

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

Electronically Filed
Apr 28 2022 11:43 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

THE STATE OF NEVADA,

Plaintiff,

vs.

MARC PAUL SCHACHTER,

Defendant.

Sup. Ct. Case No. 84547

Case No. CR14-1044

Dept. 4

RECORD ON APPEAL

VOLUME 4 OF 10

DOCUMENTS

APPELLANT

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RESPONDENT

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Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

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SCHACHTER

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CARL F. HYLIN, ESQ. for MARC PAUL
SCHACHTER

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1 CODE 2520
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8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
10
11 IN AND FOR THE COUNTY OF WASHOE
12

13 THE STATE OF NEVADA,
14 Plaintiff,

15 vs.

Case No. CR14-1044

16 MARC PAUL SCHACHTER,
17 Defendant.

Dept. No. 4

18
19 **NOTICE OF APPEARANCE OF STAND-BY COUNSEL**

20 COMES NOW, Jennifer J. Lunt, Alternate Public Defender, and Jarrod T. Hickman,
21 Deputy Alternate Public Defender, and files this Notice of Appearance of Stand-By Counsel,
22 as requested by the Court.

23 **AFFIRMATION PURSUANT TO NRS 239B.030**

24 The undersigned does hereby affirm that the preceding document does not contain the
25 social security number of any person.

26 DATED this 26th day of November, 2014.

JENNIFER J. LUNT
Washoe County Alternate Public Defender

By:/s/ Jarrod T. Hickman
JARROD T. HICKMAN
Deputy Alternate Public Defender

1 **CODE 3005**

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6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

Case No. CR14-1044

11 **vs.**

Dept. No. 4

12 **MARC PAUL SCHACHTER,**

13 **Defendant.**

14 _____/

15 **ORDER GRANTING WITHDRAWAL OF COUNSEL**

16 A Status Hearing was held in the above entitled matter on November 20, 2014, at
17 the hour of 9:00 a.m., in the Second Judicial District Court; the State of Nevada was
18 represented by Zelalam Bogale, Esq., Deputy District Attorney, and the defendant was
19 present with stand-by counsel James Leslie, Esq., Chief Deputy Public Defender.

20 At such hearing, the Court was notified by defense counsel that a conflict of
21 interested was created with the Washoe County Public Defender's Office acting as stand-
22 by counsel when the Defendant filed a Petition for Writ of Habeas Corpus (Post
23 Conviction).

24 Based on the filing of the Petition for Writ of Habeas Corpus (Post Conviction), with
25 good cause appearing and in the interests of justice,

26 IT IS HEREBY ORDERED that the Washoe County Public Defender's Office is
27 withdrawn as stand-by counsel of record for the defendant.

28 ///

1 IT IS HEREBY FURTHER ORDERED that the Washoe County Alternate Public
2 Defender is appointed as stand-by counsel to the defendant in all further proceedings in
3 this case. Sentencing in this matter is currently set for December 4, 2014 at 2:00 p.m.

4 Dated this 25 day of November, 2014.

5
6 Connie J. Steinheimer
7 DISTRICT JUDGE
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CERTIFICATE OF SERVICE

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 26th day of November, 2014, I filed the attached document with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

☒ I electronically filed with the Clerk of the Court, using the ECF which sends an immediate notice of the electronic filing to the following registered e-filers for their review of the document in the ECF system:

Zelalam Bogale, Esq.
Deputy District Attorney

James Leslie, Esq.
Deputy Public Defender

Jennifer Lunt, Esq.
Alternate Public Defender

Deposited in the Washoe County mailing system in a sealed envelope for postage and mailing with the United States Postal Service in Reno, Nevada: [NONE]

Placing a true copy thereof in a sealed envelope for service via:

Reno/Carson Messenger Service – [NONE]

Federal Express or other overnight delivery service [NONE]

Inter-Office Mail – [NONE]

DATED this 26th day of November, 2014.



Return Of NEF**Recipients**

JOSEPH GOODNIGHT, ESQ. - Notification received on 2014-11-26 11:33:31.133.
JARROD HICKMAN, ESQ. - Notification received on 2014-11-26 11:33:31.273.
CARL HYLIN, ESQ. - Notification received on 2014-11-26 11:33:31.226.
JAMES LESLIE, ESQ. - Notification received on 2014-11-26 11:33:31.039.
ZELALEM BOGALE, ESQ. - Notification received on 2014-11-26 11:33:31.008.
KELLY KOSSOW, ESQ. - Notification received on 2014-11-26 11:33:31.101.
DIV. OF PAROLE & PROBATION - Notification received on 2014-11-26 11:33:31.164.
JENNIFER LUNT, ESQ. - Notification received on 2014-11-26 11:33:31.257.
NICKOLAS GRAHAM, ESQ. - Notification received on 2014-11-26 11:33:31.195.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

11-26-2014:11:32:33

Clerk Accepted:

11-26-2014:11:33:00

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Ord Withdrawal of Counsel

Filed By:

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL
SCHACHTER

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL
SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

JOSEPH GOODNIGHT, ESQ. - Notification received on 2014-11-26 11:55:43.122.
JARROD HICKMAN, ESQ. - Notification received on 2014-11-26 11:55:43.278.
CARL HYLIN, ESQ. - Notification received on 2014-11-26 11:55:43.215.
JAMES LESLIE, ESQ. - Notification received on 2014-11-26 11:55:43.028.
ZELALEM BOGALE, ESQ. - Notification received on 2014-11-26 11:55:42.997.
KELLY KOSSOW, ESQ. - Notification received on 2014-11-26 11:55:43.091.
DIV. OF PAROLE & PROBATION - Notification received on 2014-11-26 11:55:43.153.
JENNIFER LUNT, ESQ. - Notification received on 2014-11-26 11:55:43.247.
NICKOLAS GRAHAM, ESQ. - Notification received on 2014-11-26 11:55:43.184.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

11-26-2014:10:45:18

Clerk Accepted:

11-26-2014:11:55:12

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Notice of Appearance

Filed By:

Jarrold T Hickman

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

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The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JOSEPH GOODNIGHT, ESQ. for MARC PAUL
SCHACHTER

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JAMES B. LESLIE, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

CARL F. HYLIN, ESQ. for MARC PAUL
SCHACHTER

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 CODE 2650
2 Richard A. Gammick
3 #001510
4 P.O. Box 11130
5 Reno, NV 89520
6 (775) 328-3200
7 Attorney for Plaintiff

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
10
11 IN AND FOR THE COUNTY OF WASHOE

12 * * *

13 THE STATE OF NEVADA,

14 Plaintiff,

Case No. CR14-1044

15 v.

Dept. No. 4

16 MARC PAUL SCHACHTER,

17 Defendant.

18 _____/

19 OMNIBUS OPPOSITION TO DEFENDANT'S POST-TRIAL FILINGS

20 The State of Nevada, by and through RICHARD A. GAMMICK, Washoe
21 County District Attorney and ZELALEM BOGALE, Deputy District
22 Attorney, hereby files an omnibus opposition to Defendant Marc Paul
23 Schachter's post-trial filings.¹

24 INTRODUCTION

25 On September 24, 2014, after two days of trial, a jury returned
26 a verdict in this case finding Defendant guilty of Attempted Robbery.
Sentencing is presently scheduled for December 4, 2014. Pursuant to

¹ Aware that WCDR 10(9) states, "Any motion, opposition, reply, etc., must be filed as a separate document unless it is pleaded in the alternative," the State nevertheless has included all of the oppositions to Defendant's post-trial filings in this one document in an effort to promote judicial economy and conserve judicial resources. If the court desires the State to file each opposition separately, the State will do so.

1 the court's July 31, 2014 Order of Self-Representation and
2 Appointment of Stand-By Counsel after a *Faretta* hearing,² Defendant is
3 his own attorney. Pursuant to the court's November 26, 2014 Order
4 Granting Withdrawal of Counsel, The Washoe County Alternate Public
5 Defender's Office has been appointed as stand-by counsel, replacing
6 the Washoe County Public Defender's Office.

7 On November 18, 2014, Defendant then filed a Petition for Writ
8 of Habeas Corpus, Motion for Clarification of Pre-Trial Order, Motion
9 for Trial Transcripts at Public Expense, and Request for Case File of
10 Stand-By Counsel Including All Work-Product. On November 20, 2014,
11 he filed Objection to Presentence Report.

12 ARGUMENT

13 The State will address Defendant's Petition for Writ of Habeas
14 Corpus and Motion for Clarification of Pre-Trial Order in turn.
15 Because, however, the State's interests do not appear to be
16 implicated by Defendant's Motion for Trial Transcripts at Public
17 Expense, Request for Case File of Stand-By Counsel Including All
18 Work-Product, or Objection to Presentence Report, the State takes no
19 position on these filings.

20 A. PETITION FOR WRIT OF HABEAS CORPUS

21 Defendant points to several alleged failures of his then-stand-
22 by counsel during pretrial proceedings (the Washoe County Public
23 Defender's Office). From, among other things, failing to adequately
24 investigate his defense to failing to communicate with him and
25 neglecting to file motions he wanted filed, Defendant argues stand-by

26 ² *Faretta v. California*, 422 U.S. 806 (1975) (recognizing a defendant's Sixth Amendment right to conduct his own defense).

1 counsel's conduct "inhibited his ability to [proceed *pro se*]." (Pet.
2 at 9.)

3 In Nevada a petition for writ of habeas corpus is meticulously
4 governed by statute. See generally NRS 34.360 *et seq.* Statutorily,
5 these petitions are divided into two kinds: pretrial and
6 postconviction. The title of Defendant's filing does not indicate
7 which kind of petition it is. But regardless of whether it is a
8 pretrial or postconviction petition, it should be dismissed.

9 A pretrial petition requires, among other things, the petition
10 and all supporting documents to be filed "within 21 days after the
11 first appearance of the accused in the district court." NRS
12 34.700(1)(a). Defendant's first appearance in district court was
13 July 24, 2014—the date of his arraignment. Thus, the instant
14 petition filed on November 18, 2014 is far too late, particularly
15 because this case already proceeded to trial and the purpose of a
16 pretrial petition is to avoid a trial. Put another way, the remedy
17 afforded by statute to pretrial petitioners is now impossible for
18 Defendant to obtain. Construed this way, the petition is moot.

19 Defendant faces an opposite but equally fatal problem if the
20 court construes the writ as a postconviction writ. Under NRS 34.724,
21 only those individuals that are "convicted of a crime and under
22 sentence of . . . imprisonment" may file a postconviction petition.
23 Though a guilty verdict has been returned in this case, Defendant has
24 not been convicted of a crime. Nor is he under sentence of
25 imprisonment. Because a petition so construed would be premature, it
26 should be dismissed.

1 Finally, as a substantive point, Defendant's petition appears to
 2 contain allegations of ineffective assistance of counsel. But even
 3 assuming *arguendo* the petition was neither too late as a pretrial
 4 petition nor too early as a postconviction petition, it should still
 5 be dismissed because he represented himself during his criminal
 6 trial. See *Faretta, supra*, 422 U.S. at 834 n.46 ("[W]hatever else may
 7 or may not be open to him on appeal, a defendant who elects to
 8 represent himself cannot thereafter complain that the quality of his
 9 own defense amounted to a denial of 'effective assistance of
 10 counsel.'").

11 For all of the foregoing reasons, the court should dismiss this
 12 petition.

13 B. MOTION FOR CLARIFICATION OF PRETRIAL ORDER

14 The State construes this motion filed on November 18, 2014 as a
 15 motion to reconsider a previous ruling, specifically the Order
 16 Denying Defendant's Motion to Dismiss Case on Grounds that the State
 17 Has Lost and/or Destroyed Exculpatory Evidence filed on September 16,
 18 2014. So construed, it should be denied.

19 First, it is late. WDCR 12(8) (setting a 10-day time limitation
 20 on seeking reconsideration of a court's ruling). Second, Defendant
 21 fails either to point to "substantially different evidence" that has
 22 been subsequently introduced or articulate why the decision is
 23 "clearly erroneous." *Masonry & Title Contractors Ass'n of S.*
 24 *Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d
 25 486, 489 (1997) (citations omitted); see also *Moore v. City of Las*
 26 *Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) (per curiam) ("Only

1 in very rare instances in which new issues of fact or law are raised
2 supporting a ruling contrary to the ruling already reached should a
3 motion for rehearing be granted.") To be sure, Defendant points to
4 the trial testimony of Officer West and Anna Young but fails to
5 explain how that testimony supports his motion.

6 For these reasons, the motion should be denied.

7 CONCLUSION

8 Based on the foregoing, Defendant's Petition for Writ of Habeas
9 Corpus should be dismissed and his Motion for Clarification of
10 Pretrial Order should be denied.

11 AFFIRMATION PURSUANT TO NRS 239B.030

12 The undersigned does hereby affirm that the preceding
13 document does not contain the social security number of any person.

14 Dated this 2nd day of December, 2014.

15 RICHARD A. GAMMICK
16 District Attorney
Washoe County, Nevada

17
18
19 By/s/ ZELALEM BOGALE
20 ZELALEM BOGALE
Deputy District Attorney

I certify that I am an employee of the Washoe County
 Attorney's Office and that, on this date, I mailed and
 electronically filed the foregoing with the Clerk of the Court by
 the eCF system which will send a notice of electronic filing to
 all parties.

WASHOE COUNTY ALTERNATE PUBLIC DEFENDER
JARROD HICKMAN

/s/ Cheryl Bennett

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2014-12-02 16:33:30.609.
JENNIFER LUNT, ESQ. - Notification received on 2014-12-02 16:33:30.749.
JARROD HICKMAN, ESQ. - Notification received on 2014-12-02 16:33:30.78.
KELLY KOSSOW, ESQ. - Notification received on 2014-12-02 16:33:30.655.
DIV. OF PAROLE & PROBATION - Notification received on 2014-12-02 16:33:30.687.
NICKOLAS GRAHAM, ESQ. - Notification received on 2014-12-02 16:33:30.718.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-02-2014:15:14:44

Clerk Accepted:

12-02-2014:16:33:02

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Opposition to

Filed By:

Zelalem Bogale

You may review this filing by clicking on the following link to take you to your cases.

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-

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The following people were served electronically:

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NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

4025

MARC SCHACHTER
1409450
911 PARR BLVD
RENO, NV 89512
IN PRO PER

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,
Plaintiff,

v.

Case No. CR14-1044

MARC PAUL SCHACHTER,
Defendant.

Dept. No. 4

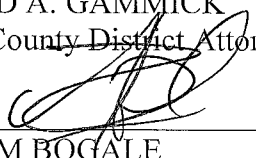
STIPULATION TO CONTINUE

COMES NOW, Defendant MARC PAUL SCHACHTER, in proper person, and hereby stipulates that the sentencing hearing currently scheduled for December 4, 2014 be vacated and be reset for January 16, 2015 at 9:00 a.m. in Department 4 of the Second Judicial District Court. Parties have stipulated to this continuance due to the recent appointment of alternate stand-by counsel and the need for continued investigation into prior convictions and potential mitigation.

DATED this 2nd day of December, 2014.

RICHARD A. GAMMICK
Washoe County District Attorney

MARC PAUL SCHACHTER
In Proper Person

By: 
ZELALEM BOGALE
Deputy District Attorney


MARC PAUL SCHACHTER

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document **STIPULATION TO**
CONTINUE filed in case number **CR14-1044**

XX Document does not contain the social security number of any person

OR

_____ Document contains the social security number of a person as required by:

_____ A specific state or federal law, to wit:

(State specific state or federal law)

OR

_____ For the administration of public program


OR

_____ For an application for a federal or state grant

OR

_____ Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: DECEMBER 2, 2014


(Signature)

MARC SCHACHTER
(Print Name)

DEFENDANT IN PROPER PERSON

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2014-12-03 09:33:41.505.
JENNIFER LUNT, ESQ. - Notification received on 2014-12-03 09:33:41.645.
JARROD HICKMAN, ESQ. - Notification received on 2014-12-03 09:33:41.676.
KELLY KOSSOW, ESQ. - Notification received on 2014-12-03 09:33:41.551.
DIV. OF PAROLE & PROBATION - Notification received on 2014-12-03 09:33:41.583.
NICKOLAS GRAHAM, ESQ. - Notification received on 2014-12-03 09:33:41.614.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-03-2014:08:54:42

Clerk Accepted:

12-03-2014:09:33:00

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Stipulation to Continuance

Filed By:

Zelalem Bogale

You may review this filing by clicking on the following link to take you to your cases.

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The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 CODE 3020
2
3
4
5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE

8 THE STATE OF NEVADA,
9 Plaintiff,

Case No. CR14-1044

10 vs.

Dept. No. 4

11 MARC PAUL SCHACHTER,
12 Defendant.
13

14 **ORDER CONTINUING SENTENCING**

15 The State of Nevada, by and through Richard A. Gammick, Washoe County District
16 Attorney and Zelalem Bogale, Deputy District Attorney, and Marc Paul Schachter in pro per,
17 filed a Stipulation to Continue on December 3, 2014, to continue the Sentencing hearing in the
18 above-entitled matter from December 4, 2014, at 9:00 a.m., to January 16, 2015, at 9:00 a.m. to
19 allow for continued investigation into prior convictions and potential mitigation.

20 The Court having reviewed that request finds good cause and in the interest of justice,

21 IT IS HEREBY ORDERED that the Sentencing hearing scheduled for December 4,
22 2014 is VACATED.

23 IT IS HEREBY FURTHER ORDERED that the Sentencing is set for January 16, 2015
24 at 9:00 a.m.

25 Dated this 4 day of December, 2014.

26 
DISTRICT JUDGE

CERTIFICATE OF SERVICE

CASE NO. CR14-1044

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 8 day of December, 2014, I filed the **ORDER CONTINUING SENTENCING** with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

 Personal delivery to the following: [NONE]

 X **I electronically filed with the Clerk of the Court, using the ECF which sends an immediate notice of the electronic filing to the following registered e-filers for their review of the document in the ECF system:**

NICKOLAS GRAHAM, ESQ. for STATE OF NEVADA
KELLY KOSSOW, ESQ. for STATE OF NEVADA
JARROD HICKMAN, ESQ. for MARC PAUL SCHACHTER
JENNIFER LUNT, ESQ. for MARC PAUL SCHACHTER
DIV. OF PAROLE & PROBATION
ZELALEM BOGALE, ESQ. for STATE OF NEVADA

 X **Deposited in the Washoe County mailing system in a sealed envelope for postage and mailing with the United States Postal Service in Reno, Nevada:**

Marc Schachter, #14-09450
Washoe County Detention Center
911 Parr Blvd.
Reno, NV 89512

 Placing a true copy thereof in a sealed envelope for service via:
 Reno/Carson Messenger Service – [NONE]

 Federal Express or other overnight delivery service [NONE]

DATED this 8 day of December, 2014.



Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2014-12-08 07:45:49.363.
JENNIFER LUNT, ESQ. - Notification received on 2014-12-08 07:45:49.551.
JARROD HICKMAN, ESQ. - Notification received on 2014-12-08 07:45:49.582.
KELLY KOSSOW, ESQ. - Notification received on 2014-12-08 07:45:49.426.
DIV. OF PAROLE & PROBATION - Notification received on 2014-12-08 07:45:49.473.
NICKOLAS GRAHAM, ESQ. - Notification received on 2014-12-08 07:45:49.504.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-08-2014:07:44:45

Clerk Accepted:

12-08-2014:07:45:17

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Ord Granting Continuance

Filed By:

Judicial Asst. AKay

You may review this filing by clicking on the following link to take you to your cases.

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NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 CODE 1250
2 JENNIFER J. LUNT
3 WASHOE COUNTY ALTERNATE PUBLIC DEFENDER
4 BAR #3057
5 P. O. BOX 11130
6 RENO, NV 89520
7 (775) 328-3955
8 ATTORNEY FOR DEFENDANT

9
10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11
12 IN AND FOR THE COUNTY OF WASHOE
13

14 THE STATE OF NEVADA,
15 Plaintiff,

16 vs.

Case No. CR14-1044

17 MARC PAUL SCHACHTER,
18 Defendant.

Dept. No. 4

19 APPLICATION FOR SETTING

20 TYPE OF ACTION: CRIMINAL
21 MATTERS TO BE HEARD: SENTENCING
22 DATE OF APPLICATION: 12/8/14, MADE BY DEFENDANT
23 COUNSEL FOR PLAINTIFF: ZELALEM BOGALE, DDA
24 COUNSEL FOR DEFENDANT: MARC PAUL SCHACHTER, IN PRO PER
25 CUSTODY STATUS: _____ BAIL _____ O.R. X IN CUSTODY
26

Setting January 16, 2015, at 9:00 a.m.

THIS VACATES SETTING ON DECEMBER 4, 2014, AT 9:00 A.M.

