

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

2 _____

3 JEREMY BROWN-WHEATON,)

No. 83896

4 Appellant,)

5 v.)

6)

7 THE STATE OF NEVADA,)

8 Respondent.)

Electronically Filed
Mar 07 2022 07:40 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

9 _____)

10 **APPELLANT'S APPENDIX VOLUME I PAGES 001-250**

11 DARIN F. IMLAY
12 Clark County Public Defender
13 309 South Third Street
Las Vegas, Nevada 89155-2610

14 Attorney for Appellant

STEVE WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

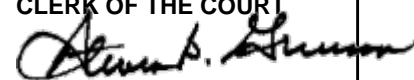
AARON FORD
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

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JEREMY BROWN-WHEATON
Case No. 83896

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26		
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28		



1 **IND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MELANIE SCHEIBLE
6 Deputy District Attorney
7 Nevada Bar #14266
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7
8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO: C-20-352265-1

11 -vs-

DEPT NO: XVIII

12 JEREMY BROWN-WHEATON, aka,
13 Jeremy Paul Brown Wheaton,
14 #8399146

Defendant.

INDICTMENT

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

17 The Defendant above named, JEREMY BROWN-WHEATON, aka, Jeremy Paul
18 Brown Wheaton, accused by the Clark County Grand Jury of the crime(s) of ESCAPE
19 (Category B Felony - NRS 212.090 - NOC 53417); BREAK, INJURE OR TAMPER WITH
20 MOTOR VEHICLE (Category C Felony - NRS 205.274, 193.155 - NOC 57916), and
21 BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229)
22 committed at and within the County of Clark, State of Nevada, on or about August 29, 2020,
23 as follows:

24 COUNT 1 - ESCAPE

25 did then and there willfully, unlawfully and feloniously, while being held in lawful
26 custody on the charge of Coercion, a felony, escape or attempt to escape from J. MIRANDA
27 of the Las Vegas Metropolitan Police Department, by breaking out the window of a patrol car,
28 exiting said patrol car and running away from said officer.

1 COUNT 2 - BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE

2 did then and there willfully, unlawfully, and feloniously, break, injure, tamper with, or
3 remove any part of patrol vehicle 18034, owned by the LAS VEGAS METROPOLITAN
4 POLICE DEPARTMENT, for the purpose of injuring, defacing and/or destroying said vehicle,
5 temporarily or permanently preventing its useful operation, and/or for any purpose against the
6 will or without the consent of said owner, or in any manner willfully or maliciously interfere
7 with or prevent the running or operation of said vehicle, by: kicking and breaking the window
8 out of said patrol car, the damage resulting in impairment of public communication,
9 transportation or police and fire protection.

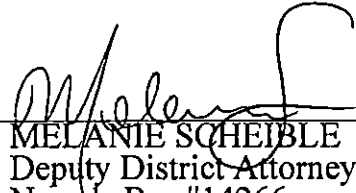
10 COUNT 3 - BATTERY BY PRISONER

11 did then and there willfully, unlawfully, feloniously, and knowingly use force or
12 violence upon the person of another, to wit: C. LEVY, by shoving and/or shoulder-checking
13 the said C. LEVY, Defendant at the time of the offense being held in lawful custody on the
14 charge of Coercion, a felony.

15 DATED this 18 day of November, 2020.

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

18
19 BY


20 MELANIE SCHEIBLE
21 Deputy District Attorney
22 Nevada Bar #14266
23
24

25 ENDORSEMENT: A True Bill

26 
27 Foreperson, Clark County Grand Jury
28

Names of Witnesses and testifying before the Grand Jury:

BELL, SHANICE – LVMPD

LEVY, RYAN – LVMPD

MIRANDA, JONATHAN – LVMPD

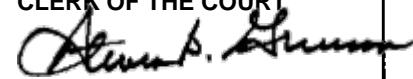
Additional Witnesses known to the District Attorney at time of filing the Indictment:

CUSTODIAN OF RECORDS - CCDC

CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS - LVMPD RECORDS

19BGJ225X/20CRN001678/mcb-GJ
LVMPD EV# 200800124549; 200700008188
(TK)



MOT
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MELANIE SCHEIBLE
Deputy District Attorney
Nevada Bar #14266
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JEREMY BROWN-WHEATON,
#8399146

Defendant.

CASE NO: C-20-352265-1

DEPT NO: XVIII

**STATE'S NOTICE OF MOTION
AND MOTION TO SET BAIL**

DATE OF HEARING: NOVEMBER 19, 2020
TIME OF HEARING: 11 AM
HEARING REQUESTED

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through MELANIE SCHEIBLE, Deputy District Attorney, and files this Notice Of Motion And Motion To Set Bail.

This Motion is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

NOTICE OF HEARING

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing motion on for setting before the above entitled Court, in Department Enter Dept. Number thereof, on Thursday, the 19th day of November, 2020, at the hour of 11

1 o'clock AM, or as soon thereafter as counsel may be heard.

2 DATED this 19th day of November, 2020.

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

5
6 BY /s/MELANIE SCHEIBLE
MELANIE SCHEIBLE
7 Deputy District Attorney
Nevada Bar #14266

8
9 **MOTION**

10 The State sets for the following facts in support of its request for an Arrest Warrant and
11 \$1,000,000 bail on the Indictment of the above-named Defendant in the instant case.

12 On July 2, 2020 at approximately 7:00PM LVMPD Officers Beckley and Villasenor
13 stopped Jeremy Brown-Wheaton (Defendant) in a vehicle after he failed to utilize a turn signal.
14 When officers made contact with Defendant, he identified himself as "Jaey Simmons," but no
15 record of his identity could be found. Officers advised him that it was a crime to give false
16 information to a police officer and Defendant still failed to provide accurate identification
17 information. Officer Villasenor then began to place Defendant's hands into handcuffs, but he
18 dropped his body weight and refused to allow his arms to be restrained. Defendant then
19 sprinted away from the officers and Officer Beckley grabbed Defendant by the hips. Officer
20 Villasenor tried to assist Officer Beckley with restraining the subject, but Defendant fought
21 both officers. Defendant punched Officer Villasenor at least twice in the back of the head,
22 and swung his elbows forcefully elbowing Officer Beckley in the back of her head
23 approximately 5 times.

24 After fighting with Officers Beckley and Villasenor, Defendant fled on foot and was
25 not apprehended on that day. Officers conducted an inventory search of the car he left behind,
26 where they found a receipt in Defendant's true name, Jeremy Brown-Wheaton.

27 On July 11, 2020, Officer Villasenor encountered the subject again at 4300 Lamont
28 Street, and recognized him as the individual who fought him on July 2nd and fled. Officer

1 Villasenor called out to Defendant using his first name, "Jeremy" and Defendant immediately
2 began running again. Officer Villasenor caught up to Defendant and engaged in another
3 struggle with him, during which Defendant elbowed Officer Villasenor in his right shoulder.

4 On July 11, 2020 Defendant was finally placed under arrest for resisting and battering
5 officers and transported to the Clark County Detention Center (CCDC.)

6 On July 13, 2020, Defendant's case was reviewed in Chambers by North Las Vegas
7 Township Justice Court (NLVJC) Department 3 and bail was set at \$8,000 in case
8 20CRN001289.

9 On July 15, 2020, Defendant posted the \$8,000 surety bond, but was not released due
10 to being held on a bench warrant in Henderson Municipal Court Case 19CR000821 in which
11 he was charged with Battery Domestic Violence.¹ The preliminary hearing in 20CRN001289
12 was scheduled for July 30, 2020 and later reset to November 5, 2020.

13 On or about August 5, 2020, Defendant appeared in Henderson Municipal Court and
14 was released with a return date of August 10, 2020.

15 On August 10, 2020, Defendant failed to appear in Henderson Municipal Court, but
16 paid the bail on the bench warrant and remained out of custody.

17 On August 17, 2020, a return date was set of September 8, 2020.

18 On August 29, 2020, Metro Officers Arturo Quezada and Johnathan Miranda responded
19 to an unknown trouble call at 4300 Lamont. Upon arrivals, the call details were updated to
20 indicate that the situation was related to domestic violence. As Officers Quezada and Miranda
21 knocked on the doors and windows of building 7 apartment 290, no one responded. However,
22 Officer Miranda heard muffled cries for help from a female.

23
24
25 ¹ Defendant was charged by way of Criminal Complaint on January 17, 2019 with Battery Domestic Violence in
26 19CR000821 and an arrest warrant issued. Defendant was arrested on that warrant on July 1, 2019. Defendant entered a
27 plea of guilty on or about July 8, 2019 where he was sentenced to out-of-custody requirements. On July 15, 2019
28 Defendant was required to serve jail time for failure to comply with the requirements and released to complete the
requirements. On October 30, 2019, Defendant continued to fail to comply with the court's requirements and a warrant
issued. Defendant was arrested on the warrant on November 18, 2019, and Defendant was granted a "last chance" to
complete his requirements. On April 28, 2020 Defendant was granted an extension by telephone to make required
payments. On May 18, 2020 another warrant issued for Defendant's arrest for failure to comply with the court's
requirements. Defendant was booked on that warrant when he was arrested on July 11, 2020.

1 Eventually, Officer Quezada kicked in a back door to the apartment and both officers
2 entered and apprehended Defendant inside the apartment. A female in the apartment explained
3 to Officer Miranda that Defendant had covered her mouth and dragged her into a bedroom and
4 closed the door when he heard the police arrive.

5 Again, Defendant refused to comply with commands or cooperate with officers. After
6 a struggle of approximately 20 minutes – and the efforts of more than 4 officers – Defendant
7 was placed into hobbles and handcuffs and placed in the back of Officer Miranda’s patrol car.
8 Defendant was placed under arrest for Coercion with Force of the female occupant of the
9 apartment and Officer Miranda then began to transport Defendant to CCDC.

10 Before their arrival at CCDC, Defendant refused to provide Officer Miranda with
11 accurate identifying information. To the contrary, Defendant successfully kicked out the back,
12 driver-side window of Officer Miranda’s vehicle, with his bare feet, and fled on foot. A foot
13 pursuit ensued, and Officer Miranda called for additional units.

14 Metro Officer set up a perimeter in the area of Bonanza and Casino Center. At least
15 three additional officers pursued Defendant on foot, while an officer in a patrol car positioned
16 the car in Defendant’s path. As Officer Levy, who was on foot, got closer to Defendant and
17 reached for him, Defendant shoulder-checked officer Levy and ran into the nearby patrol car.
18 Defendant turned around and continued to run in the opposite direction of the patrol car and
19 was finally struck with a taser by Officer Bell. Defendant was placed under arrested again and
20 transported first to UMC, then CCDC.

21 On August 31, 2020 Defendant’s case was reviewed in Chambers by North Las Vegas
22 Township Justice Court Department 1 and bail was set at \$27,000 in case 20CRN001678.

23 On September 1, 2020 Defendant appeared before North Las Vegas Township Justice
24 Court Department 1 and a Valdez-Jimenez hearing was held, at which time the court set bail
25 at \$27,000 with House Arrest as a condition of release. Defendant’s case was set for a
26 preliminary hearing on September 15, 2020.

1 On September 10, 2020, Defendant posted the \$27,000 bail, but what not released due
2 to be ineligible for House Arrest. House Arrest determined Defendant could not be supervised
3 based on his history of violence, battery on officers, and resisting officers.

4 On September 15, 2020, A preliminary hearing was held on case 20CRN001678. At
5 the conclusion of the preliminary hearing, the State moved to add an additional felony count
6 of Battery by a Prisoner to the charging document, which was granted. The North Las Vegas
7 Justice Court made a finding of probable cause for two charges, Escape and Breaking, Injuring,
8 or Tampering with a Motor Vehicle, both felonies. However, the Court elected to stay the
9 bindover of the charges. The court continued the preliminary hearing for further testimony on
10 the newly added charge of Batter by a Prisoner, and set a non-jury trial for the misdemeanor
11 count of Resisting a Public Officer. The continued hearing date was set for October 8, 2020.

12 Prior to the hearing on October 8, 2020, Defense Counsel indicated to the State that
13 Defendant was seeking to hire private counsel and the parties agreed to a continuance of the
14 preliminary hearing and non-jury trial. A new date was set for October 22, 2020.

15 On October 20, 2020, Defendant appeared before NLVJC again on his motion, filed by
16 and through his appointed counsel, to remove the condition of House Arrest. After long
17 arguments by both the State and Defense, the court granted the motion and changed
18 Defendant's custody status to \$27,000 bail (which he had already posted) and Intensive
19 Supervision. At that time, a new preliminary hearing and non-jury trial date was set for
20 December 2, 2020.

21 On October 20, 2020, Defendant, again, was not released from custody due to his
22 outstanding warrant from Henderson Municipal Court on case 19CR000821.

23 On October 22, 2020 Defendant appeared in Henderson Municipal Court on case
24 19CR000821, and a hearing was scheduled to address his failure to comply with the court's
25 orders on November 17, 2020.

26 On October 28, 2020, Officers responded to a battery call where Defendant was again
27 identified as the perpetrator under LVMPD Event number 201000121719, but had already fled
28 the scene.

1 On November 2, 2020, LVMPD Detective Maruyama submitted a request for an arrest
2 warrant for Defendant on the charges from October 28, 2020. That case is still pending in the
3 Clark County DA's Office with case number 202042397C.

4 On November 17, 2020 Defendant appeared again in Henderson Municipal Court for
5 case 19CR000821, where the suspended jail sentence was modified and imposed.² Defendant
6 was ordered to return on November 19, 2020 to begin serving his sentence.

7 When Defendant is out of custody, he fails to return to court and commits additional
8 crimes. He refuses to comply with lawful commands of police officers and engages in violent
9 altercations in every police interaction he has.

10 In the last four months, Defendant has fought with police officers on at least three
11 different occasions – July 2nd, July 11th, and August 29th. The proceedings in the instant case
12 were protracted in Justice Court when Defendant moved to have the House Arrest condition
13 of his release lifted after probable cause had already been found for two felony counts, days
14 before the scheduled hearing on the remaining counts.

15 Once the House Arrest condition was lifted in case 20CRN001678 and Defendant was
16 released from custody on October 20, it only took a few days before he contacted the victim
17 of the August 29, 2020 incident and police were called to respond *again*.

18 Like the times before, Defendant evaded the police on October 28th, and remains out of
19 custody with no supervision.

20 //

21 //

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27
28 ² His sentenced was modified to 60 days and the Court is allowing Defendant to serve the sentence in four-day increments.

1
2 There are no means less restrictive than keeping Defendant confined to the Clark
3 County Detention Center that would ensure the safety of the community and his return to court.
4 Therefore, the State requests that an Arrest Warrant issue with an unattainable bail amount of
5 \$1,000,00 and the requirement of House Arrest, should Defendant make bail.
6

7 DATED this 19TH day of November, 2020.


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

10 BY /s/MELANIE SCHEIBLE
11 MELANIE SCHEIBLE
12 Deputy District Attorney
13 Nevada Bar #14266
14
15
16

17 CERTIFICATE OF ELECTRONIC FILING
18

19 I hereby certify that service of State's Notice of Motion and Motion to Set Bail, was
20 made this 19th day of November, 2020, by Electronic Filing to:
21

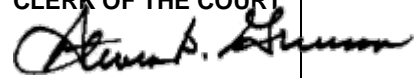
22 PUBLIC DEFENDER
23 pdclerk@clarkcountynv.gov

24 
25 _____
26 Secretary for the District Attorney's Office
27
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MS/ms/L5

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
11/19/2020 10:09 AM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Jeremy Brown-Wheaton

Case No.: C-20-352265-1
Department 28

NOTICE OF HEARING

Please be advised that the State's Motion to Set Bail in the above-entitled matter is set for hearing as follows:

Date: November 23, 2020
Time: 1:45 PM
Location: RJC Courtroom 15C
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Imelda Murrieta
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Imelda Murrieta
Deputy Clerk of the Court

Heather S. Linn
CLERK OF THE COURT

WARR

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JEREMY BROWN-WHEATON, aka,
Jeremy Paul Brown Wheaton
ID#8399146

Defendant.

CASE NO: C-20-352265-1

DEPT NO: XVIII

WARRANT FOR ARREST

INDICTMENT WARRANT

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An Indictment having been found on the 19TH day of November, 2020, in the above entitled Court, charging Defendant JEREMY BROWN-WHEATON, aka, Jeremy Paul Brown Wheaton, above named, with the crime(s) of: (1) CT - ESCAPE (Category B Felony - NRS 212.090 - NOC 53417);

(1) CT - BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE (Category C Felony - NRS 205.274, 193.155 - NOC 57916), (1) CT - BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229).

YOU ARE, THEREFORE, COMMANDED forthwith to arrest and bring said Defendant before the Court to answer the Indictment. If the Court is not in session, you are to deliver Defendant into the custody of the Sheriff of Clark County, or if requested by Defendant, take Defendant before any Magistrate in the County where arrested that bail may be given to answer to the Indictment. Defendant shall be admitted to bail in the sum of \$ 250,000 with the following added conditions:

I HEREBY AUTHORIZE THE SERVICE OF THE WITHIN WARRANT BY TELETYPE, PURSUANT TO NRS 171.148. The Warrant may be served at any hour day or night.

GIVEN under my hand this ____ day of November, 2020.

Dated this 25th day of November, 2020



LINDA MARIE BELL
DISTRICT COURT JUDGE VII
EF9 244 BEB4 886C
Linda Marie Bell
District Court Judge

DA# 19BGJ225X/20CRN001678/mcb
LVMPD EV#200800124549; 200700008188
03/21/1998; BMA; 623-04-1726;
(TK)

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

JEREMY BROWN-WHEATON, aka,
Jeremy Paul Brown Wheaton,
ID#8399146

Defendant.

CASE NO: C-20-352265-1
DEPT NO: XVIII

INDICTMENT WARRANT RETURN

An Indictment having heretofore been found on the 19TH day of November, 2020, in the above entitled Court, charging Defendant JEREMY BROWN-WHEATON, aka, Jeremy Paul Brown Wheaton, above named, with the crime(s) of: (1) CT - ESCAPE (Category B Felony - NRS 212.090 - NOC 53417);

(1) CT - BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE (Category C Felony - NRS 205.274, 193.155 - NOC 57916), (1) CT - BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229), and upon finding the said Indictment, the court issued a warrant for the arrest of said Defendant.

I hereby certify that I received a certified copy of the Indictment Warrant and served the same by arresting the within Defendant on the ____ day of _____ 2020.

JOSEPH LOMBARDO
Sheriff, Clark County, Nevada

BY: _____
Deputy

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-20-352265-1

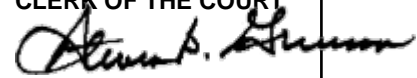
7 vs

DEPT. NO. Department 18

8
9 Jeremy Brown-Wheaton

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
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DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
CHRISTOPHER M. PETERSON, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 13932
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Christopher.Peterson@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-20-352265-1
)	
v.	)	DEPT. NO. XVIII
)	
JEREMY BROWN-WHEATON,)	
)	
Defendant,	)	DATE: December 8, 2020
	)	TIME: 10:15 a.m.

DEFENDANT'S OPPOSITION TO THE STATE'S MOTION TO SET BAIL

COMES NOW, the Defendant, JEREMY BROWN-WHEATON, by and through CHRISTOPHER M. PETERSON, Deputy Public Defender and hereby requests that the Court deny the State's motion to set bail at \$1,000,000 with House Arrest. The State has failed to meet its burden under Valdez-Jimenez v. Eighth Jud. Dist. Ct., 136 Nev. Adv. Op. 20, 460 P.3d 976, 984 (2020), as it has not shown by clear and convincing evidence that the current conditions imposed on Mr. Brown-Wheaton's release are insufficient to ensure the safety of the community and Mr. Brown-Wheaton's return to court.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 7th day of December, 2020.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Christopher M. Peterson
CHRISTOPHER M. PETERSON, #13932
Deputy Public Defender

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CHRISTOPHER M. PETERSON makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am a Deputy Public Defender for the Clark County Public Defender's Office appointed to represent Defendant Jeremy Brown-Wheaton in the present matter;

2. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 7th day of December, 2020.

/s/Christopher M. Peterson
CHRISTOPHER M. PETERSON

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Mr. Brown-Wheaton requests that the Court deny the State's motion to set bail at
3 \$1,000,000 with House Arrest. The State has failed to meet its burden under Valdez-Jimenez v.
4 Eighth Jud. Dist. Ct., 136 Nev. Adv. Op. 20, 460 P.3d 976, 984 (2020), as it has not shown by
5 clear and convincing evidence that the current conditions imposed on Mr. Brown-Wheaton's
6 release are insufficient to ensure the safety of the community and Mr. Brown-Wheaton's return
7 to court.

8
9 **STATEMENT OF FACTS AND PROCEDURAL HISTORY**

10 Mr. Brown-Wheaton made his first appearance in this case on September 1, 2020 before
11 North Las Vegas Justice Department 1 under justice court case number 20CRN001678. Judge
12 Hoo made a custody determination after reviewing the allegations in the police reports from the
13 August 29th incident and being made aware that Mr. Brown-Wheaton had two other pending
14 criminal matters (Henderson municipal case 19CR000821 and what is now C-20-352037-1),
15 setting Mr. Brown-Wheaton's bail at \$27,000 along with a release condition of House Arrest.
16 The preliminary hearing was set for September 15, 2020.

17 On September 10, 2020, Mr. Brown-Wheaton posted bail. However, CCDC determined
18 that he did not qualify for supervision on House Arrest, and Mr. Brown-Wheaton was not
19 released at that time.

20 On September 15, 2020, the State presented three witnesses to North Las Vegas
21 Department 1: Officers Quezada, Miranda, and Bell.¹ After the close of evidence, Judge Hoo
22 boundover one count of Escape and another of Breaking and Tampering of a Motor Vehicle.
23 These counts are identical to Counts 1 and 2 of current indictment. However, when the State
24 sought bindover on a count of Battery by Prisoner (now Count 3 in the State's indictment), the
25 justice court stayed its bindover, bifurcated that charge, and continued the preliminary hearing.
26 This decision was due to the State's failure prior to the hearing to give any notice regarding the

27 _____
28 ¹ Three of the four witnesses that would ultimately appear before the grand jury.

1 charge or any documentation indicating that any officers had been battered by Mr. Brown-
2 Wheaton.²

3 On October 20, 2020, Mr. Brown-Wheaton requested that the justice court remove the
4 House Arrest condition that resulted in his *de facto* detention. After hearing argument from the
5 State and Mr. Brown-Wheaton, Judge Hoo lifted the House Arrest requirement, instead requiring
6 Mr. Brown-Wheaton to comply with Intensive Supervision. This change was made over the
7 State's objection, and Judge Hoo denied the State's request that bail be raised to \$250,000. Mr.
8 Brown-Wheaton was subsequently released from custody.

9 On October 29, 2020, the district attorney handling this case sent notice to Mr. Brown-
10 Wheaton's counsel that the State intended to seek an indictment, and the Marcum notice
11 indicated that the State sought to consolidate the allegations in this case and the allegations in
12 case C-20-352037-1, specifically the incidents from July 7 and July 11, 2020. See Exhibit A,
13 October 29, 2020 Email Between Deputy District Attorney Melanie Scheible and Deputy Public
14 Defender Christopher Peterson; Exhibit B, *Marcum* notice. The district attorney stated that she
15 was seeking an indictment due to the delay in justice court proceedings and did not reference any
16 new allegations against Mr. Brown-Wheaton. Ex. A. The assigned district attorney, Chief
17 Deputy Jay P. Raman, handling C-20-352037-1 was included on that email. Id.

18 On November 5, 2020, counsel for Mr. Brown-Wheaton sent a response letter
19 acknowledging receipt of the State's *Marcum* notice. See Exhibit C, *Marcum* response letter.
20 Counsel also requested to be notified if the State intended to request a change in Mr. Brown-
21 Wheaton's custody status. Id. at 2. The State acknowledged receipt of the letter but did not
22 respond to Mr. Brown-Wheaton's request to be present regarding changes in his custody status.
23 Exhibit D, November 5, 2020 Email Between Deputy District Attorney Melanie Scheible and
24 Deputy Public Defender Christopher Peterson.

26 ² After the hearing was continued, the State acknowledged that Officer Levy did not accuse Mr. Brown-
27 Wheaton of battering him in any contemporary incident reports, declarations of arrest, temporary custody
28 records, requests for prosecution, or similar documentation. The alleged battery also does not appear in
any of the CAD or radio dispatch logs that have been provided to Mr. Brown-Wheaton.

1 Also on November 5, 2020, Mr. Brown-Wheaton waived up on the negotiation in C-20-
2 352037-1, resolving all charges from the July 2nd and 11th incidents to one charge of Battery on a
3 Protected Person (GM) with the State agreeing to have no opposition to probation. On December
4 3, 2020, Mr. Brown-Wheaton filed his guilty plea with the district court. Exhibit E, Guilty Plea
5 Agreement in C-20-352037-1. Mr. Brown-Wheaton's plea colloquy is set for December 8, 2020.

6 On November 17, 2020, Mr. Brown-Wheaton appeared before Judge Mark Stevens in
7 Henderson Municipal Court Department 1 in regards to his open case in 19CR000821.³ While
8 Mr. Brown had a suspended sentence of six months with a stay out of trouble order as a
9 condition of informal probation, Judge Stevens decided to only impose 60 days and permit Mr.
10 Brown to serve weekends in the Henderson Detention Center, allowing for Mr. Brown to
11 continue working. Since the Mr. Brown-Wheaton had this sentence imposed, he has voluntarily
12 turned himself in to the Henderson Detention Center as ordered by the municipal court.

13 Counsel and the State also had an email exchange starting on November 17, 2020 and
14 ending on November 18, 2020. Exhibit F, November 17-18, 2020, Email Between Deputy
15 District Attorney Melanie Scheible and Deputy Public Defender Christopher Peterson. During
16 that exchange, counsel for Mr. Brown-Wheaton explicitly requested the State give him notice of
17 any grand jury return date so that he could ensure that Mr. Brown-Wheaton would be present
18 court. Id. The State refused, stating it would be requesting a warrant because it believed that Mr.
19 Brown-Wheaton had his underlying sentence in Henderson Municipal Court imposed. Id.
20 Counsel explained that Mr. Brown-Wheaton was only sentenced to weekends and would be
21 available to appear in court for the return. Id. The State again refused counsel's request, this time
22 without explanation. Id. The State made no reference to any new allegations made against Mr.
23 Brown-Wheaton since his release.

24 On November 20, 2020, counsel received notice from this Court that Mr. Brown-
25 Wheaton was set for initial arraignment the following day on same allegations as those raised in
26 20CRN001678. Counsel contacted Mr. Brown-Wheaton and informed him of the court date.

27 ³ Prior to taking the bench, Judge Stevens served in both the Henderson City Attorney's Office as a
28 prosecutor and the Henderson Police Department as a patrol officer.

1 On November 21, 2020, though he was aware that there was a \$250,000 warrant that had
2 been granted without either he or his counsel present when the true bill was returned, Mr.
3 Brown-Wheaton appeared before the Court. This Court quashed Mr. Brown-Wheaton's warrant
4 but set a status check for December 8, 2020 to determine whether the State had an explanation as
5 to why Mr. Brown-Wheaton should be detained.

6 Mr. Brown-Wheaton offers this Opposition to the State's Motion to Set Bail.

8 ARGUMENT

9 Mr. Brown-Wheaton asks that this Court deny the State's request to change his custody
10 status. The Nevada Constitution recognizes that a defendant has a fundamental right to liberty
11 pending trial. Valdez-Jimenez v. Eighth Jud. Dist. Ct., 136 Nev. Adv. Op. 20, 460 P.3d 976, 984
12 (2020). This means that if the State intends to detain a defendant pending trial, it must prove by
13 clear and convincing evidence there are no less restrictive means to ensure the safety of the
14 community and the defendant's return to court. Id., 136 Nev. Adv. Op. 20, 460 P.3d at 984-86.
15 The State fails to meet that burden here. Mr. Brown-Wheaton has a minimal prior record and
16 connections to the community. Mr. Brown-Wheaton has shown a willingness to re-enter
17 detention when necessary and has appeared in Court even when aware that there is a serious
18 possibility that he would be remanded. In turn, the State only offers allegations, not evidence, to
19 support its claim that Mr. Brown-Wheaton should be remanded. Furthermore, the State's request
20 runs contrary to the orders issued by Judge Hoo in North Las Vegas Department 1 and Judge
21 Stevens in Henderson Municipal Court Department 1, and with the State's own actions in C-20-
22 352037-1. For these reasons, the State's request to change Mr. Brown-Wheaton's custody status
23 must be denied.

24 **I. Mr. Brown-Wheaton's background indicates that he is not a danger to the 25 community nor is he a flight risk.**

26 Mr. Brown-Wheaton has an established residence here in Clark County at 4300 Lamont
27 Street, Apartment 290. His sister, Kalina Sharp, also lives in Clark County, and she has
28

1 previously verified this information to counsel. Mr. Brown-Wheaton has stayed in contact with
2 his counsel since his release from custody.

3 Looking at Mr. Brown-Wheaton's history, he has one prior misdemeanor conviction in
4 19CR000821 and has pled guilty to a gross misdemeanor in C-20-352037-1. He has no prior
5 felony convictions.

6 His background does not indicate that this Court must impose additional restrictions
7 beyond those already imposed in this case.

8 **II. Mr. Brown-Wheaton's conduct since his release from custody in October indicates**
9 **that he is not a flight risk nor a danger to the community.**

10 Since his release in October, Mr. Brown-Wheaton the record shows that he has compliant
11 with all court orders, even when compliance means that he will be detained, with the only
12 "missed" appearances due to having a conflicting court-related responsibility (i.e. another court
13 date or turning himself in the Henderson Detention Center). He has checked in with Intensive
14 Supervision as required. He has turned himself into the Henderson Detention Center when he is
15 scheduled to do so knowing that he will spend time in custody. He appeared before this Court on
16 November 21, 2020, knowing that there was a serious possibility that this Court would detain
17 him on the outstanding warrant in this case.

18 In turn, the State claims that Mr. Brown-Wheaton was involved in an incident on October
19 28, 2020 and claims that this should be a basis for detention, but the State fails to establish this
20 claim by clear and convincing evidence: it offers simply no reports or any other documentation
21 from the incident.

22 The establish record, backed by verifiable fact, shows that Mr. Brown-Wheaton is not a
23 flight risk nor is he a danger to the community.

24 **III. Henderson Municipal Court Department 1's decision to modify Mr. Brown-**
25 **Wheaton's sentence and the State's own conduct indicate that Mr. Brown-Wheaton**
26 **is not a danger to the community or flight risk.**

27 The district attorney handling this case relies on Mr. Brown-Wheaton's alleged conduct
28 in this case, 202042397C, and C-20-352037-1, all of which occurred before November, when it
claims that Mr. Brown-Wheaton is a danger to the community. Yet this claim conflicts with

1 decision made by Henderson Municipal Court Judge Stevens in 19CR000821 and the State's
2 own offer in C-20-352037-1.

3 On November 17, 2020, Judge Stevens had the authority to impose a six-month sentence
4 on Mr. Brown-Wheaton. If Judge Stevens believed that Mr. Brown-Wheaton was a danger, he
5 certainly would have imposed the full six-months without modification to incapacitate Mr.
6 Brown-Wheaton for as long as possible. Instead Judge Stevens imposed a modified sentence of
7 60 days and permitted Mr. Brown-Wheaton to serve weekends.

8 Furthermore, the State offered, and Mr. Brown-Wheaton accepted, a negotiation for
9 formal probation in C-20-352037-1 after the State says 202042397C entered screening. It is
10 incoherent for the State to offer formal probation in a case that the State seems to think is related
11 to this one while demanding that Mr. Brown-Wheaton be remanded and detained on the
12 incomprehensibly high bail of \$1,000,000,000 on the companion case. It does not make sense for
13 the State to agree to probation if they believe Mr. Brown-Wheaton cannot safely remain in the
14 community.

15 Overall, multiple experienced judges and at least one experienced prosecutor have
16 reviewed Mr. Brown-Wheaton's situation and determined that while Mr. Brown-Wheaton
17 deserves some consequences for his past actions, he does not need to be incapacitated. The
18 request for \$1,000,000,000 bail by this district attorney is disconnected from the facts on the
19 record and the reality of Mr. Brown-Wheaton's circumstances. The request must be denied.

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1 **CONCLUSION**

2 Mr. Brown-Wheaton requests that this Court deny the State's request to change his bail
3 status. The State has failed to show that his detention is warranted or more restrictive means are
4 necessary to ensure the safety of the community or Mr. Brown-Wheaton's return to court by
5 clear and convincing evidence as required by the Nevada Constitution.

6
7 DATED this 7th day of December, 2020.

8 DARIN F. IMLAY
9 CLARK COUNTY PUBLIC DEFENDER

10 By: /s/Christopher M. Peterson
11 CHRISTOPHER M. PETERSON, #13932
12 Deputy Public Defender
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YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 8th day of December, 2020, at 10:15 a.m.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

CERTIFICATE OF ELECTRONIC SERVICE

By: /s/Christopher M. Peterson -PD
An employee of the
Clark County Public Defender's Office

EXHIBIT A

Kayleigh Lopatic

From: Melanie Scheible <Melanie.Scheible@clarkcountyda.com>
Sent: Thursday, October 29, 2020 5:00 PM
To: Christopher Peterson
Cc: Jay Raman
Subject: BROWN WHEATON MARCUM.pdf
Attachments: BROWN WHEATON MARCUM.pdf

Hey Chris,

I don't know if you have Brown-Wheaton's other case, but I am thinking about indicting them both since our prelim got set so far out. Marcum is attached.

