

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

JOSE MONAY-PINA,

Appellant,

v.

STATE OF NEVADA,

Respondent.

Docket No. 84321

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**APPELLANT'S  
APPENDIX VOL. I**

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# CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 1st day of July, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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

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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

JOSE FERNANDO MONAY-PINA, )  
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 Appellant, )  
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 vs. )  
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 THE STATE OF NEVADA, )  
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 Respondent. )  
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DOCKET NUMBER: 74199

**APPELLANT'S OPENING BRIEF**

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Appellant,	)	
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THE STATE OF NEVADA,	)	
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**NRAP 26.1 DISCLOSURE**

The undersigned counsel of record certifies that the following are person and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

**Attorney of record for Appellant:** Matthew Lay, Esq.

**Corporation:** Nguyen & Lay.

There are no parent corporations involved in the instant appeal.

Dated this 24th day of September, 2018.



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Matthew Lay, Esq.  
Nevada Bar Identification No. 12249  
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## **ROUTING STATEMENT**

NRAP 28(a)(5) mandates that an appellant's brief contain a routing statement setting forth the following:

whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and citing the subparagraph(s) of the Rule under which the matter falls.

NRAP 17(b) provides that the Court of Appeals "shall hear and decide only those matters assigned to it by the Supreme Court." NRAP 17(b)(1) further provides that "[a]ny direct appeal from a judgment of conviction based on a jury verdict that does not involve a conviction for any offenses that are category A or B felonies" is presumptively assigned to the Court of Appeals.

The foregoing Appellant's Opening Brief should be assigned to the Nevada Supreme Court, because Mr. Monay-Pina is appealing from a Judgment of Conviction, and was convicted of numerous category B felonies.

Dated this 24th day of September, 2018.



---

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Attorney for Appellant

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THE STATE OF NEVADA,	)		
	)		
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_____	)		

**STATEMENT OF JURISDICTION**

This Court has jurisdiction over the present appeal pursuant to NRS 177.015. This appeal arises from the district court’s entry of a Judgment of Conviction (Jury Trial) on October 20, 2017. Appellant’s Appendix, Volume I, pages 74-77 (hereinafter referenced “[Volume Number] AA [Page Number]”).

**STATEMENT OF ISSUE PRESENTED FOR REVIEW**

- I. **THE DISTRICT COURT SHOULD HAVE PROTECTED MONAY-PINA'S RIGHT TO A FAIR TRIAL BY DECLARING A MISTRIAL SUA SPONTE BECAUSE COMMENTS MADE BY THE STATE DURING ITS REBUTTAL ARGUMENT AMOUNTED TO IMPERMISSIBLE BURDEN-SHIFTING, WHICH PREJUDICED MONAY-PINA AND PREVENTED HIM FROM RECEIVING A FAIR TRIAL.**

## **STATEMENT OF PROCEDURAL HISTORY**

On March 04, 2016, the State of Nevada filed an Information charging the Appellant, Jose Fernando Monay-Pina, with the following: one (1) count of Conspiracy to Commit Robbery, a category B felony in violation of NRS 200.370 and 199.480; two (2) counts of Burglary while in Possession of a Firearm, a category B felony in violation of NRS 205.060; two (2) counts of Robbery with Use of a Deadly Weapon, a category B felony in violation of NRS 200.380 and 193.165; four (4) counts of Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm, a category B felony in violation of NRS 200.481; one (1) count of Attempt Murder with Use of a Deadly Weapon, a category B felony in violation of NRS 200.010, 200.030, and 193.165; one (1) counts of Battery with Intent to Commit a Crime, a category Be felony in violation of NRS 200.400; one (1) count of Aiming a Firearm at a Human Being, a Gross Misdemeanor in violation of NRS 202.290; and, one (1) count of Coercion with Use of a Deadly Weapon, a category B felony in violation of NRS 207.190. I AA 1-7.

On March 15, 2017, following a three (3) day jury trial, a jury convicted Mr. Monay-Pina of all charges, except for Counts 9 and 10, where the jury convicted him of a lesser included charge of Battery with Use of a Deadly Weapon. I AA 66-69, 106-111.

## **STATEMENT OF FACTUAL HISTORY**

### **Richard DeCamp**

Richard DeCamp testified that on January 12, 2016, he worked the graveyard shift at the 7-Eleven located at 5700 West Charleston in Clark County, Nevada. III AA 145-46. He was the only person in the store. III AA 147.

DeCamp testified that, around 3:00 am, two men entered the store. III AA 147. DeCamp described one of the men as “little” and “short,” and the other man as “tall.” Id. According to DeCamp, both men were wearing masks. III AA 147. DeCamp described the men as wearing “dark coats” with “hoods,” and “black gloves.” III AA 164-167. Both men had firearms. Id. Additionally, DeCamp described the firearms as “a .45.” III AA 167.

The men pointed their firearms at DeCamp. III AA 150. The tall man asked DeCamp “for the money.” III AA 147. DeCamp gave the men approximately one hundred and thirty dollars (\$130.00) from the store’s registers. III AA 148-149. The tall man also asked DeCamp for his wallet. III AA 151. DeCamp showed the tall man that his wallet was empty. III AA 151. The men told DeCamp to lie on the floor until they were gone. III AA 150. The two men left the store together. III AA 151. DeCamp lied on the floor for a couple of minutes, and then called 9-1-1. III AA 152.

According to DeCamp, the police arrived approximately ten (10) minutes after he called 9-1-1. III AA 153. A police officer asked DeCamp to “take a ride down the street.” III AA 153. DeCamp testified that the officer drove him in a police car about nine (9) blocks. III AA 153, 172.

The officer showed DeCamp one (1) person wearing a jacket and asked him if “that’s the jacket the guy had on ....” III AA 153, 168. DeCamp identified the jacket as belonging to one of the people who robbed him. III AA 154. However, DeCamp was not able to identify the person detained by police as someone who robbed him because the perpetrators wore masks. III AA 155.

### **Isaiah Simmons**

Isaiah Simmons is employed by the Las Vegas Metropolitan Police Department as a patrol officer. III AA 174. On January 12, 2016, at 3:52 AM, Simmons responded to the 7-Eleven located at 5700 West Charleston. III AA 174-75, 181. Simmons testified that, when he arrived, the suspects were gone. III AA 174. According to Simmons, the suspects took one hundred and thirty-nine dollars (\$139.00) from the 7-Eleven. III AA 176.

Simmons testified that suspects in the robbery were “two Hispanic males that enter in the building brandishing long firearms, dark clothing, gloves, [and] masks.” III AA 177. Simmons clarified that DeCamp described the firearms as large handguns. III AA 188.

**Abraham Aguirre**

Abraham Aguirre is employed as a sergeant with the Las Vegas Metropolitan Police Department. III AA 191. Aguirre testified that, on January 12, 2016, he responded to the 7-Eleven located at 5700 West Charleston. III AA 191.

Later, at 4:22 am, Aguirre responded to another, “high priority” call located approximately three (3) blocks away from the 7-Eleven, at 504 Brush Street. III AA 193, 193, 196. According to Aguirre, the details of the call stated that, “two Hispanic males wearing dark clothing had forced their way into ... [a] home and were pistol whipping the uncle, and the person that was calling was the niece that lived in the actual main home.” III AA 194.

Aguirre testified that, when he arrived at 504 Brush Street, he observed a “bloody axe” near the entrance to the carport, and “a lot” of blood in a bedroom. III AA 197.

Aguirre learned that another officer located two (2) suspects in the back yard of a nearby home. Id. Aguirre responded to 510 Brush Street, where officers took two (2) suspects into custody. III AA 199-204. Aguirre identified the two suspects as Monay-Pina and his co-defendant. III AA 204-05, 207-208.

According to Aguirre, officers located a wallet and “a wad of money” near where Monay-Pina was apprehended. III AA 204. Aguirre also testified that officers recovered the victim, Javier Colon’s wallet from the area where the

Monay-Pina was apprehended. III AA 206-07. Additionally, Aguirre testified that officers recovered a “black ski mask.” III AA 206. Further, Aguirre testified that officers recovered “two knives, a phone, and a set of keys.” Id. Aguirre testified that officers recovered “a few knives, like hunting knives in their sheaths, as well as [a] set of red gloves” from the area where Venegas was apprehended. III AA 208. Additionally, Aguirre recalled, officers recovered “another ski mask” and “two handguns or replicas” from the area near where Venegas was apprehended. III AA 209.

**Javier Colon**

On January 12, 2016, Javier Colon lived with his sister, Adriana Colon, and her three (3) children, at 504 Brush Street. III AA 232-33. Colon testified that he lived in the garage. III AA 233.

According to Colon, he was sleeping when two men entered the garage. III AA 235. Colon recognized one of the men, Venegas, because he had previously worked with Venegas. III AA 236. Colon testified that Venegas was screaming, “Javier, get up, get up.” III AA 235-36. Colon further testified that Venegas hit him in the head with a pistol. III AA 238-329. Colon also identified Monay-Pina in court. III AA 237. Colon knew Monay-Pina because he had worked with him before this incident. III AA 266, 275-76.



Colon testified that the other man aimed his pistol through a window at Colon's family. III AA 239-240. The other man was wearing a "coal black" colored coat, black and red colored gloves, and a green bandana. III AA 273, 274. Colon testified that he recognized the gloves because they were the same color as the gloves provided by the landscaping company he worked for with Venegas and Monay-Pina. III AA 277. According to Colon, Venegas screamed at Ariana Colon that, "don't do anything, we're going to kill you, too." III AA 246.

According to Colon, he was lying in bed when Venegas picked up an axe located next to Colon's bed. III AA 240. Venegas began hitting Colon with the axe. III AA 240. Venegas first hit Colon in leg and ribs. III AA 241. Then, Venegas attempted to hit Colon in the head. III AA 241. Colon blocked the hit with his hand, but the axe cut his hand. III AA 241. Colon testified that the suspects ran away once the police arrived. III AA 242. Colon was taken to the hospital in an ambulance. III AA 245.

Colon testified that the suspects took his wallet, a camera, an "MP3," and several knives. III AA 246. Colon identified one of wallets and the knives recovered from the area where officers apprehended Venegas and Monay-Pina as his. III AA 251.

**Adriana Colon**

Adriana Colon testified that, on January 12, 2016, she lived at 504 Brush Street. III AA 278. At approximately 4:00 am, Adriana Colon heard her brother scream that, “someone was threatening him.” III AA 280. Adriana went to the window. She observed two men outside. The men told Adriana to “shut up” or they would “break me.” III AA 280. The men pointed pistols at the windows of the residence. III AA 281. Adriana does not think the men could see her, because “it was so dark.” III AA 281.

The men told Javier Colon to “stand up.” III AA 281. Adriana believed she heard the men beating Javier Colon. III AA 282. Adriana’s daughter called the police. III AA 283.

**Justin Spurling**

On January 12, 2016, Justin Spurling was employed with the Las Vegas Metropolitan Police Department as a patrol officer. III AA 337-338. Spurling and his partner, Ivan Duron, responded to a call for service at 504 Brush Street. III AA 338. According to Spurling, the details of the call were that “somebody was being beaten by two men with handguns.” III AA 338.

Once he arrived at 504 Brush Street, Spurling heard screaming coming from the side of the house. III AA 338. Spurling followed the screams to a room off of the carport. III AA 339. Spurling observed a “gentleman on the bed bleeding pretty

badly from his face, as well as blood spatter on the wall behind him.” III AA 340.

Spurling testified that the man appeared to be in pain and was crying and screaming. III AA 340.

Spurling then attempted to locate anyone else who was involved in the incident. III AA 341. Duron stayed with the man. III AA 365.

Spurling located an individual, later identified as Monay-Pina, in the backyard of a residence approximately two houses away. III AA 342, 352-53. According to Spurling, Monay-Pina was wearing a “black stocking cap. III AA 342.

Additionally, Monay-Pina allegedly ducked down as soon as he saw Spurling. III AA 342. Spurling apprehended Monay-Pina. III AA 346-47. According to Sperling, Monay-Pina stated, “you don’t understand. We were a victim, I believe, tire slashing, and we made a report, but you guys didn’t listen.” III AA 351.

Sperling testified that he located a “wad of cash” and Javier Colon’s wallet from the bushes near where he located Monay-Pina. III AA 372. Sperling also located a “replica firearm,” and a knife and sheath near where Monay-Pina was apprehended. III AA 355-56.

As he was apprehending Monay-Pina, Spurling spotted a second subject lying, later identified as Venegas, underneath a shed in the back yard. III AA 347, 358. Spurling testified that other officers apprehended the second subject. III AA 350. Sperling observed another replica firearm and another sheath and knife near

where Venegas was located. III AA 356. Sperling testified that officers located gloves from underneath the shed where Venegas was located. III AA 357.

Sperling testified that he stood next to Venegas at the show up with DeCamp. III AA 358-59.

### **SUMMARY OF THE ARGUMENT**

The district court should have protected Monay-Pina's right to a fair trial by declaring a mistrial sua sponte because the State shifted the burden of proof to Monay-Pina.

### **ARGUMENT**

- I. **THE DISTRICT COURT SHOULD HAVE PROTECTED MONAY-PINA'S RIGHT TO A FAIR TRIAL BY DECLARING A MISTRIAL SUA SPONTE BECAUSE COMMENTS MADE BY THE STATE DURING ITS REBUTTAL ARGUMENT AMOUNTED TO IMPERMISSIBLE BURDEN-SHIFTING, WHICH PREJUDICED MONAY-PINA AND PREVENTED HIM FROM RECEIVING A FAIR TRIAL.**

### **STANDARD OF REVIEW**

"As a general rule, the failure to object or request an instruction will preclude review by this [C]ourt." Ross v. State, 106 Nev. 924, 928, 803 P.2d 1104, 1106 (1990). There is, however, an exception to the general rule in instances where "the errors are patently prejudicial and require the court to intervene sua sponte to protect the defendant's right to a fair trial." Id. (quoting Downey v. State, 103 Nev. 4, 7, 731 P.2d 350, 352 (1987)). "In order for error to be reversible, it must be

prejudicial and not merely harmless.” Ross, 106 Nev. at 928, 803 P.2d at 1106.

The test is “whether ‘without reservation . . . the verdict would have been the same in the absence of error.’” Id. (quoting Witherow v. State, 104 Nev. 721, 724, 765 P.2d 1153, 1156 (1988)). See also Medina v. State, 122 Nev. 346, 355, 143 P.3d 471, 477 (2006) (quoting Sullivan v. Louisiana, 508 U.S. 275, 279, 113 S. Ct. 2078, 124 L. Ed. 2d 182 (1993)) (“[R]eversal is not required if the State could show 'beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained.'”). “The guilty verdict must be free from doubt.” Id. (citing Flanagan v. State, 104 Nev. 105, 107, 754 P.2d 836, 837 (1988); Yates v. State, 103 Nev. 200, 206, 734 P.2d 1252, 1256 (1987)).

### ARGUMENT

An error is of constitutional dimension if it impairs a defendant’s constitutional rights. Martinoirellan v. State, 131 Nev. Adv. Rep. 6, 343 P.3d 590, 592 (2015). A criminal defendant has a “Sixth Amendment right to a fair trial by an impartial jury.” Id. (quoting Valdez v. State, 124 Nev. 1172, 1185, 196 P.3d 465, 474 (2008)). An error which violates this right is of constitutional dimension. Martinoirellan, 131 Nev. Adv. Rep. 6, 343 P.3d at 592. The presumption of innocence “is a basic component of ‘the fair trial’ guaranteed by the Fourteenth Amendment ‘under our system of criminal justice.’” Watters v. State, 129 Nev. 886, 892, 313 P.3d 243, 248 (2013) (quoting Estelle v. Williams, 425 U.S. 501,

503, 96 S. Ct. 1691, 48 L. Ed. 2d 126 (1976). A presumption-of-innocence error is of constitutional dimension. Id. at 892, 313 P.3d at 248.

A district court may grant a mistrial “... where some prejudice occurs that prevents the defendant from receiving a fair trial.” Jeffries v. State, 133 Nev. Adv. Rep. 47, 397 P.3d 21, 25 (2017) (quoting Rudin v. State, 120 Nev. 121, 144, 86 P.3d 572, 587 (2004)).

The prosecution bears the burden of proving all elements of the offense charged. Barone v. State, 109 Nev. 778, 858 P.2d 27, 28 (1993). “[I]t is generally improper for a prosecutor to comment on the defense’s failure to produce evidence ... as such comment impermissibly shifts the burden of proof to the defense.” Whitney v. State, 112 Nev. 499, 502, 915 P.2d 881, 883 (1996) (citing Ross, 106 Nev. At 927, 803 P.2d at 1105-06). “Such shifting is improper because ‘it suggests to the jury that it was the defendant’s burden to produce proof by explaining the absence of ... evidence. This implication is clearly inaccurate.’” Id. “The tactic of stating that the defendant can produce certain evidence ... is an attempt to shift the burden of proof and is improper.” Harkness v. State, 820 P.2d 759, 761, 107 Nev. 800 (1991) (quoting Barron v. State, 105 Nev. 767, 783 P.2d 444 (1989)).

Here, during the State’s rebuttal argument, the prosecutor commented on defense counsel’s failure to address “any of the evidence” during closing

argument. Specifically, the following occurred during the State’s rebuttal argument:

MR. SCHWARTZ: ... I do think it’s interesting that we go through all these different pictures, all this evidence, all these things. The defense gets up and talks to you about their closing, right? Their case – they don’t show you any of the pictures, right? They don’t go through any of the evidence.

IV AA 532.

The prosecutor’s comments during the State’s rebuttal argument shifted the burden of proof to Monay-Pina. Specifically, the State’s comments suggested to the jury that Monay-Pina should be found guilty, because his attorney failed to address “any of the pictures” or “go through any of the evidence” during defense counsel’s closing argument. Consequently, the district court sustained the co-defendant’s objection to the prosecutor’s comments and admonished the jury regarding the State’s burden of proof. IV AA 533-34.

Unfortunately, however, trial counsel for Monay-Pina failed to object to the prosecutor’s statements, nor did he ask for a bench conference and a curative instruction to the jury, nor did he request a mistrial. Nevertheless, the district court should have protected Monay-Pina’s right to a fair trial by declaring a mistrial sua sponte because the State shifted the burden of proof to Monay-Pina.

## **CONCLUSION**

Based on the foregoing, this Court should reverse Mr. Monay-Pina's conviction.

Dated this 24th day of September, 2018.

NGUYEN & LAY



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## **CERTIFICATE OF COMPLIANCE**

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman.
2. I further certify that this brief does not comply with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more, and contains 2,808 words.
3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 24th day of September, 2018.



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**CERTIFICATE OF ELECTRONIC TRANSMISSION**

The undersigned hereby declares that on September 24, 2018, an electronic copy of the foregoing APPELLANT'S OPENING BRIEF was sent via the master transmission list with the Nevada Supreme Court to the following:

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ADAM PAUL LAXALT  
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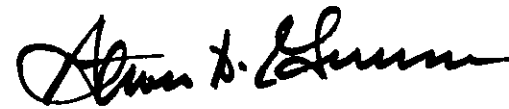
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CLERK OF THE COURT

1 INFM  
STEVEN B. WOLFSON  
2 Clark County District Attorney  
Nevada Bar #001565  
3 MARY KAY HOLTHUS  
Chief Deputy District Attorney  
4 Nevada Bar #3814  
200 Lewis Avenue  
5 Las Vegas, Nevada 89155-2212  
(702) 671-2500  
6 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

7 I.A. 3/7/16  
10:00 AM  
8 HART, ESQ.

9 THE STATE OF NEVADA,  
10 Plaintiff,

CASE NO: C-16-313118-2

11 -vs-

DEPT NO: VI

12 JOSE FERNANDO MONAY-PINA, aka,  
13 Jose Fernando Monaypina, #7028317

14 Defendant.

INFORMATION

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

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

19 That JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina, the  
20 Defendant(s) above named, having committed the crimes of CONSPIRACY TO COMMIT  
21 ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147); BURGLARY  
22 WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS 205.060 - NOC  
23 50426); ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS  
24 200.380, 193.165 - NOC 50138); BATTERY WITH USE OF A DEADLY WEAPON  
25 RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 -  
26 NOC 50226); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B  
27 Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031); COERCION WITH USE  
28 OF A DEADLY WEAPON (Category B Felony - NRS 207.190, 193.165 - NOC 53160);

1 BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony - NRS 200.400.2 -  
2 NOC 50151) and AIMING A FIREARM AT A HUMAN BEING (Gross Misdemeanor - NRS  
3 202.290 - NOC 51447), on or about the 12th day of January, 2016, within the County of Clark,  
4 State of Nevada, contrary to the form, force and effect of statutes in such cases made and  
5 provided, and against the peace and dignity of the State of Nevada,

6 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

7 did willfully, unlawfully, and feloniously conspire with JOSE FERNANDO MONAY-  
8 PINA, aka, Jose Fernando Monaypina and each other to commit a robbery, by the defendants  
9 committing the acts as set forth in Count 2 through 7, said acts being incorporated by this  
10 reference as though fully set forth herein.

11 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

12 did then and there willfully, unlawfully, and feloniously enter, with intent to commit  
13 robbery, that certain business occupied by 7-ELEVEN, located at 5700 West Charleston  
14 Boulevard, Las Vegas, Clark County, Nevada, said Defendant did possess and/or gain  
15 possession of a firearm during the commission of the crime and/or before leaving the structure.

16 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

17 did willfully, unlawfully, and feloniously take personal property, to-wit: lawful money  
18 of the United States, from the person of RICHARD DECAMP, or in his presence, by means  
19 of force or violence, or fear of injury to, and without the consent and against the will of  
20 RICHARD DECAMP, with use of a deadly weapon, to-wit: a firearm.

21 COUNT 4 - BURGLARY WHILE IN POSSESSION OF A FIREARM

22 did then and there willfully, unlawfully, and feloniously enter, with intent to commit  
23 robbery, that certain residence occupied by JAVIER COLEN, located at 504 Brush Street, Las  
24 Vegas, Clark County, Nevada, said Defendant did possess and/or gain possession of a firearm  
25 during the commission of the crime and/or before leaving the structure.

26 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

27 did willfully, unlawfully, and feloniously take personal property, to-wit: wallet and  
28 contents, knives, from the person of JAVIER COLEN, or in his presence, by means of force

1 or violence, or fear of injury to, and without the consent and against the will of JAVIER  
2 COLEN, with use of a deadly weapon, to-wit: a firearm and/or an axe.

3 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
4 SUBSTANTIAL BODILY HARM

5 did willfully, unlawfully, and feloniously use force or violence upon the person of  
6 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: a firearm and/or an  
7 axe, by striking the said JAVIER COLEN about the head and/or body with said firearm,  
8 resulting in substantial bodily harm to JAVIER COLEN; the Defendant(s) being criminally  
9 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly  
10 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
11 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
12 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
13 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
14 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course  
15 of conduct whereby Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando  
16 Monaypina directly committed the crime, Defendant CASIMIRO VENEGAS acting as  
17 lookout and confederate throughout.

18 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

19 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill  
20 JAVIER COLEN, a human being, with use of a deadly weapon, to-wit: an axe, by striking the  
21 said JAVIER COLEN about the head and/or body with said axe; the Defendant(s) being  
22 criminally liable under one or more of the following principles of criminal liability, to-wit: (1)  
23 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this  
24 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,  
25 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)  
26 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,  
27 Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering  
28 into a course of conduct whereby Defendant JOSE FERNANDO MONAY-PINA, aka, Jose

1 Fernando Monaypina directly committed the crime, Defendant CASIMIRO VENEGAS acting  
2 as lookout and confederate throughout.

3 COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
4 SUBSTANTIAL BODILY HARM

5 did willfully, unlawfully, and feloniously use force or violence upon the person of  
6 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the  
7 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily  
8 harm to JAVIER COLEN.

9 COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
10 SUBSTANTIAL BODILY HARM

11 did willfully, unlawfully, and feloniously use force or violence upon the person of  
12 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the  
13 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily  
14 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the  
15 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or  
16 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
17 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
18 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
19 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
20 conspiring in the following manner, to wit: by entering into a course of conduct whereby  
21 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina directly  
22 committed the crime, Defendant CASIMIRO VENEGAS acting as lookout and confederate  
23 throughout.

24 COUNT 10- BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
25 SUBSTANTIAL BODILY HARM

26 did willfully, unlawfully, and feloniously use force or violence upon the person of  
27 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the  
28 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily

1 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the  
2 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or  
3 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
4 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
5 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
6 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
7 conspiring in the following manner, to wit: by entering into a course of conduct whereby  
8 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina directly  
9 committed the crime, Defendant CASIMIRO VENEGAS acting as lookout and confederate  
10 throughout.

11 COUNT 11 - AIMING A FIREARM AT A HUMAN BEING

12 did then and there willfully and unlawfully aim any gun, pistol, revolver, or other  
13 firearm, whether loaded or not, at or toward a human being, to-wit: ADRIANA COLON  
14 and/or LIZBETH COLON and/or SAMANTHA ABANA and/or CAESAR ABANA.

15 COUNT 12 - COERCION WITH USE OF A DEADLY WEAPON

16 did then and there willfully, unlawfully, and feloniously use physical force, or the  
17 immediate threat of such force, against ADRIANA COLON and/or LIZBETH COLON and/or  
18 SAMANTHA ABANA and/or CAESAR ABANA and/or JAVIER COLEN, with intent to  
19 compel them to do, or abstain from doing, an act which they had a right to do, or abstain from  
20 doing with use of a deadly weapon, to-wit: a firearm and/or axe, by keeping them from leaving  
21 and/or coming to aid of the said JAVIER COLEN; the Defendant(s) being criminally liable  
22 under one or more of the following principles of criminal liability, to-wit: (1) by directly  
23 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
24 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
25 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
26 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
27 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course  
28 of conduct whereby Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando


Monaypina directly committed the crime, Defendant CASIMIRO VENEGAS acting as lookout and confederate throughout.

COUNT 13 - BATTERY WITH INTENT TO COMMIT A CRIME

did then and there willfully, unlawfully, and feloniously use force or violence upon the person of another, to-wit: JAVIER COLEN, with intent to commit robbery with substantial bodily harm by striking the said JAVIER COLEN about the head and/or body with a firearm and/or axe; the Defendant(s) being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with the intent that this crime be committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course of conduct whereby Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina directly committed the crime, Defendant CASIMIRO VENEGAS acting as lookout and confederate throughout.

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

BY

  
MARY KAY HOLTHUS  
Chief Deputy District Attorney  
Nevada Bar #3814

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

NAME

ADDRESS

CUSTODIAN OF RECORDS  
OR DESIGNEE

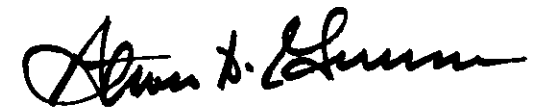
Clark County Detention Center,  
330 S. Casino Center Blvd., Las Vegas, NV

CUSTODIAN OF RECORDS  
OR DESIGNEE

LVMPD Communications,  
400 E. Stewart, Las Vegas, NV

1	CUSTODIAN OF RECORDS	LVMPD Dispatch,
2	OR DESIGNEE	400 E. Stewart, Las Vegas, NV
3	CUSTODIAN OF RECORDS	LVMPD Records,
4	OR DESIGNEE	400 E. Stewart, Las Vegas, NV
5	CUSTODIAN OF RECORDS	University Medical Center (UMC),
6	OR DESIGNEE	1800 W. Charleston Blvd., LVNV
7	TREATING PHYSICIAN	University Medical Center (UMC),
8		1800 W. Charleston Blvd., LVNV
9	AGUIRRE, A.	LVMPD #9645
10	CARTER, M.	unknown.
11	COLON, Javier	C/O District Attorney's Office
12	DECAMP, Richard	C/O District Attorney's Office
13	DURON, I.	LVMPD #14809
14	FELABOM, A.	LVMPD #8427
15	LEHMANN, S.	LVMPD #13885
16	SIMMONS, I.	LVMPD #15067
17	SIMMS, J.	LVMPD #15111
18	SMITH, T.	LVMPD #5267
19	SPURLING, J.	LVMPD #13647
20	TOMS, E.	LVMPD #5793
21	VAANDERING, B.	LVMPD #13575
22	VENEGAS, Casimiro	1759 Santa Margarita St., #123, LVNV
23	WATTS, Joseph	DA Investigator and/or Designee
24		
25		
26		
27	16F00568B /cmj/L3	
28	LVMPD EV#1601120450; 1601120494 (TK14)	





CLERK OF THE COURT

NWEW  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MARY KAY HOLTHUS  
Chief Deputy District Attorney  
Nevada Bar #3814  
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-16-313118-2

JOSE FERNANDO MONAY-PINA, aka,  
Jose Fernando Monaypina, #7028317

DEPT NO: VI

Defendant.

NOTICE OF EXPERT WITNESSES  
[NRS 174.234(2)]

TO: JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina,  
Defendant; and

TO: MARTY HART, ESQ., Counsel of Record:

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

VAANDERING, BRENDA, P#13575 or Designee - Crime Scene Analyst - Las Vegas  
Metropolitan Police Department. She is an expert in the area of the identification,  
documentation, collection and preservation of evidence and will give opinions related thereto.  
She is expected to testify regarding the identification, documentation, collection and  
preservation of evidence in this case.

