

IN THE SUPREME COURT OF THE STATE OF NEVADA

CASEY ALAN JOHNS

Appellant,

v.

STATE OF NEVADA

Respondent.

CASE NO. 83064

Appeal from a Judgment of Conviction After Jury Verdict
in Case CR20-10DC-0552
Tenth Judicial District Court of the State of Nevada, Churchill County
Honorable Thomas L. Stockard, District Judge

APPELLANT'S APPENDIX VOLUME 1

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ATTORNEY FOR RESPONDENT

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Case No.: 20-100-0552

Dept. No.: 1

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

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BY  DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE
OF NEVADA, IN AND FOR THE COUNTY OF CHURCHILL

THE STATE OF NEVADA,

Plaintiff,

vs.

CASEY ALAN JOHNS,

Defendant.

INFORMATION

PRISCILLA BAKER, Deputy District Attorney of Churchill County, Nevada, informs the above-entitled Court that **CASEY ALAN JOHNS**, the Defendant above-named, has committed the offenses of **COUNT 1, BURGLARY WITH POSSESSION OF A FIREARM OR DEADLY WEAPON**, a Category B Felony, in violation of NRS 205.060(4), **COUNT 2, BATTERY WITH A DEADLY WEAPON CAUSING SUBSTANTIAL BODILY HARM TO VICTIM**, a Category B Felony, in violation of NRS 200.481(2)(E)(2), **COUNT 3, BATTERY BY A PRISONER IN LAWFUL CUSTODY OR CONFINEMENT**, a Category B Felony, in violation of NRS 200.481(2)(F), **COUNT 4, HOME INVASION WITH POSSESSION OF FIREARM OR DEADLY WEAPON**, a Category B Felony, in violation of NRS 205.067(4), and **COUNT 5, OBTAINING OR POSSESSING CREDIT CARD OR DEBIT CARD, OR IDENTIFYING DESCRIPTION OF CREDIT CARD, CREDIT ACCOUNT OR DEBIT CARD WITHOUT CONSENT**, a Category D Felony, in violation of NRS 205.690(1), committed as follows:

///

COUNT 1
BURGLARY WITH POSSESSION OF A FIREARM OR DEADLY WEAPON, a
Category B Felony, in violation of NRS 205.060(4)

That within declarant's information and belief, **CASEY ALAN JOHNS**, on or about the 16th day of April, 2020, and prior to the filing of this INFORMATION, at or near 60 South Allen Road #135, Fallon, Churchill County, Nevada, did willfully and unlawfully enter any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretense, and had in his or her possession or gained possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, to wit: said Defendant did enter the Budget Inn room #135 with a knife with the intent to commit a battery.

COUNT 2
BATTERY WITH A DEADLY WEAPON CAUSING SUBSTANTIAL BODILY HARM
TO VICTIM, a Category B Felony, in violation of NRS 200.481(2)(E)(2)

That within declarant's information and belief, **CASEY ALAN JOHNS**, on or about the 16th day of April, 2020, and prior to the filing of this INFORMATION, at or near 60 South Allen Road #135, Fallon, Churchill County, Nevada, did willfully and unlawfully use force or violence upon the person of another with the use of a deadly weapon causing substantial bodily harm, to wit: said Defendant did cut Michael Malone in the hand with a knife causing prolonged physical pain.

COUNT 3
BATTERY BY A PRISONER IN LAWFUL CUSTODY OR CONFINEMENT, a Category
B Felony, in violation of NRS 200.481(2)(F)

That within declarant's information and belief, **CASEY ALAN JOHNS**, on or about the 16th day of April, 2020, and prior to the filing of this INFORMATION, at or near 60 South Allen Road, Fallon, Churchill County, Nevada, did willfully and unlawfully, while in lawful custody or confinement, use force or violence upon the person of another, to wit: said Defendant,

1 after being placed under arrest and while in lawful custody, did kick Officer Kevin Grimes in the
2 leg.

3
4 **COUNT 4**

5 **HOME INVASION WITH POSSESSION OF FIREARM OR DEADLY WEAPON, a**
6 **Category B Felony, in violation of NRS 205.067(4)**

7 That within declarant's information and belief, **CASEY ALAN JOHNS**, on or about the
8 16th day of April, 2020, and prior to the filing of this INFORMATION, at or near 60 South
9 Allen Road #132, Fallon, Churchill County, Nevada, did willfully and unlawfully, with use of a
10 deadly weapon, enter an inhabited dwelling without permission of the owner, resident or lawful
11 occupant, whether or not a person was present at the time of entry, to wit: said Defendant did
12 forcefully enter 60 South Allen Road #132 with a knife, causing damage to the entry door and/or
13 doorframe.

14 **COUNT 5**

15 **OBTAINING OR POSSESSING CREDIT CARD OR DEBIT CARD, OR IDENTIFYING**
16 **DESCRIPTION OF CREDIT CARD, CREDIT ACCOUNT OR DEBIT CARD**
17 **WITHOUT CONSENT, a Category D Felony, in violation of NRS 205.690(1)**

18 That within declarant's information and belief, **CASEY ALAN JOHNS**, on or about the
19 10th day of April, 2020 through the 16th day of April, 2020, and prior to the filing of this
20 INFORMATION, at or near 260 West Center Street, Apt. #16, Fallon, Churchill County,
21 Nevada, did steal, take or remove a credit card or debit card from the person, possession, custody
22 or control of another without the cardholder's consent, or, with the knowledge that a credit card
23 or debit card had been so taken, removed or stolen, did receive the credit card or debit card with
24 the intent to circulate, use or sell it or to transfer it to a person other than the issuer or the
25 cardholder, to wit: said Defendant did obtain credit cards belonging to Brandie West-Castillo
26 without her consent.

27 ///

28 ///

///

1 All of which is contrary to the form, force and effect of the statute in such cases made
2 and provided, and against the peace and dignity of the State of Nevada.

3 DATED: This 26th day of May, 2020.

4
5 ARTHUR E. MALLORY,
6 District Attorney

7 By: 
8 Priscilla Baker
9 Deputy District Attorney

10 The following are the names of such witnesses as are known to me at the time of filing
11 the within Information:

12 Andrew Abrass	801 West West Williams Avenue Fallon, NV 89406
13	
14 Banner Churchill Community Hospital	801 East Williams Avenue Fallon, NV 89406
15	
16 Ambien Subhashhai Bhakta	60 S Allen Road Fallon, NV 89406
17	
18 Budget Inn	60 S. Allen Road Fallon, NV 89406
19	
20 James Patrick Bullis	60 South Allen Road #109 Fallon, NV 89406
21	
22 Andrew Coley	235 West 6th Street Reno, NV 89503
23	
24 Chaska Gene Colvin	2044 Agency Road Fallon, NV 89406
25	
26 Deanna Kaye Douglas	1515 Heidi Road Fallon, NV 89406
27	
28 John Frandsen	55 W. Williams Avenue Fallon, NV 89406

1	Kevin Grimes	55 West Williams Avenue Fallon, NV 89406
2		
3	Daniel Joseph Groom	55 West Williams Avenue Fallon, NV 89406
4		
5	Jennifer Mae Hartpence	60 South Allen Road #109 Fallon, NV 89406
6		
7	Michael Malone	3365 Sherwood Dr Winnemucca, NV 89445
8		
9	Michael Moody	60 South Allen Road #109 Fallon, NV 89406
10		
11	Ashley Peters	180 West A Street Fallon, NV 89406
12		
13	Joseph Shyne	55 W. Williams Avenue Fallon, NV 89406
14		
15	St. Mary's Hospital	235 West 6th Street Reno, NV 89503
16		
17	Sam Ugalde	55 W. Williams Avenue Fallon, NV 89406
18		
19	Ronald D. Wenger	55 W. Williams Avenue Fallon, NV 89406
20		
21	Brandie West-Castillo	260 West Center Street, Appt. #6 Fallon, NV 89406
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BY *Kennedy* DEPUTY

1 CASE NO. 20-10DC-0552

2
3 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

4 IN AND FOR THE COUNTY OF CHURCHILL

5 BEFORE THE HONORABLE DISTRICT COURT JUDGE, THOMAS L. STOCKARD

6
7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 CASEY ALAN JOHNS,

11 Defendant.
12 _____/

13
14 JAVS TRANSCRIPT OF PROCEEDINGS

15 ARRAIGNMENT

16 JUNE 30, 2020

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20
21
22 Transcribed By:

Kathy Jackson, CSR
Nevada CCR #402
California CCR #10465

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APPEARANCES

For the State:	PRISCILLA BAKER
	Deputy District Attorney
	Fallon, Nevada
For the Defendant:	DAVID K. NEIDERT
	Attorney at Law
	Fallon, Nevada

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JUNE 30, 2020, FALLON, NEVADA

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THE COURT: Case Number 20-0552, State of Nevada versus Casey Alan Johns. The record should reflect the presence of Mr. Johns. He's in custody. He's represented by his attorney, David Neidert, who is here in the courtroom. Jeff Weed is representing the State of Nevada.

Mr. Weed, are you there telephonically?

MS. BAKER: Your Honor, it's Priscilla Baker --

THE COURT: Okay.

MS. BAKER: -- on behalf of the State.

THE COURT: I'm sorry, Ms. Baker. I just saw Mr. Weed's name on the -- so Priscilla Baker is representing the State of Nevada, and she's appearing telephonically. Lisa Brannon is representing parole and probation. She's appearing telephonically. And Brittany Ingram is representing Churchill County Court Services and she is appearing telephonically.

Mr. Johns, there's been an information filed with the Court. Would you look at line 12 of that information. Is that your name and is it spelled correctly?

THE DEFENDANT: Line 12, yes, sir.

THE COURT: Is that your true name?

THE DEFENDANT: Yes, sir.

1 THE COURT: And, Mr. Johns, how far have you gone
2 in school?

3 THE DEFENDANT: I graduated.

4 THE COURT: Do you read and write the English
5 language?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Have you discussed this case with
8 your attorney?

9 THE DEFENDANT: We've talked about what we're
10 going to do today, yeah.

11 THE COURT: Okay. And you also have talked to
12 him about it in the past; is that correct?

13 THE DEFENDANT: We've -- he's -- we've only got
14 to touch basis for a little bit, but.

15 THE COURT: I see from here that there was a
16 preliminary hearing held. Did you talk to him on that date?

17 THE DEFENDANT: Yeah. We just went through the
18 preliminary hearing because it was a long preliminary
19 hearing.

20 THE COURT: Okay.

21 THE DEFENDANT: I mean, but it was pretty much
22 the end of the day, so.

23 THE COURT: Okay.

24 THE DEFENDANT: I haven't really, just been able

1 to discuss or look over any of the evidence.

2 THE COURT: Mr. Neidert?

3 MR. NEIDERT: Your Honor, we have met. We did
4 meet one time, at least on one occasion at the jail prior to
5 the preliminary hearing, but I don't believe we met
6 subsequent to the preliminary hearing.

7 THE COURT: Okay.

8 MR. NEIDERT: We are prepared to go forward
9 today.

10 THE COURT: Okay. And you were appointed by the
11 justice court to represent Mr. Johns, right?

12 MR. NEIDERT: That's correct, Your Honor.

13 THE COURT: And this Court's expectation is that
14 you'll meet with him and make sure that you keep him
15 apprised. Does that make sense?

16 MR. NEIDERT: That makes sense, Your Honor, yes.

17 THE COURT: Okay. Mr. Johns, are you ready to
18 proceed today?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: So, Mr. Neidert, do you wish the
21 information read?

22 MR. NEIDERT: You know, Your Honor, we'll waive
23 the formal reading. We're aware of its contents. Today my
24 client I believe will be entering a plea of not guilty to the

1 counts contained in the information. And against advice of
2 counsel my client will be invoking his right to a speedy
3 trial.

4 THE COURT: Okay. So, Mr. Johns, we will start
5 by going over the counts that have been filed in this case.
6 So Count One is burglary with possession of a firearm or a
7 deadly weapon which is a category B felony. Do you have any
8 questions concerning Count One?

9 THE DEFENDANT: No. Oh, okay. No, I don't.

10 THE COURT: So Count Two is alleged battery with
11 a deadly weapon causing substantial bodily harm to a victim.
12 Do you have any questions about Count Two?

13 THE DEFENDANT: No, sir.

14 THE COURT: Count Three is battery by a prisoner
15 in lawful custody or confinement, which is a category B
16 felony. Do you have any questions about Count Three?

17 THE DEFENDANT: No, sir.

18 THE COURT: Count Four is home invasion with
19 possession of a firearm or a deadly weapon. Do you have any
20 questions about Count Four?

21 THE DEFENDANT: No, sir.

22 THE COURT: And Count Five is obtaining or
23 possessing a credit card or debit card or identifying
24 description of a credit card or credit account or debit card

1 without consent which is a category D felony. Do you have
2 any questions about Count Five?

3 THE DEFENDANT: No, sir.

4 THE COURT: Now, have you discussed the penalties
5 associated with these charges with your attorney?

6 THE DEFENDANT: Have I? No, but I've kind of
7 looked over it.

8 THE COURT: So, Mr. Neidert, do you want to --
9 have you discussed the potential penalties?

10 MR. NEIDERT: I have not, Your Honor. But based
11 on my client's plea of not guilty I had not done it. I
12 typically do it when they enter a plea. It's not something I
13 normally do if they enter a not guilty plea.

14 THE COURT: Okay. So I'm going to do it. My
15 expectation in the future is that you always do it so he
16 understands exactly what the consequences are.

17 MR. NEIDERT: Yes, Your Honor.

18 THE COURT: So I'm going to go over Count One,
19 first of all, which is burglary with possession of a firearm
20 or a deadly weapon, that's a category B felony.

21 THE DEFENDANT: Uh-huh.

22 THE COURT: It's punishable by two to 15 years in
23 the Nevada State Prison and a fine of not more than \$10,000.
24 Do you have any questions about the penalties associated with

1 Count One?

2 THE DEFENDANT: No, sir.

3 THE COURT: Count Two, battery with a deadly
4 weapon causing substantial bodily harm to a victim. If
5 you're convicted of that it's punishable by two to 15 years
6 in the Nevada State Prison and a fine of not more than
7 \$10,000. Do you have any questions about that penalty?

8 THE DEFENDANT: No, sir.

9 THE COURT: So Count Three, battery by a prisoner
10 in lawful custody or confinement, a category B felony, do you
11 have any questions about that? The penalties for that one is
12 one to six years in the Nevada State Prison. Do you have any
13 questions about the penalties associated with Count Three?

