

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ROBERT KELLER,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-16-312717-1
Related Case A-19-800950-W
Docket No: 84643

RECORD ON APPEAL VOLUME 5

ATTORNEY FOR APPELLANT
CHRISTOPHER KELLER # 81840,
PROPER PERSON
1200 PRISON RD.
LOVELOCK, NV 89419

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

I N D E X

<u>VOLUME:</u>	<u>PAGE NUMBER:</u>
1	1 - 241
2	242 - 482
3	483 - 723
4	724 - 964
5	965 - 1187

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	4/29/2016	Amended Information	164 - 167
5	12/12/2017	Amended Judgment of Conviction (Jury Trial)	968 - 971
2	3/9/2017	Amended Jury List	306 - 306
2	8/25/2017	Case Appeal Statement	377 - 379
2	8/12/2016	Certificate of Mailing	274 - 278
5	5/9/2022	Certification of Copy and Transmittal of Record	
1	2/16/2016	Criminal Bindover (Confidential)	1 - 28
2	4/29/2017	Defendant Keller's Substitution of Attorney and Amy A. Feliciano, Esq.'s Notice of Appearance as Counsel of Record	362 - 364
2	2/7/2017	Defendant's Motion for Production Including Potentially Exculpatory Evidence	293 - 301
1	6/10/2016	Defendant's Motion to Suppress	171 - 190
5	5/9/2022	District Court Minutes	1139 - 1187
5	5/9/2022	Documentary Exhibits (Unfiled)	1068 - 1126
5	5/9/2022	Documentary Exhibits (Unfiled) Confidential	1127 - 1138
1	2/17/2016	Information	29 - 32
2	3/10/2017	Instructions to the Jury	314 - 322
2	3/10/2017	Instructions to the Jury	323 - 346
2	8/10/2017	Judgment of Conviction (Jury Trial)	365 - 368
2	3/7/2017	Jury List	305 - 305
5	6/12/2019	Motion for Production of Transcripts at State Expense	1033 - 1036

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
5	3/22/2018	Motion for the Appointment of Counsel & Motion to Dismiss Attorney of Record	980 - 985
4	11/14/2017	Motion for the Appointment of Counsel; Request for Evidentiary Hearing	958 - 962
4	11/14/2017	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents (Continued)	963 - 964
5	11/14/2017	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents (Continuation)	965 - 966
5	12/31/2018	Motion for Withdrawal of Counsel of Record or in the Alternative, Request for Records/Court Case Document "Evidence Photos"	1009 - 1014
5	4/3/2019	Motion to Compel	1022 - 1027
1	6/13/2016	Motion to Dismiss Counsel and Appoint Alternate Counsel	191 - 193
1	6/1/2016	Motion to Reduce Bail	168 - 170
2	8/10/2016	Motion to Withdraw As Counsel	270 - 273
5	11/14/2018	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed	996 - 1007
2	8/24/2017	Notice of Appeal	372 - 372
2	8/24/2017	Notice of Appeal	376 - 376
5	11/29/2017	Notice of Change of Hearing	967 - 967
1	3/29/2016	Notice of Expert Witnesses [NRS 174.234(2)]	156 - 161

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	8/26/2016	Notice of Expert Witnesses [NRS 174.234(2)]	281 - 287
1	3/24/2016	Notice of Intent to Seek Punishment as a Habitual Criminal	151 - 152
2	7/18/2016	Notice of Intent to Seek Punishment as a Habitual Criminal	268 - 269
4	11/14/2017	Notice of Motion	956 - 957
5	12/31/2018	Notice of Motion	1008 - 1008
5	4/3/2019	Notice of Motion	1021 - 1021
1	3/24/2016	Notice of Witnesses [NRS 174.234(1)(a)]	153 - 155
2	1/25/2017	Notice to Introduce Certified Records [NRS 52.260(4)]	291 - 292
5	5/10/2018	Order Denying Defendant's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record	994 - 995
2	8/18/2016	Order Denying Defendant's Motion to Suppress and Defendant's Pro Per Motion to Dismiss Counsel and Appoint Alternative Counsel	279 - 280
5	7/22/2019	Order Denying Defendant's Pro Per Motion for Production of Transcripts at State Expense	1041 - 1042
5	4/11/2018	Order Granting Defendant's Motion for the Appointment of Counsel; Order Denying Defendant's Request for Evidentiary Hearing	986 - 987
5	2/1/2019	Order Granting Petitioner's Pro Per Motion for Withdrawal of Counsel of Record, or in the Alternative, Request for Records/Court Case Document	1015 - 1016

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	4/14/2017	Presentence Investigation Report (Unfiled) Confidential	347 - 361
1	6/16/2016	Receipt of Copy	194 - 194
5	4/3/2019	Request for Records/Court Case Documents	1017 - 1020
5	6/12/2019	Request for Records/Court Case Documents (Specifically Evidence Photos)	1038 - 1040
2	8/24/2017	Request for Rough Draft Transcripts	369 - 371
2	8/24/2017	Request for Rough Draft Transcripts	373 - 375
5	6/12/2019	Request for Submission of Motion	1037 - 1037
2	3/6/2017	Second Amended Information	302 - 304
5	4/13/2018	State's Opposition to Defendant's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record	988 - 993
1	6/17/2016	State's Opposition to Defendant's Motion to Suppress (Continued)	195 - 241
2	6/17/2016	State's Opposition to Defendant's Motion to Suppress (Continuation)	242 - 267
5	1/17/2020	State's Response to Defendant's Pro Per Petition for Writ of Habeas Corpus (Post- Conviction)	1043 - 1067
2	8/29/2016	Supplemental Notice of Witnesses [NRS 174.234(1)(a)]	288 - 290
2	3/10/2017	Third Amended Information	307 - 310
2	10/5/2017	Transcript of Hearing Held on August 7, 2017	380 - 394
1	3/2/2016	Transcript of Hearing Held on February 16, 2016	33 - 91

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	3/4/2016	Transcript of Hearing Held on February 16, 2016	92 - 150
3	11/13/2017	Transcript of Hearing Held on March 10, 2017	485 - 512
2	11/13/2017	Transcript of Hearing Held on March 6, 2017	396 - 417
2	11/13/2017	Transcript of Hearing Held on March 7, 2017 (Continued)	418 - 482
3	11/13/2017	Transcript of Hearing Held on March 7, 2017 (Continuation)	483 - 484
4	11/13/2017	Transcript of Hearing Held on March 8, 2017	726 - 955
3	11/13/2017	Transcript of Hearing Held on March 9, 2017 (Continued)	513 - 723
4	11/13/2017	Transcript of Hearing Held on March 9, 2017 (Continuation)	724 - 725
5	3/1/2018	Unfiled Document(s) - Attorney Letter w/Copy of Unfiled Motion for the Appointment of Counsel; Request for Evidentiary Hearing and w/Copy of Unsigned Order Appointing Counsel	972 - 978
1	4/17/2016	Unfiled Document(s) - Motion for Brady Hearing	162 - 163
5	6/12/2019	Unfiled Document(s) - Motion to Compel	1028 - 1031
2	11/3/2017	Unsigned Document(s) - Order Appointing Counsel	395 - 395
5	3/13/2018	Unsigned Document(s) - Order Appointing Counsel	979 - 979
5	6/12/2019	Unsigned Document(s) - Order to Produce Transcripts	1032 - 1032

C-16-312717-1

State of Nevada
vs
Christopher Keller

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	3/10/2017	Verdict - Counts 1 thru 7	312 - 313
2	3/10/2017	Verdict - Counts 8 and 9	311 - 311

DATED this 29th day of October, 2007.

Respectfully submitted, Ch. Keller

Christopher Keller

Petitioner/Plaintiff

CERTIFICATE OF SERVICE

I hereby certify pursuant to N.R.C.P. 5(b) that I am the Petitioner/Plaintiff in the foregoing Notice of Motion and Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents on this 29th day of October, 2007. I did serve a true and correct copy of the above mentioned document, by giving it to a prison official at the Ely State Prison to deposit in the U.S. Mail, sealed in an envelope, postage pre-paid, and addressed as follows:

Court Clerk (Dept. 19)
200 Lewis Ave
Las Vegas NV 89155-1160

DATED this 29th day of October, 2007.

Ch. Keller
Christopher Keller
Petitioner/Plaintiff

AFFIRMATION PURSUANT TO NRS 239B.030

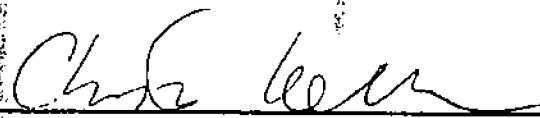
I, Christopher Keller, NDOC# 81840,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE
ATTACHED DOCUMENT ENTITLED motion for withdrawal
of attorney of record

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 29th DAY OF October, 2017.

SIGNATURE:



INMATE PRINTED NAME: Christopher Keller

INMATE NDOC # 81840

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301



1 NOCH

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

5 *****

6 State of Nevada

Case No.: C-16-312717-1

7 vs

Department 19

8 Christopher Keller

9
10 **NOTICE OF CHANGE OF HEARING**

11 The hearing on the Motion for Withdrawal of Attorney of Record, or In the Alternative, Request for
12 Records/Court Case Documents and Motion for the Appointment of Counsel, Request for Evidentiary Hearing,
13 presently set for December 6th, 2018, at 9:00 AM, has been moved to the 6th day of December, 2017, at 8:30
14 AM and will be heard by Judge William D. Kephart.

15 STEVEN D. GRIERSON, CEO/Clerk of the Court
16 /s/ Salevao Asifoa

By:

17 S.L. Asifoa, Deputy Clerk of the Court

18 **CERTIFICATE OF SERVICE**

I hereby certify that this 29th day of November, 2017

19 ☒ The foregoing Notice of Change of Hearing was electronically served to all registered parties for case
20 number C-16-312717-1.

21 ☒ I mailed, via first-class, postage fully prepaid, the foregoing Clerk of the Court, Notice of Change of
22 Hearing to:

23 Christopher Keller #81840
P.O. Box 1989
Ely, Nevada 89301

24 ☒ I placed a copy of the foregoing Notice of Change of Hearing in the appropriate attorney folder located
25 in the Clerk of the Court's Office:

26 Kenneth G. Frizzell
Steven B Wolfson

27 /s/ Salevao Asifoa
S.L. Asifoa, Deputy Clerk of the Court



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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER
#1804258

Defendant.

CASE NO. C-16-312717-1

DEPT. NO. XIX

AMENDED JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
– TRAFFICKING IN CONTROLLED SUBSTANCE (Category A Felony) in violation of
NRS 453.3385.3; COUNT 2 – TRAFFICKING IN CONTROLLED SUBSTANCE
(Category A Felony) in violation of NRS 453.3385.3; COUNT 3 – POSSESSION OF
CONTROLLED SUBSTANCE, MARIJUANA (Category E Felony) in violation of NRS
453.336; COUNT 4 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT
TO SELL (Category D Felony) in violation of NRS 435.337; COUNT 5 – POSSESSION
OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony) in

//

1 violation of NRS 435.337, of COUNT 6 – POSSESSION OF CONTROLLED
2 SUBSTANCE WITH INTENT TO SELL (Category D Felony) in violation of NRS
3 435.337; COUNT 7 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT
4 TO SELL (Category D Felony) in violation of NRS 435.337; COUNT 8 – OWNERSHIP
5 OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony) in
6 violation of NRS 202.360; COUNT 9 – OWNERSHIP OR POSSESSION OF FIREARM
7 BY PROHIBITED PERSON (Category B Felony) in violation of NRS 202.360, and the
8 matter having been tried before a jury and the Defendant having been found guilty of
9 the crimes of COUNT 1 – TRAFFICKING IN CONTROLLED SUBSTANCE (Category
10 A Felony) in violation of NRS 453.3385.3; COUNT 2 – TRAFFICKING IN
11 CONTROLLED SUBSTANCE (Category A Felony) in violation of NRS 453.3385.3;
12 COUNT 3 – POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA GREATER
13 THAN ONE OUNCE (Category E Felony) in violation of NRS 453.336; COUNT 4 –
14 POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D
15 Felony) in violation of NRS 435.337; COUNT 5 – POSSESSION OF CONTROLLED
16 SUBSTANCE WITH INTENT TO SELL (Category D Felony) in violation of NRS
17 435.337, of COUNT 6 – POSSESSION OF CONTROLLED SUBSTANCE WITH
18 INTENT TO SELL (Category D Felony) in violation of NRS 435.337; COUNT 7 –
19 POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL
20 (Category D Felony) in violation of NRS 435.337; COUNT 8 – OWNERSHIP OR
21 POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony) in
22 violation of NRS 202.360; COUNT 9 – OWNERSHIP OR POSSESSION OF
23 FIREARM BY PROHIBITED PERSON (Category B Felony) in violation of NRS 202.360;

1 thereafter, on the 7th day of August, 2017, the Defendant was present in court for
2 sentencing with counsel KENNETH FRIZZELL, and good cause appearing,
3

4 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses as set forth in
5 the jury's verdict, in addition to the \$25.00 Administrative Assessment Fee and
6 \$10,000.00 fine plus \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the
7 Nevada Department of Corrections (NDC) as follows: **COUNT 1** - LIFE with a
8 **MINIMUM** Parole Eligibility after TEN (10) YEARS; **COUNT 2** - LIFE with a **MINIMUM**
9 Parole Eligibility after TEN (10) YEARS, **CONCURRENT** with **COUNT 1**; **COUNT 3** - a
10 **MAXIMUM** of FORTY-EIGHT (48) MONTHS with a **MINIMUM** Parole Eligibility of
11 TWELVE (12) MONTHS, **CONCURRENT** with **COUNT 2**; **COUNT 4** – a **MAXIMUM** of
12 FORTY-EIGHT (48) MONTHS with a **MINIMUM** Parole Eligibility of TWELVE (12)
13 MONTHS, **CONCURRENT** with **COUNT 3**; **COUNT 5** - a **MAXIMUM** of FORTY-EIGHT
14 (48) MONTHS with a **MINIMUM** Parole Eligibility of TWELVE (12) MONTHS,
15 **CONCURRENT** with **COUNT 4**; **COUNT 6** - a **MAXIMUM** of FORTY-EIGHT (48)
16 MONTHS with a **MINIMUM** Parole Eligibility of TWELVE (12) MONTHS,
17 **CONCURRENT** with **COUNT 5**; **COUNT 7** - a **MAXIMUM** of FORTY-EIGHT (48)
18 MONTHS with a **MINIMUM** Parole Eligibility of TWELVE (12) MONTHS,
19 **CONCURRENT** with **COUNT 6**; **COUNT 8** –LIFE with a **MINIMUM** Parole Eligibility
20 after TEN (10) YEARS under the LARGE HABITUAL Criminal Statute, **CONSECUTIVE**
21 to COUNTS 1, 2, 3, 4, 5, 6 and 7; and **COUNT 9** –LIFE with a **MINIMUM** Parole
22 Eligibility after TEN (10) YEARS under the LARGE HABITUAL Criminal Statute,
23 **CONCURRENT** with **COUNT 8**; with FIVE HUNDRED FIFTY-NINE (559) DAYS credit
24
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1 for time served. . As the \$150.00 DNA Analysis Fee and Genetic Testing have been
2 previously imposed, the Fee and Testing in the current case are WAIVED.
3

4 The AGGREGATE TOTAL sentence is LIFE with a MINIMUM PAROLE ELIGIBILITY
5 OF TWENTY (20) YEARS
6

7 THEREAFTER, a clerical error having been discovered, the Amended Judgment
8 of Conviction reflects the following correction: NRS 435.337 – POSSESSION OF
9 CONTROLLED SUBSTANCE WITH INTENT TO SELL for COUNTS 4, 5, 6, and 7.
10

11
12 DATED this 11th day of December, 2017.
13

14
15 
16 _____
17 WILLIAM D. KEPHART
18 DISTRICT COURT JUDGE
19
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**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3RD FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Acting Court Division Administrator

March 01, 2018

Attorney: Kenneth G. Frizzell
619 S Sixth St
Las Vegas NV 89101

Case Number: C-16-312717-1
Department: Department 19

Defendant: Christopher Robert Keller

Attached are pleadings received by the Office of the District Court Clerk which are being forwarded to your office pursuant to Rule 3.70.

Pleadings: **Motion For Appointment Of Counsel**

Rule 3.70. Papers which May Not be Filed

Except as may be required by the provisions of NRS 34.730 to 34.830, inclusive, all motions, petitions, pleadings or other papers delivered to the clerk of the court by a defendant who has counsel of record will not be filed but must be marked with the date received and a copy forwarded to the attorney for such consideration as counsel deems appropriate. This rule does not apply to applications made pursuant to Rule 7.40(b)(2)(ii).

Cordially yours,

DC Criminal Desk # 7

Deputy Clerk of the Court

C-16-312717-1
LSF
Left Side Filing
4725183



Case No. C-16-312717-1

Dept. No. (19) XIX

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK.

Christopher R. Keller
Petitioner,

**MOTION FOR THE APPOINTMENT
OF COUNSEL**

-VS-

STATE OF NEVADA
Respondents.

REQUEST FOR EVIDENTIARY HEARING

COMES NOW, the Petitioner, Christopher R. Keller, proceeding pro se, within the
above entitled cause of action and respectfully requests this Court to consider the appointment of counsel
for Petitioner for the prosecution of this action.

This motion is made and based upon the matters set forth here, N.R.S. 34.750(1)(2), affidavit of
Petitioner, the attached Memorandum of Points and Authorities, as well as all other pleadings and
documents on file within this case.

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF THE CASE

This action commenced by Petitioner Christopher R. Keller, in state custody,
pursuant to Chapter 34, et seq., petition for Writ of Habeas Corpus (Post-Conviction).

II. STATEMENT OF THE FACTS

To support the Petitioner's need for the appointment of counsel in this action, he states the
following:

1. The merits of claims for relief in this action are of Constitutional dimension, and
Petitioner is likely to succeed in this case.

RECEIVED

FEB 28 2018

CLERK OF THE COURT

2. Petitioner is incarcerated at the Ely State Prison in Ely, Nevada. Petitioner is unable to undertake the ability, as an attorney would or could, to investigate crucial facts involved within the Petition for Writ of Habeas Corpus.
3. The issues presented in the Petition involves a complexity that Petitioner is unable to argue effectively.
4. Petitioner does not have the current legal knowledge and abilities, as an attorney would have, to properly present the case to this Court coupled with the fact that appointed counsel would be of service to the Court, Petitioner, and the Respondents as well, by sharpening the issues in this case, shaping the examination of potential witnesses and ultimately shortening the time of the prosecution of this case.
5. Petitioner has made an effort to obtain counsel, but does not have the funds necessary or available to pay for the costs of counsel, see Declaration of Petitioner.
6. Petitioner would need to have an attorney appointed to assist in the determination of whether he should agree to sign consent for a psychological examination.
7. The prison severely limits the hours that Petitioner may have access to the Law Library, and as well, the facility has very limited legal research materials and sources.
8. While the Petitioner does have the assistance of a prison law clerk, he is not an attorney and not allowed to plead before the Courts and like Petitioner, the legal assistants have limited knowledge and expertise.
9. The Petitioner and his assisting law clerks, by reason of their imprisonment, have a severely limited ability to investigate, or take depositions, expand the record or otherwise litigate this action.
10. The ends of justice will be served in this case by the appointment of professional and competent counsel to represent Petitioner.

11. IN MENTAL HEALTH UNIT, UNABLE TO GET HELP OR PERTINANT info on How TO APPEAL
 12. Still Awaiting IL ARGUMENT 2 Funds For counsel Amy Feliciano stole. Broke

Motions for the appointment of counsel are made pursuant to N.R.S. 34.750, and are addressed to the sound discretion of the Court. Under Chapter 34.750 the Court may request an attorney to represent any

such person unable to employ counsel. On a Motion for Appointment of Counsel pursuant to N.R.S. 34.750, the District Court should consider whether appointment of counsel would be of service to the indigent petitioner, the Court, and respondents as well, by sharpening the issues in the case, shaping examination of witnesses, and ultimately shortening trial and assisting in the just determination.

In order for the appointment of counsel to be granted, the Court must consider several factors to be met in order for the appointment of counsel to be granted; (1) The merits of the claim for relief; (2) The ability to investigate crucial factors; (3) whether evidence consists of conflicting testimony effectively treated only by counsel; (4) The ability to present the case; and (5) The complexity of the legal issues raised in the petition.

III CONCLUSION

Based upon the facts and law presented herein, Petitioner would respectfully request this Court to weigh the factors involved within this case, and appoint counsel for Petitioner to assist this Court in the just determination of this action

Dated this 23rd day of FEBRUARY, 20 18.

Ely State Prison
P.O. Box 1989
Ely, Nevada 89301

Christopher Keller
Petitioner.

VERIFICATION

I declare, affirm and swear under the penalty of perjury that all of the above facts, statements and assertions are true and correct of my own knowledge. As to any such matters stated upon information or belief, I swear that I believe them all to be true and correct.

Dated this 23rd day of FEBRUARY, 20 18.

Christopher Keller
Petitioner, pro per.

Case No. C-16-312717-1

Dept. No. (19) XIX

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Christopher R. Keller
Petitioner,

-vs-

STATE OF NEVADA
Respondents.

ORDER APPOINTING COUNSEL

Petitioner, Christopher R. Keller, has filed a proper person REQUEST FOR APPOINTMENT OF COUNSEL, to represent him on his Petition for Writ of Habeas Corpus (Post-Conviction), in the above-entitled action.

The Court has reviewed Petitioner's Request and the entire file in this action, and Good Cause Appearing, IT IS HEREBY ORDERED, that petitioner's Request for Appointment of Counsel is GRANTED.

IT IS FURTHER ORDERED that _____, Esq., is appointed to represent Petitioner on his Post-Conviction for Writ of Habeas Corpus.

Dated this _____ day of _____, 20 ____.

Submitted by:

Christopher Keller
Petitioner, In Proper Person

DISTRICT COURT JUDGE

RECEIVED

FEB 28 2018

CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAIL

I, Christopher R. Keller, hereby certify pursuant to N.R.C.P.

5(b), that on this 23rd day of FEBRUARY, of the year 20 18, I mailed a true and correct copy of the foregoing, MOTION FOR THE APPOINTMENT OF COUNSEL; REQUEST FOR EVIDENTIARY HEARING, to the following:

STEVEN D. GRIFFSON
Name

Name

Name

200 LEWIS AVE. 1st floor
LAS VEGAS, NV
89155-1160
Address

Address

Address

Chris Keller
CHRISTOPHER R. KELLER
Petitioner

AFFIRMATION PURSUANT TO NRS 239B.030

I, Christopher R. Keller, NDOC# 81840,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE
ATTACHED DOCUMENT ENTITLED REQUEST: Motion
FOR the Appointment of Counsel

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 23rd DAY OF FEBRUARY, 2018.

SIGNATURE:

Chris Keller

INMATE PRINTED NAME: Christopher R. Keller

INMATE NDOC # 81840

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301

Case No. C-16-3127171

Dept. No. XIX (19)

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Christopher R. Keller
Petitioner,

-VS-

STATE OF NEVADA
Respondents.

ORDER APPOINTING COUNSEL

Petitioner, Christopher R. Keller, has filed a proper person REQUEST FOR APPOINTMENT OF COUNSEL, to represent him on his Petition for Writ of Habeas Corpus (Post-Conviction), in the above-entitled action.

The Court has reviewed Petitioner's Request and the entire file in this action, and Good Cause Appearing, IT IS HEREBY ORDERED, that petitioner's Request for Appointment of Counsel is GRANTED.

IT IS FURTHER ORDERED that _____, Esq., is appointed to represent Petitioner on his Post-Conviction for Writ of Habeas Corpus.

Dated this _____ day of _____, 20 ____.

Submitted by:

Christopher Keller
Christopher Keller
Petitioner, In Proper Person

DISTRICT COURT JUDGE

C-16-312717-1
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4728766



CLERK OF THE COURT
MAR 13 2018
RECEIVED
CMC

Mc
DA
APR
Kawert G. FRIZZELL
PP

Steven D. Grierson

Case No. C-16-312717

Dept. No. XIX(19)

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

HEARING DATE: 4/16/18
TIME: 8:30 AM

Christopher R. Keller
Petitioner,

**MOTION FOR THE APPOINTMENT
OF COUNSEL**

-VS-

STATE OF NEVADA
Respondents.

~~MOTION TO DISMISS ATTORNEY OF RECORD~~

COMES NOW, the Petitioner, Christopher Keller, proceeding pro se, within the
above entitled cause of action and respectfully requests this Court to consider the appointment of counsel
for Petitioner for the prosecution of this action.

This motion is made and based upon the matters set forth here, N.R.S. 34.750(1)(2), affidavit of
Petitioner, the attached Memorandum of Points and Authorities, as well as all other pleadings and
documents on file within this case.

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF THE CASE

This action commenced by Petitioner Christopher Keller, in state custody,
pursuant to Chapter 34, et seq., petition for Writ of Habeas Corpus (Post-Conviction).

II. STATEMENT OF THE FACTS

To support the Petitioner's need for the appointment of counsel in this action, he states the

following:

1. The merits of claims for relief in this action are of Constitutional dimension, and
Petitioner is likely to succeed in this case.

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MAR 22 2018
CLERK OF THE COURT

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MAR 12 2018
CLERK OF THE COURT

2. Petitioner is incarcerated at the Ely State Prison in Ely, Nevada. Petitioner is unable to undertake the ability, as an attorney would or could, to investigate crucial facts involved within the Petition for Writ of Habeas Corpus.
3. The issues presented in the Petition involves a complexity that Petitioner is unable to argue effectively. AS HE IS A MENTAL HEALTH INMATE.
4. Petitioner does not have the current legal knowledge and abilities, as an attorney would have, to properly present the case to this Court coupled with the fact that appointed counsel would be of service to the Court, Petitioner, and the Respondents as well, by sharpening the issues in this case, shaping the examination of potential witnesses and ultimately shortening the time of the prosecution of this case.
5. Petitioner has made an effort to obtain counsel, but does not have the funds necessary or available to pay for the costs of counsel, see Declaration of Petitioner.
6. Petitioner would need to have an attorney appointed to assist in the determination of whether he should agree to sign consent for a psychological examination.
7. The prison ~~doesn't allow petitioner any~~ DOESN'T ALLOW PETITIONER ANY access to the Law Library, and as well, the facility has very limited legal research materials and sources, NOR ANY LAW CLERK.
8. While the Petitioner does have the assistance of a prison law clerk, he is not an attorney and not allowed to plead before the Courts and like Petitioner, the legal assistants have limited knowledge and expertise, AREN'T ALLOWED ACCESS TO Housing UNIT.
9. The Petitioner and his assisting law clerks, by reason of their imprisonment, have a severely limited ability to investigate, or take depositions, expand the record or otherwise litigate this action. AS THEY ARE IN A MENTAL HEALTH UNIT.
10. The ends of justice will be served in this case by the appointment of professional and competent counsel to represent Petitioner, BECAUSE PRESENT ATTORNEY OF RECORD DOESN'T ANSWER CALLS OR LETTERS (NEVER ONCE) & PETITIONER'S PRO SE MOTIONS GET REJECTED II. ARGUMENT BECAUSE AN ATTORNEY OF RECORD.

Motions for the appointment of counsel are made pursuant to N.R.S. 34.750, and are addressed to the sound discretion of the Court. Under Chapter 34.750 the Court may request an attorney to represent any

such person unable to employ counsel. On a Motion for Appointment of Counsel pursuant to N.R.S. 34.750, the District Court should consider whether appointment of counsel would be of service to the indigent petitioner, the Court, and respondents as well, by sharpening the issues in the case, shaping examination of witnesses, and ultimately shortening trial and assisting in the just determination.

In order for the appointment of counsel to be granted, the Court must consider several factors to be met in order for the appointment of counsel to be granted; (1) The merits of the claim for relief; (2) The ability to investigate crucial factors; (3) whether evidence consists of conflicting testimony effectively treated only by counsel; (4) The ability to present the case; and (5) The complexity of the legal issues raised in the petition.

III CONCLUSION

Based upon the facts and law presented herein, Petitioner would respectfully request this Court to weigh the factors involved within this case, and appoint counsel for Petitioner to assist this Court in the just determination of this action

Dated this 7th day of MARCH, 20 18.

Ely State Prison
P.O. Box 1989
Ely, Nevada 89301

Chris Keller
CHRISTOPHER KELLER
Petitioner.

VERIFICATION

I declare, affirm and swear under the penalty of perjury that all of the above facts, statements and assertions are true and correct of my own knowledge. As to any such matters stated upon information or belief, I swear that I believe them all to be true and correct.

Dated this 7th day of MARCH, 20 18.

Chris Keller
CHRISTOPHER KELLER
Petitioner, pro per.

CERTIFICATE OF SERVICE BY MAIL

I, Christopher Keller, hereby certify pursuant to N.R.C.P.

5(b), that on this 28th day of MARCH, of the year 20 17, I mailed a true and correct copy of the foregoing, MOTION FOR THE APPOINTMENT OF COUNSEL; REQUEST FOR EVIDENTIARY HEARING, to the following:

William Kephart
Name

Name

Name

Court Clerk (Det. 19)
205 Lewis Ave.
LAS VEGAS, NV 89155-1160
Address

Address

Address

Christopher Keller
Petitioner

AFFIRMATION PURSUANT TO NRS 239B.030

I, Christopher R. Keller, NDOC# 81840

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE
ATTACHED DOCUMENT ENTITLED MOTION TO Dismiss
ATTORNEY OF RECORD & APPOINTMENT OF NEW COUNSEL

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 7th DAY OF MARCH, 20 18.

SIGNATURE:

Chris Keller

INMATE PRINTED NAME:

Christopher R. Keller

INMATE NDOC #

81840

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301

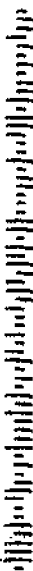
Christopher Keller #81040
E.S.P. P.O. Box # 1989
ELY, NV 89301

LAS VEGAS NV 890

08 MAR 2018 PM 5 L

STEVEN D. GRIERSON (DM: 19 CLERK)
200 LEWIS AVE 3rd Floor
LAS VEGAS, NV 89155-1160

89101-630000



Steven B. Wolfson

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SHANON CLOWERS
Chief Deputy District Attorney
Nevada Bar #010008
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: C-16-312717-1

CHRISTOPHER ROBERT KELLER,
#1804258

DEPT NO: XIX

Defendant.

**ORDER GRANTING DEFENDANT'S MOTION FOR THE APPOINTMENT OF
COUNSEL; ORDER DENYING DEFENDANT'S REQUEST FOR EVIDENTIARY
HEARING**

DATE OF HEARING: December 6, 2017
TIME OF HEARING: 8:30 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 6th day of December, 2018, the Defendant not being present, Represented by KENNETH G. FRIZZELL, ESQ., the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through SHANON CLOWERS, Chief Deputy District Attorney, and the Court having heard the arguments of counsel, based on the pleadings and good cause appearing therefor,

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1 IT IS HEREBY ORDERED that the Defendant's Motion for the Appointment of
2 Counsel and Request for Evidentiary Hearing, shall be, and it is GRANTED in part and
3 DENIED in part; DEFENDANT'S PRO PER MOTION FOR WITHDRAWAL OF
4 ATTORNEY OF RECORD, OR IN THE ALTERNATIVE, REQUEST FOR
5 RECORDS/COURT CASE DOCUMENTS: Court noted Defendant not present and in
6 custody with the Nevada Department of Corrections.

7 COURT ORDERED, Motion GRANTED and directed Mr. Frizzell to forward a copy
8 of the file.

9 DEFENDANT'S PRO PER MOTION FOR THE APPOINTMENT OF COUNSEL
10 REQUESTED FOR EVIDENTIARY HEARING: COURT ORDERED, Motion DENIED at
11 this time as Defendant has failed to make any claims which the Court can make a
12 determination that anything warrants the appointment of counsel. Mr. Frizzell advised in
13 relation to the appeal all documents have been filed with the exception of the transcripts which
14 have just been completed by the Court's recorder and the appellant's brief is due on 12/27/17.

15 Court stated Mr. Frizzell shall remain on as counsel until the opening brief is filed with
16 the Supreme Court.

17 DATED this 9th day of April, 2018.

18 
19 DISTRICT JUDGE

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

22 
23 BY

24 SHANON CLOWERS
Chief Deputy District Attorney
Nevada Bar #010008

25
26
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28 cmj/L2



OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
CHARLES W. THOMAN
Deputy District Attorney
Nevada Bar #12649
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: C-16-312717-1

CHRISTOPHER ROBERT KELLER,
#1804258

DEPT NO: XIX

Defendant.

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO APPOINT COUNSEL AND
MOTION TO DISMISS ATTORNEY OF RECORD

DATE OF HEARING: April 16, 2018
TIME OF HEARING: 8:30 a.m.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through CHARLES W. THOMAN, Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record.

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

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On February 17, 2016, Christopher Robert Keller ("Defendant") was charged by way
4 of Information with COUNTS 1 and 2 - Trafficking In Controlled Substance (Category A
5 Felony - NRS 453.3385.3 - NOC 51160); COUNT 3 - Possession Of Controlled Substance,
6 Marijuana (Category E Felony - NRS 453.336 - NOC 51127); COUNTS 4, 5, 6, and 7 -
7 Possession Of Controlled Substance With Intent To Sell (Category D Felony - NRS 453.337 -
8 NOC 51141); and COUNTS 8 and 9 - Ownership Or Possession Of Firearm By Prohibited
9 Person (Category B Felony - NRS 202.360 - NOC 51460). On February 18, 2016, Defendant
10 entered a plea of not guilty and invoked his constitutional right to a speedy trial.

11 On March 24, 2016, the State filed a Notice of Intent to Seek Punishment as a Habitual
12 Criminal. At Calendar Call on April 13, 2016, Defendant's counsel, Michael Sanft, Esq.,
13 announced he had a conflict for the trial date due to the upcoming trial. Defendant stated he
14 wanted to go to trial at the original date, and due to counsel's conflict, the court ordered the
15 trial date reset. At this date, the State also extended a plea offer to Defendant for one count of
16 low level trafficking in a controlled substance and one count of possession of a firearm by a
17 prohibited person, with Defendant stipulating to small habitual treatment, with a stipulated
18 maximum sentence of twelve and one half years. The trial date was reset to May 2, 2016
19 ("First Continuance").

20 At Calendar Call on April 20, 2016, Defendant stated he wanted to go to trial and was
21 willing to represent himself if need be. On April 29, 2016, the State filed an Amended
22 Information, charging Defendant with the same charges as the original information. On April
23 29, 2016, Mr. Sanft requested to withdraw due to a conflict of interest. The court granted the
24 request, and appointed Kenneth Frizzell, Esq. On May 2, 2016, Kenneth Frizzell, Esq.
25 confirmed as counsel. Id. Due to the change in counsel, the trial date was vacated and reset
26 to June 27, 2016 ("Second Continuance"). Id. On May 4, 2016, Mr. Frizzell confirmed as
27 counsel.
28

1 On July 18, 2016, the State filed a Notice of Intent to Seek Habitual Treatment. A
2 second Amended Information was filed on March 6, 2017, in open court charging Defendant
3 with COUNTS 1 and 2 - Trafficking In Controlled Substance (Category A Felony - NRS
4 453.3385.3 - NOC 51160); COUNT 3 - Possession Of Controlled Substance, Marijuana
5 (Category E Felony - NRS 453.336 - NOC 51127); and COUNTS 4-7 - Possession Of
6 Controlled Substance With Intent To Sell (Category D Felony - NRS 453.337 - NOC 51141).
7 Defendant's jury trial started on March 7, 2017, and ended on March 10, 2017, when the jury
8 returned a verdict of guilty on all seven counts.

9 Then, the third Amended Information was filed in open court which added COUNTS 8
10 and 9 Ownership or Possession of Firearm by Prohibited Person (Category B Felony - NRS
11 202.360 - NOC 51460). The jury also returned a verdict of guilty on counts 8 and 9.

12 On August 7, 2017, Defendant was sentenced as follows: as to Count 1- LIFE in the
13 Nevada Department of Corrections (NDC) with a minimum parole eligibility after ten (10)
14 years in NDC; as to Count 2 – LIFE in the NDC with a minimum parole eligibility after ten
15 (10) years in the NDC; Count 2 to run concurrent with Count 1; as to Count 3 – a minimum of
16 twelve (12) months and a maximum of forty-eight (48) months in the NDC; Count 3 to run
17 concurrent with Count 2; as to Count 4 – to a minimum of twelve (12) months and a maximum
18 of forty-eight (48) months in the NDC; Count 4 to run concurrent with Count 3; as to Count 5
19 -- a minimum of twelve (12) month and a maximum of forty-eight (48) months in the NDC;
20 Count 5 to run concurrent with county 4; as to Count 6 - to a minimum of twelve (12) months
21 and a maximum of forty-eight (48) months in the NDC; Count 6 to run concurrent with Count
22 5; as to Count 7 - to a minimum of twelve (12) months and a maximum of forty-eight (48)
23 months in the NDC; Count 7 to run concurrent with Count 6; as to Count 8 – Defendant
24 sentenced under the large habitual criminal statute to LIFE in the Nevada Department of
25 Corrections (NDC) with a minimum parole eligibility after ten (10) years in the NDC; Count
26 8 to run CONSECUTIVE to Counts 1, 2, 3, 4, 5, 6, and 7; and as to Count 9, Defendant
27 sentenced under the large habitual criminal statute to LIFE in the Nevada Department of
28 Corrections (NDC) with a minimum parole eligibility after ten (10) years in the NDC; Count

1 9 to run concurrent with Count 8: for a total aggregate sentence of LIFE in the NDC with a
2 minimum parole eligibility of TWENTY (20) years in the NDC, and 559 days' credit for time
3 served.

4 Defendant's Judgment of Conviction was filed on August 10, 2017. On August 24,
5 2017, Defendant filed a Notice of Appeal. On November 14, 2017, Defendant filed a Motion
6 for Appointment of Counsel and a Motion for Withdrawal of Attorney of Record. On
7 December 6, 2017, this Court granted Defendant's Motion for Withdrawal of Counsel and
8 denied Defendant's Motion for Appointment of Counsel.

9 An Amended Judgment of Conviction was filed on December 12, 2017, correcting the
10 statute to NRS 435.337 for Possession of Controlled Substance with Intent to Sell for Counts
11 4, 5, 6, and 7.

12 On March 22, 2018, Defendant filed another Motion for Appointment of Counsel and
13 a Motion to Dismiss Attorney of Record. The State herein responds.

14 ARGUMENT

15 **I. DEFENDANT IS NOT ENTITLED TO POST-CONVICTION COUNSEL**

16 Under the U.S. Constitution, the Sixth Amendment provides no right to counsel in post-
17 conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S. Ct. 2546, 2566
18 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258 (1996), the Nevada
19 Supreme Court similarly observed that "[t]he Nevada Constitution . . . does not guarantee a
20 right to counsel in post-conviction proceedings, as we interpret the Nevada Constitution's right
21 to counsel provision as being coextensive with the Sixth Amendment to the United States
22 Constitution." McKague specifically held that with the exception of NRS 34.820(1)(a)
23 (entitling appointed counsel when petitioner is under a sentence of death), one does not have
24 "any constitutional or statutory right to counsel at all" in post-conviction proceedings. Id. at
25 164, 912 P.2d at 258.

26 However, the Nevada Legislature has given courts the discretion to appoint post-
27 conviction counsel so long as "the court is satisfied that the allegation of indigency is true and
28 the petition is not dismissed summarily." NRS 34.750. NRS 34.750 reads:

1 A petition may allege that the Defendant is unable to pay the costs of
2 the proceedings or employ counsel. If the court is satisfied that the
3 allegation of indigency is true and the petition *is not dismissed*
4 *summarily*, the court may appoint counsel at the time the court orders
5 the filing of an answer and a return. In making its determination, the
6 court may consider whether:

(a) The issues are difficult;

(b) The Defendant is unable to comprehend the proceedings;
or

(c) Counsel is necessary to proceed with discovery.

7 (emphasis added). Under NRS 34.750, it is clear that the court has discretion in determining
8 whether to appoint counsel.

9 Here, Defendant is not entitled to the appointment of post-conviction counsel.
10 Moreover, he has provided no reason for such an appointment. Further, he has not filed a
11 Petition for Writ of Habeas Corpus, and his direct appeal is currently pending in the Nevada
12 Supreme Court. Defendant recently filed a Motion for Appointment of Counsel that was
13 denied by this Court on December 6, 2017. Therefore, Defendant's request for appointment of
14 post-conviction counsel should be denied.

15 **II. DEFENDANT'S CLAIM SEEKING TO WITHDRAW HIS ATTORNEY OF** 16 **RECORD IS MOOT**

17 The Supreme Court of Nevada holds that "the duty of every judicial tribunal is to decide
18 actual controversies by a judgment which can be carried into effect, and not to give opinions
19 upon moot questions or abstract propositions, or to declare principles of law which cannot
20 affect the matter in issue before it." NCAA v. University of Nevada, Reno, 97 Nev. 56, 57,
21 624 P.2d 10 (1981). Furthermore, "[c]ases presenting real controversies at the time of their
22 institution may become moot by the happening of subsequent events." Id. at 58, at 11.

23 Defendant requests that this Court dismiss his current attorney of record. However, on
24 December 6, 2017, this Court already dismissed Kenneth G. Frizzell, but asked Mr. Frizzell to
25 stay on the case until Defendant's direct appeal was filed. Court Minutes, December 6, 2017.
26 Defendant's direct appeal was filed on January 11, 2018. Thus, this claim is moot and should
27 be denied.
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Enter Conclusion

DATED this 20th day of April, 2018.

Respectfully submitted,

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

BY

CHARLES W. THOMAS
Deputy District Attorney
Nevada Bar #12649

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I hereby certify that service of the above and foregoing was made this 15 day of April, 2018, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

CHRISTOPHER ROBERT KELLER
Ely State Prison
P.O. Box 1989
Ely, NV, 89301

BY

C. Jimenez
Secretary for the District Attorney's Office

CWI/cmj/1.2



ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ERIKA MENDOZA
Chief Deputy District Attorney
Nevada Bar #012520
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER,
#1804258

Defendant.

CASE NO: C-16-312717-1

DEPT NO: XIX

ORDER DENYING DEFENDANT'S MOTION TO APPOINT COUNSEL AND
MOTION TO DISMISS ATTORNEY OF RECORD

DATE OF HEARING: April 16, 2018
TIME OF HEARING: 8:30 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 16th day of April, 2018, the Defendant not being present, Represented by KENNETH FRIZZELL, ESQ., the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through ERIKA MENDOZA, Chief Deputy District Attorney, and the Court without argument, based on the pleadings and good cause appearing therefor,

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1 IT IS HEREBY ORDERED that the Defendant's Motion to Appoint Counsel and
2 Motion to Dismiss Attorney of Record, shall be, and it is DENIED; at this time pending any
3 direction from the Supreme Court.

4 DATED this 7th day of ^{May}~~April~~, 2018.

5 
6 DISTRICT JUDGE

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

10 BY


11 ERIKA MENDOZA
12 Chief Deputy District Attorney
13 Nevada Bar #012520
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28 cmj/L2

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ROBERT KELLER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 73871
District Court Case No. C312717

FILED

NOV 14 2018

Elizabeth A. Brown
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the judgment of the district court AFFIRMED."

Judgment, as quoted above, entered this 15th day of October, 2018.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
November 09, 2018.

Elizabeth A. Brown, Supreme Court Clerk

By: Rory Wunsch
Deputy Clerk

C-16-312717-1
CCJA
NV Supreme Court Clerks Certificate/Judgm
4796260



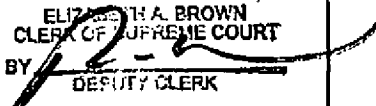
IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ROBERT KELLER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 73871

FILED

OCT 15 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

A jury convicted Christopher Keller of seven drug-related crimes and two counts of ownership or possession of a firearm by a prohibited person. Eighth Judicial District Court, Clark County; William D. Kephart, Judge. On appeal, Keller argues that (1) the district court should have continued his trial date to allow him to substitute private counsel for his appointed counsel; (2) the district court should have suppressed the evidence obtained from his condominium; (3) the district court should have excluded phone conversations from the jail as inadmissible hearsay; and (4) the cumulative effect of these errors requires reversal. We affirm.

The district court was within its discretion to deny substitution of counsel

Keller argues that the district court erred by not granting a continuance on the first day of trial to allow him to substitute private counsel for appointed counsel. "We review the denial of a motion for substitution of counsel for abuse of discretion." *Young v. State*, 120 Nev. 963, 968, 102 P.3d 572, 576 (2004). When determining whether the district court was within its discretion to deny a motion for substitution of counsel, we consider: "(1) the extent of the conflict; (2) the adequacy of the inquiry; and (3) the timeliness of the motion." *Id.* (quoting *United States v. Moore*,

159 F.3d 1154, 1158-59 (9th Cir. 1998)). Here, the district court was within its discretion to deny Keller's motion, because the conflict between Keller and his appointed counsel was not irreconcilable, the district court made an adequate inquiry, and the motion was untimely.

Extent of the conflict

While Keller previously moved to dismiss his appointed counsel over eight months before trial and had filed a bar complaint against him, Keller's primary conflict with his appointed counsel at the time of trial was counsel's use of an investigator Keller disliked. Keller's objection to appointed counsel's choice of investigator and a newfound ability to afford private counsel shortly before trial do not constitute an irreconcilable conflict. Compare *Brinkley v. State*, 101 Nev. 676, 678-79, 708 P.2d 1026, 1028 (1985) (characterizing reasons for substituting counsel as "unnoteworthy" when due to displeasure with a lack of communication and a newfound ability to afford private counsel), and *Rimer v. State*, 131 Nev. 307, 327, 351 P.3d 697, 711-712 (2015) (denying motion to substitute counsel where "private counsel had a different strategy and asked for a 90-day continuance"), with *Young*, 120 Nev. at 969, 102 P.3d at 576-77 (holding that there was "strong evidence of an irreconcilable conflict" where defendant complained about counsel five times to the court, moved to substitute counsel twice, and counsel disobeyed a court order to visit the defendant weekly).¹

¹Notably, the same private counsel was substituted in after trial to handle Keller's sentencing. But after private counsel received three continuances, Keller moved to dismiss private counsel and the district court reappointed trial counsel.

The adequacy of the inquiry

The district court adequately inquired into the conflict between Keller and his appointed counsel. While the district court initially focused on efficiency and "trying to move cases" when ruling on Keller's motion, it was because private counsel did not say that the reason for attempting to substitute in was due to Keller's conflict with appointed counsel. Rather, private counsel focused on the reasons for waiting until the morning of the first day of trial to substitute as counsel. The court adequately considered those reasons, as well as appointed counsel's concerns and Keller's concerns as to appointed counsel's continued representation of Keller. *Cf. Young*, 120 Nev. at 970-71, 102 P.3d at 577 (error found where the district court "failed to inquire in any depth about [the defendant's] complaints" and "should have made a more thorough inquiry").

The timeliness of the motion

The third factor, the timeliness of the motion, balances "a defendant's constitutional right to counsel against the inconvenience and delay that would result from the substitution of counsel." *Young*, 120 Nev. at 969-70, 102 P.3d at 577. "It is within the trial judge's discretion to deny a motion to substitute [counsel] made during or on the eve of trial if the substitution would require a continuance." *United States v. McClendon*, 782 F.2d 785, 789 (9th Cir. 1986); *Brinkley*, 101 Nev. at 679, 708 P.2d at 1028 ("Ordinarily, denial of such a motion for continuance, immediately prior to trial, is within the discretion of the trial court.").

Keller knew for more than five months that he had a March 6 trial date. *See Rimer*, 131 Nev. at 326-27, 351 P.3d at 711-12 (motion to substitute counsel on the eve of trial was untimely where defendant knew trial date for over three months). But Keller did not hire private counsel

until February, and then private counsel waited until the morning of March 6 to formally attempt to substitute into the case, and was not prepared to go to trial. Additionally, the State possessed a recorded phone call suggesting that Keller hoped to use private counsel “for dilatory tactics or bad-faith interference with the administration of justice.” *Young*, 120 Nev. at 970, 102 P.3d at 577. Given that the motion to substitute counsel came on the eve of trial, and that granting the motion would require continuance to a seventh trial date, the district court had discretion to deny the motion. *See Rimer*, 131 Nev. at 326-37, 351 P.3d at 711; *see also Brinkley*, 101 Nev. at 679, 708 P.2d at 1028 (court was within its discretion to deny motion brought on hearing five days before trial).

The district court did not abuse its discretion by denying Keller’s motion to suppress evidence from Keller’s condo

After finding drugs in Keller’s vehicle, the police sought and received a warrant to search Keller’s condo. Keller argues that “the police violated the Fourth Amendment by assuming that because drugs were found in [his] car, more drugs or evidence of trafficking was to be located in the residence.” “Suppression issues present mixed questions of law and fact.” *Johnson v. State*, 118 Nev. 787, 794, 59 P.3d 450, 455 (2002), *overruled on other grounds by Nunnery v. State*, 127 Nev. 749, 772, 263 P.3d 235, 250-51 (2011). “This court reviews findings of fact for clear error, but the legal consequences of those facts involve questions of law that [the court reviews] de novo.” *State v. Beckman*, 129 Nev. 481, 486, 305 P.3d 912, 916 (2013).

Under the Fourth Amendment, “no Warrants shall issue, but upon probable cause, supported by Oath or affirmation.” U.S. Const. amend. IV; *see Nev. Const. art. 1, § 18*. “[P]robable cause is a fluid concept—turning on the assessment of probabilities in particular factual contexts—

not readily, or even usefully, reduced to a neat set of legal rules.” *Illinois v. Gates*, 462 U.S. 213, 232 (1983). It requires that there be “a fair probability, given the totality of the circumstances, that contraband or evidence . . . would be found at that location.” *United States v. Lattner*, 385 F.3d 947, 953 (6th Cir.2004) (internal quotations omitted). A district court determines probable cause by considering the totality of the circumstances. *Gates*, 462 U.S. at 230-31. “[T]he duty of a reviewing court is simply to ensure that the magistrate had a ‘substantial basis for . . . conclud[ing]’ that probable cause existed.” *Id.* at 238-39 (alteration in original) (quoting *Jones v. United States*, 362 U.S. 257, 271 (1960)).

The totality of the circumstances supports finding probable cause to search Keller’s home. Inside Keller’s car, officers found 344.29 grams of methamphetamine, 33.92 grams of heroin, .537 grams of cocaine, a mixture of the three controlled substances, and a gun. The quantity of methamphetamine and heroin exceed personal use levels, and the discovery of 1-inch by 1-inch baggies, a large amount of cash, as well as a gun, fairly indicated to the officers that Keller was trafficking in drugs. Further, when Officer Lopez initiated the traffic stop, Keller tried to exit the car parked in front of his condo, which in conjunction with Keller’s evasive driving, Officer Lopez took as an attempt to escape.

Taken as a whole, these circumstances supported a finding of probable cause that Keller was a drug dealer and that more drugs and guns would be found inside his condo. See 2 Wayne R. LaFave, *Search and Seizure: A Treatise on the Fourth Amendment*, § 3.7(d) (5th ed. 2012) (it is common to find probable cause “on the basis of the affiant-officer’s experience (or, for that matter, the magistrate’s own common-sense judgment) that drug dealers ordinarily keep their supply, records and

monetary profits at home") (footnotes omitted); see also *State v. Olson*, 575 N.W.2d 649, 657 (N.D. 1998) (noting that evidence found in the defendant's car "would warrant a person of reasonable caution to believe there was probably more' drugs and drug paraphernalia in [the defendant's] residence") (quoting *State v. Johnson*, 531 N.W.2d 275, 279 (N.D. 1995)); *State v. Guthmiller*, 646 N.W.2d 724, 731 (N.D. 2002) (probable cause existed to search defendant's home when his car was seen leaving and returning to house and then a search of the car revealed meth). Thus, the district court did not abuse its discretion by denying Keller's motion to suppress evidence obtained from his condo through a search warrant.²

The district court did not abuse its discretion by admitting a recorded phone conversation between Keller and an unidentified woman

The district court allowed the State to play an audio recording of a phone conversation between Keller, from jail, and an unidentified woman. On the recording, the woman tells Keller that she fired gun shots during Keller's traffic stop to distract police from the stop. Keller argues

²Additionally, as the district court found, the officers relied in good faith on the search warrant for Keller's condo. The evidence does not suggest that the officers misled the judge who issued the warrant, nor does it support that the officers lacked "reasonable grounds for believing that the warrant was properly issued." *United States v. Leon*, 468 U.S. 897, 923 (1984); *State v. Allen*, 119 Nev. 166, 171-72, 69 P.3d 232, 235-36 (2003) (good faith exception did not apply when officer failed to attach affidavit to search warrant, which was unambiguously required by law). Thus, even if probable cause was lacking, the district court was not required to suppress the evidence from Keller's condo. See *Leon*, 468 U.S. at 920 (holding that evidence should not be suppressed "when an officer acting with objective good faith has obtained a search warrant from a judge or magistrate and acted within its scope"); *Allen*, 119 Nev. at 172, 69 P.3d at 236 ("Under *Leon*, an officer's objectively reasonable reliance on an invalid warrant issued by a magistrate or judge will not act to suppress evidence seized under the warrant.").

that the district court abused its discretion by admitting the recorded call over his hearsay objection. We review the district court's decision for an abuse of discretion. *See Harkins v. State*, 122 Nev. 974, 980, 143 P.3d 706, 709 (2006).

Unless an exception applies, an out of court statement offered "to prove the truth of the matter asserted" is hearsay and inadmissible at trial. *See* NRS 51.035 (defining hearsay); NRS 51.065 (providing that hearsay is inadmissible). "However, the hearsay rule does not apply if the statement is not offered to prove the truth of the matter asserted." *Wallach v. State*, 106 Nev. 470, 473, 796 P.2d 224, 227 (1990) (internal quotation marks omitted). A party's own statement offered against that party at trial is also not hearsay. NRS 51.035(3)(a).

The jail recordings contained two speakers: Keller and an unidentified woman. Keller's statements are not hearsay, because they are his own statements offered against him at trial. *See* NRS 51.035(3)(a). And the statements of the unidentified woman are also not hearsay, because the statements were not admitted to prove that the woman fired the gun shots, but rather to give context to Keller's reactions to such statements. *See Wade v. State*, 114 Nev. 914, 918, 966 P.2d 160, 162-63 (1998) (where an unidentified speaker's statements on a tape were not "to prove the truth of the matter asserted, but only for the limited purpose of providing context for [the defendant's] statements"), *opinion modified on denial of rehearing by Wade v. State*, 115 Nev. 290, 986 P.2d 438 (1999).

At trial, the State needed to prove Keller's mental state in relation to the drugs and guns found in his car and his condo. *See* NRS 453.336 (possession of a controlled substance); NRS 453.337 (possession of a controlled substance with intent to sell); NRS 453.3385 (trafficking in a

controlled substance); NRS 202.360 (prohibited ownership or possession of a firearm). Keller's reaction to the woman's statement that she fired five shots to distract the police is evidence of Keller's mental state: Keller's lack of surprise at the woman feeling she needed to distract the police from the traffic stop tends to show that Keller knew he was engaging in illegal conduct, such as possessing guns despite being a felon and keeping large quantities of drugs in a secret compartment in his vehicle. See *United States v. Valerio*, 441 F.3d 837, 844 (9th Cir. 2006) (where tape was admitted to give context to the defendant's admissions, because the defendant's statements "were highly relevant to providing the mental element of the crime"). Thus, because the recording did not contain inadmissible hearsay, the district court did not abuse its discretion by admitting the phone recording over Keller's hearsay objection.³


There is no cumulative error


Keller summarily argues that cumulative error requires reversal. But, Keller fails to establish any error on appeal, and the evidence presented at trial against him was overwhelming. See *Big Pond v. State*, 101 Nev. 1, 3, 692 P.2d 1288, 1289 (1985) (considering "whether the issue of innocence or guilt is close, the quantity and character of the error, and the

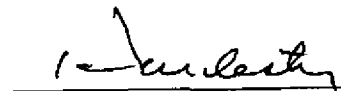
³Keller did not argue before the district court, or on appeal, that the danger of unfair prejudice substantially outweighed the evidence's probative value. See NRS 48.035.

gravity of the crime charged" in determining cumulative error). We therefore,

ORDER the judgment of the district court AFFIRMED.


_____, J.
Pickering


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. William D. Kephart, District Judge
Kenneth G. Frizzell, III
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

CERTIFIED COPY

This document is a full, true and correct copy of
the original on file and of record in my office.

DATE: NOVEMBER 9, 2018

Supreme Court Clerk, State of Nevada

By [Signature] Deputy

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ROBERT KELLER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 73871
District Court Case No. C312717

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: November 09, 2018

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch
Deputy Clerk

cc (without enclosures):

Hon. William D. Kephart, District Judge
Kenneth G. Frizzell, III
Clark County District Attorney

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on NOV 14 2018.

Deputy HEATHER UNGERMANN
District Court Clerk

RECEIVED
APPEALS

NOV 14 2018

CLERK OF THE COURT

DP
DA

FILED

DEC 31 2018

Ann L. Schmitt
CLERK OF COURT

IN THE 9th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Christopher Keller

Petitioner/Plaintiff,

v.

STATE OF NEVADA

Respondent/Defendant.

Case No. C-16-312717-1

Dept. No. XIX

Docket No. _____

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Respondent/Defendant, Michael

DICKERSON, County District Attorney, and KENNETH

FRIZZELL, Esq.

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 23 day of JAN

2019, at the hour of 8:30 AM O'clock A.M., or as soon thereafter as

the parties may be heard, the undersigned will bring on for hearing the attached **MOTION FOR**

WITHDRAWAL OF ATTORNEY OF RECORD, before the above-entitled Court, at the

District Court, Courthouse, in LAS VEGAS, Nevada, in

Department No. XIX, thereof.

DATED this 25th day of DECEMBER, 2018.

Respectfully submitted,

Christopher R. Keller

Petitioner/Plaintiff

Ely State Prison

P.O. Box 1989

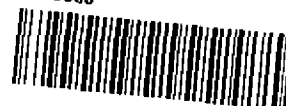
Ely, Nevada 89301-1989

RECEIVED

DEC 31 2018

CLERK OF THE COURT

C-16-312717-1
NOTM
Notice of Motion
4806003



FILED

DEC 31 2018

Alvin L. Johnson
CLERK OF COURT

IN THE 9th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Christopher Keller

Petitioner/Plaintiff,

vi.

STATE OF NEVADA

Respondent/Defendant.

Case No. C-16-312717-1

Dept. No. XIX

Docket No. _____

**MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD OR IN THE
ALTERNATIVE, REQUEST FOR RECORDS/COURT CASE DOCUMENTS**

"EVIDENCE PHOTOS"

COMES NOW, Petitioner/Plaintiff, Christopher Keller, pro per,
and respectfully moves this Honorable Court for its Order withdrawing Kenneth
FRIZZELL, Esq., as the Attorney of Record in the above-entitled matter.

This Motion is made and based upon Nev. Rev. Stat. 7.055, and Nev. Sup. Ct. Rules 166(4), 173,
176, and 203, and Rules 11 and 20 of the Rules of the District Courts of the State of Nevada.

POINTS AND AUTHORITIES

Nev. Rev. Stat. 7.055, provides that:

An attorney who has been discharged by his client shall, upon demand...immediately deliver to the client all papers, documents, pleadings and items of tangible personal property which belong to or were prepared for that client.

See also Nev. Sup. Ct. Rule 166(4):

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as ...surrendering papers and property to which the client is entitled..."

Petitioner/Plaintiff would respectfully point out to this Court and the attorney of record that there

C-16-312717-1
MOT
Motion
4806002



is controlling law on this issue. This citation of authority is precautionary only. In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963), and State v. Alvey, 215 Kan. 460, 524 P.2d 747 (1974), both cases dealt with a factual situation involving a withdrawn attorney refusing to deliver to a former client his documents after being requested to do so by the client. The Court in Yount, supra, ordered the attorney disbarred, while in Alvey, supra, the Court had the attorney censured.

In most situations it is obviously not necessary to notify the parties when the attorney withdraws from a case, but when the client wishes to remove his attorney and represent himself in person, it is required by these Statutes and Rules that the client request the Court of action to issue a certificate releasing the attorney of record. Under such statutes it is necessary for the party to present his request for the change in order for the court in making an order withdrawing the attorney of record, and to make formal demand to the Attorney for the return of all papers and property. KENNETH FRIZZELL is FILING APPEALS AGAINST the PETITIONERS WISHES.

Therefore, let this Court be so notified that this is the desire of the Petitioner/Plaintiff herein that the aforementioned attorney of record be withdrawn and the same shall be for any other attorney(s) which could possibly be subscribed and documented as attorney(s) of record in this case, so that further actions in the above-entitled cause can be conducted by the Petitioner/Plaintiff in proper person.

Further, Petitioner/Plaintiff hereby makes formal demand upon KENNETH FRIZZELL, Esq., for the return of his entire file, including, but not limited to all papers, documents, pleadings and items of tangible personal property which belong to or were prepared on my behalf to me at the address set forth in this pleading.

Further, it is requested of this Court that it issue an Order directing the named attorney of record that he turn over to the Petitioner/Plaintiff the entire case file, without costs, including, but not limited to, the trial transcripts or guilty plea transcript, all briefs on appeal, and all other papers and police reports relating to this matter, so that Petitioner/Plaintiff may prosecute an appeal/post-conviction with a minimum amount of delay. PETITIONER NEEDS all pictures from the CASE to complete his HABEAS CORPUS.

CONCLUSION

WHEREFORE, all of the above stated reasons, Petitioner/Plaintiff respectfully requests this Honorable Court to grant his Motion for Withdrawal of Attorney of Record in accordance with this Court's fair and just consideration of the facts of the case.

DATED this 25th day of DECEMBER, 2018.

Respectfully submitted,

Christopher Keller

Petitioner/Plaintiff

CERTIFICATE OF SERVICE

I hereby certify pursuant to N.R.C.P. 5(b) that I am the Petitioner/Plaintiff in the foregoing Notice of Motion and Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents on this 25th day of DECEMBER, 2018, I did serve a true and correct copy of the above mentioned document, by giving it to a prison official at the Ely State Prison to deposit in the U.S. Mail, sealed in an envelope, postage pre-paid, and addressed as follows:

STEVEN G. ERSON

DATED this 25th day of DECEMBER 2018.

Christopher Keller
Petitioner/Plaintiff

AFFIRMATION PURSUANT TO NRS 239B.030

I, Christopher Keller, NDOC# 81840

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE

ATTACHED DOCUMENT ENTITLED Withdraw of Attorney
OF RECORD & REQUEST FOR CASE EVIDENCE photos

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY

PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 25th DAY OF DECEMBER, 2018.

SIGNATURE: 

INMATE PRINTED NAME:

Christopher R. Keller

INMATE NDOC #

81840

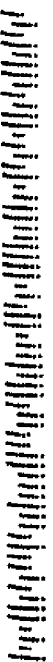
INMATE ADDRESS: ELY STATE PRISON

P. O. BOX 1989

ELY, NV 89301

Christopher Keller #818410
E.S.P. P.O. Box #1989
Elgin, NV 89301

STEVEN D. GRIFFIN, Clerk (Dept XIX)
200 Lewis Ave 3rd floor
Las Vegas, NV 89155-1160



ELY STATE PRISON
DEC 26 2018
U2



ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LEAH BEVERLY
Chief Deputy District Attorney
Nevada Bar #012556
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER,
#1804258

Defendant.

CASE NO: C-16-312717-1

DEPT NO: XIX

**ORDER GRANTING PETITIONER'S PRO PER MOTION FOR WITHDRAWAL
OF COUNSEL OF RECORD, OR IN THE ALTERNATIVE, REQUEST FOR
RECORDS/COURT CASE DOCUMENT**

DATE OF HEARING: January 23, 2019
TIME OF HEARING: 08:30 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 23rd day of January, 2019, the Defendant not being present, in proper person, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through LEAH BEVERLY, Chief Deputy District Attorney, without argument, based on the pleadings and good cause appearing therefor,

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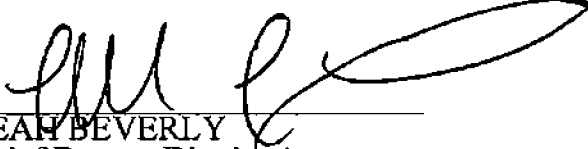
1 IT IS HEREBY ORDERED that the Petitioner's Pro Per Motion for Withdrawal of
2 Counsel of Record, or in the Alternative, Request for Records/Court Case Document, shall
3 be, and it is GRANTED.

4 DATED this 30th day of January, 2019.

5 
6 DISTRICT JUDGE

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

10 BY


11 LEAH BEVERLY
12 Chief Deputy District Attorney
13 Nevada Bar #012556

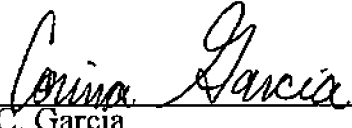
14
15
16 CERTIFICATE OF SERVICE

17 I certify that on the 1st day of February, 2019, I mailed a copy of the foregoing Order

18 to:

19 CHRISTOPHER KELLER, BAC #81840
20 ELY STATE PRISON
21 P.O. BOX 1989
22 ELY, NV 89301

23 BY


24 C. Garcia
25 Secretary for the District Attorney's Office

26
27
28 cg/L2

FILED

APR 03 2019

CLERK OF COURT

IN THE 9th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Christopher Keller

Petitioner,

vs.

STATE OF NEVADA

Respondent.

Case No. C-16-312717-1

Dept. No. XIX

Docket No. _____

April 24 2019
8:30 AM

REQUEST FOR RECORDS/COURT CASE DOCUMENTS

COMES NOW, Petitioner, Christopher R. Keller, pro per, and respectfully moves this Honorable Court for an Order granting Petitioner a copy of any and all Court records, including but not limited to, Pre-Trial Motions and Transcripts of any Hearings on same, Pre-Trial Writs of Habeas Corpus and Transcripts of any Hearings on same, any Evidentiary Hearings and Transcripts of same, Trial Transcripts, any Post-Trial Petitions or Motions, and any and all Habeas Corpus or other Post-Conviction Petitions and Transcripts of same.

POINTS AND AUTHORITIES

In Griffin v. Illinois, 351 U.S. 12, 76 S. Ct. 585, 100 L.Ed. 891, the United States Supreme Court held that it violates the due process and equal protection clauses of the Fourteenth Amendment when a state denies an indigent defendant the transcripts necessary for his appeal. The Court held:

"There can be no equal justice where the kind of a trial a man gets depends upon the amount of money he has. Destitute defendants must be afforded as adequate appellate review as defendants who have money enough to buy transcripts. * * * Plainly the ability to pay costs in advance bears no rational relationship to the defendant's guilt or innocence and could not be used as an excuse to deprive a defendant of a fair trial."

This Griffin principle has been applied in other U.S. Supreme cases as well. See Burns v. Ohio, 360 U.S. 252, 79 S. Ct. 1164, 3 L.Ed. 1209 (Applicable to state collateral proceedings). Also, Smith v. Bennett, 365 U.S. 708, 81 S. Ct. 895, 6 L.Ed. 39 (No requirement of paying

CLERK OF THE COURT

APR 03 2019

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statutory filing fees). The Nevada Supreme Court has also adopted the *Griffin* principle to Nevada. See State v. Eighth Judicial District Court, 396 P. 2d 680.

CONCLUSION

Based upon the above stated points and authorities and arguments, Petitioner respectfully requests this Court to Grant this Request.

DATED this 31st day of MARCH, 2019.

Respectfully submitted, Chris Keller
Chris Keller
Petitioner

CERTIFICATE OF SERVICE

I hereby certify pursuant to N.R.C.P. 5(b) that I am the Petitioner in the foregoing Notice of Motion and Request For Records/Court Case Documents on this 31st day of MARCH, 2019, I did serve a true and correct copy of the above mentioned document, by giving it to a prison official at the Ely State Prison to deposit in the U.S. Mail, sealed in an envelope, postage pre-paid, and addressed as follows:

STEVEN D. GRIERSON
(COURT CLERK)
200 LEWIS AVE. 3rd floor
LAS VEGAS, NV
89155-1160

DATED this 31st day of MARCH, 2019.

Chris Keller
Christopher Keller
Petitioner

AFFIRMATION PURSUANT TO NRS 239B.030

I, Christopher R. Keller, NDOC# 81840,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE

ATTACHED DOCUMENT ENTITLED Request for Court Case

Documents (EVIDENCE PHOTOS & Court minutes from first 45 days of case)

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY

PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 31st DAY OF March, 2019.

SIGNATURE: Chris Keller

INMATE PRINTED NAME: Christopher R. Keller

INMATE NDOC # 81840

INMATE ADDRESS: ELY STATE PRISON

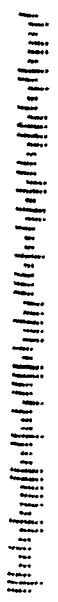
P. O. BOX 1989

ELY, NV 89301

Christopher
E.S.P. Box #1989
ELY, NV 89301
81840

Steven D. GRIFFIN (Court Clerk 1st)
200 Lewis Ave. 3rd Floor
Las Vegas, NV 89155-1160

89155-1160 0000



ELY STATE PRISON

MAR 3 / 2019

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FILED

APR 03 2019

IN THE 9th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Alvin L. Johnson
CLERK OF COURT

Christopher Keller

Petitioner,

v.

STATE OF NEVADA

Respondent.

Case No. C-16-312717-1

Dept. No. XIX

Docket No.

NOTICE OF MOTION

TO: THE STATE OF NEVADA, Respondent,

County District Attorney, and

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 24 day of

April, 2019, at the hour of 8:30 A.M., or as soon thereafter as the

parties may be heard, the undersigned will bring on for hearing the attached REQUEST FOR EVIDENCE PHOTOS & THE COURT minutes for first 45 DAY OF CASE. (BESIDES PRELIMS) RECORDS/COURT CASE DOCUMENTS, before the above-entitled Court, at the

Courthouse, in Nevada, in

Department No., thereof.

DATED this day of 2019.

Respectfully submitted,

Christopher Keller

Petitioner

Ely State Prison

P.O. Box 1989

Ely, Nevada 89301-1989

CLERK OF THE COURT

APR 03 2019

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PL
DA

Christopher Keller # 81840

FILED

APR 03 2019

Allen H. Johnson
CLERK OF COURT

IN THE 9th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Christopher Keller)
Petitioner)
v.)
State of Nevada)
Respondent)

CASE # C-16-312717-1

DEPT. # 19

April 24 2019

@ 8:30 AM

MOTION TO COMPEL

COMES NOW, Petitioner Christopher R. Keller, in and through

his proper person hereby moves this Honorable Court for an Order compelling: _____

Kenneth Frizzell to hand over all evidence photos.

This motion is made and based upon all papers and pleadings on file with the Clerk of the Court, which are hereby incorporated by this reference, the Points and Authorities herein, and attached Affidavit of Petitioner.

Dated: this 31st day of March, 2019.

RECEIVED
APR 03 2019
CLERK OF THE COURT

Submitted by: Christopher Keller # 81840
Petitioner / In Proper Person

POINTS AND AUTHORITIES

On the ____ day of _____, 20__, the Court had granted the
Petitioner's, "_____".

However, KENNETH FRIZZELL has failed to comply with the Order from this
Honorable Court. This Court has the power and duty to enforce its lawful judgment
pursuant to N.R.S. 1.210 which states in pertinent part ;

" Every court shall have power :

- 1. To preserve and enforce order in its immediate presence.*
- 2. To enforce order in the proceedings before a person or persons
empowered to conduct a judicial investigation under its authority.*
- 3. To compel obedience to its lawful judgments, orders and process, and
to the lawful orders of its judge out of court in an action or proceeding
pending therein.*
- 4. To control ,in furtherance of justice, the conduct of its ministerial
offers." (emphasis added)*

Failure to comply with a court's order constitutes contempt under N.R.S. 199.340
which states in pertinent part that:

*" **Every** person who shall commit a contempt of court of any one of the
following kind shall be guilty of a misdemeanor;*

*...4. Willful disobedience to the lawful process or mandate of the court;..."
(emphasis added)*

In closing, by KENNETH FRIZZELL not adhering to the order of this court

KENNETH FRIZZELL has displayed contempt. Petitioner cites three cases,

In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963), State v. Alvey, 215 Kan. 460, 524 P.2d 747 (1974) and In Re Sullivan, 212 Kan. 233 510 P.2d 1199 (1973) that all deal with attorneys that refused to abide by the rulings of their respective courts and were either disbarred or censored. Petitioner prays this honorable Court compel Kenneth Frizzell to comply with the order and find Kenneth Frizzell guilty of contempt for not obeying the lawful order of this Court.

DATED: this 31ST day of MARCH, 2019.

Submitted by: Christopher Keller
Christopher Keller
Petitioner / In Proper Person
E.S.P. P.O. Box #1989
Ely, NV 89307

///

///

///

CERTIFICATE OF SERVICE

I, Christopher R. Keller, hereby certify pursuant to
NRCP 5(b) that on this 31st day of MARCH, 2019, I did serve a
true and correct copy of the foregoing, ORDER TO COMPEL KENNETH
FRIZZELL TO HAND OVER ALL EVIDENCE PHOTOS (CASE C-16-31277)
by giving it to a prison guard at Ely State Prison to deposit in the U.S. Mail,
sealed in an envelope, postage pre-paid, addressed to the following:

STEVEN D. GRIERSON (Court Clerk)

200 LEWIS AVE. 3rd Floor

LAS VEGAS, NV

89155-1160

Signed,

Christopher Keller #818470

Ely State Prison

P.O. Box 1989

Ely, Nevada 89301

AFFIRMATION PURSUANT TO NRS 239B.030

I, Christopher R. Keller, NDOC# 81840,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE
ATTACHED DOCUMENT ENTITLED ORDER TO compell
FRIZZELL TO TURN OVER EVIDENCE PHOTOS

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 31st DAY OF MARCH, 20 19.

SIGNATURE: 

INMATE PRINTED NAME: CHRISTOPHER R. KELLER

INMATE NDOC # 81840

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301

pl
DA

Christopher Keller # 81840

REFILED

~~APR 23 2019~~
~~APR 24 2019~~

IN THE 9th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Christopher Keller)
Petitioner)
v.)
STATE OF NEVADA)
Respondent)

CASE # C-16-312717-1

DEPT.# 19

~~April 24 2019~~

MOTION TO COMPEL

~~8:30 AM~~

COMES NOW, Petitioner CHRISTOPHER R. KELLER, in and through
his proper person hereby moves this Honorable Court for an Order compelling: KENNETH FRIZZELL to HAND OVER ALL EVIDENCE PHOTOS.

This motion is made and based upon all papers and pleadings on file with the Clerk of
the Court, which are hereby incorporated by this reference, the Points and Authorities
herein, and attached Affidavit of Petitioner.

Dated: this 31st day of MARCH, 2019.

Submitted by: Chris Keller
Christopher Keller # 81840
Petitioner / In Proper Person

POINTS AND AUTHORITIES

On the 23rd day of JANUARY, 2019, the Court had granted the Petitioner's, "motion for court records / evidence photos".

However, Kenneth Frizzell has failed to comply with the Order from this Honorable Court. This Court has the power and duty to enforce its lawful judgment pursuant to N.R.S. 1.210 which states in pertinent part ;

" Every court shall have power :

- 1. To preserve and enforce order in its immediate presence.*
- 2. To enforce order in the proceedings before a person or persons empowered to conduct a judicial investigation under its authority.*
- 3. To compel obedience to its lawful judgments, orders and process, and to the lawful orders of its judge out of court in an action or proceeding pending therein.*
- 4. To control ,in furtherance of justice, the conduct of its ministerial offers." (emphasis added)*

Failure to comply with a court's order constitutes contempt under N.R.S. 199.340

which states in pertinent part that:

*" **Every** person who shall commit a contempt of court of any one of the following kind shall be guilty of a misdemeanor:*

...4. Willful disobedience to the lawful process or mandate of the court;..."
(emphasis added)

In closing, by Kenneth Frizzell not adhering to the order of this court

Kenneth Frizzell has displayed contempt. Petitioner cites three cases,

In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963), State v. Alvey, 215 Kan. 460, 524 P.2d 747 (1974) and In Re Sullivan, 212 Kan. 233 510 P.2d 1199 (1973) that all deal with attorneys that refused to abide by the rulings of their respective courts and were either disbarred or censored. Petitioner prays this honorable Court compel Kenneth Frizzell to comply with the order and find Kenneth Frizzell guilty of contempt for not obeying the lawful order of this Court.

DATED: this 11th day of JUNE, 2019.

Submitted by: Christopher Keller
Christopher Keller
Petitioner / In Proper Person
~~660 P.O. Box 11734~~
~~Elko, NV 89307~~
LOVELOCK CORRECTIONAL center
1200 PRISON RD
LOVELOCK, NV 89419

///

///

///

CERTIFICATE OF SERVICE

I, Christopher R. Keller, hereby certify pursuant to
NRCP 5(b) that on this 4th day of JUNE, 2019, I did serve a
true and correct copy of the foregoing, ORDER TO COMPEL KENNETH
FRIZZELL TO HAND OVER ALL EVIDENCE PHOTOS (CASE C-16-31272)
by giving it to a prison guard at Ely State Prison to deposit in the U.S. Mail,
sealed in an envelope, postage pre-paid, addressed to the following:

STEVEN D. GRIFFIN (Court Clerk)
200 LEWIS AVE. 3rd Floor
LAS VEGAS, NV
89155-1160

Signed,

Chris Keller
Christopher Keller #81840

Ely State Prison
P.O. Box 1989
Ely, Nevada 89301

LOVELOCK CORRECTIONAL CENTER
1200 PRISON RD
LOVELOCK, NV 89419

1 **ORDER**

2 Christopher Keller # 81840

3 Lovelock Correctional Center
4 1200 Prison Road
5 Lovelock Nevada 89419

6 **Petitioner In Pro Se**

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 * * * * *

10 Christopher R. Keller,)

11 **Petitioner,**)

12 **-vs-**)

13 ~~CHRISTOPHER R. KELLER~~ **STATE OF NEVADA**)

14 **Respondent.**)

Case No. C-16-312717-1

Dept. No. X1X

15 **ORDER TO PRODUCE TRANSCRIPTS**

16 THE COURT, having considered Petitioner's MOTION FOR PRODUCTION OF
17 TRANSCRIPTS, and with good cause appearing, it is hereby ORDERED that the
18 motion is granted.

19 The Clerk of the Court is directed to cause to be prepared the transcripts
20 of the ~~Christopher R. Keller~~ of
21 _____, 2006, and to provide same to Petitioner at his place of
22 confinement, i.e., Lovelock Correctional Center, Lovelock, Nevada 89419.
23 Such shall be effectuated at State expense.

24 **IT IS SO ORDERED.**

25 Dated this _____ day of _____, 2006.

26 _____
27 **DISTRICT COURT JUDGE**
28

1 MOT

2 Christopher Keller # 81840
3 Lovelock Correctional Center
4 1200 Prison Road
5 Lovelock, Nevada 89419

FILED

JUN 12 2019 7

6 petitioner In Pro Se

Adam S. Blum
CLERK OF COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

9 Christopher Keller,)
10 petitioner,)
11 -vs-)
12 STATE OF NEVADA,)
13 RESPONDENT.)
14

Case No. C-16-312717-1

Dept. No. XIX

DATE OF HEARING:

TIME OF HEARING: July 8, 2019
8:30 AM

MOTION FOR PRODUCTION OF
TRANSCRIPTS AT STATE EXPENSE

16 COMES NOW DEFENDANT, Christopher R. Keller, in pro se,
17 and moves the Court for an order directing the Clerk of the
18 Court to prepare or cause to be prepared, transcripts of the
19 (list the hearing(s)/date(s) for which you request transcripts):
20 02/17/2016, 02/18/2016, 03/02/2016, 03/04/2016, 03/16/2016,
21 03/24/2016 (I DO NOT NEED MY PRELIMINARY HEARING TRANSCRIPT),
22 and to serve same upon him at his place of confinement.

23 This motion is made and based upon the requirements of NRS
24 34.370(4); NRS 34.760(2); all papers, pleadings and documents on
25 file herein; the instant (check applicable pending action to
26 which this motion relates) ☒ petition for writ of habeas
27 corpus ☐ motion to/for _____;
28

1 / / /
RECEIVED

JUN 12 2019

CLERK OF THE COURT

and the following points and authorities.

POINTS AND AUTHORITIES

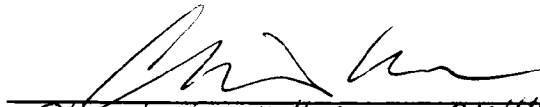
Petitioner/Defendant has filed a _____ petition for writ of habeas corpus _____ motion to/for _____, presenting ground(s)/claim(s) for relief. NRS 34.730(4) and NRS 34.760(2) require that the presentation of habeas petitions be supported by affidavits, records, transcripts or other relevant evidence. Id. Petitions and motions which are not supported by such evidence render the claims therein to be bare and naked allegations, unsupported by the record and meriting dismissal. Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984). See also Griffin v. State, 122 Nev. 737, 137 P.3d 1165, 1170 (2006) (defendant must support his claims with "specific facts" demonstrating entitlement to relief sought); Beriarano v. Warden, 112 Nev. 1466, 929 P.2d 922 (1996) (defendant bears burden of establishing factual allegations in support of his claims).

In order to obtain this Court's order to produce the requested transcripts, Petitioner/Defendant need show that they would serve a useful purpose and that he would be prejudiced without them. Peterson v. Warden, 87 Nev. 134, 483 P.2d 204, 205 (1971). Petitioner/Defendant requires the transcripts at bar in order to support his ground(s)/claim(s), which have merit, as shown on the separate page(s) annexed hereto as page (s) ^{TO PROVE I} ~~asked for~~ ^{Camera Footage} (you must describe your grounds/claims and demonstrate how the requested transcripts are necessary to avoid a dismissal/denial of same), and as are incorporated as if set forth herein. Prejudice is demonstrated inasmuch as due to the

CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing MOTION FOR PRODUCTION OF TRANSCRIPTS to the below address on this 4th day of JUNE, 2019, by placing same in the U.S. Mail via prison law library staff:

Attorney For Respondent

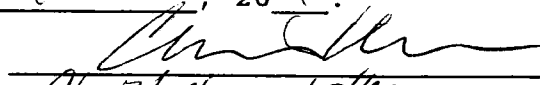

CHRISTOPHER KELLER # 81640
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding MOTION FOR PRODUCTION OF TRANSCRIPTS AT STATE EXPENSE does not contain the social security number of any person.

Dated this 4th day of JUNE, 2019.


CHRISTOPHER KELLER
Petitioner In Pro Se

Chr. Stopher Keller #81840
Love Lock Correctional Center
1200 Prison Rd
Love Lock, NV 89419

STEVEN D. GRIERSON (CLEAR)
200 Lewis Ave. 3rd floor
Las Vegas, NV 89155-1160

No. C-16-312717-1

Dept. No. XIX

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

FILED

JUN 12 2019

Alan D. Johnson
CLERK OF COURT

Christopher Keller

Petitioner/Plaintiff,

v.
STATE OF
NEVADA

Respondent/Defendant.

REQUEST FOR SUBMISSION OF MOTION

It is requested that the Motion entitled Motion To Compel
(TO REVEAL EVIDENCE PHOTOS), which was submitted/filed on the
4th day of JUNE, 2019, in the above-entitled matter, be submitted to the Court for
it's consideration.

The undersigned Petitioner/Plaintiff, certifies that a copy of the motion noted above and this
pleading, have been served upon the Respondent/Defendant.

Dated this 4th day of JUNE, 2019.

Chris Keller
LOVELOCK CA Petitioner/Plaintiff
1200 PRISON RD
LOVELOCK NV 89419
~~Ely, Nevada 89301-1939~~

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JUN 12 2019

CLERK OF THE COURT

JUN 12 2019

John D. Schuman
CLERK OF COURT

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Christopher Keller

Petitioner,

VS.

STATE OF NEVADA

Respondent.

Case No. C-16-312717-

Dept. No. XIX

Docket No. _____

REQUEST FOR RECORDS/COURT CASE DOCUMENTS

(Specifically EVIDENCE photos)

COMES NOW, Petitioner, Christopher Keller, pro per, and respectfully moves this Honorable Court for an Order granting Petitioner a copy of any and all ~~records, transcripts, and Exhibits, and Transcripts of any Hearing or summary, and all Writs of Habeas Corpus and Transcripts of any Hearing, and any other Transcripts, and Transcripts of any Post-Conviction Petitions of Motions, and any and all Habeas Corpus or other Post-Conviction Petitions and Transcripts of same.~~ EVIDENCE PHOTOS.

POINTS AND AUTHORITIES

In Griffin v. Illinois, 351 U.S. 12, 76 :S. Ct. 585, 100 L.Ed. 891, the United States Supreme Court held that it violates the due process and equal protection clauses of the Fourteenth Amendment when a state denies an indigent defendant the transcripts necessary for his appeal. The Court held:

"There can be no equal justice where the kind of a trial a man gets depends upon the amount of money he has. Destitute defendants must be afforded as adequate appellate review as defendants who have money enough to buy transcripts. * * * Plainly the ability to pay costs in advance bears no rational relationship to the defendant's guilt or innocence and could not be used as an excuse to deprive a defendant of a fair trial."

This *Griffin* principle has been applied in other U.S. Supreme cases as well. See Burns v. Ohio, 360 U.S. 252, 79 :S. Ct. 1164, 3 L.Ed. 1209(Applicable to state collateral proceedings).

Also, **Smith v. Bennett**, 365 U.S. 708, 81 :S. Ct. 895, 6 L.Ed. 39(No requirement of paying

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CLERK OF THE COURT

statutory filing fees). The Nevada Supreme Court has also adopted the *Griffin* principle to Nevada. See State v. Eighth Judicial District Court, 396 P. 2d 680.

CONCLUSION

Based upon the above stated points and authorities and arguments, Petitioner respectfully requests this Court to Grant this Request.

DATED this 4th day of JUNE, 2019.

Respectfully submitted,

Chris Keller
Petitioner Christopher KELLER

CERTIFICATE OF SERVICE

I hereby certify pursuant to N.R.C.P. 5(b) that I am the Petitioner in the foregoing Notice of Motion and Request For Records/Court Case Documents on this 4th day of JUNE, 2019. I did serve a true and correct copy of the above mentioned document, by giving it to a prison official at the Ely State Prison to deposit in the U.S. Mail, sealed in an envelope, postage pre-paid, and addressed as follows:

STEVEN D. GRIFFIN
200 LEWIS AVE 3rd Floor
LAS VEGAS NV 89155 -1160

DATED this 4 day of JUNE, 2019.

Chris Keller
Petitioner Christopher KELLER

AFFIRMATION PURSUANT TO NRS 239B.030

I, Christopher Keller, NDOC# 81840,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE

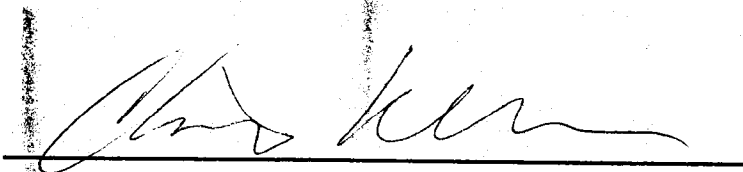
ATTACHED DOCUMENT ENTITLED Request for
Evidence photos & motion to compel,

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY

PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 4th DAY OF JUNE, 2019.

SIGNATURE:



INMATE PRINTED NAME:

Christopher Keller

INMATE NDOC #

81840

INMATE ADDRESS: ~~ELY STATE PRISON~~

~~P.O. BOX 1989~~

~~ELY, NV 89301~~

LOVELOCK CORRECTIONAL CENTER
1200 PRISON RD.
LOVELOCK, NV 89419



ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
NOREEN DEMONTE
Chief Deputy District Attorney
Nevada Bar #008213
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: C-16-312717-1

CHRISTOPHER ROBERT KELLER,
#1804258

DEPT NO: XIX

Defendant.

**ORDER DENYING DEFENDANT'S PRO PER MOTION FOR PRODUCTION OF
TRANSCRIPTS AT STATE EXPENSE**

DATE OF HEARING: July 8, 2019
TIME OF HEARING: 08:30 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the
8th day of July, 2019, the Defendant being present, in proper person, the Plaintiff being
represented by STEVEN B. WOLFSON, District Attorney, through NOREEN DEMONTE,
Chief Deputy District Attorney, without argument, based on the pleadings and good cause
appearing therefor,

///

///

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1 IT IS HEREBY ORDERED that the Defendant's Pro Per Motion for Production of
2 Transcripts at State Expense, shall be, and it is DENIED.

3 DATED this 18th day of July, 2019.

4 Will Kest
5 DISTRICT JUDGE

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

9 BY Noreen Demonte
10 NOREEN DEMONTE
11 Chief Deputy District Attorney
12 Nevada Bar #008213

13
14
15
16
17 **CERTIFICATE OF SERVICE**

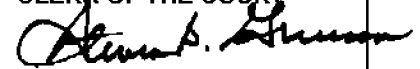
18 I certify that on the 18th day of July, 2019, I mailed a copy of the foregoing Order

19 to:

20 CHRISTOPHER KELLER, BAC #81840
21 LOVELOCK CORRECTIONAL CENTER
22 1200 PRISON ROAD
23 LOVELOCK, NV 89419

24 BY C. Garcia
25 C. Garcia
26 Secretary for the District Attorney's Office

27
28 cg/L2



RSPN
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
TALEEN R. PANDUKHT
Chief Deputy District Attorney
Nevada Bar #005734
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

CHRISTOPHER ROBERT KELLER,
#1804258

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-19-800950-W
r/c C-16-312717-1
DEPT NO: XIX

**STATE'S RESPONSE TO DEFENDANT'S PRO PER PETITION FOR WRIT OF
HABEAS CORPUS (POST-CONVICTION)**

DATE OF HEARING: April 16, 2018
TIME OF HEARING: 8:30 a.m.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through TALEEN R. PANDUKHT, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Defendant's Pro Per Petition for Writ of Habeas Corpus (Post-Conviction).