FELABOM, ADAM, P#8427 or Designee - Crime Scene Analyst - Las Vegas  
Metropolitan Police Department. He is an expert in the area of the identification,

1 documentation, collection and preservation of evidence and will give opinions related thereto.  
2 He is expected to testify regarding the identification, documentation, collection and  
3 preservation of evidence in this case.

4 JOHN McCOURT, JR. - is expected to testify regarding the treatment of injuries  
5 sustained by the victim, as it relates to this case.

6 HALL, LINSEY – Registered Nurse - is expected to testify regarding the treatment of  
7 injuries sustained by the victim, as it relates to this case.

8 SHRUM, SHELLY K., P#7917 - Crime Scene Analyst - Las Vegas Metropolitan Police  
9 Department. She is an expert in the area of the identification, documentation, collection and  
10 preservation of evidence and will give opinions related thereto. She is expected to testify  
11 regarding the identification, documentation, collection and preservation of evidence in this  
12 case.

13 GRAMMAS, KRISTIN, P#7808 - Crime Scene Analyst - Las Vegas Metropolitan  
14 Police Department. She is an expert in the area of the identification, documentation, collection  
15 and preservation of evidence and will give opinions related thereto. She is expected to testify  
16 regarding the identification, documentation, collection and preservation of evidence in this  
17 case.

18 GAUTHIER, KELLIE, LVMPD #8691, is employed as a Forensic Scientist II or  
19 Designee, with the Las Vegas Metropolitan Police Department. She will testify as an expert  
20 as to the procedures, techniques and science employed in DNA analysis, all procedures  
21 employed in this case and reports provided.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

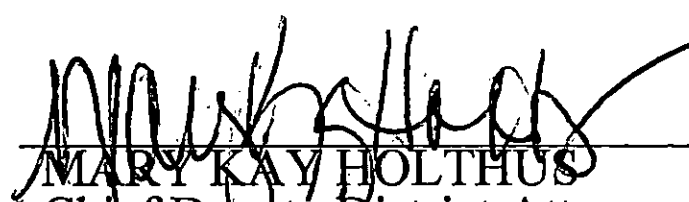
1 These witnesses are in addition to those witnesses endorsed on the Information or  
2 Indictment and any other witnesses for which a separate Notice of Witnesses and/or Expert  
3 Witnesses has been filed.

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

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

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

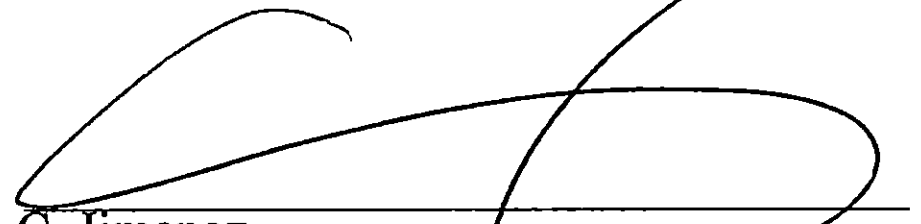
10 BY

  
11 MARY KAY HOLTHUS  
12 Chief Deputy District Attorney  
13 Nevada Bar #3814

14 CERTIFICATE OF ELECTRONIC FILING

15 I hereby certify that service of Notice of Expert Witnesses, was made this 8th day of  
16 April, 2016, by Electronic Filing to:

17 MARTY HART, ESQ.  
18 mh@martinlaw.com

19   
20 C. Jimenez  
21 Secretary for the District Attorney's Office

22  
23  
24  
25  
26  
27  
28 cmj/L3

*Curriculum Vitae*

**Las Vegas Criminalistics Bureau  
Statement of Qualifications**

Name: VAANDERING, Brenda

P# 13575

Date: 04-10-13

<b>CURRENT CLASSIFICATION</b>			
	<i>Classification</i>	<i>Minimum Qualifications</i>	
	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene	
	Crime Scene Analyst II	18 months - two (2) years continuous service with LVMPD as a Crime Scene Analyst I.	
X	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.	
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.	
<b>FORMAL EDUCATION</b>			
	<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
	Western Oregon University	Forensic Chemistry	Bachelor's of Science / 06-2007
<b>TESTIMONY</b>			
<i>Yes</i>	<i>No</i>		
X		District Court, Justice Court	
<b>EMPLOYMENT HISTORY</b>			
	<i>Employer</i>	<i>Title</i>	<i>Date</i>
	LVMPD	CSA I	09-02-08 to 09-02-10
	LVMPD	CSA II	09-02-10 to 10-27-12
	LVMPD	Senior CSA	10-27-12 to present

AA00000411

*Curriculum Vitae*

**Las Vegas Criminalistics Bureau  
Statement of Qualifications**

Name: FELABOM, Adam

P#8427

Date: 04/04/13

<b>CURRENT CLASSIFICATION</b>			
	<i>Classification</i>	<i>Minimum Qualifications</i>	
	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene Investigation.	
	Crime Scene Analyst II	18 months - 2 years continuous service with LVMPD as a Crime Scene Analyst I.	
X	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.	
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.	
<b>FORMAL EDUCATION</b>			
	<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
	Grace College	Criminal Justice	B.S./2004
<b>TESTIMONY</b>			
	<i>Yes</i>	<i>No</i>	
	X		Grand Jury
	X		District Court
	X		Justice Court
<b>EMPLOYMENT HISTORY</b>			
	<i>Employer</i>	<i>Title</i>	<i>Date</i>
	LVMPD	CSA I	08-30-08 to 08-30-10
	LVMPD	CSA II	08-30-10 to 10-27-12
	LVMPD	Senior CSA	10-27-12 to Present

AA0000042

*Curriculum Vitae*

**Las Vegas Criminalistics Bureau  
Statement of Qualifications**

Name: SHRUM, Shelly

P# 7917

Date: 05/01/13

<b>CURRENT CLASSIFICATION</b>			
	<i>Classification</i>	<i>Minimum Qualifications</i>	
	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene Investigation.	
	Crime Scene Analyst II	18 months - 2 years continuous service with LVMPD as a Crime Scene Analyst I.	
X	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.	
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.	
<b>FORMAL EDUCATION</b>			
	<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
	Chadron State College	Human Biology	Bachelors Degree 1995
	University of Wyoming	Medical Technology	Bachelors Degree 1996
	University of New Haven	Forensic Science/Fire Science	Master Degree 1999
<b>TESTIMONY</b>			
	<i>Yes</i>	<i>No</i>	
	X		District Court, Justice Court, Grand Jury, Family Court
<b>EMPLOYMENT HISTORY</b>			
	<i>Employer</i>	<i>Title</i>	<i>Date</i>
	LVMPD	Sr. Crime Scene Analyst	09-25-07 to Present
	LVMPD	CSA I / II	03-24-03 to 09-25-07

AA00000413

*Curriculum Vitae*

**Las Vegas Criminalistics Bureau  
Statement of Qualifications**

Name: GRAMMAS, Kristin

P# 7808

Date: 05-01-13

<b>CURRENT CLASSIFICATION</b>			
	<i>Classification</i>	<i>Minimum Qualifications</i>	
	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene Investigation.	
	Crime Scene Analyst II	18 months - 2 years continuous service with LVMPD as a Crime Scene Analyst I.	
X	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.	
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.	
<b>FORMAL EDUCATION</b>			
	<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
	CCSN/UNLV	Criminal Justice/Anthropology	94 Credit Hours
<b>TESTIMONY</b>			
	<i>Yes</i>	<i>No</i>	
	X		District Court, Justice Court, Grand Jury, Juvenile Court
<b>EMPLOYMENT HISTORY</b>			
	<i>Employer</i>	<i>Title</i>	<i>Date</i>
	LVMPD	Senior Crime Scene Analyst	01-27-07 to Present
	LVMPD	CSA I / II	08-21-02 to 01-27-07

AA00009414

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
FORENSIC LABORATORY  
CURRICULUM VITAE**

Date: 03/14/16

Name: Kellie M. (Wales) Gauthier P#: 8691 Classification: Biology/DNA Forensic Lab Manager

Current Discipline of Assignment: DNA/Biology Detail

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Toxicology/Blood Alcohol	
Toolmarks		Toxicology/Breath Alcohol	
Trace Evidence		Toxicology/Drugs	
Arson Analysis		Firearms	
Latent Prints		Crime Scene Investigations	
Serology	X	Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	X
Quality Assurance		Technical Support /	X

EDUCATION			
Institution	Dates Attended	Major	Degree Completed
University of West Florida	8/98 - 5/02	Biology	B.S.

ADDITIONAL TRAINING / SEMINARS			
Course / Seminar	Location	Dates	
Annual Review of DNA Data Accepted at NDIS	Las Vegas, NV (Online Course)	03/07/16	
STRmix	Las Vegas, NV	09/17-09/18	
Conference: 2015 ASCLD Symposium	Washington, DC	04/26-30/15	
Workshop: DNA Mixture Interpretation	Washington, DC	04/27/15	
Workshop: Management of Federal Awards for Forensic Science Laboratories	Washington, DC	04/27/15	
Annual Review of DNA Data Accepted at NDIS	Las Vegas, NV (Online Course)	01/15/15	

AA000045



ADDITIONAL TRAINING / SEMINARS			
	Course / Seminar	Location	Dates
	Fair and Impartial Policing	Las Vegas, NV	11/26/14
	ICS 700: National Incident Management System (FEMA 700)	Las Vegas, NV (Online Course)	10/05/14
	ICS 200: Incident Command System (FEMA 200)	Las Vegas, NV (Online Course)	10/05/14
	STRmix Training Workshop	Las Vegas, NV	09/22/14-25/14
	ICS 100: Incident Command Systems (FEMA100)	Las Vegas, NV (Online Course)	08/31/14
	2014 Biennial Inclusive Leadership	Las Vegas, NV	08/29/14
	Understanding Death and Grief	Las Vegas, NV	08/20/14
	EEOC for Supervisors	Las Vegas, NV	02/12/14
	Annual Review of DNA Data Accepted at NDIS	Las Vegas, NV (Online Course)	12/17/13
	Leadership Inside Out	Las Vegas, NV	12/12/13
	CJIS Security Awareness Training	Las Vegas, NV	12/11/13
	19 <sup>th</sup> National CODIS Conference	Norman, OK	11/19/13-11/20/13
	Communication Skills	Las Vegas, NV	10/16/13
	Technical & Admin. Review Training	Las Vegas, NV	10/15/13
	Workshop: Advanced Topics in Forensic Mixture Analysis: Statistics to Technology	Atlanta, GA	10/07/13
	Conference: 24 <sup>th</sup> International Symposium on Human Identification	Atlanta, GA	10/7/13-10/10/13
	Step-Up Mentoring Program - Mentor	Las Vegas, NV	09/12/13
	Stress Management for Supervisors	Las Vegas, NV	09/11/13
	Acting Supervisor Skills	Las Vegas, NV	09/04/13
	DNA Mixture Interpretation Workshop & Webcast	Las Vegas, NV	04/12/13
	Annual Review of DNA Data Accepted at NDIS	Las Vegas, NV (Online Course)	04/03/13

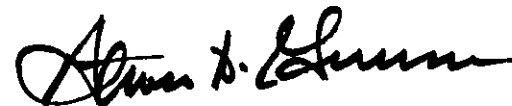
ADDITIONAL TRAINING / SEMINARS			
	Course / Seminar	Location	Dates
Internal	Auditing to ISO/IEC 17025	Las Vegas, NV	03/11/13-03/13/13
18 <sup>th</sup>	National CODIS Conference	Norman, OK	11/13/12-11/14/12
	Forensic Relationship Statistics Training	Las Vegas, NV	08/12
	Leadership and Supervisory Skills for Women	Las Vegas, NV	03/27/12
CODIS	7.0 Computer Based Training (CBT) and Instructor Led Training (ILT)	Portland, OR	03/20/12-03/22/12
	California Association for Crime Laboratory Directors (CACLD)	Las Vegas, NV	03/08/12
How to	Be a Super Communicator	Las Vegas, NV	01/18/12
	Interpreting DNA Mixtures	Las Vegas, NV	01/25/12
CODIS	7.0 Computer Based Training	Las Vegas, NV	01/12
Annual	Review of DNA Data Accepted at NDIS	Las Vegas, NV (Online Course)	12/28/11
17 <sup>th</sup>	National CODIS Conference	Jacksonville, FL	11/14/11-11/16/11
	Quality Assurance Standards/Auditor Training	Las Vegas, NV	02/22/11
CSI Effect: Maximizing The Potential Of Forensics DNA		Las Vegas, NV	02/03/11
Annual	Review of DNA Data Accepted at NDIS	Las Vegas, NV (Online Course)	01/05/11
	DNA Mixture Interpretation and Statistics	Las Vegas, NV	07/15/10
Annual	Review of DNA Data Accepted at NDIS	Las Vegas, NV (Online Course)	01/10
	ASCLD/LAB- International Preparation Course	Henderson, NV	12/01/09-12/03/09
	Cold Case Analysis Training	Chicago, IL	07/15/09-07/16/09
	Hair Evaluation for DNA Analysis	Las Vegas, NV (Online Course)	01/14/09
Annual	Review of DNA Data Accepted at NDIS	Las Vegas, NV (Online Course)	11/18/08

ADDITIONAL TRAINING / SEMINARS			
	Course / Seminar	Location	Dates
	Seminar: The Parachute Case	Washington DC	02/22/08
	Seminar: Bringing Forensic Science to the Battlefield	Washington DC	02/21/08
	Seminar: Human Identification in a Post 9/11 World	Washington DC	02/20/08
	Workshop: DNA Mixture Interpretation	Washington DC	02/19/08
	Conference: American Academy of Forensic Sciences 60 <sup>th</sup> Annual Meeting	Washington DC	02/19/08-02/23/08
	Annual Review of DNA Data Accepted at NDIS	Las Vegas, NV	01/31/08
	Applied Biosystems Training on 3130xl Genetic Analyzer	Las Vegas, NV	11/01/07
	Workshop: Forensic DNA Profiling	Las Vegas, NV	01/25/07-01/26/07
	Workshop: Forensic Population Genetics and Statistics	Las Vegas, NV	11/27/06
	FBI CODIS Training	McLean, VA	11/06
	Conference: Bode Advanced DNA Technical Workshop	Captiva Island, FL	06/06
	Workshop: Presenting Statistics in the Courtroom	Captiva Island, FL	06/06
	Training: Differential Extraction	Las Vegas, NV	06/06
	Training: Serological Techniques and DNA Screening - Colleen Proffitt, MFS	Las Vegas, NV	5/06
	Conference: American Academy of Forensic Sciences 58 <sup>th</sup> Annual Meeting	Seattle, WA	2/20/06-2/25/06
	Seminar: Racial Profiling SNP's	Seattle, WA	2/23/06
	Seminar: The Atypical Serial Killer	Seattle, WA	2/22/06
	Seminar: Bioterrorism Mass Disasters	Seattle, WA	2/21/06
	Workshop: Sexual Homicide - Fantasy Becomes Reality	Seattle, WA	2/21/06
	Workshop: Advanced Topics in STR DNA Analysis	Seattle, WA	2/20/06

ADDITIONAL TRAINING / SEMINARS			
	Course / Seminar	Location	Dates
	National Incident Management System (NIMS) an Introduction	Las Vegas, NV	8/05
	Drivers Training II	Las Vegas, NV	7/05
	Workshop: Future Trends in Forensic DNA Technology - Applied Biosystems	Orlando, FL	9/04
	Workshop: Southern Association of Forensic Scientists (SAFS) - Paternity Index DNA Statistics	Orlando, FL	9/04
	Workshop: Forensic Epidemiology - Joint Training for Law Enforcement Hazardous Materials and Public Health Officials on Investigative Response to Bio-terrorism	Orlando, FL	7/04
	Forensic Technology Training - Florida Department of Law Enforcement	Orlando, FL	4/04
	Biology Discipline Meeting	Tampa, FL	3/04
	Workshop: Future Trends in Forensic DNA Technology - Applied Biosystems	Orlando, FL	9/03
COURTROOM EXPERIENCE			
	Court	Discipline	Number of Times
	Clark County: Justice, District	DNA	60
EMPLOYMENT HISTORY			
	Employer	Job Title	Date
	Las Vegas Metropolitan Police Department	Biology/DNA Forensic Lab Manager	05/14 - present
	Las Vegas Metropolitan Police Department	Forensic Scientist	5/05 – 05/14
	Florida Dept. of Law Enforcement	Forensic Technologist	8/03 - 5/05
PROFESSIONAL AFFILIATIONS			
	Organization	Date(s)	
	American Academy of Forensic Sciences - Trainee Affiliate	10/06 - 12/09	

CURRICULUM VITAE: GAUTHIER

	PUBLICATIONS / PRESENTATIONS:
None	
	OTHER QUALIFICATIONS:
None	



CLERK OF THE COURT

NWEW  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MARY KAY HOLTHUS  
Chief Deputy District Attorney  
Nevada Bar #3814  
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-

JOSE FERNANDO MONAY-PINA, aka,  
Jose Fernando Monaypina, #7028317  
Defendant.

CASE NO: C-16-313,118-2

DEPT NO: VI

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

TO: JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina,  
Defendant; and

TO: MARTY HART, 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:

NAME

ADDRESS

CUSTODIAN OF RECORDS  
OR DESIGNEE

Clark County Detention Center,  
330 S. Casino Center Blvd., LVNV

CUSTODIAN OF RECORDS  
OR DESIGNEE

LVMPD Dispatch,  
400 E. Stewart, Las Vegas, NV

CUSTODIAN OF RECORDS  
OR DESIGNEE

LVMPD Communications,  
400 E. Stewart, Las Vegas, NV

1	CUSTODIAN OF RECORDS	LVMPD Records,
2	OR DESIGNEE	400 E. Stewart, Las Vegas, NV
3	CUSTODIAN OF RECORDS	University Medical Center (UMC)
4	OR DESIGNEE	
5	ABANA, Caesar	4480 W. Sirius Ave., #238, LVNV
6	ABANA, Samantha	4480 W. Sirius Ave., #238, LVNV
7	AGUIRRE, A.	LVMPD #9645
8	CARMICHAEL, Patrick	7-ELEVEN – Manager,
9		5700 W. Charleston Blvd., LVNV
10	CARTER, M.	LVMPD #14048
11	COLON, Adrian	4480 W. Sirius Ave., #238, LVNV
12	COLON, Javier	C/O District Attorney's Office
13	COLON, Lizbeth	4480 W. Sirius Ave., #238, LVNV
14	DECAMP, Richard	C/O District Attorney's Office
15	DURON, I.	LVMPD #14809
16	FELABOM, A.	LVMPD #8427
17	GAUTHIER, K.	LVMPD #8691
18	GRAMMAS, K.	LVMPD #7808
19	HALL, Linsey, RN	University Medical Center (UMC)
20	LEHMANN, S.	LVMPD #13885
21	MCCOURT, JOHN, JR.	Treating Physician (UMC)
22	MONAY-PINA, Jose Fernando	908 N. Jones Blvd., Las Vegas, NV
23	PARAMEDICS	American Medical Response, LVNV
24	SHRUM, S.	LVMPD #7917
25	SIMMONS, J.	LVMPD #15067
26	SIMMS, J.	LVMPD #15111
27	SMITH, T.	LVMPD #5267
28	SPURLING, J.	LVMPD #13647

1 TOMS, E.

LVMPD #5793

2 VAANDERING, B.

LVMPD #13575

3 WATTS, Joseph

DA Investigator and/or Designee

4  
5 These witnesses are in addition to those witnesses endorsed on the Information or  
6 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert  
7 Witnesses has been filed.

8 STEVEN B. WOLFSON  
9 DISTRICT ATTORNEY  
Nevada Bar #001565

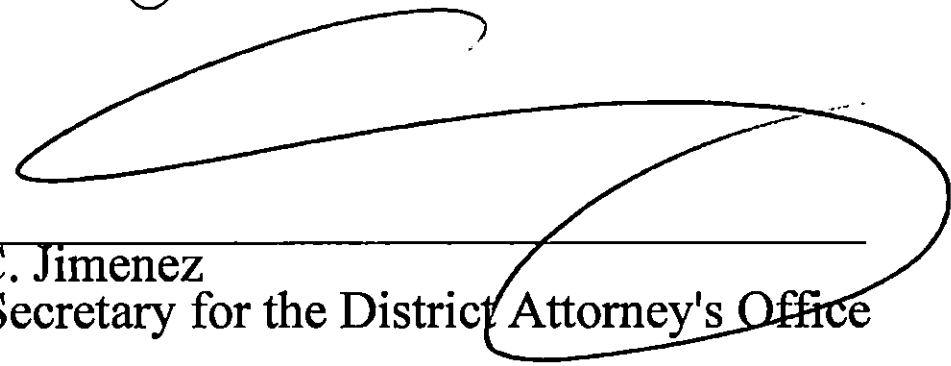
10 BY   
11

MARY KAY HOLTHUS  
Chief Deputy District Attorney  
Nevada Bar #3814

13  
14  
15 CERTIFICATE OF ELECTRONIC FILING

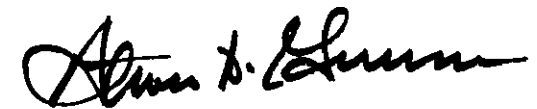
16 I hereby certify that service of Notice of Witnesses, was made this 8th day of April,  
17 2016, by Electronic Filing to:

18 MARTY HART, ESQ.  
19 mh@martinlaw.com

20   
21  
22 C. Jimenez  
Secretary for the District Attorney's Office

23  
24  
25  
26  
27  
28 cmj/L3





CLERK OF THE COURT

NWEW  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MARY KAY HOLTHUS  
Chief Deputy District Attorney  
Nevada Bar #3814  
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-16-313118-2

JOSE FERNANDO MONAY-PINA, aka,  
Jose Fernando Monaypina, #7028317

DEPT NO: VI

Defendant.

AMENDED  
NOTICE OF EXPERT WITNESSES  
[NRS 174.234(2)]

TO: JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina,  
Defendant; and

TO: THOMAS D. BOLEY, ESQ., Counsel of Record:

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

**\*Denotes Additional Expert Witness**

VAANDERING, BRENDA, P#13575 or Designee - Crime Scene Analyst - Las Vegas  
Metropolitan Police Department. She is an expert in the area of the identification,  
documentation, collection and preservation of evidence and will give opinions related thereto.  
She is expected to testify regarding the identification, documentation, collection and  
preservation of evidence in this case.

///

1        FELABOM, ADAM, P#8427 or Designee - Crime Scene Analyst - Las Vegas  
2 Metropolitan Police Department. He is an expert in the area of the identification,  
3 documentation, collection and preservation of evidence and will give opinions related thereto.  
4 He is expected to testify regarding the identification, documentation, collection and  
5 preservation of evidence in this case.

6        JOHN McCOURT, JR. - is expected to testify regarding the treatment of injuries  
7 sustained by the victim, as it relates to this case.

8        HALL, LINSEY – Registered Nurse - is expected to testify regarding the treatment of  
9 injuries sustained by the victim, as it relates to this case.

10       SHRUM, SHELLY K., P#7917 - Crime Scene Analyst - Las Vegas Metropolitan Police  
11 Department. She is an expert in the area of the identification, documentation, collection and  
12 preservation of evidence and will give opinions related thereto. She is expected to testify  
13 regarding the identification, documentation, collection and preservation of evidence in this  
14 case.

15       GRAMMAS, KRISTIN, P#7808 - Crime Scene Analyst - Las Vegas Metropolitan  
16 Police Department. She is an expert in the area of the identification, documentation, collection  
17 and preservation of evidence and will give opinions related thereto. She is expected to testify  
18 regarding the identification, documentation, collection and preservation of evidence in this  
19 case.

20       GAUTHIER, KELLIE, LVMPD #8691, is employed as a Forensic Scientist II or  
21 Designee, with the Las Vegas Metropolitan Police Department. She will testify as an expert  
22 as to the procedures, techniques and science employed in DNA analysis, all procedures  
23 employed in this case and reports provided.

24       \*DANNENBERGER, KIMBERLY, #13772, is employed as a Forensic Scientist II or  
25 Designee, with the Las Vegas Metropolitan Police Department. She will testify as an expert  
26 as to the procedures, techniques and science employed in DNA existence, DNA comparisons  
27 and DNA identifications, all procedures employed in this case and reports provided.

28       ///

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

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

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

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

10 BY

11   
12 BRYAN SCHWARTZ  
13 Deputy District Attorney  
14 Nevada Bar 013244

15 CERTIFICATE OF ELECTRONIC FILING

16 I hereby certify that service of Amended Notice of Expert Witnesses, was made this  
17 22ND day of December, 2016, by Electronic Filing to:

18 THOMAS D. BOLEY, ESQ.  
19 t.boleyn@hbalawfirm.com;

20   
21 P. Manis  
22 Secretary for the District Attorney's Office  
23  
24  
25  
26  
27

28 pm/L-2

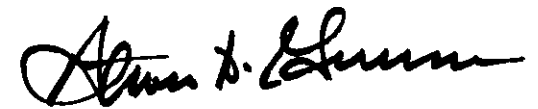
**LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
FORENSIC LABORATORY  
CURRICULUM VITAE**

Date: 04.29.2014Name: Kimberly Dannenberger P#: 13772 Classification: Forensic Scientist IICurrent Discipline of Assignment: Biology/DNA

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Toxicology/Blood Alcohol	
Toolmarks		Toxicology/Breath Alcohol	
Trace Evidence		Toxicology/Drugs	
Arson Analysis		Firearms	
Latent Prints		Crime Scene Investigations	
Serology	X	Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	X
Footwear Impressions		Technical Support / Quality	
Quality Assurance			
EDUCATION			
<i>Institution</i>	<i>Dates Attended</i>	<i>Major</i>	<i>Degree Completed</i>
University Nevada, Reno	08/2002-05/2003	Nutritional Sciences	No
University Nevada, Las Vegas	08/2003-05/2008	Cell/ Molecular Biology	Yes
ADDITIONAL TRAINING / SEMINARS			
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>	
NIST DNA Analyst Webinar Series: Probabilistic Genotyping and Software Programs (Part 1)	Las Vegas, NV	05/28/14	
2014 Annual Review of DNA Data accepted at NDIS	Las Vegas, NV	12/23/13	
Technical & Administrative Review Training to Make Casework Easier	Las Vegas, NV	10/15/13	
2013 Annual Review of DNA Data accepted at NDIS (online)	Las Vegas, NV	04/23/13	

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
NIST DNA Mixture Interpretation Workshop - Webcast	Las Vegas, NV	04/12/13
AAFS Conference: Science in the Courtroom, DNA in Real Time: Amplifying Productivity in today's Forensic Laboratory, and general session talks	Washington D.C.	02/18/13-02/23/13
Promega Conference: How to tackle a DNA backlog, Mixture interpretation workshop, and general session talks	Nashville, TN	10/14/12-10/18/12
Forensic relationship statistic training	Las Vegas, NV	08/23/12
Interpreting DNA Mixtures	Las Vegas, NV	01/25/12
Annual Review of NDIS	Las Vegas, NV	01/19/12
Emerging DNA Technologies	Huntington, WV	12/05/11-12/07/11
2011 NSDAI Quarterly Training	Las Vegas, NV	07/13/11
Testifying in Court	Las Vegas, NV	05/02/11
NCIC Training	Las Vegas, NV	09/24/10
Driver's Training	Las Vegas, NV	04/09
New Hire Orientation	Las Vegas, NV	01/09
COURTROOM EXPERIENCE		
<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
Las Vegas Metropolitan Police Department	Forensic Scientist II	03/14 - Present
Las Vegas Metropolitan Police Department	Forensic Scientist I	03/12 – 03/14
Las Vegas Metropolitan Police Department	Forensic Scientist Trainee	03/11 – 03/12
Las Vegas Metropolitan Police Department	Forensic Lab Aide	12/08-03/11

PROFESSIONAL AFFILIATIONS	
Organization	Date(s)
American Academy of Forensic Science – Associate Member	02-2014-present
American Academy of Forensic Science – Trainee Affiliate	02.2013 – 02.2014
PUBLICATIONS / PRESENTATIONS:	
OTHER QUALIFICATIONS:	



CLERK OF THE COURT

**SLOW**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
MARY KAY HOLTHUS  
Chief Deputy District Attorney  
Nevada Bar #3814  
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-

JOSE FERNANDO MONAY-PINA, aka,  
Jose Fernando Monaypina, #7028317  
Defendant.

