  
3 pointing the firearm in the group's direction. After a second shot, Clifton fled to his  
4 apartment. After the shooting was over, Clifton went back toward the parking lot and saw  
5 Michael lying next to his vehicle. Clifton heard approximately seven gunshots. Clifton was  
6 able to identify the firearm as a .40 caliber with chrome or silver slide. Per the coroner's  
7 report, Michael Jordan died on May 17, 2013 of a gunshot wound to the back.

## 8 ARGUMENT

### 9 **I. EVIDENCE THAT DEFENDANT AND CLIFTON HAD A DISPUTE** 10 **OVER A NARCOTICS TRANSACTION IS ADMISSIBLE UNDER THE** 11 **RES GESTAE DOCTRINE**

12 Under certain circumstances, evidence of another crime or act may be admitted under  
13 the "complete story of the crime" doctrine codified in NRS 48.035(3) LaPierre v. State, 108  
14 Nev. 528, 533, 836 P.2d 56 (1992). "The State is entitled to present a full and accurate  
15 account of the circumstances of the commission of the crime, and if such an account also  
16 implicates the Defendant or Defendants in the commission of other crimes for which they  
17 have not been charged, the evidence is nevertheless admissible." Dutton v. State, 94 Nev.  
18 461, 581 P.2d 856 (1978) (*Quoting State v. Izatt*, 534 P.2d 1107 (Idaho 1975)).

19 NRS 48.035(3) codifies the complete story of the crime doctrine, or res gestae rule,  
20 and provides as follows:

21 Evidence of another act or crime which is so closely related to an  
22 act in controversy or a crime charged that an ordinary witness  
23 cannot describe the act in controversy without referring to the  
other act or crime shall not be excluded, but at the request of an  
interested party, a cautionary instruction shall be given  
explaining the reason for its admission.

24 The principle is long standing that the State is entitled to present, and a jury is entitled to  
25 hear, "the complete story of the crime." Allan v. State, 92 Nev. 318, 549 P.2d 1402 (1976).  
26 The complete story of the crime doctrine, or res gestae, applies whenever witnesses cannot  
27 describe the crime charged without referring to related uncharged acts. State v. Shade, 111  
28 Nev. 887, 900 P.2d 327, 331 (1995).

1 The Nevada Supreme Court has held evidence of uncharged crimes to be admissible  
2 where it assists the witness in painting the entire picture of the circumstances of the crime.  
3 In Bonacci v. State, 96 Nev. 894, 621 P.2d 1244 (1980), Bonacci was charged with  
4 attempting to sell LSD. The negotiations regarding the sale of the LSD were part of a larger  
5 transaction including another controlled substance, and when the bag containing the LSD  
6 was confiscated, other controlled substances were found. The Defendant objected to the  
7 admission of the uncharged controlled substances. The court held that the evidence was  
8 relevant to show both knowledge and intent. The court further stated that the evidence could  
9 have been admitted to complete the story of the crime since the sale negotiations involved  
10 discussion of controlled substances other than the LSD, and all the controlled substances  
11 were located in one (1) container.

12 Similarly, in Bracken v. State, 104 Nev. 547, 763 P.2d 59 (1988), Defendant entered  
13 into a pizza parlor, sat down at an occupied table and according to witness began eating  
14 pizza and drinking beer without permission. That Defendant, thereafter, left the pizza parlor  
15 and was observed by the witness burglarizing several automobiles. The trial court allowed  
16 into evidence testimony that Defendant helped himself to the pizza and beer even though the  
17 Defendant had not been charged with that conduct. The Nevada Supreme Court upheld that  
18 the evidence was admissible:

19 As an integral part of the Miller's narration of events leading up  
20 to Bracken's removal of personal property from the vehicles in  
21 the parking lot. We have adopted the rule that the State is  
22 entitled to present a full and accurate account of the  
circumstances surrounding the commission of a crime, and such  
evidence is admissible even if it implicates the accused in the  
commission of other crimes for which he has not been charged.

23 Id. 103 Nev. At 553, 763 P.2d at 63. In this case, the State must admit evidence that  
24 Defendant and the attempted murder victim, Clifton Watkins, had a dispute over a drug  
25 transaction for \$300.00 and this dispute partly contributed to the shooting that occurred in  
26 May of 2013, rendering Michael Jordan dead.

27 Similar to Bracken, an integral part of the narration of this case involved the fact that  
28 Defendant Clifton had a financial dispute over a narcotic transaction. Without this



1 information, the jury will wonder why Defendant would want to shoot at and attempt to kill  
2 Clifton as the State believes Clifton was the true target, and that Michael was simply at the  
3 wrong place at the wrong time and a product of transferred intent. If the State was not  
4 allowed to complete the whole picture of the crime, plugging in the holes with these other  
5 acts, the story would be hard to follow, causing confusion amongst the jury and rendering  
6 the State's witnesses credibility incapable of being determined by the jury.

7 Under this doctrine, to ensure such evidence is considered by the jury only for the  
8 proper purpose for which it would be admitted, a limiting instruction to the jury could be  
9 given both at the time the evidence is presented and in the closing instructions. Tavares v.  
10 State, 117 Nev. 725, 30 P.3d 1128 (2001). If the evidence is admitted under NRS 48.035(3),  
11 the State expressly requests such an instruction be given. Such a limiting instruction will  
12 reduce the risk of unfair prejudice to the Defendant or confusion of issues to the jury  
13 members. As such, the State contends any prejudicial effect does not substantially outweigh  
14 its probative value.