14 THE DEFENDANT: No, sir.

15 THE COURT: So Count Four is home invasion with
16 possession of a firearm or deadly weapon, which is a category
17 B felony, punishable by two to 15 years in the Nevada State
18 Prison and a fine not more than \$10,000. Do you have any
19 questions about the penalties associated with Count Four?

20 THE DEFENDANT: What was -- what was the time
21 limit on that?

22 THE COURT: Two to 15 years in Nevada State
23 Prison.

24 THE DEFENDANT: Okay. Thank you.

1 THE COURT: And Count Five is obtaining or
2 possessing a credit card or debit card or identifying
3 description of a credit card, credit account or debit card
4 without consent. That's a category D felony. It's
5 punishable by one to four years in the Nevada State Prison
6 and a fine of not more than \$5,000. Do you have any
7 questions about the penalties associated with Count Five?

8 THE DEFENDANT: No, sir.

9 THE COURT: And do you understand the difference
10 between concurrent and consecutive time on counts. If you're
11 convicted of multiple counts, do you understand --

12 THE DEFENDANT: Yeah, one is, there will be -- if
13 it's concurrent they are ran together. If not they are
14 spread out.

15 THE COURT: Right. You have to serve -- if it's
16 consecutive you have to serve one and then the other. And if
17 you're convicted of multiple counts the Court would have the
18 discretion to either run them concurrent or consecutive or
19 some combination. I could run a couple of concurrent and
20 some consecutive. Do you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you have any questions about that?

23 THE DEFENDANT: No, sir.

24 THE COURT: Okay. So to -- to Count One,

1 burglary and possession of a firearm, how do you plead,
2 guilty or not guilty?

3 THE DEFENDANT: Not guilty.

4 THE COURT: Count Two, battery with a deadly
5 weapon causing substantial bodily harm to a victim, how do
6 you plead, guilty or not?

7 THE DEFENDANT: Not guilty.

8 THE COURT: Count Three, battery by a prisoner in
9 lawful custody or confinement, how do you plead, guilty or
10 not guilty?

11 THE DEFENDANT: Not guilty.

12 THE COURT: Count Four, home invasion with
13 possession of a firearm or a deadly weapon, how do you plead,
14 guilty or not guilty?

15 THE DEFENDANT: Not guilty.

16 THE COURT: And to Count Five, obtaining or
17 possessing a credit card, a debit card or identifying
18 description of a credit card, credit account or a debit card
19 without consent, how do you plead, guilty or not guilty?

20 THE DEFENDANT: Not guilty.

21 THE COURT: Ms. Baker, from the State's
22 perspective how long do you need to try this case?

23 MS. BAKER: Your Honor, the State anticipates
24 about five days.

1 THE COURT: Okay. Four and a half days. If we
2 take Tuesday morning off for law and motion could we get it
3 done Monday through Friday without Tuesday morning?

4 MS. BAKER: That should be sufficient.

5 THE COURT: Okay. Mr. Neidert?

6 MR. NEIDERT: I concur.

7 THE COURT: Okay. So the Court will set this for
8 a four and a half day jury trial.

9 So everybody is aware, and I'll give you, I'll go
10 over it now, but we can -- and you can weigh in if you have
11 any concerns before the trial. We're still in COVID-19
12 restrictions, but the Court is diligently working to make
13 jury trials possible.

14 As we speak right now, as you look out into the
15 gallery you can see that we could accommodate substantially
16 less people behind you than we normally could in order to be
17 able to maintain social distancing. Do you see the chairs
18 that are missing, Mr. Johns.

19 And so when we proceed to a jury trial, what we
20 anticipate doing is selecting the jury in multiple, bringing
21 in just enough to seat this -- so jury selection is going to
22 take longer. We'll -- until we can seat the amount of jurors
23 we need to proceed and then we'll proceed with voir dire.
24 And so we'll bring the jurors in, I don't know how many

1 chairs are there right now, but essentially 25 people at a
2 time.

3 And once we seat a jury we'll then proceed.
4 Everybody will wear masks. We will -- I think right now, if,
5 depending on when this case is set, and I'll get to the
6 speedy trial in a minute, we can't socially distance jurors
7 in the jury box. We may end up having the jurors sit in the
8 gallery. We have to figure out, you know, that we will turn
9 counsel tables, probably very similar to what you're used to
10 in Lovelock, Mr. Neidert, but the jury may be seated in the
11 gallery. They may be seated in the jury box.

12 The witness, we're in the process of getting
13 Plexiglass installed in the witness box. As you can imagine
14 so is everyone else and so it is taking some time. We
15 anticipate with the witnesses because I think, I want,
16 Mr. Johns, I want you to be able to see the witnesses. I
17 want the jurors to be able to see the witnesses, is once they
18 are in the -- behind the Plexiglass they would be able to
19 remove their mask and testify and then return the mask as
20 they leave.

21 Jurors would wear masks. Counsel would wear
22 masks. The defense -- the defendant would wear a mask. We
23 would anticipate right now our jury room is quite small. We
24 are in all likelihood going to have the jury deliberate in

1 courtroom two. We have disconnected -- we have the ability
2 to disconnect the cameras that are there. So the jurors
3 would deliberate without any -- it would just be a much
4 larger jury room.

5 And so courtroom two, we would create enough
6 social distance so 12 jurors could deliberate and there. I
7 would anticipate a minimum of a jury this long given the
8 current conditions at least two alternates.

9 Mr. Neidert, how many alternates would you say?

10 MR. NEIDERT: I would agree with that. I think
11 two would be best, Your Honor.

12 THE COURT: And, Ms. Baker?

13 MS. BAKER: I agree, Your Honor.

14 THE COURT: Everybody on the day they -- everyday
15 they come to court is given their temperatures checked
16 through a noncontact thermometer. I think, Mr. Neidert, and
17 if anybody has a temperature, if there was a juror in the
18 middle of the trial they would be excused and we may or may
19 not -- I mean, depending on where we're at when this case is
20 set, I mean, I could -- you know, if we were to have an
21 outbreak it could interrupt the trial. I mean, we just -- we
22 have to just be aware of what the times we're living in, and
23 we're going to do the best we can, but those are the outline
24 of the procedures that we have now.

1 Mr. Neidert, do you have any comments on that?

2 MR. NEIDERT: No, Your Honor. We discussed this
3 previously when we were setting another trial that was
4 scheduled to go next month and I think those are very wise
5 procedures. Certainly I understand that we're in a situation
6 right now where the trials have not resumed. I understand
7 it's administrative orders. They cannot resume until at
8 least 30 days that the Court is to meet certain milestones
9 which I believe is up to each judicial district to decide
10 what that milestone might be, but so we are where we are
11 right now with respect to that.

12 THE COURT: And, Ms. Baker, do you have any
13 comments on what the Court outlined as what it anticipates?

14 MS. BAKER: The State just wants to add that
15 although the defendant is to wear a mask, if we're basically
16 asking the identification of the defendant that he may remove
17 that mask for that purpose.

18 THE COURT: Yeah, I will, of course, in that way.
19 And so -- and so we will address that. But, yeah, we would
20 have to make sure that we had a procedure in place so that,
21 and I would want to make sure that whatever mask Mr. Johns is
22 wearing would be the same as whatever -- I think everyone
23 should be wearing similar masks.

24 But we would put a procedure in place that if

1 somebody were to attempt to identify, whether or not it was
2 Mr. Johns, we would want to make sure they could see your
3 face so that that would be fair to you and fair to them.
4 Does that make sense?

5 THE DEFENDANT: Yes, sir.

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

7 THE DEFENDANT: I would just take my discovery so
8 I can look over it while I'm incarceration because I'm --

9 MR. NEIDERT: I'll make sure that is provided,
10 Your Honor.

11 THE COURT: What's that?

12 MR. NEIDERT: I will make sure that it's
13 provided.

14 THE COURT: Okay. Thank you.

15 And, Mr. Neidert, the other thing I would ask is
16 that I know you -- we had another trial that we had set that
17 I had gone over these procedures with you. But I want you to
18 discuss those with Mr. Johns and if he has any concerns you
19 can file those with the Court.

20 MR. NEIDERT: I will, Your Honor.

21 THE COURT: So, Mr. Johns, you have a right to a
22 speedy trial. Now, that right, while every court in the land
23 right now that's been interrupted and everybody who is trying
24 as hard as we can to get it back on track. Does that make

1 sense?

2 THE DEFENDANT: Uh-huh.

3 THE COURT: Have you discussed your right to a
4 speedy trial with your attorney?

5 THE DEFENDANT: I have.

6 THE COURT: And, Mr. Neidert, you -- have you
7 discussed it with Mr. Johns?

8 MR. NEIDERT: I did, Your Honor. We did, in
9 fact, discuss it this morning. That's when my client
10 indicated that he wanted to exercise his right to a speedy
11 trial.

12 THE COURT: And does that give you time to
13 complete the investigation?

14 MR. NEIDERT: I believe it does, Your Honor. I
15 would prefer more time to make for a better investigation.
16 But certainly Mr. Johns' right trumps everything else as far
17 as I'm concerned. So if it, you know --

18 THE COURT: I don't need to know what you have
19 told him. But if you have concerns have you shared those
20 with him?

21 MR. NEIDERT: I have, Your Honor, but so we are
22 where we are right now.

23 THE COURT: And, Mr. Johns, Mr. Neidert has
24 shared whatever concerns he has with you?

1 THE DEFENDANT: Yeah. I mean, it's going to get
2 pushed off anyways so I mean.

3 THE COURT: Well, I'm going to do my best I can
4 to do it as quickly as possible, but.

5 THE DEFENDANT: I already know it's going to
6 get --

7 THE COURT: I just want to make sure you've
8 listened to whatever Mr. Neidert --

9 THE DEFENDANT: Yeah, I did.

10 THE COURT: Okay. And it's your desire to invoke
11 your speedy trial rights?

12 THE DEFENDANT: Uh-huh.

13 THE COURT: I need you to answer yes or no. I'm
14 sorry.

15 THE DEFENDANT: Oh, to invoke it, yeah, I want my
16 right.

17 THE COURT: Okay. You said uh-huh.

18 THE DEFENDANT: I didn't know if you were asking
19 the question.

20 THE COURT: No, that's okay.

21 THE DEFENDANT: All right.

22 THE COURT: Very well.

23 The Court -- there are two things that come into
24 play. We have a number of non jury things that we've set

1 between as the Court is beginning to ramp up. And so our
2 first four and a half day trial right now is October 5th
3 through 9th, and I also have October 19th through the 23rd.
4 That is outside of the 60 days. But right now I'm -- it will
5 be 30 days from whenever this Court feels that our milestones
6 are met, when I make the findings that our milestones are
7 met. I -- I think there's good cause to go to October. My
8 sincere hope is that we can hold that trial date.

9 Mr. Neidert, is October 5th through 9th a date
10 you're available?

11 MR. NEIDERT: Your Honor, and, yeah, I'm busy,
12 but certainly I have a trial in Reno that start the 12th. I
13 have a trial in Lovelock that starts the 26th of those months
14 but certainly I can -- I can be ready, so.

15 THE COURT: Which one would you prefer?

16 MR. NEIDERT: I would prefer, Your Honor, the 5th
17 through the 9th date.

18 THE COURT: And, Ms. Baker, does October 5th
19 through the 9th work for the State?

20 MS. BAKER: Yes, Your Honor.

21 THE COURT: Okay. So we'll set this for a jury
22 trial October 5th through the 9th.

23 And, Mr. Neidert, that's outside the 60 days, but
24 it does give you some additional time. Would that be

1 helpful?

2 MR. NEIDERT: It is, Your Honor. And, like I
3 said, and I will certainly meet with my client multiple times
4 between now and then. I will certainly make sure he gets all
5 of the discovery that I have, that he can have it at the jail
6 within the next week.

7 And, frankly, I will probably be having -- I'll
8 be filing a motion to bring my investigator. I'll have my
9 investigator with me and that most likely will be for my
10 client's edification a week from this coming Thursday and we
11 have -- I have to be in Hawthorne for a court hearing then,
12 and my investigator is involved in that case as well. It's
13 one of the cases in October. And so we can go from Hawthorne
14 up to here and meet with my client, meet with Mr. Johns after
15 the other case.

16 THE DEFENDANT: And I have a question, Your
17 Honor.

18 THE COURT: Yeah, go head.

19 THE DEFENDANT: I also was sentenced last week to
20 a prison sentence. So like I don't know how that's going to
21 work.

22 THE COURT: So, shoot, will he be continued to be
23 housed here or will he be --

24 THE BAILIFF: He won't be. He'll get sent off to

1 prison.

2 THE COURT: Okay. And so he'll probably start in
3 Carson City and then be classified and we don't know where.

4 MR. NEIDERT: Could I ask -- could I ask the, as
5 a courtesy of the jail to wait until after a week from next
6 Thursday to do a transport for him.

7 My concern is the prison still is on absolute
8 lockdown. They are not allowing visitors or professional
9 visits. So that will at least give me a chance with my
10 investigator to meet with him prior to him being transported.

11 THE BAILIFF: Are you saying the following week?

12 MR. NEIDERT: Right. And I'm saying I'm planning
13 on having my investigator meet with Mr. Johns nine days from
14 now.

15 THE BAILIFF: I think that's fine.

16 THE COURT: Will that work?

17 THE BAILIFF: That will work.

18 THE COURT: Okay. So you'll stay -- you'll stay
19 in jail here through Thursday which I think is the 9th.

20 THE DEFENDANT: To the following Thursday?

21 THE COURT: A week from this coming -- so this
22 coming Thursday is --

23 MR. NEIDERT: Is the 2nd.

24 THE COURT: -- the 2nd. So Mr. Neidert will be

1 here the 9th with his investigator. So the jail has agreed
2 to keep you here through I guess the 10th. And then you'll
3 go wherever -- you'll start in Carson and then they will
4 classify you and I think Mr. Neidert is correct, and that
5 really gives a flavor for really how the world is. I mean,
6 they are on complete lockdown in, at the prison.

7 And, Mr. Neidert, if that does impede your
8 ability, I can't -- I can't slow that down but if that
9 impedes your ability to prepare for this trial you'll need to
10 let this Court know.

11 MR. NEIDERT: I will keep the Court apprised of
12 that and that includes any problems.

13 THE COURT: Now, Mr. Neidert, I don't want to
14 know what -- what it was, but has the State made any offers
15 to you in this case?

16 MR. NEIDERT: I believe the State did make an
17 offer. I don't remember what it was. My client rejected
18 that offer prior to the preliminary hearing.