CASE NO: C-16-313118-2

DEPT NO: VI

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

TO: JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina,  
Defendant; and

TO: MARTY HART, 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:

NAME

ADDRESS

CUSTODIAN OF RECORDS  
OR DESIGNEE

Clark County Detention Center,  
330 S. Casino Center Blvd., LVNV

CUSTODIAN OF RECORDS  
OR DESIGNEE

LVMPD Dispatch,  
400 E. Stewart, Las Vegas, NV

CUSTODIAN OF RECORDS  
OR DESIGNEE

LVMPD Communications,  
400 E. Stewart, Las Vegas, NV

1	CUSTODIAN OF RECORDS	LVMPD Records,
2	OR DESIGNEE	400 E. Stewart, Las Vegas, NV
3	CUSTODIAN OF RECORDS	University Medical Center (UMC)
4	OR DESIGNEE	
5	ABANA, Caesar	4480 W. Sirius Ave., #238, LVNV
6	ABANA, Samantha	4480 W. Sirius Ave., #238, LVNV
7	AGUIRRE, A.	LVMPD #9645
8	BURRUS, R.	LVMPD #6610
9	CARMICHAEL, Patrick	7-ELEVEN – Manager,
10		5700 W. Charleston Blvd., LVNV
11	CARTER, M.	LVMPD #14048
12	COLON, Adrian	4480 W. Sirius Ave., #238, LVNV
13	COLON, Javier	C/O District Attorney's Office
14	COLON, Lizbeth	4480 W. Sirius Ave., #238, LVNV
15	CONNELL, S.	LVMPD #6991
16	DANNENBERGER, K.	LVMPD #13772
17	DECAMP, Richard	C/O District Attorney's Office
18	DURON, I.	LVMPD #14809
19	FELABOM, A.	LVMPD #8427
20	GAUTHIER, K.	LVMPD #8691
21	GRAMMAS, K.	LVMPD #7808
22	GYGER, D.	LVMPD #8750
23	HALL, Linsey, RN	University Medical Center (UMC)
24	LAYTON, D.	LVMPD #4221
25	LEHMANN, S.	LVMPD #13885
26	MARANO, M.	LVMPD #14007
27	MCCOURT, JOHN, JR.	Treating Physician (UMC)
28	MELVIN, J.	LVMPD #13392



1 MONAY-PINA, Jose Fernando

908 N. Jones Blvd., Las Vegas, NV

2 MUIS, T.

LVMPD #14826

3 PARAMEDICS

American Medical Response, LVNV

4 SHRUM, S.

LVMPD #7917

5 SIMMONS, J.

LVMPD #15067

6 SIMMS, J.

LVMPD #15111

7 SMITH, T.

LVMPD #5267

8 SPURLING, J.

LVMPD #13647

9 TOMS, E.

LVMPD #5793

10 TRACY, G.

LVMPD #9706

11 VAANDERING, B.

LVMPD #13575

12 WARREN, B.

LVMPD #12893

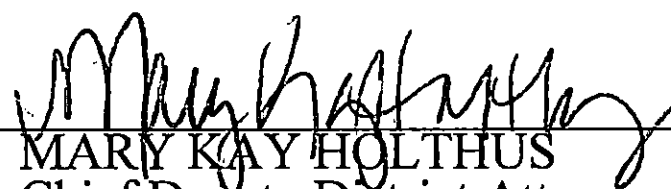
13 WATTS, Joseph

DA Investigator and/or Designee

14  
15 These witnesses are in addition to those witnesses endorsed on the Information or  
16 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert  
17 Witnesses has been filed.

18 STEVEN B. WOLFSON  
19 DISTRICT ATTORNEY  
Nevada Bar #001565

20  
21 BY

  
22 MARY KAY HOLTHUS  
23 Chief Deputy District Attorney  
24 Nevada Bar #3814

25 ///

26 ///

27 ///

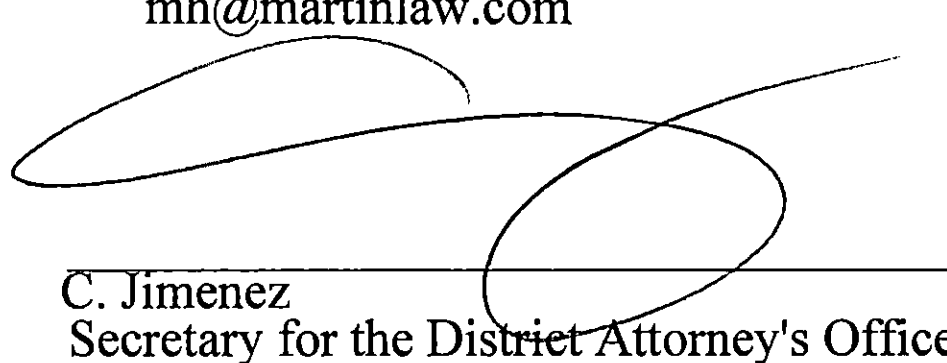
28 ///

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of Supplemental Notice of Witnesses, was made this 6<sup>th</sup>  
day of ~~April, 2016~~, by Electronic Filing to:

June  
2017

MARTY HART, ESQ.  
mh@martinlaw.com

  
C. Jimenez  
Secretary for the District Attorney's Office

cmj/L3



CLERK OF THE COURT

1 **ROC**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 BRYAN SCHWARTZ  
6 Deputy District Attorney  
7 Nevada Bar #13244  
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 ~~CASIMIRO VENEGAS, #2666143~~  
13 ~~JOSE FERNANDO MONAY-PINA~~  
14 Defendant.

CASE NO: C-16-313118-2

DEPT NO: VI

RECEIPT OF COPY

17 The following items of discovery are hereby provided to you:

- 18 1. LVMPD photos from event #s 160112-0450 and 160112-0494
- 19 2. Adriana Colen transcribed interview, 1/20/16
- 20 3. Buccal Swab Search Warrant – Monay-Pina
- 21 4. Buccal Swab Search Warrant – Venegas
- 22 5. Buccal Swab Search Warrant Return – Monay-Pina
- 23 6. Buccal Swab Search Warrant Return – Venegas
- 24 7. Javier Colen medical records
- 25 8. Javier Colen transcribed interview, 1/20/16
- 26 9. LVMPD arrest report
- 27 10. LVMPD CAD Log
- 28 11. LVMPD crime scene investigations section field notes
12. LVMPD crime scene report (504 Brush St.)

AA0000064

13. LVMPD crime scene report (510 Brush St.)
14. LVMPD crime scene report (5700 Charleston)
15. LVMPD crime scene report (UMC)
16. LVMPD declaration of arrest
17. LVMPD detention services – Venegas
18. LVMPD evidence impound report (504 Brush St.)
19. LVMPD evidence impound report (510 Brush St.)
20. LVMPD Forensic Laboratory report of examination, DNA, 8/17/16
21. LVMPD Forensic Laboratory report of examination, fingerprint, 4/27/16
22. LVMPD incident report (Officer Simmons)
23. LVMPD incident report (Officer Spurling)
24. LVMPD incident report (Officer Spurling) #2
25. LVMPD money accounting report
26. LVMPD property report (Det. Smith)
27. LVMPD property report (Det. Smith) #2
28. LVMPD request for prosecution
29. LVMPD show up form (Richard Decamp)
30. Richard Decamp written voluntary statement, 1/12/16
31. Routing slip
32. LVMPD Temporary Custody Record

RECEIPT OF COPY of the above and foregoing items of discovery is hereby  
acknowledged this \_\_ day of \_\_\_\_\_, 2017.

THOMAS BOLEY  
ATTORNEY FOR DEFENDANT

BY 


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a/Enter Team Name

ORIGINAL

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

MAR 13 2017

BY,   
SYLVIA D. PEREZ, DEPUTY

AINF  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
BRYAN SCHWARTZ  
Deputy District Attorney  
Nevada Bar #013244  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

C-16-313118-2  
AINF  
Amended Information  
4831655



THE STATE OF NEVADA,

Plaintiff,

-vs-

JOSE FERNANDO MONAY-PINA, aka,  
Jose Fernando Monaypina, #7028317

Defendant.

CASE NO: C-16-313118-2

DEPT NO: VI

AMENDED  
INFORMATION

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

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

That JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina, the Defendant(s) above named, having committed the crimes of CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147); BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS 205.060 - NOC 50426); ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 - NOC 50226); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031); COERCION WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 207.190, 193.165 - NOC 53160);

AA00000837 8

1 BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony - NRS 200.400.2 -  
2 NOC 50151) and AIMING A FIREARM AT A HUMAN BEING (Gross Misdemeanor - NRS  
3 202.290 - NOC 51447), on or about the 12th day of January, 2016, within the County of Clark,  
4 State of Nevada, contrary to the form, force and effect of statutes in such cases made and  
5 provided, and against the peace and dignity of the State of Nevada,

6 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

7 did willfully, unlawfully, and feloniously conspire with CASIMIRO VENEGAS and  
8 each other to commit a robbery, by the defendants committing the acts as set forth in Count 2  
9 through 13, said acts being incorporated by this reference as though fully set forth herein.

10 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

11 did then and there willfully, unlawfully, and feloniously enter, with intent to commit  
12 robbery, that certain business occupied by 7-ELEVEN, located at 5700 West Charleston  
13 Boulevard, Las Vegas, Clark County, Nevada, said Defendant did possess and/or gain  
14 possession of a firearm during the commission of the crime and/or before leaving the structure.

15 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

16 did willfully, unlawfully, and feloniously take personal property, to-wit: lawful money  
17 of the United States, from the person of RICHARD DECAMP, or in his presence, by means  
18 of force or violence, or fear of injury to, and without the consent and against the will of  
19 RICHARD DECAMP, with use of a deadly weapon, to-wit: a firearm.

20 COUNT 4 - BURGLARY WHILE IN POSSESSION OF A FIREARM

21 did then and there willfully, unlawfully, and feloniously enter, with intent to commit  
22 robbery, that certain residence occupied by JAVIER COLEN, located at 504 Brush Street, Las  
23 Vegas, Clark County, Nevada, said Defendant did possess and/or gain possession of a firearm  
24 during the commission of the crime and/or before leaving the structure.

25 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

26 did willfully, unlawfully, and feloniously take personal property, to-wit: wallet and  
27 contents, and/or knives, from the person of JAVIER COLEN, or in his presence, by means of

28 ///

1 force or violence, or fear of injury to, and without the consent and against the will of JAVIER  
2 COLEN, with use of a deadly weapon, to-wit: a firearm and/or an axe.

3 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
4 SUBSTANTIAL BODILY HARM

5 did willfully, unlawfully, and feloniously use force or violence upon the person of  
6 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: a firearm and/or an  
7 axe, by striking the said JAVIER COLEN about the head and/or body with said firearm,  
8 resulting in substantial bodily harm to JAVIER COLEN; the Defendant(s) being criminally  
9 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly  
10 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
11 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
12 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
13 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
14 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course  
15 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,  
16 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as  
17 lookout and confederate throughout.

18 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

19 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill  
20 JAVIER COLEN, a human being, with use of a deadly weapon, to-wit: an axe, by striking the  
21 said JAVIER COLEN about the head and/or body with said axe; the Defendant(s) being  
22 criminally liable under one or more of the following principles of criminal liability, to-wit: (1)  
23 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this  
24 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,  
25 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)  
26 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,  
27 Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering  
28 into a course of conduct whereby Defendant CASIMIRO VENEGAS directly committed the



1 crime, Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting  
2 as lookout and confederate throughout.

3 COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
4 SUBSTANTIAL BODILY HARM

5 did willfully, unlawfully, and feloniously use force or violence upon the person of  
6 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the  
7 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily  
8 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the  
9 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or  
10 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
11 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
12 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
13 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
14 conspiring in the following manner, to wit: by entering into a course of conduct whereby  
15 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE  
16 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and  
17 confederate throughout.

18 COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
19 SUBSTANTIAL BODILY HARM

20 did willfully, unlawfully, and feloniously use force or violence upon the person of  
21 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the  
22 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily  
23 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the  
24 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or  
25 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
26 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
27 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
28 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or

1 conspiring in the following manner, to wit: by entering into a course of conduct whereby  
2 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE  
3 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and  
4 confederate throughout.

5 COUNT 10- BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
6 SUBSTANTIAL BODILY HARM

7 did willfully, unlawfully, and feloniously use force or violence upon the person of  
8 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the  
9 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily  
10 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the  
11 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or  
12 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
13 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
14 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
15 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
16 conspiring in the following manner, to wit: by entering into a course of conduct whereby  
17 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE  
18 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and  
19 confederate throughout.

20 COUNT 11 - AIMING A FIREARM AT A HUMAN BEING

21 did then and there willfully and unlawfully aim any gun, pistol, revolver, or other  
22 firearm, whether loaded or not, at or toward a human being, to-wit: ADRIANA COLON  
23 and/or LIZBETH COLON and/or SAMANTHA ABANA and/or CAESAR ABANA; the  
24 Defendant(s) being criminally liable under one or more of the following principles of criminal  
25 liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the  
26 commission of this crime, with the intent that this crime be committed, by counseling,  
27 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit

28 ///

1 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this  
2 crime be committed, Defendants acting in concert throughout.

3 COUNT 12 - COERCION WITH USE OF A DEADLY WEAPON

4 did then and there willfully, unlawfully, and feloniously use physical force, or the  
5 immediate threat of such force, against ADRIANA COLON and/or LIZBETH COLON and/or  
6 SAMANTHA ABANA and/or CAESAR ABANA and/or JAVIER COLEN, with intent to  
7 compel them to do, or abstain from doing, an act which they had a right to do, or abstain from  
8 doing with use of a deadly weapon, to-wit: a firearm and/or axe, by keeping them from leaving  
9 and/or coming to aid of the said JAVIER COLEN; the Defendant(s) being criminally liable  
10 under one or more of the following principles of criminal liability, to-wit: (1) by directly  
11 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
12 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
13 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
14 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
15 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course  
16 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,  
17 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as  
18 lookout and confederate throughout.

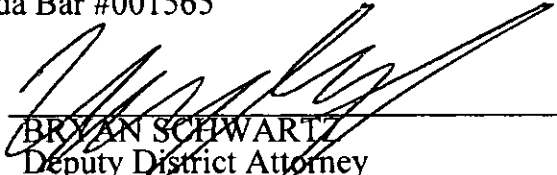
19 COUNT 13 - BATTERY WITH INTENT TO COMMIT A CRIME

20 did then and there willfully, unlawfully, and feloniously use force or violence upon the  
21 person of another, to-wit: JAVIER COLEN, with intent to commit robbery with substantial  
22 bodily harm by striking the said JAVIER COLEN about the head and/or body with a firearm  
23 and/or axe; the Defendant(s) being criminally liable under one or more of the following  
24 principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by  
25 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
26 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
27 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
28 intent that this crime be committed, Defendants aiding or abetting and/or conspiring in the

1 following manner, to wit: by entering into a course of conduct whereby Defendant CASIMIRO  
2 VENEGAS directly committed the crime, Defendant JOSE FERNANDO MONAY-PINA,  
3 aka, Jose Fernando Monaypina acting as lookout and confederate throughout.

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

7 BY

  
8 BRYAN SCHWARTZ  
9 Deputy District Attorney  
10 Nevada Bar #013244

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


13 <u>NAME</u>	14 <u>ADDRESS</u>
15 CUSTODIAN OF RECORDS 16 OR DESIGNEE	Clark County Detention Center, 330 S. Casino Center Blvd., Las Vegas, NV
17 CUSTODIAN OF RECORDS 18 OR DESIGNEE	LVMPD Communications, 400 E. Stewart, Las Vegas, NV
19 CUSTODIAN OF RECORDS 20 OR DESIGNEE	LVMPD Dispatch, 400 E. Stewart, Las Vegas, NV
21 CUSTODIAN OF RECORDS 22 OR DESIGNEE	LVMPD Records, 400 E. Stewart, Las Vegas, NV
23 CUSTODIAN OF RECORDS 24 OR DESIGNEE	University Medical Center (UMC), 1800 W. Charleston Blvd., LVNV
25 TREATING PHYSICIAN	University Medical Center (UMC), 1800 W. Charleston Blvd., LVNV
26 AGUIRRE, A.	LVMPD #9645
27 CARTER, M.	unknown.
28 COLON, Javier	C/O District Attorney's Office
	C/O District Attorney's Office



MAR 13 2017

JURL

DISTRICT COURT

BY,   
SYLVIA D. PEREZ, DEPUTY

CLARK COUNTY, NEVADA

State of Nevada

CASE NO C-16-313118-1&2

vs

DEPARTMENT VII

Casimiro Venegas

Jose Fernando Monay - Pina

**JURY LIST**

- |                             |                             |
|-----------------------------|-----------------------------|
| 1. Ms. Mary Luevano         | 7. Ms. Jennifer Gomez-Lopez |
| 2. Ms. Sandra Garcia-Lobato | 8. Ms. Megan Wellman        |
| 3. Ms. Christa Rapp         | 9. Ms. Maria Juaregui       |
| 4. Ms. Peggy Schlenther     | 10. Ms. Linda Spink         |
| 5. Mr. Edris Moshin         | 11. Nicholas Gildenmeister  |
| 6. Ms. Alma Morga           | 12. Jonathan Rodriguez      |

**ALTERNATE(S)**

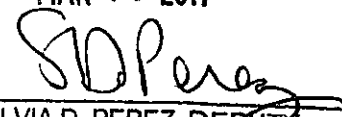
13. Mr. Basil Smith
14. Mr. Aaron Murnighan

C-16-313118-2  
JURL  
Jury List  
4831888



AA0000073

MAR 13 2017

BY,   
SYLVIA D. PEREZ, DEPUTY

1 AINF  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 BRYAN SCHWARTZ  
6 Deputy District Attorney  
7 Nevada Bar #013244  
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 CASIMIRO VENEGAS, #2666143,  
13 JOSE FERNANDO MONAY-PINA, aka,  
14 Jose Fernando Monaypina, #7028317.

15 Defendants.

CASE NO: C-16-313118-1-2

DEPT NO: VII

SECOND AMENDED  
INFORMATION

C-16-313118-2  
AINF  
Amended Information  
4631669



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

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

21 That CASIMIRO VENEGAS and JOSE FERNANDO MONAY-PINA, aka, Jose  
22 Fernando Monaypina, the Defendants above named, having committed the crimes of  
23 CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 -  
24 NOC 50147); BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony  
25 - NRS 205.060 - NOC 50426); ROBBERY WITH USE OF A DEADLY WEAPON (Category  
26 B Felony - NRS 200.380, 193.165 - NOC 50138); BATTERY WITH USE OF A DEADLY  
27 WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS  
28 200.481 - NOC 50226); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

AA000007610

(Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031); COERCION WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 207.190, 193.165 - NOC 53160); BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony - NRS 200.400.2 - NOC 50151) and AIMING A FIREARM AT A HUMAN BEING (Gross Misdemeanor - NRS 202.290 - NOC 51447), on or about the 12th day of January, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

**COUNT 1 - CONSPIRACY TO COMMIT ROBBERY**

did willfully, unlawfully, and feloniously conspire with each other to commit a robbery, by the defendants committing the acts as set forth in Count 2 through 13, said acts being incorporated by this reference as though fully set forth herein.

## COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

did then and there willfully, unlawfully, and feloniously enter, with intent to commit robbery, that certain business occupied by 7-ELEVEN, located at 5700 West Charleston Boulevard, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain possession of a firearm during the commission of the crime and/or before leaving the structure.

## COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, and feloniously take personal property, to-wit: lawful money of the United States, from the person of RICHARD DECAMP, or in his presence, by means of force or violence, or fear of injury to, and without the consent and against the will of RICHARD DECAMP, with use of a deadly weapon, to-wit: a firearm.

## COUNT 4 - BURGLARY WHILE IN POSSESSION OF A FIREARM

did then and there willfully, unlawfully, and feloniously enter, with intent to commit robbery, that certain residence occupied by JAVIER COLEN, located at 504 Brush Street, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain possession of a firearm during the commission of the crime and/or before leaving the structure.

## COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, and feloniously take personal property, to-wit: wallet and



1 contents, and/or knives, from the person of JAVIER COLEN, or in his presence, by means of  
2 force or violence, or fear of injury to, and without the consent and against the will of JAVIER  
3 COLEN, with use of a deadly weapon, to-wit: a firearm and/or an axe.

4 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
5 SUBSTANTIAL BODILY HARM

6 did willfully, unlawfully, and feloniously use force or violence upon the person of  
7 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: a firearm and/or an  
8 axe, by striking the said JAVIER COLEN about the head and/or body with said firearm,  
9 resulting in substantial bodily harm to JAVIER COLEN; the Defendant(s) being criminally  
10 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly  
11 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
12 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
13 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
14 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
15 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course  
16 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,  
17 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as  
18 lookout and confederate throughout.

19 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

20 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill  
21 JAVIER COLEN, a human being, with use of a deadly weapon, to-wit: an axe, by striking the  
22 said JAVIER COLEN about the head and/or body with said axe; the Defendant(s) being  
23 criminally liable under one or more of the following principles of criminal liability, to-wit: (1)  
24 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this  
25 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,  
26 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)  
27 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,  
28 Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering

1 into a course of conduct whereby Defendant CASIMIRO VENEGAS directly committed the  
2 crime, Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting  
3 as lookout and confederate throughout.

4 COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
5 SUBSTANTIAL BODILY HARM

6 did willfully, unlawfully, and feloniously use force or violence upon the person of  
7 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the  
8 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily  
9 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the  
10 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or  
11 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
12 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
13 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
14 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
15 conspiring in the following manner, to wit: by entering into a course of conduct whereby  
16 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE  
17 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and  
18 confederate throughout.

19 COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
20 SUBSTANTIAL BODILY HARM

21 did willfully, unlawfully, and feloniously use force or violence upon the person of  
22 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the  
23 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily  
24 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the  
25 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or  
26 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
27 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
28 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this

1 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
2 conspiring in the following manner, to wit: by entering into a course of conduct whereby  
3 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE  
4 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and  
5 confederate throughout.

6 COUNT 10- BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
7 SUBSTANTIAL BODILY HARM

8 did willfully, unlawfully, and feloniously use force or violence upon the person of  
9 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the  
10 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily  
11 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the  
12 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or  
13 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
14 committed, by counseling, encouraging, hiring, commanding, inducing and/or otherwise  
15 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
16 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
17 conspiring in the following manner, to wit: by entering into a course of conduct whereby  
18 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE  
19 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and  
20 confederate throughout.

21 COUNT 11 - AIMING A FIREARM AT A HUMAN BEING

22 did then and there willfully and unlawfully aim any gun, pistol, revolver, or other  
23 firearm, whether loaded or not, at or toward a human being, to-wit: ADRIANA COLON  
24 and/or LIZBETH COLON and/or SAMANTHA ABANA and/or CAESAR ABANA; the  
25 Defendant(s) being criminally liable under one or more of the following principles of criminal  
26 liability, to-wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the  
27 commission of this crime, with the intent that this crime be committed, by counseling,  
28 encouraging, hiring, commanding, inducing and/or otherwise procuring the other to commit

1 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this  
2 crime be committed, Defendants acting in concert throughout.

3 COUNT 12 - COERCION WITH USE OF A DEADLY WEAPON

4 did then and there willfully, unlawfully, and feloniously use physical force, or the  
5 immediate threat of such force, against ADRIANA COLON and/or LIZBETH COLON and/or  
6 SAMANTHA ABANA and/or CAESAR ABANA and/or JAVIER COLEN, with intent to  
7 compel them to do, or abstain from doing, an act which they had a right to do, or abstain from  
8 doing with use of a deadly weapon, to-wit: a firearm and/or axe, by keeping them from leaving  
9 and/or coming to aid of the said JAVIER COLEN; the Defendant(s) being criminally liable  
10 under one or more of the following principles of criminal liability, to-wit: (1) by directly  
11 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
12 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
13 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
14 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
15 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course  
16 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,  
17 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as  
18 lookout and confederate throughout.

19 COUNT 13 - BATTERY WITH INTENT TO COMMIT A CRIME

20 did then and there willfully, unlawfully, and feloniously use force or violence upon the  
21 person of another, to-wit: JAVIER COLEN, with intent to commit robbery with substantial  
22 bodily harm by striking the said JAVIER COLEN about the head and/or body with a firearm  
23 and/or axe; the Defendant(s) being criminally liable under one or more of the following  
24 principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by  
25 aiding or abetting in the commission of this crime, with the intent that this crime be committed,  
26 by counseling, encouraging, hiring, commanding, inducing and/or otherwise procuring the  
27 other to commit the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the  
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STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

BY M.R. L. 13476 for

BRYAN SCHWARTZ  
Deputy District Attorney  
Nevada Bar #013244

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

NAME

ADDRESS

CUSTODIAN OF RECORDS  
OR DESIGNEE

Clark County Detention Center,  
330 S. Casino Center Blvd., LVNV

CUSTODIAN OF RECORDS  
OR DESIGNEE

LVMPD Dispatch,  
400 E. Stewart, Las Vegas, NV

CUSTODIAN OF RECORDS  
OR DESIGNEE

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AGUIRRE, A.

LVMPD #9645

COLON, Javier

C/O District Attorney's Office

DECAMP, Richard

C/O District Attorney's Office

DURON, I.

LVMPD #14809

LEHMANN, S.

LVMPD #13885

MONAY-PINA, Jose Fernando

908 N. Jones Blvd., Las Vegas, NV

SIMMONS, J.

LVMPD #15067

SIMMS, J.

LVMPD #15111

1	SMITH, T.	LVMPD #5267
2	SPURLING, J.	LVMPD #13647
3	TOMS, E.	LVMPD #5793
4	VENEGAS, Casimiro	1759 Santa Margarita St., #123, LVN
5	WATTS, Joseph	DA Investigator and/or Designee
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**DO NOT READ TO THE JURY**

**UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED  
HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE  
FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

**NOTICE OF PRIOR BURGLARY AND/OR HOME INVASION CONVICTIONS**

The State of Nevada hereby places Defendant CASIMIRO VENEGAS on notice that in the event of a Burglary conviction pursuant to NRS 205.060 and/or a Home Invasion conviction pursuant to NRS 205.067 in the above-entitled action, he will not be eligible for probation as Defendant CASIMIRO VENEGAS has already suffered ONE (1) prior Burglary and/or Home Invasion conviction(s), as set forth in the "Notice of Intent to Seek Punishment as a Habitual Criminal," said notice being incorporated by this reference as though fully set forth herein.

**UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED  
HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE  
FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

**NOTICE OF INTENT TO SEEK PUNISHMENT AS A HABITUAL  
CRIMINAL**

The State of Nevada hereby places Defendant CASIMIRO VENEGAS on notice of the State's intent to seek punishment of Defendant CASIMIRO VENEGAS pursuant to the provisions of NRS 207.010 and 207.012 as a habitual criminal in the event of a felony conviction in the above-entitled action.

The State will seek punishment as a habitual criminal based upon the following felony convictions, to wit:

1. That in 2008, the Defendant was convicted in the Eighth Judicial District Court, County of Clark, State of Nevada, for the crime of COUNT 1 - CONSPIRACY TO COMMIT ROBBERY (Category B Felony) and COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony), in Case No. C244224.

2. That in 2008, the Defendant was convicted in the Eighth Judicial District Court, County of Clark, State of Nevada, for the crime of COUNT 1 - ROBBERY WITH USE

///

3. That in 2013, the Defendant was convicted in the Eighth Judicial District Court, County of Clark, State of Nevada, for the crime of ROBBERY (Category B Felony), in Case No. C284885-1.

BY M.D. N. 12476 for  
BRYAN SCHWARTZ  
Deputy District Attorney  
Nevada Bar #013244

**DO NOT READ TO THE JURY**

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ORIGINAL

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

MAR 15 2017

3Y. *Sylvia D. Perez*  
SYLVIA D. PEREZ, DEPUTY

C-16-313118-2  
AINF  
Amended Information  
4633726



DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASIMIRO VENEGAS, #2666143,  
JOSE FERNANDO MONAY-PINA, aka,  
Jose Fernando Monaypina, #7028317.

Defendants.

CASE NO: C-16-313118-1(2)

DEPT NO: VII

THIRD AMENDED  
INFORMATION

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

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

That CASIMIRO VENEGAS and JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina, the Defendants above named, having committed the crimes of CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 200.380, 199.480 - NOC 50147); BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS 205.060 - NOC 50426); ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony - NRS 200.481 - NOC 50226); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

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1 (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031); COERCION  
2 WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 207.190, 193.165 - NOC  
3 53160); ~~BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony - NRS~~  
4 200.400.2 - NOC 50151) and AIMING A FIREARM AT A HUMAN BEING (Gross  
5 Misdemeanor - NRS 202.290 - NOC 51447), on or about the 12th day of January, 2016, within  
6 the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such  
7 cases made and provided, and against the peace and dignity of the State of Nevada,

8 COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

9 did willfully, unlawfully, and feloniously conspire with each other to commit a  
10 robbery, by the defendants committing the acts as set forth in Count 2 through 13, said acts  
11 being incorporated by this reference as though fully set forth herein.

12 COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM

13 did then and there willfully, unlawfully, and feloniously enter, with intent to commit  
14 robbery, that certain business occupied by 7-ELEVEN, located at 5700 West Charleston  
15 Boulevard, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain  
16 possession of a firearm during the commission of the crime and/or before leaving the structure.

17 COUNT 3 - ROBBERY WITH USE OF A DEADLY WEAPON

18 did willfully, unlawfully, and feloniously take personal property, to-wit: lawful money  
19 of the United States, from the person of RICHARD DECAMP, or in his presence, by means  
20 of force or violence, or fear of injury to, and without the consent and against the will of  
21 RICHARD DECAMP, with use of a deadly weapon, to-wit: a firearm.

22 COUNT 4 - BURGLARY WHILE IN POSSESSION OF A FIREARM

23 did then and there willfully, unlawfully, and feloniously enter, with intent to commit  
24 robbery and/or assault and/or battery and/or larceny that certain residence occupied by  
25 JAVIER COLEN, located at 504 Brush Street, Las Vegas, Clark County, Nevada, said  
26 Defendants did possess and/or gain possession of a firearm during the commission of the crime  
27 and/or before leaving the structure.

