

IN THE SUPREME COURT OF THE STATE OF NEVADA

Myrtis Tyrone James aka James
Tyrone Myrtis,
Appellant,

vs.

The State of Nevada
Respondent.

No. 83439

Electronically Filed
Dec 26 2021 12:32 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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Ely, Nevada 89301

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ORIGINAL

FILED  SCANNED

Case No: 18-CR-00252-7K

2018 DEC 20 PM 4:30

ELY TOWNSHIP #1

IN THE JUSTICE COURT OF ELY TOWNSHIP NO. ONE
COUNTY OF WHITE PINE, STATE OF NEVADA

* * * * *

THE STATE OF NEVADA,
PLAINTIFF,

VS.

JAMES TYRONE MYRTIS,
DEFENDANT.

COMPLAINT – CRIMINAL
FELONY

STATE OF NEVADA)
COUNTY OF WHITE PINE) ss.

BEFORE ME this 20th day of December, 2018, personally appeared SERGEANT LUKE SHADY, who being first duly sworn, deposes and says: That within his knowledge, information and belief JAMES TYRONE MYRTIS, on or about December 18, 2018, and before the filing of this complaint in the County of White Pine, State of Nevada, did commit the following to wit:

COUNT I: On or about December 18, 2018, the Defendant committed the criminal offense of DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE BEING UNDER THE INFLUENCE OF INTOXICATING LIQUOR, FELONY OFFENSE, which criminal offense consists of willfully and unlawfully driving and/or being in actual physical control of a vehicle on a highway or a premises to which the public has access while being under the influence of an intoxicating liquor; and/or while having a concentration of alcohol of 0.08 or more in his blood or breath; and/or was found by measurement within 2

WHITE PINE COUNTY DISTRICT ATTORNEY
801 Clark Street, Suite 3 • Ely, Nevada 89301
TEL: 775-293-6565 • FAX: 775-289-1559

copy
DA & [unclear]
1-11

1 hours after driving or being in actual physical control of a vehicle to have a concentration of
2 alcohol of 0.08 or more in his blood or breath, by the Defendant being in actual and/or physical
3 control of a motor vehicle by sitting in the driver's seat of the vehicle with the vehicle running
4 while it was parked in the parking lot of Family Dollar, which premises was open to the public,
5 located at 1550 Great Basin Boulevard in Ely, County of White Pine, State of Nevada, while
6 being under the influence of an intoxicating liquor; and/or while having a concentration of
7 alcohol of 0.08 or more in his blood or breath; and/or was found by measurement within 2
8 hours after driving or being in actual physical control of a vehicle to have a concentration of
9 alcohol of 0.08 or more in his blood or breath, while having a prior conviction for Driving
10 Under the Influence, Third Offense, on or about December 17, 2014 out of the Fifth Judicial
11 District Court, County of Washington, State of Nevada, case number 141501828 a Felony, all
12 of which is a Felony in violation of NRS 484C.110, NRS 484C.020 and NRS 484C.400;

13 All of the foregoing is contrary to the form, force and effect of the statute in such cases,
14 made and provided and against the peace and dignity of the State of Nevada.

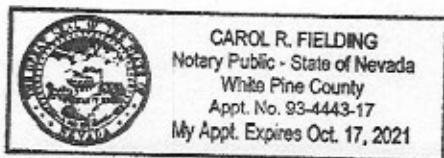
15 Said Complainant, therefore demands a warrant for the arrest of JAMES TYRONE
16 MYRTIS, if not already arrested, so that he may be dealt with according to law.

17 DATED this 20th day of December, 2018.

18
19
20 Luke Shady
Sergeant Luke Shady

21 SUBSCRIBED AND SWORN to before me
this 20th day of December, 2018.

22
23 Carol R. Fielding
24 NOTARY PUBLIC



Case No: 18-CR-00252-7K

FILED

2019 MAR -4 PM 2:53

IN THE JUSTICE COURT OF ELY TOWNSHIP NO. ONE
COUNTY OF WHITE PINE, STATE OF NEVADA

* * * * *

THE STATE OF NEVADA,

PLAINTIFF,

VS.