19 THE COURT: And so my question for Mr. Johns is
20 did Mr. Neidert convey that offer to you?

21 THE DEFENDANT: Yeah, when we met with me at the
22 jail he did.

23 THE COURT: Okay. And if you had any questions
24 did he answer those questions?

1 THE DEFENDANT: Yes, he did.

2 THE COURT: Okay. And I don't care whether you
3 accepted it or rejected it, I just want to make sure that the
4 record reflects that --

5 THE DEFENDANT: No. No. Yeah, he -- I think it
6 was --

7 THE COURT: I don't need to know what it was.

8 THE DEFENDANT: Yeah, whatever it is.

9 THE COURT: So this matter is set for a jury
10 trial. Is there any other things that the Court can do for
11 the defense?

12 MR. NEIDERT: No, Your Honor. I do believe it
13 might be appropriate because of transport issues the Court
14 might set a pretrial hearing date prior to that so that -- so
15 that Mr. Johns be brought back here. You know, we have that
16 hearing and might also be appointed time as we get ready for
17 trial. Between that hearing date and the trial date my
18 client will remain in the jail here instead of being sent
19 back to prison but that's just my one request.

20 THE COURT: We will set a pretrial date in case
21 there are any pretrial motions. We'll have Mr. Johns. In
22 that order, Mr. Bailiff, we'll order that he be transported
23 here for the pretrial hearing and --

24 MS. BAKER: And, Your Honor, as soon as we get

1 that calendaring the State will prepare a formal motion to
2 produce.

3 THE COURT: Okay. Very well.

4 Ms. Baker, is there anything else from you?

5 MS. BAKER: No, Your Honor.

6 THE COURT: Mr. Johns, do you have anything else?

7 THE DEFENDANT: That just I would just like to
8 make sure before I get sent that I have my discovery so I can
9 go over it.

10 MR. NEIDERT: I will --

11 THE COURT: And that's up to your attorney.

12 MR. NEIDERT: And I will make sure that happens
13 this week, Your Honor, so he has a chance to review it prior
14 to meeting with my investigator.

15 THE COURT: Very well. Very well.

16 MR. NEIDERT: Thank you.

17 THE COURT: Okay. Thank you.

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1 STATE OF NEVADA,)
2 CARSON CITY.)
3

4 I, KATHY JACKSON, do hereby certify:

5 That an Arraignment held in the within-entitled
6 matter in Churchill County, Fallon, Nevada;

7 That said hearing was recorded by a recording
8 system, and said recording was delivered to me for
9 transcription;

10 That the foregoing transcript, consisting of
11 pages 1 through 24 is a full, true and correct transcript of
12 said recording performed to the best of my ability.

13
14 Dated at Carson City, Nevada, this 20th day of
15 June, 2021.

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19 
20 KATHY JACKSON, CCR

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CAPITOL REPORTERS (775) 882-5322

FILED

1 CASE NO. 20-10DC-0552

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3 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
4 IN AND FOR THE COUNTY OF CHURCHILL

5 BEFORE THE HONORABLE DISTRICT COURT JUDGE, THOMAS L. STOCKARD

6
7 THE STATE OF NEVADA,
8 Plaintiff,

9 vs.

10 CASEY ALAN JOHNS,
11 Defendant.

12
13
14 JAVS TRANSCRIPT OF PROCEEDINGS

15 PRETRIAL HEARING

16 SEPTEMBER 8, 2020

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22 Transcribed By:

Kathy Jackson, CSR
Nevada CCR #402
California CCR #10465

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APPEARANCES

For the State: PRICILLA BAKER
Deputy District Attorney
Fallon, Nevada

For the Defendant: DAVID K. NEIDERT
Attorney at Law
Fallon, Nevada

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SEPTEMBER 8, 2020, FALLON, NEVADA

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THE COURT: This is Case Number 20-0552. It's State of Nevada versus Casey Alan Johns. The record should reflect the presence of Mr. Johns, who is in custody. He is represented by his attorney, David Neidert. Pricilla Baker is here representing the State of Nevada.

Do we have anyone -- Mr. Mills, are you there by Zoom? I don't know if he is.

This is the time set for pretrial, for hearing on the pretrial motions that were filed.

So, Mr. Neidert, the defense -- the State's first motion, well, I guess your first motion, it's a little confusing to me. The State's motion on cross-examination of witnesses; is that correct?

MS. BAKER: Yes, Your Honor.

THE COURT: As I understand that, you're asking me to follow the law?

MS. BAKER: Yes, Your Honor. I just --

THE COURT: We will do that.

MS. BAKER: Okay.

THE COURT: I mean, you guys file these all the time.

MS. BAKER: Uh-huh.

1 THE COURT: And I say I'm always say going to
2 enforce the law.

3 MS. BAKER: Correct.

4 THE COURT: And Mr. Neidert I think conceded that
5 that would happen.

6 MS. BAKER: I just out of an abundance of
7 caution, I would prefer to have any discussions regarding
8 impeachment outside the presence of the jury which is why I
9 brought this motion.

10 THE COURT: Okay.

11 MS. BAKER: And, yes, the State is just asking
12 for the Court to follow the law. But if Mr. Neidert, you
13 know, wants to, you know, raise any nuances then I would like
14 to do that now instead of in front of the jury.

15 THE COURT: Sure, and I agree. And --

16 MR. NEIDERT: And, Your Honor, as I understand
17 it, specifically Mr. Malone and Ms. Douglas, the other people
18 have misdemeanor prior convictions. Frankly, the law is
19 crystal clear that unless it's a felony conviction, it's less
20 than ten years old, ten years being defined as time parole or
21 whatever ends that case -- that case ending with respect to
22 that person then a prior conviction cannot be used for
23 impeachment purposes.

24 MS. BAKER: Right.

1 THE COURT: And I think it's fair for the State
2 to say if there's something that you think there's a question
3 let's talk about it outside the presence of the jury.

4 MR. NEIDERT: And that's fine, Your Honor. I
5 think, you know, I'm not anticipating that. But certainly at
6 the appropriate time of the trial it looks like it's going to
7 happen we can say, Your Honor, there's an issue and at the
8 next break.

9 THE COURT: Okay.

10 MR. NEIDERT: I even believe if there's going to
11 be an issue like that we do it at a time where the jury is
12 not even aware we're meeting in their absence.

13 THE COURT: Right.

14 MR. NEIDERT: After, if they are excused or
15 before they are brought in.

16 THE COURT: Early in the morning.

17 MR. NEIDERT: Or things of that nature.

18 THE COURT: And you guys know that we're not
19 afraid to start early, so.

20 So let's talk about -- I'll talk about the prior
21 bad acts motion in a minute.

22 Mr. Neidert, as far as any -- as far as clothing
23 and those types of things you'll make those arrangements.

24 MR. NEIDERT: I asked Mr. Johns his clothing size

1 today. He gave them to me. He told me he wears a 3X shirt
2 and a 38 waist and a 36 long pant, and I'll make sure that
3 he's got civilian clothes for trial.

4 THE COURT: Very well.

5 So let's talk about the bad acts cases. As I
6 read this there are two things, and one is the use of a spit
7 hood and allegation of a kick by Mr. John -- Johns in the ER;
8 is that correct?

9 MS. BAKER: That's correct.

10 THE COURT: And so the kick, do you want to --
11 your non propensity purpose is to show lack of mistake?

12 MS. BAKER: That is correct and it's only
13 participatory.

14 THE COURT: Sure.

15 MS. BAKER: So the State's position is if the
16 defense tries to argue that it was a mistake or it was, we
17 want to bring this bad act out to show lack of mistake and
18 intent because Mr. Johns was in that position previously
19 kicked while in custody which resulted in battery by a
20 prisoner and a conviction.

21 THE COURT: And a conviction. So that conviction
22 is beyond a reasonable doubt which would satisfy the clear
23 and convincing.

24 MR. NEIDERT: It is beyond a reasonable doubt. I

1 agree with that, Your Honor.

2 THE COURT: I think the only relevance would be
3 is if Mr. Johns claimed mistake.

4 MS. BAKER: Correct.

5 THE COURT: And so at that point -- I'm going to
6 deny the motion.

7 MS. BAKER: Okay.

8 THE COURT: But I'll allow you to renew it --

9 MS. BAKER: Thank you, Your Honor.

10 THE COURT: -- if that happens. Does that make
11 sense?

12 MR. NEIDERT: That make total sense, Your Honor,
13 and I agree with the Court.

14 THE COURT: Okay.

15 MR. NEIDERT: Thank you.

16 THE COURT: And then with respect to the spit
17 hood, let's talk about that. Is that what the witnesses are
18 here for today?

19 MS. BAKER: Yes, Your Honor.

20 THE COURT: I'll just tell everyone my initial
21 thought. I mean, you're trying to get that under res gestae;
22 is that correct?

23 MS. BAKER: That is correct, Your Honor.

24 THE COURT: Now, once again, I think my

1 preference would be -- I guess, Mr. Neidert, are you going to
2 refer to the spit hood at all?

3 MR. NEIDERT: I wasn't planning on talking too
4 much about it at all.

5 THE COURT: Well, if it becomes an issue then
6 this motion becomes more relevant. Are you going to
7 introduce pictures with it?

8 MS. BAKER: Well --

9 THE COURT: Or do you want to? Because I'm more
10 inclined to say it's up to Mr. Johns whether he talks about
11 it or not. But if he talks about it then it becomes relevant
12 to a potential res gestae argument. If you can't tell the
13 story without going into a prior history then I mean you
14 can't.

15 MS. BAKER: Right. And so giving you some --
16 giving the Court some background about this is the defendant
17 was listening to the officers. He was following directions.
18 He was sitting down as directed. Everything was -- he was
19 being cooperative.

20 THE COURT: Okay.

21 MS. BAKER: A mask and then a spit hood was put
22 on him, and that's when the resisting and the battery
23 occurred on the -- while the battery on a prisoner occurred.

24 So argument, the State anticipates argument to be

1 made, a spit hood may have gone to that uncooperativeness.
2 So we want to be able to give the whole story why that spit
3 hood was placed on Mr. Johns for the jury. So it's not to
4 put the officers in a bad light that it wasn't trying to be,
5 you know, overzealous. That there were reasons behind the
6 decision to put the spit hood on Mr. Johns.

7 THE COURT: In the May 18th, 2015 or August 7,
8 2016.

9 MS. BAKER: Correct.

10 THE COURT: Those are the two incidents. Are
11 there convictions relating to those?

12 MS. BAKER: No.

13 THE COURT: Mr. Neidert, without getting into the
14 admissibility and I can hear it, do you -- do you disagree
15 they are going to be able to prove those events happened?

16 MR. NEIDERT: I believe the witnesses are
17 prepared to testify it happened, so I --

18 THE COURT: I guess what I'm trying to get at is,
19 I mean if I find that those happened by clear and convincing
20 evidence I'm still not going to let it in as long as there's
21 no reference, if we can do the case without the spit hood.

22 MS. BAKER: And then if that's the case then the
23 State does not need to --

24 THE COURT: And I might be inclined to sever that

1 count if we had to because I think it could be very
2 prejudicial to the, what I would call the more serious count.

3 But, Mr. Neidert, how do you want to approach
4 that?

5 MR. NEIDERT: Well, Your Honor, I mean, I don't
6 -- you know, this count, it's kind of -- as I understand the
7 count occurred -- one of those things, after the fact the
8 officer noticed a shoe print that matched my client's shoe on
9 his leg. It wasn't even anything that happened or the
10 officer even necessarily felt himself being kicked and so
11 this is one of those --

12 THE COURT: Well, I've already talked about the
13 kick. I'm talking about the spitting.

14 MR. NEIDERT: The spitting, they -- I'm not sure
15 whether --

16 THE COURT: There's two events. Why don't we
17 listen to the testimony from those two officers and let's
18 limit it to May 8th and August 7th to begin with and let me
19 hear what the evidence is. Let Mr. Neidert cross-examine on
20 those issues.

21 Who was the officer on May 8, 2015?

22 MS. BAKER: 2015, it would be Deputy Alonzo
23 Lofthouse.

24 THE COURT: Deputy Lofthouse, would you please

1 come to the witness stand. If you'll face the clerk and
2 raise your right arm to take the oath of a witness.

3
4 SERGEANT ALONZO LOFTHOUSE,
5 called as a witness on behalf of the
6 State having been first duly sworn,
7 was examined and testified as follows:

8
9 THE COURT: Please be seated.

10 DIRECT EXAMINATION

11 BY MS. BAKER:

12 Q. Good morning.

13 A. Good morning.

14 Q. Can you please state and spell your name for the
15 record.

16 A. Alonzo William Lofthouse, the Fourth,
17 L-o-f-t-h-o-s-u-s-e.

18 Q. Thank you. How are you currently employed?

19 A. Currently a sergeant with the Churchill County
20 Sheriff's Office.

21 Q. And how long have you been so employed?

22 A. I've been employed with the Churchill County
23 Sheriff's Office for 18 years.

24 Q. And what kind of training and experience do you

1 have for your employment?

2 A. Everything from traffic investigation to major
3 crimes to include burglary, felony domestic violence.

4 Q. And were you working on May 8th, 2015, at
5 approximately 8:55 p.m.?

6 A. Yes, I was.

7 Q. And were you dispatched to a call around that
8 time?

9 A. Yes.

10 Q. Do you remember where that was? Where you went?

11 A. I believe I was on Reservoir Road.

12 Q. And is that in Churchill County, Nevada?

13 A. Yes, it is.

14 Q. And were any other deputies with you at that
15 time?

16 A. Sergeant Sweeney, Deputy Hardin and I believe
17 Deputy Michael.

18 Q. Okay. And when you arrived what did you observe?

19 A. The defendant's slightly irrational behavior.

20 Q. Okay. So you saw Mr. Johns at that location?

21 A. Yes.

22 Q. And did you have previous contacts with
23 Mr. Johns?

24 A. I don't believe -- up until that point I don't

1 believe so.