1 COUNT 5 - ROBBERY WITH USE OF A DEADLY WEAPON

2 did willfully, unlawfully, and feloniously take personal property, to-wit: wallet and  
3 ~~contents, and/or knives, from the person of JAVIER COLEN, or in his presence, by means of~~  
4 force or violence, or fear of injury to, and without the consent and against the will of JAVIER  
5 COLEN, with use of a deadly weapon, to-wit: a firearm and/or an axe.

6 COUNT 6 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
7 SUBSTANTIAL BODILY HARM

8 did willfully, unlawfully, and feloniously use force or violence upon the person of  
9 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: a firearm and/or an  
10 axe, by striking the said JAVIER COLEN about the head and/or body with said firearm,  
11 resulting in substantial bodily harm to JAVIER COLEN; the Defendant(s) being criminally  
12 liable under one or more of the following principles of criminal liability, to-wit: (1) by directly  
13 committing this crime; and/or (2) by aiding or abetting in the commission of this crime, with  
14 the intent that this crime be committed, by counseling, encouraging, hiring, commanding,  
15 inducing and/or otherwise procuring the other to commit the crime; and/or (3) pursuant to a  
16 conspiracy to commit this crime, with the intent that this crime be committed, Defendants  
17 aiding or abetting and/or conspiring in the following manner, to wit: by entering into a course  
18 of conduct whereby Defendant CASIMIRO VENEGAS directly committed the crime,  
19 Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as  
20 lookout and confederate throughout.

21 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

22 did willfully, unlawfully, feloniously and with malice aforethought attempt to kill  
23 JAVIER COLEN, a human being, with use of a deadly weapon, to-wit: an axe, by striking the  
24 said JAVIER COLEN about the head and/or body with said axe; the Defendant(s) being  
25 criminally liable under one or more of the following principles of criminal liability, to-wit: (1)  
26 by directly committing this crime; and/or (2) by aiding or abetting in the commission of this  
27 crime, with the intent that this crime be committed, by counseling, encouraging, hiring,  
28 commanding, inducing and/or otherwise procuring the other to commit the crime; and/or (3)

1 pursuant to a conspiracy to commit this crime, with the intent that this crime be committed,  
2 Defendants aiding or abetting and/or conspiring in the following manner, to wit: by entering  
3 into a course of conduct whereby Defendant CASIMIRO VENEGAS directly committed the  
4 crime, Defendant JOSE FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting  
5 as lookout and confederate throughout.

6 COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
7 SUBSTANTIAL BODILY HARM

8 did willfully, unlawfully, and feloniously use force or violence upon the person of  
9 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the  
10 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily  
11 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the  
12 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or  
13 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be  
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15 procuring the other to commit the crime; and/or (3) pursuant to a conspiracy to commit this  
16 crime, with the intent that this crime be committed, Defendants aiding or abetting and/or  
17 conspiring in the following manner, to wit: by entering into a course of conduct whereby  
18 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE  
19 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and  
20 confederate throughout.

21 COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
22 SUBSTANTIAL BODILY HARM

23 did willfully, unlawfully, and feloniously use force or violence upon the person of  
24 another, to-wit: JAVIER COLEN, with use of a deadly weapon, to-wit: an axe, by striking the  
25 said JAVIER COLEN about the head and/or body with said axe, resulting in substantial bodily  
26 harm to JAVIER COLEN; the Defendant(s) being criminally liable under one or more of the  
27 following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or  
28 (2) by aiding or abetting in the commission of this crime, with the intent that this crime be

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6 FERNANDO MONAY-PINA, aka, Jose Fernando Monaypina acting as lookout and  
7 confederate throughout.

8 COUNT 10- BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
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20 Defendant CASIMIRO VENEGAS directly committed the crime, Defendant JOSE  
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22 confederate throughout.

23 COUNT 11 - AIMING A FIREARM AT A HUMAN BEING

24 did then and there willfully and unlawfully aim any gun, pistol, revolver, or other  
25 firearm, whether loaded or not, at or toward a human being, to-wit: ADRIANA AVINA and/or  
26 LIZBETH AVINA and/or SAMANTHA AVINA and/or CAESAR AVINA; the Defendant(s)  
27 being criminally liable under one or more of the following principles of criminal liability, to-  
28 wit: (1) by directly committing this crime; and/or (2) by aiding or abetting in the commission

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2 commanding, inducing and/or otherwise procuring the other to commit  
3 the crime; and/or (3) pursuant to a conspiracy to commit this crime, with the intent that this  
4 crime be committed, Defendants acting in concert throughout.

5 COUNT 12 - COERCION WITH USE OF A DEADLY WEAPON

6 did then and there willfully, unlawfully, and feloniously use physical force, or the  
7 immediate threat of such force, against ADRIANA AVINA and/or LIZBETH AVINA and/or  
8 SAMANTHA AVINA and/or CAESAR AVINA and/or JAVIER COLEN, with intent to  
9 compel them to do, or abstain from doing, an act which they had a right to do, or abstain from  
10 doing with use of a deadly weapon, to-wit: a firearm and/or axe, by keeping them from leaving  
11 and/or coming to aid of the said JAVIER COLEN; the Defendant(s) being criminally liable  
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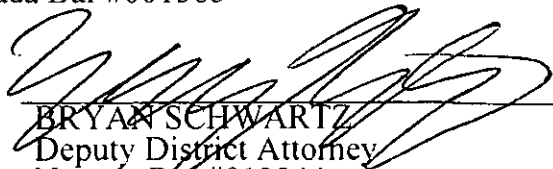
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STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

BY

  
BRYAN SCHWARTZ  
Deputy District Attorney  
Nevada Bar #013244

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6	VENEGAS, Casimiro	1759 Santa Margarita St., #123, LVN
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**UNDER NO CIRCUMSTANCES IS THE LANGUAGE CONTAINED  
HEREINAFTER TO BE READ TO A JURY HEARING THE PRIMARY OFFENSE  
FOR WHICH THE DEFENDANT IS PRESENTLY CHARGED.**

**NOTICE OF INTENT TO SEEK PUNISHMENT AS A HABITUAL  
CRIMINAL**

The State of Nevada hereby places Defendant CASIMIRO VENEGAS on notice of the State's intent to seek punishment of Defendant CASIMIRO VENEGAS pursuant to the provisions of NRS 207.010 and 207.012 as a habitual criminal in the event of a felony conviction in the above-entitled action.

The State will seek punishment as a habitual criminal based upon the following felony convictions, to wit:

1. That in 2008, the Defendant was convicted in the Eighth Judicial District Court, County of Clark, State of Nevada, for the crime of COUNT 1 - CONSPIRACY TO COMMIT ROBBERY (Category B Felony) and COUNT 2 - ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony), in Case No. C244224.

2. That in 2008, the Defendant was convicted in the Eighth Judicial District Court, County of Clark, State of Nevada, for the crime of COUNT 1 - ROBBERY WITH USE

///

OF A DEADLY WEAPON (Category B Felony) and COUNT 2 - BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony), in Case No. C246550.

~~3. That in 2013, the Defendant was convicted in the Eighth Judicial District Court, County of Clark, State of Nevada, for the crime of ROBBERY (Category B Felony), in Case No. C284885-1.~~

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

BY

**BRYAN SCHWARTZ**  
Deputy District Attorney  
Nevada Bar #013244

**DO NOT READ TO THE JURY**

DA#16F00568A/bs /L-2  
LVMPD EV#1601120450; 1601120494  
(TK14)

AA000095

MAR 15 2017 5:50 pm

DISTRICT COURT  
CLARK COUNTY, NEVADA BY SOP Perez  
SYLVIA D. PEREZ, DEPUTY

1 VER

5 THE STATE OF NEVADA,

6 Plaintiff,

7 -vs-

8 JOSE FERNANDO MONAY-PINA,

9 Defendant.

CASE

C-16-313118-2

NO:

VII

DEPT NO:

10 VERDICT

11 We, the jury in the above entitled case, find the Defendant JOSE FERNANDO  
12 MONAY-PINA, as follows:

13 COUNT 1 – CONSPIRACY TO COMMIT ROBBERY

14 *(Please check the appropriate box, select only one)*

15 ☐ Not Guilty

16 ☒ Guilty of Conspiracy to Commit Robbery

18 COUNT 2 – BURGLARY WHILE IN POSSESSION OF A FIREARM

19 *(Please check the appropriate box, select only one)*

20 ☐ Not Guilty

21 ☒ Guilty of Burglary While in Possession of a Firearm

22 ☐ Guilty of Burglary

24 COUNT 3 – ROBBERY WITH USE OF A DEADLY WEAPON (DECAMP)

25 *(Please check the appropriate box, select only one)*

26 ☐ Not Guilty

27 ☒ Guilty of Robbery with Use of a Deadly Weapon

28 ☐ Guilty of Robbery

C-16-313118-2

VER  
Verdict  
4632280



AA0000966

1 **COUNT 4** – BURGLARY WHILE IN POSSESSION OF A FIREARM (COLON)

2 *(Please check the appropriate box, select only one)*

- 3 ☐ Not Guilty
- 4 ☒ Guilty of Burglary While in Possession of a Firearm
- 5 ☐ Guilty of Burglary

6

7 **COUNT 5** – ROBBERY WITH USE OF A DEADLY WEAPON (COLON)

8 *(Please check the appropriate box, select only one)*

- 9 ☐ Not Guilty
- 10 ☒ Guilty of Robbery with Use of a Deadly Wepaon
- 11 ☐ Guilty of Robbery

12

13 **COUNT 6** - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
SUBSTANTIAL BODILY HARM (COLON)

14 *(Please check the appropriate box, select only one)*

- 15 ☐ Not Guilty
- 16 ☒ Guilty of Battery With Use of a Deadly Weapon Resulting in  
17 Substantial Bodily Harm
- 18 ☐ Guilty of Battery With Use of a Deadly Weapon
- 19 ☐ Guilty of Battery Resulting in Substantial Bodily Harm
- 20 ☐ Guilty of Battery

21

22 **COUNT 7** – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON  
(COLON)

23 *(Please check the appropriate box, select only one)*

- 24 ☐ Not Guilty
- 25 ☒ Guilty of Attempt Murder With Use of a Deadly Weapon
- 26 ☐ Guilty of Attempt Murder

27 ///

28

AA0000097

**COUNT 8 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
SUBSTANTIAL BODILY HARM (COLON)**

*(Please check the appropriate box, select only one)*

☐ Not Guilty

☒ Guilty of Battery With Use of a Deadly Weapon Resulting in  
Substantial Bodily Harm

☐ Guilty of Battery With Use of a Deadly Weapon

☐ Guilty of Battery Resulting in Substantial Bodily Harm

☐ Guilty of Battery

**COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
SUBSTANTIAL BODILY HARM (COLON)**

*(Please check the appropriate box, select only one)*

☐ Not Guilty

☐ Guilty of Battery With Use of a Deadly Weapon Resulting in  
Substantial Bodily Harm

☒ Guilty of Battery With Use of a Deadly Weapon

☐ Guilty of Battery Resulting in Substantial Bodily Harm

☐ Guilty of Battery

**COUNT 10 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
SUBSTANTIAL BODILY HARM (COLON)**

*(Please check the appropriate box, select only one)*

☐ Not Guilty

☐ Guilty of Battery With Use of a Deadly Weapon Resulting in  
Substantial Bodily Harm

☒ Guilty of Battery With Use of a Deadly Weapon

☐ Guilty of Battery Resulting in Substantial Bodily Harm

☐ Guilty of Battery

///

AA0000098

1 **COUNT 11** – AIMING A FIREARM AT A HUMAN BEING  
2 (COLON / AVINA)

3 *(Please check the appropriate box, select only one)*

4 ☐ Not Guilty

5 ☒ Guilty of Aiming a Firearm at a Human Being

6 **COUNT 12** – COERCION WITH USE OF A DEADLY WEAPON  
7 (COLON / AVINA)

8 *(Please check the appropriate box, select only one)*

9 ☐ Not Guilty

10 ☒ Guilty of Coercion With Use of a Deadly Weapon

11 ☐ Guilty of Coercion

12 **COUNT 13** - BATTERY WITH INTENT TO COMMIT A CRIME (COLON)

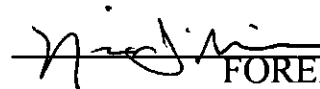
13 *(Please check the appropriate box, select only one)*

14 ☐ Not Guilty

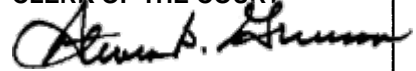
15 ☒ Guilty of Battery With Intent to Commit a Crime

16 ☐ Guilty of Battery

17  
18  
19 DATED this 15 day of March, 2017

20  
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22  
23  FOREPERSON  
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AA0000099



1 **ORDR**

2  
3  
4 **DISTRICT COURT**  
5 **CLARK COUNTY, NEVADA**

6  
7 **THE STATE OF NEVADA,**

8 **Plaintiff(s),**

9 **vs.**

10 **JOSE FERNANDO MONAY-PINA**  
11 **aka Jose Fernando Monaypina**  
12 **#7028317,**

13 **Defendant(s).**

Case No.: **C-16-313118-2**

Dept. No.: **7**

14 **ORDER TO RESCHEDULE HEARING DATE**

15  
16 **Due to the Court's calendar,**

17 **IT IS HEREBY ORDERED, the Sentencing hearing, currently scheduled to be heard**  
18 **on June 15, 2017 is rescheduled to **TUESDAY, JUNE 13, 2017 at 8:30 a.m.** in District**  
19 **Court Department 7, Courtroom 15A. All counsel and self-represented parties must appear**  
20 **at this hearing.**

21  
22  
23 **DATED this 4th day of May, 2017.**

24  
25 **LINDA MARIE BELL**  
26 **DISTRICT JUDGE**  
27 **DEPARTMENT VII**  
28

  
LINDA MARIE BELL  
DISTRICT COURT JUDGE

**AA0000100**

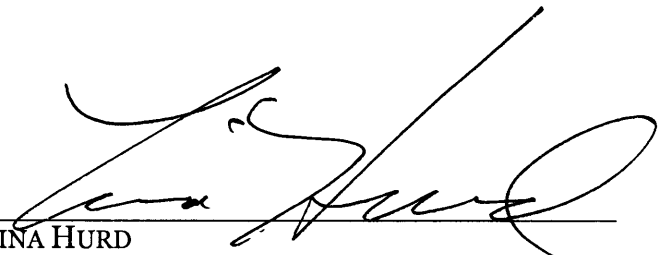
HEARING DATE  
ALREADY ENTERED

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Mary Kay Holthus, DDA  
Bryan Schwartz, DDA  
CLARK COUNTY DISTRICT ATTORNEY

Thomas D. Boley, Esq.  
BOLEY & ALDABBAGH LTD



TINA HURD  
JUDICIAL EXECUTIVE ASSISTANT



*Steven D. Grierson*

1 **SAO**  
2 **STEVEN B. WOLFSON**  
3 **Clark County District Attorney**  
4 **Nevada Bar #001565**  
5 **BRYAN SCHWARTZ**  
6 **Deputy District Attorney**  
7 **Nevada Bar #13244**  
8 **200 Lewis Avenue**  
9 **Las Vegas, Nevada 89155-2212**  
10 **(702) 671-2500**  
11 **Attorney for Plaintiff**

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

12 **THE STATE OF NEVADA,**

13 **Plaintiff,**

14 **-vs-**

**CASE NO. C-16-313118-1/2**

**DEPT NO. VII**

15 **CASIMIRO VENEGAS,**  
16 **#2666143**  
17 **JOSE MONAY-PINA,**  
18 **#7028317**

19 **Defendant.**

**STIPULATION TO CONTINUE SENTENCING HEARING**

20 It is hereby stipulated and agreed to by BRYAN SCHWARTZ, Deputy District  
21 Attorney, ADAM GILL, Attorney for Defendant Venegas, and THOMAS BOLEY, Attorne  
22 y for Defendant Monay Pina, that the current sentencing hearing be vacated and that the Court  
23 reset the sentencing hearing for a time convenient for the court, after August 14, 2017.

24 **///**

25 **///**

26 **///**

27 **///**

28 **///**

**///**

**///**

DOCUMENT2

*[Signature]*  
JUN 08 2017

**AA0000072**


1 DATED this 7th day of June, 2017.

DATED this 7th day of June, 2017.

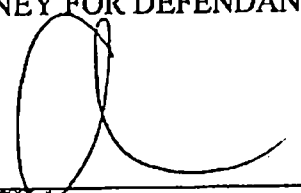
2 STEVEN B. WOLFSON  
3 DISTRICT ATTORNEY  
4 Nevada Bar #001565

ATTORNEY FOR DEFENDANT

5 BY

  
6 BRYAN SCHWARTZ  
7 Deputy District Attorney  
8 Nevada Bar #13244

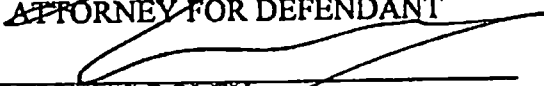
BY

  
9 ADAM GILE  
10 Enter Def. Atty. Street Address  
11 Enter Def. Atty. City, State, Zip  
12 Nevada Bar #Bar Number

13 DATED this 7th day of June, 2017.

14 ~~ATTORNEY FOR DEFENDANT~~

15 BY

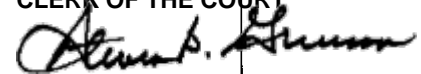
  
16 THOMAS BOLEY  
17 Enter Def. Atty. Street Address  
18 Enter Def. Atty. City, State, Zip  
19 Nevada Bar #Bar Number

20 ORDER

21 Based on the foregoing Stipulation of the Parties and good cause appearing therefore,  
22 IT IS HEREBY ORDERED that the sentencing hearing on June 13, 2017, be vacated and set  
23 for the 17th day of August, 2017, at the hour of 8:30<sup>am</sup>.

24 DATED this 8th day of June, 2017.

  
25 DISTRICT COURT JUDGE LINDA BELL



JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JOSE FERNANDO MONAY-PINA aka  
Jose Fernando Monaypina  
#7028317

Defendant.

CASE NO. C-16-313118-2

DEPT. NO. VII

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1  
– CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS  
200.380, 199.480; COUNTS 2 and 4 – BURGLARY WHILE IN POSSESSION OF A  
FIREARM (Category B Felony) in violation of NRS 205.060; COUNTS 3 and 5 –  
ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of  
NRS 200.380, 193.165; COUNTS 6, 8, 9 and 10 – BATTERY WITH USE OF A  
DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B  
Felony) in violation of NRS 200.481; COUNT 7 – ATTEMPT MURDER WITH USE OF A

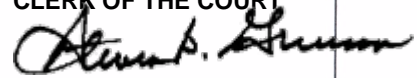
1 DEADLY WEAPON (Category B Felony) in violation of NRS 200.010, 200.030, 193.330,  
2 193.165, of COUNT 11 – AIMING A FIREARM AT A HUMAN BEING (Gross  
3 Misdemeanor) in violation of NRS 202.290; COUNT 12 – COERCION WITH USE OF A  
4 DEADLY WEAPON (Category B Felony) in violation of NRS 207.190, 193.165; and  
5 COUNT 13 – BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony) in  
6 violation of NRS 200.400.2; and the matter having been tried before a jury, and the  
7 Defendant having been found guilty of the crimes of COUNT 1 – CONSPIRACY TO  
8 COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480;  
9 COUNTS 2 and 4 – BURGLARY WHILE IN POSSESSION OF A FIREARM (Category  
10 B Felony) in violation of NRS 205.060; COUNTS 3 and 5 – ROBBERY WITH USE OF A  
11 DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165;  
12 COUNTS 6 and 8 – BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN  
13 SUBSTANTIAL BODILY HARM (Category B Felony) in violation of NRS 200.481;  
14 COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B  
15 Felony) in violation of NRS 200.010, 200.030, 193.330, 193.165, COUNTS 9 and 10 –  
16 BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of  
17 NRS 200.481; COUNT 11 – AIMING A FIREARM AT A HUMAN BEING (Gross  
18 Misdemeanor) in violation of NRS 202.290; COUNT 12 – COERCION WITH USE OF A  
19 DEADLY WEAPON (Category B Felony) in violation of NRS 207.190, 193.165; and  
20 COUNT 13 – BATTERY WITH INTENT TO COMMIT A CRIME (Category B Felony) in  
21 violation of NRS 200.400.2; thereafter, on the 7<sup>th</sup> day of September, 2017, the  
22 Defendant was present in court for sentencing with counsel THOMAS BOLEY, ESQ.,  
23 and good cause appearing,

1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in  
2 addition to the \$25.00 Administrative Assessment Fee and \$150.00 DNA Analysis Fee  
3 including testing to determine genetic markers plus \$3.00 DNA Collection Fee, the  
4 Defendant is SENTENCED to the Nevada Department of Corrections (NDC) as follows:  
5  
6 **COUNT 1** – a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of  
7 TWENTY-FOUR (24) MONTHS; **COUNT 2** - a MAXIMUM of ONE HUNDRED TWENTY  
8 (120) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS,  
9 CONCURRENT with COUNT 1; **COUNT 3** – a MAXIMUM of ONE HUNDRED TWENTY  
10 (120) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS,  
11 plus a CONSECUTIVE term of SIXTY (60) MONTHS with a MINIMUM parole eligibility  
12 of TWELVE (12) MONTHS for the Use of a Deadly Weapon; CONCURRENT with  
13 COUNTS 1, 2; **COUNT 4** - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS  
14 with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS CONCURRENT  
15 with COUNTS 1, 2, 3; **COUNT 5** – a MAXIMUM of ONE HUNDRED TWENTY (120)  
16 MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS, plus a  
17 CONSECUTIVE term of SIXTY (60) MONTHS with a MINIMUM parole eligibility of  
18 TWENTY-FOUR (24) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to  
19 COUNTS, 1, 2, 3; **COUNT 6** - a MAXIMUM of ONE HUNDRED TWENTY (120)  
20 MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS,  
21 CONCURRENT with COUNTS 1, 2, 3, 4, 5; **COUNT 7** – a MAXIMUM of ONE  
22 HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of TWENTY-  
23 FOUR (24) MONTHS, plus a CONSECUTIVE term of SIXTY (60) MONTHS with a  
24 MINIMUM parole eligibility of TWENTY-FOUR (24) MONTHS for the Use of a Deadly

1 Weapon; CONSECUTIVE to COUNTS 1, 2, 3; **COUNT 8** - a MAXIMUM of ONE  
2 HUNDRED TWENTY (120) MONTHS with a MINIMUM parole eligibility of TWENTY-  
3 FOUR (24) MONTHS, CONCURRENT with COUNTS 1, 2, 3, 4, 5, 6, 7; **COUNT 9** - a  
4 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-  
5 FOUR (24) MONTHS, CONCURRENT with COUNTS 1, 2, 3, 4, 5, 6, 7, 8; **COUNT 10** -  
6 a MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-  
7 FOUR (24) MONTHS, CONCURRENT with COUNTS 1, 2, 3, 4, 5, 6, 7, 8, 9; **COUNT**  
8 **11** - THREE HUNDRED SIXTY-FOUR (364) DAYS in the Clark County Detention  
9 Center, CONCURRENT with COUNTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10; **COUNT 12** - a  
10 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWELVE (12)  
11 MONTHS, CONSECUTIVE to COUNTS 1, 2, 3, 5, 7; and **COUNT 13** - a MAXIMUM of  
12 SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-FOUR (24)  
13 MONTHS, CONCURRENT with COUNTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12; with SIX  
14 HUNDRED FOUR (604) DAYS credit for time served. The AGGREGATE TOTAL  
15 sentence is FOUR HUNDRED TWENTY (420) MONTHS MAXIMUM with a MINIMUM  
16 PAROLE ELIGIBILITY of NINETY-FOUR (94) MONTHS or THIRTY-FIVE (35) YEARS  
17 MAXIMUM with a MINIMUM PAROLE ELIGIBILITY of NINE (9) YEARS.

21 DATED this 20<sup>th</sup> day of September, 2017.

23  
24   
25 LINDA MARIE BELL  
26 DISTRICT COURT JUDGE  
27  
28



**MOT**  
BOLEY & ALDABBAGH, LTD.  
THOMAS D. BOLEY, ESQ.  
Nevada Bar No. 11061  
1900 E. Bonanza Rd.  
Las Vegas, NV 89101  
T: (702) 435-3333  
F: (702) 475-6567  
*Attorney for Defendant*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

STATE OF NEVADA,

**CASE NO: C-16-313118-2**

Plaintiff,

**DEPT NO: 7**

vs.

JOSE FERNANDO MONAY-PINA,


Defendant.

**NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that (Jose Fernando Monay-Pina), Petitioner, by and through his/her attorney, THOMAS D. BOLEY, ESQ., does appeal to the Supreme Court of Nevada from the guilty finding entered in this action on the 3<sup>rd</sup> day of October, 2017.

DATED this 3rd day of Oct, 2017.

RESPECTFULLY SUBMITTED



THOMAS D. BOLEY, Esq.  
Nevada Bar # 11061  
1900 E. Bonanza Rd.  
Las Vegas, Nevada 89101  
(702) 435-3333  
*Attorney for Defendant*

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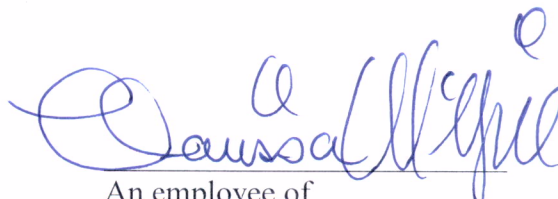
## CERTIFICATE OF MAILING

On October 3, 2017, I served the attached **NOTICE OF APPEAL** as required by applicable rule and law by the following means to the person(s) listed below:

**[ X ] BY U.S. MAIL:** by placing the document(s) listed/attached in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada, addressed as set forth below:

Alexandra M. Michael  
Assistant United State Attorney  
Office of the United States Attorney  
District of Nevada  
501 Las Vegas Boulevard South, Suite 1100  
Las Vegas, NV 89101  
Phone 702/388-6336  
Fax 702/388-5087

Brian Smith, Esq.  
LAW OFFICES OF BRIAN SMITH, LTD.  
9525 Hillwood Drive, Suite 190a  
Las Vegas, NV 89134  
Phone 702/380-8248  
Phone 702/380-8248

  
An employee of  
BOLEY & AIDABBAGH

AA0000079



IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE FERNANDO MONAY-PINA,  
A/K/A JOSE FERNANDO MONAYPINA,  
Appellant,

vs.

THE STATE OF NEVADA,  
Respondent.

No. 74199

**FILED**

APR 30 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER REMOVING COUNSEL, REFERRING COUNSEL TO STATE  
BAR FOR INVESTIGATION, REMANDING TO SECURE APPELLATE  
COUNSEL, AND SUSPENDING BRIEFING*

This appeal from a judgment of conviction was docketed on October 12, 2017. Accordingly, the transcript request form and docketing statement were due to be filed by October 30, 2017, and November 1, 2017, respectively. NRAP 9(a)(3)(A); NRAP 14(b). Appellant failed to file these documents and on November 16, 2017, the clerk of this court issued a notice directing appellant to file and serve these documents by December 4, 2017.<sup>1</sup> When appellant still failed to file the documents, we entered an order on December 21, 2017, directing appellant to file and serve the transcript request form and docketing statement by January 2, 2018, or face

---

<sup>1</sup>A copy of this notice is attached.

sanctions.<sup>2</sup> Appellant did not file the documents. Thus, on January 26, 2018, we entered an order conditionally imposing sanctions on appellant's counsel, Thomas D. Boley.<sup>3</sup> We directed Mr. Boley to pay \$250 to the Supreme Court Law Library by February 6, 2018. The sanction would be automatically vacated if Mr. Boley filed and served the transcript request form and docketing statement by that same date. We cautioned that failure to comply with our order or any other filing deadlines would result in the removal of Mr. Boley as counsel of record in this appeal and in his referral to the State Bar of Nevada for investigation. Mr. Boley filed the transcript request form and docketing statement on February 6, 2018. Accordingly, the conditional sanctions were automatically vacated.

On February 22, 2018, Mr. Boley filed a motion for a 90-day extension of time to file the opening brief. We denied the motion on March 1, 2018, and directed Mr. Boley to file and serve the opening brief and appendix by April 2, 2018.<sup>4</sup> We cautioned that failure to comply could result in the imposition of sanctions. To date, Mr. Boley has not filed the opening brief and appendix or otherwise communicated with this court.

We have repeatedly stated that we expect all appeals to be "pursued in a manner meeting high standards of diligence, professionalism, and competence." *Cuzdey v. State*, 103 Nev. 575, 578, 747 P.2d 233, 235 (1987); accord *Polk v. State*, 126 Nev. 180, 184, 233 P.3d 357, 359 (2010); *Barry v. Lindner*, 119 Nev. 661, 671, 81 P.3d 537, 543 (2003); *State, Nev. Emp't Sec. Dep't v. Weber*, 100 Nev. 121, 123, 676 P.2d 1318, 1319 (1984). It

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<sup>2</sup>A copy of this order is attached.

<sup>3</sup>A copy of this order is attached.

<sup>4</sup>A copy of this order is attached.

is incumbent upon Mr. Boley, as part of his professional obligations of competence and diligence to his clients, to know and comply with all applicable court rules. See RPC 1.1; RPC 1.3. These rules have been implemented to promote cost-effective, timely access to the courts; it is "imperative" that he follow these rules and timely comply with our directives. *Weddell v. Stewart*, 127 Nev. 645, 650, 261 P.3d 1080, 1084 (2011). Mr. Boley is "not at liberty to disobey notices, orders, or any other directives issued by this court." *Id.* at 652, 261 P.3d at 1085.