JAMES TYRONE MYRTIS, AKA,
MYRTIS TYRONE JAMES,

DEFENDANT.

AMENDED
COMPLAINT - CRIMINAL
FELONY

STATE OF NEVADA }
COUNTY OF WHITE PINE } ss.

MCKINZIE M. PETERSON, ESQ, being first duly sworn and under penalty of perjury, personally appeared before me and complained that on or about December 18, 2018, and before the filing of this complaint JAMES TYRONE MYRTIS, AKA, MYRTIS TYRONE JAMES, in the County of White Pine, State of Nevada did commit the following to wit:

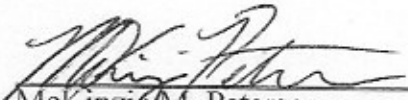
COUNT I: On or about December 18, 2018, the Defendant committed the criminal offense of DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE BEING UNDER THE INFLUENCE OF INTOXICATING LIQUOR, FELONY OFFENSE, which criminal offense consists of willfully and unlawfully driving and/or being in actual physical control of a vehicle on a highway or a premises to which the public has access while being under the influence of an intoxicating liquor; and/or while having a concentration of alcohol of 0.08 or more in his blood or breath; and/or was found by measurement within 2

1 hours after driving or being in actual physical control of a vehicle to have a concentration of
2 alcohol of 0.08 or more in his blood or breath, by the Defendant being in actual and/or physical
3 control of a motor vehicle by sitting in the driver's seat of the vehicle with the vehicle running
4 while it was parked in the parking lot of Family Dollar, which premises was open to the public,
5 located at 1550 Great Basin Boulevard in Ely, County of White Pine, State of Nevada, while
6 being under the influence of an intoxicating liquor; and/or while having a concentration of
7 alcohol of 0.08 or more in his blood or breath; and/or was found by measurement within 2
8 hours after driving or being in actual physical control of a vehicle to have a concentration of
9 alcohol of 0.08 or more in his blood or breath, while having a prior conviction for Driving
10 Under the Influence, Third Offense, on or about December 17, 2014 out of the Fifth Judicial
11 District Court, County of Washington, State of Nevada, case number 141501828 a Felony, all
12 of which is a Felony in violation of NRS 484C.110, NRS 484C.020, NRS 484C.400 and NRS
13 484C.410;


14 All of the foregoing is contrary to the form, force and effect of the statute in such cases,
15 made and provided and against the peace and dignity of the State of Nevada.

16 Said Complainant, therefore demands a warrant for the arrest of JAMES TYRONE
17 MYRTIS, AKA, MYRTIS TYRONE JAMES, if not already arrested, so that he may be dealt with
18 according to law.

19 DATED this 4 day of March 2019.

20
21 
22 McKinzie M. Peterson
Deputy District Attorney

23 SUBSCRIBED AND SWORN to before me
24 this 4th day of March 2019.

25 
26 NOTARY PUBLIC





FILED

2019 MAR 14 PM 2:12

NICHOLE BALDWIN
WHITE PINE COUNTY CLERK

BY Sluyon

CR-1903028
CASE NO. 18 CR 00252 7K

IN THE JUSTICE'S COURT OF ELY TOWNSHIP NO. ONE
COUNTY OF WHITE PINE, STATE OF NEVADA
HONORABLE STEPHEN BISHOP PRESIDING

THE STATE OF NEVADA,
Plaintiff,

vs.

JAMES T. MYRTIS,
Defendant.