15  
16 **II. IN THE ALTERNATIVE, EVIDENCE THAT DEFENDANT AND**  
17 **CLIFTON HAD A DISPUTE OVER A NARCOTICS TRANSACTION IS**  
**ADMISSIBLE UNDER OTHER ACT EVIDENCE**

18 While evidence of other bad acts is inadmissible to show Defendant is of bad  
19 character, such other bad acts are admissible when they are relevant and offered for a proper  
20 purpose. NRS 48.045(2) provides:

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

24 To be deemed an admissible bad act, the trial court must determine, outside the presence of  
25 the jury, that: (1) the incident is relevant to the crime charged; (2) the act is proven by clear  
26 and convincing evidence; and (3) the probative value of the evidence is not substantially  
27 outweighed by the danger of unfair prejudice. Tinch v. State, 113 Nev. 1170, 1176, 946  
28 P.2d 1061, 1064-1065 (1997).

1           Ultimately, the decision to admit or exclude evidence lies within the discretion of the  
2 court. Salgado v. State, 114 Nev. 1039, 1043, 968 P.2d 324, 327 (1998). The Nevada  
3 Supreme Court has held that the trial court’s determination to admit or exclude evidence of  
4 prior bad acts is a decision within its discretionary authority and will be given great  
5 deference. Braunstein v. State, 118 Nev. 68, 72, 40 P.3d 413, 416 (2002). Once the trial  
6 court makes its determination, that decision will not be disturbed absent a manifest abuse of  
7 discretion. Felder v. State, 107 Nev. 237, 241, 810 P.2d 755, 757 (1991), citing Hill v. State,  
8 95 Nev. 327, 594 P.2d 699 (1979).

9           The Nevada Supreme Court has found that “whatever might motivate one to commit a  
10 criminal act is legally admissible to prove motive under NRS 48.045(2)” so long as the  
11 three-factor test for admissibility is satisfied. Ledbetter v. State, 122 Nev. 252, 262, 129  
12 P.3d 671, 678 (2006). This includes other acts that could put Defendant in a negative light in  
13 front of the jury. See Lay v. State, 110 Nev. 1189, 886 P.2d 448 (1994) (district court in a  
14 murder case did not err in admitting evidence of Defendant’s gang-affiliation at trial since it  
15 revealed his motive for the criminal act); also see Ledbetter, 122 Nev. At 262-63, 129 P.3d at  
16 679 (district court in a child sexual abuse case did not err in allowing in evidence of  
17 uncharged child sexual abuse for demonstrating motive).

18           “When an act has been committed, and the issue is whether a specific person, rather  
19 than another, is responsible, evidence that the person in question had a motive to act in that  
20 way is relevant because the evidence tends to make it somewhat more likely than it would be  
21 without the evidence that person committed the act.” Lamb v. State, 251 P.3d 700, 710, 127  
22 Nev. Adv. Op. 3 (2011) (*quoting* David P. Leonard, *The New Wigmore: Evidence of Other*  
23 *Misconduct and Similar Events* § 8.5.1(a), at 512 (2009))

24           In this case, Defendant’s dispute over narcotics with Clifton provides the motive for  
25 why Defendant would want to shoot at Clifton and therefore relevant. In response to  
26 Defendant’s counsel questions at preliminary hearing, Clifton admitted he had a financial  
27 dispute with Defendant over a narcotic transaction. Preliminary Hearing Transcript, Page 86-  
28 87. If required, the State can provide additional witnesses that would testify regarding the

1 presence of this dispute.<sup>2</sup> Finally, as is always the case, evidence that is probative to the  
2 State's case is inherently going to be prejudicial to the Defendant's case; however, Nevada  
3 law only prohibits the introduction of the purported evidence if there is UNFAIR prejudice.  
4 This explanation of a motive to why Defendant would shoot at Clifton is crucial. The  
5 inherent prejudice is not sufficient to substantially outweigh the probative value of such  
6 evidence.

7 Additionally, to ensure such evidence is considered by the jury only for the proper  
8 purposes for which it would be admitted, a limiting instruction to the jury should be given  
9 both at the time the evidence is presented and in the closing instructions. Tavares v. State,  
10 117 Nev. 725, 30 P.3d 1128 (2001). The State expressly requests such an instruction be  
11 given. Such a limiting instruction will reduce the risk of any unfair prejudice to the  
12 Defendant or confusion of issues to the jury members. As such, the State contends any  
13 prejudicial effect of this evidence does not substantially outweigh its probative value.  
14

15 DATED this 24th day of September, 2013.

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

19 BY /s/ Michael J. Schwartz  
20 MICHAEL J. SCHWARTZER  
21 Deputy District Attorney  
22 Nevada Bar #010747  
23  
24  
25

26 CERTIFICATE OF FACSIMILE TRANSMISSION  
27  
28 \_\_\_\_\_

<sup>2</sup> Defendant admits to the narcotic transaction and dispute during his interview with detectives.