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

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//

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On February 17, 2016, Christopher Robert Keller (hereinafter "Petitioner") was
4 charged by way of Information with Counts 1 and 2 - Trafficking In Controlled Substance
5 (Category A Felony - NRS 453.3385.3 - NOC 51160); Count 3 - Possession Of Controlled
6 Substance, Marijuana (Category E Felony - NRS 453.336 - NOC 51127); Counts 4, 5, 6, and
7 7 - Possession Of Controlled Substance With Intent To Sell (Category D Felony - NRS
8 453.337 - NOC 51141); and Counts 8 and 9 - Ownership Or Possession Of Firearm By
9 Prohibited Person (Category B Felony - NRS 202.360 - NOC 51460). On February 18, 2016,
10 Petitioner entered a plea of not guilty and invoked his constitutional right to a speedy trial.

11 On March 24, 2016, the State filed a Notice of Intent to Seek Punishment as a Habitual
12 Criminal. At Calendar Call on April 13, 2016, Petitioner's counsel, Michael Sanft, Esq.,
13 announced he had a conflict for the trial date due to the upcoming trial. Petitioner stated he
14 wanted to go to trial on the original date, and due to counsel's conflict, the Court ordered the
15 trial date reset. On this date, the State also extended a plea offer to Petitioner for one count of
16 Low-Level Trafficking in a Controlled Substance and one count of Possession of a Firearm by
17 a Prohibited Person, with Petitioner stipulating to small habitual treatment and a stipulated
18 maximum sentence of twelve and a half (12.5) years. The trial date was reset to May 2, 2016
19 ("First Continuance").

20 At Calendar Call on April 20, 2016, Petitioner stated he wanted to go to trial and was
21 willing to represent himself if need be. On April 29, 2016, the State filed an Amended
22 Information, charging Petitioner with the same charges as the original Information. On April
23 29, 2016, Mr. Sanft requested to withdraw due to a conflict of interest. The Court granted the
24 request and appointed Kenneth Frizzell, Esq. to represent Petitioner. On May 4, 2016, Mr.
25 Frizzell confirmed as counsel. Due to the change in counsel, the trial date was vacated and
26 reset to June 27, 2016 ("Second Continuance").

27 On June 10, 2016, Petitioner filed a Motion to Suppress. The State filed an Opposition
28 on June 17, 2016. On June 20, 2016, Petitioner requested more time to file a Reply to the

1 State's Opposition, and the Court vacated the trial date of June 27, 2016, and ordered Calendar
2 Call on July 20, 2016, and a Jackson v. Denno⁵ Hearing on July 21, 2016 ("Third
3 Continuance"). On June 13, 2016, Petitioner filed a Pro Per Motion to Dismiss Counsel and
4 Appoint Alternate Counsel. The District Court denied the Motion on July 21, 2016, after
5 hearing from Petitioner.

6 On July 18, 2016, the State filed a Notice of Intent to Seek Habitual Treatment. On July
7 21, 2016, the State also informed the Court that it had extended a new plea offer for one count
8 of Mid-Level Trafficking and one count of Possession of a Firearm by a Prohibited Person,
9 with the State retaining the right to argue at sentencing but having no opposition to the counts
10 running concurrently. Petitioner rejected the State's offer. On July 21, 2016, the Court also
11 denied Petitioner's Motion to Suppress after the Jackson v. Denno hearing. The Court denied
12 Petitioner's Pro Per Motion to Dismiss Counsel and Appoint Alternate Counsel. The Order
13 denying the motions was filed on August 18, 2016. On July 21, 2017, Defense counsel
14 requested another continuance, stating that due to the Motion to Suppress, he had not been
15 able to prepare for trial ("Fourth Continuance"). The Court granted the continuance and reset
16 the trial date for September 19, 2016. At Calendar Call² on September 14, 2016, Petitioner
17 waived his speedy trial right and requested a continuance ("Fifth Continuance"). The Court
18 granted the continuance and reset the trial to March 6, 2017.

19 Both Petitioner and the State announced ready for the March 6, 2017 trial date, which
20 was the sixth trial setting in the case. On March 6, 2017, the day trial was due to begin, Amy
21 Feliciano, Esq., appeared in Court and attempted to substitute in as trial counsel. Ms. Feliciano
22 informed the Court that she had been retained by Petitioner's mother sometime in early
23 February but had not moved to substitute in as counsel until March 6, 2017 due to multiple
24 medical and personal problems. As Ms. Feliciano was unprepared for trial without a sixth
25 continuance being granted, the Court denied Petitioner's request for a continuance and ordered
26 trial to proceed with Mr. Frizzell as trial counsel.

27 On March 6, 2017, the State filed a Second Amended Information as the State chose to
28 bifurcate Counts 8 and 9 from the first seven (7) counts. The Second Amended Information

1 was filed in open court on March 6, 2017, charging Petitioner with Counts 1 and 2 - Trafficking
2 in Controlled Substance (Category A Felony - NRS 453.3385.3 - NOC 51160); Count 3 -
3 Possession of Controlled Substance, Marijuana (Category E Felony - NRS 453.336 - NOC
4 51127); and Counts 4-7 - Possession Of Controlled Substance With Intent To Sell (Category
5 D Felony - NRS 453.337 - NOC 51141). Petitioner's jury trial commenced on March 7, 2017,
6 and concluded on March 10, 2017, when the jury returned a verdict of guilty on all seven (7)
7 counts. A Third Amended Information was subsequently filed in open court which added
8 Counts 8 and 9 - Ownership or Possession of Firearm by Prohibited Person (Category B Felony
9 - NRS 202.360 - NOC 51460). The jury also returned verdicts of guilty on Counts 8 and 9.

10 On April 29, 2017, Ms. Feliciano substituted as counsel of record, and Mr. Frizzell
11 withdrew from his representation. Ms. Feliciano requested that sentencing be continued three
12 (3) times: on May 8, 2017, June 5, 2017, and June 19, 2017. On July 24, 2017, Ms. Feliciano
13 requested a fourth sentencing continuance, and Petitioner requested that she be dismissed as
14 counsel of record. The District Court granted Petitioner's request, and re-appointed Mr.
15 Frizzell as Petitioner's counsel. On July 31, 2017, the Court granted Mr. Frizzell a continuance
16 to allow him to retrieve Petitioner's file from Ms. Feliciano.

17 On August 7, 2017, Petitioner was sentenced as follows: as to Count 1- LIFE in the
18 Nevada Department of Corrections (NDC) with a minimum parole eligibility after ten (10)
19 years in NDC; as to Count 2 – LIFE in the NDC with a minimum parole eligibility after ten
20 (10) years in the NDC; Count 2 to run concurrent with Count 1; as to Count 3 – a minimum of
21 twelve (12) months and a maximum of forty-eight (48) months in the NDC; Count 3 to run
22 concurrent with Count 2; as to Count 4 – to a minimum of twelve (12) months and a maximum
23 of forty-eight (48) months in the NDC; Count 4 to run concurrent with Count 3; as to Count 5
24 – a minimum of twelve (12) month and a maximum of forty-eight (48) months in the NDC;
25 Count 5 to run concurrent with county 4; as to Count 6 - to a minimum of twelve (12) months
26 and a maximum of forty-eight (48) months in the NDC; Count 6 to run concurrent with Count
27 5; as to Count 7 - to a minimum of twelve (12) months and a maximum of forty-eight (48)
28 months in the NDC; Count 7 to run concurrent with Count 6; as to Count 8 – Petitioner

1 sentenced under the large habitual criminal statute to LIFE in the Nevada Department of
2 Corrections (NDC) with a minimum parole eligibility after ten (10) years in the NDC; Count
3 8 to run CONSECUTIVE to Counts 1, 2, 3, 4, 5, 6, and 7; and as to Count 9, Defendant
4 sentenced under the large habitual criminal statute to LIFE in the Nevada Department of
5 Corrections (NDC) with a minimum parole eligibility after ten (10) years in the NDC; Count
6 9 to run concurrent with Count 8; for a total aggregate sentence of LIFE in the NDC with a
7 minimum parole eligibility of TWENTY (20) years in the NDC, and five-hundred fifty-nine
8 (559) days credit for time served.

9 Petitioner's Judgment of Conviction was filed on August 10, 2017. On August 24,
10 2017, Petitioner filed a Notice of Appeal. On November 14, 2017, Petitioner filed a Motion
11 for Appointment of Counsel and a Motion for Withdrawal of Attorney of Record. On
12 December 6, 2017, this Court granted Defendant's Motion for Withdrawal of Counsel and
13 denied Defendant's Motion for Appointment of Counsel.

14 An Amended Judgment of Conviction was filed on December 12, 2017, correcting the
15 statute to NRS 435.337 for Possession of Controlled Substance with Intent to Sell for Counts
16 4, 5, 6 and 7.

17 On March 22, 2018, Petitioner filed another Motion for Appointment of Counsel and a
18 Motion to Dismiss Attorney of Record. On April 13, 2018, the State filed its Opposition to
19 Petitioner's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record. On April
20 16, 2018, the Court denied the motion as Petitioner's appeal was still pending before the
21 Nevada Supreme Court.

22 On October 15, 2018, the Nevada Supreme Court affirmed Petitioner's Judgment of
23 Conviction. Remittitur issued on November 9, 2018.

24 On August 26, 2019, Petitioner filed the instant Pro Per Petition for Writ of Habeas
25 Corpus. The State's Response now follows.

26 **STATEMENT OF FACTS**

27 On January 28, 2016 at approximately 2:25 a.m., Officer D. Lopez P#9806 with the Las
28 Vegas Metropolitan Police Department (hereinafter "LVMPD") conducted a vehicle stop on a

1 2002 silver Dodge Stratus later found to be driven by Petitioner. Officer Lopez observed the
2 vehicle travelling over 300 feet in a double-yellow left-hand turn lane, making a U-turn,
3 making an abrupt turn into a residential area, travelling at a high rate of speed, and having a
4 broken taillight. Officer Lopez testified that it was obvious to him that the Dodge was trying
5 to put distance between them. Once the vehicle entered the residential area, it parked and
6 Petitioner quickly left the vehicle after Officer Lopez turned on his siren and lights. Officer
7 Lopez observed Petitioner quickly jump out of the vehicle, appearing as though he wanted to
8 avoid him. Officer Lopez was able to smell the odor of marijuana coming from Petitioner's
9 person as well as from the inside of the vehicle. Officer Lopez initiated a traffic stop.

10 Petitioner consented to allow Officer Lopez to remove his wallet from his pocket to see
11 Petitioner's identification. Upon removing the wallet, Officer Lopez noted that Petitioner was
12 carrying what appeared to be a large amount of cash. The cash was right outside of Petitioner's
13 wallet, with multiple denominations, among which sixty-eight \$20 bills separated in groups of
14 five (5) bills and folded in alternating directions. The amount of cash was determined to be
15 \$2,187.00. Based upon the manner in which the cash was situated, and the amount of cash
16 that Petitioner carried, Officer Lopez determined that the cash was, in his training and
17 experience, consistent with the sale of narcotics. Officer Lopez based this conclusion, in part,
18 on the denominations of the cash, the way the cash was specifically folded, the fact that \$20
19 bills were folded in increments of \$100, the direction the bills were facing, and the fact that a
20 "wad of cash" was made up of mostly smaller denominations, such as \$20, \$5 and \$10 bills.

21 During the vehicle stop and pat down, there were approximately five (5) shots fired
22 within the apartment complex, so Officer Lopez placed Petitioner in handcuffs and into the
23 patrol vehicle not only for Petitioner's safety, but also so that Officer Lopez would be able to
24 safely address any issues stemming from the shots fired. Additionally, Officer Lopez believed
25 that Petitioner would be a flight risk based upon his attempts to avoid the officer, his
26 nervousness, the fact that he was so upset about being stopped, and Defendant's behavior while
27 Officer Lopez conducted the pat down for weapons. Afterward, while standing outside the
28 driver's door, Officer Lopez noticed a green leafy residue on the floorboard of the driver's

1 side vehicle in plain view. Based upon the vehicle, the odor of marijuana emanating from
2 Petitioner and the vehicle, and the green leafy residue in plain view, Officer Lopez conducted
3 a probable cause search of Petitioner's vehicle. During the probable cause search, Officer
4 Lopez located a clear sealable plastic bag containing multiple smaller clear plastic bags
5 underneath the driver's seat, as well as another large sealable plastic bag between the driver's
6 seat and the center console. At that point, based on the size of the bags found in Petitioner's
7 car, as well as the amount of cash found on Petitioner's person, Officer Lopez called for a K-
8 9 narcotics dog.

9 The K-9 narcotics dog alerted to the glove box, wherein Officer Lopez located a
10 concealed compartment. Officer Lopez testified he put his hand inside the hole and could feel
11 a bag with something solid inside. At that point in time, Officer Lopez stopped his search and
12 obtained a search warrant. Pursuant to the search warrant, Officer Lopez located several items
13 of evidence. Officer Lopez, Officer Henry, and Crime Scene Analyst Stephanie Thi searched
14 the vehicle. In the secret compartment, they found a black mesh bag, within which they found
15 two gold colored plastic bags. One of the gold bags contained a nylon drawstring bag within
16 which a loaded Beretta model 950, .22 caliber handgun was found. Moreover, Officer Lopez
17 also found several packages of a white crystal substance, plastic wrappers with a brown
18 substance, and a plastic bag with an off white powdery substance. Officer Lopez believed
19 these substances, based on his training and experience, to be various controlled substances,
20 respectively. Forensic Scientist Jason Althnether tested the substances and determined that
21 the white crystal substance was methamphetamine with a net weight of 344.29 grams, that the
22 brown substance was indeed heroin with a net weight of 33.92 grams, and that the white
23 powdery substance was indeed cocaine with a weight of 0.537 grams. Officer Lopez testified
24 he also found a blue powdery substance in the secret compartment. Mr. Althnether tested the
25 substance and determined it was a combination of methamphetamine, amphetamine, and
26 cocaine with a weight of 0.795 grams.

27 Based on what was discovered in the car, Officer Lopez obtained a search warrant for
28 Petitioner's house located at 265 North Lamb, Unit F, the unit in front of which Petitioner had

1 parked the car. Officer Lopez, Officer Steven Hough, Detective Chad Embry and Detective
2 Michael Belmont searched Petitioner's residence. While searching the bedroom, Officer
3 Lopez found used smoking pipes, four (4) scales, a box of 9mm ammunition, and two (2) bags
4 containing a white crystalline substance. This substance was later tested by Mr. Althnether,
5 who determined the substance was methamphetamine. The first bag weighed 3.818 grams and
6 the second bag weighed 2.357 grams. Officer Lopez also found in the bedroom a brown
7 substance he also believed was heroin. Upon testing, Mr. Althnether confirmed the substance
8 was heroin, weighing .895 grams. In the storage closet, Detective Embry found .22 short
9 ammunition. In the bedroom, police also discovered a Ruger 9mm handgun and a pay stub
10 with Petitioner's name on it, which was impounded by Officer Lopez. Upon searching the
11 kitchen, Detective Belmont also found a glass jar containing a green leafy substance believed
12 to be marijuana, which was confirmed as such by Mr. Althnether, finding the marijuana to
13 weigh 175 grams. Officers also found balloons, clean pipes, syringes and elastic bands in
14 Petitioner's residence. Moreover, Crime Scene Analyst Thi testified that the Nevada DMV
15 registration found in the car listed Petitioner as the owner of the Dodge.

16 During trial, the State introduced a jail call wherein Petitioner told a woman to move
17 into his house and make it her home. Petitioner was placed under arrest and brought to
18 Northeast Area Command. While there, Officer Hough, who was watching Petitioner in an
19 interview room on a monitor, observed Petitioner pull out a small baggie from inside his pants,
20 and by the time he and another officer arrived in the room, Petitioner had a white powdery
21 substance on his nose and mouth. Upon searching Petitioner, Officer Hough found another
22 small bag of white powder attached to the left side of Petitioner's scrotum.

23 ARGUMENT

24 **I. PETITIONER WAIVED HIS SUBSTANTIVE GROUNDS ONE (1) THROUGH** 25 **SEVEN (7) BY FAILING TO RAISE THEM ON DIRECT APPEAL**

26 Pursuant to NRS 34.810:

27 1. The court shall dismiss a petition if the court determines that:

28 ...

(b) The petitioner's conviction was the result of a trial and the grounds for the petition could have been:

(1) Presented to the trial court;

(2) Raised in a direct appeal or a prior petition for a writ of habeas corpus or postconviction relief; or

(3) Raised in any other proceeding that the petitioner has taken to secure relief from the petitioner's conviction and sentence,

unless the court finds both good cause for the failure to present the grounds and actual prejudice to the petitioner.

...

3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading and proving specific facts that demonstrate:

(a) Good cause for the petitioner's failure to present the claim or for presenting the claim again; and

(b) Actual prejudice to the petitioner.

The Nevada Supreme Court has held that "challenges to the validity of a guilty plea and claims of ineffective assistance of trial and appellate counsel must first be pursued in post-conviction proceedings... [A]ll other claims that are appropriate for a direct appeal must be pursued on direct appeal, or they will be *considered waived in subsequent proceedings.*" Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis added) (disapproved on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999)). "A court *must* dismiss a habeas petition if it presents claims that either were or could have been presented in an earlier proceeding, unless the court finds both cause for failing to present the claims earlier or for raising them again and actual prejudice to the petitioner." Evans v. State, 117 Nev. 609, 646-47, 29 P.3d 498, 523 (2001).

Furthermore, substantive claims are beyond the scope of habeas and waived. NRS 34.724(2)(a); see also, Evans, 117 Nev. at 646-47, 29 P.3d at 523; Franklin, 110 Nev. at 752, 877 P.2d at 1059. Under NRS 34.810(3), a defendant may only escape these procedural bars if they meet the burden of establishing good cause and prejudice. Where a defendant does not show good cause for failure to raise claims of error upon direct appeal, the district court is not obliged to consider them in post-conviction proceedings. Jones v. State, 91 Nev. 416, 536 P.2d 1025 (1975).

3
1 "To establish good cause, [a petitioner] must show that an impediment external to the
2 defense prevented their compliance with the applicable procedural rule. A qualifying
3 impediment might be shown where the factual or legal basis for a claim was not reasonably
4 available at the time of default." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)
5 (emphasis added). The Court continued, "appellants cannot attempt to manufacture good
6 cause[.]" Id. at 621, 81 P.3d at 526. Examples of good cause include interference by State
7 officials and the previous unavailability of a legal or factual basis. See State v. Huebler, 128
8 Nev. 192, 275 P.3d 91 (2012).

9 In order to establish prejudice, the defendant must show "not merely that the errors of
10 [the proceedings] created possibility of prejudice, but that they worked to his actual and
11 substantial disadvantage, in affecting the state proceedings with error of constitutional
12 dimensions." Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United
13 States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)). To find good cause there
14 must be a "substantial reason; one that affords a legal excuse." Hathaway v. State, 119 Nev.
15 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229,
16 1230 (1989)).

17 Moreover, a proper petition for post-conviction relief must set forth specific factual
18 allegations that would entitle the petitioner to relief. NRS 34.735(6) states, in pertinent part,
19 "[Petitioner] must allege specific facts supporting the claims in the petition [he] file[s] seeking
20 relief from any conviction or sentence. Failure to raise specific facts rather than just
21 conclusions may cause the petition to be dismissed." "Bare" and "naked" allegations are not
22 sufficient to warrant post-conviction relief, nor are those belied and repelled by the record.
23 Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "A claim is 'belied' when it
24 is contradicted or proven to be false by the record as it existed at the time the claim was made."
25 Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002).

26 In this case, Petitioner's first seven (7) grounds are all substantive claims that could and
27 should have been raised on direct appeal: 1) Ground One: Illegal sentence; 2) Ground Two:
28 Not allowed to question K-9 about dog's reliability; 3) Ground Three: No exigency to search

1 Petitioner's vehicle; 4) Ground Four: No probable cause existed to search Petitioner's vehicle;
2 5) Ground Five: Extended stop violation of NRS 171.123(4); 6) Ground Six: Destroyed or lost
3 body camera evidence; and 7) Ground Seven: False testimony of Officer D. Lopez. Each of
4 these claims were available at the time Petitioner filed his direct appeal. Therefore, pursuant
5 to Evans, these issues were substantively waived due to Petitioner's failure to raise them
6 earlier. Furthermore, Petitioner's substantive claims are beyond the scope of habeas. NRS
7 34.724(2)(a).

8 Petitioner does not argue good cause or prejudice to overcome these procedural bars.
9 Indeed, Petitioner could not successfully do so, as all of the facts and information needed to
10 raise these issues were available at the time Petitioner filed his direct appeal, and Petitioner
11 does not allege that there was any external impediment to his raising of these issues at that
12 time. In fact, Petitioner raised four (4) issues on direct appeal: 1) Whether the District Court
13 abused its discretion in denying Appellant's sixth continuance request on the day trial was set
14 to start; 2) Whether the District Court abused its discretion in denying Appellant's pretrial
15 motion to suppress the evidence discovered in Appellant's residence pursuant to a search
16 warrant; 3) Whether the District Court erred in admitting the jail calls introduced by the State;
17 and 4) Whether there was cumulative error. Petitioner cannot demonstrate good cause to
18 ignore his procedural defaults because all of the necessary facts and law were available for a
19 timely appeal and he has not alleged an impediment external to the defense prevented raising
20 these claims at the appropriate time. Therefore, these additional substantive claims are waived.

21 II. PETITIONER'S CLAIMS OF INEFFECTIVE ASSISTANCE OF 22 COUNSEL DO NOT ENTITLE HIM TO RELIEF

23 To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove
24 he was denied "reasonably effective assistance" of counsel by satisfying the two-prong test of
25 Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865
26 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's
27 representation fell below an objective standard of reasonableness, and second, that but for
28 counsel's errors, there is a reasonable probability that the result of the proceedings would have

2
1 been different. 466 U.S. at 687–88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State Prison
2 v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-part test).
3 “[T]here is no reason for a court deciding an ineffective assistance claim to approach the
4 inquiry in the same order or even to address⁸ both components of the inquiry if the defendant
5 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.

6 The court begins with the presumption of effectiveness and then must determine
7 whether the defendant has demonstrated by a preponderance of the evidence that counsel was
8 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel
9 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of
10 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,
11 537 P.2d 473, 474 (1975).

12 Counsel cannot be ineffective for failing to make futile objections or arguments. See
13 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the
14 “immediate and ultimate responsibility of deciding if and when to object, which witnesses, if
15 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
16 (2002).

17 Based on the above law, the role of a court in considering allegations of ineffective
18 assistance of counsel is “not to pass upon the merits of the action not taken but to determine
19 whether, under the particular facts and circumstances of the case, trial counsel failed to render
20 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711
21 (1978). This analysis does not mean that the court should “second guess reasoned choices
22 between trial tactics nor does it mean that defense counsel, to protect himself against
23 allegations of inadequacy, must make every conceivable motion no matter how remote the
24 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel
25 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
26 cannot create one and may disserve the interests of his client by attempting a useless charade.”
27 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

28 //

1 "There are countless ways to provide effective assistance in any given case. Even the
2 best criminal defense attorneys would not defend a particular client in the same way."
3 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. "Strategic choices made by counsel after
4 thoroughly investigating the plausible options are almost unchallengeable." Dawson v. State,
5 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
6 P.2d 951, 953 (1989). In essence, the court must "judge the reasonableness of counsel's
7 challenged conduct on the facts of the particular case, viewed as of the time of counsel's
8 conduct." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

9 Even if a defendant can demonstrate that his counsel's representation fell below an
10 objective standard of reasonableness, he must still demonstrate prejudice and show a
11 reasonable probability that, but for counsel's errors, the result of the trial would have been
12 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
13 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). "A reasonable probability is a probability
14 sufficient to undermine confidence in the outcome." Id. (citing Strickland, 466 U.S. at 687-89,
15 694, 104 S. Ct. at 2064-65, 2068).

16 The Nevada Supreme Court has held "that a habeas corpus petitioner must prove the
17 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
18 the evidence." Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,
19 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must
20 be supported with specific factual allegations, which if true, would entitle the petitioner to
21 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "Bare" and "naked"
22 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
23 34.735(6) states in relevant part, "[Petitioner] *must* allege specific facts supporting the claims
24 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your
25 petition to be dismissed." (emphasis added).

26 The decision not to call witnesses is within the discretion of trial counsel and will not
27 be questioned unless it was a plainly unreasonable decision. See Rhyne v. State, 118 Nev. 1,
28 38 P.3d 163 (2002); see also Dawson v. State, 108 Nev. 112, 825 P.2d 593 (1992). Strickland

does not enact Newton's third law for the presentation of evidence, requiring for every prosecution expert an equal and opposite expert from the defense. In many instances cross-examination will be sufficient to expose defects in an expert's presentation. When defense counsel does not have a solid case, the best strategy can be to say that there is too much doubt about the State's theory for a jury to convict. Harrington v. Richter, 131 S. Ct. 770, 791, 578 F.3d. 944 (2011). "Strategic choices made by counsel after thoroughly investigating the plausible options are almost unchallengeable." Dawson v. State, 108 Nev. 112, 117, 825 P.2d 593, 596 (1992).

Likewise, there is a strong presumption that appellate counsel's performance was reasonable and fell within "the wide range of reasonable professional assistance." See, United States v. Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990) (citing Strickland, 466 U.S. at 689, 104 S.Ct. at 2065). A claim of ineffective assistance of appellate counsel must satisfy the two-prong test set forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In order to satisfy Strickland's second prong, the defendant must show that the omitted issue would have had a reasonable probability of success on appeal. Id. The professional diligence and competence required on appeal involves "winnowing out weaker arguments on appeal and focusing on one central issue if possible, or at most on a few key issues." Jones v. Barnes, 463 U.S. 745, 751-52, 103 S.Ct. 3308, 3313 (1983). In particular, a "brief that raises every colorable issue runs the risk of burying good arguments... in a verbal mound made up of strong and weak contentions." Id. at 753, 103 S.Ct. at 3313. "For judges to second-guess reasonable professional judgments and impose on appointed counsel a duty to raise every 'colorable' claim suggested by a client would disserve the very goal of vigorous and effective advocacy." Id. at 754, 103 S.Ct. at 3314.

In the instant Petition, Petitioner argues that his counsel, Kenneth Frizzell, Esq., was ineffective for the following reasons: (1) for not raising the issues Petitioner relayed to him prior to the suppression hearing; 2) for not appealing the suppression hearing issues; 3) for not using another investigator because his investigator knew Petitioner's mother and stepfather; 4) for never visiting him except after he paid for a different lawyer; 5) for failing to subpoena

1 or return calls of certain unnamed witnesses and failing to cross-examine about the passenger
2 door being closed when officers first encountered him; 6) for failing to call family and
3 witnesses to speak on his behalf at the penalty³ phase; 7) for never asking for the testimony of
4 the dog handler or K-9 records; and 8) for never relaying his mental health history or the fact
5 that he was on and off different medications during the pre-trial process.

6 First, Petitioner claims that his counsel was ineffective for not raising the issues
7 Petitioner relayed to him prior to the suppression hearing. Because Petitioner fails to identify
8 which issues Petitioner relayed to him prior to the suppression hearing, or how those issues
9 were supported by the record, Petitioner's argument is a bare and naked allegation pursuant to
10 Hargrove and cannot entitle Petitioner to relief. In this case, trial counsel not only filed a
11 Motion to Suppress evidence obtained during the vehicle stop, he conducted an evidentiary
12 hearing on July 21, 2016 where Officer Daniel Lopez testified. Exhibits were presented as
13 well as arguments by counsel. The Court denied the Motion to Suppress. Therefore, trial
14 counsel appropriately raised the suppression issues and properly conducted the evidentiary
15 hearing, rendering Petitioner's claim without merit.

16 Second, Petitioner alleges that counsel^o was ineffective for not appealing the suppression
17 hearing issues. However, Appellate counsel did raise several meritorious issues on appeal,
18 including the denial of Petitioner's Motion to Suppress evidence from Petitioner's residence.
19 The Nevada Supreme Court determined that the District Court did not abuse its discretion by
20 denying Petitioner's motion to suppress evidence obtained from his condo through a search
21 warrant. Order of Affirmance at page. 6. Further, Petitioner provides no evidence and only
22 makes bare and naked allegations that he was prejudiced. Such bare and naked allegations are
23 not sufficient to warrant relief. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Petitioner cannot
24 demonstrate that the omitted issue would have had a reasonable probability of success on
25 appeal. Kirksey, 112 Nev. at 998, 923 P.2d at 1114. There is a strong presumption that
26 appellate counsel's performance was reasonable and fell within "the wide range of reasonable
27 professional assistance." See Aguirre, 912 F.2d at 560 (citing Strickland, 466 U.S. at 689, 104
28 S. Ct. at 2065). As Petitioner has only made bare and naked allegations, he cannot overcome

1 the strong presumption of appellate counsel's reasonableness and, therefore, relief is not
2 warranted. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

3 Third, Petitioner alleges that trial counsel was ineffective for not using another
4 investigator because his investigator knew Petitioner's mother and stepfather. On July 21,
5 2016, Defendant told the Court that he cannot get any investigation done and the investigator
6 used by Mr. Frizzell is the same investigator Mr. Sanft used and he has filed a bar complaint
7 against the investigator. Counsel is expected to conduct legal and factual investigations when
8 developing a defense so they may make informed decisions on their client's behalf. Jackson,
9 91 Nev. at 433, 537 P.2d at 474 (quoting In re Saunders, 2 Cal.3d 1033, 88 Cal.Rptr. 633, 638,
10 472 P.2d 921, 926 (1970)). "[D]efense counsel has a duty 'to make reasonable investigations
11 or to make a reasonable decision that makes particular investigations unnecessary.'" State v.
12 Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993) (quoting Strickland, 466 U.S. at 691,
13 104 S. Ct. at 2066). A defendant who contends his attorney was ineffective because he did not
14 adequately investigate must show how a better investigation would have rendered a more
15 favorable outcome. Molina, 120 Nev. at 192, 87 P.3d at 538.

16 Using investigators in trial preparation and investigation is both encouraged and common
17 practice. Wilson v. State, 105 Nev. 110, 771 P.2d 583 (1989). Duties of investigators are
18 "subject to the reasonable judgment of defense counsel in light of the facts of any particular
19 case." Love, 109 Nev. at 1143-44, 865 P.2d at 327 (quoting U.S. v. Weaver, 882 F.2d 1128
20 (7th Cir.), cert. denied, 493 U.S. 968, 110 S.Ct. 415, (1989)). A decision "not to investigate
21 must be directly assessed for reasonableness in all the circumstances, applying a heavy
22 measure of deference to counsel's judgment." Id. Moreover, "[a] decision not to call a witness
23 will not generally constitute ineffective assistance of counsel" Id. at 1145, 865 P.2d at 328.
24 For example, the Nevada Supreme Court in Love, 109 Nev. at 1145, 865 P.2d at 328, held that
25 trial counsel was not ineffective simply because they sent their investigator to interview
26 potential witnesses and did not to call certain alibi witnesses at trial after adequate
27 investigations led to that conclusion.

28 //

1 In this case, trial counsel was not ineffective for not using another investigator because
2 Petitioner was apparently dissatisfied with this one. A defendant is not entitled to a particular
3 "relationship" with his attorney. Morris v. Slappy, 461 U.S. 1, 14, 103 S. Ct. 1610, 1617
4 (1983). There is no requirement for any specific amount of communication as long as counsel
5 is reasonably effective in his representation. See Id. It necessarily follows that Petitioner is
6 not entitled to a particular relationship with his attorney's investigator, who is either also court
7 appointed or who has a longstanding working relationship with that particular attorney. This
8 was a reasonable decision to make and does not amount to deficient representation under
9 Strickland.

10 Fourth, Petitioner contends that trial counsel was ineffective for never visiting him
11 except after he paid for a different lawyer. There is no requirement for a specific number of
12 visits every case necessitates, nor is that a basis for ineffective assistance of counsel.
13 Defendant has provided no legal authority to support this claim. Counsel also communicates
14 with defendants in the courtroom during routinely long court calendars. "There are countless
15 ways to provide effective assistance in any given case. Even the best criminal defense attorneys
16 would not defend a particular client in the same way." Strickland, 466 U.S. at 689, 104 S. Ct.
17 at 689. Thus, this claim is without merit and should be denied.

18 Fifth, Petitioner claims that trial counsel was ineffective for failing to subpoena or
19 return calls of unnamed witnesses to testify that another female resided in the townhouse he
20 owned and switched vehicles with him, and that there was a strong probability the drugs in the
21 purse in Petitioner's car belonged to the female. He further claims that trial counsel was
22 ineffective for failing to cross-examine about the passenger door being closed when officers
23 first encountered him and they opened the door to allow K-9 access to the interior of the
24 vehicle. Trial counsel has the "immediate and ultimate responsibility of deciding if and when
25 to object, which witnesses, if any, to call, and what defenses to develop." Rhyne, 118 Nev. at
26 8, 38 P.3d at 167. Further, "Strategic choices made by counsel after thoroughly investigating
27 the plausible options are almost unchallengeable." Dawson, 108 Nev. at 117, 825 P.2d at 596;
28 see also Ford, 105 Nev. at 853, 784 P.2d at 953. Petitioner fails to specifically name any of

1 these alleged witnesses. It is unknown if trial counsel even had sufficient information to locate
2 these unnamed witnesses. A review of the record demonstrates that trial counsel was in fact
3 not given timely information about the witness Petitioner describes as having to wait so long
4 she left the trial. This witness, a woman named Mary Silva who cleaned Petitioner's residence
5 a few times, was discussed on the record on the fourth day of the trial:

6 MR. FRIZZELL: -- what happened here. While you were probably walking
7 down the hallway to come in, I was on the phone with the witness that you said
8 you would allow to testify, Mary Silva, who was on the road ostensibly heading
9 home, she told me. I asked her -- I said, we're ready and it's now time and the
10 judge isn't going to wait. How long was it going to take you to get back? And
11 she said she could be back here by 3:00 o'clock, when I told her it was 1:55.

12 Transcript of Jury Trial - Day 4, p. 132. Earlier in the day, the Court graciously allowed her
13 to testify despite the fact that she had not been properly noticed by Petitioner:

14 THE COURT: Okay. Notwithstanding the fact that the State was not put on
15 notice of these witnesses, I'm going to allow you to call her if you choose to. But
16 you need to make her available to the State to give them an opportunity to
17 question her to see what, if anything, she's going to be offering.

18 MR. FRIZZELL: And that is fine, Your Honor. I actually just learned of her
19 potential as a witness yesterday evening from an e-mail, which I received.

20 THE COURT: Okay. So --

21 MR. FRIZZELL: And --

22 THE COURT: -- she wasn't even somebody that defendant was telling you
23 previously that we discussed before we started the trial?

24 MR. FRIZZELL: No, Your Honor.

25 THE DEFENDANT: I didn't know. I thought the witness --

26 Transcript of Jury Trial - Day 4, p. 7-8. Additionally, at Petitioner's insistence, trial counsel
27 called Officer Jacob Henry with the Las Vegas Metropolitan Police Department to testify in
28 the defense case-in-chief. See Transcript of Jury Trial - Day 4, p. 145-164. Moreover, trial
counsel cross examined all of the State's witnesses, including Officer Daniel Lopez, who
stopped Petitioner's vehicle. Transcript of Jury Trial - Day 3, p. 127-164. Trial counsel has
the "immediate and ultimate responsibility of deciding if and when to object, and strategic
decisions such as which witnesses to call or not call are virtually unchallengeable. As such,
Petitioner cannot demonstrate deficient performance and Petitioner's claim therefore fails.

Sixth, Petitioner alleges that trial counsel was ineffective for failing to call family and
witnesses to speak on his behalf at the penalty phase. Defendants have no right to call

witnesses during sentencing hearings unless they are convicted of First Degree Murder. The applicable statutes are provided below.

NRS 176.015 is the applicable statute for sentencing hearings, which provides:

1. Sentence must be imposed without unreasonable delay. Pending sentence, the court may commit the defendant or continue or alter the bail.

2. Before imposing sentence, the court shall:

(a) Afford counsel an opportunity to speak on behalf of the defendant; and

(b) Address the defendant personally and ask the defendant if:

(1) The defendant wishes to make a statement in his or her own behalf and to present any information in mitigation of punishment; and

(2) The defendant is a veteran or a member of the military. If the defendant meets the qualifications of subsection 1 of NRS 176A.280, the court may, if appropriate, assign the defendant to:

(I) A program of treatment established pursuant to NRS 176A.280; or

(II) If a program of treatment established pursuant to NRS 176A.280 is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or section 20 of this act.

3. After hearing any statements presented pursuant to subsection 2 and before imposing sentence, the court shall afford the victim an opportunity to:

(a) Appear personally, by counsel or by personal representative; and

(b) Reasonably express any views concerning the crime, the person responsible, the impact of the crime on the victim and the need for restitution.

NRS 175.552 is the applicable statute for First Degree Murder Penalty Hearings:

1. Except as otherwise provided in subsection 2, in every case in which there is a finding that a defendant is guilty or guilty but mentally ill of murder of the first degree, whether or not the death penalty is sought, the court shall conduct a separate penalty hearing. The separate penalty hearing must be conducted as follows:

(a) If the finding is made by a jury, the separate penalty hearing must be conducted in the trial court before the trial jury, as soon as practicable.

(b) If the finding is made upon a plea of guilty or guilty but mentally ill or a trial without a jury and the death penalty is sought, the separate penalty hearing must be conducted before a jury impaneled for that purpose, as soon as practicable.

(c) If the finding is made upon a plea of guilty or guilty but mentally ill or a trial without a jury and the death penalty is not sought, the separate penalty hearing must be conducted as soon as practicable before the judge who conducted the trial or who accepted the plea.

2. In a case in which the death penalty is not sought or in which a court has made a finding that the defendant is intellectually disabled and has stricken the notice of intent to seek the death penalty pursuant to NRS 174.098, the parties may by stipulation waive the separate penalty hearing required in subsection 1. When stipulating to such a waiver, the parties may also include an agreement to have

1 the sentence, if any, imposed by the trial judge. Any stipulation pursuant to this
2 subsection must be in writing and signed by the defendant, the defendant's
attorney, if any, and the prosecuting attorney.

3 3. During the hearing, evidence may be presented concerning aggravating and
4 mitigating circumstances relative to the offense, defendant or victim and on any
5 other matter which the court deems relevant to the sentence, whether or not the
6 evidence is ordinarily admissible. Evidence may be offered to refute hearsay
7 matters. No evidence which was secured in violation of the Constitution of the
8 United States or the Constitution of the State of Nevada may be introduced. The
9 State may introduce evidence of additional aggravating circumstances as set
forth in NRS 200.033, other than the aggravated nature of the offense itself, only
if it has been disclosed to the defendant before the commencement of the penalty
hearing.

10 4. In a case in which the death penalty is not sought or in which a court has found
11 the defendant to be intellectually disabled and has stricken the notice of intent to
12 seek the death penalty pursuant to NRS 174.098, the jury or the trial judge shall
determine whether the defendant should be sentenced to life with the possibility
of parole or life without the possibility of parole.

13 Therefore, counsel cannot be deemed ineffective for failing to call family and witnesses to
14 speak on his behalf at his sentencing as Petitioner was not entitled to this under Nevada law.

15 Seventh, Petitioner claims that trial counsel was ineffective for never asking for the
16 testimony of the dog handler or K-9 records. The State has the burden of proving its case
17 beyond a reasonable doubt and can call any witnesses it deems necessary to meet that burden
18 of proof. Based on the evidence presented, the jury convicted Petitioner and his Judgment of
19 Conviction was affirmed on appeal. As previously stated, the decision not to call witnesses is
20 within the discretion of trial counsel and will not be questioned unless it was a plainly
21 unreasonable decision. See Rhyne v. State, 118 Nev. 1, 38 P.3d 163 (2002); see also Dawson
22 v. State, 108 Nev. 112, 825 P.2d 593 (1992). Strickland does not enact Newton's third law for
23 the presentation of evidence, requiring for every prosecution expert an equal and opposite
24 expert from the defense. In many instances cross-examination will be sufficient to expose
25 defects in an expert's presentation. When defense counsel does not have a solid case, the best
26 strategy can be to say that there is too much doubt about the State's theory for a jury to convict.
27 Harrington v. Richter, 131 S. Ct. 770, 791, 578 F.3d. 944 (2011). Neither the State nor trial
28 counsel was required to call the K-9 officer, as his participation was fully covered during the

1 direct and cross-examination of Officer Lopez' testimony. Transcript of Jury Trial - Day 3, p.
2 44-147. Consequently, Petitioner's claim fails.

3 Finally, Petitioner alleges that trial counsel never relayed his mental health history or
4 the fact that he was on and off different medications during the pre-trial process. However,
5 Petitioner does not allege that trial counsel was aware of any mental health or medication
6 issues. He does not even specify exactly ² what mental health history or medications he is
7 referring to in the one sentence he includes on this issue. As such, his argument amounts to a
8 bare and naked allegation under Hargrove. Petitioner does not point to any instances in the
9 record that demonstrate evidence of insanity or incompetence. Further, Petitioner fails to argue
10 how any mental health or medication issues_c would have ultimately changed the outcome of
11 the instant case. Therefore, Petitioner fails to meet his burden under Strickland.

12 **III. CUMULATIVE ERROR DOES NOT CONSTITUTE A COGNIZABLE**
13 **CLAIM FOR HABEAS RELIEF**

14 The Nevada Supreme Court has never held that instances of ineffective assistance of
15 counsel can be cumulated. McConnell v. State, 125 Nev. 243, 259, 212 P.3d 307, 318 (2009).
16 The State respectfully submits that cumulative error should not apply on post-conviction
17 review. Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denied, 549 U.S. 1134,
18 1275 S. Ct. 980 (2007) ("a habeas petitioner cannot build a showing of prejudice on series of
19 errors, none of which would by itself meet the prejudice test."). However, even if they could
20 be, it would be of no moment as there was no single instance of ineffective assistance in
21 Petitioner's case. See United States v. Rivera, 900 F.2d 1462, 1471 (10th Cir. 1990) ("[A]
22 cumulative-error analysis should evaluate only the effect of matters determined to be error,
23 not the cumulative effect of non-errors.").

24 Moreover, Petitioner's claim is without merit. "Relevant factors to consider in
25 evaluating a claim of cumulative error are (1) whether the issue of guilt is close, (2) the quantity
26 and character of the error, and (3) the gravity of the crime charged." Mulder v. State, 116 Nev.
27 1, 17, 992 P.2d 845, 855 (2000).

28 //

1 As the Nevada Supreme Court found in affirming Petitioner's convictions:

2 The totality of the circumstances supports finding probable cause to search
3 Keller's home. Inside Keller's car, officers found 344.29 grams of
4 methamphetamine, 33.92 grams of heroin, .537 grams of cocaine, a mixture of
5 the three controlled substances, and a gun. The quantity of methamphetamine
6 and heroin exceed personal use levels, and the discovery of 1-inch by 1-inch
7 baggies, a large amount of cash, as well as a gun, fairly indicated to the officers
8 that Keller was trafficking in drugs. Further, when Officer Lopez initiated the
9 traffic stop, Keller tried to exit the car parked in front of his condo, which in
10 conjunction with Keller's evasive driving, Officer Lopez took as an attempt to
11 escape. Taken as a whole, these circumstances supported a finding of probable
12 cause that Keller was a drug dealer and that more drugs and guns would be found
13 inside his condo.

14 Order of Affirmance at page 5.

15 The Nevada Supreme Court has also determined that the issue of guilt was not close in
16 this case. In addressing Petitioner's claim of cumulative error on appeal, the Nevada Supreme
17 Court further found that there was overwhelming evidence of guilt:

18 *There is no cumulative error*

19 Keller summarily argues that cumulative error requires reversal. But, Keller fails
20 to establish any error on appeal, and the evidence presented at trial against him
21 was overwhelming. *See Big Pond v. State*, 101 Nev. 1, 3, 692 P.2d 1288, 1289
22 (1985) (considering "whether the issue of innocence or guilt is close, the quantity
23 and character of the error, and the gravity of the crime charged" in determining
24 cumulative error). We therefore, ORDER the judgment of the district court
25 AFFIRMED.

26 Order of Affirmance at pages 8-9.

27 Finally, even if any of Petitioner's allegations had merit, Petitioner has failed to
28 establish that, when aggregated, those errors deprived him of a reasonable likelihood of a better
outcome at trial. Even if Petitioner had made such a showing, he has certainly failed to show
that the cumulative effect of the supposed errors was so prejudicial as to undermine this
Court's confidence in the outcome of Petitioner's case. Because the issue of guilt was not
close, and because Petitioner failed to sufficiently undermine confidence in the outcome of his
case, the State submits that Petitioner's claim of cumulative error is without merit and that this
Court should deny the same.

29 **IV. PETITIONER IS NOT ENTITLED TO AN EVIDENTIARY HEARING**

30 NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It reads:

- 1 1. The judge or justice, upon review of the return, answer and all
2 supporting documents which are filed, shall determine whether
3 an evidentiary hearing is required. A petitioner must not be
4 discharged or committed to the custody of a person other than the
5 respondent *unless an evidentiary hearing is held*.
- 6 2. If the judge or justice determines that the petitioner is not
7 entitled to relief and an evidentiary hearing is not required, he
8 shall dismiss the petition without a hearing.
- 9 3. If the judge or justice determines that an evidentiary hearing
10 is required, he shall grant the writ and shall set a date for the
11 hearing.

12 The Nevada Supreme Court has held that if a petition can be resolved without
13 expanding the record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev.
14 1328, 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A
15 defendant is entitled to an evidentiary hearing if his petition is supported by specific factual
16 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled
17 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove, 100 Nev. at
18 503, 686 P.2d at 225 (holding that “[a] defendant seeking post-conviction relief is not entitled
19 to an evidentiary hearing on factual allegations belied or repelled by the record”). “A claim is
20 ‘belied’ when it is contradicted or proven to be false by the record as it existed at the time the
21 claim was made.” Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002). It is improper to hold an
22 evidentiary hearing simply to make a complete record. See State v. Eighth Judicial Dist. Court,
23 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) (“The district court considered itself the
24 ‘equivalent of . . . the trial judge’ and consequently wanted ‘to make as complete a record as
25 possible.’ This is an incorrect basis for an evidentiary hearing.”).

26 Further, the United States Supreme Court has held that an evidentiary hearing is not
27 required simply because counsel’s actions are challenged as being unreasonable strategic
28 decisions. Harrington, 562 U.S. at 88, 131 S. Ct. at 788. Although courts may not indulge post
hoc rationalization for counsel’s decision making that contradicts the available evidence of
counsel’s actions, neither may they insist counsel confirm every aspect of the strategic basis
for his or her actions. Id. There is a “strong presumption” that counsel’s attention to certain
issues to the exclusion of others reflects trial tactics rather than “sheer neglect.” Id. (citing
Yarborough v. Gentry, 540 U.S. 1, 124 S. Ct. 1 (2003)). Strickland calls for an inquiry in the

1 *objective* reasonableness of counsel's performance, not counsel's *subjective* state of mind. 466
2 U.S. 668, 688, 104 S. Ct. 2052, 2065 (1994) (emphasis added).

3 Here, there is no reason to expand the record because Petitioner fails to present specific
4 factual allegations that would entitle him to relief. Marshall, 110 Nev. at 1331, 885 P.2d at
5 605. Petitioner's claims are either waived as not having been properly raised on direct appeal,
6 bare and naked allegations, or belied by the record. There is nothing else for an evidentiary
7 hearing to determine, and Petitioner gives no specific reasons for why an evidentiary hearing
8 would be needed. There is no need to expand the record because Petitioner's claims are
9 meritless and can be disposed of on the existing record. Therefore, an evidentiary hearing is
10 not warranted in this matter.

11 **CONCLUSION**

12 Based on the foregoing, the State respectfully requests that this Court order Defendant's
13 Pro Per Petition for Writ of Habeas Corpus (Post-Conviction) be denied.

14 DATED this 16th day of January, 2020.

15 Respectfully submitted,

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


19 BY BB 4/21
20 TALEEN R. PANDUKHT
21 Chief Deputy District Attorney
22 Nevada Bar #005734
23
24
25
26
27
28

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 7th day of January, 2020, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

CHRISTOPHER ROBERT KELLER, BAC #81840
LOVELOCK CORRECTIONAL CENTER
1200 Prison Rd.
Lovelock, NV, 89419

BY



C. Garcia
Secretary for the District Attorney's Office

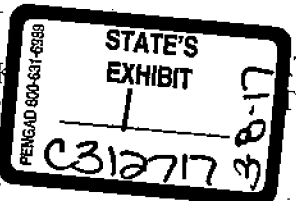
TRP/cg/L2

DOCUMENTARY EXHIBITS

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MARK
PROP

Case



STATE OF NEVADA
DEPARTMENT OF MOTOR VEHICLES
CENTRAL SERVICES - RECORDS DIVISION
555 Wright Way
Carson City, Nevada 89711-0250
(775)684-4590

REQUEST DATE : 05/10/2016

SUP.TRAN.ID : 102181863

CLARK CO DISTRICT ATTORNEY
200 LEWIS AVE
LAS VEGAS NV 89101-6300

DRIVERS LICENSE DATA
TEN YEAR RECORD

I - LICENSE INFORMATION

DLN :1601333741 STATE OF REC:NEVADA
ORIG.ISU.DT :NOT AVL LAST.TRN.DT :01/22/2015
MEDICAL EXP :NOT AVL
CERT.STAT :NOT AVL SELF-CERT :NOT AVL

II - ID CARD DETAILS

ID CARD NO :1601333741 ID CARD STAT: EXPIRED
ISSUE DATE :06/06/2014 EXP. DATE :09/08/2022

***** CONVERSION DATA - DATES MIGHT NOT REFLECT CORRECT INFO
I hereby certify that this report is a true copy of the original on file in the Department of Motor Vehicles of the State of Nevada

III - INDIVIDUAL DETAILS AT TIME OF ISSUANCE

NAME : CHRISTOPHER ROBERT KELLER
DOB : 09/08/1984

PHYS ADDRESS : 265 N LAMB BLVD UNIT F
CITY/STATE : LAS VEGAS NV 89110-4685
MAIL ADDRESS : 265 N LAMB BLVD UNIT F
CITY/STATE : LAS VEGAS NV 89110-4685

STATE OF NEVADA
DEPT. OF MOTOR VEHICLES

By: *J. P. Smith*

Custodian of the Files

DESCRIPTION

SEX:MALE HEIGHT:5'06 WEIGHT: 165 HAIR:BROWN

EYES:BROWN

5-10-16

IV - LICENSE DETAILS

TYPE	CLASS	STATUS	PERMIT	ISU.DATE	EXP.DATE	ENDORSMTS
01	NCDL C	VALID	NORMAL	01/22/2015	09/08/2022	
RESTRICTION :NONE						

V - CONVICTION LISTING

CONVICTION DATA IS INCLUSIVE OF TEN YEAR RECORD ONLY

CITE.DATE	CONV.DATE	ST	COURT	VIOL CODE	OFF TYPE	CMV OFF	HAZ MAT	CITATION NUMBER
12/06/2003	06/11/2008	NV	241	452	M17	N	N	A458300
11/06/2008	08/26/2009	NV	228	433	M42	N	N	14249599B
09/11/2009	09/17/2009	NV	241	020	D36	N	N	A682550
09/11/2009	09/17/2009	NV	241	014	B26	N	N	A682549

PAGE NO: 1 Continued ...

CITE.DATE	CONV.DATE	ST	COURT	VIOL CODE	OFF TYPE	CMV OFF	HAZ MAT	CITATION NUMBER
-----------	-----------	----	-------	--------------	-------------	------------	------------	--------------------

TOTAL ACTIVE POINTS: 00

VI - WITHDRAWAL LISTING

NEVADA DRIVERS LICENSE SYSTEM - WITHDRAWAL DETAILS

NAME	DOB	DLN
CHRISTOPHER ROBERT KELLER	09/08/1984	1601333741

FILE.NBR	RSN	BEGIN.DATE	END.DATE	REINST.DT	STA	EXT	ST	CITN.NUM
FTA	D45	02/02/2009	01/01/8888	09/29/2014	SUS	3	NV	14249599B
DSA	B26	10/20/2009	04/20/2010	09/29/2014	SUS	3	NV	A682549
FTA	BLK	06/22/2011	09/04/2014		CLE	3	NV	E10041820
FTA	D45	03/25/2013	01/01/8888	09/29/2014	SUS	3	NV	C1086912B
FTA	BLK	09/22/2014	08/18/2014		CLE	3	NV	C1086912C

PAGE NO: 2** LAST PAGE **

I hereby certify that this report is a true copy of the original on file in the Department of Motor Vehicles of the State of Nevada

STATE OF NEVADA
DEPT. OF MOTOR VEHICLES

By: 

Custodian of the Files

5/10/16

STATE OF NEVADA
DEPARTMENT OF MOTOR VEHICLES
CENTRAL SERVICES - RECORDS DIVISION
555 Wright Way
Carson City, Nevada 89711-0250
(775)684-4590

REQUEST DATE : 05/10/2016

SUP.TRAN.ID : 102181660

CLARK CO DISTRICT ATTORNEY
200 LEWIS AVE
LAS VEGAS NV 89101-6300

VEHICLE REGISTRATION DATA

I - VEHICLE DATA

YEAR : 2002 MAKE : DODG MODEL : STRATUS CYL : 6
VIN : 4B3AG42HX2E162394 VEHCL TYPE : VEH-COUPE

II - REGISTRATION INFORMATION

SUSPENSION : NONE
EXPIRATION DATE : 11/15/2016 REG STATUS : ACTIVE
PLATE NUMBER : 098ASW DECAL NUMBER : 098ASW

CURRENT INDIVIDUAL &/OR BUSINESS ADDRESSES:

OWNER TYPE : REGISTERED COMBN TYPE : NONE
NAME : CHRISTOPHER ROBERT KELLER
MAIL ADDRESS : 265 N LAMB BLVD UNIT F
CITY/STATE : LAS VEGAS NV 89110-4685
PHYS ADDRESS : 265 N LAMB BLVD UNIT F
CITY/STATE : LAS VEGAS NV 89110-4685

LAST TRANSACTION DATE:11/28/2015

NAME &/OR ADDRESS ON REGISTRATION

NAME : CHRISTOPHER ROBERT KELLER
MAIL ADDRESS : 244 MOLLY CT
CITY/STATE : LAS VEGAS NV 89183-3533

PAGE NO: 1** LAST PAGE **

I hereby certify that this report is a
true copy of the original on file in
the Department of Motor Vehicles
of the State of Nevada

STATE OF NEVADA
DEPT. OF MOTOR VEHICLES

By:


Custodian of the Files

5/10/16

1 **ORPC**
2 **DAVID ROGER**
3 **Clark County District Attorney**
4 **Nevada Bar #002781**
5 **200 South Third Street**
6 **Las Vegas, Nevada 89155-2212**
7 **(702) 455-4711**
8 **Attorney for Plaintiff**

FILED
JUN 29 6 34 AM '04
Shirley L. Rasmussen
CLERK

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 **THE STATE OF NEVADA,**
9 **Plaintiff,**

10 **-vs-**

11 **CHRISTOPHER ROBERT KELLER,**
12 **#1804258**

13 **Defendant.**

Case No: C189805B

Dept No: VI

14 **ORDER FOR REVOCATION OF PROBATION AND**
15 **SECOND AMENDED JUDGMENT OF CONVICTION**

16 The Defendant previously appeared before the Court with counsel and entered a plea
17 of guilty to the crime(s) of **POSSESSION OF CREDIT CARD WITHOUT**
18 **CARDHOLDER'S CONSENT (Felony)**, in violation of **NRS 205.690**; thereafter, on the
19 24th day of April, 2003, the Defendant was present in Court for sentencing with counsel
20 wherein the Court did adjudge the Defendant guilty thereof by reason of the plea(s) of guilty,
21 suspended the execution of the sentence(s) imposed and granted probation to the Defendant.

22 **THEREAFTER**, a parole and probation officer provided the Court with a written
23 statement setting forth that the Defendant has, in the judgment of the parole and probation
24 officer, violated the conditions of probation; and on the 15th day of June, 2004, the
25 Defendant appeared in court with his counsel, **BRYAN A. COX**, Deputy Public Defender,
26 and pursuant to a probation violation hearing/proceeding, and good cause appearing to
27 amend Judgment of Conviction; now therefor,

28 **IT IS HEREBY ORDERED** that the probation previously granted to the Defendant

RECEIVED

JUN 25 2004

DEPT-6

RECEIVED

JUN 23 2004



PAWPDOCS\UUDG\300\30073605.doc

1 is revoked: and

2 **IT IS FURTHER ORDERED THAT:** SENTENCE MODIFIED to a MAXIMUM
3 of FORTY (40) MONTHS with a MINIMUM of TWELVE (12) MONTHS in the Nevada
4 Department of Corrections (NDC) IMPOSED. Defendant to receive 216 DAYS Credit for
5 Time Served.

6 DATED this 25th day of June, 2004.

7
8 CERTIFIED COPY
9 DOCUMENT ATTACHED IS A
10 TRUE AND CORRECT COPY
11 OF THE ORIGINAL ON FILE

12 *Alvin D. Johnson*
13 CLERK OF THE COURT

14
15 FEB 17 2016

16 *J. Bonaventura*
17 DISTRICT JUDGE (10)

18
19
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21
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23
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25
26
27
28 ct

Inst #: 20141231-0002411
Fees: \$19.00 W/C Fee: \$0.00
RPTT: \$165.75 Ex: #
12/31/2014 12:12:00 PM
Receipt #: 2268372
Requestor:
NORTH AMERICAN TITLE - GREE
Recorded By: ECM Pgs: 4
DEBBIE CONWAY
CLARK COUNTY RECORDER

APN: 140-31-715-060
RPTT: \$165.75
Recording Requested by:
NORTH AMERICAN TITLE COMPANY

Please mail tax statements to:
When recorded please mail to:
Christopher R. Keller
265 North Lamb Blvd, Unit F
Las Vegas, NV 89110

GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That

Jack K. Clark and Olga L. Clark, husband and wife as joint tenants with right of survivorship

In consideration of \$10.00 and other valuable consideration, the receipt of which hereby acknowledged, do hereby Grant, Bargain, Sell and Convey to:

Christopher R. Keller, a single man

All that real property situated in the County of Clark, State of Nevada, bounded and described as follows:

LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A" AND MADE A PART
HEREOF

Subject to:

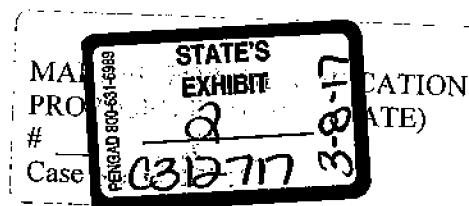
1. Taxes for the current fiscal year, paid current.
2. Conditions, covenants, restrictions, reservations, rights, rights of way and easements now of record, if any,

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

See signature page attached hereto and made a part hereof

Grant, Bargain, Sale Deed (with Restrictions)

45013-14-02070



Dated this 30th day of December, 2014.

Jack K. Clark
Jack K. Clark
Olga L. Clark
Olga L. Clark

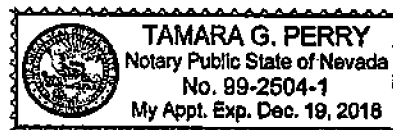
State of Nevada
County of Clark

On December 30, 2014 before me, the undersigned a Notary Public in and for said County and State, personally appeared Jack K. Clark and Olga L. Clark personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: [Signature]
Notary Public

My Commission expires: Dec. 19, 2018



Signature page to Grant, Bargain, Sale Deed
File No.: 45013-14-02070

Grant, Bargain, Sale Deed (with Restrictions)

45013-14-02070

EXHIBIT A

UNIT "F" IN BUILDING 10 OF AMENDED PLAT OF CROSSROADS III, AS SHOWN BY
MAP THEREOF ON FILE IN BOOK 41 OF PLATS, PAGE 37 IN THE OFFICE OF THE
COUNTY RECORDER OF CLARK COUNTY, NEVADA.

Grant, Bargain, Sale Deed

45013-14-02070

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

a) 140-31-715-060

b)

c)

d)

2. Type of Property:

a) ☐ Vacant Land

b) ☒ Single Fam. Res.

c) ☐ Condo/Twnhse

d) ☐ 2-4 plex

e) ☐ Apt. Bldg

f) ☐ Comm'l/Ind'l

g) ☐ Agricultural

h) ☐ Mobile Home

☐ Other: _____

FOR RECORDERS USE ONLY

Document/Instrument #: _____

Book _____ Page _____

Date of Recording: _____

Notes: _____

3. a. Total Value/Sales Price of Property

\$ 32,100.00

b. Deed in Lieu of Foreclosure Only (value of property)

\$ (0.00)

c. Transfer Tax Value:

\$ 32,100.00

d. REAL PROPERTY TRANSFER TAX DUE

\$ 165.75

4. IF EXEMPTION CLAIMED:

a) Transfer tax exemption per NRS 375.090, Section

b) Explain reason for exemption: _____

5. Partial Interest: Percentage being transferred: 100%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature [Signature] Capacity Grantor

Signature [Signature] Capacity Grantee

SELLER (GRANTOR) INFORMATION (Required) BUYER (GRANTEE) INFORMATION (Required)

Jack K. Clark and Olga L. Clark

Print Name

Address

City

State

Zip

Christopher R. Keller

Print Name

265 North Lamb Blvd, Unit F

Address

Las Vegas

City

Nevada

State

89110

Zip

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

North American Title Company

Company's/Person Name

2470 St Rose Parkway, Suite 104

Address

Escrow# 45013-14-02070

Henderson, NV 89074

(AS A PUBLIC RECORD - THIS FORM MAY BE RECORDED/MICROFILMED)

Declaration of Value

45013-14-02070

CERTIFIED COPY. THIS
DOCUMENT IS A TRUE AND
CORRECT COPY OF THE
RECORDED DOCUMENT MINUS
ANY REDACTED PORTIONS

APR 28 2016

Hebbie Conway
RECORDER

1 ORPC
2 DAVID ROGER
3 Clark County District Attorney
4 Nevada Bar #002781
5 200 South Third Street
6 Las Vegas, Nevada 89155-2212
7 (702) 455-4711
8 Attorney for Plaintiff

ORIGINAL

FILED

JUN 21 2 41 PM '04

Shirley B. Langston
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,
9 Plaintiff,

10 -vs-

11 CHRISTOPHER KELLER,
12 aka Christopher Robert Keller,
13 #1804258

Defendant.

Case No: C192923

Dept No: VIII

ORDER FOR REVOCATION OF PROBATION AND
SECOND AMENDED JUDGMENT OF CONVICTION

16 The Defendant previously appeared before the Court with counsel and entered a plea
17 of guilty to the crime(s) of BURGLARY (Category B Felony), in violation of NRS 205.060;
18 thereafter, on the 20th day of August, 2003, the Defendant was present in Court for
19 sentencing with counsel wherein the Court did adjudge the Defendant guilty thereof by
20 reason of the plea(s) of guilty, suspended the execution of the sentence(s) imposed and
21 granted probation to the Defendant.

22 THEREAFTER, a parole and probation officer provided the Court with a written
23 statement setting forth that the Defendant has, in the judgment of the parole and probation
24 officer, violated the conditions of probation; and on the 2nd day of February, 2004, the
25 Defendant appeared in court with his counsel, JONATHAN E. MACARTHUR, ESQ., and
26 pursuant to a probation violation hearing/proceeding, and good cause appearing to amend
27 Judgment of Conviction; now therefor,

28 ///

RECEIVED
JUN 21 2004
COUNTY CLERK

RECEIVED
JUN 17 2004
COUNTY CLERK

PAWPDOCSJUDG301\30188606.doc



1 IT IS ORDERED THAT: probation reinstated with the additional condition of:
2 pursuant to NRS 176A.780, Defendant is remanded to the custody of the Director of the
3 Department of Corrections to undergo the program of regimental discipline.

4 THEREAFTER, a parole and probation officer provided the Court with a written
5 statement setting forth that the Defendant has, in the judgment of the parole and probation
6 officer, violated the conditions of probation; and on the 16th day of June, 2004, the
7 Defendant appeared in court with his counsel, JONATHAN E. MACARTHUR, ESQ., and
8 pursuant to a probation violation hearing/proceeding, and good cause appearing to amend
9 Judgment of Conviction; now therefor,

10 IT IS HEREBY ORDERED that the probation previously granted to the Defendant is
11 REVOKED: and

12 IT IS FURTHER ORDERED THAT: sentence is modified to a maximum of sixty
13 (60) months and a minimum of eighteen (18) months. Modified sentence is imposed with 39
14 days credit for time served. Sentence to run concurrent with C189805.

15 DATED this 21 day of June, 2004.

16
17 *Lee A. Gates*
18 DISTRICT JUDGE *sc*

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MAR 25 2016
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OF THE ORIGINAL ON FILE
Adam B. Johnson
CLERK OF THE COURT

PAWPDOCSUUDG30130188606.DOC

JOC

FILED

FEB 12 2010

ORIGINAL

John J. Blum
CLERK OF COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER KELLER
aka Christopher Robert Keller
#1804258

Defendant.

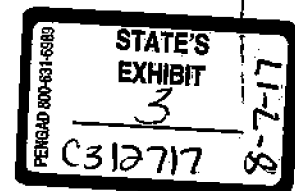
CASE NO. C252394

DEPT. NO. XXIII

ORDER FOR REVOCATION OF PROBATION AND
SECOND AMENDED JUDGMENT OF CONVICTION

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of POSSESSION OF FIREARM BY EX-FELON (Category B Felony) in violation of NRS 202.360; thereafter, on the 15th day of April, 2009, the Defendant was present in court for sentencing with his counsel, wherein the Court did adjudge the Defendant guilty thereof by reason of the plea of guilty, suspended the execution of the sentence imposed and granted probation to the Defendant.

THEREAFTER, on or about the 13th day of January, 2010, the Defendant being present, represented by counsel, and good cause appearing;



1 COURT CANVASSED Defendant and ORDERED, Probation REINSTATED.

2 COURT FURTHER ORDERED, the no weapons condition previously ordered STAND.

3 THEREAFTER, a parole and probation officer provided the Court with a written
4 statement setting forth that the Defendant has, in the judgment of the parole and
5 probation officer, violated the conditions of probation; and on the 8TH day of February,
6 2010, the Defendant appeared in court with his counsel BRIAN BLOOMFIELD, Esq.
7 and pursuant to a probation violation hearing/proceeding, and good cause appearing to
8 amend the Judgment of Conviction; now therefore,
9

10 IT IS HEREBY ORDERED that the probation previously granted to the Defendant
11 is revoked; and IT IS FURTHER ORDERED that the original sentence of a MAXIMUM
12 of THIRTY-SIX (36) MONTHS with a MINIMUM parole eligibility of TWELVE (12)
13 MONTHS in the Nevada Department of Corrections (NDC) is imposed, to run
14 CONCURRENT with other case; with TWO HUNDRED NINETY-THREE (293) DAYS
15 credit for time served.
16
17

18
19 DATED this 11th day of February, 2010.

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21 CERTIFIED COPY
22 DOCUMENT ATTACHED IS A
23 TRUE AND CORRECT COPY
24 OF THE ORIGINAL ON FILE

25
26 Alvin L. Johnson
27 CLERK OF THE COURT
28

FEB 17 2016

29
30 Stefany Miley
31 STEFANY MILEY
32 DISTRICT JUDGE 146

Alvin L. Lamm

CLERK OF THE COURT

1 JOC

2
3
4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 THE STATE OF NEVADA,

8 Plaintiff,

CASE NO. C279904-1

9 -vs-

DEPT. NO. VIII

10 CHRISTOPHER ROBERT KELLER
11 #1804258

12 Defendant.
13

14 JUDGMENT OF CONVICTION
15 (PLEA OF GUILTY)
16

17 The Defendant previously appeared before the Court with counsel and entered a
18 plea of guilty to the crime of ATTEMPT POSSESSION OF FIREARM BY EX-FELON
19 (Category C Felony) in violation of NRS 193.330, 202.360; thereafter, on the 4th day of
20 November, 2013, the Defendant was present in court for sentencing with his counsel
21 CESELY HOPPER, Deputy Public Defender, thereupon using the presentence report
22 from C287724 and good cause appearing,
23

24 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in
25 addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil
26 Assessment Fee and \$150.00 DNA Analysis Fee including testing to determine genetic
27

28 //



1 markers, the Defendant is sentenced to the Nevada Department of Corrections (NDC)
2 as follows: TO A MAXIMUM of FORTY-TWO (42) MONTHS with a MINIMUM Parole
3 Eligibility of SIXTEEN (16) MONTHS, sentence to run CONCURRENT with C287724
4 with FOUR HUNDRED SIXTY-THREE (463) DAYS credit for time served.
5

6
7 DATED this 8TH day of November, 2013.

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10 DOCUMENT ATTACHED IS A
11 TRUE AND CORRECT COPY
12 OF THE ORIGINAL ON FILE

13
14 *Alvin L. Johnson*
15 CLERK OF THE COURT

16
17 FEB 17 2016

18
19 *Doug Smith*
20 DOUG SMITH
21 DISTRICT JUDGE LG

Anna D. Schuman
CLERK OF THE COURT

JOCP

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER R. KELLER
aka Christopher Robert Keller
#1804258

Defendant.

CASE NO. C287724-1

DEPT. NO. II

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of CONSPIRACY TO VIOLATE UNIFORM CONTROLLED SUBSTANCES ACT (Category C Felony) in violation of NRS 453.401; thereafter, on the 31ST day of October, 2013, the Defendant was present in court for sentencing with his counsel LETIZIA HOPPER, Deputy Public Defender, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee, \$60.00 Drug Analysis Fee and a \$150.00 DNA Analysis Fee including testing to determine genetic markers, the

//

- | | | |
|---|--|--|
| <input type="checkbox"/> Nolle Prosequi (before trial) | <input type="checkbox"/> Bench (Non-Jury) Trial | |
| <input type="checkbox"/> Dismissed (after diversion) | <input type="checkbox"/> Dismissed (during trial) | <input type="checkbox"/> Conviction |
| <input type="checkbox"/> Dismissed (before trial) | <input type="checkbox"/> Acquittal | <input type="checkbox"/> Guilty Plea with Sent. (before trial) |
| <input checked="" type="checkbox"/> Guilty Plea with Sent. (before trial) | <input type="checkbox"/> Guilty Plea with Sent. (during trial) | <input type="checkbox"/> Conviction |
| <input type="checkbox"/> Transferred (before/during trial) | <input type="checkbox"/> Conviction | |
| <input type="checkbox"/> Other Manner of Disposition | | |

1 Defendant is sentenced as follows: TO A MAXIMUM of THIRTY-SIX (36) MONTHS
2 with a MINIMUM parole eligibility of TWELVE (12) MONTHS in the Nevada
3 Department of Corrections (NDC) with TWO HUNDRED NINETY-FOUR (294) DAYS
4 credit for time served.
5

6
7 DATED this 16th day of November, 2013.

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9 CERTIFIED COPY
10 DOCUMENT ATTACHED IS A
11 TRUE AND CORRECT COPY
OF THE ORIGINAL ON FILE

12 Alma J. Johnson
13 CLERK OF THE COURT

14 FEB 17 2016

15
16 Valorie J. Vega
17 VALORIE J. VEGA
18 DISTRICT JUDGE
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LVMPD - COMMUNICATION CENTER
EVENT SEARCH

EVT : LLV160128000259	TYPE: 467	PRI : 6
LOC :	BLDG:	APT :
ADDR: 265 N LAMB BLVD	XST : 4401 BERKLEY AVE	CITY : LV
CADD:	CNAM:	CPHONE:
MAP : 0242869	S/B : G1	SRA : H957
P/U : 1G24	OFF1: 9806	OFF2 :
DATE: 2016/01/28	INIT: 02:25:07	AREA : NE
911 : NO	CLSE: 17:02:55	DISP : A

02:25:07	CM	Primary Event: MAIN Opened: 16/01/28 02:25	19	LV6652
02:25:07	EU	INITIATED BY FRM- TO-LV6652	19	LV6652
02:25:07	CM	SW IN APT COMPLEX	19	LV6652
02:25:07	EU	PN FRM- TO-NV-098ASW	19	LV6652
02:25:07	CM	Initial Traffic Stop by LV/1G24 at 02:25:07 on 16/01/28	19	LV6652
02:25:07	CM	Verification Bypassed Inc- LLV160128000259 Addr-LAMB/STEW	19	LV6652
02:25:07	USOF 1G24	467	19	LV6652
02:25:07	EU 1G24	PU FRM- TO-LV/1G24	19	LV6652
02:26:07	USAS 1G31	LAMB/STEW 467	19	LV6652
02:26:14	CM	1G24 REQ ANOTHER UNIT / 0226HRS	19	LV6652
02:26:19	EU 1G24	AD FRM-LAMB/STEW	19	LV6652
02:26:23	USER 1G31	LAMB/STEW 467	00	LV14753
02:26:23	CM	C/4 FOR NOW / 0226HRS	19	LV6652
02:26:23	EU	FRM- TO-02	19	LV6652
02:26:23	EU	FRM- TO-G	19	LV6652
02:26:23	EU	FRM- TO-G1	19	LV6652
02:26:23	EU	FRM- TO-LV	19	LV6652
02:28:07	USAR 1G31	LAMB/STEW 467	00	LV14753
02:28:52	EU 1G24	AD FRM-N LAMB BLVD&STEWART AVE	19	LV6652
02:28:59	CM	1G24 / ADDRESS IS 265 N LAMB / 0228HRS	19	LV6652
02:29:04	EU	FRM- TO-4401 BERKLEY AVE	19	LV6652
02:29:04	EU	FRM- TO-4401 STEWART AVE	19	LV6652
02:29:04	US 1G24	LO 265 N LAMB	19	LV6652
02:29:11	US 1G31	LO 265 N LAMB	19	LV6652
02:29:58	UR 1G31	Reassign: 467 LLV160128000270	19	LV6652
02:36:57	UO 1G24	Overdue: Operator: LV/6652 Console: 19		
02:37:59	CM	BUNCH OF 446 PARAPHANELIA AND LARGE AMOUNT OF CASH / 0237HRS	19	LV6652
02:38:02	USAR 1G1	265 N LAMB BLVD 467	19	LV6652
02:38:02	USAR 1G1	265 N LAMB BLVD 467	19	LV6652
02:38:28	CM	1G24 CAR TO CAR / 434'S POSS DISTRACTIONS TO THE 467 // # 0270 CREATED	19	LV6652
02:38:28	CM	FOR THE 434'S // 0238HRS	19	LV6652
02:40:52	IA	Incident Associated to: LLV160128000270	19	LV6652
02:43:52	USAS K96	265 N LAMB BLVD 467	19	LV6652
02:43:56	USAR 676	265 N LAMB BLVD 467	19	LV6652
02:43:56	USAR 676	265 N LAMB BLVD 467	19	LV6652
02:44:28	CM	676 REQ K9 / POSS TOSSED 446 OUT OF VEH / K96-ENR / 0244HRS	19	LV6652
02:44:39	CM	IAAssocInc LLV160128000270 UPDATE Dispo to I MAIN	19	LV6652
02:44:42	USAR 1G31	265 N LAMB BLVD 467	19	LV6652
02:49:41	USAR K96	265 N LAMB BLVD 467	00	LV5278
03:06:05	CM	1G31 POSS 413 IN VEH / 0305HRS	19	LV6652
03:19:33	USAR 1G1	265 N LAMB BLVD 467	00	LV9004
03:27:38	USCL K96	467	00	LV5278

I HEREBY CERTIFY that this is a full, true and correct copy of the original on file with the Las Vegas Metropolitan Police Department, except for the information that is privileged and confidential by law.

LVMPD - COMMUNICATION CENTER
EVENT SEARCH

03:27:38	US	K96	D	FRM-	TO-K		00	LV5278
03:31:30	CM			1G1,,C4 AM,,OF RADIO FOR A BIT	0331HRS		19	LV7217
03:31:36	UO	1G24		Overdue: Operator: LV/7217	Console: 19			
04:14:04	USAS	371		265 N LAMB BLVD		467	19	LV7217
04:14:08	USAR	371		265 N LAMB BLVD		467	19	LV7217
04:14:13	UO	1G24		Overdue: Operator: LV/7217	Console: 19			
04:35:04	USER	1G24		265 N LAMB		467	00	LV9806
04:35:15	USAR	1G24		265 N LAMB		467	00	LV9806
05:01:37	CM			1G1 REQ ID FOR SEARCH WARRANT	0501HRS		12	LV13921
05:01:48	CM			CS5 COPIED	0501HRS		12	LV13921
05:27:35	USAS	C32		265 N LAMB BLVD		467	12	LV13921
05:48:53	USCL	371				467	00	LV5661
05:50:08	USAR	C32		265 N LAMB BLVD		467	00	LV14373
06:19:44	CM			1G1 LL- REQ TOW FOR DOOR POP	0619HRS		19	LV7016
06:19:48	EU			FRM- TO-Q	0619HRS		19	LV7016
06:19:48	EU	1G24		TW FRM-	TO-Q 0619HRS		19	LV7016
06:34:01	USAS	PD88		265 N LAMB BLVD		467	27	LV15378
06:34:10	USER	PD109		265 N LAMB BLVD		467	27	LV15378
06:35:01	CM			1G12/ REQ TOW ..QUALITY REC'D UPDATED	0634HRS		19	LV7016
06:46:31	CM			45/REC FRM QUAL ASKING LOC...FOUND WHILE LL	0646HRS		45	LV15298
06:57:42	USCL	C32				467	11	LV7286
07:00:57	USTO	1G31		NEAC		467	19	LV7016
07:02:56	USAS	2G22		NEAC		467	19	LV7016
07:02:59	USAO	2G22		NEAC		467	19	LV7016
07:06:55	USAS	2F34		265 N LAMB BLVD		467	19	LV7016
07:07:10	USER	2F34		265 N LAMB BLVD		467	00	LV7814
07:10:03	USAO	1G31		NEAC		467	00	LV14753
07:15:20	USAR	PD88		265 N LAMB BLVD		467	19	LV7016
07:15:20	USAR	PD109		265 N LAMB BLVD		467	19	LV7016
07:27:42	USAR	2F34		265 N LAMB BLVD		467	00	LV7814
07:47:07	USCL	676				467	00	LV7322
07:58:33	USCL	1G31				467	00	LV14753
08:03:31	USCL	1G1				467	00	LV9004
08:03:31	US	1G1	D	FRM-	TO-K		00	LV9004
08:27:25	UO	1G24		Overdue: Operator: LV/9740	Console: 19			
08:43:52	USER	2F34		265 N LAMB BLVD		467	00	LV7814
09:12:17	USAR	689PD		265 N LAMB BLVD		467	19	LV9740
09:15:07	USAR	2F34		265 N LAMB BLVD		467	19	LV9740
09:50:29	USER	PD102		265 N LAMB BLVD		467	19	LV9740
09:50:29	USER	PD164		265 N LAMB BLVD		467	19	LV9740
09:58:53	UO	1G24		Overdue: Operator: LV/9740	Console: 19			
10:00:21	USAR	PD164		265 N LAMB BLVD		467	19	LV9740
10:00:21	USAR	PD102		265 N LAMB BLVD		467	19	LV9740
10:01:11	CM			PD109 CLEARING RES CRED	1001HRS		19	LV9740
10:02:26	CM			689PD C4 CHAN CLR	1002HRS		19	LV9740
10:10:18	UO	2G22		Overdue: Operator: LV/9740	Console: 19			
10:16:02	UO	PD109		Overdue: Operator: LV/9740	Console: 19			
10:16:02	UO	PD88		Overdue: Operator: LV/9740	Console: 19			
10:43:28	CM			1G24/C/4 STILL ONDUTY OUT AT SCENE VIA LL 1043			19	LV7288
11:12:54	USTO	1G24		NEAC		467	00	LV9806
11:13:45	USTO	689PD		NEAC		467	19	LV7288

I HEREBY CERTIFY that this is a full, true and correct copy of the original on file with the Las Vegas Metropolitan Police Department, except for the information that is privileged and confidential by law.

LVMPD - COMMUNICATION CENTER
EVENT SEARCH

11:13:56	USTO	2F34	NEAC	467	00	LV7814
11:20:19	USAO	1G24	NEAC	467	00	LV9806
11:24:36	USAO	2F34	NEAC	467	00	LV7814
12:18:09	USAO	689PD	NEAC	467	19	LV7288
12:18:59	USAS	2LD52	NEAC	467	19	LV7288
12:19:06	USAO	2LD52	NEAC/IMPOUND	467	19	LV7288
12:19:08	USAR	2LD52	NEAC/IMPOUND	467	00	LV7774
13:16:43	UR	PD164	Reassign: 467 LLV160128001939		19	LV7288
13:16:47	UR	PD102	Reassign: 467 LLV160128001939		19	LV7288
13:22:59	UR	689PD	Reassign: 467 LLV160128001939		19	LV7280
13:40:04	USCL	2LD52		467	00	LV7774
14:17:00	CM		2G22 , REQ MED FOR SUSP IN CUST,,IS REACHING IN PANTS TOOK SOMETHING		19	LV7280
14:17:00	CM		OUT AND SNORTED IT ,,IN THE INTERVIEW ROOM , MED ENR 1416HRS		19	LV7280
14:22:06	CM		43/ REC FROM FD - IS AT THE CP /IF OFCRS CAN MEET THEM - 1422HRS		43	LV14386
14:37:51	CM		RESCUE 23 CC FIRE & MED WEST 851		19	LV7280
14:38:54	CM		RESCUE 23 CC FIRE & MED WEST 851		19	LV7280
14:59:56	USAO	PD109	NEAC	467	19	LV7280
15:01:01	USAO	PD88	NEAC	467	19	LV7280
15:11:48	USAS	3G12	NEAC	467	19	LV7280
15:11:52	USAO	3G12	NEAC	467	19	LV7280
15:22:20	USER	3F12	NEAC	467	05	LV4804
15:22:42	USAR	3F12	NEAC	467	05	LV4804
15:31:58	USCL	2G22		467	00	LV9494
15:36:14	USCL	3G12		467	00	LV9874
16:04:45	USCL	1G24		467	19	LV14134
16:04:45	EU	1G24	D FRM- TO-A MAIN		19	LV14134
16:05:03	US	3F12	RD Rider Added: 768-2528 CIT		00	LV213L1
16:05:03	US	3F12	CU 1M MT		00	LV213L1
16:05:03	US	3F12	UU Area:NE Veh:P10783 Unit Update		00	LV213L1
16:05:32	USTB	3F12	CCDC	467	00	LV13524
16:09:15	US	2F34	LO NEAC VM 1609HRS		19	LV14134
16:17:26	CM		PROPERTY REPORT, ODV HEROIN AND METHAMPHETAMINE.		00	LV7814
16:17:26	USCL	2F34		467	00	LV7814
16:17:26	US	2F34	D FRM- TO-K		00	LV7814
16:18:53	USAB	3F12	CCDC	467	00	LV13524
16:46:08	USCL	PD109		467	19	LV14134
16:52:12	USCL	PD88		467	19	LV14134
17:02:55	USCL	3F12		467	00	LV13524
17:02:55	CM		Route Closed: MAIN			
17:02:55	CM		Incident Closed: 16/01/28 17:02			
11:56:33	CM		1G24// BOTH WARRANTS WERE DROPPED OFF W/JUNITH JUSTICE COURT OFC 1156HRS		33	LV13046

I HEREBY CERTIFY that this is a full, true and correct copy of the original on file with the Las Vegas Metropolitan Police Department, except for the information that is privileged and confidential by law.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT **UNIT LOG BY INCIDENT**

For Incident Number: LLV160128000259

Unit	Event Number	P/Unit	Date Time	Code	Type	Officer 1 P# and Name	Officer 2 P# and Name	Disp	Pri	Comment
1G24	LLV160128000259	1G24	01/28/2016 02:25:07	USOF	467	9806 LOPEZ, DANIEL V		A	6	LAMB/STEW
1G31	LLV160128000259	1G24	01/28/2016 02:26:07	USAS	467	14753 HENRY, JACOB V		A	6	LAMB/STEW
1G31	LLV160128000259	1G24	01/28/2016 02:26:23	USER	467	14753 HENRY, JACOB V		A	6	LAMB/STEW
1G31	LLV160128000259	1G24	01/28/2016 02:28:07	USAR	467	14753 HENRY, JACOB V		A	6	LAMB/STEW
1G24	LLV160128000259	1G24	01/28/2016 02:29:04	LO	467	9806 LOPEZ, DANIEL V		A	6	loc: 265 N LAMB
1G31	LLV160128000259	1G24	01/28/2016 02:29:11	LO	467	14753 HENRY, JACOB V		A	6	loc: 265 N LAMB
1G31	LLV160128000259	1G24	01/28/2016 02:29:58	UR	467	14753 HENRY, JACOB V		A	6	Reassign: 467 LLV160128000270
1G24	LLV160128000259	1G24	01/28/2016 02:36:57	UO	467	9806 LOPEZ, DANIEL V		A	6	Overdue: Operator: LV/6652 Console: 19
1G1	LLV160128000259	1G24	01/28/2016 02:38:02	USAR	467	9004 VANCE, JEREMY K		A	6	265 N LAMB BLVD
1G1	LLV160128000259	1G24	01/28/2016 02:38:02	USAR	467	9004 VANCE, JEREMY K		A	6	265 N LAMB BLVD
K96	LLV160128000259	1G24	01/28/2016 02:43:52	USAS	467	5278 NEWTON, DAVID E		A	6	265 N LAMB BLVD
676	LLV160128000259	1G24	01/28/2016 02:43:56	USAR	467	7322 REESE, STEVEN W		A	6	265 N LAMB BLVD
676	LLV160128000259	1G24	01/28/2016 02:43:56	USAR	467	7322 REESE, STEVEN W		A	6	265 N LAMB BLVD
1G31	LLV160128000259	1G24	01/28/2016 02:44:42	USAR	467	14753 HENRY, JACOB V		A	6	265 N LAMB BLVD
K96	LLV160128000259	1G24	01/28/2016 02:49:41	USAR	467	5278 NEWTON, DAVID E		A	6	265 N LAMB BLVD
1G1	LLV160128000259	1G24	01/28/2016 03:19:33	USAR	467	9004 VANCE, JEREMY K		A	6	265 N LAMB BLVD
K96	LLV160128000259	1G24	01/28/2016 03:27:38	USCL	467	5278 NEWTON, DAVID E		A	6	
K96	LLV160128000259	1G24	01/28/2016 03:27:38	D	467	5278 NEWTON, DAVID E		A	6	Added disposition: K
1G24	LLV160128000259	1G24	01/28/2016 03:31:36	UO	467	9806 LOPEZ, DANIEL V		A	6	Overdue: Operator: LV/7217 Console: 19
371	LLV160128000259	1G24	01/28/2016 04:14:04	USAS	467	5661 LOURENCO, MARK J		A	6	265 N LAMB BLVD
371	LLV160128000259	1G24	01/28/2016 04:14:08	USAR	467	5661 LOURENCO, MARK J		A	6	265 N LAMB BLVD
1G24	LLV160128000259	1G24	01/28/2016 04:14:13	UO	467	9806 LOPEZ, DANIEL V		A	6	Overdue: Operator: LV/7217 Console: 19
1G24	LLV160128000259	1G24	01/28/2016 04:35:04	USER	467	9806 LOPEZ, DANIEL V		A	6	265 N LAMB
1G24	LLV160128000259	1G24	01/28/2016 04:35:15	USAR	467	9806 LOPEZ, DANIEL V		A	6	265 N LAMB
C32	LLV160128000259	1G24	01/28/2016 05:27:35	USAS	467	14373 THI, STEPHANIE BAI-Y		A	6	265 N LAMB BLVD
371	LLV160128000259	1G24	01/28/2016 05:48:53	USCL	467	5661 LOURENCO, MARK J		A	6	
C32	LLV160128000259	1G24	01/28/2016 05:50:08	USAR	467	14373 THI, STEPHANIE BAI-Y		A	6	265 N LAMB BLVD
PD88	LLV160128000259	1G24	01/28/2016 06:34:01	USAS	467	8240 BELMONT, MICHAEL C		A	6	265 N LAMB BLVD

I HEREBY CERTIFY that this is a full, true and correct copy of the original on file with the Las Vegas Metropolitan Police Department, except for the information that is privileged and confidential by law.