TRANSCRIPT

PRELIMINARY HEARING

March 5, 2019

COUNSEL APPEARING:

FOR THE STATE:

MCKINZIE PETERSON, ESQ.
Deputy District Attorney
White Pine County District Attorney's Office
Ely, NV 89301

FOR THE DEFENDANT:

RICHARD SEARS, ESQ.
Public Defender
White Pine Public Defender's Office
Ely, NV 89301

Transcribed by: Alicia Hankins, Sworn Court Transcriber

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IN THE JUSTICE'S COURT OF ELY TOWNSHIP NO. ONE,
COUNTY OF WHITE PINE, STATE OF NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

TRANSCRIPT OF PROCEEDINGS

JAMES T. MYRTIS,
Defendant.

_____ /

BE IT REMEMBERED, the above-entitled matter came on duly and regularly
for Hearing before the above-entitled Court on March 5, 2019, before the
HONORABLE JUSTICE OF THE PEACE STEPHEN J. BISHOP.

The State of Nevada was represented by MCKINZIE PETERSON, ESQ.,
Deputy District Attorney, White Pine County District Attorney's Office, Ely, Nevada.

The Defendant was not present in Court and was represented by RICHARD
SEARS, ESQ., Public Defender, White Pine Public Defender's Office, Ely, Nevada.

WHEREUPON, the following proceedings were had:

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LUKE SHADY:

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Re-Cross Exam	Page 22 Line 5.....to.....Page 22 Line 15
Re-Re-Direct Exam	Page 22 Line 18.....to.....Page 22 Line 21
Re-Re-Cross Exam	Page 22 Line 24.....to.....Page 23 Line 2

WITNESSES FOR THE DEFENSE:

NONE.

STATE'S EXHIBITS:

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DEFENSE EXHIBITS:

Defense "A"	Page 21 Line 4
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1 (Court in session at 1:22 P. M.)

2 THE COURT: All right.

3 Let's be in Session.

4 Eighteen C. R. Two Five Two is the case number.

5 It's State of Nevada versus Myrtis Tyrone James, or James Tyrone Myrtis. I
6 don't remember which one he said he went by. And he's not here to ask.

7 Mr. Sears is present.

8 Miss Peterson is present.

9 Mr. Sears you indicated earlier you're going to Waive his appearance?

10 MR. SEARS: Yes, Your Honor.

11 THE COURT: Any concerns with that?

12 MS. PETERSON: Are you going to Stipulate to his identity?

13 MR. SEARS: Sure. Of course

14 MS. PETERSON: As long as the record can reflect that, Your Honor,
15 that's fine.

16 THE COURT: Okay.

17 So you're stippling to I. D. and all of that?

18 MR. SEARS: Yes, Your Honor.

19 THE COURT: Okay. All right.

20 I guess not all of that. You're stippling to I. D.

21 MR. SEARS: I'm stippling to his I. D.

22 THE COURT: Okay. All right.

23 MR. SEARS: So I'm not -

24 THE COURT: So, anything else we need to take up before we

1 begin?

2 MS. PETERSON: No, Your Honor. I just need to move to admit what
3 has been marked as State's Exhibit's One, Two and Three. It's the prior, the blood
4 and the blood draw.

5 MR. SEARS: That's fine.

6 THE COURT: Any objection?

7 MR. SEARS: No objection.

8 THE COURT: All right.

9 So One, Two and Three will be admitted.

10 Who are the State's Witnesses?

11 MS. PETERSON: Sergeant Luke Shady.

12 THE COURT: Okay.

13 Any Witnesses I need to have sworn, Mr. Sears?

14 MR. SEARS: No, Your Honor.

15 THE COURT: All right.

16 So, Sergeant if you'll come forward and raise your right hand to be sworn?

17 MR. SHADY: Yes, sir.

18 THE CLERK: Do you solemnly swear that the testimony you are about
19 to give in this matter before the Court be the truth, the whole truth, and nothing but
20 the truth, so help you God?