1 I hereby certify that service of this Motion IN LIMINE was made this 24th day of  
2 September, 2013, by facsimile transmission to:

3  
4 CARL ARNOLD  
5 (702)474-4137

6  
7 BY: /s/ Mary Bailey  
8 Mary Bailey  
9 Employee of the District Attorney's Office  
10  
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12  
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27 13F08177X/MS/mb/L-4  
28

  
CLERK OF THE COURT

**NWEW**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MICHAEL SCHWARTZER  
Deputy District Attorney  
Nevada Bar #10747  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

CASE NO: C-13-291159-1

DEPT NO: XX

FRANK HEARRING, aka,  
Frank Hearing, Jr., #1774466  
Defendant.

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

TO: FRANK HEARRING, aka, Frank Hearing, Jr., Defendant; and

TO: C. ARNOLD, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
NEVADA intends to call the following witnesses in its case in chief:

| <u>NAME</u>   | <u>ADDRESS</u>                     |
|---------------|------------------------------------|
| AKE, P.       | LVMPD P#8100                       |
| ALBERT, J.    | LVMPD P#13204                      |
| ALSUP, T.     | LVMPD P#5782                       |
| ANDRADE, K.   | LVMPD P#6050                       |
| ATWOOD, C     | LVMPD P#10003                      |
| BASILOTTA, E. | LVMPD P#8447                       |
| BROWN, Brandy | 501 Walnut Ave, Apt No. 71, LV, NV |

|    |                                  |   |
|----|----------------------------------|---|
| 1  | BROWN, Tara                      | 5201 Walnut Ave, Apt No. 80, LV, NV     |
| 2  | BURRELL, Gregory                 | 3548 Gold Mist Ave, LV, NV              |
| 3  | BYBEE, R.                        | LVMPD P#13295                           |
| 4  | CHAPMAN, Shagela                 | 1653 Winchester Ave, Lincoln Park, MI   |
| 5  | COLON, M.                        | LVMPD P#7585                            |
| 6  | CUSTODIAN OF RECORDS or designee | AT & T                                  |
| 7  | CUSTODIAN OF RECORDS or designee | CCDC, 330 S. Casino Center Blvd, LV, NV |
| 8  | CUSTODIAN OF RECORDS or designee | CRICKET WIRELESS                        |
| 9  | CUSTODIAN OF RECORDS or designee | LAS PALMAS LIQUOR STORE, 714 N.         |
| 10 |                                  | Nellis Blvd, LV, NV                     |
| 11 | CUSTODIAN OF RECORDS or designee | LVMPD Dispatch, 400 E. Stewart Ave,     |
| 12 |                                  | LV,NV                                   |
| 13 | CUSTODIAN OF RECORDS or designee | NLVPD Records , 1301 E. Lake Mead Blvd  |
| 14 |                                  | NLV, NV                                 |
| 15 | DAHN, R.                         | LVMPD P#5947                            |
| 16 | DARR, A.                         | LVMPD P#5485                            |
| 17 | DAVIS, Kizzy                     | 5201 Walnut Ave, Apt No. 14, LV, NV     |
| 18 | DONALDSON, J.                    | LVMPD P#13237                           |
| 19 | EMBREY, B.                       | LVMPD P#8644                            |
| 20 | EVANS, M.                        | LVMPD P#13886                           |
| 21 | FEAZELL, Stevia                  | 3728 Shimmering Creek Ave., NLV, NV     |
| 22 | FRANKLIN, Perry                  | 2811 Promontory Vista PL, LV, NV        |
| 23 | GANDY, C.                        | LVMPD P#5117                            |
| 24 | GAVIN, LISA M.D.                 | CLARK COUNTY CORONER'S OFFICE           |
| 25 | GODBOLT, Helene                  | c/o CCDA, 200 Lewis Avenue, LV, NV      |
| 26 | GORDON, D.                       | LVMPD P#3965                            |
| 27 | HIGGINS, Julian                  | c/o CCDA, 200 Lewis Avenue, LV, NV      |
| 28 |                                  |   |

|    |                    |  |
|----|--------------------|--|
| 1  | HILL, C.           | LVMPD P#13387                            |
| 2  | HOUGHTON, J.       | LVMPD P#9789                             |
| 3  | HULLETT, E.        | LVMPD P# 13662                           |
| 4  | JOHNSON, Rayna     | 5201 Walnut, Apt. No. 6, LV, NV          |
| 5  | JONES, Cherrice    | 5025 Nellis Oasis LN, Apt No. 52, LV, NV |
| 6  | KELLY, J.          | LVMPD P#5666                             |
| 7  | LNU, Benita        | 5201 Walnut, Apt. No. 85, LV, NV         |
| 8  | MAINES, M.         | LVMPD P#4040                             |
| 9  | MCKENZIE, K.       | LVMPD P#6743                             |
| 10 | MODGLIN, Amie      | CLARK COUNTY CORONER'S OFFICE            |
| 11 | MOGG, C.           | LVMPD P#5096                             |
| 12 | MORTON, L.         | LVMPD P#4935                             |
| 13 | PATTON, J.         | LVMPD P#8289                             |
| 14 | PAZOS, E.          | LVMPD P#6817                             |
| 15 | PERALTA, T         | LVMPD P#13912                            |
| 16 | QUICK, M.          | LVMPD P#4493                             |
| 17 | REED, G.           | LVMPD P#3731                             |
| 18 | RENHARD, L.        | LVMPD P#5223                             |
| 19 | ROBERTS, Meshawnda | 5025 Nellis Oasis LN, Apt No. 52, LV, NV |
| 20 | SCHMIDT, T.        | LVMPD P# 13112                           |
| 21 | SCHULLER, N.       | LVMPD P#9814                             |
| 22 | SMITH, S.          | LVMPD P#6424                             |
| 23 | STAFFORD, E.       | LVMPD P#13642                            |
| 24 | SZUKIEWICZ, J.     | LVMPD P#5411                             |
| 25 | *TAFOYA, S.        | LVMPD P#4435                             |
| 26 | TUFTELAND, E.      | LVMPD P#8971                             |
| 27 | WALKER, Victor     | 5250 Stewart Ave, Apt No. 1128, LV, NV   |
| 28 | WARREN, Tanena     | 1750 Marion Drive, Apt No. 15D, LV, NV   |