RESEARCH ASSISTANT Communications Bureau

LAS VEGAS METROPOLITAN POLICE DEPARTMENT **UNIT LOG BY INCIDENT**

For Incident Number: LLV160128000259

Unit	Event Number	P/Unit	Date Time	Code	Type	Officer 1 P# and Name	Officer 2 P# and Name	Disp	Pri	Comment
PD109	LLV160128000259	1G24	01/28/2016 08:34:10	USER	467	6223 EMBRY, CHAD MCSHANE		A	6	265 N LAMB BLVD
C32	LLV160128000259	1G24	01/28/2016 06:57:42	USCL	467	14373 THI, STEPHANIE BAI-Y		A	6	ER TO SEC
1G31	LLV160128000259	1G24	01/28/2016 07:00:57	USTO	467	14753 HENRY, JACOB V		A	6	NEAC
2G22	LLV160128000259	1G24	01/28/2016 07:02:56	USAS	467	9494 COLLINGWOOD, ELIZABE		A	6	NEAC
2G22	LLV160128000259	1G24	01/28/2016 07:02:59	USAO	467	9494 COLLINGWOOD, ELIZABE		A	6	NEAC
2F34	LLV160128000259	1G24	01/28/2016 07:06:55	USAS	467	7814 HOUGH, STEVEN D		A	6	265 N LAMB BLVD
2F34	LLV160128000259	1G24	01/28/2016 07:07:10	USER	467	7814 HOUGH, STEVEN D		A	6	265 N LAMB BLVD
1G31	LLV160128000259	1G24	01/28/2016 07:10:03	USAO	467	14753 HENRY, JACOB V		A	6	NEAC
PD88	LLV160128000259	1G24	01/28/2016 07:15:20	USAR	467	8240 BELMONT, MICHAEL C		A	6	265 N LAMB BLVD
PD109	LLV160128000259	1G24	01/28/2016 07:15:20	USAR	467	6223 EMBRY, CHAD MCSHANE		A	6	265 N LAMB BLVD
2F34	LLV160128000259	1G24	01/28/2016 07:27:42	USAR	467	7814 HOUGH, STEVEN D		A	6	265 N LAMB BLVD
676	LLV160128000259	1G24	01/28/2016 07:47:07	USCL	467	7322 REESE, STEVEN W		A	6	
1G31	LLV160128000259	1G24	01/28/2016 07:58:33	USCL	467	14753 HENRY, JACOB V		A	6	
1G1	LLV160128000259	1G24	01/28/2016 08:03:31	USCL	467	9004 VANCE, JEREMY K		A	6	
1G1	LLV160128000259	1G24	01/28/2016 08:03:31	D	467	9004 VANCE, JEREMY K		A	6	Added disposition: K
1G24	LLV160128000259	1G24	01/28/2016 08:27:25	UO	467	9806 LOPEZ, DANIEL V		A	6	Overdue: Operator: LV/9740 19
2F34	LLV160128000259	1G24	01/28/2016 08:43:52	USER	467	7814 HOUGH, STEVEN D		A	6	265 N LAMB BLVD
689PD	LLV160128000259	1G24	01/28/2016 09:12:17	USAR	467	7420 HAAS, FRED C		A	6	265 N LAMB BLVD
2F34	LLV160128000259	1G24	01/28/2016 09:15:07	USAR	467	7814 HOUGH, STEVEN D		A	6	265 N LAMB BLVD
PD102	LLV160128000259	1G24	01/28/2016 09:50:29	USER	467	6844 MANCAO, ERIC E		A	6	265 N LAMB BLVD
PD164	LLV160128000259	1G24	01/28/2016 09:50:29	USER	467	13518 TURNER, GUY L		A	6	265 N LAMB BLVD
1G24	LLV160128000259	1G24	01/28/2016 09:58:53	UO	467	9806 LOPEZ, DANIEL V		A	6	Overdue: Operator: LV/9740 19
PD164	LLV160128000259	1G24	01/28/2016 10:00:21	USAR	467	13518 TURNER, GUY L		A	6	265 N LAMB BLVD
PD102	LLV160128000259	1G24	01/28/2016 10:00:21	USAR	467	6844 MANCAO, ERIC E		A	6	265 N LAMB BLVD
2G22	LLV160128000259	1G24	01/28/2016 10:10:18	UO	467	9494 COLLINGWOOD, ELIZABE		A	6	Overdue: Operator: LV/9740 19
PD109	LLV160128000259	1G24	01/28/2016 10:16:02	UO	467	6223 EMBRY, CHAD MCSHANE		A	6	Overdue: Operator: LV/9740 19
PD88	LLV160128000259	1G24	01/28/2016 10:16:02	UO	467	8240 BELMONT, MICHAEL C		A	6	Overdue: Operator: LV/9740 19

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RESEARCH ASSISTANT Communications Bureau

LAS VEGAS METROPOLITAN POLICE DEPARTMENT **UNIT LOG BY INCIDENT**

For Incident Number: LLV160128000259

Unit	Event Number	P/Unit	Date Time	Code	Type	Officer 1 P# and Name	Officer 2 P# and Name	Disp	Pri	Comment
1G24	LLV160128000259	1G24	01/28/2016 11:12:54	USTO	467	LOPEZ, DANIEL V		A	6	NEAC
689PD	LLV160128000259	1G24	01/28/2016 11:13:45	USTO	467	HAAS, FRED C		A	6	NEAC
2F34	LLV160128000259	1G24	01/28/2016 11:13:56	USTO	467	HOUGH, STEVEN D		A	6	NEAC
1G24	LLV160128000259	1G24	01/28/2016 11:20:19	USAO	467	LOPEZ, DANIEL V		A	6	NEAC
2F34	LLV160128000259	1G24	01/28/2016 11:24:36	USAO	467	HOUGH, STEVEN D		A	6	NEAC
689PD	LLV160128000259	1G24	01/28/2016 12:18:09	USAO	467	HAAS, FRED C		A	6	NEAC
2LD52	LLV160128000259	1G24	01/28/2016 12:18:59	USAS	467	NICOL, TROY L		A	6	NEAC
2LD52	LLV160128000259	1G24	01/28/2016 12:19:06	USAO	467	NICOL, TROY L		A	6	NEAC/IMPOUND
2LD52	LLV160128000259	1G24	01/28/2016 12:19:08	USAR	467	NICOL, TROY L		A	6	NEAC/IMPOUND
PD164	LLV160128000259	1G24	01/28/2016 13:16:43	UR	467	TURNER, GUY L		A	6	Reassign: 467 LLV160128001939
PD102	LLV160128000259	1G24	01/28/2016 13:16:47	UR	467	MANCAO, ERIC E		A	6	Reassign: 467 LLV160128001939
689PD	LLV160128000259	1G24	01/28/2016 13:22:59	UR	467	HAAS, FRED C		A	6	Reassign: 467 LLV160128001939
2LD52	LLV160128000259	1G24	01/28/2016 13:40:04	USCL	467	NICOL, TROY L		A	6	
PD109	LLV160128000259	1G24	01/28/2016 14:59:56	USAO	467	EMBRY, CHAD MCSHANE		A	6	NEAC
PD88	LLV160128000259	1G24	01/28/2016 15:01:01	USAO	467	BELMONT, MICHAEL C		A	6	NEAC
3G12	LLV160128000259	1G24	01/28/2016 15:11:48	USAS	467	EDENS, JOSEPH C		A	6	NEAC
3G12	LLV160128000259	1G24	01/28/2016 15:11:52	USAO	467	EDENS, JOSEPH C		A	6	NEAC
3F12	LLV160128000259	1G24	01/28/2016 15:22:20	USER	467	CELAYA, KEITH		A	6	NEAC
3F12	LLV160128000259	1G24	01/28/2016 15:22:42	USAR	467	CELAYA, KEITH		A	6	NEAC
2G22	LLV160128000259	1G24	01/28/2016 15:31:58	USCL	467	COLLINGWOOD, ELIZABE		A	6	
3G12	LLV160128000259	1G24	01/28/2016 15:36:14	USCL	467	EDENS, JOSEPH C		A	6	
1G24	LLV160128000259	1G24	01/28/2016 16:04:45	USCL	467	LOPEZ, DANIEL V		A	6	
1G24	LLV160128000259	1G24	01/28/2016 16:04:45	D	467	LOPEZ, DANIEL V		A	6	Added disposition: A
3F12	LLV160128000259	1G24	01/28/2016 16:05:03	RD	467	CELAYA, KEITH		A	6	Rider Added: 768-2528 CIT
3F12	LLV160128000259	1G24	01/28/2016 16:05:03	CU	467	CELAYA, KEITH		A	6	1M MT
3F12	LLV160128000259	1G24	01/28/2016 16:05:03	UU	467	CELAYA, KEITH		A	6	Unit Update
3F12	LLV160128000259	1G24	01/28/2016 16:05:32	USTB	467	CELAYA, KEITH		A	6	CCDC
2F34	LLV160128000259	1G24	01/28/2016 16:09:15	LO	467	HOUGH, STEVEN D		A	6	loc: NEAC VM 1609HRS
2F34	LLV160128000259	1G24	01/28/2016 16:17:26	USCL	467	HOUGH, STEVEN D		A	6	

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2/18/2016 11:42:35 AM

Page 3 of 4

LAS VEGAS METROPOLITAN POLICE DEPARTMENT **UNIT LOG BY INCIDENT**

For Incident Number: LLV160128000259

Unit	Event Number	P/Unit	Date Time	Code	Type	Officer 1 P# and Name	Officer 2 P# and Name	Disp	Pri	Comment
2F34	LLV160128000259	1G24	01/28/2016 16:17:26	D	467	7814 HOUGH, STEVEN D		A	6	Added disposition: K
3F12	LLV160128000259	1G24	01/28/2016 16:18:53	USAB	467	13524 CELAYA, KEITH		A	6	CCDC
PD109	LLV160128000259	1G24	01/28/2016 16:46:08	USCL	467	6223 EMBRY, CHAD MCSHANE		A	6	
PD88	LLV160128000259	1G24	01/28/2016 16:52:12	USCL	467	8240 BELMONT, MICHAEL C		A	6	
3F12	LLV160128000259	1G24	01/28/2016 17:02:55	USCL	467	13524 CELAYA, KEITH		A	6	

End of Unit Log for Incident Number: LLV160128000259

1095

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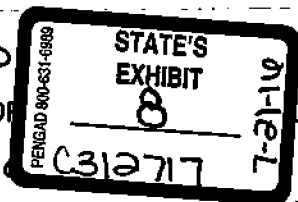
RESEARCH ASSISTANT Communications Bureau

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Page 4 of 4

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PROF



ON

LVMPD - COMMUNICATION CENTER
EVENT SEARCH

BVT : LLV160128000270
LOC :
ADDR: 4280 STEWART AVE
CADD:
MAP : 0242857
P/U : 1G31
DATE: 2016/01/28
911 : NO

TYPE: 434
BLDG:
XST : 399 PRINCE LN
CNAM:
S/B : G1
OFF1: 14753
INIT: 02:29:58
CLSE: 04:14:13

PRI : 0
APT :
CITY : LV
CPHONE:
SRA : H957
OFF2 :
AREA : NE
DISP : I

02:29:58	EU	INITIATED BY	FRM-	TO-LV6652	19	LV6652	
02:29:58	CM	Primary Event: MAIN Opened: 16/01/28 02:29				19	LV6652
02:29:58	USAR 1G31	265 N LAMB BLVD		434	19	LV6652	
02:29:58	EU 1G31	PU FRM-		TO-LV/1G31	19	LV6652	
02:30:06	USAS 1G11	265 N LAMB BLVD		434	19	LV6652	
02:30:06	USAS 1G12	265 N LAMB BLVD		434	19	LV6652	
02:30:10	USER 1G12	265 N LAMB BLVD		434	00	LV7210	
02:30:13	CM	1G24 HEARING 434'S CLOSE BY / 1G31 ATL'G COMPLEX / C/RED / 0230HRS			19	LV6652	
02:30:31	USAS 1F2	265 N LAMB BLVD		434	19	LV6652	
02:30:41	USAS 1G1	265 N LAMB BLVD		434	19	LV6652	
02:30:45	USER 1G1	265 N LAMB BLVD		434	00	LV9004	
02:30:55	CM	1G24 / DISREGARD C/RED FOR NOW / 0230HRS			19	LV6652	
02:31:08	USAR 676	265 N LAMB BLVD		434	19	LV6652	
02:31:08	USAR 676	265 N LAMB BLVD		434	19	LV6652	
02:31:15	USER 1F2	265 N LAMB BLVD		434	00	LV14851	
02:31:18	USAS 1F11	265 N LAMB BLVD		434	19	LV6652	
02:31:22	USAS 1F21	265 N LAMB BLVD		434	19	LV6652	
02:31:25	USER 1F21	265 N LAMB BLVD		434	00	LV13728	
02:31:54	USER AIR2	265 N LAMB BLVD		434	19	LV6652	
02:32:05	CM	3-4 434'S APPROX 4280 STEWART / 0232HRS			19	LV6652	
02:32:19	CM	1G31 IN ALLEY BEHIND 7-11 NOW / 0232HRS			19	LV6652	
02:32:26	USAR 1G12	265 N LAMB BLVD		434	00	LV7210	
02:32:26	USAR 1F21	265 N LAMB BLVD		434	00	LV13728	
02:32:32	EU 1G31	AD FRM-265 N LAMB BLVD			19	LV6652	
02:32:59	USAS 1F12	4280 STEWART AVE		434	19	LV6652	
02:33:08	EU	FRM-4401 BERKLEY AVE	TO-399 PRINCE LN		19	LV6652	
02:33:08	EU	FRM-4401 STEWART AVE	TO-298 QUINCY ST		19	LV6652	
02:33:08	USER 1F12	4280 STEWART AVE		434	00	LV15024	
02:33:54	USAR 1G11	265 N LAMB BLVD		434	00	LV9791	
02:34:19	USAR 734	4280 STEWART AVE		434	19	LV6652	
02:34:20	USAR AIR2	265 N LAMB BLVD		434	19	LV6652	
02:34:27	US AIR2	LO 4280 STEWART			19	LV6652	
02:34:38	US 1G11	LO 4280 STEWART			19	LV6652	
02:34:38	US 1G12	LO 4280 STEWART			19	LV6652	
02:34:38	US 1F21	LO 4280 STEWART			19	LV6652	
02:34:38	US 1G31	LO 4280 STEWART			19	LV6652	
02:36:31	USAR 1F11	265 N LAMB BLVD		434	00	LV14904	
02:36:38	US 1F11	LO 4280 STEWART			19	LV6652	
02:37:29	US 1G31	LO 265 N LAMB			19	LV6652	
02:38:02	UR 1G1	Reassign: 434 LLV160128000259			19	LV6652	
02:38:22	USAR 1F12	4280 STEWART AVE		434	00	LV15024	
02:38:46	CM	1G24 HEARD WHILE ON EV 0259			19	LV6652	

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LVMPD - COMMUNICATION CENTER
EVENT SEARCH

02:40:34	USTO	1G11	15 N. LAMB	434	00	LV9791
02:40:41	USAO	1G11	15 N. LAMB	434	00	LV9791
02:40:43	USAR	1F2	265 N LAMB BLVD	434	00	LV14851
02:40:52	IA		Incident Associated to: LLV160128000259		19	LV6652
02:41:37	USCL	1F21		434	00	LV13728
02:42:22	USCL	1F11		434	00	LV14904
02:42:34	CM		676 REQ 446 K98 / 0242HRS		19	LV6652
02:42:43	CM		676 / POSS TOSSED 446 OUT IN AREA / 0242HRS		19	LV6652
02:43:34	USAS	K96	4280 STEWART AVE	434	19	LV6652
02:43:46	USER	K96	4280 STEWART AVE	434	00	LV5278
02:43:52	UR	K96	Reassign: 434 LLV160128000259		19	LV6652
02:43:56	UR	676	Reassign: 434 LLV160128000259		19	LV6652
02:44:18	CM		K9 FOR # 0259 / 0244HRS		19	LV6652
02:44:39	USCL	1G31		434	19	LV6652
02:44:39	BU	1G31	D FRM- TO-I MAIN		19	LV6652
02:46:14	USCL	1F12		434	00	LV15024
02:48:37	USCL	1F2		434	00	LV14851
02:57:10	USCL	1G12		434	00	LV7210
02:59:52	USCL	AIR2		434	15	LV3767
03:01:25	USCL	1G11		434	00	LV9791
03:27:38	CM		IAAssocInc LLV160128000259 UPDATE Dispo to K MAIN		00	LV5278
04:14:13	USCL	734		434	00	LV5850
04:14:13	CM		Route Closed: MAIN			
04:14:13	CM		Incident Closed: 16/01/28 04:14			
08:03:32	CM		IAAssocInc LLV160128000259 UPDATE Dispo to K MAIN		00	LV9004
16:04:45	CM		IAAssocInc LLV160128000259 UPDATE Dispo to A MAIN		19	LV14134
16:17:26	CM		IAAssocInc LLV160128000259 UPDATE Dispo to K MAIN		00	LV7814

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT **UNIT LOG BY INCIDENT**

For Incident Number: LLV160128000270

Unit	Event Number	P/Unit	Date Time	Code	Type	Officer 1 P# and Name	Officer 2 P# and Name	Disp	Pri	Comment
1G31	LLV160128000270	1G31	01/28/2016 02:29:58	USAR	434	14753 HENRY, JACOB V		I	0	265 N LAMB BLVD
1G11	LLV160128000270	1G31	01/28/2016 02:30:06	USAS	434	9791 RAMIREZ, JIMMY J		I	0	265 N LAMB BLVD
1G12	LLV160128000270	1G31	01/28/2016 02:30:06	USAS	434	7210 MAUGA, REBECCA M		I	0	265 N LAMB BLVD
1G12	LLV160128000270	1G31	01/28/2016 02:30:10	USER	434	7210 MAUGA, REBECCA M		I	0	265 N LAMB BLVD
1F2	LLV160128000270	1G31	01/28/2016 02:30:31	USAS	434	14851 DEL VILLAR, CHRISTOPH		I	0	265 N LAMB BLVD
1G1	LLV160128000270	1G31	01/28/2016 02:30:41	USAS	434	9004 VANCE, JEREMY K		I	0	265 N LAMB BLVD
1G1	LLV160128000270	1G31	01/28/2016 02:30:45	USER	434	9004 VANCE, JEREMY K		I	0	265 N LAMB BLVD
676	LLV160128000270	1G31	01/28/2016 02:31:08	USAR	434	7322 REESE, STEVEN W		I	0	265 N LAMB BLVD
676	LLV160128000270	1G31	01/28/2016 02:31:08	USAR	434	7322 REESE, STEVEN W		I	0	265 N LAMB BLVD
1F2	LLV160128000270	1G31	01/28/2016 02:31:15	USER	434	14851 DEL VILLAR, CHRISTOPH		I	0	265 N LAMB BLVD
1F11	LLV160128000270	1G31	01/28/2016 02:31:18	USAS	434	14904 BURIC, ANES		I	0	265 N LAMB BLVD
1F21	LLV160128000270	1G31	01/28/2016 02:31:22	USAS	434	13728 NELSON, CJEAN		I	0	265 N LAMB BLVD
1F21	LLV160128000270	1G31	01/28/2016 02:31:25	USER	434	13728 NELSON, CJEAN		I	0	265 N LAMB BLVD
AIR2	LLV160128000270	1G31	01/28/2016 02:31:54	USER	434	4957 WILDS, MELISSA M	10051 PETERSEN, RYAN	I	0	265 N LAMB BLVD
1G12	LLV160128000270	1G31	01/28/2016 02:32:26	USAR	434	7210 MAUGA, REBECCA M		I	0	265 N LAMB BLVD
1F21	LLV160128000270	1G31	01/28/2016 02:32:26	USAR	434	13728 NELSON, CJEAN		I	0	265 N LAMB BLVD
1F12	LLV160128000270	1G31	01/28/2016 02:32:59	USAS	434	15024 LADSON, COURTNEY		I	0	4280 STEWART AVE
1F12	LLV160128000270	1G31	01/28/2016 02:33:08	USER	434	15024 LADSON, COURTNEY		I	0	4280 STEWART AVE
1G11	LLV160128000270	1G31	01/28/2016 02:33:54	USAR	434	9791 RAMIREZ, JIMMY J		I	0	265 N LAMB BLVD
734	LLV160128000270	1G31	01/28/2016 02:34:19	USAR	434	5850 HERNANDEZ, JOSE M		I	0	4280 STEWART AVE
AIR2	LLV160128000270	1G31	01/28/2016 02:34:20	USAR	434	4957 WILDS, MELISSA M	10051 PETERSEN, RYAN	I	0	265 N LAMB BLVD
AIR2	LLV160128000270	1G31	01/28/2016 02:34:27	LO	434	4957 WILDS, MELISSA M	10051 PETERSEN, RYAN	I	0	loc: 4280 STEWART
1G11	LLV160128000270	1G31	01/28/2016 02:34:38	LO	434	9791 RAMIREZ, JIMMY J		I	0	loc: 4280 STEWART
1G12	LLV160128000270	1G31	01/28/2016 02:34:38	LO	434	7210 MAUGA, REBECCA M		I	0	loc: 4280 STEWART
1F21	LLV160128000270	1G31	01/28/2016 02:34:38	LO	434	13728 NELSON, CJEAN		I	0	loc: 4280 STEWART
1G31	LLV160128000270	1G31	01/28/2016 02:34:38	LO	434	14753 HENRY, JACOB V		I	0	loc: 4280 STEWART
1F11	LLV160128000270	1G31	01/28/2016 02:36:31	USAR	434	14904 BURIC, ANES		I	0	265 N LAMB BLVD
1F11	LLV160128000270	1G31	01/28/2016 02:36:38	LO	434	14904 BURIC, ANES		I	0	loc: 4280 STEWART
1G31	LLV160128000270	1G31	01/28/2016 02:37:29	LO	434	14753 HENRY, JACOB V		I	0	loc: 265 N LAMB

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LAS VEGAS METROPOLITAN POLICE DEPARTMENT **UNIT LOG BY INCIDENT**

For Incident Number: LLV160128000270

Unit	Event Number	P/Unit	Date Time	Code	Type	Officer 1 P# and Name	Officer 2 P# and Name	Disp	Pri	Comment
1G1	LLV160128000270	1G31	01/28/2016 02:38:02	UR	434	9004 VANCE, JEREMY K		1	0	Reassign: 434 LLV160128000259
1F12	LLV160128000270	1G31	01/28/2016 02:38:22	USAR	434	15024 LADSON, COURTNEY		1	0	4280 STEWART AVE
1G11	LLV160128000270	1G31	01/28/2016 02:40:34	USTO	434	9791 RAMIREZ, JIMMY J		1	0	15 N. LAMB
1G11	LLV160128000270	1G31	01/28/2016 02:40:41	USAO	434	9791 RAMIREZ, JIMMY J		1	0	15 N. LAMB
1F2	LLV160128000270	1G31	01/28/2016 02:40:43	USAR	434	14851 DEL VILLAR, CHRISTOPH		1	0	265 N LAMB BLVD
1F21	LLV160128000270	1G31	01/28/2016 02:41:37	USCL	434	13728 NELSON, CJEAN		1	0	
1F11	LLV160128000270	1G31	01/28/2016 02:42:22	USCL	434	14904 BURIC, ANES		1	0	
K96	LLV160128000270	1G31	01/28/2016 02:43:34	USAS	434	5278 NEWTON, DAVID E		1	0	4280 STEWART AVE
K96	LLV160128000270	1G31	01/28/2016 02:43:46	USER	434	5278 NEWTON, DAVID E		1	0	4280 STEWART AVE
K96	LLV160128000270	1G31	01/28/2016 02:43:52	UR	434	5278 NEWTON, DAVID E		1	0	Reassign: 434 LLV160128000259
676	LLV160128000270	1G31	01/28/2016 02:43:56	UR	434	7322 REESE, STEVEN W		1	0	Reassign: 434 LLV160128000259
1G31	LLV160128000270	1G31	01/28/2016 02:44:39	USCL	434	14753 HENRY, JACOB V		1	0	
1G31	LLV160128000270	1G31	01/28/2016 02:44:39	D	434	14753 HENRY, JACOB V		1	0	Added disposition: I
1F12	LLV160128000270	1G31	01/28/2016 02:46:14	USCL	434	15024 LADSON, COURTNEY		1	0	
1F2	LLV160128000270	1G31	01/28/2016 02:48:37	USCL	434	14851 DEL VILLAR, CHRISTOPH		1	0	
1G12	LLV160128000270	1G31	01/28/2016 02:57:10	USCL	434	7210 MAUGA, REBECCA M		1	0	
AIR2	LLV160128000270	1G31	01/28/2016 02:59:52	USCL	434	4957 WILDS, MELISSA M	10051 PETERSEN, RYAN	1	0	
1G11	LLV160128000270	1G31	01/28/2016 03:01:25	USCL	434	9791 RAMIREZ, JIMMY J		1	0	
734	LLV160128000270	1G31	01/28/2016 04:14:13	USCL	434	5850 HERNANDEZ, JOSE M		1	0	

End of Unit Log for Incident Number: LLV160128000270

I HEREBY CERTIFY that this is a full, true and correct copy of the original on file with the Las Vegas Metropolitan Police Department, except for the information that is privileged and confidential by law.

RESEARCH ASSISTANT Communications Bureau

2/18/2016 11:42:35 AM

Page 2 of 2

MARK INFORMATION

PENGLAD 800-631-6999	STATE'S	K1-72-2
	EXHIBIT	
	<u>10</u>	
C31277		

FILED

Event 160128-0259

Feb 9 3 36 PM '16

JUSTICE COURT LAS VEGAS METROPOLITAN POLICE DEPARTMENT
LAS VEGAS SEARCH WARRANT DECLARATION
BY _____
DEPUTY

16 F 01430X JCS

Unknown: [inaudible]

Officer Lopez: Uh, yes, it's Officer Lopez again, can I speak to Judge Scisento please?

Unknown: Sure, give me one second

Judge Scisento: Hello? Hello?

Officer Lopez: Judge Sc-, Judge Scisento, this is Officer Lopez again

Judge Scisento: Yes

Officer Lopez: Hey, sir, uh, can I do a piggyback warrant?

Judge Scisento: Yes

Officer Lopez: Uh, can I have your permission to record this, uh, conversation?

Judge Scisento: Yes

Officer Lopez: Uh, Judge Scise-, Judge Scisento, for the record this line is being recorded, do I have your permission to continue?

Judge Scisento: Yes, you do

Officer Lopez: Judge Scisento, this is Officer D. Lopez, L-O-P-E-Z, P#9806 along with Detective Embry, uh, E-M-, uh, B-R-Y, P#6223 of the Las Vegas Metropolitan Police Department and I am making an application for a piggyback Telephonic Search Warrant pursuant to Nevada Revised Statute 179.045. I am talking to Judge Scisento, the date and time of the call is January 28, 2016 the time is 0935. Judge Scisento, my right hand is raised, could you please swear me in?

Judge Scisento: Alright, do you swear the information you are about to give me is true and correct to the best of your knowledge?

Officer Lopez: I do

Judge Scisento: Alright, you may proceed

Officer Lopez: Judge Scisento, my application is as follows. I, Officer Lopez P#9806, am a Police Officer employed by the Las Vegas Metropolitan Police Department and have been so employed for a period of 9 years. I am currently assigned to Northeast 12 and have been assigned there for 2 years. I am presently investigating the crimes of Trafficking a Controlled Substance Schedule I-IV, Sales of a Controlled Substance Schedule I-IV which occurred at 265 North Lamb, Clark County, Las Vegas, Nevada 89110 on or about 0225 hours on the 28th day of January, 2016.

There is Probable Cause to believe that certain property herein after described will be found at the following described premises:

- A) Uh, a vehicle parked at 265 North Lamb Space #58, Clark County, Las Vegas, Nevada, 89110, more particular described as a silver 2002 Dodge Stratus with Nevada plate 098-Adam-Sam-William, VIN 4-Baker-3-Adam-George-42-Henry-Xray-2-Easy-162394
- B) Second address 265 North Lamb, Apartment F, Las Vegas, Nevada 89110 further described as a multi-family apartment complex with brown stucco trimmed in gray, the door is white in color and faces east, the letter "D" is taped on the door in blue.

The property referred to and sought to be seized consist of the following:

- A) Firearms evidence which items of property could consist in part of and included, but not limited to any revolver or semi-automatic pistol and any miscellaneous firearm pieces, ammunition, ammunition belts, magazines, clips, holsters, cleaning kits, gun parts, expended ammunition to include casings and bullets, any paperwork showing the purchase, storage, disposition or dominion and control over any firearms

- B) Ammunition or any of the above listed items
- C) Any controlled substances
- D) The paraphernalia commonly associated with the ingestion and distribution of the controlled substances such as scales, packaging materials, and cut, grinders, customer and source lists, records of purchases and sales to include "O" sheets reflecting transactions in the controlled substance
- E) Limited items of personal property which would tend to establish a possessory interest in the items sought to be seized pursuant to this search warrant to include but not limited to personal identification, photographs, utility company receipts, rental receipts and addressed envelopes
- F) An unknown quantity of U.S. Currency which would be perceived from the sale of controlled substances
- G) Items of value such as jewelry, watches, money, credit cards, and like items including receipts for the same tending to show whether the crime related or for financial gain
- H) DNA buccal swabs, specifically nucleated epithelial cells from the inner mouth check of Christopher Keller, ID# 1804258. This collection will be obtained by the way of a buccal swab which is minimally intrusive

Your Affiant and fellow Officers assigned to LVMPD Patrol were executing a lawful Search Warrant for the vehicle located at 265 North Lamb. This Search Warrant was authorized by the Honorable

Justice Court Judge Tobiasson on January 28th, 2016 at 0556 hours. A copy of the Search Warrant and Affidavit supporting the Search Warrant is attached to this new Affidavit and incorporated by reference herein:

Your Affiant and fellow Officers assigned to Event #160128-0259 were executing a lawful Search Warrant for the vehicle located at 265 North Lamb. This Search Warrant was authorized by the Honorable Justice Court Judge Tobiasson on January 28th, 2016 at 0556. A copy of the Search Warrant and Affidavit supporting the Search Warrant is attached to this new Affidavit and incorporated by reference herein:

While executing the warrant on the vehicle I observed a black bag in the secret compartment located next to the glove box. In the black bag I located a trafficking amount of purported Meth, Heroin, and blue pills believed to be Ecstasy, all of which from my training and experience are illegal narcotics. In the black bag was a small semi-auto handgun which was not listed as an item to be seized but recovered in the bag. In the side pocket of the bag was a very expensive looking wristwatch which was also recovered. It is common for jewelry and other items of value to be traded for narcotics.

Keller is a convicted felon registered to the address here at 265 North Lamb, Apartment F. Keller's DMV address shows the same address. Closer inspection of Building 265 North Lamb reveals Apartment F was mislabeled as Apartment D. I spoke to HOA President who verbally identified as Chavez, uh, C-H-A-V-E-Z, first name Dororth, 3-, birthday of 3/25/1960. Chavez confirmed that the

apartment in front of Space 58 where Keller parked is his apartment and it is supposed to be labeled "F". Chavez also provided a map showing it to be Apartment F. This is indeed Apartment F but appears to be manipulated to show Apartment D.

Based on my training and experience it is common for Drug Dealers to store firearms, narcotics, and money from drug proceeds. I believe Keller was attempting to enter the residence before being stopped in his vehicle. I feel Keller is possibly storing additional amounts of narcotics and may have more firearms and money from drug proceeds inside his residence.

Judge Scisento, this ends the Probable Cause detail, do you want me to read the Duplicate Original Search Warrant?

Judge Scisento: Uh, no, you don't need to

Officer Lopez: Uh, Judge Scisento, this ends the Search Warrant portion. Judge Scisento do you find Probable Cause exists to the-, for the issuance of this Search Warrant?

Judge Scisento: Uh, yes I do

Officer Lopez: Ju-, Judge Scisento, do I have you permission to affix your name to the Duplicate Original Search Warrant?

Judge Scisento: Yes

Officer Lopez: This application and signing of was witnessed by Detective Embry, P#6223. Judge Scisento, this ends our conversation. Thank you for your time

Judge Scisento: Alright, Thank you

Danelle Kimbrough
 LEST Danelle Kimbrough, P# 15435, Transcriptionist
 I certify that this is a true and accurate transcription.

Dated this 2 day of February, 2016 at 1545 hours
Day Month Year Hours

A. Lopez
 Officer Lopez, P#9806, NEAC

"Having read the transcription of the telephonic search warrant issued by this Court on January 28th, 2016, under Event# 160128-0259 with the LVMPD serving as Affiant and having reviewed the recording of the application, it appears the transcription is accurate."

Judge Scisento

FILED
 FEB 9 3 36 PM '16
 JUSTICE COURT
 LAS VEGAS, NEVADA
 DEPUTY

DUPLICATE ORIGINAL SEARCH WARRANT
 N.R.S. 179.045

STATE OF NEVADA }
 }
 }

ss.

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in Justice Court of Las Vegas Township, in and for the County of Clark, State of Nevada.

By: [Signature] Deputy
 Date: 2/2/16

The State of Nevada, to any Peace Officer in the County of Clark. Proof having been made therefore by me, Officer Lopez, P#9806, by oral statement given under oath, that there is probable cause to believe that certain evidence, to wit:

- A) Firearms evidence which items of property could consist in part of and included, but not limited to any revolver or semi-automatic pistol and any miscellaneous firearm pieces, ammunition, ammunition belts, magazines, clips, holsters, cleaning kits, gun parts, expended ammunition to include casings and bullets, any paperwork showing the purchase, storage, disposition or dominion and control over any firearms
- B) Ammunition or any of the above listed items
- C) Any controlled substances
- D) The paraphernalia commonly associated with the ingestion and distribution of the controlled substances such as scales, packaging materials, and cut, grinders, customer and source lists, records of purchases and sales to include "O" sheets reflecting transactions in the controlled substance
- E) Limited items of personal property which would tend to establish a possessory interest in the items sought to be seized pursuant to this search warrant to include but not limited to personal identification, photographs, utility company receipts, rental receipts and addressed envelopes
- F) An unknown quantity of U.S. Currency which would be perceived from the sale of controlled substances

G) Items of value such as jewelry, watches, money, credit cards, and like items including receipts for the same tending to show whether the crime related or for financial gain

H) DNA buccal swabs, specifically nucleated epithelial cells from the inner mouth check of Christopher Keller, ID# 1804258. This collection will be obtained by the way of a buccal swab which is minimally intrusive

is presently located at: 265 North Lamb, Apartment F, Las Vegas, Clark County, Nevada, and the persons of adults located at the premises at the time of the execution of this search warrant.

As I am satisfied that there is probable cause to believe that said evidence is located as set forth above and based upon the statement of Officer Lopez, there is sufficient ground for the issuance of the Search Warrant.

You are hereby commanded to search said premise/vehicle for said property, serving this warrant and if the property is there to seize and leave a written inventory and make a return before me within 10 days.

Dated 01 29, 2016 at 0935 hours.
Month Day Year Hours

Judge's signature: JUDGE SCISENTO
Signed by A. Lopez acting upon the oral authorization of Judge

Witnessed by C. EMBERT #223

ENDORSED this 8 day of FEB, 2016.
Day Month Year

[Signature]
Judge Scisento

CERTIFIED COPY
The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in Justice Court of Las Vegas Township, in and for the County of Clark, State of Nevada
By: [Signature] Deputy
Date: [Signature]

FILED

LVMPD Evt#

160128-0259

DUPLICATE ORIGINAL SEARCH WARRANT

Feb 9 3 37 PM '16

NRS 179.045

SW 2016 0262

STATE OF NEVADA)

) ss.

COUNTY OF CLARK)

JUSTICE COURT
LAS VEGAS NEVADA
DEPUTY

The State of Nevada, to any Peace Officer in the County of Clark. Proof having been made before me by ~~Detective~~ LOPEZ PH906 by oral telephonic statement given under oath, incorporated by reference herein, that there is probable cause to believe that certain evidence, to wit:

1. Miscellaneous:

② Firearms evidence which items of property would consist in part of and include, but not limited to any revolver or semiautomatic pistol and any miscellaneous firearm pieces, ammunition, ammunition belts, magazines/clips, holsters, cleaning kits, gun parts, expended ammunition to include casings and bullets, any paperwork showing the purchase, storage, disposition or dominion and control over any firearms, ammunition or any of the above listed items.

3. All evidence of criminal street gang membership or affiliation with any criminal street gang, said paraphernalia to include, but not limited to, any drawings or miscellaneous writings, or objects, or graffiti depicting gang member's names, initials, logos, monikers, slogans, or containing mention of criminal street gang membership, affiliation, activity, or identity. Any paintings, photographs or photograph albums depicting persons, vehicles, weapons, or locations which may appear upon observation to be relevant on the question of gang membership or association, or which may depict items sought and/or believed to be evidence in the case being investigated with this warrant. Any letters, notes, papers and other (written) evidence of criminal activities, or which may depict evidence of any criminal gang activity. Any newspaper clippings tending to relate details or reference to any crime or crimes of violence; and any address books, lists of, or single references to, addresses or telephone numbers of persons who may later be determined to belong to or be affiliated with any criminal street gang. This evidence would likely prove the elements of the criminal gang enhancement.

4. An undetermined amount of controlled substance, _____
5. The paraphernalia commonly associated with the ingestion and distribution of the controlled substance _____, such as scales, packaging materials, and "cut," grinders, customer and source lists, records of purchases and sales, to include "owe" sheets reflecting transactions in the controlled substance _____

6. Limited items of personal property which would tend to establish a possessory interest in the items sought to be seized pursuant to this search warrant to include but not limited to: Personal identification, photographs, utility company receipts, rental receipts and addressed envelopes.

7. An unknown quantity of U.S. Currency which would be proceeds from the sale of a controlled substance _____

8. ~~Forensic examination~~ to discover fingerprints, blood, hair and fiber and bodily fluid samples, which may include removing carpeting, wallboard, or other items;

9. Items of value such as jewelry, watches, money, credit cards, and like items including receipts for the same tending to show whether the crime was gang related or for financial gain;

10. Mobile telephones which may be searched via an addendum or additional search warrant at a later date. It is your affiant's experience that often times perpetrators use mobile telephones in their conspiracy to commit their crimes.

These communications whether voice and or text tend to illustrate forethought as well as the show how the perpetrators acted in concert when they committed the offense.

11. DNA Buccal Swab, specifically, Nucleated Epithelial Cells from the inner mouth/cheek of _____ (suspect's name). This collection will be way of buccal swab which is minimally intrusive.

Is presently located

at: 265 N LAMB #58, LV NV 89110 APARTMENT
"E"

Persons of adults or minors located at the premises at the time of the execution of this Search

Warrant. _____

and as I am satisfied that there is probable cause to believe that said evidence is located as set forth above and based upon the sworn telephonic statement of ^{Officer}~~Detective~~ LOPEZ PH9806 there are sufficient grounds for issuance of the Search Warrant,

You are hereby commanded to search said place for said property, serving this warrant (at any hour, day or night) **OR** (between 7 a.m. and 7 p.m.) and if the property is there to seize it and leave a written inventory and make a return before me within 10 days.

Dated this 29 day of JAN, 2016, at 0935 o'clock Am.

(Write Judge's name) SCISCENTO

Signed by ^{Officer}~~Detective~~ A. Lopez acting upon oral authorization of Judge SCISCENTO

Witnessed by Detective C. EMBERT ^{Pr}6223

ENDORSED this Feb. 8 day of 20 16.

[Signature] (Judge)

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in Justice Court of Las Vegas Township, In and for the County of Clark, State of Nevada

By: [Signature] Deputy
Date: Feb 8 2016

Swz 0262

Page 1 of 1

FEB 9 3 37 PM '16

RETURN

(Must be made within 10 days of issuance of Warrant)

CLARK COUNTY, NEVADA

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

CHRISTOPHER KELLER

was executed on

1/28/16

(month, day, year)

A copy of this inventory was left with

CHRISTOPHER KELLER

(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant:

DNA BUCCAL SWAB

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in Justice Court of Las Vegas Township, in and for the County of Clark, State of Nevada.

By: [Signature] Deputy
Date: 2/2/16

This inventory was made by:

C. EMBRY 10723

[Signature] 10723

(at least two officers including affiant if present. If person from whom property is taken is present include that person.)

FEB 9 3 37 PM '16

RETURN

(Must be made within 10 days of issuance of Warrant)

The Search and Seizure Warrant authorizing a search and seizure at the following described location(s):

265 N. LAMB APT "F", LAS VEGAS, NV 89110

was executed on

01-28-16

(month, day, year)

A copy of this inventory was left with

AT THE PLACE OF SEARCH

(name of person or "at the place of search")

The following is an inventory of property taken pursuant to the warrant:

FIRE ARMS
ARMS
NARCOTICS
PARAPHERNALIA
Pay stub

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in Justice Court of Las Vegas Township, In and for the County of Clark, State of Nevada.

By: [Signature] Deputy

Date: [Signature]

This inventory was made by:

D. Lopez

D. Lopez 9826

M. Belmont 8240

(at least two officers including affiant if present. If person from whom property is taken is present include that person.)

ORPC
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
200 South Third Street
Las Vegas, Nevada 89155-2212
(702) 455-4711
Attorney for Plaintiff

FILED
JUN 29 6 34 AM '04
Shirley L. Rungione
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER,
#1804258

Defendant.

Case No: C189805B

Dept No: VI

ORDER FOR REVOCATION OF PROBATION AND
SECOND AMENDED JUDGMENT OF CONVICTION

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime(s) of **POSSESSION OF CREDIT CARD WITHOUT CARDHOLDER'S CONSENT (Felony)**, in violation of NRS 205.690; thereafter, on the 24th day of April, 2003, the Defendant was present in Court for sentencing with counsel wherein the Court did adjudge the Defendant guilty thereof by reason of the plea(s) of guilty, suspended the execution of the sentence(s) imposed and granted probation to the Defendant.

THEREAFTER, a parole and probation officer provided the Court with a written statement setting forth that the Defendant has, in the judgment of the parole and probation officer, violated the conditions of probation; and on the 15th day of June, 2004, the Defendant appeared in court with his counsel, BRYAN A. COX, Deputy Public Defender, and pursuant to a probation violation hearing/proceeding, and good cause appearing to amend Judgment of Conviction; now therefor,

IT IS HEREBY ORDERED that the probation previously granted to the Defendant

PAWPDOCSVUDG300\30073605.doc

MARK STATE'S EXHIBIT

PROPO



RECEIVED

JUN 25 2004

DEPT 6

RECEIVED

JUN 23 2004

1 is revoked; and

2 **IT IS FURTHER ORDERED THAT:** SENTENCE MODIFIED to a MAXIMUM
3 of FORTY (40) MONTHS with a MINIMUM of TWELVE (12) MONTHS in the Nevada
4 Department of Corrections (NDC) IMPOSED. Defendant to receive 216 DAYS Credit for
5 Time Served.

6 DATED this 25th day of June, 2004.

7
8 CERTIFIED COPY
9 DOCUMENT ATTACHED IS A
10 TRUE AND CORRECT COPY
11 OF THE ORIGINAL ON FILE.

12 Allen L. Johnson
13 CLERK OF THE COURT

14 FEB 17 2015

15 J. Bonaventure
16 DISTRICT JUDGE

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ORPC
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
200 South Third Street
Las Vegas, Nevada 89155-2212
(702) 455-4711
Attorney for Plaintiff

ORIGINAL

FILED

JUN 21 2 41 PM '04

Shirley S. Rungius
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER KELLER,
aka Christopher Robert Keller,
#1804258

Defendant.

Case No: C192923

Dept No: VIII

ORDER FOR REVOCATION OF PROBATION AND
SECOND AMENDED JUDGMENT OF CONVICTION

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime(s) of BURGLARY (Category B Felony), in violation of NRS 205.060; thereafter, on the 20th day of August, 2003, the Defendant was present in Court for sentencing with counsel wherein the Court did adjudge the Defendant guilty thereof by reason of the plea(s) of guilty, suspended the execution of the sentence(s) imposed and granted probation to the Defendant.

THEREAFTER, a parole and probation officer provided the Court with a written statement setting forth that the Defendant has, in the judgment of the parole and probation officer, violated the conditions of probation; and on the 2nd day of February, 2004, the Defendant appeared in court with his counsel, JONATHAN E. MACARTHUR, ESQ., and pursuant to a probation violation hearing/proceeding, and good cause appearing to amend Judgment of Conviction; now therefor,

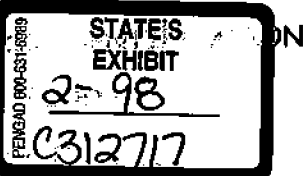
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RECEIVED
JUN 21 2004
COUNTY CLERK

RECEIVED
JUN 17 2004
COUNTY CLERK

MARKED

PROP



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1 IT IS ORDERED THAT: probation reinstated with the additional condition of:
2 pursuant to NRS 176A.780, Defendant is remanded to the custody of the Director of the
3 Department of Corrections to undergo the program of regimental discipline.

4 THEREAFTER, a parole and probation officer provided the Court with a written
5 statement setting forth that the Defendant has, in the judgment of the parole and probation
6 officer, violated the conditions of probation; and on the 16th day of June, 2004, the
7 Defendant appeared in court with his counsel, JONATHAN E. MACARTHUR, ESQ., and
8 pursuant to a probation violation hearing/proceeding, and good cause appearing to amend
9 Judgment of Conviction; now therefor,

10 IT IS HEREBY ORDERED that the probation previously granted to the Defendant is
11 REVOKED: and

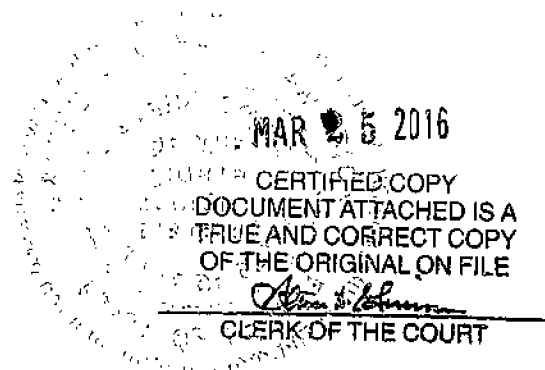
12 IT IS FURTHER ORDERED THAT: sentence is modified to a maximum of sixty
13 (60) months and a minimum of eighteen (18) months. Modified sentence is imposed with 39
14 days credit for time served. Sentence to run concurrent with C189805.

15 DATED this 21 day of June, 2004.

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17 *Lee A. Gates*
18 DISTRICT JUDGE
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rad



FILED

FEB 12 2010

John J. Blum
CLERK OF COURT

ORIGINAL

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER KELLER
aka Christopher Robert Keller
#1804258

Defendant.

CASE NO. C252394

DEPT. NO. XXIII

ORDER FOR REVOCATION OF PROBATION AND
SECOND AMENDED JUDGMENT OF CONVICTION

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of POSSESSION OF FIREARM BY EX-FELON (Category B Felony) in violation of NRS 202.360; thereafter, on the 15th day of April, 2009, the Defendant was present in court for sentencing with his counsel, wherein the Court did adjudge the Defendant guilty thereof by reason of the plea of guilty, suspended the execution of the sentence imposed and granted probation to the Defendant.

THEREAFTER, on or about the 13th day of January, 2010, the Defendant being present, represented by counsel, and good cause appearing;



1 COURT CANVASSED Defendant and ORDERED, Probation REINSTATED.
2 COURT FURTHER ORDERED, the no weapons condition previously ordered STAND.

3
4 THEREAFTER, a parole and probation officer provided the Court with a written
5 statement setting forth that the Defendant has, in the judgment of the parole and
6 probation officer, violated the conditions of probation; and on the 8TH day of February,
7 2010, the Defendant appeared in court with his counsel BRIAN BLOOMFIELD, Esq.
8 and pursuant to a probation violation hearing/proceeding, and good cause appearing to
9 amend the Judgment of Conviction; now therefore,
10

11 IT IS HEREBY ORDERED that the probation previously granted to the Defendant
12 is revoked; and IT IS FURTHER ORDERED that the original sentence of a MAXIMUM
13 of THIRTY-SIX (36) MONTHS with a MINIMUM parole eligibility of TWELVE (12)
14 MONTHS in the Nevada Department of Corrections (NDC) is imposed, to run
15 CONCURRENT with other case; with TWO HUNDRED NINETY-THREE (293) DAYS
16 credit for time served.
17

18
19 DATED this 11th day of February, 2010.

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21 CERTIFIED COPY
22 DOCUMENT ATTACHED IS A
23 TRUE AND CORRECT COPY
24 OF THE ORIGINAL ON FILE

25
26 *Alton L. Johnson*
27 CLERK OF THE COURT

28
FEB 11 2010
CLERK OF THE COURT
STATE OF NEVADA

Stefany Miley
STEFANY MILEY
DISTRICT JUDGE H6

Ann D. Blum
CLERK OF THE COURT

JOC

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C287724-1

-vs-

DEPT. NO. II

CHRISTOPHER R. KELLER
aka Christopher Robert Keller
#1804258

Defendant.

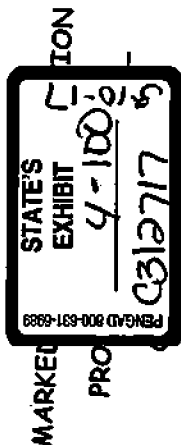
JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of CONSPIRACY TO VIOLATE UNIFORM CONTROLLED SUBSTANCES ACT (Category C Felony) in violation of NRS 453.401; thereafter, on the 31ST day of October, 2013, the Defendant was present in court for sentencing with his counsel LETIZIA HOPPER, Deputy Public Defender, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee, \$60.00 Drug Analysis Fee and a \$150.00 DNA Analysis Fee including testing to determine genetic markers, the

//

- | | | |
|---|--|--|
| <input type="checkbox"/> Nolle Prosequi (before trial) | <input type="checkbox"/> Bench (Non-Jury) Trial | |
| <input type="checkbox"/> Dismissed (after diversion) | <input type="checkbox"/> Dismissed (during trial) | |
| <input type="checkbox"/> Dismissed (before trial) | <input type="checkbox"/> Acquittal | |
| <input checked="" type="checkbox"/> Guilty Plea with Sent. (before trial) | <input type="checkbox"/> Guilty Plea with Sent. (during trial) | |
| <input type="checkbox"/> Transferred (before/during trial) | <input type="checkbox"/> Conviction | |
| <input type="checkbox"/> Other Manner of Disposition | | |



1 Defendant is sentenced as follows: TO A MAXIMUM of THIRTY-SIX (36) MONTHS
2 with a MINIMUM parole eligibility of TWELVE (12) MONTHS in the Nevada
3 Department of Corrections (NDC) with TWO HUNDRED NINETY-FOUR (294) DAYS
4 credit for time served.
5

6
7 DATED this 16th day of November, 2013.
8

9 CERTIFIED COPY
10 DOCUMENT ATTACHED IS A
11 TRUE AND CORRECT COPY
12 OF THE ORIGINAL ON FILE

13 *Anna J. Blum*
14 CLERK OF THE COURT
15

16 FEB 17 2016
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Valorie J. Vega
VALORIE J. VEGA
DISTRICT JUDGE

8107

Alvin D. Johnson
CLERK OF THE COURT

JOCP

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER
#1804258

Defendant.

CASE NO. C279904-1

DEPT. NO. VIII

JUDGMENT OF CONVICTION
(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of ATTEMPT POSSESSION OF FIREARM BY EX-FELON (Category C Felony) in violation of NRS 193.330, 202.360; thereafter, on the 4th day of November, 2013, the Defendant was present in court for sentencing with his counsel CESELY HOPPER, Deputy Public Defender, thereupon using the presentence report from C287724 and good cause appearing,

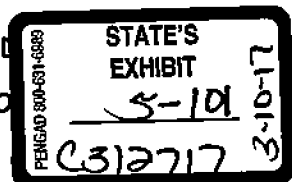
THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil Assessment Fee and \$150.00 DNA Analysis Fee including testing to determine genetic

//

MARKED

PRO

1123



ION

1 markers, the Defendant is sentenced to the Nevada Department of Corrections (NDC)
2 as follows: TO A MAXIMUM of FORTY-TWO (42) MONTHS with a MINIMUM Parole
3 Eligibility of SIXTEEN (16) MONTHS, sentence to run CONCURRENT with C287724
4 with FOUR HUNDRED SIXTY-THREE (463) DAYS credit for time served.
5

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7 DATED this 8TH day of November, 2013.

8
9 CERTIFIED COPY
10 DOCUMENT ATTACHED IS A
11 TRUE AND CORRECT COPY
12 OF THE ORIGINAL ON FILE

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14 *Alvin L. Schuman*
15 CLERK OF THE COURT

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17 FEB 17 2016
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Doug Smith
DOUG SMITH
DISTRICT JUDGE LG

February 13, 2017

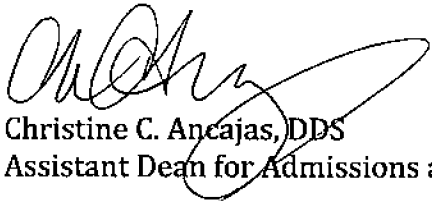
Jury Commissioner
Eighth Judicial District Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

To Whom It May Concern:

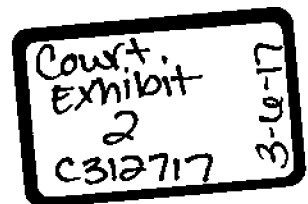
I am writing to request that Student Doctor **Heather Olson** be excused from jury duty scheduled for March 6, 2017. Ms. Olson is currently in the last semester of her 4th year at the University of Nevada, Las Vegas School of Dental Medicine. She is in the midst of completing her clinical and didactic requirements so she will be on track to receive a DMD degree on May 12, 2017. Any further absence from school will negatively impact the care of her dental patients as well as delay her graduation causing a financial hardship.

Thank you in advance for your kind consideration of this matter. If additional information is required, please don't hesitate to contact me at (702) 774-2520 or christine.ancajas@unlv.edu. Thank you.

Sincerely,



Christine C. Ancajas, DDS
Assistant Dean for Admissions and Student Affairs

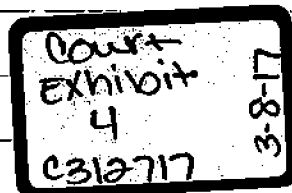


Jordan Foster Juror #1

- Did the female approach you
before or after the gunshot?

- And how much time took place
between the two events?

Asked - 3-8-2017 - all
parties agree -



**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
1127 - 1138
WILL FOLLOW VIA
U.S. MAIL**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 18, 2016

C-16-312717-1 State of Nevada
 vs
 Christopher Keller

February 18, 2016 10:00 AM Initial Arraignment

HEARD BY: Weed, Randall F. **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Kristen Brown
 Anntoinette Naumec-Miller
 Kory Schlitz

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT: Keller, Christopher Robert Defendant
 Sanft, Michael W. Attorney

JOURNAL ENTRIES

- Deputized Law Clerk Chelsea Kallas present for the State of Nevada.

DEFT. KELLER ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial.

CUSTODY

3/16/16 8:30 A.M. PRE-TRIAL CONFERENCE (DEPT 19)

4/13/16 8:30 A.M. CALENDAR CALL (DEPT 19)

4/18/16 10:00 A.M. JURY TRIAL (DEPT 19)

PRINT DATE: 05/09/2022

Page 1 of 49

Minutes Date: February 18, 2016

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 16, 2016

C-16-312717-1 State of Nevada
vs
Christopher Keller

March 16, 2016 8:30 AM Pre Trial Conference

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Keller, Christopher Robert	Defendant
	Sanft, Michael W.	Attorney
	State of Nevada	Plaintiff
	Thomson, Megan	Attorney

JOURNAL ENTRIES

- Mr. Sanft advised he will be filing a motion to suppress; although he anticipates ready for trial as there are no outstanding discovery issues with two days for trial. Ms. Thomson advised State is still waiting on the forensic and lab reports; however, those will be provided as soon as they are received. COURT ORDERED, trial date STANDS.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 13, 2016

C-16-312717-1 State of Nevada
 vs
 Christopher Keller

April 13, 2016 8:30 AM Calendar Call

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett
 Kory Schlitz

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Anderlik, Elizabeth J.	Attorney
	Keller, Christopher Robert	Defendant
	Sanft, Michael W.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Sanft advised he has announced ready for trial in department 12 next week and is unavailable for trial in this case. Further, Mr. Sanft advised the State will be providing additional discovery in this case and he will be filing a motion to suppress based on the new information. Mr. Laurent advised the discovery will be provided today. Court noted Defendant invoked his speedy trial right. Upon Court's inquiry, Defendant advised he wants to go to trial and does not want to waive his speedy trial right; although understands the scheduling conflict. Colloquy regarding trial scheduling. COURT ORDERED, trial date VACATED and RESET. Ms. Anderlik advised an offer was extended for one count of low level trafficking and one count of possession of a firearm by a prohibited person with Defendant stipulating to small habitual treatment and a stipulated sentence of 12 1/2 years. Further, Ms. Anderlik advised the offer will remain open until the calendar call date. Mr. Sanft advised he will discuss the offer with Defendant; although he believes the suppression motion needs to be filed first. Ms. Anderlik informed the Court that should the State have to respond

PRINT DATE: 05/09/2022

Page 3 of 49

Minutes Date: February 18, 2016

to the suppression motion, the current offer will be revoked. Court so noted.

CUSTODY

4/27/2016 8:30 AM CALENDAR CALL

5/02/2016 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 20, 2016

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

April 20, 2016 8:30 AM Calendar Call

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett
Kory Schlitz

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Keller, Christopher Robert	Defendant
	Laurent, Christopher J	Attorney
	Sanft, Michael W.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Colloquy regarding trial readiness. Mr. Sanft advised the court he is working on the motion to suppress; although Defendant wants to go forward with trial and represent himself if necessary. State announced ready with 10 -12 witnesses, none are out of state and anticipate 3 -4 days for trial. COURT ORDERED, trial date VACATED and matter REFERRED to Overflow for the week of 4/25/2016.

CUSTODY

4/29/16 8:30 A.M. OVERFLOW

Elizabeth Anderlik // Michael Sanft

PRINT DATE: 05/09/2022

Page 5 of 49

Minutes Date: February 18, 2016

10 12 witnesses // 0 out of state // 3 4 days

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 29, 2016

C-16-312717-1 State of Nevada
vs
Christopher Keller

April 29, 2016 **8:30 AM** **Overflow**

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 10C

COURT CLERK: Keri Cromer

RECORDER: Cheryl Carpenter

REPORTER:

PARTIES

PRESENT:	Anderlik, Elizabeth J.	Attorney
	Keller, Christopher Robert	Defendant
	Sanft, Michael W.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Amended Information FILED IN OPEN COURT

Mr. Sanft requested to withdraw as attorney of record due to a conflict of interest. There being no opposition, Court GRANTED Mr. Sanft's request and APPOINTED Ken Frizzell; matter SET for confirmation of counsel. Mr. Sanft to notify Mr. Frizzell about being present on 5/2/16, at which time Deft.'s file would be handed over. COURT FURTHER ORDERED, jury trial VACATED.

CUSTODY

5/2/16 - 8:30 AM - CONFIRMATION OF COUNSEL

PRINT DATE: 05/09/2022

Page 7 of 49

Minutes Date: February 18, 2016

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 02, 2016

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

May 02, 2016 8:30 AM Confirmation of Counsel

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett
Kory Schlitz

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff
	Thomson, Megan	Attorney

JOURNAL ENTRIES

- Court noted Mr. Sanft has been withdrawn as counsel and ORDERED, matter CONTINUED for Mr. Frizzell's presence.

CUSTODY

CONTINUED TO: 5/04/2016 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 04, 2016

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

May 04, 2016 8:30 AM Confirmation of Counsel

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett
Kory Schlitz

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Anderlik, Elizabeth J.	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Frizzell confirmed as counsel and advised he has spoken with Defendant regarding trial setting; although Defendant requested trial date be set within 60 days. COURT ORDERED, matter SET for trial. Colloquy regarding bail setting. Court directed Mr. Frizzell to file the appropriate motion.

CUSTODY

5/18/2016 8:30 AM PRE TRIAL CONFERENCE

6/22/2016 8:30 AM CALENDAR CALL

6/27/2016 10:00 AM JURY TRIAL

PRINT DATE: 05/09/2022

Page 9 of 49

Minutes Date: February 18, 2016

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 18, 2016

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

May 18, 2016 8:30 AM Pre Trial Conference

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett
Kory Schlitz

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	Laurent, Christopher J	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Frizzell advised he has received a disc which appears to continue all of the discovery in this case; although he has been in trial and not had an opportunity to review the disc. Further, Mr. Frizzell advised Defendant has requested he file a motion to suppress and a bail motion; however, he has informed Defendant that filing a suppression motion would be problematic to the current trial date. Mr. Laurent advised a new offer has been extended and request that a status check be set regarding negotiations in order to revoke the offer on the record, if not accepted. COURT ORDERED, trial dates STANDS and matter SET for Status Check.

CUSTODY

6/1/16 8:30 A.M. STATUS CHECK: NEGOTIATIONS

PRINT DATE: 05/09/2022

Page 10 of 49

Minutes Date: February 18, 2016

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 01, 2016

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

June 01, 2016 8:30 AM Status Check

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Anderlik, Elizabeth J.	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Frizzell advised he has filed a motion for a bail reduction and intends to file a motion to suppress. Further, Mr. Frizzell advised Defendant has indicated he does not wish to accept the State's offer at this time. Ms. Anderlik advised at this time the offer will be revoked. Court so noted.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 13, 2016

C-16-312717-1 State of Nevada
vs
Christopher Keller

June 13, 2016 8:30 AM Motion to Reduce

HEARD BY: Kephart, William D. COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	Schwartz, Bryan A.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant's Pro Per Motion to Dismiss Counsel FILED IN OPEN COURT.

Upon Court's inquiry, Mr. Frizzell advised he is requesting bail be set at \$50,000.00 with house arrest. Court noted his concern with Defendant's criminal history and similar charges. Mr. Frizzell advised he has filed a motion to suppress which is set for Monday 6/20/2016. COURT ORDERED, matter CONTINUED to hear motions together. Further, Mr. Frizzell advised based on discussions with Defendant this morning, Defendant indicated he has issues with the investigator and is requesting to dismiss counsel. Defendant stated he has a motion to dismiss counsel to file this morning and has filed a complaint with the Nevada Bar regarding the investigator and entire situation. Court instructed Mr. Frizzell to meet with Defendant regarding his issues with the investigator.

CUSTODY

PRINT DATE: 05/09/2022

Page 12 of 49

Minutes Date: February 18, 2016

CONTINUED TO: 6/20/2016 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 20, 2016

C-16-312717-1 State of Nevada
 vs
 Christopher Keller

June 20, 2016

8:30 AM

All Pending Motions

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Baharav, Colleen	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES**- DEFENDANT'S MOTION TO SUPPRESS:**

Court stated based on the motion he is inclined to hold a hearing regarding the suppression. Mr. Frizzell advised he just received a copy of the State's opposition and would like an opportunity to file a written reply. Colloquy regarding scheduling. Ms. Baharav advised for the record the offer in this case was officially revoked on 7/13/2016. COURT ORDERED, trial date VACATED and RESET; motion CONTINUED and SET for Hearing.

DEFENDANT'S MOTION TO REDUCE BAIL:

COURT ORDERED, motion DENIED; bail STANDS.

DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE

PRINT DATE: 05/09/2022

Page 14 of 49

Minutes Date: February 18, 2016

COUNSEL:

COURT ORDERED, matter CONTINUED.

CUSTODY

7/20/2016 8:30 AM CALENDAR CALL

7/21/2016 8:30 AM DEFENDANT'S MOTION TO SUPPRESS ... DENNO HEARING ...
DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE
COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 20, 2016

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

July 20, 2016 8:30 AM Calendar Call

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Dickerson, Michael	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Frizzell advised he is unable to announce ready at this time as there is a pending hearing set for tomorrow which may result in requesting a continuance. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 7/21/2016 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 21, 2016

C-16-312717-1 State of Nevada
 vs
 Christopher Keller

July 21, 2016 10:00 AM All Pending Motions

HEARD BY: Kephart, William D. COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Dickerson, Michael	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JACKSON V DENNO HEARING ... DEFENDANT'S MOTION TO SUPPRESS:

Matter TRAILED. RECALLED. Mr. Dickerson advised for the record an offer has been conveyed to Mr. Frizzell and will be revoked if rejected today. Further Mr. Dickerson advised the offer is for one count of trafficking mid- level and one count of possession of firearm by prohibited person, State would retain the full right to argue with no opposition to the counts running concurrent and Defendant would agree to forfeit all property seized. Upon Court's inquiry, Defendant rejected offer. Daniel Lopez sworn and testified. Exhibits presented (see worksheets). Arguments by counsel. COURT ORDERED, Motion DENIED. Mr. Frizzell advised he believes the bail motion is still pending. COURT FURTHER ORDERED, based on Defendant's criminal history and this hearing, Motion to Reduce Bail DENIED.

DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE

PRINT DATE: 05/09/2022

Page 17 of 49

Minutes Date: February 18, 2016

COUNSEL:

Upon Court's inquiry, Defendant advised he cannot get any investigation done and the investigator used by Mr. Frizzell is the same investigator Mr. Sanft used and he has filed a bar complaint against the investigator. Further, Defendant advised he does not believe Mr. Frizzell is representing him the way he wants. Further discussion regarding Defendant's issues with counsel and investigator. COURT FURTHER ORDERED, Motion DENIED.

CALENDAR CALL:

State announced ready with 3 - 4 days for trial. Mr. Frizzell requested trial be continued as he has been preparing for the motion to suppress and has not been able to prepare for trial. Colloquy regarding scheduling. COURT ORDERED, request to continue GRANTED; trial date VACATED and RESET.

8/17/2016 8:30 AM PRE TRIAL CONFERENCE

9/14/2016 8:30 AM CALENDAR CALL

9/19/2016 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 17, 2016

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

August 17, 2016 8:30 AM Pre Trial Conference

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Dickerson, Michael	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Frizzell advised his investigator went to visit Defendant with additional information after the hearing for the motion to suppress which the Defendant informed the investigator he no longer wanted to see the investigator and would no longer assist counsel with trial preparation. Further, Mr. Frizzell advised he unable to represent a person who will not help with his defense and will be filing the appropriate motion. Court so noted. Upon Court's inquiry, Mr. Frizzell advised there are no outstanding discovery issues. COURT ORDERED, trial date STANDS.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 22, 2016

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

August 22, 2016	8:30 AM	Motion to Withdraw as Counsel
------------------------	----------------	--

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Conference at the bench. Court noted appears based on the motion that Defendant has chosen not to assist counsel with the case as Defendant has refused to speak with counsel and his investigator. Defendant stated counsel refuses to assist him and he needs a new attorney. COURT ORDERED, Motion DENIED and trial date STANDS.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

September 14, 2016

C-16-312717-1 State of Nevada
vs
Christopher Keller

September 14, 2016 8:30 AM Calendar Call

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Frizzell advised based on the representations made by the arresting officer regarding body cam footage during the hearing held in this case, he has spoken with Mr. Dickerson who has been unable to locate any information which will necessitate the filing of a motion. Further, Mr. Frizzell advised Defendant has agreed to continue the trial date and waive his speedy trial right. Further discussion regarding the body cam footage. Upon Court's inquiry, Defendant waived his rights to a speedy trial. COURT ORDERED, trial date VACATED and RESET.

CUSTODY

2/01/2017 8:30 AM PRE TRIAL CONFERENCE

3/01/2017 8:30 AM CALENDAR CALL

PRINT DATE: 05/09/2022

Page 21 of 49

Minutes Date: February 18, 2016

3/06/2017 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 01, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

February 01, 2017 8:30 AM Pre Trial Conference

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Derjavina, Ekaterina	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Parties announced ready for the current trial date. Mr. Frizzell advised he will be filing a brady motion at the request of Defendant regarding the body cam video; although both he and his investigator have reviewed the State's file on a few occasions. Court noted due scheduling the current calendar call date of 3/01/2017 will need to be reset. COURT ORDERED, trial date STANDS and calendar call date RESET.

CUSTODY

2/22/2017 8:30 AM CALENDAR CALL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 22, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

February 22, 2017 8:30 AM All Pending Motions

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Baharav, Colleen	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S MOTION FOR PRODUCTION INCLUDING POTENTIALLY EXCULPATORY EVIDENCE:

COURT ORDERED, Defendant's motion currently set for 3/06/2017 ADVANCED and heard today. Mr. Frizzell advised Defendant requested he file a motion as to the body cam information as well as call the officer in question. COURT ORDERED, Motion GRANTED as to any information which Brady would require; independent of any showing of materiality although any information other than Brady material counsel must show materiality. Colloquy regarding the DNA requests. Ms. Baharav advised the DNA report has been provided this morning which indicates the results are inconclusive. Additionally, Ms. Baharav advised when this event number is input into the data base regarding body cam information there is nothing for this event number and the State has complied with their obligation. Further discussion regarding the body cam footage. Court instructed State to reach out and speak with the officer.

PRINT DATE: 05/09/2022

Page 24 of 49

Minutes Date: February 18, 2016

CALENDAR CALL:

Parties announced ready with 8-10 witnesses, no out of State witnesses and anticipate 3 days for trial.
COURT ORDERED, trial date VACATED and matter REFERRED to Overflow.

3/03/2017 8:30 AM OVERFLOW

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 06, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

March 06, 2017 11:00 AM Jury Trial

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Bunnett, Matthew T.	Attorney
	Dickerson, Michael	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS:

Second Amended Information FILED IN OPEN COURT.

Ms. Feliciano advised she was recently retained by Defendant's family; however, due to personal issues she has been unable to speak with Mr. Frizzell nor meet with the Defendant and is unable to announce ready for trial today. State opposed any continuance of the trial. Colloquy. COURT ORDERED, substitution of counsel DENIED; Mr. Frizzell shall continue as counsel.

PROSPECTIVE JURORS PRESENT:

PRINT DATE: 05/09/2022

Page 26 of 49

Minutes Date: February 18, 2016

Voir dire.

Court recessed for the evening.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 07, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

March 07, 2017 10:30 AM Jury Trial

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Bunnett, Matthew T.	Attorney
	Dickerson, Michael	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- PROSPECTIVE JURORS PRESENT:

Voir dire. Jury selected and sworn. Clerk read the Second Amended Information to the jury and stated the defendant s plea thereto.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS:

Mr. Frizzell moved to suppress anything seized at Defendant's home as there was no probable cause for the search. State opposed. COURT ORDERED, oral motion to suppress DENIED.

JURY PRESENT:

PRINT DATE: 05/09/2022

Page 28 of 49

Minutes Date: February 18, 2016

Opening statements by counsel. Testimony and exhibits presented. (See worksheets)

Court recessed for the evening.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 08, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

March 08, 2017 11:30 AM Jury Trial

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Bunnett, Matthew T.	Attorney
	Dickerson, Michael	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY:

Colloquy regarding witnesses Defendant wants wishes to call.

JURY PRESENT:

Testimony and exhibits presented. (See worksheets)

OUTSIDE THE PRESENCE OF THE JURY:

PRINT DATE: 05/09/2022

Page 30 of 49

Minutes Date: February 18, 2016

Parties made record as to objections and conference at the bench.

Court recessed for the evening.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

March 09, 2017

C-16-312717-1 State of Nevada
vs
Christopher Keller

March 09, 2017 9:00 AM Jury Trial

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Bunnett, Matthew T. Attorney
 Dickerson, Michael Attorney
 Frizzell, Kenneth G. Attorney
 Keller, Christopher Robert Defendant
 State of Nevada Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY:

Mr. Frizzell made a record as to witnesses Defendant would like to call and attempts made by his investigator as well as himself to speak with the potential witnesses. Court invoked the exclusionary rule.

JURY PRESENT:

Testimony and exhibits presented. (See worksheets)

OUTSIDE THE PRESENCE OF THE JURY:

Defendant advised of his right not to testify. Colloquy regarding Defendant's wish to retain private counsel.

JURY PRESENT:

Testimony and exhibits presented. (See worksheets)

OUTSIDE THE PRESENCE OF THE JURY:

Instructions settled.

JURY PRESENT:

Testimony and exhibits presented. (See worksheets). Court instructed jury. Closing arguments by counsel. At the hour of 4:51 PM, the jury retired to deliberate.

Court recessed for the evening.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 10, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

March 10, 2017 8:00 AM Jury Trial

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Bunnett, Matthew T.	Attorney
	Dickerson, Michael	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY PRESENT:

At the hour of 10:24 AM, the jury returned with a verdict of GUILTY of COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE, GUILTY of COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE, GUILTY of COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE - MARIJUANA GREATER THAN ONE OUNCE, GUILTY of COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL - METHAMPHETAMINE, GUILTY of COUNT 5 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL - HEROIN, GUILTY of COUNT 6 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL - COCAINE, and GUILTY of COUNT 7 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL - MARIJUANA.

PRINT DATE: 05/09/2022

Page 34 of 49

Minutes Date: February 18, 2016

Third Amended Information FILED IN OPEN COURT.

Clerk read the Third Amended Information to the jury and stated the defendant s plea thereto.
Opening Statements by counsel.

Exhibits presented (see worksheets)

Court instructed jury. Closing arguments by counsel. At the hour of 11:04 AM, the jury retired to deliberate

At the hour of 10:36 AM, the jury returned with a verdict of COUNT 8 - GUILTY of OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON and COUNT 9 - GUILTY of OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON.

Court thanked and excused jurors.

OUTSIDE THE PRESENCE OF THE JURY:

COURT ORDERED, Defendant REMANDED without bail;matter referred to the Division of Parole and Probation (P & P) and SET for sentencing. State made a record as to the accommodations made by the Court and State for Defendant to present witnesses. Court so noted.

CUSTODY

5/08/2017 8:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 08, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

May 08, 2017 8:30 AM Sentencing

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Bunnett, Matthew T.	Attorney
	Dickerson, Michael	Attorney
	Feliciano, Amy A.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Feliciano advised she was recently retained as counsel and requested matter be continued in order to prepare for sentencing and prepare a sentencing memorandum for the Court. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 6/05/2017 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 05, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

June 05, 2017 8:30 AM Sentencing

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Dickerson, Michael	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court noted Ms. Feliciano previously requested matter be continued in order to submit a sentencing memorandum; however, the Court received notice this morning Ms. Feliciano is requesting matter be continued two (2) weeks. Mr. Almase advised Ms. Feliciano is requesting to continue due to a family emergency. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 6/19/2017 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 19, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

June 19, 2017 8:30 AM Sentencing

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Clowers, Shanon	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Almase advised Ms. Feliciano is requesting matter be continued one week and the sentencing memorandum will be filed today. COURT ORDERED, matter CONTINUED one week and sentencing will go forward on the next date.

CUSTODY

CONTINUED TO: 7/24/2017 8:30 AM

CLERK'S NOTE: following sentencing parties stipulated to continue matter for 6/26/2017 to 7/24/2017 as counsel will be out of the jurisdiction. te

PRINT DATE: 05/09/2022

Page 38 of 49

Minutes Date: February 18, 2016

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 24, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

July 24, 2017 8:30 AM Sentencing

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett
Haly Pannullo

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Baharav, Colleen	Attorney
	Hart, Martin W	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Baharav advised Mr. Dickerson was present for the State; however, he was not certain if Ms. Feliciano would be present. Mr. Hart advised Ms. Feliciano is requesting to continue matter. Defendant advised he has not spoken or met with counsel and she has done nothing on the case. CONFERENCE AT THE BENCH. Court noted matter has been continued a number of times for retained counsel to address the Court, COURT ORDERED, Defendant's request to dismiss counsel GRANTED; Kenneth Frizzell APPOINTED and matter CONTINUED.

CUSTODY

CONTINUED TO: 7/31/2017 8:30 AM

CLERK'S NOTE: following hearing Mr. Frizzell advised of appointment via e-mail. te

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 31, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

July 31, 2017 **8:30 AM** **Sentencing**

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Demonte, Noreen C.	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Frizzell advised he has a meeting with Ms. Feliciano today to obtain the file and requested matter be continued one week. COURT SO ORDERED.

CUSTODY

CONTINUED TO: 8/07/2017 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 07, 2017

C-16-312717-1 State of Nevada
vs
Christopher Keller

August 07, 2017 8:30 AM Sentencing

HEARD BY: Kephart, William D. COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT:	Dickerson, Michael	Attorney
	Frizzell, Kenneth G.	Attorney
	Keller, Christopher Robert	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT. KELLER ADJUDGED GUILTY of COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE (F), COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE (F), COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA GREATER THAN AN OUNCE (F), COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (F), COUNT 5 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (F), COUNT 6 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (F), COUNT 7 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (F), COUNT 8 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (F) and COUNT 9 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (F). Matter argued and submitted. Statement by Defendant. Exhibits presented (see worksheets). COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee a \$3.00 DNA Collection fee and a \$10,000.00 Fine; Deft. SENTENCED as to COUNT 1 - LIFE in the Nevada Department of Corrections (NDC) with a MINIMUM parole eligibility AFTER TEN (10) YEARS in the Nevada Department of

PRINT DATE: 05/09/2022

Page 42 of 49

Minutes Date: February 18, 2016

Corrections (NDC); as to COUNT 2 - LIFE in the Nevada Department of Corrections (NDC) with a MINIMUM parole eligibility AFTER TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 2 CONCURRENT with COUNT 1 ; as to COUNT 3 - to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC); COUNT 3 CONCURRENT with COUNT 2; as to COUNT 4 - to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC); COUNT 3 CONCURRENT with COUNT 3; as to COUNT 5 - to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC); COUNT 5 CONCURRENT with COUNT 4; as to COUNT 6 - to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC); COUNT 6 CONCURRENT with COUNT 5; as to COUNT 7 - to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS in the Nevada Department of Corrections (NDC); COUNT 7 CONCURRENT with COUNT 6; as to COUNT 8 - Defendant SENTENCED UNDER THE LARGE HABITUAL CRIMINAL STATUTE to LIFE in the Nevada Department of Corrections (NDC) with a MINIMUM parole eligibility AFTER TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 8 CONSECUTIVE to COUNTS 1, 2, 3, 4, 5, 6, and 7; COUNT 9 - Defendant SENTENCED UNDER THE LARGE HABITUAL CRIMINAL STATUTE to LIFE in the Nevada Department of Corrections (NDC) with a MINIMUM parole eligibility AFTER TEN (10) YEARS in the Nevada Department of Corrections (NDC); COUNT 9 CONCURRENT with COUNT 8; for a TOTAL AGGREGATE SENTENCE of LIFE in the Nevada Department of Corrections with a MINIMUM parole eligibility of TWENTY (20) YEARS in the Nevada Department of Corrections; with FIVE HUNDRED FIFTY-NINE (559) DAYS credit for time served. FURTHER ORDERED, \$150.00 DNA Analysis fee including testing to determine genetic markers, WAIVED as previously ordered.

NDC

CLERK'S NOTE: minutes corrected to reflect the correct credit for time served. te 8/16/2017

CLERK S NOTE: minutes corrected to reflect the correct concurrent counts. te 8/21/2017

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 06, 2017

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

December 06, 2017 8:30 AM All Pending Motions

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT:	Clowers, Shanon	Attorney
	Frizzell, Kenneth G.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S PRO PER MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD, OR IN THE ALTERNATIVE, REQUEST FOR RECORDS/COURT CASE DOCUMENTS:

Court noted Defendant not present and in custody with the Nevada Department of Corrections. COURT ORDERED, Motion GRANTED and directed Mr. Frizzell to forward a copy of the file.

DEFENDANT'S PRO PER MOTION FOR THE APPOINTMENT OF COUNSEL REQUESTED FOR EVIDENTIARY HEARING:

PRINT DATE: 05/09/2022

Page 44 of 49

Minutes Date: February 18, 2016

COURT ORDERED, Motion DENIED at this time as Defendant has failed to make any claims which the Court can make a determination that anything warrants the appointment of counsel. Mr. Frizzell advised in relation to the appeal all documents have been filed with the exception of the transcripts which have just been completed by the Court's recorder and the appellant's brief is due on 12/27/17. Court stated Mr. Frizzell shall remain on as counsel until the opening brief is filed with the Supreme Court.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 16, 2018

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

April 16, 2018	8:30 AM	Motion to Withdraw as Counsel
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HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Keller, Christopher Robert	Defendant
	Mendoza, Erika	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Frizzell advised he has filed the appeal, submitted his opening brief, State has filed a response and a reply was submitted. Further, Mr. Frizzell advised at this time there only thing pending is the Supreme Court's decision. COURT ORDERED, Motion DENIED at this time pending any direction from the Supreme Court.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 23, 2019

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

January 23, 2019 8:30 AM Motion

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Beverly, Leah C	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- COURT ORDERED, Motion GRANTED; counsel directed to forward a copy of the file to defendant.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 24, 2019

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

April 24, 2019 8:30 AM All Pending Motions

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	State of Nevada	Plaintiff
	Zadrowski, Bernard B.	Attorney

JOURNAL ENTRIES

- DEFENDANT'S PRO PER REQUEST FOR RECORDS / COURT CASE DOCUMENTS:

Court noted Defendant not present and in custody with the Nevada Department of Corrections. Further, Court noted Defendant previously filed the same motion and previous counsel, Mr. Frizzell was ordered to forward a copy of the file.

DEFENDANT'S PRO PER MOTION TO COMPEL:

COURT ORDERED, Motion DENIED as overly broad; Defendant needs to file the motion with more specificity.

NDC

PRINT DATE: 05/09/2022

Page 48 of 49

Minutes Date: February 18, 2016

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 08, 2019

C-16-312717-1	State of Nevada
	vs
	Christopher Keller

July 08, 2019 8:30 AM Motion

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Demonte, Noreen C.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- COURT ORDERED, Motion DENIED as Defendant needs to file the motion with more specificity.

NDC

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated May 4, 2022, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises five volumes with pages numbered 1 through 1187.

STATE OF NEVADA,

Plaintiff(s),

vs.

CHRISTOPHER ROBERT KELLER,

Defendant(s),

Case No: C-16-312717-1

Related Case A-19-800950-W

Dept. No: III

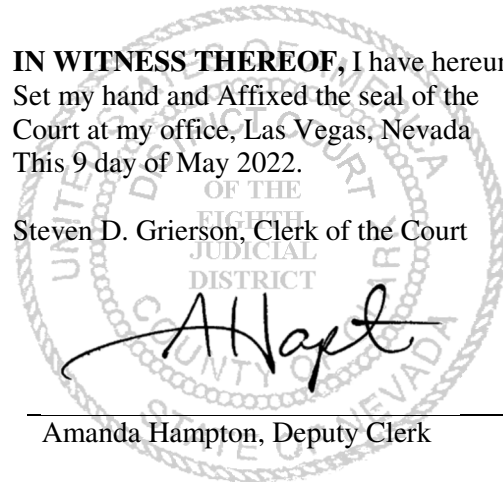
now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 9 day of May 2022.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk



IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ROBERT KELLER,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-16-312717-1
Related Case A-19-800950-W
Docket No: 84643

RECORD ON APPEAL VOLUME 4

ATTORNEY FOR APPELLANT
CHRISTOPHER KELLER # 81840,
PROPER PERSON
1200 PRISON RD.
LOVELOCK, NV 89419

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

I N D E X

<u>VOLUME:</u>	<u>PAGE NUMBER:</u>
1	1 - 241
2	242 - 482
3	483 - 723
4	724 - 964
5	965 - 1187

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	4/29/2016	Amended Information	164 - 167
5	12/12/2017	Amended Judgment of Conviction (Jury Trial)	968 - 971
2	3/9/2017	Amended Jury List	306 - 306
2	8/25/2017	Case Appeal Statement	377 - 379
2	8/12/2016	Certificate of Mailing	274 - 278
5	5/9/2022	Certification of Copy and Transmittal of Record	
1	2/16/2016	Criminal Bindover (Confidential)	1 - 28
2	4/29/2017	Defendant Keller's Substitution of Attorney and Amy A. Feliciano, Esq.'s Notice of Appearance as Counsel of Record	362 - 364
2	2/7/2017	Defendant's Motion for Production Including Potentially Exculpatory Evidence	293 - 301
1	6/10/2016	Defendant's Motion to Suppress	171 - 190
5	5/9/2022	District Court Minutes	1139 - 1187
5	5/9/2022	Documentary Exhibits (Unfiled)	1068 - 1126
5	5/9/2022	Documentary Exhibits (Unfiled) Confidential	1127 - 1138
1	2/17/2016	Information	29 - 32
2	3/10/2017	Instructions to the Jury	314 - 322
2	3/10/2017	Instructions to the Jury	323 - 346
2	8/10/2017	Judgment of Conviction (Jury Trial)	365 - 368
2	3/7/2017	Jury List	305 - 305
5	6/12/2019	Motion for Production of Transcripts at State Expense	1033 - 1036

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
5	3/22/2018	Motion for the Appointment of Counsel & Motion to Dismiss Attorney of Record	980 - 985
4	11/14/2017	Motion for the Appointment of Counsel; Request for Evidentiary Hearing	958 - 962
4	11/14/2017	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents (Continued)	963 - 964
5	11/14/2017	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents (Continuation)	965 - 966
5	12/31/2018	Motion for Withdrawal of Counsel of Record or in the Alternative, Request for Records/Court Case Document "Evidence Photos"	1009 - 1014
5	4/3/2019	Motion to Compel	1022 - 1027
1	6/13/2016	Motion to Dismiss Counsel and Appoint Alternate Counsel	191 - 193
1	6/1/2016	Motion to Reduce Bail	168 - 170
2	8/10/2016	Motion to Withdraw As Counsel	270 - 273
5	11/14/2018	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed	996 - 1007
2	8/24/2017	Notice of Appeal	372 - 372
2	8/24/2017	Notice of Appeal	376 - 376
5	11/29/2017	Notice of Change of Hearing	967 - 967
1	3/29/2016	Notice of Expert Witnesses [NRS 174.234(2)]	156 - 161

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	8/26/2016	Notice of Expert Witnesses [NRS 174.234(2)]	281 - 287
1	3/24/2016	Notice of Intent to Seek Punishment as a Habitual Criminal	151 - 152
2	7/18/2016	Notice of Intent to Seek Punishment as a Habitual Criminal	268 - 269
4	11/14/2017	Notice of Motion	956 - 957
5	12/31/2018	Notice of Motion	1008 - 1008
5	4/3/2019	Notice of Motion	1021 - 1021
1	3/24/2016	Notice of Witnesses [NRS 174.234(1)(a)]	153 - 155
2	1/25/2017	Notice to Introduce Certified Records [NRS 52.260(4)]	291 - 292
5	5/10/2018	Order Denying Defendant's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record	994 - 995
2	8/18/2016	Order Denying Defendant's Motion to Suppress and Defendant's Pro Per Motion to Dismiss Counsel and Appoint Alternative Counsel	279 - 280
5	7/22/2019	Order Denying Defendant's Pro Per Motion for Production of Transcripts at State Expense	1041 - 1042
5	4/11/2018	Order Granting Defendant's Motion for the Appointment of Counsel; Order Denying Defendant's Request for Evidentiary Hearing	986 - 987
5	2/1/2019	Order Granting Petitioner's Pro Per Motion for Withdrawal of Counsel of Record, or in the Alternative, Request for Records/Court Case Document	1015 - 1016

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	4/14/2017	Presentence Investigation Report (Unfiled) Confidential	347 - 361
1	6/16/2016	Receipt of Copy	194 - 194
5	4/3/2019	Request for Records/Court Case Documents	1017 - 1020
5	6/12/2019	Request for Records/Court Case Documents (Specifically Evidence Photos)	1038 - 1040
2	8/24/2017	Request for Rough Draft Transcripts	369 - 371
2	8/24/2017	Request for Rough Draft Transcripts	373 - 375
5	6/12/2019	Request for Submission of Motion	1037 - 1037
2	3/6/2017	Second Amended Information	302 - 304
5	4/13/2018	State's Opposition to Defendant's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record	988 - 993
1	6/17/2016	State's Opposition to Defendant's Motion to Suppress (Continued)	195 - 241
2	6/17/2016	State's Opposition to Defendant's Motion to Suppress (Continuation)	242 - 267
5	1/17/2020	State's Response to Defendant's Pro Per Petition for Writ of Habeas Corpus (Post- Conviction)	1043 - 1067
2	8/29/2016	Supplemental Notice of Witnesses [NRS 174.234(1)(a)]	288 - 290
2	3/10/2017	Third Amended Information	307 - 310
2	10/5/2017	Transcript of Hearing Held on August 7, 2017	380 - 394
1	3/2/2016	Transcript of Hearing Held on February 16, 2016	33 - 91

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	3/4/2016	Transcript of Hearing Held on February 16, 2016	92 - 150
3	11/13/2017	Transcript of Hearing Held on March 10, 2017	485 - 512
2	11/13/2017	Transcript of Hearing Held on March 6, 2017	396 - 417
2	11/13/2017	Transcript of Hearing Held on March 7, 2017 (Continued)	418 - 482
3	11/13/2017	Transcript of Hearing Held on March 7, 2017 (Continuation)	483 - 484
4	11/13/2017	Transcript of Hearing Held on March 8, 2017	726 - 955
3	11/13/2017	Transcript of Hearing Held on March 9, 2017 (Continued)	513 - 723
4	11/13/2017	Transcript of Hearing Held on March 9, 2017 (Continuation)	724 - 725
5	3/1/2018	Unfiled Document(s) - Attorney Letter w/Copy of Unfiled Motion for the Appointment of Counsel; Request for Evidentiary Hearing and w/Copy of Unsigned Order Appointing Counsel	972 - 978
1	4/17/2016	Unfiled Document(s) - Motion for Brady Hearing	162 - 163
5	6/12/2019	Unfiled Document(s) - Motion to Compel	1028 - 1031
2	11/3/2017	Unsigned Document(s) - Order Appointing Counsel	395 - 395
5	3/13/2018	Unsigned Document(s) - Order Appointing Counsel	979 - 979
5	6/12/2019	Unsigned Document(s) - Order to Produce Transcripts	1032 - 1032

C-16-312717-1

State of Nevada
vs
Christopher Keller

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	3/10/2017	Verdict - Counts 1 thru 7	312 - 313
2	3/10/2017	Verdict - Counts 8 and 9	311 - 311

INDEX

STATE'S CLOSING ARGUMENT BY MR. BUNNETT.. . . .	165
DEFENDANT'S CLOSING ARGUMENT BY MR. FRIZZELL.	188
STATE'S REBUTTAL CLOSING ARGUMENT BY MR. DICKERSON. . . .	198

WITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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STATE'S WITNESSES:

Steven Hough	15	46	56	--
Elizabeth Quintero	58	--		
Jason Althnether	85	116	124	--

DEFENDANT'S WITNESS:

Jacob Henry	145	155	160	--
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EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
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STATE'S EXHIBITS:

Exhibits 40 through 41.	21
Exhibits 44 through 51.	21
Exhibits 52 and 53.	81
Exhibit 54 through 59.	29
Exhibit 60.. . . .	27
Exhibit 62.. . . .	26
Exhibit 63 through 77.	34
Exhibits 78 and 79.	21
Exhibit 80.. . . .	34
Exhibit 95.. . . .	42
Exhibit 96.. . . .	128

ROUGH DRAFT TRANSCRIPT

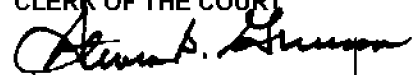
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ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

Julie Lord

JULIE LORD, INDEPENDENT TRANSCRIBER

ROUGH DRAFT TRANSCRIPT



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-16-312717-1
	.	
Plaintiff,	.	DEPT. NO. XIX
	.	
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
CHRISTOPHER ROBERT KELLER,	.	
	.	
Defendant.	.	
.	