Thanks!
Melanie

EXHIBIT B

STATE'S NOTICE OF INTENT TO SEEK INDICTMENT

TO: JEREMY BROWN-WHEATON AND/OR YOUR LEGAL COUNSEL CHRISTOPHER PETERSON

YOU ARE HEREBY NOTIFIED THAT THE DISTRICT ATTORNEY MAY SEEK AN INDICTMENT AGAINST YOU FOR THE CRIMES OF:

COERCION, BATTERY ON A PROTECTED PERSON, ASSAULT ON A PROTECTED PERSON, ESCAPE, BATTERY BY A PRISONER; AND/OR ANY OTHER CHARGES ARISING OUT OF THE INCIDENTS OCCURRING ON OR ABOUT JULY 7-11, 2020 AND AUGUST 29, 3030; AGENCY EVENT NUMBERS: 200800124549, 200700008188, 2007000048991

A person whose indictment the District Attorney intends to seek or the Grand Jury on its own motion intends to return, but who has not been subpoenaed to appear before the Grand Jury, may testify before the Grand Jury if he requests to do so and executes a valid waiver in writing of his constitutional privilege against self-incrimination. Nev. Rev. Stat. 172.241

You are advised that you may testify before the Grand Jury only if you submit a written request to the District Attorney and include an address where the District Attorney may send a notice of the date, time and place of the scheduled proceeding of the Grand Jury. Nev. Rev. Stat. 172.241

A person whose indictment the District Attorney intends to seek or the Grand Jury on its own motion intends to return, may be accompanied by legal counsel during any appearance before the Grand Jury. The legal counsel who accompanies a person may advise his client, but shall not address directly the members of the Grand Jury, speak in such a manner as to be heard by members of the Grand Jury, or in any other way participate in the proceedings of the Grand Jury. The court or the foreperson of the Grand Jury may have the legal counsel removed if he violates any of these provisions or in any other way disrupts the proceedings of the Grand Jury. Nev. Rev. Stat. 172.239

If you are aware of any evidence which tends to explain away the above crimes, and it is your desire that this evidence be presented to the Grand Jury, then you or your attorney must furnish such evidence to the office of the District Attorney immediately. **Responses to testify or present evidence must be addressed to:**

Clark County District Attorney, 200 Lewis Avenue, 3rd Floor, Rm. 3418 - Grand Jury, Las Vegas, NV89155-2211. The Grand Jury telephone numbers are operative 8:00 A.M. - 5:00 P.M. (702) 671-2570/ 671-2575

THIS IS THE ONLY NOTICE YOU WILL RECEIVE. It is your duty to respond as set forth above. Any response inconsistent with the above directions will be disregarded.

CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing was made this 29 day of OCTOBER, 2020, by MELANIE SCHEIBLE to:

CHRISTOPHER PETERSON
via email christopher.peterson@clarkcountynv.gov

By: MELANIE SCHEIBLE
District Attorney's Office

I certify that I received the above Notice of Intent To Seek Indictment _____

20CRN001678
Melanie Scheible

CCDA 9/05

EXHIBIT C



Office of the Public Defender

309 S. 3rd Street • Las Vegas NV 89101

(702) 455-4685 • Fax (702) 455-5112

Darin F. Imlay, Public Defender • F. Virginia Eichacker, Assistant Public Defender • Jason Frierson, Assistant Public Defender



November 4, 2020

Clark County District Attorney
200 Lewis Avenue, 3rd Floor – Grand Jury
Las Vegas, NV 89155

RE: State of Nevada v. Jeremy Brown-Wheaton
Case No. 20CRN001678

To whom it may concern,

I was emailed a copy of the District Attorney's Notice of Intent to Seek Indictment in Justice Court Case No. 20CRN001678 by DA Melanie Scheible at 5 PM on October 29, 2020.

As counsel of record, I would like to request notice of the time, date, and place of the grand jury hearing in accordance with NRS 172.241 so that Mr. Brown-Wheaton can testify at this hearing, if he so elects. You may send this information by email at: christopher.peterson@clarkcountynv.gov or by United States mail or hand delivery to: Christopher Peterson, Clark County Public Defender's Office, 309 Third St. #226, P.O. Box 552610, Las Vegas, Nevada, 89155-2610.

Additionally, I request that the State comply with its duty under NRS 172.145(2) and present any and all exculpatory evidence the State is aware of to the Grand Jury. Pursuant to Chapter 172, the letter is to serve as notice of our request to review the instructions on the law to be given to the grand jury for accuracy and completeness, so as to avoid an improperly instructed grand jury. Additionally, please be reminded of the grand jury's obligation to receive none but legal evidence to the best evidence in degree in accordance with NRS 172.135(2).

I would also like to request that the following exculpatory evidence be presented to the grand jury in connection with this indictment, as required pursuant to NRS 172.145(2):

(1) Any and all statements made by any State witness, or any other person, at any time that are in any manner inconsistent with statements of other witnesses.

(2) If the State seeks to indict Mr. Brown-Wheaton for Battery by a Prisoner with the alleged victim being an Officer Levy, we ask that the State present to the grand jury (a) that no officer, including Officer Levy, filed any reports alleging that Mr. Brown-Wheaton battered any officers on August 29, 2020, (b) that there is no record of radio calls by any officers, including Officer Levy, indicating that an officer had been battered, (c) Mr. Brown-Wheaton was not arrested for the charge of “Battery by Prisoner” on August 29, 2020, and (d) how many days after the incident that Officer Levy first reported the alleged battery, who he made that report, and in what form (i.e. verbal, written, etc.) that he made that report.

(2) Any and all statements by Mr. Brown-Wheaton denying the charges.

Please be advised that this request is in no way intended to limit the State’s duty to present exculpatory evidence to the grand jury pursuant to NRS 172.145.2. If the State is aware of exculpatory evidence not specifically requested in this letter, NRS 172.145.2 still confers a duty to present such evidence to the grand jury.

Additionally, if the grand jury returns a true bill and the State intends to address Mr. Brown-Wheaton’s custody status, please notify me with the date, time and location of the grand jury true bill return date in District Court so that I may attend to be heard regarding pretrial detention of Mr. Brown-Wheaton. I also have excellent contact with Mr. Brown-Wheaton and will insure he is aware of the return date.

If there are any questions or problems with any of the items listed in this letter, please contact me at (702) 455-2983 or by way of e-mail at christopher.peterson@clarkcountynv.gov.

Sincerely,

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

/s/ Christopher Peterson
Christopher M. Peterson
Deputy Public Defender

/cmp

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and foregoing **MARCUM LETER** was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountyda.com and Melanie.Scheible@clarkcountyda.com on this 5th day of November, 2020.

By: /s/ Erin Prisbrey
Employee of the Public Defender's Office

Case Name: Jeremy Brown-Wheaton

Case No. 20CRN001678

Dept No.: 1

EXHIBIT D

Kayleigh Lopatic

From: Melanie Scheible <Melanie.Scheible@clarkcountyda.com>
Sent: Monday, October 5, 2020 12:19 PM
To: Christopher Peterson
Subject: RE: Brown-Wheaton - Resisting Misdo Trial and Count 6 Prelim

Hi Chris – I was going to follow up with you today too. The only area in which I have made progress is finding Bell's body cam and sharing it with you. I will get the reports for both the other cases. And no, there is no additional discovery or reports related to the Battery by a prisoner charge.

Has your client given any thought to the offer?

From: Christopher Peterson <Christopher.Peterson@ClarkCountyNV.gov>
Sent: Monday, October 5, 2020 11:38 AM
To: Melanie Scheible <Melanie.Scheible@clarkcountyda.com>
Subject: RE: Brown-Wheaton - Resisting Misdo Trial and Count 6 Prelim

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Hello Melanie,

Two questions:

1. Do you have the report for 202028644C? I feel like this case has come up a few times.
2. Did Levy file any reports or requests for prosecution related to the alleged battery? At this point, I have not received any.

From: Melanie Scheible <Melanie.Scheible@clarkcountyda.com>
Sent: Friday, October 2, 2020 5:26 PM
To: Christopher Peterson <Christopher.Peterson@ClarkCountyNV.gov>
Subject: RE: Brown-Wheaton - Resisting Misdo Trial and Count 6 Prelim

Hi Chris,

Oops. I could not get the photos saved to disc, and they are too large to email. I will provide after troubleshooting the technical difficulties.

From: Melanie Scheible
Sent: Friday, October 2, 2020 4:57 PM
To: 'Christopher Peterson' <Christopher.Peterson@ClarkCountyNV.gov>
Subject: RE: Brown-Wheaton - Resisting Misdo Trial and Count 6 Prelim

Hello!

I received your official letter. If your client is interested in negotiating his cases now, here's a modified offer:

PG Escape (B) in 20CRN001678

RTA but state agrees to cap argument at 5 years (alternative: stip 12-30 months)

No opp c/c 19CR000821

d/m 20CRN001289 and 202028644C (one of them is getting dismissed anyway, but I don't see why you would NOT want it in writing in the GPA)

(Just so you know, attempts to escape are part of the escape statute, meaning there is no charge of "attempt escape" which is why I'm suggesting cap at 5.)

As for the discovery..

I am still awaiting the CAD and 911's, which I will send you when I have them. I am saving all the photos I have related to this case to a disc that I am sending to the 3rd floor reception desk for pick up. I've requested the use of force reports, but the only one I have is for the door kick, which is attached. I've also attached the rest of the reports I have.

I also do not have officer Bell's BC so I am looking into that, but I see Levy's – there is only one for him. Does your link also include 93 files?

And it has been so long since I've gone to trial that I have forgotten how to do a Henthorn request... but once I find the instructions or ask someone on Monday I will do one!

Melanie

From: Christopher Peterson <Christopher.Peterson@ClarkCountyNV.gov>

Sent: Wednesday, September 16, 2020 8:52 AM

To: Melanie Scheible <Melanie.Scheible@clarkcountynv.com>

Subject: Brown-Wheaton - Resisting Misdemeanor Trial and Count 6 Prelim

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Hi Melanie,

I have been working on putting together a discovery letter to be used generally for misdemeanor cases to make an accurate record of requests (just giving you a heads up if you receive one latter), but I wanted to get you specific discovery requests now while Brown-Wheaton is on my mind.

CAD/911

Trial – Please send the CAD/911.

BWC

Prelim - I don't seem to have any BWC for Bell or Leevy (sp?). Is there any available?

Trial – Please send downloadable links.

Reports

Trial – Please send the use of force reports drafted by the officers.

Photos

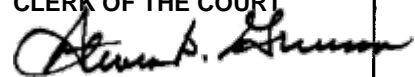
Trial – Based on Miranda’s testimony, it sounds like Brown-Wheaton had open sutures due to the use of the force in this case. If there were any pictures taken of the injury (or anything else from the incident), we would like copies of those photographs.

Police Records

Trial – Especially in light of the allegations here and the use of force, we ask that you review the personnel files of the officers involved in the case pursuant to U.S. v. Henthorn, 931 F.2d 29, 31 (9th Cir. 1991), and share any exculpatory information that may be found therein.

Christopher Peterson
Deputy Public Defender
Office of the Public Defender
309 S. Third Street, Suite 226
Las Vegas, Nevada 89155
Direct: (702) 455-2983
Fax: (702) 366-0521

EXHIBIT E



1 **GPA**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JAY P. RAMAN
6 Chief Deputy District Attorney
7 Nevada Bar #10193
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 JEREMY PAUL BROWN-WHEATON,
13 #8399146

14 Defendant.

CASE NO: C-20-352037-1

DEPT NO: XX

15 GUILTY PLEA AGREEMENT

16 I hereby agree to plead guilty to: **BATTERY ON AN OFFICER (Gross**
17 **Misdemeanor - NRS 200.481 - NOC 50221)**, as more fully alleged in the charging document
18 attached hereto as Exhibit "1".

19 My decision to plead guilty is based upon the plea agreement in this case which is as
20 follows:

21 The parties recommend probation. The State retains the right to argue terms and
22 conditions of probation.

23 I agree to the forfeiture of any and all weapons or any interest in any weapons seized
24 and/or impounded in connection with the instant case and/or any other case negotiated in
25 whole or in part in conjunction with this plea agreement.

26 I understand and agree that, if I fail to interview with the Department of Parole and
27 Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,
28 by affidavit review, confirms probable cause against me for new criminal charges including

1 reckless driving or DUI, but excluding minor traffic violations, the State will have the
2 unqualified right to argue for any legal sentence and term of confinement allowable for the
3 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
4 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without
5 the possibility of parole, life with the possibility of parole after ten (10) years, or a definite
6 twenty-five (25) year term with the possibility of parole after ten (10) years.

7 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
8 plea agreement.

9 CONSEQUENCES OF THE PLEA

10 I understand that by pleading guilty I admit the facts which support all the elements of
11 the offense(s) to which I now plead as set forth in Exhibit "1".

12 I understand that as a consequence of my plea of guilty I may be imprisoned in the
13 Clark County Detention Center for a period of not more than three hundred sixty-four (364)
14 days and that I may be fined up to \$2,000.00. I understand that the law requires me to pay an
15 Administrative Assessment Fee.

16 I understand that, if appropriate, I will be ordered to make restitution to the victim of
17 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
18 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
19 reimburse the State of Nevada for any expenses related to my extradition, if any.

20 I understand that I am eligible for probation for the offense(s) to which I am pleading
21 guilty. I understand that, except as otherwise provided by statute, the question of whether I
22 receive probation is in the discretion of the sentencing judge.

23 I understand that I must submit to blood and/or saliva tests under the Direction of the
24 Division of Parole and Probation to determine genetic markers and/or secretor status.

25 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,
26 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
27 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation
28 and may receive a higher sentencing range.

1 I understand that if more than one sentence of imprisonment is imposed and I am
2 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
3 the sentences served concurrently or consecutively.

4 I understand that information regarding charges not filed, dismissed charges, or charges
5 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

6 I have not been promised or guaranteed any particular sentence by anyone. I know that
7 my sentence is to be determined by the Court within the limits prescribed by statute.

8 I understand that if my attorney or the State of Nevada or both recommend any specific
9 punishment to the Court, the Court is not obligated to accept the recommendation.

10 I understand that if the offense(s) to which I am pleading guilty was committed while I
11 was incarcerated on another charge or while I was on probation or parole that I am not eligible
12 for credit for time served toward the instant offense(s).

13 I understand that if I am not a United States citizen, any criminal conviction will likely
14 result in serious negative immigration consequences including but not limited to:

- 15 1. The removal from the United States through deportation;
- 16 2. An inability to reenter the United States;
- 17 3. The inability to gain United States citizenship or legal residency;
- 18 4. An inability to renew and/or retain any legal residency status; and/or
- 19 5. An indeterminate term of confinement, with the United States Federal
20 Government based on my conviction and immigration status.

21 Regardless of what I have been told by any attorney, no one can promise me that this
22 conviction will not result in negative immigration consequences and/or impact my ability to
23 become a United States citizen and/or a legal resident.

24 I understand that the Division of Parole and Probation will prepare a report for the
25 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
26 sentencing, including my criminal history. This report may contain hearsay information
27 regarding my background and criminal history. My attorney and I will each have the
28 opportunity to comment on the information contained in the report at the time of sentencing.

1 Unless the District Attorney has specifically agreed otherwise, the District Attorney may also
2 comment on this report.

3 WAIVER OF RIGHTS

4 By entering my plea of guilty, I understand that I am waiving and forever giving up the
5 following rights and privileges:

- 6 1. The constitutional privilege against self-incrimination, including the right
7 to refuse to testify at trial, in which event the prosecution would not be
8 allowed to comment to the jury about my refusal to testify.
- 9 2. The constitutional right to a speedy and public trial by an impartial jury,
10 free of excessive pretrial publicity prejudicial to the defense, at which
11 trial I would be entitled to the assistance of an attorney, either appointed
12 or retained. At trial the State would bear the burden of proving beyond
13 a reasonable doubt each element of the offense(s) charged.
- 14 3. The constitutional right to confront and cross-examine any witnesses who
15 would testify against me.
- 16 4. The constitutional right to subpoena witnesses to testify on my behalf.
- 17 5. The constitutional right to testify in my own defense.
- 18 6. The right to appeal the conviction with the assistance of an attorney,
19 either appointed or retained, unless specifically reserved in writing and
20 agreed upon as provided in NRS 174.035(3). I understand this means I
21 am unconditionally waiving my right to a direct appeal of this conviction,
22 including any challenge based upon reasonable constitutional,
23 jurisdictional or other grounds that challenge the legality of the
24 proceedings as stated in NRS 177.015(4). However, I remain free to
25 challenge my conviction through other post-conviction remedies
26 including a habeas corpus petition pursuant to NRS Chapter 34.

20 VOLUNTARINESS OF PLEA

21 I have discussed the elements of all of the original charge(s) against me with my
22 attorney and I understand the nature of the charge(s) against me.

23 I understand that the State would have to prove each element of the charge(s) against
24 me at trial.

25 I have discussed with my attorney any possible defenses, defense strategies and
26 circumstances which might be in my favor.

27 All of the foregoing elements, consequences, rights, and waiver of rights have been
28 thoroughly explained to me by my attorney.

1 I believe that pleading guilty and accepting this plea bargain is in my best interest, and
2 that a trial would be contrary to my best interest.

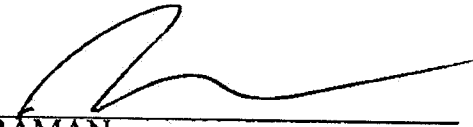
3 I am signing this agreement voluntarily, after consultation with my attorney, and I am
4 not acting under duress or coercion or by virtue of any promises of leniency, except for those
5 set forth in this agreement.

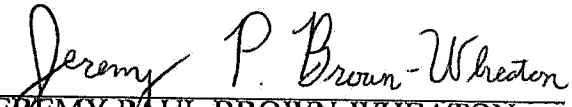
6 I am not now under the influence of any intoxicating liquor, a controlled substance or
7 other drug which would in any manner impair my ability to comprehend or understand this
8 agreement or the proceedings surrounding my entry of this plea.

9 My attorney has answered all my questions regarding this guilty plea agreement and its
10 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

11 DATED this 3rd day of ~~November~~^{December}, 2020.

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14
15 AGREED TO BY:

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17 _____
18 JAY P. RAMAN
19 Chief Deputy District Attorney
20 Nevada Bar #10193
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JEREMY PAUL BROWN-WHEATON
Defendant

→ Signed by Alexander Bassett
at the direction of
Jeremy P. Brown-Wheaton

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which guilty pleas are being entered.
6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.
8 3. I have inquired of Defendant facts concerning Defendant's immigration status
9 and explained to Defendant that if Defendant is not a United States citizen any
10 criminal conviction will most likely result in serious negative immigration
11 consequences including but not limited to:
12 a. The removal from the United States through deportation;
13 b. An inability to reenter the United States;
14 c. The inability to gain United States citizenship or legal residency;
15 d. An inability to renew and/or retain any legal residency status; and/or
16 e. An indeterminate term of confinement, by with United States Federal
17 Government based on the conviction and immigration status.

18 Moreover, I have explained that regardless of what Defendant may have been
19 told by any attorney, no one can promise Defendant that this conviction will not
20 result in negative immigration consequences and/or impact Defendant's ability
21 to become a United States citizen and/or legal resident.

- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
23 consistent with the facts known to me and are made with my advice to the
24 Defendant.
25 5. To the best of my knowledge and belief, the Defendant:
26 a. Is competent and understands the charges and the consequences of
27 pleading guilty as provided in this agreement,
28 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

Dated: This 3rd day of November, 2020.
December


PD BASSETT

cl/L5

Steven D. Grierson

1 **INFM**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **JAY P. RAMAN**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #10193**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

12 I.A. 11/16//20
13 10:00 AM
14 PD Bassett

DISTRICT COURT
CLARK COUNTY, NEVADA

15 **THE STATE OF NEVADA,**
16 **Plaintiff,**

17 **-vs-**

18 **JEREMY PAUL BROWN-WHEATON,**
19 **#8399146**

20 **Defendant.**

CASE NO: C-20-352037-1

DEPT NO: XX

INFORMATION

21 **STATE OF NEVADA** }
22 **COUNTY OF CLARK** } ss.

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

25 **That JEREMY PAUL BROWN-WHEATON, the Defendant(s) above named, having**
26 **committed the crime of BATTERY ON AN OFFICER (Gross Misdemeanor - NRS**
27 **200.481 - NOC 50221), on or between July 2, 2020 and July 11, 2020, within the County of**
28 **Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made**
and provided, and against the peace and dignity of the State of Nevada, did willfully,
unlawfully and knowingly use force or violence upon the person of another, to wit: K.
BECKLEY and/or F. VILLASENOR, who was performing his/her duty as a peace officer
employed with the Las Vegas Metropolitan Police Department, which defendant knew or

///


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EXHIBIT 111
V:\2020\285176\2020285176C-INFM-(JEREMY PAUL BROWN-WHEATON)-001.DOCX

1 should have known that K. BECKLEY and/or F. VILLASENOR was an officer, by striking
2 the said officer in the head with his elbow and/or by punching the said officer in the back.

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

6 BY


7 JAY P. RAMAN
8 Chief Deputy District Attorney
9 Nevada Bar #10193
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27 20CRN001289/cl/L5
28 LVMPD EV#200700008188
(TK)

EXHIBIT F

Kayleigh Lopatic

From: Melanie Scheible <Melanie.Scheible@clarkcountyda.com>
Sent: Wednesday, November 18, 2020 3:17 PM
To: Christopher Peterson
Subject: RE: 20CRN001678 - Brown-Wheaton - Marcum Letter

Hi Chris,
I will still be seeking a warrant.

Melanie

From: Christopher Peterson <Christopher.Peterson@ClarkCountyNV.gov>
Sent: Wednesday, November 18, 2020 3:14 PM
To: Melanie Scheible <Melanie.Scheible@clarkcountyda.com>
Subject: RE: 20CRN001678 - Brown-Wheaton - Marcum Letter

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I followed up with Mr. Brown-Wheaton, it sounds like he is serving weekends in that case but is out-of-custody during the week. As he will be available to come to court, do you still intend to request a warrant rather than issue a summons?

From: Melanie Scheible <Melanie.Scheible@clarkcountyda.com>
Sent: Tuesday, November 17, 2020 8:21 PM
To: Christopher Peterson <Christopher.Peterson@ClarkCountyNV.gov>
Subject: RE: 20CRN001678 - Brown-Wheaton - Marcum Letter

Hey Chris – so I’m just now catching up on all the developments in your client’s cases. While I share your understanding of his deal in 20CRN001289, I also believe his suspended sentence was imposed in his Henderson case today. If he’s indicted I’ll be requesting a warrant. However, that would still leave the misdemeanor trial for December 2nd. I know we usually trail misdemeanors for felony trials, but I’m not aware of any law that would prevent us from proceeding with the misdemeanor trial on December 2nd.

Melanie

From: Christopher Peterson <Christopher.Peterson@ClarkCountyNV.gov>
Sent: Tuesday, November 17, 2020 8:24 AM
To: Melanie Scheible <Melanie.Scheible@clarkcountyda.com>
Subject: RE: 20CRN001678 - Brown-Wheaton - Marcum Letter

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Hi Melanie,

My understanding is that Mr. Brown-Wheaton waived up on a negotiation in 20CRN001289-0000 and is pleading to a Battery on Protected Person, no opp probation. It is also my understanding that negotiation does not involve our case.

Do you still plan to go to the grand jury on our case? If not, wanted to make sure I'd be prepped for 12/2. If so, I have good contact with Brown-Wheaton and can provide him a return date to avoid any issues related to the bail transfer.

From: Melanie Scheible <Melanie.Scheible@clarkcountynv.gov>
Sent: Thursday, November 5, 2020 1:59 PM
To: Erin Prisbrey <Erin.Prisbrey@clarkcountynv.gov>
Cc: Christopher Peterson <Christopher.Peterson@ClarkCountyNV.gov>
Subject: RE: 20CRN001678 - Brown-Wheaton - Marcum Letter

Thanks. Chris, the time I have in front of the Grand Jury is on November 18th.

From: Erin Prisbrey <Erin.Prisbrey@clarkcountynv.gov>
Sent: Thursday, November 5, 2020 1:40 PM
To: Melanie Scheible <Melanie.Scheible@clarkcountynv.gov>; DA Motions <motions@ClarkCountyDA.com>
Cc: Christopher Peterson <Christopher.Peterson@ClarkCountyNV.gov>
Subject: 20CRN001678 - Brown-Wheaton - Marcum Letter
Importance: High

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Ms. Scheible,

Please see attached Marcum Letter. Please feel free to contact Mr. Giddens directly should you have any questions, at:

Email: Christopher.Peterson@ClarkCountyNV.gov

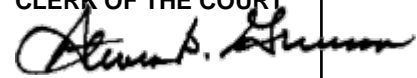
Phone: (702) 455-2983

Mail: Christopher Peterson
309 Third St., #226
P.O. Box 552610
Las Vegas, NV 89155-2610

Thank you,

Erin D. Prisbrey, Ph.D.
Legal Secretary
Team 07
Clark County Public Defender
Phone: (702) 455-3766
Fax: (702) 366-1306
Email: erin.prisbrey@clarkcountynv.gov

“People are doing the absolute best they can in most every situation. Try not to judge. You have been there before – or you will be.” – Professor Joe Gaines



0014
DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
CHRISTOPHER M. PETERSON, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 13932
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Christopher.Peterson@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-20-352265-1
)	
v.	)	DEPT. NO. XVIII
)	
JEREMY BROWN-WHEATON,)	
	)	DATE: January 5, 2021
Defendant,	)	TIME: 10:15 a.m.
)	

PETITION FOR WRIT OF HABEAS CORPUS

TO: The Honorable Judge of the Eighth Judicial District Court of
The State of Nevada, in and for the County of Clark

The Petition of Jeremy Brown-Wheaton submitted by CHRISTOPHER M. PETERSON, Deputy Public Defender, as attorney for the above-captioned individual, respectfully affirms:

1. That he/she is a duly qualified, practicing and licensed attorney in the City of Las Vegas, County of Clark, State of Nevada.

2. That Petitioner makes application for a Writ of Habeas Corpus; that the place where the Petitioner is imprisoned actually or constructively imprisoned and restrained of his liberty is the Clark County Detention Center; that the officer by whom he is imprisoned and restrained is the Sheriff of Clark County Nevada.

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1 3. That the imprisonment and restraint of said Petitioner is unlawful in that:
2 the State has failed to offer legal evidence to support each element of the offenses charged in
3 Counts 1, 2 and 3 of the Indictment.

4 4. That Petitioner consents that if Petition is not decided within 15 days
5 before the date set for trial, the Court may, without notice of hearing, continue the trial
6 indefinitely to a date designated by the Court.

7 5. That Petitioner personally authorized his aforementioned attorney to
8 commence this action.

9 WHEREFORE, Petitioner prays that this Honorable Court make an order
10 directing the County of Clark to issue a Writ of Habeas Corpus directed to the said the Sheriff of
11 Clark County Nevada, commanding him to bring the Petitioner before your Honor, and return the
12 cause of his imprisonment.

13 DATED this 21st of December, 2020.

14 DARIN F. IMLAY
15 CLARK COUNTY PUBLIC DEFENDER

16
17 By: /s/Christopher M. Peterson
18 CHRISTOPHER M. PETERSON, #13932
19 Deputy Public Defender
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DECLARATION

CHRISTOPHER M. PETERSON makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. That I am the attorney of record for Petitioner in the above matter; that I have read the foregoing Petition, know the contents thereof, and that the same is true of my own knowledge, except for those matters therein stated on information and belief, and as to those matters, I believe them to be true; that Petitioner, JEREMY BROWN-WHEATON, personally authorizes me to commence this Writ of Habeas Corpus action.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 21st day of December, 2020.

/s/Christopher M. Peterson
CHRISTOPHER M. PETERSON

**MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

COMES NOW the Petitioner, JEREMY BROWN-WHEATON, by and through his counsel, CHRISTOPHER M. PETERSON, the Clark County Public Defender's Office, and submits the following Points and Authorities in Support of Defendant's Petition for a pre-trial Writ of Habeas Corpus.

STATEMENT OF FACTS

The State has charged Mr. Brown-Wheaton with Escape (B Felony), Breaking, Injuring, or Tampering with a Motor Vehicle (C Felony), and Battery by Prisoner (B Felony) by way of indictment. The State's Indictment is based on evidence provided to a grand jury on November 18, 2020, where the State presented three witnesses: Jonathan Miranda, Ryan Levy, Shanice Bell. All witnesses were Las Vegas Metropolitan Police Department ("LVMPD") officers on August 29, 2020, when the alleged incident occurred.

During the course of their testimony, the officers offered the following narrative. Miranda responded to a domestic disturbance call at 4300 Lamont Street. Ex. A, Grand Jury Transcript ("GJT") at 10. He and another officer, Arturo Casada, knocked on the door of apartment 290 but received no answer. Id. at 12–14. Then the officers believed that they heard a woman's voice asking for help so Casada went to around to a second entrance and kicked that door in to enter the apartment. Id. at 14–15. When the officers entered the apartment, they saw Mr. Brown-Wheaton holding a baby and two black female adults. Id. at 16. Miranda and Casada entered the apartment and detained Mr. Brown-Wheaton. Id. at 17–18. After detaining Mr. Brown-Wheaton, Miranda interviewed one of the women in the apartment, Lexa Simpson, who stated that when the police arrived, Mr. Brown-Wheaton grabbed her face, pulled her into a back bedroom, and told her not to make any noise because he did not want the police in the house. Id. at 21.

Based on this statement from Simpson, Miranda decided that he had probable cause to arrest Mr. Brown-Wheaton for coercion. Id. at 22. Miranda placed Mr. Brown-Wheaton in the back of his police car. Id. At some point, Mr. Brown-Wheaton broke out a back window of the car, got out, and ran away from Miranda. Id. at 23–28.

1 After Mr. Brown-Wheaton ran away, other officers, including Bell and Levy, were called
2 to the scene to catch him. The officers found Mr. Brown-Wheaton in a trash can. Id. at 33. When
3 he jumped out, the officers used police vehicles to hem in Mr. Brown-Wheaton as Levy and
4 others attempted to get their hands on him. Id. at 34–35. Levy and Mr. Brown-Wheaton made
5 contact when Mr. Brown-Wheaton was turning to avoid a vehicle and Levy was trying to get
6 ahold of him. Id. at 35. Levy described Mr. Brown-Wheaton’s hands coming up “as he was
7 either pushing away from [the vehicle] trying to avoid the vehicle or push off and ha[ve]
8 leverage to keep pushing back the other way.” Id. at 37. When asked if Mr. Brown-Wheaton
9 pushed him, Levy said, “he never really pushed me, we just, we kind of collided into each other
10 as were both coming into that spot where the vehicle kind of pinched us in and that’s where he
11 pushed off of the vehicle and turned around and ran the other way.” Id. When asked if Mr.
12 Brown-Wheaton intentionally tried to “shoulder check” him, Levy stated “I couldn’t tell you
13 what his intentions were.” Id. at 40.

14 Based upon this evidence, the grand jury returned a true bill on all charges. Mr. Brown-
15 Wheaton was arraigned on the State’s Indictment on November 24, 2020, where he pled not
16 guilty to all counts. His trial is currently set for January 21, 2021.

18 ARGUMENT

19 The writ of habeas corpus is the fundamental instrument for safeguarding individual
20 freedom against arbitrary and lawless action. A pretrial writ of habeas corpus shall not be denied
21 where there is a showing of a lack of probable cause that a crime was committed or that the
22 petitioner committed it. Application of Rowland, 74 Nev. 215, 218, 326 P.2d 1102, 1103 (1958).

23 Though a finding of probable cause may be based on “slight” evidence, all evidence
24 received at a preliminary examination must be legal, competent evidence. Goldsmith v. Sheriff
25 of Lyon Cty., 85 Nev. 295, 303, 454 P.2d 86, 91 (1969). “The constitutional guarantee of due
26 process of law requires adherence to the adopted and recognized rules of evidence. There cannot
27 be one rule of evidence for the trial of cases and another rule of evidence for preliminary
28

1 examinations.” Id. (internal quotations omitted). The rule which requires less evidence at a
2 preliminary examination than at trial speaks to the “quantum, sufficiency, or weight of evidence
3 and not to its competency, relevancy, or character.” Id.

4 To hold a defendant to answer for trial, the State must demonstrate that (1) a crime has
5 been committed, and (2) the defendant committed the crime. N.R.S. § 172.155; Jones v. Sheriff,
6 93 Nev. 297, 565 P.2d 325 (1977). NRS 172.155 explicitly states that the State’s burden at the
7 grand jury is to establish probable cause. The Nevada Supreme Court has defined probable cause
8 as:

9 Probable cause requires that there shall be more evidence for guilt than against. It
10 must be supported by evidence which inclines the mind to believe, though there
11 may be room for doubt. The state of facts must be such as would lead a man of
ordinary caution and prudence to believe and conscientiously entertain a strong
suspicion.