1 WATKINS, Clifton

2 WHITEHEAD, J.

3 WILDERMUTH, S.

4 WILSON, R.

5 \* denotes change

c/o CCDA, 200 Lewis Avenue, LV, NV

LVMPD P#3487


LVMPD P#8075

LVMPD P#3836

6 These witnesses are in addition to those witnesses endorsed on the Information and  
7 any other witness for which a separate Notice has been filed.  
8

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

11  
12 BY

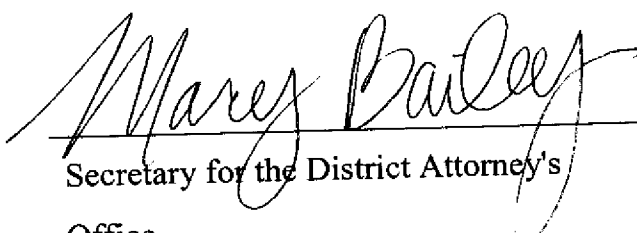
13   
14 MICHAEL SCHWARTZER  
15 Deputy District Attorney  
Nevada Bar # 10747

16 CERTIFICATE OF ELECTRONIC FILING

17  
18 I hereby certify that service of Notice of Witnesses, was made this 30th day of  
19 September, 2013, by Electronic Filing to:

20 CARL ARNOLD, ESQ

21 Email: lvcegal@yahoo.com

22  
23   
24 Secretary for the District Attorney's  
25 Office  
26  
27

28 13F08177X/mlb/L-4



1 **GPA**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 LINDSEY D. JOSEPH  
6 Deputy District Attorney  
7 Nevada Bar #12232  
8 200 Lewis Avenue  
9 Las Vegas, NV 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

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

UCL 97 2013

BY Linda Skinner  
LINDA SKINNER, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,  
9  
10 Plaintiff,

11 -vs-

12 FRANK HEARRING, aka,  
13 Frank Herring Jr., #177446  
14 Defendant.

CASE NO: C-13-291159-1

DEPT NO: XX

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: **MURDER (SECOND DEGREE) WITH USE OF**  
17 **A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165)**, as more  
18 fully alleged in the charging document attached hereto as Exhibit "1".

19 My decision to plead guilty is based upon the plea agreement in this case which is as  
20 follows:

21 The State will retain the right to argue.

22 I agree to the forfeiture of any and all weapons or any interest in any weapons seized  
23 and/or impounded in connection with the instant case and/or any other case negotiated in  
24 whole or in part in conjunction with this plea agreement.

25 I understand and agree that, if I fail to interview with the Department of Parole and  
26 Probation, fail to appear at any subsequent hearings in this case, or an independent  
27 magistrate, by affidavit review, confirms probable cause against me for new criminal charges  
28 including reckless driving or DUI, but excluding minor traffic violations, that the State will

1 have the unqualified right to argue for any legal sentence and term of confinement allowable  
2 for the crime(s) to which I am pleading guilty, including the use of any prior convictions I  
3 may have to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life  
4 without the possibility of parole, life with the possibility of parole after ten (10) years, or a  
5 definite twenty-five (25) year term with the possibility of parole after ten (10) years.

6 Otherwise I am entitled to receive the benefits of these negotiations as stated in this  
7 plea agreement.

#### 8 CONSEQUENCES OF THE PLEA

9 I understand that by pleading guilty I admit the facts which support all the elements of  
10 the offense(s) to which I now plead as set forth in Exhibit "1".

11 I understand that as a consequence of my plea of guilty the Court must sentence me to  
12 imprisonment in the Nevada State Prison for TEN (10) years to life OR the Definite term of  
13 TEN (10) to TWENTY-FIVE (25) years plus a consecutive term of ONE (1) to TWENTY  
14 (20) years for deadly weapon enhancement. I understand that the law requires me to pay an  
15 Administrative Assessment Fee.

16 I understand that, if appropriate, I will be ordered to make restitution to the victim of  
17 the offense(s) to which I am pleading guilty and to the victim of any related offense which is  
18 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to  
19 reimburse the State of Nevada for any expenses related to my extradition, if any.

20 I understand that I am not eligible for probation for the offense to which I am  
21 pleading guilty.

22 I also understand that I must submit to blood and/or saliva tests under the Direction of  
23 the Division of Parole and Probation to determine genetic markers and/or secretor status.

24 I further understand that if I am pleading guilty to charges of Burglary, Invasion of  
25 the Home, Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled  
26 Substance, or Gaming Crimes, for which I have prior felony conviction(s), I will not be  
27 eligible for probation and may receive a higher sentencing range.