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document

filed in case number

X Document does not contain the social security number of any person

OR

Document contains the social security number of a person as required by:

 A specific state of federal Law, to wit:

(State specific state of federal law)

OR

For the administration of public program

OR

For an application for a federal or state grant

OR

_____ Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date:

12/8/14

/s/ MARC SCHACHTER (in pro per)
(Signature)

MARC SCHACHTER (in pro per)
(Print Name)

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(Attorney for)

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HONORABLE CONNIE J. STEINHEIMER

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Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Application for Setting

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1 4185

2 JUDITH ANN SCHONLAU

3 CCR #18

4 75 COURT STREET

5 RENO, NEVADA

6
7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF WASHOE

9 BEFORE THE HONORABLE ONNI J. STEINHEIMER, DISTRICT JUDGE

10 -o0o-

11 THE STATE OF NEVADA,)

)

12 Plaintiff,)

)

13 vs.)

CASE NO. CR14-1044

) DEPARTMENT NO. 6

14)

15 MARC PAUL SCHACHTER,)

)

16 Defendant.)

17
18 TRANSCRIPT OF PROCEEDINGS

19 PRE-TRIAL MOTIONS PARTIAL TRANSCRIPT

20 THURSDAY, SEPTEMBER 11, 2014, 10:00 A.M.

21 Reno, Nevada

22 Reported By: JUDITH ANN SCHONLAU, CCR #18
23 NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
24 Computer-aided Transcription

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A P P E A R A N C E S

FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY

 BY: ZELALEM BOGALE, ESQ.

 DEPUTY DISTRICT ATTORNEY

 WASHOE COUNTY COURTHOUSE

 RENO, NEVADA

FOR THE DEFENDANT: APPEARING IN PROPER PERSON

STANDBY COUNSEL OFFICE OF THE PUBLIC DEFENDER

 BY; JAMES LESLIE, ESQ.

 DEPUTY PUBLIC DEFENDER

 350 S. CENTER STREET

 RENO, NEVADA

1		<u>I N D E X</u>			
2					
3	<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
4	ALEJANDRO MONROY	2	18	22	63
5				61	65
6				65	67
7				67	
8				69	72
9	NICK REED	24	33		
10	MICHELLE BAYS	40	58		
11					
12					
13					ADMITTED
14	<u>EXHIBITS:</u>		<u>MARKED FOR IDENTIFICATION</u>		<u>INTO EVIDENCE</u>
15	1			27	28
16	1-B			30	40
17	A				57
18	B				57
19	B-1				57
20	C			8	
21	D (REMARKED)			40	
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24	F			69	71

1 RENO, NEVADA; THURSDAY, SEPTEMBER 11, 2014; 10:00 A.M.

2 -oOo-

3 THE COURT: This is the time set for a continued
4 motion, and we have Mr. Schachter present with standby counsel
5 Mr. Leslie. Thank you. And the State is represented.

6 Counsel we kind of put off some things, some of
7 Mr. Schachter's motions, as well I do have some rulings to
8 make on the State's motions. Are you ready to go forward with
9 those motions this morning

10 THE DEFENDANT: I am, Your Honor.

11 MR. BOGALE: State is ready to proceed.

12 THE COURT: All right. Shall we, I think we need to
13 talk about the video surveillance. Let's start there.

14 MR. BOGALE: Kay. The State has witnesses here to
15 authenticate the original video as the Court ordered on 9-3 so
16 I guess I'll call both of them first.

17 THE COURT: That's fine. Why don't you tell us the
18 name of who you are going to be calling.

19 MR. BOGALE: Nick Reed.

20 THE COURT: Okay.

21 MR. BOGALE: The next is Alejandro Monroy.

22 THE COURT: Last name Roy?

23 MR. BOGALE: M-O-N-R-O-Y.

24 MR. BOGALE: I will start with Alejandro Monroy, Your

1 Honor.

2 THE COURT: Okay.

3 THE CLERK: Please raise your right hand.

4

5 ALEJANDRO MONROY

6 called as a witness, having been first duly sworn,

7 took the witness stand and testified as follows:

8

9 DIRECT EXAMINATION

10 THE COURT: Counsel you may proceed.

11 MR. BOGALE: Thank you Your Honor.

12 BY MR. BOGALE:

13 Q When you get comfortable, please state your name and
14 spell your last name for the Court Reporter?

15 A Alejandro Monroy, M-O-N-R-O-Y.

16 Q What is your occupation?

17 A Asset protection officer for Wal-Mart.

18 Q And do you work at a specific Wal-Mart?

19 A I now work for the Kietzke Wal-Mart store 2189.

20 Q Have you worked for other Wal-Marts in town?

21 A I have, the Seventh Street Wal-Mart, store 3254.

22 Q And did you work for that Seventh Street Wal-Mart on
23 or about, excuse me, June 9th of this year?

24 A Yes, I did.

1 Q And what was your employment status there? What did
2 you do there?

3 A Asset protection.

4 Q What is asset protection?

5 A Asset protection is basically walking the store
6 looking for safety issues and any suspicious activity that
7 customers must be displaying to catch shoplifters.

8 Q Do you just look with your eyes, look for video
9 cameras, how do you keep track of this?

10 A Ninety-nine percent of the time it is with my eyes.

11 Q So you have an office in the store?

12 A Yes, we do.

13 Q And have you been trained to detect suspicious
14 customers?

15 A Yes.

16 Q What sort of training have you undergone?

17 A Basically walking with an experienced asset
18 protection officer, demonstrating what suspicious activity
19 might look like, looking around nervously, having an empty
20 tote in their hand, shopping erratically, things like that.

21 MR. LESLIE: Your Honor, I apologize for the
22 interruption. I forgot to ask, can we have him uncuffed like
23 we did last time?

24 THE COURT: Yes.

1 MR. LESLIE: Hank you.

2 BY MR. BOGALE:

3 Q Now you said you observe customers with your own
4 eyes; is that correct?

5 A Yes.

6 Q Do you also have video equipment?

7 A Yes, we do.

8 Q Does Wal-Mart have video surveillance?

9 A Yes, they do.

10 Q Is it constantly recording or triggered by certain
11 things? Explain that?

12 A It is recording 24 hours a day 7 days a week.

13 Q Now we are here because an individual named Mark
14 Schachter has been identified, sorry, has been charged with
15 some crimes. Let me bring your attention back to June 9th. Do
16 you recall seeing somebody in your store that you thought was
17 acting suspicious?

18 A Yes.

19 Q Did you eventually confront that person?

20 A Yes, I did.

21 Q Do you see that person here in the courtroom today?

22 A Yes, I do.

23 Q Could you please point at him and describe an
24 article of clothing he's wearing?

1 A The defendant has a gray jumpsuit. I can't tell
2 what it is. And orange shoes.

3 MR. BOGALE: May the record reflect the
4 identification of the defendant by this witness?

5 THE COURT: The record will so reflect.

6 MR. BOGALE: Thank you. Your Honor, may I approach?

7 THE COURT: You may.

8 MR. BOGALE: I will ask the clerk to have this
9 marked.

10 THE CLERK: Exhibit C marked.

11 (Exhibit C marked for identification.)

12 THE CLERK: Just so everybody remembers, A and B
13 were marked at the end of the previous hearing which were the
14 CD's in the custody of the defendant.

15 MR. BOGALE: Your Honor, may I approach this
16 witness?

17 THE COURT: You may.

18 MR. BOGALE: Thank you.

19 BY MR. BOGALE:

20 Q Mr. Monroy, I am going to show you what has been
21 marked as Exhibit C, okay? It is a disk. Can you-- do you--
22 can you tell me whose name is on there, first?

23 A That is Mark Schachter.

24 Q Who do you understand Mark Schachter to be?

1 A The defendant.

2 Q And do you know what this disk has on it?

3 A Yes.

4 Q What is on this disk?

5 A It is the video of my confrontation with Mark
6 Schachter along with some video of him in the store selecting
7 some items.

8 MR. BOGALE: Your Honor, may I move to admit Exhibit
9 C in evidence?

10 THE COURT: Any objection?

11 THE DEFENDANT: How does he know what is on that
12 disk?

13 THE COURT: You want to ask him a question before I
14 admit the document?

15 THE DEFENDANT: Yes. How do you know what is on the
16 disk?

17 THE WITNESS: I burned the disk.

18 THE DEFENDANT: Okay. Thank you.

19 THE COURT: Exhibit C is admitted.

20 (Exhibit C admitted in evidence.)

21 MR. BOGALE: Thank you, Your Honor. May I publish?

22 THE COURT: You may.

23 MR. BOGALE: We tried to set up the video so Your
24 Honor can see it. I hope it is sufficient.

1 BY MR. BOGALE:

2 Q Mr. Monroy, there are several files on this disk. I
3 am going to play the beginnings of them, and if you are
4 satisfied it accurately reflects what you burned, just tell me
5 okay?

6 A Okay.

7 THE DEFENDANT: Your Honor, I just have an
8 objection. Where are we going with this? I thought the
9 hearing was about the disk that was already in evidence not a
10 new disk.

11 THE COURT: We may have to compare the two, I guess.

12 THE DEFENDANT: This is a recently burned disk he
13 brought. He said he brought it.

14 THE COURT: He said he burned it. Mr. Schachter, we
15 don't argue back and forth. So since you are in trial in two
16 weeks, we better start figuring this out. So you don't get to
17 sit there and debate issues. If you have a motion, make it.
18 If you have an objection, make it. You say what the objection
19 is. You stand up when you say it, but we don't have to do it
20 today but in a trial, then I rule on it and you don't debate
21 it with me, okay?

22 THE DEFENDANT: Sorry.

23 THE COURT: I am going to let the question stand.
24 Whatever the objection was, which I am not sure I understood,

1 is overruled. I am going to let the question stand and the
2 witness can answer.

3 BY MR. BOGALE:

4 Q Okay. Mr. Monroy, I am going to open this disk and
5 play the file with you. Just look at that screen behind you.
6 Start with a file called AA GM. Do you recognize this video?

7 A Yes.

8 Q What does it show?

9 A It is showing Mr. Schachter going to the front of
10 the pharmacy and health and beauty department.

11 Q I don't believe we have the ability to kind of like
12 use high technology and point and circle things. Can you at
13 least point at Mr. Schachter in the video?

14 A Absolutely. Right there.

15 Q Is this an accurate reflection of the Wal-Mart
16 surveillance recording at your store on Seventh Stree on June
17 9th?

18 A Yes, it is.

19 Q I am going to close that file out and open up
20 another one. This one is entitled GC Portable. Those are the
21 first two words. Okay. Have you had a chance to view that?

22 A Yes.

23 Q What is this video?

24 A This is a video of Mr. Schachter going up to the

1 register at the garden center and paying for some items.

2 Q And there appears to be a date and time stamp on
3 that; is that correct?

4 A Yes.

5 Q What does that date and time stamp say?

6 A June 9, 2014, 11:48 a.m.

7 Q Is this an accurate depiction or reflection of the
8 Wal-Mart surveillance on that date and time?

9 A Yes, it is.

10 Q Is this an accurate reflection of what you burned
11 that day?

12 A Yes.

13 Q While we are on that, do you recall the exact date
14 you burned this file?

15 A These files --

16 Q If you don't remember the exact date that's okay?

17 A I know it was within a few days of the actual
18 incident.

19 Q So within what, two or three days?

20 A Yes.

21 Q Of June 9th?

22 A Yes.

23 Q Could it have been a week?

24 A No. It was two or three days.

1 Q Are these video files maintained on like a server of
2 some kind?

3 A It is actually saved on a computer.

4 Q Do you have a certain amount of time within which
5 you need to burn them if you want to preserve them?

6 A When we create an actual investigation file where we
7 take snippets of the video and place them into an
8 investigation, I am not 100 percent if that ever deletes
9 unless we physically delete it.

10 Q Now I am going to show you a file entitled RX POX
11 are the first two words. Do you recognize this video?

12 A Yes, I do.

13 Q What does it show?

14 A It is showing Mr. Schachter in the first aisle of
15 the pharmacy looking at some items.

16 Q Where is Mr. Schachter? If you could point him out
17 as to the place?

18 A Right in there.

19 Q That is pretty hard to see. How do you know that is
20 Mr. Schachter from the video?

21 A Because I was actually physically surveilling him
22 from the aisle in front.

23 Q So you were personally in this store surveilling him
24 with your own eyes?

1 A Yes, I was.

2 Q You can't see it on the video, but you were
3 somewhere to the right, I guess?

4 A Correct.

5 Q Is this a fair and accurate representation of the
6 Wal-Mart surveillance of that location on June 9th?

7 A Yes, it is.

8 Q I am going to show you file RX-0TC. Do you recognize
9 this video?

10 A Yes, I do.

11 Q Do you see Mr. Schachter in it?

12 A I do.

13 Q Where do you see him?

14 A Right there.

15 Q Okay. And is this video recording activities you
16 were also observing with your own eyes?

17 A Yes.

18 Q And is this a fair and accurate representation of
19 what you observed with your own eyes?

20 A Yes.

21 Q Okay. Just for me could you explain what he's doing
22 here?

23 THE DEFENDANT: Your Honor I object. We'll let the
24 video decide what I am doing or not doing. I don't understand

1 what the question is.

2 THE COURT: Overruled. I will allow him to say what
3 he observed personally. He's saying he saw this personally so
4 I will allow that question.

5 THE WITNESS: It is Mr. Schachter looking at some
6 Icy Hot items and comparing and reading the box.

7 BY MR. BOGALE:

8 Q Okay. What is Mr. Schachter doing with these item?

9 A He places them in the cart.

10 Q Okay. Is it a fair and accurate representation of
11 the video or what you observed?

12 A Yes, it is.

13 Q Now I am going to show you a file called Stanley GC.
14 What does this show?

15 A This is showing the entrance into the garden center.

16 Q Does it show Mr. Schachter in there?

17 A Yes, it does.

18 Q Where is he?

19 A Right there.

20 Q Okay. I will show you another file called Stanley
21 GC. It ends in a zero. The previous one ended in 15. What is
22 this file?

23 A It is the same entrance into the garden center just
24 the angel on the other side of the door.

1 Q Did it show Mr. Schachter in that video?

2 A Yes, it did.

3 Q Just a couple more, Mr. Monroy. This one is entitled
4 Park Lot Cam is the first two words. Now what is happening in
5 this video?

6 A This is where I confronted Mr. Schachter.

7 Q I am going to pause it. Where is the confrontation
8 happening, if you could point it out to us?

9 A Right there.

10 Q Okay. And you personally confronted Mr. Schachter?

11 A Yes, I did.

12 Q And you know where this video was recording from?

13 A Yes.

14 Q Where was it recording from?

15 A There is a camera on one of the lightposts.

16 Q And would this be a fair and accurate reflection of
17 the confrontation?

18 A Yes.

19 Q Okay. Okay. I am now showing you a file entitled
20 Roof Top Cam are the first two words of the file. What is
21 happening here?

22 A The confrontation is continuing. Mr. Schachter is
23 still attempting to get past me.

24 Q Okay. I see there are -- there is a street towards

1 the top of the video. What street is that?

2 A That is Seventh Street.

3 Q You are on like the north side of the parking lot?

4 A Correct.

5 Q And where is Mr. Schachter and where are you in this
6 video?

7 A This is Mr. Schachter.

8 THE COURT: I can't see.

9 THE WITNESS: That is Mr. Schachter and that is me.

10 THE COURT: Okay. Thank you.

11 BY MR. BOGALE:

12 Q It is a long video, so I am going to ask you is this
13 short piece a fair and accurate representation of the
14 aftermath of the confrontation?

15 THE WITNESS: Yes.

16 Q Does anyone else have access to the video files at
17 Wal-Mart besides asset protection?

18 A Upper management.

19 Q Is there any way that these video files could have
20 been -- could have been edited?

21 A Not that I am aware of.

22 Q Do you know how to edit them?

23 A No.

24 Q Okay. Have you reviewed Wal-art's video files for

1 any video showing the defendant entering Wal-Mart?

2 A I did look. Unfortunately, the files delete after 60
3 days.

4 Q And so did you find one?

5 A No. There was no video.

6 Q Did you look within 60 days from June 9th?

7 A I do not recall.

8 MR. BOGALE: No further questions.

9 THE COURT: Mr. Schachter.

10

11 CROSS-EXAMINATION

12 BY THE DEFENDANT:

13 Q You testified that you burned these videos?

14 A This specific video.

15 Q It wasn't Ms. Young who burned them?

16 A That one, no.

17 Q All these -- these are all burned together?

18 A I am testifying to this one.

19 Q I don't even know how to put this. This is not the
20 video that is in my discovery?

21 THE COURT: I don't believe so. The one you gave the
22 clerk for safe keeping is marked A and B.

23 THE CLERK: That is correct.

24 THE COURT: So he's now showing you C. Do you want

1 him to look at A and B? Do you want to ask him questions
2 about A and B?

3 THE DEFENDANT: No.

4 THE COURT: Okay.

5 THE DEFENDANT: I thought the hearing, this was about
6 the discovery about what I was entitled to and whether that
7 video was altered.

8 THE COURT: Mr. Schachter, it really doesn't matter
9 if it was altered. If the State were able to produce the
10 documents that you thought were exculpatory, then it may give
11 you a different remedy if you continue going to trial in two
12 weeks, but maybe it still would be admissible. You made a
13 motion of the fact that they had no video provided to you in
14 the discovery that showed you walking into Wal-Mart, and you
15 said that was exculpatory evidence because you had the
16 backpack on when you walked in. So there are many motions
17 here. You have discovery issues which you are claiming they
18 aren't giving you, is it fair and accurate, whatever they did
19 have. But you are also claiming that they did not burn the
20 proper CDs.

21 THE DEFENDANT: Exactly.

22 THE COURT: Right?

23 THE DEFENDANT: Yes.

24 THE COURT: So the State has said what they burned.

1 They have got a witness here. You can ask him why he burned
2 it, didn't burn it, do whatever you want with it. You can
3 have him look at A and B if you want because you have lodged
4 those with the Court.

5 BY THE DEFENDANT:

6 Q Thank you. So, again, there is no video of me
7 available right now walking into the store?

8 A Correct.

9 Q What was the deadline for you to be able to retrieve
10 that video?

11 A Whatever 60 days would have been.

12 Q Is that the procedure-- How did you decide which
13 snippets to burn?

14 A I burned anything showing you throughout the store
15 selecting items.

16 Q But nothing prior to 11:30 or 11:27 that was on that
17 video, the first video, right?

18 A If that is the time, yes.

19 Q And did you-- that is all the video you could find
20 of me in the store, is that what you are saying?

21 A Yes.

22 Q So it is the policy not to get all, I am sorry, all
23 the entrance videos, right?

24 A I am sorry. Repeat that.

1 Q All the entrances and exists are on video
2 surveillance?

3 A Yes, they are.

4 Q Is it the policy not to record when you have a
5 suspected shoplifter, not to record him or her coming into the
6 store?

7 A There is no policy.

8 Q It was just your decision not to keep that video, is
9 that right, not to burn that video along with the rest of the
10 videos?

11 A Yes. I did not see the relevance.

12 Q There is no other video that you know of of me in
13 the store on that date?

14 A There could be, but I wouldn't see the relevance of
15 recording just you walking down an aisle.

16 Q But in front of the video, does it show me without
17 the backpack?

18 A Okay.

19 Q But you said in your statement that you started
20 surveillance at 11:40 but the video, the earliest video in
21 there is 11:30, and I have the backpack in the shopping cart?

22 A Okay.

23 Q So there is no video prior to 11:30 or any video
24 that you brought with you today or have available that does

1 not show me with the backpack, correct?

2 A Correct.

3 THE DEFENDANT: That's all.

4 THE COURT: That's the end of your questioning?

5 THE DEFENDANT: Yes.

6 THE COURT: Counsel.

7 MR. BOGALE: Just a couple more questions, Your
8 Honor.

9

10

11 REDIRECT EXAMINATION

12 BY MR. BOGLE:

13 Q Did you see the defendant in Wal-Mart without a
14 backpack?

15 A Yes.

16 Q And then did you see him select a backpack?

17 A Yes.

18 Q Is it the same backpack he was holding when you
19 confronted him outside the store after he walked out without
20 paying for it?

21 A Yes.

22 Q Did you view the video of Mr. Schachter coming into
23 Wal-Mart?

24 A I did not.

1 Q Okay. You don't know if there is one, correct?

2 A That is correct.

3 THE DEFENDANT: He just, excuse me, testified there
4 was video.

5 THE COURT: Not a time to object.

6 MR. BOGALE: No further questions. Thank you.

7 THE COURT: Now did you have something?

8 THE DEFENDANT: He just testified -- excuse me.

9

10 RE CROSS EXAMINATION

11 BY THE DEFENDANT:

12 Q You testified all the entrances and exits are video
13 taped?

14 A Correct.

15 Q So at one point, there was video of me walking in
16 the store, correct?

17 A Assuming you used an entrance or exit, yes.

18 Q Is there some other way to get in?

19 A You could have jumped a fence in the garden center,
20 sure.

21 THE COURT: Is there anything further from the
22 State?

23 MR. BOGALE: Nothing further for this witness right
24 now.

1 THE COURT: You may step down.

2 (Witness excused.)