12 State v. Von Brinken, 86 Nev. 769, 773 (1970), citing Ex Parte Kline, 71 Nev. 124, 282 P.2d 367
13 (1955). Probable cause “*may* be based on slight, even marginal, evidence.” Sheriff v. Dhadda,
14 115 Nev. 175, 180 (1999). However, ‘slight or marginal evidence’ is not the standard the State
15 must satisfy at grand jury. The standard remains, per NRS 172.1555, probable cause.

16 If the State fails to meet its burden, “an accused is entitled to be discharged from custody
17 under a writ of habeas corpus.” State v. Plas, 80 Nev. 251, 252 (1964); see also NRS 172.155.

18 **I. Count 3 must be dismissed because the State failed to offer evidence that (1) Mr.**
19 **Brown-Wheaton “willfully” made contact with Officer Levy or (2) that Mr. Brown-**
20 **Wheaton was a prisoner in “lawful custody” at the time of the contact**

21 To establish a charge under NRS 200.481.2(f), the State must offer evidence that (1) Mr.
22 Brown-Wheaton committed a battery on Levy and (2) Mr. Brown-Wheaton was a prisoner in
23 “lawful custody” at the time he committed the battery. The State failed offer sufficient evidence
24 of either here. First, the State failed to offer any evidence that Mr. Brown-Wheaton *intentionally*
25 came into contact Levy; Levy’s own testimony, when asked directly by a juror, was that he did
26 not know if the contact he had made with Mr. Brown-Wheaton was accidental. Second, the State
27 failed to establish that Mr. Brown-Wheaton was in custody when the contact occurred.

A. Count 3 must be dismissed because the State failed to offer evidence that Mr. Brown-Wheaton willfully made contact with Officer Levy

As defined by NRS 200.481.1(a), “‘Battery’ means any *willful* and unlawful use of force or violence upon the person of another.” (emphasis added). “The term “willful” modifies the phrase “use of force or violence,” and under Nevada law, “‘willful’ [is] synonymous with ‘intentional.’” Cox v. State, 132 Nev. 959, *1, 2016 WL 455647 (2015) (unpublished), citing Byars v. State, 130 Nev. 848, 862, 336 P.3d 939, 949 (2014); Robey v. State, 96 Nev. 459, 460, 611 P.2d 209, 210 (1980). So to commit a battery, “one must intend to use force against another.” Id.

Here the State failed to offer any evidence that the contact between Levy and Brown-Wheaton was intentional. Levy explained “[Brown-Wheaton] never really pushed me, we kind of collided into each other as we were both coming into that spot where [a] vehicle kind of pinched us in and that’s where he pushed off of the vehicle and turned around and ran the other way.” Ex. A, GJT at 37. A juror followed up by asking “did [Brown-Wheaton] shoulder check you,” and Levy responded, “[W]hen we came in it was both of us meeting right at the same time so our full force of us running and then coming to an abrupt stop because of the vehicle right there, that’s how we ended up hitting each other.” Id. at 39 – 40. When asked if Brown-Wheaton “intentionally tried to shoulder check [Levy],” Levy replied, “I couldn’t tell you what his intentions were.” GJT at 40.¹

While Levy’s testimony establishes that contact occurred between him and Mr. Brown-Wheaton, it did not establish that contact was intentional. Without some evidence that Mr. Brown-Wheaton intentionally “shoulder checked” Levy rather than accidentally ran into him after bouncing off of a police car, Count 3 must be dismissed.

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¹ Officer Shanice Bell testified that she saw Mr. Brown-Wheaton’s shoulder “bump” Levy when Levy went “to go hands-on,” but she did not comment on whether she believed the “bump” was intentional. GJT at 46.

B. Alternatively, Count 3 must be dismissed because the State failed to offer sufficient evidence that Mr. Brown-Wheaton was a “prisoner” at the time Officer Levy made physical contact with him

Even assuming that the State had offered evidence of a battery, NRS 200.481.2(f) only applies if the defendant is “a probationer, a prisoner who is in lawful custody or confinement or a parolee.” As the State clearly offered no evidence that Mr. Brown-Wheaton was a probationer, a parolee, or confined to a detention center, it needed to establish that Mr. Brown-Wheaton was in “lawful custody” when he came into contact with Levy. While NRS 200.481 does not defined “custody,” the Nevada Supreme Court has made clear that a defendant is only “in lawful custody” if there is an “an actual restraint of liberty. Dumaine v. State, 103 Nev. 121, 124, 734 P.2d 1230, 1232 (1987). In determining specifically whether a particular defendant could be charged with “battery by a prisoner,” the Court stated, “If [the defendant] had been running down the street, attempting to evade capture, with [the officer] in hot pursuit, repeatedly warning [the defendant] that he was under arrest, would [the defendant] have then been a prisoner? We think not.” Id.

In providing this hypothetical, the Dumaine Court appears to have accurately predicted the circumstances here. Mr. Brown-Wheaton was not “in lawful custody” when Levy made physical contact with him: Mr. Brown-Wheaton was running down the street, attempting to evade capture, with the officers hot in pursuit, repeatedly warning him he was under arrest. And Levy did not believe that Mr. Brown-Wheaton was not in “custody” when contact occurred: when asked by the State if Mr. Brown-Wheaton had been arrested when he and Levy bumped into each other, Levy stated “No. At that time *I was trying to take him into custody . . .*” GJT at 37 (emphasis added). Perhaps Miranda detained Mr. Brown-Wheaton at some point prior to the incident, but by the time Levy had arrived, Mr. Brown-Wheaton was no longer in custody as defined under Nevada law and as the State was required to prove. Count 3 must be dismissed.

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1 **II. Count 2 must be dismissed as the State failed to offer evidence that the damage to**
2 **the police vehicle impaired “public communication, transportation or police and fire**
3 **protection” or that the damage was more than \$5,000 as required establish a felony**
4 **offense under 193.155**

5 To establish a felony charge under NRS 205.274.1 for breaking, injuring, or tampering
6 with a motor vehicle, the State must show either that the value of the damage was \$5,000 or the
7 damage resulted “in impairment of public communication, transportation or police and fire
8 protection.” NRS 193.155.1. The State offered evidence that Mr. Brown-Wheaton broke a
9 window on Miranda’s police car. However, the State failed to offer any evidence regarding the
10 value of the damage to that window. Furthermore, while the State offered evidence that the car
11 was a police vehicle, it actually offered no evidence as to how the damage impacted the
12 performance of the vehicle and whether the damage impaired “police or fire protection” as
13 required under NRS 193.155.1.

14 The State offered no evidence regarding the impact of the damage or its value, Count 2
15 must be dismissed.

16 **III. Count 1 must be dismissed because the State failed to offer sufficient evidence that**
17 **the State had probable cause to detain Mr. Brown-Wheaton for felony Coercion**
18 **when Mr. Brown-Wheaton allegedly fled from Miranda’s police vehicle**

19 To establish a charge of Escape under NRS 212.090.1, the State must show that the
20 defendant was (1) “a prisoner confined in a prison, or being in lawful custody of an officer or
21 other person,” (2) escaped or attempted to escape for prison or custody, and (3) the prisoner was
22 being held on a charge, conviction, or sentence.² In turn, a defendant can only be considered in
23 “lawful custody” after an arrest if his arrest is supported by probable cause. NRS 171.1231.
24 “Probable cause to arrest exists when police have reasonably trustworthy information of facts
25 and circumstances that are sufficient in themselves to warrant a person of reasonable caution to
26 believe that [the crime] has been ... committed by the person to be arrested.” State v. McKellips,
27 118 Nev. 465, 472, 49 P.3d 655, 660 (2002).

28

29 ² Under NRS 212.090, the State must also specify what offense the defendant was being held on as there are
30 different penalties for defendants who escape while being held on felonies rather than misdemeanors. Compare NRS
31 212.090.1 (penalties for escape on felony charges) to NRS 212.090.2 (penalties for escape on misdemeanor
32 charges).

1 As made clear by its Indictment, the State claims that Mr. Brown-Wheaton was in lawful
2 custody on the charge of “felony Coercion.” See State’s Indictment, filed November 19, 2020.
3 Under NRS 207.190.1, which defines the offense of coercion, “it is unlawful for a person, with
4 the intent to compel another to do or abstain from doing an act which the other person has a right
5 to do or abstain from doing, to [u]se violence or inflict injury upon the other person or any of the
6 other person’s family, or upon the other person’s property, or threaten such violence or injury.”
7 Furthermore, coercion is only a felony if “physical force or the immediate threat of physical
8 force is used.” NRS 207.190.2

9 Count 1 must be dismissed the State failed to offer sufficient proof the grand jury that the
10 police had probable cause to arrest Mr. Brown-Wheaton for felony Coercion. According to
11 Miranda’s testimony, Simpson told him that Mr. Brown-Wheaton grabbed her face and pulled
12 Simpson into a backroom. However, Miranda’s testimony failed to establish that (1) this action
13 compelled or prevented Simpson from taking any specific action,³ or (2) it was ultimately done
14 without her consent. As this Court is limited to the testimony actually presented to the grand jury
15 in determining the sufficiency of the State’s evidence, Count 1 must be dismissed because the
16 State failed to offer sufficient evidence that probable cause existed for Mr. Brown-Wheaton’s
17 arrest on the charge of felony Coercion.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26
27 ³ While Miranda testified that he believed he heard a woman asking for help, there is no testimony before the grand
28 jury indicating that

1 **CONCLUSION**

2 The State failed to offer evidence to the grand jury support all elements of the charges
3 brought in Counts 1, 2, and 3 of its Indictment. With Count 3, the State failed to offer evidence
4 that Mr. Brown-Wheaton willfully made physical contact with Levy or that Mr. Brown-Wheaton
5 was in “lawful custody” when the contact occurred. With Count 2, the State failed to offer
6 evidence that the value of the damage was more than \$5000 or that the damage in fact impaired
7 “fire or police protection.” With Count 1, the State failed to offer sufficient evidence that
8 probable cause existed to detain Mr. Brown-Wheaton, which would have been necessary to show
9 that he was in “lawful custody” at the time he fled Miranda’s police car.

10 For these reasons, Mr. Brown-Wheaton requests that the Court grant this Petition and
11 dismiss Counts 1, 2, and 3 of the State’s Indictment.

12
13 DATED this 21st of December, 2020.

14 DARIN F. IMLAY
15 CLARK COUNTY PUBLIC DEFENDER

16
17 By: /s/Christopher M. Peterson
18 CHRISTOPHER M. PETERSON, #13932
19 Deputy Public Defender
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YOU WILL PLEASE TAKE NOTICE that the foregoing PETITION FOR WRIT OF HABEAS CORPUS will be heard on January 5, 2021, at 10:15 a.m. in District Court, Department XVIII.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

CERTIFICATE OF ELECTRONIC SERVICE

By: /s/Kayleigh Lopatic
An employee of the
Clark County Public Defender's Office

EXHIBIT A

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID

DISTRICT COURT

THE STATE OF NEVADA,

Plaintiff,)

VS.)

GJ Case No. 19BGJ225X

DC Case No. C352265

JEREMY BROWN-WHEATON, aka Jeremy)

Paul Brown Wheaton,

Defendant.)

Taken at Las Vegas, Nevada

Wednesday, November 18, 2020

10:54 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Donna J. McCord, C.C.R. No. 337

00:00:59 1 GRAND JURORS PRESENT ON NOVEMBER 18, 2020:
2
3 STEVE LURVEY, Foreperson
4 TIARA COSENTINO, Deputy Foreperson
00:00:59 5 NOEL WELLMAN, Secretary
6 DANIEL STACK, Assistant Secretary
7 JOHN FINKOWSKI
8 PAUL GILLENWATER
9 MARK GOODMAN
00:00:00 10 JEFFREY GRUBER
11 TAMMY KRAUS
12 JOHN PELKEY
13 GERALD REID
14 MANOLO SAEMZ
00:00:00 15 SUSAN ZEMAN
16
17
18
19
00:00:00 20
21
22 Also present at the request of the Grand Jury:
23 Melanie Scheible
24 Chief Deputy District Attorney
00:00:00 25

<u>00:00:00</u>	1	<u>INDEX OF WITNESSES</u>	
	2		<u>EXAMINED</u>
	3	JONATHAN MIRANDA	9
	4	RYAN LEVY	31
<u>00:00:00</u>	5	SHANICE BELL	42
	6		
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LAS VEGAS, NEVADA, NOVEMBER 18, 2020

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3

4

DONNA J. McCORD,00:00:02

5

having been first duly sworn to faithfully

6

and accurately transcribe the following

7

proceedings to the best of her ability.

8

9

MS. SCHEIBLE: Good morning, members of the

10:54:29

10

Grand Jury. My name is Melanie Scheible. I'm a Deputy

11

District Attorney here in Clark County, Nevada. I am

12

prosecuting the case that we are about to hear which is

13

Grand Jury case 19BGJ225X, State versus Jeremy

14

Brown-Wheaton. There are three charges in this case. I

10:54:52

15

have provided instructions to you which have been marked

16

as Exhibit Number 2 and I will provide a copy to our

17

court reporter. And pursuant to my most recent

18

directives I will be reading them to you even though I'm

19

sure you are all familiar with them. I'm also waiting

10:55:25

20

on a piece of evidence to come upstairs so this will be

21

a great way to spend some time together.

22

A prisoner confined in a prison, or being

23

in the lawful custody of an officer or other person, who

24

escapes or attempts to escape from such prison or

10:55:40

25

custody is guilty of the crime of escape.

10:55:44 1 Any person who has been placed under arrest
2 by a police officer and is physically deprived of his
3 freedom of action in any significant way is in custody
4 as that term is used in these instructions.

10:55:53 5 A charge is synonymous with an accusation
6 against the defendant and does not require a formal
7 written complaint. The word charge only requires that
8 the custody be predicated on probable cause that the
9 defendant committed a particular offense.

10:56:04 10 Any person who uses violence upon another
11 person or threatens violence or injury to another person
12 with the specific intent to compel another to do or
13 abstain from doing an act which such person has a right
14 to do or abstain from doing is guilty of coercion with
10:56:19 15 force.

16 Any person who individually or in
17 association with one or more other persons willfully
18 breaks, injures, tampers with or removes any part or
19 parts of any vehicle for the purpose of injuring,
10:56:29 20 defacing or destroying such vehicle, or temporarily or
21 permanently preventing its useful operation, or for any
22 purpose against the will or without the consent of the
23 owner of such vehicle, or who shall in any manner
24 willfully or maliciously interfere with or prevent the
10:56:31 25 running or operation of such vehicle, shall be guilty of

10:56:43 1 a public offense proportionate to the value of the loss
2 resulting therefrom.

3 Where the value of the loss is \$5,000 or
4 more or where the damage results in impairment of public
10:56:51 5 communication, transportation or police and fire
6 protection, for a category C felony.

7 Battery means any willful and unlawful use
8 of force or violence upon the person of another.

9 The force used by the defendant need not be
10:57:02 10 violent or severe, and not need cause bodily pain or
11 bodily harm. Any slight touching by the defendant upon
12 the person of another suffices, as long as the touching
13 was intentional and unwanted.

14 The word willfully, when applied to the
10:57:13 15 intent with which an act is done, implies simply a
16 purpose or willingness to commit the act in question.
17 It does not require in its meaning that the defendant
18 held any intent to violate any law, or to injure
19 another, or to acquire any advantage.

10:57:24 20 Battery by a prisoner is established if the
21 State proves beyond a reasonable doubt that the
22 defendant committed the battery and the defendant was on
23 probation, a prisoner in lawful custody or confinement,
24 or on parole at the time of the battery. Prisoner

10:57:33 25 includes any person held in custody under process of

10:57:36 1 law, under lawful arrest, or any person deprived of his
2 liberty and kept under involuntary restraint,
3 confinement or custody.

4 Do the members of the Grand Jury have any
10:57:44 5 questions about the instructions I just read? Seeing no
6 questions, I will proceed to call my first witness who's
7 Officer Jonathan Miranda and I am going to step outside
8 to retrieve him right now.

9 You're going to go up to the witness stand.

10:58:36 10 THE FOREPERSON: Please raise your right
11 hand.

12 You do solemnly swear that the testimony
13 that you're about to give upon the investigation now
14 pending before this Grand Jury shall be the truth, the
10:58:38 15 whole truth, and nothing but the truth, so help you God?

16 THE WITNESS: I do.

17 THE FOREPERSON: You're advised you're here
18 today to give testimony in the investigation pertaining
19 to the offenses of escape, break, injure or tamper with
10:58:59 20 a motor vehicle, battery by a prisoner involving Jeremy
21 Brown-Wheaton.

22 Do you understand this advisement?

23 THE WITNESS: I do.

24 THE FOREPERSON: Please state your first
10:59:10 25 and last name and spell both for the record.

10:59:12 1 THE WITNESS: First name Jonathan, last
2 name Miranda. First name is spelled J-O-N-A-T-H-A-N,
3 last name M-I-R-A-N-D-A.

4 THE FOREPERSON: Thank you, sir.

10:59:27 5 THE WITNESS: You're welcome.

6 **JONATHAN MIRANDA,**
7 having been first duly sworn by the Foreperson of the
8 Grand Jury to testify to the truth, the whole truth
9 and nothing but the truth, testified as follows:

10:59:27 10
11 EXAMINATION

12 BY MS. SCHEIBLE:

13 Q Officer Miranda, how are you employed?

14 A I'm a police officer with Las Vegas

10:59:50 15 Metropolitan Police Department.

16 Q And how long have you been with Metro?

17 A Three years.

18 Q And are you assigned to a particular area
19 or type of crime?

10:59:58 20 A I am, Northeast Area Command.

21 Q Okay. And were you assigned to Northeast
22 Area Command in August of this year?

23 A Yes.

24 Q And specifically on August 29th of 2020 did
11:00:07 25 you respond to a call on Lamont Street?

11:00:09 1 A Yes.

2 Q And do you remember what time that call
3 came out?

4 A Early in the morning, approximately 7:00 in
11:00:14 5 the morning.

6 Q Okay. And do you remember when you
7 responded?

8 A Yes.

9 Q When did you respond?

11:00:21 10 A It was early in my shift, right as I logged
11 on.

12 Q Were you by yourself or with a partner?

13 A Initially I got dispatched first and then
14 after my partner.

11:00:32 15 Q And who was the partner who came with you?

16 A Officer Arturo Casada.

17 Q And when you guys arrived do you remember
18 the exact address you were dispatched to?

19 A It was 4300 Lamont.

11:00:44 20 Q And what kind of a call was it that you
21 were responding to?

22 A It came out as unknown trouble.

23 Q And what does unknown trouble mean?

24 A We don't know what's going on exactly but
11:00:54 25 then it got upgraded to a domestic disturbance call.

11:00:58 1 Q And when it got upgraded to a domestic
2 disturbance call, was that over the radio, via text, how
3 do you know that it's been changed?

4 A Via radio. Our dispatch is pretty good
11:01:10 5 about that. They kind of listen to what's going on in
6 the call. They heard a male and a female on the line
7 and that's how they knew this is probably domestic
8 related.

9 Q Okay. And so as you approached the door of
11:01:22 10 4300 Lamont, is there only one door or is it like an
11 apartment complex?

12 A It's an apartment complex.

13 Q And do you remember specifically which
14 apartment you were interested in?

11:01:35 15 A I would need to look at a paper to see
16 that.

17 Q So you don't remember off the top of your
18 head?

19 A Not off the top of my head.

11:01:42 20 Q But you did write it down in your report at
21 some point in time?

22 A I did.

23 Q And would reviewing a copy of that report
24 help refresh your recollection?

11:01:49 25 A Yes, ma'am.

11:01:50 1 Q All right. For the record I am showing
2 Officer Miranda page 6 of 7 of the LVMPD domestic
3 violence report associated with this event number and
4 we're looking at the very first paragraph.

11:02:04 5 Having looked at it, do you remember what
6 apartment number you were going to?

7 A Yes.

8 Q What apartment number?

9 A Building 7, apartment 290.

11:02:11 10 Q And was that on the first floor or the
11 second floor?

12 A That's on the first floor.

13 Q And at the time you got to the apartment
14 what information did you already have?

11:02:21 15 A That it was a domestic disturbance between
16 a male and a female. So part of our job is to go make
17 contact with the parties and just make sure there's no
18 incident going on between them.

19 Q Okay. So what's the first thing that you
11:02:35 20 do in order to make contact with the parties?

21 A So I got there first, I kind of listened
22 around to see if I heard any screaming, any shouting
23 which I didn't, kind of looked around to see where the
24 apartment was at. When I located it I waited for my
11:02:51 25 partner Casada.

11:02:52 1 Q And is that policy to wait for a partner?

2 A Yes.

3 Q Is that for your safety?

4 A Yes.

11:02:57 5 Q And about how long were you waiting for
6 Casada to arrive?

7 A Less than five minutes.

8 Q And in that time did you hear anything or
9 see anything notable?

11:03:08 10 A I did not.

11 Q And then once he arrived what did the two
12 of you do?

13 A We approached the apartment.

14 Q And what did you do next?

11:03:16 15 A We knocked on the apartment. Well, first
16 of all we assigned roles. We have to assign roles to
17 each other, who was going to be verbal, who was going to
18 go hands-on. If anything physical happens then we know
19 what to do.

11:03:29 20 Q Okay. Who was assigned verbal and who was
21 assigned physical?

22 A I was assigned verbal and Casada was
23 assigned physical.

24 Q Okay. And what did you do?

11:03:39 25 A I knocked on the door.

11:03:41 1 Q And did anybody answer the door?

2 A No.

3 Q How many times did you knock on it?

4 A Multiple times announcing Las Vegas Metro

11:03:49 5 Police, shouting, no answer.

6 Q All right. Did you try anything else to

7 get the occupants' attention?

8 A We started knocking on the windows, on the

9 screen door, nothing.

11:04:01 10 Q Okay. Could you hear anybody inside?

11 A No.

12 Q And did you eventually make entry into the

13 apartment?

14 A Eventually we did.

11:04:10 15 Q How do you eventually make entry?

16 A We stood by for a few seconds just to kind

17 of see if we maybe heard anything. After that we heard

18 a female's voice, sounded like she was in distress,

19 sounded like her mouth was being covered and from there

11:04:24 20 that's when my partner Arturo Casada went around and

21 kicked the door in.

22 Q Okay. And when you say that it sounded

23 like a female was in distress, what about her voice made

24 it sound like distress?

11:04:37 25 A She was asking for help.

11:04:38 1 Q So you could hear the words help?

2 A Yes.

3 Q And you also said that it sounded like her

4 mouth was covered?

11:04:44 5 A Yes.

6 Q So what about the sound made you think

7 that?

8 A It just sounded very muffled. It sounded

9 like her mouth was being covered by someone.

11:04:55 10 Q Okay. So would you describe her voice?

11 Was it like a yell or was she speaking?

12 A It was more like a yell in a way but it

13 sounded a little low. Like I said, her mouth was being

14 covered so —

11:05:13 15 Q Okay. So hard to say whether the sound was

16 low or quiet?

17 A Right, but we knew that, you know, we had

18 to go in there, something was wrong.

19 Q Okay. And you mentioned that Officer

11:05:22 20 Casada kicked in the door?

21 A Yes.

22 Q Was that the same front door you had been

23 knocking on or a different door?

24 A A different door.

11:05:28 25 Q And when he kicked in that door were you

11:05:30 1 right next to him, right behind him, where were you?

2 A At that moment he was at the door I was
3 still by the front door. That's when he was like, hey,
4 Miranda, come over here. I went where he was at and
11:05:45 5 then I was standing behind him at that time.

6 Q Okay. And did you walk through the door?

7 A Eventually, yes, when it was kicked in.

8 Q And what did you see inside the apartment?

9 A I saw Jeremy Brown-Wheaton standing there
11:05:57 10 in the threshold holding a baby and then with his
11 girlfriend and another black female adult next to her.

12 Q Okay. I'm going to show you what's been
13 marked as State's or as Exhibit 3 for identification
14 purposes. The first page is just a photograph. Do you
11:06:16 15 recognize the person in that photograph?

16 A Yes.

17 Q Did you see that person in the apartment on
18 August 29th?

19 A Yes.

11:06:22 20 Q And was he the person holding the baby?

21 A Yes.

22 Q And is that a fair and accurate depiction
23 of his person?

24 A Yes.

11:06:29 25 Q Okay. If you flip over to the second page

11:06:30 1 it has some identifiers on it. Do you know that person
2 by name?

3 A Yes.

4 Q What is that person's name?

11:06:38 5 A Brown-Wheaton, Jeremy Paul.

6 Q Okay. And how do you know his name?

7 A I identified him.

8 Q Are you the person who ultimately booked
9 him at CCDC?

11:06:47 10 A Yes.

11 Q And when you booked him there you
12 identified him how?

13 A Through mugshots, through scope, LVMPD
14 scope, and verbally, his girlfriend.

11:07:01 15 Q Okay. And so when you arrived that day on
16 August 29th and he was in the apartment holding the
17 baby, did you say something to him?

18 A We did. Well, I did.

19 Q What did you say?

11:07:11 20 A I told him step out, come talk to us. He
21 was not listening to any of our verbal commands. He
22 disregarded everything we were saying and he was just
23 being argumentative the whole time.

11:07:26 24 Q Okay. So did you ultimately take him into
25 custody?

11:07:26 1 A Yes.

2 Q And did you take him into custody there
3 inside the apartment?

4 A Yes.

11:07:31 5 Q Was that before or after you -- I'm sorry,
6 did you at some point also speak to any of the females
7 in the household?

8 A Yes.

9 Q And did you take Mr. Brown-Wheaton into
11:07:42 10 custody before or after the conversation?

11 A Before those conversations.

12 Q And can you explain to the members of the
13 Grand Jury why you took him into custody?

14 A So at that point we took Wheaton-Brown into
11:07:53 15 custody because at that point when I get dispatched to a
16 call for service we're obviously investigating a
17 possible crime. At that moment with the totality of the
18 circumstances when I went to the house, tried to make
19 contact with these parties, we deal with these kinds of
11:08:10 20 calls everyday, when someone is not listening to us,
21 someone is not doing what we're asking them to do and
22 we're there for lawful authority and they don't want to
23 listen, they don't want to do what we're telling them to
24 do, at that point it's more of an officer-safety issue.

11:08:27 25 And also at that point it's an obstructing issue. So at

11:08:32 1 that point I had obstructing a police officer so that
2 way that's when I knew I had to take him into custody
3 because he's not going to listen, he was not going to
4 listen.

11:08:43 5 Q So you took him into custody. Did somebody
6 put handcuffs on him in the apartment?

7 A Yes.

8 Q And then was he removed from the apartment?

9 A Yes.

11:08:50 10 Q And was that the end of your investigation?

11 A Yes. At that moment, yes.

12 Q Okay. What happened next?

13 A After we removed him are you asking?

14 Q Yes.

11:09:02 15 A Okay. He went down to the police car, I
16 went back inside and then that's when I spoke to his
17 girlfriend.

18 Q Okay. So were you continuing your
19 investigation when you went to speak to the girlfriend
11:09:13 20 or starting a new investigation?

21 A Starting a new investigation regarding the
22 domestic incident.

23 Q Okay. So is what you're saying that the
24 actions you take were going to be different whether you
11:09:28 25 found out that domestic violence had occurred versus

11:09:32 1 just the resisting that you had observed?

2 A Right.

3 Q Okay. So you needed to get that
4 information about what happened before you got there in
11:09:40 5 order to know what to do next?

6 A Right, because that's totally different
7 from what I had at that point.

8 Q Okay. So he was already in custody on the
9 obstructing charges, and for safety purposes you went
11:09:50 10 back to the house to investigate the domestic violence?

11 A Correct.

12 Q All right. And when you talked to the
13 females in the house did they identify themselves?

14 A The female did.

11:10:01 15 Q Okay.

16 A The girlfriend.

17 Q The girlfriend did but there were two
18 females there, right?

19 A Yes.

11:10:05 20 Q And how did you identify the girlfriend?

21 A Verbally.

22 Q Okay. And what was her name?

23 A I would need to look at the notes. I don't
24 recall.

11:10:14 25 Q Okay. So you don't remember her name off

11:10:16 1 of your head?

2 A No, I don't.

3 Q But it is something that you wrote down in
4 your report?

11:10:20 5 A Yes, ma'am.

6 Q And looking at a copy of that report would
7 help refresh your recollection?

8 A Yes.

9 Q For the record I have misplaced the report
11:10:32 10 but I'm going to show it to Officer Miranda. I found it
11 again. We are looking at page 6 of 7 again on the third
12 paragraph. Having read that do you remember?

13 A Yes.

14 Q What was her name?

11:11:01 15 A Simpson, last name, first name Lexa.

16 Q And what did she tell you had occurred?

17 A So she had told me that when we got there
18 she heard us knocking on the door, she heard us saying
19 LVMPD. Wheaton had gotten behind her, grabbed her by
11:11:20 20 the face and pulled her back to her bedroom, closed the
21 door and left her inside the bedroom. He had told her
22 not to make any noise because he didn't want us to go
23 inside the house.

24 Q Okay. And once you heard that from Lexa
11:11:37 25 Simpson, what did you do next?

11:11:42 1 A At that point that's more of a coercion
2 because she was trying to do something that she can do
3 but he was preventing her from doing that, so at that
4 point I already had the probable cause to arrest for the
11:11:56 5 coercion charge.

6 Q And so did you go back outside to where the
7 defendant was?

8 A Afterwards, yes. After the fact, yeah.

9 Q Okay. And did you or someone else inform
11:12:08 10 him of the additional charges?

11 A At that point I cannot recall.

12 Q Okay. But he was still in custody?

13 A Yes.

14 Q And was he transported -- well, was he
11:12:21 15 placed in the police car?

16 A He was.

17 Q Was he placed in your police car?

18 A Yes.

19 Q Was it easy to get him in that car?

11:12:29 20 A No.

21 Q And did you get behind the driver's seat of
22 that car while he was in the passenger seat? Sorry, not
23 the passenger seat, while he was in the car?

24 A Can you repeat that question?

11:12:43 25 Q Did you get in the driver's seat?

11:12:45 1 A Yes.

2 Q And were you wearing body cam at that time?

3 A I was.

4 Q Okay. Have you had a chance to review that

11:12:52 5 body cam?

6 A I have.

7 Q All right. I am going to show the members

8 of the Grand Jury what has been marked as Exhibit Number

9 6.

11:15:57 10 Officer Miranda, does this look like your

11 body cam?

12 A It does.

13 Q Yes?

14 A Yes.

11:16:10 15 Q How can you tell?

16 A Just where I was standing at when I first

17 got there.

18 Q Okay.

19 A You can't really tell from that position.

11:16:20 20 Q Okay. Does that look like the address you

21 responded to?

22 A Yes.

23 Q Okay. I'm going to skip ahead to about 33

24 minutes into this video.

11:16:38 25 A Okay.

11:16:38 1 Q And have you confirmed that this is in fact
2 your body camera?

3 A Yes.

4 Q Okay. Is that your hand?

11:17:02 5 A Yes.

6 Q All right. Is that your car?

7 A Yes.

8 Q Were you driving at the time that this body
9 cam was recording?

11:17:08 10 A Yes.

11 Q All right. And is this a fair and accurate
12 depiction of what you remember seeing at the time?

13 A Yes.

14 Q All right. I'm going to publish this part
11:17:18 15 of Exhibit 6 for the members of the Grand Jury.

16 (Video playing.)

17 Q All right. Officer Miranda, was that in
18 fact your body camera footage?

19 A Yes, ma'am.

11:21:35 20 Q And at the beginning of where we started it
21 did we hear you telling the defendant to stop doing
22 something?

23 A Yes.

24 Q What was he doing?

11:21:44 25 A Stumbling around. He kept moving around

11:21:47 1 back there.

2 Q Back there meaning the back of your car?

3 A Yes.

4 Q And then did he eventually get out of your

11:21:53 5 vehicle?

6 A He did.

7 Q How did he do that?

8 A He broke out the left passenger rear

9 window.

11:22:01 10 Q And I am going to show you what's been

11 marked as State's Exhibit 4. Do you recognize what's

12 depicted in that photo?

13 A Yes.

14 Q And what is in the photo?

11:22:13 15 A My vehicle, my police vehicle with the

16 window broken out.

17 Q And is that how it looked to you on August

18 29th of 2020?

19 A Yes.

11:22:20 20 Q A fair and accurate depiction of your

21 vehicle?

22 A Yes.

23 Q Okay. And how can you tell that it's your

24 vehicle?

11:22:25 25 A With the number on the hood.

11:22:28 1 Q What number is that?

2 A 18034.

3 Q And you previously said that the window
4 is — what did you say about the window, sorry?

11:22:35 5 A It's broken out.

6 Q Okay.

7 A It's broken in that picture.

8 Q And I'm going to show you what has been
9 marked as State's Number 5. Do you recognize that
11:22:47 10 picture?

11 A Yes.

12 Q And what is depicted in that photo?

13 A The back of the patrol vehicle where
14 Wheaton was sitting at. There's glass all over from the
11:22:56 15 window being broken.