21 MR. SHADY: I do.

22 THE COURT: Okay.

23 And you can just have a seat here.

24 And you can proceed when you're ready, Miss Peterson.

1 MS. PETERSON: Thank you, Your Honor.

2 **STATE'S WITNESS LUKE SHADY TESTIFIES**

3 MS. PETERSON: Sergeant Shady, please state your name and spell
4 your last name.

5 A. Luke Shady. S - H - A - D - Y.

6 Q. And what is your occupation?

7 A. I'm a sergeant for the White Pine County Sheriff's Office.

8 Q. And how long have you held that position?

9 A. Ten years.

10 Q. And did you undergo training to obtain that position?

11 A. As sergeant, no.

12 Q. Did you undergo - what did you do before being a sergeant?

13 MR. SEARS: Your Honor, if I could interrupt. We'll stipulate that he
14 completed P. O. S. T. Academy. That he completed a F. T. O. Program. That his
15 law enforcement duties include enforcing state, county, local laws and he answers
16 calls for service and he has adequate training to perform all of those duties.

17 THE COURT: You can proceed then as you will, Miss
18 Peterson.

19 MS. PETERSON: Thank you, Your Honor.

20 And Sergeant Shady, did an incident occur on December eighteenth of
21 twenty nineteen at approximately eleven twelve P. M.?

22 A. Yes.

23 Q. And where did that incident occur?

24 A. It was at the Family Dollar one parking lot.

1 Q. And is that in White Pine County?

2 A. Yes.

3 Q. And who did that incident involve?

4 A. Subject named James Myrtis.

5 Q. And can you describe how that incident began?

6 A. I was traveling north bound on Great Basin Boulevard, looked in the

7 parking lot, saw a car parked in the parking lot, dark - door was partially open, the

8 business was closed. So I thought I better check it out.

9 Q. And would you - what did you do at that point?

10 A. I turned on Avenue O and came in through the side parking lot of the

11 Family Dollar parking lot. I parked behind the car. Got out and approached the

12 car.

13 Q. And what did you observe upon approaching the vehicle?

14 A. The car was running and as I got up to the driver's side door I could see

15 there was a male subject in there.

16 Q. And can you describe the male subject?

17 A. It was a Indian male adult.

18 Q. And what was he doing?

19 A. He had the seat leaned back, appeared to be sleeping.

20 Q. And you said the car was running?

21 A. Yes.

22 Q. And what did you do at that point?

23 A. I knocked on the car to wake him up.

24 Q. And then what happened?

1 A. He s - woke up. As he sat forward he grabbed his wallet out of his left
2 pants pocket and put in his console.

3 Q. And what did you do next?

4 A. I asked him how he was doing, if he had his I. D. on him.

5 Q. And what did he do at that point?

6 A. He said he did and he popped the trunk and got out of his vehicle to look
7 for his I. D. in his trunk.

8 Q. And in his?

9 A. Trunk.

10 Q. And did you ask him where he was coming from?

11 A. Yes.

12 Q. What did he say?

13 A. He said Ely.

14 Q. What did you notice about the Defendant?

15 A. He had bloodshot watery eyes, a strong odor of alcohol, slurred speech.

16 Q. And have you observed intoxicated people before?

17 A. Yes.

18 Q. And what was your opinion of Mr. Myrtis A. K. A. Mr. James' behavior?

19 A. He appeared intoxicated.

20 Q. And what did you do at that point?

21 A. I kept on asking him for his I. D. He returned back to his car and I had to
22 ask him if his I. D. was in his wallet and he said yes it would be. And he gave me
23 his I. D.

24 Q. And what did you do at that point?

1 A. I returned to my patrol vehicle to check him for valid license and any
2 warrants.

3 Q. And did you then return to his vehicle?

4 A. Yes.

5 Q. And what did you do at that point?

6 A. I had him turn his vehicle off and step out to perform some Field Sobriety
7 Tests.

8 Q. Did you ask him if he was operating the vehicle?

9 A. Yes.

10 Q. And what was his response?

11 A. He said he was.

12 Q. And did you ask him if he had been drinking?

13 A. Yes.

14 Q. What was his response?

15 A. I believe it was, "Probably quite a bit."

16 Q. And did you ask him what he was drinking?

17 A. Yes.

18 Q. And what was his response?

19 A. Rum and vodka.

20 Q. And what did you do at that point?

21 A. Had him - well, I finished the pre F. S. T. Questionnaire. And then had
22 him stand with his feet together, arms down to his side and remove his ball cap so I
23 could have him perform the Horizontal Gaze Nystagmus Test.