Mr. Boley's failure to comply with our rules, notice, and orders has forced this court to divert our limited resources to ensure his compliance and needlessly delayed the processing of this appeal. Therefore, we remove Mr. Boley as counsel in this appeal. Because it appears that Mr. Boley's conduct in this appeal may constitute violations of RPC 1.3 (diligence), 3.2(a) (expediting litigation), and 8.4 (misconduct), we refer Mr. Boley to the State Bar of Nevada for investigation pursuant to SCR 104-105.

We remand this appeal to the district court for the limited purpose of securing appellate counsel for appellant. See *Evitts v. Lucey*, 469 U.S. 387 (1985). If appellant is indigent, the district court shall have 30 days from the date of this order to appoint counsel for appellant. Otherwise, within 30 days from the date of this order, the district court shall order that appellant must retain counsel and that retained counsel must enter an appearance in the district court on appellant's behalf within 30 days from the date of the district court's order. Within 5 days from the appointment or appearance of counsel, the district court clerk shall transmit to the clerk of this court: (1) a copy of the district court's written or minute order appointing appellate counsel; or (2) a copy of the notice of appearance filed by retained counsel.

Briefing of this appeal shall be suspended pending further order of this court.

It is so ORDERED.

	<u>Cherry</u> , J.	
	Cherry	
<u>Parraguirre</u> , J.		<u>Stiglich</u> , J.
Parraguirre		Stiglich

cc: Hon. Linda Marie Bell, District Judge  
Boley & Aldabbagh Ltd.  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk  
Jose Fernando Monay-Pina  
Bar Counsel  
Thomas D. Boley

**IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK**

JOSE FERNANDO MONAY-PINA, A/K/A  
JOSE FERNANDO MONAYPINA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 74199**  
District Court Case No. C313118

**NOTICE TO FILE DOCKETING STATEMENT AND REQUEST TRANSCRIPTS**

TO: Boley & Aldabbagh Ltd. \ Joshua U. Aldabbagh

To date, appellant has not filed the Docketing Statement and the Transcript Request Form in this appeal. NRAP 14(b); NRAP 9(a).

Please file and serve the Docketing Statement and either a Transcript Request Form or, alternatively, a certificate that preparation of transcripts is not requested within 10 days from the date of this notice. See NRAP 10(b); NRAP 30 (b)(1). Failure to file a Docketing Statement or the appropriate transcript document may result in the imposition of sanctions, including the dismissal of this appeal. See NRAP 9(a)(7); NRAP 14(c).

DATE: November 16, 2017

Elizabeth A. Brown, Clerk of Court

By: Niki Wilcox  
Deputy Clerk

**Notification List**

**Electronic**

Boley & Aldabbagh Ltd. \ Thomas D. Boley

Clark County District Attorney \ Steven S. Owens, Chief Deputy District Attorney

Attorney General/Carson City \ Adam Paul Laxalt, Attorney General

Boley & Aldabbagh Ltd. \ Joshua U. Aldabbagh

**Paper**

Boley & Aldabbagh Ltd. \ Joshua U. Aldabbagh

17-39530

**AA00000984**

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE FERNANDO MONAY-PINA,  
A/K/A JOSE FERNANDO MONAYPINA,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 74199

**FILED**

DEC 21 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER TO FILE DOCUMENTS*

On November 16, 2017, we directed counsel for appellant to file and serve a transcript request form and a docketing statement within 10 days. To date, the required documents have not been filed with the clerk of this court. NRAP 9(a)(3) ("The appellant shall file an original transcript request form with the district court clerk and 1 file-stamped copy of the transcript request form with the clerk of the Supreme Court . . ."); NRAP 14(b). Appellant's counsel shall have 11 days from the date of this order to file and serve the transcript request form or a certificate that no transcripts will be requested and a docketing statement. *See* NRAP 9(a)(1); NRAP 14. We caution appellant's counsel that failure to comply with this order may result in the imposition of sanctions. NRAP 9(a)(7); NRAP 14(c).

It is so ORDERED.

Cherry, C.J.

cc: Boley & Aldabbagh Ltd.  
Attorney General/Carson City  
Clark County District Attorney

AA00000986





IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE FERNANDO MONAY-PINA,  
A/K/A JOSE FERNANDO MONAYPINA,  
Appellant,


vs.

THE STATE OF NEVADA,  
Respondent.

No. 74199

**FILED**

MAR 01 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER DENYING MOTION*

Appellant has filed a motion for a 90-day extension of time to file the opening brief. In support of the motion, counsel states that "it would be prudent" to conference with counsel for appellant's codefendant or read the opening brief in the appeal filed by the codefendant before filing the opening brief in this matter. Counsel also notes that due to his own actions, the relevant transcripts were only recently delivered.

We are not convinced that counsel demonstrates good cause in support of the requested extension of time. This appeal has been pending for over 4 months. Counsel does not explain why he has not already conferred with counsel for appellant's codefendant. Moreover, the transcripts were filed in the district court on December 7, 2017. Counsel's failure to properly and timely request transcripts or check the district court docket entries does not warrant a 90-day extension of time. And we are not

Appellant shall have 30 days from the date of this order to file and serve the opening brief and appendix. Failure to comply with this order may result in the imposition of sanctions.

Dwykes, C.J.

SUPREME COURT  
OF  
NEVADA

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 07, 2016**

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C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

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**March 07, 2016      10:00 AM      Initial Arraignment**

**HEARD BY:** De La Garza, Melisa      **COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Skye Endresen/se  
Kory Schlitz

**RECORDER:** Kiara Schmidt

**PARTIES**

**PRESENT:** MONAY-PINA, JOSE FERNANDO Defendant

**JOURNAL ENTRIES**

- Deputized Law Clerk, Vivian Luong, appearing for the State. Augustus Claus, Esq. appearing on behalf of Marty Hart, Esq.

DEFT. MONAY-PINA ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT FURTHER ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript. Mr. Claus made an oral Motion for Discovery pursuant to EDCR 3.24. COURT ADDITIONALLY ORDERED, motion GRANTED pursuant to NRS 174.235.

CUSTODY (COC)

4/25/16 9:30 AM CALENDAR CALL (DEPT. 6)

5/2/16 10:00 AM JURY TRIAL (DEPT. 6)

AA0000120

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 25, 2016**

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C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

---

**April 25, 2016      9:30 AM      Calendar Call**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed  
Louisa Garcia/lg

**RECORDER:** Jessica Kirkpatrick

**PARTIES**

**PRESENT:**      Boley, Thomas D      Attorney  
Luzaich, Elissa      Attorney  
MONAY-PINA, JOSE FERNANDO      Defendant  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Mr. Gill, Esq., present on behalf of Casimiro Venegas; Tom Boley, Esq., present on behalf of Jose Fernando Monay-Pina.

Mr. Gill stated he filed a Motion to Continue to conduct further investigation, noting Defendant waived his right to a speedy trial and had no objection. At the request of counsel, COURT ORDERED, Defendant remanded on this case, if not already remanded.

Mr. Boley substituted in as counsel on behalf of Deft. Monay-Pina and stated he would be seeking a continuance as well, noting Defendant waived. COURT ORDERED, trial date VACATED and RESET.

CUSTODY (COC-NDC) (VENEGAS)

CUSTODY (MONAY-PINA)

PRINT DATE: 05/02/2016

Page 1 of 2

Minutes Date: April 25, 2016

AA0000091

**C-16-313118-2**

9/19/16 9:30 AM CALENDAR CALL (BOTH)

9/26/16 10:00 AM JURY TRIAL (BOTH)

PRINT DATE: 05/02/2016

Page 2 of 2

Minutes Date: April 25, 2016

AA000122

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 19, 2016**

C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

**September 19, 2016    9:30 AM      Calendar Call**

**HEARD BY:** Cadish, Elissa F.

**COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Boley, Thomas D	Attorney for Defendant
	Holthus, Mary Kay	Deputy District Attorney
	MONAY-PINA, JOSE FERNANDO	Defendant
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Also present, Co Defendant CASIMIRO VENEGAS, with counsel Adam Gill.

Mr. Gill advised there are further investigations to conduct, negotiations have been discussed, and requested the trial be rescheduled. Ms. Holthus stated she is not opposed to the continuance, provided the cases remain together. Mr. Boley stated he is not opposed to the request. Colloquy regarding the continuation of the 1 week trial. Mr. Gill stated he would like to make sure Defendant Venegas is remanded in this case. Court noted the believe that Defendant Venegas is in custody in this case, and another, and there being no opposition, ORDERED, trial CONTINUED.

CUSTODY(COC-NDC)

2-6-17 9:30 AM CALENDAR CALL

2-13-17 10:00 AM JURY TRIAL

PRINT DATE: 10/12/2016

Page 1 of 2

Minutes Date: September 19, 2016

AA00000093  
00000093



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 06, 2017**

C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

**February 06, 2017      9:30 AM      Calendar Call**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Boley, Thomas D	Attorney for Defendant
	MONAY-PINA, JOSE FERNANDO	Defendant
	Schwartz, Bryan A.	Deputy District Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Also present, Defendant Casimiro Venegas, with counsel Adam Gill.

Mr. Gill and Mr Boley stated they are ready for trial. Mr. Schwartz announced the state is ready to proceed to trial; it's not overflow eligible. Mr. Gill stated the trial will last 4-5 days, can safely say will not go into another week. Colloquy regarding the case. COURT ORDERED, matter CONTINUED to check with overflow, and other courts to determine if they can hear the case.

**CUSTODY**

2-8-17 8:30 AM CALENDAR CALL

2-13-17 10:00 AM JURY TRIAL

PRINT DATE: 02/06/2017

Page 1 of 2

Minutes Date: February 06, 2017

AA0000095  
000095





**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 08, 2017**

C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

**February 08, 2017      8:30 AM      Calendar Call**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Boley, Thomas D	Attorney for Defendant
	MONAY-PINA, JOSE FERNANDO	Defendant
	Schwartz, Bryan A.	Deputy District Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Also present Defendant Casimiro Venegas with counsel Adam Gill.

Court stated it's been confirmed with the overflow Judge, and after providing them with the information they are confident a Judge can be found to hear the case. Mr. Gill advised the Defendant is not confident they are ready to proceed to trial, although they had announced ready; there are further investigations the Defendant would like done and he's not comfortable going to trial; the state has been informed of this, but there's not been an opportunity to mention it to Mr. Boley; a 30-45 day continuance is requested. Colloquy regarding a continuation of the trial. Mr. Schwartz objected to the request, arguing Mr. Gill announced ready, and the Defendant is attempting to delay the trial; mentioned to Mr. Gill a 2 week continuance with the witnesses being available on a short setting for February 28th, if not April. Mr. Gill stated 2 weeks does not work. CONFERENCE AT BENCH. Court noted discussions were had regarding specific investigations that may need to be completed by Mr. Gill, and the time frame. At this point, Mr. Boley stated he does not want to oppose any further investigations, he is ready to proceed to trial, and his only objection is to his client remaining in jail a

PRINT DATE: 02/15/2017

Page 1 of 2

Minutes Date: February 08, 2017

AA0000097



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 22, 2017**

C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

**February 22, 2017      9:30 AM      Calendar Call**

**HEARD BY:** Cadish, Elissa F.

**COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Boley, Thomas D	Attorney for Defendant
	Holthus, Mary Kay	Deputy District Attorney
	MONAY-PINA, JOSE FERNANDO	Defendant
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Also present, Defendant Casmiro Venegas, with counsel Adam Gill. Ms. Holthus, Mr. Arnold, and Mr. Boley all announced they are ready to proceed to trial. Ms. Holthus stated the 6-7 day trial is not over flow eligible; 20-25 witnesses. Mr. Boley stated it's believed the case is over flow eligible. Colloquy regarding the eligibility of cases to be sent to over flow. Court stated it's probable another court can preside over this trial whether it goes to over flow or not. CONFERENCE AT BENCH. Court noted that based upon conversations at the bench, the Court will make inquiries to determine if someone can preside over the 6-7 day trial the week of March 6, 2017 and ORDERED, trial CONTINUED. Ms. Holthus inquired if the subpoenas remain in effect. Court stated yes.

CUSTODY(COC-NDC)

2-27-17 9:30 AM CALENDAR CALL

3-6-17 10:00 AM JURY TRIAL

PRINT DATE: 02/23/2017

Page 1 of 2

Minutes Date: February 22, 2017

AA0000129



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 27, 2017**

C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

**February 27, 2017      9:30 AM      Calendar Call**

**HEARD BY:** Cadish, Elissa F.

**COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Boley, Thomas D	Attorney for Defendant
	Holthus, Mary Kay	Deputy District Attorney
	MONAY-PINA, JOSE FERNANDO	Defendant
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Also present, Defendant Casimiro Venegas, with counsel Adam Gill. Court noted due to this Court's trial schedule, another Judge was sought to preside over this case, which is not over flow eligible; Judge Bell has agreed to take the trial, but needs to start March 13, 2017; parties are to contact Department VII to discuss the setting. Ms. Holthus concurred, advising she has not contacted all of the witnesses, but has verified with the victim they will not be leaving town; it's not 100% confirmed, but it's anticipated that's ok. Mr. Boley stated he has no preference; sooner is better. COURT ORDERED, matter SET for trial March 13, 2017 @ 9:00 AM in Dept. VII; Judge Herndon will prepare the actual minute order reassigning the case, and this Court will arrange for the case to be reassigned to Judge Bell; parties are to contact Dept. VII in regards to the details of their scheduling.

**CUSTODY**

3-13-17 9:00 AM JURY TRIAL (DEPT. VII)

PRINT DATE: 03/10/2017

Page 1 of 2

Minutes Date: February 27, 2017

AA0000131



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 27, 2017**

C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

**February 27, 2017      3:00 AM      Minute Order**

**HEARD BY:** Herndon, Douglas W.

**COURTROOM:** RJC Courtroom 16C

**COURT CLERK:** Deborah Miller

**RECORDER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

The instant case is assigned to District Court Department 6 and is currently set for trial. The parties are ready to proceed to trial. Due to another scheduled trial, Department 6 is unable to preside over the trial in this case at this time.

EDCR 1.30 (15) gives the Chief Judge of the Eighth Judicial District Court the authority to reassign cases between departments as convenience or necessity requires. EDCR 1.30 (11) also states that the Chief Judge must appoint a Judge to preside over the Criminal Division of the Court. EDCR 1.31 gives the Criminal Presiding Judge the authority to reassign pending criminal cases from one department to another. As with EDCR 1.30(15), the Presiding Criminal Judge s decision on reassigning pending criminal cases should be done as convenience and necessity require.

This court finds that convenience and necessity justify the reassignment of the instant matter for trial since Department 6 is unable to hear the trial. District Court Department 7 is available to preside over the trial. Therefore, based on the totality of circumstances present, this Court, as Criminal Presiding Judge, ORDERS, pursuant to EDCR 1.31, the reassignment of the instant case for trial to Department 7. The matter will proceed to trial Monday, March 13, 2017, at 9:00 am. The attorneys are directed to contact Department 7 for further instructions.

AA0000133



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 07, 2017**

C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

**March 07, 2017      9:00 AM      Status Check      Jury Trial**

**HEARD BY:** Bell, Linda Marie      **COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Sylvia Perry

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Holthus, Mary Kay	Deputy District Attorney
	Monay-Pina, Jose Fernando	Defendant
	Schwartz, Bryan A.	Deputy District Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Defendant Venegas not present. COURT ORDERED, presence WAIVED as there was no order to transport.

Mr. Boley not present, Mr. Gill present on his behalf.

Colloquy regarding scheduling as parties requested to begin the trial Monday afternoon. Court advised concerns as to starting the trial too late in the day. Further, Mr. Gill advised Mr. Boley requested a Tuesday start date. COURT ORDERED, trial set to proceed March 13, 2017 at 12:00 pm. Additionally, Court informed the parties the DC VII law clerk was recently hired by the District Attorney's office for a clerkship starting in September and will have nothing to do with the case. Mr. Gill so noted.

3/13/17 12:00 PM JURY TRIAL

PRINT DATE: 10/05/2017

Page 1 of 2

Minutes Date: March 07, 2017

AA0000134



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 13, 2017**

C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

**March 13, 2017      12:00 AM      Jury Trial**

**HEARD BY:** Bell, Linda Marie

**COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Sylvia Perez

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Boley, Thomas D	Attorney for Defendant
	Holthus, Mary Kay	Deputy District Attorney
	MONAY-PINA, JOSE FERNANDO	Defendant
	Schwartz, Bryan A.	Deputy District Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Jury Trial

Also present, Mr. A. Gill Esq., present on behalf of Defendant Venegas.

OUTSIDE THE PRESENCE OF THE PERSPECTIVE JURY:

AMENDED INFORMATION FILED IN OPEN COURT. Colloquy regarding scheduling. Court advised counsel as to peremptory challenges. COURT ORDERED, Defendant Venegas REMANDED to the custody of the Clark County Detention Center for the duration of the trial.

INSIDE THE PRESENCE OF THE PERSPECTIVE JURY:

Counsel advised no challenge to the jury panel as a whole. Perspective jury panel polled. Introductions by Court and counsel. Voir Dire conducted. SECOND AMENDED INFORMATION FILED IN OPEN COURT. Clerk read the Information to the jury and stated the defendant's plea

PRINT DATE: 03/17/2017

Page 1 of 2

Minutes Date: March 13, 2017

AA0000136

thereto. Jury selected and sworn. Recess, COURT ORDERED, jury trial CONTINUED.

CONTINUED TO 3/14/17 10:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 14, 2017**

C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

**March 14, 2017      10:00 AM      Jury Trial**

**HEARD BY:** Bell, Linda Marie

**COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Sylvia Perez

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Boley, Thomas D	Attorney for Defendant
	Holthus, Mary Kay	Deputy District Attorney
	MONAY-PINA, JOSE FERNANDO	Defendant
	Schwartz, Bryan A.	Deputy District Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Jury Trial Continues

Appearances continued: Mr. A. Gill Esq., present on behalf of Defendant Venegas. Ms. N. Tatten, Spanish court interpreter.

**INSIDE THE PRESENCE OF THE JURY:**  
Conference at the Bench.

**OUTSIDE THE PRESENCE OF THE JURY:**  
Juror #8 present. Colloquy regarding juror possibly knowing both a witness and Defendant Monay-Pina. EXCLUSIONARY RULE INVOKED. Counsel stipulated to the admission of exhibits.

**INSIDE THE PRESENCE OF THE JURY:**

PRINT DATE: 03/17/2017

Page 1 of 2

Minutes Date: March 14, 2017

AA0000138

Testimony and exhibits presented. (See worksheets).

OUTSIDE THE PRESENCE OF THE JURY:

Colloquy regarding proposed jury instructions. Mr. Gill clarified a sidebar objection as it was to ongoing hearsay. Court so noted and ORDERED, jury trial CONTINUED.

CONTINUED TO 3/15/17 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 15, 2017**

C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

**March 15, 2017      9:00 AM      Jury Trial**

**HEARD BY:** Bell, Linda Marie

**COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Sylvia Perez

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Boley, Thomas D	Attorney for Defendant
	Holthus, Mary Kay	Deputy District Attorney
	MONAY-PINA, JOSE FERNANDO	Defendant
	Schwartz, Bryan A.	Deputy District Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Jury Trial Continued

Also present, Mr. A. Gill Esq., counsel for Defendant Casimiro Venegas.

**OUTSIDE THE PRESENCE OF THE JURY:**

THIRD AMENDED INFORMATION FILED IN OPEN COURT. Court advised Defendants of their right not to testify.

**INSIDE THE PRESENCE OF THE JURY:**

Testimony and exhibits continued (See worksheets). State and Defense REST.

**OUTSIDE THE PRESENCE OF THE JURY:**

Jury instructions settled.

PRINT DATE: 03/17/2017

Page 1 of 2

Minutes Date: March 15, 2017

AA0000140

INSIDE THE PRESENCE OF THE JURY:

Court read the instructions to the Jury. Closing arguments by Counsel. Jury retired for deliberations at the hour of 3:51 pm. Jury returned for the court to answer a question. Deliberation continued.

At the hour of 5:43 pm, the Jury returned with a VERDICT for Defendant Monay-Pina of and Defendant Venegas :

As to COUNT 1 - GUILTY of Conspiracy to Commit Robbery

As to COUNT 2 - GUILTY of Burglary While in Possession of a Firearm

As to COUNT 3 - GUILTY of Robbery with Use of a Deadly Weapon

As to COUNT 4 - GUILTY of Burglary While in Possession of a Firearm

As to COUNT 5 - GUILTY of Robbery with Use of a Deadly Weapon

As to COUNT 6 - GUILTY of Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm

As to COUNT 7 - GUILTY of Attempt Murder With Use of a Deadly Weapon

As to COUNT 8 - GUILTY of Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm

As to COUNT 9 - GUILTY of Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm

As to COUNT 10 - GUILTY of Battery with Use of a Deadly Weapon

As to COUNT 11 - GUILTY of Aiming a Firearm at a Human Being

As to COUNT 12 - GUILTY of Coercion with Use of a Deadly Weapon

As to COUNT 13 - GUILTY of Battery with Intent to Commit a Crime

Jury polled (unanimous). Court thanked and excused the jury.

OUTSIDE THE PRESENCE OF THE JURY:

Sentencing date SET.

6/15/17 8:30 AM SENTENCING



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**August 17, 2017**

C-16-313118-2      State of Nevada  
vs  
JOSE MONAY-PINA

**August 17, 2017      8:30 AM      Sentencing**

**HEARD BY:** Bell, Linda Marie      **COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Sylvia Perry

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

**PRESENT:**      Boley, Thomas D      Attorney for the Defendant  
Schwartz, Bryan A.      Deputy District Attorney  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Sentencing

Also present: Mr. A. Gill, Counsel for Defendant Venegas.

Upon the Court's inquiry, Mr. Gill requested to continue sentencing thirty (30) days as he has a scheduled meeting with his Defendant 8/29/17; further stating there is no opposition from both co-deft's counsel and the State. Mr. Schwartz advised he does not oppose a continuance and informed victim witnesses not to appear in the event the sentencing was continued. Court stated a continuance has not been granted and State is not prepared to proceed today. Colloquy regarding if Defendant's needed to be sentenced together as Mr. Boley advised no opposition to moving forward today. COURT ORDERED, matter CONTINUED as requested and to allow the victim witnesses the opportunity to share. Parties so noted.

**CUSTODY**

PRINT DATE: 08/17/2017

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Minutes Date: August 17, 2017

AA0000142

CONTINUED TO 9/7/17 8:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 07, 2017**

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C-16-313118-2      State of Nevada  
                                 vs  
                                 JOSE MONAY-PINA

---

**September 07, 2017      8:30 AM      Sentencing**

**HEARD BY:**    Bell, Linda Marie      **COURTROOM:**    RJC Courtroom 15A

**COURT CLERK:**    Sylvia Perry  
                                 Kory Schlitz / ks

**RECORDER:**    Renee Vincent

**PARTIES**

<b>PRESENT:</b>	Boley, Thomas D	Attorney for Defendant
	Holthus, Mary Kay	Attorney for State
	Monay-Pina, Jose Fernando	Defendant
	Schwartz, Bryan A.	Attorney for State
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- APPEARANCES CONTINUED: Defendant Venegas present in custody represented by Adam Gill Esq.

Victim Speakers sworn and testified. (See Worksheet). DEFENDANT MONAY-PINA ADJUDGED GUILTY of COUNT 1 - CONSPIRACY TO COMMIT ROBBERY (F) and COUNT 2, 4 - BURGLARY WHILE IN POSSESSION OF FIREARM (F), COUNTS 3, 5 - ROBBERY WITH USE OF A DEADLY WEAPON (F), COUNTS 6, 8, 9, 10 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (F), COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F), COUNT 11 - AIMING A FIREARM AT A HUMAN BEING (F), COUNT 12 - COERCION WITH USE OF A DEADLY WEAPON (F), COUNT 13 - BATTERY WITH INTENT TO COMMIT A CRIME (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine genetic markers, and \$3.00 DNA Collection fee, Defendant SENTENCED to:

PRINT DATE:    09/11/2017

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Minutes Date:    September 07, 2017

**AA000014**

COUNT 1 - to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC);

and in COUNT 2 - to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, CONCURRENT with COUNT 1;

and in COUNT 3 - to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, plus a CONSECUTIVE term of a MINIMUM of TWELVE (12) MONTHS with a MAXIMUM of SIXTY (60) MONTHS in the NDC, for use of a deadly weapon; CONCURRENT with COUNT 1 and COUNT 2;

COUNT 4 - to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, CONCURRENT to COUNT 1, COUNT 2, COUNT 3;

and in COUNT 5 - to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, plus a CONSECUTIVE term of a MINIMUM of TWENTY-FOUR (24) MONTHS with a MAXIMUM of SIXTY (60) MONTHS in the NDC, for use of a deadly weapon, CONSECUTIVE to COUNT 1, COUNT 2, COUNT 3;

and in COUNT 6 - to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, CONCURRENT WITH COUNT 1, COUNT 2, COUNT 3, COUNT 4, and COUNT 5;

and in COUNT 7 - to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, plus a CONSECUTIVE term of a MINIMUM of TWENTY-FOUR (24) MONTHS with a MAXIMUM of SIXTY (60) MONTHS in the NDC, for use of a deadly weapon, CONSECUTIVE to COUNT 1, COUNT 2, COUNT 3;

and in COUNT 8 - to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the NDC, CONCURRENT WITH COUNT 1, COUNT 2, COUNT 3, COUNT 4, COUNT 5, COUNT 6, and COUNT 7;

and in COUNT 9 - to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the NDC, CONCURRENT WITH COUNT 1, COUNT 2, COUNT 3, COUNT 4, COUNT 5, COUNT 6, COUNT 7, COUNT 8;

and in COUNT 10 - to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the NDC, CONCURRENT WITH COUNT 1, COUNT 2, COUNT 3, COUNT 4, COUNT 5, COUNT 6, COUNT 7, COUNT 8, COUNT 9;

and in COUNT 11 - to Clark County Detention Center (CCDC) for THREE HUNDRED SIXTY-FOUR (364) DAYS, CONCURRENT WITH COUNT 1, COUNT 2, COUNT 3, COUNT 4, COUNT 5, COUNT 6, COUNT 7, COUNT 8, COUNT 8, COUNT 10;

and in COUNT 12 - to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the NDC, CONSECUTIVE to COUNT 1, COUNT 2, COUNT 3, COUNT 5, COUNT 7;

and in COUNT 13 - to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the NDC, CONCURRENT TO COUNT 1, COUNT 2, COUNT 3, COUNT 4, COUNT 5, COUNT 6, COUNT 7, COUNT 8, COUNT 9, COUNT 10, COUNT 11, COUNT 12;

for an AGGREGATE TOTAL of a MINIMUM of NINETY (94) and a MAXIMUM of FOUR HUNDRED TWENTY (420) MONTHS in the NDC, WITH SIX HUNDRED FOUR (604) DAYS credit for time served.

COURT STATED ITS FINDINGS with regards to the Deadly Weapon Enhancement Statute. BOND, if any, EXONERATED.

NDC

**CERTIFICATE OF ELECTRONIC TRANSMISSION**

The undersigned hereby declares that on September 24, 2018, an electronic copy of the foregoing APPELLANT'S APPENDIX VOLUME I was sent via the master transmission list with the Nevada Supreme Court to the following:

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Clark County District Attorney

ADAM PAUL LAXALT  
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---

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AA000147

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

JOSE FERNANDO MONAY-PINA, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 THE STATE OF NEVADA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

DOCKET NUMBER: 74199

Electronically Filed  
Sep 25 2018 10:02 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT'S APPENDIX VOLUME II**

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Attorney for Respondent  
THE STATE OF NEVADA

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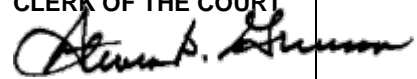
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RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

CASE NO. C313118-1  
C313118-2

v.

DEPT. VII

CASIMIRO VENEGAS  
JOSE FERNANDO MONAY-PINA,  
AKA JOSE FERNANDO MONAYPINA

Defendants.