16 Q And is that a fair and accurate depiction
17 of the way that it appeared to you on August 29th of
18 2020?

19 A Yes.

11:23:03 20 Q And you previously said that there's glass
21 all over the seat. Is it fair to say the glass was not
22 there previously?

23 A Correct.

24 Q Okay. I have another question about that
11:23:10 25 photograph and about this incident. When the defendant

11:23:14 1 was put into the back of your patrol car, was he
2 handcuffed?

3 A He was.

4 Q Was he restrained in any other way?

11:23:22 5 A Yes.

6 Q What was the other restraint?

7 A We applied some hobbles. It's just a
8 restraint device that we put on subjects' legs and their
9 knees to prevent them from moving and kicking. We
11:23:36 10 applied two of them on Wheaton.

11 Q And are those hobbles in the back seat
12 somewhere?

13 A Yes.

14 Q Can you see them in that photograph?

11:23:43 15 A Yes.

16 Q I'm going to publish this photograph for
17 the members of the Grand Jury and see if you can -- can
18 you point them out to the members of the Grand Jury?

19 A It's just on the left side near that pillar
11:24:07 20 in the middle. You can kind of see like a rope, the
21 black --

22 Q This?

23 A There you go. There it is.

24 Q These are the hobbles?

11:24:15 25 A Yes, ma'am.

11:24:15 1 Q And they were on his legs when you put him
2 in the car?

3 A Yes.

11:24:20 4 Q But they were left in the car when he was
5 gone?

6 A Yes.

7 Q Okay. Did all of this happen in Clark
8 County, Nevada?

9 A Yes.

11:24:25 10 MS. SCHEIBLE: I have no further questions
11 for this witness. Do the members of the Grand Jury have
12 any questions?

13 THE FOREPERSON: Any questions?

14 A JUROR: I do.

11:24:34 15 THE FOREPERSON: Yes.

16 BY A JUROR:

17 Q Did you read him his Miranda rights?

11:24:47 18 A After the fact at UMC I tried but it was
19 not working for him, he refused, so I didn't ask him
20 anything further.

21 Q Okay.

22 THE FOREPERSON: Any other questions?

23 BY A JUROR:

11:24:52 24 Q Was he charged with domestic violence or
25 obstruction?

11:24:53 1 A Can you repeat that question?

2 Q Why wasn't he charged with domestic
3 violence or obstruction?

4 A Why was —

11:25:02 5 MS. SCHEIBLE: I don't think this witness
6 can speak to the charges but the question will be noted
7 for the record.

8 THE FOREPERSON: Any other questions?

9 MS. SCHEIBLE: I think we have one more.

11:25:15 10 THE FOREPERSON: Yes, sir.

11 BY A JUROR:

12 Q What did he break the window with, his
13 handcuffs?

14 A His feet, bare feet.

11:25:21 15 THE FOREPERSON: Any other questions?

16 By law these proceedings are secret and you
17 are prohibited from disclosing to anyone anything that
18 transpired before us including any evidence presented to
19 the Grand Jury, any event occurring or a statement made
11:25:24 20 in the presence of the Grand Jury or any information
21 obtained by the Grand Jury.

22 Failure to comply with this admonition is a
23 gross misdemeanor punishable up to 364 days in the Clark
24 County Detention Center and a \$2,000 fine. In addition
11:25:24 25 you may be held in contempt of court punishable by an

11:25:24 1 additional \$500 fine and 25 days in the Clark County
2 Detention Center.

3 Do you understand this admonition?

4 THE WITNESS: I do.

11:25:53 5 THE FOREPERSON: Thank you and you're
6 excused.

7 THE WITNESS: Thank you.

8 MS. SCHEIBLE: All right. I will call my
9 next witness. I'm not sure who it is, it depends on
11:26:10 10 who's outside.

11 THE FOREPERSON: Raise your right hand,
12 please.

13 You do solemnly swear that the testimony
14 that you're about to give upon the investigation now
11:27:46 15 pending before this Grand Jury shall be the truth, the
16 whole truth, and nothing but the truth, so help you God?

17 THE WITNESS: I do.

18 THE FOREPERSON: You're advised that you're
19 here today to give testimony in the investigation
11:28:00 20 pertaining to the offenses of escape, break, injure or
21 tamper with a motor vehicle, battery by a prisoner
22 involving Jeremy Brown-Wheaton.

23 Do you understand this advisement?

24 THE WITNESS: Yes.

11:28:14 25 THE FOREPERSON: Please state your first

11:28:15 1 and last name and spell both for the record.

2 THE WITNESS: Ryan Levy, R-Y-A-N L-E-V-Y.

3 THE FOREPERSON: Thank you.

4 RYAN LEVY,

11:28:21 5 having been first duly sworn by the Foreperson of the
6 Grand Jury to testify to the truth, the whole truth
7 and nothing but the truth, testified as follows:

8
9 EXAMINATION

11:28:21 10 BY MS. SCHEIBLE:

11 Q Officer Levy, how are you employed?

12 A With Metro, police officer.

13 Q And how long have you been with Metro?

14 A About three years now.

11:28:31 15 Q Are you assigned to a particular area
16 command?

17 A Downtown Area Command.

18 Q And how long have you been with Downtown
19 Area Command?

11:28:37 20 A Two and a half years.

21 Q Were you assigned to Downtown Area Command
22 on August 29th of this year?

23 A Yes, I was.

24 Q And on that date did you respond to a call
11:28:46 25 near Bonanza and Casino Center?

11:28:49 1 A I did.

2 Q How did the call come out?

3 A It came out as a prisoner was running from

4 another officer from another area command while in route

11:28:57 5 to jail.

6 Q All throughout the jail?

7 A While in route to jail.

8 Q Oh, while in route to jail, okay. And were

9 you dispatched to the call or did you dispatch yourself?

11:29:09 10 A Self assigned to it. Dispatch asked for

11 any available units to head that way.

12 Q And where were they asking the available

13 units to go?

14 A So the officer that was initially in it

11:29:21 15 gave out some streets that weren't really in the area.

16 They finally GPS'd them and they told us to head towards

17 Bonanza and Main, Bonanza and Casino Center.

18 Q Is that where you responded?

19 A Yes.

11:29:36 20 Q By the time you responded there did you

21 know who you were looking for?

22 A They gave a description of the black male.

23 They gave details out over the MCT so we were looking at

24 the MCT details as we were driving in the area.

11:29:49 25 Q Did you encounter someone who matched the

11:29:53 1 description of the person you were looking for?

2 A Yes.

3 Q And where did you encounter that person?

4 A It was on Bonanza just a little bit west of

11:30:00 5 I believe it's Casino Center.

6 Q And where was that person standing in the
7 street?

8 A He was jumping out of a trash can.

9 Q And as he jumped out of the trash can did

11:30:11 10 you say anything to him?

11 A It was about four of us all yelling Metro
12 Police, stop, as he continued to keep running westbound.

13 Q As this all was going on were you wearing a
14 body camera?

11:30:22 15 A Yes.

16 Q And I'm going to show you what has been
17 marked as State's Exhibit 6. This is the first file on
18 the disc and I'm going to skip to about three minutes
19 into the video. Probably can't tell if that is your

11:31:04 20 body cam, can you?

21 A Not at this angle.

22 Q For the record all we can see is the
23 sidewalk. Okay. Now that we have a better view of the
24 neighborhood, the area, can you tell us if this was your

11:31:18 25 body camera footage?

11:31:19 1 A It looks like it, yes.

2 Q And how can you recognize it?

3 A Because I remember when it first came out
4 there I was actually, when the radio traffic came out
11:31:28 5 they said a foot pursuit, that they last seen him
6 running southbound so I figured there was an empty lot
7 behind here, if he was going to run he'd probably hit
8 the wall and this being an empty parking lot so that's
9 the direction I was heading in.

11:31:40 10 Q Okay. I'm now going to hit play.

11 (Video playing.)

12 Q Okay. At this point can you point out
13 where the defendant is in the footage or describe it?

14 A Right now he's in front of this first
11:32:26 15 officer about where the sidewalk is.

16 Q Okay. And shortly before that did we see a
17 police car in the view of the body camera?

18 A Yes.

19 Q Okay. Can you describe for the members of
11:32:39 20 the Grand Jury what occurred when that police vehicle
21 was in view from your memory?

22 A The first one or the second one? When we
23 met up with each other -- so when we continued to run
24 westbound he was cutting in front of me so I figured I
11:32:55 25 would just go out a little wide to see if I could

11:32:57 1 apprehend him in the front. When we got somewhat maybe
2 within two feet of each other the police car came up
3 from the east of us trying to cut him off which made him
4 pull closer to me and we both ran into each other and
11:33:08 5 then we ran into the car and he was able to turn around
6 and run back out northbound towards the sidewalk where
7 you see him right now.

8 Q Okay. So you said that, you made a motion
9 with your hands with both arms at kind of like a
11:33:20 10 45-degree angle?

11 A Yes.

12 Q Meaning at a right angle?

13 A Correct.

14 Q And so that happened in like the middle of
11:33:26 15 the street?

16 A Yeah, that happened -- right before we
17 approached the vehicle we were still in the middle of
18 the roadway.

19 Q And when you said you made contact with him
11:33:34 20 was that your body with his body?

21 A Yeah, that was him turning in and me trying
22 to hold him as the car came up. I didn't notice the
23 vehicle when it first happened, the vehicle that was
24 coming from behind me, until we actually got right on
11:33:46 25 it.

11:33:47 1 Q And so is it fair to say he ran into you?

2 A I would say he ran into me, yes.

3 Q And then did we also see him hit the
4 vehicle?

11:33:55 5 A Yes.

6 Q Was that before or after he ran into you?

7 A That was after.

8 Q Okay. So then did you watch him run into
9 the vehicle?

11:34:02 10 A Yes, we both hit the vehicle.

11 Q And then did either of you turn around?

12 A He turned away from me as I turned the
13 other way. So if we're facing the vehicle he did like a
14 turnaround westbound and I went eastbound thinking he

11:34:17 15 was going to push off of it and continue back. As he
16 did, when I turned around he was already running
17 northbound.

18 Q Okay. And did he make contact with you
19 again after he made contact with the vehicle?

11:34:26 20 A No.

21 Q Okay. That first time when you -- so the
22 first time when we were talking about the right angles,
23 that was the only time that your bodies made contact
24 with each other?

11:34:36 25 A Correct.

11:34:36 1 Q And was he applying force to you?

2 A It was more or less I think he, from what I
3 could see he saw the vehicle before I did because he was
4 facing towards me and I think the hands came up as he
11:34:49 5 was either pushing away from it trying to avoid the
6 vehicle or push off and has leverage to keep pushing
7 back the other way.

8 Q And so did he end up pushing you?

9 A I don't think -- he never really pushed me,
11:34:59 10 we just, we kind of collided into each other as we were
11 both coming into that spot where the vehicle kind of
12 pinched us in and that's where he pushed off of the
13 vehicle and turned around and ran the other way.

14 Q And then he continued to run away from you?

11:35:12 15 A Correct.

16 Q Okay. And at that point in time had you
17 already placed him under arrest?

18 A No. At that time I was trying to take him
19 into custody but, like I said, I did not see the other
11:35:24 20 vehicle come behind me so that kind of threw me off and
21 I was unable to grab him at that time and that's when he
22 went running off northbound.

23 Q And from the call out do you know if he was
24 in custody at that point?

11:35:33 25 A From the original call?

11:35:35 1 Q Right.

2 A Yes.

3 Q Okay. And did you make any kind of report
4 about this incident?

11:35:40 5 A No, I did not.

6 Q Did you make any statements to other
7 officers about this?

8 A No, just the fact that I tried to grabbed
9 him but we both ran into each other and when he pushed
11:35:53 10 off the vehicle that's when they were able to take him
11 into custody.

12 Q Okay. And did the investigating officers
13 or lead officers ever interview you or ask you questions
14 about the incident?

11:36:04 15 A No, I never had contact with the original
16 investigating officers at all.

17 Q Okay. And in fact have we ever had a
18 conversation about this case before?

19 A No.

11:36:12 20 Q And have you ever told anybody from the
21 District Attorney's office about that physical contact
22 in front of the police vehicle?

23 A No.

24 Q So this is the first time that we're
11:36:22 25 hearing about it?

11:36:23 1 A Correct.

2 Q Okay. And did you run into the defendant

3 on purpose?

4 A No.

11:36:36 5 Q Okay.

6 I have no further questions for this

7 witness. I imagine the members of the Grand Jury do.

8 THE FOREPERSON: Go ahead.

9 A JUROR: Do we have some way of

11:36:45 10 identifying the suspect? Is this officer able to

11 identify the suspect?

12 BY MS. SCHEIBLE:

13 Q Would you recognize the suspect if you saw

14 him again?

11:36:53 15 A Yes.

16 Q Okay. I'm going to show you what has been

17 marked as Exhibit 3. Does that appear to you to be the

18 suspect?

19 A That appears so.

11:37:02 20 Q Okay.

21 Any other questions?

22 BY A JUROR:

23 Q So did he shoulder check you?

24 A Like I said, when we came in it was both of

11:37:18 25 us meeting right at the same time so our full force of

11:37:21 1 both of us running and then coming to an abrupt stop
2 because of the vehicle right there, that's how we ended
3 up hitting each other.

11:37:27 4 Q So he intentionally tried to shoulder check
5 you?

6 A I couldn't tell you what his intentions
7 were. At first he was already trying to get away from
8 him so him coming at me was either, I couldn't tell you
9 if he was just trying to get away from me or just trying
11:37:36 10 to avoid hitting the car and me.

11 THE FOREPERSON: Any other questions?

12 By law these proceedings are secret and you
13 are prohibited from disclosing to anyone anything that
14 transpired before us including any evidence presented to
11:37:39 15 the Grand Jury, any event occurring or a statement made
16 in the presence of the Grand Jury or any information
17 obtained by the Grand Jury.

18 Failure to comply with this admonition is a
19 gross misdemeanor punishable up to 364 days in the Clark
11:37:39 20 County Detention Center and a \$2,000 fine. In addition
21 you may be held in contempt of court punishable by an
22 additional \$500 fine and 25 days in the Clark County
23 Detention Center.

24 Do you understand this admonition?

11:38:10 25 THE WITNESS: I do.

11:38:11 1 THE FOREPERSON: Thank you and you're
2 excused.

3 THE WITNESS: Appreciate it. Thank you.

4 MS. SCHEIBLE: I have one more witness,
11:38:15 5 Officer Bell. I'll go retrieve her.

6 THE FOREPERSON: Raise your right hand,
7 please.

8 You do solemnly swear that the testimony
9 that you're about to give upon the investigation now
11:39:03 10 pending before this Grand Jury shall be the truth, the
11 whole truth, and nothing but the truth, so help you God?

12 THE WITNESS: Yes.

13 THE FOREPERSON: You're advised you're here
14 today to give testimony in the investigation pertaining
11:39:16 15 to the offenses of escape, break, injure or tamper with
16 a motor vehicle, battery by a prisoner involving Jeremy
17 Brown-Wheaton.

18 Do you understand this advisement?

19 THE WITNESS: Yes.

11:39:28 20 THE FOREPERSON: Please state your first
21 and last name and spell both for the record.

22 THE WITNESS: Shanice Bell. First name
23 spelled S-H-A-N-I-C-E, last named spelled B-E-L-L.

24 THE FOREPERSON: Thank you.

11:39:39 25 ///

11:39:39 1 SHANICE BELL,
2 having been first duly sworn by the Foreperson of the
3 Grand Jury to testify to the truth, the whole truth
4 and nothing but the truth, testified as follows:
11:39:39 5
6 EXAMINATION
7 BY MS. SCHEIBLE:
8 Q Officer Bell, how are you employed?
9 A With the Las Vegas Metropolitan Police
11:39:43 10 Department.
11 Q And what is your role at Metro?
12 A Police officer.
13 Q How long have you been a police officer?
14 A Four years.
11:39:51 15 Q And are you assigned to a particular area
16 command?
17 A Yes.
18 Q Which one?
19 A The Downtown Area Command.
11:39:55 20 Q And were you working Downtown Area Command
21 on August 29th of this year?
22 A Yes.
23 Q And did you respond to a call near the area
24 of Bonanza and Casino Center?
11:40:07 25 A Yes.

11:40:07 1 Q And what kind of a call were you called out
2 on?

3 A An arrestee that escaped out of a patrol
4 vehicle.

11:40:16 5 Q Okay. And so when you responded to that
6 area what was your function in terms of the
7 investigation?

8 A So it was broadcast on our channel, the
9 officer was initially an officer out of the Northeast
11:40:31 10 Area Command, it was broadcast on our channel that there
11 was an arrestee that escaped out of the back of a patrol
12 car. The dispatcher asked were there any clear units
13 that could be assigned. I assigned myself. In the
14 midst of that they explained what the charges were so
11:40:48 15 when I assigned myself the dispatcher told me to set up
16 at Casino Center and Bonanza.

17 Q And did the dispatcher give you a
18 description of the person that you were looking for?

19 A She did.

11:40:59 20 Q And what was that description?

21 A Black male, I can't remember exactly what
22 he was wearing but they gave the clothing description.

23 Q And did you see somebody matching that
24 description?

11:41:10 25 A I did.

11:41:10 1 Q And do you think you'd recognize that
2 person if you saw them again?

3 A Yes.

4 Q I'm going to show you what's been marked as
11:41:17 5 Exhibit 3. Does that look like the person that you saw?

6 A Yes.

7 Q Okay. And when you saw that person where
8 was he?

9 A He was -- well, he jumped out of a trash
11:41:27 10 can.

11 Q Okay. And so were you engaged in a foot
12 pursuit?

13 A Yes.

14 Q Okay. Were you with Officer Levy?

11:41:37 15 A Yes.

16 Q Is Officer Levy the person who just came
17 out of this courtroom?

18 A Yes, he is.

19 Q Okay. The members of the Grand Jury have
11:41:43 20 previously seen an excerpt of Officer Levy's body cam
21 but I'm going to try to show it to you now.

22 A Okay.

23 Q Does that scene look familiar to you?

24 A Yes.

11:42:26 25 Q But this is not your body camera footage?

11:42:29 1 A No.
2 Q There's a specific portion that I want to
3 play for you starting at about three minutes. And let's
4 go back to three minutes and 21 seconds.

11:42:43 5 A Okay.

6 (Video playing.)

7 Q Okay. So that was obviously Officer Levy's
8 body camera, not your body camera. Did you see the
9 defendant run into a police car in that body camera
11:43:06 10 footage?

11 A Yes.

12 Q And when you were out there -- are you
13 actually visible in this footage? Are you visible?

14 A Oh, yes.

11:43:14 15 Q Can you point yourself out for the members
16 of the Grand Jury?

17 A Right in the middle.

18 Q You're the person in the middle?

19 A Yes.

11:43:21 20 Q Okay. Like to the left of the stop sign?

21 A Yes.

22 Q Okay. So when this event actually occurred
23 could you see Officer Levy?

24 A Yes.

11:43:34 25 Q And could you see the defendant?

11:43:36 1 A Yes.

2 Q And could you see what occurred between the
3 two of them?

4 A From my standpoint, from what it looked
11:43:43 5 like to me is when they were running and Officer Levy
6 went to go hands-on, from what I seen it seems as with
7 his right shoulder it looked like he shoulder bumped
8 Officer Levy from where I was standing.

9 Q When you say he you mean the defendant?

11:43:59 10 A Yes.

11 Q And can you describe for us where you were
12 standing?

13 A So we were like facing westbound Bonanza so
14 the vehicle was coming this way and then they were
11:44:14 15 running towards the vehicle and then I was standing
16 right over this way.

17 Q Okay. So you were closer to Officer Levy
18 than you were to the defendant?

19 A I can't recall.

11:44:25 20 Q Okay. How about this, were they both,
21 would you describe both of them as being right in front
22 of you?

23 A Yes.

24 Q Okay. And after you observed that did you
11:44:37 25 then see the defendant run into the police car?

11:44:40 1 A So it was like as he was running into the
2 police car it was like Levy was trying to go hands-on
3 and that's when I seen the shoulder bump and then he
4 turned around and then started running towards my
11:44:51 5 direction.

6 Q And was he eventually brought into custody?

7 A Yes, he was.

8 Q How was he brought into custody?

9 A I eventually tased him and then officers
11:45:00 10 went hands-on to take him into custody.

11 Q Okay. And at that point was he placed
12 under arrest or was he already under arrest?

13 A He was actually in handcuffs at that time
14 so I guess he went back under arrest.

11:45:12 15 Q Sure. At any point did you read him his
16 Miranda rights?

17 A I did not.

18 Q Did you observe any other officers read him
19 his Miranda rights?

11:45:21 20 A I did not.

21 MS. SCHEIBLE: I have no further questions
22 for this witness.

23 THE FOREPERSON: Any other questions?

24 MS. SCHEIBLE: Any questions from the Grand
11:45:27 25 Jury?

11:45:27 1 THE FOREPERSON: By law these proceedings
2 are secret and you are prohibited from disclosing to
3 anyone anything that transpired before us including any
4 evidence presented to the Grand Jury, any event
11:45:27 5 occurring or a statement made in the presence of the
6 Grand Jury or any information obtained by the Grand
7 Jury.

8 Failure to comply with this admonition is a
9 gross misdemeanor punishable up to 364 days in the Clark
11:45:28 10 County Detention Center and a \$2,000 fine. In addition
11 you may be held in contempt of court punishable by an
12 additional \$500 fine and 25 days in the Clark County
13 Detention Center.

14 Do you understand this admonition?

11:45:58 15 THE WITNESS: Yes.

16 THE FOREPERSON: Thank you and you're
17 excused.

18 MS. SCHEIBLE: And that concludes my
19 presentation for today. I will submit the proposed
11:46:17 20 Indictment with one amendment to conform with the
21 testimony. Officer Levy's first name is Ryan, therefore
22 his first name on lines 12 and 13 of page 2 should be R.
23 And I've left the disc in the computer in case you want
24 to review any of the body camera footage while you
11:46:41 25 deliberate and I will be standing by for the next 15

11:46:45 1 minutes.

2 A JUROR: Officer Bell's first name, how is
3 that spelled?

4 MS. SCHEIBLE: Huh? Oh, Officer Bell?

11:46:51 5 Shanice, S-H-A-N-I-C-E. And I'm leaving your exhibits
6 also on the computer.

7 (At this time, all persons, except the
8 members of the Grand Jury, exited the room at 11:47 and
9 returned at 11:50.)

11:50:29 10 THE FOREPERSON: Miss District Attorney, by
11 a vote of 12 or more Grand Jurors a true bill has been
12 returned against the defendant charging all counts in
13 Grand Jury case number 19BGJ225X.

14 We instruct you to prepare an Indictment in
11:50:43 15 conformance with the proposed Indictment previously
16 submitted to us.

17 MS. SCHEIBLE: Thank you very much. Thank
18 you all.

19 (Proceedings concluded.)

11:50:49 20 --oo0oo--

21

22

23

24

25

11:50:49

1

REPORTER'S CERTIFICATE

2

3

STATE OF NEVADA)

: ss

4

COUNTY OF CLARK)

11:50:49

5

6

I, Donna J. McCord, C.C.R. 337, do hereby

7

certify that I took down in Shorthand (Stenotype) all of

8

the proceedings had in the before-entitled matter at the

9

time and place indicated and thereafter said shorthand

11:50:49

10

notes were transcribed at and under my direction and

11

supervision and that the foregoing transcript

12

constitutes a full, true, and accurate record of the

13

proceedings had.

14

Dated at Las Vegas, Nevada,

11:50:49

15

November 30, 2020.

16

17

/S/DONNA J. MCCORD

18

Donna J. McCord, CCR 337

19

11:50:49

20

21

22

23

24

11:50:49

25

11:50:49

1

AFFIRMATION

2

Pursuant to NRS 239B.030

3

4

The undersigned does hereby affirm that the preceding

11:50:49

5

TRANSCRIPT filed in GRAND JURY CASE NUMBER 19BGJ225X:

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7

8

X Does not contain the social security number of any
person,

9

11:50:49

10

-OR-

11

____ Contains the social security number of a person as
required by:

12

13

A. A specific state or federal law, to-wit:
NRS 656.250.

14

-OR-

11:50:49

15

B. For the administration of a public program
or for an application for a federal or
state grant.

16

17

18

/S/DONNA J. MCCORD
Signature

November 30, 2020
Date

19

11:50:49

20

Donna J. McCord
Print Name

21

22

Official Court Reporter
Title

23

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25

<p>A JUROR: [3] 28/13 39/8 49/1 BY A JUROR: [4] 28/15 28/22 29/10 39/21 BY MS. SCHEIBLE: [4] 9/11 31/9 39/11 42/6 MS. SCHEIBLE: [11] 5/7 28/9 29/4 29/8 30/7 41/3 47/20 47/23 48/17 49/3 49/16 THE FOREPERSON: [26] 8/9 8/16 8/23 9/3 28/12 28/14 28/21 29/7 29/9 29/14 30/4 30/10 30/17 30/24 31/2 39/7 40/10 40/25 41/5 41/12 41/19 41/23 47/22 47/25 48/15 49/9 THE WITNESS: [15] 8/15 8/22 8/25 9/4 30/3 30/6 30/16 30/23 31/1 40/24 41/2 41/11 41/18 41/21 48/14 \$ \$2,000 [3] 29/24 40/20 48/10 \$5,000 [1] 7/3 \$500 [3] 30/1 40/22 48/12 - --oo0oo [1] 49/20 -OR [2] 51/10 51/14 / /S/DONNA [2] 50/17 51/18 1 10:54 [1] 1/16 11:47 [1] 49/8 11:50 [1] 49/9 12 [2] 48/22 49/11 13 [1] 48/22 15 [1] 48/25 16 [1] 4/6 18 [3] 1/15 2/1 5/1 18034 [1] 26/2 19BGJ225X [4] 1/9 5/13 49/13 51/5 2 2020 [8] 1/15 2/1 5/1 9/24 25/18 26/18 50/15 51/18 21 [1] 45/4 23 [1] 4/9 239B.030 [1] 51/2 25 [4] 4/7 30/1 40/22 48/12 26 [1] 4/8 290 [1] 12/9 29th [7] 9/24 16/18 17/16 25/18 26/17</p>	<p>31/22 42/21 3 30 [2] 50/15 51/18 31 [1] 3/4 33 [1] 23/23 337 [3] 1/25 50/6 50/18 364 [3] 29/23 40/19 48/9 4 42 [1] 3/5 4300 [2] 10/19 11/10 45-degree [1] 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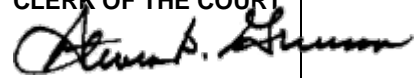
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DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
12/22/2020 9:58 AM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Jeremy Brown-Wheaton

Case No.: C-20-352265-1
Department 18

NOTICE OF HEARING

Please be advised that the Petition For Writ Of Habeas Corpus in the above-entitled matter is set for hearing as follows:

Date: January 07, 2021
Time: 11:00 AM
Location: RJC Courtroom 03F
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Salevao Asifoa
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Salevao Asifoa
Deputy Clerk of the Court

ORDR
DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
CHRISTOPHER M. PETERSON, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 13932
PUBLIC DEFENDERS OFFICE
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Las Vegas, Nevada 89155
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Facsimile: (702) 455-5112
Christopher.Peterson@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-20-352265-1
)	
v.	)	DEPT. NO. XVIII
)	
JEREMY BROWN-WHEATON,)	
)	
Defendant,)	

ORDER FOR WRIT OF HABEAS CORPUS

The Petition of JEREMY BROWN-WHEATON submitted by CHRISTOPHER M. PETERSON, Deputy Public Defender, as attorney for the above-captioned individual, having been filed in the above-entitled matter,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that you, STEVEN GRIERSON, Clerk of the Eighth Judicial District Court of the State of Nevada, in and for the County of Clark, issue a Writ of Habeas Corpus.

Dated this 22nd day of December, 2020
DATED AND DONE at Las Vegas, Nevada, this _____ of December, 2020.

Mary Kay Holthus

DISTRICT COURT JUDGE

Submitted By:	DF9 1E2 2E52 ED0A
DARIN F. IMLAY	Mary Kay Holthus
CLARK COUNTY PUBLIC DEFENDER	District Court Judge

By: /s/Christopher M. Peterson
CHRISTOPHER M. PETERSON, #13932
Deputy Public Defender

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Case Name: JEREMY BROWN-WHEATON
Case No.: C-20-352265-1
Dept. No.: XVIII

123

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-20-352265-1

7 vs

DEPT. NO. Department 18

8
9 Jeremy Brown-Wheaton

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 12/22/2020

15 Dept 18 Law Clerk

Dept18LC@clarkcountycourts.us

16 G. Cox

Coxgd@clarkcountynv.gov

17 Kayleigh Lopatic

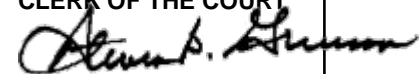
lopatikb@clarkcountynv.gov

18 Christopher Peterson

Christopher.Peterson@ClarkCountyNV.gov

19 D A

20 motions@clarkcountyda.com
21
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WRTH
DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
CHRISTOPHER M. PETERSON, DEPUTY PUBLIC DEFENDER
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Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-20-352265-1
)	
v.	)	DEPT. NO. XVIII
)	
JEREMY BROWN-WHEATON,)	
ID #8399146	)	DATE: January 7, 2021
Defendant,	)	TIME: 11:00 a.m.
)	

WRIT OF HABEAS CORPUS

To: Clark County Sheriff
Clark County, Nevada

GREETINGS:

We command that you have the body of the above-captioned person, by you imprisoned and detained, as it is alleged, together with the time and cause of such imprisonment and detention, by whatever name said above-captioned person shall be called or charged, before the Honorable Mary Kay Holthus, District Court Judge, at his/her chambers or his/her courtroom in the County Courthouse Building in the City of Las Vegas, County of Clark, State of Nevada, on January 7, 2021 at the hour of 11:00 am, to do and receive that which shall then and there be considered concerning the said above-captioned person; and have you then and there this Writ.

DATED AND DONE this _____ of December, 2020.

STEVEN GRIERSON, CLERK OF THE COURT

By: 
DEPUTY

Michelle McCarthy 12/24/2020

1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 I hereby certify that service of the foregoing WRIT OF HABEAS CORPUS was made
3 this 24th day of December, 2020, by electronic service to the District Attorney's Office at
4 motions@clarkcountyda.com and District Court Department XVIII.

5
6 By: /s/Kayleigh B Lopatic

7 An employee of the
8 Clark County Public Defender's Office
9
10
11

12 **CERTIFICATE OF FACSIMILE TRANSMISSION**

13 I hereby certify that service of the foregoing WRIT OF HABEAS CORPUS was made
14 this 24th day of December by facsimile transmission to:

15 CLARK COUNTY DETENTION CENTER
16 FAX #702-671-3763
17

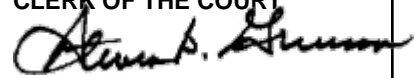
18 By: /s/Kayleigh B Lopatic

19 An employee of the
20 Clark County Public Defender's Office
21
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26 Case Name: JEREMY BROWN-WHEATON

27 Case No.: C-20-352265-1

28 Dept. No. XVIII



RSPN
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MELANIE SCHEIBLE
Deputy District Attorney
Nevada Bar #14266
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

JEREMY BROWN-WHEATON,
#8399146

Defendant.

CASE NO: C-20-352265-1

DEPT NO: XVIII

**STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS
CORPUS**

DATE OF HEARING: JANUARY 7, 2021
TIME OF HEARING: 11:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through MELANIE SCHEIBLE, Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Defendant's Petition For Writ Of Habeas Corpus.

This Response is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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1 **STATEMENT OF THE CASE**

2 Defendant was charged by way of Indictment with ESCAPE (Category B Felony -
3 NRS 212.090 - NOC 53417), BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE
4 (Category C Felony - NRS 205.274, 193.155 - NOC 57916), and BATTERY BY
5 PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229) on or about November
6 20, 2020.

7 Defendant filed his Petition for Writ of Habeas Corpus on or about December 22,
8 2020. The State herein responds.

9 **STATEMENT OF THE FACTS**

10 On August 29, 2020, Metro Officers Arturo Quezada and Johnathan Miranda responded
11 to an unknown trouble call at 4300 Lamont. Upon arrivals, the call details were updated to
12 indicate that the situation was related to domestic violence. As Officers Quezada and Miranda
13 knocked on the doors and windows of building 7 apartment 290, no one responded. However,
14 Officer Miranda heard muffled cries for help from a female.

15 Eventually, Officer Quezada kicked in a back door to the apartment and both officers
16 entered and apprehended Defendant inside the apartment. A female in the apartment explained
17 to Officer Miranda that Defendant had covered her mouth and dragged her into a bedroom and
18 closed the door when he heard the police arrive.

19 Defendant refused to comply with commands or cooperate with officers. After a
20 struggle of approximately 20 minutes – and the efforts of more than 4 officers – Defendant
21 was placed into hobbles and handcuffs and placed in the back of Officer Miranda's patrol car.
22 Defendant was placed under arrest for Coercion with Force of the female occupant of the
23 apartment and Officer Miranda then began to transport Defendant to CCDC.