24 Q. And what is the Horizontal Gaze Nystagmus Test?

1 A. It -

2 MR. SEARS: We'll stipulate to that it's test, Your Honor, to determine
3 whether or not there's Nystagmus in the eyes, which indicates a - by bouncing, that
4 someone may have consumed alcoholic beverages.

5 THE COURT: Okay.

6 And you can proceed as you will then, Miss Peterson.

7 MS. PETERSON: And how did the Defendant perform on the H. G. N.
8 Test?

9 A. He was unable to perform it. He couldn't follow the stimulus.

10 Q. And what did that indicate to you?

11 A. It's - possible sign of impairment.

12 Q. And what happened next?

13 A. I then had him - or started to explain that I was gonna have him do the
14 Walk and Turn Test. I believe his response was, "Oh, shit. Just take me in." And
15 then I asked him if he wanted to - didn't want to do the test and he responded, "Just
16 take me in. I'm drunk, we're all drunk." Something like that.

17 Q. And what did you do at that point?

18 A. I had placed him in to hand cuffs, which were checked for fit, double
19 locked, and transported him to the booking division of the White Pine County
20 Sheriff's Office for processing.

21 Q. And what happened at the White Pine County Sheriff's Office?

22 A. I completed a criminal history on him. I showed that he had one prior
23 felony D. U. I. in two thousand fourteen, I believe. I then read him the Nevada
24 Implied Consent and Miranda Warning and informed him he would have to submit

1 to a blood test because of his previous felony D. U. I.

2 Q. And did he consent to take that blood test?

3 A. Yes.

4 Q. And when you said that - you told him he had to submit to a blood test,
5 you meant as opposed to breath?

6 A. Right. Breath wasn't an option because of the previous D. U. I.

7 Q. And what time did the blood draw occur?

8 A. I believe it was twelve ten A. M.

9 Q. And did you personally observe the blood draw?

10 A. Yes, I did.

11 Q. And what did you do with the blood after it was drawn?

12 A. It was taken and placed into an evidence locker.

13 MS. PETERSON: May I have the (unintelligible word) - Court's
14 indulgence, Your Honor?

15 THE COURT: That's fine.

16 MS. PETERSON: No further questions, Your Honor.

17 THE COURT: Cross?

18 MR. SEARS: Yes, thank you, Your Honor.

19 Sergeant, was it cold that night?

20 A. Yes.

21 Q. Below freezing?

22 A. I don't recall. I -

23 Q. Were you - were you wearing a jacket?

24 A. Yes.

1 Q. And was - I think - Deputy Paul Bath, was he there as well?
2 A. He was.
3 Q. And was he jacketed as well?
4 A. I believe so, yes.
5 Q. Was he riding in your vehicle or did he come separately?
6 A. I believe he came with Deputy Saunders.
7 Q. Okay.
8 And that was my next question.
9 Was there a highway patrolman there as well as Deputy Saunders?
10 A. I don't believe so.
11 Q. Okay.
12 Would -
13 A. Deputy - I believe Deputy Odgers was there for a minute and then left.
14 Q. And then left.
15 At the time that you observed the vehicle, was it legally parked?
16 A. Yes.
17 Q. Okay.
18 And the nose of the vehicle was facing the dollar store.
19 Is that correct?
20 A. Correct.
21 Q. And the tail was facing the Great Basin Highway?
22 A. Yes.
23 Q. Back end of the car?
24 A. Yeah.