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

**ROUGH DRAFT TRANSCRIPT OF
JURY TRIAL - DAY 3**

WEDNESDAY, MARCH 8, 2017

APPEARANCES:

FOR THE STATE:	MATTHEW T. BUNNETT, ESQ. MICHAEL DICKERSON, ESQ. <i>Deputy District Attorneys</i>
FOR THE DEFENDANT:	KENNETH G. FRIZZELL, III., ESQ.

RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, WEDNESDAY, MARCH 8, 2017, 11:54 A.M.

2 (Outside the presence of the jury)

3 THE COURT: All right. On the record in State of
4 Nevada v. Christopher Keller in C-312717. Let the record
5 reflect the presence of the defendant and his counsel, and
6 State and their counsel. We're outside the presence of the
7 jury. Is there anything that needs to be put on the record at
8 this time?

9 THE DEFENDANT: Your Honor, I wanted to say, I
10 wanted about five witnesses to come, and I was informed
11 yesterday at the beginning of trial that I wouldn't be allowed
12 to have witnesses because I guess since me and him aren't
13 communicating, I didn't have a chance to tell him until the
14 day of trial that I wanted the witnesses, so.

15 THE COURT: Well, we're in trial now. Tell him --
16 tell him who you want here, and see if you can get them
17 served.

18 THE DEFENDANT: Well, I told him yesterday.

19 THE COURT: Okay. What are you doing? Are you
20 trying to do that, Mr. Frizzell, or?

21 MR. FRIZZELL: They're -- candidly, Your Honor,
22 they're witnesses that I don't -- I don't believe that will be
23 of a help.

24 THE DEFENDANT: They're my boss from my -- they're
25 my boss from my work, different high-standing members of the

ROUGH DRAFT TRANSCRIPT

1 community that --

2 THE COURT:

3 THE DEFENDANT: Well, they're character witnesses,
4 and then I --

5 THE COURT: So you want -- you want to put your
6 character into evidence?

7 THE DEFENDANT: Yes. I'm going to go on the -- I'm
8 going to go -- I was going to go on the stand anyway.

9 THE COURT: Oh, okay.

10 THE DEFENDANT: And then I had also wanted to -- a
11 witness -- I wanted to call Mark Maston (phonetic), because he
12 -- when he went to my house to investigate, I mean, the other
13 -- the other person that was living there at the residence was
14 there, and still had access to the vehicle and all this stuff,
15 and he -- I mean, he's aware of that stuff, but I have no way
16 of like putting that -- I have no way of presenting that to
17 the Court without -- you know, I have no way of really
18 presenting the -- this evidence to the Court.

19 THE COURT: Okay, well that's something you need to
20 discuss with your attorney. Your attorney's indicating that
21 -- I mean, you got the information, Mr. Frizzell.

22 MR. FRIZZELL: I -- I --

23 THE COURT: And if in fact there's witnesses you
24 believe will assist you in your trial, then I'd suggest that
25 you probably try to do what you can to call them. But have

ROUGH DRAFT TRANSCRIPT

1 you provided a witness list to the -- I mean, to the State?

2 MR. BUNNETT: Your Honor, we have not --

3 MR. FRIZZELL: No, I just --

4 MR. BUNNETT: -- received a witness list. That -- I
5 mean, just based on what we're hearing today, my thoughts are
6 that, if these witnesses were to be presented, they sound
7 mostly like -- I mean, he mentioned upstanding members of the
8 community. If he puts on character evidence, Your Honor, I
9 feel like it's going to be our position that we're going to be
10 able to ask them about his character. And I think the
11 procedure how that's done is asking them, you know, have you
12 heard that the defendant has been convicted of a felony, or
13 that he's been --

14 THE COURT: Well, that's why I was asking whether or
15 not -- that was his question, was he putting his character
16 into issue.

17 MR. BUNNETT: So, I mean, I don't at this point
18 think -- if character witnesses are being presented, I don't
19 think we've been noticed, but I don't think our requested
20 remedy would be that he not be allowed to call those
21 witnesses.

22 THE COURT: Um-hum.

23 MR. BUNNETT: I mean, it would also sort of depend
24 on what evidence is proposed to be presented, but I mean, if
25 it's merely character evidence --

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Okay. Well, I mean, I'm going to leave
2 it to Mr. Frizzell at this point in time to determine --
3 because we still have a trial going. We're still in the
4 middle of trial. There's still time. We're not done with it.
5 You've made your record. You've made your record, Mr. Keller.
6 Mr. Frizzell, you and he need to discuss that and determine
7 whether or not you're going to be in a position where you want
8 those witnesses to testify or not. So -- and then, Mr.
9 Frizzell, I'd do what you can to see what you can get -- get
10 -- see what you can find out.

11 MR. FRIZZELL: And just so that you understand, he
12 did just tell me all this; gave me this written down
13 yesterday.

14 THE DEFENDANT: This I gave you on Monday.

15 MR. FRIZZELL: And Your Honor, I just --

16 THE DEFENDANT: I gave him this on Monday, but I
17 told him that I want --

18 MR. FRIZZELL: Well, what he wanted from -- what he
19 wanted from this list he gave me was some documentation that
20 there wasn't going to be any way to get it in, and the
21 documents at least themselves. All he wanted was like
22 printouts of Registers of Actions on some other -- some other
23 people and their case. And not only is that -- not only
24 during our discussion did I say -- did I tell him that I
25 thought that was -- that was irrelevant and there was other --

ROUGH DRAFT TRANSCRIPT

1 a better strategic way to handle that issue, I'm -- I'm
2 hearing actually -- like I said, just yesterday afternoon,
3 about I want to call all these people, some of which I have
4 absolutely no contact information for. Yes, my investigator,
5 Mr. Maston, I have certainly ways to contact him.

6 THE COURT: Okay.

7 THE DEFENDANT: I have numbers for the witnesses.

8 MR. FRIZZELL: Okay. But if -- I mean, if he wants
9 witnesses to be called, I'm just letting Your Honor know that
10 I'm just -- I just learned of who -- that he wanted to call
11 somebody yesterday, so there has been no notification to the
12 -- to the State about that --

13 THE COURT: Okay.

14 MR. FRIZZELL: -- at all.

15 THE COURT: All right, that's fine. All right, get
16 the jury in.

17 THE MARSHAL: All rise for the presence of the jury.

18 (Within the presence of the jury)

19 THE COURT: Okay. We're back on the record in the
20 case of State of Nevada vs. Christopher Keller in C-312717.
21 Let the record reflect the presence of the defendant and his
22 counsel, as well as State and their counsel.

23 (COURT CALLS ROLL OF THE JURY)

24 THE COURT: All members of the jury have answered
25 the call. Do the parties stipulate to the presence of the

ROUGH DRAFT TRANSCRIPT

1 jury?

2 We do, Your Honor.

3 THE COURT: Mr. Frizzell?

4 MR. FRIZZELL: Yes, Your Honor. I'm sorry.

5 THE COURT: Okay. When we took our break last
6 night, the State's still in their case in chief. Call your
7 next witness, Mr. Dickerson.

8 MR. DICKERSON: State's next witness is going to be
9 Daniel Lopez.

10 THE MARSHAL: Watch your step. Face the clerk.
11 Raise your right hand.

12 OFFICER DANIEL LOPEZ, STATE'S WITNESS, SWORN

13 THE CLERK: Thank you. Please be seated. Please
14 state your full name, spelling your first and last name for
15 the record.

16 THE WITNESS: Daniel Lopez. D-a-n-i-e-l, L-o-p-e-z.

17 THE COURT: Your witness, Mr. Dickerson.

18 MR. DICKERSON: Thank you very much, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. DICKERSON:

21 Q Sir, drawing your attention to January 28th, 2016,
22 approximately 2:25 A.M., what were you doing?

23 A Working for Las Vegas Metropolitan Police
24 Department.

25 Q In what capacity?

ROUGH DRAFT TRANSCRIPT

1 A As a Police Officer II.

2 Q Okay. And so what were your duties as a police
3 officer 2 with the Las Vegas Metropolitan Police Department on
4 that day?

5 A Responding to calls for service, initiating self --
6 self activity, doing traffic stops, person stops, that type of
7 stuff.

8 Q What was your specific assignment?

9 A I was One George 24.

10 Q Okay, and what does that mean?

11 A It's basically my call sign, which means I'm
12 assigned to George 2 Sector and George 4 Sector.

13 Q So, explain this for the folks in the jury who don't
14 really understand how a sector works and how this call sign
15 relates to that at all.

16 A So, each part in the Valley, it's -- the Valley is
17 divided up into different area commands, and within each area
18 command, they break it down to even smaller sections, or they
19 call it sector -- sector beats. And depending on which area
20 command you're assigned to depends on what your call sign's
21 going to be, so G, as in George, is assigned to the Northeast
22 Area Command.

23 Q What is the general area of the Northeast Area
24 Command?

25 A It is pretty much everything -- there is a little

ROUGH DRAFT TRANSCRIPT

1 bit of gaps where it's North Las Vegas and stuff like that,
2 but for the most part, it is everything to the east of the
3 I-15, and everything north of Sahara.

4 Q Okay. So the George area is one area inside the
5 Northeast Area Command's overall area?

6 A Correct.

7 Q And then, as a patrol officer, do they also break
8 down the George area?

9 A Yes.

10 Q And how does that work?

11 A So, they -- so Northeast has George and Frank.
12 George area is broken down to everything south of Washington
13 all the way up to Sahara, and everything north of Washington
14 is Frank area.

15 Q So, when you talk about your call sign that day, how
16 does that relate to you, and where you're patrolling, and what
17 you're doing?

18 A In general, unless you're responding to calls for
19 service outside of your area, that's the area that you're --
20 you're supposed to typically be in.

21 Q And on January 28th, 2016, what area was that for
22 you?

23 A I was assigned to George area; to George 24.

24 Q Okay. And any area specifically within the George
25 area, or just all the George area?

ROUGH DRAFT TRANSCRIPT

1 A Typically, we're allowed to go anywhere within the
2 George area.

3 Q Okay. And when you say your general duties are
4 patrol duties, does this mean that you're driving one of those
5 typical black and white Las Vegas Metropolitan Police
6 Department vehicles?

7 A Correct.

8 Q And you're wearing a uniform?

9 A Yes.

10 Q The standard tan Metro uniform?

11 A Yes.

12 Q Now, is the area of 265 Lamb Boulevard located
13 within the George area of Northeast Area Command?

14 A Yes.

15 Q And so would that have been an area that you're
16 patrolling on the night of January 28th, 2016 -- or the early
17 morning, I should say?

18 A Yes.

19 Q Now, I'm going to show you --

20 MR. DICKERSON: If I may, Your Honor?

21 THE COURT: Um-hum.

22 MR. DICKERSON: Thank you.

23 BY MR. DICKERSON:

24 Q -- what's been marked as State's Proposed 3 through
25 4. Please take a look through those. Tell me if you

ROUGH DRAFT TRANSCRIPT

1 recognize what's depicted in those proposed exhibits.

2 A It's the southwest corner of Lamb and Stewart.

3 Q So you recognize all three of those images depicted
4 in State's Proposed 3 through 5?

5 A Yes.

6 Q Okay, and what do you recognize them to be?

7 A Mostly it's the Crossroads 3 (phonetic), the
8 apartment complex.

9 Q An overview of that area?

10 A Yes.

11 Q Okay.

12 MR. DICKERSON: State moves for the admission of
13 State's Proposed 3 through 5, Your Honor.

14 THE COURT: Any objection?

15 MR. FRIZZELL: Those are just the map -- those are
16 just the map pictures, right?

17 MR. DICKERSON: Yeah.

18 MR. FRIZZELL: No, Your Honor.

19 THE COURT: They'd be admitted.

20 (State's Exhibits 3, 4, and 5 are admitted)

21 MR. DICKERSON: Thank you.

22 BY MR. DICKERSON:

23 Q So, that evening, about 2:25 A.M., where were you in
24 your patrol duties?

25 A At 2:25 A.M.?

ROUGH DRAFT TRANSCRIPT

1 Q Approximately 2:25.

2 A I was in the George area.

3 Q Okay. And at some point in time, did you make your
4 way towards the general area of Stewart and North Lamb?

5 A Yes.

6 Q And as you approached that area, what were you
7 doing?

8 A I was driving my black and white patrol car, a Ford
9 Explorer, and I was traveling southbound on Lamb, and I had
10 just passed Stewart.

11 Q Okay. I'm going to show you what's been admitted as
12 State's Exhibit 3.

13 MR. DICKERSON: If I may publish for the jury, Your
14 Honor?

15 THE COURT: Yes.

16 MR. DICKERSON: State's Exhibit 3 here on the Elmo.

17 THE COURT: It's coming on.

18 MR. DICKERSON: Thank you very much.

19 THE COURT: There it is. Do you have that, ladies
20 and gentlemen?

21 UNKNOWN SPEAKER: Yeah.

22 THE COURT: Okay. Can you see that, Officer, in
23 front of you?

24 THE WITNESS: Yes.

25 MR. DICKERSON: All right.

ROUGH DRAFT TRANSCRIPT

1 BY MR. DICKERSON:

2 Q Do you -- you obviously recognize this area, as you
3 previously testified. Is this the area that you were speaking
4 of, driving southbound on Lamb?

5 A Yes.

6 Q If you could indicate generally where you were at
7 this time that I'm speaking about right now, approximately
8 2:20, 2:25 A.M.

9 A 2:25, I'm not entirely sure exactly where I was.

10 Q Okay. Where were you when you -- what time was it
11 approximately when you came into this area?

12 A I would say it was closer to 2:40, 2:45.

13 Q Okay. And so what happens as you come southbound on
14 Lamb Boulevard?

15 A As I was traveling south on Lamb, I saw a vehicle
16 pull off of Sunrise Avenue, and it made a left turn, and it
17 was -- it made the left turn at a high rate of speed, which
18 caught my attention. And I couldn't tell if the vehicle had
19 stopped for the stop sign at Sunrise or not, but the vehicle
20 had -- it was a silver Dodge Stratus, and it made a left turn,
21 and when it made the left turn, it went straight into the
22 center turn lane. It didn't actually get into the northbound
23 lanes that are right here on Lamb.

24 Q Okay. So if you could -- this screen to your left,
25 it's a touch screen. So if you touch it, it will make a mark

ROUGH DRAFT TRANSCRIPT

1 on this screen here.

2 A Okay.

3 Q If you could indicate for the jury where you saw
4 this vehicle turning from.

5 A It was turning right here off of Sunrise Avenue.

6 Q Okay. And again, this was a silver Dodge Stratus?

7 A Yes.

8 Q At this point in time, when this car turns off of
9 Sunrise Avenue, where are you in your patrol car?

10 A I am about right there.

11 Q Okay. So, you're heading southbound?

12 A Yes.

13 Q And when we're looking at this map here, where is
14 this south portion?

15 A Do you want me to point on the map, or --

16 Q If you could just say up, down, right --

17 A Down is the south part of this map.

18 Q Okay, so down. So, Sunrise Avenue would be south of
19 where you were?

20 A Correct.

21 Q And you're traveling south, so you're traveling
22 towards Sunrise Avenue?

23 A Correct.

24 Q Now, this vehicle, this silver Dodge Stratus that
25 turns from Sunrise Avenue onto Lamb, which direction does that

ROUGH DRAFT TRANSCRIPT

1 vehicle go?

2 A He's making a left turn to go northbound.

3 Q Okay. So, at that point in time, the vehicle would
4 at some point in time have to cross paths with you?

5 A Correct.

6 Q So, as this vehicle comes onto Lamb Boulevard, in
7 what manner did the vehicle turn onto Lamb Boulevard?

8 A It was -- it was really quick, and it was at a high
9 rate of speed.

10 Q So, if you could describe for us what Lamb Boulevard
11 looks like in this area. You indicated that there's a center
12 turn lane. What other lanes are there?

13 A There are three northbound travel lanes, there are
14 three southbound travel lanes, and then there's the center
15 turn area where vehicles from either southbound or northbound
16 pull in while they yield for traffic to make their left turns
17 across traffic.

18 Q Okay. And so, when this silver Dodge Stratus turns,
19 it turns into that center turn lane?

20 A Correct.

21 Q That would mean there's three travel lanes to the
22 right of it?

23 A Correct.

24 Q And three travel lanes to the left?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q And you were coming towards this vehicle in one of
2 those travel lanes to the left?

3 A Yes.

4 Q Okay. So what happens from this point in time?

5 A I decided I was going to conduct a records check on
6 the vehicle, on the plate, and so I made a U-turn to get
7 behind the vehicle.

8 Q So now you're going to travel northbound as well?

9 A Correct.

10 Q Had the vehicle passed you at this point in time?

11 A Yes.

12 Q When you make that U-turn, what happens?

13 A I noticed that the passenger taillight was broken
14 and that the driver was not slowing down.

15 Q Okay. Is the vehicle still in the center turn lane?

16 A Correct.

17 Q Are you able to see a license plate at that time?

18 A Yes.

19 Q Was that Nevada 098ASW?

20 A Yes.

21 Q And so what happens from this point in time after
22 you recognize the issue with the taillight?

23 A I speed up to try and catch up to the vehicle so I
24 could initiate a traffic stop. The vehicle continued
25 northbound, and then it made a left turn into the Crossroads 3

ROUGH DRAFT TRANSCRIPT

1 (phonetic).

2 Q Okay. How did the vehicle make that left turn into
3 the Crossroads 3?

4 A From the center turn lane, he made the left turn.
5 It was quick. It was -- it was obvious to me that he was
6 trying to put some distance between me and him.

7 Q Was there any other traffic on the road?

8 A Yes.

9 Q And coming which direction?

10 A There was other vehicles coming southbound.

11 Q What happened with that traffic as this Dodge
12 Stratus made a left turn?

13 A So the other vehicles that were coming southbound,
14 they obviously could tell because of the manner -- the way
15 they were driving -- the drivers that were driving southbound,
16 they all slowed down because they saw this car and they knew
17 he was going to cut in front of them, and sure enough, he cut
18 in front of them. And southbound traffic, they actually
19 basically came to a slow crawl, allowing me to actually go
20 into the Crossroads 3 as well.

21 Q Did you have your lights and sirens on at this time?

22 A No.

23 Q Lights?

24 A No.

25 Q Okay. So the traffic stopped nonetheless?

ROUGH DRAFT TRANSCRIPT

1 A Correct.

2 Q Okay. So what do you do at this point in time?

3 A I'm catching up to the vehicle inside the Crossroads
4 3 apartment complex. The vehicle's hitting the speed bumps
5 pretty quick, and I'm still trying to close the distance
6 between our two vehicles.

7 Q So what is the procedure that you take now as a
8 police officer about to make contact with this vehicle?

9 A Well, because of the way he was driving -- and most
10 typical drivers that see a police officer, they tend to behave
11 themselves, slow down, drive in a manner that's more prudent.
12 And since this driver was actually trying to put distance
13 between us, I knew from my training and experience being a law
14 enforcement officer and getting into lots and lots of foot
15 pursuits and foot chases that the driver was going to bail
16 from the vehicle, and so I initiated the traffic stop on him
17 as he was pulling into a parking spot.

18 Q And what do you do when you initiate a traffic stop?

19 A I turn on lights and sirens.

20 Q Okay. Do you have to notify anybody about this?

21 A I had already called out radio traffic because I
22 knew that the vehicle was obviously trying to get away from
23 me. I'd already called for another unit, and I'd already
24 called out the traffic stop as well before I turned on the
25 lights and siren -- just the lights.

ROUGH DRAFT TRANSCRIPT

1 Q Where were you about when you called out that radio
2 traffic?

3 A I believe it was about the time I was pulling into
4 the Crossroads 3.

5 Q Okay. And just so we can tell here, where is the
6 Crossroads 3 located on this particular map that we're looking
7 at?

8 A The entrance to the Crossroads 3 is right here.

9 Q All right. So you indicated that entrance right
10 there, kind of between those white buildings?

11 A Yeah.

12 Q All right. And that's the area that you indicated
13 that this silver Dodge Stratus had turned left into?

14 A Yes.

15 Q Okay. I'm going to show you what's been marked as
16 State's Exhibit 4 and admitted as such. Is this the area of
17 the Crossroads 3 apartment?

18 A Yes.

19 Q Just a close-up of that? Is that a yes?

20 A Yes.

21 Q Okay. If you could just indicate where the entrance
22 of the Crossroads is right on this map as well.

23 A The entrance is right there.

24 Q So you say right about there is where you get on
25 your radio and you say what?

ROUGH DRAFT TRANSCRIPT

1 A I call out the traffic stop, stating that I was
2 going to -- basically, I was notifying dispatch that I was
3 initiating a traffic stop on the vehicle.

4 Q When you notify dispatch, does that also notify
5 other people that are on the same radio?

6 A Yes.

7 Q Who else would be on this radio?

8 A The entire George squad, and the entire Frank squad.

9 Q So all of the patrol officers from the Northeast
10 Area Command?

11 A Yes.

12 Q Okay. Do the dispatchers take notes on what's going
13 on?

14 A Yes.

15 Q Do they take notes to specifically what is called
16 out by you and what time that's happening?

17 A Yes. Dispatch actually creates an event, and they
18 put on the event that I initiated a traffic stop, and what I
19 initiated the traffic stop on, and they timestamp it.

20 Q Okay. Do you recall the exact timestamp of that?

21 A I do not.

22 Q Is there a CAD Report that you could look at that
23 would help refresh your recollection?

24 A Yes.

25 Q And what is CAD?

ROUGH DRAFT TRANSCRIPT

1 A CAD is basically a printout of the chronological
2 order of everything that happened as it's being relayed to
3 dispatch and dispatch is updating the event.

4 Q If I may, showing you a CAD Report, just take a look
5 at that and tell me if that refreshes your recollection as to
6 when you conducted this traffic stop.

7 A Yes.

8 Q When was it that you conducted the traffic stop,
9 sir?

10 A It says at 2:25.

11 Q Okay. So, approximately 2:25 A.M., you are calling
12 out on the radio you're coming into the Crossroads 3
13 Apartments, about to do a traffic stop?

14 A Yes.

15 Q On this silver Dodge Stratus, Nevada license plate
16 098 Adam, Sam, William?

17 A Yes.

18 Q Okay. So, when you get into the Crossroads, how was
19 this silver Dodge Stratus traveling through the apartment?

20 A Into the Crossroads, it was hitting the speed bumps
21 fast. He was going really fast.

22 Q Okay, and where does this vehicle end up?

23 A He actually ends up -- do you want me to point on
24 the map?

25 Q Please do.

ROUGH DRAFT TRANSCRIPT

1 A He actually parks in a parking spot right about
2 there.

3 Q All right, and that's at Building 265?

4 A Yes.

5 Q And you indicated that it's right there, somewhere
6 in front of where it says "F" on the map?

7 A Yes.

8 Q I'm going to show you what's been marked as -- and
9 admitted as State's Exhibit 5. Do you recognize this to be
10 the same area, just a close-up of it?

11 A Yes.

12 Q If you could, for the ladies and gentlemen of the
13 jury, just tell them where that vehicle was parked as you
14 conducted that traffic stop. And is that under an awning?

15 A Yes.

16 Q So where are you in your vehicle at that point in
17 time when the vehicle pulls in?

18 A As he pulls in, I'm pulling in right behind him. Do
19 you want me to indicate where my vehicle was?

20 Q Please do. Okay. At this point in time, do you
21 have your lights on?

22 A Yes.

23 Q Okay. And now that you're behind the vehicle with
24 your lights on, the vehicle's in this parking spot, what
25 happens?

ROUGH DRAFT TRANSCRIPT

1 A He had already jumped out of his car, and I had
2 jumped out of my car.

3 Q When you say "he," who are you referring to?

4 A I am referring to the defendant.

5 Q Okay. You pointed over here to my right?

6 A Yes.

7 Q If you could, please identify a piece of clothing
8 and point to the individual that you're identifying.

9 A He's wearing a light blue collared shirt, sitting
10 right there.

11 Q Okay.

12 MR. DICKERSON: If the record could reflect that the
13 witness is identifying the defendant, Your Honor?

14 THE COURT: Yes, it will.

15 MR. DICKERSON: Thank you.

16 BY MR. DICKERSON:

17 Q So you see the defendant jump out of that silver
18 Dodge Stratus?

19 A Yes.

20 Q And where does the defendant go?

21 A He opens the door and he starts running towards the
22 back of his car.

23 Q Okay. So the back of his car would have been where?

24 A Towards his bumper.

25 Q Okay. And are you near the back?

ROUGH DRAFT TRANSCRIPT

1 A Yeah, I'm there at the back of his car as well.

2 Q Is the door of that silver Dodge Stratus still open?

3 A Yes.

4 Q So, what does that cause to happen, this door being
5 open?

6 A The door is open on the car. I can smell the odor
7 of cannabis on him, and I can smell it also coming out of the
8 vehicle.

9 Q Okay. Was there any route forward for the defendant
10 to take?

11 A No, because the way he opened his door, he kind of
12 prevented himself from being able to run towards the front of
13 his vehicle, because he would have had to have got out of the
14 car, shut the door, and then proceed to go forward towards the
15 front of his car.

16 Q Okay. So, how quickly after the defendant gets that
17 silver Dodge Stratus parked right there in that parking spot
18 is it that he's exiting the vehicle?

19 A It was -- it was basically instantaneously.

20 Q Okay, so he didn't wait around to get things
21 together in there?

22 A No.

23 Q Okay. You said instantaneously?

24 A I mean, he basically -- he -- the car stopped, he
25 got out of his car, I was ready to end up in a foot chase so I

ROUGH DRAFT TRANSCRIPT

1 was already out of my car as well.

2 Q So what did you do?

3 A I made contact with him on his side of the car, and
4 I walked him over towards the front of my patrol car.

5 Q And your patrol car is right there behind it?

6 A Correct.

7 Q This vehicle, was it -- it was parked in a specific
8 parking spot; is that right?

9 A Yes.

10 Q Do you recall the number of that parking spot?

11 A I believe it was 58.

12 Q Okay. Now, parking spot 58, you're right behind it.
13 Where is it that you take the defendant?

14 A Right to the front of my patrol vehicle, which is --

15 Q And you said, at this time, you're already smelling
16 marijuana?

17 A I can smell marijuana.

18 Q Coming from where?

19 A Coming from him and coming from inside the vehicle.

20 Q Okay. So what do you do?

21 A I conducted a pat-down for weapons on him. He was
22 upset that he had gotten stopped, and he was really nervous,
23 so I went ahead and placed him in handcuffs, because that and
24 the way he was driving and trying to get away from me, I
25 suspected that he was a flight risk and that he was going to

ROUGH DRAFT TRANSCRIPT

1 run.

2 Q Okay. And so you conduct a pat-down?

3 A Correct.

4 Q Do you find any weapons?

5 A I did not find any weapons.

6 Q What do you do next?

7 A I asked him if he had his ID.

8 Q Like a driver's license?

9 A Yes.

10 Q And what does he say?

11 A He says he does.

12 Q And so what happens next?

13 A I ask him if his ID is on his person; he says yes.

14 I asked him where it was; he said it was in his front pocket.

15 I asked him if I could remove it; he said yes.

16 Q Okay, so did you proceed to remove his ID?

17 A I did.

18 Q And what happens when you do that?

19 A As I removed the wallet, I end up grabbing a wad of
20 cash that was right next to the wallet on the outside of it.

21 Q What was this wad of cash?

22 A It was mostly \$20 bills, some other denominations as
23 well.

24 Q And it was right there with his wallet?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q Where exactly was his wallet?

2 A His wallet was in his front right pants pocket.

3 Q Okay, and the money was right there with it?

4 A Yes.

5 Q But not in the wallet?

6 A There was some that ended up being in the wallet,
7 and some that was outside of the wallet.

8 Q Was there any particular way that this money was
9 organized?

10 A Yes. He had five 20s folded facing one direction,
11 then he had another five 20s folded facing the opposite
12 direction. They were -- they were all folded the same, but
13 the creases of the fold were on different sides, opposite
14 sides, and so then it just kept on switching.

15 Q Okay. Was this a lot of money or just a little bit
16 of money?

17 A It was -- it was a good amount of money.

18 Q Do you recall offhand how much money?

19 A I don't remember the exact dollar amount. I do
20 remember it was over \$2,000.

21 Q And do you recall offhand the exact denominations of
22 that money?

23 A I don't.

24 Q Okay. At some point in time later in the night, did
25 you end up impounding all of that money?

ROUGH DRAFT TRANSCRIPT

1 A I did.

2 Q Did you, as part of that impound, use a money
3 accounting report sheet?

4 A Yes.

5 Q Would looking at that money accounting report help
6 you refresh your recollection as to, number one, how much
7 money it was; and number two, what the denominations were?

8 A Yes.

9 Q Okay. Just take a look at this. Do you recognize
10 this form?

11 A Yes.

12 Q Did you fill out this form?

13 A This is an enlarged version of the form that I
14 filled out, yes.

15 Q Okay. It fairly and accurately represents that
16 form?

17 A Yes.

18 Q When you filled out this form, was the information
19 that you put on this form fresh in your memory, or was it
20 happening right at that time?

21 A It was fresh in my memory.

22 Q Okay. Had you just counted down the money?

23 A Yes.

24 Q And was that what you were memorializing here?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q So how much money was it that was in the defendant's
2 pocket?

3 MR. FRIZZELL: I'm going to object, Your Honor,
4 because if we're just refreshing recollection --

5 MR. DICKERSON: It's --

6 MR. FRIZZELL: -- he can't keep that with him. He
7 can look at it, and then --

8 MR. DICKERSON: It's actually a --

9 THE COURT: Okay.

10 MR. DICKERSON: -- past recollection recorded.

11 THE COURT: Well --

12 MR. FRIZZELL: Yeah, but still, he can't read from
13 it.

14 MR. DICKERSON: Well, he could if it's past --

15 THE COURT: Can -- can I get in on this?

16 MR. FRIZZELL: Absolutely.

17 THE COURT: Okay. So what are you offering -- how
18 are you offering this? Are you asking --

19 MR. DICKERSON: I'm offering --

20 THE COURT: -- to refresh his memory? Are you --

21 MR. DICKERSON: I'm offering this as a past
22 recollection recorded, Your Honor.

23 THE COURT: Are you offering the actual report?

24 MR. DICKERSON: I'm not; just for him to read from -
25 - to -- for his recollection that he recorded at that time.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: After reviewing it, Officer, does it
2 refresh your memory how much money you actually retrieved from
3 him?

4 THE WITNESS: Yes.

5 THE COURT: Okay. Tell us what it was.

6 THE WITNESS: It's \$2,187.

7 MR. FRIZZELL: Objection, he just looked at it
8 again.

9 THE COURT: Well, it's either way. It's either way.
10 It's got -- it's got -- he's refreshing his memory. He said
11 it refreshed his memory, and then he told me how much. If he
12 didn't refresh his memory -- does it refresh your memory or
13 not?

14 THE WITNESS: Yes.

15 THE COURT: Can you tell me without looking at the
16 report?

17 THE WITNESS: \$2,187.

18 THE COURT: Okay, so it refreshed his memory. If
19 not, then it --

20 MR. FRIZZELL: Okay.

21 THE COURT: -- is past recollection recorded. So
22 either way, we're going to hear it. So I'm just trying to
23 make the record clear.

24 MR. FRIZZELL: All right, I just want to make sure,
25 because the questions the State was asking was not what you

ROUGH DRAFT TRANSCRIPT

1 ask for --

2 THE COURT: But I asked, okay?

3 MR. FRIZZELL: Got it.

4 THE COURT: All right. Go ahead, Mr. Dickerson.

5 MR. DICKERSON: Thank you, Your Honor.

6 MR. FRIZZELL: Just for the record, I do object, but
7 you can overrule it.

8 THE COURT: Go ahead.

9 MR. DICKERSON: Okay. Thank you, Your Honor.

10 BY MR. DICKERSON:

11 Q Sir, do you recall the exact denominations?

12 A I don't.

13 Q And so would looking at this report of -- that you
14 wrote; is that right?

15 A Yes.

16 Q And the information on this report was clear on your
17 mind when you wrote it?

18 A Yes.

19 Q And this was more recent in time than today; is that
20 correct?

21 A Yes.

22 Q When was it that you created this report?

23 A January 28th of 2016.

24 Q Okay. So, how many \$1 bills were in that wad of
25 money?

ROUGH DRAFT TRANSCRIPT

1 A I'd have to look at it, because --

2 Q Feel free.

3 A Two \$1 bills.

4 Q How many \$5 bills?

5 A There's one \$5 bill.

6 MR. FRIZZELL: Your Honor, this is a continuing
7 objection, because he's -- he's --

8 THE COURT: I understand, but I also understand he
9 is doing it by past recollection recorded. There is a
10 difference, so.

11 MR. FRIZZELL: I just want to make my record, Your
12 Honor.

13 THE COURT: Okay. All right, thank you.

14 MR. FRIZZELL: I'm objecting that he's --

15 THE COURT: Okay.

16 MR. FRIZZELL: -- continuing to just read it.

17 THE COURT: Overruled. Go ahead.

18 BY MR. DICKERSON:

19 Q How many \$10 bills?

20 A \$10 bills? There were two \$10 bills.

21 Q How many \$20 bills?

22 A 68 \$20 bills.

23 Q Okay. How many \$50 bills?

24 A Two \$50 bills.

25 Q And how many \$100 bills?

ROUGH DRAFT TRANSCRIPT

1 A Seven.

2 Q All right. And that was a total of \$2,187?

3 A Correct.

4 Q In cash?

5 A Yes.

6 Q Located in the defendant's front right pants pocket?

7 A Yes.

8 Q So, at that point in time, you've pulled his wallet
9 out; you see all this money. What do you do?

10 A I set the wallet and I set the money on the hood of
11 my car.

12 Q And has the backup unit that you -- that you'd
13 previously called for arrived?

14 A Yes.

15 Q So now the defendant's in the front of your car; is
16 that right?

17 A Yes.

18 Q What happens?

19 A Officer Henry was walking up; he was my backup
20 officer. He was walking up on the passenger side of the car,
21 I was still up there at the front of the car with him, and
22 while we're out there, there's about five gunshots that go off
23 in the apartment complex.

24 Q Five gunshots?

25 A Five gunshots.

ROUGH DRAFT TRANSCRIPT

1 Q How close are you to the gunshots?

2 A They are -- they literally sound like they're on the
3 other side of one of the buildings in the apartment complex.

4 Q I'm going to show you here what we've looked at
5 previously and what's been marked and admitted as State's
6 Exhibit 4. Do you recognize this, sir?

7 A Yes.

8 Q So you indicated where you were generally; is that
9 right?

10 A Yes.

11 Q If you could do that again.

12 A My car is right about -- a little bit up from that.
13 Every time I touch the screen, it goes a little lower, but.

14 Q And so you're there in front of your car with the
15 defendant?

16 A Yes.

17 Q You have a backup officer that has just arrived?

18 A Yes.

19 Q Is that Officer Henry?

20 A Yes.

21 Q And so it's just you and Officer Henry?

22 A Yes.

23 Q Where do you hear these gunshots coming from?

24 A The gunshots are -- they -- they're coming from the
25 north, and they sound extremely close. They sound like

ROUGH DRAFT TRANSCRIPT

1 they're literally on the other side of this building right
2 here.

3 Q Okay. If you could make a circle so it's a little
4 bit more clear.

5 A They basically sound like they're coming from this
6 area right here.

7 Q Okay, so very close by?

8 A Yes.

9 Q As a police officer in this situation, what do you
10 do?

11 A Well, since I'd already taken control of my suspect,
12 I took him and I put him in the back of my patrol car for his
13 safety. Officer Henry went north to go investigate the
14 gunshots that just occurred. I called out the radio traffic
15 over the radio. The air unit and basically a lot of black and
16 white police cars all showed up in the area.

17 Q So cops flood the area?

18 A Yes.

19 Q Looking for remnants of a shooting?

20 A Yes.

21 Q What are you looking for in that situation?

22 A Whenever there's a shooting, we're looking for
23 victims, we're looking for suspects, we're looking for
24 gunshots in -- you know, in buildings or anything like that,
25 casings.

ROUGH DRAFT TRANSCRIPT

1 Q And so how long is this search going on?

2 A It's going on for -- it goes on for a while.

3 Q Where are you at that time?

4 A I'm still with my -- my suspect.

5 Q The defendant?

6 A The defendant.

7 Q He's in the back of your patrol car?

8 A Yes.

9 Q And what do you do?

10 A I initially -- I put him in the back of my patrol
11 car. I took cover on the side of my patrol car because of the
12 gunshots, and I was still calling out all the radio traffic,
13 coordinating with the air unit as to where to go, and where we
14 heard them, and that type of stuff.

15 Q And what was the end result of all these units and
16 the air unit coming down and looking for these gunshots?

17 A No victims were located, no suspects were located,
18 no gunshots, no shell casings --

19 Q So what happened?

20 A -- no impacts. We continued on with my traffic
21 stop.

22 Q So you're on your traffic stop. Do you have
23 occasion to look inside the vehicle?

24 A Yes.

25 Q And when does that occur?

ROUGH DRAFT TRANSCRIPT

1 A It basically happened after I was right there next
2 to the driver's side corner panel.

3 Q Okay. At this point in time, is there any sort of
4 police training or anything that comes into play with the
5 situation you're in?

6 MR. FRIZZELL: Object, leading.

7 THE COURT: Overruled.

8 THE WITNESS: I basically continued my investigation
9 of my traffic stop.

10 BY MR. DICKERSON:

11 Q Okay, and what do you do?

12 A So, while I was by the car door, I saw a green leafy
13 residue -- substance, actually, on the floorboard, and it's
14 basically the leftovers of what I know from my training and
15 experience to be marijuana.

16 Q Okay. What did this look like?

17 A It's just basically like little crumbs and small
18 pieces of the green leafy residue.

19 Q Okay, like green flakes?

20 MR. FRIZZELL: Objection, leading. What did it look
21 like. I thought we had --

22 THE COURT: Yeah, don't --

23 BY MR. DICKERSON:

24 Q What did it look like, sir?

25 A It's small pieces of green leafy substance.

ROUGH DRAFT TRANSCRIPT

1 Q How big?

2 A Very, very small.

3 Q If we're thinking about a pencil, would it be the
4 size of the top of the pencil or the eraser?

5 A It would be about the size -- I'd say it's about the
6 size of an eraser, maybe a little less than that.

7 Q Okay, so somewhere in between?

8 A Yes.

9 Q So very small?

10 A Yes.

11 Q And so now you've smelt marijuana on the defendant;
12 is that right?

13 A Yes.

14 Q And you've smelt marijuana coming from the car?

15 A Yes.

16 Q And you see little flakes of marijuana as well?

17 A Yes.

18 Q So what do you do?

19 A Since I had probable cause that there was a
20 controlled substance inside the vehicle, I began to do a
21 search inside the vehicle.

22 Q All right. And what does that entail?

23 A Basically, I'm looking for the marijuana,
24 essentially. And during my initial search, I located a bag
25 containing a whole bunch of small clear plastic bags

ROUGH DRAFT TRANSCRIPT

1 underneath the driver's seat. I located another larger bag in
2 between the center console and the driver's seat.

3 Q Okay. This bag that you located -- the little bags
4 that you located, what did those look like?

5 A It was basically one bag, and inside it, it had lots
6 of the smaller bags.

7 Q Are you familiar with these type of bags?

8 A Yes.

9 Q And how are you familiar with these bags?

10 A They're commonly used to transport a controlled
11 substance.

12 Q Do you have an estimate of how big these bags are?

13 A They're relatively small, about an inch by an inch
14 maybe.

15 Q At some point in time, did you collect those
16 baggies?

17 A I did.

18 Q And did you later on impound those baggies?

19 A Yes.

20 Q I'm going to show you here a bag. Tell me if you
21 recognize what's on this bag.

22 A The bag is from this event, and it says, "17,
23 baggies with black pouch."

24 Q Okay, that's Item 17?

25 A "Item 17, baggies with black pouch."

ROUGH DRAFT TRANSCRIPT

1 Q And are you familiar with this specific bag and this
2 label?

3 A Yes.

4 Q And how are you familiar with it?

5 A It has my signature on it.

6 Q What does that mean?

7 A It has my signature and my P number, which is my
8 badge number.

9 Q And what's a P number?

10 A A P number is your badge number, but when you put
11 it, you put your initials and your badge number on there.

12 Q So what does that indicate about this bag?

13 A It indicates that this was my property --

14 Q Okay.

15 A -- that I impounded.

16 Q And so did you in fact impound the items in this
17 bag?

18 A Yes.

19 Q That being what?

20 A Baggies with black pouch.

21 Q And was this bag previously opened by the Court?

22 A Yes.

23 Q All right, but it wasn't opened after you sealed it
24 up; is that right?

25 A Correct.

ROUGH DRAFT TRANSCRIPT

1 Q And is there any indication that it was ever opened
2 after that time, before it was opened here in the courtroom?

3 A No.

4 Q And how would you know?

5 A Because this is the evidence seal tape that I put on
6 there.

7 Q This red tape here?

8 A Yes.

9 Q And how do you know you put this here?

10 A Because it has my initials -- my initials and P
11 number that's on the tape as well.

12 Q And the baggies and black pouch, are those the
13 baggies and black pouch that you located in reference to this
14 particular case?

15 A Yes.

16 Q In a search that you did here?

17 A Yes.

18 MR. DICKERSON: State moves for the admission of 84,
19 Your Honor.

20 THE COURT: Any objection?

21 MR. FRIZZELL: No, Your Honor.

22 MR. DICKERSON: And --

23 THE COURT: It'd be admitted.

24 (State's Exhibit 84 is admitted)

25 MR. DICKERSON: And admission of all its contents.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: What exhibit is it again?

2 MR. DICKERSON: Exhibit 84, and its contents being A
3 through C.

4 THE COURT: Any objection?

5 MR. FRIZZELL: No, Your Honor.

6 THE COURT: All right. 84A through C would be
7 admitted.

8 (State's Exhibits 84A through C are admitted)

9 MR. DICKERSON: 84C here.

10 BY MR. DICKERSON:

11 Q Officer, showing you here what's been marked and
12 admitted as State's 84C, do you recognize that item?

13 A Yes.

14 Q And how do you recognize it?

15 A It's the item that I found underneath the driver's
16 seat.

17 Q The small baggies?

18 A Yes.

19 Q So it's a bag of baggies?

20 A Yes.

21 Q Are they new or used?

22 A They look relatively new.

23 Q And is that bag able to be opened?

24 A When I first initially --

25 Q Yes.

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q At this point in time, is it as well?

3 A Yes.

4 Q If you could, sir, please open that bag.

5 A Let me put the gloves on.

6 Q So, at this point in time, what are you doing?

7 A I'm opening the bag that has all the other baggies
8 in it.

9 Q Okay. And if you could, pull those little baggies
10 out and show the members of the jury what they look like.
11 Okay, so those are the baggies that you're familiar with?

12 A Yes.

13 THE COURT: For the record, do they appear to be
14 clear Ziploc baggies about two inches wide by, what, four
15 inches tall?

16 THE WITNESS: Yes.

17 THE COURT: Okay. Is that -- are you satisfied with
18 that?

19 MR. DICKERSON: I'm satisfied with that, Your Honor.

20 THE COURT: Mr. Frizzell, is that -- would you
21 believe that's correct?

22 MR. FRIZZELL: Yes.

23 THE COURT: Okay.

24 MR. FRIZZELL: I saw them when we unpacked
25 everything.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: That's the little bags out of the big
2 bag, right? Is that correct, Officer?

3 THE WITNESS: These are the bags that are inside the
4 bag.

5 THE COURT: Okay. All right.

6 BY MR. DICKERSON:

7 Q And about -- do you have an estimate of about how
8 many bags are in there?

9 A I don't know --

10 Q Okay.

11 A -- off the top of my head.

12 Q More than just a few though?

13 A Yes, there's quite a few in there.

14 Q Does it appear to be a new package?

15 A Yes.

16 Q Okay. So you find those underneath the driver's
17 seat?

18 A Yes.

19 Q At this point in time, what do you do?

20 A I decided -- because of the size of those bags and
21 the large amount of money that was on his person, I called for
22 a canine narcotics dog.

23 Q What was it about the situation that you were in at
24 that point in time that made you decide to call for a
25 narcotics dog?

ROUGH DRAFT TRANSCRIPT

1 A Basically, all the circumstances that had come
2 about; the shots being fired close by, the large amount of
3 cash that was on the defendant, the items that I'd already
4 found underneath the seat and in the center console area right
5 there. So I decided to stop my search right there, get a
6 canine dog to come over there and do a narcotics sniff.

7 Q So what was it about those items that indicated you
8 may need a canine?

9 A Basically, it's items that are commonly used for --
10 to transport controlled substances.

11 Q Those beings the bags?

12 A Yes.

13 Q And what was it about the money?

14 A Well, it was a large, significant amount of cash,
15 and cash is commonly used to make transactions happen as far
16 as narcotics.

17 Q Did the denominations of that money play any role
18 into your reasoning?

19 A Yes. The large amount of 20s and the way that the
20 20s were stacked up, it was consistent with somebody who's
21 making sales.

22 Q So is that something you have seen before?

23 A Yes.

24 Q In how many years of police experience?

25 A At the time of this stop, I had nine years on the

ROUGH DRAFT TRANSCRIPT

1 department.

2 Q So had you stopped people that you later found out
3 were selling drugs?

4 A Yes.

5 Q And did they have large amounts of cash on them?

6 A Yes.

7 MR. FRIZZELL: Objection, relevance.

8 THE COURT: Approach the bench.

9 (Off-record bench conference)

10 THE COURT: Mr. Frizzell, I'm going to sustain your
11 objection.

12 MR. FRIZZELL: Thank you, Your Honor.

13 BY MR. DICKERSON:

14 Q In those nine years as a police officer, had you
15 been on narcotics investigations?

16 A Yes.

17 Q Narcotics investigations that started at traffic
18 stops?

19 A Yes.

20 Q And the large amount of cash, especially in the
21 denominations of 20s that you saw here, was that consistent
22 with the sale of drugs that you've seen in previous
23 investigations?

24 A Yes.

25 Q And the baggies as well?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q So, you also mentioned the gunshots. What was it
3 about the gunshots?

4 A Well, it appeared to me that it was some type of
5 distract to get me away from the -- from the defendant and
6 from the car.

7 Q Is that -- you mean a distraction?

8 A A distraction.

9 Q Okay, and why would you think that?

10 A It doesn't happen very often that you do a traffic
11 stop and that somebody decides to fire off rounds really close
12 to where you are.

13 Q Okay, and so all these things indicated to you that
14 you might need to get a dog out there?

15 A Yes.

16 Q How do you get a dog out there?

17 A Through dispatch.

18 Q Okay. Put it on the radio?

19 A Yes.

20 Q And then, does the police canine arrive shortly
21 thereafter?

22 A Yes.

23 Q Was that Officer Newton?

24 A Yes.

25 Q And Officer Newton has a canine partner?

ROUGH DRAFT TRANSCRIPT

1 A Yes, he does. He's got a couple.

2 Q How does that work?

3 A Basically, he has dogs for different jobs, and he
4 has them in his patrol vehicle.

5 Q So there's a job that's specifically for narcotics?

6 A Yes.

7 Q Was that dog with Officer Newton a dog by the name
8 of Stewie?

9 A Yes.

10 Q So, Stewie comes out with Officer Newton. How do
11 they work?

12 A They work basically hand in hand as one unit.

13 Q Okay. What do they do when they arrive on scene
14 here?

15 A Initially, I told him that I was concerned that the
16 defendant had tossed items out of the window while pulling
17 into the complex, and then I told him about the vehicle and
18 the other circumstances surrounding the vehicle.

19 Q Okay. So what does Officer Newton, with his canine
20 partner, Stewie, what do they do?

21 A They do a narcotics search on the car.

22 Q And does that entail Stewie actually getting into
23 the car?

24 A Yes.

25 Q And once Stewie gets into the car -- let me back up

ROUGH DRAFT TRANSCRIPT

1 a second. Are you standing there for this?

2 A Yes.

3 Q You're watching this canine, Stewie?

4 A Yes.

5 Q And what do you watch Stewie do?

6 A Stewie, he indicates on the glove compartment of the
7 -- of the car that I had stopped.

8 Q Okay. And when he's indicating, what was he doing?

9 A He basically -- he just indicates to the canine
10 officer, and the canine officer says, hey, I just got
11 something.

12 Q That's Officer Newton?

13 A Yes.

14 Q So, once that indication on this glove box area
15 happens, what do you guys do?

16 A We take a closer look at the glove box.

17 Q When you take a look at the glove box, what, if
18 anything, do you see?

19 A If you open the glove box, you will see -- on the
20 right side of the glove box, you will see a small hole that
21 goes across the top of the glove box when it's open. So when
22 it's open, there's just a small opening.

23 Q So when you see this hole in the glove box, is it
24 something that you recognize in any way?

25 A It wasn't -- it wasn't a factory-made hole. It was

ROUGH DRAFT TRANSCRIPT

1 obvious somebody had made the hole and put it there.

2 Q So what do you do?

3 A I end up putting my hand in there and reaching in,
4 and I can feel that there's a bag inside the hole. And I just
5 kind of touch the bag, and I felt something solid inside the
6 bag, so I decided to stop -- stop with my search.

7 Q Did you have any idea or any belief what you thought
8 it was that you felt in that bag?

9 A Yes, I was quite confident that it was a firearm
10 that was inside the bag.

11 Q So why -- what are you stopping your search for?

12 A Because if it was a firearm, I know that district
13 attorneys, they like warrants better than just doing a
14 probable cause search. So I decided to stop my search at that
15 point and get a warrant, and so I applied for a telephonic
16 warrant.

17 Q Okay. How does that work?

18 A A telephonic warrant -- judges are on call. There's
19 one on call judge and a backup judge that's on call 24 hours,
20 seven days a week. And so you call the judge and you
21 basically read them your warrant verbatim, and -- to the
22 judge, and the judge will either approve the warrant or not
23 approve the warrant. Since it's graveyard hours, in the
24 middle of the night, telephonic warrants are very, very
25 common.

ROUGH DRAFT TRANSCRIPT

1 Q Telephonic being instead of taking them paper? Is
2 that --

3 A Correct. Doing it over the phone.

4 Q And then is that a recorded phone call?

5 A Yes, it is.

6 Q Okay, and you tell them all your bases for applying
7 for the warrant?

8 A Correct.

9 Q And here, I think we've kind of previously discussed
10 some of the basis -- bases already, but now -- you know, that
11 being, what, the gunshots?

12 A I don't believe I put the gunshots in the warrant --

13 Q Okay.

14 A -- because I wasn't able to -- I wasn't able to 100
15 percent positively say that those were because of my traffic
16 stop, so --

17 Q Okay.

18 A -- I didn't put them in there.

19 Q But the other things?

20 A All the other stuff, I put in there.

21 Q The baggies?

22 A The baggies.

23 Q The cash?

24 A The cash.

25 Q And now, after the dog arrives, what else?

ROUGH DRAFT TRANSCRIPT

1 A I'm not sure what your question is.

2 Q Did you talk about the dog indicating?

3 A Yes. So -- and because the dog indicated, that was
4 also on the warrant as well.

5 Q So you present this all to a judge, and what does
6 the judge do?

7 A The judge approves the warrant for the -- for the
8 car.

9 Q Okay. So, after the warrant's approved by the
10 judge, what happens?

11 A We -- Officer Henry proceeds to remove the cover to
12 the glove compartment because he's trying to get into the hole
13 where the bag is, and he -- when you remove the actual glove
14 compartment part and it comes off, then the hole is -- it's a
15 lot bigger, and you can tell that somebody just basically
16 punched a hole into the side of the glove box.

17 Q So you indicated that he had to remove the glove box
18 -- or, excuse me, glove box portion. I'm going to show you
19 what's been admitted as State's Exhibit 19. Is the area that
20 you're describing depicted here in this image?

21 A Yes, it is.

22 Q If you could, indicate on the screen what it is
23 you're talking about.

24 A This is the hole that I'm talking about here.

25 Q Okay.

ROUGH DRAFT TRANSCRIPT

1 A I guess I'll circle it.

2 Q And was there a door on this glove box?

3 A Yes. It's the -- the door and the sides -- there's
4 actual sides of the door when you pull it out, so it comes out
5 with it, and so that was actually in there and it was
6 obstructing the majority of the hole. You could only see
7 about the top -- about -- just the top little portion of the
8 hole that you could actually see.

9 Q You're indicating with your fingers about an inch,
10 maybe an inch-and-a-quarter?

11 A High, and then a couple inches long.

12 Q Okay. But you couldn't see that full hole?

13 A No, you couldn't see this full hole.

14 Q And so some steps were taken to remove the actual
15 door to the glove box?

16 A Yes. Officer Henry had removed the glove box.

17 Q Okay. Did that come off easily or did tools have to
18 be used?

19 A No, it came off easy enough. He didn't have to have
20 any special tools that I'm aware of.

21 Q So, now looking at State's Exhibit 20, is that the
22 hole as it appeared?

23 A Yes, it's just -- this is a closer up view of the
24 same hole.

25 Q So, once you have this door of the glove box open

ROUGH DRAFT TRANSCRIPT

1 and you can now see this hole, what do you guys do?

2 A Well, we tried to get the bag out. And we could
3 tell that there was a black bag inside the hole, the same bag
4 that I suspected had a firearm in it, and we -- you can't pull
5 the bag out through this hole.

6 And so while Officer Henry was trying to get the bag
7 out through this hole, I actually walked up, and if the
8 passenger door is open on the car, the side of the dash panel
9 that's closest to the door is basically just a simple little
10 plastic cover. I walked over to the plastic cover, and I
11 popped it off, and it just simply popped right off, and you
12 could get to the bag that way as well.

13 Q I'm going to show you what's been marked and
14 admitted here as State's Exhibit 17. Is that area that you're
15 talking about located in this exhibit?

16 A Yes. Basically, it's this whole plastic piece right
17 here. That all pops off, and I basically touched it right
18 about here, and just kind of got a little hold on it, and
19 popped it off.

20 Q And when you're indicating that you got a little
21 hold on it, you're just indicating with your thumb?

22 A Yeah. Basically, it was just -- you can grab it
23 with your finger, and just kind of grab onto it, and it pops
24 off, so.

25 Q Okay. So you didn't have to use any tools to take

ROUGH DRAFT TRANSCRIPT

1 it off?

2 A No, no tools.

3 Q It came off relatively easily?

4 A Yes.

5 Q Is that something that appeared to be a
6 manufacturing design?

7 A I believe so.

8 Q Okay.

9 A It looks part of the car.

10 Q Okay. Now you've taken off -- and I'm going to show
11 you here what's been marked and admitted as State's Exhibit
12 22. Do you recognize this image, sir?

13 A Yes. That's the black bag that was in the
14 compartment after the side has been popped off.

15 Q Okay, so this is immediately after you'd taken off
16 that plastic portion?

17 A Yes.

18 Q And when you take that off, now, is CSA Stephanie
19 Thi there with you?

20 A Yes.

21 Q And Officer Henry's still there with you?

22 A Yes.

23 Q What is CSA Thi doing at this time?

24 A She's taking pictures of everything.

25 Q Okay, taking step by step?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q So what's the next step here?

3 A The next step here is to remove the bag out of the
4 compartment.

5 Q And when the bag's removed, what do you find?

6 A The bag is removed, and there's three gold bags
7 inside of the black -- the larger black bag, and then a
8 smaller canvass black bag within it as well.

9 Q I'm going to show you here State's Exhibit 24. Do
10 you recognize what's depicted here in this image, sir?

11 A Yeah. This is ID Tech Thi's hand, and these are the
12 gold bags that are inside the black bag.

13 Q And those are the gold bags you remember seeing?

14 A Yes.

15 Q And State's Exhibit 26, does that depict those gold
16 bags?

17 A Yes, that's the two bags that had items in it.

18 Q So, what was it that you found in these bags?

19 A A lot of controlled substance, very different types.

20 Q I'm going to show you here State's Exhibit 28. What
21 does it appear to you is depicted here in this image?

22 A These are the items that we -- that we removed from
23 the bag. It's different controlled substances, a watch that
24 was inside the bag, the black bag itself. The keys were not
25 inside the bag.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. The black bag that's there in the foreground,
2 what is that?

3 A That is the black bag that had the firearm in it.

4 Q Okay, so there was also a firearm recovered?

5 A Yes.

6 Q In addition to the drugs?

7 A Yes.

8 Q And showing you here State's Exhibit 31, is that how
9 that firearm appeared?

10 A Yes.

11 Q And did CSA Thi remove that?

12 A Yes. She -- she made the gun safe, and she ended up
13 placing it in an evidence bag for me.

14 Q Is that the gun as you remember it?

15 A Yes.

16 Q Okay, and we're showing you State's Exhibit 32. All
17 right.

18 MR. DICKERSON: Court's brief indulgence.

19 BY MR. DICKERSON:

20 Q Did you have the opportunity to later look at all
21 the items that were in those -- in the black bag and within
22 those gold bags?

23 A Yes.

24 Q And did you in fact impound all those items?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q Is that part of your duty as a police officer?

2 A Yes.

3 Q Similar to how we looked at the other brown evidence
4 bag, did you do the same things with the things that were
5 located inside that black bag?

6 A Yes.

7 (Pause in the proceedings)

8 BY MR. DICKERSON:

9 Q Okay, sir. I'm going to show you what's been
10 previously opened by the Court, State's Proposed Exhibit 82
11 and its contents. If you could, take a look at State's
12 Proposed Exhibit 82. Tell me if you recognize that.

13 A It is from this event. It has my signature on it,
14 it has my P number, initials on it, and it indicates a lot of
15 items.

16 Q And are you speaking about the evidence tag here on
17 this brown bag?

18 A Yes. On the brown bag, I put an evidence tag, and I
19 basically put on the piece of paper what's inside the bag.

20 Q Okay. And this particular bag, what is it that you
21 indicated was in here?

22 A I'd have to read it all off.

23 Q Okay. Is this -- is this as you recall impounding
24 this brown bag?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q And the contents with it?

2 A Yes.

3 Q Is your P number located here?

4 A Yes.

5 Q And that's 9806?

6 A Yes.

7 Q And this red evidence tape here, is this significant
8 to you?

9 A Yes, that's the evidence tape. It's got my P number
10 and the date on it as well.

11 Q So does that indicate that you sealed this bag?

12 A Yes.

13 Q And this blue evidence tape, what, if anything, does
14 that indicate?

15 A That is not me. That is the lab, I believe.

16 Q Okay. So the lab, if they opened it, they would put
17 a tag on it as well?

18 A Yes.

19 Q Would they seal it back up?

20 A Yes.

21 MR. DICKERSON: At this time, State moves for the
22 admission of State's Exhibit 82 and all of its contents.

23 THE COURT: Aren't they labeled differently? You
24 have 82 --

25 MR. DICKERSON: Yeah.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: -- A, 82 --

2 MR. DICKERSON: I do, Your Honor.

3 THE COURT: 81, 2, 3 --

4 MR. DICKERSON: I do.

5 THE COURT: -- 82 -- are you moving for 82A and
6 everything?

7 MR. DICKERSON: We're going to move --

8 THE COURT: Okay.

9 MR. DICKERSON: I'll move the --

10 THE COURT: Come up here, Ken.

11 MR. DICKERSON: I'll move each one individually,
12 just to make it easier on Your Honor.

13 THE COURT: All right.

14 MR. FRIZZELL: I just wanted to see which one he was
15 talking about.

16 THE COURT: Okay. Just so the record's clear.

17 MR. DICKERSON: Right.

18 (Counsel conferring)

19 THE COURT: So what do you have right there, Mr.
20 Dickerson? 82 is what's been marked as the evidence bag.

21 MR. DICKERSON: That's correct, Your Honor.

22 MR. FRIZZELL: Well, they're --

23 THE COURT: He's identified the -- okay.

24 MR. DICKERSON: And to be --

25 THE COURT: Everything that's in that -- let me

ROUGH DRAFT TRANSCRIPT

1 talk.

2 MR. DICKERSON: Go ahead.

3 THE COURT: Everything that's in that pouch or in
4 that box there is out of 82?

5 MR. DICKERSON: Correct, Your Honor.

6 THE COURT: Okay. All right.

7 MR. FRIZZELL: And --

8 THE COURT: So --

9 MR. FRIZZELL: Your Honor, there are some other --
10 other exhibits I'm sure that they'll get to later that are in
11 this particular box --

12 THE COURT: That's what I'm asking.

13 MR. FRIZZELL: -- that's in front of him. There's
14 -- there's other --

15 THE COURT: Okay.

16 MR. FRIZZELL: -- exhibits, so not everything in
17 this --

18 THE COURT: Is that right, Mr. Dickerson?

19 MR. FRIZZELL: -- clerk's box is 82.

20 MR. DICKERSON: I'll go through them one by one --

21 THE COURT: Okay.

22 MR. DICKERSON: -- and then we can make it nice and
23 clear for the record --

24 THE COURT: All right.

25 MR. DICKERSON: -- and for Mr. Frizzell.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Okay. All right.

2 MR. DICKERSON: Thank you, Your Honor.

3 THE COURT: Okay.

4 MR. DICKERSON: All right.

5 THE COURT: Just -- just start out -- because I know
6 that my clerk's labeled them differently, so --

7 MR. DICKERSON: Yes.

8 THE COURT: -- start out each one of them, and then
9 -- and then, when you're done, if you want to move to admit
10 whichever ones you want.

11 BY MR. DICKERSON:

12 Q Here we have State's Proposed Exhibit 82B. Do you
13 recognize that, sir?

14 A Yes.

15 Q What do you recognize that to be, sir?

16 A A gold bag that was inside the black bag that I
17 found in the car.

18 Q And State's 82 -- bear with me -- B1 --

19 THE COURT: Okay.

20 MR. DICKERSON: -- B2, B3, B4.

21 MR. FRIZZELL: Your Honor, do you mind if I just
22 come up there while he's --

23 THE COURT: Yeah, that's fine, Mr. Frizzell.

24 MR. FRIZZELL: -- going through -- thank you.

25 MR. DICKERSON: And that's what we'll be looking at

ROUGH DRAFT TRANSCRIPT

1 for this point in time. 82-B1 through 4. Do you --

2 THE COURT: You have 82B, and then B1 through 4?

3 MR. DICKERSON: That's correct, Your Honor.

4 THE COURT: Okay.

5 BY MR. DICKERSON:

6 Q Do you recognize these items?

7 A Yes.

8 Q And what do you recognize those items to be?

9 A This is the methamphetamine that was located inside
10 the bag.

11 Q Okay. These --

12 THE COURT: Is that all 1 through 4?

13 MR. DICKERSON: Yes.

14 THE COURT: Or which one -- which -- whatever you're
15 looking at, please notify for the record so we're clear.

16 MR. DICKERSON: Okay.

17 BY MR. DICKERSON:

18 Q B -- 82B1, what is this?

19 A Meth.

20 THE COURT: Okay.

21 BY MR. DICKERSON:

22 Q Is this methamphetamine that you impounded --

23 A Yes.

24 Q -- as part of State's Exhibit 82 that we just marked
25 and admitted into evidence?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q And you kept it in that bag?

3 A Yes.

4 Q Was this located with any of the other items that

5 you see in front of you?

6 A Yes.

7 Q 82B2?

8 A Yes.

9 Q Do you recognize that?

10 A Yes.

11 Q What do you recognize that to be?

12 A More methamphetamines.

13 Q Did you impound that methamphetamine?

14 A Yes.

15 Q As part of this Exhibit 82?

16 A Yes.

17 Q And 82B3, do you recognize that?

18 A Yes.

19 Q What do you recognize that to be?

20 A More methamphetamine.

21 Q Did you impound that methamphetamine?

22 A I did.

23 Q As part of this Exhibit 82?

24 A Yes.

25 Q And 82B4, do you recognize that?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q What do you recognize that to be?

3 A More methamphetamine.

4 Q And was that -- was that admitted -- or was that
5 impounded by you as part of Exhibit 82?

6 A Yes.

7 Q All right.

8 MR. DICKERSON: State moves for the admission of
9 82B, 82B1 through 82B4 at this time, Your Honor.

10 THE COURT: Any objection?

11 MR. FRIZZELL: No objection, Your Honor.

12 THE COURT: Okay. All right. So, 82B, which is the
13 gold bag, and then 1, 2, 3, and 4 was methamphetamine --
14 identified as methamphetamine taken from the gold bag?

15 MR. DICKERSON: Yes.

16 THE COURT: Right? Okay, all right. That's
17 admitted, 82B, through 4 is admitted.

18 (State's Exhibits 82B1 through 82B4 are admitted)

19 MR. DICKERSON: Okay.

20 MR. FRIZZELL: And Your Honor, more for
21 clarification, the gold bag that came out of 80 -- Exhibit 82,
22 because there's two gold bags.

23 THE COURT: Okay.

24 THE WITNESS: There's three total.

25 THE COURT: All right, well, at least one --

ROUGH DRAFT TRANSCRIPT

1 MR. FRIZZELL: There's three, okay.

2 THE COURT: -- gold bag that's identified as 82B is
3 what I'm dealing with right now.

4 MR. FRIZZELL: Yes.

5 MR. DICKERSON: That's correct, Your Honor.

6 MR. FRIZZELL: Okay, I don't have a problem with
7 that.

8 THE COURT: Okay.

9 BY MR. DICKERSON:

10 Q All right, sir. 82B contains what appear to be a
11 lot of suspected methamphetamine?

12 A Yes.

13 Q Did you have occasion to do any sort of tests on
14 this?

15 A Yes, I did ODV field tests on it.

16 Q And what is that?

17 A It's a -- it's a little kit, and it basically -- you
18 put a little bit of the suspected meth into the little kit,
19 and you crack some capsules that are on the little package,
20 and if it changes the right colors at the right times, then
21 it's suspected to be meth.

22 Q Okay. If you could, just one by one, pull up 82B1.
23 Is that an entire bag filled with what you suspect to be
24 methamphetamine?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q And what does it look like?

2 A It's basically a white crystal-like substance.

3 Q Is it a powder?

4 A No.

5 Q What is it?

6 A It's like -- compared to like small crystals, or --

7 Q Okay. Like a crystal rock, kind of?

8 A Yes.

9 Q Okay, and if you could hold up 82B2. Does that
10 appear to be the same substance?

11 A Yes.

12 Q And 82B3. Does that appear to be the same
13 substance?

14 A Yes.

15 Q And 82B4. Does that also appear to be the same
16 substance?

17 A Yes.

18 Q So, all of these bags of suspected methamphetamine,
19 is this a normal amount that you see on the street every day?

20 A No.

21 Q When you -- you have contact with people who use
22 drugs; is that right?

23 A Yes.

24 Q Have you had training in drug use?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q What would be a normal amount that you might see in
2 a drug --

3 MR. FRIZZELL: Objection, vague and ambiguous.

4 MR. DICKERSON: It goes to --

5 MR. FRIZZELL: Relevance.

6 MR. DICKERSON: -- his training and experience.

7 THE COURT: Sustained.

8 BY MR. DICKERSON:

9 Q In your training and experience, are you familiar
10 with how methamphetamine is used?

11 A Yes.

12 Q And how much methamphetamine is generally used by a
13 user at a given time?

14 MR. FRIZZELL: Objection, relevance, foundation,
15 vague, ambiguous.

16 THE COURT: Can you answer that, Officer? I mean --

17 THE WITNESS: Yes, I feel -- I feel comfortable with
18 the question.

19 THE COURT: I'll allow you to answer it. Overruled.

20 THE WITNESS: It only takes a small amount of meth
21 to -- for a user to get a high off of it.

22 MR. DICKERSON: Okay.

23 MR. FRIZZELL: I'm going to object again then as to
24 what is a small amount.

25 MR. DICKERSON: He did indicate with his fingers,

ROUGH DRAFT TRANSCRIPT

1 Your Honor.

2 THE WITNESS: It's --

3 THE COURT: Officer, can you tell us -- I
4 understand. Officer, can you tell us, through your training
5 and experience, when you're contacting an individual who'd
6 been arrested for suspected use of a controlled substance, of
7 methamphetamine, do they -- do they have them in different
8 sizes? Or do -- or I mean --

9 THE WITNESS: The vast majority of the time when I
10 come in contact with a user and they have meth on them, it's I
11 would say less than half-a-gram.

12 THE COURT: Okay. And what -- and is there
13 different denominations to -- like when you're on the street
14 and you're purchasing it, is there different denominations
15 that signify what you've just explained?

16 THE WITNESS: Meaning how much you can buy?

17 THE COURT: Uh-huh.

18 THE WITNESS: Yes.

19 THE COURT: Can you tell us about that?

20 THE WITNESS: You can buy -- basically -- it's
21 basically within the gram measurements.

22 THE COURT: Okay.

23 THE WITNESS: So it's either a quarter of a gram,
24 half-a-gram, three-fourths of a gram, to a gram, and then from
25 there on, you go into larger quantities.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Okay. Well, so we're clear, it's
2 obvious that you can buy as much as you can afford, possibly;
3 is that right?

4 THE WITNESS: Correct.

5 THE COURT: But street level, how are you usually --
6 how are individuals that you've through your experience have
7 seen has usually been obtaining in what quantities?

8 THE WITNESS: Usually, it's about a quarter of a
9 gram of meth.

10 THE COURT: Okay. And when you say quarter, you
11 took your finger and you held it.

12 THE WITNESS: It would be hard for me to indicate
13 any other way, but it's a small amount.

14 THE COURT: Is it -- with regards to what you've
15 just identified in Exhibit 1, 2, 3, and 4 of 82B --

16 THE WITNESS: That's a whole lot of meth in those --

17 THE COURT: Okay, but what I'm saying is with
18 regards -- did you do anything to weigh that? Because you --

19 THE WITNESS: Yes.

20 THE COURT: -- identified it --

21 THE WITNESS: Yes.

22 THE COURT: -- through a test that you did
23 previously. Do you weigh it as well?

24 THE WITNESS: Yes.

25 THE COURT: When you -- let's just say the small

ROUGH DRAFT TRANSCRIPT

1 bag, that was number 4.

2 THE WITNESS: Yes.

3 THE COURT: Can you tell the jury, did you weigh
4 that?

5 THE WITNESS: Yes.

6 THE COURT: Can you tell the jury what your weight
7 was for that?

8 THE WITNESS: Not off the top of my head.

9 THE COURT: Do you have -- do you have it in a
10 report?

11 THE WITNESS: On ODV test sheet.

12 MR. DICKERSON: And I can go there, Your Honor.

13 THE COURT: All right.

14 MR. DICKERSON: Sir, did you --

15 THE COURT: What I'm getting at is -- because I want
16 -- I want him to be able to, if he can, tell the jury the
17 weight with that and what he's talking about would be a street
18 level, because you keep going like this with your finger.

19 THE WITNESS: Okay.

20 THE COURT: And when I say "this," for the record,
21 I'm holding like my fingers together, my thumb and my front
22 finger, so it'd be like a small amount.

23 THE WITNESS: Yeah.

24 THE COURT: I want to know, because you talked --
25 you just gave testimony about gram weight. And when you

ROUGH DRAFT TRANSCRIPT

1 weighed that, do you weigh it in gram weight?

2 THE WITNESS: Yes.

3 THE COURT: So that -- would that give us a better
4 understanding what you mean by what you talked about street
5 level versus this?

6 THE WITNESS: Yes.

7 THE COURT: Okay, there you go.

8 BY MR. DICKERSON:

9 Q And did you weigh all the methamphetamine that you
10 found in that black bag --

11 A Yes.

12 Q -- together?

13 A Yes.

14 Q Is that right? And did you mark that down on your
15 property report as you impounded that methamphetamine right
16 there?

17 A Yes.

18 Q Everything that -- all the methamphetamine that was
19 ultimately impounded and bagged, which is Exhibit 82?

20 A Yes.

21 Q Would looking at that property report help refresh
22 your recollection as to exactly how much you had weighed it
23 out at the time?

24 A Yes.

25 Q Just look at that. If it refreshes your

ROUGH DRAFT TRANSCRIPT

1 recollection, flip it upside-down and tell me so. Did that
2 refresh your recollection?

3 A Yes.

4 Q How much did the methamphetamine that you recovered
5 in that black bag weigh?

6 THE COURT: Are we just talking about those four
7 bags?

8 MR. DICKERSON: It's -- there's going to be two more
9 bags --

10 THE COURT: I know, but are -- right now, are we
11 talking about those four bags?

12 MR. DICKERSON: We are -- those are included, Your
13 Honor.

14 MR. FRIZZELL: Okay, well, then --

15 THE COURT: My question was, are we talking just
16 about those four bags?

17 MR. DICKERSON: No, Your Honor.

18 THE COURT: Okay, then --

19 MR. FRIZZELL: Then -- then I have an objection.

20 THE COURT: And I'm going to --

21 MR. DICKERSON: What's the objection?

22 THE COURT: -- sustain the objection, because my
23 question of the officer was did he weigh these, and I was
24 specifically talking about the small bag. Just -- maybe I put
25 you on the spot, Officer. I didn't mean to do that, but now

ROUGH DRAFT TRANSCRIPT

1 it's my understanding that you weighed everything
2 collectively?

3 THE WITNESS: Everything got weighed.

4 THE COURT: Okay. Did you weigh all what you
5 suspected to be methamphetamine together, or did you weigh
6 them individually, or do you remember?

7 THE WITNESS: Some of it was weighed together, some
8 of it wasn't, because it was -- we kept on finding more.

9 THE COURT: Okay, so --

10 THE WITNESS: And so, as we found more, we ended up
11 having to weigh that stuff, and so they ended -- some of them
12 are weighed together, some of them are not.

13 THE COURT: Well, do you remember if those four bags
14 right there --

15 THE WITNESS: These were all weighed together.

16 THE COURT: By themselves, nothing added to it?

17 THE WITNESS: These four items weighed together.

18 THE COURT: All right. There you go, Mr. Dickerson.
19 That seems simple.

20 MR. DICKERSON: Yes, thank you, Your Honor.

21 BY MR. DICKERSON:

22 Q And how much did those weigh?

23 A 351 grams.

24 Q All right. 351 grams of methamphetamine?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q That's as you weighed it on the scene?

2 A Yes.

3 Q And would that -- would these items have later been
4 tested at the lab as well?

5 A Yes.

6 Q All right. At this point in time, we've admitted
7 these items. If you'll pass me that. Thank you.

8 Showing you now State's Proposed Exhibit 82A, 82A1,
9 82A2 --

10 MR. FRIZZELL: Your Honor, can I come up again while
11 he's doing this --

12 THE COURT: Yes, Mr. Frizzell.

13 MR. FRIZZELL: -- just so we make sure --

14 MR. DICKERSON: 82 --

15 THE COURT: Come on up.

16 MR. DICKERSON: -- A3, 82A4, and 82A5. Yes.

17 THE COURT: All right.

18 BY MR. DICKERSON:

19 Q Do you recognize all of these items, sir?

20 A Yes.

21 Q And how do you recognize them?

22 A They're all the items located inside another one of
23 the bags, with the exception of this gold bag.

24 Q Okay. And what is that gold bag?

25 A This gold bag was actually next to the other two

ROUGH DRAFT TRANSCRIPT

1 gold bags.

2 Q Okay.

3 A And it was in the black bag, but it wasn't inside
4 this bag.

5 Q And when you're indicating -- you're indicating bag
6 82A2. You can hold that down, please.

7 A Okay.

8 Q 82A2; is that correct?

9 A Yes.

10 Q Okay.

11 MR. FRIZZELL: Can he hold up again which one?
12 Because he held up both of them there.

13 THE WITNESS: This is the gold bag that was
14 containing the majority of these items, but --

15 MR. FRIZZELL: And that's 82A1?

16 THE COURT: 82A.

17 THE WITNESS: 82A is the gold bag.

18 MR. FRIZZELL: Okay, and then the contents are the 1
19 -- okay.

20 BY MR. DICKERSON:

21 Q All right, sir. 82 and 82A1 through 5, are these
22 items that you impounded as part of the bag that was
23 previously admitted as Exhibit 82?

24 A Yes.

25 Q Okay. These are items that you recovered from the

ROUGH DRAFT TRANSCRIPT

1 defendant's vehicle?

2 A Yes.

3 Q Specifically, the black pouch that was inside the
4 secret compartment in the car?

5 A Yes.

6 Q Okay.

7 MR. DICKERSON: State moves for the admission of
8 State's Exhibit 82A, 82A1, 82A2, 82A3, 82A4, and 82A5.

9 THE COURT: Any objection?

10 MR. FRIZZELL: No objection.

11 THE COURT: All right, 82A1, 2, 3, 4, and 5 will be
12 admitted.

13 (State's Exhibits 82A1 through 82A5 are admitted)

14 MR. DICKERSON: Thank you, Your Honor.

15 THE COURT: Okay.

16 MR. DICKERSON: At this point in time, I'm going to
17 put the contents of what's been admitted and -- marked and
18 admitted as 82B and its contents, including the bag, 82, back
19 in the box. We'll talk about 82A.

20 BY MR. DICKERSON:

21 Q First, 82A, what is that?

22 A 82A is a gold bag.

23 Q And that was one of the gold bags that was
24 recovered?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q What is 82A? A1, I'm sorry.

2 A A1 is -- A1 is the heroin --

3 Q Okay.

4 A -- after I had ODV-tested it.

5 Q So you ODV-tested that heroin?

6 A I didn't. Two other officers who were certified on
7 heroin tested it.

8 Q Okay. Is this a normal amount of heroin to see?

9 A No.

10 Q Is this heroin that is, in your training and
11 experience, personal use?

12 A This is not personal use heroin.

13 Q So when you generally see heroin, how much do you
14 see on the street?

15 A Basically, a really relatively small amount, very
16 similar in size to the meth that we had already talked about.

17 MR. FRIZZELL: Okay, and --

18 MR. DICKERSON: How is it that you know --

19 MR. FRIZZELL: Your Honor, I need to lodge an
20 objection on this because of the fact that he just said that
21 he wasn't the one that actually ODV-tested it or anything.
22 So, other than looking at a package, he can't say what it was.

23 THE COURT: Okay, I understand that objection. I'm
24 going to sustain the objection as to him. He can refer to it
25 as something that appears to him to be heroin, but it has not

ROUGH DRAFT TRANSCRIPT

1 been identified as heroin, all right?

2 MR. FRIZZELL: Okay.

3 MR. DICKERSON: We will --

4 MR. FRIZZELL: So if it's admitted at this point, it
5 can only be admitted for -- I mean, I guess it can't be
6 admitted. I would have an objection to its admission.

7 THE COURT: Why can't it be admitted? It's
8 something that he found. Whether or not it's a rock in the
9 dirt, or a shoe, or whatever, it's just -- I mean, it has --
10 it's what he found. Why is it not being admitted?

11 MR. FRIZZELL: Well, well, if -- he's going to say
12 what it looked like to him, but he's not --

13 THE COURT: Okay.

14 MR. FRIZZELL: -- the one that actually tested it.
15 So if we're admitting it without knowing exactly what it is
16 from the -- from the officer who actually tested it, then I've
17 got a problem with that.

18 THE COURT: Approach -- approach the bench.

19 (Off-record bench conference)

20 THE COURT: Okay.

21 MR. DICKERSON: Thank you, Your Honor.

22 THE COURT: Mr. Frizzell, as I said, I'm going to
23 overrule the objection. Officer, you can testify. I'm going
24 to allow him to testify, but he has not been able to -- he's
25 not in a position he can identify it as heroin.

ROUGH DRAFT TRANSCRIPT

1 MR. DICKERSON: Right.

2 THE COURT: Okay.

3 BY MR. DICKERSON:

4 Q You aren't a scientist, right?

5 A I am not.

6 Q Okay. So that wouldn't necessarily be your job --

7 A Correct.

8 Q -- to say conclusively that that's heroin?

9 A Correct.

10 Q Is that right? So, from this point in time, let's
11 refer to it as suspected heroin.

12 A Correct.

13 Q Does that work for you?

14 A Yes.

15 Q Okay. Now, that suspected heroin, you found that
16 also in that black pouch?

17 A Yes.

18 Q You said that's not the normal size to see around?

19 A No.

20 Q In your training and experience as a police officer
21 working patrol, how is it that you see heroin normally
22 packaged?

23 A It's normally packaged in aluminum foil, sometimes
24 balloons. Those are the most common ways you'll see it.

25 Q And when you say balloons or aluminum foil, what

ROUGH DRAFT TRANSCRIPT

1 size balloons or aluminum foil are we talking about?

2 A Very, very small balloons, very small pieces of
3 aluminum foil, and it will be wrapped up in there.

4 MR. FRIZZELL: Again, object to the quantification
5 of small.

6 MR. DICKERSON: I think --

7 THE COURT: That's fair. Sustained.

8 MR. DICKERSON: Well, let's --

9 THE COURT: Ask him --

10 BY MR. DICKERSON:

11 Q Let's talk about the size of a fingernail, all
12 right?

13 A Okay.

14 THE COURT: Well, Mr. Dickerson, just ask him. He's
15 on the street; he's dealing with it all the time. Has he seen
16 it, how has he seen it, how do they measure it --

17 MR. DICKERSON: Right.

18 THE COURT: -- what's the terms they use.

19 BY MR. DICKERSON:

20 Q How do you measure it on the street, sir?

21 A We just refer to it as a ball of heroin.

22 Q Okay, and do you measure it in grams?

23 A Yes.

24 Q And is this maybe a balloon that you would find?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q About the size of a fingernail?

2 A It's usually -- yes.

3 Q Okay.

4 A That's -- that's close in size.

5 Q So how many grams of heroin do you usually see in an
6 average user on the street?

7 A I would say a quarter of a gram.

8 Q Okay, quarter of a gram. And this here was
9 ultimately tested by somebody?

10 A Yes.

11 Q Is that right? Is that something that -- that you
12 came to find out?

13 A Yes.

14 Q Did you take part in the entire investigation of
15 this case?

16 A Yes.

17 Q And is that something that you put in your report?

18 A Yes.

19 Q Knowing it at the time?

20 A Yes.

21 Q So do you know how much it weighed at the time you
22 put it in your report?

23 A Yes.

24 Q How much?

25 A I don't know it off the top of my head. There was a

ROUGH DRAFT TRANSCRIPT

1 lot of numbers.

2 Q Would looking at your property report help refresh
3 your recollection?

4 A Yes.

5 Q If that refreshes your recollection, please flip it
6 over and let me know. Did that refresh your recollection,
7 sir?

8 A Yes.

9 Q How much did it weigh?

10 A 36.4 grams of heroin.

11 Q If you could please hold that up for the members of
12 the jury. So, now, we've looked at the gold back into A and
13 82A1. What do we see in 82A2?

14 A 82A2 is the other golden bag.

15 Q And what is that?

16 A Basically, a bag similar in make as the other two
17 golden bags.

18 Q Okay. What was the significance of this bag when
19 you found it?

20 A This bag, when -- when I opened it, it was a very
21 overwhelming horrid smell that was coming from inside the bag.

22 Q What did that indicate to you?

23 A I suspected it was heroin, or had been used for
24 heroin to some degree.

25 Q And why is that?

ROUGH DRAFT TRANSCRIPT

1 A Just because of the -- the foul smell of it.

2 Q Is there some basis of the foul smell being related
3 to heroin?

4 A Yes. When it's cooked, it gives off a smell.

5 Q Okay. Was there anything else in this bag?

6 A No, there was nothing else in this bag.

7 Q Okay. At this point in time, 82A3. Does that
8 appear to be more methamphetamine?

9 A It does.

10 Q And that was actually included with the overall
11 weight of the methamphetamine that you found; isn't that
12 correct?

13 MR. FRIZZELL: Objection, that's leading. I mean, I
14 let it go somewhat, but I can't keep letting these leading
15 questions go.

16 MR. DICKERSON: And Your Honor --

17 THE COURT: I'm going to sustain the objection. I
18 think you need to --

19 MR. DICKERSON: Okay.

20 BY MR. DICKERSON:

21 Q Do you recall having weighed the methamphetamine
22 found in the black pouch?

23 A It was -- you mean like the method?

24 Q Yeah. Did you weigh it together or separate?

25 A Together.

ROUGH DRAFT TRANSCRIPT

1 Q Okay, and it was this methamphetamine that was found
2 i the black pouch?

3 A Yes.

4 Q 82A3?

5 A Yes.

6 Q And did you weigh this methamphetamine?

7 A Yes.

8 Q How did you weigh this?

9 A This meth I believe was weighed by itself.

10 Q Okay, so this meth was weighed by itself?

11 A Yes.

12 Q Thank you for correcting me, sir. I very much
13 appreciate that. Now, this methamphetamine, 82A3. 82A4, what
14 are we looking at?

15 A This is a white powdery substance.

16 Q Okay. And what did that appear to be at the time?

17 A From my training and experience, this appears to be
18 cocaine.

19 Q All right. And was that cocaine ODV-tested?

20 A Yes, it was.

21 Q By yourself?

22 A Yes.

23 Q And what did you determine?

24 A That it was positive for cocaine.

25 Q Did you weigh the cocaine at that time?

ROUGH DRAFT TRANSCRIPT

1 A I did.

2 Q And do you know what it weighed?

3 A I couldn't tell you off the top of my head.

4 Q Would looking at your property report help refresh
5 your recollection?

6 A Yes.

7 Q If that refreshes your recollection, please just
8 flip it over. Thank you. How much of that cocaine in State's
9 Exhibit A23, 4? I'm sorry, A24 weigh?

10 A .8 grams.

11 Q .8 grams.

12 A Yes.

13 Q If you could hold that up for the members of the
14 jury. Okay. And finally, 82A5. Is this an item that you
15 found inside that black pouch?

16 A Yes.

17 Q And what does it appear to be?

18 A It appears to be a crushed up mixture of stuff.

19 Q What color is it?

20 A It's blue, a light blue.

21 Q If you could hold that up for the members of the
22 jury, please. Is it -- what form is it taking?

23 A Some of it's -- I'd say crystal.

24 Q Is it powder, or -- okay.

25 A It's got a little bit of powder, little bit of

ROUGH DRAFT TRANSCRIPT

1 crystal. It's got a little bit of several different stuff in
2 it.

3 Q Okay. Did you know what this was at the time?

4 A Not positive.

5 Q Okay, great. Thank you. So you found all these,
6 some of what you were able to determine at the time ODV-tested
7 positive narcotics, others which were suspected; is that
8 right?

9 A Yes.

10 Q And so what did you do?

11 A After I found all these items, I was doing my
12 background check on the defendant.

13 Q Okay. Well, at that point in time, did you take any
14 other steps to search anything?

15 A We had determined that --

16 MR. DICKERSON: Court's brief indulgence.

17 THE COURT: Okay.

18 MR. DICKERSON: May I approach?

19 THE COURT: Yes.

20 (Off-record bench conference)

21 THE COURT: Ladies and gentlemen, at this time,
22 we're going to take a 15-minute recess. Stay where you're at,
23 Officer.

24 During this recess, you're admonished not to talk or
25 converse amongst yourself or with anyone else on any subject

ROUGH DRAFT TRANSCRIPT

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

7 Okay. It's 20 after. Be ready to go by 20 'til,
8 okay? It's 25 after; be ready to go by 20-til. All right,
9 we'll see you -- we'll be at ease while the jury leaves the
10 room, okay?

11 (Outside the presence of the jury)

12 THE COURT: Okay, we're outside the presence of the
13 jury. At this time, I believe what was happening was there
14 was questioning by the State that the officer -- what
15 additional steps did he take for purposes of securing the
16 second search warrant; is that correct?

17 MR. DICKERSON: That's correct, Your Honor.

18 THE COURT: Okay. And I know from -- from reading
19 the search warrant, some of the -- some of the information
20 provided to the reviewing judge for the search warrant was --
21 taken in consideration was the defendant's past record. Is
22 that correct?

23 THE WITNESS: Yes.

24 THE COURT: Okay. Understand that at this point in
25 time, I'm admonishing you to not discuss before the jury any

ROUGH DRAFT TRANSCRIPT

1 statements made about his past record.

2 THE WITNESS: Okay.

3 THE COURT: Okay? You've already said that you took
4 into consideration -- you looked -- you were doing a
5 background, but do not get into his prior convictions and all
6 that, okay?

7 THE WITNESS: Yes.

8 THE COURT: It's not being admitted at this time.
9 The State did not move to admit those for purposes of their
10 case in chief, so I'm just wanting to let you know, do not do
11 that.