3 MR. BOGALE: The State calls Nick Reed.

4 THE COURT: Counsel, you may proceed.

5

6 NICK REED

7 called as a witness, having been first duly sworn,
8 took the witness stand and testified as follows:

9

10 DIRECT EXAMINATION

11 BY MR. BOGALE:

12 Q Good morning. Please state your name and spell your
13 last?

14 A Nick Reed, R-E-E-D.

15 Q Nick, what is your occupation?

16 A I am a police officer with the Reno Police
17 Department.

18 Q How long have you been there?

19 A About ten years.

20 Q Are you on a special assignment?

21 A I am assigned to detectives.

22 Q Are you part of the Repeat Offender Program?

23 A Yes, sir.

24 Q What is that?

1 A That is basically the career criminal unit.

2 Q Okay. Does that mean you track career criminals?

3 A Yes, sir, we do.

4 Q What sort of tracking do you do?

5 A It could vary from surveillance to checking certain
6 programs that we have that show for instance like a pawn
7 tracking program. We might track somebody through pawns if
8 they are pawning a lot of items or coming up with stolen
9 property, something like that.

10 Q You track their whereabouts and behavior?

11 A Basically, yes.

12 Q Are you assigned a certain amount of targets,
13 essentially?

14 A Yes.

15 Q Is Mark Schachter one of your targets?

16 A Currently, yes.

17 Q Let me bring you back to a few months ago, June of
18 this year.

19 A Yes, sir.

20 Q Were you involved in an investigation of an
21 individual named Mark Schachter?

22 A Yes, sir.

23 Q What did that investigation entail?

24 A Mr. Schachter had been arrested June 9th, and on

1 June 10th I received an in-custody report from Washoe County
2 Jail indicating he had been arrested. I read through the
3 report, the initial report and conducted a little bit of
4 follow up. In that follow up, I collected a surveillance
5 video, and I spoke to asset protection officer named Anna
6 Young both over the phone and in person. I watched the video
7 at Wal-Mart. I completed a report based on what I had seen in
8 the video, what I had read in Mr. Alex Monroy's statement and
9 a little bit of about what Anna, Ms. Young, had told me, and I
10 later booked the video.

11 Q You booked video into evidence?

12 A Yes, sir, I did.

13 Q Okay. I am going to show you what has been marked
14 and admitted as Exhibit C, okay? And just tell me if you
15 recognize these files, how you recognize them and if they
16 comport with the original video that you booked, okay?

17 THE COURT: Wait a minute, is this the video he
18 booked or a different video?

19 MR. BOGALE: It is the State's position it is just a
20 copy of the same video.

21 THE COURT: Where is the video he booked?

22 THE WITNESS: Right here Your Honor.

23 THE COURT: Let's Mark that.

24 THE WITNESS: Okay.

1 MR. BOGALE: Thank you.

2 BY MR. BOGALE:

3 Q Could you open this for me, please?

4 THE COURT: Let the record reflect the envelope is
5 being opened by the witness.

6 THE WITNESS: Your Honor, I just want to indicate it
7 is a Reno Police Department envelope. I has my name and badge
8 number on the front, the date of June 10th. Chain of custody.
9 Case number on the back. It is sealed. My name, Reed, my
10 badge number 9473, case number 14-10834.

11 THE COURT: Is that in the same condition as you put
12 it into evidence?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: Did you retrieve it today?

15 THE WITNESS: I retrieved it last night.

16 THE COURT: From evidence?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Then you can open it. The clerk is
19 going to mark the envelope as well as the CD.

20 THE CLERK: He envelope is marked 1. The CD,
21 itself, will be marked 1-a.

22 (Exhibit 1 and 1-a marked for identification.)

23 MR. BOGALE: Your Honor, pursuant to Mr. Reed's
24 explanation of how he booked this into evidence, where he got

1 it from the chain of custody, his name, badge number and case
2 umber, I move to admit this in evidence.

3 THE COURT: Mr. Schachter. Any objection?

4 MR. LESLIE: Court's indulgence, Your Honor.

5 THE DEFENDANT: For the purpose of this hearing
6 only.

7 THE COURT: No objection?

8 THE DEFENDANT: No objection.

9 THE COURT: Exhibit 1 and 1-a are admitted.

10 (Exhibits 1 and 1-a admitted in evidence.)

11 MR. BOGALE: May I publish the disk, Your Honor?

12 THE COURT: You may.

13 MR. BOGALE: Thank you.

14 THE COURT: Do you want to return C to the clerk?

15 MR. BOGALE: Sure.

16 BY MR. BOGALE:

17 Q Next I am going to show you what has been marked and
18 admitted as Exhibit 1-a.

19 A Okay.

20 Q Now let me show you a couple of videos. This one is
21 called Stanley GC. Is this a fair and accurate representation
22 of what you burned?

23 A You know, I don't recall. I never watched any of
24 these other files. I remember watching Mr. Schachter,

1 specifically, and it was, my focus was more on the end of the
2 surveillance that loss prevention did with Mr. Schachter in
3 the alleged robbery at the time. That is where I kind of
4 focused my attention, so I don't remember the file that you
5 showed me.

6 THE COURT: Just play it for the Court.

7 MR. BOGALE: You want me to play the last one again?

8 THE COURT: No. Do you have the printout of what
9 you are playing? Have you done that?

10 MR. BOGALE: The printout? I am sorry.

11 THE COURT: Have you printed a screen shot from that
12 so you know which file you are supposed to be looking at? The
13 issue here is whether or not you, the D.A.'s office, or the
14 Police Department really burned a fair and accurate copy for
15 the defendant. It is a discovery motion as well as his motion
16 for exculpatory evidence. So in order to compare C which you
17 brought in with the loss prevention officer and this exhibit,
18 it would be helpful if we knew you had a list of the files
19 that you were going to show instead of saying, well, I am
20 going to jump here, I am going to look at this.

21 MR. BOGALE: Well, I can do that.

22 THE COURT: Do you have a list?

23 MR. BOGALE: I don't have a list, but I can make up
24 a list.

1 THE COURT: Maybe you should talk to your
2 investigator.

3 MR. BOGALE: Do you want to do that now?

4 THE COURT: You can ask her now.

5 MR. BOGALE: After speaking with our investigator, I
6 do have a screen shot of the file that we received from RPD.

7 THE COURT: Okay. Did you want to mark that?

8 THE CLERK: Exhibit 1-b marked, "b" as in boy.

9 (Exhibit 1-b marked for identification.)

10 THE COURT: For purposes of today's hearing as it is
11 a pretrial hearing. Where did you get 1-b?

12 MR. BOGALE: From my investigator, Michelle Bays.

13 THE COURT: It was prepared in the course of your
14 preparation for trial?

15 MR. BOGALE: Yes.

16 THE COURT: Have you disclosed that or is that part
17 of your work product?

18 MR. BOGALE: I have not disclosed that, Your Honor.

19 THE COURT: You considered it part of your work
20 product?

21 MR. BOGALE: That's what I figured.

22 THE COURT: But you think it might assist the Court
23 in understanding the exhibits. You can go ahead and show the
24 defendant the document.

1 MR. BOGALE: I think it will definitely help the
2 Court understand the exhibits.

3 THE DEFENDANT: This is for the one that the officer
4 just --

5 THE COURT: Yes, it is. That is my understanding.

6 THE DEFENDANT: Is that what it is? Is this a
7 screen shot?

8 THE COURT: This doesn't have to be on the record.
9 You can talk just like you would a lawyer.

10 MR. LESLIE: Your Honor, I think the colloquy should
11 be on the record, because Mr. Schachter is facing habitual. I
12 am sorry.

13 THE COURT: I didn't know how involved it was going
14 to be.

15 MR. LESLIE: If it was -- I mean those colloquies
16 occur where we say Court's indulgence and whisper at each
17 other, but it sounds like information that probably should be
18 recorded.

19 THE COURT: Okay. Mr. Schachter, you are concerned
20 about the document. What is your question?

21 THE DEFENDANT: Well, the date modified is
22 everything from six to just a couple of weeks ago to August.
23 From June to August. I don't know how it could be from that
24 date. I don't know which video it is from, the date modified.

1 THE COURT: Why don't we hold off on it then. Go
2 ahead and take it back, Mr. Bogale. Hold on to it. We might
3 have to have a witness to testify to whatever it is.

4 THE PLAINTIFF: I think Ms. Bays would be the right
5 person to testify to it.

6 THE COURT: Okay.

7 BY MR. BOGALE:

8 Q Okay. So this disk that I just played a file from,
9 you booked into evidence and never gave it to anybody else.
10 It stayed in evidence; is that correct?

11 A That's correct.

12 Q If it had been moved, it would have been marked on
13 the chain of custody; is that correct?

14 A That's correct.

15 Q And on this chain of custody --

16 MR. BOGALE: May I approach the witness?

17 THE COURT: You may.

18 BY MR. BOGALE:

19 Q Showing you what is marked Exhibit 1, what does the
20 chain of custody say?

21 A So when I booked this in, I put it into a locker
22 identified as 827. So the evidence people show they removed
23 it from 827 and put it into evidence, EVD dated 6-12 of '14
24 and then I put on yesterday that I removed it from evidence,

1 from the evidence clerk, my name and badge number and the date
2 which was 6-10-14.

3 Q Thank you.

4 MR. BOGALE: I have no further questions, Your Honor.

5 THE COURT: Mr. Schachter, do you have any
6 questions?

7 THE DEFENDANT: I don't. I am sorry.

8

9 CROSS-EXAMINATION

10 BY THE DEFENDANT:

11 Q How does that evidence get shared with the
12 prosecutor?

13 THE COURT: Would you return the evidence to the
14 clerk, please? Make sure it all gets put back together.

15 MR. BOGALE: I understand.

16 THE WITNESS: I will answer you in a second. So what
17 I have done, which is common for a detective in my unit, I
18 created two packets. A packet has the evidence disk in it,
19 the reports, the, you know, the paperwork. And in this case,
20 the surveillance disk. So I created a packet for the defense,
21 and I created a packet for the D.A.'s office, and that is only
22 to expedite discovery, because often times a guy in your
23 position will want to go to trial, so it is just to help
24 things along.

1 So to answer your question, he got the disk from me.
2 I burned it or I had Wal-Mart burn it, I don't really
3 remember, but I created two packets, one for the defense and
4 one for the D.A.'s office.

5 BY THE DEFENDANT:

6 Q Prior to lodging it into evidence, correct?

7 A Yeah, correct.

8 Q Do you know the date? Was that the same date that
9 you logged it into, the 10th, on June 10th or sometime after?

10 A It had to have been the same date, because I booked
11 the original in on the 10th and the 10th is when I did my
12 follow-up at Wal-Mart. It was the day after you were arrested.

13 Q So you don't know how the 6-14 date that is on the
14 other copy is on there, right?

15 A I don't even know what you are talking about.

16 Q I am sorry.

17 THE COURT: Did you want Exhibit A or B shown to the
18 witness?

19 THE DEFENDANT: That is helpful. I am trying to do
20 it as quickly as possible.

21 THE CLERK: Which one would you like first? I am
22 handing the bailiff Exhibit A.

23 THE DEFENDANT: Either one of them.

24 THE COURT: Is there anything on the outside of that

1 envelope?

2 THE DEPUTY: Not on the outside of the envelope.
3 They are Marked on the disk, disk 1-DA 14-1219 Schachter,
4 marked 7-24 of '14. The initials of KB.

5 THE COURT: Would you hand that to the witness?
6 We'll just do that first.

7 THE COURT: Is that the condition that you produced
8 a copy of the disk for the defendant?

9 THE WITNESS: I didn't write that down. But I mean
10 the disk, it looks -- I mean they all kind of look the same.
11 It looks similar to what we would use.

12 THE COURT: When you prepare a packet for the
13 defense, do you write on the disk?

14 THE WITNESS: Not always, but I have. Usually it is
15 in a black sharpie. It has the case number and defendant's
16 name on it.

17 THE COURT: Would you write on the sleeve?

18 THE WITNESS: I have done both.

19 THE COURT: Would you leave it completely blank?

20 THE WITNESS: I have done that as well.

21 THE COURT: Would the bailiff hand him Exhibit B.
22 Would you put that disk back in the sleeve?

23 THE WITNESS: Absolutely. Yes, ma'am.

24 THE COURT: Is there any writing on Exhibit B?

1 THE WITNESS: Should I pull it out? There is
2 writing. It is Disk 2, DA 14-12219 Schachter, Mark, 2-24-14.

3 THE COURT: Is that your writing?

4 THE WITNESS: No, ma'am.

5 THE COURT: Okay. Thank you.

6 THE WITNESS: Yes, ma'am.

7 THE COURT: Now did you have some questions?

8 BY THE DEFENDANT:

9 Q On those two videos, all the videos say --

10 THE COURT: The question is for him not me.

11 BY THE DEFENDANT:

12 Q On those two DVDs, all the videos say modified and
13 created on June 14th. Is there some explanation for that that
14 you know of?

15 A No.

16 Q Because you only made copies on June 10th, right,
17 one for the D.A. and one for the defense?

18 A Well, there was three copies. There was the
19 original, then there was two additional copies, but I don't
20 remember, and I apologize, if I had Wal-Mart burn me three
21 total copies, or if I burned two additional copies. I'm not
22 computer, extremely computer savvy, so I tend to believe that
23 I probably asked Wal-Mart to burn me three copies, because
24 that is where I watched this particular incident. So -- I'm

1 sorry. Could you repeat the question? I didn't burn anything
2 after June 10th.

3 Q Okay. In your police report it just says the one
4 disk was booked into evidence. Are you saying it is possible
5 that more than one was booked into evidence? Wal-Mart might
6 have given you additional DVDs or just the one?

7 THE COURT: That is not what he testified to.

8 BY THE DEFENDANT:

9 Q I am sorry. You only received one DVD from Wal-Mart,
10 correct?

11 A Well, I can't say that I received just one, because
12 I may have had three total copies of the same disk. But the
13 two additional videos, whether Wal-Mart burned them or I
14 burned them myself, I don't remember. They were specifically
15 for the defense and the D.A. just to expedite the discovery
16 process. So the one disk that was booked into evidence, that
17 should depict the same as the other two discs.

18 Q That would have been on June 10th, correct?

19 A That it was booked?

20 Q That it was burned?

21 A Yes.

22 Q And booked?

23 A Yes, burned and booked both the same day.

24 Q Okay.

1 THE DEFENDANT: That's it.

2 THE COURT: Thank you. Questions?

3 MR. BOGALE: No further questions.

4 THE COURT: Thank you, sir, you may step down.

5 (Witness Excused.)

6 MR. BOGALE: I want to clarify where we are going
7 here. I wasn't here September 30th. Matt Lee covered for me.
8 I had the pleasure of reading the Court's minutes that were
9 filed yesterday, and they explained what happened at that
10 hearing. We are here, please correct me if I am wrong, to make
11 sure Mr. Schachter has all the video evidence and discovery
12 that the State has; is that correct?

13 THE COURT: That's partially correct. There is
14 also, if you read his motion, there is a motion to dismiss the
15 charges because exculpatory evidence was destroyed. His
16 allegation was he entered the Wal-Mart with the backpack that
17 he is charged with stealing, and that the exculpatory evidence
18 was on a video not produced by the State.

19 He's also objected to the content of video discovery
20 stating that the video discovery that was provided to him was
21 not complete, an accurate copy of whatever was produced and
22 booked into evidence. So your job today was to confirm what
23 was booked into evidence, confirm whether there was any video
24 exculpatory evidence available, perhaps have the witness

1 testify it is not available and refute the exculpatory
2 evidence Mr. Schachter is claiming you destroyed or someone
3 who works for you destroyed.

4 He's also alleging the videos he's been given are
5 not a fair and accurate depiction of what was marked into
6 evidence or booked into evidence, so he's been alleging that.
7 So you have got now what was booked into evidence, but you
8 still haven't been able to compare. And then the one you did
9 play was something that was burned by the witness not having
10 anything to do, I don't think, with the discovery that was
11 provided to Mr. Schachter.

12 So he has his Motion to Dismiss on substantive
13 grounds and Motion to Dismiss for failure to provide
14 discovery.

15 MR. BOGALE: Well, I never had a chance to view the
16 discovery that he has. Evidently he booked that into evidence
17 as A and B.

18 THE COURT: Who did view the discovery before it was
19 provided to Mr. Schachter?

20 MR. BOGALE: I viewed it, but the disks he has, the
21 physical disks he has he's claiming are different or aren't
22 exactly what we provided him, so I would like to view those.

23 THE COURT: That would be fine.

24 MR. BOGLE: To see what the discrepancy is.

1 THE COURT: At the last hearing, Mr. Schachter left
2 those disks with safekeeping in the clerk. They were marked.
3 They have been in the clerk's control ever since. If you
4 would like to take a short recess and review them.

5 MR. BOGALE: Yes, I do.

6 THE COURT: Any objection?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: As long as you do it with Mr. Schachter
9 and the clerk present. We'll be in a short recess.

10 (Short recess taken.)

11 THE COURT: Thank you. Please be seated. Counsel?

12 MR. BOGALE: Thank you, Your Honor. Before we go
13 ahead, I would like to call Michelle Bays as a witness,
14 please, Your Honor.

15 THE COURT: Okay.

17 MICHELLE BAYS

18 Called as a witness, having been first duly sworn,
19 took the witness stand and testified as follows:

21 DIRECT EXAMINATION

22 MR. BOGALE:

23 Q Good morning. Please state your name and spell your
24 last name for the court reporter?

1 A Michelle Bays, B-A-Y-S.

2 Q What is your current occupation?

3 A Supervising investigator with the Washoe County
4 District Attorney's Office.

5 Q Are you assigned as the investigator to a case
6 involving Mark Schachter?

7 A I am.

8 MR. BOGALE: Your Honor, may I approach the clerk?

9 THE COURT: You may.

10 MR. BOGALE: May I approach the witness?

11 THE COURT: Yes, you may.

12 BY MR. BOGALE:

13 Q I am showing you what has been marked as Exhibit
14 1-b. Take a moment to review that and let me know when you
15 are done?

16 A Okay.

17 Q Do you recognize that document?

18 A I do.

19 Q What is it?

20 A It is a screen shot of a disk that was or that is
21 currently in our case file for the Schachter case.

22 Q Did you print that screen shot out?

23 A I did.

24 MR. BOGALE: Your Honor, I move to admit Exhibit 1-b.

1 THE DEFENDANT: For the purpose of this hearing
2 only, I agree.

3 THE COURT: Exhibit 1-b is admitted.

4 (Exhibit 1-b admitted in evidence.)

5 MR. BOGALE: Thank you. Let me take that back from
6 you.

7 MR. BOGALE: Your Honor, may I approach the clerk?

8 THE COURT: Yes.

9 MR. BOGALE: Thank you. May I have this marked?

10 THE CLERK: Exhibit D marked.

11 MR. LESLIE: May we see it before it is proffered?

12 (Exhibit D marked for identification.)

13 MR. BOGALE: Your Honor, may I approach the witness?

14 THE COURT: You may.

15 BY MR. BOGALE:

16 Q Showing you what has been marked Exhibit D, take a
17 look at that for a moment.

18 A Okay.

19 Q Do you recognize that?

20 A I do.

21 Q What is it?

22 A It is a screen shot of disk two of a disk or a file
23 in the Schachter case.

24 Q Did you print that screen shot?

1 A I did.

2 MR. BOGALE: Your Honor, I move to admit Exhibit D.

3 THE COURT: Counsel, should it be marked -- Is it
4 the same as this?

5 MR. BOGALE: That's a little different, because the
6 disks have the exact same files on them, but the date modified
7 is a couple minutes off.

8 THE COURT: If I look at this, would I look at this
9 and the document you handed the witness at the same time?
10 Would I be comparing those two?

11 MR. BOGALE: You would be comparing this with a
12 disk.

13 THE COURT: This meaning 1-b?

14 MR. BOGALE: This meaning 1-b, and you would be
15 comparing that with a disk already in evidence as well to make
16 sure they comport.

17 THE COURT: Okay. What I would like is this document
18 that has been marked D should be marked as a subset of the
19 disk it goes with. You can have the witness help us with that.
20 BY MR. BOGALE:

21 Q Sure. What disk is that?

22 A This would be disk two.

23 Q Okay.

24 THE CLERK: The only disk two that is currently

1 marked in evidence is marked as Exhibit B as in boy so D will
2 be converted to B-1.