BEFORE THE HONORABLE LINDA MARIE BELL, DISTRICT COURT JUDGE

MONDAY, MARCH 13, 2017

**RECORDER'S TRANSCRIPT  
DESIGNATION OF RECORD  
JURY TRIAL DAY 1**

APPEARANCES:

For the Plaintiff: MARY KAY HOLTHUS, ESQ.  
RYAN SCHWARTZ, ESQ., ESQ.  
Clark County District Attorney's  
Office

For the Defendant  
Venegas: ADAM L. GILL, ESQ.  
Aisen, Gill & Associates LLP

For the Defendant  
Monay-Pina: THOMAS D. BOLEY, ESQ.  
Boley & AlDabbagh

RECORDED BY: RENEE VINCENT



1 MONDAY, MARCH 13, 2017 AT 12:03 P.M.

2 MS. HOLTHUS: Can we approach?

3 THE COURT: Uh-huh.

4 MS. HOLTHUS: Are we on the record?

5 MR. SCHWARTZ: Are we on?

6 THE CLERK: Yes.

7 [Bench Conference Begins]

8 THE COURT: Okay.

9 MS. HOLTHUS: Do they usually short pencils, not long  
10 pens?

11 MR. GILL: What's that?

12 MS. HOLTHUS: Don't they usually have short pencils that  
13 they can't get their hands around?

14 MR. GILL: They can, there is another safety --

15 MS. HOLTHUS: I thought they're not supposed to have a  
16 whole pen, but -- and I would prefer -- this guy looking  
17 like --

18 MR. GILL: Okay.

19 MS. HOLTHUS: So I'm -- I would just have to -- he's just  
20 have something that he can't stab my co-counsel with.

21 MR. SCHWARTZ: Well, you're --

22 MS. HOLTHUS: Or at least can't do as much damage with.

23 MR. GILL: Okay.

24 MR. SCHWARTZ: I told Mary Kay I'd take the first shot  
25 though for her, if it came to that --

1 MS. HOLTHUS: Yeah. But invariably --

2 MR. GILL: [Indiscernible] in jail with the bar --

3 MS. HOLTHUS: -- that last time it happened to me, the  
4 deputy that was there left.

5 MR. SCHWARTZ: I have no preference on what he writes  
6 with.

7 MS. HOLTHUS: I know it's petty, but --

8 THE COURT: All right.

9 MR. SCHWARTZ: Do you want me to move?

10 MR. GILL: No objection to whatever kind of pen --

11 MR. SCHWARTZ: Do you want me to --

12 MR. GILL: -- the State wants.

13 MR. SCHWARTZ: -- to switch places with him?

14 MS. HOLTHUS: No. They just usually --

15 MR. SCHWARTZ: Do you want me to switch places with him,  
16 then he can only --

17 MS. HOLTHUS: No. They just --

18 MR. SCHWARTZ: -- stab me.

19 MS. HOLTHUS: -- usually have those golf pencils.

20 THE COURT: All right.

21 MS. HOLTHUS: Those little short ones that -- because I  
22 asked before why they can't.

23 MR. GILL: Thank you, Judge.

24 MS. HOLTHUS: Because they aren't supposed -- they can't  
25 get the leverage on it.



1 THE COURT: I only have one.

2 MR. GILL: Sharper implement.

3 THE COURT: I do need two short ones just --

4 MS. HOLTHUS: Dull it down and then get lead poison. I  
5 don't -- whatever.

6 MR. SCHWARTZ: Do you want me to move him?

7 MS. HOLTHUS: I don't want anybody getting stabbed.

8 MR. SCHWARTZ: If anyone's going to get stabbed, it'll be  
9 me.

10 MS. HOLTHUS: Well, I don't want you to get stabbed.

11 THE COURT: All right.

12 MS. HOLTHUS: Like I said, I've never seen -- I've always  
13 seen them come in with little short -- like, for miniature  
14 golf pencils.

15 MR. GILL: This is fine, Your Honor.

16 THE COURT: I just only have one. Rest of them are --

17 MS. HOLTHUS: No. I know. I don't know why they don't.

18 THE COURT: We'll find another one.

19 MS. HOLTHUS: Okay. Thank you.

20 [Bench Conference ends]

21 [Counsel confer]

22 THE COURT: Okay. So before we bring the jury up, I want  
23 to just go through a few things. Are there any scheduling  
24 issues that we have that we haven't talked about? I would  
25 anticipate starting at 10 tomorrow and Thursday, 9 on

1 Wednesday, 9 on Friday. I have an appointment Friday at lunch  
2 time, so we may take a little bit longer lunch on Friday. I  
3 was going [indiscernible] unfortunately, so --

4 MR. SCHWARTZ: That's fine with the State.

5 THE COURT: [Indiscernible].

6 MR. SCHWARTZ: That's fine with the State, Your Honor.

7 MR. GILL: Yes, Your Honor.

8 THE COURT: All right. Mr. Boley?

9 MR. BOLEY: I'm sorry. I didn't hear. We were  
10 rearranging --

11 THE COURT: Just with respect to scheduling, and I know  
12 that you were -- that Mr. Gill made an appearance for both of  
13 you last time just so that you -- I catch you up.

14 So today we'll start and go until 5-ish. Tomorrow  
15 we'll start 10. Wednesday we'll start at 8:30 or 9, depending  
16 on how things are going. Thursday we'll start at 10. Friday,  
17 again, 8:30 or 9, depending on how things are going. I would  
18 anticipate breaking from 11:30 to about 1:30 Friday at lunch.  
19 It won't be longer than that.

20 MR. BOLEY: Could I ask that we take a break at 1:45  
21 today? I've got one very, very brief matter to deal with in  
22 muni court?

23 THE COURT: All right. Just remind me. I'll forget.

24 We do a modified Arizona selection in here, so I  
25 will do an initial question of all of the jurors. Then we'll

1 start with Juror Number 1, who will be seated in the top right  
2 seat, and I will have them introduce themselves with sort of  
3 the preliminary information. They'll have a card with the  
4 questions on it. They will introduce themselves. I will ask  
5 questions of Juror Number 1, followed by the State, and then  
6 by the defense.

7           Once that person has been asked all of the questions  
8 and passed for cause, we'll go on to Juror Number 2. When all  
9 of the jurors have been passed for cause, then you will pass  
10 back and forth the sheet to exercise peremptory challenges.  
11 The sheet says very clearly that the -- or the fifth challenge  
12 is used for the alternate, which is in seat 21 through -- okay  
13 -- 21 through 24, which will be those four seats in the front  
14 row.

15           The other four peremptory challenges can be used for  
16 any of the jurors in the actual jury box proper. The Defense  
17 has to pool its challenges pursuant to statute.

18           MR. SCHWARTZ: Okay.

19           THE COURT: Got it?

20           MR. BOLEY: Yes.

21           MR. GILL: Got it.

22           THE COURT: Any questions about that?

23           MR. BOLEY: No, ma'am.

24           THE COURT: Please make your for-cause challenges as we  
25 go. If we do pass the juror, and I -- we don't say we pass

1 for cause specifically, I'm going to assume that you do not  
2 have a challenge -- a cause-challenge, so I don't want to get  
3 to the end and have somebody say, oh, I had a challenge for  
4 cause for Juror Number 2.

5 MR. GILL: Do you want us to voice them at the bench  
6 or --

7 THE COURT: Absolutely.

8 MR. GILL: Okay. So stand up for cause --

9 THE COURT: Just ask to --

10 MR. GILL: Approach?

11 THE COURT: No. Just stand up and ask to approach and  
12 then come up, and then we'll do the cause challenge up here  
13 because we don't need to embarrass any of the jurors or make  
14 things difficult for them.

15 I'm going to ask if you can stay at your respective  
16 tables during voir dire. Once we start the trial, I really  
17 don't mind if you move around a little bit. It just makes  
18 voir dire go a little bit faster if everybody stays put.

19 If you waive one peremptory challenge when you're  
20 passing the sheet back and forth, you do not waive them all.

21 I record absolutely everything, so bench conferences  
22 are part of the record. Please keep that in mind. But that  
23 being said, sometimes there are transcription issues, so to  
24 have the best possible likelihood of having a good transcript,  
25 if you can please stand in the same place every time you come

1 up for a bench conference, I'd appreciate it. If you happen  
2 to remember to say who you are, it's very strange and awkward,  
3 and most people don't remember, that is helpful to the person  
4 transcribing because the cameras don't catch your face, so the  
5 transcriber can't see who's talking during a bench conference  
6 who among the lawyers is talking.

7 Also, if there is something of significance that's  
8 discussed during a bench conference, I generally try to make a  
9 note so that we can make an additional record at a break just  
10 in case there is an issue with transcribing the record at the  
11 bench conference. If I do forget, please remind me because I  
12 want to make sure that anything important is in the record,  
13 and I just know sometimes the transcribing of the bench  
14 conferences is problematic.

15 Can I get a list of witnesses from each side?  
16 Because I'll read that list when I get to that question for  
17 the jurors, so you don't have to when you introduce yourselves

18 MR. SCHWARTZ: Yes, Your Honor.

19 THE COURT: Yeah. Just go ahead -- oh, do you have it  
20 already?

21 MR. SCHWARTZ: I have a -- our notice of witness list if  
22 you'd like it. Or I could write out just kind of the ones  
23 we're intending on calling.

24 THE COURT: Yeah. Either way. Or do -- I have it on  
25 here, too. I think you have first names. That might be

1 helpful just because I'm -- if you know them.

2 MR. SCHWARTZ: Okay.

3 THE COURT: And then are you -- will you have any  
4 additional witnesses beyond what's on the list from the State?

5 MR. GILL: No likely, Your Honor.

6 MR. BOLEY: No, Judge.

7 THE COURT: Okay. So, Mr. Schwartz, just -- if you can  
8 get that to me in the next couple minutes?

9 MR. SCHWARTZ: Okay.

10 THE COURT: Then are there any stipulated exhibits?

11 MR. GILL: You know, Your Honor, I haven't had a chance  
12 to review them, but I know there will be if we can maybe --  
13 during the break, I'll take a look --

14 THE COURT: Okay.

15 MR. GILL: -- and there -- I'm sure there will be,  
16 especially some of the photographs.

17 MR. SCHWARTZ: I was -- I told your clerk, I was going to  
18 bring in the photographs tomorrow with a numbered list that I  
19 had made an exhibit list and have the Defense look at it and  
20 see what we can stipulate to.

21 MR. GILL: There --

22 THE COURT: All right. So --

23 MR. GILL: -- should be, Your Honor.

24 THE COURT: -- just so you know, the only items you can  
25 publish to the jury are admitted exhibits, anything that you

1 agree upon, or anything approved by the Court. So you really  
2 don't need to ask me if you can publish it to the jury if it  
3 meets one of those criteria, and if it doesn't meet one of  
4 those criteria, it cannot be published to the jury. Does that  
5 make sense?

6 MR. SCHWARTZ: Yes, Your Honor.

7 THE COURT: If you are doing a PowerPoint, you need to  
8 not show slides that are, in essence, an outline of your  
9 argument, but you do need to run by any slide that would be an  
10 exhibit, you know, part of a -- I guess we don't really have  
11 depositions here, but exhibits -- you know, quote from a  
12 police report, anything like that. Anything that's not, in  
13 essence, an outline of your argument that would be an exhibit  
14 that's not admitted already. That needs to be run by the  
15 other side. I probably don't need to tell you all this. I  
16 just had to mis-try a case, though, like two months ago  
17 because of that one. So --

18 All right. Is there anything else we need to take  
19 care of outside the presence of the jury?

20 MR. SCHWARTZ: No, Your Honor. We don't have any  
21 witnesses planned for today. We were planning to open and  
22 start with witnesses tomorrow, if that's okay with the Court.

23 THE COURT: No. I think we'll be lucky to get through  
24 getting a jury today.

25 MR. BOLEY: Does Your Honor have a --

1 THE COURT: And we have -- oh, and I just wanted to make  
2 a record on this. So I know that there is a habitual criminal  
3 allegation, but that does not increase the number of  
4 peremptory challenges.

5 MR. SCHWARTZ: Okay.

6 THE COURT: I'm just putting that on the record. That's  
7 my understanding of the state of the law.

8 MS. HOLTHUS: That's mine, as well. We were discussing  
9 that before. I just did one a couple weeks ago, and it wasn't  
10 an issue, so -- and my understanding is because it's the  
11 enhancement --

12 THE COURT: I've looked up the case, and I've forgotten  
13 the name of the case already. There's a case that seems to  
14 still be good law. Unless --

15 MR. GILL: Does Sharon have a list of the jurors for  
16 either party?

17 THE CLERK: You'll bring it up [indiscernible].

18 MR. GILL: Thank you.

19 MR. SCHWARTZ: And we did file an amended information  
20 this morning, Your Honor. I -- we emailed a copy to the  
21 defense counsel this morning. It's not changing any of the  
22 substantive charges. It's just correcting some of the barren-  
23 plead -- pled language that was -- always gets kind of mixed  
24 up, but I did inform the Defense of that.

25 THE COURT: All right. And --



1 MR. GILL: And he emailed it to us this morning.

2 THE COURT: -- no objection to that?

3 MR. GILL: No.

4 MR. SCHWARTZ: And, Your Honor, if I could approach? I  
5 do have a list of our witnesses for you here.

6 THE COURT: Right. Yeah. Come on up, please.

7 MR. SCHWARTZ: I crossed out a couple.

8 THE COURT: Okay. Great. Thank you.

9 [Counsel confer]

10 THE COURT: All right. I also am going to remand Mr.  
11 Venegas to the Clark County Detention Center for the duration  
12 of the trial.

13 MR. GILL: I'm sorry, Your Honor? You're going to have  
14 to --

15 THE COURT: Remand Mr. Venegas for the duration of the  
16 trial. So, sir, you're just going to be staying here instead  
17 of having the prison take you back and forth every day. As  
18 soon as the trial is over, then I'll have you sent back to the  
19 Department of Corrections.

20 DEFENDANT VENEGAS: Yes, ma'am.

21 THE COURT: All right.

22 MR. GILL: Thank you.

23 THE COURT: I think you all are stuck here today till he  
24 can get booked into the jail, but at least you won't have to  
25 come back tomorrow.

1 [Pause]

2 THE MARSHAL: They're getting lined up right now, Your  
3 Honor.

4 THE COURT: All right.

5 [Counsel confer]

6 THE MARSHAL: Please rise for the jury. Right up here,  
7 all the way to the far back seats.

8 [Pause]

9 THE COURT: Everybody can go ahead and have a seat.

10 [Pause]

11 THE COURT: If you want to you can stand up. At least  
12 you don't have to keep standing up.

13 [Designation concluded]

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



DEBRA PARMER  
Transcriber

**CERTIFICATE OF ELECTRONIC TRANSMISSION**

The undersigned hereby declares that on September 24, 2018, an electronic copy of the foregoing APPELLANT'S APPENDIX VOLUME II was sent via the master transmission list with the Nevada Supreme Court to the following:

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AA000169

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

JOSE FERNANDO MONAY-PINA, )  
 )  
 Appellant, )  
 )  
 vs. )  
 )  
 THE STATE OF NEVADA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

DOCKET NUMBER: 74199

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## **COURT MINUTES**

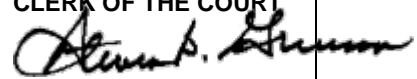
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RTRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

CASE NO. C313118-1  
C313118-2

v.

DEPT. VII

CASIMIRO VENEGAS,  
JOSE FERNANDO MONAY-PINA,  
AKA JOSE FERNANDO MONAYPINA

Defendants.

BEFORE THE HONORABLE LINDA MARIE BELL, DISTRICT COURT JUDGE

TUESDAY, MARCH 14, 2017

**RECORDER'S TRANSCRIPT  
DESIGNATION OF RECORD  
JURY TRIAL DAY 2**

APPEARANCES:

For the Plaintiff: MARY KAY HOLTHUS, ESQ., ESQ.  
RYAN SCHWARTZ, ESQ., ESQ.  
Clark County District Attorney's  
Office

For the Defendant ADAM L. GILL, ESQ.  
Venegas: Aisen, Gill & Associates LLP

For the Defendant THOMAS D. BOLEY, ESQ., ESQ.  
Monay-Pina: Boley & AlDabbagh

RECORDED BY: RENEE VINCENT



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1 TUESDAY, MARCH 14, 2017 AT 10:11 A.M.

2 THE MARSHAL: Please rise for the jury.

3 [Jury In]

4 THE COURT: Ma'am, I'm going to ask if you can just scoot  
5 over one. Yep. There you go.

6 UNIDENTIFIED JUROR: Thank you.

7 THE COURT: Counsel can just go ahead and sit down.

8 Okay. Good morning, everyone.

9 We are back on the record in Case Number C313118,  
10 State of Nevada versus Venegas and Monay-Pina.

11 And let the record reflect the presence of our  
12 jurors, Defendants, and counsel. 10:12:55 - 10:

13 [Designation concluded at 10:12 a.m., recommencing at  
14 10:23 a.m.]

15 THE COURT: Could I have the attorneys approach for a  
16 minute?

17 [Bench Conference Begins]

18 THE COURT: I think to talk [indiscernible] jurors.  
19 Let's take a short break.

20 UNIDENTIFIED SPEAKER: Yeah.

21 [Bench Conference Ends]

22 THE COURT: Folks, we're going to take just a quick --  
23 the lawyers get set up for their openings. During this break,  
24 you are admonished not to talk or converse among yourselves or  
25 with anyone else on any subject connected with this trial or

1 read, watch, or listen to any report or commentary on the  
2 trial or any person connected with this trial by any medium of  
3 information, including, without limitations, newspapers,  
4 television, Internet, radio, or form or express any opinion on  
5 any subject connected with the trial until the case is finally  
6 submitted to you.

7           So don't go too far. It's just going to be about  
8 five minutes. And, Ms. Wellman, if you could just -- where'd  
9 Ms. Wellman go? There. If you could just hang out for one  
10 second?

11           All right.

12           THE MARSHAL: All right. Please rise for the jury.  
13 Leave your clipboard and all your items there.

14           [Jury Exits]

15           THE COURT: All right. So, Ms. Wellman, I had a note  
16 from the marshal that said that you let him know that you  
17 possibly know Mr. Monay-Pina and possibly one of the  
18 witnesses, but that you weren't sure?

19           MS. WELLMAN: Yes, ma'am.

20           THE COURT: Okay. Can you just tell me about that?

21           MS. WELLMAN: I possibly could have gone to, like, middle  
22 school with both of them, so it's not like -- it's not going  
23 to affect anything at all. I was friend with -- said that one  
24 person I might know in middle school, but that was, like,  
25 eight or nine years ago.



1 THE COURT: Okay. So who was it that you think that you  
2 know?

3 MS. WELLMAN: Cesar.

4 THE COURT: Okay.

5 MR. SCHWARTZ: That seems like Cesar probably wouldn't be  
6 in the same grade as she was. He's much younger.

7 MS. WELLMAN: It's just the name sounded familiar, but I,  
8 like, don't know unless, like, I saw that person.

9 MS. HOLTHUS: Cesar is, like, young. He hasn't been to  
10 middle school yet.

11 MS. WELLMAN: Oh. Well, then we're good.

12 THE COURT: Okay. And what -- Mr. Monay-Pina?

13 MS. WELLMAN: Same middle school. Like, I had maybe a  
14 class with him or something.

15 THE COURT: Okay.

16 MS. WELLMAN: But never associated. But I just wanted  
17 you guys to know that information.

18 MR. BOLEY: Mr. Monay-Pina went to school in California.

19 THE COURT: All right.

20 MS. WELLMAN: Then we're perfect.

21 THE COURT: All right. Then we're good. All right. So  
22 if you want to just step out, then we'll --

23 MS. WELLMAN: Awesome. Thank you.

24 MR. SCHWARTZ: Your Honor, if you'd like, I can give you  
25 a rundown of the witnesses we have scheduled to come in today.

1 THE COURT: Sure. That's great.

2 MR. SCHWARTZ: Mr. Richard DeCamp, officer Simmons,  
3 Officer Aguirre, Javier Colon, Adrianna Colon, Lizbeth Colon,  
4 Samantha Avina, Cesar Avina, Officer Spurling, and Adam  
5 Felabon, CSA.

6 THE COURT: What was the last one?

7 MR. SCHWARTZ: Felabon.

8 THE COURT: Okay. That's today?

9 MR. SCHWARTZ: That's for today. And then tomorrow we  
10 would anticipate if we got all those witnesses in tomorrow  
11 (sic), we would have three witnesses to complete our case  
12 tomorrow.

13 THE COURT: Okay.

14 MR. GILL: Your Honor, I don't know if you want us to do  
15 this now or when the jury's in, but we would invoke the  
16 exclusionary rule.

17 THE COURT: All right. Oh, thank you. I did not ask  
18 that. Generally, I do. Oh. Because I hadn't gotten quite  
19 there yet.

20 MR. GILL: Thank you.

21 THE COURT: Right.

22 MR. SCHWARTZ: And we did talk --

23 THE COURT: So if there's anyone present who -- I might  
24 have like two people in here, but if there's anyone present  
25 who expects to be a witness in the case who isn't a party,

1 please leave the courtroom and remain available in the hallway  
2 until you are called to testify.

3 MR. GILL: Thank you, Your Honor.

4 MR. SCHWARTZ: And, Your Honor, we did go through the  
5 exhibits. I believe all -- the majority, if not all of them,  
6 will be stipulated to.

7 MR. GILL: Well, we can clean that up, Judge. The --

8 THE COURT: Yeah. Can you tell me which ones --

9 MR. SCHWARTZ: If I can approach your clerk?

10 THE COURT: -- specifically, and I'll admit them now so  
11 that you have them when you're doing your opening?

12 MR. SCHWARTZ: 1 through 103, Your Honor, are stipulated  
13 to.

14 THE COURT: 1 through 103 will be admitted.

15 [Plaintiff's Exhibit 1 through 103 Received]

16 MR. SCHWARTZ: And then the 104 and 105, as well, Your  
17 Honor. That's all of them.

18 THE COURT: 104 and 105 will also be admitted.

19 [Plaintiff's Exhibit 104, 105 Received]

20 THE COURT: All right. So much better than our last jury  
21 trial already. Thank you.

22 MR. SCHWARTZ: The last thing, Your Honor, we do have two  
23 search warrants -- affidavits and search warrants for the  
24 Buccal swabs obtained in this case. My understanding is that  
25 the defense are going to stipulate that the buccal swabs and

1 search warrants were performed, as well?

2 MR. GILL: Yes.

3 MR. SCHWARTZ: And that we could make these two search  
4 warrants Court exhibits, if that pleases the Court?

5 THE COURT: Sure. So we'll make those Court exhibits.

6 MR. SCHWARTZ: 106 and 107?

7 THE COURT: No. They'll be Court exhibits. They won't  
8 go to the jury.

9 MS. HOLTHUS: Court Exhibits 1 and 2.

10 MR. GILL: Court exhibits. I'm sorry.

11 THE COURT: They'll just --

12 MR. GILL: Sorry.

13 THE COURT: -- Court exhibits.

14 MR. SCHWARTZ: May I approach real quick?

15 THE COURT: Yes.

16 MR. SCHWARTZ: Thank you.

17 THE COURT: All right. Anything else we need to take  
18 care of?

19 MR. SCHWARTZ: Not from the State, Your Honor.

20 MR. GILL: No, Your Honor.

21 THE COURT: Mr. Gill or Mr. Boley, anything we need to  
22 take care of before we bring the jury back in?

23 MR. BOLEY: No, ma'am.

24 MR. GILL: No.

25 THE COURT: All right. Jurors aren't taking us very

1 seriously. They're all dressed very nicely today.

2 MR. BOLEY: That's what I said.

3 [Pause]

4 THE MARSHAL: Please rise for the jury.

5 [Jury In]

6 THE MARSHAL: Please be seated.

7 THE COURT: Back on the record in Case Number C3 -- 3 --  
8 C3 -- there we go. I started with the wrong number. C313118,  
9 State of Nevada versus Venegas and Monay-Pina.

10 Let the record reflect the presence of all the  
11 jurors, Defendants, and counsel.

12 Right. And are we ready, Mr. Schwartz?

13 MR. SCHWARTZ: May I proceed, Your Honor?

14 THE COURT: Go ahead.

15 MR. SCHWARTZ: On January 12th, 2016, the Defendants,  
16 Casimiro Venegas and Jose Monay-Pina, victimized two different  
17 groups of people within 30 minutes of each other. They first  
18 went to 7-Eleven located at 5700 West Charleston. They went  
19 inside, and they robbed the store clerk, Richard DeCamp. They  
20 robbed him at gunpoint. Richard handed over approximately  
21 \$140 in cash.

22 Now, ladies and gentlemen, the evidence will show  
23 that the Defendants were wearing cloth face masks. They were  
24 wearing big-hooded coats covering their heads, and they both  
25 had black guns. Mr. Venegas also had red gloves on. Mr.

1 Monay-Pina had black gloves and blue shoes.

2           Now, after they robbed 7-Eleven, they went  
3 approximately one mile down the road to 504 Brush Street.  
4 Inside 504 Brush Street, Javier Colon was sleeping. His  
5 sister, Adriana, and her three children were sleeping. Both  
6 the Defendants broke into Javier's room and started attacking  
7 him, beating him, pistol whipping him, robbing him. Took his  
8 wallet and some collectible knives and other items that he  
9 had.

10           They also picked up an axe and started swinging it  
11 at him, hitting him with it. Swinging at his head. Javier is  
12 going to tell you that he just barely got his hand up to  
13 protect his head from being by the axe.

14           Now, at this time, Andriana was awoken by Javier's  
15 screams for help, and she yelled in to the Defendants to stop.  
16 And in response, they pointed the guns at her and threatened  
17 to kill her and her children if she called 9-1-1.

18           Fortunately one of the kids did call 9-1-1, and the  
19 police arrived a short time later, which caused the Defendants  
20 to flee into the neighbor's yard at 510 Brush Street, which is  
21 where they were eventually apprehended two houses down.

22           Now, when Mr. Casimiro Venegas was apprehended, he  
23 was hiding under a shed. And in that vicinity, officers found  
24 two black handguns. Ended up being BB guns. They also found  
25 a collectible knife. They found a face -- cloth face mask,

1 and they found bright red gloves.

2           On the other side of the yard, Jose Monay-Pina was  
3 apprehended. He was hiding in some bushes, in fact. Officers  
4 located, again, a cloth face mask in that area, a black glove,  
5 another black handgun, BB gun, collectible knife, \$140 in  
6 cash. Also, Javier Colon's wallet.

7           Ladies and gentlemen, the Defendants have been  
8 charged with robbing Javier Colon, robbing Richard DeCamp,  
9 trying to kill Javier Colon, and threatening to kill Adriana  
10 and her children. And at the conclusion of this trial, myself  
11 and Ms. Holthus are going to ask you to find them guilty for  
12 all the charges.

13           Thank you.

14           THE COURT: Thank you. Mr. Gill?

15           MR. GILL: Thank you, Your Honor.

16           Ladies and gentlemen of the jury, we do want to, on  
17 behalf of Mr. Venegas, Mr. Boley, and Mr. Monay-Pina, we want  
18 to thank you for your patience yesterday and returning today  
19 to listen to this case.

20           What I'm going to ask you to do is -- and the State  
21 often does this, and they try to make everything sound as  
22 simple as possible, and everything in the State's mind is just  
23 going to be as simple as that.

24           What I'm going to ask is that you pay attention as I  
25 know you will, but to pay attention to biases and reasons why

1 witnesses -- and it's your job to test their credibility and  
2 test -- you know, you're going to be able to view them and  
3 really decide whether or not you believe what they're telling  
4 you. And we're asking that you do that, and you take your  
5 jobs very seriously this week and really listen to what comes  
6 out during this trial. Because ultimately I'm going to get up  
7 here one more time when it's all over, and the State's going  
8 to get up two more times when it's all over because it is  
9 their burden, but I'm going to get up here again at the end,  
10 Mr. Boley will get up here again at the end, and we're going  
11 to ask you to return not guilty verdicts, and it's going to be  
12 based on the evidence or lack of evidence that the State  
13 presents.

14           So what I'm asking you for this week, I don't think  
15 that we'll be here past Friday. I know the NCAA tournament  
16 starts, and it's St. Patrick's Day, but we're not going to be  
17 here over the weekend or anything like that, so for this short  
18 time that we're here this week, we are asking that you give  
19 this case your whole attention; you give Mr. Venegas, Mr.  
20 Monay-Pina, the fair shake that they deserve.

21           So with that, you know, I'll have one more  
22 opportunity to speak to all of you at the end of the case, but  
23 we are at the end of the case going to ask that you return not  
24 guilty verdicts as to both.

25           Thank you.



1 THE COURT: Mr. Boley?

2 MR. BOLEY: Yes, ma'am.

3 Ladies and gentlemen, over the next few days I'll  
4 try not to be duplicative because we do have two co-Defendants  
5 in this case represented by separate counsel.

6 So, you know, I'd ask you to consider all the things  
7 that Mr. Gill asked you to consider. However, as these  
8 witnesses testify and as the State presents its evidence, I  
9 want you to listen to each piece of the evidence and give each  
10 Defendant a separate burden because these two are separate  
11 individuals, and they're accused of committing a crime  
12 together. What does that mean? Each witness that saw  
13 something will describe an identification of each person, and  
14 I want you to pay attention to the details of those  
15 identifications, each one, and consider them separately.

16 Of course, just like Mr. Gill, I'd ask that you stay  
17 engaged, and we thank you for your service as jurors in this  
18 case, and we'll try to make this as painless and not  
19 duplicative as possible.