2 Q. All right. But do you see Mr. Johns in the
3 courtroom today?

4 A. Yes, I do.

5 Q. And can you point him out and describe an article
6 of clothing.

7 A. Sitting next to attorney Neidert wearing an
8 orange mask and blue shirt.

9 MS. BAKER: May the record reflect the
10 identification of the defendant.

11 THE COURT: So noted.

12 Q. (BY MS. BAKER:) And when you made contact with
13 Mr. Johns what did you observe again?

14 A. Irrational behavior, highly agitated.

15 Q. All right. And were any -- what was your purpose
16 of that visit with Mr. Johns?

17 A. Actually at that -- I don't recall the actual
18 reason for our contact.

19 Q. Okay. At any point was there a determination
20 made about Mr. Johns' custody?

21 A. Yes. He was going to be taken into custody.

22 Q. Okay. And -- Your Honor, I apologize.

23 At any -- he was taken into custody. Did
24 anything unusual occur?

1 A. While we were attempting to place him in the back
2 of a patrol unit he turned and spit on my jacket.

3 Q. All right. And then what did you see on your
4 jacket?

5 A. What appeared to be spit.

6 Q. All right. And did you see Mr. Johns actually
7 spit?

8 A. Yes.

9 Q. And did you hear him?

10 A. Yes.

11 Q. Okay. What did it sound like?

12 A. Like somebody spitting.

13 Q. Okay. And then after that what occurred?

14 A. He was charged with spitting on an officer.

15 Q. Was anything placed on Mr. Johns' head because of
16 this?

17 A. Actually at the time no because we didn't have
18 one.

19 Q. Okay.

20 MS. BAKER: Nothing further, Your Honor.

21 THE COURT: Mr. Neidert?

22 CROSS-EXAMINATION

23 BY MR. NEIDERT:

24 Q. So you were saying he was acting irrational. How

1 was he acting irrational, sir?

2 A. With --

3 Q. You testified that Mr. Johns was acting
4 irrationally. What does that -- what does that term mean to
5 you when you say he's acting irrational?

6 A. Not normal behavior.

7 Q. What kind of behavior?

8 A. To this time I can't remember exactly what was
9 taking place, but.

10 Q. Okay. And at the time he was put in the back of
11 a patrol car a spit hood was not placed on him, correct?

12 A. I do not believe so.

13 Q. Okay. Did you write a report with respect to all
14 this, deputy?

15 A. I wrote a supplement to it. I didn't write the
16 initial case report.

17 Q. Have you reviewed the reports with respect to
18 this incident?

19 A. Yes.

20 Q. Okay. If -- if I showed you those reports would
21 it refresh your recollection as to what occurred that day
22 with respect when you're talking about irrational behavior --

23 A. Yes.

24 Q. -- and whatever.

1 If I might approach, Your Honor.

2 THE COURT: Of course.

3 MS. BAKER: Which report are you going to be
4 showing him?

5 MR. NEIDERT: I'm going to be showing him Bates
6 292, 293.

7 MS. BAKER: Okay.

8 Q. (BY MR. NEIDERT:) I don't have a copy made for
9 you but I'll show you --

10 MS. BAKER: This is the report written by Deputy
11 Wellen; is that correct?

12 MR. NEIDERT: Correct.

13 MS. BAKER: Okay.

14 Q. (BY MR. NEIDERT:) Did you -- are you aware of
15 Deputy Wellen?

16 A. I do know who former Deputy Wellen is, yes.

17 Q. Who is he?

18 A. He's currently a police officer with the Sparks
19 Police Department.

20 Q. At that point in time, well, this happened in
21 2015, what was he?

22 A. He was a patrol deputy with our agency.

23 Q. And did you -- were you aware that he wrote a
24 report with respect to this incident?

1 A. I actually do not recall, no.

2 Q. If I showed you a report formerly written by
3 Deputy Wellen, I would ask you to glance through it and see
4 if it refreshes your recollection with respect to that day.
5 Does that report refresh your recollection with respect to
6 the incident we're talking about?

7 A. Yes.

8 Q. And so the irrational behavior that day, what
9 specific irrational behavior were you seeing with respect to
10 Mr. Johns?

11 A. Yelling get off me prior to even being contacted,
12 just arbitrarily doing push-ups in the dirt, crawling around
13 in a nearby ditch.

14 Q. Okay. And do you -- does it also reflect your
15 recollection whether a spit hood was placed on him by you at
16 that point in time?

17 A. I don't recall placing a spit hood on him at that
18 time.

19 Q. Okay. But at some point you're saying that
20 either heard or you saw Mr. Johns spit on you?

21 A. Yes.

22 Q. And where did that spit land?

23 A. On my jacket in the upper chest area.

24 Q. Okay. No skin exposure?

1 A. No skin exposure.

2 MR. NEIDERT: Okay. I have no more questions at
3 this time, Your Honor, for this witness.

4 THE COURT: Anything based on that?

5 MS. BAKER: No, Your Honor. This witness can be
6 excused.

7 THE COURT: Thank you.

8 (Witness excused.)

9 THE COURT: Mr. Neidert, I'm going to use the
10 Court's discretion to control the flow of evidence. Do you
11 have any evidence to present on the May 8, 2015?

12 MR. NEIDERT: No, Your Honor.

13 THE COURT: Okay. Then we'll go ahead and move
14 on to August 7th or do you have any other May 8th?

15 MS. BAKER: No, Your Honor.

16 THE COURT: Okay.

17 MS. BAKER: So if we're moving on to the August
18 2016, the State would like to call Corporal Rudy Maynez.

19
20 CORPORAL RUDY MAYNEZ,
21 called as a witness on behalf of the
22 State having been first duly sworn,
23 was examined and testified as follows:
24

1 THE COURT: Please be seated.

2 THE WITNESS: Thank you.

3 DIRECT EXAMINATION

4 BY MS. BAKER:

5 Q. Good morning.

6 A. Good morning.

7 Q. Could you please state and spell your name for
8 the record.

9 A. Rudy Maynez, M-a-y-n-e-z.

10 Q. And how are you currently employed?

11 A. I'm employed by the Churchill County Sheriff's
12 Office as a corporal and assigned to the investigations
13 division.

14 Q. And how long have you been so employed?

15 A. Almost 12 years.

16 Q. And what kind of training and experience do you
17 have through your employment?

18 A. I hold a Category 1 Peace Officers certificate
19 from Nevada POST Academy.

20 Q. All right. And were you working on August 7,
21 2016, at approximately 7:20 p.m.?

22 A. I was.

23 Q. And were you dispatched to a call around that
24 time?

1 A. Yes, I was.

2 Q. And do you remember where that call was to?

3 A. I do.

4 Q. And where was that?

5 A. It was the 4700 block of Tarzyn Road and it was
6 for an ambulance page.

7 Q. And was that in Churchill County, Nevada?

8 A. Yes.

9 Q. And when you arrived what did you observe?

10 A. The report was for an intoxicated male subject on
11 the side of the road. And when I arrived I observed a male
12 subject on the side of the road in a kneeling position.

13 Q. All right. And did you ever identify who that
14 male subject was?

15 A. I did eventually.

16 Q. And who was that?

17 A. It was Casey Johns.

18 Q. And do you see Mr. Johns in the courtroom today?

19 A. I do.

20 Q. And can you please point him out and describe an
21 article of clothing.

22 A. He's sitting at the defense table wearing a blue
23 shirt and orange mask.

24 MS. BAKER: May the record reflect the

1 identification of the defendant.

2 THE COURT: So noted.

3 MS. BAKER: Thank you.

4 Q. And so if you could explain the purpose of the
5 visit.

6 A. It was an ambulance page for an intoxicated
7 subject.

8 Q. Okay. And what -- what observations did you make
9 about Mr. Johns?

10 A. Well, I initially tried to make contact with him.
11 He was grinding his teeth loud enough that I could hear it.
12 I tried to ask him his name and identify who he was. He gave
13 responses such as dad, mom. Eventually he lifted his head
14 enough that I was able to see who he was and that's when I
15 identified who he was from prior contact.

16 Once I saw who he was I tried to tell him, you
17 know, we're there to help you. What happened because I
18 observed that he had some abrasions that were bleeding on
19 his, I don't remember the exact location, but I believe it
20 was shoulders and back area, and he responded with a quote of
21 fuck you, bitch.

22 Q. Okay. And then did you make a determination of
23 what to do with Mr. Johns?

24 A. Paramedics had arrived on scene since it was an

1 ambulance page. So as they were approaching they started
2 talking to Mr. Johns and then he stood up. He was unsteady
3 on his feet. I kind of put my arms out to catch him if he
4 was to fall and asked him to sit back down so he didn't hurt
5 himself anymore. While I did that he swiped at my right arm
6 and struck my right arm, and at that point I put him in an
7 arm-bar and took him to the ground?

8 Q. Okay. At any point did you place him into
9 custody?

10 A. I did.

11 Q. Okay. After placing him into custody where did
12 you guys go?

13 A. He was transported to the emergency room at
14 Banner Churchill Community Hospital.

15 Q. Okay. And while he was at Banner, specifically
16 in dealing with you did anything unusual happen?

17 A. Yes.

18 Q. What happened?

19 A. When we were placing him on the hospital bed he
20 spit and the spit had landed on my right arm as well as on an
21 emergency room nurse.

22 Q. Okay. And so did you see Mr. Johns spit?

23 A. I did.

24 Q. And did you see where it landed?

1 A. I did.

2 Q. Did you feel where it landed?

3 A. I did.

4 Q. Did you hear Mr. -- the active spitting?

5 A. I can't recall if I actually heard him spit, but
6 I saw him spit and saw where it landed.

7 Q. Okay. And then you said it landed. Where did it
8 land on you?

9 A. On my right arm.

10 Q. And you said someone else.

11 A. Yes, an emergency room nurse.

12 Q. And where did the spit land on the nurse?

13 A. I believe it was on her forehead.

14 Ms. BAKER: Okay. All right. Pass the witness.

15 MR. NEIDERT: I have no questions.

16 THE COURT: Thank you.

17 MR. NEIDERT: I do have one question.

18 CROSS-EXAMINATION

19 BY MR. NEIDERT:

20 Q. Did Mr. Johns appear to be intoxicated?

21 A. He had the appearance of being intoxicated. He
22 was unsteady on his feet, had slurred speech and an odor of
23 alcohol was present.

24 Q. Okay. Thank you. Nothing further.

1 THE COURT: Thank you.

2 (Witness excused.)

3 MS. BAKER: And, Your Honor, the State also
4 called or subpoenaed to testify today Corporal Ron Winger.
5 Corporal Winger is the one that directed one of the police
6 officers to place the spit hood on Mr. Johns.

7 THE COURT: In this case?

8 MS. BAKER: In this case.

9 THE COURT: Oh, okay.

10 MS. BAKER: So if you want to hear that testimony
11 or.

12 THE COURT: Well, let's -- let's wait. What I
13 would like to do is I am going to find that the May 8, 2015
14 spitting incident was proven by fair and convincing evidence.
15 I'm also going to find the August 7, 2016 spitting incident
16 was also proven by clear and convincing evidence.

17 I think the harder question is, and you're not
18 seeking -- you're seeking to get this in as res gestae, not
19 a --

20 MS. BAKER: That is correct.

21 THE COURT: Okay. And so I think it's -- it's
22 relevant, Mr. Neidert, if the issue comes up on why it's
23 there and because -- because I think, you know, that question
24 would -- would need to be answered if it's, you know, tell me

1 what your intention is or and I can tell you that if it's an
2 issue, my preference would be to sever this count and do a
3 separate trial because I think this is a gross misdemeanor
4 and I think that the prejudice on the underlying other counts
5 is, it will just be very hard even with a limiting
6 instruction.

7 But, Mr. Neidert, what are your thoughts?

8 MR. NEIDERT: Your Honor, I don't -- I'm not sure
9 frankly the -- you know, I certainly don't think -- I think
10 basically the State is confusing res gestae with propensity
11 and I think what they are seeking to do is say I'm going to
12 show my client did these things in the past and so that
13 explains why he did them today. And if that's not propensity
14 evidence I don't know what is.

15 THE COURT: No. No. But I think there -- I
16 mean, the argument is if you say let's see how badly they
17 treated him by putting a spit hood on, then I think it
18 becomes a more interesting question.

19 MR. NEIDERT: It does and I wasn't planning on
20 doing that. So, you know, so --

21 THE COURT: So I'm going to deny -- I'm going to
22 deny the motion to admit those acts, but I'm going to allow
23 you to renew it if something comes up at trial.

24 MS. BAKER: Okay.

1 THE COURT: And we'll leave these two counts
2 together. But I am going to -- I will make the finding that
3 the two events were proven by clear and convincing evidence.
4 So then we'll just have to go through an analysis, either a
5 res gestae or a prior bad act analysis. Does that make
6 sense?

7 MS. BAKER: Yes, Your Honor.

8 THE COURT: Are you clear on the ruling, Mr.
9 Neidert?

10 MR. NEIDERT: I am very crystal clear, Your
11 Honor.

12 THE COURT: Okay. I don't think there are any
13 other outstanding motions. But I do want to talk about the
14 trial date. The Court has not been able to conduct a trial
15 yet. We have -- we've tried to coordinate with the county.
16 We have tried to potentially do it in the county commission
17 chambers which are larger and accommodate the social
18 distancing that's required.

19 I wanted to put off as long as possible the
20 decision on what to do to see the direction of COVID-19 cases
21 in our county and look at what some of our sister counties
22 are doing.

23 The latest count that we have right now was as of
24 September 2nd. I had been in court all morning so I haven't

1 updated it since 7:30 this morning but 115 total cases, two
2 deaths. These are Churchill county numbers, Churchill County
3 only, not people who come to Churchill County from outside to
4 be tested but residents of our county, two deaths, one
5 current hospitalization, 115 total cases.

6 And in all candor, the amount of cases has
7 increased in recent time and, you know, wasn't long ago when
8 we were in the low ten and then in the ten to 20 and I would
9 say in the last month over 50 new cases have come up. So I'm
10 deeply concerned about our ability to hold the October 5th
11 through 9th trial date just from a community safety
12 standpoint.

13 I have looked. Lyon County, which has a new
14 courthouse, has done a jury trial. They did their jury
15 selection in an unfinished portion of their -- of the
16 courthouse that is essentially the size, it's well bigger
17 than their very large size courtrooms. It will accommodate
18 the jury and select them. Their courtrooms are much larger
19 than our courtroom and they were able to socially distance.
20 They have done one.

21 To my knowledge Carson City has done none.
22 Douglas County has done none. Washoe County has done none.
23 Pershing county none. Mineral County none. Clark County, I
24 did speak to Chief Judge Bell. They have approximately 1,600

1 jury trials pending, and they are hoping to do two a week
2 starting in October.

3 The number is almost mind-boggling when you think
4 about it from that perspective. I don't know when Washoe is
5 going to be able to do it. They face many of the same
6 challenges. Their courthouse is very old, pretty much like
7 ours where you have a single entry and so dealing with the
8 flow of people is, it's very concerning and we're trying to
9 balance the safety of the community with Mr. Johns' right to
10 a trial and I know you previously invoked your right to a
11 speedy trial. And so the Court is trying to balance all of
12 those things.