3 THE COURT: Do you move its admission?

4 MR. BOGALE: Yes, I do, Your Honor.

5 THE COURT: Mr. Schachter?

6 THE DEFENDANT: Again for the purpose of this
7 hearing.

8 THE COURT: Exhibit B-1 is admitted.

9 (Exhibit B-1 marked and admitted in evidence.)

10 MR. BOGALE: Can I take that back so she can remark
11 it?

12 THE CLERK: Thank you.

13 BY MR. BOGALE:

14 Q Okay. I am going to do some comparing and
15 contrasting here. Let me give you what is marked Exhibit 1-b
16 and Exhibit B-1. Exhibit 1-b is disk one. Exhibit B-1 is
17 disk two, okay?

18 A Okay.

19 Q So first look at Exhibit 1-b?

20 THE COURT: I am sorry. I don't understand. You
21 say Exhibit 1 is disk one?

22 MR. BOGALE: Disk A.

23 THE COURT: I don't think that is what you said.
24 Ma'am, would you look at 1-b?

1 THE WITNESS: Yes, ma'am.

2 THE COURT: Which disk does that go with?

3 THE WITNESS: It goes with disk one.

4 THE COURT: We don't have a disk one. We have a
5 disk A and B which says it is disk one. We marked it as A,
6 and B says it is disk two, and we marked it as B. Those were
7 both provided to us by Mr. Schachter. We also have a disk
8 marked as Exhibit 1 which was the exhibit that was marked by
9 the officer. What does 1-b go with?

10 THE WITNESS: Well 1-b I created today, took a
11 screen shot of disk one, what we call disk one in our system
12 which had previously been discovered, it is my understanding,
13 today.

14 THE COURT: You took a screen shot of something you
15 have in digital form in your office?

16 THE WITNESS: Yes, I did.

17 THE COURT: It is not here at all, not physically
18 here at all?

19 THE WITNESS: No, ma'am.

20 THE CLERK: We do have an issue because I have C
21 which was marked today at this hearing that has disk 1 on it.
22 Disk B he currently or somebody currently has, what is it
23 labeled?

24 MR. BOGALE: Disk A and B.

1 THE CLERK: Okay. Come here. Disk A that was marked
2 from the Defendant's property also says disk 1. So I know
3 where I got them and how I got them. I am just letting you
4 know talking in disk 1 and disk 2 is not working.

5 THE COURT: We have A and B that were provided to us
6 from Mr. Schachter and they say on the disk, disk 1 and disk
7 2.

8 THE CLERK: Correct.

9 THE COURT: We have Exhibit C that was marked today
10 with Mr. Monroy, and it says on it Exhibit 1, but we do not
11 have anything from Mr. Monroy that says disk 2. And now the
12 witness is saying she has a screen shot marked 1-b and it
13 relates to a digital file that she has in her office, correct?

14 MR. BOGALE: That's correct, Your Honor.

15 THE COURT: Okay.

16 MR. BOGALE: So what I was about to do is compare
17 the screen shot that Ms. Bays took from our file and that
18 screen shot has files on it, I am going to compare it to the
19 files on Exhibit A which is disk 1 which comports with 1-b
20 which says disk 1 on it. I want to show the Court it is a
21 screen shot.

22 THE COURT: Does it matter? Does it matter what you
23 have in your office? Mr. Schachter's objection is he wasn't
24 given what the officer had. His objection has been he's been

1 given a modified version of what the officer had. So I mean I
2 think you are missing the point here about what you need to
3 produce.

4 MR. BOGALE: Okay. In that case, if you don't want
5 me to do that.

6 THE COURT: I am not saying that. I would be more
7 than glad to let you do it, do whatever you want. We are
8 going to go to lunch first. It is noon. If that is the way
9 you want to prove it up, great. I don't think it is what the
10 motion is about. But I can't say -- I am not sure where you
11 are going with it.

12 MR. BOGALE: Can I answer your point?

13 THE COURT: Uh-huh.

14 MR. BOGALE: Please, Your Honor. If your point is
15 for me to prove up that Mr. Schachter didn't have, or to prove
16 Mr. Schachter actually had the files Mr. Reed brought today, I
17 can do that right now, because the same files Mr. Reed brought
18 are included on disk A and disk B Mr. Schachter provided to
19 the Court. In fact, Your Honor, during the break,
20 Mr. Schachter and I agreed to that, he had the exact same
21 files that Mr. Reed brought today in addition to three
22 additional files. So there is a little discrepancy, but he
23 got more than what Mr. Reed brought today.

24 THE COURT: Three additional video files?

1 MR. BOGALE: Just files on the CD. What
2 Mr. Schachter has, always had, is eight video files that is
3 reflected on disks A and B. Those are duplicates of each
4 other, A and B. Those are duplicates. They have eight video
5 files on them. What Mr. Reed brought today has five video
6 files on them. All five of those video files are contained on
7 disks A and B.

8 THE COURT: Where did the other three come from?

9 MR. BOGALE: The other three came from Mr. Monroy
10 who burned them, so he burned those files as we heard him this
11 morning say. I went through all eight files with him and he
12 said that's a fair and accurate depiction of what he burned.

13 THE COURT: The officer -- Are you going to put on
14 some evidence about how you ended up with three files that the
15 officer didn't take? I mean the officer said this is what I
16 got and you are saying that is five files, now all of a sudden
17 you have three more but you have no evidence as to which
18 law-enforcement officer went and collected those three files
19 to give them to you so that you could give them to the
20 defendant.

21 MR. BOGALE: I have Mr. Monroy here who burned the
22 files himself and gave them directly to the D.A.'s office.

23 THE COURT: I didn't hear any testimony like that.

24 MR. BOGALE: I can recall him.

1 THE COURT: Do you think you had him testify to
2 that?

3 MR. BOGALE: No. No, he did not.

4 THE COURT: Okay. So --

5 MR. BOGALE: But he's still here, and I can have him
6 testify to that.

7 THE COURT: Okay. Whatever you want to do, but do
8 you need anymore from this witness right now, from Ms. Bays?

9 MR. BOGALE: Not right now.

10 THE COURT: Okay. Thank you, ma'am.

11 (Witness excused.)

12 THE COURT: We have to figure out when we can do
13 this. I don't know what the schedule is.

14 Let's come back at 1:00 and get the witness
15 testimony done, then we can figure out when else we can do
16 something, okay? We should be able to get through the
17 witnesses.

18 MR. BOGALE: I think so, Your Honor.

19 THE COURT: We will be in the lunch recess.

20 (Whereupon the Court adjourned for the lunch recess.)

21 THE COURT: Go ahead and call your witness.

22 MR. BOGALE: The State calls Michelle Bays.

23 MR. LESLIE: For what it is worth, I can actually go
24 later than 1:30.

1 THE COURT: I have two 1:30's. Ma'am, you are still
2 under oath. Please retake the stand. Welcome back, Ms. Bays.

3 THE WITNESS: Thank you.

4 BY MR BOGALE:

5 Q When we broke, we were discussing comparing screen
6 shots to disks and all that. Do you remember that?

7 A I do.

8 Q So I'm going to --

9 MR. BOGALE: Actually, Your Honor, may I approach the
10 clerk?

11 THE COURT: Certainly.

12 THE CLERK: Exhibit D marked. That was "D" as in
13 dog.

14 (Exhibit D marked for identification.)

15 MR. BOGALE: Your Honor, may I approach the witness?

16 THE COURT: Yes. Did you show Mr. Schachter?

17 MR. BOGALE: Yes.

18 BY MR. BOGALE:

19 Q Let me show you what has been marked Exhibit D.
20 Take a look at that and tell me if you recognize it?

21 A I do.

22 Q What is that?

23 A It is a screen shot of a disk in the Schachter file
24 that is maintained by my office.

1 Q Okay. What do you understand that file-- Where did
2 that file come from?

3 A Are we talking about the disk, itself?

4 Q The actual disk you made the screen shot from, yes?

5 A Meaning it is maintained in our physical file for
6 the Schachter case, and my assumption is that it came from the
7 Reno Police Department in the course of them collecting
8 evidence in the case which is routine.

9 Q And did you print that screen shot, yourself?

10 A I did.

11 Q You printed it after you put in the physical disk?

12 A I did.

13 MR. BOGALE: Your Honor, move to admit Exhibit D.

14 THE COURT: Do you have any objection?

15 THE DEFENDANT: On the assumption we don't know
16 where it came from.

17 THE COURT: Sustained.

18 BY MR. BOGALE:

19 Q You know where the disk is, correct?

20 A Yes.

21 Q Where is the disk?

22 A The actual physical disk is maintained in the case
23 file for the Schachter case in our office.

24 Q And you inserted that disk into a computer?

1 A Yes.

2 THE COURT: You are leading.

3 BY MR. BOGALE:

4 Q What did you do with that disk?

5 A I inserted the disk into the computer into the
6 screen shot of all the files contained in the disk.

7 Q Okay.

8 MR. BOGALE: Based on that, Your Honor, the State
9 moves to admit Exhibit D.

10 THE COURT: Where is the disk she's talking about?

11 MR. BOGALE: It is here.

12 THE COURT: Why don't you have her talk about that.

13 MR. BOGALE: Your Honor, may I approach the witness?

14 THE COURT: Yes.

15 MR. BOGALE: It hasn't been marked or anything. I
16 just wanted to show her, see if it is the same disk she burned
17 or printed the screen shot from.

18 THE COURT: You probably should have it marked. Just
19 approach the clerk and she will have it marked for you.

20 THE CLERK: Exhibit E marked.

21 (Exhibit E marked for identification.)

22 BY MR. BOGALE:

23 Q Thank you. Showing you what has been marked as
24 Exhibit E, do you recognize that?

1 A I do.

2 Q What is it?

3 A It is the disk in which I took the screen shot of
4 the digital files.

5 Q And where was that disk?

6 A The disk was in our master file for the Schachter
7 case.

8 MR. BOGALE: I move to admit Exhibit D, the screen
9 shot.

10 THE COURT: Any objection?

11 THE DEFENDANT: That is a copy of the disk from
12 officer Reed that was in evidence that was taken out of the
13 evidence?

14 THE COURT: Are you asking a question of the
15 witness, of Mr. Bogale or me?

16 THE DEFENDANT: The witness.

17 THE COURT: You may ask the witness a question on
18 voir dire.

19

20 VOIR DIRE EXAMINATION

21 BY THE DEFENDANT:

22 Q That is a copy of the disk that officer Reed brought
23 to court today that was in evidence?

24 A I believe so, yes.

1 Q You believe so?

2 A I would have, to be 100 percent sure, I would have
3 to compare the two, but as a routine, they make copies. The
4 police department makes a copy and forwards it to our office.

5 Q Who made--

6 THE DEFENDANT: I would object. There is no
7 foundation where the copy came from.

8 THE COURT: May I see Exhibit D?

9 MR. BOGALE: You may.

10 THE COURT: D as in Dog.

11 THE WITNESS: Can I clarify, Your Honor?

12 THE COURT: Yes.

13 THE WITNESS: Earlier today during the recess, I
14 apologize, I forgot, I was able to view the files that
15 contained the copy detective Reed brought with him and they
16 are the same as the digitals that are contained on this disk
17 that we had in our file.

18 THE COURT: Okay. There is five video clips on
19 Exhibit D and five the officer testified to on this exhibit
20 disk that he brought, so I am going to go ahead and admit
21 Exhibit D as it is. What it says it is.

22 (Exhibit D admitted in evidence.)

23 THE COURT: Exhibit E, no one has asked for it to be
24 admitted yet.

1 MR. BOGALE: That's correct. I can take that back
2 from you, the disk.

3 THE COURT: It goes to the clerk once it is marked.

4 THE CLERK: Are you going to talk about D still?

5 BY MR. BOGALE:

6 Q Actually I am going to give this to you. Ms. Bays, I
7 am just going to put the files on this disk, make sure they
8 comport with the printout?

9 THE COURT: You are going to play Exhibit 1-b?

10 MR. BOGALE: Not going to play it, just pull up the
11 files and have her look at the files on the disk.

12 THE COURT: Okay.

13 BY MR. BOGALE:

14 Q Okay. Ms. Bays, do you see there on the television
15 screen the video files on the disk admitted as Exhibit 1-b?

16 A I do.

17 Q Can you just look and compare the video files with
18 the printout on Exhibit D and tell me if you find any
19 discrepancies?

20 A Okay.

21 Q Expand the name of the file so you can see the
22 entire file.

23 A Okay.

24 Q Are the same files on the disk that are printed on

1 that printout?

2 A Yes.

3 Q Okay. I am going to show you now what is marked as
4 Exhibit A. I am going to have you do the same thing here and
5 tell me if the files on that printout are included on this
6 disk, okay?

7 A Okay.

8 Q Okay. Have you had a chance to compare them?

9 A I have.

10 Q Are the files on the printout contained on that
11 disk?

12 A Yes.

13 Q Are there additional files on that disk that are not
14 on the printout though?

15 A Yes.

16 Q Now I am going to show you what has been marked and
17 admitted as Exhibit B.

18 THE COURT: I don't think it was admitted.

19 MR. BOGALE: Wasn't it at the last hearing, Your
20 Honor? It is my understanding they were.

21 THE COURT: They were just marked.

22 THE CLERK: For safekeeping.

23 MR. BOGALE: I am sorry about that.

24 THE COURT: Did you want to move they be admitted?

1 MR. BOGALE: I assume there is no objection because
2 the defendant provided them.

3 THE DEFENDANT: It is okay.

4 THE COURT: It is admitted. Do you want A and B?

5 MR. BOGALE: Yes.

6 THE COURT: A and B are admitted. No objection.

7 (Exhibits A and B admitted in evidence.)

8 BY MR. BOGALE:

9 Q Showing you marked and admitted as Exhibit B, can
10 you please again take a look at Exhibit D, the printout, and
11 see if those files on that are included on the disk marked as
12 Exhibit B.

13 A Yes.

14 Q Okay. Again, there are three additional files on
15 Exhibit B that aren't on the printout in D; is that correct?

16 A Correct.

17 Q Do you know if those are the same three files that
18 were additional on Exhibit A?

19 A Yes, they are.

20 Q Thank you. So Exhibit A and Exhibit B appear to
21 contain the exact same files; is that right?

22 A Yes.

23 Q Just to recap: The disk that has been admitted from
24 officer Reed contains the exact same files that are on that

1 printout on D, right?

2 A Yes.

3 Q And the files printed out on D are also contained on
4 Exhibits A and B, right?

5 A Yes.

6 MR. BOGALE: No further questions.

7 THE COURT: Any questions?

8

9 CROSS-EXAMINATION

10 BY THE DEFENDANT:

11 Q Can you tell by looking at either the screen shot or
12 the disks themselves if anything has been removed? Have any
13 files been deleted?

14 A From the screen shot?

15 Q Either the screen shot or the disks themselves? You
16 said you looked at the disks themselves?

17 A Yes.

18 Q Can you tell if any files have been deleted?

19 A By simply looking at the disk, no. Well, I can't.

20 THE DEFENDANT: That's all.

21 MR. BOGALE: No further questions.

22 THE COURT: Okay. Thank you. You can step down.

23 Counsel, do you have another witness?

24 MR. BOGALE: Court's indulgence for just a moment. At

1 this time, Your Honor, the State has no further witnesses.

2 THE COURT: Okay. Before lunch you said that you
3 were going to put on the risk manager from Wal-Mart to say
4 that he burned the new disks that had eight files on it and
5 somehow that was given to the D.A.'s office. You told us you
6 were going to call that witness. What happened?

7 MR. BOGALE: He's here, Your Honor. I thought my
8 presentation here with Ms. Bays covered the fact that we are
9 trying to undercover here which is the disk that officer Reed
10 booked was allegedly never given to the defendant. We just I
11 believe established that the files on Nick Reed's disk were
12 contained on the file that the defendant, himself, already
13 had.

14 THE COURT: Where did the other video clips come
15 from?

16 MR. BOGALE: They came from --

17 THE COURT: You told me something, but you didn't
18 have any testimony. When I asked you about it, you said this
19 is what the Wal-Mart man would say, and I said, well, he
20 didn't testify to that. You said I am going to put him on to
21 testify to it. You told me that the disk he brought today had
22 eight video clips on it.

23 MR. BOGALE: He didn't bring that today.

24 THE COURT: Well, you better call him. That is not

1 what he testified to. I am not sure when he brought it, but
2 that was the argument here, where are all these video clips
3 coming from, when were they prepared, who had control of them.
4 You know this issue here is either you and the State destroyed
5 evidence according to Mr. Schachter, or perhaps you failed to
6 collect evidence. But in the interim, you collected three
7 more video clips from what the officer had to what you
8 produced. So you haven't connected that up at all.

9 MR. BOGALE: We produced the three additional clips
10 to Mr. Schachter.

11 THE COURT: You did? Where did you get them? You
12 haven't connected where you got them, because the officer only
13 produced to you, supposedly, based on his testimony, five
14 video clips. That is what he said he got from Wal-Mart.

15 MR. BOGALE: I understand, Your Honor.

16 THE COURT: So you gave Mr. Schachter eight. You
17 told me verbally where you think the other three came from but
18 haven't put any evidence on as to that.

19 MR. BOGALE: I will recall Mr. Monroy.

20 THE COURT: That is what you had said you wanted to
21 call him for.

22 MR. BOGALE: I understand. Thank you.

23 THE COURT: Sir, you are still under oath. Please
24 retake the stand. Thank you.

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ALEJANDRO MONROY

Called as a witness, having been previously sworn,
Took the witness stand and testified as follows:

REDIRECT EXAMINATION

BY MR. BOGALE:

Q Welcome back Mr. Monroy. Before you testified that
you had burned a disk of the video surveillance at Wal-Mart;
is that correct?

A Yes.

Q Okay. Where did you get those files to burn on that
disk?

A From the investigation on our computer.

Q Okay. Did you ever give them to the State? Did you
ever give them to the District Attorney's office?

A I did. I handed them to you on the date of the
Preliminary Hearing.

Q Was that July 1st? Does that sound about right?

A Yes.

Q So you handed me a disk that you burned on July 1st;
is that correct?

A I actually burned the disk back in June.

Q But you gave me that disk?

A Correct, yes.

1 Q The 1st of July. Is that Exhibit C that you have
2 previously viewed?

3 A Correct.

4 Q Just, again, why did you select those eight files
5 that are on that disk?

6 A Just as shots of evidence of him being in the store.

7 Q Okay. Did you ever offer to give them to the Police
8 Department?

9 A No.

10 Q Why not?

11 A I was unaware that they needed the file. I thought
12 that was taken care of separately.

13 THE COURT: I am sorry, I couldn't hear you.

14 THE WITNESS: I thought that was taken care of
15 separately with Anna.

16 BY MR. BOGALE:

17 Q You took it upon yourself to bring a copy to me,
18 personally?

19 A Yes.

20 Q That was on July 1st?

21 A Correct.

22 MR. BOGALE: No further questions, Your Honor.

23 THE COURT: Mr. Schachter.

24 ///

RECROSS-EXAMINATION

BY THE DEFENDANT:

Q The videos you burned and gave the State, Mr. Bogale, on the 1st, were those already selected by Ms. Young or did you burn new ones?

A They are the ones that were already on the computer. They had already been selected.

Q So there was nothing new. It should be the same as what was on the ones given to the detective by Ms. Young on the 10th?

A I am completely unaware what was given to the detective on the 10th.

Q You didn't burn any new. You didn't take any new video of the Wal-Mart security system that wasn't already taken by Ms. Young?

MR. BOGALE: Objection, asked and answered, Your Honor.

THE COURT: I think it was, but I will let the question stand.

THE WITNESS: Yes.

THE DEFENDANT: That's all, Your Honor.

THE COURT: In your direct this morning you said, maybe it was cross, you said that you did not select video of Mr. Schachter before he picked up the backpack because you did

1 not think that video was relevant.

2 THE WITNESS: Correct.

3 THE COURT: Are you the person who selected the
4 video initially or is Anna Young the person who selected the
5 video, initially?

6 THE WITNESS: It would be Anna.

7 THE COURT: Why did it matter whether you thought it
8 was relevant? Did Anna collect the video of Mr. Schachter and
9 you picked out which things you thought were more relevant?

10 THE WITNESS: No. Basically, I just took what the
11 investigation -- looked at the video that was on the
12 investigation and burned that.

13 THE COURT: Who made the investigation?

14 THE WITNESS: Anna.

15 THE COURT: So why did you say you didn't do it?

16 THE WITNESS: Well because I could have gone back
17 and looked at more video and selected more to add to the
18 investigation but I didn't.