24 Before their arrival at CCDC, Defendant refused to provide Officer Miranda with
25 accurate identifying information. To the contrary, Defendant successfully kicked out the back,
26 driver-side window of Officer Miranda's vehicle, with his bare feet, and fled on foot. A foot
27 pursuit ensued, and Officer Miranda called for additional units.
28

1 Metro Officers set up a perimeter in the area of Bonanza and Casino Center. At least three
2 additional officers pursued Defendant on foot, while an officer in a patrol car positioned the
3 car in Defendant's path. As Officer Levy, who was on foot, got closer to Defendant and reached
4 for him, Defendant shoulder-checked officer Levy and ran into the nearby patrol car.
5 Defendant turned around and continued to run in the opposite direction of the patrol car and
6 was finally struck with a taser by Officer Bell. Defendant was placed under arrested again and
7 transported first to UMC, then CCDC.

8 **POINTS AND AUTHORITIES**

9 **I. Sufficient evidence of probable cause was presented on Count 3 – Battery by a** 10 **Prisoner.**

11 Sufficiency of the evidence is ultimately a question of fact to be determined by a jury.
12 Defendant's intent can be proved by various pieces of direct and indirect evidence. In the
13 instant case, the jury will be presented with officer testimony and body camera footage from
14 multiple angles. It is not an element of the crime of battery that the victim of the battery knows
15 the defendant's intent. Here, it is entirely possible that the victim, Officer Levy, did not know
16 whether Defendant's actions were intentional or unintentional. His lack of knowledge does
17 not preclude a jury from making its own determination.

18 Officer Levy testified that he and Defendant, who were both on foot, ran into a police
19 vehicle that came on the scene during the chase. GJT at 35. Officer Levy said, "I didn't notice
20 the vehicle when it first happened, the vehicle that was coming from behind me, until we
21 actually got right on it" and continued to say, "that kind of threw me off." GJT at 35, 37. The
22 scene was chaotic and Officer Levy's testimony makes clear that he did not (and could not)
23 know and see everything that happened. The jury will have the benefit of viewing body
24 camera and hearing testimony from other officers on scene, including Officer Bell, who
25 observed Defendant pushing Officer Levy. GJT at 46-47.

26 Further, it is not as though Defendant was pushed by third person into Officer Levy, or
27 experienced a muscle spasm that caused his body to move without his will. Defendant was
28

1 choosing to run from police officers and making willful decisions about the directions in which
2 he ran, jumped, and otherwise eluded officers.

3 Defendant was also in lawful custody at the time of this incident. "Once one becomes
4 a prisoner, one remains a prisoner even though the actual physical control is lessened."
5 Dumaine v. State, 103 Nev. 121, 125, 734 P.2d 1230, 1233 (1987) (internal citations omitted)
6 Defendant had previously been arrested on felony Coercion charges, and remained handcuffed
7 as he ran through the streets of Las Vegas avoiding officers.

8 Officer Bell confirmed that at the time she apprehended him following the foot chase,
9 he was still wearing handcuffs. GJT at 47.

10 This is distinct from the hypothetical posed in Dumaine because Defendant had been
11 apprehended by officers already on Coercion charges and began committing the new crime of
12 felony Escape when he kicked out Officer Miranda's car window and ran away. At the time
13 Officer Levy was trying to apprehend Defendant he was not yet in custody on the Escape
14 charges, but actively escaping the Coercion charge – for which he was lawfully under arrest.
15 Therefore, Defendant meets the statutory criteria set forth in NRS 200.481 (2)(f) which states:

16 If the battery is committed by a probationer, a prisoner who is in
17 lawful custody or confinement or a parolee, without the use of a
18 deadly weapon, whether or not substantial bodily harm results
19 and whether or not the battery is committed by strangulation, for
20 a category B felony by imprisonment in the state prison for a
minimum term of not less than 1 year and a maximum term of
not more than 6 years.

21 **II. Sufficient Evidence of probable cause was presented on Count 2 -**
22 **Break, Injure or Tamper with a Motor Vehicle.**

23 Defendant caused damage to a police vehicle, causing the impairment of police or fire
24 protection when he kicked out the window of the police vehicle in which he was being
25 transported and escaped from that vehicle. One of the core functions of police officers is to
26 transport people under arrest to the county jail. Defendant impaired the Las Vegas
27 Metropolitan Police Department's ability to perform that function by causing damage to a
28 police vehicle, specifically by breaking a window from inside the vehicle.

1 Defendant's actions directly impaired the function of the police at that moment, and
2 prevented future use of that vehicle until it could be repaired. It was not necessary to explain
3 to the members of the Grand Jury why a police vehicle with a broken window and glass in
4 the back seat was no longer able to be used for police activity. In one of the cases cited by
5 Defendant the Nevada Supreme Court offered the following.

6 An inference is a deduction which the reason of the jury (trier of
7 the facts) makes from the facts proved, without an express
8 direction of law to that effect. White [sic] the inference drawn
9 need not be a necessary inference, it still remains that the
10 inference must be reasonable, not unreasonable or so remote as
11 to be unwarranted.

12 State v. von Brincken, 86 Nev. 769, 773, 476 P.2d 733, 735 (1970)

13 As the members of the Grand Jury looked at the photograph of Officer Miranda's patrol
14 vehicle with its missing window and glass on the back seat, they did not require a specific
15 instruction of law to understand that the vehicle needed to be repaired before officers could
16 use the vehicle again. Some examples of reasons the car could not be used include: The car
17 could not be locked and secured properly before the window was fixed. The broken glass
18 would pose a safety hazard to anyone sitting in the back seat. The driver could no longer
19 protect a passenger in the backseat from debris and detritus entering the window, especially
20 at high speeds on the freeway. And, obviously, a human being in police custody could exit
21 the vehicle through the missing window.

22 **III. Sufficient Evidence of probable cause was presented on Count 1 – Escape.**

23 There was probable cause to arrest Defendant on felony charges of coercion at the time
24 he was arrested. Officer Miranda testified very clearly at the Grand Jury as to the factors that
25 went into his consideration before he made the decision to place Defendant in custody and
26 under arrest. Specifically, Officer Miranda testified he "heard a female's voice, sounded like
27 she was in distress, sounded like her mouth was being covered..." GJT at 14 "She was asking
28 for help" and he heard her say the word "help." GJT at 14 "It sounded very muffled...like a
yell in a way but it sounded a little low..." GJT at 15. Based on this information Officer
Miranda determined additional investigation was necessary to determine whether a domestic

1 violence crime had been committed. Before he could conduct that investigation, however,
2 Officer Miranda had to secure the safety of the scene. When Officer Miranda entered the
3 house where he heard the sounds coming from, Defendant refused to cooperate. Taking
4 Defendant into custody for resisting was necessary to secure the scene, before Officer
5 Miranda could conduct an adequate investigation on the domestic violence charges. With
6 Defendant secured outside the residence, Officer Miranda returned to the residence, where he
7 spoke to the victim.

8 The victim relayed the following to Officer Miranda.

9 “[W]hen we got there she heard us knocking on the door, she
10 heard us saying LVMPD. Wheaton had gotten behind her,
11 grabbed her by the face and pulled her back to her bedroom,
12 closed the door and left her inside the bedroom. He had told her
13 not to make any noise because he didn’t want us to go inside the
14 house.”

15 GJT at 21.

16 Officer Miranda was very clear that Defendant was taken into custody because “when
17 someone is not listening to us, someone is not doing what we’re asking them to do . . . at that
18 point it’s more of an officer-safety issue. And also at that point it’s an obstructing issue.” GJT
19 at 18. Whereas, investigating the coercion that occurred while officers were knocking on the
20 door, before they came in is “totally different.” GJT at 20.

21 In addition to Officer Miranda’s testimony, the trial jury may receive footage from his
22 body-worn camera, testimony from his partner, and other evidence of the circumstances
23 surrounding Defendant’s arrest. The statements by the victim to Officer Miranda – with all
24 her attending body language and tone of voice—coupled with what Officer Miranda heard
25 and saw constitute probable cause to believe that Defendant had committed Felony Coercion.
26 All of this evidence must be received by a jury to make the determinations of fact as to
27 whether probable cause existed for Defendant’s arrest, and whether he committed the crime
28 of Escape.

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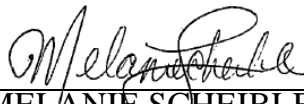
CONCLUSION

For the forgoing reasons, the State respectfully requests that Defendant's petition be
DENIED.

DATED this 4 day of January, 2021.

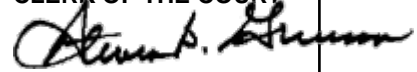
Respectfully submitted,

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

BY 
MELANIE SCHEIBLE
Deputy District Attorney
Nevada Bar #14266

ROC or Certmail or Certfax

MS/ms/L5



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Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-20-352265-1
)	
v.	)	DEPT. NO. XVIII
)	
JEREMY BROWN-WHEATON,)	
)	
Defendant,	)	DATE: February 4, 2021
	)	TIME: 11:00 a.m.

**ANSWER TO THE STATE'S RETURN AND OTHER ARGUMENTS RAISED
REGARDING PETITION FOR WRIT OF HABEAS CORPUS**

COMES NOW, the Defendant, JEREMY BROWN-WHEATON, by and through CHRISTOPHER M. PETERSON, Deputy Public Defender and hereby offers this answer in response to the State's Response as well as the arguments raised by the State on January 6, 2021 and January 14, 2021 regarding Mr. Brown-Wheaton's right to a trial within 60 days.

This memorandum is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and oral argument at the time set for hearing this memorandum.

DATED this 2nd day of February, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Christopher M. Peterson
CHRISTOPHER M. PETERSON, #13932
Deputy Public Defender

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CHRISTOPHER M. PETERSON makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am a Deputy Public Defender for the Clark County Public Defender's Office appointed to represent Defendant Jeremy Brown-Wheaton in the present matter;

2. I am more than 18 years of age and am competent to testify as to the matters stated herein. I am familiar with the procedural history of the case and the substantive allegations made by The State of Nevada. I also have personal knowledge of the facts stated herein or I have been informed of these facts and believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 2nd day of February, 2021.

/s/Christopher M. Peterson
CHRISTOPHER M. PETERSON

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Mr. Brown-Wheaton offers the following points and authorities to supplement his
3 Petition for Writ of Habeas Corpus and reply the State’s arguments made in its Response as well
4 as on January 6, 2021 and January 14, 2021.¹

5 **I. The State’s arguments about body camera not introduced before the grand jury are**
6 **improper, and the Court must disregard any arguments made by the State relying**
7 **on body worn camera not admitted before the grand jury.**

8 In reviewing a petition for writ of habeas corpus, a “district court, at the habeas hearing,
9 is limited to the evidence which was before, and considered by, the grand jury in testing the
10 sufficiency of probable cause to support an indictment.” Peterson v. Sheriff, Clark Cty., 92 Nev.
11 287, 289, 549 P.2d 752, 753 (1976). This clearly means that the State may not use evidence it
12 failed to offer before the grand jury to claim it satisfied its evidentiary burden. Yet, in its
13 Response, the State twice refers to evidence not offered to the grand jury.

14 In regards to Count 3, the State claims that “The jury will have the benefit of viewing
15 body worn camera and hearing testimony from other officers on the scene, including Officer
16 Bell, who observed the Defendant pushing Officer Levy.” State’s Response at 3. The State’s
17 argument is improper as it hinges on evidence that was not offered before the grand jury. Officer
18 Bell did not testify that she observed Mr. Brown-Wheaton “push” Officer Levy. What the jury
19 will observe is not the same as what was presented before the grand jury. This argument is
20 improper.

21 Then again in regards to Count 1, the State argues “in addition to Officer Miranda’s
22 testimony, the trial jury may receive footage from his body-worn camera, testimony from his
23 partner, and other evidence surrounding the circumstances surrounding the Defendant’s arrest.”
24

25 ¹ The State has twice claimed that Mr. Brown-Wheaton has waived his right to a trial within 60
26 days pursuant to 178.566 by filing a Petition for Writ of Habeas Corpus, first on January 6, 2021
27 and again on January 14, 2021. While the State did not cite any law to support this claim, Mr.
28 Brown-Wheaton also addresses this claim in his Answer to the State’s Return.

1 State's Response at 6. Again, the State relies on evidence not presented before the grand jury to
2 support its argument. This is improper and must be disregarded by the Court.

3 **II. The State improperly suggests that it does not need to offer evidence of intent before**
4 **the grand jury to establish the charge of Battery by Prisoner under Count 3.**

5 The State says that it is not an element of Battery that "the victim know the defendant's
6 intent"; this is a misleading statement, not Mr. Brown-Wheaton's argument, and ignores that the
7 State is required to offer evidence of intentional contact. Accidental contact is not a battery.
8 Griffo v. State, 131 Nev. 1286, 2015 WL 5176815 (September 3, 2015) (unpublished) ('Battery'
9 means any *willful* and unlawful use of force or violence upon the person of another, and a person
10 cannot be guilty of a crime if he committed the act through misfortune or by accident.")
11 (quotation omitted).

12 As it bears the burden to show probable cause before the grand jury, the State must offer
13 evidence that Mr. Brown-Wheaton intentionally made contact with Officer Levy. The State has
14 offered no evidence of intent, and in fact Officer Levy's testimony gives every indication that
15 any contact was accidental. As accidental contact is not a battery, Count 3 must be dismissed.

16 **III. The State incorrectly claims that a prisoner can be considered "in custody" when**
17 **the State does not have physical control over him: the State must show that Mr.**
18 **Brown-Wheaton is both a "prisoner" and "in custody" to charge him under NRS**
19 **200.481.2(g).**

20 In its Response, the State confuses a person's status as a "prisoner" with whether they are
21 "in custody." NRS 200.481.2(g) can apply to "prisoners," but not every prisoner may be charged
22 under NRS 200.481.2(g). Rather the offense only applies to those prisoners who are in "lawful
23 custody or confinement." In turn, Dumaine makes it clear that a person is only in "custody"
24 under 200.481.2(g) if there is physical control over the defendant at the time of the offense. The
25 State cannot allege that a defendant has escaped the physical control of the State yet claim he is
26 in "custody." The testimony before the grand jury makes clear that the State did not have Mr.
27 Brown-Wheaton in its physical control when he made contact with Officer Levy. Count 3 must
28 be dismissed.

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3 **IV. The State is incorrect when it suggests that evidence of damage to a police vehicle is**
4 **sufficient to establish Count 2: under NRS 193.155.1, the State must show that the**
5 **damage in fact impaired “police protection.”**

6 Under NRS 193.155.1, the State must show that “the damage result[ed] in impairment of
7 public communication, transportation or police and fire protection.” NRS 193.155. As it is an
8 element of the offense, the State offer evidence that such an impairment in fact happened. It
9 failed to do so here.

10 The State seems to suggest that the von Bricken Court permitted a grand jury to infer
11 evidence of an essential element of an offense when the State failed to offer such evidence.
12 State’s Response at 5. This suggestion is incorrect. In von Brincken, the defendant claimed that
13 the State had offered insufficient evidence that he was the person who killed his wife. 86 Nev.
14 769, 773, 476 P.2d 733, 735 (1970). The von Bricken Court permitted the lower court to
15 consider circumstantial evidence in establishing probable cause that the defendant committed the
16 offense during a preliminary hearing,² an uncontroversial position. However, the von Bricken
17 Court did not free the State from offering evidence to establish each element of an offense
18 charged, and specifically warned against the grand jury speculation. State v. von Brincken, 86
19 Nev. 769, 774, 476 P.2d 733, 735–36 (1970) (“Because of the testimony of the police officer and
20 the von Brincken youth before the grand jury, it is reasonably inferable that Hope von Brincken
21 was struck by Mr. von Brincken's Cadillac. **Without this testimony, the grand jury's**
22 **conclusion would have been based on mere speculation, and, of course, the trial court's**
23 **granting of the writ of habeas corpus would have been proper.**”) (emphasis added).

24 The State offered no testimony as to what impact that the damaged window had on
25 “police protection,” and von Bricken does not permit grand jury speculation. Count 2 must be
26 dismissed.

27 ² Specifically, the State offered evidence that the defendant may have struck his wife with his car, and that was
28 sufficient to establish probable cause that he was the perpetrator.

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3 **V. The State’s argument regarding Count 1 indicates that the officers had probable**
4 **cause for misdemeanor Resisting, not felony Coercion: considering that Escape**
5 **charges predicated on a misdemeanor rather than a felony is not what the State**
6 **charged, Count 1 must be dismissed.**

7 NRS 212.090 treats escapes predicated on a misdemeanor differently than an escape
8 predicated on a felony. Compare NRS 212.090.1(b) (treating an escape predicated on a felony
9 charge as a B felony) with NRS 212.090.2(b) (treating an escape predicated on a misdemeanor
10 charge as a gross misdemeanor). In its Response, the State does not offer any citations from the
11 record to support its claim that there was probable cause to detain Mr. Brown-Wheaton for
12 felony Coercion. Rather, the State points to Miranda’s testimony that Mr. Brown-Wheaton was
13 detained for an Obstruction charge, which is a misdemeanor. See NRS 199.280.3. State’s
14 Response at 6 (“Officer Miranda was very clear that Defendant was taken into custody because
15 ‘when someone is not listening to us, someone is not doing what we’re asking them to do . . . at
16 that point it’s more of an officer-safety issue. **And also at that point it’s an obstructing issue.**”
(emphasis added).

17 The State has predicated Count 1 on a felony Coercion charge, not a misdemeanor
18 Obstructing. While it may have offered sufficient evidence to show a basis to detain Mr. Brown-
19 Wheaton for misdemeanor Obstructing, if failed to show probable cause to arrest Mr. Brown-
20 Wheaton for felony Coercion. Count 1 must be dismissed.

21 **VI. Mr. Brown-Wheaton has not waived his right to a trial within 60 days by filing his**
22 **Petition, and he is not required to do so pursuant to NRS 34.700.**

23 The State has claimed on two separate occasions that Mr. Brown-Wheaton has waived his
24 right to a trial within 60 days by filing a pretrial petition for writ of habeas corpus. The State is
25 incorrect.

26 NRS 34.710.1(a) requires that any pretrial petition for writ of habeas corpus comply with
27 NRS 34.700. In turn, NRS 34.700.1 states that:
28

1 Except as provided in subsection 3, a pretrial petition for a writ of habeas corpus
2 based on alleged lack of probable cause or otherwise challenging the court's right
3 or jurisdiction to proceed to the trial of a criminal charge may not be considered
4 unless:

5 (a) The petition and all supporting documents are filed within 21 days after the
6 first appearance of the accused in the district court; and

7 (b) The petition contains a statement that the accused:

8 (1) Waives the 60-day limitation for bringing an accused to trial; or

9 **(2) If the petition is not decided within 15 days before the date set for trial,
10 consents that the court may, without notice or hearing, continue the trial
11 indefinitely or to a date designated by the court.**

12 NRS 34.700.1 (emphasis added)

13 As made clear by NRS 34.700.1(b)(2), Mr. Brown-Wheaton does not waive his
14 right to a trial within 60 days if he agrees that if his Petition is not decided within 15 days
15 before the date set for trial, he consents that the Court may, without notice or hearing,
16 continue his trial date. And that is precisely what he did in this case. See Petition for Writ
17 of Habeas Corpus, filed December 21, 2021, at 2.

18 As the State has offered no legal authority to support its claim that Mr. Brown-
19 Wheaton waived his right to a trial within 60 days, and Mr. Brown-Wheaton has never
20 made such a waiver orally or in writing, he requests that this Court reset his trial date
21 within the next 60 days if it does not grant his Petition in full.

22 DATED this 1st day of February, 2021.

23 DARIN F. IMLAY
24 CLARK COUNTY PUBLIC DEFENDER

25 By: /s/Christopher M. Peterson
26 CHRISTOPHER M. PETERSON, #13932
27 Deputy Public Defender
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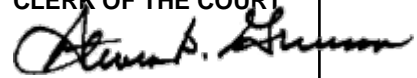
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YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 4th day of February, 2021, at 11:00 a.m.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

CERTIFICATE OF ELECTRONIC SERVICE

By: /s/Kayleigh Lopatic
An employee of the
Clark County Public Defender's Office



DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
CHRISTOPHER M. PETERSON, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 13932
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Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Christopher.Peterson@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-20-352265-1
)	
v.	)	DEPT. NO. XVIII
)	
JEREMY BROWN-WHEATON,)	
	)	DATE: March 4, 2021
Defendant,	)	TIME: 11:00 a.m.
)	

**MOTION TO DISMISS DUE TO VIOLATION OF ARTICLE III, SECTION 1 OF THE
NEVADA CONSTITUTION**

COMES NOW, the Defendant, JEREMY BROWN-WHEATON, by and through
CHRISTOPHER M. PETERSON, Deputy Public Defender and hereby requests that this Court
dismiss the State's Indictment as it was filed in violation of Article III, Section 1 of the Nevada
Constitution.

This Motion is made and based upon all the papers and pleadings on file herein, the
attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

DATED this 10th day of February, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Christopher M. Peterson
CHRISTOPHER M. PETERSON, #13932
Deputy Public Defender

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CHRISTOPHER M. PETERSON makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am a Defender for the Clark County Public Defender's Office appointed to represent my Brown-Wheaton in the present matter;

2. I am more than 18 years of age and am competent to testify as to the matters I am familiar with the procedural history of the case and the substantive allegations state of Nevada. I also have personal knowledge of the facts stated herein or I have of these facts and believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 10th day of February, 2021.

/s/Christopher M. Peterson
CHRISTOPHER M. PETERSON

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Mr. Brown-Wheaton requests that this Court dismiss the State’s Indictment as the
3 Indictment was filed in violation of Article III, Section 1 of the Nevada Constitution.

4
5 **STATEMENT OF RELEVANT FACTS AND PROCEDURAL HISTORY**

6 Senator Melanie Schieble was elected to the Nevada State Senate in November of 2018
7 and is currently serving a four-year term as state senator.¹ She also prosecutes cases as a Deputy
8 District Attorney with the Clark County District Attorney’s Office.

9 On November 19, 2020, during her term as State Senator, Melanie Schieble opened this
10 case before the grand jury under case number 19BGJ225X, filing a proposed indictment accusing
11 Mr. Brown-Wheaton of: (1) Escape, (2) Break, Injure, or Tamper with Motor Vehicle, and (3)
12 Battery by Prisoner. See Exhibit A, Proposed Indictment signed by Deputy District Attorney
13 Melanie Schieble. Senator Schieble began her prosecution of Mr. Brown-Wheaton that same day,
14 handling the entirety of the presentation of evidence before the grand jury.

15 When the grand jury returned a true bill, the formal Indictment was filed on November 19,
16 2020 under Melanie Schieble’s authorization. Exhibit B, Indictment signed by Deputy District
17 Attorney Melanie Scheible. On November 24, 2020, Mr. Brown-Wheaton was arraigned on the
18 November 19th Indictment where he pled not guilty to the charges. He is now set for trial on
19 February 8, 2021.

20 Historically Senator Schieble has allowed her prosecutorial power to shape her legislative
21 agenda and has used her position as a legislator to advocate and vote for laws that remove limits
22 on prosecutorial power. She campaigns on criminalizing unregistered firearm possession and
23 increasing penalties for accused domestic abusers, using her prosecutorial function to enhance her
24 legislative agenda.² In 2019 she voted for Senate Bill 97, which banned criminal defense attorneys

25
26 ¹ Legislator Information, Senator Melanie Scheible,
27 <https://www.leg.state.nv.us/App/Legislator/A/Senate/Current/9> (last visited February 9, 2021).

28 ² Public Safety, <https://www.melaniefornvsenate.com/public-safety> (last visited February 9, 2021)

1 from raising certain defenses at trial. In advocating for the bill, she directly referenced her role as
2 a prosecutor, stating:

3 "I take great pride in being the first prosecutor, to my knowledge, to take a hate
4 crime to trial. I have asked around, and I have not found another one in Nevada. **It**
5 **is important to note that I lost because hate crimes are incredibly difficult to**
6 **prove.** I think something we sometimes forget is, when you are prosecuting a case
7 or going through a criminal trial, the facts develop. We might not have all the facts
8 when we charge somebody. They might just be charged with battery with
9 substantial bodily harm, and if I, as a prosecutor, have not charged the hate crime
10 upfront, there is nothing in the law to prevent the defendant from bringing up the
11 exact same facts that would have made it a hate crime—had I known when I first
12 authored the charging document about the circumstances—to argue "That is why I
13 was scared," or "That is why I pushed, hit, or shot her." **I think it is important that**
14 **we identify facts we think are aggravating—things that make a crime worse**
15 **rather than better—and put into law that they can be used as a sword, but not**
16 **as a shield.**"³

17 She now chairs the Nevada State Senate's Judiciary Committee,⁴ which has jurisdiction over
18 legislation related to criminal procedure and crimes and punishments.

19 ARGUMENT

20 Mr. Brown-Wheaton requests that the Court dismiss the Indictment because it was obtained
21 and filed by Senator Scheible in violation of Article III, Section 1 of the Nevada Constitution,
22 which explicitly bars members of the legislative branch such as Senator Scheible from exercising
23 power properly belonging to the executive.

24 As the framers of federal constitution recognized, "[t]he accumulation of all powers,
25 legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and
26 whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of
27 tyranny." James Madison, *The Federalist Papers* No. 47. The framers tamed this threat by
28 separating legislative, executive, and judiciary power into three, co-equal branches government,

³ Nevada Assembly Committee on Judiciary, 80th Session, April 24, 2019 (emphasis added),
available at

<https://www.leg.state.nv.us/Session/80th2019/Minutes/Assembly/JUD/Final/1011.pdf>.

⁴ Senate Judiciary,

<https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Committee/329/Overview> (last visited
February 9, 2021).

1 positioning the branches to serve as a check on the others which, in turn, each branch "in their
2 proper places." Alexander Hamilton or James Madison, *The Federalist Papers* No. 51. The
3 founders believed that this structural design placed vital structural barriers on the power of those
4 governing us who, after all, are merely human: "If angels were to govern men, neither external nor
5 internal controls on government would be necessary." *Id.*

6 Under the Nevada Constitution, "[t]he powers of the Government of the State of Nevada
7 shall be divided into three separate departments,--the Legislative,--the Executive and the Judicial;
8 **and no persons charged with the exercise of powers properly belonging to one of these**
9 **departments shall exercise any functions, appertaining to either of the others**, except in the
10 cases expressly directed or permitted in this constitution." Nev. Const. art. III, § 1 (emphasis
11 added). Similar to the United States Constitution, Nevada's Constitution "gives rise to the
12 separation of powers doctrine through its 'discrete treatment of the three branches of
13 government.'" *Comm'n on Ethics v. Hardy*, 125 Nev. 285, 292, 212 P.3d 1098, 1103 (2009). "But
14 the Nevada Constitution goes one step further [than the United States Constitution]; it contains an
15 express provision prohibiting any one branch of government from impinging on the functions of
16 another." *State v. Second Jud. Dist. Ct. in & for Cty. of Washoe (Hearn)*, 134 Nev. 783, 786, 432
17 P.3d 154, 158 (2018). If the member of one branch exercises a function that belongs to another,
18 that action is constitutionally invalid. *See Del Papa v. Steffen*, 112 Nev. 369, 383, 915 P.2d 245,
19 254 (1996) (invalidating a Supreme Court Justice's exercise of executive authority).

20 The Nevada Constitution clearly invests the power of the Legislative Department into the
21 members of the Nevada State Senate. Nev. Const. art. IV, § 1 ("The Legislative authority of this
22 State shall be vested in a Senate and Assembly which shall be designated 'The Legislature of the
23 State of Nevada and the sessions of such Legislature shall be held at the seat of government of the
24 State.'). This means that Ms. Scheible is a person "charged with the exercise of powers belonging
25 to one of [the] departments" described in Article III, Section 1, and so bound by the limitations
26 described in that provision. Because Ms. Scheible is charged with the exercise of powers
27 belonging to the Legislative branch, she is necessarily barred from wielding executive or judicial
28

1 power. Under Nevada law, “executive power extends to the carrying out and enforcing the laws
2 enacted by the legislature.” Del Papa, 112 Nev. at 377, 915 P.2d at 250. The prosecution of a
3 criminal case is a power reserved for the executive. See Second Jud. Dist. Ct. in & for Cty. of
4 Washoe (Hearn), 134 Nev. 783, 787, 432 P.3d 154, 159 (2018) (“In requiring that a prosecutor
5 stipulate to the district court's decision, the effect of NRS 176A.290(2) is to afford an executive
6 veto over a judicial function.”); State ex rel. Harvey v. Second Judicial Dist. Court, 117 Nev. 754,
7 770, 32 P.3d 1263, 1274 (2001) (recognizing criminal prosecutions by county prosecutors as an
8 “executive function.”). Furthermore, the specific act of seeking an indictment is an executive
9 function: after finding that three Supreme Court Justices “improperly exercised the functions of
10 the executive branch” by initiating an investigation to expose the sources of news leaks, the Court
11 in Del Papa noted that the investigation properly should have been undertaken by either the State
12 Bar or “a district attorney’s office” . . . and “[i]n any of these situations, **Respondent Justices**
13 **could also have asked a district attorney to seek an indictment from a grand jury.**” 112 Nev.
14 at 378, 915 P.2d at 251 (emphasis added). In prosecuting Mr. Brown-Wheaton and specifically by
15 seeking an indictment against him, Senator Schieble exercised executive power and performed an
16 executive function during her current term as a Nevada State Senator.

17 Because Senator Schieble is a current member of the legislative branch, any exercise of
18 executive power by Senator Schieble, including seeking an indictment and prosecuting Mr.
19 Brown-Wheaton, violates the prohibition clearly laid out in Article III, Section 1, making any
20 exercise of such power invalid unless “expressly directed or permitted in this constitution.”. In
21 turn, this means that the Indictment filed by Senator Schieble in this case must be dismissed as it
22 is constitutionally invalid pursuant to Article III, Section 1, of the Nevada Constitution.

23 ///

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25 ///

1 **CONCLUSION**

2 Mr. Brown-Wheaton requests that this Court dismiss the State's Indictment as it was based
3 upon Senator Schieble's presentation of evidence to the grand jury and filed under her authority,
4 both executive functions that Schieble could not perform as a sitting State Senator without
5 violating Article III, Section 1 of the Nevada Constitution.

6
7 DATED this 10th day of February, 2021.

8 DARIN F. IMLAY
9 CLARK COUNTY PUBLIC DEFENDER

10 By: /s/Christopher M. Peterson
11 CHRISTOPHER M. PETERSON, #13932
12 Deputy Public Defender
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YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 4th of March, at 11:00 a.m.

DATED this 10th day of February, 2021.

By: /s/Christopher M. Peterson
CHRISTOPHER M. PETERSON, #13932
Deputy Public Defender

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountynyda.com on this 10th day of February, 2021.

By: /s/Kayleigh Lopatic
An employee of the
Clark County Public Defender's Office

EXHIBIT A

**CASE NO. C-20-352265-1
DEPT. NO. XVIII
DDA MELANIE SCHEIBLE (L5)**

Defendant(s): JEREMY BROWN-WHEATON, aka, Jeremy Paul Brown Wheaton,
#8399146

Case No(s): 19BGJ225X (TRACKS TO DC XVIII)

Charge(s): (1) CT - ESCAPE (Category B Felony - NRS 212.090 - NOC 53417);
(1) CT - BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE
(Category C Felony - NRS 205.274, 193.155 - NOC 57916),
(1) CT - BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F)
- NOC 50229)

Def. Counsel(s): PUBLIC DEFENDER

**WARRANT (1 WEEKS) 11/24/20 12:00 PM DC 18
BAIL SET: \$250,000 CASH OR SURETY
PRE-TRIAL RISK ASSESSMENT ORDERED**

DEFT IS NOT IN CUSTODY (20CRN001678, PH 12/2 NLVJC)

JUSTICE COURT BOND - \$27,000- EXONERATED

Exhibits:

1. Proposed Indictment *BB*
2. Jury Instructions *BB*
3. Photo *RL*
4. Photo *RL*
5. Photo *MB*
6. Disc *MB*

Exhibits 1 - 6 to be lodged with the Clerk of the Court.

1 **IND**

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

5 MELANIE SCHEIBLE
6 Deputy District Attorney
7 Nevada Bar #14266
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO:

11 -vs-

DEPT NO:

12 JEREMY BROWN-WHEATON, aka,
13 Jeremy Paul Brown Wheaton,
14 #8399146

Defendant.

INDICTMENT

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

17 The Defendant above named, JEREMY BROWN-WHEATON, aka, Jeremy Paul
18 Brown Wheaton, accused by the Clark County Grand Jury of the crime(s) of ESCAPE
19 (Category B Felony - NRS 212.090 - NOC 53417); BREAK, INJURE OR TAMPER WITH
20 MOTOR VEHICLE (Category C Felony - NRS 205.274, 193.155 - NOC 57916), and
21 BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229)
22 committed at and within the County of Clark, State of Nevada, on or about August 29, 2020,
23 as follows:

24 COUNT 1 - ESCAPE

25 did then and there willfully, unlawfully and feloniously, while being held in lawful
26 custody on the charge of Coercion, a felony, escape or attempt to escape from J. MIRANDA
27 of the Las Vegas Metropolitan Police Department, by breaking out the window of a patrol car,
28 exiting said patrol car and running away from said officer.