28 I understand that if more than one sentence of imprisonment is imposed and I am

1 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order  
2 the sentences served concurrently or consecutively.

3 I also understand that information regarding charges not filed, dismissed charges, or  
4 charges to be dismissed pursuant to this agreement may be considered by the judge at  
5 sentencing.

6 I have not been promised or guaranteed any particular sentence by anyone. I know  
7 that my sentence is to be determined by the Court within the limits prescribed by statute.

8 I understand that if my attorney or the State of Nevada or both recommend any  
9 specific punishment to the Court, the Court is not obligated to accept the recommendation.

10 I understand that if the offense(s) to which I am pleading guilty was committed while  
11 I was incarcerated on another charge or while I was on probation or parole that I am not  
12 eligible for credit for time served toward the instant offense(s).

13 I understand that if I am not a United States citizen, any criminal conviction will  
14 likely result in serious negative immigration consequences including but not limited to:

- 15 1. The removal from the United States through deportation;
- 16 2. An inability to reenter the United States;
- 17 3. The inability to gain United States citizenship or legal residency;
- 18 4. An inability to renew and/or retain any legal residency status; and/or
- 19 5. An indeterminate term of confinement, with the United States Federal  
20 Government based on my conviction and immigration status.

21 Regardless of what I have been told by any attorney, no one can promise me that this  
22 conviction will not result in negative immigration consequences and/or impact my ability to  
23 become a United States citizen and/or a legal resident.

24 I understand that the Division of Parole and Probation will prepare a report for the  
25 sentencing judge prior to sentencing. This report will include matters relevant to the issue of  
26 sentencing, including my criminal history. This report may contain hearsay information  
27 regarding my background and criminal history. My attorney and I will each have the  
28 opportunity to comment on the information contained in the report at the time of sentencing.

1 Unless the District Attorney has specifically agreed otherwise, the District Attorney may  
2 also comment on this report.

### 3 WAIVER OF RIGHTS

4 By entering my plea of guilty, I understand that I am waiving and forever giving up  
5 the following rights and privileges:

- 6 1. The constitutional privilege against self-incrimination, including the  
7 right to refuse to testify at trial, in which event the prosecution would  
not be allowed to comment to the jury about my refusal to testify.
- 8 2. The constitutional right to a speedy and public trial by an impartial jury,  
9 free of excessive pretrial publicity prejudicial to the defense, at which  
10 trial I would be entitled to the assistance of an attorney, either appointed  
or retained. At trial the State would bear the burden of proving beyond  
a reasonable doubt each element of the offense(s) charged.
- 11 3. The constitutional right to confront and cross-examine any witnesses  
12 who would testify against me.
- 13 4. The constitutional right to subpoena witnesses to testify on my behalf.
- 14 5. The constitutional right to testify in my own defense.
- 15 6. The right to appeal the conviction with the assistance of an attorney,  
16 either appointed or retained, unless specifically reserved in writing and  
17 agreed upon as provided in NRS 174.035(3). I understand this means I  
18 am unconditionally waiving my right to a direct appeal of this  
conviction, including any challenge based upon reasonable  
19 constitutional, jurisdictional or other grounds that challenge the legality  
of the proceedings as stated in NRS 177.015(4). However, I remain free  
to challenge my conviction through other post-conviction remedies  
including a habeas corpus petition pursuant to NRS Chapter 34.

### 20 VOLUNTARINESS OF PLEA

21 I have discussed the elements of all of the original charge(s) against me with my  
22 attorney and I understand the nature of the charge(s) against me.

23 I understand that the State would have to prove each element of the charge(s) against  
24 me at trial.

25 I have discussed with my attorney any possible defenses, defense strategies and  
26 circumstances which might be in my favor.

27 All of the foregoing elements, consequences, rights, and waiver of rights have been  
28 thoroughly explained to me by my attorney.


1 I believe that pleading guilty and accepting this plea bargain is in my best interest,  
2 and that a trial would be contrary to my best interest.

3 I am signing this agreement voluntarily, after consultation with my attorney, and I am  
4 not acting under duress or coercion or by virtue of any promises of leniency, except for those  
5 set forth in this agreement.

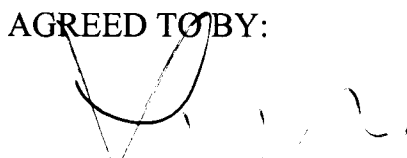
6 I am not now under the influence of any intoxicating liquor, a controlled substance or  
7 other drug which would in any manner impair my ability to comprehend or understand this  
8 agreement or the proceedings surrounding my entry of this plea.

9 My attorney has answered all my questions regarding this guilty plea agreement and  
10 its consequences to my satisfaction and I am satisfied with the services provided by my  
11 attorney.

12 DATED this 7 day of October, 2013.

13  
14   
15 FRANK HEARRING, aka,  
16 Frank Herring Jr.  
Defendant

17 AGREED TO BY:

18   
19  
20 LINDSEY D. JOSEPH  
21 Deputy District Attorney  
Nevada Bar #12232

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the  
3 court hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the  
5 charge(s) to which guilty pleas are being entered.  
6 2. I have advised the Defendant of the penalties for each charge and the  
7 restitution that the Defendant may be ordered to pay.  
8 3. I have inquired of Defendant facts concerning Defendant's immigration status  
9 and explained to Defendant that if Defendant is not a United States citizen any  
10 criminal conviction will most likely result in serious negative immigration  
11 consequences including but not limited to:  
12 a. The removal from the United States through deportation;  
13 b. An inability to reenter the United States;  
14 c. The inability to gain United States citizenship or legal residency;  
15 d. An inability to renew and/or retain any legal residency status; and/or  
16 e. An indeterminate term of confinement, by with United States Federal  
17 Government based on the conviction and immigration status.