19 THE COURT: That is what you meant by not relevant?

20 THE WITNESS: Yes.

21 THE COURT: Do my questions cause any questions for
22 you, counsel?

23 MR. BOGALE: Just one question, Your Honor.

24 THE COURT: Go ahead.

REDIRECT EXAMINATION

BY MR. BOGALE:

Q You could have added to the video files that you gave to me; is that correct?

A At that time, yes, I could have.

Q Is that because Wal-Mart has 24 hour surveillance?

A Correct.

Q You can just pick and choose what you think is relevant and what is not?

A Correct.

Q But you also personally observed the defendant in Wal-Mart, right?

A Correct.

Q So, based on your personal observations and based on your review of the files that Ms. Young had already picked, you didn't think-- you didn't think there needed to be anything else submitted, right?

A Correct.

MR. BOGALE: No further questions, Your Honor

THE COURT: Mr. Schachter.

RE-CROSS EXAMINATION

BY THE DEFENDANT:

Q So you didn't think video tape of the defendant

1 without the backpack was relevant in this case?

2 A I did not, no.

3 THE DEFENDANT: Thank you.

4 THE COURT: Sir, you observed the video this morning
5 that you showed, I think we played it as Exhibit 3.

6 THE WITNESS: Yes.

7 THE CLERK: C.

8 THE COURT: C. Third one. Exhibit C. And when the
9 video was being shown, the different clips, you commented on
10 when you saw Mr. Schachter and then you testified that you saw
11 Mr. Schachter pick up the video -- or pick up the backpack?

12 THE WITNESS: Yes.

13 THE COURT: Did you miss it or did you not show it
14 or is it not on the video clip?

15 THE WITNESS: There is no video shot of that
16 specific area in the store.

17 THE COURT: There is no video of Mr. Schachter
18 actually picking the backpack up?

19 THE WITNESS: Correct.

20 THE COURT: The first shot you had was when the
21 backpack was in the shopping cart?

22 THE WITNESS: Correct.

23 THE COURT: Any other questions?

24 ///

REDIRECT EXAMINATION

BY MR. BOGALE:

Q There is no video of him picking up the backpack because there is actually no video footage of that?

A There is no camera in the area.

Q It just isn't video you didn't just not select?

A Correct.

RECROSS-EXAMINATION

BY THE DEFENDANT:

Q So there is no video that you reviewed without me and the backpack together?

A Correct.

THE COURT: Anything else?

THE DEFENDANT: One more question.

BY THE DEFENDANT:

Q How many video cameras in the Wal-Mart?

A Seventy or so.

THE DEFENDANT: Okay. That's it.

THE COURT: Before we excuse this witness, there is also a motion with regard to the pictures and the physical evidence. Do you need any testimony from this witness in that regard?

MR. BOGALE: Yes, Your Honor.

1 THE COURT: I have got people here for my 1:30.

2 MR. BOGALE: I understand.

3 THE COURT: So we can put it off, but I didn't know
4 if you were ready.

5 MR. BOGALE: I am ready to, but it might take longer
6 than you have.

7 THE COURT: Okay. Now, Mr. Leslie, you have to be
8 gone by 2:00 or 2:30?

9 MR. LESLIE: I should leave by about 2:00 is my
10 guess. I have to be in the south end by 2:30.

11 THE COURT: Well we can keep Mr. Schachter here
12 until 1:45 and see if we are finished with my 1:30's by then
13 or ten to 2:00. That would give us about 20 minutes with this
14 witness.

15 MR. LESLIE: I am at your disposal until about 2:10.

16 THE COURT: I think we should try to continue to get
17 as much as we can get done while we have Mr. Schachter, and
18 the witness is already gone from wherever he wanted to be.
19 He's here with us. In your case we'll take a short recess and
20 proceed with the other cases.

21 MR. BOGALE: Okay. Thank you Your Honor.

22 THE COURT: You are welcome. You can probably just
23 move things to the edge of the table.

24 (Short recess taken from this matter.)

1 THE COURT: Thank you. Please be seated. Okay.

2 MR. BOGALE: State recalls Mr. Monroy.

3 THE COURT: Mr. Monroy, you are still under oath.
4 Please retake the stand.

5 THE COURT: Go ahead.

6

7 ALEJANDRO MONROY

8 Called as a witness, having been previously sworn,
9 took the witness stand and testified as follows:

10

11 REDIRECT EXAMINATION

12 BY MR. BOGALE:

13 Q Welcome back?

14 A Hello.

15 MR. BOGALE: May I approach the clerk?

16 THE COURT: You may.

17 THE CLERK: Exhibit F marked.

18 (Exhibit F marked for identification.)

19 MR. BOGALE: May I approach the witness?

20 THE COURT: You may.

21 BY MR. BOGALE:

22 Q Mr. Monroy, I am approaching you with what has been
23 marked as Exhibit F in this case. Do you recognize that?

24 A Yes, I do.

1 Q What is it?

2 A Those are the items recovered from Mr. Schachter.

3 Q Recovered meaning the items --

4 A He attempted to steal, yes.

5 Q When you had your confrontation with Mr. Schachter,
6 where were these items?

7 A They were on his person.

8 Q Were they in a backpack or in his hand?

9 A The backpack was over his shoulder.

10 Q And those items were in the backpack?

11 A Correct.

12 Q Do you know where that photo was taken?

13 A That was taken in our security office.

14 Q Were you present when that photo was taken?

15 A Yes, I was.

16 Q Did you take the photograph?

17 A I did.

18 MR. BOGALE: Your Honor, I move to admit Exhibit F.

19 THE COURT: Any objection?

20 THE DEFENDANT: What time was the picture taken?

21 MR. BOGALE: Objection, relevance. He said he was
22 present when the photo was taken.

23 THE COURT: I will allow some voir dire.

24 THE WITNESS: Approximately 1:00 o'clock.

1 THE COURT: Anything else?

2 THE DEFENDANT: No, Your Honor.

3 THE COURT: Exhibit F is admitted. Counsel will you
4 return that exhibit to the Clerk?

5 (Exhibit F admitted in evidence.)

6 MR. BOGALE: Yes. I will take that back from you.

7 BY MR. BOGALE:

8 Q One more clarifying question. From what we talked
9 about earlier today as to the videos, did you ever modify,
10 delete, destroy any video files in this case?

11 A No, I did not.

12 Q You didn't destroy any files in this case?

13 MR. LESLIE: Asked and answered.

14 THE WITNESS: I did not.

15 MR. BOGALE: No further questions.

16 THE COURT: Is standby counsel getting anxious?

17 MR. LESLIE: After three hours, standby counsel
18 feels the need to intervene.

19 THE COURT: Mr. Schachter, do you still want to
20 represent yourself or Mr. Leslie?

21 THE DEFENDANT: As much as I appreciate that, I
22 still wish to represent myself.

23 THE COURT: All right. Cross-examination.

24 ///

RECROSS-EXAMINATION

BY THE DEFENDANT:

Q Just to save the Court time to run back and forth with all the videos, can you explain why the video that officer Reed put in evidence has less video files than the video -- than the disks I received and that you gave to Mr. Bogale on July 1st at the Preliminary Hearing?

MR. BOGALE: Objection. Calls for speculation.

THE COURT: Overruled. He asked if he could explain. We'll see if it is speculation.

THE WITNESS: I couldn't tell you.

BY THE DEFENDANT:

Q But you testified earlier that you didn't make any new -- you didn't pull any new video off the store hard drive when you created the disk that you gave to Mr. Bogale before the Preliminary Hearing, correct?

A This is correct.

Q Was there any other videos that you saw that I was in the video but not that you felt was not relevant to the case? Do you know what I mean?

A No.

Q When you reviewed the video of the date of the incident?

A Yes.

1 Q Did you -- Was there any other video of me in the
2 store, but that you felt wasn't relevant to the case?

3 A No.

4 Q So every bit of video with me has been given to the
5 State; is that correct?

6 A Correct.

7 THE DEFENDANT: That's all Your Honor.

8 THE COURT: Okay. Are you talking about every bit
9 of video that is on the saved computer file?

10 THE WITNESS: Yes.

11 THE COURT: You are not talking about every bit of
12 video that might have been taken in the store?

13 THE WITNESS: Absolutely not, no.

14 THE COURT: Did you tell us it was Ms. Young who
15 copied it off the store video cameras on to the computer?

16 THE WITNESS: Correct.

17 THE COURT: That is what you reviewed?

18 THE WITNESS: Yes.

19 THE COURT: And do I understand correctly that
20 everything on the computer that you saved, data, Ms. Young
21 saved it on, everything that included Mr. Schachter's image
22 was provided to the State?

23 THE WITNESS: Yes, it was.

24 THE COURT: Based on my questions, any other

1 questions?

2 MR. BOGALE: Nothing from the State.

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: Thank you. You may step down.

5 (Witness excused.)

6 THE COURT: Counsel do you have any other pictures
7 or is this the only picture you have, Exhibit F?

8 MR. BOGALE: That is the only picture that I have.

9 (Whereupon, the proceedings were concluded.)

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1 STATE OF NEVADA,)
2) ss.
3 COUNTY OF WASHOE.)

4 I, Judith Ann Schonlau, Official Reporter of the
5 Second Judicial District Court of the State of Nevada, in and
6 for the County of Washoe, DO HEREBY CERTIFY:

7 That as such reporter I was present in Department
8 No. 4 of the above-entitled court on Thursday,
9 September 11, 2014, at the hour of 9:00 a.m. of said day and
10 that I then and there took verbatim stenotype notes of the
11 proceedings had in the matter of THE STATE OF NEVADA vs. MARC
12 PAUL SCHACHTER, Case Number CR14-1044.

13 That the foregoing transcript, consisting of pages
14 numbered 1- inclusive, is a full, true and correct
15 transcription of my said stenotypy notes, so taken as
16 aforesaid, and is a full, true and correct statement of the
17 proceedings had and testimony given upon the trial of the
18 above-entitled action to the best of my knowledge, skill and
19 ability.

20 DATED: At Reno, Nevada this 14th day of September, 2014.

21
22 /s/ Judith Ann Schonlau
23 JUDITH ANN SCHONLAU CSR #18
24

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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-08-2014:13:51:53

Clerk Accepted:

12-08-2014:13:54:06

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Transcript

Filed By:

Judith Schonlau

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JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 CODE 1250
2 JENNIFER J. LUNT
3 WASHOE COUNTY ALTERNATE PUBLIC DEFENDER
4 BAR #3057
5 P. O. BOX 11130
6 RENO, NV 89520
7 (775) 328-3955
8 ATTORNEY FOR DEFENDANT

9
10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11
12 IN AND FOR THE COUNTY OF WASHOE
13

14 THE STATE OF NEVADA,
15 Plaintiff,

16 vs.

Case No. CR14-1044

17 MARC PAUL SCHACHTER,
18 Defendant.

Dept. No. 4

19
20 APPLICATION FOR SETTING

21 TYPE OF ACTION: CRIMINAL

22 MATTERS TO BE HEARD: STATUS HEARING

23 DATE OF APPLICATION: 12/9/14, MADE BY DEFENDANT

24 COUNSEL FOR PLAINTIFF: ZELALEM BOGALE, DDA

25 COUNSEL FOR DEFENDANT: MARC PAUL SCHACHTER, IN PRO PER

26 CUSTODY STATUS: _____ BAIL _____ O.R. X IN CUSTODY

Setting December 11, 2014, at 9:00 a.m.

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document

Application for Settling
CP14-1044
filed in case number

☒ Document does not contain the social security number of any person

OR

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal Law, to wit:

(State specific state of federal law)

OR

☐ For the administration of public program

OR

☐ For an application for a federal or state grant

OR

☐ Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 12/9/14

/s/ MARC SCHACHTER (in pro per)
(Signature)

MARC SCHACHTER (in pro per)
(Print Name)

MARC SCHACHTER

(Attorney for)

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******* IMPORTANT NOTICE - READ THIS INFORMATION *******
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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-09-2014:08:22:32

Clerk Accepted:

12-09-2014:09:18:40

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Application for Setting

Filed By:

Jarrold T Hickman

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

CASE NO. CR14-1044

**TITLE: THE STATE OF NEVADA VS. MARC PAUL
SCHACHTER**

**DATE, JUDGE
OFFICERS OF**

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

11/20/14

STATUS HEARING

HONORABLE

Deputy District Attorney Zelalem Bogale, Esq., represented the State.

12/4/14

CONNIE

Defendant present representing himself. Chief Deputy Public Defender

9:00 a.m.

STEINHEIMER

James Leslie, Esq., present as standby counsel. Probation Officer Thomas

Sentencing

DEPT. NO. 4

Wilson was present on behalf of the Division of Parole and Probation.

M. Slane

Defendant's stand by counsel advised the Court that paper was provided to

(Clerk)

the Defendant as requested, all documents provided to stand by counsel by

J. Schonlau

Defendant have been filed, as well as the handwritten copies of same have

(Reporter)

been returned to Defendant. Stand by counsel further advised the Court

that Defendant has been provided with the necessary form to file a Notice of

Appeal and that all copies of cases requested by Defendant as to case law

have been provided to him, save one.

Defendant notified the Court that he filed a Motion for Clarification of Pre-Trial Order, a Request for Case File of Stand-By Counsel Including All Work Product, a Motion for Trial Transcripts at Public Expense and a Petition for Writ of Habeas Corpus.

Based on a filing of a Petition for Writ of Habeas Corpus creating a conflict of interest for the Public Defender's Office, **COURT ORDERED** the Alternate Public Defender's Office appointed as stand-by counsel.

Defendant noted he has filed a Motion for Trial Transcripts at Public Expense. Court advised Defendant that this Motion is not appropriate until he has filed the appeal.

Motion by Defendant that sentencing be continued to a later date. **COURT ORDERED** Motion for Continuance denied at this time unless and until new stand-by counsel requests such.

Defendant noted his objections to the Pre-Sentence Investigation Report. Court advised Defendant that his Objection to Pre-Sentence Investigation Report will be filed with the Court.

State's counsel advised the Division of Parole and Probation that certified copies of Defendant's prior convictions can be made available to them.

COURT directed the Clerk to make the Court's certified copies of Defendant's prior convictions available to him, further directing State's counsel to also provide their certified copies to Defendant.

Defendant advised the Court of his issue regarding items and services needed for his pro se representation. **COURT** directed Bailiff to contact the jail.

Defendant remanded to the custody of the Sheriff

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2014-12-09 15:10:59.302.
JENNIFER LUNT, ESQ. - Notification received on 2014-12-09 15:10:59.817.
JARROD HICKMAN, ESQ. - Notification received on 2014-12-09 15:10:59.848.
KELLY KOSSOW, ESQ. - Notification received on 2014-12-09 15:10:59.536.
DIV. OF PAROLE & PROBATION - Notification received on 2014-12-09 15:10:59.755.
NICKOLAS GRAHAM, ESQ. - Notification received on 2014-12-09 15:10:59.786.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-09-2014:15:09:51

Clerk Accepted:

12-09-2014:15:10:28

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

***Minutes

Filed By:

Court Clerk MSlane

You may review this filing by clicking on the following link to take you to your cases.

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JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

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CASE NO. CR14-1044

**TITLE: THE STATE OF NEVADA VS. MARC
PAUL SCHACHTER****DATE, JUDGE
OFFICERS OF****COURT PRESENT****APPEARANCES-HEARING****CONT'D TO**

11/13/14

STATUS HEARING REGARDING SELF-REPRESENTATION

HONORABLE

Deputy District Attorney Zelalem Bogale, Esq., represented the State.

11/20/14

CONNIE

Defendant present representing himself. Chief Deputy Public Defender

9:00 a.m.

STEINHEIMER

James Leslie, Esq., present as stand-by counsel for the Defendant.

Status

DEPT. NO.4

Motion for Release from Custody into the Salvation Army Treatment

Hearing

M. Stone

Program by defendant; presented argument; objection and argument by
State's counsel. **COURT ENTERED ORDER** denying Motion.

(Clerk)

J. Schonlau

Stand-by counsel Leslie advised the Court that the Defendant provided
documents to him for filing with the Court, which will be done if the
document are appropriate and timely to be filed at this time.

(Reporter)

State's counsel noted for the record that the Defendant's fifth prior
conviction has been provided to the Defendant.

Currently set status hearing to remain as scheduled.

Defendant remanded to the custody of the Sheriff.

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2014-12-11 17:39:48.323.
JENNIFER LUNT, ESQ. - Notification received on 2014-12-11 17:39:48.463.
JARROD HICKMAN, ESQ. - Notification received on 2014-12-11 17:39:48.495.
KELLY KOSSOW, ESQ. - Notification received on 2014-12-11 17:39:48.385.
DIV. OF PAROLE & PROBATION - Notification received on 2014-12-11 17:39:48.401.
NICKOLAS GRAHAM, ESQ. - Notification received on 2014-12-11 17:39:48.432.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-11-2014:17:38:47

Clerk Accepted:

12-11-2014:17:39:17

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

***Minutes

Filed By:

Court Clerk MTrabert

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NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

3868
JARROD T. HICKMAN (SBN 12772)
MARC PICKER (SBN 3566)
DEPUTY ALTERNATE PUBLIC DEFENDERS
WASHOE COUNTY ALTERNATE PUBLIC DEFENDER
350 S. CENTER ST., 6TH FLOOR
RENO NV 89501
775-328-3955

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,
Plaintiff,

v.

Case No. CR14-1044

MARC PAUL SCHACHTER,
Defendant.

Dept. No. 4

MOTION FOR ROUGH DRAFT TRANSCRIPT AT PUBLIC EXPENSE

Defendant, MARC PAUL SCHACHTER, by and through his counsel, moves this Court for an Order granting Defendant the following rough draft transcript, and that this transcript be prepared at public expense:

September 22, 2014: Rough Draft Transcript of Proceedings: Trial (not including voir dire or opening statements)

September 23, 2014: Rough Draft Transcript of Proceedings: Trial

September 24, 2014: Rough Draft Transcript of Proceedings: Trial (including closing arguments)

Reason: Preparation for post-trial motion practice and sentencing, as well as for purposes of perfecting a direct appeal. The Alternate Public Defender was appointed as standby counsel following the trial in this matter and after the withdrawal of the Washoe County Public Defender. Thereafter, Mr. Schachter requested that the Alternate Public Defender be substituted in a counsel

1 of record in this matter. In order to properly represent Mr. Schachter, review of the trial transcripts
2 in this matter are required. While it is the practice of the Second Judicial District Court to have
3 each county department pay for any transcripts that are requested, this is a unique situation
4 whereby the Alternate Public Defender has been asked to assist the Court by agreeing first to be
5 standby counsel and now to assume full representation of Mr. Schachter. As such, it seems
6 appropriate that this Court bear the expense of the production of these transcripts at public
7 expense.

8 **AFFIRMATION PURSUANT TO NRS 239B.030**

9 The undersigned hereby affirms that the preceding document does not contain the social
10 security number of any person.

11 DATED this 22nd day of December, 2014.

12 JENNIFER J. LUNT
13 Washoe County Alternate Public Defender

14 */s/ Jarrod Hickman*

15 JARROD HICKMAN
16 Deputy
Nevada Bar No. 12772

17 And

18 MARC PICKER
19 Deputy
Nevada Bar No. 3566
20 Washoe County Alternate Public Defender
Post Office Box 11130
21 Reno, Nevada 89520
(775) 328-3955

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Alternate Public Defender, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, I will deposit either for mailing in the U.S. Mails, with postage fully prepaid, or by interoffice mail, or court-run delivery where indicated, a true and correct copy of foregoing document to the following:

Zelalem Bogale
Deputy District Attorney
Via E-filing

DATED this 22nd day of December, 2014.

/s/ Randi Jensen

RANDI JENSEN

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2014-12-23 11:00:10.855.
JENNIFER LUNT, ESQ. - Notification received on 2014-12-23 11:00:10.995.
JARROD HICKMAN, ESQ. - Notification received on 2014-12-23 11:00:11.027.
KELLY KOSSOW, ESQ. - Notification received on 2014-12-23 11:00:10.902.
DIV. OF PAROLE & PROBATION - Notification received on 2014-12-23 11:00:10.933.
NICKOLAS GRAHAM, ESQ. - Notification received on 2014-12-23 11:00:10.964.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-23-2014:08:47:36

Clerk Accepted:

12-23-2014:10:59:38

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Mtn for Rough Draft Transcript

Filed By:

Jarrold T Hickman

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JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 4185
JUDITH ANN SCHONLAU
2 CCR #18
75 COURT STREET
3 RENO, NEVADA
4

5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF WASHOE

7 BEFORE THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

8 -oOo-

9 THE STATE OF NEVADA,)

)

10 Plaintiff,)

)

11 vs.)