1 COUNT 2 - BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE

2 did then and there willfully, unlawfully, and feloniously, break, injure, tamper with, or
3 remove any part of patrol vehicle 18034, owned by the LAS VEGAS METROPOLITAN
4 POLICE DEPARTMENT, for the purpose of injuring, defacing and/or destroying said vehicle,
5 temporarily or permanently preventing its useful operation, and/or for any purpose against the
6 will or without the consent of said owner, or in any manner willfully or maliciously interfere
7 with or prevent the running or operation of said vehicle, by: kicking and breaking the window
8 out of said patrol car, the damage resulting in impairment of public communication,
9 transportation or police and fire protection.

10 COUNT 3 - BATTERY BY PRISONER

11 did then and there willfully, unlawfully, feloniously, and knowingly use force or
12 violence upon the person of another, to wit: R. LEVY, by shoving and/or shoulder-checking
13 the said R. LEVY, Defendant at the time of the offense being held in lawful custody on the
14 charge of Coercion, a felony.

15 DATED this ____ day of November, 2020.

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

18
19 BY

20 MELANIE SCHEIBLE
21 Deputy District Attorney
22 Nevada Bar #14266
23

24 ENDORSEMENT: A True Bill
25
26

27 _____
Foreperson, Clark County Grand Jury
28

Names of Witnesses and testifying before the Grand Jury:

Additional Witnesses known to the District Attorney at time of filing the Indictment:

CUSTODIAN OF RECORDS - CCDC

CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS - LVMPD RECORDS

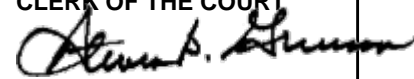
19BGJ225X/20CRN001678; 20CRN001289/mcb-GJ
LVMPD EV# 200800124549; 200700008188
(TK)

Grand Jury Case # 19B6 J225 X

Exhibit # 1

Date 11-18-2020

EXHIBIT B



1 IND
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MELANIE SCHEIBLE
6 Deputy District Attorney
7 Nevada Bar #14266
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

CASE NO: C-20-352265-1

11 -vs-

DEPT NO: XVIII

12 JEREMY BROWN-WHEATON, aka,
13 Jeremy Paul Brown Wheaton,
14 #8399146

Defendant.

INDICTMENT

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

17 The Defendant above named, JEREMY BROWN-WHEATON, aka, Jeremy Paul
18 Brown Wheaton, accused by the Clark County Grand Jury of the crime(s) of ESCAPE
19 (Category B Felony - NRS 212.090 - NOC 53417); BREAK, INJURE OR TAMPER WITH
20 MOTOR VEHICLE (Category C Felony - NRS 205.274, 193.155 - NOC 57916), and
21 BATTERY BY PRISONER (Category B Felony - NRS 200.481(2)(F) - NOC 50229)
22 committed at and within the County of Clark, State of Nevada, on or about August 29, 2020,
23 as follows:

24 COUNT 1 - ESCAPE

25 did then and there willfully, unlawfully and feloniously, while being held in lawful
26 custody on the charge of Coercion, a felony, escape or attempt to escape from J. MIRANDA
27 of the Las Vegas Metropolitan Police Department, by breaking out the window of a patrol car,
28 exiting said patrol car and running away from said officer.

1 COUNT 2 - BREAK, INJURE OR TAMPER WITH MOTOR VEHICLE

2 did then and there willfully, unlawfully, and feloniously, break, injure, tamper with, or
3 remove any part of patrol vehicle 18034, owned by the LAS VEGAS METROPOLITAN
4 POLICE DEPARTMENT, for the purpose of injuring, defacing and/or destroying said vehicle,
5 temporarily or permanently preventing its useful operation, and/or for any purpose against the
6 will or without the consent of said owner, or in any manner willfully or maliciously interfere
7 with or prevent the running or operation of said vehicle, by: kicking and breaking the window
8 out of said patrol car, the damage resulting in impairment of public communication,
9 transportation or police and fire protection.


10 COUNT 3 - BATTERY BY PRISONER

11 did then and there willfully, unlawfully, feloniously, and knowingly use force or
12 violence upon the person of another, to wit: C. LEVY, by shoving and/or shoulder-checking
13 the said C. LEVY, Defendant at the time of the offense being held in lawful custody on the
14 charge of Coercion, a felony.

15 DATED this 18 day of November, 2020.

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

19 BY

20 
21 MELANIE SCHEIBLE
22 Deputy District Attorney
23 Nevada Bar #14266

24 ENDORSEMENT: A True Bill

25
26 
27 Foreperson, Clark County Grand Jury
28

Names of Witnesses and testifying before the Grand Jury:

BELL, SHANICE – LVMPD

LEVY, RYAN – LVMPD

MIRANDA, JONATHAN – LVMPD

Additional Witnesses known to the District Attorney at time of filing the Indictment:

CUSTODIAN OF RECORDS - CCDC

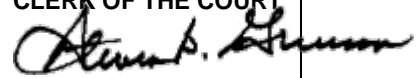
CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS - LVMPD RECORDS

19BGJ225X/20CRN001678/mcb-GJ
LVMPD EV# 200800124549; 200700008188
(TK)

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
2/10/2021 11:46 AM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Jeremy Brown-Wheaton

Case No.: C-20-352265-1
Department 18

NOTICE OF HEARING

Please be advised that the Defendant's Motion To Dismiss Due To Violation Of Article III, Section 1 Of The Nevada Constitution in the above-entitled matter is set for hearing as follows:

Date: February 23, 2021
Time: 11:00 AM
Location: RJC Courtroom 03F
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

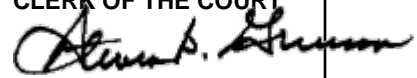
STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Marie Kramer
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Marie Kramer
Deputy Clerk of the Court



MOT
DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
CHRISTOPHER M. PETERSON, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 13932
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
Christopher.Peterson@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-20-352265-1
)	
v.	)	DEPT. NO. XVIII
)	
JEREMY BROWN-WHEATON,)	
)	
Defendant,	)	DATE: February 23, 2021
	)	TIME: 11:00 a.m.

**MOTION FOR OR/BAIL RELEASE, OR, IN THE ALTERNATIVE,
FOR SETTING OF REASONABLE BAIL DUE TO CHANGE IN CIRCUMSTANCES**

COMES NOW, the Defendant, Jeremy Brown-Wheaton, by and through, CHRISTOPHER M. PETERSON, Deputy Public Defender, and moves this Honorable Court for an order releasing the Defendant from custody on his own recognizance or, in the alternative, for the setting of bail reasonable pursuant to NRS 178.485.

This Motion is based upon the attached Declaration of Counsel, any attached documents, argument of Counsel, and any information provided at the time set for hearing this motion.

DATED this 16th day of February, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Christopher M. Peterson
CHRISTOPHER M. PETERSON, #13932
Deputy Public Defender

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **STATEMENT OF FACTS AND PROCEDURAL HISTORY**

3 Mr. Brown-Wheaton made his first appearance in this case on September 1, 2020
4 before North Las Vegas Justice Department 1 under justice court case number 20CRN001678.
5 Judge Hoo made a custody determination after reviewing the allegations in the police reports from
6 the August 29th incident and being made aware that Mr. Brown-Wheaton had two other pending
7 criminal matters (Henderson municipal case 19CR000821 and what is now C-20-352037-1),
8 setting Mr. Brown-Wheaton's bail at \$27,000 along with a release condition of House Arrest. The
9 preliminary hearing was set for September 15, 2020.

10 On September 15, 2020, the State presented three witnesses to North Las Vegas
11 Department 1: Officers Quezada, Miranda, and Bell.¹ After the close of evidence, Judge Hoo
12 bound over one count of Escape and another of Breaking and Tampering of a Motor Vehicle. These
13 counts are identical to Counts 1 and 2 of current indictment. However, when the State sought bind
14 over on a count of Battery by Prisoner (now Count 3 in the State's indictment), the justice court
15 stayed its bind over, bifurcated that charge, and continued the preliminary hearing. This decision
16 was due to the State's failure prior to the hearing to give any notice regarding the charge or any
17 documentation indicating that any officers had been battered by Mr. Brown-Wheaton.²

18 On October 20, 2020, Mr. Brown-Wheaton requested that the justice court remove the
19 House Arrest condition that resulted in his *de facto* detention. After hearing argument from the
20 State and Mr. Brown-Wheaton, Judge Hoo lifted the House Arrest requirement, instead requiring
21 Mr. Brown-Wheaton to comply with Intensive Supervision. This change was made over the State's
22 objection, and Judge Hoo denied the State's request that bail be raised to \$250,000. Mr. Brown-
23 Wheaton was subsequently released from custody. On October 29, 2020, the district attorney
24 handling this case sent notice to Mr. Brown-Wheaton's counsel that the State intended to seek an

25
26 ¹ Three of the four witnesses that would ultimately appear before the grand jury.

27 ² After the hearing was continued, the State acknowledged that Officer Levy did not accuse Mr. Brown-Wheaton of
28 battering him in any contemporary incident reports, declarations of arrest, temporary custody records, requests for
prosecution, or similar documentation. The alleged battery also does not appear in any of the CAD or radio dispatch
logs that have been provided to Mr. Brown-Wheaton.

1 indictment, and the Marcum notice indicated that the State sought to consolidate the allegations in
2 this case and the allegations in case C-20-352037-1, specifically the incidents from July 7 and July
3 11, 2020.

4 Also on November 5, 2020, Mr. Brown-Wheaton waived up on the negotiation in C-20-
5 352037-1, resolving all charges from the July 2nd and 11th incidents to one charge of Battery on a
6 Protected Person (GM) with the State agreeing to have no opposition to probation. On December
7 3, 2020, Mr. Brown-Wheaton filed his guilty plea with the district court. That negotiation from the
8 State remains open.

9 On November 20, 2020, counsel received notice from this Court that Mr. Brown-Wheaton
10 was set for initial arraignment the following day on same allegations as those raised in
11 20CRN001678. Counsel contacted Mr. Brown-Wheaton and informed him of the court date.

12 On November 21, 2020, though he was aware that there was a \$250,000 warrant that had
13 been granted without either he or his counsel present when the true bill was returned, Mr. Brown-
14 Wheaton appeared before the Court. This Court quashed Mr. Brown-Wheaton's warrant but set a
15 status check for December 8, 2020 to determine whether the State had an explanation as to why
16 Mr. Brown-Wheaton should be detained.

17 On December 8, 2020, this Court heard argument from counsel. While the State's argument
18 relied almost entirely on information that had been previously presented before North Las Vegas
19 Justice Court Department 1, the State also pointed out that Mr. Brown-Wheaton had been charged
20 with Battery in case 20CR36632. Based on the representations of counsel, the Court re-imposed
21 the bail condition of \$250,000 ordered at initial arraignment but advised counsel that the Court
22 consider a future motion for own recognizance if circumstances changed.

23 On December 23, 2020, the State dismissed case 20CR036632. See Exhibit A, Notice of
24 Disposition and Judgment.

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While the Court has the authority to increase bail with “good cause shown” under NRS 178.49.1, when the State requested that this Court increase Mr. Brown-Wheaton’s bail from \$27,000 in December, it relied on the same facts that North Las Vegas Department 1 had before it when that Department set Mr. Brown-Wheaton’s bail at \$27,000 with the only new argument being the existence of case 20CR36632. However, after this Court reset Mr. Brown-Wheaton’s bail to \$250,000, the State dismissed case 20CR36632 on December 24, 2020.

As mentioned before, Mr. Brown-Wheaton has no prior felony or gross misdemeanor convictions. While the State has accused Mr. Brown-Wheaton of a violent offense in this case (Battery by a Prisoner), the testimony by the alleged victim before the grand jury clearly indicates that any contact was accidental, and the other charges are non-violent. This case does not warrant a *de facto* detention. Mr. Brown-Wheaton requests that his original bail of \$27,000 be reinstated.

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1 **CONCLUSION**

2 As the State has now dismissed case 20CR36632, Mr. Brown-Wheaton respectfully
3 requests that this Court reset his bail at the amount originally ordered by North Las Vegas
4 Department 1: \$27,000 with intensive supervision.

5
6 DATED this 16th day of February, 2021.

7 DARIN F. IMLAY
8 CLARK COUNTY PUBLIC DEFENDER

9 By: /s/Christopher M. Peterson
10 CHRISTOPHER M. PETERSON, #13932
11 Deputy Public Defender
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NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing Motion on for hearing before the Court on the 23rd day of February, 2021 at 11:00 a.m.

DATED this 16th day of February, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Christopher M. Peterson
CHRISTOPHER M. PETERSON, #13932
Deputy Public Defender

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountyda.com on this 16th day of February, 2021.

By: /s/Kayleigh Lopatic
An employee of the
Clark County Public Defender's Office

EXHIBIT A

**JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY REGIONAL JUSTICE CENTER
200 LEWIS AVENUE
LAS VEGAS, NEVADA 89101
COURT 128**

DISPOSITION NOTICE AND JUDGMENT

Court Case Number: 20-CR-036632

State of Nevada vs. BROWN WHEATON, JEREMY PAUL

ID#: 8399146

AKA: BROWN-WHEATON, JEREMY PAUL

Arrest Date: 10/28/2020

Citation:

Submit Date: 12/24/2020

Department: 08

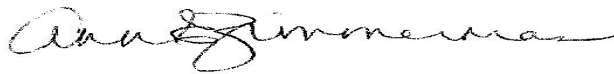
Disposition Date: 12/23/2020

Sentencing Information

001 Battery [50212] (10/28/2020) (M) PCN/SEQ: DSD1030774C DSD001

Plea:

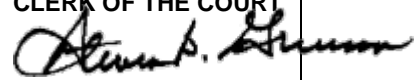
Disp: Dismissed Without Prejudice (12/23/2020)



Justice Of The Peace

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
2/17/2021 7:56 AM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Jeremy Brown-Wheaton

Case No.: C-20-352265-1

Department 18

NOTICE OF HEARING

Please be advised that the Motion for Own Recognizance/Bail Release, or, in the Alternative, for Setting of Reasonable Bail Due to Change in Circumstances in the above-entitled matter is set for hearing as follows:

Date: February 25, 2021
Time: 11:00 AM
Location: RJC Courtroom 03F
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

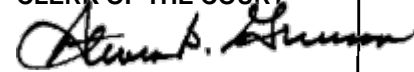
STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Allison Behrhorst
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Allison Behrhorst
Deputy Clerk of the Court



AIND
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
CHARLES THOMAN
Chief Deputy District Attorney
Nevada Bar #012649
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JEREMY BROWN-WHEATON, aka,
Jeremy Paul Brown Wheaton, #8399146,

Defendant.

CASE NO. C-20-352265-1

DEPT NO. XVIII

AMENDED
INDICTMENT

STATE OF NEVADA }
COUNTY OF CLARK } ss:

The Defendant(s) above named, JEREMY BROWN-WHEATON, is accused by the Clark County Grand Jury of the crime of HARBORING FUGITIVE (Category C Felony - NRS 212.130.1 - NOC 53429), committed at and within the County of Clark, State of Nevada, on or about the 29th day of August, 2020, as follows: did then and there willfully, unlawfully, knowingly, and feloniously, conceal, or harbor for the purpose of concealment, JEREMY BROWN-WHEATON, a prisoner wanted for the charge of Escape, a felony. after escaping

//

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1 from the custody of Las Vegas Metropolitan Police Department, by fleeing from a patrol unit.

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

5 BY


6 CHARLES THOMAN
7 Chief Deputy District Attorney
8 Nevada Bar #012649
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1 Names of Witnesses and testifying before the Grand Jury:

2 BELL, SHANICE – LVMPD

3 LEVY, RYAN – LVMPD

4 MIRANDA, JONATHAN – LVMPD

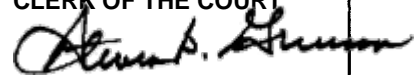
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6 Additional Witnesses known to the District Attorney at time of filing the Indictment:

7 CUSTODIAN OF RECORDS - CCDC

8 CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

9 CUSTODIAN OF RECORDS - LVMPD RECORDS

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26 19BGJ225X/20CRN001678/zm-GJ
27 LVMPD EV# 200800124549; 200700008188
28 (TK)



GPA
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
CHARLES THOMAN
Chief Deputy District Attorney
Nevada Bar #012649
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JEREMY BROWN-WHEATON, aka,
Jeremy Paul Brown Wheaton, #8399146,

Defendant.

CASE NO: C-20-352265-1

DEPT NO: XVIII

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: **HARBORING FUGITIVE (Category C Felony - NRS 212.130.1 - NOC 53429)**, as more fully alleged in the charging document attached hereto as Exhibit "1".

My decision to plead guilty is based upon the plea agreement in this case which is as follows:

The State has no opposition to probation and no opposition to the sentence running concurrent to case C352037. The parties stipulate to an own recognizance release with mid-level electronic monitoring program at entry of plea. The parties stipulate to a withdrawal of this plea with a dropdown to Conspiracy to Escape, a gross misdemeanor, with credit for time served, if the defendant is honorably discharged from probation. If the defendant violates the terms of the mid-level electronic monitoring program, The State retains the right to argue and the discretion to remove the dropdown provision of the plea. The defendant waives any defects in the charging document for purposes of this negotiation.

1 I agree to the forfeiture of any and all weapons or any interest in any weapons seized
2 and/or impounded in connection with the instant case and/or any other case negotiated in
3 whole or in part in conjunction with this plea agreement.

4 I understand and agree that, if I fail to interview with the Department of Parole and
5 Probation, fail to appear at any subsequent hearings in this case, or an independent magistrate,
6 by affidavit review, confirms probable cause against me for new criminal charges including
7 reckless driving or DUI, but excluding minor traffic violations, the State will have the
8 unqualified right to argue for any legal sentence and term of confinement allowable for the
9 crime(s) to which I am pleading guilty, including the use of any prior convictions I may have
10 to increase my sentence as an habitual criminal to five (5) to twenty (20) years, life without
11 the possibility of parole, life with the possibility of parole after ten (10) years, or a definite
12 twenty-five (25) year term with the possibility of parole after ten (10) years.

13 Otherwise I am entitled to receive the benefits of these negotiations as stated in this
14 plea agreement.

15 CONSEQUENCES OF THE PLEA

16 I understand that by pleading guilty I admit the facts which support all the elements of
17 the offense(s) to which I now plead as set forth in Exhibit "1".

18 I understand that as a consequence of my plea of guilty the Court must sentence me to
19 imprisonment in the Nevada Department of Corrections for a minimum term of not less than
20 one (1) year and a maximum term of not more than five (5) years. The minimum term of
21 imprisonment may not exceed forty percent (40%) of the maximum term of imprisonment. I
22 understand that I may also be fined up to \$5,000.00. I understand that the law requires me to
23 pay an Administrative Assessment Fee.

24 I understand that, if appropriate, I will be ordered to make restitution to the victim of
25 the offense(s) to which I am pleading guilty and to the victim of any related offense which is
26 being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to
27 reimburse the State of Nevada for any expenses related to my extradition, if any.

28 I understand that I am eligible for probation for the offense to which I am pleading

1 guilty. I understand that, except as otherwise provided by statute, the question of whether I
2 receive probation is in the discretion of the sentencing judge.

3 I understand that I must submit to blood and/or saliva tests under the Direction of the
4 Division of Parole and Probation to determine genetic markers and/or secretor status.

5 I understand that if I am pleading guilty to charges of Burglary, Invasion of the Home,
6 Possession of a Controlled Substance with Intent to Sell, Sale of a Controlled Substance, or
7 Gaming Crimes, for which I have prior felony conviction(s), I will not be eligible for probation
8 and may receive a higher sentencing range.

9 I understand that if more than one sentence of imprisonment is imposed and I am
10 eligible to serve the sentences concurrently, the sentencing judge has the discretion to order
11 the sentences served concurrently or consecutively.

12 I understand that information regarding charges not filed, dismissed charges, or charges
13 to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

14 I have not been promised or guaranteed any particular sentence by anyone. I know that
15 my sentence is to be determined by the Court within the limits prescribed by statute.

16 I understand that if my attorney or the State of Nevada or both recommend any specific
17 punishment to the Court, the Court is not obligated to accept the recommendation.

18 I understand that if the offense(s) to which I am pleading guilty was committed while I
19 was incarcerated on another charge or while I was on probation or parole that I am not eligible
20 for credit for time served toward the instant offense(s).

21 I understand that if I am not a United States citizen, any criminal conviction will likely
22 result in serious negative immigration consequences including but not limited to:

- 23 1. The removal from the United States through deportation;
- 24 2. An inability to reenter the United States;
- 25 3. The inability to gain United States citizenship or legal residency;
- 26 4. An inability to renew and/or retain any legal residency status; and/or
- 27 5. An indeterminate term of confinement, with the United States Federal
28 Government based on my conviction and immigration status.

1 Regardless of what I have been told by any attorney, no one can promise me that this
2 conviction will not result in negative immigration consequences and/or impact my ability to
3 become a United States citizen and/or a legal resident.

4 I understand that the Division of Parole and Probation will prepare a report for the
5 sentencing judge prior to sentencing. This report will include matters relevant to the issue of
6 sentencing, including my criminal history. This report may contain hearsay information
7 regarding my background and criminal history. My attorney and I will each have the
8 opportunity to comment on the information contained in the report at the time of sentencing.
9 Unless the District Attorney has specifically agreed otherwise, the District Attorney may also
10 comment on this report.

11 WAIVER OF RIGHTS

12 By entering my plea of guilty, I understand that I am waiving and forever giving up the
13 following rights and privileges:

- 14 1. The constitutional privilege against self-incrimination, including the right
15 to refuse to testify at trial, in which event the prosecution would not be
 allowed to comment to the jury about my refusal to testify.
- 16 2. The constitutional right to a speedy and public trial by an impartial jury,
17 free of excessive pretrial publicity prejudicial to the defense, at which
18 trial I would be entitled to the assistance of an attorney, either appointed
 or retained. At trial the State would bear the burden of proving beyond
 a reasonable doubt each element of the offense(s) charged.
- 19 3. The constitutional right to confront and cross-examine any witnesses who
20 would testify against me.
- 21 4. The constitutional right to subpoena witnesses to testify on my behalf.
- 22 5. The constitutional right to testify in my own defense.
- 23 6. The right to appeal the conviction with the assistance of an attorney,
24 either appointed or retained, unless specifically reserved in writing and
25 agreed upon as provided in NRS 174.035(3). I understand this means I
26 am unconditionally waiving my right to a direct appeal of this conviction,
27 including any challenge based upon reasonable constitutional,
 jurisdictional or other grounds that challenge the legality of the
 proceedings as stated in NRS 177.015(4). However, I remain free to
 challenge my conviction through other post-conviction remedies
 including a habeas corpus petition pursuant to NRS Chapter 34.

28 //

1 VOLUNTARINESS OF PLEA

2 I have discussed the elements of all of the original charge(s) against me with my
3 attorney and I understand the nature of the charge(s) against me.

4 I understand that the State would have to prove each element of the charge(s) against
5 me at trial.

6 I have discussed with my attorney any possible defenses, defense strategies and
7 circumstances which might be in my favor.

8 All of the foregoing elements, consequences, rights, and waiver of rights have been
9 thoroughly explained to me by my attorney.

10 I believe that pleading guilty and accepting this plea bargain is in my best interest, and
11 that a trial would be contrary to my best interest.

12 I am signing this agreement voluntarily, after consultation with my attorney, and I am
13 not acting under duress or coercion or by virtue of any promises of leniency, except for those
14 set forth in this agreement.

15 I am not now under the influence of any intoxicating liquor, a controlled substance or
16 other drug which would in any manner impair my ability to comprehend or understand this
17 agreement or the proceedings surrounding my entry of this plea.

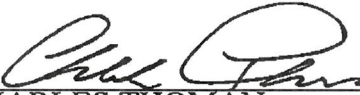
18 My attorney has answered all my questions regarding this guilty plea agreement and its
19 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

20 DATED this 22nd day of February, 2021.

21
22 Jeremy Brown - Wheaton
23 JEREMY BROWN-WHEATON,
Defendant

24 AGREED TO BY:

Signature affixed by Christopher Peterson
at direction of Jeremy Brown-Wheaton

25 
26 CHARLES THOMAN
27 Chief Deputy District Attorney
28 Nevada Bar #012649

1 CERTIFICATE OF COUNSEL:

2 I, the undersigned, as the attorney for the Defendant named herein and as an officer of the court
3 hereby certify that:

- 4 1. I have fully explained to the Defendant the allegations contained in the
5 charge(s) to which guilty pleas are being entered.
- 6 2. I have advised the Defendant of the penalties for each charge and the restitution
7 that the Defendant may be ordered to pay.
- 8 3. I have inquired of Defendant facts concerning Defendant's immigration status
9 and explained to Defendant that if Defendant is not a United States citizen any
10 criminal conviction will most likely result in serious negative immigration
11 consequences including but not limited to:
- 12 a. The removal from the United States through deportation;
- 13 b. An inability to reenter the United States;
- 14 c. The inability to gain United States citizenship or legal residency;
- 15 d. An inability to renew and/or retain any legal residency status; and/or
- 16 e. An indeterminate term of confinement, by with United States Federal
17 Government based on the conviction and immigration status.
- 18 Moreover, I have explained that regardless of what Defendant may have been
19 told by any attorney, no one can promise Defendant that this conviction will not
20 result in negative immigration consequences and/or impact Defendant's ability
21 to become a United States citizen and/or legal resident.
- 22 4. All pleas of guilty offered by the Defendant pursuant to this agreement are
23 consistent with the facts known to me and are made with my advice to the
24 Defendant.
- 25 5. To the best of my knowledge and belief, the Defendant:
- 26 a. Is competent and understands the charges and the consequences of
27 pleading guilty as provided in this agreement,
- 28 b. Executed this agreement and will enter all guilty pleas pursuant hereto
voluntarily, and
- c. Was not under the influence of intoxicating liquor, a controlled
substance or other drug at the time I consulted with the Defendant as
certified in paragraphs 1 and 2 above.

Dated: This 22nd day of February, 2021.


CHRISTOPHER PETERSON, DPD

zm/L5

Steven D. Grierson

1 AIND
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 CHARLES THOMAN
6 Chief Deputy District Attorney
7 Nevada Bar #012649
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 JEREMY BROWN-WHEATON, aka,
13 Jeremy Paul Brown Wheaton, #8399146,

14 Defendant.

CASE NO. C-20-352265-1

DEPT NO. XVIII

AMENDED
INDICTMENT

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

17 The Defendant(s) above named, JEREMY BROWN-WHEATON, is accused by the
18 Clark County Grand Jury of the crime of HARBORING FUGITIVE (Category C Felony -
19 NRS 212.130.1 - NOC 53429), committed at and within the County of Clark, State of Nevada,
20 on or about the 29th day of August, 2020, as follows: did then and there willfully, unlawfully,
21 knowingly, and feloniously, conceal, or harbor for the purpose of concealment, JEREMY
22 BROWN-WHEATON, a prisoner wanted for the charge of Escape, a felony. after escaping

23 //

24 //

25 //

26 //

27 //


28 //

EXHIBIT " 1 "

1 from the custody of Las Vegas Metropolitan Police Department, by fleeing from a patrol unit.

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

5 BY


6 CHARLES THOMAN
7 Chief Deputy District Attorney
8 Nevada Bar #012649

1 Names of Witnesses and testifying before the Grand Jury:

2 BELL, SHANICE – LVMPD

3 LEVY, RYAN – LVMPD

4 MIRANDA, JONATHAN – LVMPD

5

6 Additional Witnesses known to the District Attorney at time of filing the Indictment:

7 CUSTODIAN OF RECORDS - CCDC

8 CUSTODIAN OF RECORDS - LVMPD COMMUNICATIONS

9 CUSTODIAN OF RECORDS - LVMPD RECORDS

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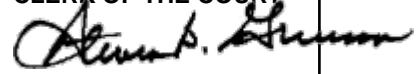
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27 19BGJ225X/20CRN001678/zm-GJ
LVMPD EV# 200800124549; 200700008188
(TK)

28



DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
CHRISTOPHER M. PETERSON, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 13932
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-20-352265-1
)	
v.	)	DEPT. NO. XVIII
)	
JEREMY BROWN-WHEATON,)	
)	
Defendant,	)	DATE: March 9, 2021
	)	TIME: 11:00 a.m.

MOTION TO PLACE ON CALENDAR TO ADDRESS HOUSE ARREST

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office requests that the above-entitled matter be placed on calendar on March 9, 2021 at 11:00 a.m., in District Court, Department XVIII, for the purpose of addressing house arrest.

DATED this 1st day of March, 2021.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By /s/Christopher M. Peterson
CHRISTOPHER M. PETERSON, #13932
Deputy Public Defender

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the above and forgoing MOTION was served via electronic e-filing to the Clark County District Attorney's Office at motions@clarkcountynyda.com on this 1st day of March, 2021.

By: /s/Kayleigh B Lopatic
An employee of the
Clark County Public Defender's Office

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

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: C-20-352265-1

JEREMY BROWN-WHEATON, aka,
Jeremy Paul Brown Wheaton, #8399146

DEPT NO: XVIII

Defendant.

**JUDGMENT OF CONVICTION
(PLEA OF GUILTY)**

The defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime(s) of **HABORING FUGITIVE (Category C Felony)**, in violation of **NRS 212.130.1**; thereafter, on the 13th day of April, 2021, the defendant was present in court for sentencing with his counsel, BENJAMIN R. SAXE, ESQ., and good cause appearing,

THE DEFENDANT WAS HEREBY ADJUDGED guilty of said offense(s) and, in addition to the \$25.00 Administrative Assessment Fee, \$3.00 DNA Collection fee, the \$150.00 DNA Analysis Fee, including testing to determine genetic markers, and \$250.00 Indigent Defense fee, the defendant was sentenced as follows:

Defendant SENTENCED to a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); to run CONCURRENT to other case; SUSPENDED; placed on PROBATION for an

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1 indeterminate period not to exceed TWENTY-FOUR (24) MONTHS.

2 STANDARD CONDITIONS:

3 1. Reporting: You are to report in person to the Division of Parole and Probation (P&P)
4 as instructed by the Division or its agent. You are required to submit a written report
5 each month on forms supplied by the Division. This report shall be true and correct in
6 all respects.

7 2. Residence: You shall not change your place of residence without first obtaining
8 permission from P&P, in each instance.

9 3. Intoxicants: You shall not consume any alcoholic beverages TO EXCESS. Upon
10 order of P&P or its agent, you shall submit to a medically recognized test for
11 blood/breath alcohol content. Test results of .08 blood alcohol content or higher shall
12 be sufficient proof of excess.

13 4. Controlled Substances: You shall not use, purchase, or possess any illegal drugs, or
14 any prescription drugs, unless first prescribed by a licensed medical professional. You
15 shall immediately notify P&P of any prescription received. You shall submit to drug
16 testing as required by the Division or its agent.

17 5. Weapons: You shall not possess, have access to, or have under your control, any type
18 of weapon.

19 6. Search: You shall submit your person, property (including cellular phones and / or
20 computers), place of residence, vehicle, or areas under your control to search at any
21 time, with or without a search warrant or warrant of arrest, for evidence of a crime or
22 violation of probation by P&P or its agent.

23 7. Associates: You must have prior approval by P&P to associate with any person
24 convicted of a felony, or any person on probation or parole supervision. You shall not
25 have any contact with persons confined in a correctional institution unless specific
26 written permission has been granted by the Division and the correctional institution.

27 8. Directives and Conduct: You shall follow the directives of P&P and your conduct
28 shall justify the opportunity granted to you by this community supervision.

1 9. Laws: You shall comply with all municipal, county, state, and federal laws, and
2 ordinances.

3 10. Out-of-State Travel: You shall not leave the state without first obtaining written
4 permission from P&P.

5 11. Employment/Program: You shall seek and maintain legal employment, or maintain
6 a program approved by P&P and not change such employment or program without first
7 obtaining permission. All terminations of employment or program shall be immediately
8 reported to the Division.

9 12. Financial Obligation: You shall pay fees, fines, and restitution on a schedule
10 approved by P&P. Any excess monies paid will be applied to any other outstanding
11 fees, fines, and/or restitution, even if it is discovered after your discharge.

12 SPECIAL CONDITIONS:

13 1. Defendant shall submit digital storage media or any digital storage media that you
14 have access or use, including computers, handheld communication devices and any
15 network applications associated with those devices, including social media and remote
16 storage services to a search and shall provide all passwords, unlock codes, and account
17 information associated with those items, with or without a search warrant, by the
18 Division of Parole and Probation or its agent.

19 2. Abide by any curfew imposed.

20 3. Defendant subject to Electronic Monitoring at Parole and Probation's discretion.

21 4. Submit to mental health evaluations as deemed necessary by Parole and Probation
22 and complete any recommended care plan, treatment or counseling program based on
23 those evaluations.

24 5. Submit to anger management counseling or impulse control as deemed necessary by
25 Parole and Probation.

26 6. Defendant to enter and complete long-term domestic violence counseling.

27 7. Have no use, possession, or control of marijuana.