18 Moreover, I have explained that regardless of what Defendant may have been  
19 told by any attorney, no one can promise Defendant that this conviction will  
20 not result in negative immigration consequences and/or impact Defendant's  
21 ability to become a United States citizen and/or legal resident.

- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are  
23 consistent with the facts known to me and are made with my advice to the  
24 Defendant.  
25 5. To the best of my knowledge and belief, the Defendant:  
26 a. Is competent and understands the charges and the consequences of  
27 pleading guilty as provided in this agreement,  
28 b. Executed this agreement and will enter all guilty pleas pursuant hereto  
voluntarily, and  
c. Was not under the influence of intoxicating liquor, a controlled  
substance or other drug at the time I consulted with the Defendant as  
certified in paragraphs 1 and 2 above.

Dated: This 7 day of October, 2013.

  
ATTORNEY FOR DEFENDANT

mlb

1 **INFM**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 LINDSEY D. JOSEPH  
6 Deputy District Attorney  
7 Nevada Bar #12232  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

12 I.A. Date  
13 Enter Time A.M. / DISTRICT COURT  
14 P.M. CLARK COUNTY, NEVADA  
15 Attorney for Defendant

16 THE STATE OF NEVADA,  
17  
18 Plaintiff,

Case No: C-13-291159-1  
Dept No: XX

19 -vs-

20 FRANK HEARRING, aka,  
21 Frank Herring Jr.,  
22 #1774466

23 Defendant.

# INFORMATION

24 STATE OF NEVADA }  
25 COUNTY OF CLARK } ss.

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

28 That FRANK HEARRING, aka,  
Frank Herring Jr., the Defendant(s) above named, having committed the crime of  
**MURDER (SECOND DEGREE) WITH USE OF A DEADLY WEAPON (Category A  
Felony - NRS 200.010, 200.030, 193.165)**, on or about the 17th day of May, 2013, within  
the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in  
such cases made and provided, and against the peace and dignity of the State of Nevada, did  
then and there willfully, feloniously, without authority of law, and with malice aforethought,  
kill MICHAEL JORDAN, a human being by shooting at and into the body of the said

**EXHIBIT "1"**

P:\WPDOCS\INF\308\30817704.DOC

1 MICHAEL JORDAN with a deadly weapon to-wit: a firearm.  
2

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

6 BY

7 LINDSEY D. JOSEPH  
8 Deputy District Attorney  
9 Nevada Bar #12232  
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27 DA#13F08177X/mlb/L-4  
28 LVMPD EV#1305170127  
(TK1)



ORIGINAL

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

OCT 07 2013

BY Linda Skinner  
LINDA SKINNER, DEPUTY

1 **INFM**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 LINDSEY D. JOSEPH  
6 Deputy District Attorney  
7 Nevada Bar #12232  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

12 I.A. Date  
13 Enter Time A.M. / DISTRICT COURT  
14 P.M. CLARK COUNTY, NEVADA  
15 Attorney for Defendant

16 THE STATE OF NEVADA,  
17  
18 Plaintiff,

19 -VS-

20 FRANK HEARRING, aka,  
21 Frank Hearing Jr.,  
22 #1774466

23 Defendant.

Case No: C-13-291159-1  
Dept No: XX

INFORMATION

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25 COUNTY OF CLARK } ss.

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the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in  
such cases made and provided, and against the peace and dignity of the State of Nevada, did  
then and there willfully, feloniously, without authority of law, and with malice aforethought,  
kill MICHAEL JORDAN, a human being by shooting at and into the body of the said

1 MICHAEL JORDAN with a deadly weapon to-wit: a firearm.

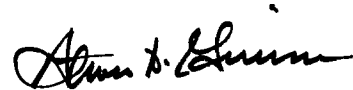
2  
3 STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
4

5 BY

6 LINDSEY D. JOSEPH  
Deputy District Attorney  
Nevada Bar #12232  
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27 DA#13F08177X/mlb/L-4  
LVMPD EV#1305170127  
28 (TK1)

**THIS SEALED  
DOCUMENT,  
NUMBERED PAGE(S)  
222 - 228  
WILL FOLLOW VIA  
U.S. MAIL**



CLERK OF THE COURT

**CARL E.G. ARNOLD, ESQ.**  
Nevada Bar No. 008358  
LVCEGA1@yahoo.com  
1148 S. Maryland Parkway  
Las Vegas, Nevada 89104  
(702) 358-1138  
*Attorney for FRANK HEARRING*

EIGHTH JUDICIAL DISTRICT COURT

FOR THE DISTRICT OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

FRANK HEARRING #1774466

Defendant.

) Case No: C-13-291159-1

) Dept: XX

**MOTION TO MARRY**

Defendant Frank Herring, by and through his attorney, Carl E.G. Arnold, Esq., hereby moves this Honorable Court for an Order permitting the Defendant Frank Herring, who is in custody at Clark County Detention Center, to marry his girlfriend, Stevia Feazell.