20 Thank you.

21 THE COURT: Okay. State, please call your first witness.

22 MS. HOLTHUS: Richard DeCamp.

23 [Pause]

24 MR. SCHWARTZ: Your Honor, may I approach real quick?

25 THE COURT: Absolutely. Hang on just a second, sir.

1 Please raise your right hand to be sworn.

2 RICHARD DECAMP, PLAINTIFF'S WITNESS, SWORN

3 THE CLERK: Thank you.

4 THE COURT: Good morning, sir. Go ahead and have a seat.

5 THE WITNESS: Thank you.

6 THE COURT: Could you please state your name and then  
7 spell it for the record?

8 THE WITNESS: Richard DeCamp, R-I-C-H-A-R-D D-E capital  
9 C-A-M-P.

10 THE COURT: Thank you, sir.

11 DIRECT EXAMINATION

12 BY MS. HOLTHUS:

13 Q Richard, where do you work?

14 A 7-Eleven.

15 Q Which one?

16 A Or right now I work the 4950 West Charleston  
17 Boulevard.

18 Q How long have you been working at 7-Elevens?

19 A About four years.

20 Q Back in January of 2015, were you working at the  
21 5700 West Charleston --

22 A Yes.

23 Q -- location? And is that in Clark County, Nevada?

24 A Yes.

25 Q How long had you been at that location?



1 A Over -- a little over a year, year and a half.

2 Q What shift did you work?

3 A Graveyard.

4 Q What --

5 A 10 to 6.

6 Q I'm sorry?

7 A 10 to 6, graveyard shift.

8 Q 10 p.m. to 6 a.m.?

9 A Yeah.

10 Q Is that still the shift you work now?

11 A Yeah.

12 Q In fact, did you work last night until 6 a.m.?

13 A Yes.

14 Q And we dragged you out of bed to come down here this  
15 morning; is that right?

16 A Yes.

17 MS. HOLTHUS: Court's indulgence.

18 BY MS. HOLTHUS:

19 Q Richard, I think I misspoke. I said 2015, but we're  
20 talking about January of 2016; is that right?

21 A Right.

22 Q On January 12th of 2016, you were working grave?

23 A Yes.

24 Q Did something happen that causes you to come to  
25 court today?

1           A     Yeah. Like right around 3 o'clock in the morning I  
2 got -- these two guys came in the door with -- they have their  
3 mask and covered up, and all you could see was eyes. It was a  
4 tall guy and a little short guy.

5           Q     Was there --

6           A     Then they asked me for all -- all the money.

7           Q     Was there anybody in the store when they came in?

8           A     No.

9           Q     It was just you?

10          A     Just me.

11          Q     Is that -- are you the only one that works grave  
12 or --

13          A     Yes.

14          Q     So what happened then?

15          A     Then they asked me for -- for the money, then I -- I  
16 gave it to them. Then they asked me -- well, for the second  
17 register, so I went over there and gave that to them, too.

18          Q     When you say "they" asked you, you said there was a  
19 taller one and a shorter one?

20          A     Yeah. They both had guns.

21          Q     Did one versus the other do most of the talking?

22          A     The taller guy was the one that was kind of giving  
23 the instructions.

24          Q     What about build-wise? Was one --

25          A     One was a little taller and pretty well built --

1 pretty good built. The other one was short and a little bit  
2 skinnier.

3 Q Do you know approximately how much money you gave  
4 them out of register one, the first register?

5 A No. I -- I never keep a lot of money, so somebody  
6 told me it was hundred and some odd dollars. I can't  
7 believe -- I can't believe that, but apparently it was. I  
8 don't know.

9 Q Okay. When you say you "don't usually keep a lot of  
10 money in there", so what do you try to keep the drawer at?

11 A Well, I don't -- first of all, I don't keep no 20s.  
12 Second of all, I don't -- I try to keep less than ten fives.

13 Q Well, why do you keep no 20s?

14 A Because just in case you get robbed.

15 Q So what do you do when you take in 20s?

16 A I drop it in the safe.

17 Q Is that something that you can put stuff in, but you  
18 can't get out?

19 A Yeah. Right.

20 Q So no matter what, if somebody came in to rob you  
21 and held a gun to you, you couldn't access the money in that  
22 safe?

23 A No.

24 Q Do you know how much money came out of the second  
25 register?

1           A     There wasn't that much in there either. I mean I  
2 don't even use that register.

3           Q     So what is "not that much"?

4           A     Thirty-some dollars, I think it is.

5           Q     Okay. So you're -- you think about a hundred in the  
6 first, and maybe 30 in the second?

7           A     No. I -- I read in the newspaper there was a  
8 hundred-some dollars --

9           MR. GILL: Objection, Your Honor.

10          THE WITNESS: -- but I -- I -- I didn't think --

11          THE COURT: Sustained.

12          THE WITNESS: -- there was that much in there.

13 BY MS. HOLTHUS:

14          Q     And I want to know what you believe there to have  
15 been in there, not what you read somewhere else, but of your  
16 own --

17          A     Oh.

18          Q     -- personal knowledge.

19          A     I thought there was only like 30, \$40 in there.

20          Q     Okay. What -- did you tell the police how much  
21 money you thought was in there?

22          A     No. They didn't ask.

23          Q     So what happened then? You gave them the money out  
24 of the second register. Can you kind of describe the  
25 interaction between you?

1           A     Well, when they pointed the guns at me, I just gave  
2 them the money, and then they told me to lay on the floor and  
3 don't -- don't until -- until they're gone, and that's what I  
4 did.

5           Q     After you gave them the money from the first  
6 register, did they specifically talk about the second  
7 register? And, again, they -- if you can recall which one was  
8 saying what, that would help. If you can't --

9           A     The taller guy was the one that was doing all the  
10 talking. The little short guy wasn't doing any talking.

11          Q     So after you gave them the money from the first  
12 register, what did the -- what did --

13          A     That's when they asked for the second register.

14          Q     And when you say "they", you're talking about the --

15          A     The -- the -- the tall guy.

16          Q     Okay. And what did he say about the second  
17 register?

18          A     Huh? He said --

19          Q     What did he say?

20          A     -- he said give me the money out of the second  
21 register, so I did.

22          Q     Did he tell you how to give it to him or anything  
23 else?

24          A     No.

25          Q     Okay. Did they, at some point -- did he, at some

1 point, tell you not to throw it?

2 A Yeah.

3 Q Tell me about that.

4 A Because I threw some of the -- the -- some singles,  
5 I threw on the floor, and he said don't throw it at me.

6 Q Were you frightened?

7 A Yes.

8 Q So then what happened after that? You gave them  
9 money from both registers?

10 A Yeah.

11 Q What about from your own person? Your own person?

12 A He asked me for my wallet, and I showed him my  
13 wallet was empty.

14 Q Okay.

15 A So --

16 Q But they didn't --

17 A Can't --

18 Q -- take that.

19 A -- can't get blood out of a turnip.

20 Q So they took the money from the two registers, and  
21 then they left together?

22 A Yeah.

23 Q And what did you do?

24 A I -- I called 9-1-1, and I called my boss, and then  
25 I called the owner of the store.



1 Q And I think you indicated earlier that they told you  
2 to get down on the floor?

3 A Yeah.

4 Q And did you?

5 A Yeah.

6 Q How long did you stay on the floor?

7 A Just for a couple of minutes. I -- they were out of  
8 sight. They didn't take that long.

9 Q And so as soon as you got up, did you lock the door?

10 A Yeah.

11 Q And then you called 9-1-1 first?

12 A Yeah. Then I called the manager, and then I called  
13 the owner of the store.

14 Q And who arrived?

15 A The -- the cops arrived first. I mean it wasn't --  
16 it wasn't that long before the cops arrived.

17 Q Okay. "That long", seconds, minutes?

18 A No more than ten minutes.

19 Q Okay. And what happened when the police came?

20 A The police, they -- they started asking me questions  
21 and then stuff like that, and then -- then one of the younger  
22 cops asked me to come take a look at this guy that's down the  
23 street, and so -- so I did.

24 Q How long after?

25 A Oh, it was -- they -- they were pretty well into the

1 invest -- investigation before this younger cop came up and  
2 asked me to take a ride down -- down the street.

3 Q Are we talking --

4 A Maybe ten, 15 minutes.

5 Q Okay. After the -- you -- they left?

6 A Yeah. Because they were -- they were there for  
7 awhile.

8 Q So how far down the street did you go?

9 A Oh, it was about nine blocks, eight or nine  
10 blocks --

11 Q Approximately --

12 A -- give or take.

13 Q Pretty close?

14 A Yeah. It was close.

15 Q And when you got there, what did you see?

16 A They asked me if that's the jacket that guy had on,  
17 and I said that looks like the jacket the guy was wearing that  
18 robbed me.

19 Q How many guys did you see?

20 A They only showed me one. I mean that -- there was a  
21 whole scene down there, but, no, I only saw one. The one that  
22 stood out.

23 Q And what did they specifically ask you? Did -- what  
24 did they tell you?

25 A They just said take a look at him and see if that's

1 the same jacket, and I said, yeah, that's the same jacket.

2 Q Did they read to you from a sheet of paper with  
3 instructions what was going to happen?

4 A Yeah. I don't remember the instructions. I  
5 wasn't -- I -- I get real -- I get really nervous when --  
6 at -- at that point. I haven't calmed down yet.

7 MS. HOLTHUS: Can I get this marked State's next, please?  
8 7?

9 [Pause]

10 BY MS. HOLTHUS:

11 Q Richard, I'm showing what we've had marked as  
12 State's Proposed Exhibit 106 and ask you to take a look at  
13 that and see if you recognize it.

14 A Oh. I didn't bring my glasses. Yeah. That's the  
15 clothing match the suspects. Yeah. That's the -- yeah.  
16 That's the signed statement that I signed.

17 Q Okay. And is this -- was this top portion read to  
18 you prior to your signing here?

19 A Yeah. I -- yeah.

20 MS. HOLTHUS: I'd move to admit State's Proposed 106.

21 MR. GILL: No objection.

22 MR. BOLEY: No objection.

23 THE COURT: 106 will be admitted.

24 [Plaintiff's Exhibit 106 Received]

25 BY MS. HOLTHUS:

1 Q So basically in this exhibit, they told you they  
2 were going to show you a person that's being detained that may  
3 or may not be the person, and just take a look and see what  
4 you think?

5 A Yeah.

6 Q And then it's at that point that you indicated that  
7 the clothing matched the suspect, but you couldn't identify by  
8 face because the face was covered during the robbery?

9 A Right. Exactly.

10 Q Richard, I want to just kind of go through State's  
11 Proposed Exhibit -- well, not proposed. It was actually in by  
12 stipulation, photos 1 through 8. Okay?

13 A Okay.

14 Q I'm going to ask if you can tell me if you recognize  
15 it and what it is?

16 A Front of the store.

17 MS. HOLTHUS: Is it -- can I turn it?

18 THE COURT: Can you do me a favor? And can you tap on  
19 the bottom, left or the right? I just want to make that --

20 THE CLERK: It's not working.

21 MS. HOLTHUS: The tapper's not working --

22 THE COURT: It's not working?

23 MS. HOLTHUS: -- Judge. We were trying it earlier.

24 MR. SCHWARTZ: Do you know how to make it long ways?

25 [Pause]

1 BY MS. HOLTHUS:

2 Q Okay. This is front of the store --

3 A Yes.

4 Q -- 5700?

5 A Yeah.

6 Q Would this be the door that they came in?

7 A Yeah.

8 Q And now State's Exhibit 2. Can you get your  
9 bearings on that? Do you know where this is?

10 A Yeah.

11 Q Can you indicate on there where you would have been  
12 standing when the individuals came in?

13 A I was back there in the back.

14 MS. HOLTHUS: Is it working to mark on it or no?

15 THE CLERK: Try it.

16 MS. HOLTHUS: Of course if we mark on it, though, we  
17 can't mark off it, can we?

18 THE CLERK: No.

19 THE COURT: Uh-uh.

20 BY MS. HOLTHUS:

21 Q All right. Back here?

22 A Back in that area.

23 Q Right here?

24 A Yeah.

25 Q Okay.

1 THE COURT: Could you describe that just a little bit  
2 better for the record?

3 MS. HOLTHUS: I'm sorry. I'm indicating in the back  
4 upper right corner --

5 THE WITNESS: Yeah. I was working --

6 MS. HOLTHUS: -- of the photo --

7 THE WITNESS: -- back there. I was doing something.

8 BY MS. HOLTHUS:

9 Q And this over here to the right, what's right here?

10 A The register is right there.

11 Q Is this ultimately where you came to hand out the  
12 money?

13 A Yeah. I heard the bell, and that's when I heard --

14 MR. GILL: Objection, Your Honor.

15 THE COURT: Hang on, sir. Just wait until she asks you a  
16 question.

17 THE WITNESS: Okay.

18 BY MS. HOLTHUS:

19 Q You wanted to say something about the bell. What  
20 about the bell?

21 A Well, the thing that tells you there's somebody in  
22 the store. That's when I came to the front.

23 Q So there's a bell on the door --

24 A Yeah.

25 Q -- to let you know? Is that the reason it's there

1 to alert you that someone's coming --

2 A Yeah.

3 Q -- into the store? State's Exhibit 3. That's just  
4 another angle; is that right?

5 A Right.

6 Q These doors, again, are the doors where the  
7 individuals came in?

8 A Yes.

9 Q These -- this is the register that you were standing  
10 over here on that counter?

11 A Yeah.

12 Q Those are the \$2 that were left on the floor after  
13 they left; is that right?

14 A Yes.

15 Q And that was Exhibit 4. State's Exhibit 5. What's  
16 that?

17 A That's the front of the register.

18 Q And I'm going to kind of put these -- is this  
19 register 2 and this is register 1?

20 A Yeah.

21 Q So this is the first one you went to in State's  
22 Exhibit --

23 A Yeah. That's right.

24 Q -- 6 and State's Exhibit 5 would be the second  
25 register?

1 A Right. See that black spot?

2 MR. GILL: Objection, Your Honor. Nonresponsive.

3 BY MS. HOLTHUS:

4 Q Is there something --

5 THE COURT: Objection sustained.

6 BY MS. HOLTHUS:

7 Q -- there?

8 A That's where -- that's where --

9 MR. GILL: Same objection, Your Honor.

10 THE WITNESS: -- that's where we --

11 THE COURT: She asked a question.

12 THE WITNESS: -- that's where we drop the money.

13 BY MS. HOLTHUS:

14 Q Which black spot?

15 A The black in front of the register. That's --

16 Q This?

17 A That -- that goes to the safe.

18 Q This does?

19 A Yeah.

20 Q And it's a one-way in --

21 A Yeah.

22 Q -- only?

23 A Yeah.

24 Q And State's Exhibit 7. This is kind of just a

25 pulled-back view showing both the registers. Now, is this a



1 third register?

2 A No.

3 Q What's this? There's three monitors.

4 A There's a monitor there.

5 Q This is the middle --

6 A That's for the machines -- slot machines.

7 Q So you're able to watch the slot machines from this  
8 middle screen?

9 A No. That's -- that -- this -- they have two  
10 different payoffs. I -- I mean I have -- they have payoffs.  
11 That machine will pay them off.

12 Q I see. If somebody hits something?

13 A Yeah.

14 Q And then last, is that you that night?

15 A Yeah.

16 Q Not looking too happy.

17 MR. GILL: Objection, Your Honor.

18 THE COURT: Sustained.

19 MS. HOLTHUS: And for the record, that was State's  
20 Exhibit 8.

21 BY MS. HOLTHUS:

22 Q Oh, Richard, you had an opportunity to review  
23 security tape in this case; is that correct?

24 A Yes.

25 Q And did you recognize yourself in the red shirt that

1 we saw --

2 A Yeah.

3 Q -- you wearing in the picture. Did you, in fact --  
4 I'm showing you State's Exhibit 104. Did you write your  
5 initials there?

6 A Yes.

7 MS. HOLTHUS: Judge, we're going to go ahead and publish  
8 this.

9 THE COURT: All right.

10 MR. SCHWARTZ: Could we please switch over to the  
11 computer?

12 THE WITNESS: Huh?

13 THE COURT: Go ahead.

14 MR. SCHWARTZ: Thank you.

15 [Pause]

16 MS. HOLTHUS: And, Judge, for the record, we're going to  
17 first play File 147.

18 [Video being played]

19 BY MS. HOLTHUS:

20 Q Okay. Richard, this is -- what are we looking at  
21 this angle? I guess it's self-explanatory, isn't it?

22 Is that you in the back in the red?

23 A Yeah.

24 Q And just before we go on to the next one, this is  
25 where you're describing one is larger, one is smaller,

1 correct?

2 A Yeah.

3 MS. HOLTHUS: And we're going to play 148.

4 [Video being played]

5 BY MS. HOLTHUS:

6 Q Place where there's different cameras getting  
7 different angles at all times, correct?

8 A Right.

9 Q Now, this is after -- this as you're calling 9-1-1?

10 A Yes.

11 MS. HOLTHUS: 106.

12 [Video being played]

13 BY MS. HOLTHUS:

14 Q These are the doors, obviously. Do you recognize  
15 the clothing there, at least? The big brown coat --

16 A Big brown coat.

17 Q -- and the red gloves? Did you see that customer  
18 try to come in?

19 A There must have been a customer. I didn't see that  
20 customer.

21 MS. HOLTHUS: 107.

22 [Video being played]

23 MS. HOLTHUS: Now with this overhead angle, 127.

24 [Video being played]

25 BY MS. HOLTHUS:

1 Q You're just handing the money to the smaller guy?

2 A Yeah.

3 Q And that's you on the ground like you were told?

4 A Yeah.

5 Q And then at that point, you call 9-1-1.

6 MS. HOLTHUS: Judge, we're going to go ahead and publish  
7 the 9-1-1 tape admitted by stipulation.

8 [9-1-1 call being played]

9 MS. HOLTHUS: And with that, we'll pass the witness.

10 THE COURT: Mr. Gill?

11 MR. GILL: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. GILL:

14 Q All right. Mr. DeCamp, you had a chance that night,  
15 and we saw the video of everything, and you obviously lived  
16 it, but you described both of their coats on the 9-1-1 tape.  
17 Do you remember that or you just heard it?

18 A Yeah.

19 Q And how did you describe the coats?

20 A Dark, dark --

21 Q Dark coats?

22 A -- coats, and they had -- the clothing was dark,  
23 too.

24 Q I'm sorry?

25 A Their clothing was dark, too. And it wasn't a

1 hoodie, it was --

2 Q And that was the description you gave?

3 A Yeah.

4 Q Not hoodies and -- but something that had a hood; is  
5 that right?

6 A Yeah.

7 Q And you also remembering testifying in this case  
8 previously?

9 A Yes.

10 Q And it was last year at some point, correct?

11 A Yeah.

12 Q And you may not recall me. I was not the attorney  
13 present, but you do recall testifying, correct?

14 A Yes.

15 Q And do you recall describing the coats then?

16 A Yeah.

17 Q And it was a very similar description, correct?

18 A Right.

19 Q Dark coats. I think back then you maybe said they  
20 were brown; is that --

21 A Yeah.

22 Q And you had also testified -- well, you did testify  
23 today that you showed them your wallet, correct?

24 A Yeah.

25 Q Do we see that on the video?

1 A Yeah. You saw it on the video --

2 Q Okay. Is that --

3 A -- at the first register.

4 Q The first register?

5 A Yeah.

6 Q And if I could get those?

7 MR. GILL: Do you still have those or did you guys put  
8 them back? 1 through --

9 MS. HOLTHUS: The pictures were up there.

10 MR. SCHWARTZ: The stills? Yeah. They're up there.

11 MR. GILL: Court's indulgence.

12 BY MR. GILL:

13 Q So, Richard, Ms. Holthus had gone over some photos  
14 with you. I'm just going to get one that shows the registers,  
15 and that's State's 7. I'm going to show that to you.

16 You had stated that this is a -- for the record,  
17 this is a photograph from behind the cash registers where the  
18 employees would stand, correct?

19 A Yeah.

20 Q So this is where you get your work done, and there's  
21 three monitors, correct?

22 A Right.

23 Q There's a left, middle, and a right monitor. Right  
24 being kind of the closest to the person [indiscernible],  
25 correct?

1 A Right.

2 Q So -- and monitor -- or excuse me. Cash register  
3 one is farthest to the left in this photograph.

4 A Right.

5 Q And then you had mentioned that the middle monitor  
6 is for the slot machines, and we can see those in the back  
7 there.

8 A Yeah.

9 Q And then cash register two is the far right.

10 A Right.

11 Q So you -- your testimony is you pulled out your  
12 wallet --

13 A Yeah. I showed it to them.

14 Q And there's nothing in it, correct?

15 A Nothing in it.

16 Q And that was after cash register one was emptied?

17 A Yeah.

18 Q And you emptied it, correct?

19 A Right.

20 Q Now -- and on the 9-1-1 tape, you described more of  
21 their clothing, correct?

22 A Right.

23 Q And that was their gloves, correct?

24 A Right.

25 Q And you described those as black gloves, correct?

1 A Yeah.

2 Q And then did they ask you to describe the weapons on  
3 that 9-1-1 tape?

4 A Yeah. And I said I thought it was a .45. I had no  
5 idea what a weapon --

6 Q Okay. So to clarify, on the -- if you said on the  
7 9-1-1 tape you thought it was a .45, you weren't exactly sure.

8 A No.

9 Q But you knew it was some sort of firearm.

10 A Yeah.

11 Q Is that fair?

12 A Right.

13 Q Just not the caliber.

14 A No.

15 Q Now, you described the show-up when Ms. Holthus was  
16 asking you questions. A show-up is when the younger cop took  
17 you about a mile away, you --

18 A Right.

19 Q Or eight, nine blocks away. Now, you -- and I wrote  
20 down some of your quotes. One was looked like the same  
21 jacket, correct?

22 A Looks like the same jacket. Yeah.

23 Q Right. And that you were really nervous.

24 A Yeah.

25 Q Still kind of -- and we heard some of that



1 nervousness on the 9-1-1 tape. You're still kind of nervous  
2 because it was ten or 15 minutes later?

3 A Yeah.

4 Q So the cops took you. Did they have a person in the  
5 jacket? I'm not asking which person or who, but did they have  
6 somebody in a jacket or did they show you a jacket?

7 A No. They showed -- there was -- there was a person  
8 in the jacket.

9 Q Okay. And your description was it looks like the  
10 same jacket.

11 A Yeah. It looks like the same jacket.

12 Q Okay. And I think Ms. Holthus made the point that  
13 you weren't able to ID the faces. They were covered --

14 A No.

15 Q -- correct?

16 A Right.

17 MR. GILL: Court's brief indulgence.

18 Nothing further, Your Honor. Thank you.

19 THE COURT: All right. Mr. Boley?

20 MR. BOLEY: Nothing further.

21 THE COURT: All right.

22 MS. HOLTHUS: Nothing else, Judge.

23 THE COURT: All right. Sir, you're free to leave.

24 THE WITNESS: Thank you.

25 THE MARSHAL: Your Honor? Judge, I think there's a

1 question.

2 THE COURT: Oh, I'm sorry. Sir? Hang on just a second.  
3 The jurors might have a couple questions for you.

4 THE WITNESS: Okay.

5 THE COURT: I forgot to ask them. We have questions from  
6 the jury. Counsel approach. So sorry.

7 Make sure you fill out the top and don't write in my  
8 space.

9 [Bench Conference Begins]

10 UNIDENTIFIED SPEAKER: A couple questions.

11 UNIDENTIFIED SPEAKER: You had to know we would have jury  
12 questions with this bunch.

13 THE COURT: I need my space. [Indiscernible].

14 MR. SCHWARTZ: That's brilliant. Yes. That's the exact  
15 crime scene was it by car or foot? He's not going to know  
16 that..

17 MR. GILL: No foundation [indiscernible].

18 MR. SCHWARTZ: And you covered this with him when you  
19 gave [indiscernible].

20 MS. HOLTHUS: [Indiscernible].

21 MR. GILL: [Indiscernible].

22 MR. SCHWARTZ: I'm so sorry. I'm so sorry.

23 MR. GILL: [Indiscernible].

24 MS. HOLTHUS: I never had anything end up like that.

25 MR. SCHWARTZ: These are okay.

1 MS. HOLTHUS: I've never ever had that happen before.

2 [Indiscernible]?

3 MR. GILL: No. I mean it says something about where the  
4 jury's head is.

5 MS. HOLTHUS: And they haven't seen anything yet.

6 THE COURT: [Indiscernible].

7 MR. GILL: No. I misread it. I apologize.

8 THE COURT: [Indiscernible].

9 MR. GILL: I'm good with both of them.

10 MS. HOLTHUS: I think you need to lay the foundation.

11 MR. GILL: Sorry. I misread it.

12 [Bench Conference Ends]

13 THE COURT: Sir, we're going to get you out of here real  
14 soon. I just have a couple questions.

15 So I'm going to ask you a question, and you're going  
16 to want to look at me and answer like you are right now. I'd  
17 ask you to look at the jury when you answer so they can hear  
18 you, okay?

19 So what was the exact time it took for the witness  
20 to get to the next crime scene? Was it by car or foot?

21 So when they took you from the store to the next  
22 place, how long did it take, and was it by car or foot?

23 THE WITNESS: It was -- it was by -- it was by car, and I  
24 probably could have walked there, so it wasn't -- it wasn't  
25 that far away.

1 MR. GILL: Your Honor, if I --

2 THE COURT: Hang on a second. I'll let you ask a follow-  
3 up when I'm done.

4 If the second person didn't talk, how did you know  
5 it was male? And if the face/body was covered, how did you  
6 know it was male?

7 THE WITNESS: I -- I just knew by the belt that it was  
8 male.

9 THE COURT: Okay. Any follow-up from the State?

10 REDIRECT EXAMINATION

11 BY MS. HOLTHUS:

12 Q No. I think one of the things that -- the question  
13 was do you know the exact time it was that you were taken to  
14 the show-up to identify that guy?

15 A Not the exact time. No.

16 Q But sometime after you --

17 A Yes.

18 Q -- called 9-1-1?

19 MS. HOLTHUS: That's all.

20 THE COURT: Mr. Gill?

21 MR. GILL: Thank you, Your Honor. Just very briefly.

22 RECROSS-EXAMINATION

23 BY MR. GILL:

24 Q And I think, Mr. DeCamp, you had said the cops  
25 arrived to 7-Eleven within about ten minutes?

1 A Yes.

2 Q And then ten or 15 minutes later you took that  
3 ride --

4 A Yes.

5 Q -- is that correct?

6 A Right.

7 MR. GILL: Nothing further, Your Honor. Thank you.

8 THE COURT: Mr. Boley, anything?

9 RE CROSS-EXAMINATION

10 BY MR. BOLEY:

11 Q Just to clarify. You took that ride in a police  
12 car?

13 A Yes.

14 Q And I know you just received a question about  
15 whether or not the smaller person was male. You described  
16 them as thinner and shorter, right? So that could have been a  
17 slight built female.

18 A Possible. Anything's possible.

19 THE COURT: Okay. Anything else? No?

20 Thank you, sir. You're now free to go.

21 THE WITNESS: Thank you.

22 THE COURT: State, please call your next witness.

23 MR. SCHWARTZ: And, Your Honor, the State's going to call  
24 Officer Simmons.

25 MR. DECAMP: You all have a nice day.

1 MR. SCHWARTZ: Thanks, Richard.

2 THE COURT: Please, sir, if you'll stand up and raise  
3 your right hand?

4 MR. SIMMONS: I'm sorry.

5 THE COURT: The clerk's going to swear you in.

6 MR. SIMMONS: I'm sorry?

7 THE COURT: The clerk's going to swear you in.

8 MR. SIMMONS: Okay.

9 ISAIAH SIMMONS, PLAINTIFF'S WITNESS, SWORN

10 THE COURT: Why don't you be seated.

11 THE WITNESS: Thank you.

12 THE COURT: Good morning.

13 THE WITNESS: Good morning, Judge.

14 THE COURT: Would you state your name and then spell it  
15 for the record?

16 THE WITNESS: Yes. Isaiah Simmons, I-S-A-I-A-H S-I-M-M-  
17 O-N-S.

18 THE COURT: Thank you.

19 MR. SCHWARTZ: May I proceed?

20 THE COURT: Uh-huh.

21 MR. SCHWARTZ: Thank you.

22 DIRECT EXAMINATION

23 BY MR. SCHWARTZ:

24 Q Sir, how are you employed?

25 A LVMPD.

1 Q And how long have you been with Metro?

2 A Approximately three years.

3 Q And in those three years, have you been working  
4 patrol?

5 A Yes, sir.

6 Q Okay. I want to direct your attention to January  
7 12th, 2016. Did you have occasion to respond to a 7-Eleven at  
8 5700 West Charleston?

9 A That's affirm [sic throughout].

10 Q And that's here in Clark County?

11 A Yes.

12 Q Thank you. Do you recall the nature of that call  
13 when you responded?

14 A Yes. It was a robbery call. When I responded, the  
15 suspects were already gone. As soon as I arrived, I spoke  
16 with the victim, collected suspect information, broadcast it  
17 over the radio, secured the scene, and got him started on  
18 voluntary statement.

19 Q And was the victim that you spoke to there a Richard  
20 DeCamp?

21 A That's correct.

22 Q And do you recall the time you responded to this  
23 location?

24 A I don't -- I don't remember the exact time. No.

25 Q Would looking at the CAD printout refresh your

1 recollection as to when you would have responded?

2 A Yes.

3 MR. SCHWARTZ: May I approach, Your Honor?

4 THE COURT: Yes.

5 BY MR. SCHWARTZ:

6 Q Sir, I'm showing you a CAD log. Can you tell me --  
7 look at that, and if it -- look up when you're done, and let  
8 me know if that did, in fact, refresh your recollection as to  
9 when you responded.

10 A Yes, it did. Approximately 3:50 in the morning.

11 Q And a CAD log is just something that kind of keeps  
12 track of where different officers are and when they respond to  
13 a call, for instance?

14 A Correct.

15 Q You spoke to Richard, and you said you got him  
16 started on a statement. Did he give you a written, voluntary  
17 statement?