28 ///

1 8. Maintain full-time employment, schooling, or 16 hours of community service a
2 month.

3 9. 80 hours of community service.

4 Mr. Bassett noted if Defendant was successful on the Felony case he would be eligible
5 for a reduction to a Gross Misdemeanor. Court concurred. COURT FURTHER ORDERED,
6 Defendant RELEASED from Mid-Level Electronic Monitoring pending Parole and
7 Probation's determination.

8
9 Dated this 7th day of May, 2021

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12 158 1FA 613B 3CE9
13 Mary Kay Holthus
14 District Court Judge

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28 kb/20CRN001678/L-5

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-20-352265-1

7 vs

DEPT. NO. Department 18

8
9 Jeremy Brown-Wheaton

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Judgment of Conviction was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 5/7/2021

15 Dept 18 Law Clerk

Dept18LC@clarkcountycourts.us

16 G. Cox

Coxgd@clarkcountynv.gov

17 Kayleigh Lopatic

lopatikb@clarkcountynv.gov

18 Christopher Peterson

Christopher.Peterson@ClarkCountyNV.gov

19 D A

20 motions@clarkcountyda.com
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Heather S. Smith
CLERK OF THE COURT

AJOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JEREMY BROWN-WHEATON
aka Jeremy Paul Brown Wheaton
#8399146

Defendant.

CASE NO. C-20-352265-1

DEPT. NO. VI

ORDER FOR REVOCATION OF PROBATION AND
AMENDED JUDGMENT OF CONVICTION

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of HARBORING FUGITIVE (Category C Felony) in violation of NRS 212.130.1; thereafter, on the 13th day of April, 2021, the Defendant was present in court for sentencing with counsel, wherein the Court did adjudge the Defendant guilty thereof by reason of the plea of guilty, suspended the execution of the sentence imposed and granted probation to the Defendant.

THEREAFTER, a parole and probation officer provided the Court with a written statement setting forth that the Defendant has, in the judgment of the parole and probation officer, violated the conditions of probation; and on the 4th day of November,

1 2021, the Defendant was present in court with counsel ALEX BASSETT, Deputy Public
2 Defender, and pursuant to a probation violation hearing/proceeding and good cause
3 appearing to amend the Judgment of Conviction,
4

5 IT IS HEREBY ORDERED that the probation previously granted to the
6 Defendant is REVOKED; in addition to the original fees, fines and assessments, IT IS
7 FURTHER ORDERED that the underlying sentence is imposed as follows: a
8 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-
9 FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); with THIRTY-
10 FIVE (35) DAYS credit for time served.
11

12 Dated this 10th day of November, 2021

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16 F4B 2A5 59B9 9C6C
17 Jacqueline M. Bluth
18 District Court Judge
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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-20-352265-1

7 vs

DEPT. NO. Department 6

8
9 Jeremy Brown-Wheaton

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Amended Judgment of Conviction was served via the court's electronic
13 eFile system to all recipients registered for e-Service on the above entitled case as listed
below:

14 Service Date: 11/10/2021

15 Dept 18 Law Clerk

Dept18LC@clarkcountycourts.us

16 G. Cox

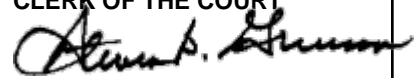
Coxgd@clarkcountynv.gov

17 Kayleigh Lopatic

lopatikb@clarkcountynv.gov

18 Christopher Peterson

Christopher.Peterson@ClarkCountyNV.gov



1 **NOAS**

2 DARIN F. IMLAY, PUBLIC DEFENDER
3 NEVADA BAR No. 5674
4 309 South Third Street, Suite 226
5 Las Vegas, Nevada 89155
6 (702) 455-4685
7 Attorney for Defendant

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 THE STATE OF NEVADA,)
11)
12 Plaintiff,) CASE NO. C-20-352265-1
13 v.) DEPT. NO. VI
14)
15 JEREMY BROWN-WHEATON,)
16 AKA JEREMY PAUL BROWN WHEATON,)
17 Defendant.)

18 **NOTICE OF APPEAL**

19 TO: THE STATE OF NEVADA

20 STEVEN B. WOLFSON, DISTRICT ATTORNEY, CLARK COUNTY,
21 NEVADA and DEPARTMENT NO. VI OF THE EIGHTH JUDICIAL
22 DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE
23 COUNTY OF CLARK.

24 NOTICE is hereby given that Defendant, Jeremy Brown-
25 Wheaton, presently incarcerated in the Nevada State Prison,
26 appeals to the Supreme Court of the State of Nevada from the
27 judgment entered against said Defendant on the 10th day of
28 November, 2021, whereby he was convicted of harboring fugitive,
sentenced on April 13, 2021. Parole and probation provided the
Court with a written statement setting forth that the Defendant
has, in the judgment of the parole and probation officer, violated
the conditions of probation and on the 4th day of November, 2021,
the Defendant was present in court with counsel Alex Bassett,
Deputy Public Defender, and pursuant to a probation violation

1 hearing/proceeding and good cause appearing to amend the Judgment
2 of Conviction. The probation previously granted to the Defendant
3 is revoked, in addition to the original fees, fines and
4 assessments. The underlying sentence imposed 24-60 months in
5 prison with 35 days CTS.

6 DATED this 2nd day of December, 2021.

7 DARIN F. IMLAY
8 CLARK COUNTY PUBLIC DEFENDER

9
10 By: /s/ Alexander Bassett
11 ALEXANDER BASSETT, #14344
12 Deputy Public Defender
13 309 S. Third Street, Ste. 226
14 Las Vegas, Nevada 89155
15 (702) 455-4685
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DECLARATION OF MAILING

Carrie Connolly, an employee with the Clark County Public Defender's Office, hereby declares that she is, and was when the herein described mailing took place, a citizen of the United States, over 21 years of age, and not a party to, nor interested in, the within action; that on the 2nd day of December, 2021, declarant deposited in the United States mail at Las Vegas, Nevada, a copy of the Notice of Appeal in the case of the State of Nevada v. Jeremy Brown-Wheaton, Case No. C-20-352265-1, enclosed in a sealed envelope upon which first class postage was fully prepaid, addressed to Jeremy Brown Wheaton, c/o High Desert State Prison, P.O. Box 650, Indian Springs, NV 89015. That there is a regular communication by mail between the place of mailing and the place so addressed.

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

EXECUTED on the 2nd day of December, 2021.

/s/ Carrie M. Connolly
An employee of the Clark County
Public Defender's Office

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District Attorneys Office
E-Mail Address:

Jennifer.Garcia@clarkcountynvda.com

/s/ Carrie M. Connolly
Secretary for the
Public Defender's Office

Felony/Gross Misdemeanor

COURT MINUTES

November 19, 2020

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

November 19, 2020 11:00 AM Grand Jury Indictment

HEARD BY: Bell, Linda Marie COURTROOM: RJC Courtroom 10C

COURT CLERK: Estala, Kimberly

RECORDER: Takas, De'Awna

REPORTER:

PARTIES PRESENT:

Melanie L. Scheible Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Steve Lurvey , Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 19BGJ225X to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C-20-352265-1, Department XVIII.

State requested a warrant, argued bail, and advised Deft is not in custody. COURT ORDERED, \$250,000.00 BAIL; INDICTMENT WARRANT ISSUED, and matter SET for Arraignment.

Upon Court's inquiry, the State advised there are no material witness warrants to quash. COURT FURTHER ORDERED, Exhibits 1-6 to be lodged with the Clerk of the Court; BOND in North Las Vegas Justice Court case no. 20CRN001678 EXONERATED per the State's request. In addition, a Pre-Trial Risk Assessment will be prepared if one was not previously done.

I.W. (NIC)

11/24/20 12:00 PM. INITIAL ARRAIGNMENT (DEPT XVIII)

Felony/Gross Misdemeanor

COURT MINUTES

November 24, 2020

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

November 24, 2020 12:00 PM Initial Arraignment

HEARD BY: Holthus, Mary Kay COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Christopher Peterson Attorney for Defendant

Jeremy Paul Brown-Wheaton Defendant

Megan Thomson Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Upon Court's inquiry, Mr. Peterson indicated it was a not guilty plea; however, there was a warrant issue. Parties decided to proceed with arraignment. DEFT. BROWN-WHEATON ARRAIGNED and PLED NOT GUILTY. As for the warrant issue, Mr. Peterson noted he would like to address the warrant issue prior to setting a trial date. Ms. Thomson indicated the instant case belonged to Ms. Scheible. Further statements by Ms. Thomson as to the warrant and why Judge Bell may have set bail at \$250,000.00. Statements by Mr. Peterson as to bail. Colloquy between parties. Following colloquy, Court indicated it had concerns as to why the previous Judge set bail at \$250,000.00. Mr. Peterson explained the history of the case to the Court. Court advised parties it would give the State until Tuesday, December 1, 2020, noting it's inclination, absent information and due to Deft. showing up, ORDERED, warrant TEMPORARILY QUASHED. Court advised it would reserve the right, if it were to receive additional information that justified the \$250,000.00 bail, to remand Deft. at the next hearing. Mr. Peterson concurred, noting that would be fair. Colloquy regarding setting of the next court date. Upon Court's inquiry, Mr. Peterson requested to set trial date at the next hearing. COURT FURTHER ORDERED, Deft. to do a walk-through on warrant at the jail; thereafter, to be RELEASED to his Own Recognizance with Intensive Supervision. Deft. to invoke or waive the 60-DAY RULE at the next hearing, and matter SET for a status check as the warrant and setting of trial. Upon Mr. Peterson's inquiry, COURT FURTHER ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript.

O.R./ I.S.

12/8/20 10:15 AM STATUS CHECK: WARRANT/ SETTING OF TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

December 08, 2020

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

December 08, 2020 10:15 AM All Pending Motions

HEARD BY: Holthus, Mary Kay COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER: Pierson, Toshiana

REPORTER:

PARTIES PRESENT:

Christopher Peterson Attorney for Defendant

Jeremy Paul Brown-Wheaton Defendant

Melanie L. Scheible Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Melanie Scheible, Esq. present via Bluejeans video conference.

MOTION TO SET BAIL...STATUS CHECK: WARRANT/ SET TRIAL DATE

Court inquired about the Police Report from October 28, 2020, which Mr. Peterson indicated he received it; however, he was concerned about the instant hearing and noted he had an alibi witness. Court expressed that Mr. Peterson led the Court to believe there was a mistake by Judge Bell as to the bail; therefore, if there was a basis, the instant Court would not disturb Judge Bell's initial setting of bail. Statements by Ms. Scheible in support of the instant bail. Arguments by Mr. Peterson. Court reminded parties it previously reserved it's right to reinstate bail at \$250,000.00. Ms. Scheible informed the Court it was not a mistake and she originally requested bail in the amount of \$1,000,000.00. Further colloquy between parties. Following colloquy, COURT ORDERED, Motion to Set Bail was hereby GRANTED, Judge Bell's Bail REINSTATED at \$250,000.00, and Deft. REMANDED into custody on that bail. Court noted in light of the new Police Report and totality of violence; FURTHER ORDERED, bail with High Level Electronic Monitoring. Further colloquy between parties. Court noted a date needed to be set, which Mr. Peterson advised Deft. previously invoked his right to a speedy trial; therefore, FURTHER ORDERED, trial date SET.

CUSTODY

1/19/21 9:00 AM CALENDAR CALL

1/25/21 1:00 PM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

January 06, 2021

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

January 06, 2021 02:00 PM Central Trial Readiness Conference

HEARD BY: Barker, David COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Estala, Kimberly

RECORDER: Maldonado, Nancy

REPORTER:

PARTIES PRESENT:

Christopher Peterson Attorney for Defendant

Jeremy Paul Brown-Wheaton Defendant

Melanie L. Scheible Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Court noted due to current Covid-19 restrictions the trial date must be reset. State noted based on the writ being filed Defendant should be WAIVED. Mr. Peterson advised Defendant remains INVOKED. COURT ORDERED, matter CONTINUED for Judge Holthus to determine if Defendant waived speedy trial.

CUSTODY

CONTINUED TO: 01/13/21 11:30 AM (LLA)

Felony/Gross Misdemeanor

COURT MINUTES

January 07, 2021

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

January 07, 2021 11:00 AM Petition for Writ of Habeas Corpus

HEARD BY: Holthus, Mary Kay COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Benjamin R. Saxe Attorney for Defendant

Jeremy Paul Brown-Wheaton Defendant

Melanie L. Scheible Attorney for Plaintiff

State of Nevada Plaintiff

JOURNAL ENTRIES

Melanie Schieble, Esq. present via Bluejeans video conference; Deft. present in-custody via Bluejeans video conference.

Mr. Saxe indicated the instant matter belonged to Mr. Peterson, whom was unavailable at the instant hearing. Ms. Schieble advised the Court she received an email from Mr. Peterson requesting additional time, which she had no objection to. Upon Court's inquiry, Deft. concurred he knew what was going on. Colloquy between parties regarding the trial being vacated. Following colloquy, COURT ORDERED, matter CONTINUED for one week. Statements by Deft. Court advised Deft. once a Writ is filed, he was waiving his right to a speedy trial.

CUSTODY

1/14/21 11:00 AM CONTINUED: PETITION FOR WRIT OF HABEAS CORPUS

Felony/Gross Misdemeanor

COURT MINUTES

January 14, 2021

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

January 14, 2021 11:00 AM Petition for Writ of Habeas Corpus

HEARD BY: Holthus, Mary Kay COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Benjamin R. Saxe Attorney for Defendant

Jeremy Paul Brown-Wheaton Defendant

State of Nevada Plaintiff

Victoria A. Villegas Attorney for Plaintiff

JOURNAL ENTRIES

Victoria Villegas, Esq. and Melanie Scheible, Esq. present via Bluejeans video conference;
Deft. present in-custody via Bluejeans video conference.

NEGOTIATIONS are as contained in the Guilty Plea Agreement electronically FILED on
December 3, 2020. DEFENDANT BROWN-WHEATON ARRAIGNED AND PLED GUILTY to
BATTERY ON AN OFFICER (GM). MATTER TRAILED.

MATTER RECALLED. Same parties present. Court noted it didn't receive a reply. Mr. Saxe
indicated Mr. Peterson would request to reply and to set Petition for February 13, 2021 as to
C352265. Ms. Scheible objected, noting Mr. Peterson reached out and requested more time.
Colloquy between parties. Following colloquy, Mr. Saxe indicated Mr. Peterson would be back
in February. Court advised that would be it, if it wasn't filed at that time parties would proceed.
Ms. Scheible stated she wouldn't be available until June 2021. Further colloquy regarding trial
setting and the Writ in C352265. Mr. Saxe noted Deft. had not waived his right to a speedy
trial, additionally, at the request of defense the trial date to be set at the next hearing. Court
noted both cases would be continued. COURT ORDERED, arraignment CONTINUED as to
C352037, Petition for Writ of Habeas Corpus as to C352265 CONTINUED and status check
SET for trial setting as to C352265.

CUSTODY

2/4/21 11:00 AM ARRAIGNMENT CONTINUED...CONTINUED: PETITION FOR WRIT OF
HABEAS CORPUS...STATUS CHECK: TRIAL SETTING

Felony/Gross Misdemeanor

COURT MINUTES

February 04, 2021

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

February 04, 2021 11:00 AM All Pending Motions

HEARD BY: Holthus, Mary Kay COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Alicia A. Albritton	Attorney for Plaintiff
Christopher Peterson	Attorney for Defendant
Jeremy Paul Brown-Wheaton	Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

Alicia Albritton, Esq. and Christopher Peterson, Esq. present via Bluejeans video conference;
Deft. present in-custody via Bluejeans video conference.

PETITION FOR WRIT OF HABEAS CORPUS...STATUS CHECK: TRIAL SETTING.

Upon Court's inquiry, Mr. Peterson added Deft. didn't waive his right to a speedy trial.
Arguments by Ms. Albritton. Colloquy between parties. COURT ORDERED, Petition for Writ of
Habeas Corpus was hereby DENIED as set forth in the State's Opposition. Court FINDS Deft.
had not yet WAIVED his right to a 60 days trial. Colloquy between parties regarding a trial
date. Following colloquy, COURT FURTHER ORDERED, trial date SET.

CUSTODY

3/3/21 2:00 PM CENTRAL TRIAL READINESS (DEPT. 7)

3/30/21 11:00 AM CALENDAR CALL

4/5/21 1:00 PM JURY TRIAL

CLERK'S NOTE: Following court proceedings, and upon setting the Central Trial Readiness
date, it was discovered that Deft. already had a date of February 24, 2021 at 11:30 am set as
his Central Trial Readiness date. The new date of March 3, 2021 at 2:00 pm given in court was
VACATED.// 2-10/21/ dy

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

February 04, 2021 11:00 AM STATUS CHECK: TRIAL SETTING

HEARD BY: Holthus, Mary Kay COURTROOM: RJC Courtroom 03F

COURT CLERK: Yorke, Dara

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

COURT NOTED the case negotiated yesterday in Department 18. COURT ORDERED, case REMOVED from Central Trial Calendar.

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

February 23, 2021 11:00 AM Defendant's Motion To Dismiss Due To Violation Of Article III,
Section 1 Of The Nevada Constitution

HEARD BY: Holthus, Mary Kay COURTROOM: RJC Courtroom 03D

COURT CLERK: Yorke, Dara

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Charles W. Thoman	Attorney for Plaintiff
Christopher Peterson	Attorney for Defendant
Jeremy Brown-Wheaton	Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

Charles Thoman, Esq. and Christopher Peterson, Esq. present via Bluejeans video conference; Deft. present in-custody via Bluejeans video conference.

NEGOTIATIONS are as contained in the Guilty Plea Agreement electronically FILED on February 23, 2021. DEFENDANT BROWN-WHEATON ARRAIGNED AND PLED GUILTY to HARBORING FUGITIVE (F). Court ACCEPTED plea, referred matter to the Division of Parole and Probation (P&P) for a Pre-sentence Investigation Report and ORDERED, matter SET for sentencing. Pursuant to negotiations, COURT FURTHER ORDERED, Deft. GRANTED Own Recognizance (OR) Release with Mid-Level Electronic Monitoring. COURT DIRECTED Deft. to report to Parole and Probation within 48 hours of release. COURT FURTHER ORDERED, the instant Motion OFF CALENDAR, and all pending Motions and dates were hereby VACATED. Mr. Peterson requested an in-custody sentencing date. COURT SO ORDERED.

O.R./ MID-LEVEL ELECTRONIC MONITORING

4/13/21 12:30 PM SENTENCING

Felony/Gross Misdemeanor

COURT MINUTES

March 09, 2021

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

March 09, 2021 11:00 AM Motion to Place of Calendar to Address House Arrest

HEARD BY: Holthus, Mary Kay COURTROOM: RJC Courtroom 03E

COURT CLERK: Yorke, Dara

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Christopher Peterson Attorney for Defendant

Jeremy Brown-Wheaton Defendant

State of Nevada Plaintiff

Tina Singh Talim Attorney for Plaintiff

JOURNAL ENTRIES

Tina Talim, Esq. and Christopher Peterson, Esq. present via Bluejeans video conference; Deft. present in-custody via Bluejeans video conference.

Deft. present in-custody. Statements by Mr. Peterson regarding email from the Clark County Detention Center to reconsider the release order of Mid-Level Electronic Monitoring. Colloquy between parties. Following colloquy, Mr. Peterson advised, House Arrest indicated it may not follow Court's order. Court inquired what the State's position was. Ms. Talim submitted to the Court. Arguments by Mr. Peterson. Following colloquy, Court indicated it ordered, what it ordered, and it was not changing the order. Court advised, Deft. would not get an inch of a break if he wasn't 100 percent compliant with Mid-Level Electronic Monitoring, and doing everything he was told to do. Further, Court expressed there wouldn't be a second chance no matter what the State argued for. Statements by Deft. Statements by Mr. Peterson. COURT ORDERED, the release status STANDS.

CUSTODY (PENDING OR/MID-LEVEL ELECTRONIC MONITORING)

4/13/21 12:30 PM SENTENCING

Felony/Gross Misdemeanor

COURT MINUTES

April 13, 2021

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

April 13, 2021 12:30 PM Sentencing

HEARD BY: Holthus, Mary Kay COURTROOM: RJC Courtroom 03E

COURT CLERK: Yorke, Dara

RECORDER: Sison, Yvette G.

REPORTER:

PARTIES PRESENT:

Barbara Schifalacqua	Attorney for Plaintiff
Benjamin R. Saxe	Attorney for Defendant
Jeremy Brown-Wheaton	Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

Barbara Schifalacqua, Esq., Alexander Bassett, Esq. and Benjamin Saxe, Esq. present via Bluejeans video conference; Deft. present out of custody via Bluejeans video conference.

Upon Court's inquiry, arguments by Ms. Schifalacqua. Statements by Mr. Bassett indicating Deft. would be eligible for a drop down. Ms. Schifalacqua concurred. Statements by Deft. Mr. Bassett noted he believed electronic monitoring should be deemed appropriate by Parole and Probation. Court noted both of Deft.'s cases (C352037 and C352265) would run concurrent and terms would be the same in both cases, which indicated a violation in one case would be a violation in the other. By virtue of Defendant's plea of guilty and by Order of the Court, DEFT BROWN-WHEATON ADJUDGED GUILTY of HARBORING FUGITIVE (F). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$3.00 DNA Collection fee, the \$150.00 DNA Analysis Fee, including testing to determine genetic markers, and \$250.00 Indigent Defense fee, Deft. SENTENCED to a MAXIMUM of SIXTY (60) MONTHS and a MINIMUM of TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); to run CONCURRENT to other case; SUSPENDED; placed on PROBATION for an indeterminate period not to exceed TWENTY-FOUR (24) MONTHS.

STANDARD CONDITIONS:

1. Reporting: You are to report in person to the Division of Parole and Probation (P&P) as instructed by the Division or its agent. You are required to submit a written report each month on forms supplied by the Division. This report shall be true and correct in all respects.
2. Residence: You shall not change your place of residence without first obtaining permission from P&P, in each instance.
3. Intoxicants: You shall not consume any alcoholic beverages TO EXCESS. Upon order of P&P or its agent, you shall submit to a medically recognized test for blood/breath alcohol content. Test results of .08 blood alcohol content or higher shall be sufficient proof of excess.
4. Controlled Substances: You shall not use, purchase or possess any illegal drugs, or any prescription drugs, unless first prescribed by a licensed medical professional. You shall immediately notify P&P of any prescription received. You shall submit to drug testing as

required by the Division or its agent.

5. Weapons: You shall not possess, have access to, or have under your control, any type of weapon.

6. Search: You shall submit your person, property (including cellular phones and / or computers), place of residence, vehicle or areas under your control to search at any time, with or without a search warrant or warrant of arrest, for evidence of a crime or violation of probation by P&P or its agent.

7. Associates: You must have prior approval by P&P to associate with any person convicted of a felony, or any person on probation or parole supervision. You shall not have any contact with persons confined in a correctional institution unless specific written permission has been granted by the Division and the correctional institution.

8. Directives and Conduct: You shall follow the directives of P&P and your conduct shall justify the opportunity granted to you by this community supervision.

9. Laws: You shall comply with all municipal, county, state, and federal laws and ordinances.

10. Out-of-State Travel: You shall not leave the state without first obtaining written permission from P&P.

11. Employment/Program: You shall seek and maintain legal employment, or maintain a program approved by P&P and not change such employment or program without first obtaining permission. All terminations of employment or program shall be immediately reported to the Division.

12. Financial Obligation: You shall pay fees, fines, and restitution on a schedule approved by P&P. Any excess monies paid will be applied to any other outstanding fees, fines, and/or restitution, even if it is discovered after your discharge.

SPECIAL CONDITIONS:

1. Deft. shall submit digital storage media or any digital storage media that you have access or use, including computers, handheld communication devices and any network applications associated with those devices, including social media and remote storage services to a search and shall provide all passwords, unlock codes and account information associated with those items, with or without a search warrant, by the Division of Parole and Probation or its agent.

2. Abide by any curfew imposed.

3. Deft. subject to Electronic Monitoring at Parole and Probation's discretion.

4. Submit to mental health evaluations as deemed necessary by Parole and Probation and complete any recommended care plan, treatment or counseling program based on those evaluations.

5. Submit to anger management counseling or impulse control as deemed necessary by Parole and Probation.

6. Deft. to enter and complete long-term domestic violence counseling.

7. Have no use, possession or control of marijuana.

8. Maintain full-time employment, schooling or 16 hours of community service a month.

9. 80 hours of community service.

Mr. Bassett noted if Deft. was successful on the Felony case he would be eligible for a reduction to a Gross Misdemeanor. Court concurred. COURT FURTHER ORDERED, Deft. RELEASED from Mid-Level Electronic Monitoring pending Parole and Probation's determination.

BOND, if any, EXONERATED.

NIC

Felony/Gross Misdemeanor

COURT MINUTES

October 28, 2021

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

October 28, 2021 11:00 AM Revocation of Probation

HEARD BY: Bluth, Jacqueline M. COURTROOM: RJC Courtroom 10C

COURT CLERK: Brown, Kristen

RECORDER: Takas, De'Awna

REPORTER:

PARTIES PRESENT:

Charles W. Thoman	Attorney for Plaintiff
Daniel R. Gilliam	Attorney for Defendant
Jeremy Brown-Wheaton	Defendant
Public Defender	Attorney for Defendant
State of Nevada	Plaintiff

JOURNAL ENTRIES

Mr. Gilliam stated that he was just made aware that this matter was on, therefore, requested the matter be CONTINUED, COURT SO ORDERED.

CUSTODY

11/04/21 11:00 AM REVOCATION OF PROBATION

Felony/Gross Misdemeanor

COURT MINUTES

November 04, 2021

C-20-352265-1 State of Nevada
 vs
 Jeremy Brown-Wheaton

November 04, 2021 11:00 AM Revocation of Probation

HEARD BY: Bluth, Jacqueline M. COURTROOM: RJC Courtroom 10C

COURT CLERK: Brown, Kristen

RECORDER: Takas, De'Awna

REPORTER:

PARTIES PRESENT:

Alexander B. Bassett Attorney for Defendant

Jeremy Brown-Wheaton Defendant

Melanie L. Scheible Attorney for Plaintiff

Public Defender Attorney for Defendant

State of Nevada Plaintiff

JOURNAL ENTRIES

Officer Pascalau present on behalf of Parole and Probation.

Mr. Bassett stated the Deft. will stipulate to the violations and will argue for reinstatement. Deft. stipulated to the facts and circumstances contained in the violation report. Arguments by counsel and Officer Pascalau. Colloquy between Court and counsel regarding the temporary restraining order. Statement by the Deft. Court stated its findings and ORDERED, PROBATION REVOKED, underlying SENTENCE of a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC) IMPOSED with THIRTY-FIVE (35) DAYS credit for time served.

NDC

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID

DISTRICT COURT

THE STATE OF NEVADA,

Plaintiff,)

VS.)

GJ Case No. 19BGJ225X

DC Case No. C352265

JEREMY BROWN-WHEATON, aka Jeremy)

Paul Brown Wheaton,

Defendant.)

Taken at Las Vegas, Nevada

Wednesday, November 18, 2020

10:54 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Donna J. McCord, C.C.R. No. 337

00:00:59 1 GRAND JURORS PRESENT ON NOVEMBER 18, 2020:
2
3 STEVE LURVEY, Foreperson
4 TIARA COSENTINO, Deputy Foreperson
00:00:59 5 NOEL WELLMAN, Secretary
6 DANIEL STACK, Assistant Secretary
7 JOHN FINKOWSKI
8 PAUL GILLENWATER
9 MARK GOODMAN
00:00:00 10 JEFFREY GRUBER
11 TAMMY KRAUS
12 JOHN PELKEY
13 GERALD REID
14 MANOLO SAEMZ
00:00:00 15 SUSAN ZEMAN
16
17
18
19
00:00:00 20
21
22 Also present at the request of the Grand Jury:
23 Melanie Scheible
24 Chief Deputy District Attorney
00:00:00 25

<u>00:00:00</u>	1	<u>INDEX OF WITNESSES</u>	
	2		<u>EXAMINED</u>
	3	JONATHAN MIRANDA	9
	4	RYAN LEVY	31
<u>00:00:00</u>	5	SHANICE BELL	42
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INDEX OF EXHIBITS

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GRAND JURY EXHIBITS

IDENTIFIED

4

EXHIBIT 1 - PROPOSED INDICTMENT

5

00:00:01

5

EXHIBIT 2 - INSTRUCTIONS

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6

EXHIBIT 3 - PHOTOGRAPH

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7

EXHIBIT 4 - PHOTOGRAPH

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EXHIBIT 5 - PHOTOGRAPH

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EXHIBIT 6 - BODY CAMERA FOOTAGE

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00:00:01

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00:00:02

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LAS VEGAS, NEVADA, NOVEMBER 18, 2020

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* * * * *

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4

DONNA J. McCORD,00:00:02

5

having been first duly sworn to faithfully

6

and accurately transcribe the following

7

proceedings to the best of her ability.

8

9

MS. SCHEIBLE: Good morning, members of the

10:54:29

10

Grand Jury. My name is Melanie Scheible. I'm a Deputy

11

District Attorney here in Clark County, Nevada. I am

12

prosecuting the case that we are about to hear which is

13

Grand Jury case 19BGJ225X, State versus Jeremy

14

Brown-Wheaton. There are three charges in this case. I

10:54:52

15

have provided instructions to you which have been marked

16

as Exhibit Number 2 and I will provide a copy to our

17

court reporter. And pursuant to my most recent

18

directives I will be reading them to you even though I'm

19

sure you are all familiar with them. I'm also waiting

10:55:25

20

on a piece of evidence to come upstairs so this will be

21

a great way to spend some time together.

22

A prisoner confined in a prison, or being

23

in the lawful custody of an officer or other person, who

24

escapes or attempts to escape from such prison or

10:55:40

25

custody is guilty of the crime of escape.

10:55:44 1 Any person who has been placed under arrest
2 by a police officer and is physically deprived of his
3 freedom of action in any significant way is in custody
4 as that term is used in these instructions.

10:55:53 5 A charge is synonymous with an accusation
6 against the defendant and does not require a formal
7 written complaint. The word charge only requires that
8 the custody be predicated on probable cause that the
9 defendant committed a particular offense.

10:56:04 10 Any person who uses violence upon another
11 person or threatens violence or injury to another person
12 with the specific intent to compel another to do or
13 abstain from doing an act which such person has a right
14 to do or abstain from doing is guilty of coercion with
10:56:19 15 force.

16 Any person who individually or in
17 association with one or more other persons willfully
18 breaks, injures, tampers with or removes any part or
19 parts of any vehicle for the purpose of injuring,
10:56:29 20 defacing or destroying such vehicle, or temporarily or
21 permanently preventing its useful operation, or for any
22 purpose against the will or without the consent of the
23 owner of such vehicle, or who shall in any manner
24 willfully or maliciously interfere with or prevent the
10:56:31 25 running or operation of such vehicle, shall be guilty of

10:56:43 1 a public offense proportionate to the value of the loss
2 resulting therefrom.

3 Where the value of the loss is \$5,000 or
4 more or where the damage results in impairment of public
10:56:51 5 communication, transportation or police and fire
6 protection, for a category C felony.

7 Battery means any willful and unlawful use
8 of force or violence upon the person of another.

9 The force used by the defendant need not be
10:57:02 10 violent or severe, and not need cause bodily pain or
11 bodily harm. Any slight touching by the defendant upon
12 the person of another suffices, as long as the touching
13 was intentional and unwanted.

14 The word willfully, when applied to the
10:57:13 15 intent with which an act is done, implies simply a
16 purpose or willingness to commit the act in question.
17 It does not require in its meaning that the defendant
18 held any intent to violate any law, or to injure
19 another, or to acquire any advantage.

10:57:24 20 Battery by a prisoner is established if the
21 State proves beyond a reasonable doubt that the
22 defendant committed the battery and the defendant was on
23 probation, a prisoner in lawful custody or confinement,
24 or on parole at the time of the battery. Prisoner

10:57:33 25 includes any person held in custody under process of

10:57:36 1 law, under lawful arrest, or any person deprived of his
2 liberty and kept under involuntary restraint,
3 confinement or custody.

4 Do the members of the Grand Jury have any
10:57:44 5 questions about the instructions I just read? Seeing no
6 questions, I will proceed to call my first witness who's
7 Officer Jonathan Miranda and I am going to step outside
8 to retrieve him right now.

9 You're going to go up to the witness stand.

10:58:36 10 THE FOREPERSON: Please raise your right
11 hand.

12 You do solemnly swear that the testimony
13 that you're about to give upon the investigation now
14 pending before this Grand Jury shall be the truth, the
10:58:38 15 whole truth, and nothing but the truth, so help you God?

16 THE WITNESS: I do.

17 THE FOREPERSON: You're advised you're here
18 today to give testimony in the investigation pertaining
19 to the offenses of escape, break, injure or tamper with
10:58:59 20 a motor vehicle, battery by a prisoner involving Jeremy
21 Brown-Wheaton.

22 Do you understand this advisement?

23 THE WITNESS: I do.

24 THE FOREPERSON: Please state your first
10:59:10 25 and last name and spell both for the record.

10:59:12 1 THE WITNESS: First name Jonathan, last
2 name Miranda. First name is spelled J-O-N-A-T-H-A-N,
3 last name M-I-R-A-N-D-A.