This Motion is supported by the attached memorandum of points and authorities, prior pleadings, and records before this Court filed in regards to Frank Herring.

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I.

## II.

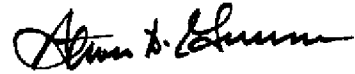
Dated this 22nd of November, 2013.

/s/ *Carl E. G. Arnold, Esq.*  
**CARL E.G. ARNOLD, ESQ.**  
 Nevada Bar No. 008358  
 LVCEGA@yahoo.com  
 1148 S. Maryland Parkway  
 Las Vegas, Nevada 89104

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**STEVEN B. WOLFSON**  
Clark County District Attorney  
Regional Justice Center  
200 Lewis Avenue  
P.O. Box 552212  
Las Vegas, Nevada 89155

3



CLERK OF THE COURT

JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO. C291159-1

DEPT. NO. XX

FRANK HEARRING  
Aka FRANK HEARRING, JR.  
#1774466

Defendant.

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

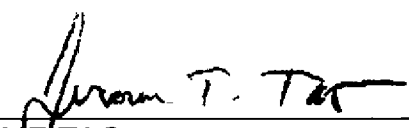
The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of MURDER (SECOND DEGREE) WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165; thereafter, on the 10<sup>th</sup> day of December, 2013, the Defendant was present in court for sentencing with his counsel CARL E. ARNOLD, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in

//

1 addition to the \$25.00 Administrative Assessment Fee, and \$150.00 DNA Analysis  
2 Fee including testing to determine genetic markers, the Defendant is sentenced as  
3 follows: TO LIFE with the possibility of parole after TEN (10) YEARS have been  
4 served, plus a CONSECUTIVE term of TWO HUNDRED FORTY (240) MONTHS  
5 MAXIMUM with a MINIMUM parole eligibility of NINETY-SIX (96) MONTHS for the  
6 Use of a Deadly Weapon in the Nevada Department of Corrections (NDC), with TWO  
7 HUNDRED NINETY-THREE (293) days credit for time served.  
8  
9

10  
11 DATED this 26<sup>th</sup> day of December, 2013.

12  
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14 JEROME TAO  
15 DISTRICT COURT JUDGE  
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RLS



COSCC

  
CLERK OF THE COURT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\*\*\*\*\*

STATE OF NEVADA

CASE NO.: C-13-291159-1

VS

DEPARTMENT 20

FRANK HEARRING, JR.

**CRIMINAL ORDER TO STATISTICALLY CLOSE CASE**

Upon review of this matter and good cause appearing,  
IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to  
statistically close this case for the following reason:

**DISPOSITIONS:**

- ☐ Nolle Prosequi (before trial)
- ☐ Dismissed (after diversion)
- ☐ Dismissed (before trial)
- ☒ Guilty Plea with Sentence (before trial)
- ☐ Transferred (before/during trial)
- ☐ Bench (Non-Jury) Trial
  - ☐ Dismissed (during trial)
  - ☐ Acquittal
  - ☐ Guilty Plea with Sentence (during trial)
  - ☐ Conviction
- ☐ Jury Trial
  - ☐ Dismissed (during trial)
  - ☐ Acquittal
  - ☐ Guilty Plea with Sentence (during trial)
  - ☐ Conviction
- ☐ Other Manner of Disposition

DATED this 31st day of December, 2013.

  
JEROME T. TAO  
DISTRICT COURT JUDGE

RECEIVED

JAN 08 2014

CLERK OF THE COURT



**CLARK COUNTY COURTS  
EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**



REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>RD</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-0530  
FAX (702) 474-2434

Steven D. Grierson  
Clerk of the Court

**PLEASE FILE  
LEFT SIDE**

Assistant Clerk of the Court

Attorney: Carl E. Arnold

Case: C-13-291159-1

Defendant: Frank Heraring Jr. # 1006445 Dept: 20

Attached are pleadings received by the Office of the District Court Clerk:

Pleadings: Notice of Motion

**Rule 3.70. Papers which May Not be Filed**

Except as may be required by the provisions of NRS34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Deputy Clerk of the Court

#44 Criminal Desk

C-13-291159-1  
LSF  
Left Side Filing  
3681861



1 Frank Herring #1006445  
2 Defendant In Propria Personam  
3 Post Office Box 650 [HDSP]  
4 Indian Springs, Nevada 89018

5 **DISTRICT COURT**  
6 **CLARK COUNTY, NEVADA**

7  
8 State of Nevada  
9 Plaintiff

10 vs.

11 Frank Herring, Jr  
12 Defendant

**Case No.** C-13-291159-1

**Dept No.** 20

**Docket** \_\_\_\_\_

13  
14 **NOTICE OF MOTION**

15 **YOU WILL PLEASE TAKE NOTICE**, that The foregoing motion for Production  
16 of Documents, Papers, Pleadings and Tangible Property of Defendant  
17 will come on for hearing before the above-entitled Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
18 at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ M. In Department \_\_\_\_\_, of said Court.

19  
20 **CC:FILE**

21  
22 **DATED:** this 31 day of March, 2014.

23  
24 **BY:** Frank Herring  
25 FRANK Herring 1006445 #  
26 Defendant In Propria Personam

CLERK OF THE COURT

APR 11 2014

RECEIVED

1 Frank Herring #1006415  
2 Defendant/ In Propria Personam  
3 Post Office Box 650 [HDSP]  
4 Indian Springs, Nevada 89018

5 DISTRICT COURT

6 Clark COUNTY, NEVADA

7  
8 State of Nevada

9 Plaintiff,

10 vs.