1 Q. And so you pulled in sort of blocking his vehicle?

2 I'm not saying you were close to it, but he - he would have had to strike your
3 vehicle to back up and get out of it.

4 A. Yeah, if he wasn't careful he couldn't get out -

5 Q. Okay.

6 A. - without hitting my vehicle.

7 Q. Okay.

8 Had you seen him earlier in the evening?

9 A. No.

10 Q. Had you seen that vehicle - strike that.

11 Had you driven by the dollar store earlier that evening and noticed that
12 vehicle being there?

13 A. No.

14 Q. How many times had you driven by the dollar store that night?

15 A. I couldn't tell you.

16 Q. Okay.

17 Would it have been more than once?

18 A. Oh yeah.

19 Q. It's - it's sort of on the way if you're returning to the sheriff's office?

20 A. Correct.

21 Q. And it's on the way if you're leaving and going in a northerly direction?

22 A. Yes.

23 Q. Okay.

24 Would that be your normal route if you were going on patrol? Nor - north of

1 that?

2 A. Anytime I return to the office, normally I take Great Basin Boulevard.

3 Q. Okay.

4 Did you do, if you recall, any patrolling south of Love's that night?

5 A. Nothing that stands out.

6 Q. Okay.

7 When would you have gotten on shift that night?

8 A. Six P. M.

9 Q. So you'd been on shift about five hours at that point?

10 A. Yes.

11 Q. Do you know what time dollar store closes?

12 A. I believe it's nine or ten oh clock. I don't know for sure.

13 Q. Okay.

14 So there could have been vehicles parked in the parking lot up until nine or
15 ten oh clock?

16 Whenever they're close was.

17 A. Correct.

18 Q. While you were patrolling, did you notice that vehicle at all?

19 A. No.

20 Q. Isn't it true that when you asked him if he was okay, he said, "I'm okay", or
21 "Yeah", or words to that effect when you first approached the vehicle?

22 A. I believe so, yes.

23 Q. Okay.

24 And he advised you that he was living in his car.

1 Isn't that correct?

2 A. Yes.

3 Q. And he said he was staying at the Love's, but living in his car.

4 Something like that?

5 A. Something like that, yeah.

6 Q. Okay.

7 Did he appear to be confused?

8 A. Yes.

9 Q. And that appearance would arise from the fact that he was looking in the

10 trunk for his wallet?

11 A. Yeah, in his cooler.

12 Q. Yeah.

13 A. Two coolers he checked -

14 Q. When -

15 A. - for his wallet.

16 Q. - when he had immediately, upon approach, he had apparently taken his

17 wallet out of his pocket?

18 A. Correct.

19 Q. All right.

20 Why didn't you ask him to shut off the car when you first approached the

21 vehicle?

22 A. At - at - at that point I don't - initially I don't think I was expecting a D. U. I.

23 Q. Okay.

24 A. So, it was after he got out and I was closer to him, could smell the alcohol

1 that I - then was suspecting possible D. U. I.

2 Q. As I recall, you didn't ask him to shut off the vehicle until after you had
3 come back to your vehicle and run a Wants and Warrants check.

4 Does that sound correct?

5 A. Correct.

6 Q. Okay.

7 Then as - as soon as you go back, was he s - again sitting in the driver's seat
8 at that point?

9 A. Yes.

10 Q. And was the door closed then?

11 A. Upon - after running his license, yes.

12 Q. Okay.

13 Did he have the heater running?

14 A. I didn't get in to check.

15 Q. Okay.

16 A. I would assume he did. It was cold.

17 Q. Okay.

18 When you tried to do Nystagmus, was he able to keep his head still or not?

19 A. No.

20 Q. At any point did he attempt to move the vehicle?

21 A. No.

22 Q. At any time during your contact with him?

23 A. No.

24 Q. When you first approached the vehicle and began to engage with the

1 driver, did you see any obvious injuries that would indicate he needed to go to the
2 hospital or something like that?