12 THE WITNESS: Yes.

13 THE COURT: The other testimony I imagine would be
14 with regards to other information that you learned based on
15 your training and experience from what I looked at in the
16 search warrant, indicating from reading it, was that where he
17 was living, close in proximity to the vehicle, what you've
18 just testified about the gunshot going off, felt that there
19 was somebody that was distracting you from that area. That's
20 your belief and training, that they would keep items of -- you
21 know, somebody trafficking in a controlled substance would
22 keep guns or drugs at their home, or wherever they're heading,
23 and whatever information you have additional. That's what I
24 read in the search warrant application.

25 THE WITNESS: Yes.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Okay. All right. Mr. Dickerson, is
2 there anything else that you need to add at this point, or Mr.
3 Frizzell?

4 MR. DICKERSON: Nothing for the State, Your Honor.

5 MR. FRIZZELL: Well, I don't believe --

6 THE COURT: I just did this as a precautionary
7 measure so we didn't get into something where he's saying
8 something that would cause a possible mistrial.

9 MR. FRIZZELL: No. And Your Honor, I appreciate
10 that, because I was -- I was smelling that strange wind
11 myself.

12 THE COURT: Okay.

13 MR. FRIZZELL: The other thing that I had though,
14 what's currently in the box has not all been admitted,
15 correct?

16 THE COURT: Right. I believe number 6 is something
17 that -- they didn't move to admit that.

18 MR. DICKERSON: No, and we were doing that --

19 MR. FRIZZELL: Just the blue --

20 MR. DICKERSON: The blue stuff is definitely
21 admitted. The -- number 6, we didn't move for admission.

22 MR. FRIZZELL: (Inaudible) I thought you said that
23 was Viagra.

24 MR. DICKERSON: No, it's methamphetamine.

25 MR. FRIZZELL: The blue --

ROUGH DRAFT TRANSCRIPT

1 MR. DICKERSON: It's a combination.
2 Methamphetamine, amphetamine, and cocaine is the blue stuff.

3 THE COURT: Okay.

4 MR. DICKERSON: As far as number 6, number 6 is a
5 bunch of pills.

6 THE COURT: Oh.

7 MR. DICKERSON: And so we just figured -- and
8 although we could probably move it in as res gestae of
9 everything that was found, we were kind of just throwing them
10 a bone here and not trying, so.

11 THE COURT: Throwing them a bone? All right, so
12 either you move it in or you don't. You're not moving it in?

13 MR. DICKERSON: We're not moving it in, Your Honor.

14 THE COURT: Okay, all right.

15 MR. FRIZZELL: Okay.

16 THE COURT: So, that's fine. So, we had it marked
17 because it came out of that package.

18 MR. FRIZZELL: Okay.

19 THE COURT: All right?

20 MR. FRIZZELL: All right.

21 THE COURT: Okay, anything else?

22 MR. FRIZZELL: No, Your Honor.

23 THE COURT: All right, so ten minutes, all right,
24 Officer?

25 THE WITNESS: Yes, sir.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Okay.

2 THE MARSHAL: Court will be in short recess.

3 (Court recessed at 1:28 P.M. until 1:46 P.M.)

4 (In the presence of the jury)

5 THE MARSHAL: All rise for the presence of the jury.

6 THE COURT: Okay, we're back on the record in the
7 case of State of Nevada vs. Christopher Keller in C-312717.
8 Everyone have a seat. I'd like the record to reflect the
9 presence of the defendant and his counsel, as well as the
10 State and their counsel, all members of the jury. Will the
11 parties stipulate to the presence of the jury?

12 MR. FRIZZELL: Yes, Your Honor.

13 MR. DICKERSON: Yes, Your Honor.

14 THE COURT: Okay. Currently, we have the officer
15 still on the stand here. Officer, I want to remind you that
16 you're under oath, and -- all right. Your witness.

17 MR. DICKERSON: Thank you, Your Honor.

18 BY MR. DICKERSON:

19 Q One last item, sir, is from the vehicle, 82B5. Do
20 you recognize that?

21 A It's more meth.

22 Q Does that appear to be methamphetamine that was
23 recovered from the black pouch in the vehicle?

24 A Yes.

25 Q All right.

ROUGH DRAFT TRANSCRIPT

1 MR. DICKERSON: State moves for the admission of
2 82B5 as well.

3 THE COURT: Any objection?

4 MR. FRIZZELL: No objection, Your Honor.

5 THE COURT: It will be admitted.

6 (State's Exhibit 82B5 is admitted)

7 THE COURT: Okay.

8 (Pause in the proceedings)

9 BY MR. DICKERSON:

10 Q All right, sir. I'm showing you now what's been
11 marked as State's Proposed Exhibit 91, as well as 91A. Do you
12 recognize these two items, sir?

13 A Yes.

14 Q What is State's 91 -- Proposed 91?

15 A It is another envelope that was impounded under this
16 event. It has my signature and my P number on it as well.

17 Q Does that indicate anything to you?

18 A Another item that I impounded.

19 Q Okay, and what item was it that you were impounding
20 here in this envelope?

21 A This is Item number 15.

22 Q And what was that?

23 A Nevada registration.

24 Q Okay, for?

25 A For Christopher Keller.

ROUGH DRAFT TRANSCRIPT

1 Q All right. And now looking at the other item, 91A,
2 do you recognize that?

3 A Yes.

4 Q What do you recognize that to be?

5 A It's the registration slip.

6 Q And is that the registration that you impounded in
7 the envelope 91?

8 A Yes.

9 Q All right.

10 MR. DICKERSON: State moves for the admission of 91
11 and 91A, Your Honor.

12 THE COURT: Any objection?

13 MR. FRIZZELL: No objection.

14 THE COURT: They'll be admitted.

15 (State's Exhibits 91 and 91A are admitted)

16 MR. DICKERSON: Permission to publish, Your Honor?

17 THE COURT: Yes.

18 BY MR. DICKERSON:

19 Q You had indicated that you impounded this item, sir?

20 A Yes.

21 Q What is it?

22 A This is a registration slip.

23 Q And where was it found?

24 A Inside the vehicle.

25 Q And what does this registration slip indicate to

ROUGH DRAFT TRANSCRIPT

1 you, sir?

2 A The owner of the Dodge Stratus.

3 Q Being who?

4 A Christopher Keller.

5 Q Now, on this DMV registration slip, it appears to
6 show an address of 244 Molly Court?

7 A Yes.

8 Q Did you do any further background research to
9 determine whether there was any other DMV information?

10 A Yes.

11 Q And what did you determine?

12 A When you run the subject through DMV, you get a
13 printout of their addresses, and whether or not the driver's
14 license is valid, whether or not the vehicle is valid.

15 Q So, looking at this registration sheet, does that
16 indicate to you that the defendant owned the vehicle; the
17 Dodge Stratus that you stopped?

18 A Yes.

19 Q And doing your research through DMV, did that
20 indicate the same?

21 A Yes.

22 Q Now, did you learn any further information through
23 the DMV?

24 A Yes.

25 MR. DICKERSON: Your Honor, I have in my hand what's

ROUGH DRAFT TRANSCRIPT

1 been marked as State's Proposed 1, certified DMV records. At
2 this time, State's going to be moving those in with permission
3 pursuant to NRS 52.260, as well as NRS 51.155. They are
4 certified.

5 THE COURT: Any objection?

6 MR. FRIZZELL: No, Your Honor.

7 THE COURT: It'll be admitted.

8 (State's Exhibit 1 is admitted)

9 BY MR. DICKERSON:

10 Q Showing you here State's Exhibit 1, do you recognize
11 those to be certified DMV records, sir?

12 A Yes.

13 Q Three pages total?

14 A Yes.

15 Q The first two pages, what are those in relation to?

16 A It gives off the driver, their address, the driver's
17 license status.

18 Q Okay. And the third page?

19 A It's got vehicle registration, the vehicle that's
20 registered, the Dodge Stratus.

21 Q Okay.

22 MR. DICKERSON: Permission to publish, Your Honor?

23 THE COURT: Yes.

24 BY MR. DICKERSON:

25 Q The information contained in these certified DMV

ROUGH DRAFT TRANSCRIPT

1 records, does this in any way relate to what you found in your
2 own background research?

3 A Yes.

4 Q And what was it that you found?

5 A I found out that the defendant lived in the complex.

6 Q Okay. And so that Molly Court address that was on
7 the registration, that wasn't his only address?

8 A No.

9 Q Looking here at the third page of State's Exhibit 1,
10 does this indicate the same?

11 A The same address that was there?

12 Q The same information that you learned, sir.

13 A Yes.

14 Q Namely, that 2002 Dodge Stratus --

15 A Yes.

16 Q -- was registered to Christopher Robert Keller?

17 A Yes.

18 Q And had a mailing address and a physical address of
19 265 North Lamb Boulevard, Unit F?

20 A Yes.

21 Q Again, that was the same Dodge that you had stopped
22 right there at that time?

23 A Correct.

24 Q And 265 North Lamb Boulevard, was that the building
25 that that vehicle was parked in front of?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q As well as -- were you able to run Mr. Keller's own
3 driver's license information?

4 A Yes.

5 Q And in running his information, did you also learn
6 that his driver's license came back to a physical address and
7 a mailing address of 265 North Lamb, Unit F?

8 A Yes.

9 Q So, here we are at this traffic stop, 265 North
10 Lamb. Were you able to find this Unit F?

11 A Initially, no, we were not able to find Unit F.

12 Q And why was that?

13 A Because somebody had removed the letter F off of the
14 apartment.

15 Q Was it replaced with anything?

16 A Yes.

17 Q And what was it replaced with?

18 A It was replaced with another letter, D.

19 Q Okay. So, how did you determine where Unit F was?

20 A So, I walked around the building, and I actually
21 went through the alphabet on the side of the building, and the
22 top northeast corner starts off as Unit A, then it goes to
23 Unit B, C, D, E, and then there was another D, and -- where
24 there should have been an F.

25 Q Okay. So I'm going to show you here what's been

ROUGH DRAFT TRANSCRIPT

1 admitted as State's Exhibit 5. Would this help you explain
2 how you found out where Unit F was?

3 A Yes. I started right here, and that's where Unit A
4 is, and then I just walked around. And there's four units on
5 this side -- or, here, I'll -- there's four units on this side
6 of the building, and there's four units on this side of the
7 building.

8 Q All right. So did you find E next to what you later
9 learned was F --

10 A Yes.

11 Q -- (inaudible)?

12 A E is down here in the far corner.

13 Q Okay. And so it was through that process that you
14 learned that Unit F was in fact right there where it is on the
15 map?

16 A Yes.

17 Q Okay. That Unit F, how close was that in relation
18 to where this vehicle stop was occurring?

19 A The car was literally right in front of Unit F -- of
20 the one that was supposed to be marked as F.

21 Q So, having found a large quantity of suspected
22 narcotics in the vehicle, as well as the gun, did you take any
23 other steps after learning this address?

24 A Yes, I did.

25 Q And what was it that you did?

ROUGH DRAFT TRANSCRIPT

1 A I applied for another telephonic warrant to go
2 inside the apartment.

3 Q Did that work the same way; you contacted a judge?

4 A Yes, over the phone, recorded conversation.

5 Q And you tell them what it is that you've learned and
6 found?

7 A Yes.

8 Q And you ended up doing that?

9 A Yes.

10 Q You talked to a judge?

11 A Yes.

12 Q And did a judge approve another warrant for you?

13 A Yes.

14 Q And was this warrant specifically for a condo, what
15 we determined was F, at 265 North Lamb Boulevard?

16 A Yes.

17 Q And at that time, were you able to make entry into
18 Unit F?

19 A Yes.

20 Q How was it that you made entry?

21 A With the key from the defendant's keychain.

22 Q Okay. The same one that was used to start the --
23 the same keychain that was used to start the Dodge Stratus?

24 A Yes, within the same keys.

25 Q Okay, and the same keys that were also used to open

ROUGH DRAFT TRANSCRIPT

1 the trunk of the Dodge Stratus?

2 A Yes.

3 Q So, you make entry into this Unit F. What do you
4 see is the layout of Unit F?

5 A Unit F, when you walk in, you walk in, you're in the
6 living room. It's a single-bedroom unit. There -- the only
7 bedroom is immediately to your right. If you walk in, you
8 have a very small living room, very small dining room area,
9 and at the -- if you keep going straight, on the far corner if
10 you keep going straight is the little kitchenette set.

11 Q Okay. Who was it that assisted you with service of
12 this search warrant?

13 A I had a couple detectives and a couple officers.

14 Q Officer Huff being one of them?

15 A Yes.

16 Q What was Officer Huff's job there?

17 A Officer Huff -- I believe he was taking pictures, he
18 was helping out where he could.

19 Q Okay. Is that normal for like CSA type, someone to
20 take pictures during a search warrant?

21 A The majority of the time, we like to have ID techs
22 to do it.

23 Q And Officer Huff is a police officer?

24 A Yes, he is.

25 Q So, his assigned duty (indecipherable) search

ROUGH DRAFT TRANSCRIPT

1 warrant was pictures?

2 A Yes, more or less.

3 Q Detective Belmont, was he also assisting?

4 A Yes.

5 Q And Detective Embry?

6 A Yes.

7 Q And what were they doing?

8 A They were helping to search the apartment.

9 Q Were you basically the lead on this search warrant?

10 A Yes.

11 Q So, upon making entry into this unit, Unit F, what
12 do you do?

13 A We conduct a methodological search of the apartment.

14 Q And did you find anything of interest inside the
15 apartment?

16 A Yes.

17 Q What, if anything, did you find?

18 A We found numerous scales, more suspected meth, more
19 suspected narcotics. We ended up finding another firearm. We
20 found a lot of TVs, a lot of purses, a large jar of what we
21 suspected was marijuana at the time.

22 Q Okay. Did you find anything to indicate that the
23 defendant lived at that address?

24 A Yes.

25 Q What -- what did you find?

ROUGH DRAFT TRANSCRIPT

1 A We found a pay stub --

2 Q Okay.

3 A -- with his name and that address on the pay stub.

4 Q And did you find anything else to indicate that
5 there was anybody else living at this address?

6 A There was nobody else's clothes or anything like
7 that, no.

8 Q So what were the clothes that you found there?

9 A It was just clothes that were consistent with what a
10 male would typically wear.

11 Q Okay. Were they consistent with what the defendant
12 was wearing that night?

13 A Yes.

14 Q And specifically, the purses that you mentioned --

15 MR. FRIZZELL: Objection, that assumes facts not in
16 evidence as far as the clothing.

17 THE COURT: What's that?

18 MR. FRIZZELL: As far as the clothing, that assumes
19 facts that are not in evidence, are they consistent with what
20 he was wearing that night.

21 MR. DICKERSON: In fact, Your Honor, I believe we
22 entered into a stipulation that defense counsel was
23 stipulating that the shoes the defendant was wearing were
24 consistent with the shoes found in the apartment.

25 MR. FRIZZELL: I --

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Could you approach? Approach.

2 (Off-record bench conference)

3 THE COURT: Mr. Frizzell, I'm going to overrule the
4 objection. Go ahead, Mr. Dickerson.

5 MR. DICKERSON: Thank you, Your Honor.

6 BY MR. DICKERSON:

7 Q The clothing that you saw inside the apartment --

8 A Yes.

9 Q -- you said it was similar to what the defendant was
10 wearing that night?

11 A Yes.

12 Q How was it similar?

13 A Same type, same style.

14 Q Same style clothing?

15 A Yes.

16 Q So, you said there was also purses in there?

17 A Yes.

18 Q What was the significance of those purses?

19 A The purses were -- it was -- they were all together,
20 and they were basically with the other items that were also
21 stacked up. There was numerous TVs that were stacked up,
22 there were also numerous other items.

23 Q And where were those items located?

24 A In the living room area/dining room.

25 Q Okay. And this is how many bedrooms in this

ROUGH DRAFT TRANSCRIPT

1 apartment?

2 A It's just a one-bedroom unit.

3 Q Okay. So, no women's clothes that you saw?

4 A No women's clothes.

5 Q And did you have occasion to look in the bathroom?

6 A Yes.

7 Q And what did you find in the bathroom?

8 A Just simple toiletries, nothing that would suggest
9 that a woman lived there.

10 Q Makeup?

11 A No makeup.

12 Q Okay. Did you find anything else in the bathroom?

13 A Not that I can recall of significance.

14 Q Did anybody happen to search under the sink?

15 A Yes, I did.

16 Q And what, if anything, was found under the sink?

17 A I located a lot of insulation underneath the sink,
18 and when I moved the insulation, I could tell that there was a
19 large hole that had been cut into the wall underneath the
20 sink.

21 Q And what did it appear that this hole went to?

22 A This hole went into the adjacent unit that was next
23 to it.

24 Q Were you able to determine whether that unit was
25 occupied?

ROUGH DRAFT TRANSCRIPT

1 A It was a vacant unit --

2 Q Okay.

3 A -- that was next-door to it.

4 Q And so how big was this hole?

5 A It was big enough for a person to crawl through, but
6 not big enough for me to crawl through with all my gear.

7 Q And your gear you're referring to is what?

8 A I have body armor, I have a (indecipherable) that
9 has all my tools, my firearm, my handcuffs, all that stuff is
10 on my duty belt.

11 Q And so you figure if you didn't have that on --

12 A If I didn't have all that on and I had some loose
13 clothes, I could fit through the hole.

14 Q Okay. And so what was your job doing the service of
15 this search warrant, sir?

16 A I had a large notepad, and I was basically --
17 whenever somebody found something of significance, I would
18 write down the stuff that was being found.

19 Q So, as an item's found, what happens?

20 A Item found, a detective will call me over, they'll
21 point it out, they'll tell me what they -- what it appears to
22 be. I'll write it down, and write down who found out. Then
23 ID would ID, or in this case, Officer Huff will come over
24 there and take a picture of the item that's being found.

25 Q Okay. And so you specifically also found some

ROUGH DRAFT TRANSCRIPT

1 items; isn't that right?

2 A Yes.

3 Q You'd indicated some scales?

4 A Yes.

5 Q Did you find them?

6 A Yes. They were basically out in the open --

7 Q Okay.

8 A -- in the bedroom.

9 Q And you said there was also a (indecipherable)?

10 A Yes.

11 Q Was there any ammunition?

12 A Yes, there was ammunition recovered as well.

13 Q Who found that?

14 A I don't recall off the top of my head, but it was a
15 detective.

16 Q Who would have impounded it?

17 A I impounded everything.

18 Q And you would have been called over (indecipherable)
19 items that were found in the house?

20 A Yes.

21 Q Showing you here what's been marked as State's
22 Proposed 86, an item that's also been opened by the Court, do
23 you recognize this item, State's Proposed 86?

24 A Yes. It's this event number, it has my signature on
25 it, it also has my P number, initials, and it has Item 5 and

ROUGH DRAFT TRANSCRIPT

1 Item 6 in it.

2 Q Okay. So, do you recognize this as items that you
3 impounded as part of this case?

4 A Yes.

5 MR. DICKERSON: State moves for the admission of 86,
6 Your Honor.

7 THE COURT: Any objection?

8 MR. FRIZZELL: If I may approach, just to --

9 THE COURT: Mr. Frizzell, come on.

10 (Pause in the proceedings)

11 MR. FRIZZELL: No, Your Honor. No objection.

12 THE COURT: All right, 86 will be admitted.

13 (State's Exhibit 86 is admitted)

14 BY MR. DICKERSON:

15 Q First looking at one piece of the contents, 86A. Do
16 you recognize that?

17 A Yes.

18 Q What do you recognize that to be, sir?

19 A It's a box of ammunition.

20 Q Okay. And was that ammunition recovered by you
21 during this search warrant?

22 A Yes.

23 MR. DICKERSON: State moves for the admission of
24 86A, Your Honor.

25 THE COURT: Any objection?

ROUGH DRAFT TRANSCRIPT

1 MR. FRIZZELL: No, Your Honor.

2 THE COURT: It will be admitted.

3 (State's Exhibit 86A is admitted)

4 MR. DICKERSON: Thank you, Your Honor.

5 BY MR. DICKERSON:

6 Q What kind of ammunition was that?

7 A .9 millimeter.

8 Q And does that match any of the weapons that were
9 found?

10 A Yes.

11 Q Which one?

12 A That's the firearm that was found inside the -- the
13 unit.

14 Q Okay. Specifically, a .9 millimeter?

15 MR. FRIZZELL: I'm sorry, inside the what?

16 THE WITNESS: The unit, the apartment. It's set up
17 like an apartment, but I think it's --

18 MR. DICKERSON: It's fine.

19 MR. FRIZZELL: Okay.

20 MR. DICKERSON: I'm the one asking questions, don't
21 worry.

22 MR. FRIZZELL: Okay.

23 BY MR. DICKERSON:

24 Q So it was an item found inside the apartment?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q And that was a gun?

2 A Yes.

3 Q And you indicated that it fits .9 millimeter
4 bullets?

5 A Yes.

6 Q What kind of gun was it?

7 A I don't recall off the top of my head.

8 Q Do you recall if it was a rifle or a handgun?

9 A That was a semi-auto handgun.

10 Q Okay. .9 millimeter semi-auto handgun?

11 A Yes.

12 Q And there were -- the scales that you spoke of, I'm
13 going to have you now look at State's Proposed 86 B through E.
14 Do you recognize these items, sir?

15 A Yes.

16 Q And what do you recognize those to be?

17 A They are scales that were located inside the
18 apartment.

19 Q If you could hold them up one by one. Or, I'm
20 sorry. Stop, please. So, you located these items?

21 A Yes.

22 Q And you impounded them as part of the bag 86?

23 A Yes.

24 MR. DICKERSON: State moves for the admission of 86B
25 through E, Your Honor.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Any objection?

2 MR. FRIZZELL: No objection, Your Honor.

3 THE COURT: All right, it'd be admitted.

4 (State's Exhibits 86B through 86E are admitted)

5 BY MR. DICKERSON:

6 Q These scales -- if you could hold up 86B. And 86C.
7 Are you familiar with these type of scales?

8 A Yes.

9 Q How are you familiar with these type of scales?

10 A I commonly come across them when dealing with
11 narcotic stops.

12 Q Okay. Is there anything that you believe these
13 scales are used for?

14 A I believe these scales are used for controlled
15 substance or narcotics.

16 Q Okay. To weigh narcotics?

17 A Yes.

18 Q The other two scales, would you hold those up,
19 please? And the one in your right hand is what?

20 A The one in my right hand is 86D.

21 Q And the one in your left hand?

22 A Is 86E.

23 Q Okay. Those are a little bigger scales?

24 A These are larger scales.

25 Q And what are those scales used for?

ROUGH DRAFT TRANSCRIPT

1 A Commonly, they're used for kitchen stuff.

2 Q Okay. In this case, were they found in the kitchen?

3 A No.

4 Q Where were they found?

5 A These were all found inside the bedroom of the
6 apartment.

7 Q Okay. Is there any specific measurement that we'd
8 be looking for on those type of scales?

9 A Grams.

10 Q Grams? Is that generally how drugs are weighed?

11 A Yes.

12 Q And dealt?

13 A Yes.

14 (Pause in the proceedings)

15 BY MR. DICKERSON:

16 Q And you indicated there was also a suspected
17 controlled substance found in the home?

18 A Yes.

19 Q And you impounded that controlled substance?

20 A Yes.

21 Q Showing you now first what's been marked as State's
22 Proposed 90. Do you recognize that?

23 A Yes.

24 MR. FRIZZELL: Your Honor, can I come up there again
25 for the -- just to go through it?

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Yes.

2 MR. FRIZZELL: Thanks.

3 BY MR. DICKERSON:

4 Q And 90A, B, C, and D, do you recognize those items?

5 A Yes.

6 Q How is it that you recognize 90?

7 A It's got the event number from this event, it has my
8 signature, it has my P number, it indicates Items 9 through
9 11.

10 Q Okay, so would these all be items that you
11 impounded, 9 through 11?

12 A Yes.

13 Q And this particular bag is a bag that you impounded?

14 A Yes.

15 Q 98A through D, how is it that you recognize those
16 items?

17 A These are the items that were inside the apartment.

18 Q Okay. And were those items impounded in bag 90?

19 A Yes.

20 Q Okay.

21 MR. DICKERSON: State moves for the admission of 90,
22 90A, 90B, 90C, and 90D, Your Honor.

23 MR. FRIZZELL: No objection, Your Honor.

24 THE COURT: Okay, they'll all be admitted.

25 (State's Exhibits 90, 90A, 90B, 90C, and 90D are admitted)

ROUGH DRAFT TRANSCRIPT

1 BY MR. DICKERSON:

2 Q And specifically, the impounds there where what kind
3 of additional controlled substances?

4 A More heroin, more meth.

5 Q And those items were items that you found?

6 A Yes.

7 Q And where did you find those?

8 A They were -- two of them were on top of scales,
9 actually in the bedroom, and the other two items were right
10 there next to the scales in the bedroom.

11 Q The scales that we just looked at?

12 A Yes.

13 Q So, the controlled substances were actually on top
14 of the scales when you found them?

15 A There was two that actually had controlled substance
16 still on the scales.

17 Q Okay. And then, that's what you subsequently
18 impounded here?

19 A Yes.

20 MR. DICKERSON: If I could get 92.

21 BY MR. DICKERSON:

22 Q Showing you State's Proposed 92 and 92A, tell me if
23 you recognize those items.

24 A It's got this event number on it, it has my
25 signature and my P number on it. It indicates Item number 7,

ROUGH DRAFT TRANSCRIPT

1 which is a pay stub for Christopher Keller.

2 Q Okay, and 92A? Pull it out.

3 A It is the pay stub for Christopher Keller.

4 Q Do you recognize both these items as items you
5 impounded from the home during the search warrant?

6 A Yes.

7 MR. DICKERSON: State moves for the admission of 92
8 and 92A.

9 THE COURT: Any objection?

10 MR. FRIZZELL: No, Your Honor.

11 THE COURT: Be admitted.

12 (State's Exhibits 92 and 92A are admitted)

13 MR. DICKERSON: Thank you very much. Permission to
14 publish, Your Honor?

15 THE COURT: Yes.

16 BY MR. DICKERSON:

17 Q This is the pay stub that we were just speaking
18 about?

19 A Yes.

20 Q That indicates it's to Christopher Keller?

21 A Yes.

22 Q At 265 North Lamb Boulevard?

23 A Yes.

24 Q And it says -- indicates the pay date is 11/27/15;
25 is that right?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q And it also indicates earnings was \$4,368?

3 A Yes.

4 (Pause in the proceedings)

5 MR. DICKERSON: Now, I have in my hand what's been
6 marked as State's Proposed Exhibit 2, which is a certified
7 copy from the Clark County Recorder's Office. This is also
8 being proposed to be moved in at this time under NRS 52.260
9 and 51.155 as a public record, and a certified record at that,
10 Your Honor.

11 THE COURT: Mr. Frizzell, do you have any objection
12 to that being admitted?

13 MR. DICKERSON: No, Your Honor. Sorry.

14 THE COURT: It'll be admitted.

15 (State's Exhibit 2 is admitted)

16 MR. DICKERSON: Thank you, Your Honor.

17 BY MR. DICKERSON:

18 Q Did you come to learn of any Clark County Recorder's
19 records associated with this case?

20 A Yes.

21 Q And specifically here, what's been marked and
22 admitted as State's Exhibit 2, this is a Clark County Recorder
23 record, as you see it?

24 A Yes.

25 Q Does this appear to be deeding that property at 265

ROUGH DRAFT TRANSCRIPT

1 North Lamb, Unit F to Christopher Keller?

2 A Yes.

3 Q Is that indicated up here on the left?

4 A Yes.

5 Q And that is dated as of December 2014 on the top
6 right; is that right, sir?

7 A Yes.

8 MR. DICKERSON: Can I get 88, ma'am?

9 BY MR. DICKERSON:

10 Q Sir, you indicated that there was a .9 millimeter
11 firearm found inside the residence?

12 A Yes.

13 Q And where was that found?

14 A It was in the bedroom closet on the floor.

15 Q Okay. Showing you now what's been marked as State's
16 Proposed 88, do you recognize that?

17 A Yes.

18 Q And how do you recognize it?

19 A It's got my signature on it, my P number, it's from
20 this event, and it says, "Item 1, semi-auto firearm."

21 Q And is that an evidence tag you're speaking of?

22 A Yes.

23 Q Would this be an evidence tag indicating that you've
24 impounded this firearm?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q When you put the evidence tag on, did it seal this
2 box?

3 A Yes.

4 Q Is this a particular box that the police department
5 provides?

6 A No.

7 Q Okay.

8 MR. DICKERSON: State moves for the admission of 88,
9 Your Honor.

10 MR. FRIZZELL: No objection.

11 THE COURT: Be admitted.

12 (State's Exhibit 88 is admitted)

13 BY MR. DICKERSON:

14 Q This box here is what, sir?

15 A It's a gun case.

16 Q Okay. Where was this gun case found?

17 A It was in the closet.

18 Q Okay. And was there anything in that gun case?

19 A Yes.

20 Q Now, opening that gun case, I'm showing you what's
21 been marked as Proposed 88A and 88B. Do you recognize those
22 items, sir?

23 A Yes.

24 Q And how do you recognize those?

25 A That's the firearm that we found in the closet.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. Is that the firearm that you impounded as
2 part of what is now marked and admitted as 88, the gun box?

3 A Yes.

4 MR. DICKERSON: State moves for the admission of 88A
5 and 88B.

6 MR. FRIZZELL: No objection.

7 THE COURT: They'll both be admitted.

8 (State's Exhibits 88A and 88B are admitted)

9 BY MR. DICKERSON:

10 Q And that is in fact the .9 millimeter firearm?

11 A Yes.

12 Q You indicated there was also some marijuana found?

13 A Yes.

14 Q Showing you now what's been marked as State's
15 Proposed 87. This one is still sealed, sir. If you could
16 please indicate if you recognize State's Proposed 87.

17 A Yes. It has my signature on it, my P number. It's
18 the event from this, and it says, Item number 4, last jar with
19 ODV-positive marijuana. 188.4 grams in that.

20 Q All right. And this red tag that we've seen on the
21 other bags, what is that?

22 A That's the evidence seal tag that I put my P number
23 on and the date on.

24 Q Okay, and you seal this when you impound it?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q And the blue tape here, are you familiar with that?

2 A Yes.

3 Q Is that something you put on?

4 A No.

5 Q Who would have put that on?

6 A The lab.

7 Q Okay. You -- is there a P number indicated on there
8 as well?

9 A Yes, there is.

10 Q So would that indicate another Metro employee?

11 A Yes.

12 MR. DICKERSON: Specifically -- may I move for the
13 admission of State's 87 and its contents?

14 THE COURT: Any objection?

15 MR. FRIZZELL: No, Your Honor.

16 THE COURT: Be admitted.

17 (State's Exhibit 87 and contents are admitted)

18 BY MR. DICKERSON:

19 Q What is it that's contained in State's 87?

20 A Marijuana.

21 Q Okay, and how much marijuana?

22 A A lot.

23 Q Was it ODV-tested, sir?

24 A Yes, it was ODV-tested.

25 Q And what did you indicate when you impounded it on

ROUGH DRAFT TRANSCRIPT

1 the ODV test?

2 A That it was positive for marijuana.

3 Q And how many grams?

4 A 188.4 grams (indecipherable).

5 Q Okay. And what is it that we have in here?

6 A It's the marijuana, and it's in a glass jar.

7 Q Okay. Is it -- is the glass jar the size of this
8 bag?

9 A Yes.

10 Q And is that glass jar full of marijuana?

11 A Yes.

12 Q And also showing you -- now, you indicated there was
13 some glass pipes found?

14 A Yes.

15 Q Showing you what's been marked as State's Proposed
16 85, another sealed bag.

17 A Yes.

18 Q Do you recognize it?

19 A Yes. It has the event --

20 MR. FRIZZELL: Objection, Your Honor. Can we
21 approach?

22 THE COURT: Yes.

23 (Off-record bench conference)

24 BY MR. DICKERSON:

25 Q Do you recognize this item, sir, State's Proposed

ROUGH DRAFT TRANSCRIPT

1 85?

2 A Yes.

3 THE COURT: Mr. Dickerson, for the record, I'm going
4 to overrule your objection at this time. Mr. Frizzell, I
5 understand your objection. I'll make a record later, okay?

6 MR. FRIZZELL: That's fine, Your Honor. Thank you
7 so much.

8 THE COURT: All right, go ahead.

9 BY MR. DICKERSON:

10 Q What do you recognize it to be?

11 A It's glass smoking pipes.

12 Q Okay, and is this an item that you impounded?

13 A Yes.

14 Q As part of this case?

15 A Yes.

16 Q From the search warrant on the residence at 265
17 North Lamb Boulevard, Unit F?

18 A Yes.

19 MR. DICKERSON: State moves for the admission of
20 State's Proposed 85 and its contents, Your Honor.

21 THE COURT: Understanding your objection, Mr.
22 Frizzell, I'm going to overrule your objection and admit it,
23 okay?

24 (State's Exhibit 85, and contents, is admitted)

25 MR. DICKERSON: You said that --

ROUGH DRAFT TRANSCRIPT

1 MR. FRIZZELL: Now, well, hold on, hold on, because
2 if you're going to allow me to make a record on it --

3 THE COURT: I already did. You've made your record
4 here. I'm going to allow you to make a record, because we
5 were on the -- we were closed off when you were talking to the
6 Court. I told you what my ruling would be, and that's why I'm
7 allowing him to go forward with this now.

8 MR. FRIZZELL: Okay.

9 THE COURT: All right? Okay. Admitted.

10 BY MR. DICKERSON:

11 Q You indicated the contents of this bag is glass
12 smoking pipes?

13 A Yes.

14 Q How many glass smoking pipes?

15 A Five.

16 Q Are these used or new glass smoking pipes?

17 A They're used.

18 Q They're all used?

19 A Yes.

20 MR. FRIZZELL: Your Honor, can we approach?

21 THE COURT: Yes.

22 (Off-record bench conference)

23 BY MR. DICKERSON:

24 Q Did you also find new smoking pipes?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q And how many?

2 A There was a lot.

3 Q Unused?

4 A Not -- yeah, there was not -- used and not used
5 pipes that were found in the apartment.

6 Q And when you say unused pipes, smoking pipes, what
7 kind of smoking pipes are we talking about?

8 A These are smoking pipes that are commonly used to
9 introduce a controlled substance into the human body.

10 Q And what do these type of smoking pipes look like?

11 A Typically, they're the glass, clear smoking pipe.

12 Q I imagine that many members of the jury don't have
13 an idea of what that looks like; glass, clear. That kind of
14 describes it, but does it have a particular shape?

15 A So it's got a round ball on the end, basically, and
16 basically a stem that comes from it, and you heat up the ball
17 end and inhale from the stem end.

18 Q You said you found numerous unused pipes?

19 A Yes, there was both.

20 THE COURT: Mr. Dickerson, do you have anything
21 else?

22 MR. DICKERSON: Court's brief indulgence. I'm -- if
23 I could get 89 and -- just two more items, sir.

24 BY MR. DICKERSON:

25 Q State's Proposed 89. Do you recognize this?

ROUGH DRAFT TRANSCRIPT

1 A Yes. This is the event number from the incident, it
2 has my signature, my P number on it, and indicates Item number
3 2.

4 Q Okay. Would this be an item that you impound as
5 part of the search warrant on Mr. Keller's residence?

6 A Yes.

7 Q The contents of this bag being what, sir?

8 A Ammunition.

9 MR. DICKERSON: State moves for the admission of 89.

10 THE COURT: Any objection?

11 MR. FRIZZELL: Oh, no.

12 (State's Exhibit 89 is admitted)

13 BY MR. DICKERSON:

14 Q And 89A, sir, what is contained here in State's
15 Proposed 89?

16 A .22 rounds for -- they're small .22s.

17 Q .22 caliber ammunition?

18 A .22 caliber ammunition.

19 Q And how is that related, if at all, to State's 89?

20 A To State's 89?

21 Q To the bag you just --

22 A To the bag? These were the items that were
23 impounded in this bag.

24 Q Okay.

25 MR. DICKERSON: State moves for the admission of

ROUGH DRAFT TRANSCRIPT

1 State's 89A.

2 THE COURT: Any objection?

3 MR. FRIZZELL: No, Your Honor.

4 THE COURT: It'd be admitted.

5 (State's Exhibit 89A is admitted)

6 BY MR. DICKERSON:

7 Q Specifically, this ammunition was found during the
8 search warrant?

9 A Yes.

10 Q And you impounded it?

11 A Yes.

12 Q And that's Remington .22 caliber ammunition?

13 A Yes.

14 Q Now, looking to State's Proposed 83, do you
15 recognize that, sir?

16 A Yes. It has the event number on it, my signature,
17 my P number. It says, Item number 16, which is a crystal
18 substance.

19 Q Okay, and inside is 83A. Do you recognize that?

20 A Yes.

21 Q How do you recognize that?

22 A This was the item that was removed off of --

23 Q Was it impounded as part of this, sir?

24 A Yes.

25 Q Was that the contents of 83?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 MR. DICKERSON: State moves for the admission of 83
3 and 83A, Your Honor.

4 THE COURT: Any objection?

5 MR. FRIZZELL: No, Your Honor.

6 THE COURT: Be admitted.

7 (State's Exhibits 83 and 83A are admitted)

8 MR. DICKERSON: State will pass the witness.

9 THE COURT: Cross?

10 MR. FRIZZELL: Yes, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. FRIZZELL:

13 Q Officer Lopez, I know it's been a long day, but I'm
14 going to ask you to kind of go back to the beginning of your
15 testimony, and we're going to kind of go through it a little
16 bit chronologically here, so -- so we'll try and keep things
17 in order so we don't get confused. Now, initially -- and I
18 think it's State's admitted 4.

19 MR. FRIZZELL: State's 4, I'm sorry.

20 THE CLERK: It's going to be in that little folder
21 right there.

22 MR. FRIZZELL: Actually, I was incorrect. I'm going
23 to start with State's 3.

24 BY MR. FRIZZELL:

25 Q And I believe that you indicated initially that my

ROUGH DRAFT TRANSCRIPT

1 client was proceeding northbound on Lamb; is that -- is that
2 correct?

3 A Yes.

4 Q This being Lamb Boulevard where my pen is?

5 A Yes.

6 Q Okay. And he wasn't speeding, correct?

7 A I don't know what his exact speed was.

8 Q Okay. Do you know what the speed limit is there on
9 North Lamb?

10 A Yes.

11 Q What is that?

12 A It's 45.

13 Q Okay. Did you have any reason to believe he was
14 exceeding 45 miles an hour when you first --

15 A No.

16 Q -- came in contact?

17 A I don't have a definite speed.

18 Q Okay. And I believe you said -- I believe you said
19 that from where you first saw him here at Sunrise --

20 THE COURT: Why don't you move it up a little bit?

21 MR. FRIZZELL: Oh, I apologize.

22 THE COURT: There you go.

23 MR. FRIZZELL: It's always opposite. Messes me up.

24 Okay.

25 BY MR. FRIZZELL:

ROUGH DRAFT TRANSCRIPT

1 Q You said from this Sunrise to where he turned here
2 on this little side street that goes into the complex --

3 A Yes.

4 Q -- was you said about 200 feet?

5 A It's greater than 200 feet.

6 Q Well, did you -- did you have an occasion to measure
7 that, or were you just estimating when you -- when you say
8 that?

9 A Estimating.

10 Q Okay. So greater than 200, but was it -- was it 500
11 feet, 400?

12 A It was -- I would say it's probably greater than 500
13 feet, too.

14 Q Okay. Do you recall your testimony about -- that it
15 was 300 feet? Would that be fair?

16 A I believe so.

17 Q That would be fair? Okay. So you're -- you
18 initially make contact -- you're passing him, correct? You're
19 going --

20 A Yes.

21 Q -- southbound, he's going northbound?

22 A Yes.

23 Q Okay. Approximately how fast are you traveling at
24 that point?

25 A I'm not traveling very fast. I'm actually slowing

ROUGH DRAFT TRANSCRIPT

1 down because I saw the vehicle come out off of Sunrise.

2 Q Okay, but you saw him turn to come toward you,
3 correct?

4 A Yeah, I turned -- saw him turn to make his left turn
5 to go northbound. And as I saw him coming out, he was coming
6 out at a fast speed, and from a stop sign, so I knew that he
7 was going at a high rate of speed.

8 Q Okay, but you -- you -- you couldn't estimate how
9 fast you anticipated he was going?

10 A I don't know --

11 Q Okay.

12 A -- the exact speed he was going.

13 Q All right. Now, you say he turned and he went into
14 a -- he was in a turn lane; is that what I recall you saying?

15 A It's the center turn lane.

16 Q Okay. So for -- did he immediately turn from
17 Sunrise and go right into that lane, or did he go into a
18 travel lane and then into the turn lane?

19 A No, he went straight into the center turn lane.

20 Q Okay. So, straightaway, he turns here, left turn
21 Sunrise onto North Lamb, and he's headed in basically what I'm
22 pointing, the center of the road, correct?

23 A Yes.

24 Q Okay. And you say that distance is roughly 300
25 feet?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q So it's not illegal at that point to be driving in
3 that center turn lane when you're going to turn?

4 A Yes, it is.

5 Q It is?

6 A Yes.

7 Q Now, were these -- were these apartments where you
8 saw him turn into?

9 A They are -- they used to be apartments. I believe
10 they're now townhomes or something of that nature.

11 Q So like condos? In other words, you could buy the
12 unit as opposed to --

13 A Yes.

14 Q Okay. And you testified you didn't put -- you
15 didn't -- you said he was -- approximately how much time would
16 you say passed from when you -- I guess, first, point out on
17 here where you first -- where you turned around; when you made
18 contact and you turned around to follow him.

19 A I turned around about here.

20 Q Okay, so roughly about halfway between Sunrise and
21 the turn-in to the townhomes?

22 A Yes.

23 Q Roughly about halfway? So if we're saying -- if
24 we're saying that that stretch is approximately 300 feet,
25 you're talking about 150 feet then, if we're roughly in the

ROUGH DRAFT TRANSCRIPT

1 middle?

2 A Yes.

3 Q And I'm estimating. I'm not asking you to get
4 pinned down on that. So, you testified earlier that he's --
5 he's -- you -- since he was trying to -- trying to cause
6 distance to be made between the two of you, after you turn
7 around at 150 feet, he's -- he's got to be almost turning into
8 the complex, correct?

9 A I -- I don't understand.

10 Q In other words -- in other words, he's traveling
11 northbound on North Lamb here, and roughly halfway in between
12 Sunrise and the entrance into the complex is when you say you
13 turned around to follow him, correct?

14 A Yes.

15 Q And he had passed you at that point, correct?

16 A Yes.

17 Q And you -- your testimony is you can't say that he
18 was speeding, correct?

19 A Correct.

20 Q So it would have been very easy for him to have
21 passed you and gotten to that point before you were able to
22 make your u-turn, correct?

23 A No, I was -- I was with him.

24 Q Okay, so did you -- did you make -- did you make a -
25 - just a u-turn, or did you actually fishtail the car to turn

ROUGH DRAFT TRANSCRIPT

1 around and get him?

2 A Just made a u-turn.

3 Q Okay, so how many seconds would you think passed
4 there? 3, 4, 5 to make the u-turn?

5 A A couple seconds.

6 Q Okay. So even if he's going 45, and there's 150
7 feet after you've -- after you've turned to get -- to follow
8 him, it would have been nothing for him to -- because you
9 didn't have your lights and siren on, correct?

10 A Correct.

11 Q Okay. So he had no reason to think that you were
12 after him, correct, or following him?

13 A I believe that he thought I was after him. He saw
14 me make the u-turn.

15 Q And what time of night was this?

16 A It was around 2:00 A.M.

17 Q Okay, so it's dark, correct?

18 A Yes.

19 Q And this -- this area -- are there streetlights on
20 the road?

21 A Yes.

22 Q On this road, North Lamb?

23 A Yes.

24 Q And so you're telling me that you saw him turn his
25 head and look at you as you were making a u-turn?

ROUGH DRAFT TRANSCRIPT

1 A We basically passed right past each other, and I
2 made the u-turn to conduct the records check on the vehicle.

3 Q Okay, but you say he saw you?

4 A He saw me.

5 Q Okay. All right, so he pulls into the complex and
6 goes back to what we've marked back here as the 265 North
7 Lamb, Unit F, correct, where we've got the red arrow roughly?

8 A Yes.

9 Q Okay, I'm going to switch to a little bit closer
10 shot here, which is actually State's admitted 5. Okay. So
11 you see where we have the F; that's where you said that you
12 pulled in?

13 A Yes.

14 Q Correct? Okay. He had just -- Mr. Keller's vehicle
15 had just pulled into an area roughly where again? If you'd
16 just tap it.

17 A Pulled in right about there.

18 Q Okay. So do you see the light light-colored strip
19 that's on top of the one awning there?

20 A Yes.

21 Q Right here where my pen is in front of that -- I
22 guess what would have been down diagonal a little bit from
23 Unit F, where my pen is.

24 A Yes.

25 Q So he was -- he was a few -- he was a few spaces --

ROUGH DRAFT TRANSCRIPT

1 as we look at this picture, a few spaces down towards the
2 bottom of the picture, away from that -- away from that
3 lighter-colored strip, correct?

4 A Correct.

5 Q Okay. Now, you pull in. How did you -- did you
6 pull in parallel behind him? Or excuse me, end-in behind him,
7 or did you t-bone park your car behind his?

8 A I pulled in. My car was at an angle to his -- to
9 his car.

10 Q Okay. All right, and so then you turn on your
11 lights and siren after you're stopped at an angle directly
12 behind his car?

13 A No. I turn on my lights as we're making this last
14 little turn into this parking cul-de-sac.

15 Q Okay. So can you mark roughly where you put on your
16 lights and siren?

17 A About there.

18 Q Okay, so it would be right before you would have
19 made a right turn?

20 A Yes.

21 Q Okay. When you activated your lights and siren, was
22 Mr. Keller's vehicle parked at that time yet, or not?

23 A No, his car was still moving.

24 Q Okay. And then he pulled in -- then he pulled in,
25 and you followed him and parked angular behind him?

ROUGH DRAFT TRANSCRIPT

1 A Correct.

2 Q Okay. Now, you say his taillight was broken, is I
3 believe what your testimony was. The right taillight was
4 broken?

5 A Yes.

6 Q Broken meaning it didn't operate, or it didn't
7 illuminate bright, or what -- define broken, please.

8 A It was not operating correctly.

9 Q So it was operating, it just was not operating
10 correctly; is that what we understand?

11 A Yes.

12 Q Okay. When you say that, does that mean that it was
13 illuminated?

14 A The light was on, but there was white light coming
15 from the rear tail lamp.

16 Q Okay. Would that be -- so like -- like what we
17 might know as a backup light?

18 A No, it's -- it's -- it's -- on this particular car,
19 the backup lights are actually a lot lower than -- than what
20 he has on the -- on the vehicle. So there's an opening on the
21 tail lamp that he put on the car that allows light from the
22 tail lamp itself to come out as white, and not the red color
23 that it needs to be for the tail lamp.

24 Q So what you're saying is maybe there was a -- there
25 was a gap; is that what you're saying? There was a gap in the

ROUGH DRAFT TRANSCRIPT

1 -- in the actual light that went into the socket area?

2 A There was an opening in the lens cover that allowed
3 the light to come out as clear white.

4 Q Okay, but so -- but the light was working?

5 A The light was working.

6 Q And it was illuminated?

7 A Yes.

8 Q Okay. Could you notice, was there even a brake
9 light on when he stopped?

10 A Yes.

11 Q All right. So then he -- you say at that point, he
12 exits the vehicle?

13 A Yes.

14 Q And you say you immediately exit your vehicle?

15 A Yes.

16 Q But he didn't -- but he didn't run away?

17 A He didn't get away.

18 Q You say he walked to the front of his vehicle, was
19 your testimony?

20 A No. He didn't walk --

21 Q Where did he --

22 A He got out of his car and ran towards the back of
23 his vehicle.

24 Q Okay, so he went to the trunk?

25 A Towards the trunk.

ROUGH DRAFT TRANSCRIPT

1 Q Towards the trunk of his vehicle?

2 A Yes.

3 Q Okay. Okay, but it appeared to you that he was just
4 going into his trunk, correct?

5 A No. It appeared to me that he was trying to get
6 away from me.

7 Q But you -- but the keys were -- his keys were in his
8 trunk -- in the -- in the trunk lock, correct?

9 A No.

10 Q All right. So after you secure Mr. Keller and
11 you're standing outside the vehicle -- outside of his vehicle,
12 okay, did you place him in -- did you place him in handcuffs,
13 and then put him in your cruiser, and then go to the car, or
14 how did -- what was the chronology there?

15 A I walked him over to the front of my patrol vehicle,
16 I placed him in handcuffs, and that was about the time Officer
17 Henry was arriving. Then the gunshots took place. I secured
18 him in the back of my patrol vehicle, I took cover by the side
19 of the car, and then I walked over towards his door, which was
20 still open.

21 Q Okay. Now, at that point, the door was open. Was
22 there -- there was no interior light illuminated in the
23 vehicle, was there?

24 A I don't recall.

25 Q Okay. And this is at roughly 2:20 or so A.M. in the

ROUGH DRAFT TRANSCRIPT

1 morning?

2 A Yes.

3 Q Okay, and if there was no illumination -- you say
4 that you saw a green leafy substance on the floorboard?

5 A Yes.

6 Q Okay. What color was the -- what color was the
7 carpeting in the vehicle; do you recall?

8 A I don't recall the exact color.

9 Q Okay. Were -- were you able to, with your visible
10 eye -- well, let me back up. How far away were you from the
11 vehicle before you actually saw what you say was a green leafy
12 substance on this floorboard?

13 A Next to the driver's side door, which was open.

14 Q Okay. When you say next to, were you standing up?

15 A Standing up.

16 Q Okay. About how tall are you, Officer?

17 A I am 6'1.

18 Q Okay. And do you recall roughly how high the -- the
19 bottom of the vehicle came up on your leg where the floorboard
20 would have been?

21 A I -- I'm not 100 percent positive.

22 Q Okay. If I said maybe a foot to 16 inches, would
23 you have any reason to object to that?

24 A I'm not sure.

25 Q Okay. Well, so you're 6'1, you're standing next to

ROUGH DRAFT TRANSCRIPT

1 the vehicle, you're looking down at -- would it be fair to say
2 at least four to five feet away from you? Were you crouched?

3 A No.

4 Q Okay, so you were standing up, you were -- you were
5 standing fully erect and looking into the vehicle, so that
6 would approximately be about four to five feet?

7 A I would take your numbers.

8 Q Okay. And understanding they're just -- it's an
9 estimate, but I'm just estimating. Four to five feet away, in
10 the dark, no illumination, you're able to -- you're able to
11 see a green leafy substance on the floor in the dark?

12 A Yes.

13 Q All right, so you didn't find -- you didn't see
14 initially any -- any -- any gun casings, or ammunition, or
15 shells inside the vehicle, did you?

16 A Initially, no.

17 Q Okay. Now, you say that you had to -- you reached
18 under the seat -- under the seat, and you found baggies?

19 A Yes.

20 Q Okay. Is that -- is that something that's routine
21 before you get a search warrant?

22 A Since I determined that there was probable cause
23 because of the odor of the cannabis coming from inside the
24 vehicle, and the green leafy substance I could see on the
25 floorboard in the vehicle, I decided to conduct a search for

ROUGH DRAFT TRANSCRIPT

1 the contraband inside the vehicle.

2 Q Were you at that point using a flashlight, or were
3 you still just feeling around?

4 A I have a flashlight.

5 Q But were you using it, or were you just feeling
6 around?

7 A I always use my flashlight during graveyard.

8 Q Okay. So again, did you use the flashlight to look
9 under the seat, or did you just reach under the seat?

10 A I used my flashlight.

11 Q Okay. And did I hear you -- did I overhear you say
12 that you -- that you opened the center console?

13 A It's -- it was between the center console and the
14 driver's side seat, so it was tucked in between.

15 Q Okay, so is that something you saw with the naked
16 eye, or did you have to reach down, or contort--

17 A I had to reach --

18 Q -- a little bit?

19 A I had to reach in there, in between the seat.

20 Q So you didn't know at the time anything was down in
21 there; you were just reaching around?

22 A Yes.

23 Q And at that time, you hadn't secured a search
24 warrant?

25 A Correct.

ROUGH DRAFT TRANSCRIPT

1 Q So was there a center console door, if you will; a
2 flip-open door?

3 A Yes.

4 Q And did you then open that as well?

5 A No, I hadn't opened that yet.

6 Q Okay. And when we -- when we get over to the glove
7 box, how did you -- how did you -- did you remove the glove
8 box?

9 A No.

10 Q You did not?

11 A No.

12 Q Did -- did you see it being removed?

13 A No.

14 Q Okay. Did it appear to you as though it had been
15 torn off?

16 A This was after the warrant was secured, or are we
17 still --

18 Q Well, I'm just saying --

19 A -- talking about the initial search?

20 Q I'm saying, when you saw the -- if you weren't the
21 one to remove the glove box cover, the flip-down door, did it
22 appear to you that it was -- that it was broken off, ripped
23 off, or did it look like it was in totally pristine condition?

24 A I know Officer Henry was tinkering with it for a
25 little bit, and he had removed the glove box.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. Do you know if he --

2 A I'm not exactly positive how he removed it.

3 Q Okay. Did you see him use any tools on it, like --

4 A No, I didn't see any tools.

5 Q -- prying anything? You didn't see it?

6 A I didn't see him use any tools.

7 Q Okay. Were you close enough by that you could
8 physically watch him remove it?

9 A I was nearby, but I wasn't standing right next to
10 him.

11 Q Okay, so he would be the better one to testify to
12 how it came off?

13 A Yes.

14 Q Okay. All right, so then when you -- let's move
15 over to Mr. Keller. You conduct a pat-down on him, you say?

16 A Yes.

17 Q Is that -- is that what we would commonly refer to
18 maybe as a frisk?

19 A Yes.

20 Q Okay, where he -- where you pat all parts of his
21 body, and you're feeling to see if there's anything that he
22 has under there that doesn't feel normal?

23 A It's a check for weapons.

24 Q Okay. All right. And so you -- you ask if he has
25 an ID?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q He says, yes, it's in my wallet?

3 A Yes.

4 Q And he -- so then you go into -- where was it?

5 Which pocket?

6 A His front right pants pocket.

7 Q Okay. So you reach into his front right pants
8 pocket and you feel a wallet, and you say that's when you feel
9 some money?

10 A When I pulled his wallet out, the money came with
11 it.

12 Q Okay. Now, was it -- was it simply folded? It was
13 simply folded, right? The money was folded, much like taking
14 a -- any of us would take a 5 or a 1 and fold it in half?

15 A Yes, the bills were folded in half.

16 Q Okay, so they weren't rolled up in a -- in a big
17 roll, like --

18 A No.

19 Q -- a small roll of toilet paper, say, or something
20 like that?

21 A No.

22 Q Okay. But you said it wasn't together?

23 A He had cash inside the wallet and he had cash
24 outside the wallet.

25 Q Okay.

ROUGH DRAFT TRANSCRIPT

1 A All of it came out when I pulled out the wallet.

2 Q All right. Do you recall what the amount was that
3 was on the inside versus the outside?

4 A I do not.

5 Q But yet, you said it was, what, 20s?

6 A It was a lot of money, mostly all 20s.

7 Q Okay. Were there any larger bills?

8 A Yes.

9 Q Was there a couple of 100s in there, or something
10 along those lines?

11 A Yes.

12 Q Okay. Okay, let's -- let's move over to the
13 gunshots. You said you heard five gunshots. And I'm still
14 going to be using State's 5 here that's on the -- on the
15 overhead. Can you mark again where it was that you thought
16 those gunshots emanated from?

17 A If you can move the --

18 Q Sure.

19 A Yeah.

20 Q Sure. Sorry about that.

21 A It basically sounded like it was coming from right
22 here on this side of this building.

23 Q Okay, so on -- based on where you were here in front
24 of what has been marked as the Unit F, where we're talking
25 about here, you say this would have occurred on the back --

ROUGH DRAFT TRANSCRIPT

1 essentially, the back side of this building that is, I guess,
2 at the top of this picture?

3 A Yes.

4 Q Okay. So you couldn't see -- could you see anybody
5 that was shooting?

6 A No.

7 Q And to the best of your knowledge, there -- there
8 wasn't anyone that was -- that you saw that was looking out or
9 anything like that, correct?

10 A I didn't notice anybody.

11 Q So it would be safe to say that whatever was
12 happening over here where you circled, where you say you
13 thought the gunshots were emanating from, would not have been
14 able to see where you guys were at in front of Unit F,
15 correct?

16 A Correct.

17 Q Okay. So it could have been just unrelated
18 gunshots?

19 A It could have been.

20 Q All right. You say that then you -- you then -- at
21 some point in your searching of the vehicle, you find -- you
22 find this hole. Was that -- was that hole -- you say that was
23 before you called for a search warrant, right?

24 A That was after the dog hit and before we called for
25 the search warrant.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. So the dog comes out, and I believe you
2 initially -- you initially said earlier that you called the
3 canines because you thought the defendant had thrown something
4 out of the window on the way in?

5 A Yes.

6 Q Okay. And that was -- that was not in -- that was
7 not in your search warrant, correct, as your probable cause?

8 A Nothing was located on the entranceway up to where
9 the car stopped.

10 Q But wouldn't that have been -- wouldn't that have
11 been something you would have put in your -- in your probable
12 cause when you're talking to the judge?

13 A No, because it didn't lead to anything. It didn't -
14 - it didn't add anything to it. If we had found something
15 along the path that had gone with the car, then that would
16 have been --

17 Q Okay. So basically what you're telling me is,
18 ultimately, you didn't see any -- you didn't see the defendant
19 throw anything out the window?

20 A I didn't see him throw anything out the window.

21 Q Okay, all right. All right, so the dog -- so the
22 dog -- the canine unit hits on the part of the car that --
23 where this hole is, and so then you talked about, what you
24 said, popping off the -- the cover that is on the side of the
25 dash that goes up against the door when it's closed, correct?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q Okay. And there wasn't any -- did you have to pry
3 on that at all?

4 A No.

5 Q Okay. And you say it's just something that was
6 factory that was made to come off that way?

7 A It looks like it was factory.

8 Q Okay, all right. So then you reach in, you pull out
9 -- I mean, and we've seen all of the exhibits. We've seen the
10 black bag, and the gold bags, and all of that. After you test
11 it and you determine that it tests positive for whatever drug
12 that it tested positive for; some was meth, some heroin, some
13 cocaine, I believe you found; is that correct?

14 A Yes.

15 Q And that was in the car, or that was in the house?

16 A That was in the car.

17 Q Okay. Now, when you -- when you weigh these, after
18 they're ODV-tested and then you weigh them, do you have your
19 own scale, I'm assuming?

20 A I do.

21 Q Okay. Is it -- is it similar to the ones that we
22 saw that are in evidence, or is it --

23 A It's similar. It's a small scale.

24 Q Okay. And when you -- so, the way that we are
25 seeing these drugs today, minus the protective evidence bags

ROUGH DRAFT TRANSCRIPT

1 that they're in, were -- are they basically in the form -- in
2 other words, how they're packaged was the way that they were
3 packaged that night?

4 A Yes.

5 Q Okay. So, in other words, you -- when you're
6 putting all these items into evidence, you're not opening the
7 bags, or the wrapper, or what have you, and emptying contents
8 and weighing it that way?

9 A Some we do, some we don't.

10 Q Okay. On at least what we -- what was found in the
11 vehicle --

12 A There's --

13 Q -- how did you weigh that?

14 A The items that were found in the vehicle were
15 weighed in -- in the bags.

16 Q Okay.

17 A The wrapping.

18 Q So when you're weighing that, do you take into
19 consideration the weight of whatever the wrapping material is?

20 A Yes, then it becomes gross weight. The net weight
21 is just the substance itself, not the wrapping as well.

22 Q Okay. If you don't take it out of the packaging
23 before you test it, how do you -- how do you know what that
24 difference is between gross and net?

25 A I don't.

ROUGH DRAFT TRANSCRIPT

1 Q So when you're telling us that there was 300, or
2 whatever the number was, grams of methamphetamine, you're
3 including -- that's not all methamphetamine, that's also the
4 weight of the packaging material; is that correct?

5 A The weight -- yes.

6 Q Okay. And do you have any way that you
7 differentiate how much that wrapping material adds to it?

8 A Only if I -- only if it's separated.

9 Q Okay. So when it's not separated, you weigh it,
10 packaging and all, but yet that becomes the weight -- the
11 gross weight of the drugs themselves? Is that how we do this?

12 A It's labeled as the gross weight because it's
13 including the packaging.

14 Q Okay, but so it's your testimony that these items
15 that were found in the car were weighed with their packaging
16 material, and not just -- not just the weight of the drugs, so
17 it actually weighs more -- the gross weight is much more than
18 what the drug weight is, correct?

19 A Yes.

20 Q Okay. But you can't tell us the difference -- the
21 difference right now?

22 A Correct.

23 Q As to what just -- just the drugs weighed?

24 A Correct.

25 Q Okay. Now, I wanted to move to the --

ROUGH DRAFT TRANSCRIPT

1 MR. FRIZZELL: Court's indulgence. State's 91, and
2 I'm just going to get it here briefly.

3 (Pause in the proceedings)

4 MR. FRIZZELL: All right. State's 91 was this
5 registration. Okay. How do we erase the text that's on
6 there?

7 THE CLERK: Got it.

8 THE COURT: It's done.

9 MR. FRIZZELL: Oh, thank you. All right.

10 BY MR. FRIZZELL:

11 Q Now, you see where it says, "Christopher Keller, 244
12 Molly Court" up there?

13 A Yes.

14 Q Was there ever any investigation done into that
15 address?

16 A No.

17 Q But yet, it says this is an address on what was
18 basically a current registration, or almost current
19 registration?

20 A Yes.

21 Q Just recent -- just recently expired, fair to say,
22 this particular one you found?

23 A No, this doesn't expire until November of 2016.

24 Q Okay. So at the time of the -- of the stop in
25 January of 2016, this was still good?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q This was a good address? Did you check to see if
3 Mr. Keller actually lived at 244 Molly Street?

4 A No.

5 Q Why wouldn't that be something that you would have
6 checked out?

7 A Because it was apparent that he was living there at
8 the address there where he had stopped.

9 Q At the time when you're making -- when you made what
10 was initially a traffic stop, you had not confirmed that 265
11 North Lamb, Unit F was his -- was Mr. Keller's address,
12 correct?

13 A During the stop, I had confirmed that that was his
14 address.

15 Q Okay. When you locate -- when you located this
16 current registration, and you see 244 Molly Street -- Molly
17 Court. Excuse me, I apologize. 244 Molly Court, that didn't
18 signify any -- anything of importance to investigate that
19 address?

20 A Not at the time, no.

21 Q So, Mr. Keller could very well have been living at
22 that address?

23 MR. DICKERSON: Calls for speculation, Your Honor.

24 MR. FRIZZELL: Well, I mean, it goes -- it goes to
25 -- there's definitely a piece of evidence here that has been

ROUGH DRAFT TRANSCRIPT

1 admitted that says that Mr. Keller is at a different residence
2 than this residence.

3 THE COURT:

4 MR. FRIZZELL: So it's very relevant.

5 THE COURT: -- speculation that he's living there.

6 MR. FRIZZELL: Okay.

7 THE COURT: That's the speculation. So he has an
8 address someplace else -- I'm going to sustain the objection.

9 MR. DICKERSON: Thank you, Your Honor.

10 MR. FRIZZELL: All right, I'll actually rephrase it.

11 BY MR. FRIZZELL:

12 Q You can't say that Mr. Keller was not living at
13 Molly Court, can you?

14 A I didn't have any reason to believe that he had
15 multiple addresses that were -- he was actually residing at.

16 Q Even though you have this exhibit --

17 A Yes.

18 Q -- that clearly shows -- clearly shows a different
19 address?

20 A Yes.

21 Q Okay. Did you ever -- so what you're telling the
22 Court and the ladies and gentlemen of the jury is that you
23 never even checked into what that address was?

24 A I -- I didn't.

25 Q Okay. Do you know if anyone else did?

ROUGH DRAFT TRANSCRIPT

1 A It's possible, but I don't know.

2 Q Okay.

3 MR. FRIZZELL: Court's indulgence, Your Honor. All
4 right.

5 BY MR. FRIZZELL:

6 Q Now, at some point during -- during this
7 investigation; at some point between the initial traffic stop
8 and you actually leaving the scene, you were approached by a
9 female during that time, were you not?

10 A Yes.

11 Q Okay. And that female requested something of you,
12 did she not?

13 A Yes.

14 Q Okay. And in fact, she requested that she be
15 allowed to go into Unit F to retrieve some items that she --
16 that belonged to her that were in there, correct?

17 A No.

18 Q Okay. What did she -- what did she say to you?

19 A She requested her purse from inside the vehicle.

20 Q Okay. She didn't request anything from up in Unit
21 F?

22 A No, she did not.

23 Q Was her purse actually in the vehicle?

24 A No, it was not.

25 Q Did you -- did you have any other occasion to deal

ROUGH DRAFT TRANSCRIPT

1 with her at all?

2 A That was our only encounter with her.

3 Q Okay. Do you recall where she went after that?

4 A I do not.

5 Q Okay. Did she -- so did you see -- did she -- did
6 you see her at least walk into a unit, or did she walk totally
7 away, or --

8 A She had walked away. I didn't see her go into any
9 unit.

10 Q Okay. Did you have occasion to ask her her name, if
11 she had --

12 A Yes, one of my partners had interviewed and talked
13 to her.

14 Q Okay. Do you know which partner interviewed her?

15 A I believe it was Officer Vance.

16 Q Office Vance. Okay. Now, you -- you are not
17 someone who takes, or lists, or checks for fingerprints or
18 DNA, are you?

19 A I'm not.

20 Q Okay. However, when you go into -- when you go into
21 the vehicle first, is there -- is there anything that you do
22 to preserve any of that should -- should it be present, either
23 fingerprints or DNA?

24 A When I did my initial search?

25 Q I'm just saying -- yes. When you -- do you secure

ROUGH DRAFT TRANSCRIPT

1 the vehicle in such a way that it would preserve that, or is
2 that not your job?

3 A That's typically not something that I do.

4 Q Okay. And likewise in the house?

5 A Correct.

6 Q Okay. Now, let's go on up into the house, or into
7 the -- into the condo, Unit F. You say that this -- it
8 basically looked to be a one-bedroom unit?

9 A Yes.

10 Q Okay. Let's go in the bathroom first. You say that
11 once you opened the -- once you opened the cupboard, there was
12 a -- there was a hole that you said that you could have
13 crawled through without all your gear on?

14 A Yes.

15 Q Okay. And you say it went into the adjacent unit?

16 A Yes.

17 Q Was there -- but you didn't find anything of any
18 import inside that hole?

19 A Inside the hole itself? No, nothing --

20 Q Yes. In other words, was there a space -- a gap in
21 between one unit and the other, or did the hole just
22 immediately go right to the other unit?

23 A It just went into the other unit.

24 Q Okay. You didn't have any reason -- but you didn't
25 see anything of any import -- of any evidentiary value in that

ROUGH DRAFT TRANSCRIPT

1 area underneath the sink?

2 A No.

3 Q Okay. Then you said that, I believe -- if we go in
4 the bedroom, how many closets were there?

5 A There's two closets in the bedroom.

6 Q Okay. And the one closet, I believe you said you
7 located some purses?

8 A No, the purses were out in the living room, dining
9 room area.

10 Q Okay. And did you -- were those impounded as any
11 evidence at all?

12 A No.

13 Q So you just left them there. Did -- were you the
14 one that looked at them?

15 A I looked at them.

16 Q Okay, and were there contents in them?

17 A Nothing that would identify anybody. There was
18 nothing significant in the purses.

19 Q Okay, but they weren't new?

20 A I wouldn't say that they're new, no.

21 Q Okay. So when you say nothing of significance in
22 the purses, there were some things in the purses; is that what
23 you're telling me, that you recall?

24 A I don't recall -- I don't recall.

25 Q Okay. And when you were in the bathroom, did you

ROUGH DRAFT TRANSCRIPT

1 notice any -- any makeup, anything like that?

2 A I did not.

3 Q Any lipstick?

4 A No.

5 Q Did you actually -- did you actually -- were you the
6 one that secured the bathroom, or was it someone else?

7 A I -- I don't -- I don't believe it was me.

8 Q Okay. Do you recall who might have done that such
9 that we could ask them about the makeup or whatnot --

10 A I'm not --

11 Q -- those type questions?

12 A I'm not sure.

13 Q Okay. Would it have been Officer Vance?

14 A No, Officer Vance wasn't there for the search
15 warrant on the -- on the condo/apartment.

16 Q Okay, he was just there for the vehicle?

17 A He was there for the initial -- the vehicle stop.

18 Q Okay. But you -- you did find -- how many purses
19 did you find, if you recall?

20 A I don't remember the exact number.

21 Q Okay. Now, when you went through -- you said there
22 were two closets. Were you the one that went through both
23 closets?

24 A No.

25 Q Okay. So the closet that you went in you say had

ROUGH DRAFT TRANSCRIPT

1 basically male clothes in it -- what appeared to be male
2 clothes?

3 A The closet that we -- somebody had left open just
4 had male clothes, yes.

5 Q Okay, but you weren't the one that looked in the
6 other closet?

7 A I was brought over to the closet when the second
8 firearm was found.

9 Q Okay, but that was the closet that had the door
10 open, right?

11 A No, that's the closet that's next to the bathroom
12 sink.

13 Q Okay. And you -- and you saw -- did you say you saw
14 girls' clothing in there?

15 A No, no women's clothing.

16 Q Okay. Were there dressers in that bedroom?

17 A There were dressers.

18 Q Okay. Any -- any -- any ladies' items in any of
19 those drawers?

20 A None.

21 Q Were you the one that actually searched those
22 drawers?

23 A I was there for part of the drawers.

24 Q So you weren't there for -- how many dressers do you
25 recall were in the bedroom?

ROUGH DRAFT TRANSCRIPT

1 A Two dressers.

2 Q Okay. And so how much of the dresser drawer search
3 were involved in?

4 A The first one, the one that was closest to the bed.

5 Q Okay. So you didn't -- you didn't look in the --
6 what you're saying was the second set of drawers?

7 A Not really.

8 Q Okay. Do you recall who looked in those?

9 A I don't.

10 Q So there could have been girls' clothes in the other
11 one, but you wouldn't know?

12 MR. DICKERSON: Calls for speculation.

13 MR. FRIZZELL: No, I said there could have been
14 girls' clothes and he would not have known.

15 MR. DICKERSON: Compound, Your Honor.

16 THE COURT: What's that?

17 MR. DICKERSON: Compound and calls for speculation.
18 Calls for speculation on the first part of the compound
19 question, and the second part for he wouldn't have known.

20 THE COURT: Overruled. Go ahead. Can you answer
21 it?

22 THE WITNESS: I -- I can't. I don't know.

23 BY MR. FRIZZELL:

24 Q I mean, you couldn't say one way or the other, is
25 what I'm -- is what I'm asking you.

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q Because you did not look. So it could be, couldn't
3 be, but you don't know personally?

4 A One of the detectives would have mentioned it to me,
5 I'm sure.

6 Q Okay.

7 A But you personally don't know, no.

8 Q Okay. All right. Now, I'm going to need to open
9 that.

10 A Okay.

11 (Pause in the proceedings)

12 THE COURT: Is it 83?

13 MR. FRIZZELL: Sorry, it's 85.

14 THE COURT: 85.

15 MR. FRIZZELL: All right.

16 BY MR. FRIZZELL:

17 Q I'm handing you what's been marked as State's
18 Exhibit 85. It has not been opened yet. Could you open that
19 for us?

20 MR. FRIZZELL: Were these -- were these admitted?
21 Because they're not marked individually. Were these admitted?

22 THE WITNESS: They were not.

23 THE COURT: Well, it was the contents.

24 MR. FRIZZELL: I'm sorry?

25 THE COURT: Eighty -- eighty -- I imagine 85 and the

ROUGH DRAFT TRANSCRIPT

1 contents.

2 MR. FRIZZELL: So we're just going to call it as
3 one.

4 MR. DICKERSON: That's correct, Your Honor.

5 THE COURT: Um-hum.

6 MR. DICKERSON: And can we just make a record that
7 the bag was opened from the top, breaking the prior seal?

8 THE COURT: Yeah, that's fair. I was noticing that,
9 too. I just want the record to reflect that when they opened
10 it, they opened at the top of the bag, and by spreading it
11 open, it ended up breaking the original seal that was intact.

12 MR. FRIZZELL: Yes, yes, I don't have any argument
13 with that.

14 MR. DICKERSON: Thank you, Your Honor.

15 THE COURT: Okay.

16 BY MR. FRIZZELL:

17 Q So, these items, do you -- do you -- these have
18 already actually been admitted, but do you recognize the items
19 that are here?

20 A Yes.

21 Q And what are these items?

22 A These are smoking pipes that were from the bedroom.

23 Q Okay. So I believe your testimony was that there
24 was some clean or some dirty?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. (Inaudible). Is it safe to say that at least
2 what's in here is not clean?

3 A These are all the dirty.

4 Q These are all the dirty --

5 A These are used pipes.

6 Q But you did find clean ones?

7 A There were clean ones inside the apartment.

8 Q That's all I needed.

9 MR. FRIZZELL: Court's indulgence. I have one last
10 question.

11 THE COURT: Okay.

12 MR. FRIZZELL: Okay. Actually, it's in a couple
13 parts.

14 THE COURT: Okay.

15 BY MR. FRIZZELL:

16 Q So in the car, when you were searching the car, you
17 didn't actually find any rolling papers, pipes, lighter,
18 matches, and other than the little bit you may have seen on
19 the floor, you didn't find any other marijuana?

20 A No.

21 Q Okay. And so what you're -- what you're basing the
22 -- that you -- that you had a strong smell, it wasn't
23 emanating from the car, correct?

24 A It was emanating from both the defendant's person
25 and from inside the vehicle.

ROUGH DRAFT TRANSCRIPT

1 Q Okay, but he had been sitting in the vehicle,
2 correct?

3 A Yes.

4 Q Okay. And you didn't find any -- any drugs or
5 anything other than the wallet and the money on his person,
6 correct?

7 A There was drugs that were found on his person over
8 the course of the investigation.

9 Q Okay, but there wasn't marijuana that was found on
10 his person?

11 A No marijuana found on his person.

12 Q Okay.

13 MR. FRIZZELL: Court's indulgence.

14 BY MR. FRIZZELL:

15 Q So what little bit of marijuana that you say that
16 you saw a green leafy substance, was that that you found on
17 the floor ODV-tested?

18 A No, it was not.

19 Q Okay, so you never -- you never confirmed that what
20 you thought was marijuana on the floor was not marijuana?

21 A Correct.

22 Q So it could have been just crushed leaves on the
23 floor, and you wouldn't know any -- you wouldn't be able to
24 say any different?

25 A Correct.

ROUGH DRAFT TRANSCRIPT

1 Q Okay.

2 MR. FRIZZELL: Court's indulgence. I'll pass the
3 witness, Your Honor.

4 THE COURT: Redirect?

5 MR. DICKERSON: Briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. DICKERSON:

8 Q Touched on a little bit about your initial stop, the
9 -- what you saw of the vehicle before you stopped it; do you
10 recall that, sir?

11 A Yes.

12 Q Specifically, the taillights?

13 A Yes.

14 Q Showing you what's been marked and admitted as
15 State's Exhibit 6, does this image fairly and accurately
16 depict the taillights as you saw them when you got behind that
17 vehicle on Lamb Boulevard?

18 A Yes.

19 Q And what is it that you notice about the taillights?

20 A So the passenger taillight -- obviously, the vehicle
21 looks like it was in some type of traffic collision, accident,
22 and the damage is to the rear passenger taillight. Whoever
23 went back to repair the rear passenger tail lamp, they
24 installed the wrong tail lamp on it. It's not the right --
25 it's to a different model.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. So the passenger lamp on -- or the tail lamp
2 on the left, the driver's side, would be correct?

3 A It appears to be correct, yes.

4 Q Okay. I'm showing you now what's been marked and
5 admitted as State's Exhibit 9. Right here, is that that
6 driver's side back taillight?

7 A Yes.

8 Q That's the correct one?

9 A Yes.

10 Q You said the reverse lamps are on the bottom?

11 A Yes, the reverse lamps are down here.

12 Q Okay. Now, showing you what's been marked and
13 admitted as State's Exhibit 12, is that the passenger side
14 rear taillight that you were speaking of?

15 A Yes.

16 Q And what is it that's different about this light?

17 A So the lens that they installed on this, it has an
18 opening right here that's not supposed to be on this
19 particular model. So when they put the lens cover on here,
20 it's allowing the light to come out through this opening as
21 just white light for the taillight.

22 Q So, when the taillights are on, it's reflecting
23 white?

24 A Yes.

25 Q And so that's what you saw as you're driving down

ROUGH DRAFT TRANSCRIPT

1 Lamb Boulevard?

2 A Yes.

3 Q Okay. Now, as to the registration of the vehicle,
4 you talked a little bit about seeing the Molly Court
5 registration (inaudible). Is that correct?

6 A Yes.

7 Q So you noticed that at the time, that being the
8 registration that was found that says Molly Court. Showing
9 you State's Exhibit 91 --

10 A Yes.

11 Q Right there, Molly Court. But you received other
12 information?

13 A Yes.

14 Q Which is here today in certified DMV records; is
15 that right?

16 A Yes.

17 Q In State's Exhibit 1, what's been admitted as such
18 and shown to the jury at this time, does that show a physical
19 address for this registration from Mr. Christopher Robert
20 Keller as being 265 North Lamb Boulevard, Unit F?

21 A Yes. This right here says the physical address, and
22 then that's the address.

23 Q And below that is the mailing address?

24 A Yes.

25 Q Also 265 North Lamb Boulevard, Unit F?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q And that's information that you were able to find
3 out on scene?

4 A Yes.

5 Q And how did you do that?

6 A From my mobile computer terminal that's inside my
7 patrol vehicle.

8 Q What is it, connected to the DMV?

9 A Yes.

10 Q Okay. Also, the defendant's driver's license. Did
11 you check his particular address on there as well?

12 A Yes.

13 Q And where did that come back to?

14 A It had this -- the address right there on Lamb.

15 Q Okay. And just for reference, the last page of that
16 State's Exhibit 1 actually shows the vehicle registration,
17 right?

18 A Yes.

19 Q And that's the mailing address and physical address
20 both listing 265 North Lamb Boulevard?

21 A Yes.

22 Q And the first page shows the driver's license
23 information of Mr. Christopher Robert Keller --

24 A Yes.

25 Q -- same thing? Mailing and physical address?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q Okay, both of those addresses being 265 North --
3 North Lamb Boulevard, Unit F?

4 A Yes.

5 Q Now, you said there was some contact with a female
6 on scene?

7 A Yes.

8 Q Who was this?

9 A I -- I don't recall her name.

10 Q You said that Officer Vance had spoken to her?

11 A Yes.

12 Q When did she come up to you?

13 A During -- during the stop, she had come up, and she
14 had told us she wanted to get her purse out of the car.
15 Officer Vance had asked her what color the purse was, and she
16 said she didn't know, and we said, well, how do you know if
17 your purse is in the car if you don't even know what color the
18 purse is?

19 Q And --

20 MR. FRIZZELL: I'm going to object, hearsay.

21 That --

22 MR. DICKERSON: And Your Honor, defense counsel
23 opened the door on this one.

24 THE COURT: Well, the -- it's still hearsay. The --

25 MR. DICKERSON: It's still hearsay, but it's just

ROUGH DRAFT TRANSCRIPT

1 clarifying what he's already brought out.

2 THE COURT: Well, he said purse. I'm going to
3 sustain the objection as to her describing what the -- what
4 the purse was and not saying -- or not being able to describe
5 the purse.

6 MR. DICKERSON: Okay.

7 THE COURT: So, ladies and gentlemen, I'm going to
8 instruct you you must disregard the statements regarding her
9 stating that she couldn't give a description of the purse,
10 okay? All right.

11 BY MR. DICKERSON:

12 Q You did -- or Officer Vance did request more
13 information about the purse?

14 A Yes.

15 Q And did an officer on scene conduct a search of the
16 vehicle for a purse?

17 A Yes.

18 Q Was a purse located?

19 A No.

20 Q Was that odd to you?

21 A Yes.

22 Q Now, just real quickly, we've gone over what was
23 marked and admitted as part of State's Exhibit 85 the pipes in
24 this case. Just for the jury's edification, you were
25 describing a methamphetamine pipe earlier?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 MR. DICKERSON: And if I could have this marked,
3 Madam Clerk.

4 THE CLERK: Sure.

5 MR. DICKERSON: Thank you so much.

6 BY MR. DICKERSON:

7 Q You said that's a glass type pipe?

8 A Yes.

9 Q So how is it that that pipe works; do you know?

10 A You heat up the bulb or ball end. You heat it up
11 after you put the contraband, controlled substance in that
12 part of the pipe, and you heat it up, and then you inhale the
13 -- the smoke.

14 Q Showing you what's been marked and now moving for
15 the admission of this specific one, 85A --

16 THE COURT: They're all admitted.

17 MR. DICKERSON: Thank you, Your Honor.

18 THE COURT: But I guess just for --

19 MR. FRIZZELL: I'm not objecting, for the record.

20 THE COURT: Okay, but just --

21 MR. DICKERSON: 85 --

22 THE COURT: Just so we understand which one he's
23 talking about, 85A, all right? Okay.

24 BY MR. DICKERSON:

25 Q 85A here, what do you recognize that to be?

ROUGH DRAFT TRANSCRIPT

1 A This is a glass smoking pipe.

2

3 Q Okay. Specifically used for smoking what?

4 A Mostly, it's for smoking meth.

5 Q Okay. Methamphetamine?

6 A Yes.

7 Q And what's what you were describing earlier --

8 A Yes.

9 Q -- (inaudible) pipe?

10 A Yes.

11 Q Okay, thank you.

12 MR. DICKERSON: State will pass the witness.

13 THE COURT: Recross, Mr. Frizzell?

14 MR. FRIZZELL: No, Your Honor.

15 THE COURT: Okay. All right. Anything -- okay, we
16 have a couple questions?

17 MR. FRIZZELL: Actually, yes, Your Honor, there is
18 one.

19 THE COURT: All right. Okay, make up your mind.

20 MR. FRIZZELL: I apologize. I apologize.

21 THE COURT: There you go. Hold on, Officer, got
22 some more questions.

23 MR. FRIZZELL: I need 85, again.

24 (Mr. Frizzell/Clerk conferring)

25 RECROSS-EXAMINATION

ROUGH DRAFT TRANSCRIPT

1 BY MR. FRIZZELL:

2 Q All right, I'm showing you State's Exhibit --
3 admitted Exhibit 1, this DMV record. And --

4 THE COURT: Turn your phone off. Thank you.

5 MR. FRIZZELL: All right.

6 BY MR. FRIZZELL:

7 Q Now, do you see up here under -- under Item Sub 2
8 where it says ID card details, issue date -- can you read the
9 issue date there where I've held my finger?

10 A Yes.

11 Q What's that say?

12 A June 6th, 2014.

13 Q It has an address for 265 North Lamb Boulevard,
14 correct? Okay. Right --

15 A Yes.

16 Q -- so far? Okay. Yet, when we're looking at the
17 registration, which is State's 91A, this is 2016 where it
18 talks about where he's at 244 Molly Court, correct?

19 A Yes.

20 Q So he was at 265 Unit F -- North Lamb Unit F as of
21 2014, but it could very well have been at 244 Molly Court
22 2016.

23 Q So --

24 MR. DICKERSON: Calls for speculation.

25 MR. FRIZZELL: Could have.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Overruled.

2 MR. FRIZZELL: I'm asking.

3 THE COURT: Overruled.

4 MR. FRIZZELL: Okay.

5 THE WITNESS: So the first one that you showed,
6 that's the ID card; that's not the driver's license that was
7 issued. And it shows the issue date for the ID card. It's
8 not the same thing as the driver's license. And if you go
9 back to the other exhibit and you scroll down a little bit, it
10 will say the last transaction date. That's when the date that
11 that address was put in, into DMV.

12 Q All right, well, I see it. So do you have any
13 reason to dispute that this is a valid registration card?

14 A No, it's a valid registration card.

15 Q Okay. So do you have an explanation or do you know
16 why then the DMV -- the actual registration from the DMV would
17 show 244 Molly Court as the registered address for this car,
18 and yet show 265 North Lamb as a mailing address?

19 A Yes, because you can see right here the last
20 transaction date. Just because they changed their address or
21 moved, it doesn't necessarily mean that they have the updated
22 registration slip right there.

23 Q Okay. So this update -- this registration would
24 have been -- would have been issued -- okay, so it would have
25 expired basically ten months after this arrest, right? So

ROUGH DRAFT TRANSCRIPT

1 they would have gotten it -- if it's good for a year --

2 A Yes.

3 Q -- he would have gotten it sometime around
4 11/15/2016?

5 A Yes.

6 Q Or 11 -- excuse me. No, I apologize. 11/15/2015.

7 THE COURT: Um-hum.

8 BY MR. FRIZZELL:

9 Q Is that correct?

10 A Yes.

11 Q So they may -- so it's very possible then -- what
12 you're saying is DMV would not have updated their record from
13 the 265, even though they issued with the new address,
14 correct?

15 A It's possible, yes.

16 Q Okay. Because the last transaction date you see is
17 11/28/15. This -- this was issued basically ten days earlier;
18 eight days earlier, correct?

19 A Yes.

20 Q So it's possible -- you don't -- I understand you're
21 not -- you don't work in the DMV. It's possible that the
22 record you pulled up did not reflect this change on the new
23 registration?

24 A Correct.

25 Q Is that fair? All right, that's where I was getting

ROUGH DRAFT TRANSCRIPT

1 at.

2 MR. FRIZZELL: Thank you. Now I'm done.

3 THE COURT: All right.

4 MR. DICKERSON: Just one thing on that, Your Honor,
5 please. May I? Thank you very much.

6 FURTHER REDIRECT EXAMINATION

7 BY MR. DICKERSON:

8 Q Sir, that same last page of State's Exhibit 1.
9 (Inaudible) certified record from the Nevada DMV; is that
10 right?

11 A Yes.

12 Q You saw in the middle where you were referring to
13 earlier that says mailing address, physical address is 265
14 North Lamb Boulevard; is that right?

15 A Yes.

16 Q Unit F?

17 A Yes.

18 Q And then right under that where my finger is here --

19 A Um-hum.

20 Q -- it says "name and/or address on registration"?

21 A Yes.

22 Q Is that right? And what does that say?

23 A It's got the 244 Molly Court address.

24 Q Okay. So the DMV records show 265 North Lamb
25 Boulevard, Unit F being connected to Defendant Christopher

ROUGH DRAFT TRANSCRIPT

1 Keller?

2 A Yes.

3 Q But they also show that his registration at the time
4 reflected Molly Court?

5 A Yes.

6 MR. DICKERSON: State will pass the witness.

7 THE COURT: Mr. Frizzell, any further questions?

8 MR. FRIZZELL: No, Your Honor.

9 THE COURT: All right. We have some questions from
10 the jury. Parties approach.

11 (Off-record bench conference)

12 THE COURT: Okay. Officer, you got two questions.
13 Did the female approach you before or after the gunshots?

14 THE WITNESS: It was after the gunshots.

15 THE COURT: And how much time took place between the
16 two events?

17 THE WITNESS: I would say 30 minutes.

18 THE COURT: Okay. Do you have any questions as a
19 result of those questions, Mr. Dickerson?

20 MR. DICKERSON: I do not, Your Honor.

21 THE COURT: Mr. Frizzell, do you have any questions
22 as a result of those questions?

23 MR. FRIZZELL: No, Your Honor.

24 THE COURT: All right. Okay, Officer, thank you so
25 much for your testimony. You can step down. You're excused.

ROUGH DRAFT TRANSCRIPT

1 THE WITNESS: Okay.

2 THE COURT: Okay. Mr. Dickerson, call your next
3 witness.

4 Your Honor, the State will call Detective Chad Embry.

5 THE COURT: Okay.

6 THE MARSHAL: Watch your step. Face the clerk,
7 she's going to swear you in.

8 DETECTIVE CHAD EMBRY, STATE'S WITNESS, SWORN

9 THE CLERK: Thank you. Please be seated. Please
10 state your full name, spelling your first and last name for
11 the record.

12 THE WITNESS: Chad Embry. C-h-a-d, E-m-b-r-y.

13 THE COURT: Your witness.

14 Thank you, Your Honor.

15 DIRECT EXAMINATION

16 MR. BUNNETT?

17 Q Good morning -- or good afternoon, sir, I should
18 say.

19 A Good afternoon.

20 Q What do you do for a living?

21 A I'm a detective with Las Vegas Metro Police
22 Department.

23 Q And what's your current assignment?

24 A I'm with quality assurance.

25 Q Okay. How long have you been an officer for Metro?

ROUGH DRAFT TRANSCRIPT

1 A 17 years.

2 Q Okay. And back in January 28th of 2016, what was
3 your assignment?

4 A I was working as a detective in the Northeast Area
5 Command.

6 Q Okay, and were you working that day?

7 A Yes.

8 Q Were you working in the morning of that day?

9 A Yes.

10 Q Okay. And during work, were you brought to 265
11 North Lamb, Unit F here in Las Vegas, Clark County, Nevada?

12 A Yes, I was.

13 Q Okay, and what brought you out there?

14 A To assist patrol officers on a search warrant.

15 Q Okay, and what was the search warrant of?

16 A It was an ongoing investigation of a vehicle stop
17 that was -- the patrol officers had conducted, which led into
18 a potential search warrant for a residence.