CASE NO. CR14-1044

)

DEPARTMENT NO. 4

12 MARC PAUL SCHACHTER,)

)

13 Defendant.)

)

14
15 TRANSCRIPT OF PROCEEDINGS

16 STATUS HEARING

17 THURSDAY, NOVEMBER 13, 2014, 9:00 A.M.

18 Reno, Nevada
19

20 Reported By: JUDITH ANN SCHONLAU, CCR #18
NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
21 Computer-aided Transcription
22
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A P P E A R A N C E S

FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY

 BY: ZELALEM BOGALE, ESQ

 DEPUTY DISTRICT ATTORNEY

 WASHOE COUNTY COURTHOUSE

 RENO, NEVADA

FOR THE DEFENDANT: APPEARING IN PROPER PERSON

STANDBY COUNSEL: WASHOE COUNTY PUBLIC DEFENDER

 BY: JAMES LESLIE, ESQ.

 DEPUTY PUBLIC DEFENDER

 350 S. CENTER STREET

 RENO, NEVADA

1 RENO, NEVADA; THURSDAY, NOVEMBER 13, 2014; 9:00 A.M.

2 -oOo-

3 THE COURT: Let's hear Mr. Schachter's case.

4 MR. BOGALE: Zelalem Bogale on behalf of the State,
5 Your Honor.

6 THE DEFENDANT: Good morning, Your Honor.

7 THE COURT: This was set on calendar I think by you.

8 MR. LESLIE: It was. He requested it. I think he
9 wanted to address the Court. So here we are Mr. Schachter.

10 THE DEFENDANT: I was hoping the court might
11 entertain, I was accepted to the Salvation Army. I understand
12 I am facing a lengthy prison sentence to say the least. I was
13 hoping the court might entertain the Salvation Army. It is a
14 little more structured and a little more appropriate not just
15 for the gambling issues, the drug issues and the life skills
16 issues I have already talked to the present about. It is also
17 part of my last pre-sentence report that the Court might
18 consider a supervised OR to that program pending sentencing,
19 push out sentencing at the completion of the program.

20 THE COURT: Counsel?

21 MR. BOGALE: Your Honor, the State opposes any OR
22 release to the Salvation Army. The defendant has seven prior
23 felony convictions. He has seven prior probation or parole
24 violations. He's facing habitual criminal in this case. I

1 don't believe the Salvation Army is appropriate.

2 THE COURT: Mr. Schachter, I am going to deny your
3 request.

4 THE DEFENDANT: I understand, Your Honor. I did
5 have some pleadings I would like to either file or have Mr.
6 Leslie file.

7 THE COURT: We can get the pleading filed.

8 MR. LESLIE: You could have mailed them to me.

9 THE DEFENDANT: Part of the problem, I am out of
10 postage. I can't get these in the mail.

11 THE COURT: They don't charge you to give them to
12 Mr. Leslie.

13 THE DEFENDANT: The jail won't do it. They won't
14 take anything if standby counsel doesn't come and get it. I
15 tried to get all that stuff in writing.

16 THE COURT: You want to file some documents?

17 THE DEFENDANT: Exactly.

18 THE COURT: How many copies do you have?

19 THE DEFENDANT: Just the one.

20 THE COURT: The original. Mr. Leslie, will you file
21 these in court today?

22 MR. LESLIE: Yes. You want to file those now?

23 THE COURT: We can't because we don't have anything.

24 THE COURT: Are they things, Mr. Leslie, that can be

1 filed by the clerk today to give people notice or things that
2 should be paper filed?

3 MR. LESLIE: Your Honor, we can file them and
4 convert it to document. That is probably easy to deal with on
5 the copy machine.

6 THE DEFENDANT: One is a Petition for Habeas Corpus.

7 MR. LESLIE: We'll screen them. If there is
8 something I don't think I can file, I will give them back to
9 him.

10 THE COURT: It is premature to file something that
11 would be of benefit.

12 MR. LESLIE: I had no idea. He called this hearing
13 to file motions. He has given me several items. I will take
14 it. I will look and file what I think is appropriate. If I
15 don't, I will get back to him with it.

16 THE DEFENDANT: I also have some more legal material,
17 possibly cases.

18 MR. LESLIE: Again, he's given me a list of cases he
19 wants. He could have just mailed that to me, but I was glad
20 we were able to do this in hearing.

21 THE DEFENDANT: The jail will not process nothing
22 for pro pers. They have zero pro per service.

23 THE COURT: That is why you have standby counsel. I
24 think you can call standby counsel.

1 THE DEFENDANT: I tried. The only way I can get in
2 touch with Mr. Leslie is go through Mr. Bosler's secretary. I
3 can't get a call back. I haven't got a response from the
4 investigator.

5 THE COURT: Call Mr. Bosler's secretary if you have
6 issues. Call her and say I have got stuff to pick up. Okay?

7 THE DEFENDANT: Okay. As far as no postage?

8 THE COURT: I don't have any stamps to give you. I
9 can't help you there. It doesn't make sense to me the jail
10 won't let you mail something to Mr. Leslie.

11 MR. LESLIE: Your Honor, for Mr. Schachter's
12 edification, I receive mail from my clients all the time, and
13 I receive them from self-representing clients where I am
14 standby counsel. We have had cases in front of this Court
15 where I received reams of documentation from my pro per
16 clients. For his edification it can be done. For the record,
17 I have done it in the past.

18 THE COURT: I don't understand why they are not
19 doing it.

20 THE DEFENDANT: Would you like me to help? I have
21 got documentation from the jail saying they wouldn't.

22 MR. LESLIE: He could certainly forward that to me.
23 I will let the jail know they need to let him transmit things
24 to me.

1 THE COURT: Okay. That will be great. Anything
2 else for today?

3 THE DEFENDANT: Nothing, Your Honor.

4 THE COURT: We have a sentencing next week.

5 THE DEFENDANT: No.

6 THE COURT: It is a status conference. Do we need
7 that hearing?

8 THE DEFENDANT: The only reason I would is if they
9 were going to discover more information. The State discovered
10 another conviction on me today. Only if they are going to
11 discover anymore convictions within the 15 day time period.

12 THE COURT: Counsel?

13 MR. BOGALE: The state requested certified copies of
14 all of Mr. Schachter's prior convictions before this trial
15 back in the Summer I think the State requested them. They kind
16 of come trickling in. The State received the fifth certified
17 copy of a prior conviction. I just discovered a copy to
18 Mr. Schachter this morning. I have the original certified copy
19 if Your Honor would like to mark it and keep it for the
20 sentencing or the State can keep it. I think Your Honor has
21 more on file currently.

22 THE COURT: Why don't you hold on to it for now, and
23 then we can mark it at the sentencing. We'll have all of them
24 up at sentencing. The clerk didn't bring all the priors

1 today. We'll have them all in front of me at the same time.

2 THE DEFENDANT: Given I just gave Mr. Leslie the
3 cases, I don't know how long it is going to take for it to
4 turn around time. Is it possible we can push out sentencing
5 at this point?

6 THE COURT: We have got a status next week. Let's
7 see what is going on there.

8 THE DEFENDANT: Thank you.

9 THE COURT: See you next week.

10 (Whereupon, the proceedings were concluded.)

11 --o0o--

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1 STATE OF NEVADA,)
2) ss.
3 COUNTY OF WASHOE.)

4 I, Judith Ann Schonlau, Official Reporter of the
5 Second Judicial District Court of the State of Nevada, in and
6 for the County of Washoe, DO HEREBY CERTIFY:

7 That as such reporter I was present in Department No
8 4 of the above-entitled court on Thursday, November 13, 2014,
9 at the hour of 9:00 a.m. of said day and that I then and there
10 took verbatim stenotype notes of the proceedings had in the
11 matter of THE STATE OF NEVADA vs. MARC PAUL SCHACHTER, Case
12 Number CR14-1044.

13 That the foregoing transcript, consisting of pages
14 numbered 1-9 inclusive, is a full, true and correct
15 transcription of my said stenotypy notes, so taken as
16 aforesaid, and is a full, true and correct statement of the
17 proceedings had and testimony given upon the trial of the
18 above-entitled action to the best of my knowledge, skill and
19 ability.

20 DATED: At Reno, Nevada this 13th day of December, 2014.
21
22

23 /s/ Judith Ann Schonlau
24 JUDITH ANN SCHONLAU CSR #18

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2014-12-30 21:27:52.005.
JENNIFER LUNT, ESQ. - Notification received on 2014-12-30 21:27:52.161.
JARROD HICKMAN, ESQ. - Notification received on 2014-12-30 21:27:52.192.
KELLY KOSSOW, ESQ. - Notification received on 2014-12-30 21:27:52.067.
DIV. OF PAROLE & PROBATION - Notification received on 2014-12-30 21:27:52.098.
NICKOLAS GRAHAM, ESQ. - Notification received on 2014-12-30 21:27:52.13.

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Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

12-30-2014:21:22:52

Clerk Accepted:

12-30-2014:21:25:31

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Transcript

Filed By:

Judith Schonlau

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SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

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1 2490
JENNIFER LUNT, BAR# 3057
2 ALTERNATE PUBLIC DEFENDER
JARROD T. HICKMAN, BAR# 12772
3 MARC PICKER, BAR# 3566
DEPUTY ALTERNATE PUBLIC DEFENDER
P.O. BOX 11130
4 RENO NV 89520-3083
(775) 328-3955
5 ATTORNEY FOR: DEFENDANT

6
7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR14-1044

11 vs.

Dept. No. 4

12 MARC PAUL SCHACHTER,

13 Defendant.

14 **MOTION TO COMPEL PRODUCTION OF CLIENT FILE**

15 MARC PAUL SCHACHTER (hereinafter "Mr. Schachter"), by and through the
16 Washoe County Alternate Public Defender, JENNIFER LUNT, and Deputy Alternate Public
17 Defenders JARROD T. HICKMAN and MARC PICKER, requests an Order compelling the
18 Washoe County Public Defender to produce a copy of Mr. Schachter's file including discovery,
19 client correspondence, investigation requests and results, and any subpoenas issued.

20 DATED this 2nd day of January, 2015.

21 JENNIFER LUNT
22 Washoe County Alternate Public Defender

23 /s/ Jarrod T. Hickman
JARROD T. HICKMAN
24 Deputy Alternate Public Defender

/s/ Marc Picker
MARC PICKER
Deputy Alternate Public Defender

POINTS AND AUTHORITIES

Statement of Facts and Procedural History

Mr. Schacter was charged with Attempted Robbery, in violation of NRS 193.330 and 200.380; Burglary, in violation of NRS 205.060; and Being a Habitual Criminal, in violation of NRS 207.010 by Information filed July 10, 2014. An Amended Information was filed July 14, 2014 alleging a prior conviction for Grand Larceny within Count II.

At his arraignment on July 24, 2014, the Court canvassed Mr. Schachter as to his ability to proceed in proper person and ultimately entered an order allowing Mr. Schachter to represent himself. The Court further appointed the Washoe County Public Defender's Office as standby counsel.

After trial, Mr. Schachter was found guilty of Count I, Attempted Robbery. Mr. Schachter then filed a number of motions post-conviction, including a Petition for Writ of Habeas Corpus. Due to the assertions therein, the Court relieved the Washoe County Public Defender's Office as standby counsel and appointed the Alternate Public Defender's Office in a standby counsel capacity on November 20, 2014.

Mr. Schacter appeared next on December 11, 2014 and waived his right to self representation. The Alternate Public Defender's Office was appointed as counsel for Mr. Schachter. Sentencing is currently scheduled for February 26, 2015.

At issue here is a request for the Washoe County Public Defender's Office file pertaining to Mr. Schachter. In order to fully understand what has transpired to date, and effectively represent Mr. Schachter in further proceedings, a request for the file, including discovery, correspondence with Mr. Schachter, investigation requests and results, and

1 subpoenas was sent to the Washoe County Public Defender's Office by electronic mail
2 December 10, 2014. *Exhibit A*. The request was refused December 17, 2014. *Id.*

3 Argument

4 The request for a copy of Mr. Schachter's file is reasonable request for an item to which
5 Mr. Schachter is entitled. Nevada Rule of Professional Conduct 1.4(a)(4) states that "[a]
6 lawyer shall [p]romptly comply with reasonable requests for information." Additionally,
7 "[u]pon the termination of representation, a layer shall . . . *surrender papers and property to*
8 *which the client is entitled. . . .*" NRPC 1.16(d) (emphasis added). In its analogous provision
9 governing the termination of employment, the state of California has defined papers and
10 property to include "correspondence, pleadings, deposition transcripts, exhibits, physical
11 evidence, expert's reports, and other items reasonably necessary to the client's representation."
12 CRPC 3-700(D)(1), *see also Haitt v. Clark*, 194 S.W.3d 324 (2006) (holding that criminal
13 litigant previously represented at trial by county legal aid organization was entitled to entire
14 contents of his file, including items characterized as "work product"). Absent retention for
15 purposes of a lien, the file must be promptly given to a former client. *See In re Kaufman*, 93
16 Nev. 452, 567 P.2d 957 (1977) (holding that although attorney has right to retain client's file as
17 passive lien for payment of fees, attorney must otherwise deliver prompt accounting of client
18 property in lawyer's possession), ABA Mod. R. of Prof. Cond. 1.16, cmt. 9 ("The lawyer may
19 retain papers as security for a fee only to the extent permitted by law.").

20 Here, the Public Defender's Office has declined to produce Mr. Schachter's file absent
21 an Order of the court. As there is not a matter outstanding fees payable to the Public
22 Defender's Office, Mr. Schachter is entitled to a copy of his file. The contents of Mr.
23 Schachter's file are necessary to fully advise Mr. Schachter of potential post-trial motions,
24

1 prepare for what will most likely be a contentious sentencing in which habitual criminality is
2 alleged, and prepare for direct appeal and post-conviction litigation.

3 **CONCLUSION**

4 Based on the foregoing, Mr. Schachter respectfully requests that this Court issue an
5 Order compelling the production of his file.

6 **AFFIRMATION PURSUANT TO NRS 239B.030**

7 The undersigned does hereby affirm that the preceding document does not contain the
8 social security number of any person.

9 DATED this 2nd day of January, 2015.

10 JENNIFER LUNT
11 Washoe County Alternate Public Defender

12 /s/ Jarrod T. Hickman

JARROD T. HICKMAN
13 Deputy Alternate Public Defender

14 /s/ Marc Picker

MARC PICKER
15 Deputy Alternate Public Defender

INDEX OF EXHIBITS

Email to the Washoe County Public Defender's Office 12/10/14

Exhibit 1

Pursuant to NRCp 5(b), I hereby certify that I am an employee of Washoe County Alternate Public Defender's Office, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, I will deposit for mailing in the U.S. Mails, with postage fully prepaid, or by interoffice mail, or by court-run delivery, or facsimile where indicated, a true and correct copy of the foregoing document to the following:

Jim Leslie
Via Interoffice Mail

DATED this 2nd day of January, 2015.

/s/RANDI JENSEN
Randi Jensen

EXHIBIT 1

EXHIBIT 1

Hickman, Jarrod

From: Leslie, Jim
Sent: Wednesday, December 17, 2014 1:01 PM
To: Hickman, Jarrod
Subject: RE: Marc Schrachter

Jarrod:

Thanks for the written request. As you know, Mr. Schachter represented himself, against the advice of counsel and the Court, and I was appointed as stand-by.

Responding to your email:

As to discovery, my recollection was the state was producing that directly to him, so he should have it all. I recall the State making a record at times of what was produced, and Schachter indicating affirmance of having received various materials, and I also believe the State was using one of its investigators to effect hand-deliver of discovery. If he is missing anything, which I have no reason to believe he is, that would most likely be the result of production issues on the part of the State. I'm not sure I can add anything to issue.

As to correspondence with the client, I would think he would have what I sent him. It's time consuming to go back and copy materials he already has, and which he previously acknowledged to me, and at times the court, having received, so in the absence of a specific reason to do so I prefer not to at this time absent direction from the Court or further explanation of need from the client/you.

As to investigative requests and results, I believe his request is premature in that no appeal or IAC claim has been asserted in the formal sense; I know he claims generally that I did him some kind of a disservice, although he has never specified, to me at least, how. Additionally, I recall putting on record all or most of the results we had obtained. If I may, I suggest he/you obtain copies of the transcripts of proceedings, including sealed hearings, and see if those transcripts answer whatever questions he has.

As for subpoenas, again, his request appears premature vis appeal and/or IAC claim assertion. I prefer to respond to those demands at the appropriate time and in the appropriate manner.

As I recall, I believe I accommodated all reasonable requests of Mr. Schachter, as well as some unreasonable requests. If you choose to seek an order to produce materials, I would request you set a hearing for that and provide me opportunity to address the court, along with notice to the State.

Please let me know if you have any questions or if I misunderstood any of your requests.

Thanks,

Jim

From: Hickman, Jarrod
Sent: Wednesday, December 10, 2014 5:19 PM
To: Leslie, Jim
Subject: Marc Schrachter
Importance: High

Good evening Jim,

V4. 653

Per our discussions, please consider this my written request for your file pertaining to Marc Schrachter. Specifically, I am requesting discovery, correspondence with Mr. Schrachter, investigation requests and results, and any subpoenas issued.

Sincerely,

Jarrold T. Hickman
Deputy Alternate Public Defender
Washoe County Alternate Public Defender's Office
350 South Center Street
Reno, Nevada 89501
T: (775) 328-3964
F: (775) 328-3998

Confidentiality Note: *This message is intended for use only by the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent of the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please contact the sender immediately and destroy the communication in its entirety, whether electronic or hard copy. Thank you.*

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JENNIFER LUNT, ESQ. - Notification received on 2015-01-02 09:52:31.353.
JARROD HICKMAN, ESQ. - Notification received on 2015-01-02 09:52:31.4.
KELLY KOSSOW, ESQ. - Notification received on 2015-01-02 09:52:31.244.
DIV. OF PAROLE & PROBATION - Notification received on 2015-01-02 09:52:31.275.
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***** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

01-02-2015:09:43:14

Clerk Accepted:

01-02-2015:09:52:04

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Mtn to Compel

- **Continuation

Filed By:

Jarrold T Hickman

You may review this filing by clicking on the following link to take you to your cases.

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The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF
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KELLY ANN KOSSOW, ESQ. for STATE OF
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JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 4185

2 JUDITH ANN SCHONLAU

3 CCR #18

4 75 COURT STREET

5 RENO, NEVADA

6
7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF WASHOE

9 BEFORE THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

10 -o0o-

11 THE STATE OF NEVADA,)

)

12 Plaintiff,)

)

13 vs.)

CASE NO. CR14-1044

)

DEPARTMENT NO. 4

14 MARC PAUL SCHACHTER,)

)

15 Defendant.)

)

16
17 TRANSCRIPT OF PROCEEDINGS

18 STATUS HEARING

19 THURSDAY, NOVEMBER 20, 2014, 9:00 A.M.

20 Reno, Nevada

21
22
23 Reported By: JUDITH ANN SCHONLAU, CCR #18
24 NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
Computer-aided Transcription

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A P P E A R A N C E S

FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY

 BY: ZELALEM BOGALE, ESQ.

 DEPUTY DISTRICT ATTORNEY

 WASHOE COUNTY COURTHOUSE

 RENO, NEVADA

FOR THE DEFENDANT: APPEARING IN PROPER PERSON

STANDBY COUNSEL: OFFICE OF THE PUBLIC DEFENDER

 BY: JAMES LESLIE, ESQ.

 DEPUTY PUBLIC DEFENDER

 350 S. CENTER STREET

 RENO, NEVADA

PAROLE AND PROBATION: THOMAS WILSON

1 RENO, NEVADA; THURSDAY, NOVEMBER 20, 2014; 9:00 A.M.

2 -oOo-

3 THE COURT: Marc Schachter.

4 MR. BOGALE: Zelalem Bogale on behalf of the State,
5 Your Honor.

6 THE DEFENDANT: Good morning, Your Honor.

7 THE COURT: Good morning, Mr. Schachter. We set
8 this status just to make sure we are still ready to go forward
9 with sentencing next week. Is everything on track?

10 THE DEFENDANT: No.

11 MR. LESLIE: I'm not sure where we are. If I might
12 summarize for a moment. First of all, he had requested last
13 time I give him some paper, so I am giving him two pads worth
14 of paper today. He had requested, he had handed me for the
15 first time at the last hearing a number of files, also
16 proposed filings. We took possession of those. We did in
17 fact file them, waiver of attorney-client privilege and other
18 matters concerning him. The record would reflect I am going
19 to return all those original handwritten pleadings to him.

20 Additionally, he had requested a form of Notice to
21 Appeal. I asked somebody in our office to prepare that so we
22 could give him a form of Notice of Appeal. He had already,
23 additionally I should say, in that pile of materials he gave
24 me last time, there was a two-page handwritten request for

1 various cases. I went ahead and copied all those cases. I
2 believe I will say, I think there actually may be one case
3 that I skipped by accident. He can give me a call. I will
4 get that to him. I don't know which one it was. Other than
5 that possible error I think I provided him all the cases that
6 he listed and he can read those.