13 And so and we're looking at other venues. We
14 haven't been able to secure them yet and I don't know, you
15 know, I'm optimistic that medical treatments -- it's just a
16 challenge.

17 And so, Mr. Neidert, I would start with you but
18 before we do this, and I've had Mr. Johns in a previous case.
19 I want to make a couple of things clear and then maybe give
20 you a few minutes to talk to Mr. Johns. And the first is I
21 can refer this case to a settlement conference. I want to
22 make sure you know that's an option. I don't want to send
23 you there if you don't want to go there.

24 Mr. Johns has an absolute right to a jury trial,

1 but I want you to also know that this Court could accommodate
2 a bench trial if he wants a bench trial. I'm not -- that's a
3 decision that can only be made after you and he talk about
4 it. That could be done on that October date. But that would
5 require that he waive his right to a jury trial in writing.

6 If you have any alternatives, I'm just trying to
7 figure out how we can socially space a jury, you know,
8 current. And it's -- it's -- we've tried various things and
9 it's a very difficult thing. We've installed Plexiglass so
10 we can have the witnesses here. We've tried to create some
11 distance at counsel table. It's very rudimentary what we've
12 done, but we're trying as best we can to make sure that
13 everybody is protected as much as possible.

14 So, Mr. Neidert, I don't know if you want to take
15 a few minutes in the jury room and talk with Mr. Johns or.

16 MR. NEIDERT: Sure.

17 THE COURT: But I don't know if you -- you may
18 have already talked about it, but I prefer you guys to have a
19 few minutes to talk about that.

20 Right now I'm inclined to listen to any
21 alternatives, but I'm inclined to vacate the October date. I
22 have to make -- we're going to start summoning a jury and
23 I'm not inclined to do it and then cancel it because I think
24 it's going to be very disconcerting. We're going to have do

1 more juries than we normally do because I think -- you know,
2 we're going to need more alternates because if anybody comes
3 in with any symptoms we're going to lose them, you know,
4 throughout the trial. And so, you know, if this case is set
5 for four and a half days we may have three or four alternates
6 just so we can make sure that we can finish the case.

7 And I think right now just the sense with the
8 dramatic increase of the COVID cases in our community, to
9 send out those -- I'm going to make a decision whether it's
10 going to go before that. I don't want to send them out and
11 then vacate the trial. Does that make sense?

12 MR. NEIDERT: I understand completely.

13 THE COURT: So if you'll just take a few minutes
14 and talk with Mr. Johns.

15 And, Mr. Bailiff, if you'll just call me in when
16 they are back.

17 (Whereupon, a brief recess was taken.)

18 THE COURT: We're back on the record on Case
19 Number 200552, State of Nevada versus Casey Alan Johns.
20 Mr. Johns is present. He's represented by David Neidert.
21 Pricilla Baker is here representing the State of Nevada.

22 Mr. Neidert?

23 MR. NEIDERT: Your Honor, I spoke with my client
24 in the jury room. Basically where we're at is this, we

1 certainly understand the Court's concern. My client, and I
2 have also spoke with the people from the department of
3 corrections that have him. The reality is very much because
4 he took this road trip today under NDOC protocol he's going
5 to be put in 14 days of isolation when he gets back.

6 THE COURT: Okay.

7 MR. NEIDERT: Which is not particularly, for
8 people -- my understanding for people that are in the custody
9 of NDOC, they have their own house. They have got their own
10 cell. They have got their own routine, and this certainly
11 takes Mr. Johns out of that.

12 So in talking, we don't believe a settlement
13 conference would be particularly helpful so there's no reason
14 to take Judge Shirley's time if -- because I don't believe
15 we'll have any likelihood of success with that and we'd
16 rather not have a bench trial.

17 THE COURT: Very well.

18 MR. NEIDERT: So we understand the Court's
19 concerns about potentially moving the trial date. My
20 client's one request with that is if there is -- if the court
21 trial date is continued, that if there's any other pretrial
22 conferences that he be allowed to attend via Zoom or by
23 telephone so that he doesn't have to go through what he's
24 going to go through today which is back into NDOC for a

1 14-day isolation period.

2 THE COURT: I don't -- I've ruled on the motions.
3 I don't anticipate there will be any additional.

4 MR. NEIDERT: Okay. But if there is, Your Honor.

5 THE COURT: We'll address that in the order to
6 produce one way or another. It depends on what the state of
7 the world is, right.

8 What is your current sentence, Mr. Johns?

9 THE DEFENDANT: I am serving -- currently right
10 now I am serving a nonviolent 21 to 56, I think.

11 THE COURT: Okay. And do you have a parole date?

12 THE DEFENDANT: I have a parole date in March.

13 THE COURT: A hearing?

14 THE DEFENDANT: Yeah. I mean, it's nonviolent
15 and with the COVID it's more than likely going to -- because
16 it's nonviolent but what's holding me from going anywhere
17 right now is this case.

18 THE COURT: Okay.

19 THE DEFENDANT: If I didn't have this case I
20 would be getting out.

21 THE COURT: Okay. Okay. I am going to vacate
22 the trial that's scheduled for October 5th. We will get it
23 reset. And I know we have, our next decision, I have a trial
24 set in November. We'll see where we're at, but we'll get a

1 trial date. And then once we can start having trials we'll
2 start, once we figure it all out and assuming that it goes
3 well I think -- I think we have about six or seven pending.
4 Just, I know -- I did see that you recently filed a post
5 conviction in the other case so we probably will have to have
6 you come back.

7 THE DEFENDANT: I sent -- I submitted that one
8 but I submitted previous to that one that Mr. Wood would
9 never -- I even left a message on his phone to proceed.

10 THE COURT: Okay.

11 THE DEFENDANT: And he has yet to get in contact
12 with me.

13 THE COURT: Okay. So but if we do have an
14 evidentiary hearing you probably will have to be here for
15 that just so you know.

16 THE DEFENDANT: Okay. Also I know -- I know this
17 thing, in that case, if I could get those two previous habeas
18 corpuses, I think they were March. I don't remember.

19 THE COURT: The Court will -- the Court will
20 address it. They just came from the Supreme Court. I think
21 it was sent to us. So we'll address that.

22 THE DEFENDANT: I submitted two previous to that.

23 THE COURT: Okay.

24 THE DEFENDANT: And when I was here in the jail

1 and they just up and disappeared.

2 THE COURT: Okay.

3 THE DEFENDANT: And I would like copies of those.
4 I asked multiple times for them if I may.

5 THE COURT: We will deal with everything that's
6 outstanding in that case. So the October trial date is
7 vacated.

8 Right now, Mr. Neidert, and there could be some
9 dates have opened up, but I'm going to go ahead and set this
10 for right now because our next four and a half days that we
11 have is April 19th through the 23rd. Are you available on
12 those days?

13 MR. NEIDERT: Those days are open, Your Honor.

14 THE COURT: We'll set that for four and a half
15 days starting on Monday, April 19th.

16 Are you available, Ms. Baker?

17 MS. BAKER: I'm sorry. I was looking in March.
18 I was like that's not the 19th. Okay. That's just fine.

19 THE COURT: Okay. So we'll go ahead and set this
20 for four and a half days, April 19th through May 3rd of 2021.

21 MR. NEIDERT: Okay. Thank you, Your Honor.

22 THE COURT: Thank you. We'll be in recess.

23 (Whereupon, a brief recess was taken.)

24 THE DEFENDANT: For the record that I gave the

1 glossy -- the glossy pictures in this case because the
2 pictures I got are like this big.

3 THE COURT: Yeah, that's up to your attorney.

4 THE DEFENDANT: Okay. Thank you.

5 MS. BAKER: Thank you, Your Honor.

6 THE COURT: Thank you.
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1 STATE OF NEVADA,)
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I, KATHY JACKSON, do hereby certify:

That a Pretrial Hearing was held in the
within-entitled matter in Churchill County, Fallon, Nevada;

That said hearing was recorded by a recording
system, and said recording was delivered to me for
transcription;

That the foregoing transcript, consisting of
pages 1 through 36 is a full, true and correct transcript of
said recording performed to the best of my ability.

Dated at Carson City, Nevada, this 20th day of
June, 2021.


KATHY JACKSON, CCR

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CASE NO. 20-10DC-0552

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IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CHURCHILL
BEFORE THE HONORABLE DISTRICT COURT JUDGE, THOMAS L. STOCKARD

THE STATE OF NEVADA,

Plaintiff,

vs.

CASEY ALAN JOHNS,

Defendant.

JAVS TRANSCRIPT OF PROCEEDINGS

HEARING

APRIL 20, 2021

Transcribed By:

Kathy Jackson, CSR
Nevada CCR #402
California CCR #10465

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APPEARANCES

For the State:	PRISCILLA BAKER
	Deputy District Attorney
	Fallon, Nevada
For the Defendant:	DAVID K. NEIDERT
	Attorney at Law
	Fallon, Nevada

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APRIL 20, 2021, FALLON, NEVADA

-oOo-

THE COURT: So this is Case Number 20-0552, State of Nevada versus Casey Alan Johns.

MR. NEIDERT: I'm not hearing you.

THE COURT: Present is Priscilla Baker. She represents the State of Nevada. Appearing by Zoom is David Neidert. He's the attorney for the defendant, Casey Johns. Casey Johns is not present.

MR. NEIDERT: I'm not hearing you.

THE COURT: Can you hear me, Mr. Neidert?

MR. NEIDERT: Now I can hear you.

THE COURT: So Mr. Neidert is appearing by Zoom. He represents Mr. Johns. Mr. Johns is not present. He's currently incarcerated in the Nevada State Prison system.

The Court received a motion to transport Mr. Johns to the Churchill County Jail as soon as possible is how the motion was styled. Because this case is set for a jury trial to begin May 10th through 14th the Court, and because there are certain time frames that the department of corrections in the Nevada Revised Statutes has requested for notice, the Court set this on a very short notice, and I appreciate Ms. Baker and Mr. Neidert appearing. The Court set this yesterday.

1 Mr. Neidert, Mr. Johns is not able to be here.
2 Is there any reason that we -- from your perspective that we
3 can't address this issue in his absence?

4 MR. NEIDERT: I have no reason to believe we
5 can't, Your Honor.

6 THE COURT: Okay. So did you receive the State's
7 response to your motion, Ms. Baker? I think you responded
8 after the Court set the hearing.

9 MS. BAKER: Yes, Your Honor. We did send it.
10 I'm not sure if it was received yet or not to Mr. Neidert.

11 MR. NEIDERT: I did receive it, yes, Your Honor.

12 THE COURT: You've received it?

13 MR. NEIDERT: I have received it, yes, Your
14 Honor.

15 THE COURT: So, Mr. Neidert, why don't you go
16 ahead and just -- we obviously needed to do a motion or an
17 order to produce to have him here for the trial. You've
18 requested something more than that. And you want to just
19 tell me why and how the Court can be of assistance.

20 MR. NEIDERT: Well, Your Honor, the problem that
21 I have is very straight forward. I put May -- I put
22 April 30th as that date because to be very honest I'm going
23 to be in Fallon that date for a preliminary hearing on a
24 totally unrelated case, and I figured it was a two bird with

1 one stone. As the Court knows, I closed my Fallon office at
2 the end of last year so I no longer have an office in town.

3 The problem that I have is that the State's
4 position is, well, it will happen a week before trial. By
5 law I have a -- I have an obligation to do my witness list
6 before trial as well. The reality is because of COVID I
7 cannot go to Warm Springs Prison which I'm happy to do
8 otherwise to speak to Mr. Johns. I've sent him letters. I'm
9 not sure frankly of his literacy level. And so I've had no
10 real communication with him since our last court hearing and
11 so that's my concern.

12 I want to at least cover last minute things with
13 my client before court and a week is putting me on a very
14 very very very short timeline to do anything, including file
15 a list of witnesses which by law I have to do a week before
16 trial, but certainly also me making sure that he has
17 something besides prison clothes to wear before.

18 So I've got -- you know, I got the technical
19 thing he has the right to appear in court for trial in
20 civilian clothing, and I want to make sure I have properly
21 fitting civilian clothing for him for trial. I have to meet
22 with him. And, like I said, I don't have an office in Fallon
23 anymore. So I have to take time to drive to Fallon and see
24 him. And so, like I said, I'm working on -- and that, of

1 course, will cut into preparation for other parts of the
2 trial. So that's my concern that I've expressed.

3 THE COURT: Okay. So as I understand it right
4 now, and I think this is a problem or a challenge faced by
5 all attorneys for criminal defendants right now. They -- the
6 NDOC is not letting attorneys in to visit because of COVID
7 safety precautions; is that correct?

8 MR. NEIDERT: That's -- I don't know if they're
9 letting anybody but their own staff and inmates in at this
10 point, Your Honor.

11 THE COURT: Okay. And when's the last time you
12 tried to access Warm Springs?

13 MR. NEIDERT: I -- the last time I contacted them
14 I was told it was still closed. I don't remember exactly
15 when that was. Certainly there's -- I can do that again if
16 the Court would like.

17 THE COURT: Well, no, I just -- maybe -- and I
18 know that just in the Court's conversations with both Chief
19 Justice Hardesty and other district judges it's a challenge
20 that I think Justice Hardesty was going to try to talk to the
21 NDOC director about.

22 But so you haven't been able to meet with your
23 client. If your client is here on the 30th would -- would
24 that give you enough time to prepare for the trial?

1 MR. NEIDERT: You know, that's my thought is that
2 -- like I said, I'm going to be here on the 30th anyway.
3 I've got a preliminary hearing that day on an unrelated case.
4 I could certainly meet with Mr. Johns. I would say, Your
5 Honor, it's not -- this is not a tough case to prepare for
6 from a defense standpoint based on the case as its moved
7 forward.

8 There's certainly are some profound disagreements
9 between myself and Mr. Johns with respect to trial strategy.
10 I've explained to him that I can decide what the trial
11 strategy is. I don't think he particularly likes me telling
12 him that but that's -- you know, he wants to raise certain
13 defenses that I told him I will not raise. But, you know,
14 that might be an issue we might have to address perhaps the
15 first day of trial.

16 I don't want -- again, I'm not trying -- I don't
17 want to have 80 or 90 people brought in for jury selection
18 and then have issues arise. I'm just foreshadowing things
19 that might come up.

20 THE COURT: So your preliminary hearing is on
21 Friday, April 30th?

22 MR. NEIDERT: Correct, Your Honor.

23 THE COURT: What time?

24 MR. NEIDERT: I believe it starts at 9:00 a.m.

1 THE COURT: 9:00 a.m., okay.

2 Ms. Baker?

3 MS. BAKER: Thank you, Your Honor. So the motion
4 did say as soon as possible. Although he did, he put in
5 there no later than April 30th. The State filed its response
6 because although the State does not object to having
7 Mr. Johns here early to give Mr. Neidert an opportunity to
8 work with his client, it needs to be reasonable.