19 Q So did you assist in the search of the car, or did
20 you assist in the search of the residence?

21 A For the residence.

22 Q Okay. What specific areas of the residence did you
23 search?

24 A I searched the bedroom area and outside storage area
25 that was attached to the residence.

ROUGH DRAFT TRANSCRIPT

1 Q Okay, I want to start with the storage area.

2 MR. BUNNETT: All right. And Your Honor, I have in
3 my hand what's been previously marked and not yet been
4 admitted -- admitted into evidence as State's Proposed 42 and
5 43. For the record, I'm showing them to Mr. Frizzell. May I
6 approach the witness with these?

7 THE COURT: Yes.

8 BY MR. BUNNETT:

9 Q All right, Detective, I'm showing you what's been
10 previously marked as State's Proposed 42 and 43. Do you
11 recognize what's being depicted in these exhibits?

12 A Yes.

13 Q Again, what's that?

14 A That's the outside storage unit of the residence.

15 Q And is that the unit you searched?

16 A Yes.

17 Q And is that a fair and accurate depiction of the
18 storage unit that you had searched?

19 A Yes.

20 MR. BUNNETT: Your Honor, at this time, I'd move to
21 admit State's Proposed 42 and 43 into evidence.

22 THE COURT: Any objection?

23 MR. FRIZZELL: No, Your Honor.

24 THE COURT: It will be admitted.

25 (State's Exhibits 42 and 43 are admitted)

ROUGH DRAFT TRANSCRIPT

1 BY MR. BUNNETT:

2 Q All right, so this is the storage closet you
3 searched?

4 A Yes.

5 Q Okay. I'm going to show you State's 42. Okay, and
6 did you find anything of significance in this storage closet?

7 A Yeah, I located three boxes of Remington .22 short
8 ammunition.

9 Q Okay, and I'm going to show you State's 43. Can you
10 indicate where you found the .22 short ammunition?

11 A It was in the bottom of the closet, I believe.

12 Q Okay. Was it in a box or something?

13 A Yeah.

14 Q Okay. And how many boxes of the .22 short
15 ammunition were there?

16 A It was -- there were three boxes that were located.

17 Q Okay.

18 MR. BUNNETT: And Your Honor, may I approach Madam
19 Clerk?

20 THE COURT: Yes.

21 (Pause in the proceedings)

22 MR. BUNNETT: May I approach the witness?

23 THE COURT: Yes.

24 BY MR. BUNNETT:

25 Q Sir, I'm showing you what's been previously admitted

ROUGH DRAFT TRANSCRIPT

1 into evidence as State's 89 and 89A. I'm going to ask you to
2 take 89A out of the envelope. And do you recognize those?

3 A Yes.

4 Q Okay, and are those the -- is that the ammunition
5 you recovered from the storage shed?

6 A Yes.

7 Q Okay. If you could hold that up for the jury and
8 show them.

9 All right. Thank you, sir. And sir, what is your
10 background, training, and experience as it comes to -- as it
11 comes to firearms?

12 A Being a police officer for 17 years, just normal
13 qualifying every quarter with firearms, coming into contact,
14 obviously, multiple types of firearms in the course of my --
15 my job as a police officer.

16 Q Okay. And are you familiar with what kind of gun
17 would fit .22 caliber short ammunition?

18 A Typically, a pistol.

19 Q Okay, and so typically a handgun?

20 A Yes.

21 Q All right. So let's move onto the bedroom area.
22 You mentioned you had searched the bedroom area?

23 A Yes.

24 Q What did you find in the bedroom?

25 A I located a .9 millimeter handgun on the bottom of

ROUGH DRAFT TRANSCRIPT

1 the bedroom closet, I located some paperwork in the bedroom,
2 and those are the two items that I located in the bedroom.

3 Q Okay. How was the firearm placed when you found it?

4 A It was in the bottom of the bedroom closet in a --
5 in a container --

6 Q Okay.

7 A -- a manufacturer's container, gun box that they
8 typically come in when you purchase a firearm.

9 Q All right.

10 A Which would have been a black plastic box.

11 MR. BUNNETT: May I approach?

12 THE COURT: Yes.

13 BY MR. BUNNETT:

14 Q All right, I'm showing you what's been admitted as
15 State's 88. Do you recognize this box?

16 A Yes.

17 Q What's that box?

18 A It's a Ruger handgun box.

19 Q Okay. And if you open the box, do you recognize
20 what's in there?

21 A A black Ruger, appears to be a .9 millimeter
22 handgun.

23 Q Okay, and is that the handgun you found?

24 A Yes.

25 Q You mentioned paperwork. Do you remember what the

ROUGH DRAFT TRANSCRIPT

1 specific paperwork was?

2 A It was a pay stub in the name of Christopher Keller.

3 Q Okay.

4 MR. BUNNETT: Court's indulgence, Your Honor. A
5 couple more questions.

6 BY MR. BUNNETT:

7 Q Were you also tasked with taking -- with taking a
8 buccal swab?

9 A Yes.

10 Q Okay. What's a buccal swab?

11 A It's just a DNA collection that we take from
12 potential suspects. It basically amounts to a toothbrush type
13 of item that's rubbed against the inside of the mouth and
14 sealed in a container later to be processed for DNA.

15 Q Is it taken from the cheek?

16 A From the inside of the cheek, correct.

17 Q Okay, and did you take a buccal swab in this case?

18 A Yes.

19 Q Okay, and do you see who you took a buccal swab from
20 in court today?

21 A Yes.

22 Q Could you please point to that individual and
23 identify an article of clothing that he or she is wearing?

24 A He's wearing a blue shirt.

25 MR. BUNNETT: And Your Honor, I would ask that the

ROUGH DRAFT TRANSCRIPT

1 record reflect that the witness has identified the defendant.

2 THE COURT: It shall.

3 MR. BUNNETT: Okay.

4 BY MR. BUNNETT:

5 Q And were you wearing gloves when you collected that
6 swab?

7 A Yes.

8 Q What did you do with that swab?

9 A I sealed and placed into evidence.

10 Q Okay. And I want to go back to the gun really
11 quick. When you handled the gun, did you take any protective
12 measures to prevent contamination?

13 A Yes, I was wearing latex gloves.

14 Q Okay, and so you wore those the entire time you
15 handled the gun?

16 A Yes.

17 MR. BUNNETT: Court's indulgence.

18 THE COURT: Which gun are you talking about? The
19 one he found?

20 MR. BUNNETT: Yes.

21 THE COURT: Okay.

22 BY MR. BUNNETT:

23 Q And when I say "gun," you're referring -- I'm
24 referring to the .9 millimeter; is that correct?

25 A Correct.

ROUGH DRAFT TRANSCRIPT

1 Q So you handled the .9 millimeter with gloves?

2 A Yes.

3 MR. BUNNETT: Nothing further, Your Honor.

4 THE COURT: All right, thank you. Cross?

5 CROSS-EXAMINATION

6 BY MR. FRIZZELL:

7 Q Now, Officer, where -- or, I'm sorry, Detective.

8 Where is this storage area in relation to the unit itself?

9 A If you were looking directly at the unit, you have
10 your front door, and the storage unit is on an exterior wall
11 to the north of the front door.

12 Q Was there access to it from inside the unit, or only
13 outside?

14 A No, only outside.

15 Q And you testified that the .22 shells that were just
16 recently admitted, you say they typically go to pistols; is
17 that correct?

18 A To my knowledge, .22 shorts typically are fired from
19 handguns.

20 Q But they can be fired out of rifles as well, you
21 would agree?

22 A Yes.

23 Q Now, you say that -- did -- did you have occasion --
24 was the bathroom part of your search area, or was that not the
25 part that you looked at?

ROUGH DRAFT TRANSCRIPT

1 A No.

2 Q Okay, so you didn't go in a bathroom at all?

3 A No.

4 Q You went in that storage unit?

5 A Well, it's -- if I can -- it's one room. The
6 bedroom and the bathroom's kind of one area. Did I search the
7 bathroom? I did not search the bathroom.

8 Q Okay.

9 A I searched the bedroom and closet specifically.

10 Q Okay. Bedroom and closet, okay, and then of course
11 this outside storage?

12 A Correct.

13 Q So, in the bedroom, how many dressers were in the
14 bedroom? Or were there any dressers in the bedroom that you
15 recall?

16 A I don't recall off the top of my head.

17 Q Okay. Were you tasked with searching through the
18 drawer -- the dresser drawers?

19 A If they were in the bedroom, yes.

20 Q Okay, but you don't remember how many dressers?

21 A I don't.

22 Q If I said there was two, would that -- would that
23 sound fair?

24 A That would sound fair.

25 Q Okay. And so you would have been the one that

ROUGH DRAFT TRANSCRIPT

1 actually searched through both of them?

2 A There were multiple people there that were assisting
3 in the search. Again, off the top of my head, I don't recall
4 which drawers I would have searched, or if I would have
5 searched through drawers.

6 Q Okay. So your answer is you're not -- you're not
7 sure if you were the one that searched at all in those
8 drawers?

9 A In the drawers, correct.

10 Q Okay. So you couldn't tell me the contents of any
11 of those drawers?

12 A No.

13 Q Do you know -- do you know who would have been the
14 one to search those drawers, or who would have searched those
15 drawers?

16 A Not off the top of my head, no.

17 Q Okay, but it wasn't you?

18 A Correct.

19 Q Okay. Now, you searched both closets, did you say?

20 A I searched the closet off of the -- next to the bed
21 in the bedroom.

22 Q Okay. And the -- that's where you say that you
23 found the .9 millimeter --

24 A Yeah.

25 Q -- in the box, correct?

ROUGH DRAFT TRANSCRIPT

1 A Correct.

2 Q Okay. And that was -- was it out in the open? Was
3 it covered with clothes?

4 A It was laying just on the floor of the bedroom --

5 Q Okay, were there --

6 A -- closet.

7 Q Were there clothes in that -- was it -- you say it
8 was on the floor, correct?

9 A Yes.

10 Q Okay. Were there clothes in that closet?

11 A Yes.

12 Q And were they on the floor?

13 A I believe there were some on the floor.

14 Q Okay. Did you have occasion to look at those
15 clothes?

16 A I did.

17 Q Okay. And so, but they weren't -- these clothes you
18 say were not -- when you looked, they were not covering the
19 box with the gun?

20 A I don't believe so, no.

21 Q Okay. Okay, well, do you recall if they were or
22 not?

23 A I -- I recall the gun laying on the floor uncovered.

24 Q Inside the box?

25 A Inside the box.

ROUGH DRAFT TRANSCRIPT

1 Q So with the box that you saw initially?

2 A Correct.

3 Q Okay. So you didn't have to move any clothes?

4 A Not that I recall.

5 Q Okay. So you didn't have to move any girls clothes
6 or anything like that?

7 A Not that I recall.

8 Q Okay. Do you recall if they were girls clothes?

9 A I don't recall any girls clothes in the closet.

10 Q Okay. Did you actually secure any of the clothes?
11 Were those of any evidentiary value to you?

12 A I did not.

13 Q So if they were in the way, you would have just kind
14 of pushed them, and pushed them out of the way, maybe, to get
15 to the box, or?

16 A Again, I don't recall moving any clothes. I just
17 recall the gun box being on the floor of the bedroom closet.

18 Q Okay. Did the closet just have a door, or was there
19 sliding doors?

20 A It had a sliding door.

21 Q Okay. And was the closet otherwise illuminated when
22 you opened that door?

23 A No.

24 Q Okay. Did you -- do you recall seeing a light in
25 the closet, or you just -- you know there was no light?

ROUGH DRAFT TRANSCRIPT

1 A I don't recall seeing a light.

2 Q Okay. And in any event, even if there was one, it
3 wasn't on?

4 A I -- I'm assuming, because it was a small closet, it
5 wasn't a walk-in type closet. It was a small older style
6 closet with a sliding door, which typically doesn't have a
7 light, so I don't recall a light being in the closet or
8 turning a light on or off.

9 Q Okay. So what you're saying is you really didn't
10 pay too much attention to the clothes once you saw that box?

11 A The clothes were searched through to make sure there
12 was no contraband, or additional firearms, or anything in the
13 clothes, but nothing extraordinary stuck out to me --

14 Q Okay.

15 A -- about the clothes.

16 Q So you could -- could you -- you couldn't tell
17 whether they were guys or girls clothes?

18 A I don't recall seeing any women's clothes. I only
19 recall seeing male clothes.

20 Q Okay.

21 MR. FRIZZELL: Court's indulgence.

22 BY MR. FRIZZELL:

23 Q How -- do you recall, in this particular closet,
24 where you found the .9 millimeter, was it -- were there a
25 bunch of clothes in there, or was it very sparse? Was there

ROUGH DRAFT TRANSCRIPT

1 just like a few pieces of clothing, or was it -- was it full?

2 A It wasn't full. I don't recall exactly how much was
3 in there. I'd have to look at a photo, I guess, to remind --
4 to --

5 Q Did it have a rod in it that had clothes hanging, do
6 you recall?

7 A Yes, I do believe it did have some clothes hanging.

8 Q And did you look through those clothes?

9 A Yes.

10 Q Any girls' clothes in that?

11 A I don't recall any women's clothes.

12 Q Not that there weren't any; you just don't recall
13 there was any, correct?

14 A Correct.

15 Q Okay. But yet, you did search the other closet as
16 well?

17 A No.

18 Q You were not the one that searched the closet that
19 did not have the .9 millimeter?

20 A Correct.

21 Q Someone else did?

22 A Yes.

23 Q Do you recall who would have searched that?

24 A I do not.

25 Q Okay. So you didn't look in that one at all?

ROUGH DRAFT TRANSCRIPT

1 A No, sir.

2 MR. FRIZZELL: All right, nothing further.

3 THE COURT: Mr. Bunnett?

4 MR. BUNNETT: Nothing further, Your Honor.

5 THE COURT: Any further? Okay. Detective, thank
6 you so much for your testimony. You can step down. You're
7 excused. Okay. Do you have another witness?

8 MR. DICKERSON: Yes, Your Honor. State would call
9 Allison Rubino.

10 THE COURT: Okay. Is everyone doing all right? Do
11 we need to take a break? No? Ms. Hicks, do you think you
12 need a break?

13 JUROR NO. 6: No, I'm good.

14 THE COURT: Okay, okay.

15 JUROR NO. 6: We'll be done in an hour (inaudible)?

16 THE COURT: We're going to be done -- we're going to
17 be done in an hour or earlier.

18 JUROR NO. 6: Okay, we good.

19 THE COURT: Okay.

20 JUROR NO. 6: Thank you.

21 THE MARSHAL: Watch your step. Face the clerk,
22 she'll swear you in.

23 ALLISON RUBINO, STATE'S WITNESS, SWORN

24 THE CLERK: Thank you. Please be seated. Please
25 state your full name, spelling your first and last name for

ROUGH DRAFT TRANSCRIPT

1 the record.

2 THE WITNESS: My name is Allison Rubino.

3 A-l-l-i-s-o-n, R-u-b-i-n-o.

4 THE COURT: Your witness, Mr. Dickerson.

5 MR. DICKERSON: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. DICKERSON:

8 Q How are you employed, ma'am?

9 A I am a Forensic Scientist 2 at the Las Vegas
10 Metropolitan Police Department Forensic Laboratory.

11 Q How long have you been employed in that capacity?

12 A I've been here in Las Vegas since January of 2014,
13 so a little over three years.

14 Q Okay. And what are your duties there at the Las
15 Vegas Metropolitan Police Department Forensic Lab?

16 A I'm assigned to the biology DNA detail, and in that
17 detail, we examine evidence for the presence or absence of
18 biological material, and then conduct DNA analysis on those
19 samples, as well as other samples as they're requested to our
20 detail of the lab.

21 Q What sort of training and education do you have to
22 be in this position?

23 A I have a Bachelor's of Science of Biochemistry from
24 the University of Scranton in Pennsylvania, and I have a
25 Master's of Science in Forensic Science from the University of

ROUGH DRAFT TRANSCRIPT

1 New Haven in Connecticut.

2 Q And do you have any specific study about DNA in that
3 education?

4 A As part of the forensic science master's degree, we
5 kind of decide whether or not we want to go into an
6 investigative route or a lab route, and I chose the laboratory
7 route and focus primarily on DNA.

8 Q So in your time with Metro, have you conducted any
9 sort of DNA analyses?

10 A Yes, I have.

11 Q And what does that entail?

12 A So, with DNA analysis, when we get a case, we will
13 screen evidence as necessary for any biological material, and
14 after that, we do a series of laboratory steps. So the first
15 step is called an extraction where we isolate any DNA that may
16 be present on a sample. After we isolate the DNA, we want to
17 quantify it, see how much DNA is present, and once we've done
18 that, we ultimately want to put the DNA through a DNA copy
19 machine, where we'll make millions and millions of copies of
20 certain parts of the DNA, and we run it through an instrument
21 that takes pictures of it. And when we put those pictures
22 together, we create the DNA profile.

23 Q So, it might be basic, but what is DNA?

24 A DNA stands for deoxyribonucleic acid. It's a
25 compound that's found in nearly cell within our body. We

ROUGH DRAFT TRANSCRIPT

1 inherit half of our DNA from our mom and half from our dad,
2 and what ultimately DNA carries is the instructions and
3 information that makes us the individuals that we are, from
4 our hair, and our eye color, our height, the size of our
5 organs, things of that nature.

6 Q So where is DNA found in humans?

7 A It can be found in the skin, it can be found in
8 blood, other body fluids like semen and saliva. Nearly every
9 cell that is in your body, with the exception of red blood
10 cells.

11 Q So if DNA is on the human body and in the human
12 body, how is it that we're able to test other objects with
13 DNA?

14 A Well, what happens when you get a cut or a scrape,
15 you bleed on the table. We can do DNA analysis on maybe a
16 swab from that table because you left behind blood. Let's say
17 you -- when you go home every day and you put your hand on a
18 doorknob, when you put your hand on that doorknob, because the
19 DNA is in certain skin cells, if you kind of shed your skin
20 cells onto that doorknob, you're going to be leaving behind,
21 in some respect, some DNA.

22 Q So what's the difference between the doorknob DNA
23 and the blood that's left behind DNA?

24 A The blood DNA is from -- comes from within your
25 body. A DNA from the doorknob is what we sometimes will --

ROUGH DRAFT TRANSCRIPT

1 you'll hear touch DNA, and that DNA is very variable, just
2 because of the nature of -- there are so many environmental
3 factors involved in shedding DNA from the skin.

4 Q So what do you mean by that, that it's variable?

5 A Well, if I were to scratch somebody's arm, I'm
6 having direct contact with someone's skin, where I'll be able
7 to take off skin cells very readily. If I'm just touching a
8 doorknob, for example, so many other people come in contact
9 with that doorknob, so I might not be the only one leaving
10 behind that DNA. If it's -- if it's really warm out and I'm
11 sweating, maybe then I will leave a lot of DNA, because with
12 that sweat is going to come skin cells. If it's very cold,
13 I'm not going to be sweating as much, and therefore, I might
14 not leave behind DNA. There are a bunch of different factors
15 in regards to how easily you shed DNA, what the temperature is
16 like outside, what other environmental conditions are like.
17 So we consider it very variable.

18 Q So if I were to bleed onto this podium here versus
19 touching this podium, the blood would be more likely to find
20 DNA than the touch?

21 A Probably, yes.

22 Q Okay. Now, you also mentioned just there about
23 multiple people touching a certain object and touch DNA. What
24 does that do?

25 A What that will do -- it depends. Depending on the

ROUGH DRAFT TRANSCRIPT

1 person, depending on how many people, you may have -- you may
2 -- we may get a profile that contains multiple people in there
3 because so many people have touched a certain item and left
4 behind their DNA on a certain item.

5 Q And does that cause any problem for you as the
6 examiner?

7 A Depending on how much DNA is essentially in that
8 sample, it may result in the inability to interpret certain
9 DNA profiles we obtain.

10 Q So what sort of results can you get in your
11 analysis?

12 A We really have one of two options. We can either
13 get a single-source profile, which is a DNA profile that comes
14 from one contributor, or we can get a mixture DNA profile,
15 which is consistent with being from more than one contributor.

16 Q And then, when you analyze either a mixture or a
17 single-source against a known source, what can you ultimately
18 conclude?

19 A Well, when we're doing our comparisons with any
20 known DNA profiles we have, we can make inclusions, and we can
21 make exclusions, or, depending on that evidence sample
22 profile, we might not be able to make any conclusions at all.

23 Q So how is it that the DNA analysis actually done
24 with a known sample versus what you've just (inaudible)?

25 A Okay. So if I have -- if I have a single-source

ROUGH DRAFT TRANSCRIPT

1 profile and I have a known DNA profile, we look at a certain
2 number of locations on the DNA. After I've generated both
3 profiles, I make my evidence interpretation first, and then,
4 after I've done that, I will go side by side and compare the
5 profile at each location. If -- if I go down each location, I
6 may match, then we say that question or evidence sample is
7 consistent with this known sample. If I find any location
8 that isn't consistent, then we can say that that known person
9 is excluded from being part of that profile.

10 Q So, did you conduct a DNA analysis reference this
11 case?

12 A Yes, I did.

13 Q And is that specifically reference an event number
14 that the Las Vegas Metropolitan Police Department uses?

15 A Yes.

16 Q And that'd be 1601280259?

17 A Yes.

18 Q And is that event number found on the evidence bags
19 where the evidence is stored?

20 A Correct.

21 Q And do you -- how is it that you get evidence to end
22 up conducting an analysis?

23 A Okay. That evidence is found at the main Las Vegas
24 vault where all the evidence is kept. So when I get a
25 request, I will call up the evidence, and the employees at the

ROUGH DRAFT TRANSCRIPT

1 evidence vault will bring that evidence to the lab, where it
2 goes into my custody, and we do electronic custody. And once
3 it's in my custody, I'll keep it in the -- in the laboratory.
4 We have our own small DNA vault, which is behind a key card
5 access and a push pad access, so -- and then within that is an
6 evidence locker that I have the key for. So, once it's in my
7 custody, we keep it in a secure location as the lab has.

8 Q So, as part of this case, were you requested to take
9 a look at two items; namely, Ruger handgun, and magazine, and
10 a Baretta handgun?

11 A As well as a reference standard, yes.

12 Q And what was the reference standard?

13 A The reference standard was a known DNA sample from
14 Christopher Keller.

15 Q And how is it that a known DNA sample is generally
16 obtained?

17 MR. FRIZZELL: I'm going to object, Your Honor. We
18 need to approach.

19 THE COURT: Okay.

20 (Off-record bench conference)

21 THE COURT: All right, Mr. Dickerson, go ahead.

22 BY MR. DICKERSON:

23 Q Ms. Rubino, did the known DNA source from the
24 individual in this case come from a buccal swab?

25 A Yes, it did.

ROUGH DRAFT TRANSCRIPT

1 Q And that was a buccal swab that was collected and
2 impounded under the event number that we just spoke of?

3 A I believe so, yes.

4 Q Okay, as well as the guns?

5 A Yes.

6 Q Okay. And we heard about what a buccal swab is and
7 how it's taken. How is it that you use the buccal swab?

8 A Well, after I've processed evidence, so in this
9 case, the two guns and the magazine; after I've -- after I've
10 done my work with those, examining those items, I will examine
11 any reference standards I have. When we're doing analyses, we
12 make sure to separate when we do evidence samples from any
13 known samples, so I will spend a week doing my question
14 samples and processing them, taking them, opening them one at
15 a time, and then after all that is done, I'll go back and
16 start examining the reference standards.

17 Q So, in this case, you specifically got a Ruger
18 handgun as one of the items you were going to analyze; is that
19 right?

20 A Correct.

21 Q Showing you now what's already been admitted as
22 State's Exhibit 88 and its contents inside, do you recognize
23 this tag on State's Exhibit 88?

24 A Yes, I do.

25 Q And how is it that you recognize it?

ROUGH DRAFT TRANSCRIPT

1 A Well, this has a tag, and it has our laboratory
2 number, our laboratory item number, and then my initials, my
3 personnel number, and the date that I analyzed it.

4 Q And that's on the evidence tag?

5 A Yes.

6 Q And so what does that indicate about this item?

7 A That it was in my custody at some point.

8 Q Okay. And is that normal when you receive something
9 in your custody that you mark it?

10 A Yes, we'll mark it.

11 Q I also see that there's a blue piece of tape on here
12 that says "Evidence." What is that?

13 A So, normally, the packages we receive are paper
14 bags, sometimes envelopes in which, when we're sealing, we'll
15 close the seal with a laboratory-specific tape, which is the
16 blue and -- blue and white tape on this tag. Because this was
17 a different container than we normally receive, we want to
18 make sure that we have some sort of seal on there so that we
19 know that, after it's been here, if that seal has been broken,
20 somebody else has gotten into it.

21 Q So when you see this, was the seal broken?

22 A No.

23 Q Okay. And inside of it, there was a gun?

24 A Yes.

25 Q The .9 millimeter Ruger?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q And what, if anything, did you do to start an
3 analysis on that Ruger?

4 A What I did was just essentially look at it, make
5 documentation on it, and then I prepared a swab -- or I
6 swabbed some of the textured areas, including the grips and
7 the trigger, which is good areas that we usually swab on
8 firearms for DNA, because the trigger is a small surface, and
9 it's something that, if a sample is submitted for latent
10 prints, they wouldn't be able to really get too much off of
11 that. Grips on a gun are usually textured, and that's also a
12 place where latent prints wouldn't be. So, with grips, they
13 have these textured surfaces, which is a good place for DNA,
14 because it's going to rub up against the skin, and hopefully
15 we'll be able to acquire some skin cells.

16 Q Now, you also received a Baretta handgun --

17 A Correct.

18 Q -- (inaudible) this case? Showing you here what's
19 already been admitted as State's Exhibit 81 and its contents,
20 which are numbered sequentially after that, do you recognize
21 State's Exhibit 81?

22 A Yes, I do.

23 Q And how is it that you recognize it?

24 A I recognize it. It has our laboratory number, our
25 laboratory item number, my personnel number with my initials,

ROUGH DRAFT TRANSCRIPT

1 and the date.

2 Q And does this bag here -- was this containing the
3 .22 handgun, the Baretta?

4 A Yes.

5 Q And is that the gun that you analyzed?

6 A Yes.

7 Q And this blue tape here, does that indicate anything
8 to you as well?

9 A That has my personnel number and initials as well,
10 meaning that I sealed up that -- that evidence.

11 Q So would that have been where you opened the bag
12 from?

13 A Correct.

14 Q And closed the bag?

15 A Correct.

16 Q So upon receiving these two guns, did you also take
17 steps on the Baretta to analyze that?

18 A Similar to that of the Ruger, yes.

19 Q And when you took those swabbings from both guns,
20 were you able to compare them against a reference sample for
21 Christopher Keller?

22 A I could not.

23 Q Okay. You could not compare them?

24 A I could not compare them because the DNA results
25 were inconclusive.

ROUGH DRAFT TRANSCRIPT

1 Q And why is that?

2 A Well, the profiles that I obtained -- we'll start
3 with the Ruger. I obtained a mixture DNA profile that
4 consisted of at least two individuals, one -- at least one
5 being a male, but because I had such limited data, other than
6 those two conclusions, I couldn't make any other conclusions.
7 So, ultimately, this was an inconclusive profile.

8 Q And what about the magazine for the Ruger?

9 A The magazine for the Ruger, I had similar results.
10 I had a mixture DNA profile of at least two individuals, with
11 at least one being a male, but unfortunately, due to the
12 limited data, I couldn't draw any other conclusions.

13 Q What about the Ruger? I'm sorry, the Baretta. I'm
14 sorry.

15 A For the Baretta, I obtained a mixture of two
16 individuals, but due to the limited data, I couldn't make any
17 additional conclusions.

18 Q So, you can't tell me whether Mr. Keller's DNA is on
19 that gun?

20 A No, I cannot.

21 Q And you also can't tell me that his DNA is not on
22 that gun?

23 A It -- the results were inconclusive.

24 Q And that's just due to the profiles not being able to
25 tell the one specific individual?

ROUGH DRAFT TRANSCRIPT

1 A We have certain standard operating procedures and
2 interpretation guidelines in place based on our validated data
3 for our work, and none of these profiles met the
4 specifications in order to make any comparisons to reference
5 standards.

6 MR. DICKERSON: State will pass the witness.

7 THE COURT: Cross?

8 CROSS-EXAMINATION

9 BY MR. FRIZZELL:

10 Q Ms. Rubino, so the bottom line is, is you tested two
11 guns and a magazine, correct?

12 A Correct.

13 Q Okay. And out of those two guns and a magazine, you
14 cannot say that my client -- you did not find my client's DNA
15 on any of those items?

16 A All of my results were inconclusive.

17 Q And inconclusive means that you can't say for sure
18 whose DNA is on there?

19 A Correct.

20 Q Okay. Now, were you given any other items to test,
21 or just these three items?

22 A Those three were the only requested.

23 Q Okay. So you didn't test anything else regarding
24 this case; just those three things?

25 A Just those three things.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. Was there any -- was there anyone else that
2 you know of in your office that was asked to test anything
3 else from this?

4 A Usually, when -- when one person starts a laboratory
5 case, they'll be the ones that get any subsequent requests for
6 testing, so I don't think anybody else would have gotten any
7 requests.

8 MR. FRIZZELL: Okay, perfect. That's all I have.

9 THE COURT: Anything further?

10 MR. DICKERSON: Nothing from the State, Your Honor.

11 THE COURT: Okay. So, Ms. Rubino, it was nice
12 seeing you again.

13 THE WITNESS: Thank you.

14 THE COURT: You can step down. You're excused. Do
15 you have a short witness?

16 MR. BUNNETT: State calls Officer -- or Detective
17 Michael Belmont.

18 THE COURT: Okay.

19 THE MARSHAL: Watch your step up. Face the clerk,
20 she'll swear you in.

21 DETECTIVE MICHAEL BELMONT, STATE'S WITNESS, SWORN

22 THE CLERK: Thank you. Please be seated.

23 THE WITNESS: Thank you.

24 THE CLERK: Please state your full name, spelling
25 your first and last name for the record.

ROUGH DRAFT TRANSCRIPT

1 THE WITNESS: It's Michael Belmont. M-i-c-h-a-e-l,
2 B-e-l-m-o-n-t.

3 THE COURT: Your witness, Mr. Bunnett.

4 MR. BUNNETT: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. BUNNETT:

7 Q Good afternoon, sir.

8 A Good afternoon, sir.

9 Q What do you do for a living?

10 A I'm a detective with Las Vegas Metropolitan Police
11 Department.

12 Q All right. And what's your -- where do you
13 currently work?

14 A At the Northeast Area Command.

15 Q Okay. In what -- in what capacity do you work
16 there?

17 A I'm a detective -- a patrol detective there.

18 Q Okay. Were you working in that capacity on January
19 28th, 2016?

20 A I was.

21 Q Okay. And for how long had you been a -- or how
22 long have you been a Metro officer?

23 A For 13 years.

24 Q Okay. So, on January 28th, 2016 in the morning, did
25 you respond to 265 North Lamb --

ROUGH DRAFT TRANSCRIPT

1 A I did.

2 Q Did you respond to a specific unit there?

3 A There was a patrol unit. I don't know the actual
4 call sign, but there --

5 Q Okay.

6 A -- was a unit already assigned.

7 Q Okay, but did you respond to Unit F in that
8 apartment complex?

9 A There was a -- yes, I do believe it was F.

10 Q Okay. Do you know who else was there?

11 A There was a couple patrol units, and of course we
12 responded with their -- our particular unit as far as the
13 detectives.

14 Q So you all responded together?

15 A That's correct.

16 Q Was Detective Embry with you?

17 A He was.

18 Q Okay. And do you recall the patrol units who were
19 there?

20 A No, sir. There was a primary unit there, and I do
21 believe a secondary unit there.

22 Q Okay, so why did you respond to that location?

23 A There was a patrol unit that had stopped a vehicle,
24 and upon the stop, they were seeking a search warrant in that
25 particular time frame.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. Was the search warrant a search warrant for a
2 car or a search warrant for a house?

3 A It was for a car.

4 Q It was for a car?

5 A Yes, the first search --

6 Q So you actually -- you actually responded when they
7 were just searching the car?

8 A It was after.

9 Q Okay. Did you eventually participate in the search
10 of a house?

11 A I did.

12 Q Okay. And what was your role during that search?

13 A Basically, I inventoried as far as if anybody found
14 anything inside the house, I would annotate and document it,
15 and I did the property report for that particular -- for the
16 items located.

17 Q So, in essence, you're the person who's essentially
18 walking around and writing down where everything's found?

19 A Sort of like a scribe.

20 Q Sort of like a scribe?

21 A Yes, sir.

22 Q Is that what you would typically call it?

23 A No, that's how I would describe it though.

24 Q Okay. Were you also -- did you also participate in
25 a search?

ROUGH DRAFT TRANSCRIPT

1 A I did.

2 Q What area did you search?

3 A Just the immediate area where I stayed in, because
4 it was less congested, was the kitchen, so I sort of just
5 stayed in that area.

6 Q Okay. And what in the kitchen did you search?

7 A Just the cupboards. I'd take a look at the
8 cupboards, and then I'd look through the refrigerator, the
9 oven, that sort of thing.

10 Q Okay. When you looked through the refrigerator --
11 and before I get there, actually, could you -- is this one of
12 those refrigerators with -- is it one with like two doors
13 directly next to each other, or is it one with --

14 A It's a top and bottom. Top was the freezer, bottom
15 was like your open shelf --

16 Q Okay.

17 A -- doors.

18 Q Did you search both of them?

19 A I did.

20 Q Did you find anything in either of them?

21 A I did.

22 Q And where did you --

23 A I found --

24 Q First of all, what did you find?

25 A I found a jar, it was maybe 18 inches tall, and it

ROUGH DRAFT TRANSCRIPT

1 was like a -- like a Mason jar almost. Had a flat top and it
2 had a green leafy substance in it.

3 Q Okay, and did you believe that green leafy substance
4 was any particular substance?

5 A Yes, sir, I believed it to be marijuana.

6 Q Okay.

7 MR. BUNNETT: May I approach Madam Clerk?

8 THE COURT: Yes.

9 MR. BUNNETT: May I approach the witness?

10 THE COURT: Yes.

11 BY MR. BUNNETT:

12 Q All right, I'm showing you what's been previously
13 admitted as State's Exhibit 87.

14 A All right, sir.

15 Q Do you recognize that?

16 A I don't --

17 Q Okay.

18 A -- recognize the parcel, no.

19 Q Okay, but if you feel the parcel, do you -- does
20 that -- do you feel something inside there?

21 A Yeah, it feels like a jar.

22 Q So that, to you, feels like a jar?

23 A Yeah. And it does say, as far as -- and that's my
24 writing right there, "Glass jar with ODV-positive marijuana,
25 188 point (inaudible) grams net."

ROUGH DRAFT TRANSCRIPT

1 Q Okay. I'm also going to show you what's been
2 previously marked as State's Proposed 61. Do you recognize
3 this?

4 A Yes, sir.

5 Q And what's that?

6 A And that is the jar.

7 Q And is that the jar of marijuana you found?

8 A That's correct.

9 Q Is that a fair and accurate depiction of the jar you
10 found?

11 A It is. Yes, sir.

12 MR. BUNNETT: And Your Honor, at this time, State
13 would move to admit State's Proposed 61.

14 THE COURT: Any objection?

15 MR. FRIZZELL: I thought it was -- I thought it had
16 already been admitted. No, no objection.

17 THE COURT: All right.

18 MR. BUNNETT: And permission to publish that, Your
19 Honor?

20 THE COURT: Yes.

21 BY MR. BUNNETT:

22 Q So that's the jar?

23 A That is.

24 Q And are those your hands in the picture?

25 A It may be. I don't know at the time.

ROUGH DRAFT TRANSCRIPT

1 Q Okay.

2 A But I know everyone was gloved up, so if I touched
3 anything, it would have been -- I would have been gloved up
4 also.

5 Q Okay. And in the background, is that the freezer
6 where you found it?

7 A Yes.

8 Q All right.

9 MR. BUNNETT: Nothing further, Your Honor.

10 THE COURT: Cross?

11 MR. FRIZZELL: I guess just -- just one.

12 CROSS-EXAMINATION

13 BY MR. FRIZZELL:

14 Q Officer, do you recall -- I know they took it back.
15 Do you recall what the weight was?

16 A 1 --

17 Q

18 A I think I read 188.4, sir.

19 Q Okay. Were you -- would you have been the one to
20 weigh it?

21 A We actually weighed the properties or the narcotics
22 -- or purported narcotics back at Northeast Area Command.

23 Q But would you have been the one to weigh it?

24 A I'd have to take a look at the ODV test, sir, to see
25 if I actually weighed it.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. Do you know if it was -- if it was -- if the
2 contents were emptied and it was weighed, or if it was weighed
3 with that glass jar?

4 A Well, if it said net, it would have been -- it would
5 have been without the jar.

6 Q Okay, okay. And so it said "net"? Is that what
7 you're saying?

8 A I do believe I read "net."

9 Q Was that your --

10 A So it would have been taken -- it would --

11 Q Sorry.

12 A It would have been taken out of the jar.

13 Q And was that your writing on there -- on that?

14 A It was. Not the top though, just as far as what --

15 Q Okay. Well --

16 A -- was written down --

17 Q -- can I have it back, please? Just so we can
18 identify what portion you're saying is your writing.

19 A I recognize this.

20 Q Again, we're looking at State's Exhibit 87.

21 A That's correct. I recognize this particular
22 handwriting. Now, I don't have my glasses, and I do apologize
23 to the Court for not bringing them, but as far as -- this is
24 not -- these are not my initials. I did not impound this
25 particular property.

ROUGH DRAFT TRANSCRIPT

1 Q Okay.

2 A But I wrote this particular part right here --

3 Q Okay, so basically, where it says "Impounded item
4 description," and then an item number --

5 A That's correct, Item number 4.

6 Q -- which is Item number 4, and then the contents?

7 A Yes, sir. I wrote that.

8 Q That's your writing?

9 A That is my writing.

10 Q But everything above that line --

11 A I don't recognize it.

12 Q -- is not your writing?

13 A No, I just --

14 Q Okay.

15 A -- don't recognize it, sir.

16 Q Okay. So you wouldn't -- you say you wouldn't have
17 been the one that sealed this up?

18 A No, sir. I may not have been the person, because we
19 were helping -- there was a large amount that was located, so
20 we had a lot of people working at that particular time frame.
21 Now, the impounding officer would have been D9806L.

22 Q Okay. Do you know who that is?

23 A No, sir, I don't.

24 Q Okay. And when you filled out this part that you --
25 that you say is your writing --

ROUGH DRAFT TRANSCRIPT

1 A Um-hum.

2 Q -- below the thick black line here, below the thick
3 black line I'm showing the jury, the one line right there
4 below the -- below the black line. Anything below that being
5 yours below what you're saying is your writing?

6 A That -- I do believe those are if individuals take
7 those particular items out. If -- let's say your chain of
8 custody in this particular incidence, someone by those
9 initials and by that particular P number took this particular
10 property out on 9/6 of '16 at this particular time frame.

11 Q Okay. The writing where you're saying that that's
12 your writing --

13 A Um-hum.

14 Q -- was that -- would that have -- would you have put
15 that on there before the rest of this writing, or do you
16 recall?

17 A It's -- I would have put it on before, because I was
18 in charge of the property sheet itself, the property sheet.
19 So I kept track of all the -- as far as Package 1, Item 1;
20 Package 2, Item 2, I had to write that out, because basically,
21 I was the scribe. So I would put that on, and whoever was
22 impounding it at the time after they had done their initial
23 tests would know that this was Item number 4, and four of
24 particularly eight packages total.

25 Q Okay. So once you -- once you put your card on

ROUGH DRAFT TRANSCRIPT

1 here, what do you do with -- what do you do with this?

2 A It's sealed -- it's sealed, and then the individuals
3 sign it off as far as whoever's doing the impound.

4 Q But on this, so --

5 A Um-hum.

6 Q -- you would have -- who would you have -- when you
7 filled this out, this part, who would you have handed it back
8 to?

9 A That would have went to this individual right here,
10 T9806L.

11 Q Okay.

12 A And he would have impounded that particular item.

13 Q Okay. But as we sit here today, you can't tell me
14 who -- who it is that did that?

15 A I'm assuming it might be --

16 Q Well, I don't want you to assume.

17 A Well --

18 Q If you know --

19 A No, I don't know.

20 Q Okay.

21 A I don't know that P number. I'm sorry.

22 Q Okay. All right, all right.

23 MR. FRIZZELL: I have nothing further, Your Honor.

24 THE COURT: Any further?

25 MR. BUNNETT: Yes, Your Honor. And I'm going to ask

ROUGH DRAFT TRANSCRIPT

1 for that exhibit back.

2 THE CLERK: Um-hum.

3 REDIRECT EXAMINATION

4 BY MR. BUNNETT:

5 Q So you didn't impound this, right?

6 A No, sir.

7 Q Okay.

8 MR. BUNNETT: May I approach?

9 THE COURT: Yes.

10 BY MR. BUNNETT:

11 Q Now, you said that the person who did -- who would
12 have impounded it had that D9806L identifier, right?

13 A That's correct.

14 Q Okay. And so it also shows at the bottom of the --
15 lower on here where it says "Chain of Custody" --

16 A Um-hum.

17 Q -- it looks like there's a P number there as well.

18 A That's correct.

19 Q And what's that P number.

20 A 14211.

21 Q Okay. And then, I'm looking at some blue tape. Are
22 you familiar with blue tape?

23 A Not necessarily.

24 Q But do you know what it's typically used for in
25 Metro?

ROUGH DRAFT TRANSCRIPT

1 A No, not necessarily --

2 Q Okay.

3 A -- to be honest.

4 Q But this -- it looks like there's a J14211A written
5 across the tape?

6 A Correct.

7 Q Okay. So, based on Metro's procedures, would that
8 be the person who opened up and resealed that?

9 A That's correct.

10 Q Okay. So I'm going to give this to you, and in a
11 second, I'm going to ask you to open up --

12 MR. BUNNETT: And Madam Clerk, to the right, the
13 right side.

14 THE COURT: Just do it where you're not touching the
15 -- hitting the seams.

16 MR. BUNNETT: Okay.

17 THE COURT: Just do it on one of those corners.

18 THE CLERK: (Inaudible).

19 THE COURT: Yeah, just let her open it.

20 MR. BUNNETT: Okay, we'll let Madam Clerk open it.

21 For the record, that was -- couldn't complete open the bag,
22 but across the same way as the tape.

23 BY MR. BUNNETT:

24 Q And before I give this to you, would you like
25 gloves?

ROUGH DRAFT TRANSCRIPT

1 A If you have them.

2 Q Okay.

3 A But I can look probably just down inside.

4 Q Well, let me get you some.

5 (Pause in the proceedings)

6 BY MR. BUNNETT:

7 Q Okay, so the -- you're holding up what appears to be
8 a jar?

9 A Yes, sir.

10 Q So that was inside State's 87, which has been
11 admitted now into evidence.

12 A Okay.

13 Q Okay? And is that the jar that you found --

14 A Yes, sir.

15 Q -- marijuana in?

16 A It appears to be.

17 Q Okay. And how about -- is there another item inside
18 the --

19 A There is. Did you -- sorry, are you going to open
20 that up?

21 Q So it looks like there's also an ODV test sheet in
22 there?

23 A Yes, sir.

24 Q Okay. And then, finally, there's a package that
25 you're holding in your left hand?

ROUGH DRAFT TRANSCRIPT

1 A Yes, sir.

2 Q Okay.

3 MR. BUNNETT: Court's indulgence.

4 BY MR. BUNNETT:

5 Q All right, I'm going to ask you to put that all back
6 in the bag.

7 A Okay.

8 Q I'm going to show you what's been admitted, again,
9 as State's 61. Now, in your experience, have you ever been
10 involved in stops involving marijuana?

11 A I have.

12 Q Okay. And in your typical experience, when you
13 normally stop somebody for possessing marijuana, is that
14 usually an amount of personal use?

15 A No, that's -- that's pretty high. That's not --

16 Q Okay, well, I meant in your experience when you have
17 stopped somebody, they were possessing the marijuana -- or
18 what you believed was personal use?

19 A No, that's not -- not to me, that's not personal
20 use.

21 Q Okay. So just -- my question's not getting out
22 really the way I want it to get out.

23 A I'm sorry.

24 Q That's okay. This amount is not personal use --

25 A That's correct.

ROUGH DRAFT TRANSCRIPT

1 Q -- in your opinion?

2 A That's correct.

3 Q Okay.

4 MR. BUNNETT: I have nothing further.

5 THE COURT: Recross?

6 MR. FRIZZELL: No, Your Honor.

7 THE COURT: And just for the record, I want to make
8 sure, the bag is 87, the contents, the jar will be 87A, the
9 ODV test will be 87B, and the bag that wasn't opened here is
10 87C. Okay?

11 MR. DICKERSON: Okay. Thank you, Your Honor.

12 THE COURT: All right. Anything -- okay, anything
13 further from the parties? Nothing from -- okay. Detective,
14 thank you so much for your testimony.

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: You can step down. You're excused.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: Okay. Ladies and gentlemen, we're going
19 to take our evening recess.

20 During this evening, once again, you're admonished
21 not to converse amongst yourself or with anyone else on any
22 subject connected with this trial, or read, watch, or listen
23 to any report or commentary on the trial by any person
24 connected with this case, or by any medium of information,
25 including, without limitation, newspapers, television, the

ROUGH DRAFT TRANSCRIPT

1 internet, or radio. You're further admonished not to form or
2 express any opinion on any subject connected with this trial
3 until the case is finally submitted to you.

4 8:30 tomorrow morning, all right? Be here tomorrow
5 8:30. We're going to get started at 8:30. You get the whole
6 -- we don't have a calendar, right? Okay.

7 MR. FRIZZELL: Your Honor, I have a pretty full
8 calendar tomorrow morning.

9 THE COURT: What's that?

10 MR. FRIZZELL: I have a pretty full calendar
11 tomorrow morning.

12 THE COURT: So are we going to wait for your
13 calendar to be done; is that what you want me to do? When are
14 you going to be done?

15 MR. FRIZZELL: I've got a few cases up with Judge
16 Leavitt. They're other appointed cases. I'll do my best.
17 Hold on, I'm pulling up my calendar.

18 THE COURT: She doesn't start a calendar until 9:00.

19 THE CLERK: She starts at 8:30.

20 MR. FRIZZELL: No, she starts at 8:00 now.

21 THE COURT: She starts at 8:30?

22 MR. FRIZZELL: No, she --

23 THE COURT: Okay, I'll give you -- we'll start at
24 9:00. Be here tomorrow at 9:00 o'clock, okay? Thank you.
25 All right. We'll be at ease while the jury leaves the room.

ROUGH DRAFT TRANSCRIPT

1 (Jury recessed at 4:39 P.M.)

2 THE COURT: Okay, we're outside the presence of the
3 jury. During the testimony of Officer Lopez, there was an
4 objection lodged by the defense with regards to Exhibit 85
5 with respect to the five glass smoking pipes; his testimony
6 that those were used and also other ones were found that were
7 new. Mr. Frizzell, do you wish to make a record as to that
8 any further? You objected to it, and I indicated at the bench
9 that, based on what you indicated here, that I wasn't going to
10 overrule the -- I wasn't going to sustain the objection, so.

11 MR. FRIZZELL: And I don't have any other record to
12 make, so.

13 THE COURT: Okay, so are you withdrawing your
14 objection?

15 MR. FRIZZELL: I don't want to withdraw it, but
16 you're overruling it, so --

17 THE COURT: I know, but did you want to make a
18 record as to what you were arguing with respect to that?

19 MR. FRIZZELL: No.

20 THE COURT: All right. Okay. Anything further from
21 the parties?

22 MR. DICKERSON: Just a brief record on our part,
23 Your Honor, that the objection was relevance on Mr. Frizzell's
24 part, that those items are relevant to show the knowledge of
25 the defendant both to the nature of the substance and the

ROUGH DRAFT TRANSCRIPT

1 possession of the substance itself; knowing possession and
2 knowing the nature of it, that's why we admitted those. At
3 the time we were admitting those, there was belief that they
4 were clean, but nonetheless, the clean and the dirty pipes are
5 all relevant, as well as being part of the res gestae of the
6 crime, being found together with the items in these search
7 warrants, especially that they are tools of the trade in both
8 using and possessing and selling these narcotics, Your Honor.

9 THE COURT: Okay.

10 MR. FRIZZELL: Well, and for that, Your Honor,
11 because there was -- because when we opened it, basically,
12 there was only -- there was only dirty in there is why I'm not
13 making anymore of a record, so.

14 THE COURT: Okay. All right, so okay, be here by
15 9:00 o'clock tomorrow. Mr. Dickerson, Mr. Bunnett, I would
16 suggest maybe in the future you got two deputies working.
17 Both of you can be looking at the evidence while the other
18 one's presenting.

19 MR. DICKERSON: Okay.

20 THE COURT: I also would suggest that you write down
21 a list of everything you have, Exhibits 1 through 90, or
22 whatever you have, on a piece of paper you have. That way,
23 you can go right to the number you need, and so when one
24 deputy's questioning, he can tell you -- the other deputy,
25 hey, I'm going to need this, and so you can fumble through it.

ROUGH DRAFT TRANSCRIPT

1 That way, we're not doing it in front of the jury like that,
2 okay?

3 MR. DICKERSON: Absolutely.

4 THE COURT: All right.

5 MR. DICKERSON: So Your Honor doesn't mind if I'm up
6 there while he's questioning then?

7 THE COURT: That's fine. I don't mind. I don't
8 mind --

9 MR. DICKERSON: Thank you very much.

10 THE COURT: -- if you're addressing that. It makes
11 it move a little bit easier, okay?

12 MR. DICKERSON: We'll be doing that tomorrow. Thank
13 you very much, Your Honor.

14 THE COURT: All right. Okay.

15 MR. FRIZZELL: And Your Honor, I just want to tell
16 you, this was a revo that came up, and I just got noticed
17 about it, so that -- I mean, I'll get here as soon as I can --

18 THE COURT: All right, just let her know --

19 MR. FRIZZELL: -- but that's where I'm going to be.

20 THE COURT: Just let her know you're in trial, and
21 we'll wait. We can't go without you.

22 MR. FRIZZELL: That's fine.

23 THE COURT: Okay.

24 MR. FRIZZELL: But I just wanted to let you know it
25 was something that just recently came up.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Okay.

2 MR. FRIZZELL: Otherwise -- I had cleared everything
3 otherwise.

4 THE COURT: Okay. All right, we'll see you tomorrow
5 then, okay?

6 MR. FRIZZELL: Thank you.

7 MR. DICKERSON: Thank you, Your Honor.

8 THE COURT: We're off the record.

9 (Court recessed at 4:42 P.M., until Thursday,
10 March 9, 2017, at 9:14 A.M.

11 * * * * *

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ROUGH DRAFT TRANSCRIPT

INDEXWITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>REXCROSS</u>
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STATE'S WITNESSES:

Off. Daniel Lopez	7	127	165/176	172/--
Det. Chad Embry	178	186		
Allison Rubino	194	206		
Det. Michael Belmont	208	214	219	--
	*	*	*	*

EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
--------------------	-----------------

STATE'S EXHIBITS:

Exhibit 1.	96
Exhibit 2.	116
Exhibits 3, 4 and 5.	11
Exhibits 42 and 43.	180
Exhibits 82A, 82A1, 82A2, 82A3, 82A4, and 82A5.	77
Exhibits 82B1 through 82B4.	65
Exhibit 82B5.	93
Exhibits 83 and 83A.	127
Exhibits 84A through 84C.	42
Exhibit 85 (and contents).	122
Exhibit 86.	108
Exhibit 86A.	109
Exhibits 86B through 86E.	111
Exhibit 87 (and contents).	120
Exhibit 88.	115
Exhibits 88A and 88B.	119
Exhibit 89.	125
Exhibit 89A.	126
Exhibits 90, 90A, 90B, 90C, and 90D.	113
Exhibits 91 and 91A.	94
Exhibits 92 and 92A.	115

ROUGH DRAFT TRANSCRIPT

* * * * *

ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

Julie Lord

JULIE LORD, INDEPENDENT TRANSCRIBER

ROUGH DRAFT TRANSCRIPT

11/14/2017 3:35 PM

Steven D. Grierson

CLERK OF THE COURT

Steven D. Grierson

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Christopher Keller

Petitioner/Plaintiff,

v.

STATE OF NEVADA

Respondent/Defendant.

Case No. C-16-312717-1Dept. No. XIX

Docket No. _____

NOTICE OF MOTIONTO: THE STATE OF NEVADA, Respondent/Defendant, MichaelDickerson, County District Attorney, and Kenneth G.Frizzell III, Esq.YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on the 6 day of _____Dec., 2017, at the hour of 9:00 O'clock A.M., or as soon thereafter asthe parties may be heard, the undersigned will bring on for hearing the attached **MOTION FOR****WITHDRAWAL OF ATTORNEY OF RECORD**, before the above-entitled Court, at the

_____, Courthouse, in _____, Nevada, in

Department No. V, thereof.DATED this 29th day of October, 2017.

Respectfully submitted,

Christopher Keller

Petitioner/Plaintiff

Ely State Prison

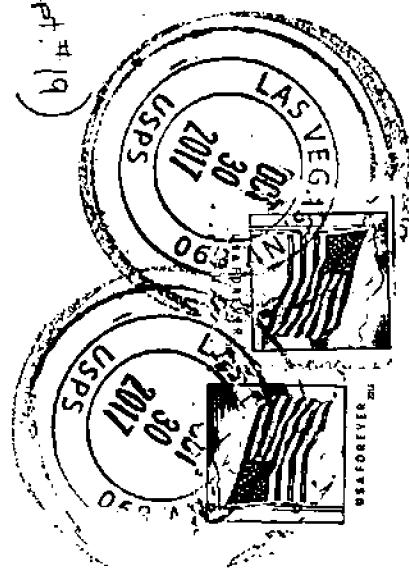
P.O. Box 1989

Ely, Nevada 89301-1989

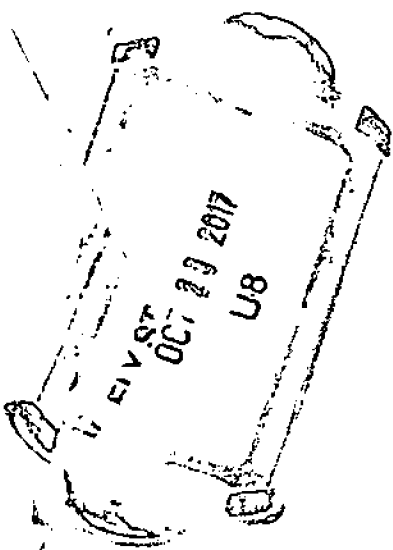
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CLERK OF THE COURT

Christopher Keller #81840
E.S.P. P.O. Box #1989
Elly, NV 89301

Court Clerk (D.C. Dept. #19)
200 Lewis Ave.
Las Vegas, NV 89155-1160



8910136300 0075



Sp

Steven D. Grierson

DA
P.P.
AOR
Fitzell
Kenneth
MC

Case No. C-16-312717-1

Dept. No. XIX

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK.

CHRISTOPHER R. KELLER
Petitioner,

**MOTION FOR THE APPOINTMENT
OF COUNSEL**

12-06-17 @ 9:00 am

-VS-

STATE OF NEVADA
Respondents

REQUEST FOR EVIDENTIARY HEARING

COMES NOW, the Petitioner, Christopher Keller, proceeding pro se, within the
above entitled cause of action and respectfully requests this Court to consider the appointment of counsel
for Petitioner for the prosecution of this action.

This motion is made and based upon the matters set forth here, N.R.S. 34.750(1)(2), affidavit of
Petitioner, the attached Memorandum of Points and Authorities, as well as all other pleadings and
documents on file within this case.

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF THE CASE

This action commenced by Petitioner Christopher Keller, in state custody,
pursuant to Chapter 34, et seq., petition for Writ of Habeas Corpus (Post-Conviction).

II. STATEMENT OF THE FACTS

To support the Petitioner's need for the appointment of counsel in this action, he states the
following:

1. The merits of claims for relief in this action are of Constitutional dimension, and
Petitioner is likely to succeed in this case.

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2. Petitioner is incarcerated at the Ely State Prison in Ely, Nevada. Petitioner is unable to undertake the ability, as an attorney would or could, to investigate crucial facts involved within the Petition for Writ of Habeas Corpus.
3. The issues presented in the Petition involves a complexity that Petitioner is unable to argue effectively.
4. Petitioner does not have the current legal knowledge and abilities, as an attorney would have, to properly present the case to this Court coupled with the fact that appointed counsel would be of service to the Court, Petitioner, and the Respondents as well, by sharpening the issues in this case, shaping the examination of potential witnesses and ultimately shortening the time of the prosecution of this case.
5. Petitioner has made an effort to obtain counsel, but does not have the funds necessary or available to pay for the costs of counsel, see Declaration of Petitioner.
6. Petitioner would need to have an attorney appointed to assist in the determination of whether he should agree to sign consent for a psychological examination.
7. The prison severely limits the hours that Petitioner may have access to the Law Library, and as well, the facility has very limited legal research materials and sources.
8. While the Petitioner does have the assistance of a prison law clerk, he is not an attorney and not allowed to plead before the Courts and like Petitioner, the legal assistants have limited knowledge and expertise.
9. The Petitioner and his assisting law clerks, by reason of their imprisonment, have a severely limited ability to investigate, or take depositions, expand the record or otherwise litigate this action.
10. The ends of justice will be served in this case by the appointment of professional and competent counsel to represent Petitioner.

II. ARGUMENT

Motions for the appointment of counsel are made pursuant to N.R.S. 34.750, and are addressed to the sound discretion of the Court. Under Chapter 34.750 the Court may request an attorney to represent any

such person unable to employ counsel. On a Motion for Appointment of Counsel pursuant to N.R.S. 34.750, the District Court should consider whether appointment of counsel would be of service to the indigent petitioner, the Court, and respondents as well, by sharpening the issues in the case, shaping examination of witnesses, and ultimately shortening trial and assisting in the just determination.

In order for the appointment of counsel to be granted, the Court must consider several factors to be met in order for the appointment of counsel to be granted; (1) The merits of the claim for relief; (2) The ability to investigate crucial factors; (3) whether evidence consists of conflicting testimony effectively treated only by counsel; (4) The ability to present the case; and (5) The complexity of the legal issues raised in the petition.

III CONCLUSION

Based upon the facts and law presented herein, Petitioner would respectfully request this Court to weigh the factors involved within this case, and appoint counsel for Petitioner to assist this Court in the just determination of this action

Dated this 29th day of October, 2017.

Ely State Prison
P.O. Box 1989
Ely, Nevada 89301

Christopher Keller
Petitioner.

VERIFICATION

I declare, affirm and swear under the penalty of perjury that all of the above facts, statements and assertions are true and correct of my own knowledge. As to any such matters stated upon information or belief, I swear that I believe them all to be true and correct.

Dated this 29th day of October, 2017.

Christopher Keller
Petitioner, pro per.

Chris

CERTIFICATE OF SERVICE BY MAIL

I, Christopher Keller, hereby certify pursuant to N.R.C.P.

5(b), that on this 29th day of October, of the year 20 17, I mailed a true and correct copy of the foregoing, MOTION FOR THE APPOINTMENT OF COUNSEL; REQUEST FOR EVIDENTIARY HEARING, to the following:

William Kephart
Name

Name

Name

Court Clerk (Det. 19)
200 Lewis Ave.
LAS VEGAS, NV 89155-1160
Address

Address

Address

Christopher Keller
Petitioner

AFFIRMATION PURSUANT TO NRS 239B.030

I, Christopher Keller, NDOC# 81840,

CERTIFY THAT I AM THE UNDERSIGNED INDIVIDUAL AND THAT THE
ATTACHED DOCUMENT ENTITLED Motion for the appointment
of counsel & request for evidentiary hearing,

DOES NOT CONTAIN THE SOCIAL SECURITY NUMBER OF ANY
PERSONS, UNDER THE PAINS AND PENALTIES OF PERJURY.

DATED THIS 29th DAY OF October, 20 17.

SIGNATURE:

Chris Keller

INMATE PRINTED NAME: Christopher Keller

INMATE NDOC # 81840

INMATE ADDRESS: ELY STATE PRISON
P. O. BOX 1989
ELY, NV 89301

56

Steven D. Grierson

PA
PP
AOR
Frizzell
Kenneth
G
MC

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK

Christopher Keller

Petitioner/Plaintiff,

vi.

State of Nevada

Respondent/Defendant.

Case No. C-16-312717-1

Dept. No. XIX

Docket No. _____

12-06-17 @ 9:00 am

**MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD OR IN THE
ALTERNATIVE, REQUEST FOR RECORDS/COURT CASE DOCUMENTS**

COMES NOW, Petitioner/Plaintiff, Christopher Keller, pro per,
and respectfully moves this Honorable Court for it's Order withdrawing Kenneth G.
Frizzell III, Esq., as the Attorney of Record in the above-entitled matter.

This Motion is made and based upon Nev. Rev. Stat. 7.055, and Nev. Sup. Ct. Rules 166(4), 173,
176, and 203, and Rules 11 and 20 of the Rules of the District Courts of the State of Nevada.

POINTS AND AUTHORITIES

Nev. Rev. Stat. 7.055, provides that:

An attorney who has been discharged by his client shall, upon demand...immediately
deliver to the client all papers, documents, pleadings and items of tangible personal
property which belong to or were prepared for that client.

See also Nev. Sup. Ct. Rule 166(4):

Upon termination of representation, a lawyer shall take steps to the extent reasonably
practicable to protect a client's interests, such as ...surrendering papers and property to
which the client is entitled..."

Petitioner/Plaintiff would respectfully point out to this Court and the attorney of record that there

is controlling law on this issue. This citation of authority is precautionary only. In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963), and State v. Alvey, 215 Kan. 460, 524 P.2d 747 (1974), both cases dealt with a factual situation involving a withdrawn attorney refusing to deliver to a former client his documents after being requested to do so by the client. The Court in Yount, supra, ordered the attorney disbarred, while in Alvey, supra, the Court had the attorney censured.

In most situations it is obviously not necessary to notify the parties when the attorney withdraws from a case, but when the client wishes to remove his attorney and represent himself in person, it is required by these Statutes and Rules that the client request the Court of action to issue a certificate releasing the attorney of record. Under such statutes it is necessary for the party to present his request for the change in order for the court in making an order withdrawing the attorney of record, and to make formal demand to the Attorney for the return of all papers and property.

Therefore, let this Court be so notified that this is the desire of the Petitioner/Plaintiff herein that the aforementioned attorney of record be withdrawn and the same shall be for any other attorney(s) which could possibly be subscribed and documented as attorney(s) of record in this case, so that further actions in the above-entitled cause can be conducted by the Petitioner/Plaintiff in proper person.

Further, Petitioner/Plaintiff hereby makes formal demand upon Kenneth Frizzell & Amy Feliciano, Esq., for the return of his entire file, including, but not limited to all papers, documents, pleadings and items of tangible personal property which belong to or were prepared on my behalf to me at the address set forth in this pleading.

Further, it is requested of this Court that it issue an Order directing the named attorney of record that he turn over to the Petitioner/Plaintiff the entire case file, without costs, including, but not limited to, the trial transcripts or guilty plea transcript, all briefs on appeal, and all other papers and police reports relating to this matter, so that Petitioner/Plaintiff may prosecute an appeal/post-conviction with a minimum amount of delay.

CONCLUSION

WHEREFORE, all of the above stated reasons, Petitioner/Plaintiff respectfully requests this Honorable Court to grant his Motion for Withdrawal of Attorney of Record in accordance with this Court's fair and just consideration of the facts of the case.

**PLEADING
CONTINUES
IN NEXT
VOLUME**

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ROBERT KELLER,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-16-312717-1
Related Case A-19-800950-W
Docket No: 84643

RECORD ON APPEAL VOLUME 3

ATTORNEY FOR APPELLANT
CHRISTOPHER KELLER # 81840,
PROPER PERSON
1200 PRISON RD.
LOVELOCK, NV 89419

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

I N D E X

<u>VOLUME:</u>	<u>PAGE NUMBER:</u>
1	1 - 241
2	242 - 482
3	483 - 723
4	724 - 964
5	965 - 1187

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	4/29/2016	Amended Information	164 - 167
5	12/12/2017	Amended Judgment of Conviction (Jury Trial)	968 - 971
2	3/9/2017	Amended Jury List	306 - 306
2	8/25/2017	Case Appeal Statement	377 - 379
2	8/12/2016	Certificate of Mailing	274 - 278
5	5/9/2022	Certification of Copy and Transmittal of Record	
1	2/16/2016	Criminal Bindover (Confidential)	1 - 28
2	4/29/2017	Defendant Keller's Substitution of Attorney and Amy A. Feliciano, Esq.'s Notice of Appearance as Counsel of Record	362 - 364
2	2/7/2017	Defendant's Motion for Production Including Potentially Exculpatory Evidence	293 - 301
1	6/10/2016	Defendant's Motion to Suppress	171 - 190
5	5/9/2022	District Court Minutes	1139 - 1187
5	5/9/2022	Documentary Exhibits (Unfiled)	1068 - 1126
5	5/9/2022	Documentary Exhibits (Unfiled) Confidential	1127 - 1138
1	2/17/2016	Information	29 - 32
2	3/10/2017	Instructions to the Jury	314 - 322
2	3/10/2017	Instructions to the Jury	323 - 346
2	8/10/2017	Judgment of Conviction (Jury Trial)	365 - 368
2	3/7/2017	Jury List	305 - 305
5	6/12/2019	Motion for Production of Transcripts at State Expense	1033 - 1036

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
5	3/22/2018	Motion for the Appointment of Counsel & Motion to Dismiss Attorney of Record	980 - 985
4	11/14/2017	Motion for the Appointment of Counsel; Request for Evidentiary Hearing	958 - 962
4	11/14/2017	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents (Continued)	963 - 964
5	11/14/2017	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents (Continuation)	965 - 966
5	12/31/2018	Motion for Withdrawal of Counsel of Record or in the Alternative, Request for Records/Court Case Document "Evidence Photos"	1009 - 1014
5	4/3/2019	Motion to Compel	1022 - 1027
1	6/13/2016	Motion to Dismiss Counsel and Appoint Alternate Counsel	191 - 193
1	6/1/2016	Motion to Reduce Bail	168 - 170
2	8/10/2016	Motion to Withdraw As Counsel	270 - 273
5	11/14/2018	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed	996 - 1007
2	8/24/2017	Notice of Appeal	372 - 372
2	8/24/2017	Notice of Appeal	376 - 376
5	11/29/2017	Notice of Change of Hearing	967 - 967
1	3/29/2016	Notice of Expert Witnesses [NRS 174.234(2)]	156 - 161

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	8/26/2016	Notice of Expert Witnesses [NRS 174.234(2)]	281 - 287
1	3/24/2016	Notice of Intent to Seek Punishment as a Habitual Criminal	151 - 152
2	7/18/2016	Notice of Intent to Seek Punishment as a Habitual Criminal	268 - 269
4	11/14/2017	Notice of Motion	956 - 957
5	12/31/2018	Notice of Motion	1008 - 1008
5	4/3/2019	Notice of Motion	1021 - 1021
1	3/24/2016	Notice of Witnesses [NRS 174.234(1)(a)]	153 - 155
2	1/25/2017	Notice to Introduce Certified Records [NRS 52.260(4)]	291 - 292
5	5/10/2018	Order Denying Defendant's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record	994 - 995
2	8/18/2016	Order Denying Defendant's Motion to Suppress and Defendant's Pro Per Motion to Dismiss Counsel and Appoint Alternative Counsel	279 - 280
5	7/22/2019	Order Denying Defendant's Pro Per Motion for Production of Transcripts at State Expense	1041 - 1042
5	4/11/2018	Order Granting Defendant's Motion for the Appointment of Counsel; Order Denying Defendant's Request for Evidentiary Hearing	986 - 987
5	2/1/2019	Order Granting Petitioner's Pro Per Motion for Withdrawal of Counsel of Record, or in the Alternative, Request for Records/Court Case Document	1015 - 1016

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	4/14/2017	Presentence Investigation Report (Unfiled) Confidential	347 - 361
1	6/16/2016	Receipt of Copy	194 - 194
5	4/3/2019	Request for Records/Court Case Documents	1017 - 1020
5	6/12/2019	Request for Records/Court Case Documents (Specifically Evidence Photos)	1038 - 1040
2	8/24/2017	Request for Rough Draft Transcripts	369 - 371
2	8/24/2017	Request for Rough Draft Transcripts	373 - 375
5	6/12/2019	Request for Submission of Motion	1037 - 1037
2	3/6/2017	Second Amended Information	302 - 304
5	4/13/2018	State's Opposition to Defendant's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record	988 - 993
1	6/17/2016	State's Opposition to Defendant's Motion to Suppress (Continued)	195 - 241
2	6/17/2016	State's Opposition to Defendant's Motion to Suppress (Continuation)	242 - 267
5	1/17/2020	State's Response to Defendant's Pro Per Petition for Writ of Habeas Corpus (Post- Conviction)	1043 - 1067
2	8/29/2016	Supplemental Notice of Witnesses [NRS 174.234(1)(a)]	288 - 290
2	3/10/2017	Third Amended Information	307 - 310
2	10/5/2017	Transcript of Hearing Held on August 7, 2017	380 - 394
1	3/2/2016	Transcript of Hearing Held on February 16, 2016	33 - 91

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	3/4/2016	Transcript of Hearing Held on February 16, 2016	92 - 150
3	11/13/2017	Transcript of Hearing Held on March 10, 2017	485 - 512
2	11/13/2017	Transcript of Hearing Held on March 6, 2017	396 - 417
2	11/13/2017	Transcript of Hearing Held on March 7, 2017 (Continued)	418 - 482
3	11/13/2017	Transcript of Hearing Held on March 7, 2017 (Continuation)	483 - 484
4	11/13/2017	Transcript of Hearing Held on March 8, 2017	726 - 955
3	11/13/2017	Transcript of Hearing Held on March 9, 2017 (Continued)	513 - 723
4	11/13/2017	Transcript of Hearing Held on March 9, 2017 (Continuation)	724 - 725
5	3/1/2018	Unfiled Document(s) - Attorney Letter w/Copy of Unfiled Motion for the Appointment of Counsel; Request for Evidentiary Hearing and w/Copy of Unsigned Order Appointing Counsel	972 - 978
1	4/17/2016	Unfiled Document(s) - Motion for Brady Hearing	162 - 163
5	6/12/2019	Unfiled Document(s) - Motion to Compel	1028 - 1031
2	11/3/2017	Unsigned Document(s) - Order Appointing Counsel	395 - 395
5	3/13/2018	Unsigned Document(s) - Order Appointing Counsel	979 - 979
5	6/12/2019	Unsigned Document(s) - Order to Produce Transcripts	1032 - 1032

C-16-312717-1

State of Nevada
vs
Christopher Keller

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	3/10/2017	Verdict - Counts 1 thru 7	312 - 313
2	3/10/2017	Verdict - Counts 8 and 9	311 - 311

INDEX

STATE'S OPENING STATEMENT BY MR. BENNETT. 23

DEFENDANT'S OPENING STATEMENT BY MR. FRIZZELL.. . . . 30

WITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<u>STATE'S WITNESSES:</u>				
Stephanie Thi	34	58		

EXHIBITS

<u>DESCRIPTION</u>	
<u>ADMITTED</u>	

STATE'S EXHIBITS:

Exhibits 6 through 37.. . . . 39

Exhibit 39.. . . . 39

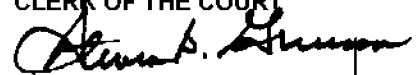
Exhibits 81-D through E.. . . . 54

ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

Julie Lord

JULIE LORD, INDEPENDENT TRANSCRIBER

ROUGH DRAFT TRANSCRIPT



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-16-312717-1
	.	
Plaintiff,	.	DEPT. NO. XIX
	.	
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
CHRISTOPHER ROBERT KELLER,	.	
	.	
Defendant.	.	
.	

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

**ROUGH DRAFT TRANSCRIPT OF
JURY TRIAL - DAY 5**

FRIDAY, MARCH 10, 2017

APPEARANCES:

FOR THE STATE:	MATTHEW T. BUNNETT, ESQ. MICHAEL DICKERSON, ESQ. <i>Deputy District Attorneys</i>
FOR THE DEFENDANT:	KENNETH G. FRIZZELL, III., ESQ.

RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, FRIDAY, MARCH 10, 2017, 10:33 A.M.

2 (Outside the presence of the jury)

3 THE COURT: All right. We're back on the record in
4 the case of State of Nevada versus Christopher Robert Keller
5 in C-312717. I've been told that we have a verdict so you
6 want to bring the jury in. I'd ask that you bring the
7 alternates in as well, okay?

8 THE MARSHAL: Yes, sir. All rise for the jury.

9 (Jury reconvened at 10:35 A.M.)

10 THE COURT: Go ahead and have a seat, everybody.

11 All right. This is the continuation of jury trial in
12 the case of State of Nevada versus Christopher Robert Keller
13 in C-312717. I'd like the record to reflect the presence of
14 the defendant, his counsel as well as State and their counsel
15 and all members of the jury. Will the parties stipulate to
16 the presence of the jury?

17 MR. DICKERSON: State stipulates.

18 MR. FRIZZELL: Defense stipulates.

19 THE COURT: Okay. I've been informed that the jury
20 has been able to reach a verdict; is that correct?

21 JUROR NO. 1: Yes.

22 THE COURT: Have you selected a foreperson?

23 JUROR NO. 1: Yes.

24 THE COURT: And who is the foreperson?

25 JUROR NO. 1: Jordan Foster.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Excuse me?

2 JUROR NO. 1: Jordan Foster.

3 THE COURT: Okay. Mr. Foster, could you hand the
4 verdict form to my Marshal. Okay. At this point, I'm going
5 to go ahead and have the Clerk read the verdict out loud.

6 VERDICT

7 THE CLERK: District Court, Clark County of Nevada,
8 the State of Nevada, plaintiff, versus Christopher Robert
9 Keller, defendant. Case No. C-312717, Department 19,
10 verdict.

11 We, the jury in the above-entitled case, find the
12 defendant, Christopher Robert Keller as follows:

13 Count 1, trafficking in controlled substance;
14 Guilty of trafficking in controlled substance.

15 Count 2, trafficking in controlled substance;
16 Guilty of trafficking in controlled substance.

17 Count 3, possession of controlled substance,
18 marijuana greater than one ounce; Guilty of possession of
19 controlled substance, marijuana greater than one ounce.

20 Count 4, possession of controlled substance with
21 intent to sell methamphetamine; Guilty of possession with --
22 possession of controlled substance with intent to sell.

23 Count 5, possession of controlled substance with
24 intent to sell heroin; Guilty of possession of controlled
25 substance with intent to sell.

ROUGH DRAFT TRANSCRIPT

1 Count 6, possession of controlled substance with
2 intent to sell cocaine; guilty of possession of controlled
3 substance with intent to sell.

4 Count 7, possession of controlled substance with
5 intent to sell marijuana; guilty of possession of controlled
6 substance with intent to sell.

7 Dated the 10th day of March, 2017. Signed,
8 foreperson, Mr. Foster. Ladies and gentlemen of the jury,
9 are these your verdicts as read? So say you one, so say you
10 all.

11 THE JURY: Yes.

12 THE COURT: Okay. Would either party like to have
13 the jury polled for this purpose?

14 MR. FRIZZELL: Yes, Your Honor, the defense would
15 like to have the jury polled.

16 THE COURT: All right.

17 THE CLERK: Juror No. 1, are these your verdicts as
18 read?

19 JUROR NO. 1: Yes.

20 THE CLERK: Juror No. 2, are these your verdicts as
21 read?

22 JUROR NO. 2: Yes.

23 THE CLERK: Juror No. 3, are these your verdicts as
24 read?

25 JUROR NO. 3: Yes.

ROUGH DRAFT TRANSCRIPT

1 THE CLERK: Juror No. 4, are these your verdicts as
2 read?
3 JUROR NO. 4: Yes.
4 THE CLERK: Juror No. 5, are these your verdicts as
5 read?
6 JUROR NO. 5: Yes.
7 THE CLERK: Juror No. 6, are these your verdicts as
8 read?
9 JUROR NO. 6: Yes.
10 THE CLERK: Juror No. 7, are these your verdicts as
11 read?
12 JUROR NO. 7: Yes.
13 THE CLERK: Juror No. 8, are these your verdicts as
14 read?
15 JUROR NO. 8: Yes.
16 THE CLERK: Juror No. 9, are these your verdicts as
17 read?
18 JUROR NO. 9: Yes.
19 THE CLERK: Juror No. 10, are these your verdicts
20 as read?
21 JUROR NO. 10: Yes.
22 THE CLERK: Juror No. 11, are these your verdicts
23 as read?
24 JUROR NO. 11: Yes.
25 THE CLERK: And Juror No. 12, are these your

ROUGH DRAFT TRANSCRIPT

1 verdicts as read?

2 JUROR NO. 12: Yes.

3 THE COURT: Okay. Ladies and gentlemen, the reason
4 why I had the case -- I had to have the alternates come back
5 to this is because there's a second portion of this trial.
6 You were not informed of that, and as soon as you hear the
7 additional counts and the arguments by the parties, you'll
8 understand why.

9 And so at this point in time, what I'm going to do
10 is ask the State if -- once again, I'm going to ask the Clerk
11 to read to the jury the -- there's two additional counts that
12 entail in this case, and I'm going to ask the Clerk to read
13 that to the jury.

14 (Pause in the proceedings)

15 (CLERK READS THIRD AMENDED INFORMATION TO THE JURY)

16 THE COURT: At this point in time, does the State
17 have any -- wish to make an opening statement with respect
18 to --

19 STATE'S OPENING STATEMENT RE: THIRD AMENDED INFORMATION

20 MR. DICKERSON: Just briefly. Ladies and
21 gentlemen, you're going to hear now that the defendant has
22 been convicted of at least five felonies as being conspiracy
23 to violate the Uniform Controlled Substances Act in 2013, and
24 attempt possession of a firearm by a ex-felon in 2013,
25 possession of a firearm by an ex-felon in 2009, burglary in

ROUGH DRAFT TRANSCRIPT

1 2003, possession of a credit card without cardholder's
2 consent in 2003.

3 The State's going to be admitting for you to see
4 certified judgments of conviction which have come down from
5 the courts showing those convictions. It's with that that
6 we'll ask you to go and deliberate once again with the
7 information that you were provided previously upon the
8 defendant's possession of those two firearms, the Ruger and
9 the Beretta. The Ruger being the 9 millimeter charged in
10 count 9. The Beretta being the .22 that was found in the car
11 charged in count 8. Thank you.

12 THE COURT: Did you wish to make an opening
13 statement?

14 MR. FRIZZELL: Just briefly also, Your Honor.

15 THE COURT: Okay.

16 DEFENDANT'S OPENING STATEMENT

17 MR. FRIZZELL: Ladies and gentlemen, I know that
18 this wasn't a part of the proceedings that you anticipated,
19 but as the judge said, you can understand now that we
20 couldn't -- that the State couldn't tell you about any prior
21 felonies or whatnot during the main portion of the trial.

22 And so only after your verdict can these things
23 come in at this point. However, we're still back to the same
24 -- we're back to the same situation in that you still have to
25 find that he was in possession of these weapons or they were

ROUGH DRAFT TRANSCRIPT

1 under his custody or control just like what was read to you
2 before you can find him guilty on these counts 8 and 9.

3 And so without belaboring the point, and I'm sure
4 that you recall all of the argument that I made yesterday
5 afternoon regarding possession versus mere presence that I
6 will just ask you to consider that when you're looking at
7 whether or not he was actually in possession of these two
8 firearms, the Ruger and the Beretta that you had access to
9 look at this morning. And so with that I'll submit it to the
10 group.

11 THE COURT: Thank you, Mr. Frizzell. State, did
12 you have any witnesses?

13 MR. BUNNETT: No additional witnesses, Your Honor;
14 however --

15 THE COURT: Are you presenting any evidence then?

16 MR. BUNNETT: We do have some exhibits that have
17 been marked.

18 THE COURT: Okay.

19 MR. BUNNETT: And Your Honor, I have in my hand
20 what's been marked as State's Proposed 1. It looks like a
21 Certified Judgment of Conviction that was filed in the Eighth
22 Judicial District Court on June 29th, 2004. Seal's affixed
23 on the second page. And that case is C-189805-B. I'm
24 showing it to Mr. Frizzell.

25 (Pause in the proceedings)

ROUGH DRAFT TRANSCRIPT

1 MR. BUNNETT: I have a second one in Case C-192923.
2 Appears to be a Certified Judgment of Conviction filed in the
3 Eighth Judicial District Court on June 21st, 2004. That was
4 State's Proposed 2.

5 State's Proposed 3, I have another copy of a
6 Certified Judgment of Conviction in Case C-252394 filed in
7 the Eighth Judicial District Court on February 12th, 2010.

8 (Pause in the proceedings)

9 MR. BUNNETT: And Your Honor, I also have State's
10 Proposed 4. It appears to be a Certified Judgment of
11 Conviction filed in the Eighth Judicial District Court on
12 November 7th, 2013 in Case C-287724.

13 And finally, I have State's Proposed 5, which
14 appears to be a Certified Judgment of Conviction filed in
15 Case C-279904 on November 13th, 2013, and that is certified
16 as well. State would move for admission of State's Proposed
17 1 through 5.

18 THE COURT: Any objections?

19 MR. FRIZZELL: No, Your Honor, and the State had
20 showed me all of these yesterday afternoon so I have no
21 objection.

22 THE COURT: As they all being certified, they'll be
23 admitted. Okay.

24 (State's Exhibits 1 through 5 admitted)

25 THE COURT: Let me see them. Okay. Anything

ROUGH DRAFT TRANSCRIPT

1 further, Mr. Bunnett?

2 MR. BUNNETT: No, Your Honor. State rests.

3 THE COURT: State has rested, Mr. Frizzell.

4 Mr. Frizzell, do you intend to present any witnesses or
5 evidence at this time?

6 MR. FRIZZELL: I do not, Your Honor. The defense
7 rests.

8 THE COURT: Okay. Ladies and gentlemen, you're
9 going to be handed another copy of jury instructions. You
10 have those now or I think -- okay. The instructions that are
11 from the previous section of this trial are also applicable.
12 If there are any of them that are duplicated, it's not
13 intended to put any emphasis on them. It's just a matter of
14 that they were duplicated.

15 I believe, the first two may be duplicated and then
16 the last one. So do you have -- let me know when ya'll have
17 them, okay? Okay. Does everybody have one?

18 UNIDENTIFIED JUROR: Yes.

19 THE COURT: All right.

20 (COURT READS SECOND SET OF JURY INSTRUCTIONS TO JURY)

21 THE COURT: Once again with regards to that
22 instruction, I'm going to provide you with a copy of the
23 original instructions, okay?

24 (COURT READS SECOND SET OF JURY INSTRUCTIONS TO JURY)

25 MR. FRIZZELL: Your Honor, before we continue, and

ROUGH DRAFT TRANSCRIPT

1 I don't normally interrupt --

2 THE COURT: Okay.

3 MR. FRIZZELL: -- but the State had made me aware
4 of a typo in the Information, which was then copied to
5 instruction 3.

6 THE COURT: Okay.

7 MR. FRIZZELL: In the conviction --

8 THE COURT: Let me see it.

9 MR. FRIZZELL: -- in 2004, I believe, was
10 ultimately -- it was actually in 2003, it was a companion
11 case with the other 2003 case.

12 THE COURT: So it should read and/or having in
13 2003?

14 MR. DICKERSON: Been convicted of burglary.

15 THE COURT: Hold on, let me see the convictions.

16 MR. DICKERSON: That's correct, Your Honor. The
17 date of the conviction signed by the judge was June 21st,
18 2004. Okay?

19 MR. FRIZZELL: What I was informed -- I apologize,
20 Your Honor.

21 THE COURT: Let me look at the 805.

22 MR. DICKERSON: If we may approach?

23 THE COURT: 805, that one was on the 25th day of
24 2004.

25 MR. FRIZZELL: Okay, so the --

ROUGH DRAFT TRANSCRIPT

1 THE COURT: It's the last one.

2 MR. FRIZZELL: -- 2003 should actually be 2004,
3 then?

4 THE COURT: 2004.

5 MR. FRIZZELL: Okay.

6 MR. DICKERSON: May we approach real quickly, Your
7 Honor?

8 THE COURT: Sure.

9 (Off-record bench conference)

10 THE COURT: Okay. All right, so instruction number
11 four.

12 (COURT READS SECOND SET OF JURY INSTRUCTIONS TO JURY)

13 THE COURT: Mr. Bunnett, did you want to address
14 the jury in closing?

15 MR. BUNNETT: Yes, Your Honor.

16 THE COURT: Okay.

17 STATE'S CLOSING ARGUMENT

18 MR. BUNNETT: Members of the jury, we've proven
19 counts 8 and 9 beyond a reasonable doubt. You heard the
20 testimony previously about where the guns were recovered.
21 The Beretta .22 caliber gun was recovered in that secret
22 compartment in the defendant's car. We've established that
23 that was the defendant's car. The Ruger 9 millimeter, well,
24 that's recovered from the defendant's house. Ammunition for
25 the .22 caliber is found in the house -- or in the shed of

ROUGH DRAFT TRANSCRIPT

1 the house that is immediately adjacent to the defendant's
2 apartment. And ammunition for the Ruger was found inside the
3 house.

4 And a couple things I just want to touch on with
5 you. Those same principles of possession that we previously
6 talked about, those all apply now. Actual or constructive
7 possession, we can prove either. We have to prove possession
8 (inaudible), but we can look to the circumstances of the
9 crime and how everything happened to determine whether or not
10 possession was knowing.

11 Possession can be sole or possession can be joined.
12 So all those principles apply now, and as you consider counts
13 8 and 9, you need to use those principles as you consider
14 your verdict. Now, there is an instruction, and that's
15 instruction, I believe, 5 that instructs you about what a
16 firearm is. You can take the gun, the can examine the gun,
17 you can determine for yourself whether there's a firearm.

18 There's no reasonable question that these are
19 firearms. Stephanie Thi explained to you how the firearms
20 are operated. She told you that in the Beretta .22 caliber
21 there were metal projectiles inside. It's clear from the
22 evidence that both of these weapons were designed to expel
23 metal projectiles and that they are, according to the
24 definition, firearms.

25 Now, the one last thing I want to touch on -- well,

ROUGH DRAFT TRANSCRIPT

1 before I do, you've heard the instruction that defendant's
2 not allowed to own firearms because of these felony judgments
3 of conviction. You'll have those in the back. You can look
4 at them. You'll see they're authentic copies of the
5 judgments of convictions and that defendant is, in fact, a
6 convicted felon.

7 Now, the one last thing I want to touch on is the
8 firearm in the bedroom. That's that Ruger 9 millimeter.
9 It's in defendant's bedroom. It's a one bedroom apartment.
10 We've heard some testimony about women's clothes being found
11 in the apartment. But there's really no suggestion that any
12 other man is living in the house. And Rubino, she told that
13 when she profiled that gun, there was a male profile on the
14 DNA -- or male DNA profile on the gun. She was able to
15 determine that. She couldn't conclude else, but it was at
16 least two people, one of them a male.

17 Based on all this, members of the jury, this is an
18 easy question. Defendant's guilty of count 8. That's the
19 Beretta in the secret compartment of the car. And count 9,
20 the Ruger in the house. Thank you.

21 THE COURT: Thank you, Mr. Bunnett. Mr. Frizzell,
22 did you want to address the jury any further?

23 MR. FRIZZELL: Yeah, just briefly, Judge.

24 THE COURT: Okay.

25 DEFENDANT'S CLOSING ARGUMENT

ROUGH DRAFT TRANSCRIPT

1 MR. FRIZZELL: Ladies and gentlemen, as I said a
2 few minutes ago, you still have to make the same findings
3 regarding possession versus that these weapons were merely
4 present. The Beretta, the smaller gun, the .22, that was
5 found, as you heard, with the drugs that were in the hole and
6 -- in the hole in the car there in that little compartment.

7 But you need to remember now when we're talking
8 about DNA is that just because it's a male, again, it doesn't
9 say that it was Mr. Keller. It could have been any male. We
10 don't know the history of those guns. There was no testimony
11 about the history of those weapons at all. And so when we're
12 talking also about the Ruger 9 millimeter, it was in the
13 closet that I showed you the picture of the women's clothes,
14 and it was found in an area that was not near any of the
15 scales or the drugs or in the fridge or anything like that.
16 It was in a closet that also contained girl's clothes.

17 And again, the DNA just showed that it was -- at
18 least one the samples was a male. But again, it doesn't who
19 it was. And like I say, we don't know the history of these
20 guns. And so we can't say -- there was no evidence, no
21 testimony that we can say for sure that it was Mr. Keller's
22 DNA that was on those weapons.

23 And so with that being said, then have you to go
24 back once again to, I believe, was instruction 16 from
25 yesterday on the mere presence. Were those -- were those

ROUGH DRAFT TRANSCRIPT

1 weapons merely present? And if they were just merely present
2 -- because there was no testimony even of ownership, who
3 actually owned those weapons, as you'll recall. And so
4 you're going to have to weigh out those facts and see and
5 determine whether or not those weapons actually -- were
6 actually in the actual or constructive possession of
7 Mr. Keller.

8 And if you can't, then you must come back with a
9 not guilty verdict on what is now counts 8 and 9. And with
10 that thank you so much.

11 THE COURT: Thank you, Mr. Frizzell.
12 Mr. Dickerson.

13 STATE'S REBUTTAL CLOSING ARGUMENT

14 MR. DICKERSON: Yes, Your Honor. Thank you, ladies
15 and gentlemen. With all this, once again, like we talked
16 about previously, tools of the trade, guns. For a drug
17 dealer tools of the trade. That's what we have here.
18 Mr. Keller has guns with his drugs because you need to
19 protect yourself and protect your drugs when this is the
20 business you're in.