3 A. No.

4 Q. There was no blood on him anywhere?

5 A. Not that I saw, no.

6 Q. Didn't show any signs of having any respiratory distress, he was able to
7 breathe?

8 A. Yes.

9 Q. Okay.

10 And you didn't have any dispatch calls to that vehicle?

11 A. No.

12 Q. And you had no dispatch calls indicating that the dollar store may have
13 been robbed that night?

14 A. Correct.

15 Q. Okay.

16 MR. SEARS: May I approach, Your Honor?

17 THE COURT: You may.

18 MR. SEARS: I'm gonna hand you a document, Sergeant, that on the
19 bottom it has "Four D. A. Discovery", and "Five D. A. Discovery". I'd like you to take
20 a look at those for me if you can.

21 Do you recognize those documents?

22 A. Yes.

23 Q. And how do you recognize them?

24 A. This would be the narrative from my case report.

1 Q. And you prepared that?
2 A. Yes.
3 Q. And at the time that you prepared it, did you endeavor to be honest and
4 truthful?
5 A. Yes.
6 Q. And did you endeavor to make it as factually correct as you could?
7 A. Yes.
8 Q. Have you reviewed it before coming in to Court today?
9 A. Yes.
10 Q. And do you have any changes that you would like to make, to make it
11 correct or fix any errors in it?
12 A. Let me read it.
13 Q. Okay.
14 A. None that I see.
15 Q. Thank you.
16 You - you asked him if he had driven that night.
17 Is that correct?
18 A. During the Questionnaire portion?
19 Q. No, when you were at the vehicle.
20 A. I don't recall.
21 Q. Okay.
22 A. I'd have to watch the video.
23 Q. Okay.
24 And did you testify that alcoholic beverages were found in the vehicle?

1 A. I didn't testify to that.

2 Q. Okay.

3 Were they?

4 A. Deputy Saunders located some -

5 Q. Bottle of vodka?

6 A. Yeah, a -

7 Q. Two - two bottles I believe - a Grey Wolf vodka or something like that.

8 A. Correct.

9 Q. Okay.

10 And then -

11 A. White Wolf vodka.

12 Q. Wh - oh, that's what it was, White Wolf.

13 A. Yeah.

14 Q. And did he also indicate he was living in his car?

15 A. Yes.

16 Q. And where - was that sort of the detritus and furniture and furnishings in
17 the car, did that seem kind of consistent with him living in his car?

18 I remember two coolers in the trunk and food wrappers and -

19 A. Yeah, it would be a bare bones set up, but it was believable, yeah.

20 Q. Okay.

21 Did you inquire about where he was working? Or whether he was working?

22 A. At the mine, I believe he said.

23 Q. Okay.

24 And do you know whether or not there are sleeping facilities at Love's?

1 A. I don't believe there are.
2 Q. All right.
3 MR. SEARS: I'll pass the Witness, Your Honor.
4 THE COURT: Re -
5 MR. SEARS: Oh, if I can take that back.
6 THE COURT: Yeah, that's fine.
7 Re-Direct?
8 MS. PETERSON: Thank you, Your Honor. And Your Honor, I'd like to
9 go ahead and move to have that admitted, if it was used for refreshing recollection.
10 MR. SEARS: I don't care. If I can just have it back.
11 THE COURT: We'll make you a copy of it.
12 Do you have any objection to admitting it?
13 MR. SEARS: No.
14 THE COURT: All right.
15 So, we'll admit it. What we'll do is we'll mark it as - do you want to just -
16 Plaintiff's -
17 BAILIFF: Would you like - make a copy first, sir?
18 THE COURT: Let's mark it and then we'll give them a copy
19 front and back so we'll know what it was.
20 MR. SEARS: Thank you, Your Honor.
21 BAILIFF: Thank you, sir.
22 THE COURT: So we'll just mark it as - let's use the red one.
23 You've got a blue one, that's - mark it as Defense A. So this will be marked as
24 Defense A.