9 So it will put a burden on the Churchill County
10 Jail to house him and accommodate. So we want to make sure
11 that that's -- it's not -- it's not an overburdensome amount
12 of time.

13 THE COURT: Okay.

14 MS. BAKER: So although April 30th is a Friday, I
15 don't know how much can get done between April 30th in the
16 afternoon to Monday, the 3rd, but we'll leave that up to the
17 Court's discretion.

18 THE COURT: Okay. Sergeant Nuckolls, if you'll
19 step up to the microphone. For the record this is Sergeant
20 Jesse Nuckolls. He's the sergeant who has the responsibility
21 for the detention facility. If the Court were to order that
22 that Mr. Johns be brought here and to stay here through,
23 between, no later than say 10:00 a.m. on April 30th through
24 the trial, the end of the trial.

1 And in the event that he were convicted, and this
2 is something we probably ought to talk about. We have a PSI
3 that was done on a previous case. So the PSI would not be an
4 impediment if there is a conviction. There would be a victim
5 notification issue.

6 But what I was going to suggest is that we -- not
7 that we -- I'm not predicting it would be guilty or not
8 guilty, but if it is a guilty we ought to just have
9 sentencing for May 18th which will be the following law and
10 motion, and have Mr. Johns just stay through the 18th.

11 I don't know how you can do your notification in
12 the event that there was a conviction but that -- that would
13 be my thought. We could do it. We just don't know what the
14 jury would come back and, you know, and so I'll let Ms. Baker
15 address that and then Mr. Neidert.

16 MS. BAKER: Thank you, Your Honor. The State
17 would have no objection setting it on the following Tuesday
18 as a tentative date. The State will notify its victims of
19 that, you know, that it's subject to change or.

20 THE COURT: I think it's in the event there is a
21 conviction it would be on that date.

22 MS. BAKER: Correct. So I think we can satisfy
23 the requirements and notification doing it that way.

24 THE COURT: Mr. Neidert?

1 MR. NEIDERT: Your Honor, I don't see a problem
2 with doing that. Except I do not have a copy of the prior
3 PSI. I was not his attorney on the prior case.

4 THE COURT: Okay. We'll get you a copy of the
5 PSI.

6 Ms. Clerk, make sure that's transmitted to
7 Mr. Neidert today.

8 U.S. Mail, would that be -- is U.S. Mail okay to
9 you, Mr. Neidert?

10 MR. NEIDERT: That's fine or frankly be sent by
11 e-mail is fine with me as well.

12 THE CLERK: We don't normally send confidential
13 by e-mail.

14 THE COURT: Okay. Because it's confidential --

15 THE CLERK: We can fax it.

16 THE COURT: Okay. We can fax it or we can U.S.
17 Mail just because of the confidential nature of the
18 information.

19 MR. NEIDERT: Then if -- I would prefer -- I no
20 longer have fax ability so send it by U.S. Mail.

21 THE COURT: Okay.

22 MR. NEIDERT: To the Reno address that you folks
23 have for me.

24 THE COURT: And it will be there by Wednesday or

1 Thursday at the latest. We'll go ahead and mail it today.

2 So May 18th will be the sentencing date if it's
3 necessary. Sergeant Nuckolls, I want to make sure I get the
4 right -- what is your just title?

5 SERGEANT NUCKOLLS: It's -- it's just detention
6 sergeant.

7 THE COURT: Okay. And at least during the day
8 shift, you run that?

9 SERGEANT NUCKOLLS: Yeah, there's three of us but
10 we manage the jail.

11 THE COURT: Okay. Would you be able to have him
12 here by April 30th at 10:00 a.m.?

13 SERGEANT NUCKOLLS: So are we doing like an order
14 to produce?

15 THE COURT: Yeah.

16 SERGEANT NUCKOLLS: The prison brings him. Are
17 you just saying in general for housing purposes?

18 THE COURT: Well, we're up against -- the prison
19 has a seven-day -- seven business day timeline. That's one
20 of the reasons under NRS 50.215 and it's not the clearest
21 statute because it talks about witnesses, that he's a
22 potential witness in this case but he's also a defendant,
23 but. They also have 200.274 and the Court does -- that gives
24 the Court the possibility, that they do transport if it's

1 possible, but if it's not possible this Court can order the
2 county sheriff to transport the defendant to and from court
3 at the expense of the county.

4 And so, Mr. Neidert, I don't know how many
5 business days are between here and the 30th. And I don't
6 know if this counts -- let me just look. We're on
7 April 20th. Seven business days will be the 29th.

8 And so, Mr. Neidert, what I -- so what we maybe
9 ought to do is be transported here on the 29th so he's there
10 and settled. And then when Mr. Neidert gets here on the 30th
11 they can -- I'm mindful of the challenges we all face. What
12 I don't -- I'm very worried about Mr. Neidert being able to
13 have access. I think everyday could count. A Friday,
14 Mr. Neidert could work all weekend and then have access
15 again, you know, afterwards.

16 Here's what I'm inclined to do, I'll let everyone
17 be heard afterwards, is that I'll order that Casey Johns be
18 transported to the Churchill County Jail for an anticipated
19 date of May 9th, April 29th, 2021 until May 18th, 2021.
20 There is the possibility that that May 18th date could be
21 sooner if the trial were to end on the 11th, 12th, 13th or
22 14th. If it were to end in a not guilty verdict it could be
23 sooner than the May 18th. And I would order that that be
24 done by the department of corrections unless it's not

1 possible at which point I would order that the sheriff's
2 office complete that transport on the 29th.

3 And, Mr. Neidert, what I would like you to do is
4 to do that order. So the transport will take place on the
5 29th. It will be NDOC. And the statute that is set that
6 gives me this authority is 200.274. And so if it's possible,
7 the department, NDOC shall transport him not later than
8 April 29th, 2021. And if it's not possible for the
9 department to do it then the Churchill County Sheriff's
10 Office shall do that transport on April 29th.

11 MR. NEIDERT: Your Honor, I'll have that order
12 prepared by early afternoon.

13 THE COURT: As soon as you get it here I will
14 sign it. Well, I want everyone to be heard, but whatever
15 order it is I'll sign it.

16 And then, Sergeant Nuckolls, if we get that to
17 you today can you coordinate with NDOC if they do the
18 transport.

19 SERGEANT NUCKOLLS: Yes, I could do that.

20 THE COURT: And then if not you guys at least
21 have some time to plan.

22 SERGEANT NUCKOLLS: Yeah.

23 THE COURT: And I understand the demands that's
24 going to place on you, but is that acceptable from your

1 manpower standpoint?

2 SERGEANT NUCKOLLS: Yeah, we'll make it work. I
3 mean, it's -- we've held for the prison before, not quite
4 that length of time, but we can make it work. He's a
5 particularly difficult inmate to deal with but we've dealt
6 with him.

7 THE COURT: The real problem would be if he -- if
8 Mr. Neidert had access I would not be asking that of you.
9 Because right now they don't have access --

10 SERGEANT NUCKOLLS: Yeah.

11 THE COURT: -- I think it's just going to
12 eliminate a lot of appeal issues.

13 SERGEANT NUCKOLLS: Yeah, makes sense.

14 THE COURT: So, Mr. Neidert, if you'll get
15 that -- Ms. Baker, I'll let you be heard before I --

16 MS. BAKER: No, Your Honor, that's fine.

17 THE COURT: Okay.

18 THE LAW CLERK: For clarification you said NRS
19 200.274. I believe it's 209.

20 THE COURT: 209. The eyes are not what they used
21 to be. Thank you. And also for the record --

22 MR. NEIDERT: Reading that before, Your Honor.

23 THE COURT: We did run the address of, the A
24 Street address which is the detention facility to the Warm

1 Springs Detention Facility. It's 61 miles which is under the
2 60, I think it's 65 mile limit for seven business days.

3 And so, Mr. Neidert, if you'll prepare that
4 order. Send an e-mail copy to the Court and also an e-mail
5 copy to Ms. Baker.

6 MR. NEIDERT: I will do that. I will do that
7 probably as soon as I'm off with you.

8 THE COURT: And, Ms. Baker, as soon as you
9 receive that, if you'll just send an e-mail with Mr.
10 Neidert's permission for an ex parte communication, if she
11 has no opposition could she just e-mail that directly to
12 court. Is that okay with you, Mr. Neidert?

13 MR. NEIDERT: That's fine, Your Honor.

14 MS. BAKER: Yes, Your Honor, I will.

15 THE COURT: That way I'll get that signed today.

16 MS. BAKER: Okay.

17 THE COURT: Okay. Thank you, everyone.

18 Oh, Mr. Neidert, is there any other things for
19 trial that you need to be aware of? You're taking care of
20 clothes for your client?

21 MR. NEIDERT: Yes. I'll make sure that he has
22 clothes. I'll probably -- I'll bring my investigator with me
23 that day. I -- the only thing that -- and I don't anticipate
24 it being an issue, but if Mr. Johns indicates he has

1 witnesses I may ask the Court to waive the seven-day
2 requirement. I'll still have the court trial, but I may have
3 a witness or two that might be -- because we're on such a
4 time list, I don't see anything beyond that.

5 THE COURT: Okay. Well, you're going to be
6 beyond -- is it seven days or five days?

7 MS. BAKER: It's five days.

8 THE COURT: I think it's five days. And so just
9 -- I mean, we'll address that as it comes. But I would like
10 you to make your best effort to, and obviously if there's
11 good cause the Court will address that at that time.

12 MR. NEIDERT: I don't believe there's a whole lot
13 of motions in this case, Your Honor. Certainly I'm not a big
14 believer in filing motions in limine. I would say, Your
15 Honor, that the only -- certainly the only thing I certainly
16 could make this orally now and I don't anticipate Ms. Baker
17 violating it or this being an issue but certainly unless
18 Mr. Johns testifies, certainly any indication that he's in
19 custody or that he's an inmate at department of corrections
20 should not be allowed at trial. Obviously, if he testifies
21 to that but he may or may not testify. But, again, that's an
22 issue we'll have to cross it when we come to it.

23 But certainly I don't think the State, I respect
24 the State, but I don't think the State has any intention of

1 doing things that would -- that would prejudice my client in
2 that manner.

3 THE COURT: Ms. Baker?

4 MS. BAKER: Thank you, Your Honor. The State has
5 no intention to do that if he doesn't take the stand.
6 However, I just want to point out that the motion deadline
7 has passed. So any other motions --

8 THE COURT: Sure.

9 MS. BAKER: -- we would have to discuss if they
10 should be heard.

11 THE COURT: No, I think -- I think what
12 Mr. Neidert, I mean he styled it as a motion, but I think
13 what it was was a desire not to have this case reversed.

14 MS. BAKER: Yes.

15 THE COURT: And I think he couched it the same
16 way the State understands, the Court understands law and
17 Mr. Neidert understands the law and whatnot. Obviously,
18 anything that would need to be of brought before the Court in
19 the form of a Petrocelli motion or anything like that would
20 need to be heard outside the presence of the jury.

21 Mr. Neidert, are you familiar with -- we're going
22 to do jury selection over at the convention center. And then
23 we will do that Monday morning, and then we'll start --
24 probably Monday after we finish jury selection or whatever

1 time we finish we'll break for what I will call a lunch break
2 at whatever time that is for an hour and a half or two hours.
3 We'll reconvene back here at the courthouse and that could be
4 before 1:30, and we'll have the jury in the gallery.

5 As I look out where the, Ms. Baker will be on the
6 side where the jury box normally is. Mr. Neidert will be on
7 the side away from the jury box. I'll want all witnesses to
8 enter through the door on the side of where the jury room is,
9 and the jury will be out in the gallery. The library will be
10 open for witnesses. The courtroom two will be also open for
11 witnesses. No, courtroom two will be the jury room.

12 And so -- so anything that happens, any type of
13 conversations that you'll need to have with your client,
14 Mr. Neidert, will probably have to happen in jury room one
15 which won't be a jury room for this purposes. It's just for
16 identification.

17 And then as far as public access to the trial
18 we're going to stream it live and anyone from the public can
19 join in and observe but they won't be able to be heard.

20 MR. NEIDERT: On Zoom or some other platform,
21 Your Honor, or is it going to be be close circuit? I'm just
22 trying logistically. I obviously will have somebody watch
23 the trial.

24 THE COURT: Public access will be on Zoom.

1 MR. NEIDERT: Okay. Thank you, Your Honor.

2 THE COURT: And do you have any concerns about
3 any of that procedure?

4 MR. NEIDERT: I don't, Your Honor. Like I said,
5 my only concern is I typically have somebody watch the trial,
6 taking notes for me, and they observe things I may have
7 missed or whatever. I traditionally have them sit in the
8 back of the courtroom for that obviously. So they are
9 available by Zoom and frankly they can send me a text
10 message. My phone will be on vibrate. That's fine.

11 THE COURT: Okay. So that's what we'll do.

12 Ms. Baker, do you have any concerns about that?

13 MS. BAKER: Just, are the people logging into
14 Zoom are going to be identified just so we can make sure no
15 witnesses are watching the jury?

16 THE CLERK: We live stream through YouTube.

17 THE COURT: Oh, yeah, it's through Zoom but I
18 think it's through YouTube.

19 THE CLERK: I have not seen it yet.

20 THE COURT: Yeah, we've been experiencing. We've
21 been live streaming these days. I think it's going to be a
22 lot like every other court. You're going to have to -- I'll
23 order each of you to admonish your witnesses to not watch the
24 live stream assuming that somebody wants to invoke the rule

1 of exclusion.

2 Does anybody want to do that or not do that?

3 MR. NEIDERT: I do that as a matter of course,
4 Your Honor, but, you know, that's --

5 THE COURT: So I'm going to have each of you
6 instruct your witnesses not to watch the live stream of the
7 proceedings in order to -- and to not discuss their testimony
8 with any other witnesses until they are called to testify.

9 MR. NEIDERT: Your Honor, in our -- to observe
10 witnesses, again, this is a, one of these COVID things that I
11 don't know. I've been sort of, I've been watching court
12 through the Chavon trial. So it has me, a request come to
13 mind. Will the jurors be having -- not the jurors. Will the
14 witnesses be masked while testifying or not?