21 So we know that because one's in his car and one's
22 in his bedroom. The stuff Mr. Frizzell said about the
23 clothing being in the same closet, I believe that's
24 inaccurate. You can take a look at the photos, if you feel
25 the need to. I think that was the other closet that those

ROUGH DRAFT TRANSCRIPT

1 shirts were in. Nonetheless, that gun still came back with
2 the male DNA. Only male that we have any evidence on in this
3 case is Mr. Keller himself.

4 Also remember for the .22 caliber firearm that was
5 found in the vehicle, it contained Remington ammunition, the
6 same exact kind of ammunition that was found in the
7 defendant's storage shed in his house. So there's a link to
8 that, too. It goes right back to the home. Both guns were
9 loaded. They had bullets with them in full magazines. Shows
10 they're ready to go. It's something to consider just in how
11 they're stored. It isn't something that's just sitting there
12 and somebody doesn't know about. These are guns that are
13 there for a purpose. You have bullets in a gun. You know
14 where that gun's going to be. You have to.

15 All right, ladies and gentlemen, thank you very
16 much. Please find the defendant guilty of both counts 8 and
17 9 based on his actual and constructive possession of those
18 two firearms.

19 THE COURT: Thank you, Mr. Dickerson. Okay, once
20 again, ladies and gentlemen, I'm going to ask that you return
21 to the jury room for purposes of deliberating on counts 8 and
22 9. At this point in time, I'm going to allow Ms. Johnson and
23 Ms. Cruz, I'm going to allow you to be excused to go home.

24 We'll contact you once we get a verdict or if we
25 need you. But you are not released from your service here

ROUGH DRAFT TRANSCRIPT

1 because in the event that I need you, I might need to bring
2 you back. But I'm going to allow you to go ahead and go
3 home. So just leave your information that you can provide to
4 us so we can contact you immediately, okay? All right.

5 And Ed, here, give these two Ms. Johnson and Ms.
6 Cruz, okay? All right. So we'll be at ease while the jury
7 exits the room.

8 (Jury retired to deliberate at 11:05 A.M.)

9 THE COURT: Okay. We're outside the presence of
10 the jury, as they're deliberating on the second portion of
11 this. Is there anything that needs to be put on the record
12 by either State or defense at this point?

13 MR. FRIZZELL: No, Your Honor, not by the --

14 MR. DICKERSON: We'll just --

15 THE COURT: All right, defense.

16 MR. DICKERSON: -- save our record for afterwards,
17 Your Honor.

18 THE COURT: Okay. All right. Okay, so don't take
19 them very far, officers, all right?

20 THE MARSHAL: We'll just take him downstairs.

21 THE COURT: Okay. All right. We'll let you know
22 if we --

23 CORRECTIONS OFFICER: You've got the number
24 downstairs, right?

25 THE COURT: Okay. We're off the record.

ROUGH DRAFT TRANSCRIPT

1 (Court recessed at 11:07 a.m. until 11:21 a.m.)

2 (Outside the presence of the jury.)

3 THE COURT: Go ahead and bring the jury in.

4 MR. FRIZZELL: And Your Honor, not that I need it
5 right now, but for some reason I misplaced or I didn't
6 receive the second set of verdict -- the verdict form for
7 this.

8 THE COURT: Oh.

9 MR. FRIZZELL: I know I saw it, but I don't know
10 if --

11 THE CLERK: (Inaudible).

12 (Pause in the proceedings)

13 MR. FRIZZELL: Thanks.

14 THE CLERK: Uh-huh.

15 THE COURT: Okay. We're back on the record in the
16 case of State of Nevada versus Christopher Keller. Go ahead
17 and have a seat, everyone. This is Case No. C-312717. I'd
18 like the record to reflect the presence of the defendant, his
19 counsel, State and their counsel, all members of the jury.
20 Will the parties stipulate to the presence of the jury?

21 MR. DICKERSON: State stimulate, Your Honor.

22 MR. FRIZZELL: Defense stipulates, Your Honor.

23 THE COURT: Okay. We're here with the exception of
24 the alternates. This is the second phase. Mr. Forester
25 (sic), are you still the foreman?

ROUGH DRAFT TRANSCRIPT

1 JUROR NO. 1: Yes.

2 THE COURT: Okay. And have you -- were you able to
3 reach a verdict as to the second phase?

4 JUROR NO. 1: Yes.

5 THE COURT: Could you provide that verdict form to
6 my Marshal, then? All right. I'd ask the Clerk, then, to
7 read the verdict.

8 VERDICT RE: THIRD AMENDED INFORMATION

9 THE CLERK: District Court, Clark County of Nevada,
10 State of Nevada, plaintiff versus Christopher Robert Keller,
11 defendant. Case No. C-312717, Department 19, verdict.

12 We the jury in the above-entitled case find the
13 defendant, Christopher Robert Keller, as follows:

14 Count 8, ownership or possession of firearm by
15 prohibited person; guilty of ownership or possession of
16 firearm by prohibited person.

17 Count 9, ownership or possess of firearm by
18 prohibited person; guilty of ownership or possession of
19 firearm by prohibited person.

20 Dated the 10th day of March, 2017. Signed
21 foreperson, Jordan Forester (sic). Ladies and gentlemen of
22 the jury, is this your verdicts as read? So say you one, so
23 say you all.

24 THE JURY: Yes.

25 THE COURT: Would you like to have the --

ROUGH DRAFT TRANSCRIPT

1 MR. FRIZZELL: Yes, please, Your Honor.

2 THE COURT: -- jury -- okay.

3 MR. FRIZZELL: Just for the record.

4 THE CLERK: Juror No. 1, are these your verdicts as
5 read?

6 JUROR NO. 1: Yes.

7 THE CLERK: Juror No. 2, are these your verdicts as
8 read?

9 JUROR NO. 2: Yes.

10 THE CLERK: Juror No. 3, are these your verdicts as
11 read?

12 JUROR NO. 3: Yes.

13 THE CLERK: Juror No. 4, are these your verdicts as
14 read?

15 JUROR NO. 4: Yes.

16 THE CLERK: Juror No. 5, are these your verdicts as
17 read?

18 JUROR NO. 5: Yes.

19 THE CLERK: Juror No. 6, are these your verdicts as
20 read?

21 JUROR NO. 6: Yes.

22 THE CLERK: Juror No. 7, are these your verdicts as
23 read?

24 JUROR NO. 7: Yes.

25 THE CLERK: Juror No. 8, are these your verdicts as

ROUGH DRAFT TRANSCRIPT

1 read?

2 JUROR NO. 8: Yes.

3 THE CLERK: Juror No. 9, are these your verdicts as
4 read?

5 JUROR NO. 9: Yes.

6 THE CLERK: Juror No. 10: Are these your verdicts
7 as read?

8 JUROR NO. 10: Yes.

9 THE CLERK: Juror No. 11, are these your verdicts
10 as read?

11 JUROR NO. 11: Yes.

12 THE CLERK: And Juror No. 12, are these your
13 verdicts as read?

14 JUROR NO. 12: Yes.

15 THE COURT: Okay. I'll go ahead and have the Clerk
16 record the verdict and the minutes of the court.

17 Ladies and gentlemen, when we first started the
18 jury selection, I believe I represented to you that the I
19 believe that the jury system is probably one of our most
20 important fundamental rights that we have in our system and
21 our constitutional guarantees.

22 I firmly believe in this right. For those of you
23 that have not served as a juror before, I'm hoping that this
24 was a good experience for you to understand exactly what
25 truly happens in the courthouse down here. You know,

ROUGH DRAFT TRANSCRIPT

1 unfortunately, there are certain people, and you probably saw
2 them, and you may have been one of these individuals that
3 have done what they could to try to shirk this
4 responsibility, and I believe it is a responsibility to
5 everybody that lives in our community to take part in the
6 Civic duties and Civic responsibilities here in the
7 community.

8 You know, for that reason I want to tell you I
9 truly appreciate that your time and consideration. I want to
10 apologize to you, though, because it went a little longer
11 than I had anticipated. Some things come up in the trial. I
12 also want you to know that while you're not in this
13 courtroom, things are going on with this case in the
14 courtroom.

15 On behalf of counsel and on the parties in the
16 Eighth Judicial District Court here in the County of Clark, I
17 want to thank you for your careful deliberate in this matter.
18 You may also at this point have a question as to whether or
19 not you can discuss this case with anyone. You can. I'm
20 going to release you from your obligation any further.

21 So anyone that questions you about what you were
22 doing, what the case was about, you have a right to do so and
23 you could, if you want to, you can discuss it. If you do not
24 want to, you also do not have to discuss it.

25 The parties oftentimes will wait around because

ROUGH DRAFT TRANSCRIPT

1 they want to talk to you to see what it is that you think
2 maybe could have helped them, could have bolstered their
3 case, could have presented something to present them -- or
4 prevent them from worsening their case or just seeing what it
5 is that you liked about the case and how it was presented or
6 how it was defended.

7 You do not have to talk to parties, if you do not
8 wish to. However, if you do not wish to and they continue to
9 press you, contact my Marshal and I'll put a stop to that.
10 I'm going to have you go back into the jury room because I
11 come back and have a discussion with you one on one to thank
12 you personally. But at this point in time, I want to thank
13 you as well. Could you please well, exit out the back into
14 the courtroom, and I'll see you real shortly, okay? I'll be
15 right there.

16 (Jury excused at 11:28 A.M.)

17 THE COURT: Okay. We're outside the presence of
18 the jury. At this point in time, I remand the defendant in
19 custody without bail and set a sentencing date, refer him to
20 the Department of Parole & Probation for preparation of
21 presentence investigation report. Give us the date.

22 THE CLERK: (Inaudible) 8th at 8:30 for sentencing.

23 THE COURT: Anything further?

24 MR. DICKERSON: No, Your Honor. Thank you.

25 THE COURT: You wanted --

ROUGH DRAFT TRANSCRIPT

1 MR. DICKERSON: We just --

2 THE COURT: -- to put something on the record.

3 MR. DICKERSON: We just want to make it -- a brief
4 record about the steps that Your Honor took to accommodate
5 defense counsel yesterday in trying to get their defense
6 together and accommodate witnesses coming in. Defense
7 counsel, though they didn't notice any witnesses, was
8 permitted to call every witness that they asked to call,
9 including bringing Officer Henry in to testify as well as
10 Mary Silva (phonetic) that they had made representations they
11 were going to call.

12 Mary Silva ultimately was not outside the courtroom
13 when defense went to call her, and they made steps to call
14 her throughout the day. Your Honor even gave them an
15 additional hour after we were supposed to start trial to
16 accommodate calling her in or bringing her back to court.
17 Despite representations she may have made to defense counsel,
18 she never showed back up.

19 But I just wanted to make a record of all those
20 steps that were taken on Your Honor's part.

21 THE COURT: Mr. Frizzell, did you want to add
22 anything to that?

23 THE DEFENDANT: (Inaudible) leave.

24 THE COURT: Mr. Frizzell?

25 MR. FRIZZELL: I'm sorry?

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Did you want to add anything to the
2 State's?

3 MR. FRIZZELL: I just wanted to say that yes, I
4 followed up, I followed up with his mother, who was likewise
5 here, as well as Ms. Silva never actually got back to me.
6 So --

7 THE COURT: You represented that you called her and
8 told her and she said she could be here in 45 minutes, but
9 then you called her back and she never got back to you; is
10 that right?

11 MR. FRIZZELL: Well, I texted her back because --

12 THE COURT: Okay.

13 MR. FRIZZELL: -- she said I think I can be there
14 in 20 minutes.

15 THE COURT: Okay.

16 MR. FRIZZELL: And so that was my last
17 communication with either her or Mr. Keller's mother, and
18 otherwise, I'd like to thank Your Honor for even allowing us
19 to have the opportunity to call those witnesses at such a
20 late date. As you know, there was definitely some
21 cooperation issues prior to this trial starting so.

22 THE COURT: Okay. All right, thank you.

23 MR. DICKERSON: Thank you, Your Honor.

24 MR. FRIZZELL: Thank you very much, Your Honor.

25 THE COURT: We're off the record, yep.

26 (Court adjourned at 11:30 a.m.)

INDEX

VERDICT.. 3

RE: THIRD AMENDED INFORMATION

STATE'S OPENING STATEMENT BY MR. DICKERSON. 6
DEFENDANT'S OPENING STATEMENT BY MR. FRIZZEL. 7
STATE'S CLOSING ARGUMENT BY MR. MR. BUNNETT.. . . . 12
DEFENDANT'S CLOSING ARGUMENT BY MR. FRIZZELL. 15
STATE'S REBUTTAL CLOSING ARGUMENT BY MR. DICKERSON. . . . 16
VERDICT RE: THIRD AMENDED INFORMATION.. . . . 20

EXHIBITS

STATE'S EXHIBITS:

Exhibits 1 through 5. 9

* * * * *

ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

Julie Lord

JULIE LORD, INDEPENDENT TRANSCRIBER



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-16-312717-1
	.	
Plaintiff,	.	DEPT. NO. XIX
	.	
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
CHRISTOPHER ROBERT KELLER,	.	
	.	
Defendant.	.	
.	

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

**ROUGH DRAFT TRANSCRIPT OF
JURY TRIAL - DAY 4**

THURSDAY, MARCH 9, 2017

APPEARANCES:

FOR THE STATE:	MATTHEW T. BUNNETT, ESQ. MICHAEL DICKERSON, ESQ. <i>Deputy District Attorneys</i>
FOR THE DEFENDANT:	KENNETH G. FRIZZELL, III., ESQ.

RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, THURSDAY, MARCH 9, 2017, 9:14 A.M.

2 (Outside the presence of the jury)

3 THE MARSHAL: Please be seated.

4 THE COURT: Is there anything that needs to be put
5 on the record or we just want to bring the jury?

6 MR. DICKERSON: We can go ahead. Ken, do you want
7 to put anything on the record at this point in time?

8 MR. FRIZZELL: Well, Your Honor, we were listening
9 to --

10 THE CLERK: Wait. Sorry. He need to call the case.

11 MR. FRIZZELL: Oh, I'm sorry.

12 THE COURT: You ready, Christine?

13 THE COURT RECORDER: Yes, sir.

14 THE COURT: Okay. We're back on the record in the
15 State of Nevada versus Christopher Keller in C-312717. I'd
16 like the record to reflect the presence of the defendant and
17 his counsel, as well as State and their counsel. We're
18 outside the presence of the jury. Does anyone need to make a
19 record at this point? Mr. Frizzell?

20 MR. FRIZZELL: Yes, Your Honor, only because there
21 was some discussion yesterday on the record about potential
22 witnesses that my client wanted me to attempt to call. And I
23 obtained a number for one of them, and the other one, as I
24 believe that I may have told you, was my investigator, who was
25 also the investigator on the case prior to my being appointed

ROUGH DRAFT TRANSCRIPT

1 to this.

2 And neither the witness that I was given the
3 information on last night nor Mr. Maston (phonetic) were able
4 to tell me the information that we were attempting to elicit
5 regarding occupants of the house prior to the -- prior to
6 Mr. Keller's arrest.

7 Secondly, as you may know, we were back listening to
8 some redactions out of a -- out of some jail calls from the
9 night of the arrest or right around the night of the arrest,
10 and while I have agreed and I think we've stipulated to the
11 authenticity of the jail call itself, I do have at least an
12 objection to certain parts of that conversation as being a
13 hearsay objection that I don't know if there's a -- I don't
14 know what the State's opposition to my objection would be,
15 but --

16 THE COURT: Okay.

17 MR. FRIZZELL: -- I believe it's a hearsay
18 objection.

19 MR. DICKERSON: Your Honor, there's a certain
20 portion of the redacted call that we just listened to that
21 Mr. Frizzell's going to be logging his hearsay objection to,
22 which is statements coming from the individual that
23 Mr. Keller's talking to, statements that include that
24 individual telling Mr. Keller that she popped off the rounds
25 out when she ran away from the scene as he was getting

ROUGH DRAFT TRANSCRIPT

1 arrested.

2 And it was a conversation between the both of them
3 that is about this entire event. So it's the State's position
4 here that any of her statements are admissible for the purpose
5 of showing his knowledge and his consciousness of guilt under
6 the hearsay exception for the residual hearsay given that
7 their truthfulness and reliability isn't really challenged
8 here. Given that it's corroborated by the events in this case
9 and Mr. Keller's conversation and response himself.

10 So for those reasons, any of her statements really
11 are admissible and they do go to show -- they are relevant for
12 the fact that they show Mr. Keller's knowledge and his
13 consciousness of guilt.

14 THE COURT: Mr. Frizzell, why would they need be
15 considered adopted admissions?

16 MR. FRIZZELL: Because they were not elicited by my
17 client. It was -- they were offered by the person on the
18 other -- by the person on the other end who Mr. Keller -- you
19 know, who the jail call is between Mr. Keller and this person
20 and --

21 THE COURT: I know, but was there not a discussion
22 over that? What type of response did Mr. Keller have when
23 that was represented to him?

24 MR. FRIZZELL: He said I -- I think the actual word
25 is, I heard the thing, meaning I heard some shots. I heard --

ROUGH DRAFT TRANSCRIPT

1 that's the context of the conversation. But it wasn't like he
2 said anything to the effect of, quote, "thank you for popping
3 off shows shots," or anything like that. It was offered to
4 him. He did not know that that's what -- that that what was
5 happening. This person, this woman offered that information
6 and Mr. Keller just simply said yeah, I heard some -- I heard
7 the thing, which referring to the shots.

8 THE COURT: Okay.

9 MR. DICKERSON: And Your Honor, there is some basis
10 for an adopted admission here, given that you'll hear in the
11 call, if we can play it for you as an offer of proof, that
12 Mr. Keller acknowledges seeing this individual run from the
13 scene, and then they have the conversation right after he says
14 acknowledges seeing her run, he says, yeah, I heard the little
15 thing, and then she says, yeah, I popped off those rounds, and
16 then he says, yeah, the cops are saying it was a distraction,
17 and then she says, yeah, it was.

18 And in his response, it's not like why would you do
19 that, you got me in more trouble. It's basically, without
20 saying, thank you, like, yeah, I understand why you did that.

21 THE COURT: Okay. He acknowledges that he heard
22 them. He acknowledges what the police officers were concerned
23 about. Okay. All right. So I understand your objection.
24 You've lodged your objection.

25 MR. FRIZZELL: Okay.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: I'm going to overrule the objection. I
2 do believe it would be admissible. So all right, other than
3 that, are we ready to go?

4 MR. DICKERSON: I believe so, Your Honor.

5 MR. FRIZZELL: Yes, Your Honor.

6 THE COURT: All right. Okay. Call the jury in.
7 Who's going to be your next witness?

8 MR. BUNNETT: Steven Hough.

9 THE DEFENDANT: Your Honor, I had a witness that was
10 here -- that's here right now that was here on the first day
11 that was just jury selection --

12 THE COURT: Uh-huh.

13 THE DEFENDANT: -- and we didn't know that -- I
14 wasn't aware -- we didn't know that she couldn't like come to
15 the thing, if she was going to be a witness or something.

16 THE COURT: So have them stop real quick. Don't let
17 them come in. Ed, hold them out a minute, okay? Just hold it
18 right there. Right there, just hold them out right there.

19 All right, no one has asked the Court to invoke the
20 exclusionary rule.

21 MR. DICKERSON: That's true, Your Honor. And in
22 large part that's due to the fact that we were never put on
23 notice by defense that they would have any witnesses in this
24 case. So there was no reason that we believed we needed to
25 invoke the exclusionary rule on our part because we didn't

ROUGH DRAFT TRANSCRIPT

1 believe the defense had any witnesses besides maybe the
2 defendant himself.

3 THE COURT: Okay. So how -- I guess, it's the young
4 lady that's seated right there?

5 MR. FRIZZELL: Yes, Your Honor.

6 THE COURT: All right. How long -- was she
7 throughout the whole day of first day.

8 MR. DICKERSON: I believe she was here for two days,
9 Your Honor.

10 THE COURT: Was she here for the opening statements?
11 Here for any testimony?

12 MR. FRIZZELL: She was here for the -- no, she was
13 here for the first day of jury selection.

14 THE COURT: Okay.

15 MR. FRIZZELL: She was not here yesterday.

16 THE COURT: All right.

17 MR. FRIZZELL: My client's mother was here.
18 Obviously, she's not going to be a witness.

19 THE COURT: Okay. All right. Who is the witness?

20 MR. FRIZZELL: Mary Silva.

21 THE COURT: All right.

22 MR. FRIZZELL: Mary Silva.

23 THE COURT: Okay. Notwithstanding the fact that the
24 State was not put on notice of these witnesses, I'm going to
25 allow you to call her if you choose to. But you need to make

ROUGH DRAFT TRANSCRIPT

1 her available to the State to give them an opportunity to
2 question her to see what, if anything, she's going to be
3 offering.

4 MR. FRIZZELL: And that is fine, Your Honor. I
5 actually just learned of her potential as a witness yesterday
6 evening from an e-mail, which I received.

7 THE COURT: Okay. So --

8 MR. FRIZZELL: And --

9 THE COURT: -- she wasn't even somebody that
10 defendant was telling you previously that we discussed before
11 we started the trial?

12 MR. FRIZZELL: No, Your Honor.

13 THE DEFENDANT: I didn't know. I thought the
14 witness --

15 THE COURT: Well, let me ask you this, I'm going to
16 have her exit the courtroom, okay? All right. Ma'am, go
17 ahead and go out.

18 (Witness exits the courtroom)

19 THE COURT: What's your proffer?

20 MR. FRIZZELL: That she can testify that there was a
21 woman that was living there because she cleaned -- it was --
22 cleaned the condominium unit. Cleaned -- had been cleaning --
23 like a cleaning lady for Unit F. And so that she was going to
24 be able to say that yes, a woman was living there, and she was
25 the -- this was the woman who hired me to come clean the house

ROUGH DRAFT TRANSCRIPT

1 a few times and --

2 THE COURT: She hired her to come clean the house?

3 MR. FRIZZELL: The woman that was living in that
4 unit hired her, Ms. Silva, to clean the house a few times
5 prior to the -- prior to this arrest, and so she was going to
6 verify, testify that there was, indeed, someone else living in
7 that residence. There was a woman living in that residence.

8 THE COURT: Okay. All right. Like I said, she'll
9 need to make herself available to the district attorneys'
10 investigators to discuss with them her testimony, give names.
11 Is she the one, then, is this the young lady who was popping
12 off the rounds?

13 MR. FRIZZELL: No, no, no, no, no.

14 THE COURT: It would be the cleaning lady, then?

15 MR. FRIZZELL: No, no, no. It was neither.

16 THE COURT: Somebody else.

17 MR. FRIZZELL: Neither. It was a third person.

18 THE COURT: Okay. All right.

19 MR. DICKERSON: And just for the record, Your Honor,
20 we object to --

21 THE COURT: No, I understand, I understand.

22 THE DEFENDANT: Your Honor, can I say --

23 THE COURT: Okay.

24 THE DEFENDANT: -- one thing?

25 THE COURT: Mr. Keller, the witness is going to be

ROUGH DRAFT TRANSCRIPT

1 able to testify.

2 THE DEFENDANT: I was just going to say because the
3 reason I -- I thought we were going to be able to bring in the
4 HOA because she had knowledge that we had the issues with the
5 same person that we had to end up getting evicted that was
6 living in there before -- like, before I came to jail, you
7 know. Then she was -- she was still there after, and we had
8 to get her evicted, and the HOA -- that's who we were trying
9 to call for a witness, which would obviously be -- has but he
10 said that --

11 MR. FRIZZELL: Your Honor, I was given the number by
12 Mr. Keller's mother last night. After we left, I went back to
13 my office. I called her, we had a probably a 15 to 20 minute
14 conversation. While she did say that she recalls that there
15 was an eviction process done, she specifically told me that
16 there was no way that she could testify that this -- that a
17 woman was living in that residence prior to this arrest.

18 And so with that being said, and she told me this, I
19 was -- there was -- there's no reason to call her because she
20 can't offer the evidence that we would otherwise need to get
21 out, and then I received this e-mail yesterday evening
22 probably around 8:00 o'clock.

23 THE COURT: Who is that person?

24 MR. FRIZZELL: I'm sorry?

25 THE COURT: I know her name to be Michelle. I think

ROUGH DRAFT TRANSCRIPT

1 the last name is Rodriguez is the alleged woman who was living
2 there.

3 THE DEFENDANT: That's understandable, because I
4 never met the HOA lady before. I just know that she had a
5 problem with the girl that was living with me, you know, once
6 I -- once I came here.

7 THE COURT: The lady that you gave the name to -- to
8 him about?

9 MR. FRIZZELL: Well, my mom gave him the number, but
10 I've never -- I don't know who the lady is. She doesn't know
11 who I am, so it would be understandable that she doesn't know
12 what was going on before I came.

13 THE COURT: Well, you're saying that there was an
14 issue involving you getting evicted and the person --

15 THE DEFENDANT: No, no.

16 THE COURT: -- represent --

17 THE DEFENDANT: The lady -- the lady -- because she
18 knows that she had to evict the girl I was speaking about.

19 THE COURT: Well, according to --

20 THE DEFENDANT: There's eviction on the --

21 THE COURT: -- Mr. Frizzell, he spoke to the lady
22 representing, I guess --

23 MR. FRIZZELL: The HOA.

24 THE COURT: -- the -- the HOA --

25 MR. FRIZZELL: President of the HOA.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: -- -- that says that she knows nothing
2 about that, and you're saying that she does.

3 THE DEFENDANT: Well, all she knows about is that
4 there was an eviction on someone, but I guess, I thought maybe
5 she was more clear about the details of it, but obviously,
6 she's not.

7 THE COURT: Okay. All right. Anything else?

8 MR. FRIZZELL: I don't believe so, Your Honor.

9 THE COURT: All right. Okay, so at this point in
10 time, I'm going to invoke the exclusionary rule on behalf of
11 the parties, and so anyone that's a witness in this matter
12 would have to wait outside, could not discuss the case.

13 MR. DICKERSON: What's your last name, ma'am?

14 UNIDENTIFIED SPEAKER: Graham.

15 MR. DICKERSON: We would ask that Nancy Graham step
16 out.

17 MR. FRIZZELL: She's been here the whole time so
18 there's no way --

19 MR. DICKERSON: There's a chance --

20 MR. FRIZZELL: -- I can call her anyways.

21 MR. DICKERSON: -- that she's called in this case.

22 THE COURT: What's that?

23 MR. DICKERSON: There's a chance that she may be
24 called in rebuttal, Your Honor.

25 THE COURT: All right.

ROUGH DRAFT TRANSCRIPT

1 MS. GRAHAM: I'm his mother.

2 THE COURT: Okay. What's your name, ma'am?

3 MS. GRAHAM: I'm his mother.

4 THE COURT: No, I know, but I'm going to announce
5 you, not his mother, I'm going to announce your name on the
6 record. What's your name?

7 MS. GRAHAM: Nancy Graham.

8 THE COURT: Nancy Graham?

9 MS. GRAHAM: Yes, sir.

10 THE COURT: Ms. Graham, the State has represented to
11 me that there's a chance they may be calling you in rebuttal,
12 so for that reason, then I'm going to ask that you step out,
13 not discuss this case with anyone while you're out in the
14 hall.

15 MS. GRAHAM: Your Honor, I could be called to
16 testify against my son?

17 THE COURT: Not necessarily against your son, but
18 yes, you could. There's no privilege that you have that you
19 can represent so -- okay. All right. Go ahead and get the
20 jury in.

21 THE MARSHAL: All rise for the presence of the jury.

22 (Jury reconvened at 9:27 A.M.)

23 THE COURT: Okay. We're back on the record in the
24 case of State of Nevada versus Christopher Keller in Case No.
25 C-312717. Everyone have a seat, please. I'd like the record

ROUGH DRAFT TRANSCRIPT

1 to reflect the presence of the defendant and his counsel as
2 well as the State and their counsel.

3 (COURT CALLS ROLL OF THE JURY)

4 THE COURT: All jurors have answered to the call.
5 Will the parties stipulate to the presence of the jury?

6 MR. DICKERSON: State stipulates, Your Honor.

7 MR. FRIZZELL: Defense stipulates, Your Honor.

8 THE COURT: Okay. Ladies and gentlemen, before we
9 took a break last night, the State was still in their case-
10 in-chief. Do you have any further witnesses, Mr. Dickerson
11 or Mr. Bunnett?

12 MR. DICKERSON: Yes do, Your Honor.

13 MR. BUNNETT: Yes, Your Honor. The State's going
14 to call Officer Steven Hough.

15 THE COURT: Okay.

16 OFFICER STEVEN HOUGH, STATE'S WITNESS, SWORN

17 THE CLERK: Thank you, please be seated. Please
18 state your full name, spelling your first and last name for
19 the record.

20 THE WITNESS: My name is Steven Hough, S-t-e-v-e-n.
21 Hough is H-o-u-g-h.

22 THE COURT: Your witness.

23 MR. BUNNETT: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MR. BUNNETT:

ROUGH DRAFT TRANSCRIPT

1 Q Good morning, sir.

2 A Morning, sir.

3 Q This may be an obvious question based on what
4 you're wearing, but what do you do for a living?

5 A I'm a police officer with the Las Vegas
6 Metropolitan Police Department.

7 Q What's your current assignment?

8 A I'm a street cop in Northeast Area Command.

9 Q Okay, so you're a patrol officer?

10 A Yes, sir, I am.

11 Q And how long have you been a police officer?

12 A I've been a police officer for just a little over
13 ten-and-a-half years.

14 Q Okay. And were you a police officer on January
15 28th, 2016?

16 A Yes, sir, I was.

17 Q And were you working that day?

18 A Yes, sir, I was.

19 Q Okay. Were you working in the morning hours?

20 A I worked the day shift, yes, sir.

21 Q Okay. What's your shift?

22 A My shift is at 6:30 in the morning until 4:30 p.m.

23 Q All right. And during your shift, did you respond
24 to 265 North Lamb Boulevard, Unit F?

25 A Yes, sir, I did.

ROUGH DRAFT TRANSCRIPT

1 Q Why did you respond there?

2 A When I got on duty, I asked in anybody need relief.
3 I was directed to a patrol unit working on graves and needed
4 relief.

5 Q Okay. And what did they need relief from?

6 A They needed just to either -- either transport for
7 me to assist. I didn't know until I got there.

8 Q Okay. Did you end up assisting?

9 A Yes, sir, I did.

10 Q Okay. And at that specific address, how did you
11 assist?

12 A I assisted with taking digitals when they did a
13 follow-up on a search warrant.

14 Q Okay. And when you said taking digitals, what do
15 you mean by that?

16 A I have a digital camera, and I did take digital
17 pictures of the scene where the detectives were going to go
18 in and do their search warrant.

19 Q Okay. So by the scene, did you eventually figure
20 out what the scene was?

21 A Yes, sir.

22 Q What was the scene?

23 A The scene was an apartment, sir.

24 Q Okay. And can you give us a general layout of that
25 apartment?

ROUGH DRAFT TRANSCRIPT

1 A The apartment is a series of three or four.
2 They're -- it's what they call the Crossroads, but there's a
3 series of four. I guess, you could say they're condos
4 because they're connect. And the door faced towards the
5 east. There was an apartment to its left and there was
6 another apartment to its right.

7 Q Okay. And how about inside the apartment?

8 A Inside the apartment, well, as you go into the
9 door, there was the living room on my left as you go into the
10 door you're facing west now. There was a living room, a
11 dining room and then to the right was a kitchen and directly
12 to my right was a door to a bedroom.

13 Q Okay. Was -- how many bedrooms were in the
14 apartment?

15 A Just the one, sir.

16 Q Okay. And was there a bathroom in the apartment?

17 A Yes, sir, there was. The bathroom was located
18 adjacent to the bedroom.

19 Q All right. So when you say you're out there taking
20 digitals, when you're at the scene taking digitals, do you
21 just -- how do you decide what pictures to take?

22 A The procedure, sir, is to initially take a picture
23 of the event that I'm on, and that would be on the computer
24 in my control vehicle and then it shows the location where
25 I'm at. And then I take a picture of the door. Actually,

ROUGH DRAFT TRANSCRIPT

1 I'm going to take the picture of the apartment entrance then
2 the address, if it's on the door, if it's on the side of the
3 house. And then once we open the door, then I'm going to
4 start taking pictures on the interior.

5 Q Okay. And as you mentioned, you did that in this
6 case?

7 A Yes, sir.

8 Q Okay.

9 MR. BUNNETT: Your Honor, I have in my hand what's
10 been marked as State's 40 through 51 and 78 through 79, and
11 I'm going to show them to Mr. Frizzell.

12 THE COURT: These are all photos?

13 MR. BUNNETT: Yes.

14 THE COURT: Okay.

15 MR. BUNNETT: And may I approach the witness, Your
16 Honor?

17 THE COURT: Yes.

18 BY MR. BUNNETT:

19 Q Sir, I'm showing you these exhibits that I've
20 previously mentioned. I'm going to let you look through
21 those for a second. I know there's a couple.

22 A Yes, sir.

23 Q But just look up when you're done looking at them.

24 A (Witness reviewing photographs). Yes, sir.

25 Q Do you recognize this photograph?

ROUGH DRAFT TRANSCRIPT

1 A Yes, sir, I do.

2 Q Okay. What are those photographs of?

3 A Those are photographs or digital photographs that I
4 took of the apartment where the detectives were doing a
5 follow-up search warrant.

6 Q Okay. And did those photographs fairly and
7 accurately depict the condition of the apartment as you found
8 it?

9 A Yes, sir.

10 Q All right.

11 MR. BUNNETT: And Your Honor, at this time, I'd
12 move for the admission of State's 40 through 51 and 78
13 through 79.

14 THE COURT: Any objection?

15 MR. FRIZZELL: Only to there's a couple of pictures
16 in there that I think we saw yesterday of the storage unit
17 outside.

18 THE COURT: Let me see it.

19 THE WITNESS: Yes, sir.

20 MR. FRIZZELL: The two pictures of the outside
21 storage unit.

22 THE WITNESS: Yes, sir.

23 THE COURT: Yeah, 42 and 40, 43. All right, so
24 what's your objection?

25 MR. FRIZZELL: Well, the testimony was that he took

ROUGH DRAFT TRANSCRIPT

1 these of the interior of the apartment, and those aren't the
2 interior of the apartment or the condo. I just want to make
3 sure that those were ones that he took as well as opposed
4 to --

5 THE WITNESS: Thank you, sir.

6 MR. BUNNETT: I can follow up on it, Your Honor.

7 THE COURT: Well, just ask him.

8 BY MR. BUNNETT:

9 Q Did you take those pictures?

10 A Yes, sir, I did.

11 Q All right. Those have already been admitted into
12 evidence, but those are also of a part of the -- that's
13 actually on the exterior of the condo, but that was --

14 MR. FRIZZELL: Objection. Is there a question?

15 BY MR. BUNNETT:

16 Q -- at the scene, what you took?

17 A That is correct.

18 THE COURT: So the --

19 MR. FRIZZELL: Objection was --

20 THE COURT: -- 40 -- 41 and 42 -- or 42 and 43, I'm
21 sorry, have already been admitted.

22 MR. FRIZZELL: Right.

23 THE COURT: So the motion would be to admit 40
24 through 41, 44 through 51, 78 and 79.

25 MR. BUNNETT: Okay.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Any objection to that?

2 MR. FRIZZELL: No objection to those, Your Honor.

3 THE COURT: All right, they will be admitted.

4 (State's Exhibits 40 through 41,
5 44 through 51, 78 and 79 admitted)

6 MR. FRIZZELL: All right.

7 THE COURT: Okay. And just so we're clear,
8 Officer, you took all these photos, correct?

9 THE WITNESS: Yes, sir, you did.

10 THE COURT: Okay. Let me have those. All right.
11 There you go. Do you need them?

12 MR. BUNNETT: Yes, please. And permission to
13 publish?

14 THE COURT: Yes.

15 BY MR. BUNNETT:

16 Q All right. I'm going to start with State's 40.
17 What are we looking at here?

18 A Well, sir it's the address on the door.

19 Q Okay. And so that was the address of the unit that
20 they were searching?

21 A Yes, sir.

22 Q All right. I'm going to show you State's 41 now.
23 What's that look like?

24 A That is the door with the letter D on it.

25 Q Okay. And was that the unit that you went inside?

ROUGH DRAFT TRANSCRIPT

1 A Yes, sir.

2 Q Okay. And I'm going to skip around a little bit
3 and show you State's 45. What's this image of?

4 A Yes, sir. As you go into the door, directly in
5 front, this again, is the living area, living room and then
6 the dining room.

7 Q Okay. And in terms of the kitchen, what side of
8 the picture would that have been on?

9 A Okay. As you're going in -- for me, I'm facing
10 west, and the kitchen is going to be further up next to the
11 -- where the chairs are and then to the right or to the
12 north.

13 Q Okay. So by where that trash can is?

14 A Yes, sir, past the trash can.

15 Q Okay. I'm going to show you State's 47.

16 A Yes, sir.

17 Q What's this picture of?

18 A That is the kitchen.

19 Q Okay. I'm going to show you State's 48. Where's
20 this?

21 A That is the closet, sir.

22 Q Okay. Is that the -- where is that closet?

23 A I believe, that there's a closet right before you
24 get into the living room -- or to the bedroom. I know that
25 there was a closet in the bedroom as well.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. Show you State's 49. Where is this in the
2 unit?

3 A Yes, sir. This is also in the living room. You'll
4 see that there's the door to the right of the television, and
5 as you -- you're coming in, this is where the television and
6 the closet is obviously in the living room.

7 Q Okay. I'm going to show you State's 51.

8 A Yes, sir. This is the bedroom.

9 Q Okay. And I'm going to show you State's 52.

10 A Yes, sir. Here is the nightstand. You'll see the
11 lamp on that, and then you'll see the bath -- the sink,
12 excuse me, sir, the -- the sink, along with the drawers and
13 the mirror. And that's directly to the left of the bed if
14 you're facing the bed.

15 Q Okay. Show you State's 53. What's -- what area is
16 that?

17 A That is also, I believe, the -- the bedroom because
18 it is a wall. As soon as you come in the bedroom, there's a
19 very smart wall -- small wall, and then if you continue on
20 around to the left of that, then, I guess -- I believe, you
21 go into the bathroom --

22 Q Okay.

23 A -- area.

24 Q Now I'm going to show you State's 79. Where is
25 this in the apartment?

ROUGH DRAFT TRANSCRIPT

1 A That is also in the -- the bathroom.

2 Q Okay. I'm going to show you State's 78. What's
3 this?

4 A All right, yes, sir. That is going to be an
5 entrance that's through from the apartment directly to the
6 north of where -- between one bathroom to the other.

7 Q Okay. So where -- is that -- I mean, is that
8 visible if you're just walking in the bathroom?

9 A No, sir. I believe, the detectives when they
10 looked underneath there, they noticed that there was a cut
11 out between the two apartments. The one to the north was no
12 longer habitated and being used. So when they looked
13 underneath there, they found that there was a hole between
14 the two apartments or the two condos.

15 Q Okay. But that is under the bathroom sink?

16 A Yes, sir.

17 Q Now, we've previously talked about a shed. Did you
18 take any photographs of any items found in the shed?

19 A Yes, sir. The shed was directly to the -- to the
20 right of the main entrance as you're facing it, and there was
21 a small little shed or a little patio. Again, you take
22 digitals of the exterior to show what the detectives want to
23 have pictures of or where you're going into.

24 Q Okay. Did you take a picture of anything inside
25 the shed, though, in terms of items?

ROUGH DRAFT TRANSCRIPT

1 A When we took pictures of inside there, I -- I
2 couldn't tell you right off the top of my head what the
3 detectives found.

4 Q Okay. I'm going to show you a photograph that's
5 been previously marked as State's Proposed 62.

6 MR. BUNNETT: May I approach?

7 THE COURT: Yes.

8 BY MR. BUNNETT:

9 Q All right. I'm show you go State's Proposed 62.
10 Do you recognize that?

11 A Yes, sir, I do.

12 Q Okay. What's that?

13 A These are boxes of ammunition. It states here
14 directly what kind of ammunition it is, and these little
15 baggies.

16 Q Okay. Do you recall where these were found?

17 A According to the picture, this would have been
18 inside the -- the shed, sir.

19 Q Okay. And is that a fair and accurate depiction of
20 the -- what you saw inside the shed?

21 A Yes, sir.

22 MR. BUNNETT: Move for admission of State's 62,
23 Proposed 62.

24 THE COURT: Any objection?

25 MR. FRIZZELL: No, Your Honor.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: It will be admitted.

2 (State's Exhibit 62 admitted)

3 MR. BUNNETT: And permission to publish.

4 THE COURT: Yes.

5 BY MR. BUNNETT:

6 Q So could you just -- so if you look to your left,
7 there's a screen there, could you just circle what you're
8 talking about when you're talking about ammunition.

9 A All right. Excuse me, yes. Yes. (Indecipherable)
10 each individually here there's -- okay, I'll do the whole
11 circle. Those are boxes of the green and the yellow. The
12 Remington brand of the .22 caliber short pistol round.

13 Q Okay. Did you also take photographs inside the
14 kitchen?

15 A Yes, sir, I did.

16 Q What did you take photographs inside the kitchen
17 of?

18 A Inside the kitchen there was located some
19 narcotics, and we did take pictures -- or I did take pictures
20 of those.

21 Q Okay. And what kind of narcotics did you believe
22 to be in the kitchen?

23 A Well, not what I believed. What the detectives
24 found, sir, but the point is when I took a picture of it,
25 there was a large plastic canister of a green leafy substance

ROUGH DRAFT TRANSCRIPT

1 that was later tested for marijuana.

2 Q Okay. So I'm going to show you --

3 MR. BUNNETT: And Your Honor, I have in my hands
4 State's Proposed 60. I'm showing it to Mr. Frizzell. May I
5 approach the witness with it?

6 THE COURT: Yes.

7 BY MR. BUNNETT:

8 Q Okay. I'm showing you State's Proposed 60. Do you
9 recognize that?

10 A Yes, sir.

11 Q And what's depicted there?

12 A In the freezer, when it was opened up, it swings
13 open, there is a small canister on the lower shelf, and it
14 was inside there, the -- the large amount of marijuana.

15 Q Okay. And is that a fair and accurate depiction of
16 what you found in the freezer?

17 A Yes, sir.

18 Q All right.

19 MR. BUNNETT: State moves for the admission of
20 Proposed 60.

21 THE COURT: Any objection?

22 MR. FRIZZELL: No, Your Honor.

23 THE COURT: It will be admitted.

24 (State's Exhibit 60 admitted)

25 MR. BUNNETT: And permission to publish again, Your

ROUGH DRAFT TRANSCRIPT

1 Honor?

2 THE COURT: Yes.

3 BY MR. BUNNETT:

4 Q Okay. So here's -- showing you State's 60.

5 A Yes, sir.

6 Q Using that screen again, could you please indicate
7 where the green leafy substance was?

8 A Yes, sir.

9 Q Okay. So it looks like it's the bottom rack of
10 the freezer?

11 A Yes, sir, it is. It's on the bottom rack. It's
12 about like 12 inches long.

13 Q Did you also take photographs inside the bedroom?
14 I mean, we've already seen some, but did you take other
15 photographs?

16 A I took all the digitals --

17 Q Okay.

18 A -- for this event, sir.

19 MR. BUNNETT: And Your Honor, I have in my hand
20 what's been previously marked as State's 54 through 59, and
21 I'll just start with 54 through 59 right now. For the
22 record, I'm showing them to Mr. Frizzell. May I approach?

23 THE COURT: Yes.

24 BY MR. BUNNETT:

25 Q All right. I'm showing you State's 54 through 59.

ROUGH DRAFT TRANSCRIPT

1 A Yes, sir.

2 Q Take a look through those and look up when you're
3 all done.

4 A (Witness reviewing photographs). Yes, sir.

5 Q Do you recognize those?

6 A Yes, sir.

7 Q What are they photographs of?

8 A These were photographs that I took inside the
9 bedroom, and it shows very specific narcotics, narcotics,
10 paraphernalia.

11 Q All right. And are those fair and accurate
12 depictions of what you found in the bedroom?

13 A Yes, sir, they are.

14 MR. BUNNETT: State moves for the admission of
15 Proposed 54 through 59.

16 THE COURT: Any objection?

17 MR. FRIZZELL: No objections, Your Honor.

18 THE COURT: They'll be admitted.

19 (State's Exhibits 54 through 59 admitted)

20 BY MR. BUNNETT:

21 Q Okay. I'm going to start with State's 54, that's
22 been admitted into evidence. What are we looking at in this
23 photograph?

24 A Yes, sir. This is as you were facing the bed,
25 you've come in the bedroom, you're facing the bed, and to the

ROUGH DRAFT TRANSCRIPT

1 left there is -- looks like there's paraphernalia. There's a
2 scale in the ground. You'll see the chest of drawers, and to
3 the left of that there's a scale with some other
4 paraphernalia right there and showing on the floor by
5 (indecipherable).

6 THE COURT: Why don't you blow it up some.

7 MR. BUNNETT: Okay.

8 THE COURT: Does that help?

9 THE WITNESS: Yes, sir.

10 BY MR. BUNNETT:

11 Q All right. I think you mentioned some -- did you
12 mention some scales?

13 A Yes, sir, there's going to be a -- you'll see the
14 digital scale where -- right here, I'm going to circle a
15 digital scale.

16 Q Okay.

17 A There's also another scale right here to the left
18 of that. There is some narcotics paraphernalia here on the
19 floor.

20 Q All right. And anything else of significance in
21 this photo?

22 A Just other than -- from this photograph, just the
23 paraphernalia sir, and the narcotics.

24 Q Okay. I want to show you State's 55. I'm going to
25 zoom out a little bit at first. What did you find in this --

ROUGH DRAFT TRANSCRIPT

1 or what's depicted in this photograph?

2 A Here are the chest of drawers. Directly to the
3 left of the bed, the detectives located several other items
4 of paraphernalia.

5 Q Okay. And I'm going to show you a close-up, I
6 think it's in the same frame, though, of State's 56.

7 A Yes, sir.

8 Q What's here?

9 A Again, this right here, there's some narcotics on
10 the CD -- on the CD container.

11 Q Okay. Could you circle that?

12 A Yes, sir.

13 Q Looks like that bag with the white stuff in it?

14 A Yes, sir.

15 Q All right. I'm going to show you State's 57.

16 A Yes, sir.

17 Q And what's depicted here?

18 A Yes, sir. Directly next to these hats and
19 underneath the lamp there's a mirror with some -- some
20 narcotics that have been chopped up and then there's also a
21 smoking pipe, a clear smoking pipe with residue.

22 Q Okay. I'm going to show you State's 58. What's
23 depicted here?

24 A Also, this is the -- a small square of aluminum
25 foil and a straw that through my training and experience on

ROUGH DRAFT TRANSCRIPT

1 the street is used for narcotics.

2 Q Okay.

3 A Paraphernalia.

4 Q And I'm going to show you State's 59.

5 A Yes, sir.

6 Q What's depicted here?

7 A There's also some more paraphernalia, sir, on the
8 counter.

9 Q Okay. Is there also a bag in that photograph?

10 A There's a small bag on the counter.

11 Q Okay. What is your background, training and
12 experience as it relates to the sale of narcotics?

13 A In the sale of narcotics, if there's several
14 baggies, other narcotics, then I would infer through my
15 training and experience that it's used for -- for sales.

16 Q Okay.

17 A Distribution.

18 Q So several baggies would tell you that?

19 A Yes, sir.

20 Q Okay.

21 MR. BUNNETT: And Your Honor, I have in my hand
22 what's been previously marked as State's 63 through 80.
23 Showing these to Mr. Frizzell.

24 THE COURT: Does that include 79 -- 78 and 79?
25 Because that's already --

ROUGH DRAFT TRANSCRIPT

1 MR. BUNNETT: 78 and 79, which have already been
2 admitted.

3 THE COURT: So 63 through 77, and then 80?

4 MR. BUNNETT: Yeah, let's do that.

5 THE COURT: Okay.

6 MR. BUNNETT: May I approach?

7 THE COURT: Yes.

8 BY MR. BUNNETT:

9 Q All right. I'm showing you State's 63 through 77,
10 and then I'm showing you -- or that's proposed, and State's
11 Proposed 80. There's a couple of these so I'm just going to
12 give you an opportunity to look at those, and look up when
13 you're done.

14 A (Witness reviewing photographs). Yes, sir.

15 Q Do you recognize those?

16 A Yes, sir, I do.

17 Q And what are those photographs of?

18 A Well, these pictures I took, again, when the
19 detectives are doing their search warrant, when they located
20 items, I would take pictures of the items that were located
21 and where they were located at, sir.

22 Q Okay. And were those fair and accurate depictions
23 of the items you found?

24 A Yes, sir, they are.

25 Q All right.

ROUGH DRAFT TRANSCRIPT

1 MR. BUNNETT: State moves for the admission of
2 Proposed 63 through 77, and 80.

3 MR. FRIZZELL: No objection, Your Honor.

4 THE COURT: They'll be admitted.

5 (State's Exhibits 63 through 77 and 80 admitted)

6 THE WITNESS: Here you are, sir.

7 BY MR. BUNNETT:

8 Q Okay. I'm going to show you State's 63.

9 A Yes, sir.

10 Q What's here?

11 A This is a box of laser ammunition for .9 millimeter
12 Luger and 115 grain full metal jacketing round.

13 Q So is the caliber of that 9 millimeter?

14 A Yes, sir.

15 Q Okay. I'm going to show you State's 64. What's
16 this?

17 A This is a tray of ammunition from that box showing
18 15 rounds of a 9 millimeter ammunition.

19 Q Okay. I'm going to show you State's 65.

20 A Yes, sir.

21 Q What's this?

22 A And this is again, a picture of the floor. You're
23 going to see the two scales, the yellow container on the
24 digital scale. There's narcotics on the floor and there's
25 some other small scales or other items on the floor directly

ROUGH DRAFT TRANSCRIPT

1 to the left of the bed as you're facing the bed and the
2 nightstand.

3 Q Okay. Could you circle what you identify as
4 narcotics?

5 A Yes, sir. There's going to be some narcotics right
6 here.

7 Q Okay.

8 A And there's believed to be narcotics here and then
9 there -- of course, there are the three different scales.

10 Q Okay. Showing you State's 66. What are we looking
11 at here?

12 A This is showing that this is the actual address
13 with the name of the subject, Mr. Christopher Keller, and his
14 address showing as 265 North Lamb.

15 Q Okay. And is that the address you searched?

16 A Yes, sir, it is.

17 Q All right. Show you 64. 67, I'm sorry. What are
18 we looking at here?

19 A Okay. We're now looking down from the side of the
20 bed. The -- excuse me, as you'll notice on the right side of
21 the screen, there's a chest of drawers, if we're looking down
22 from the bed. And again, the detectives just wanted another
23 picture of -- from the side of the bed on down showing the
24 items that were -- like I say, the shoes.

25 Q Okay. I'm going to turn it around and --

ROUGH DRAFT TRANSCRIPT

1 A Yes, sir.

2 Q -- that might make it a little easier to explain.

3 So if we're looking at the right side of this photograph --

4 A Yes, sir.

5 Q -- we're looking at the bed?

6 A This is again, the bed and you'll notice that
7 toward the top of the -- of the photograph is a chest of
8 drawers. And this is going to be as you're facing the bed,
9 the left side of the bed, and these are the shoes.

10 Q Okay. Showing you State's 68.

11 A Yes, sir.

12 Q It's a little difficult to see --

13 A Yes, sir.

14 Q -- right here.

15 A And apologize for the quality of that photographs,
16 sir.

17 Q It's okay. You're not a professional photograph
18 taker, are you?

19 A No, sir.

20 Q Okay. What are we looking at here?

21 A This was a list of names that the detectives found
22 with names and numbers next to those names.

23 Q Okay. And did this -- did these documents have any
24 significance to you?

25 A To me, no, personally not to me.

ROUGH DRAFT TRANSCRIPT

1 Q Okay.

2 A To my detectives, that were doing the search, yes,
3 they felt it was imperative so I took pictures of it.

4 Q Okay. So it just has names and numbers next to
5 them?

6 A Yes, sir.

7 Q Okay. I'm going to show you State's 69.

8 A Yes, sir.

9 Q What are we looking at here?

10 A We're looking at a small tray of several baggies.

11 Q All right.

12 A And be those are -- these were clear plastic
13 baggies.

14 Q And you had mentioned previously that the presence
15 of a good amount of bags would suggest narcotic sales?

16 A Yes, sir, if we have a large amount of bags and a
17 large amount of narcotics, yes, the training and experience
18 (indecipherable) or state that they were being used for
19 distribution of sales.

20 Q Okay. So looking at these, are those consistent
21 with narcotic sales?

22 A Yes, sir, they are.

23 Q Okay. I'm going to show you State's 70.

24 A Yes, sir.

25 Q What's that?

ROUGH DRAFT TRANSCRIPT

1 A This is a Century Safe that was located by one of
2 the detectives. He wanted me to take a picture of that
3 specific safe showing --

4 Q Okay. State's --

5 A -- (inaudible).

6 Q -- 69, State's 70 opened up?

7 A Yes, sir.

8 Q Showing you State's 71.

9 A Yes, sir.

10 Q What's that?

11 A This is more paraphernalia. This is we're in the
12 bathroom now. You can see the mirror and the back. There's
13 a bong. There's several bongs here, a smoking pipe.
14 Actually, there's several smoke -- a couple of smoking pipes.

15 Q Okay. I'm going to show you State's 72.

16 A Yes, sir.

17 Q What's this?

18 A This is in the closet. See, this is the corner of
19 the bed here. It's going to be at -- if you're facing the
20 bed, it's going to be to the right, and there's a closet.
21 Inside the closet was located the Ruger firearm.

22 Q Okay. And State's 73, is that that Ruger firearm?

23 A Yes, sir, that is the firearm. There is a
24 detective holding that showing the serial number, and I was
25 taking a picture of the firearm and the serial number.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. This is State's 74.

2 A Yes, sir.

3 Q What is this?

4 A That is a -- a magazine showing some loaded rounds,
5 and you see at the top two rounds in the magazine.

6 Q Okay. State's 75. What's depicted here?

7 A Yes, sir. There's some more information here.
8 Looks like there's some syringes right there, sir. And
9 you'll see that the -- this here's the box of syringes right
10 here. If I may, Your Honor.

11 THE COURT: Yes.

12 THE WITNESS: And then there's another syringe
13 right here, sir.

14 BY MR. BUNNETT:

15 Q Okay. And do those syringes -- are you familiar
16 with how heroin is ingested?

17 A Yes, sir, I am.

18 Q How is heroin typically ingested?

19 A Typically heroin is injected through the use of
20 needles into the bloodstream.

21 Q Okay. And so would these be consistent with
22 heroin?

23 A Yes, sir, they would be.

24 Q I'm going to show you State's 76. Do you recognize
25 what's depicted here?

ROUGH DRAFT TRANSCRIPT

1 A Yes, sir. Again, it looks like there's -- looks
2 like there's more paraphernalia for the use of narcotics.

3 Q Okay. So when you say paraphernalia, what in that
4 photograph is paraphernalia?

5 A Okay. We're looking at the baggies here, but in
6 the bags -- those aren't baggies that I recall. And again,
7 this is plastic paraphernalia, the bags that the detectives
8 found that they thought was relevant to their search.

9 Q Okay. So I'm going to -- it looks like you circled
10 that zip lock.

11 A Yes, sir.

12 Q And maybe it's just looking at the photograph from
13 the screen, but are those baggies?

14 A No, sir, those are not baggies.

15 Q Okay, what are those?

16 A At the look to be like smoking pipes.

17 Q Did they look to you --

18 A Or spoons.

19 Q Okay. Did they look to you to be used?

20 A No, sir, not at the time they did not look to be
21 used.

22 Q All right. But you had mentioned previously that
23 there are other smoking devices around the apartment, right?

24 A Yes, sir, several.

25 Q Were those clean or were those dirty?

ROUGH DRAFT TRANSCRIPT

1 A Those were dirty, sir.

2 Q Okay. But these ones are clean?

3 A Yes, sir.

4 Q All right. Do you see some elastic bands?

5 A Yes, sir. There appear to be some elastic bands on
6 the right-hand side.

7 Q Would you consider those to be paraphernalia?

8 A Depending, yes, sir, on the use.

9 Q How is it paraphernalia?

10 A You can use the paraphernalia to either wrap
11 balloons. You can use it to wrap the baggies. You can use
12 it to wrap your pipes together. How your going to package
13 your sales.

14 Q Okay. I'm going to show you State's 77, and I
15 think we've seen this image before.

16 A Yes, sir, we have.

17 Q I think you mentioned like two --

18 A Yes, sir.

19 Q -- for ingesting narcotics?

20 A Yes, sir.

21 Q Okay. I'm going to show you State's 80. What are
22 we looking at here?

23 A That again, is going to be looking inside the box,
24 there's the baggy, there's a smoking pipe, there's some more
25 paraphernalia in there, sir.

ROUGH DRAFT TRANSCRIPT

1 Q I've got one more photograph to show you. And I
2 have in my hand State's Proposed 95, and I'm showing this to
3 Mr. Frizzell.

4 MR. BUNNETT: May I approach?

5 THE COURT: Yes.

6 BY MR. BUNNETT:

7 Q Showing you State's Proposed 95. Do you recognize
8 that?

9 A Yes, sir, I do.

10 Q All right. What is that?

11 A There is a multi-colored bong, and there's
12 balloons, the small -- small balloons, and a ziplock baggy
13 directly to the left of the balloons.

14 Q Okay. And does this picture show items that you
15 found in the apartment?

16 A Yes, sir, they do.

17 Q Okay. And are these where they were found?

18 A Yes, sir, they are.

19 MR. BUNNETT: State moves for the admission of
20 State's Proposed 95.

21 MR. FRIZZELL: No objection.

22 THE COURT: It will be admitted.

23 (State's Exhibit 95 admitted)

24 BY MR. BUNNETT:

25 Q All right. I'm going to show you State's 95.

ROUGH DRAFT TRANSCRIPT

1 A Yes, sir.

2 Q Can you just point out where that pipe is?

3 A Yes, sir, the pipe's going to be right here at the
4 lower right corner.

5 Q Okay. And the balloons?

6 A These are the balloons, yes, sir.

7 Q Could you identify what the pipe could be used for.

8 A The pipe could be used for smoking marijuana, it
9 could be used for smoking meth.

10 Q Okay. So it could be used for ingesting multiple
11 forming of narcotics?

12 A Yes, sir.

13 Q Okay. Did the balloons have any significance to
14 you?

15 A The balloons have significance in the sense of
16 being used for packaging -- typically we use -- we find
17 heroin in balloons.

18 Q Okay. So I'm just going to finish up with you by
19 moving on to something a little bit different. Later on in
20 the day, did you go back to your command?

21 A Yes, sir, I went back to the Northeast Area
22 Command.

23 Q Okay. So you -- where is the Northeast Area
24 Command?

25 A The Northeast Area Command is going to be at 3750

ROUGH DRAFT TRANSCRIPT

1 Cecile Avenue (phonetic), and that is area as you go on --
2 it's like say Pecos and the Boulevard.

3 Q Okay. And at Northeast Area Command, did you come
4 into contact with anybody that you see in court today?

5 A Yes, sir, I do.

6 Q Okay.

7 A Yes, sir, I did.

8 Q Can you please point out that individual and
9 identify an article of clothing that he or she's wearing?

10 A Yes, sir, it's the male here wearing, looks like
11 the light blue colored shirt. He's got the long-ish hair,
12 white male.

13 MR. BUNNETT: And Your Honor, I'd ask that the
14 record reflect that the witness has identified the defendant.

15 THE COURT: It shall.

16 BY MR. BUNNETT:

17 Q And how did you come into contact with him?

18 A Excuse me, myself and other officer were watching
19 him on the monitor while the other officer was taking care of
20 the paperwork. And while we were watching the monitor,
21 because we want to have our -- when our prisoners or people
22 who are going to be interviewed and interrogated they're
23 going to be in an interview room, and that is monitored audio
24 and visually.

25 So we have a monitor set up to where while we're

ROUGH DRAFT TRANSCRIPT

1 doing whatever paperwork we have to do, we can watch our
2 subject. And in this particular date and time, the -- the
3 defendant was reaching into his pants and another officer
4 thought that maybe he might be doing -- actually, the words
5 he used is he's going to masturbate. So as he came out with
6 his hand, he did come out with a small baggy, and by that
7 time I started running down the aisle, and by the time we got
8 into the room, he had white powdery substance on his nose and
9 his mouth, and we -- I had him stand up, and since he had
10 gotten it into his pants, I did open up his pants, pull open
11 his shorts and find another small bag of white powder
12 attached to his testicle.

13 Q Okay. So to be anatomically correct, it would have
14 been attached to his scrotum?

15 A His scrotum, yes, sir.

16 Q Okay.

17 A His left side of his scrotum.

18 Q And what did you do with that?

19 A I removed it.

20 Q Okay. And did you do anything with it after that?

21 A It was impounded as evidence.

22 Q Okay.

23 (Pause in the proceedings)

24 MR. BUNNETT: And may I approach, Your Honor?

25 THE COURT: Yes.

ROUGH DRAFT TRANSCRIPT

1 BY MR. BUNNETT:

2 Q All right. I'm showing you State's 83, and there's
3 a bag inside of its contents, which is State's 83-A. Do you
4 recognize this?

5 A Yes, sir.

6 Q And what are we looking at?

7 A That looks like a small baggy. Actually, there's a
8 baggy inside this baggy here where there was an item that was
9 taken from the defendant.

10 Q So that was the item that was taped to his scrotum?

11 A Yes, sir.

12 Q All right. Could you hold that up for the jury,
13 please?

14 A Yes, sir.

15 MR. BUNNETT: And I have nothing further, Your
16 Honor.

17 THE COURT: Cross.

18 MR. FRIZZELL: Oh, I thought he was still getting
19 another piece of evidence. Just a couple, Your Honor. I do
20 need some of the photos.

21 (Pause in the proceedings)

22 CROSS-EXAMINATION

23 BY MR. FRIZZELL:

24 Q All right. Officer, we're going to go through
25 these -- a couple of these photos here --

ROUGH DRAFT TRANSCRIPT

1 A Yes, sir.

2 Q -- which you took.

3 (Pause in the proceedings)

4 BY MR. FRIZZELL:

5 Q All right. Now I'm showing you what's been
6 admitted as State's Exhibit 40.

7 A Yes, sir.

8 Q And you had identified this as the unit?

9 A Yes, sir.

10 Q Is that the unit or is that the address of the
11 entire complex?

12 A No, sir. That's going to be the address of that
13 unit.

14 Q Okay. When we're talking about a unit, then we
15 look at State's 41, and you see that there is a D on that
16 door. So --

17 A Yes, sir.

18 Q -- would it be fair to say it's 265-D?

19 A Well, at the time, yes, sir, they said it was
20 265-D, but they located the fact there is actually two
21 different letters were attached to the door. In other words,
22 the door -- the letter had been taken from another door and
23 attached to his door. So the number 265 represents the
24 actual address where we're at, sir.

25 Q Okay. So --

ROUGH DRAFT TRANSCRIPT

1 A And there's 265 --

2 Q -- there's an -- so there was an F. Are you
3 familiar with that there was a unit F?

4 A F and a D, yes, sir.

5 Q Okay. So which one are we looking at here?

6 A This is D, and 265 should be above that, sir. And
7 you'll see the 265 on your previous photo.

8 Q Okay, I'll show the --

9 A Yes, sir.

10 Q -- previous one.

11 A 265, yes.

12 Q Here it is. So that would have been above say on
13 the second floor because obviously --

14 A No, there's --

15 Q -- it looks like D here is totally in shade,
16 correct?

17 A Yes, sir. And that's going to be --

18 Q Okay. So where would --

19 A -- on the outside.

20 Q -- that have been?

21 A This is on the outside as you pull back, you would
22 see the 265 showing the address, and then the doors are
23 numbered A, B, C, D, E, F.

24 Q Okay. So you went in a D and not an F; is that
25 what we're --

ROUGH DRAFT TRANSCRIPT

1 A We went into --

2 Q -- is that what you're telling me?

3 A -- the -- the door where they did the search
4 warrant for the -- the defendant, yes, sir.

5 Q Okay. Was this door D and not F?

6 A That was -- that was a number -- excuse me, the
7 letter on the door, yes, sir.

8 Q All right. And then moving to this next set of
9 photographs. Show you what was admitted as State's 48. Do
10 you recall what you said that was?

11 A Yes, sir, that's a closet.

12 Q Okay. Now, did you have occasion to search through
13 that closet at all?

14 A I did not search anything, sir.

15 Q Okay. So you were just strictly taking pictures?

16 A I was doing the digitals, yes, sir.

17 Q Okay. Does it appear in there it looks like some
18 girl's clothes are hanging in there?

19 A Could be, sir, yes, sir.

20 Q Okay. I'm specifically looking at one that's kind
21 of in the middle here, and I'll point to it with my pen.
22 Looks to be white with a flowery pattern on it. Do you see
23 it right there?

24 A Yes, sir, I do.

25 Q Okay. Does that appear to you that it could very

ROUGH DRAFT TRANSCRIPT

1 well be a lady's -- some lady's clothing?

2 A Yes, sir, it could appear so.

3 Q Okay. And how about the white sleeve that's right
4 next to it as you go up it turns into a blue?

5 A Yes, sir.

6 Q The cuff at the bottom, you see the cuff at the
7 bottom?

8 A Yes, sir.

9 Q That appears that it could be a woman's outfit as
10 well?

11 A Yes, sir.

12 Q And again, I apologize, but I guess we can use this
13 one. Showing you now what's been admitted as State's 52.

14 A Yes, sir.

15 Q Okay. You said that that was a picture of kind of
16 the bedroom/bathroom, correct?

17 A Yes, sir.

18 Q And the photos that you took, you see this bright
19 flowery box dresser looking item?

20 A Yes, sir.

21 Q Okay. And I believe, that we saw you open those up
22 and take pictures of the items that were inside of those,
23 correct?

24 A No, sir, I did not open anything up. I just took
25 pictures of what the detectives located.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. So when you went to take pictures of the
2 items that were in drawer/box units, it was --

3 A Yes, sir.

4 Q -- these boxes, but you did not physically pull
5 them open?

6 A That is correct, sir, I did not physically pull
7 them open.

8 Q Okay. And real flowery boxes. Could they have
9 been a girl -- could they have been girl's drawers?

10 MR. BUNNETT: Objection, Your Honor. Calls for
11 speculation.

12 THE COURT: Sustained.

13 BY MR. FRIZZELL:

14 Q Did you find anything of a feminine nature in any
15 of those drawers?

16 A The only items I took pictures of, counselor, were
17 what the detectives found. I did not see anything that were
18 feminine in nature with what was located in the picture, sir.

19 Q Okay.

20 A I apologize.

21 Q Fair enough, fair enough, fair enough. Showing you
22 what's been admitted as State's 71.

23 A Yes, sir.

24 Q Okay. Did you happen to see this little heart
25 shape box on the left side of the picture where my pen is?

ROUGH DRAFT TRANSCRIPT

1 A Yes, sir, I do.

2 Q Okay. Did you have occasion to look at that at
3 all?

4 A I did not have to look at anything, sir. I took
5 digitals of what the detectives were looking for and looking
6 through.

7 Q Okay. Would you have had any reason to think that
8 that wasn't girl's facial powder of some sort?

9 A I wasn't there to determine what was male or
10 female, sir. I was there to take pictures of what detectives
11 saw.

12 Q But you do see this heart-shaped --

13 A Yes, sir, I do. Yes, sir, I do.

14 Q -- item there?

15 A I see the -- the pipes as well, sir.

16 Q Okay, fair enough. Just a couple more. Showing
17 you State's Exhibit -- admitted Exhibit 54.

18 A Yes, sir.

19 Q Okay. Now, were you the one that would have laid
20 out of these items?

21 A They weren't laid out, sir, but, no, I did not lay
22 anything out.

23 Q Okay. So when you came in to take the picture, is
24 this -- does this depict what the room looked like as you
25 were taking the picture?

ROUGH DRAFT TRANSCRIPT

1 A Yes, sir.

2 Q You didn't have anybody move anything so that it
3 would be something you could get all in the picture?

4 A No, sir. Took a picture of exactly how we came
5 across it. I did not -- I did not have anybody move anything
6 or change anything or put anything in a specific sequence or
7 order, sir. I took the pictures as we found them.

8 Q Okay. And you -- so I guess, what I'm getting at
9 is they were -- all these things that we've identified as
10 scales were all in this line --

11 A Yes, sir.

12 Q -- when you got there?

13 A Yes, sir.

14 Q Did you see any other officers move anything to
15 kind of set it up for the picture anyway?

16 A No, sir.

17 Q Okay.

18 A Not that I -- not that I recall --

19 Q All right.

20 A -- at all.

21 Q All right. No, no, no, fair enough.

22 MR. FRIZZELL: Court's indulgence. I wrote down
23 the numbers I need, but they're not all in order here, and I
24 apologize.

25 I'm showing you what's been admitted as State's 65.

ROUGH DRAFT TRANSCRIPT

1 THE WITNESS: Yes, sir.

2 BY MR. FRIZZELL:

3 Q And that's just a little closer shot of the
4 previous one that we -- the previous shot that we were just
5 talking about?

6 A Yes, sir.

7 Q Okay. And you see all the scales were in a line,
8 basically?

9 A Yes, sir.

10 Q Okay. And you're telling us that you did not touch
11 any of what we see in this picture?

12 A No, sir, I took digitals.

13 Q And you did not witness anyone move these --

14 A I don't recall anybody --

15 Q -- in other words, set them up for the picture?

16 A -- moving -- counselor, I --

17 Q Okay.

18 A -- I don't recall anybody moving --

19 Q Fair enough.

20 A -- anything at the time.

21 Q Fair enough.

22 MR. FRIZZELL: Court's indulgence.

23 BY MR. FRIZZELL:

24 Q Moving to when you went to the area command,
25 Northeast Area Command, and you said that you were watching

ROUGH DRAFT TRANSCRIPT

1 my client on a monitor?

2 A Yes, sir.

3 Q Okay. Is that -- were those recorded? Are those
4 video shots recorded?

5 A Yes, sir, audio and video. Yes, sir.

6 Q Okay. Did you bring those with you today?

7 A No, sir, I'm not the recorder. Not -- it's
8 directly as like we're here right now, there's like audio and
9 video so I could be sitting in looking at this monitor, and
10 if there was anything being said or seen, then I'm seeing it
11 and hearing it in realtime. If there's any actual recording
12 or data that is recorded and stored somewhere, I have no
13 idea.

14 Q Okay. So is it fair to say that as you're watching
15 it, it was just simply a live feed, if you will?

16 A Yes, sir.

17 Q And you don't know if that was recorded -- a
18 recorded feed or not?

19 A No, sir.

20 Q Did you have occasion to, what I believe was
21 State's 83, did you have an occasion to weigh the small baggy
22 that you took off of my client's person?

23 A No, sir, I did not.

24 Q Okay. Based on your training and experience, how
25 much did it appear in that little baggy?

ROUGH DRAFT TRANSCRIPT

1 A In that little baggy that we took off, it could
2 have been maybe a gram to -- or .1 grams, maybe .3 grams. It
3 was a very small bag, and it was filled with a wide powder
4 substance, crystal substance.

5 Q .1 gram more like a -- so that's a 10th of a gram?

6 A Yeah, .1 to .3 grams. That would be gross weight.

7 Q It's kind of a puff? Just kind of a puff almost?
8 Not very much at all?

9 A Oh, no, I wouldn't know about that, sir. It's
10 obviously, enough for some people to use.

11 Q Okay.

12 MR. FRIZZELL: Pass the witness.

13 THE COURT: Redirect?

14 MR. BUNNETT: Very briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. BUNNETT:

17 Q I'm not going to go through this the photographs
18 again with you, but do you recall seeing basketball shoes in
19 some of the photographs?

20 A Yes, sir.

21 Q Do you recall seeing baseball caps in some of the
22 photographs?

23 A Yes, sir, I did.

24 Q Okay. And before I move on -- or actually, I'm
25 going to jump ahead a little bit. You mentioned on

ROUGH DRAFT TRANSCRIPT

1 cross-examination that you thought that amount that you found
2 taped to the defendant's scrotum was a usable amount of
3 methamphetamine or of a narcotic?

4 A Yes, sir.

5 Q Okay. And is that the typical amount you'd see on
6 the street?

7 A Yes, sir.

8 Q All right. And then you mentioned this a couple
9 times on cross-examination. You didn't do any searching
10 inside the apartment?

11 A That is correct.

12 Q All right. And you didn't go around and try to
13 figure out whether the unit that said D on it was, in fact,
14 unit D of the apartment collection, right?

15 A That is correct, I did not. One of the other
16 detectives made that determination.

17 Q Because you're the photographer?

18 A Yes, sir.

19 Q Your job's not to search?

20 A That is correct.

21 Q Okay. The only thing you did search was the
22 defendant's person?

23 A Yes, sir.

24 Q And you found that tape -- that narcotic substance
25 taped to his scrotum?

ROUGH DRAFT TRANSCRIPT

1 A Yes, sir.

2 MR. BUNNETT: Nothing further.

3 THE COURT: Mr. Frizzell, anything further?

4 MR. FRIZZELL: No, Your Honor.

5 THE COURT: Okay. Officer, thank you so much for
6 your testimony. You can step down. You can step down.
7 You're excused.

8 THE WITNESS: Yes, Your Honor, thank you.

9 THE COURT: Call your next witness.

10 MR. DICKERSON: State's next witness will be
11 Elizabeth Quintero.

12 OFFICER ELIZABETH QUINTERO, STATE'S WITNESS, SWORN

13 THE CLERK: Thank you. Please be seated. Please
14 state your full name, spelling your first and last name for
15 the record.

16 THE WITNESS: Elizabeth Quintero,
17 E-l-i-z-a-b-e-t-h, Q-u-i-n-t-e-r-o.

18 THE COURT: Your witness.

19 MR. DICKERSON: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. DICKERSON:

22 Q How are you employed, ma'am?

23 A Through LVMPD as a police officer.

24 Q Okay. And what is your duty as a police officer?

25 A To serve and protect.

ROUGH DRAFT TRANSCRIPT

1 Q What's your particular assignment in serving and
2 protecting the community?

3 A I'm currently assigned as an FTO, which is a field
4 training officer.

5 Q So January 28th, 2016, did you have that same
6 assignment?

7 A Yes, I did.

8 Q And where you assigned geographically?

9 A Northeast area command.

10 Q Where's Northeast Area Command?

11 A It's Las Vegas Boulevard and Pecos area.

12 Q Were you assigned to any particular shift?

13 A Day shift.

14 Q So that morning of January 28th, 2016, what time
15 would you have come on to the shift?

16 A 6:30 a.m.

17 Q What happens when you come onto shift then?

18 A We sit through briefing, patrol briefing. So
19 there's usually a projector and we talk about events that are
20 going on, things to look out for, be on the lookout and
21 things like that.

22 Q And then what happens after briefing?

23 A We go and hit the street. So we get in our patrol
24 vehicle and start patrolling and we get assigned calls for
25 service.

ROUGH DRAFT TRANSCRIPT

1 Q So do you sit in briefing that morning on January
2 28th?

3 A I did.

4 Q And what happened after briefing?

5 A I went to go hit the street, and I got assigned to
6 relieve graveyard.

7 Q Relieve graveyard where?

8 A At the station.

9 Q So you were already at the station?

10 A I was still at the station. I was in the parking
11 lot. I was about to leave, and I got told to just stay there
12 by dispatch.

13 Q So now you're assigned to the station. What are
14 you assigned to do there?

15 A I was going to transport the suspect, but they
16 still working on a search warrant so I was tasked with
17 watching him.

18 Q When you say the suspect, is that an individual
19 that you see here in the courtroom today?

20 A Yes.

21 Q If you could please point to that individual and
22 identify a particular clothing that they're wearing.

23 A Blue shirt.

24 MR. DICKERSON: If the record will reflect that
25 Officer Quintero's identified the defendant, Your Honor.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: It shall.

2 BY MR. DICKERSON:

3 Q So you were possibly going to be transporting the
4 defendant, but that changed?

5 A Correct.

6 Q And what did that change to?

7 A Watching him my entire shift.

8 Q And so where was he?

9 A He was in an interview room that's got a video
10 camera in it, so I was sitting in another room close by
11 watching on a computer monitor.

12 Q Okay. So you're not in the same room as him?

13 A No.

14 Q How big is the room that he's in?

15 A Pretty small. Just like this area, maybe a little
16 smaller.

17 Q You're indicating like the --

18 A Yeah.

19 Q -- well of the courtroom here?

20 A Yes.

21 Q Okay. And what does that room look like?

22 A Just tile floors, desk with a bar so that we can
23 handcuff onto the bar and to the wall.

24 Q So there's a bar to handcuff on the desk?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q And was the defendant handcuffed?

2 A Yes.

3 Q Both hands?

4 A Just one.

5 Q Okay. And where are you?

6 A It's hard to explain because it's a -- a station.
7 So there's different rooms. I believe, we had like four
8 interview rooms there. So there was one that was close to
9 the parking lot and I was closest to the briefing room in
10 another just little computer room.

11 Q Okay. And you said there was computers in there?

12 A Yes.

13 Q Is that how you're watching the defendant?

14 A Yes.

15 Q What's the system that you're watching the
16 defendant on?

17 A I honestly don't the name of the system, but it's
18 just there's a video camera in there and there's a program on
19 the computer that allows you to watch that room.

20 Q Like a live feed of the room?

21 A A live feed, yes.

22 Q So is the room the defendant's in, is the door
23 closed?

24 A Yes.

25 Q And so you're just sitting there just watching this

ROUGH DRAFT TRANSCRIPT

1 camera?

2 A Yes.

3 Q How long did you watch the camera for?

4 A Approximately, eight hours.

5 Q Really?

6 A Throughout -- yes, throughout the whole shift.

7 Q So what happened when you first got assigned to
8 start watching defendant?

9 A He was sleeping for the most part because it was --
10 obviously 6:30 in the morning was very early. I don't
11 remember when the call came out. It was a car stop, I
12 believe. I don't know whether that started, but it had been
13 a long time so he was asleep for the better part of the
14 morning.

15 Q Because the call actually (inaudible) graveyard
16 shift?

17 A Correct.

18 Q And when does graveyard shift start?

19 A Graveyard starts at 10:00 -- or I'm sorry, 10:00
20 p.m.

21 Q Okay. So it was a whole shift before you?

22 A Correct.

23 Q So at what point in time does the defendant wake
24 up?

25 A I couldn't tell you the hour because I don't really

ROUGH DRAFT TRANSCRIPT

1 remember. I remember that he had to use the restroom so I
2 had to call for a male officer to come and observe him while
3 he uses the restroom to make sure he wasn't getting rid of
4 any contraband.

5 So I believe that was around anywhere from 10:00 to
6 12:00.

7 Q Okay.

8 A A.M.

9 Q And did you or any other officer provide the
10 defendant anything?

11 A Detectives did, I believe.

12 Q What did they provide?

13 A They provided him with a bottle of water, a granola
14 bar and a magazine.

15 Q Okay. In that little interview room?

16 A Yes, during the time -- again, I can't tell you
17 what time that was but somewhere in the course of me watching
18 him.

19 Q And is he still handcuffed?

20 A Yes.

21 Q One hand only?

22 A Correct.

23 Q So after he's provided the water and the granola
24 bar and the magazine, does anything happen?

25 A Yes. So I believe, the day shift officers that

ROUGH DRAFT TRANSCRIPT

1 were assisting the graveyard officers returned to the station
2 because they had done a search warrant on his vehicle, I
3 believe, and then a piggyback on to his residence. And so
4 the officers returned, and it was close to the time for swing
5 shift. Swing shift starts around 2:30 p.m., to start their
6 shift. So they found, I believe, methamphetamine and heroin.

7 Recently, we've been -- we've gotten an ODB test,
8 which is just a way to test heroin rather than sending it to
9 a lab. And only a certain amount of officers were like put
10 through this certification so --

11 Q Were you one of those officers?

12 A Yes, I was.

13 Q So this is approximately, at 2:00 in the afternoon
14 or so?

15 A Yes, around there.

16 Q Okay, so what -- what do you do at that time?

17 A So some of the other day shift officers came in,
18 and because I was one of the only ones certified to test the
19 -- the heroin, I was a witness for the officer that recovered
20 it.

21 Q Okay.

22 A We were still watching the video surveillance, the
23 live feed, and he was awake at this time.

24 Q Well, who are you talking about is awake?

25 A The defendant.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. Still in that interview room?

2 A Yes. So as we're testing the narcotics, I'm
3 watching the -- the video still and it appears that the
4 defendant is masturbating.

5 Q And how did it appear like that?

6 A He had his hand in his pants and was moving his
7 hand around in that motion.

8 Q Is he standing up or sitting down?

9 A Sitting down still.

10 Q Okay.

11 A So --

12 Q And then what do you see him do?

13 A The water bottle comes closer to him and --

14 Q How does the water bottle come closer to him?

15 A Not by magic, I'm sorry. He -- he pulls the water
16 bottle over to him and sets it in front of him, and then I
17 see him rip off a piece of the magazine --

18 Q Okay.

19 A -- and roll it. And so I'm obviously, watching now
20 wondering what he's doing, and he takes the water bottle and
21 starts smashing something on the -- on the desk. So I'm
22 alerted because I -- you know, I don't know what he has. So
23 then I -- I tell -- I tell one of the officers hey, like, go
24 let him know we're watching him with the, you know, maybe
25 possibly touching himself, and -- and as he does that, I see

ROUGH DRAFT TRANSCRIPT

1 him take the rolled up magazine and it looks like starts
2 snorting something.

3 So at that point I'm thinking, oh, my goodness, he
4 has drugs.

5 Q So he has the rolled up magazine in one hand?

6 A Piece of paper, yes.

7 Q The hand that's not handcuffed?

8 A Like has a straw. The hand that's not handcuffed.

9 Q And what does he do with his head?

10 A With his head?

11 Q With his head, yes.

12 A He leans down and he snorts something off of the
13 desk.

14 Q Okay.

15 A So at that point, I don't want to lose visual of
16 the monitor, but I don't want to allow him to continue using
17 drugs.

18 Q Is that a concern for you?

19 A Yes, absolutely because street narcotics, we don't
20 know, and now he's in our custody, I don't want him to get
21 hurt or anything like that. So I shout for someone, and we
22 all kind of run in there, and so there's several people in
23 the room now with him. And you can see like through my
24 training and experience what appears to be crystal meth, like
25 just a small residue on the desk still.

ROUGH DRAFT TRANSCRIPT

1 Q What did that look like?

2 A Just like clear crystals, crystal substance.

3 Q On the desk?

4 A Just small -- yeah, almost like salt.

5 Q Okay. And it's just sitting there on the desk in
6 the interview room?

7 A Yes.

8 Q Is it in that same general area where you saw the
9 defendant smashing?

10 A Yes.

11 Q And at this point in time, what happens?

12 A We obviously stand him up. I believe, an officer
13 took him out of handcuffs, and they went to search him at
14 that point, which I stepped out due to the nature of where we
15 believed the narcotics was located.

16 Q Okay. And where did you believe it was located?

17 A Somewhere in his pants.

18 Q Okay. And that's --

19 A Probably --

20 Q -- why you stepped out?

21 A Correct.

22 Q Did you -- after this call concludes and the search
23 happens, did you, officers, take any precautionary measures?

24 A Yes. I actually called for medical to make sure
25 that he didn't overdose or -- because you just never know.

ROUGH DRAFT TRANSCRIPT

1 It's a narcotics, and obviously, we hadn't tested it yet, so
2 we didn't know what it was that he -- you know, you just
3 assume because training and experience, but at the same time
4 you don't know.

5 Q And that was just precautionary?

6 A Correct.

7 Q And he didn't overdose?

8 A No, clearly.

9 MR. DICKERSON: State will pass the witness.

10 MR. FRIZZELL: No questions, Your Honor.

11 THE COURT: I have a question just to clarify. You
12 indicated that there was -- while you were at the station,
13 you said they had found meth and heroin and that because you
14 were certified to do that or there's certain number of
15 officers to do so, are you talking about in this case they
16 found meth and heroin or they found meth and heroin and
17 brought it back and you needed to test it or --

18 THE WITNESS: I'm sorry.

19 THE COURT: Okay.

20 THE WITNESS: I'll clarify. Yes, they had found
21 meth and heroin, I believe, in his vehicle, but I know for
22 sure at his residence.

23 THE COURT: Okay. So we're talking about the
24 difference. We're not talking about you testing the meth or
25 heroin or something found on him in the room? You're talking

ROUGH DRAFT TRANSCRIPT

1 about something was found other where?

2 THE WITNESS: Correct.

3 THE COURT: Okay. So I'm clear, the only thing
4 that was found on him in the room was --

5 THE WITNESS: Meth.

6 THE COURT: -- meth?

7 THE WITNESS: Yes.

8 THE COURT: Okay. No heroin?

9 THE WITNESS: Not -- I -- I didn't check so I can't
10 speak to that --

11 THE COURT: Okay.

12 THE WITNESS: -- but from what I know --

13 THE COURT: All right.

14 THE WITNESS: -- no.

15 THE COURT: Okay. Any questions as a result of my
16 questions?

17 MR. DICKERSON: No, Your Honor.

18 THE COURT: Mr. Frizzell?

19 MR. FRIZZELL: No.

20 THE COURT: All right. Officer, thank you so much
21 for your testimony. You can step down. You're excused,
22 okay?

23 THE WITNESS: Thank you.

24 THE COURT: Thank you. All right. Call your next
25 witness.

ROUGH DRAFT TRANSCRIPT

1 MR. BUNNETT: Your Honor, could we approach?

2 THE COURT: Yes.

3 (Off-record bench conference)

4 THE COURT: All right. Ladies and gentlemen, we're
5 going to take a quick 15-minute break, give the parties an
6 opportunity to get the next witness lined up.

7 During this break, you're admonished not to talk or
8 converse amongst yourself or with anyone else on any subject
9 connected with this trial, read, watch or listen to any
10 report or commentary on the trial or any person connected
11 with this trial by any medium of information, including
12 without limitation, newspapers, television, the Internet or
13 radio. Or form or express any opinion on any subject
14 connected with this trial until the case is finally submitted
15 to you.

16 It's 25 'till. Be ready to start at 10:00 'till,
17 all right? We'll be at ease while the jury leaves the room.

18 (Jury recessed at 10:51 A.M.)

19 THE COURT: Okay. We're outside the presence of
20 the jury. Is there anything that needs to be put on the
21 record at this time?

22 MR. FRIZZELL: Not from the defense, Your Honor.

23 MR. DICKERSON: Not at this point in time, Your
24 Honor.

25 THE COURT: All right. We're on a 15-minute break.

ROUGH DRAFT TRANSCRIPT

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MR. DICKERSON: Thank you for the break.

(Court recessed at 10:34 a.m. until 10:53 a.m.)

(Outside the presence of the jury.)

THE COURT: Okay. We're back on the record in the case of State of Nevada versus Christopher Keller in C-312717. I'd like the record to reflect the presence of the defendant, his counsel, as well as State and their counsel.

Before we bring the jury back in, we're out -- well, for the record, we're outside the presence of the jury. Mr. Keller, you understand that under the Constitution of the United States and under the Constitution of the State of Nevada you cannot be compelled to testify in this case? Do you understand that?

THE DEFENDANT: Yeah.

THE COURT: They can't make you testify. Do you understand?

THE DEFENDANT: I understand.

THE COURT: Okay. You may at your own request give up your right and take the witness stand and testify. If you do so, you will be subject to cross-examine by the deputy district attorney, and anything that you may say, be it on direct or cross-examination, will be subject of fair comment when the deputy district attorney speaks to the jury in his or her final argument. Do you understand that?

ROUGH DRAFT TRANSCRIPT

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: If you choose not to testify, the Court
3 will not permit the deputy district attorney to make any
4 comments to the jury because you have not testified. Do you
5 understand that?

6 THE DEFENDANT: Yeah.

7 THE COURT: Okay. If you elect not to testify, the
8 Court will instruct the jury, but only if your attorney
9 specifically requests me to do so, this is how I'll instruct
10 them: The law does not compel a defendant in a criminal case
11 to take the stand and testify and no presumption by -- may be
12 raised and no inference of any kind may be drawn from the
13 failure of a definite to testify. Do you understand what
14 those rights are and how that plays into part?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Okay. You are further advised that if
17 you do have a felony conviction and more than ten years have
18 not elapsed from the date you have been convicted or
19 discharged from prison, parole or probation, whichever is
20 later, and the defense has not sought to preclude that coming
21 before the jury and you elect to take the stand and testify,
22 the deputy district attorney, in the presence of the jury,
23 will be permitted to ask the following questions: Have you
24 been convicted of a felony? What was that felony? And what
25 did it happen? However, I won't let them get into the

ROUGH DRAFT TRANSCRIPT

1 details of the felony; do you understand that?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Okay. So you'll need to think about
4 that before we get to the time and point where I'm going to
5 ask you again whether or not you choose to exercise your
6 right to not testify or waive that and testify, okay?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: All right. Okay.

9 THE DEFENDANT: Can I ask one quick question before
10 we get started?

11 THE COURT: Sure.

12 THE DEFENDANT: Okay. I was wondering how come I
13 can't enter any new evidence but the DA can? Like as far
14 as --

15 THE COURT: What new evidence do you wish to enter?

16 THE DEFENDANT: Well, I wanted to -- I wanted to
17 eviction notice and the -- and the information -- the other
18 information that -- that showed the -- what went on with
19 the --

20 THE COURT: Do you have somebody that could present
21 that?

22 THE DEFENDANT: Well, my mom has it.

23 THE COURT: But do you have somebody that can
24 present it?

25 THE DEFENDANT: That --

ROUGH DRAFT TRANSCRIPT

1 THE COURT: That can say this is a true and
2 accurate copy?

3 THE DEFENDANT: Well, that's -- that's why I had a
4 problem getting my witness. I could have also -- if I had
5 known that, I would have called whoever works for the county
6 in that department, I would have called them as a witness.