7 Your Honor, one of the things he filed is a Motion
8 for Clarification of Pretrial Order. Certainly that is for
9 him to file and to take up with the Court. He's also
10 requested the file including work product, standby product. I
11 am not entirely sure he's entitled to that, at least not at
12 this stage of the proceedings. And he's also filed what he's
13 titled Petition for Writ of Habeas Corpus which alleges a
14 number of things including allegations that standby counsel
15 refused to engage in certain investigation and other matters
16 that he had requested. I counseled him that might create a
17 conflict of interest because the professional rules I am
18 operating under allow me to respond. An exception to the
19 attorney-client privilege is if counsel is responding to a
20 claim being asserted. I suggested to him that if he wanted to
21 proceed with those kinds of allegations, there would be a
22 point downstream where he could do so after the sentencing,
23 after a direct appeal which I assume he wants to take based on
24 requesting the Notice of Appeal. Then he would be able to

1 bring an ineffective assistance claim if he saw fit. He
2 insisted we go ahead and file the documents, so I filed them
3 because I am standby counsel. I think a conflict of interest
4 arises based on the filings that he has put before the Court.
5 It is a little different than a situation where somebody
6 pleads guilty then wishes to allege they never should have
7 pled guilty prior to sentencing. So there is not really a
8 Motion to Withdraw a plea that could be pending. I think there
9 is a conflict. I don't know what the Court's thought is.
10 Standby counsel is a little different than, for lack of a
11 better term, than actual counsel. I continue to stand by and
12 respond to him. He, as I view it, is in the driver's seat in
13 making the tactical decision he makes, the allegations he
14 makes in that Petition for Writ of Habeas Corpus. Without
15 getting too far into it, I would say we dispute some of these
16 allegations, so I am not sure how the Court wants to proceed.

17 THE COURT: The filing of the Writ is probably in
18 most circumstances going to be dismissed as premature and is
19 of no validity. However, the allegations contained in the
20 document do create a conflict, so I think you do have to have
21 new standby counsel appointed.

22 MR. LESLIE: Court's indulgence.

23 THE COURT: Yes.

24 MR. LESLIE Judge, he also filed, it was bugging me

1 when I was reciting those documents, he also filed I neglected
2 to recite, a Motion for Trial Transcripts at Public Expense.
3 I am not taking a position on that. That is for the Court to
4 determine whether that is ripe or whether that is part of the
5 appellate process. I neglected to recite that. I wanted to
6 point that out.

7 THE COURT: Was that motion filed by you?

8 MR. LESLIE: No, Your Honor. It is one of the
9 handwritten motions. I double checked the other day. I think
10 we got everything filed with the eflex. Then my secretary put
11 Mr. Bogale as opposing counsel. We attached typed
12 Certificates of Service.

13 THE COURT: With regard to the motion for transcript
14 of the trial, I haven't seen that motion. I haven't got that
15 one. So I don't know, is he asking for them before he's
16 sentenced?

17 MR. LESLIE: You know, Your Honor, I would have to
18 take a look.

19 THE DEFENDANT: If I may, it was to go along with
20 the Motion for Clarification. I didn't know if the Court was
21 going to entertain more. I have had the negligence, gross
22 negligence in the Motion for Clarification.

23 THE COURT: The Motion for Clarification was filed
24 November 18th. Time has to run. The State has a right to

1 oppose it. It doesn't affect your sentencing.

2 THE DEFENDANT: No, I know. I am saying for the
3 trial transcript.

4 THE COURT: But your Notice of Appeal, the day I
5 sentence you, you need to file your Notice of Appeal, and you
6 have ten days. You should do it the day we set that
7 sentencing. Soon as you file that Notice of Appeal, then your
8 request for trial transcript becomes relevant and I will grant
9 that request and you will get the transcript, rough draft
10 transcripts to start. That is the appellate rule. And
11 Mr. Leslie's appellate deputies get them routinely. But we
12 can order it for you. We can enter the same kind of order
13 based upon your motion for transcripts. We would do that at
14 that point in time. The motion would have run anyway. But
15 none of that is necessary before sentencing.

16 THE DEFENDANT: I understand. The transcript part
17 was only if it was going to be present, if I was going to be
18 able to reargue the order denying the dismissal.

19 THE COURT: Right. The State hasn't opposed it.
20 Unless they stipulated to it, then I would still deny given
21 the tenure of the case. It is really not a time you can
22 appeal, that that is an issue on appeal. If I was wrong, the
23 Supreme Court will tell us.

24 THE DEFENDANT: That was the reason for asking for

1 the transcripts prior.

2 THE COURT: So we have, then we have Petition for
3 Writ of Habeas Corpus which you now allege basically
4 ineffective assistance of standby counsel. By doing that,
5 they cannot continue as your standby counsel, so we need to
6 appoint you standby counsel. I don't know how we do that. I
7 have never had it get to this point.

8 MR. LESLIE: Well--

9 THE COURT: Does it go to the Alternate Public
10 Defender?

11 MR. LESLIE: I have never dealt with this either,
12 but I think if there is a conflict, you simply send it to them
13 and indicate -- I mean you appointed us as standby.

14 THE COURT: So they would only be appointed as
15 standby counsel?

16 MR. LESLIE: I would imagine so. I think that is, I
17 don't mean any disrespect by this, but we didn't ask to be
18 appointed standby counsel to him. I see certain cumbersome
19 problems with having standby counsel and trying to accommodate
20 what the client wants to get done. But the Court appointed us
21 as standby. I am not trying to tell the APD -- I would
22 imagine you would take that appointment of standby counsel and
23 transfer to it the APD based on his allegations they would
24 handle it similar with the way a Motions to Withdraw Plea are

1 handled.

2 THE COURT: If you are regular counsel, don't you do
3 a notification of your conflict for the Alternate Public
4 Defender? Isn't there a form or process?

5 MR. LESLIE: That is sort of what I would call a
6 normal course, but then there are cases where things arise in
7 a hearing or things arise in the middle of litigation at the
8 District Court. I couldn't think of an example off the top of
9 my head where you ordered in another case a case be
10 transferred to the APD. If your concerned about notice, I
11 would do this in any event, I pretty customarily send an
12 e-mail to Jennifer Lunt and say here's what is going on. I
13 usually welcome them to give me a call if they have any
14 questions. Especially in the circumstances here where there
15 is allegations against counsel, I think because some people
16 perceive generally defense counsel get defensive, won't
17 cooperate with our outside counsel trying to determine the
18 merit of such an allegation. I invite them to let me know,
19 and I am willing to have a conversation.

20 THE COURT: Our sentencing date is currently set for
21 what day?

22 MR. BOGALE: December 4th, Your Honor.

23 MR. LESLIE: I did counsel Mr. Schachter if he
24 persisted in his allegations, I would have to bring the matter

1 up with the court, and that it was my prediction sentencing
2 would be continued.

3 THE COURT: We'll see what the Alternate Public
4 Defender says. I am not sure, because Mr. Schachter is
5 preparing his own sentencing. So you provided him today with
6 everything that he wants, so I don't necessarily think there
7 is going to have to be a continuance, but we'll have to notify
8 Mr. Schachter of the new counsel. It will be the Alternate
9 Public Defender's Office, but I don't know which attorney
10 there.

11 Mr. Schachter, they will be in touch with you and
12 let you know. If you have anymore requests you have to notify
13 them just like you did Mr. Leslie.

14 THE DEFENDANT: I would ask for the sentencing to be
15 pushed out.

16 THE COURT: Mr. Schachter, we have been continuing
17 this a long time. There has been a lot of little delays along
18 the way, and your verdict was September 4th so we are out
19 there a ways here already. So if there is a good reason to
20 continue your sentencing, there is more you need to prepare
21 for, I will grant your continuance. But I want to first get
22 the Alternate Public Defender on board, and then you have to
23 make a specific request based on something you need.

24 THE DEFENDANT: I object to certain things in the

1 pre-sentence report.

2 MR. LESLIE: Your Honor, that reminds me. When he
3 and I were conferring, we talked about the PSI. He indicated
4 he received it and he asked what to do if he had objections.
5 I said he could wait until the day of sentencing. I told him
6 sometimes I file objections. Do you want this filed then?

7 THE DEFENDANT: Please.

8 MR. LESLIE: May I file it with the court?

9 THE COURT: Yes. The clerk can file the document in
10 for you. It will be served on Parole and Probation and the
11 State. I think the statute says that once the defense alleges
12 objections to a pre-sentence report, the Division is to
13 investigate that and make a report as to whether or not those
14 corrections should be made, correct?

15 PAROLE AND PROBATION: That's correct, Your Honor.
16 Depending on what the corrections are specified in that
17 objection, we may or may not, unless it is ordered by you
18 specifically, Your Honor, that we need to correct them. Some
19 may be deemed, without any knowledge, as frivolous.

20 THE COURT: One of his objections is the
21 pre-sentence report does not identify the source of the
22 defendant's criminal history, so he's claiming he doesn't know
23 what the errors are, because he doesn't know where the sources
24 are. And then he's alleging mistakes in the criminal record

1 pages 3 through 6.

2 PAROLE AND PROBATION: Under those circumstances a
3 PSI would have to be ordered. We would have to request the
4 formal document, legal certified document from the State
5 depending which ones he's was disputing. That would take some
6 time, Your Honor.

7 THE COURT: Okay. Because the defendant is facing
8 habitual criminal, we have quite a few certified copies of
9 convictions. Then the Division would have to determine which
10 other criminal history is in the PSI whether or not it is
11 accurate or not, correct?

12 PAROLE AND PROBATION: That's correct. Your Honor.

13 MR. BOGALE: Just a couple of points on that. Your
14 Honor, in the PSI there are a list of criminal convictions
15 that aren't supported by the certified copies on file with the
16 court. The ones we don't have certified copies for, I guess
17 Parole and Probation would need to find evidence of those. As
18 far as getting the certified copy from the State, the State
19 doesn't have the originals anymore. I think four are on file
20 with the court. The State has a fifth.

21 THE COURT: Why don't you note right now for the
22 Division of parole and probation which ones you provided the
23 Court the certified copies of.

24 MR. LESLIE: Are these available on eflex or just

1 marked as exhibits?

2 THE COURT: I think they are marked as exhibits.
3 They are not available on eflex.

4 MR. LESLIE: It was just a thought.

5 MR. BOGALE: One is out of the Second Judicial
6 District, CR09-1729, this department, Your Honor. 2009 case.

7 Next is out of the Ninth Judicial District Court
8 from 2006, the case is 06CR-00052. The third is out of the
9 Suffolk County, New York, 1987. The Indictment number,
10 actually the criminal case number 86-863893. And the fourth
11 and final is out of --

12 THE COURT: That one, is that the case listed as
13 102486 that is in the pre-sentence report?

14 MR. BOGALE: That could be. On that certified copy,
15 it is listed as the Indictment number. I am not sure what
16 number they go by.

17 THE COURT: What is the charge?

18 MR. BOGALE: It is attempted burglary and forgery.
19 I think we are talking about the same case, Your Honor.

20 THE COURT: Do you have a Judgment of Conviction on
21 that?

22 MR. BOGALE: On that case?

23 THE COURT: Yes.

24 MR. BOGALE: Court's indulgence. Yes, Your Honor.

1 It is the first page in the certified copy.

2 THE COURT: What is the sentence?

3 MR. BOGALE: One year as to each count and there
4 were two counts.

5 THE COURT: I am just comparing it to what is in the
6 PSI.

7 MR. BOGALE: The fourth and final is out of the
8 Municipal Court of California, Santa Clara County, a 1991
9 case, case number E917929, I believe.

10 MR. BOGALE: Yes, Your Honor.

11 THE COURT: I don't show that.

12 MR. BOGALE: Santa Clara County 1991. Actually
13 1992. Excuse me. E917929.

14 THE COURT: What is the charge?

15 MR. BOGALE: It is driving or taking a vehicle. I
16 think like an unlawful taking in California.

17 THE COURT: What is the judgment for?

18 MR. BOGALE: I am sorry?

19 THE COURT: What is the judgment for?

20 MR. BOGALE: The sentence?

21 THE COURT: Yes.

22 MR. BOGALE: The sentence is -- I am sorry. I am
23 not very good at reading these.

24 THE COURT: Mr. Wilson may help you with it.

1 MR. BOGALE: Taking a vehicle convicted April 1st
2 1992. It is a hard to read the copy. It was a copy of a copy
3 it appears.

4 THE COURT: You think it is the entry that you have
5 convicted of taking a vehicle without an owner's consent? You
6 show it as E91-68931?

7 PAROLE AND PROBATION: I did not see 97. I did see
8 E196. I believe that is the case we are talking about and
9 referred to on the PSI.

10 THE COURT: We'll get you copy of the certified copy
11 that we have. We'll get you a copy of each of those and
12 counsel for the State and make sure you get the 5th one you
13 have not added. You haven't given it to us yet. Give that to
14 Parole and Probation and we'll keep the sentencing date on
15 calendar to see how close we come to the criminal history
16 there. You may need more time, Mr. Wilson, to develop it.

17 PAROLE AND PROBATION: If we have to find a 1997
18 case, that will be difficult. In reference, it said ten
19 months as reflected on the PSI.

20 THE COURT: We'll get those for you. We'll see
21 which ones you can find. We'll get standby counsel and we'll
22 leave the sentencing date on calendar. You will be at the end
23 of the calendar. You don't have to sit from 9:00 if you don't
24 want to.

1 MR. BOGALE: Thank you, Your Honor. I think the
2 sentencing is set at 3:00 p.m.

3 THE CLERK: It is a special set.

4 THE COURT: It is a special set anyway. Okay. Is
5 there anything further, Mr. Schachter?

6 THE DEFENDANT: The one thing we talked last week
7 about what the jail was providing for pro per services. I
8 got -- the jail recently went to paperless inquiries, so I
9 could not get a hard copy of the response saying they are not
10 providing any pro se services. When I asked for a copy of it
11 on the computer, they said I need a court order or subpoena to
12 get the copy of the request and the response and they don't
13 have any pro per services. That was sergeant Sealy.

14 THE COURT: Who is sergeant Sealy?

15 THE DEPUTY: Classification sergeant. I can contact
16 her and find out the logistics.

17 THE COURT: I think that would be a good idea if
18 he's being denied paper and pen to prepare for his sentencing,
19 and we'll make sure perhaps we can rectify whatever
20 misunderstanding is going on without a court order. We'll see
21 what we can do.

22 THE DEFENDANT: Thank you. Your Honor.

23 THE COURT: Anything further for today?

24 MR. BOGALE: Not from the State, Your Honor.

1 STATE OF NEVADA,)

2) ss.

3 COUNTY OF WASHOE.)

4

5 I, Judith Ann Schonlau, Official Reporter of the Second
6 Judicial District Court of the State of Nevada, in and for the
7 County of Washoe, DO HEREBY CERTIFY:

8 That as such reporter I was present in Department NO. 4 of the
9 above-entitled court on Thursday, November 20, 2014, at the
10 hour of 9:00 a.m. of said day and that I then and there took
11 verbatim stenotype notes of the proceedings had in the matter
12 of THE STATE OF NEVADA vs. MARC SCHACHTER, Case Number
13 CR14-1044.

14 That the foregoing transcript, consisting of pages numbered
15 1-17 inclusive, is a full, true and correct transcription of
16 my said stenotypy notes, so taken as aforesaid, and is a full,
17 true and correct statement of the proceedings had and
18 testimony given upon the trial of the above-entitled action to
19 the best of my knowledge, skill and ability.

20 DATED: At Reno, Nevada this 23rd day of December, 2014.

21

22

23 /s/ Judith Ann Schonlau
24 JUDITH ANN SCHONLAU CSR #18

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2015-01-04 15:17:14.984.
JENNIFER LUNT, ESQ. - Notification received on 2015-01-04 15:17:15.156.
JARROD HICKMAN, ESQ. - Notification received on 2015-01-04 15:17:15.187.
KELLY KOSSOW, ESQ. - Notification received on 2015-01-04 15:17:15.031.
DIV. OF PAROLE & PROBATION - Notification received on 2015-01-04 15:17:15.078.
NICKOLAS GRAHAM, ESQ. - Notification received on 2015-01-04 15:17:15.109.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

01-04-2015:15:16:14

Clerk Accepted:

01-04-2015:15:16:44

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Transcript

Filed By:

Judith Schonlau

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

3868
JARROD T. HICKMAN (SBN 12772)
MARC PICKER (SBN 3566)
DEPUTY ALTERNATE PUBLIC DEFENDERS
WASHOE COUNTY ALTERNATE PUBLIC DEFENDER
350 S. CENTER ST., 6TH FLOOR
RENO NV 89501
775-328-3955

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,
Plaintiff,

v.

Case No. CR14-1044

MARC PAUL SCHACHTER,
Defendant.

Dept. No. 4

ADDEDNDUM TO MOTION FOR ROUGH DRAFT TRANSCRIPT AT PUBLIC
EXPENSE

Defendant, MARC PAUL SCHACHTER, by and through his counsel, moves this Court for an Order granting Defendant the following rough draft transcripts, in addition to those requested in the January 2, 2015 Motion for Rough Draft Transcripts:

September 3, 2014: Rough Draft Transcript of Proceedings: Hearing on Motions

September 11, 2014: Rough Draft Transcript of Proceedings: Continued Hearing on Motions.

Reason: Preparation for post-trial motion practice and sentencing, as well as for purposes of perfecting a direct appeal. The Alternate Public Defender was appointed as standby counsel following the trial in this matter and after the withdrawal of the Washoe County Public Defender. Thereafter, Mr. Schachter requested that the Alternate Public Defender be substituted in a counsel

1 of record in this matter. In order to properly represent Mr. Schachter, review of the trial transcripts
2 in this matter are required. While it is the practice of the Second Judicial District Court to have
3 each county department pay for any transcripts that are requested, this is a unique situation
4 whereby the Alternate Public Defender has been asked to assist the Court by agreeing first to be
5 standby counsel and now to assume full representation of Mr. Schachter. As such, it seems
6 appropriate that this Court bear the expense of the production of these transcripts at public
7 expense.

8 **AFFIRMATION PURSUANT TO NRS 239B.030**

9 The undersigned hereby affirms that the preceding document does not contain the social
10 security number of any person.

11 DATED this 6th day of January, 2015.

12 JENNIFER J. LUNT
13 Washoe County Alternate Public Defender

14 */s/ Jarrod Hickman*

15 JARROD HICKMAN
16 Deputy
Nevada Bar No. 12772

17 And

18 MARC PICKER
19 Deputy
Nevada Bar No. 3566
20 Washoe County Alternate Public Defender
Post Office Box 11130
21 Reno, Nevada 89520
(775) 328-3955

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Alternate Public Defender, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, I will deposit either for mailing in the U.S. Mails, with postage fully prepaid, or by interoffice mail, or court-run delivery where indicated, a true and correct copy of foregoing document to the following:

Zelalem Bogale
Deputy District Attorney
Via E-filing

DATED this 6th day of January, 2015.

/s/ Randi Jensen

RANDI JENSEN

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2015-01-06 16:18:35.42.
JENNIFER LUNT, ESQ. - Notification received on 2015-01-06 16:18:35.561.
JARROD HICKMAN, ESQ. - Notification received on 2015-01-06 16:18:35.592.
KELLY KOSSOW, ESQ. - Notification received on 2015-01-06 16:18:35.467.
DIV. OF PAROLE & PROBATION - Notification received on 2015-01-06 16:18:35.498.
NICKOLAS GRAHAM, ESQ. - Notification received on 2015-01-06 16:18:35.53.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

01-06-2015:16:15:56

Clerk Accepted:

01-06-2015:16:18:10

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Addendum

Filed By:

Jarrold T Hickman

You may review this filing by clicking on the following link to take you to your cases.

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-

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NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 4185

2 JUDITH ANN SCHONLAU

3 CCR #18

4 75 COURT STREET

5 RENO, NEVADA

6
7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR THE COUNTY OF WASHOE

9 BEFORE THE HONORABLE CONNIE J. STEINHEIMER, DISTRICT JUDGE

10 -o0o-

11 THE STATE OF NEVADA,)

)

12 Plaintiff,)

)

13 vs.)

CASE NO. CR14-1044

) DEPARTMENT NO. 4

14 MARC SCHACHTER,)

)

15 Defendant.)

)

16
17 TRANSCRIPT OF PROCEEDINGS

18 STATU HEARING

19 THURSDAY, DECEMBER 11, 2014, 9:00 A.M.

20 Reno, Nevada

21
22
23 Reported By: JUDITH ANN SCHONLAU, CCR #18
24 NEVADA-CALIFORNIA CERTIFIED; REGISTERED PROFESSIONAL REPORTER
Computer-aided Transcription

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A P P E A R A N C E S

FOR THE PLAINTIFF: OFFICE OF THE DISTRICT ATTORNEY

 BY: ZELALEM BOGALE, ESQ.