18 A Yes.

19 Q Okay. What was his demeanor like when you were  
20 speaking to him?

21 A He was very frightened; took him awhile to calm  
22 down. He was shaking, wanted to call his wife and let her  
23 know what happened. She was -- he was pretty scared.

24 Q And you mentioned that you secured the scene, as  
25 well. Did you have a chance to look at the surveillance



1 video?

2 A I did.

3 Q Okay. And do you recall documenting in your report  
4 how much money was taken that night?

5 A Yes, sir. I believe, if I remember correctly, \$139.

6 Q And after you, you know, looked at the surveillance  
7 video, spoke to Mr. DeCamp, did you -- what did you do after  
8 that?

9 A After I spoke with Mr. DeCamp, I spoke with a couple  
10 units that were arriving, and I told them the suspect  
11 description, put up crime scene tape so no one else could  
12 enter in the building, and then started getting on the -- on  
13 the report.

14 Q Do you recall the suspect description that you  
15 relayed to officers?

16 A I -- I don't remember it a hundred percent.  
17 Vaguely, I know it was two Hispanic males that enter in the  
18 building brandishing large firearms, dark clothing, gloves,  
19 masks. One had a puffy jacket. I don't recall the color  
20 without looking at the report.

21 Q Okay. Did you subsequently learn later that morning  
22 that a potential suspect could be in custody?

23 A Yes.

24 Q And tell me about that.

25 A While I was at the call at 7-Eleven, we had another

1 alert tone come out of another dangerous call around the  
2 corner. Units responded. I'm not really sure exactly how it  
3 went down because I wasn't there.

4 Q Right.

5 A They had a -- two suspects in custody, and we did a  
6 show-up, and Mr. DeCamp was able to identify those as people  
7 coming into the store.

8 Q So if I understand you correctly, while you're at 7-  
9 Eleven, another call for police response came out --

10 A Correct.

11 Q -- and it was in the same area?

12 A It -- correct. It was a -- it wasn't, like, a block  
13 down, but it was literally each -- it was in walking distance.  
14 You could've got there pretty quickly.

15 Q And officers there -- and based on what happened  
16 there, you took Mr. DeCamp over to that scene to see if he  
17 could possibly identify someone there as the people who robbed  
18 him?

19 A Correct.

20 Q And that's what you called a show-up, I believe,  
21 right?

22 A Yes, sir.

23 Q And tell me about the show-up.

24 A A show-up form is what we do with Metro when we have  
25 a possible suspect in custody that matches a description of a

1 certain crime. We have them fill out the -- the sheet, and  
2 then if they can identify the suspect, they tell us in their  
3 own words that yes, it is, or no, it's not.

4 MR. SCHWARTZ: Could I approach your clerk, Your Honor?

5 THE COURT: Uh-huh.

6 MR. SCHWARTZ: Thank you.

7 BY MR. SCHWARTZ:

8 Q And do you have what's called "Officer Show-up  
9 Witness Instruction Form" that you give the witness?

10 A Yes.

11 Q And is that something you would have gone over with  
12 Mr. DeCamp?

13 A Yes, sir.

14 Q I'm showing you what's been marked as State's  
15 Exhibit 106. This would have been information at the top that  
16 you would have filled out?

17 A That is correct.

18 Q And is this you here, I. Simmons?

19 A Yes, sir.

20 Q And then the rest, the witness would sign and date  
21 acknowledging that he understood the instructions?

22 A That's affirm.

23 Q And then the witness would put down whatever  
24 statement they wanted about the potential identification; is  
25 that correct?

1 A Correct.

2 Q And then he'd sign it?

3 A Correct.

4 Q And then is this your signature, as well?

5 A Yes, it is.

6 Q So are you with the witness as he's completing this  
7 show-up identification?

8 A I am.

9 Q After you conducted that identification -- show-up  
10 identification with Mr. DeCamp, what did you do next?

11 A I took him back to the store, and I knew -- I think  
12 he was going to go home, and he called his boss, and I  
13 finished the report.

14 Q And was that -- once you finished the report, that  
15 would have been the completion of your duties at that scene?

16 A Correct.

17 [Counsel confer]

18 MR. SCHWARTZ: Court's indulgence.

19 [Counsel confer]

20 BY MR. SCHWARTZ:

21 Q Just a couple points of clarification, Officer.

22 When we were talking about the time that you would  
23 have responded to the call, was that 3:53 you indicated you  
24 responded or could you refresh my recollection on that?

25 A Approximately around that time. Yes, sir.

1 Q Okay. And the call would have come out a minute or  
2 two before that, do you -- if you recall?

3 A The -- are you -- are you talking about the second  
4 one?

5 Q The call for 7-Eleven --

6 A Uh-huh.

7 Q -- before you actually initiated your response where  
8 it would go in the CAD --

9 A Uh-huh.

10 Q -- do you recall when the actual call would have  
11 come out?

12 A I don't remember a specific time, but I do remember  
13 clearing off another call to respond.

14 Q Okay. And if I showed you the CAD report, would  
15 it -- would you be able to tell -- would it refresh your  
16 recollection when the first call came out --

17 A Uh-huh.

18 Q -- and when you initiated your response to 7-Eleven?

19 A Yes.

20 Q Okay.

21 MR. SCHWARTZ: If I could approach, Your Honor?

22 THE COURT: Uh-huh.

23 BY MR. SCHWARTZ:

24 Q So just those two times. Officer, what time did the  
25 first call initially come out?

1 A 3:52.

2 Q And you responded at?

3 A 3:52.

4 Q Okay. And you mentioned that you spoke with Mr.

5 DeCamp at the scene, you secured it, and then later on you

6 took him down the street for the potential show-up

7 identification?

8 A Correct.

9 Q Would this form show the time that that happened at?

10 A Yes.

11 Q Okay. So again showing you 106, State's Exhibit

12 106. Is this the time that Mr. DeCamp would have signed it?

13 A Yes.

14 Q And that is 5:19?

15 A Correct.

16 MR. SCHWARTZ: Your Honor, at this time we'll pass the  
17 witness.

18 THE COURT: Mr. Gill?

19 MR. GILL: Thanks, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. GILL:

22 Q So, Officer Simmons, there was some discussion

23 regarding the time, and you get out there about 3:52, right?

24 Or you respond about 3:52.

25 A That's correct.

1 Q You were nearby, I would imagine?

2 A Somewhat. Yes.

3 Q And that's your area?

4 A Uh-huh.

5 Q And just --

6 THE COURT: I'm sorry, sir. Could you just answer yes or  
7 no, please?

8 THE WITNESS: Sorry.

9 THE COURT: Thank you.

10 BY MR. GILL:

11 Q And just for the jury, when I say "area", Metro is  
12 kind of broken up into different command centers or areas,  
13 correct?

14 A Yes, sir.

15 Q And yours would include the 7-Eleven at 5700 West  
16 Charleston, right?

17 A Yes, sir. Correct.

18 Q And then you first arrive and make contact with Mr.  
19 DeCamp, correct?

20 A Yes, sir.

21 Q And then you say you secured the scene, right?

22 A Yes, sir.

23 Q What do you mean by you "secured the scene"?

24 A When we secure a scene, we put up crime scene tape  
25 so nobody can enter the store.

1 Q Okay. So you just put that --

2 A Uh-huh.

3 Q -- on the front door?

4 A Correct.

5 Q Okay. And what else did you do?

6 A Made sure there wasn't any evidence around -- laying  
7 around the property, had him step outside, and then I waited  
8 until a couple other officers got there, but I started talking  
9 to Mr. DeCamp.

10 Q Mr. DeCamp himself, right?

11 A Uh-huh.

12 Q And is that a yes?

13 A Yes, sir.

14 Q And you also testified that \$139 was taken, correct?

15 A Yes, sir.

16 Q How did you come up with that number?

17 A Mr. DeCamp informed me of the number that was taken  
18 from the register.

19 Q Okay. So it was a simple how much was taken, and he  
20 said 139?

21 A Correct.

22 Q And you have him fill out the -- State's 106, which  
23 was the show-up witness instructions, correct?

24 A Yes, sir.

25 MR. GILL: And I'm going to just publish that.



1 BY MR. GILL:

2 Q Now, you filled out some of this, correct?

3 A Yes, I did.

4 Q And is that your signature -- oh, sorry. I got to  
5 zoom out. Is that your signature anywhere on the page?

6 A No.

7 Q Okay. So this -- and specifically under Mr.  
8 DeCamp's, that's not your signature, correct?

9 A Correct.

10 Q Okay. Do you recognize your handwriting on any part  
11 of this document?

12 A Yes.

13 Q And where would that be?

14 A The very top and the statement.

15 Q Okay. So you actually wrote this part here, the  
16 top, which is name, address, phone number, event number,  
17 interviewed by, location, date, and time?

18 A Correct.

19 Q And then you wrote his statement, as well?

20 A Correct.

21 Q And just for the record, the statement itself,  
22 closing -- clothing matches suspects, and it's S-U-S-P-E-C-T  
23 apostrophe S, but could not identify them by their face  
24 because suspects' face were covered during robbery, correct?

25 A Correct.

1 Q And that was from Richard DeCamp, right?

2 A Yes.

3 Q Did you guys do this before or after the show-up? I  
4 mean -- I'm sorry. The show-up occurred, correct?

5 Strike everything I just said.

6 You arrive, correct?

7 A Correct.

8 Q 3:53-ish, 3:55, whatever it is. And then you secure  
9 your -- the scene. You talk to Mr. DeCamp.

10 A Correct.

11 Q And you have him do a voluntary written statement,  
12 correct?

13 A Correct.

14 Q And that was all the while still at 7-Eleven?

15 A Yes, sir.

16 Q You then decide to do the show-up, correct?

17 A Correct.

18 Q And how much time had elapsed from when you arrived  
19 -- and I'm not asking for exact times. I know you don't know  
20 them and --

21 A Correct.

22 Q -- nor do any of us, but approximately how much time  
23 from when you arrived to when you guys got in the car? You  
24 being you and Mr. DeCamp.

25 A I would say at least approximately maybe 30 minutes.

1 Q Okay. And then you responded -- you didn't have a  
2 partner with you, correct?

3 A No. No, sir.

4 Q You responded alone in your car.

5 A Correct.

6 Q And then you took him alone in your car.

7 A Yes, sir.

8 Q Did you show him one or two suspects?

9 A Two suspects.

10 Q Okay. And before you did that, you had read him the  
11 instructions in 106, correct?

12 A Yes, sir.

13 Q Did you have him read them or did you read them to  
14 him?

15 A I read them to him.

16 Q And where were you when you did that?

17 A I was still at 7-Eleven.

18 Q Okay. So but you -- basically before we go on our  
19 little trip or little excursion down the street, I need to  
20 read this to you?

21 A Correct.

22 Q Okay. And you read him every word?

23 A Correct.

24 Q And he indicated he understood?

25 A Yes.

1 Q Is it common in a show-up of this type, and  
2 specifically in a show-up where you use this form and these  
3 instructions to write it in yourself or do you normally have  
4 the witness write it up?

5 A Sometimes the witness will write it, but Mr. DeCamp  
6 did not want to write it.

7 Q And so you said I'll write it for him?

8 A Correct.

9 Q Okay. And these were his words that you  
10 transcribed, essentially?

11 A Correct.

12 Q Now, you had also stated when he gave you a  
13 description, and, again, this was at the 7-Eleven, you'd  
14 stated that he described large guns. Did I hear that  
15 correctly?

16 A Yes, sir.

17 Q Did he go into any detail on these large guns?

18 A I have no recollection if he got into any detail  
19 about color.

20 Q Okay. Did he give you quantity?

21 A They -- I believe he said they -- they both had  
22 guns.

23 Q They both had guns.

24 A Right. Yes.

25 Q And did he go into any more detail about the size?

1 You described them as large, right?

2 A Correct.

3 Q Or he described them to you as large.

4 A Yes.

5 Q Did he go into any more detail about the size of the  
6 guns?

7 A No, sir.

8 Q He just said large.

9 A Correct.

10 Q Did he describe them as pistols, revolvers, anything  
11 like that? Did you guys even discuss that?

12 A He stated handgun.

13 Q He did say handgun and large.

14 A Correct.

15 Q Okay.

16 MR. GILL: Nothing further, Your Honor.

17 Actually, Court's brief indulgence.

18 Thank you, Your Honor. Pass the witness.

19 THE COURT: All right. Mr. Boley?

20 MR. BOLEY: Yes, ma'am.

21 CROSS-EXAMINATION

22 BY MR. BOLEY:

23 Q Officer, very briefly. You indicated in your  
24 testimony that Mr. DeCamp told you that these two males that  
25 entered his store were Hispanic males, right?

1 A Yes, sir.

2 Q Did he describe why he thought they were Hispanic?  
3 Did he say dark eyes?

4 A He didn't get into detail, sir.

5 Q Dark skin? Did he say anything about an accent?

6 A He -- he did not get into detail, sir.

7 Q Fair enough.

8 MR. BOLEY: Thank you.

9 MR. GILL: Your Honor, if I could just approach real  
10 quick?

11 THE COURT: Sure.

12 MR. GILL: I stole an exhibit.

13 THE COURT: Mr. Schwartz, anything?

14 MR. SCHWARTZ: Just a brief redirect, Your Honor.

15 If I could approach?

16 THE COURT: Yes.

17 REDIRECT EXAMINATION

18 BY MR. SCHWARTZ:

19 Q Officer, you mentioned with Mr. Gill that you  
20 were -- responded to 7-Eleven. You made sure there wasn't any  
21 evidence laying around; is that correct?

22 A Yes, sir.

23 Q Do you recall seeing two dollar bills that were on  
24 the ground at 7-Eleven?

25 A Yes, sir. I would.

1 Q I'm showing you State's Exhibit 4. And these were  
2 later collected by a crime scene analyst who arrived, as well?

3 A That's correct.

4 MR. SCHWARTZ: Thank you. No further questions, Your  
5 Honor.

6 MR. GILL: Nothing on that, Your Honor.

7 THE COURT: Mr. Boley?

8 MR. BOLEY: Nothing further.

9 THE COURT: Anything from the jury? No?

10 All right. Thank you, sir. You are free to go.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: State, please call your next witness.

13 MR. SCHWARTZ: State calls Sergeant Aguirre.

14 [Pause]

15 MR. SCHWARTZ: Your Honor, may I approach your clerk?

16 THE COURT: Sure.

17 How long do you think this witness is going to be?

18 THE MARSHAL: You will remain standing up here. Raise  
19 your right hand to be sworn in by the clerk, please.

20 ABRAHAM AGUIREE, PLAINTIFF'S WITNESS, SWORN

21 THE COURT: Good morning, sir. Go ahead and have a seat.

22 If you could state your name, please, and spell it  
23 for the record?

24 THE WITNESS: My name is Abraham Aguirre. That's A-B-R-  
25 A-H-A-M, Aguirre, A-G-U-I-R-R-E.

1 MR. SCHWARTZ: May I proceed, Your Honor?

2 THE COURT: Go ahead.

3 DIRECT EXAMINATION

4 BY MR. SCHWARTZ:

5 Q Mr. Aguirre, how you doing today, sir?

6 A Good. How are you?

7 Q Pretty good. And, sir, how are you employed?

8 A I am a sergeant with the Las Vegas Metropolitan  
9 Police Department.

10 Q And how long have you been with Metro?

11 A Eleven years, approximately.

12 Q How long as a sergeant?

13 A Two -- almost two years now.

14 Q So if I'm directing your attention to January 12th,  
15 2016, you would have been a sergeant at that point?

16 A Correct.

17 Q And did you have occasion to respond to a 7-Eleven  
18 at 5700 West Charleston?

19 A I did.

20 Q And do you recall if you were the first responding  
21 officer or was Mister -- Officer Simmons there, as well?

22 A If I remember correctly, I think I was the first one  
23 to arrive.

24 Q And did Officer Simmons arrive shortly thereafter?

25 A Correct.



1 Q And what was your role sort of in assessing the  
2 scene at that point?

3 A My initial role as being the primary responding  
4 officer, the first one on the scene, is to make everything  
5 static from a dynamic call, which is -- the call came out as a  
6 high priority possible robbery that occurred. Normally,  
7 then -- typically some of those calls do come out as a, you  
8 know, false alarm, and when we get there, we -- we tend to  
9 find that out. But in this particular case, I found the clerk  
10 outside pretty frantic and substantiated the fact that it was,  
11 indeed, an actual robbery had occurred.

12 Q And was that a Mr. Richard DeCamp?

13 A It was.

14 Q And what did you do with regard to Mr. DeCamp when  
15 you arrived?

16 A I quickly try to brief him/debrief him, try to get  
17 the suspect information out to the other responding units  
18 because I wasn't the only one that was -- just as a role as  
19 the primary unit that arrived, trying to get that description  
20 out to other officers out in the field. If they were in the  
21 area to possibly stop the suspects because as far as I  
22 remember they were last seen on foot heading east on  
23 Charleston.

24 Q And after you gathered that information from him,  
25 what is it that you do next?

1           A     Shortly -- as I'm debriefing him, Officer Simmons  
2 arrived and started taking that role of debriefing him, and I  
3 continue to secure the scene. Being the only two officers at  
4 the scene, I started putting up crime scene tape and ensuring  
5 the integrity of the crime scene.

6           Q     And is it fair to say at some point you left the  
7 scene and Officer Simmons sort of took over the scene?

8           A     Yes.

9           Q     And why is it that you left the scene?

10          A     Well, while I'm putting up tape, and I'm calling my  
11 lieutenant and notifying him of the incident, there was  
12 another high priority call that came across the air -- the  
13 radio, which was, I would say, approximately three blocks away  
14 from the 7-Eleven, so I was just up the -- right -- right  
15 around the corner of the call.

16          Q     And so when you get that call, what do you do?

17          A     I immediately make sure Telway [phonetic] just make  
18 sure you -- you know, what he needed to do since he was a  
19 fairly --

20          Q     Is that Officer Simmons?

21          A     Yes. I'm sorry.

22          Q     Okay.

23          A     Officer Simmons. Told him what needed to be done as  
24 far as the reports and all that stuff at that point, and then  
25 I quickly got in my vehicle and went around to Brush -- the

1 Brush address. I believe it was a 504 Brush.

2 Q And is that the location that the other call came  
3 out from?

4 A Yes.

5 Q And I'm sorry. Did you describe sort of the nature  
6 of that call --

7 A Well --

8 Q -- as it came across the radio?

9 A Right. Normally, we get -- when we get a -- a high  
10 priority call, there's a tone alert indicating that there is a  
11 high priority incident, and the details that were broadcast  
12 over the radio were that two Hispanic males wearing dark  
13 clothing had forced their way into one of the -- into the home  
14 and were pistol whipping the uncle, and the person that was  
15 calling was the niece that lived in the actual main home.

16 Q Do you recall what time that call came out  
17 specifically?

18 A That call came out approximately at 4:22 a.m.

19 Q And do you recall how soon after that call came out  
20 that you would have responded?

21 A I would say anywhere between two to three minutes I  
22 was there --

23 Q Would the CAD report help you --

24 A It would.

25 Q -- refresh your recollection?

1 MR. SCHWARTZ: May I approach, Your Honor?

2 THE COURT: Go ahead.

3 BY MR. SCHWARTZ:

4 Q So if you could look at this and see if that  
5 refreshes your recollection as to when you responded to the  
6 504 Brush Street address?

7 A It was at -- is this it? Right here. 4:22:49.

8 Q And does that refresh your recollection?

9 A Yes.

10 Q While I have -- while I'm up here with you, do you  
11 recall the time exactly that you would have responded to 7-  
12 Eleven?

13 A I know the call came out at approximately 3:52 a.m.

14 Q And --

15 A And, no, I don't remember exactly the time lapse  
16 between the time initiation and me arriving.

17 Q And would that -- the CAD log --

18 A It would.

19 Q -- assist you in determining that?

20 A Looks like I arrived at 4:02.

21 Q Officer, approximately how far is 504 Brush Street  
22 from 5700 West Charleston 7-Eleven?

23 A It's approximately one mile.

24 Q I'm showing you State's Exhibit 91. Does that  
25 appear to be a map?

1 A It does.

2 Q Okay. Let me zoom in on some pieces for you here.  
3 Do you see the address marked there for the 7-Eleven?

4 A I do. 5700 West Charleston.

5 Q And there's some blue dots on this map and some  
6 other numbers along here. Does this appear to be a Google  
7 Maps printout with a distance between --

8 A It does.

9 Q -- the two locations?

10 A It does.

11 Q Okay. So then the other location here, does that  
12 appear to be 504 Brush Street?

13 A Yes.

14 Q And looking at this map, approximately how far are  
15 those two locations?

16 A It says one mile --

17 Q Okay.

18 A -- on the Google Maps.

19 Q And do Google Maps also indicate it's  
20 approximately -- Google says about 19 minutes to walk there;  
21 is that right?

22 A Correct. To walk.

23 Q And when you arrived at the 4 -- 504 Brush Street  
24 address, other officers had responded first?

25 A Yes.

1 Q And what happened when you arrived?

2 A When I arrived, Officer Ivan Duron was attempting to  
3 render aid to the victim in the carport, which was made into  
4 one of the bedrooms as an extension of the home. I  
5 immediately noticed the amount of blood on the bedding, walls,  
6 and floor, along with a bloody axe near the carport entrance,  
7 and that he was by himself, so I immediately asked where his  
8 partner was, which was just -- Officer Justin Spurling. He  
9 said he had ran around the corner. At that point, I heard  
10 radio traffic from Officer Spurling that he had two suspects  
11 in the back yard of 510 Brush.

12 Q Okay. Let me stop you right there. You mentioned  
13 you responded to 504 Brush.

14 A Correct.

15 Q I'm showing you State's Exhibit 10. Does that  
16 appear to be the address?

17 A It does.

18 Q And you mentioned that there was sort of a converted  
19 carport, something that would -- where the potential victim  
20 was located.

21 A Correct.

22 Q And showing you State's Exhibit 20. Does that look  
23 familiar?

24 A It does.

25 Q Okay. And what are we looking at here?

1           A     That looks like the entryway into the converted --  
2 extension to the rear of the -- of the home.

3           Q     And you mentioned when you went inside that you  
4 noticed inside this room that there was a lot of blood.

5           A     Yes.

6           Q     Okay. You also mentioned that there was an axe?

7           A     Yes.

8           Q     Where was the axe located; if you remember?

9           A     If I remember correctly, it was near the doorway,  
10 and I'm not -- I'm -- I'm pretty sure it's right there by  
11 the --

12          Q     If I zoom in on this --

13          A     -- by the frame.

14          Q     -- exhibit for you --

15          A     Yes.

16          Q     -- is that where you recall seeing the axe?

17          A     Correct.

18          Q     Officer Duron was there with the victim?

19          A     Correct.

20          Q     Okay. And you mentioned that as you were there  
21 assisting, you got a call over the radio from Officer  
22 Spurling.

23          A     Right.

24          Q     And as a result of that, did you leave this room --

25          A     I did.

1 Q -- that we're looking at? And where did you go?

2 A I immediately went around that corner on the north  
3 side of the home to -- into the back yard where I saw Officer  
4 Spurling over the south wall of that -- the adjacent wall  
5 right there into the back -- looking into the back yard of 510  
6 Brush.

7 Q And as you're looking into the back yard of 510  
8 Brush, which -- what did you see?

9 A I did a quick peek. I jumped up, and I see him  
10 illuminating the bushes. I -- at that point, I didn't see  
11 anybody. I just saw him -- somebody -- him illuminating  
12 somebody and -- and making some verbal commands, challenging  
13 the person there to exit. But, again, I didn't see anybody  
14 there.

15 Q So what did you do in response to that?

16 A So I assisted Spurling to jump -- because it was a  
17 pretty tall wall. I'd say maybe 7 or 8 feet. I help --  
18 helped him get over that ledge, and then I went -- ran out  
19 back into the front of this -- the home into the front -- back  
20 over to 510 Brush, and then jumped the wall there along with  
21 Officer Matt Carter (phonetic), who had arrived as I was  
22 running into the front of the home.

23 Q Okay. So at this point, Officer Spurling's in the  
24 back yard of 510 Brush. You --

25 A By himself.



1 Q -- and Mis -- you and Officer Carter are going into  
2 the back yard --

3 A Right.

4 Q -- of 510 Brush. And what happens when you get into  
5 the back yard?

6 A I jump into the back yard. I see Officer Spurling  
7 taking a suspect into custody by the bushes that he was  
8 illuminating with his pistol drawn challenging the shed that  
9 was on the northeast corner of the -- the home.

10 Q So let me see if I understand this correctly.  
11 Officer Spurling is taking one suspect into custody  
12 near bushes.

13 A Correct.

14 Q And when you say he's "challenging a shed", what  
15 does that mean?

16 A Meaning he's giving verbal commands to another  
17 suspect that was hiding underneath the shed --

18 Q Okay.

19 A -- telling him to -- to exit.

20 Q I show you State's Exhibit 34. Does this -- let me  
21 zoom out for you. Does this appear to be the area that  
22 Officer Spurling was taking a suspect into custody at?

23 A Yes.

24 Q Okay. And you mentioned that he was directing his  
25 attention. Would it be then to his --

1           A     From looking at this perspective, it would be to the  
2 left.

3           Q     Okay. And there was a shed over there?

4           A     Correct.

5           Q     And so if I show you State's Exhibit 61, does that  
6 look like the shed that you --

7           A     It is.

8           Q     Okay. And you mentioned that he had his weapon  
9 drawn at that point?

10          A     Correct.

11          Q     So when you see Officer Spurling in this position,  
12 what is it that you do?

13          A     Immediately myself and Officer Carter get some --  
14 what we do is called a tactical L. If he's facing north, I'm  
15 immediately to his -- to his left. I angle out just to  
16 prevent any kind of crossfire situation, and then start  
17 focusing our attention on the shed, since that's a relative  
18 unknown.

19                Given the circumstances of the call, there were  
20 details indicating that there might have been -- the two  
21 suspects might have been armed with -- with firearms, so we  
22 had a -- an unknown threat, potentially a suspect underneath  
23 there, and we're trying to get him out while still making sure  
24 that Officer Spurling was in control of his suspect and was  
25 able to take him into custody.

1 Q So as we're looking at this shed from this angle, do  
2 you approach it from going towards the left of the --

3 A Correct.

4 Q -- photograph? And what is Officer Carter doing?  
5 Is he with you, as well?

6 A He's with me, as well.

7 Q And so what happens as you approach the shed?

8 A As we're approaching the shed, and we see a suspect  
9 crawling out from -- from -- looking at the perspective of  
10 this picture right now -- right underneath the doorway coming  
11 out to the right.

12 Q Would it be right around here if I'm pointing  
13 towards --

14 A Correct.

15 Q -- the right of the shed?

16 A Correct.

17 Q Okay.

18 A And he's exiting that way trying to keep his hands  
19 up, but in -- at the same time as we're challenging him, he's  
20 crawling -- trying to crawl forward to us. At some point  
21 when -- while he's still not completely out of the shed, I  
22 would say maybe his feet are still hidden within the thing --  
23 within the -- underneath the shed, he starts reaching for his  
24 waistband. We then direct him again, give him more verbal  
25 commands to show us his hands at which point he complies.

1 Eventually he does comply. He keeps kind of making some  
2 furtive movement towards his waistband, but then he finally  
3 does comply, at which point we approach, and Officer Carter  
4 takes him into custody while I maintain lethal coverage  
5 because we still don't know if he has a gun with him or not.

6 Q And you mentioned that there were some furtive  
7 movements towards the waistband area. That's concerning for  
8 officers?

9 A Absolutely.

10 Q And why is that?

11 A Because there, again, like I said, the details of  
12 the call initially stated that, you know, they might have  
13 been -- had armed with firearms, so we couldn't see his  
14 waistband because he was crawling on his stomach, so  
15 potentially he could have had any kind of weapon.

16 Q Did you have occasion to kind of search around that  
17 area where you apprehended him?

18 A Absolutely. After we took him into custody, we  
19 still have to render the scene static and make sure that we're  
20 -- there is nothing outstanding. And in -- by that, seeing  
21 any evidence, any outstanding suspects. So once we had those  
22 two contained or in custody, we -- we -- I made sure that  
23 there was another officer, I believe it was Officer Spurling  
24 that stayed with both suspects or escorted them out of the  
25 property.

1           Then myself and I can't remember who or what other  
2 officer was there, we did a cursory search of the property or  
3 check of the property to make sure there wasn't anything  
4 outstanding at that point. We found -- where the first  
5 suspect was being taken into custody in the bushes, we found a  
6 wallet and some money, a wad of money.

7           Q     Okay. Let's start with that then, Officer.

8                     Did you ultimately -- did you and other officers  
9 ultimately able to identify the two suspects that you  
10 apprehended in 510 Brush Street?

11          A     Yes.

12          Q     And do you see them in the courtroom today?

13          A     I do.

14          Q     Let's first talk about the suspect that was  
15 apprehended in the bushes area by Officer Spurling.

16          A     Okay.

17          Q     Can you please point me to where he is sitting in  
18 the courtroom?

19          A     To the left -- to my left on the left side of the  
20 table.

21          Q     And the gentleman, what color shirt is he wearing?

22          A     He wearing a white shirt.

23          Q     And is that the far left of the table?

24          A     Correct.

25          MR. SCHWARTZ: And, Your Honor, could the record