15 THE COURT: So what I have -- my practice is the
16 witness box is enclosed in --

17 THE CLERK: Plexiglass.

18 THE COURT: -- Plexiglass. I was trying to think
19 of the name. There's a microphone there. When they take the
20 witness stand after they are administered the oath, they will
21 remove their mask.

22 Now let's talk about this, this is another issue
23 and that is is ID a question in this case?

24 MS. BAKER: Yes.

1 THE COURT: And so as to -- let's develop a
2 procedure if anybody is asked to identify who they are going
3 to testify to how do we want to do that? There will only be
4 counsel, Mr. Johns, the witness and the jurors and the court
5 personnel in the courtroom. Do we just want --

6 MS. BAKER: Your Honor, I believe the majority of
7 the witnesses who are going to make the identification will
8 be able to identify Mr. Johns with a mask on. However, if it
9 comes up where we need people to remove the masks I'm
10 thinking we can all social distance, remove the mask for two
11 seconds and then put it back on.

12 THE COURT: Mr. Neidert, do you want to be heard
13 on that?

14 MR. NEIDERT: That seems an acceptable way to do
15 it to me as well, as long as Mr. Johns is not being singled,
16 he's the only one to have to remove the mask.

17 THE COURT: So why don't we do this, at anytime
18 somebody is asked to identify, to make an identification
19 before we do that, why don't you just or maybe just make an
20 inquiry with them before if they need that, but.

21 MS. BAKER: Uh-huh.

22 THE COURT: If anybody removes their mask
23 everybody in the courtroom will remove their mask.

24 MS. BAKER: Correct.

1 THE COURT: And, Mr. Neidert, what I would ask
2 you to do is talk that over with Mr. Johns ahead of time. If
3 you have an objection, to raise it with the Court outside the
4 presence of the jury before that issue comes up.

5 MR. NEIDERT: And, again, and I'm not -- I'm just
6 thinking weird procedural things because of COVID that have
7 occurred to me before. I would guess that the masks be
8 neutral and not, you know, for everybody wearing a mask that
9 the masks be neutral to some extent.

10 I mean, certainly I notice Your Honor is wearing
11 a disposable mask. And Ms. Baker is wearing a black mask.
12 I'm not. Again, I'm just -- I just throw a spit ball and
13 ideas in my head. We certainly don't want things that might
14 -- I don't want anything to prejudice the trial so that's why
15 those things are going through my head right now.

16 THE COURT: So we'll provide a paper mask for
17 your client. We'll make sure we have it here. Does that --

18 MR. NEIDERT: Okay.

19 THE COURT: Does that address that?

20 MR. NEIDERT: That's fine.

21 THE COURT: Okay.

22 MR. NEIDERT: Yes, Your Honor.

23 MS. BAKER: I mean, if -- if Mr. Neidert is more
24 comfortable I'll -- we can all wear disposable masks.

1 THE COURT: What are you going to wear,
2 Mr. Neidert?

3 MR. NEIDERT: That might be the easiest way to do
4 it if everybody is wearing disposable masks we're all wearing
5 identical masks.

6 THE COURT: Is that a problem for you?

7 MS. BAKER: Not at all.

8 THE COURT: Okay. Anyone who is sitting at
9 counsel table, I'm not going to talk about -- jurors can
10 bring what they want. The court personnel wears disposable.

11 Are you doing this trial?

12 THE CLERK: Yes.

13 THE COURT: Okay. So and we will have you wear a
14 disposable mask. The bailiff, and the sheriff's department
15 can wear what they wear. Their mask right now identifies
16 that they're sheriff's deputies.

17 And so, Mr. Neidert, what I'm going to say is all
18 of the court personnel will have a disposable mask. Counsel,
19 the defendant and both counsel for the defense and the State
20 will have disposable masks. The sheriff's deputies will wear
21 what they wear, and then the law clerk will wear a disposable
22 mask, and I will wear a disposable mask.

23 MR. NEIDERT: And it also popped in my mind
24 because I heard Mr. Nuckolls mention that my client is not

1 the easiest client for them, personally have had to control
2 him at the jail. Is the State going to be making any
3 requests that Mr. Johns be immobilized or shackled in any way
4 during the trial?

5 MS. BAKER: To answer that question, Your Honor,
6 no, the State does not intend that. However, it depends on
7 his conduct during trial.

8 THE COURT: Sure. Sure. And so, Sergeant
9 Nuckolls, or, Sergeant Sweeney, this is how we're going to be
10 seated. This is the way Mr. Johns would be in the seat
11 closest to the door there, and then counsel would be in that
12 seat. Where would a sheriff's deputy -- we're going to have
13 two deputies in the courtroom?

14 SERGEANT NUCKOLLS: Yeah.

15 THE COURT: Okay.

16 SERGEANT NUCKOLLS: I would prefer that from a
17 security standpoint.

18 THE COURT: If we have one on this side of the
19 room and one on this side?

20 SERGEANT NUCKOLLS: Yes.

21 THE COURT: Can we make sure that happens?

22 SERGEANT NUCKOLLS: Yeah.

23 MS. BAKER: I think the Court service area for
24 one of the deputies would be sufficient.

1 THE COURT: Okay. And that gives you good
2 proximity without, and if we're on each side it looks
3 balanced.

4 SERGEANT NUCKOLLS: Yeah. I'll position over
5 there if that works.

6 THE COURT: Okay. And let's just make sure that
7 any witnesses that come through will just come through that
8 door and that way. Normally it would be my law clerk who
9 went out and got the witnesses. And maybe what we ought to
10 have --

11 MS. BAKER: We'll have two attorneys.

12 THE COURT: Yeah. And so when the State bring
13 their witnesses in and, Mr. Neidert, if -- if you do that
14 we'll have you bring your witnesses in and that way, and
15 we'll just take it slow.

16 Anything?

17 MR. NEIDERT: Yeah, Your Honor, I -- to be very
18 honest, I don't think the trial is going to last five full
19 days. So I know we asked for five days out of an abundance
20 of caution. I certainly, but at this point to be very honest
21 I don't think it will last more than three. Again, that's a
22 procedural thing. I don't want -- like I said, quite
23 frankly, it's always better to have too many days than too
24 few days.

1 THE COURT: Yeah.

2 MR. NEIDERT: And we can have them here for a
3 four-day trial and send them home early.

4 THE COURT: Yeah. Monday will be a full day.
5 Tuesday will be a half day. And then Wednesday, Thursday,
6 Friday will be full days. And --

7 MR. NEIDERT: Okay.

8 THE COURT: -- so is there anything else from
9 you, Mr. Neidert?

10 MR. NEIDERT: No, Your Honor. I'll get that
11 order to the Court within the hour or so.

12 THE COURT: Okay. Ms. Baker, anything further?

13 MS. BAKER: Nothing further, Your Honor. Thank
14 you.

15 THE COURT: Thank you.

16 And then, Mr. Neidert, you made -- just so you
17 know, next week we start our first jury trial, and we'll do
18 jury selection there over in the convention center. It will
19 start on Wednesday, and then we'll come back here. And so if
20 you wanted to observe you could either observe the live
21 streaming. There isn't live streaming of the jury selection,
22 but there will be live streaming of the proceedings or if you
23 -- and just so you know it will be there.

24 And even if you don't observe, if you wanted to

1 follow-up with the State's counsel. It's not Ms. Baker's
2 trial, is it?

3 MS. BAKER: No. It's Mr. Weed's trial but I am
4 assisting, so.

5 THE COURT: Okay.

6 MS. BAKER: I'll be there but we can work
7 together on that.

8 THE COURT: And then, Mr. Neidert, at any time
9 after Mr. Johns is brought here, if you need a hearing, a
10 status hearing or anything just request that of the court
11 administrator once he's here in the jail. We can do that on
12 a Tuesday.

13 MR. NEIDERT: I will do that, Your Honor. Who's
14 the defense counsel in the trial next week?

15 MS. BAKER: It's Mr. Evenson.

16 THE COURT: Steve Evenson.

17 MR. NEIDERT: Okay. I'll contact the D.A.'s
18 office.

19 THE COURT: Okay. Thank you very much.

20 MR. NEIDERT: Thank you.

21 THE COURT: Okay. Thank you everyone.

22 MS. BAKER: Thank you, Your Honor.

23 THE COURT: Bye-bye.
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STATE OF NEVADA,)
)
CARSON CITY.)

I, KATHY JACKSON, do hereby certify:

That a Status Hearing was held in the
within-entitled matter in Churchill County, Fallon, Nevada;

That said hearing was recorded by a recording
system, and said recording was delivered to me for
transcription;

That the foregoing transcript, consisting of
pages 1 through 28 is a full, true and correct transcript of
said recording performed to the best of my ability.

Dated at Carson City, Nevada, this 20th day of
June, 2021.



KATHY JACKSON, CCR

FILED

1 CASE NO. 20-10DC-0552

2021 JUL -2 PM 12:06

SUE SEVON
COURT CLERK

3 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
BY *J. Benning*

4 IN AND FOR THE COUNTY OF CHURCHILL

5 BEFORE THE HONORABLE DISTRICT COURT JUDGE, THOMAS L. STOCKARD

6
7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 CASEY ALAN JOHNS,

11 Defendant.

12
13
14 JAVS TRANSCRIPT OF PROCEEDINGS

15 STATUS HEARING

16 MAY 4, 2021

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22 Transcribed By:

Kathy Jackson, CSR
Nevada CCR #402
California CCR #10465

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APPEARANCES

For the State: PRISCILLA BAKER
Deputy District Attorney
Fallon, Nevada

For the Defendant: DAVID K. NEIDERT
Attorney at Law
Fallon, Nevada

1 MAY 4, 2021, FALLON, NEVADA

2 -oOo-

3 THE COURT: So this is Case Number 20-0552, State
4 of Nevada versus Casey Alan Johns. It's Tuesday May 4th,
5 2021. Appearing by Zoom is David Neidert. He represents
6 Mr. Johns. Mr. Johns is not present. Priscilla Baker is
7 appearing by Zoom. She represents the State of Nevada.

8 This -- the Court received a letter from Capitol
9 Reporters who has for many years reported our jury trials,
10 and the letter was received May 3rd, 2021, which was
11 yesterday indicating that they are not going to be able to
12 report all days of our trial next week.

13 I'm going to have this just marked as an exhibit
14 so it's part of the record, but let me read it. It's from
15 Capitol Reporters and it says to the Tenth Judicial District
16 Court and staff. Capitol Reporters will no longer be able to
17 cover all of your jury trials. Capitol Reporters will
18 continue to try to cover as many trials as we have if we have
19 reporters available and/or certain days of trials where we
20 have availability as we may be able to cover certain days.

21 There has been a significant change in the court
22 reporting environment in the last decade. This is primarily
23 due to the fact that the influx of new reporters into the
24 profession has dwindled to very few. In the years in 2015 to

1 to 2020 only 44 new court reporters have been licensed to act
2 as certified court reporters in the State of Nevada. Many of
3 the newly licensed do not reside or work in Nevada, and many
4 are working in the Las Vegas area which has left Northern
5 Nevada extremely short of court reporters to call on to work.

6 The lack of -- the lack of new court reporters
7 has changed dynamics between court reporting firms and court
8 reporters. Most court reporters associated with firms are
9 independent contractors. They are not subject to employee
10 discipline. This allows them to pick and choose what jobs
11 they will accept and what days they will work.

12 In the past when there was a surplus of court
13 reporters the firms favor hard working reporters over those
14 who were more choosy about jobs they would work and days
15 they would work. With the dearth of court reporters, the
16 ability of associated reporters to set their own work days
17 and jobs without concern about being left off of jobs has
18 increased markedly.

19 Last year during the pandemic many of the courts
20 put trials on hold. And as the State is opening back up all
21 of the courts are now doing jury trials, many at the same
22 time, and unfortunately Capitol Reporters doesn't have enough
23 reporters to cover all of the counties it works in to provide
24 coverage of simultaneous jury trials running.

1 Going forward we will have to let you know if we
2 have the availability for coverage on each individual trial,
3 and we can let you know that we can cover certain days but
4 not the entire week or weeks as we have contractual
5 obligations to some clients that Capitol has to meet. We
6 hope that we can help with trials in the future for Churchill
7 County, but we'll have to go on a week by week and day by day
8 basis.

9 The upcoming trial starting the week of May 10th
10 through 14 Capitol can supply a court reporter for May 10th
11 and May 11th but do not have enough reporters to cover
12 May 12th, 13th or 14th. I would also let you know that while
13 we're overbooked for those dates stated above, many times
14 jobs go off at the last minute and we have -- have
15 availability, but we don't know usually until the day before
16 that we have a reporter available.

17 Capitol Reporters has and is still seeking to
18 find more court reporters so we can find coverage for all of
19 the courts we work with. At this time we do not have enough
20 to continue to cover the Tenth Judicial completely. Capitol
21 Reporters continues to transcribe JAVS for many courts and is
22 available to transcribe audios for Churchill County.

23 Sincerely, Shelly Loomis, who is the owner of
24 Capitol Reporters.

1 So we received that yesterday. Last evening our
2 court administrator reached out to Sunshine Reporting and to
3 Bonanza Reporting to see if we could get coverage. Now, the
4 record should show that we have had Capitol Reporters
5 reserved for this week since the day this matter was set back
6 in March of 2021. They confirmed that they were available
7 and only notified us yesterday that they would not be
8 available on Wednesday, Thursday and Friday.

9 Now I've talked to a number of my colleagues that
10 do complete jury trials by JAVS. So I'm not concerned about
11 it, but I wanted you to be aware of this. The only thing I
12 was concerned about was jury selection because we don't have
13 JAVS over in the convention center where we do jury
14 selection, but that is one of the days that Capitol Reporters
15 will be available and so that should not be a problem.

16 And so what I would anticipate is we will have
17 Capitol Reporters and JAVS for Monday. We'll have Capitol
18 Reporters for JAVS on Tuesday. And if Capitol Reporters is
19 not available on Wednesday, Thursday or Friday, those will be
20 recorded by JAVS. We're also going to record them by Zoom so
21 we have a backup.

22 We'll have the court clerk who always is here
23 running the JAVS system, but we'll have an additional court
24 clerk who will remotely be monitoring both the JAVS sound and

1 the Zoom sound to make sure that the recording is an accurate
2 representation.

3 Statutorily we're able to do this. Clark County,
4 the majority of their departments are completely done by
5 JAVS. I'm not sure on death penalty cases or other category
6 A's but every other case is routinely, and I just don't know
7 how they do death penalty cases.