 DEPUTY DISTRICT ATTORNEY

 WASHOE COUNTY COURTHOUSE

 RENO, NEVADA

FOR THE DEFENDANT: APPEARING IN PROPER PERSON

STANDBY COUNSEL: ALTERNATE PUBLIC DEFENDER

 BY: JARROD HICKMAN, ESQ.

 DEPUTY PUBLIC DEFENDER

 350 S. CENTER STREET

 RENO, NEVADA

PAROLE AND PROBATION: JENNIFER IVESON

1 RENO, NEVADA; THURSDAY, DECEMBER 11, 2014; 9:00 A.M.

2 -oOo-

3 THE COURT: Marc Schachter.

4 MR. BOGALE: Zelalem Bogale on behalf of the State,
5 Your Honor.

6 MR. HICKMAN: Jarrod Hickman appearing as standby
7 counsel for Mr. Schachter. Mr. Schachter is present and in
8 custody.

9 THE COURT: Mr. Schachter.

10 THE DEFENDANT: Good morning, Your Honor.

11 THE COURT: Good morning.

12 THE DEFENDANT: I am going to give the Court my
13 Christmas present early and pull my waiver for the self-
14 representation.

15 THE COURT: You want Mr. Hickman to represent you?

16 THE DEFENDANT: Absolutely.

17 THE COURT: Mr. Hickman, are you willing to do that?

18 MR. HICKMAN: We are. Mr. Picker from our office
19 will work together with Mr. Schachter on it.

20 THE COURT: Does that mean you will not be able to
21 proceed to the next hearing? Don't we have a sentencing?

22 MR. HICKMAN: We have a sentencing set in January.
23 Given our change in status at this particular time, Your
24 Honor, I do not think we will realistically be able to proceed

1 at that day. We are in the process of requesting transcripts,
2 trial, motions, hearings, status conferences, etcetera. So we
3 have a foundation of knowledge what has proceeded in this
4 particular case. After speaking in depth with Mr. Schachter
5 and Mr. Picker, I think we would be looking for a sentencing
6 date possibly in late February to early March.

7 THE COURT: When did we try this case?

8 MR. HICKMAN: It was in September, Your Honor. I
9 would note we have to get up to speed on three days of trial,
10 at least two days of motions hearings and various status
11 conferences. That is why were asking for the lengthy setting.

12 THE COURT: State?

13 MR. BOGALE: The State reluctantly agrees to a
14 continuance the length of which I guess isn't really disputed.
15 I don't know. I'm not here to say whether the APD needs 60
16 days or can't get it done in 30 days or appropriately get it
17 done in 45 days. I am not here to make that point. A
18 continuance is something the State won't object to, but I
19 think a March date is pretty far out, Your Honor.

20 THE COURT: Mr. Hickman, is your case with Anthony
21 Brian Paetz going to go to trial?

22 MR. HICKMAN: At this point, we have received no new
23 negotiations. My understanding with Mr. Paetz, we are headed
24 for trial. Absent change of negotiations, I don't see any

1 reason why we wouldn't be trying that case in February.
2 Again, another reason for the lengthy request. Last time I
3 looked at the eflex, I do not believe those hearings have been
4 transcribed at this point. I know there is going to be some
5 time for preparing those transcripts.

6 THE COURT: The trial hasn't been requested?

7 MR. HICKMAN: Not at this point, Your Honor. Today
8 would be the first day.

9 THE DEFENDANT: I had the pleading in, but just for
10 the trial transcript but not for the rest.

11 THE COURT: All right. I am expecting this will take
12 a little bit longer than normal. Do you want a two or three
13 hour sentencing?

14 MR. HICKMAN: Yes, Your Honor.

15 THE COURT: So I guess I would like the clerk to
16 look at February 26th in the afternoon. February 26th at 1:30
17 p.m.

18 MR. HICKMAN: Thank you.

19 THE COURT: Now this is the deal, Mr. Schachter: If
20 you decide you don't like Mr. Picker and Mr. Hickman and you
21 decide you want to represent yourself again, you have a
22 constitutional right to do that, but I am not going to
23 continue your sentencing again. So this is it. This is the
24 date. It is going to happen that day, and the attorneys will

1 be ready. I have complete confidence they will be ready. I
2 don't have a lot of confidence you will be ready.

3 THE DEFENDANT: I will be ready, Your Honor.

4 THE COURT: But that's what is going to happen that
5 day. The request for sentencing transcripts Mr. Schachter
6 requested I denied because he was at trial. He didn't need
7 the transcript to prepare for sentencing. He may need it for
8 appeal, but it was premature at that point. Now if you are
9 requesting the transcript, I think you can just as usual go
10 forward and request them directly.

11 MR. HICKMAN: That is my understanding.

12 THE COURT: You will request those. You will get
13 them and be prepared to move forward.

14 MR. HICKMAN: Yes, Your Honor. I do have one more
15 issue before we adjourn in Mr. Schachter's matter, there is a
16 pending petition for Writ of Habeas Corpus that has been
17 filed. At this point, Your Honor, now that we are counsel on
18 the case, I would be requesting that be withdrawn as
19 premature. And Mr. Schachter would like me to place on the
20 record by withdrawing this he's in no way waiving his
21 opportunity for a later Petition for Writ of Habeas Corpus
22 when the time is appropriate. But at this juncture, Your
23 Honor, we would be withdrawing that as premature.

24 THE COURT: Any objection?

1 MR. BOGALE: No, Your Honor.

2 THE COURT: Granted.

3 THE DEFENDANT: Thank you, Your Honor.

4 THE COURT: Then I will see you back. Is there
5 anything we need to do before sentencing?

6 MR. BOGALE: At the last status hearing, Your Honor,
7 a different Parole and Probation officer was here. A PSI had
8 been prepared. I know Mr. Schachter has made a subsequent
9 objection to that. At the time, you ordered the State to
10 provide a copy of the latest certified copy of conviction to
11 the department. I did that. Does Your Honor want me to
12 provide all of the other ones, too?

13 THE COURT: Might as well. Let's just give copies
14 of everything to the Division that you have and then they can
15 supplement the pre-sentence investigation. I think we should
16 supplement that in light of Mr. Schachter's objection at least
17 either by way of saying we aren't going to change anything or
18 we are changing certain things. And the Division has access
19 to the objection. It was filed in. And I am going to order
20 the Division file that corrected or Notice of Non-Correction,
21 whichever they are going to do. It has to be filed by January
22 26th. And e-filed so it is served on you.

23 MR. HICKMAN: January 26th Your Honor?

24 THE COURT: Yes. That will give you 30 days.

1 MR. HICKMAN: Thank you, Your Honor.

2 MR. BOGALE: The sentencing is at 1:30?

3 THE COURT: 1:30 February 26th.

4 PAROLE AND PROBATION: That would mean the officer
5 that gets assigned this case would have to do it today and
6 have it done.

7 THE COURT: By January 26th.

8 PAROLE AND PROBATION: I apologize. I was thinking
9 December. I apologize.

10 THE COURT: No, that is okay. I would try not to do
11 that to you.

12 PAROLE AND PROBATION: No. Thank you.

13 THE COURT: Mr. Schachter, we'll see you back for
14 sentencing.

15 THE DEFENDANT: I would like to thank the Court and
16 the personnel for their patience and understanding in
17 everything in my case so far.

18 THE COURT: No problem.

19 THE DEFENDANT: Thank you, Your Honor.

20 (Whereupon, the proceedings were concluded.)

21 --o0o--

22

23

24

1 STATE OF NEVADA,)
2) ss.
3 COUNTY OF WASHOE.)

4 I, Judith Ann Schonlau, Official Reporter of the
5 Second Judicial District Court of the State of Nevada, in and
6 for the County of Washoe, DO HEREBY CERTIFY:

7 That as such reporter I was present in Department
8 No. 4 of the above-entitled court on Thursday,
9 December 11, 2014, at the hour of 9:00 a.m. of said day and
10 that I then and there took verbatim stenotype notes of the
11 proceedings had in the matter of THE STATE OF NEVADA vs. MARC
12 SCHACHTER, Case Number CR14-1044.

13 That the foregoing transcript, consisting of pages
14 numbered 1-9 inclusive, is a full, true and correct
15 transcription of my said stenotypy notes, so taken as
16 aforesaid, and is a full, true and correct statement of the
17 proceedings had and testimony given upon the trial of the
18 above-entitled action to the best of my knowledge, skill and
19 ability.

20 DATED: At Reno, Nevada this 10th day of January, 2015.
21
22

23 /s/ Judith Ann Schonlau
24 JUDITH ANN SCHONLAU CSR #18

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2015-01-11 17:43:36.571.
JENNIFER LUNT, ESQ. - Notification received on 2015-01-11 17:43:36.711.
JARROD HICKMAN, ESQ. - Notification received on 2015-01-11 17:43:36.758.
KELLY KOSSOW, ESQ. - Notification received on 2015-01-11 17:43:36.618.
DIV. OF PAROLE & PROBATION - Notification received on 2015-01-11 17:43:36.649.
NICKOLAS GRAHAM, ESQ. - Notification received on 2015-01-11 17:43:36.68.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
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A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

01-11-2015:17:42:27

Clerk Accepted:

01-11-2015:17:43:05

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Transcript

Filed By:

Judith Schonlau

You may review this filing by clicking on the following link to take you to your cases.

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NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 CODE 3860
2 JARROD T. HICKMAN. (SBN 12772)
3 DEPUTY ALTERNATE PUBLIC DEFENDER
4 WASHOE COUNTY ALTERNATE PUBLIC DEFENDER
5 350 S. CENTER ST., 6TH FLOOR
6 RENO NV 89501
7 775-328-3955

8 ATTORNEY FOR DEFENDANT
9 MARC PAUL SCHACHTER

10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11
12 IN AND FOR THE COUNTY OF WASHOE

13 THE STATE OF NEVADA,
14 Plaintiff,

CASE NO. CR14-1044

15 vs.

DEPT NO. 4

16 MARC PAUL SCHACHTER,
17 Defendant.

18
19 REQUEST FOR SUBMISSION

20 COMES NOW, Defendant, MARC PAUL SCHACHTER, by and through the Washoe
21 County Alternate Public Defender's Office and his counsel, Jarrod T. Hickman, Deputy
22 Alternate Public Defender, and hereby requests that the MOTION FOR ROUGH DRAFT
23 TRANSCRIPTS AT PUBLIC EXPENSE filed on December 23, 2014 and ADDENDUM TO
24 MOTION FOR ROUGH DRAFT TRANSCRIPTS AT PUBLIC EXPENSE that was filed on
25 January 6, 2015, be submitted.

26 Dated this 13th day of January, 2015.

Washoe County Alternate Public Defender

/s/ Jarrod T. Hickman

JARROD T. HICKMAN
Deputy Alternate Public Defender

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AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Respectfully submitted this 13th day of January, 2015.

Washoe County Alternate Public Defender
/s/ Jarrod T. Hickman

JARROD T. HICKMAN
Deputy Alternate Public Defender

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Washoe County Alternate Public Defender's Office, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, I will deposit for mailing in the U.S. Mails, with postage fully prepaid, or by interoffice mail, or by court-run delivery, or facsimile where indicated, a true and correct copy of the foregoing document to the following:

ZELALEM BOGALE
Via E-filing

DATED this 13th day of January, 2015.

/s/RANDI JENSEN
Randi Jensen

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2015-01-13 10:29:42.53.
JENNIFER LUNT, ESQ. - Notification received on 2015-01-13 10:29:42.686.
JARROD HICKMAN, ESQ. - Notification received on 2015-01-13 10:29:42.717.
KELLY KOSSOW, ESQ. - Notification received on 2015-01-13 10:29:42.577.
DIV. OF PAROLE & PROBATION - Notification received on 2015-01-13 10:29:42.608.
NICKOLAS GRAHAM, ESQ. - Notification received on 2015-01-13 10:29:42.655.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

01-13-2015:09:15:32

Clerk Accepted:

01-13-2015:10:29:09

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Request for Submission

Filed By:

Jarrold T Hickman

You may review this filing by clicking on the following link to take you to your cases.

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-

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The following people were served electronically:

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NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

3370
JENNIFER J. LUNT, #3057
JARROD HICKMAN, #12772
WASHOE COUNTY ALTERNATE PUBLIC DEFENDER
P.O. BOX 11130
RENO, NEVADA 89520
(775) 328-3995

Attorney for Defendant

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,
Plaintiff,

vs.

Case No. CR14-1044

Dept. No 4

MARC PAUL SCHACHTER,
Defendant.

ORDER FOR ROUGH DRAFT TRANSCRIPTS AT PUBLIC EXPENSE

The Court having reviewed the Motion for Transcripts at Public Expense and
Addendum to Motion for Rough Draft Transcripts at Public Expense filed by Defendant, and
good cause appearing,

IT IS HEREBY ORDERED that the rough draft transcripts of the following hearings
shall be provided to the Defendant at County expense:

September 3, 2014 Hearing on Motions;
September 11, 2014 Continued Hearing on Motions
September 22, 2014 Trial (not including voir dire or opening statements);
September 23, 2014 Trial; and,
September 24, 2014 Trial (including closing arguments).

DATED this 13 day of January, 2015.


DISTRICT JUDGE

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2015-01-13 16:51:53.053.
JENNIFER LUNT, ESQ. - Notification received on 2015-01-13 16:51:53.193.
JARROD HICKMAN, ESQ. - Notification received on 2015-01-13 16:51:53.224.
KELLY KOSSOW, ESQ. - Notification received on 2015-01-13 16:51:53.1.
DIV. OF PAROLE & PROBATION - Notification received on 2015-01-13 16:51:53.131.
NICKOLAS GRAHAM, ESQ. - Notification received on 2015-01-13 16:51:53.162.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

01-13-2015:16:50:50

Clerk Accepted:

01-13-2015:16:51:22

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Ord Trial Transcript/Public\$

Filed By:

Judicial Asst. AKay

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

1 CODE 2540
2 JENNIFER J. LUNT, #3057
3 JARROD T. HICKMAN, #12772
4 WASHOE COUNTY ALTERNATE PUBLIC DEFENDER
5 P. O. BOX 1130
6 RENO, NV 89520
7 (775) 328-3955
8 ATTORNEY FOR DEFENDANT

9
10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11
12 IN AND FOR THE STATE OF NEVADA
13

14 STATE OF NEVADA,
15 Plaintiff,

16 vs.

Case No. CR14-1044

17 MARC PAUL SCHACHTER,
18 Defendant.

Dept. 4

19
20 **NOTICE OF ENTRY OF ORDER**

21 COMES NOW, MARC PAUL SCHACHTER, hereby named, by and through counsel,
22 Washoe County Alternate Public Defender, Jennifer Lunt, and Deputy Alternate Public Defender,
23 Jarrod T. Hickman, and hereby gives notice that the ORDER FOR ROUGH DRAFT
24 TRANSCRIPTS AT PUBLIC EXPENSE has been filed.

25 **AFFIRMATION Pursuant to NRS 239B.030**

26 The undersigned does hereby affirm that the preceding document does not contain the
social security number of any person.

DATED this 14th day of January, 2015.

JENNIFER J. LUNT
Washoe County Alternate Public Defender

By /s/Jarrod Hickman
JARROD HICKMAN
Deputy Alternate Public Defender

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Washoe County Alternate Public Defender's Office, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, I will deposit for mailing in the U.S. Mails, with postage fully prepaid, or by interoffice mail, or by court-run delivery, or facsimile where indicated, a true and correct copy of the foregoing document to the following:

Zelalem Bogale
Kristin Erickson
Via E-filing

Molezzo Court Reporters
201 West Liberty St., Ste 202
Reno, NV 89501
Via US Mail

DATED this 14th day of January, 2015.

/s/RANDI JENSEN

Randi Jensen

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2015-01-14 10:41:27.109.
JENNIFER LUNT, ESQ. - Notification received on 2015-01-14 10:41:27.265.
JARROD HICKMAN, ESQ. - Notification received on 2015-01-14 10:41:27.297.
KELLY KOSSOW, ESQ. - Notification received on 2015-01-14 10:41:27.172.
DIV. OF PAROLE & PROBATION - Notification received on 2015-01-14 10:41:27.203.
NICKOLAS GRAHAM, ESQ. - Notification received on 2015-01-14 10:41:27.234.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

01-14-2015:10:40:23

Clerk Accepted:

01-14-2015:10:40:57

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Notice of Entry of Ord

Filed By:

Jarrold T Hickman

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

NICKOLAS J. GRAHAM, ESQ. for STATE OF
NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF
NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

2490
JENNIFER LUNT, BAR# 3057
ALTERNATE PUBLIC DEFENDER
JARROD T. HICKMAN, BAR# 12772
MARC PICKER, BAR# 3566
DEPUTY ALTERNATE PUBLIC DEFENDER
P.O. BOX 11130
RENO NV 89520-3083
(775) 328-3955
ATTORNEY FOR: DEFENDANT

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

Case No. CR14-1044

vs.

Dept. No. 4

MARC PAUL SCHACHTER,

Defendant.

NOTICE OF WITHDRAWAL OF MOTION TO COMPEL PRODUCTION OF

CLIENT FILE

MARC PAUL SCHACHTER (hereinafter "Mr. Schachter"), by and through the
Washoe County Alternate Public Defender, JENNIFER LUNT, and Deputy Alternate Public
Defenders JARROD T. HICKMAN and MARC PICKER, provides notice that the Motion to
Compel Production of Client File filed on January 2, 2015 is withdrawn.

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///

///

///

1 The Washoe County Public Defender's Office produced a copy of the file to counsel
2 January 9, 2015 rendering the issue moot.

3 DATED this 13th day of January, 2015.

4 JENNIFER LUNT
Washoe County Alternate Public Defender

5 /s/ Jarrod T. Hickman
6 JARROD T. HICKMAN
Deputy Alternate Public Defender

/s/ Marc Picker
MARC PICKER
Deputy Alternate Public Defender

7
8 **AFFIRMATION PURSUANT TO NRS 239B.030**

9 The undersigned does hereby affirm that the preceding document does not contain the
10 social security number of any person.

11 DATED this 13th day of January, 2015.

12 JENNIFER LUNT
Washoe County Alternate Public Defender

13 /s/ Jarrod T. Hickman
14 JARROD T. HICKMAN
Deputy Alternate Public Defender

15
16 /s/ Marc Picker
MARC PICKER
17 Deputy Alternate Public Defender

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Washoe County Alternate Public Defender's Office, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, I will deposit for mailing in the U.S. Mails, with postage fully prepaid, or by interoffice mail, or by court-run delivery, or facsimile where indicated, a true and correct copy of the foregoing document to the following:

Zelalem Boglae
Via E-filing

Jim Leslie
Via Hand-Delivered

DATED this 15th day of January, 2015.

/s/RANDI JENSEN
Randi Jensen

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2015-01-15 10:52:20.228.
JENNIFER LUNT, ESQ. - Notification received on 2015-01-15 10:52:20.368.
JARROD HICKMAN, ESQ. - Notification received on 2015-01-15 10:52:20.4.
KELLY KOSSOW, ESQ. - Notification received on 2015-01-15 10:52:20.275.
DIV. OF PAROLE & PROBATION - Notification received on 2015-01-15 10:52:20.306.
NICKOLAS GRAHAM, ESQ. - Notification received on 2015-01-15 10:52:20.337.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

01-15-2015:08:29:18

Clerk Accepted:

01-15-2015:10:51:45

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

Notice

Filed By:

Jarrold T Hickman

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NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

Return Of NEF**Recipients**

ZELALEM BOGALE, ESQ. - Notification received on 2015-01-26 12:37:47.028.
JENNIFER LUNT, ESQ. - Notification received on 2015-01-26 12:37:47.168.
JARROD HICKMAN, ESQ. - Notification received on 2015-01-26 12:37:47.2.
KELLY KOSSOW, ESQ. - Notification received on 2015-01-26 12:37:47.075.
DIV. OF PAROLE & PROBATION - Notification received on 2015-01-26 12:37:47.106.
NICKOLAS GRAHAM, ESQ. - Notification received on 2015-01-26 12:37:47.137.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR14-1044

Judge:

HONORABLE CONNIE J. STEINHEIMER

Official File Stamp:

01-26-2015:10:57:48

Clerk Accepted:

01-26-2015:12:37:13

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. MARC PAUL SCHACHTER (D4)

Document(s) Submitted:

PSI - Confidential

Filed By:

Div. of Parole & Probation

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SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL
SCHACHTER

DIV. OF PAROLE & PROBATION

ZELALEM BOGALE, ESQ. for STATE OF
NEVADA

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