11 FRANK Herring Jr

12 Defendant.

Case No. C-13-291159-1

Dept No. 20

Docket \_\_\_\_\_

13  
14 **MOTION FOR PRODUCTION OF DOCUMENTS,**  
15 **PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFENDANT**

16 Date of Hearing: \_\_\_\_\_

17 Time of Hearing: \_\_\_\_\_

18 "ORAL ARGUMENT REQUESTED, Yes \_\_\_ No \_\_\_"

19 COMES NOW, Defendant, FRANK Herring Jr, proceeding in proper person,  
20 hereby moves this Honorable Court for its ORDER for the production of all documents, papers,  
21 pleadings and tangible property in the possession of: Carl Arnold

22  
23 This Motion is made and based upon all papers and pleadings on file with the Clerk of the Court  
24 which are hereby incorporated by this reference, the Points and Authorities herein, and attached  
25 Affidavit of Defendant.

26 DATED: this 31 day of March, 2014.

27 BY Frank Herring  
28 Frank Herring 1006415 #  
Defendant/In Propria Personam

CLERK OF THE COURT

APR 11 2014

RECEIVED

## POINTS AND AUTHORITIES

The Nevada Revised Statute 7.055(1), which deals with the duty of a discharged attorney, states:

"An attorney who has been discharged by his client shall, upon demand and payment of the fee due from the client, immediately deliver to the client all papers, documents, pleadings and items of tangible property which belong to or were prepared for that client."

As can be seen in this case, the defendant does not owe any fees, in fact, they, meaning counsel(s) of record, were appointed by the Court to represent the defendant, who was an indigent, in Case Number, (7-13-291199) in Department No. 20.

N.R.S. 7.055(2) gives this Court the power to Order the Attorney(s) of record to produce and deliver to the defendant in his/her possession, which states:

"A client who, after demand therefore and payment of the fee due from him, does not receive from his discharged attorney all papers, documents, pleadings and items of tangible personal property may, by a motion filed after at least 5 days' notice to the attorney, obtain an order for the production of his papers, Documents, pleadings and other property."

In numerous cases throughout this great land, the courts have held attorneys to a high degree of professional responsibility and integrity. This carried from the time of hiring to and through the attorney's termination of employment.

Supreme Court Rule 173 states quite clear that a withdrawn attorney owes his former client a "... prompt accounting of all his client's ... property in his possession." This is echoed in Canon 2 of the Code of Professional Responsibility of the American Bar Association, which states in pertinent part EC 2-32: "A lawyer should protect the welfare of his client by ... delivering to the client all papers and property to which the client is entitled." Again in Disciplinary Rule 2-110(A)(2) of the ABA, this is brought out that a withdrawn attorney must deliver to the client all papers and comply with applicable laws on the subject.

In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963) and State v. Alvey, 215 Kan. 460, 524 P.2d 747 (1974), both of which dealt with a factual situation involving a withdrawn attorney refusing to deliver to a former client his documents after being requested to do so by the client. The court in Yount, supra, ordered the attorney disbarred while in Alvey, supra, the court had the attorney censured.

1 While not the intention of the Defendant in this case to have the attorney disbarred, these cases do  
2 show a pattern in the court in considering the refusal to deliver to a former client all his documents  
3 and property after being requested to do so, a serious infraction of the law and of professional ethics.  
4 See, In Re Sullivan, 212 Kan. 233, 510 P.2d 1199 (1973).

5 In summary, this court has jurisdiction through NRS 7.055 to Order the attorney(s) to produce  
6 and deliver to the Defendant all documents and personal property in his/their possession belonging to  
7 him or prepared for him. The Defendant has fulfilled his obligations in trying to obtain the papers.  
8 The attorney(s) is in discord with Cannon 2 of the Code of Professional responsibility and the Nevada  
9 Supreme Court Rules 173, 176 and 203.

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DATED: this 31 day of March, 2014.

BY: Frank Harding  
FRANK HARDING 1006441#  
Defendant/In Propria Personam

**CERTIFICATE OF SERVICE BY MAILING**

I, Frank Hearnings Jr., hereby certify, pursuant to NRCP 5(b), that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I mailed a true and correct copy of the foregoing, "Notice and motion to withdraw counsel." by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid, addressed as follows:

Steven B. Wolfson D.A.  
2000 Lewis Ave. 3rd floor  
Las Vegas, NV 89155

CC:FILE

DATED: this 31 day of March, 2014.

Frank Hearnings Jr. 1006446 #  
Defendant In Propria Personam  
Post Office box 650 [HDSP]  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice and  
motion to withdraw counsel  
(Title of Document)

filed in District Court Case number \_\_\_\_\_

☒ 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.

Frank Hearing  
Signature

March 31, 2014  
Date

Frank Hearing  
Print Name

Defendant  
Title



AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice and  
Motion to withdraw counsel.  
(Title of Document)

filed in District Court Case number \_\_\_\_\_

☒ 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.

Frank Herring  
Signature

March 31, 2014  
Date

Frank Herring  
Print Name

Defendant  
Title

**PLEADING  
CONTINUES  
IN NEXT  
VOLUME**