8 Here we have multiple counts. We have category
9 B's and category D's, and so and I'm going to -- Ms. Clerk,
10 this letter from Capitol Reporters, I'll have her transmit
11 that to both of you guys so you have a copy. We'll also mark
12 that as an exhibit for today's hearing for identification so
13 we know what it is. And it's going to be?

14 THE CLERK: Court's Exhibit Number 1.

15 THE COURT: Court's Exhibit Number 1.

16 Mr. Neidert, it was on such short notice, I know
17 we didn't have to have -- we didn't have the opportunity to
18 have Mr. Johns here, but I wanted you to be aware of this so
19 you could talk it over with him. Do you have any questions?

20 MR. NEIDERT: I don't, Your Honor. And frankly I
21 personally don't have much of a problem with the way the
22 Court is handling it. It seems to me that, you know, per the
23 way of the future I think, certainly Capitol will be
24 transcribing the JAVS into a transcript if there's an appeal

1 anyway.

2 And, you know, so I think a court reporter that
3 has done part of the case with their, through the
4 transcription off of the JAVS frankly they will have the
5 advantage of recognizing voices and things of that nature.
6 The other thing I observed a lot of reporters who actually
7 record as well as do the, use their stenograph to take the
8 transmission.

9 So in my mind, Your Honor, I don't see this as a
10 major problem. If you want me to discuss this with Mr. Johns
11 I will, but from my perspective I don't see any problem.

12 THE COURT: Okay. I'm going to leave that -- I
13 prefer you just to let him know. Legally we can do that.
14 Elko, two of the departments use JAVS I think. One
15 exclusively uses JAVS, and they have a shortage of court
16 reporters. Winnemucca tries to get Bonanza out. They
17 haven't had a problem.

18 But I think what's really brought this to a head
19 is every district court is returning to trials at the same
20 time. And so, you know, I want you to be aware of it. I
21 don't think we would have probably even had to have told you,
22 but I think we will have the court reporter on Monday and
23 Tuesday, and then the rest of the week we would anticipate
24 it's going to be JAVS. But, yeah, if transcripts need to be

1 done they will be available.

2 MR. NEIDERT: Thank you, Your Honor.

3 THE COURT: Ms. Baker?

4 MS. BAKER: Thank you, Your Honor. The State has
5 no objection. The State believes this is the best way to
6 move forward based on the circumstances.

7 THE COURT: Okay. Thank you. And we'll have the
8 clerk e-mail you that letter from Capitol. The record should
9 reflect that we did contract with Capitol on March 3rd, 2021,
10 which was more than 60 days in advance, and I think they just
11 got caught between a lot of different obligations and I
12 understand that. So thank you, and thank you for the short
13 being able, being available on a very short notice.

14 MR. NEIDERT: Thank you, Your Honor. See you
15 Thursday.

16 MS. BAKER: Thank you, Your Honor. If I could
17 add one more issue.

18 THE COURT: Of course.

19 MS. BAKER: Thank you, Your Honor. So I have
20 reached out to Mr. Neidert. Although, we're still working on
21 discussing it, but the State is wanting to amend the
22 information to just correct some -- some minor details.
23 We're not amending charges but I just want to put the Court
24 on notice that that may be coming through via stipulation.

1 THE COURT: Okay. And, I mean, the statute is
2 clear.

3 And, Mr. Neidert, I know you're familiar with the
4 law. If there's an agreement do it by stipulation. If not,
5 what I would ask is if you do a motion to amend make sure
6 that it's accompanied by a motion for an order shortening
7 time so that Mr. Neidert has an opportunity.

8 Mr. Neidert, do you know where you're going to be
9 at? I mean, we're really kind of getting short on time.

10 MR. NEIDERT: Your Honor, Ms. Baker sent an
11 e-mail. I didn't have a chance to respond it to. Basically
12 it has to do with what I almost -- what I will consider close
13 scrivener errors. I think one had to do with the possession
14 of stolen credit cards being alleged at the Budget Motel
15 location with everything else and it's a different address in
16 the information. I'm not going to be fighting or objecting
17 to those things, Your Honor.

18 THE COURT: Very well.

19 MR. NEIDERT: I can pretty much tell the Court
20 I'll be stipulating to for amended.

21 THE COURT: Okay. Then I'll grant leave to file
22 the amended information. Can you have that filed by close of
23 business tomorrow, Ms. Baker?

24 MS. BAKER: I can -- we can get that filed first

1 thing in the morning.

2 THE COURT: Okay. That will be perfect because
3 that way we can prepare the information to be read to the
4 jury.

5 Mr. Neidert, they have changed. The new rules of
6 criminal procedure instruct us to read it before we start
7 selecting any jurors. My practice before was to read it
8 after we've selected all of the jurors. But so -- so if you
9 can have it there tomorrow, what I will do is then I'll have
10 the court administrator prepare the redacted information and
11 she'll get that back to you and that will -- as it's redacted
12 I'll ask you to each review it and by Friday to let her know
13 if yes, you're okay with how it is or, no, you suggest
14 something should be redacted or unredacted so that Monday
15 morning we just -- we have it ready to go. Does that make
16 sense?

17 MR. NEIDERT: It makes perfect sense to me, Your
18 Honor.

19 THE COURT: Okay.

20 MS. BAKER: Yes, Your Honor.

21 THE COURT: I'll have you guys respond by close
22 of business on Thursday to whatever she sends you tomorrow on
23 the redacted information, and I want a response either way.
24 Just, yes, I'm fine with it or, no, I'm not, okay?

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MR. NEIDERT: Thank you, Your Honor.

THE COURT: Thank you everyone.

We'll be in recess.

MS. BAKER: Thank you.

1 STATE OF NEVADA,)
2 CARSON CITY.)
3

4 I, KATHY JACKSON, do hereby certify:

5 That a Status Hearing was held in the
6 within-entitled matter in Churchill County, Fallon, Nevada;

7 That said hearing was recorded by a recording
8 system, and said recording was delivered to me for
9 transcription;

10 That the foregoing transcript, consisting of
11 pages 1 through 13 is a full, true and correct transcript of
12 said recording performed to the best of my ability.

13
14 Dated at Carson City, Nevada, this 20th day of
15 June, 2021.

16
17
18
19 
20 KATHY JACKSON, CCR

Churchill County District Attorney
165 North Ada Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

Case No.: 20-10DC-0552

Dept. No.: 1

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

FILED

2021 MAY -5 AM 8:27

SUE SEVON
COURT CLERK
BY *Shelly Nepton* DEPUTY

IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE
OF NEVADA, IN AND FOR THE COUNTY OF CHURCHILL

THE STATE OF NEVADA,

Plaintiff,

vs.

CASEY ALAN JOHNS,

Defendant.

FIRST AMENDED
INFORMATION

PRISCILLA BAKER, Deputy District Attorney of Churchill County, Nevada, informs the above-entitled Court that **CASEY ALAN JOHNS**, the Defendant above-named, has committed the offenses of **COUNT 1, BURGLARY WITH POSSESSION OF A FIREARM OR DEADLY WEAPON**, a Category B Felony, in violation of, **NRS 205.060(4)**, **COUNT 2, BATTERY WITH A DEADLY WEAPON CAUSING SUBSTANTIAL BODILY HARM TO VICTIM**, a Category B Felony, in violation of, **NRS 200.481(2)(E)(2)**, **COUNT 3, BATTERY BY A PRISONER IN LAWFUL CUSTODY OR CONFINEMENT**, a Category B Felony, in violation of, **NRS 200.481(2)(F)**, **COUNT 4, HOME INVASION WITH POSSESSION OF FIREARM OR DEADLY WEAPON**, a Category B Felony, in violation of, **NRS 205.067(4)**, and **COUNT 5, OBTAINING OR POSSESSING CREDIT CARD OR DEBIT CARD, OR IDENTIFYING DESCRIPTION OF CREDIT CARD, CREDIT ACCOUNT OR DEBIT CARD WITHOUT CONSENT**, a Category D Felony, in violation of, **NRS 205.690(1)**, committed as follows:

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COUNT 1
BURGLARY WITH POSSESSION OF A FIREARM OR DEADLY WEAPON, a
Category B Felony, in violation of NRS 205.060(4)

That within declarant's information and belief, **CASEY ALAN JOHNS**, on or about the 16th day of April, 2020, and prior to the filing of this FIRST AMENDED INFORMATION, at or near 60 South Allen Road #135, Fallon, Churchill County, Nevada, did willfully and unlawfully enter any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretense, and had in his or her possession or gained possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, to wit: said Defendant did enter the Budget Inn room #135 with a knife with the intent to commit a battery.

COUNT 2
BATTERY WITH A DEADLY WEAPON CAUSING SUBSTANTIAL BODILY HARM
TO VICTIM, a Category B Felony, in violation of NRS 200.481(2)(E)(2)

That within declarant's information and belief, **CASEY ALAN JOHNS**, on or about the 16th day of April, 2020, and prior to the filing of this FIRST AMENDED INFORMATION, at or near 60 South Allen Road #135, Fallon, Churchill County, Nevada, did willfully and unlawfully use force or violence upon the person of another with the use of a deadly weapon causing substantial bodily harm, to wit: said Defendant did cut Michael Malone in the hand with a knife causing prolonged physical pain and/or causing impairment of the function of Michael Malone's hand.

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COUNT 3

BATTERY BY A PRISONER IN LAWFUL CUSTODY OR CONFINEMENT, a Category B Felony, in violation of NRS 200.481(2)(F)

That within declarant's information and belief, **CASEY ALAN JOHNS**, on or about the 16th day of April, 2020, and prior to the filing of this FIRST AMENDED INFORMATION, at or near 60 South Allen Road, Fallon, Churchill County, Nevada, did willfully and unlawfully, while in lawful custody or confinement, use force or violence upon the person of another, to wit: said Defendant, after being placed under arrest and while in lawful custody, did kick Officer Kevin Grimes in the leg.

COUNT 4

HOME INVASION WITH POSSESSION OF FIREARM OR DEADLY WEAPON, a Category B Felony, in violation of NRS 205.067(4)

That within declarant's information and belief, **CASEY ALAN JOHNS**, on or about the 16th day of April, 2020, and prior to the filing of this FIRST AMENDED INFORMATION, at or near 60 South Allen Road #132, Fallon, Churchill County, Nevada, did willfully and unlawfully, with use of a deadly weapon, enter an inhabited dwelling without permission of the owner, resident or lawful occupant, whether or not a person was present at the time of entry, to wit: said Defendant did forcefully enter 60 South Allen Road #132 with a knife, causing damage to the entry door and/or doorframe.

COUNT 5

OBTAINING OR POSSESSING CREDIT CARD OR DEBIT CARD, OR IDENTIFYING DESCRIPTION OF CREDIT CARD, CREDIT ACCOUNT OR DEBIT CARD WITHOUT CONSENT, a Category D Felony, in violation of NRS 205.690(1)

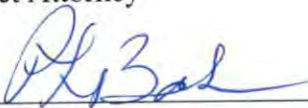
That within declarant's information and belief, **CASEY ALAN JOHNS**, on or about the 10th day of April, 2020 through the 16th day of April, 2020, and prior to the filing of this FIRST AMENDED INFORMATION, at or near 60 South Allen Road, Fallon, Churchill County, Nevada, did steal, take or remove a credit card or debit card from the person, possession, custody or control of another without the cardholder's consent, or, with the knowledge that a credit card or debit card had been so taken, removed or stolen, did receive the credit card or debit card with

1 the intent to circulate, use or sell it or to transfer it to a person other than the issuer or the
2 cardholder, to wit: said Defendant did obtain credit cards belonging to Brandie West-Castillo
3 without her consent.

4 All of which is contrary to the form, force and effect of the statute in such cases made
5 and provided, and against the peace and dignity of the State of Nevada.

6 DATED: This 5th day of May, 2021

7
8 ARTHUR E. MALLORY,
District Attorney

9
10 By: 
11 Priscilla Baker
Deputy District Attorney

12
13 The following are the names of such witnesses as are known to me at the time of filing
14 the within Information:

15 Dr. Andrew Abrass M.D.	801 West Williams Avenue
16	Fallon, NV 89406
17 Dr. Brent A. Aikin	801 E. Williams Avenue
18	Fallon, NV 89406
19 Ambien Subhashhai Bhakta	60 S Allen Road
20	Fallon, NV 89406
21 Budget Inn	60 S. Allen Road
22	Fallon, NV 89406
23 James Patrick Bullis	60 South Allen Road #109
24	Fallon, NV 89406
25 Dr. Andrew Coley MD	235 West 6th Street
26	Reno, NV 89503
27 Chaska Gene Colvin	2044 Agency Road
28	Fallon, NV 89406

1	Deanna Kaye Douglas	1515 Heidi Road Fallon, NV 89406
2		
3	John Frandsen	55 W. Williams Avenue Fallon, NV 89406
4		
5	Marcia Gower	60 South Allen Road Room 132 Fallon, NV 89406
6		
7	Kevin Grimes	107 South Willow Street Kenai, AK 99611
8		
9	Daniel Joseph Groom	55 West Williams Avenue Fallon, NV 89406
10		
11	Jennifer Mae Hartpence	60 South Allen Road #109 Fallon, NV 89406
12		
13	Jennifer Hsueh	911 Parr Boulevard Reno, NV 89512
14		
15	Dr. Michael B Lilyquist MD	Great Basin Orthopaedics 9480 Double Diamond Parkway Reno, NV 89521
16		
17	Alonza Lofthouse	180 West A Street Fallon, NV 89406
18		
19	Michael Malone	3365 Sherwood Dr Winnemucca, NV 89445
20		
21	Rudy Maynez II	180 West A Street Fallon, NV 89406
22		
23	Michael Moody	60 South Allen Road #109 Fallon, NV 89406
24		
25	Ashley Peters	180 West A Street Fallon, NV 89406
26		
27	Joseph Shyne	55 W. Williams Avenue Fallon, NV 89406
28		
29	Darby Stienmetz	911 Parr Boulevard Reno, NV 89512
30		

1	Sam Ugalde	55 W. Williams Avenue Fallon, NV 89406
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3	Ronald D. Wenger	55 W. Williams Avenue Fallon, NV 89406
4		
5	Brandie West-Castillo	800 Sunset Drive Fallon, NV 89406
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CERTIFICATE OF SERVICE

On the 5 May, 2021, I was an employee of the District Attorney's Office and that the foregoing **First Amended Information** was served to the following address(s):

David K. Neidert Esq.
Attorney at Law
643 South Maine Street
Fallon, NV 89406

By:

☐ U.S. Mail
☐ Certified Mail
☐ Return Receipt Requested
☐ Hand Delivered
☐ Facsimile
☒ Email



Lisa Nordman
Legal Secretary