4 THE FOREPERSON: Thank you, sir.

10:59:27 5 THE WITNESS: You're welcome.

6 **JONATHAN MIRANDA,**
7 having been first duly sworn by the Foreperson of the
8 Grand Jury to testify to the truth, the whole truth
9 and nothing but the truth, testified as follows:

10:59:27 10
11 EXAMINATION

12 BY MS. SCHEIBLE:

13 Q Officer Miranda, how are you employed?

14 A I'm a police officer with Las Vegas

10:59:50 15 Metropolitan Police Department.

16 Q And how long have you been with Metro?

17 A Three years.

18 Q And are you assigned to a particular area
19 or type of crime?

10:59:58 20 A I am, Northeast Area Command.

21 Q Okay. And were you assigned to Northeast
22 Area Command in August of this year?

23 A Yes.

24 Q And specifically on August 29th of 2020 did
11:00:07 25 you respond to a call on Lamont Street?

11:00:09 1 A Yes.

2 Q And do you remember what time that call
3 came out?

4 A Early in the morning, approximately 7:00 in
11:00:14 5 the morning.

6 Q Okay. And do you remember when you
7 responded?

8 A Yes.

9 Q When did you respond?

11:00:21 10 A It was early in my shift, right as I logged
11 on.

12 Q Were you by yourself or with a partner?

13 A Initially I got dispatched first and then
14 after my partner.

11:00:32 15 Q And who was the partner who came with you?

16 A Officer Arturo Casada.

17 Q And when you guys arrived do you remember
18 the exact address you were dispatched to?

19 A It was 4300 Lamont.

11:00:44 20 Q And what kind of a call was it that you
21 were responding to?

22 A It came out as unknown trouble.

23 Q And what does unknown trouble mean?

24 A We don't know what's going on exactly but
11:00:54 25 then it got upgraded to a domestic disturbance call.

11:00:58 1 Q And when it got upgraded to a domestic
2 disturbance call, was that over the radio, via text, how
3 do you know that it's been changed?

4 A Via radio. Our dispatch is pretty good
11:01:10 5 about that. They kind of listen to what's going on in
6 the call. They heard a male and a female on the line
7 and that's how they knew this is probably domestic
8 related.

9 Q Okay. And so as you approached the door of
11:01:22 10 4300 Lamont, is there only one door or is it like an
11 apartment complex?

12 A It's an apartment complex.

13 Q And do you remember specifically which
14 apartment you were interested in?

11:01:35 15 A I would need to look at a paper to see
16 that.

17 Q So you don't remember off the top of your
18 head?

19 A Not off the top of my head.

11:01:42 20 Q But you did write it down in your report at
21 some point in time?

22 A I did.

23 Q And would reviewing a copy of that report
24 help refresh your recollection?

11:01:49 25 A Yes, ma'am.

11:01:50 1 Q All right. For the record I am showing
2 Officer Miranda page 6 of 7 of the LVMPD domestic
3 violence report associated with this event number and
4 we're looking at the very first paragraph.

11:02:04 5 Having looked at it, do you remember what
6 apartment number you were going to?

7 A Yes.

8 Q What apartment number?

9 A Building 7, apartment 290.

11:02:11 10 Q And was that on the first floor or the
11 second floor?

12 A That's on the first floor.

13 Q And at the time you got to the apartment
14 what information did you already have?

11:02:21 15 A That it was a domestic disturbance between
16 a male and a female. So part of our job is to go make
17 contact with the parties and just make sure there's no
18 incident going on between them.

19 Q Okay. So what's the first thing that you
11:02:35 20 do in order to make contact with the parties?

21 A So I got there first, I kind of listened
22 around to see if I heard any screaming, any shouting
23 which I didn't, kind of looked around to see where the
24 apartment was at. When I located it I waited for my
11:02:51 25 partner Casada.

11:02:52 1 Q And is that policy to wait for a partner?

2 A Yes.

3 Q Is that for your safety?

4 A Yes.

11:02:57 5 Q And about how long were you waiting for
6 Casada to arrive?

7 A Less than five minutes.

8 Q And in that time did you hear anything or
9 see anything notable?

11:03:08 10 A I did not.

11 Q And then once he arrived what did the two
12 of you do?

13 A We approached the apartment.

14 Q And what did you do next?

11:03:16 15 A We knocked on the apartment. Well, first
16 of all we assigned roles. We have to assign roles to
17 each other, who was going to be verbal, who was going to
18 go hands-on. If anything physical happens then we know
19 what to do.

11:03:29 20 Q Okay. Who was assigned verbal and who was
21 assigned physical?

22 A I was assigned verbal and Casada was
23 assigned physical.

24 Q Okay. And what did you do?

11:03:39 25 A I knocked on the door.

11:03:41 1 Q And did anybody answer the door?

2 A No.

3 Q How many times did you knock on it?

4 A Multiple times announcing Las Vegas Metro

11:03:49 5 Police, shouting, no answer.

6 Q All right. Did you try anything else to

7 get the occupants' attention?

8 A We started knocking on the windows, on the

9 screen door, nothing.

11:04:01 10 Q Okay. Could you hear anybody inside?

11 A No.

12 Q And did you eventually make entry into the

13 apartment?

14 A Eventually we did.

11:04:10 15 Q How do you eventually make entry?

16 A We stood by for a few seconds just to kind

17 of see if we maybe heard anything. After that we heard

18 a female's voice, sounded like she was in distress,

19 sounded like her mouth was being covered and from there

11:04:24 20 that's when my partner Arturo Casada went around and

21 kicked the door in.

22 Q Okay. And when you say that it sounded

23 like a female was in distress, what about her voice made

24 it sound like distress?

11:04:37 25 A She was asking for help.

11:04:38 1 Q So you could hear the words help?

2 A Yes.

3 Q And you also said that it sounded like her

4 mouth was covered?

11:04:44 5 A Yes.

6 Q So what about the sound made you think

7 that?

8 A It just sounded very muffled. It sounded

9 like her mouth was being covered by someone.

11:04:55 10 Q Okay. So would you describe her voice?

11 Was it like a yell or was she speaking?

12 A It was more like a yell in a way but it

13 sounded a little low. Like I said, her mouth was being

14 covered so —

11:05:13 15 Q Okay. So hard to say whether the sound was

16 low or quiet?

17 A Right, but we knew that, you know, we had

18 to go in there, something was wrong.

19 Q Okay. And you mentioned that Officer

11:05:22 20 Casada kicked in the door?

21 A Yes.

22 Q Was that the same front door you had been

23 knocking on or a different door?

24 A A different door.

11:05:28 25 Q And when he kicked in that door were you

11:05:30 1 right next to him, right behind him, where were you?

2 A At that moment he was at the door I was
3 still by the front door. That's when he was like, hey,
4 Miranda, come over here. I went where he was at and
11:05:45 5 then I was standing behind him at that time.

6 Q Okay. And did you walk through the door?

7 A Eventually, yes, when it was kicked in.

8 Q And what did you see inside the apartment?

9 A I saw Jeremy Brown-Wheaton standing there
11:05:57 10 in the threshold holding a baby and then with his
11 girlfriend and another black female adult next to her.

12 Q Okay. I'm going to show you what's been
13 marked as State's or as Exhibit 3 for identification
14 purposes. The first page is just a photograph. Do you
11:06:16 15 recognize the person in that photograph?

16 A Yes.

17 Q Did you see that person in the apartment on
18 August 29th?

19 A Yes.

11:06:22 20 Q And was he the person holding the baby?

21 A Yes.

22 Q And is that a fair and accurate depiction
23 of his person?

24 A Yes.

11:06:29 25 Q Okay. If you flip over to the second page

11:06:30 1 it has some identifiers on it. Do you know that person
2 by name?

3 A Yes.

4 Q What is that person's name?

11:06:38 5 A Brown-Wheaton, Jeremy Paul.

6 Q Okay. And how do you know his name?

7 A I identified him.

8 Q Are you the person who ultimately booked
9 him at CCDC?

11:06:47 10 A Yes.

11 Q And when you booked him there you
12 identified him how?

13 A Through mugshots, through scope, LVMPD
14 scope, and verbally, his girlfriend.

11:07:01 15 Q Okay. And so when you arrived that day on
16 August 29th and he was in the apartment holding the
17 baby, did you say something to him?

18 A We did. Well, I did.

19 Q What did you say?

11:07:11 20 A I told him step out, come talk to us. He
21 was not listening to any of our verbal commands. He
22 disregarded everything we were saying and he was just
23 being argumentative the whole time.

11:07:26 24 Q Okay. So did you ultimately take him into
25 custody?

11:07:26 1 A Yes.

2 Q And did you take him into custody there
3 inside the apartment?

4 A Yes.

11:07:31 5 Q Was that before or after you -- I'm sorry,
6 did you at some point also speak to any of the females
7 in the household?

8 A Yes.

9 Q And did you take Mr. Brown-Wheaton into
11:07:42 10 custody before or after the conversation?

11 A Before those conversations.

12 Q And can you explain to the members of the
13 Grand Jury why you took him into custody?

14 A So at that point we took Wheaton-Brown into
11:07:53 15 custody because at that point when I get dispatched to a
16 call for service we're obviously investigating a
17 possible crime. At that moment with the totality of the
18 circumstances when I went to the house, tried to make
19 contact with these parties, we deal with these kinds of
11:08:10 20 calls everyday, when someone is not listening to us,
21 someone is not doing what we're asking them to do and
22 we're there for lawful authority and they don't want to
23 listen, they don't want to do what we're telling them to
24 do, at that point it's more of an officer-safety issue.

11:08:27 25 And also at that point it's an obstructing issue. So at

11:08:32 1 that point I had obstructing a police officer so that
2 way that's when I knew I had to take him into custody
3 because he's not going to listen, he was not going to
4 listen.

11:08:43 5 Q So you took him into custody. Did somebody
6 put handcuffs on him in the apartment?

7 A Yes.

8 Q And then was he removed from the apartment?

9 A Yes.

11:08:50 10 Q And was that the end of your investigation?

11 A Yes. At that moment, yes.

12 Q Okay. What happened next?

13 A After we removed him are you asking?

14 Q Yes.

11:09:02 15 A Okay. He went down to the police car, I
16 went back inside and then that's when I spoke to his
17 girlfriend.

18 Q Okay. So were you continuing your
19 investigation when you went to speak to the girlfriend
11:09:13 20 or starting a new investigation?

21 A Starting a new investigation regarding the
22 domestic incident.

23 Q Okay. So is what you're saying that the
24 actions you take were going to be different whether you
11:09:28 25 found out that domestic violence had occurred versus

11:09:32 1 just the resisting that you had observed?

2 A Right.

3 Q Okay. So you needed to get that
4 information about what happened before you got there in
11:09:40 5 order to know what to do next?

6 A Right, because that's totally different
7 from what I had at that point.

8 Q Okay. So he was already in custody on the
9 obstructing charges, and for safety purposes you went
11:09:50 10 back to the house to investigate the domestic violence?

11 A Correct.

12 Q All right. And when you talked to the
13 females in the house did they identify themselves?

14 A The female did.

11:10:01 15 Q Okay.

16 A The girlfriend.

17 Q The girlfriend did but there were two
18 females there, right?

19 A Yes.

11:10:05 20 Q And how did you identify the girlfriend?

21 A Verbally.

22 Q Okay. And what was her name?

23 A I would need to look at the notes. I don't
24 recall.

11:10:14 25 Q Okay. So you don't remember her name off

11:10:16 1 of your head?

2 A No, I don't.

3 Q But it is something that you wrote down in
4 your report?

11:10:20 5 A Yes, ma'am.

6 Q And looking at a copy of that report would
7 help refresh your recollection?

8 A Yes.

9 Q For the record I have misplaced the report
11:10:32 10 but I'm going to show it to Officer Miranda. I found it
11 again. We are looking at page 6 of 7 again on the third
12 paragraph. Having read that do you remember?

13 A Yes.

14 Q What was her name?

11:11:01 15 A Simpson, last name, first name Lexa.

16 Q And what did she tell you had occurred?

17 A So she had told me that when we got there
18 she heard us knocking on the door, she heard us saying
19 LVMPD. Wheaton had gotten behind her, grabbed her by
11:11:20 20 the face and pulled her back to her bedroom, closed the
21 door and left her inside the bedroom. He had told her
22 not to make any noise because he didn't want us to go
23 inside the house.

24 Q Okay. And once you heard that from Lexa
11:11:37 25 Simpson, what did you do next?

11:11:42 1 A At that point that's more of a coercion
2 because she was trying to do something that she can do
3 but he was preventing her from doing that, so at that
4 point I already had the probable cause to arrest for the
11:11:56 5 coercion charge.

6 Q And so did you go back outside to where the
7 defendant was?

8 A Afterwards, yes. After the fact, yeah.

9 Q Okay. And did you or someone else inform
11:12:08 10 him of the additional charges?

11 A At that point I cannot recall.

12 Q Okay. But he was still in custody?

13 A Yes.

14 Q And was he transported -- well, was he
11:12:21 15 placed in the police car?

16 A He was.

17 Q Was he placed in your police car?

18 A Yes.

19 Q Was it easy to get him in that car?

11:12:29 20 A No.

21 Q And did you get behind the driver's seat of
22 that car while he was in the passenger seat? Sorry, not
23 the passenger seat, while he was in the car?

24 A Can you repeat that question?

11:12:43 25 Q Did you get in the driver's seat?

11:12:45 1 A Yes.

2 Q And were you wearing body cam at that time?

3 A I was.

4 Q Okay. Have you had a chance to review that

11:12:52 5 body cam?

6 A I have.

7 Q All right. I am going to show the members

8 of the Grand Jury what has been marked as Exhibit Number

9 6.

11:15:57 10 Officer Miranda, does this look like your

11 body cam?

12 A It does.

13 Q Yes?

14 A Yes.

11:16:10 15 Q How can you tell?

16 A Just where I was standing at when I first

17 got there.

18 Q Okay.

19 A You can't really tell from that position.

11:16:20 20 Q Okay. Does that look like the address you

21 responded to?

22 A Yes.

23 Q Okay. I'm going to skip ahead to about 33

24 minutes into this video.

11:16:38 25 A Okay.

11:16:38 1 Q And have you confirmed that this is in fact
2 your body camera?

3 A Yes.

4 Q Okay. Is that your hand?

11:17:02 5 A Yes.

6 Q All right. Is that your car?

7 A Yes.

8 Q Were you driving at the time that this body
9 cam was recording?

11:17:08 10 A Yes.

11 Q All right. And is this a fair and accurate
12 depiction of what you remember seeing at the time?

13 A Yes.

14 Q All right. I'm going to publish this part
11:17:18 15 of Exhibit 6 for the members of the Grand Jury.

16 (Video playing.)

17 Q All right. Officer Miranda, was that in
18 fact your body camera footage?

19 A Yes, ma'am.

11:21:35 20 Q And at the beginning of where we started it
21 did we hear you telling the defendant to stop doing
22 something?

23 A Yes.

24 Q What was he doing?

11:21:44 25 A Stumbling around. He kept moving around

11:21:47 1 back there.

2 Q Back there meaning the back of your car?

3 A Yes.

4 Q And then did he eventually get out of your

11:21:53 5 vehicle?

6 A He did.

7 Q How did he do that?

8 A He broke out the left passenger rear

9 window.

11:22:01 10 Q And I am going to show you what's been

11 marked as State's Exhibit 4. Do you recognize what's

12 depicted in that photo?

13 A Yes.

14 Q And what is in the photo?

11:22:13 15 A My vehicle, my police vehicle with the

16 window broken out.

17 Q And is that how it looked to you on August

18 29th of 2020?

19 A Yes.

11:22:20 20 Q A fair and accurate depiction of your

21 vehicle?

22 A Yes.

23 Q Okay. And how can you tell that it's your

24 vehicle?

11:22:25 25 A With the number on the hood.

11:22:28 1 Q What number is that?

2 A 18034.

3 Q And you previously said that the window
4 is — what did you say about the window, sorry?

11:22:35 5 A It's broken out.

6 Q Okay.

7 A It's broken in that picture.

8 Q And I'm going to show you what has been
9 marked as State's Number 5. Do you recognize that
11:22:47 10 picture?

11 A Yes.

12 Q And what is depicted in that photo?

13 A The back of the patrol vehicle where
14 Wheaton was sitting at. There's glass all over from the
11:22:56 15 window being broken.

16 Q And is that a fair and accurate depiction
17 of the way that it appeared to you on August 29th of
18 2020?

19 A Yes.

11:23:03 20 Q And you previously said that there's glass
21 all over the seat. Is it fair to say the glass was not
22 there previously?

23 A Correct.

24 Q Okay. I have another question about that
11:23:10 25 photograph and about this incident. When the defendant

11:23:14 1 was put into the back of your patrol car, was he
2 handcuffed?

3 A He was.

4 Q Was he restrained in any other way?

11:23:22 5 A Yes.

6 Q What was the other restraint?

7 A We applied some hobbles. It's just a
8 restraint device that we put on subjects' legs and their
9 knees to prevent them from moving and kicking. We
11:23:36 10 applied two of them on Wheaton.

11 Q And are those hobbles in the back seat
12 somewhere?

13 A Yes.

14 Q Can you see them in that photograph?

11:23:43 15 A Yes.

16 Q I'm going to publish this photograph for
17 the members of the Grand Jury and see if you can -- can
18 you point them out to the members of the Grand Jury?

19 A It's just on the left side near that pillar
11:24:07 20 in the middle. You can kind of see like a rope, the
21 black --

22 Q This?

23 A There you go. There it is.

24 Q These are the hobbles?

11:24:15 25 A Yes, ma'am.

11:24:15 1 Q And they were on his legs when you put him
2 in the car?

3 A Yes.

11:24:20 4 Q But they were left in the car when he was
5 gone?

6 A Yes.

7 Q Okay. Did all of this happen in Clark
8 County, Nevada?

9 A Yes.

11:24:25 10 MS. SCHEIBLE: I have no further questions
11 for this witness. Do the members of the Grand Jury have
12 any questions?

13 THE FOREPERSON: Any questions?

14 A JUROR: I do.

11:24:34 15 THE FOREPERSON: Yes.

16 BY A JUROR:

17 Q Did you read him his Miranda rights?

11:24:47 18 A After the fact at UMC I tried but it was
19 not working for him, he refused, so I didn't ask him
20 anything further.

21 Q Okay.

22 THE FOREPERSON: Any other questions?

23 BY A JUROR:

11:24:52 24 Q Was he charged with domestic violence or
25 obstruction?

11:24:53 1 A Can you repeat that question?

2 Q Why wasn't he charged with domestic
3 violence or obstruction?

4 A Why was —

11:25:02 5 MS. SCHEIBLE: I don't think this witness
6 can speak to the charges but the question will be noted
7 for the record.

8 THE FOREPERSON: Any other questions?

9 MS. SCHEIBLE: I think we have one more.

11:25:15 10 THE FOREPERSON: Yes, sir.

11 BY A JUROR:

12 Q What did he break the window with, his
13 handcuffs?

14 A His feet, bare feet.

11:25:21 15 THE FOREPERSON: Any other questions?

16 By law these proceedings are secret and you
17 are prohibited from disclosing to anyone anything that
18 transpired before us including any evidence presented to
19 the Grand Jury, any event occurring or a statement made
11:25:24 20 in the presence of the Grand Jury or any information
21 obtained by the Grand Jury.

22 Failure to comply with this admonition is a
23 gross misdemeanor punishable up to 364 days in the Clark
24 County Detention Center and a \$2,000 fine. In addition

11:25:24 25 you may be held in contempt of court punishable by an

11:25:24 1 additional \$500 fine and 25 days in the Clark County
2 Detention Center.

3 Do you understand this admonition?

4 THE WITNESS: I do.

11:25:53 5 THE FOREPERSON: Thank you and you're
6 excused.

7 THE WITNESS: Thank you.

8 MS. SCHEIBLE: All right. I will call my
9 next witness. I'm not sure who it is, it depends on
11:26:10 10 who's outside.

11 THE FOREPERSON: Raise your right hand,
12 please.

13 You do solemnly swear that the testimony
14 that you're about to give upon the investigation now
11:27:46 15 pending before this Grand Jury shall be the truth, the
16 whole truth, and nothing but the truth, so help you God?

17 THE WITNESS: I do.

18 THE FOREPERSON: You're advised that you're
19 here today to give testimony in the investigation
11:28:00 20 pertaining to the offenses of escape, break, injure or
21 tamper with a motor vehicle, battery by a prisoner
22 involving Jeremy Brown-Wheaton.

23 Do you understand this advisement?

24 THE WITNESS: Yes.

11:28:14 25 THE FOREPERSON: Please state your first

11:28:15 1 and last name and spell both for the record.

2 THE WITNESS: Ryan Levy, R-Y-A-N L-E-V-Y.

3 THE FOREPERSON: Thank you.

4 RYAN LEVY,

11:28:21 5 having been first duly sworn by the Foreperson of the
6 Grand Jury to testify to the truth, the whole truth
7 and nothing but the truth, testified as follows:

8
9 EXAMINATION

11:28:21 10 BY MS. SCHEIBLE:

11 Q Officer Levy, how are you employed?

12 A With Metro, police officer.

13 Q And how long have you been with Metro?

14 A About three years now.

11:28:31 15 Q Are you assigned to a particular area
16 command?

17 A Downtown Area Command.

18 Q And how long have you been with Downtown
19 Area Command?

11:28:37 20 A Two and a half years.

21 Q Were you assigned to Downtown Area Command
22 on August 29th of this year?

23 A Yes, I was.

24 Q And on that date did you respond to a call
11:28:46 25 near Bonanza and Casino Center?

11:28:49 1 A I did.

2 Q How did the call come out?

3 A It came out as a prisoner was running from

4 another officer from another area command while in route

11:28:57 5 to jail.

6 Q All throughout the jail?

7 A While in route to jail.

8 Q Oh, while in route to jail, okay. And were

9 you dispatched to the call or did you dispatch yourself?

11:29:09 10 A Self assigned to it. Dispatch asked for

11 any available units to head that way.

12 Q And where were they asking the available

13 units to go?

14 A So the officer that was initially in it

11:29:21 15 gave out some streets that weren't really in the area.

16 They finally GPS'd them and they told us to head towards

17 Bonanza and Main, Bonanza and Casino Center.

18 Q Is that where you responded?

19 A Yes.

11:29:36 20 Q By the time you responded there did you

21 know who you were looking for?

22 A They gave a description of the black male.

23 They gave details out over the MCT so we were looking at

24 the MCT details as we were driving in the area.

11:29:49 25 Q Did you encounter someone who matched the

11:29:53 1 description of the person you were looking for?

2 A Yes.

3 Q And where did you encounter that person?

4 A It was on Bonanza just a little bit west of

11:30:00 5 I believe it's Casino Center.

6 Q And where was that person standing in the
7 street?

8 A He was jumping out of a trash can.

9 Q And as he jumped out of the trash can did
11:30:11 10 you say anything to him?

11 A It was about four of us all yelling Metro
12 Police, stop, as he continued to keep running westbound.

13 Q As this all was going on were you wearing a
14 body camera?

11:30:22 15 A Yes.

16 Q And I'm going to show you what has been
17 marked as State's Exhibit 6. This is the first file on
18 the disc and I'm going to skip to about three minutes
19 into the video. Probably can't tell if that is your
11:31:04 20 body cam, can you?

21 A Not at this angle.

22 Q For the record all we can see is the
23 sidewalk. Okay. Now that we have a better view of the
24 neighborhood, the area, can you tell us if this was your
11:31:18 25 body camera footage?

11:31:19 1 A It looks like it, yes.

2 Q And how can you recognize it?

3 A Because I remember when it first came out
4 there I was actually, when the radio traffic came out
11:31:28 5 they said a foot pursuit, that they last seen him
6 running southbound so I figured there was an empty lot
7 behind here, if he was going to run he'd probably hit
8 the wall and this being an empty parking lot so that's
9 the direction I was heading in.

11:31:40 10 Q Okay. I'm now going to hit play.

11 (Video playing.)

12 Q Okay. At this point can you point out
13 where the defendant is in the footage or describe it?

14 A Right now he's in front of this first
11:32:26 15 officer about where the sidewalk is.

16 Q Okay. And shortly before that did we see a
17 police car in the view of the body camera?

18 A Yes.

19 Q Okay. Can you describe for the members of
11:32:39 20 the Grand Jury what occurred when that police vehicle
21 was in view from your memory?

22 A The first one or the second one? When we
23 met up with each other -- so when we continued to run
24 westbound he was cutting in front of me so I figured I
11:32:55 25 would just go out a little wide to see if I could

11:32:57 1 apprehend him in the front. When we got somewhat maybe
2 within two feet of each other the police car came up
3 from the east of us trying to cut him off which made him
4 pull closer to me and we both ran into each other and
11:33:08 5 then we ran into the car and he was able to turn around
6 and run back out northbound towards the sidewalk where
7 you see him right now.

8 Q Okay. So you said that, you made a motion
9 with your hands with both arms at kind of like a
11:33:20 10 45-degree angle?

11 A Yes.

12 Q Meaning at a right angle?

13 A Correct.

14 Q And so that happened in like the middle of
11:33:26 15 the street?

16 A Yeah, that happened -- right before we
17 approached the vehicle we were still in the middle of
18 the roadway.

19 Q And when you said you made contact with him
11:33:34 20 was that your body with his body?

21 A Yeah, that was him turning in and me trying
22 to hold him as the car came up. I didn't notice the
23 vehicle when it first happened, the vehicle that was
24 coming from behind me, until we actually got right on
11:33:46 25 it.

11:33:47 1 Q And so is it fair to say he ran into you?

2 A I would say he ran into me, yes.

3 Q And then did we also see him hit the
4 vehicle?

11:33:55 5 A Yes.

6 Q Was that before or after he ran into you?

7 A That was after.

8 Q Okay. So then did you watch him run into
9 the vehicle?

11:34:02 10 A Yes, we both hit the vehicle.

11 Q And then did either of you turn around?

12 A He turned away from me as I turned the
13 other way. So if we're facing the vehicle he did like a
14 turnaround westbound and I went eastbound thinking he

11:34:17 15 was going to push off of it and continue back. As he
16 did, when I turned around he was already running
17 northbound.

18 Q Okay. And did he make contact with you
19 again after he made contact with the vehicle?

11:34:26 20 A No.

21 Q Okay. That first time when you -- so the
22 first time when we were talking about the right angles,
23 that was the only time that your bodies made contact
24 with each other?

11:34:36 25 A Correct.

11:34:36 1 Q And was he applying force to you?

2 A It was more or less I think he, from what I
3 could see he saw the vehicle before I did because he was
4 facing towards me and I think the hands came up as he
11:34:49 5 was either pushing away from it trying to avoid the
6 vehicle or push off and has leverage to keep pushing
7 back the other way.

8 Q And so did he end up pushing you?

9 A I don't think -- he never really pushed me,
11:34:59 10 we just, we kind of collided into each other as we were
11 both coming into that spot where the vehicle kind of
12 pinched us in and that's where he pushed off of the
13 vehicle and turned around and ran the other way.

14 Q And then he continued to run away from you?

11:35:12 15 A Correct.

16 Q Okay. And at that point in time had you
17 already placed him under arrest?

18 A No. At that time I was trying to take him
19 into custody but, like I said, I did not see the other
11:35:24 20 vehicle come behind me so that kind of threw me off and
21 I was unable to grab him at that time and that's when he
22 went running off northbound.

23 Q And from the call out do you know if he was
24 in custody at that point?

11:35:33 25 A From the original call?

11:35:35 1 Q Right.

2 A Yes.

3 Q Okay. And did you make any kind of report
4 about this incident?

11:35:40 5 A No, I did not.

6 Q Did you make any statements to other
7 officers about this?

8 A No, just the fact that I tried to grabbed
9 him but we both ran into each other and when he pushed
11:35:53 10 off the vehicle that's when they were able to take him
11 into custody.

12 Q Okay. And did the investigating officers
13 or lead officers ever interview you or ask you questions
14 about the incident?

11:36:04 15 A No, I never had contact with the original
16 investigating officers at all.

17 Q Okay. And in fact have we ever had a
18 conversation about this case before?

19 A No.

11:36:12 20 Q And have you ever told anybody from the
21 District Attorney's office about that physical contact
22 in front of the police vehicle?

23 A No.

24 Q So this is the first time that we're
11:36:22 25 hearing about it?

11:36:23 1 A Correct.

2 Q Okay. And did you run into the defendant

3 on purpose?

4 A No.

11:36:36 5 Q Okay.

6 I have no further questions for this

7 witness. I imagine the members of the Grand Jury do.

8 THE FOREPERSON: Go ahead.

9 A JUROR: Do we have some way of

11:36:45 10 identifying the suspect? Is this officer able to

11 identify the suspect?

12 BY MS. SCHEIBLE:

13 Q Would you recognize the suspect if you saw

14 him again?

11:36:53 15 A Yes.

16 Q Okay. I'm going to show you what has been

17 marked as Exhibit 3. Does that appear to you to be the

18 suspect?

19 A That appears so.

11:37:02 20 Q Okay.

21 Any other questions?

22 BY A JUROR:

23 Q So did he shoulder check you?

24 A Like I said, when we came in it was both of

11:37:18 25 us meeting right at the same time so our full force of

11:37:21 1 both of us running and then coming to an abrupt stop
2 because of the vehicle right there, that's how we ended
3 up hitting each other.

11:37:27 4 Q So he intentionally tried to shoulder check
5 you?

6 A I couldn't tell you what his intentions
7 were. At first he was already trying to get away from
8 him so him coming at me was either, I couldn't tell you
9 if he was just trying to get away from me or just trying
11:37:36 10 to avoid hitting the car and me.

11 THE FOREPERSON: Any other questions?

12 By law these proceedings are secret and you
13 are prohibited from disclosing to anyone anything that
14 transpired before us including any evidence presented to
11:37:39 15 the Grand Jury, any event occurring or a statement made
16 in the presence of the Grand Jury or any information
17 obtained by the Grand Jury.

18 Failure to comply with this admonition is a
19 gross misdemeanor punishable up to 364 days in the Clark
11:37:39 20 County Detention Center and a \$2,000 fine. In addition
21 you may be held in contempt of court punishable by an
22 additional \$500 fine and 25 days in the Clark County
23 Detention Center.

24 Do you understand this admonition?

11:38:10 25 THE WITNESS: I do.

11:38:11 1 THE FOREPERSON: Thank you and you're
2 excused.

3 THE WITNESS: Appreciate it. Thank you.

4 MS. SCHEIBLE: I have one more witness,
11:38:15 5 Officer Bell. I'll go retrieve her.

6 THE FOREPERSON: Raise your right hand,
7 please.

8 You do solemnly swear that the testimony
9 that you're about to give upon the investigation now
11:39:03 10 pending before this Grand Jury shall be the truth, the
11 whole truth, and nothing but the truth, so help you God?

12 THE WITNESS: Yes.

13 THE FOREPERSON: You're advised you're here
14 today to give testimony in the investigation pertaining
11:39:16 15 to the offenses of escape, break, injure or tamper with
16 a motor vehicle, battery by a prisoner involving Jeremy
17 Brown-Wheaton.

18 Do you understand this advisement?

19 THE WITNESS: Yes.

11:39:28 20 THE FOREPERSON: Please state your first
21 and last name and spell both for the record.

22 THE WITNESS: Shanice Bell. First name
23 spelled S-H-A-N-I-C-E, last named spelled B-E-L-L.

24 THE FOREPERSON: Thank you.

11:39:39 25 ///

11:39:39

1

SHANICE BELL,

2

having been first duly sworn by the Foreperson of the

3

Grand Jury to testify to the truth, the whole truth

4

and nothing but the truth, testified as follows:

11:39:39

5

6

EXAMINATION

7

BY MS. SCHEIBLE:

8

Q Officer Bell, how are you employed?

9

A With the Las Vegas Metropolitan Police

11:39:43

10

Department.

11

Q And what is your role at Metro?

12

A Police officer.

13

Q How long have you been a police officer?

14

A Four years.

11:39:51

15

Q And are you assigned to a particular area

16

command?

17

A Yes.

18

Q Which one?

19

A The Downtown Area Command.

11:39:55

20

Q And were you working Downtown Area Command

21

on August 29th of this year?

22

A Yes.

23

Q And did you respond to a call near the area

24

of Bonanza and Casino Center?

11:40:07

25

A Yes.

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JEREMY BROWN-WHEATON,) No. 83896
)
Appellant,)
)
v.)
)
THE STATE OF NEVADA,)
)
Respondent.)
)

DARIN F. IMLAY Clark County Public Defender 309 South Third Street Las Vegas, Nevada 89155-2610 Attorney for Appellant	STEVE WOLFSON Clark County District Attorney 200 Lewis Avenue, 3 rd Floor Las Vegas, Nevada 89155 AARON FORD Attorney General 100 North Carson Street Carson City, Nevada 89701-4717 (702) 687-3538 Counsel for Respondent
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I hereby certify that this document was filed electronically with the Nevada Supreme Court 7th on the day of March, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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

BY /s/ Rachel Howard
Employee, Clark County Public Defender's Office