7 THE COURT: Okay. So what are you trying to admit?
8 That's what I don't --

9 THE DEFENDANT: The eviction notice, and then also
10 I wanted to -- I wanted to admit the person that was living
11 in that house record, how that they caught -- they caught a
12 trafficking case, you know, with guns and heroin and meth
13 within a week of me --

14 THE COURT: So you want to put a --

15 THE DEFENDANT: -- getting arrested.

16 THE COURT: -- record of somebody that's not even
17 here to testify that you claim is living in your house? Is
18 that -- just so I know?

19 THE DEFENDANT: Well, I mean, I just wanted to show
20 that --

21 THE COURT: That's a easy question.

22 THE DEFENDANT: -- the person that was living in my
23 house at the time of this, is that they had the same --

24 THE COURT: Okay.

25 THE DEFENDANT: That they had --

ROUGH DRAFT TRANSCRIPT

1 THE COURT: What eviction notice do you have? Do
2 you have it?

3 THE DEFENDANT: I don't have it with me. I'm sure
4 my mom has it.

5 THE COURT: When did the eviction occur?

6 THE DEFENDANT: Well, it didn't occur until like
7 maybe two months after because she didn't -- she wouldn't pay
8 any, you know, the mortgage or rent.

9 THE COURT: Two months after what?

10 THE DEFENDANT: Two months after the case, but I
11 mean -- I mean I can have --

12 THE COURT: I don't understand what you mean.
13 We're in the case right now so it hasn't --

14 THE DEFENDANT: Two months -- two months after my
15 arrest, but I mean --

16 THE COURT: Oh, okay. Okay, that's --

17 THE DEFENDANT: -- I could have people test -- I
18 mean, I could have several people testify that, you know, she
19 was there before and right after, you know, my arrest.

20 THE COURT: Okay. So that's where I think you
21 tried to contact somebody. So what are you saying? You have
22 a right to present evidence, Mr. Keller. I'm not preventing
23 you from doing so. You have an obligation to do it
24 legally --

25 THE DEFENDANT: I just --

ROUGH DRAFT TRANSCRIPT

1 THE COURT: -- and --

2 THE DEFENDANT: I didn't -- I mean, because, you
3 know, the -- because the communication problem and stuff, I
4 didn't -- we never discussed -- we never discussed my -- you
5 know, my defense on the case. We never have, you know what I
6 mean? So it's like I --

7 THE COURT: Well, Mr. Keller, just so that it's
8 clear --

9 THE DEFENDANT: I understand you're making him -- I
10 understand that, I mean, that it's falling on me at this
11 time, but you know what I mean, but I just -- I thought I was
12 going to get another -- I thought I was going to get a paid
13 lawyer, but the -- the thing was I don't -- my -- my stepdad
14 got cancer, and I couldn't -- and I couldn't be like oh, mom,
15 forget, you know, he just got -- he just got cancer, you
16 know, and then I can't be like oh, you know, mom, forget my
17 stepdad, you know, and get me a lawyer when she's having to
18 go to chemo with him and his blood cell counts are so low
19 that he can't even go through a chemo and stuff.

20 THE COURT: Mr. Keller, how old are you?

21 THE DEFENDANT: 32.

22 THE COURT: Okay.

23 THE DEFENDANT: I was working -- I was working
24 before I came here to -- I mean, I was working before I came
25 here, but not no type of way where I could pay for a lawyer,

ROUGH DRAFT TRANSCRIPT

1 you know what I mean? I was making \$9 an hour, and I had two
2 jobs working at Smith's and Mario's Market.

3 THE COURT: Okay. So what's your point? I mean,
4 what --

5 THE DEFENDANT: I just -- I'm just saying that's
6 why I couldn't -- that's why -- that's why the problem with
7 the lawyer wasn't --

8 THE COURT: Well, you have a lawyer. One was
9 appointed to you numerous times. You've had a lawyer every
10 single time you've been in this courtroom you've had a
11 lawyer. Because you choose not to discuss things with your
12 lawyer that's been appointed to you can't be begrudging the
13 state for that.

14 THE DEFENDANT: No, I'm --

15 THE COURT: So -- okay, so you've made your record.
16 Anything further?

17 MR. DICKERSON: Two things briefly. The first
18 thing is going to be the jail calls. We've stipulated to the
19 authenticity as we told Your Honor. Those have all been
20 provided, all the jail calls that we're looking at admitting
21 have been provided to defense counsel in August.
22 Specifically, as to the defendant's concerns about the
23 eviction and everything, I think we'll put a lot of that to
24 bed because the jail calls within a day or two after his
25 arrest, he's telling a female individual to move into his

ROUGH DRAFT TRANSCRIPT

1 house.

2 So we'll establish that through the jail calls.
3 We'll also establish that he says that he doesn't have a job
4 at the time, that he had lost his job. So we'll establish
5 those things through the jail calls. There's three in
6 particular. We would just -- we just want to bring that to
7 Your Honor's attention that we're going to be moving those in
8 and hoping to play those right after this last witness.

9 MR. FRIZZELL: Well, and my objection to those is
10 obviously a hearsay objection. Likewise, what it purports to
11 say is that this individual begin paying rent and not that
12 she -- not anything one way or the other that she's -- that
13 she hadn't already been residing there.

14 MR. DICKERSON: And that's fine for argument, but I
15 don't think it goes to the hearsay element, and the hearsay
16 is all taken care of because it's the defendant's own
17 statements and the adopted admissions throughout those two
18 calls -- two other calls that we haven't already spoke of,
19 Your Honor.

20 THE COURT: Okay.

21 MR. FRIZZELL: And again, I'm just lodging my
22 objection for the record, notwithstanding that --

23 THE COURT: Okay.

24 MR. FRIZZELL: -- it probably meets the same
25 criteria as the prior jail call.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Mr. Frizzell, my clerk has pulled the
2 eviction notice so --

3 MR. FRIZZELL: Yes.

4 THE COURT: -- I'll give that to you. Just for the
5 record, it was filed July 5th, 2016.

6 MR. FRIZZELL: Okay.

7 THE COURT: So --

8 MR. FRIZZELL: Thank you.

9 THE COURT: -- if you want to look at it for what
10 it's worth. If that's something that you think you might be
11 able to use in your defense based on what was represented to
12 you.

13 MR. FRIZZELL: Okay. I appreciate that. Thank
14 you, madam clerk.

15 THE COURT: Okay.

16 MR. BUNNETT: Your Honor, we have just a couple
17 more things to put on the record.

18 THE COURT: Okay.

19 MR. BUNNETT: Apparently, State's 52 and 53,
20 although, I believe I authenticated them, they were two
21 images, were inadvertently admitted -- not admitted into
22 evidence. State at this time, would move for admission of
23 State's 52 and 53.

24 THE COURT: Do you have any objection to 52 and 53?

25 MR. FRIZZELL: I'm sorry, and what were those?

ROUGH DRAFT TRANSCRIPT

1 I --

2 THE COURT: It's -- you both -- you used them. You
3 used this one in yours, and this one here was -- there was a
4 question about that as well.

5 MR. FRIZZELL: Oh, yes. Yes. No objection.

6 THE COURT: All right. So that will be admitted.

7 (State's Exhibits 52 and 53 admitted)

8 MR. BUNNETT: And the other thing, Your Honor, is I
9 think Mr. Frizzell's probably going to want to litigate this.
10 I'd just rather do it now than later.

11 The forensic chemist is here today, and he provided
12 both of us copies of his internal lab notes, as well as a
13 copy of his reports, and it looks raw data. After speaking
14 to Mr. Althnether, who's the chemist, he's indicated to me
15 that he does not need the raw data for any purpose during his
16 testimony, and he wouldn't be shown that during his
17 testimony. But I do just want to put on the record that both
18 of us received this today.

19 Mr. Frizzell has, however, received the forensic
20 report previously, on previous occasion, so he's had that for
21 quite a while.

22 MR. FRIZZELL: And that is correct, Your Honor.
23 While I don't have an issue, I just want -- and what the
24 State and I talked about was similar to what Officer Lopez,
25 the issues we had with his testimony originally. Was it

ROUGH DRAFT TRANSCRIPT

1 Lopez or was it the first one?

2 Well, it wasn't -- whoever we had objections about
3 reading from the report and --

4 THE COURT: And so you were doing that with Daniel
5 Lopez.

6 MR. FRIZZELL: Okay, that's what I thought was with
7 Officer Lopez.

8 THE COURT: Okay.

9 MR. FRIZZELL: And so we had talked about that and
10 that my main objections would be if he's just sitting there
11 reading from his report.

12 THE COURT: Okay. That's fine. We'll deal with
13 that if it comes to that point.

14 MR. BUNNETT: Okay.

15 MR. FRIZZELL: But I don't think the State is
16 actually looking to admit this as an exhibit.

17 MR. BUNNETT: Not at all. That's not what I want
18 to do. I think he may -- there may be a point where he would
19 have to refresh his recollection with it. It would be -- I
20 mean, as I said, the large amount of it is raw data. The
21 first 12 pages are of the report and then basically his
22 notes. So --

23 THE COURT: Well --

24 MR. BUNNETT: -- that -- those 12 pages.

25 THE COURT: -- Mr. Frizzell, because of the

ROUGH DRAFT TRANSCRIPT

1 objection you made in looking at the past recollection,
2 reported statute, it basically says that if the individual
3 can't remember or it's not refreshed his memory, then he can
4 read from the report. The report is not admitted in its
5 entirety unless you ask for it. That's the statute.

6 MR. FRIZZELL: Right. And you just remember the
7 issue we had yesterday was the questioning was on refreshing
8 recollection versus past recorded recollection.

9 THE COURT: But if he can't -- I mean, if he makes
10 it -- if they set the proper foundation as to them preparing
11 it when they put it down and if they're the ones that wrote
12 it, and then later they say that doesn't refresh my memory,
13 then they can read directly from the report.

14 MR. FRIZZELL: Right, right, but yesterday it was
15 just that was my issue. That was my only issue --

16 THE COURT: Okay.

17 MR. FRIZZELL: -- was that the foundational
18 elements for past recollection recorded was not that they
19 were doing it for the refreshing recollection --

20 THE COURT: Okay.

21 MR. FRIZZELL: -- exception (inaudible).

22 MR. BUNNETT: I think the approach maybe was for
23 the refresh recollection, but then upon after the approach,
24 the elements for a past recollection recorded were --

25 THE COURT: All right. Okay, we've made a record.

ROUGH DRAFT TRANSCRIPT

1 MR. FRIZZELL: Yeah, that was his -- well --

2 THE COURT: Anything further?

3 MR. BUNNETT: No.

4 THE COURT: All right. Go ahead and get the jury
5 in.

6 THE MARSHAL: All rise for the presence of the
7 jury.

8 (Jury reconvened at 11:06 A.M.)

9 THE COURT: Okay. Go ahead and get seated and get
10 comfortable. We're back on the record in case State of
11 Nevada versus Christopher Keller in C-312717. I'd like the
12 record to reflect the presence of the defendant, his counsel,
13 as well as State and their counsel. All right, ladies and
14 gentlemen, when we left, State was still in their case-in-
15 chief. Mr. Dickerson, Mr. Bunnett, call your next witness.

16 MR. BUNNETT: State calls Jason Althnether.

17 THE COURT: What's his name?

18 MR. BUNNETT: Jason Althnether.

19 THE COURT: Thank you.

20 JASON ALTHNETHER, STATE'S WITNESS, SWORN

21 THE CLERK: Thank you. Please be seated. Please
22 state your full name, spelling your first and last name for
23 the record.

24 THE WITNESS: Jason Althnether, J-a-s-o-n.
25 Althnether, A-l-t-n-e-t-h-e-r.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Your witness, Mr. Bunnett.

2 MR. BUNNETT: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. BUNNETT:

5 Q Good morning, sir.

6 A Good morning.

7 Q What do you do for a living?

8 A I work as a forensic scientist for the Las Vegas
9 Metropolitan Police Department forensic laboratory.

10 Q And by forensic scientist, what do you mean?

11 A Basically, what that entails is I receive evidence
12 for analysis, I perform analysis, I write a report and in
13 certain cases such as today testify as to the results on
14 those reports.

15 Q Do you have a speciality that you are assigned to?

16 A I work in the controlled substances unit, which
17 means I analyze evidence for the presence or absence of
18 controlled substances.

19 Q So in general, testing for the presence or absence
20 of controlled substances, what does that encompass?

21 A I basically, just again, analyzing -- receiving
22 evidence and analyzing it and testing those pieces of
23 evidence to see if anything's there, whether it be controlled
24 or an uncontrolled.

25 Q Okay. And before we get to the specifics of this

ROUGH DRAFT TRANSCRIPT

1 case, what is your background, your training and your
2 experience that qualifies you to do the job that you do?

3 A I graduated from Arizona State University, and I
4 studied chemistry. Shortly after I graduated from Arizona
5 State University, I was hired by the Mesa Police Department
6 in Mesa, Arizona, at which time I began training in the
7 analysis of controlled substances section. I was with Mesa
8 Police Department for approximately five years in that
9 capacity. I've been with Las Vegas Metropolitan Police
10 Department in the same capacity for about over seven years
11 now.

12 Q Okay. Have you testified in court before?

13 A Yes, I have.

14 Q How many times, approximately?

15 A Approximately, maybe 60 or so.

16 Q All right. And are you a member of any
17 professional organizations that relate to your profession?

18 A Yes. I'm a member of the Southwestern Association
19 of Forensic Scientists also known as SWAS, and the
20 Clandestine Laboratory Investigating Chemist Society or CLIC.

21 Q Do you update yourself in the methods and the
22 science behind your job?

23 A Yes. As members on those professional
24 organizations, I receive updates, e-mails, correspondence
25 with other chemists throughout the world as far as emerging

ROUGH DRAFT TRANSCRIPT

1 trends and how to analyze things.

2 Q Okay. So I want to talk first about -- or second
3 about some general principles of forensic testing for the
4 presence or the absence of controlled substances. How do you
5 obtain items that you test?

6 A I obtain the evidence from our evidence technician
7 who is in house at the laboratory. So I go to our evidence
8 technician, the evidence technician has the evidence that I
9 called up, which means I make a list of items that I need to
10 test that are in my queue to test. I call them up, they come
11 to our evidence technician, the technician then puts them
12 into my custody.

13 Q Okay. And then once they're in your custody, do
14 you have a work space that you bring them to?

15 A I have a work space and a secure locker that I can
16 put evidence into if I'm not currently working it.

17 Q Okay. In terms of your work space, what steps do
18 you take to prevent any cross contamination?

19 A Well, I only have one case open at a time on my
20 bench, I keep my tools clean, I keep my bench clean using
21 various solvents again, just making sure that it's free of
22 contaminants, dust, et cetera and again just keeping things
23 separate.

24 Q And do you take any precautions in terms of what
25 you wear to prevent cross contamination?

ROUGH DRAFT TRANSCRIPT

1 A I change my gloves in between items, I wear a lab
2 coat, things like that.

3 Q Okay. You also mentioned that once they come into
4 your -- they come into your custody and you also have a
5 locker.

6 A Yes.

7 Q Do you take any steps to indicate your custody and
8 any -- anything you do with the evidence?

9 A As far as marking the actual evidence, if I enter
10 the evidence, once I seal it back up, I'll put a piece of
11 tape on it. On that piece of tape I'll mark it with what's
12 known as my employee number or P number and the date in which
13 I seal it, and then on the front of the package there's also
14 what we call a chain of custody in which I'll write my name,
15 again, my P number, the date I seal it and the time. So that
16 should also be on the front of the package in addition to the
17 tape.

18 Q So for the package, and you mentioned tape --

19 A Yes.

20 Q -- what color tape do you use?

21 A Typically, we use blue tape.

22 Q All right. Now, in terms of testing for certain
23 controlled substances, do you always use the same test?

24 A Not necessarily. Again, it's kind of based on
25 training, knowledge and experience. You know, if something

ROUGH DRAFT TRANSCRIPT

1 looks like an off white powder, I might treat it differently
2 than say green leafy substance because obviously, it's
3 different. My route of analysis is going to be different
4 based upon that right away.

5 Q Have you previously tested a substance for the
6 presence or absence of purported methamphetamine?

7 A Yes, I have.

8 Q How about purported heroin?

9 A Yes, I have.

10 Q How about purported marijuana?

11 A Yes.

12 Q Purported cocaine?

13 A Yes.

14 Q So specifically here, were you tasked to examine
15 several items that were booked into evidence under event
16 number 160128-0259?

17 A Yes, I was.

18 Q All right. And then do you have an internal lab
19 number?

20 A Yes, we do. So any time that a request comes in,
21 in addition to the event number that has been assigned, we
22 assign a laboratory internal number.

23 Q And was there a lab number in this case?

24 A Yes, there was.

25 Q Do you recall it off the top of your head?

ROUGH DRAFT TRANSCRIPT

1 A I do not, no.

2 Q Would it refresh your recollection to look at your
3 report?

4 A Yes, it would.

5 Q All right. So I'm going to have you take a look at
6 that, and just turn it over when you're done or close-up
7 your --

8 A Okay.

9 Q All right. You ready?

10 A Yes.

11 Q Did that refresh your recollection?

12 A Yes, it did.

13 Q All right. So what's the lab number?

14 A 16-02608.

15 Q Okay. So and you mentioned previously that you
16 assigned certain items lab item numbers.

17 A Right, that is correct.

18 Q Okay. So I'm going to start with what's been
19 previously admitted as State's 82. And I'm going to start
20 with 82-B. I'm going to bring up 82 and 82-B specifically.

21 MR. BUNNETT: May I approach, Your Honor?

22 THE COURT: Yes.

23 BY MR. BUNNETT:

24 Q So I'm first going to show you what's been marked
25 as State's 82. I'm just going to have you take a look at

ROUGH DRAFT TRANSCRIPT

1 that.

2 A Okay.

3 Q Okay. And do you recognize that?

4 A Yes, I do.

5 Q What is that?

6 A So this is Las Vegas Metropolitan Police Department
7 evidence package with the event number 160128-0259. It has
8 blue evidence tape that I placed on the package. Again, it
9 has my P number, my employee number, and the date in which I
10 sealed it, in which in this case was April 13th of 2016. On
11 the front of the package there's also the chain of custody
12 that I talked about which includes my signature, my employee
13 number, the date and the time in which I sealed this package.

14 Q Okay. And just in general, just for identification
15 purposes, what was -- based on your reading of that, what was
16 in the package?

17 A Based upon the evidence label that's on the front
18 of the package, there are items 1 through 7 in this package
19 which is marked number 1. Or I'm sorry, 1 through 9. Excuse
20 me, 1 through 9.

21 Q Okay. Did you test particular items that were in
22 this package?

23 A I did test a few of the items, yes, not all of
24 them.

25 Q Okay. What were the item numbers of the items you

ROUGH DRAFT TRANSCRIPT

1 tested?

2 A If I may refer to the report again.

3 Q Okay, but, yeah, just -- if that would refresh your
4 recollection.

5 A It would refresh my memory.

6 Q Okay. So --

7 A So in this case, it was items 1, 2, 3 and 5 that
8 are listed on the front of the package here.

9 Q Okay. So I'm going to show you 82-B-1.

10 A Okay.

11 Q I'm going to show you 82-B-2, 82-B-3, 82-B-4,
12 82-B-5 and 82-A-3.

13 A Okay.

14 Q Do you recognize all those?

15 A Yes, I do.

16 Q Okay. And first off, how do you recognize them?

17 A So on each of the bags there's a piece of Scotch
18 tape that's wrapped around the top of the bag on all of the
19 items. And on each of these I've written the event number,
20 the internal lab number, which was assigned to it, the item
21 number, and in this case because there were multiple
22 submissions for that item, I also have an additional number
23 meaning one of in this case 7. So they're 1 through 7, along
24 with my employee number and the date in which I put this tape
25 flag on it.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. And did you test these substances?

2 A Yes, I did.

3 Q And what -- specifically how did you test them?

4 A With something like this I'd start with a few
5 chemical color tests just to sort of give me an idea of what
6 I might be dealing with. In this case, it's a white
7 crystalline substance. I'll do a couple -- couple chemical
8 color tests, and that point, based upon those, I'll then
9 extract a portion of the sample, representative sample, and
10 I'll analyze it with our instrument, a gas chromatograph mass
11 spectrometer in which case I'll be able to identify what is
12 in this substance.

13 Q Okay. So what does the color test entail?

14 A Color test again is just sort of it gives me an
15 idea of what I might be dealing with. So I mean, different
16 things turn different colors with these particular color
17 tests that have been around for years, and with that, we can
18 sort of develop a work flow to get us to what's inside of it
19 and make that determination of what's the best extraction to
20 use in order to identify what is actually in the -- in
21 substance.

22 Q So basically, this color test helps guide your use
23 of the next step, which you mentioned was the gas
24 chromatograph?

25 A Gas chromatograph mass spectrometer, yes.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. So gas chromatograph mass spectrometer?

2 A Correct.

3 Q What is a gas chromatograph mass spectrometer?

4 A It's actually two instruments in one. So the first
5 part of the Gas chromatograph is basically like a -- you can
6 think of it as sort of racetrack in which I take a sample, I
7 put it into a liquid form and then I inject it into this
8 instrument, which is basically a big oven with a tube inside
9 of it.

10 And what we do is we monitor how fast it goes
11 through this. Sort of like a racetrack. Again, kind of
12 setting these things all off at the same time but based upon
13 how they interact inside that instrument, they're going to
14 come out at different times. Not only are they going to come
15 out at different times, but that compound's going to come out
16 the same time every time.

17 So, you know, if you have like a motorcycle or a
18 four-wheel car, an 18-wheeler and you set them down the
19 highway, you're going to think that the motorcycle's going to
20 finish the highway first, right? The same thing that's going
21 to happen here. The lighter compounds are generally going to
22 come out and then the medium ones, then the heavier ones.
23 And it's consistent. We can run samples repeatedly and they
24 have the same what we call a retention time or how long
25 they're inside that instrument. That's the first part of the

ROUGH DRAFT TRANSCRIPT

1 instrument that separates things out, excuse me.

2 The second part of the instrument is called the
3 mass spectrometer. What happens is once they get -- they
4 complete that sort of racetrack, as we called it, we bombard
5 them with electrons. We break those molecules apart, and the
6 really handy thing about this is that these molecules will
7 break apart the same way every time creating what we call
8 a fragmentation pattern.

9 And based upon how it breaks apart, we can put it
10 back together and identify what it is. So again, using the
11 motorcycle, the car and the 18-wheeler, if we take those and
12 disassemble them, you know, I'd be able to tell which one is
13 the motorcycle, which one's the race car, which one's the
14 truck based upon the parts that are, excuse me, lying around.
15 I can put those back together and say hey, this was a
16 motorcycle or hey, this was a car. And that's how we do it
17 is based upon how fast it goes through the instrument and how
18 it breaks apart, we can make that -- make that
19 identification.

20 Q Okay. So did you perform both the color test and
21 the gas chromatograph mass spectrometer as to those items
22 that are in front of you right now?

23 A On all seven items, yes.

24 Q Okay. And in terms of the color test, did it give
25 you an idea of what substance you might be dealing with?

ROUGH DRAFT TRANSCRIPT

1 A Yes, it did.

2 Q And what was that substance?

3 A Based upon the color test that I thought that I
4 received from that, it indicated that might be
5 methamphetamine.

6 Q Okay. And then you ran the second step that gas
7 chromatograph mass spectrometer?

8 A Yes, I did, and it did confirm that methamphetamine
9 was present in each of the seven samples.

10 Q So based on your findings from both those tests, do
11 you have an opinion as to the nature of the substance that's
12 before you right now?

13 A So in each of the seven items identified that
14 methamphetamine was present.

15 Q And so for the record, again, that's items -- those
16 are Exhibits 82-B-1, 2, 3, 5, and 82-A-3?

17 A A-3, B-2, B-3, B-1, B-4 and B-5, yes.

18 Q Okay. Did you also weigh those substances?

19 A Yes, I did.

20 Q Okay. And how do you weigh them?

21 A So with -- with something like this, I'll empty out
22 the plastic bag and I'll weigh the material on a piece of
23 weigh paper, which we have in our laboratory. I'll place the
24 weigh paper on the balance, I'll tear the balance and then
25 I'll put the material on it so I'm taking what's called a net

ROUGH DRAFT TRANSCRIPT

1 weight, meaning, without the packaging.

2 Q Okay. Did you weigh all of them separately first
3 or together?

4 A Yes, the first -- one of the first things I do
5 after I received the evidence and I'm starting my worksheet
6 and taking notes on things, from one of the first things I'll
7 do is take a net weight of the material as I receive it.

8 Q Okay. And did all of those packages weigh the
9 same?

10 A No, they did not.

11 Q Okay. They had different weights?

12 A Yes, they did have different weights.

13 Q All right. But after doing that, did you weigh
14 them all together?

15 A No. So what happens is I'll weigh each one
16 individually and then at the end I'll add the weights because
17 then I'll be able to say that while each of them -- in this
18 case, each one contained methamphetamine so I'll combine it
19 as one -- I'll combine the weights because it's now one item
20 and still list it as item one.

21 So the totality of item one has a total net weight,
22 and that's just each of these weights added together.

23 Q So did you determine the net weight of those items?

24 A Yes, I did.

25 Q And what was the net weight?

ROUGH DRAFT TRANSCRIPT

1 A I don't recall off the top of my head.

2 Q Would it refresh your recollection to --

3 A Yes, it would.

4 Q -- refer to your report? All right.

5 A Yes, it would.

6 Q Just look up when you're done. Did that refresh
7 your recollection?

8 A Yes, it did.

9 Q And what was the weight total?

10 A 344.29 grams.

11 Q All right. Is there a margin of error?

12 A It's what we call an uncertainty of measurement.
13 Yes, there is.

14 Q Okay. What is the margin of error?

15 A So margin of error or again, uncertainty of
16 measurement is what I call sort of a give or take. So if I
17 were to cut a piece of string about one foot long, I could
18 probably get pretty close, but (indecipherable) give or take
19 on it is a couple inches, couple fractions of an inch, and
20 that's what we do with our balance, and this is only for the
21 balances is, is the weight that I'm recording the actual true
22 weight of that substance? So what we've done is we've done
23 these studies on our balances that sort of quantify that give
24 or take and in this case, there's a certain range of
25 uncertainty of measurement, again, as we call it, associated

ROUGH DRAFT TRANSCRIPT

1 with each weight.

2 So the weight that I record could be plus or minus
3 a little bit here or little bit there.

4 Q Okay. So what was the uncertainty of measurement
5 that you utilized in terms of these items?

6 A Again, it's balance specific.

7 Q Okay.

8 A It's on the report that's associated with the
9 weight.

10 Q Is it going to be a gram?

11 A I don't believe so. I think it's a fraction of a
12 gram. Again, without referring to my report, I don't know.

13 Q So it's not going to be anywhere near 10 grams?

14 A No.

15 Q Okay. It would be a fraction of a gram?

16 A Correct.

17 Q Okay. And what do you do with the evidence after
18 you're finished with it?

19 A So after I've completed my analysis, again, I'll
20 put this piece of Scotch tape back on it, I'll have all the
21 markings on it, I put it back together, and once everything's
22 done, I'll put it back into the original evidence package and
23 then again, I'll seal it up, I'll mark it, mark the tape that
24 I use and then mark the front of the back, put chain of
25 custody on it, and then I will return it to our evidence

ROUGH DRAFT TRANSCRIPT

1 custodian or evidence technician, excuse me, that's in our
2 laboratory.

3 Q Okay. And then I do want to go back to the
4 uncertainty of measurement really quickly.

5 A Okay.

6 Q That relates only to the weight?

7 A Yes, that is only for the weight.

8 Q There is no uncertainty of measurement as to
9 whether or not it's methamphetamine?

10 A No. That was identified. Methamphetamine was
11 identified.

12 Q Okay.

13 MR. BUNNETT: Your Honor, I have in my hand State's
14 82-A-1, which has already been admitted. May I approach with
15 it?

16 THE COURT: Yes.

17 BY MR. BUNNETT:

18 Q All right. I'm showing you State's 82-A-1.

19 A Okay.

20 Q And I'll have you take a look at that.

21 A Okay.

22 Q Do you recognize that?

23 A Yes, I do.

24 Q And how do you recognize it?

25 A On the front here that's inside of -- inside this

ROUGH DRAFT TRANSCRIPT

1 bag there's another plastic zipper bag, and on it is marked
2 the event number, the lab number. In this case, it's denoted
3 as item number 2. Again, it has the date, my employee number
4 and then it also indicates that this was a lab bag, meaning
5 it was a bag that came from our laboratory and I repackaged
6 the item inside of it.

7 Q Okay. And so that's an item you tested?

8 A Yes, it is.

9 Q And that was in -- before you tested it, it was
10 packaged in State's 82?

11 A Yes.

12 Q Okay. And in terms of testing this, what's the
13 method of testing that sort of item?

14 A So in it particular case, I'd probably start with
15 the same thing, again, I'm starting with a sort of a brown --
16 looks brownish/blackish material. Again, I'll start with
17 taking the weight, the initial net weight, and then I'll
18 start taking some samples for some color tests, and then
19 based upon those color tests, I'll use the instrumentation
20 again to make that identification of what is in that
21 substance.

22 Q And by instrumentation, you mean the gas
23 chromatograph mass spectrometer?

24 A Correct, yes the same instrument.

25 Q Okay. So what did the color test give you an idea

ROUGH DRAFT TRANSCRIPT

1 of what you were dealing with?

2 A So in this particular case, the color test
3 indicated that I might have something like heroin. So
4 instead of methamphetamine now it's pointing more to
5 potentially heroin. I'm not sure again. I'll have to
6 extract it and then run it on the instrumentation to confirm
7 that.

8 Q Okay. And did you use the instrumentation?

9 A Yes, I did.

10 Q And what did the instrumentation indicate to you?

11 A Based upon all the data, I was able to identify
12 heroin in these samples.

13 Q So based on the results from the instrumentation,
14 do you have an opinion as to the nature of that substance?

15 A Yes.

16 Q And what's your opinion?

17 A That it looks like two of them -- two different
18 packages -- were found to contain heroin.

19 Q Okay. Did you weigh those packages?

20 A Yes, I did.

21 Q And you had mentioned before that you get the net
22 weight?

23 A Correct.

24 Q And so you basically take it out of the package and
25 you weigh it?

ROUGH DRAFT TRANSCRIPT

1 A Correct.

2 Q By package and then add up the weights?

3 A That is correct, yes.

4 Q So what was the total net weight of that item?

5 A Again, without looking at my report, I don't know
6 that I --

7 Q So would looking at that refresh your recollection?

8 A Yes.

9 Q All right. Just look up when you're done.

10 A Okay. Okay. In this case, it was 33.92 grams.

11 Q All right. And in terms of the measurement of
12 uncertainty, was that anywhere near a gram?

13 A No. In this case, it was plus or minus .08 grams.

14 Q Okay. And what did you do after you tested this,
15 this item?

16 A In this particular case, again, I put a tape flag
17 on it marking it and then I also put both items into another
18 plastic zip bag and then again placed it back into the
19 evidence package and sealed it up.

20 Q Okay.

21 MR. BUNNETT: And Your Honor, I have in my hands
22 State's 82-A-4. May I approach with it?

23 THE COURT: Yes.

24 BY MR. BUNNETT:

25 Q All right. I'm show you go State's 82-A-4.

ROUGH DRAFT TRANSCRIPT

1 A Okay.

2 Q And I'll have you take a look at that and just look
3 up whether you're all done.

4 A Okay.

5 Q Do you recognize that substance?

6 A Yes, I do.

7 Q How do you recognize this?

8 A So again, there's a Scotch tape flag on the front
9 of the bag. Again, it has the information that I've talked
10 about before, event number with the laboratory number, the
11 item number, which in this case is item number 3 for our
12 laboratory, the date in which I put the tape flag on it and
13 my employee number.

14 Q Okay. And did you test this substance?

15 A Yes, I did.

16 Q And that was before you tested it, it was in this
17 package, State's 82?

18 A Yes, it was.

19 Q All right. And did you use the same methods that
20 we previously talked about to test it?

21 A The same thing. So again with the white powder
22 I'll start with several color tests before extracting it and
23 then running the sample on the instrument to make an
24 identification.

25 Q Okay. And just doing the color test, what did it

ROUGH DRAFT TRANSCRIPT

1 indicate to you might be dealing with?

2 A I don't have my notes. Without referring to them,
3 I don't know.

4 Q Okay. But did you subsequently test it using the
5 gas chromatograph mass spectrometer?

6 A Eventually, yes, I did use the instrumentation that
7 we talked about to make that identification.

8 Q And what did you do identify it as?

9 A Item 3. If I may refer to my notes again.

10 Q Sure. Just if it would refresh your recollection.

11 A Absolutely. Okay. In this case, it was cocaine
12 with a weight of 0.537 grams.

13 Q Okay. And in terms of the weight, once again, the
14 net wet?

15 A It is the net wet, yes.

16 Q So based on your findings from the instrumentation,
17 do you have an opinion as to the nature of that substance?

18 A Yeah. So I identified cocaine in this sample here.

19 Q Okay. And the weight again?

20 A I believe, I said .0537 grams.

21 Q Okay.

22 MR. BUNNETT: Your Honor, I have in my hands
23 State's 82-A-5.

24 THE COURT: Okay.

25 MR. BUNNETT: May I approach?

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Yes.

2 BY MR. BUNNETT:

3 Q I'm showing you State's 82-A-5.

4 A Okay.

5 Q Do you recognize that?

6 A Yes, I do.

7 Q And is that something you recognize by the tape
8 that's on it?

9 A Yeah, again, the same thing, it's the event number,
10 lab item, date and my initials on it.

11 Q And that was in that -- this package --

12 A Yes, it was.

13 Q -- State's 82? And did you conduct testing on
14 that?

15 A Yes, I did.

16 Q The same methods we had previously talked about?

17 A Yes, sir.

18 Q Okay. So the color test followed by the gas
19 chromatograph --

20 A Right.

21 Q -- mass spectrometer?

22 A Right.

23 Q And based on those tests, did you come to a
24 conclusion about the nature of that substance?

25 A Yes, I did. So this one there's sort of a

ROUGH DRAFT TRANSCRIPT

1 white/orange/blue substance. And in this substance I
2 identified cocaine, methamphetamine and amphetamine in this
3 sample.

4 Q Okay. And did you weigh it?

5 A Yes, I did.

6 Q And do you recall the weight off the top of your
7 head?

8 A No. If I may refer to my notes.

9 Q Okay.

10 A And this one was 0.795 grams.

11 Q Okay. And was --

12 A That was the net weight, yes.

13 Q All right. So based on your findings from the
14 instrumentation, do you have an opinion as to the nature of
15 the substance that's been admitted as 82-A-5?

16 A Yes. So in this instance, I identified cocaine,
17 methamphetamine and amphetamine in this sample.

18 Q All right.

19 MR. BUNNETT: May I approach the witness again.

20 THE COURT: Yes.

21 MR. BUNNETT: And Your Honor, I have in my hand
22 what's been previously admitted as State's 83. May I
23 approach?

24 THE COURT: Yes.

25 MR. BUNNETT: And I'm also approaching with State's

ROUGH DRAFT TRANSCRIPT

1 83-A.

2 BY MR. BUNNETT:

3 Q So I'm showing you first State's 83. I'm going to
4 have you take a look at that. I'm going to ask you if you
5 recognize it?

6 A Yes, I do.

7 Q And what are we looking at?

8 A And again, that's another LVMPD evidence package.
9 It is marked with the chain of custody that I filled out with
10 my name, P number, date and time in which I sealed, along
11 with a piece of blue evidence tape that shows that I entered
12 the package that's marked with my P number and the date in
13 which I sealed it.

14 Q All right. And just for identification purposes,
15 what does the -- what's the supposed nature of assessments?

16 A In this particular one that's written on the
17 evidence package itself it is item 16 of package number 6,
18 and it is listed as a crystalline substance 3GG.

19 Q Okay. And I'm going to show you State's 83-A.

20 A Okay.

21 Q And I'm going to have you take a look at that.

22 A Okay.

23 Q Do you recognize that?

24 A Yes, I do.

25 Q And is that the item you would have -- that would

ROUGH DRAFT TRANSCRIPT

1 have been contained in here?

2 A It appears to be so, yes.

3 Q And was that an item that you tested in this case?

4 A Yes, it was.

5 Q All right. And when testing it, did you use the
6 same method that we've already talked about?

7 A Yes, I did.

8 Q Okay. Did you have an idea based on the color test
9 what you were dealing with?

10 A Again, without referring to my notes, I would --
11 I'd have to double check. I don't know what the color test
12 results were.

13 Q That's okay. How about what was result from the
14 instrumentation?

15 A Again, I'd have to refer to my notes.

16 Q Okay. So I'll have you refer to your notes.

17 A Okay, thank you.

18 Q And just look up when you're finished. Okay.

19 A And so in this particular item, I identified
20 methamphetamine in this sample right here.

21 Q And did you weigh it?

22 A Yes, I did.

23 Q And --

24 A And it was 0.150 grams and that is net weight.

25 Q Okay. What did you do with that item after you

ROUGH DRAFT TRANSCRIPT

1 tested it?

2 A After I tested it and I again put the tape flag on
3 it with the Scotch tape with all the markings and then once
4 that was done, I put it back into the evidence package and
5 then sealed it up, marked it, signed the chain of custody and
6 then gave it back to the evidence custodian.

7 Q So based on your findings, what is your opinion as
8 to the nature of the substance that's State 83-A?

9 A Again, this item was found to contain
10 methamphetamine.

11 Q All right.

12 MR. BUNNETT: And may I approach the witness with
13 State's 87 and contents?

14 THE COURT: Yes.

15 BY MR. BUNNETT:

16 Q All right, sir, I'm showing you State's 87.

17 A Okay.

18 Q Do you recognize this?

19 A Yes, I do.

20 Q Okay. And how do you recognize it?

21 A Again, this is another evidence package. It has
22 the seal marked with my employee number and the date in which
23 I sealed it, and it also has the chain of custody filled out
24 with again, my signature, P number, date and time in which I
25 sealed it.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. And just for identification purposes, what's
2 listed as the description of the item?

3 A So on the description of the label here is listed
4 item 4, glass jar with ODB positive marijuana, 188.4 grams
5 looks like net after that.

6 Q Okay. And did you test this substance inside this
7 bag?

8 A May I look inside of it?

9 Q Sure.

10 A Yes, I did.

11 Q Okay. And was that what's been previously marked
12 as 87-C?

13 A Yes. Yes, it is.

14 Q Okay. So that's the substance that you tested?

15 A Yes, inside the -- inside the bag here, yes.

16 Q Okay. So what's inside that bag?

17 A It feels like it's sort of a plant material.

18 Q Okay. So is that something consistent with what
19 you tested?

20 A Based upon the recollection of my notes, yes.

21 Q Okay.

22 MR. BUNNETT: Court's indulgence.

23 BY MR. BUNNETT:

24 Q So is there a item lab that's listed on that
25 package?

ROUGH DRAFT TRANSCRIPT

1 A Yes, it is. The lab item is right underneath the
2 evidence -- or the, I'm sorry, the event number. And again,
3 it's listed as 16-02608, lab item number 6.

4 Q So that's lab item number 6?

5 A Correct.

6 Q And you would have written that on the package?

7 A Yes, I would have.

8 Q And that blue tape, that's also --

9 A Yeah, the blue tape --

10 Q -- something you would have done?

11 A -- is also -- I didn't mark this one because again,
12 it's not the actual package, but in this case, I just put the
13 tape on there to keep the bag closed and to keep it from
14 spilling everywhere.

15 Q Did you conduct testing on lab item 6?

16 A Yes, I did.

17 Q And was that test the same test as the ones we were
18 previously talking about?

19 A May I refer to my notes?

20 Q Sure, if it refreshes recollection.

21 A Absolutely. Okay. So no, this testing would be a
22 little bit different.

23 Q So in terms of a little bit different, what do you
24 mean?

25 A So in this case, what's inside of here is sort of a

ROUGH DRAFT TRANSCRIPT

1 green/brown leafy plant material. So already it's different
2 than the other items that I've seen so far in terms of a
3 white crystalline substance or a brown sticky substance.
4 This is now more of a plant material and this's sort of going
5 to change how I have my method of analysis, my route of
6 analysis.

7 So in this particular case, with plant material,
8 the first thing I'm going to do is take a look at it
9 microscopically. Meaning with my unaided eyes, I'm just
10 going to look at it and based upon my training, knowledge and
11 experience, I'm going to determine does it look like a
12 marijuana sample that I've seen throughout my career?

13 Q Is that what you would call the duck test?

14 A It is. It's what I sort of call a duck test when
15 I'm testing for marijuana. So how we test for it is sort of
16 does it look like it visually with the unaided eye? I'll
17 look at it microscopically, I'll be looking for certain
18 characteristics and then I'll take a portion of the sample
19 and perform a chemical color test on it, and all these three
20 things, I can make that identification if it is marijuana.
21 So again, it's like the duck test. Does it look like a duck?
22 Does it walk like a duck? Does it quack like a duck? So
23 with all those combined, I can make that identification that
24 it is marijuana.

25 Q So did you perform that analysis in this case?

ROUGH DRAFT TRANSCRIPT

1 A So, yes, like I said, I performed a microscopic.
2 So to me it looked like the samples of the marijuana that
3 I've seen in the past. It had certain characteristics. I
4 looked at it under the microscope. I found characteristics
5 of marijuana and then I performed a chemical color test, and
6 with all of those combined, I was able to identify that the
7 material was marijuana.

8 Q So that item is marijuana?

9 A Yes.

10 Q And did you weigh the substance?

11 A Yes, I did.

12 Q And how much did that substance weigh?

13 A 175.00 grams.

14 Q Okay. And was that a net weight?

15 A That was a net weight, yes.

16 Q Do you know the measurement conversion between
17 grams and ounces?

18 A One ounce is 28.3 grams.

19 Q Okay. So one ounce is 28.3 grams. So this would
20 have been over one ounce?

21 A Correct, yes.

22 MR. BUNNETT: And Your Honor, I have in my hand
23 what's been previously admitted into evidence as State's 90
24 and 90 A through C. May I approach the witness with these?

25 THE COURT: Yes.

ROUGH DRAFT TRANSCRIPT

1 BY MR. BUNNETT:

2 Q Okay. I'm showing you State's 90. Do you
3 recognize this?

4 A Yes, I do.

5 Q And that's an evidence envelope?

6 A That is envelope. Again, the chain of custody is
7 filled out by me and then there's also a piece of blue
8 evidence tape that's marked by me with the date that shows
9 that I entered this package.

10 Q Okay. And I'm showing you State's 90 A through C.

11 A Okay. (Witness reviewing exhibits). Okay.

12 Q Are those substances that were inside that package?

13 A Yes, they were.

14 Q Okay. And did you test each of those substances?

15 A Yes, I did.

16 Q And did you use the same methods that we've already
17 talked about and --

18 A Yes. Yes, I did.

19 Q Okay. In terms of 90-A --

20 A 90-A, okay.

21 Q -- when were your conclusions as to 90-A?

22 A If I may refer to my notes?

23 Q Sure.

24 A Okay. So this one identified methamphetamine with
25 a weight of 3.818 grams net.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. And how about 90-B?

2 A Again, may I refer to my notes? (Witness reviewing
3 evidence). This one was 2.357 grams net found to contain
4 methamphetamine.

5 Q And 90-C?

6 A And one more time?

7 Q Okay.

8 A This one was .895 grams found to contain heroin.

9 MR. BUNNETT: If I may approach the witness again?

10 THE COURT: Yes.

11 BY MR. BUNNETT:

12 Q So based on your instrumentation, you determined
13 that that package contained two packages of methamphetamine
14 and one package of heroin?

15 A That is correct, yes.

16 MR. BUNNETT: And I'll pass the witness, Your
17 Honor.

18 THE COURT: Cross.

19 MR. FRIZZELL: Just a couple questions,
20 Mr. Althnether.

21 CROSS-EXAMINATION

22 BY MR. FRIZZELL:

23 Q Now, on what you identified as impound item 5,
24 which was a mixture, you said, of amphetamine,
25 methamphetamine and cocaine --

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q -- you said it had a net weight of .795 grams; do
3 you recall that?

4 A That sounds correct, yes.

5 Q Okay. Now, that is the only packaging, the only
6 piece of evidence that you examined that had a mixture of
7 three different substances in it; is that correct?

8 A That sounds, correct.

9 Q Okay. Now, did you separate out those three
10 particular substances when you tested them, do you recall?

11 A So as for as the weight, I weighed it as one
12 because it was perceived as one item. The sample itself did
13 not lend itself to be separated out so I did test it. I do
14 believe I did some testing initially on the blue substance by
15 itself and the orange substance itself. But again, because
16 it was received as one item, I treated it as one item as most
17 as -- as best as I could.

18 Q Okay. So even though you separated it out for
19 testing, you didn't weigh it separately?

20 A No, I didn't. Again, it didn't lend itself to
21 separating out the --

22 Q So each individual one of these three substances
23 did not weigh .795?

24 A No, again, this was a total mixture of the sample.

25 Q Okay. And on what was impound item 4, which was

ROUGH DRAFT TRANSCRIPT

1 the marijuana that we talked about --

2 A Yes.

3 Q -- when you received it, what packaging was it in
4 when you received it?

5 A Without referring back to my notes, I'm not quite
6 sure what the packaging was. In just looking at the package,
7 I try to package it the way the -- it was received. In this
8 case, it was a brown paper bag. I don't know if it was
9 received that way or not, again, without referring to my
10 notes.

11 Q Okay. Would referring to your notes refresh --

12 A Absolutely.

13 Q -- your recollection?

14 A Yes, it would.

15 Q If you want to take a look at your notes.

16 A Thank you very much. Okay. In this particular
17 case, yes, I did receive it. It was rolled up in that brown
18 paper bag that we saw earlier with that piece of red evidence
19 tape on it that was unmarked and that's how I received the
20 evidence.

21 Q Okay. So when you received it, it was not in a
22 glass container or any other type of container?

23 A Not according to my notes, no. It was just in that
24 brown paper bag.

25 Q Okay. So other than the brown paper bag, that's

ROUGH DRAFT TRANSCRIPT

1 the different -- is that the difference in the weight from
2 what was written on the evidence bag versus the 175 that you
3 have here?

4 A I'm not sure what the weight that was written on
5 the bag.

6 Q Would looking at the bag again reflect your
7 recollection?

8 A Absolutely.

9 Q All right.

10 MR. FRIZZELL: And Your Honor, for the record --

11 BY MR. FRIZZELL:

12 Q I'm going to show you 87 and its contents.

13 A Okay.

14 Q State's 87 and its contents. I apologize it's
15 ripping a little bit --

16 A Oh, no worries.

17 Q -- so --

18 A I got it. Okay.

19 Q So would you look inside there?

20 A Absolutely.

21 Q Do you see what appears to be a glass cylinder?

22 A Can I pull it out?

23 Q Yes.

24 A These were also in the package. I did not analyze
25 it. It was just in the package that I noted and --

ROUGH DRAFT TRANSCRIPT

1 Q And it was not -- so when it came to you, it was
2 not in that container?

3 A No. Again, according to my notes, it was removed
4 and placed in this bag here.

5 Q Okay. So you didn't have any reason to look at
6 that, it's --

7 A No, I had no reason to analyze this.

8 Q For any evidentiary value?

9 A No. It was not requested.

10 Q All right. You can put it --

11 A Okay.

12 Q And so when you tested each one of these items that
13 are on your report, you removed them from the packaging to
14 just weigh just the substance, correct?

15 A That is correct, yes.

16 Q Now, is there -- any time you handle one of these
17 substances, do you get every bit of it out of a package or
18 every bit of it off the table when you are moving it from one
19 place to the other or is there some residual?

20 A Just for clarification, residual in the bag or on
21 my bench?

22 Q Either one.

23 A I mean, we try as best we can, at least I can only
24 speak for myself, try as best as I can to get everything
25 that's in the item that is submitted as the item and get that

ROUGH DRAFT TRANSCRIPT

1 onto -- onto my balance to weigh it. Sometimes there are
2 extenuating circumstances like the sample's too sticky and
3 it's sticking to the plastic or something like that. But in
4 which case, that's a special circumstance, I would probably
5 note it in my notes, and I might even take a gross weight
6 instead of a net weight and say this is the weight I received
7 as it is because I can't physically separate it.

8 But in this case, I have no notes to that, so I
9 would say yes, I tried to get as much as I can out of the bag
10 on to my balance and weigh it to get a true weight or to get
11 the most accurate weight of the item again as received.

12 Q And so when you remove it from a package, do you
13 remove it from the package and, I guess, for lack of a better
14 term, pouring it -- pouring it on your scale or do you put it
15 another container and then put it on the scale? What's your
16 procedure when you weigh these?

17 A That's a really good question. I've actually done
18 it both ways sometimes. If it suits itself, I can just,
19 again, as you said, kind of pour it on to that piece of weigh
20 paper that I have on my balance. Other times I might need to
21 pour it on to another piece of weigh paper that's on my bench
22 and then transfer it onto the balance that has another piece
23 of weigh paper.

24 So again, I don't have that written down in my
25 notes. I'm not sure which way it is, but again, I'm trying

ROUGH DRAFT TRANSCRIPT

1 to get the sample from the -- the packaging on to my balance
2 to get that net weight.

3 Q So if you're say transferring it a few times to a
4 few different weigh papers, if you will --

5 A Yes.

6 Q -- there is opportunity for residual to stay on one
7 weigh paper and you don't get it all off to the next weigh
8 paper?

9 A That's a really good question. I suppose there is.
10 I mean, if there's multiple transferences, I mean, if you
11 think about cooking and you're weighing at what you have or
12 using flour or something, there's always a little bit of
13 residual, but again, we try as best as we can to minimize
14 that.

15 Q All right. Thank you.

16 MR. FRIZZELL: Court's indulgence.

17 BY MR. FRIZZELL:

18 Q One last thing. When you were provided all of
19 these items for testing, were you told anything regarding
20 these items were found in one area and these items were found
21 in another area or was it just used -- get all the tests on
22 everything you were given?

23 A I generally don't have that kind of information.
24 We just have the lab case -- or the event number that's
25 assigned to us and the items that are sent to us that are

ROUGH DRAFT TRANSCRIPT

1 asked for analysis. The only reason I would know where it
2 came from is if it's listed on the package and again --

3 Q And so --

4 A -- if I went through each one, I wouldn't know.

5 Q -- so is it fair to say if it's not in your report,
6 you wouldn't have said where it was located?

7 A That is correct. Again, I don't know where the
8 evidence comes from. I just receive the evidence as it is in
9 the packages.

10 Q Okay. And did you find any -- is it your job to
11 test say, purity, impurity, that sort of thing?

12 A We can perform that analysis on certain substances,
13 but that was not done in this case.

14 Q Okay. So you wouldn't be able to tell whether or
15 not it was, say, cut with baby powder or something along
16 those lines?

17 A In it particular --

18 MR. BUNNETT: Objection. Relevance.

19 MR. FRIZZELL: I'm just asking.

20 THE COURT: No, I'm going to allow him. He can --
21 overruled. If he can answer it.

22 THE WITNESS: So in this particular case, no, it's
23 what we call sort of a quantitative analysis versus a
24 qualitative analysis. And with quantitative, we're
25 determining a purity, and I did not do this in this case. I

ROUGH DRAFT TRANSCRIPT

1 just merely performed what's called a qualitative. Again,
2 I'm identifying what's in this particular substance, not
3 necessarily purity.

4 MR. FRIZZELL: I have nothing further, Your Honor.

5 THE COURT: Redirect.

6 MR. BUNNETT: Yes, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. BUNNETT:

9 Q I want to focus with you on the weight. If you
10 recall, item 1 was I believe that methamphetamine that you
11 determined was 344.29 grams net?

12 A Yes.

13 Q Okay. What was the -- I'm forgetting the word, but
14 the -- essentially the difference in terms of the weight?
15 The one that I referred to previously as a margin of error,
16 but what was the term again?

17 A Oh, the uncertainty of measurement.

18 Q Okay. What was the uncertainty of measurement for
19 that item?

20 A Oh, gosh, I don't remember. May I refer to my
21 notes again?

22 Q Yes. Just look up when you're done.

23 A Yeah. Okay. On that particular item, the
24 uncertainty of measurement for all of them combined was 0.14
25 grams.

ROUGH DRAFT TRANSCRIPT

1 Q So based on that, the weight of that item would
2 have ranged from 344 -- if my math's correct, 344.15 to
3 344.43?

4 A That sounds correct.

5 Q Okay.

6 A Without doing it myself, yes.

7 Q And it wouldn't be outside of that range?

8 A It -- it can be outside of that range. Again,
9 we're doing a mathematical statistical formulation. In this
10 case, excuse me, if you think of sort of a bell curve, in
11 this case, we're not getting the entire bell curve, we're
12 getting about, I think, 98 percent of it. So there is a
13 little bit of outline. It could be a little bit more, it
14 could be a little bit less, but we're getting -- I forget the
15 percentage. I think it's 97.4 accuracy or confidence that
16 it's within that range. So it could be slightly lower or it
17 could be slightly less but this is the uncertainty that we've
18 associated with the balance and that we do report.

19 Q But it's not going to be significantly lower or
20 significantly --

21 A No.

22 Q -- less?

23 A It's not going to be significantly high or low.

24 Q Okay. And in terms of item 2, I think you had
25 testified that the -- that calculation that we've just talked

ROUGH DRAFT TRANSCRIPT

1 about was .08. Sound right?

2 A That sounds correct, yes.

3 Q Okay. So that means that within this 97-ish
4 percentage range --

5 A Correct.

6 Q -- it would be between 34 or 33.84 grams?

7 A Sounds correct.

8 Q Okay. And do you know whether controlled
9 substances dry up?

10 A They can dry, yes, through storage.

11 Q Okay. Would green leafy material, such as
12 marijuana, dry up?

13 A Absolutely.

14 Q Okay. Would methamphetamine dry up?

15 A In some cases if it's still fresh from being
16 manufactured, there is some solvent residue that's on top of
17 it and could evaporate over time. It's possible.

18 Q If something dries up, is it going to weigh more or
19 weigh less when testing?

20 A It's going to weigh less as another solvent or in
21 the case of marijuana, which there's moisture present because
22 it's a living plant has a moisture or solvent releases, it's
23 going to obviously, weigh less.

24 Q Okay.

25 MR. BUNNETT: I'll pass the witness, Your Honor.

ROUGH DRAFT TRANSCRIPT

1 MR. FRIZZELL: Nothing further, Judge.

2 THE COURT: What about heroin? Does that dry up,
3 too?

4 THE WITNESS: Your Honor, yes, it can.

5 THE COURT: Okay. Any questions? All right. No
6 further questions. Thank you so much for your testimony.
7 You can step down. You're excused.

8 THE WITNESS: Thank you very much, Your Honor.

9 THE COURT: Is there a bunch of evidence in front
10 of you right now?

11 THE WITNESS: There is no evidence in front of me.

12 THE COURT: Okay. All right. Thank you. Okay.
13 All right. State, call your next witness.

14 MR. DICKERSON: At this point in time, Your Honor,
15 the State's going to move for the admission of this CD that
16 we've spoke of regarding the stipulated authenticity of the
17 audio files on the CD.

18 THE COURT: What's the number?

19 THE CLERK: 96?

20 THE COURT: No. 96?

21 MR. DICKERSON: I'm asking to have it marked right
22 now. 96, State's Proposed 96, Your Honor.

23 THE COURT: Mr. Frizzell --

24 MR. FRIZZELL: Yes, Your Honor.

25 THE COURT: -- do you have any objection to it

ROUGH DRAFT TRANSCRIPT

1 being admitted?

2 MR. FRIZZELL: Let me ask the State. No, Your
3 Honor.

4 THE COURT: All right. So No. 96 will be admitted.
5 (State's Exhibit 96 admitted)

6 MR. DICKERSON: Court's brief indulgence while we
7 get the technical aspect of it.

8 (Pause in the proceedings)

9 MR. DICKERSON: On State's 96, the first file to be
10 played is the file date stamped 1/29/16, 1:31:34 to phone
11 number 702-595-6270.

12 THE COURT: Okay.

13 (Pause in the proceedings)

14 (Playing CD)

15 MR. DICKERSON: The next file played from State's
16 96 is marked date 12/9/2016, time 6:07:53 to phone number
17 702-595-6270.

18 (Playing CD)

19 MR. DICKERSON: And the final file from State's 96
20 is going to be date stamped 1/30/2016, time 7:33:56, phone
21 number 702-929-0880.

22 (Playing CD)

23 MR. DICKERSON: That concludes State's 96.

24 THE COURT: Mr. Dickerson, any other witnesses?

25 MR. DICKERSON: State has no further witnesses at

ROUGH DRAFT TRANSCRIPT

1 this time. We would just ask to take a look at the exhibits
2 and make sure they've actually been admitted.

3 (Pause in the proceedings)

4 MR. DICKERSON: At this time, Your Honor, the State
5 rests.

6 THE COURT: Okay. Ladies and gentlemen, it's
7 12:30. I'm going to give you a lunch and let you guys go to
8 lunch for about an hour and 15 minutes. So be back here by
9 quarter to 2:00.

10 During this recess, you're admonished not to talk
11 or converse amongst yourself with anyone else on any subject
12 connected with this trial, read, watch or listen to any
13 report or commentary on the trial or any person connected
14 with this trial by any medium of information, including
15 without limitation, newspapers, television, Internet or
16 radio, or form or express any opinion on any subject
17 connected with this trial until it's finally submitted to
18 you.

19 All right. We'll be at ease while the jury leaves
20 the room, okay?

21 (Outside the presence of the jury.)

22 THE COURT: Okay. We're outside the presence of
23 the jury. The State has rested. When we come back, well,
24 you know what I'd like to do is I'd like to take you all now
25 and we just -- and go through the jury instructions and

ROUGH DRAFT TRANSCRIPT

1 settle those. And then I'll put them back on the record
2 before we go back before you start your case, okay?

3 MR. FRIZZELL: Sounds great.

4 MR. DICKERSON: Fair enough.

5 THE COURT: All right. So all right, so have him
6 back by a quarter to 2:00.

7 CORRECTIONS OFFICER: Yes, Your Honor.

8 THE COURT: Is there anything you need to put on
9 the record, though, at this time, either party?

10 MR. FRIZZELL: No, Your Honor, I don't believe that
11 Mr. Keller's going to testify so --

12 THE COURT: Well, we'll find out when he comes
13 back.

14 MR. FRIZZELL: Okay.

15 THE COURT: All right? Okay, so a quarter to 2:00
16 have him back, okay?

17 CORRECTIONS OFFICER: Yes, Your Honor.

18 THE COURT: Thanks, officers.

19 CORRECTIONS OFFICER: Thank you.

20 THE COURT: All right.

21 (Court recessed at 12:29 p.m. until 1:53 p.m.)

22 (Outside the presence of the jury.)

23 (Pause in the proceedings)

24 THE COURT: All right. We're back on the record in
25 the case of State of Nevada versus Christopher Keller in Case

ROUGH DRAFT TRANSCRIPT

1 No. C-312717. I'd like the record to reflect the presence of
2 the defendant, his counsel, as well as State and their
3 counsel. We're outside the presence of the jury. I've went
4 through the jury instructions. Does the defense have a copy
5 of the jury instructions --

6 MR. FRIZZELL: I --

7 THE COURT: -- and the State have a copy of the
8 jury instructions?

9 MR. FRIZZELL: I do, Your Honor.

10 THE COURT: Okay.

11 MR. DICKERSON: State does, Your Honor.

12 THE COURT: Okay. For that, I'm going to ask is
13 the State familiar with jury instructions 1 through 23?

14 MR. DICKERSON: We are, Your Honor.

15 THE COURT: Do you have any objection to giving of
16 any of these instructions?

17 MR. DICKERSON: We do not.

18 THE COURT: Do you have any additional instructions
19 you'd like to propose?

20 MR. DICKERSON: Not at this time, Your Honor, no.

21 THE COURT: And is the defendant familiar with
22 instructions 1 through 23?

23 MR. FRIZZELL: Yes, Your Honor.

24 THE COURT: Do you have any objection to the giving
25 of these instructions?

ROUGH DRAFT TRANSCRIPT

1 MR. FRIZZELL: Well, in contemplation of what I
2 need to put on the record, we may need to take out a couple
3 of instructions. Specifically, 18 and -- well, I guess, just
4 18.

5 MR. DICKERSON: And I think under that same token,
6 then we would also need to add in the other two that we had
7 previously (inaudible).

8 THE COURT: All right. So are you telling me your
9 client wants to testify?

10 MR. FRIZZELL: Well, if I may put on the record --

11 THE COURT: Okay.

12 MR. FRIZZELL: -- what happened here. While you
13 were probably walking down the hallway to come in, I was on
14 the phone with the witness that you said you would allow to
15 testify, Mary Silva, who was on the road ostensibly heading
16 home, she told me. I asked her -- I said, we're ready and
17 it's now time and the judge isn't going to wait. How long
18 was it going to take you to get back?

19 And she said she could be back here by 3:00
20 o'clock, when I told her it was 1:55. I told her that you
21 were basically coming down the hallway and that I was not
22 going to -- that the judge was probably not going to want to
23 wait that long. And then you came on and I hung up the
24 phone. And so I have not had an opportunity to ask my client
25 if in light of the fact that she is now not going to be

ROUGH DRAFT TRANSCRIPT

1 there, if he has -- if he still wishes to exercise his 5th
2 amendment right or waive that and take the stand? So --

3 THE COURT: Okay. Well, do it.

4 MR. FRIZZELL: -- that's where I'm at right now.

5 THE COURT: Okay. Well, go ahead.

6 MR. FRIZZELL: So what do you want to do?

7 (Mr. Frizzell/Defendant conferring)

8 MR. FRIZZELL: Okay. No, he at this time, does not
9 wish to exercise his right to testify. He wants to -- he's
10 -- we'll keep those -- we'll keep the 18 in.

11 THE COURT: So once again, do you have any
12 objection to the instructions being proposed?

13 MR. FRIZZELL: No, Your Honor.

14 THE COURT: And do you have any additional ones
15 that you wish to offer at this time?

16 MR. FRIZZELL: No, Your Honor.

17 THE COURT: Okay. Are you familiar with the -- are
18 both parties with our verdict forms?

19 MR. FRIZZELL: Yes, Your Honor.

20 THE COURT: Is there any -- do you have any
21 objection to the verdict forms in their current state?

22 MR. FRIZZELL: Other than what you --

23 THE COURT: It's the same.

24 MR. FRIZZELL: Okay, then as long -- then, no, I
25 don't.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: All right. Okay. So we're go ahead
2 and bring the jury back in, then.

3 THE DEFENDANT: And could I say one quick thing? I
4 was wondering, you know, the officers that I'm not -- I
5 thought that I would be able to like that each one of the
6 witnesses listed for the State, which would be specifically
7 the officer that wore the body cam and broke off the glove
8 box that -- that we would be able to cross-examine him and
9 stuff and now I'm not able to. I don't know. I won't call
10 that they're hiding him, but I can't -- I can't, you know,
11 question him -- we can't question him now, and that's a -- a
12 big witness in my -- in my case, you know?

13 THE COURT: Well, you've known about this witness
14 since the day that you were given a copy of the report.

15 THE DEFENDANT: I thought that he would be -- I
16 thought obviously that they would be calling him this whole
17 time. Why would they not call the main officer, the one that
18 had the body cam, the officer on the scene?

19 THE COURT: I don't know. I heard from an officer
20 that sounded like he was the one that took the case. So I
21 don't know. I don't control the State's case. So
22 Mr. Frizzell, did you do anything with regards to that
23 officer or what?

24 MR. FRIZZELL: Well, no, because, Your Honor, as
25 you'll know we litigated approximately three times that

ROUGH DRAFT TRANSCRIPT

1 although Officer Henry may have stated that he had a body
2 cam, that not -- we litigated it in a motion to suppress, and
3 in my Brady motion that you granted, and I believe I may have
4 -- we may have argued it at one point even prior tot motion
5 to suppress, and basically, what I've been told by State is
6 that no such -- there is no body cam footage from this case,
7 period.

8 THE COURT: Okay.

9 MR. FRIZZELL: So --

10 THE DEFENDANT: He's the officer that broke off my
11 glove box before issuing a warrant.

12 THE COURT: Okay, so what is the relevance of the
13 fact that -- I mean, that's up to you, but I don't know,
14 Mr. Frizzell, did you consider that? I mean, I understand --

15 MR. FRIZZELL: Well, he's spoken to me about it on
16 several occasions, and it's all -- it's the same that we have
17 photos of a glove box have been removed, the cover having
18 been removed, and everyone in this courtroom has seen
19 photographs of this hole. And that's all -- and Mr. Keller
20 seems to believe and unfortunately, there's no way it flesh
21 this out. I've talked with the State about it, asked if they
22 could talk with their officers. Mr. Keller claims that there
23 was a plastic piece that was covering up even that hole that
24 was part of that box that he thinks would have had to have
25 been broken off in order to actually expose that hole that we

ROUGH DRAFT TRANSCRIPT

1 saw that was inside the glove box.

2 I've talked with the State about that for the last
3 six, seven months, Your Honor, and there is no evidence that
4 exists or anyone that can testify other than Mr. Keller
5 because he's the one that's telling me these things that that
6 was the case with that door, coupled with the fact that I
7 instructed him, and this was not long after I took the case
8 over from Mr. Sanft even and had a long discussion with him
9 about the facts and evidence in the case, that they're just
10 -- there isn't any evidence, anyone that will testify or
11 could testify that there was more to that glove box than just
12 simply a cover.

13 THE COURT: Mr. Keller, are you suggesting that the
14 officers -- is your suggestion that you need this officer
15 because you believe the officer placed those items in your
16 car?

17 THE DEFENDANT: I'm saying that for one thing the
18 improperness of breaking someone's glove box, for one. For
19 two, there has been no representation to the Court yet that,
20 you know, the glove box is -- this the part that they took
21 off was a box like this and it has sides on it in the back
22 and the front. And when that is on there, you cannot see
23 anything.

24 THE COURT: Okay, but you heard testimony about the
25 dog. You heard testimony about the dog hitting on that. The

ROUGH DRAFT TRANSCRIPT

1 simple fact -- there's two areas here, and I think you -- you
2 have some limited knowledge, I know you do, based on the way
3 you talked to me in this area because you've talked about
4 probable cause. It may be coming from your mom, I don't
5 know, but I mean, I know who your mom is so that's why I --
6 so -- but the thing is, is that in the case in 2013 our
7 Supreme Court changed the law that they -- they were
8 originally using when it comes to a vehicle stop. There was
9 two different portions of probable cause that's been
10 announced at least in this trial and in the previous hearings
11 that we had that the officer had probable cause to search
12 that vehicle.

13 The probable cause to search that vehicle doesn't
14 stop simply because they can't get into certain things. Once
15 they develop probable cause, then they can go into boxes and
16 glove boxes and so they could have removed that. But my
17 understanding was is the dog hit on that and then after that
18 was when they found that hole and then they were able to --
19 then they got a search warrant. Is that correct? Am I right
20 with that?

21 MR. FRIZZELL: Not quite, Your Honor.

22 THE COURT: Okay.

23 MR. FRIZZELL: I think that what happened was, was
24 remember the officer said that the open -- the glove box --
25 Lopez said the glove box was already off when he was there,

ROUGH DRAFT TRANSCRIPT

1 and he saw the hole he reached down in, but he could not pull
2 it out -- could not pull his handout.

3 THE COURT: I know, but hadn't the dog already been
4 there?

5 MR. FRIZZELL: No.

6 MR. DICKERSON: Yeah. The dog already had --

7 MR. FRIZZELL: No. Not --

8 MR. DICKERSON: And that's what you established in
9 the suppression hearing.

10 THE COURT: Right.

11 MR. DICKERSON: When we went actually back in CAD,
12 because in the CAD he announced at this point in time when he
13 thought there was a gun in the car.

14 THE COURT: My understanding was that he found the
15 baggies and he reached down between the seat and the console,
16 felt something he felt may be a gun or may be some other
17 contraband, then he got a dog there.

18 MR. DICKERSON: Actually, it was just the baggies
19 under the seat and next to the seat --

20 THE COURT: Okay.

21 MR. DICKERSON: -- and then the smell and visual of
22 marijuana and then he went in, but it was after -- excuse me,
23 it was the smell of visual marijuana that caused him to go
24 in.

25 THE COURT: Right.

ROUGH DRAFT TRANSCRIPT

1 MR. DICKERSON: Then the baggies under the seat
2 obviously, makes him realize there's something here with the
3 money that's in Mr. Keller's pocket gets him to call the dog
4 out. Dog comes out, gets in the car, hits on the glove box.
5 That's when Lopez sticks his hand into the glove box, feels a
6 hard object in there, what he believes to be a gun, backs out
7 and they get a search warrant.

8 THE COURT: Okay.

9 THE DEFENDANT: Yeah, that's why I need Henry
10 because they -- they broke the glove box -- they broke the
11 glove box off and then -- and then they -- and then they --
12 they created a hole. So now you -- now they could see
13 something --

14 THE COURT: So it's your testimony or your
15 statement that there was no hole there?

16 THE DEFENDANT: That's what -- that's what I'm
17 saying and that's -- you could not --

18 THE COURT: Okay. Well, there's --

19 THE DEFENDANT: Well, whether there was a hole or
20 not there, no one -- we have no way of knowing because there
21 was -- that's what I'm saying, the glove box had sides on it
22 that it was a hole square. It had sides on it that -- that
23 blocks any vision from that hole. And to me, it's like I
24 think the jury at this point thinks that when you open the
25 glove box that you could see a hole there, and that's not the

ROUGH DRAFT TRANSCRIPT

1 case. You have to -- you have to rip the glove box off
2 before you -- before that was actually visible because
3 there's sides on the glove box.

4 THE COURT: Okay. So what's your point?

5 THE DEFENDANT: Well, not only the improperness of
6 breaking off glove boxes before a warrant, but also the
7 fact --

8 THE COURT: Okay. I've already -- I already
9 addressed that.

10 THE DEFENDANT: All right, all right.

11 THE COURT: I already addressed that.

12 THE DEFENDANT: And also the fact that you --

13 THE COURT: They could go --

14 THE DEFENDANT: -- can -- you can -- I also want
15 the jury to know that I'm not -- that this was not something
16 that when I opened my glove box, you know, that I could just
17 see some hole right here because that would make it look
18 like, you know, that -- that I knew that it was there or
19 something, you know?

20 THE COURT: Okay. And you think this other officer
21 is going to be the one to address that? Is that what you're
22 saying?

23 THE DEFENDANT: Well, I mean, he -- he would say
24 yes, that the whole glove box would have been blocking any
25 visual of --

ROUGH DRAFT TRANSCRIPT

1 THE COURT: How do you know that? Have you talked
2 to him?

3 THE DEFENDANT: Well, because I know the glove box
4 blocks it so --

5 THE COURT: I know, but you're saying he would say
6 that. But there was another officer testified, there was the
7 officer that did the initial contact, Mr. Lopez -- Officer
8 Lopez.

9 THE DEFENDANT: But they -- they never got into
10 that, whether he seen it or not before --

11 THE COURT: Well, isn't that --

12 MR. DICKERSON: He did, Your Honor.

13 THE DEFENDANT: He said he seen it once the glove
14 box is off.

15 MR. DICKERSON: If you recall, Officer Lopez
16 testified before the glove box came off. You could just see
17 a small portion what he described as maybe an inch of this
18 hole, and then it was after that it came off that you had the
19 actual bigger hole.

20 THE DEFENDANT: Well, then I would have had
21 pictures of that same model vehicle as evidence in court
22 showing that that's a obvious lie because --

23 THE COURT: Then why didn't you?

24 THE DEFENDANT: -- that model --

25 THE COURT: Why didn't you? We've been going on

ROUGH DRAFT TRANSCRIPT

1 for over a year now.

2 THE DEFENDANT: I thought --

3 THE COURT: Over a year.

4 THE DEFENDANT: I thought that I was -- I thought
5 that I was going to have a different attorney and be able
6 to work my case with him.

7 THE COURT: You keep going back on that. You've
8 had an attorney appointed for you throughout this whole
9 proceeding, and at the very last minute -- I'm not going to
10 get into that anymore. Do you have this witness subpoenaed
11 to testify?

12 MR. FRIZZELL: The officer he's describing?

13 THE COURT: Yes.

14 MR. FRIZZELL: No.

15 THE COURT: Okay. So --

16 MR. DICKERSON: And just for the record, Your
17 Honor, any body cam concerns we addressed, we did follow your
18 order and looked for body cam. There was no body cam saved
19 on this case. From the day this case came into the DA's
20 office, we were unable to locate any body cam on this case.
21 We inquired with the Officer Henry, and though I believe he
22 just started wearing body cam at that time, it was none
23 saved. I think it has to do in talking to him with the way
24 body cam worked at that time. It wasn't connect today the
25 internal system of CAD where it automatically downloads. Now

ROUGH DRAFT TRANSCRIPT

1 it's --

2 THE COURT: Did you subpoena Officer Henry?

3 MR. DICKERSON: We did.

4 THE COURT: Is he here?

5 MR. DICKERSON: No, he's not.

6 THE COURT: When did you have him subpoenaed for?

7 MR. DICKERSON: We had him -- well, we subpoenaed
8 him for the first day of trial, which was Monday.

9 THE COURT: Okay. Do you have his phone number?

10 MR. DICKERSON: Yeah, we could -- we had him down
11 here, too. We can bring him back.

12 THE COURT: All right. We're going to do that.
13 All right. So we're at 10 after. I'll give you that
14 opportunity, you can put that officer on --

15 THE DEFENDANT: Thank you, Your Honor.

16 THE COURT: -- to your case desire, if you choose,
17 Mr. Frizzell. It's up to you. Your client's screaming about
18 him that he's going to change this whole case around, but
19 whatever you want to do.

20 MR. FRIZZELL: And candidly, in my professional
21 opinion, I do not think that this officer is going to be able
22 to add something to assist Mr. Keller in his case. But by
23 the same token, if he wants this officer to testify about
24 what he did and what he saw and that sort of thing in the
25 car, then I mean, I'm fine with calling him.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: All right. Mr. Keller, I want you to
2 understand something. Strategic matters are usually left to
3 your attorney. But I'll give you this option, okay? You
4 want to call him or not?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Do you want to call him?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: All right. So how long will it take
9 him to get him down here?

10 MR. DICKERSON: I don't know. We released him from
11 his subpoena already so we'll see if we can get in touch with
12 him.

13 THE COURT: You have the number. Okay.

14 MR. BUNNETT: Yeah, I'm coordinating with him right
15 now.

16 THE COURT: All right. Are you communicating with
17 him?

18 MR. BUNNETT: Yes, I'm texting him right now.

19 THE COURT: All right. Just tell him the Court
20 says he needs to get here ASAP.

21 (Pause in the proceedings)

22 (Court went off the record at 2:10 p.m. until 2:50 p.m.)

23 (Outside the presence of the jury.)

24 (Pause in the proceedings)

25 THE MARSHAL: All rise for the jury.

ROUGH DRAFT TRANSCRIPT

1 (In the presence of the jury.)

2 THE COURT: Okay. This is continuation of jury
3 trial in case the State of Nevada versus Christopher Keller
4 in C-312717. I'd like the record to reflect the presence of
5 the defendant, his counsel, district attorney and their
6 counsel and all members of the jury. Will the parties
7 stipulate to the presence of the jury?

8 MR. DICKERSON: State will stipulate, Your Honor.

9 MR. FRIZZELL: Defense stipulates.

10 THE COURT: Okay. As we took a break, State had
11 rested their case. Mr. Frizzell, did you wish to present any
12 evidence on be behalf of the defendant?

13 MR. FRIZZELL: Yes, Your Honor. Defense wishes to
14 call Officer Jacob Henry to the stand.

15 THE COURT: Okay.

16 OFFICER JACOB HENRY, DEFENDANT'S WITNESS, SWORN

17 THE CLERK: Thank you. Please be seated. Please
18 state your full name, spelling your first and last name for
19 the record.

20 THE WITNESS: Jacob Henry, J-a-c-o-b, H-e-n-r-y.

21 THE COURT: Your witness.

22 DIRECT EXAMINATION

23 BY MR. FRIZZELL:

24 Q Are you officer, detective? What is your title?

25 A Officer.

ROUGH DRAFT TRANSCRIPT

1 Q Officer Henry, what do you do for a living?

2 A I'm a police officer with Las Vegas Metropolitan
3 Police Department.

4 Q And how long have you been so employed?

5 A Today's date, approximately three years.

6 Q And where were you -- were you -- where are you
7 stationed now?

8 A Northeast Area Command.

9 Q Okay. And were you stationed that command on
10 January 28th, 2016?

11 A I was.

12 Q On that date, were you called out for any reason?

13 A I was.

14 Q Okay. And what was that reason?

15 THE COURT: Why don't you be a little bit more
16 specific.

17 THE WITNESS: Yeah, I was on multiple calls that
18 night.

19 THE COURT: Okay.

20 BY MR. FRIZZELL:

21 Q In the evening, were you called to 265 North Lamb
22 Boulevard for any reason?

23 A I was.

24 Q And do you recall why you were called to that
25 address?

ROUGH DRAFT TRANSCRIPT

1 A Affirmative. One of my squadmates, Officer Lopez,
2 had done a vehicle stop, and based on the circumstances of
3 the stop, he requested additional units.

4 Q And roughly, how long after that call would you say
5 you responded to the scene?

6 A I would say approximately, within five minutes. I
7 was not too far away when he requested help.

8 Q Okay. And when you arrived, what did you see?

9 A I saw Officer Lopez had a vehicle stopped as well
10 as he had a subject out of the vehicle in front of his -- his
11 vehicle in handcuffs.

12 Q Okay. And so at that point, what did you do? Were
13 you assigned something to do or what did you do?

14 A I was just there to assist him with anything that
15 he needed. I wasn't necessarily assigned anything.

16 Q Okay. So did he ask you to perform any particular
17 tasks on that evening?

18 A The only thing that he specifically asked me to do
19 was to read Miranda to the individual he had stopped.

20 Q Okay. Did you do that?

21 A I did.

22 Q Did you have occasion to do anything with the car
23 that Officer Lopez had stopped?

24 A Throughout the course of the investigation, I did
25 assist in searching. I wasn't assigned that duty. I just

ROUGH DRAFT TRANSCRIPT

1 helped out.

2 Q Okay. And when you say searched, can you be a
3 little bit more specific? What was it that you did or what
4 job did you perform on the vehicle?

5 A We were searching the vehicle for -- there was my
6 understanding probable cause to believe that there was
7 illegal narcotics inside the vehicle.

8 Q Okay. And what led you to believe that?

9 A I can't remember if it was specifically Officer
10 Lopez that saw or smelled, but I believe there was a hint of
11 marijuana that he smelled inside the vehicle.

12 Q Okay. So what part of the vehicle do you recall
13 searching?

14 A I specifically remember searching the driver
15 compartment, so the driver's seat and the passenger seat so
16 the front of the vehicle.

17 Q Okay. And did you have occasion to look into the
18 glove box?

19 A I did.

20 Q Can you describe with a you -- what, if anything,
21 you did to the glove box?

22 A I opened the glove box.

23 Q Okay. Did it open naturally? Did you have to pry
24 it open? How did you have to open it?

25 A Initially, it just opened naturally, from what I

ROUGH DRAFT TRANSCRIPT

1 remember.

2 Q Okay. So was that -- do you recall if it was a
3 pinching mechanism or a turning mechanism --

4 A I don't recall.

5 Q -- to open it?

6 A No, I don't recall.

7 Q Okay. And what did you do after you opened the
8 glove box, if you recall?

9 A I searched the inner compartment of the glove box.

10 Q Did you have to remove any part of the glove box
11 area?

12 A When I was searching the glove box, I based on my
13 training and experience, I know that places such as glove
14 boxes can be used conceal items. So I just pressed on the
15 walls around to see if anything gave way, and one of the
16 walls did.

17 Q And when you say one of the walls, were there side
18 -- can you describe the box configuration of the actual glove
19 box? Was it just -- in other words, was it just a door that
20 opened or was it an entire box unit; do you recall?

21 A I guess, I don't exactly understand what you're
22 asking, but from my recollection, it was just a standard
23 glove box in a four-door Sedan.

24 Q So did you remove the glove box door?

25 A Initially, no, I did not.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. You say initially. Was there a time when
2 you did remove it?

3 A We did eventually obtain a search warrant based on
4 some of the items that we found inside the vehicle, and at
5 that point, in order to retrieve the items we were looking
6 for, we did have to manipulate the door further.

7 Q Okay. So when you say you pressed on the sides, if
8 you will, of the interior of the glove box, were there sides
9 that were attached to the glove box door? I guess, that's
10 what I'm trying --

11 A Not -- not the door itself, no. So when the door
12 flips down, the door is just one like independent flap, and
13 then once you go inside the glove box, it had like a -- I
14 guess, I understand what you're saying now -- like a box
15 configuration. So it had two sides, a top, a bottom and a
16 back. So it was like an actual like box.

17 Q Okay. Was it -- do you recall the material?

18 A I'm not a car manufacturer, but it felt like
19 plastic to me.

20 Q On the sides?

21 A Yeah.

22 Q So you say you reached and one of the sides gave
23 way; is that what you said?

24 A From what I can recall, so as you're looking at the
25 front of the vehicle sitting in the passenger seat, you're

ROUGH DRAFT TRANSCRIPT

1 looking inside the glove box on the right side, there was a
2 -- a little compartment that was right there.

3 Q Okay. So can you describe what you -- you're
4 calling a compartment?

5 A Yeah. So there was a little bit of a space between
6 the glove box and the actual like door and the frame of the
7 car.

8 Q Did you have to punch through something to get to
9 wherever it was you were ultimately attempting to go to?

10 A No.

11 MR. FRIZZELL: Court's indulgence.

12 BY MR. FRIZZELL:

13 Q At what point was there a search warrant request
14 made?

15 A I was able to reach my hand in the -- the little
16 compartment from inside the glove box, and I was able to feel
17 a pouch inside that -- that glove box compartment. Based on
18 my training and experience from manipulating the pouch, I
19 could feel something hard inside that felt like a firearm.

20 Q Okay.

21 A So we -- we stopped at that point and obtained a
22 search warrant.

23 Q All right. Now, were you wearing a body cam at
24 this juncture?

25 A I was.

ROUGH DRAFT TRANSCRIPT

1 Q And was it operational?

2 A It was.

3 Q Was it operational during the time that you're
4 describing to the jury?

5 A From my recollection, it was turned on, yes.

6 Q And was that body camera footage a recording, to
7 the best of your knowledge?

8 A To the best of my knowledge, it was.

9 Q After this incident was concluded, what, if
10 anything, did you do with the body camera?

11 A I just did what we normally at the end of a shift,
12 which is take it off and plug it into the docking system at
13 our area command and so it can upload the videos on to the
14 database.

15 Q And did you -- prior to the end of the
16 investigation, did you inform the suspect that you had the
17 body cam on and it was running?

18 A I do not recall specifically advising him that he
19 was -- he was being recorded by the body camera.

20 Q And so when you go back to the area command and you
21 put it in the docking station, what is the purpose of that?

22 A It uploads all the videos that were obtained
23 throughout the night into the -- the massive database that we
24 have that -- that saves and stores video.

25 Q Okay. Where actually on your body do you recall

ROUGH DRAFT TRANSCRIPT

1 that the body cam was mounted?

2 A At that time, I was actually wearing eyeglasses so
3 I -- it was my habit to wear it actually on my -- my glasses.

4 Q So wherever your head would have turned, the body
5 cam -- the camera would have picked up whatever you were
6 looking at essentially?

7 A Yes, sir.

8 Q Okay. So what, if anything, do you know what -- do
9 you know what happened to that footage?

10 A I've checked the database, and it doesn't appear to
11 be there any longer.

12 Q Okay. Was there a time when you checked the
13 database that it was there?

14 A No, not specifically when I checked it when I was
15 there. I know that our -- the way it's set up is there's
16 periods and there are time limits set to those videos where
17 they will automatically delete themselves based on length of
18 time so that way it doesn't get too, too big of a database
19 and we can continue to store videos for the future.

20 Q Do you know how long that time period is or was at
21 the time, I guess, I should say?

22 A Well, our standard procedure if a video at that
23 time, it's changed recently, but at that time if you did not
24 specifically tag a video to retain it for longer, it was 45
25 days and it would just auto delete itself.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. And so are you the one that would tag the
2 video or would someone else tag it?

3 A At that time, the way that the procedures were set
4 up was it was incumbent upon the officer to tag those videos
5 themselves.

6 Q Okay. And did you tag the video?

7 A I cannot recall if I did or did not, but based on
8 it not being there anymore, I would say it's safe to assume I
9 did not.

10 Q Okay. And did -- would it have been your job to
11 make sure that the district attorney's office got that video?

12 A No, it's not my job to ensure they get it. They
13 have access to that database and can pull them it themselves.

14 Q Okay. And so it's not part of your duty? What
15 you're telling me it's not part of your duty other than
16 putting it on the docking station for you to be the one to
17 transfer it?

18 MR. BUNNETT: Objection, leading and asked and
19 answered.

20 THE COURT: Sustained.

21 BY MR. FRIZZELL:

22 Q You did not transfer the body cam footage to the
23 District Attorney's Office?

24 MR. BUNNETT: Objection, leading.

25 THE COURT: Sustained.

ROUGH DRAFT TRANSCRIPT

1 BY MR. FRIZZELL:

2 Q Did you transfer the footage to the District
3 Attorney's Office?

4 A Physically, no. By me plugging it into the
5 database that they have access to as well, it would have
6 transferred to them being able to obtain it. So I did not
7 physically walk it over here and hand the CD, no.

8 Q Okay.

9 MR. FRIZZELL: Court's indulgence. I'll pass the
10 witness, Your Honor.

11 THE COURT: Cross.

12 CROSS-EXAMINATION

13 BY MR. BUNNETT:

14 Q So on direct examination, you kept referring to a
15 suspect. Is that suspect here this court today?

16 A He is.

17 Q Could you please point to him and identify an
18 article of clothing that he or she -- he's wearing?

19 A It looks like he's sitting right beside the
20 attorney who was just questing me, and he's wearing a light
21 blue shirt.

22 MR. BUNNETT: And Your Honor, I'd ask that the
23 record reflect that the witness has identified the defendant.

24 THE COURT: It shall.

25 BY MR. BUNNETT:

ROUGH DRAFT TRANSCRIPT

1 Q Okay. So you responded to help Officer Lopez?

2 A Correct.

3 Q And showing you --

4 (Pause in the proceedings)

5 BY MR. BUNNETT:

6 Q So I'm going to show you State's 6. That's what
7 the car looked like in the parking spot, right?

8 A Yes.

9 Q Okay. And I'm going to show you State's 8. That's
10 that license plate that was on the car, right?

11 A From what I could recall, yes.

12 Q Okay. I'm going to show you State's 20. That's
13 that hole that you were talking about, right?

14 A Correct. There's actually a little like piece that
15 was blocking that, so it wasn't as obvious when you first
16 open it. But as I explained to the other attorney, once you
17 kind of touched it or tapped it, then it just it give away.

18 Q I mean, but you didn't punch a hole in the side of
19 the glove box, did you?

20 A No.

21 Q So that was -- safe to assume that there was there
22 before you guys started searching the vehicle?

23 A Yes.

24 Q And you found a lot of stuff in that car, didn't
25 you?

ROUGH DRAFT TRANSCRIPT

1 A We did, yes.

2 Q And that was a large amount of what you thought
3 were controlled substances?

4 A Correct.

5 Q Okay. And you gave the defendant a warning
6 pursuant to the Miranda decision?

7 A I did.

8 Q And after you did that, didn't he tell you that he
9 lived at the residence on his license?

10 A From what I can recall, he did.

11 Q Okay. And was that consistent with -- or was that
12 address 265 North Lamb, Unit F?

13 A I can't say definitively that it was Unit F.

14 Q Okay. But you knew that he lived that apartment
15 (indecipherable)?

16 A Correct. We found other documentation inside the
17 car that had that address on it as well.

18 Q Okay. And I want to talk about the body cam. You
19 didn't delete the body cam?

20 A No.

21 Q You -- okay.

22 A We don't have -- we don't have the ability to
23 delete body cam footage.

24 Q When were you -- at this time, was body cam
25 relatively new to you?

ROUGH DRAFT TRANSCRIPT

1 A It was, yes.

2 Q Okay. And why is that?

3 A My contract that I was hired under, I'm a mandated
4 body camera wearer, but UNLV was conducting a study at the
5 time. It just so happened that I was part of the controlled
6 group that they took the body camera away from. So I had
7 actually just got it -- my body camera back shortly before
8 that call because the study was completed at the time, at
9 UNLV.

10 Q And before the study at UNLV, had you been wearing
11 a body cam?

12 A Briefly. Momentarily. Maybe a week or two.

13 Q Okay. But besides those two weeks, around that
14 time, around January 28th, 2016, this was essentially, your
15 first experience with a body cam?

16 A I wouldn't say it'd be first, but it was one of the
17 first experiences, yeah.

18 Q Okay. And you uploaded that body cam?

19 A I did.

20 Q Okay. And you don't remember whether you tagged
21 it?

22 A I -- I don't remember if I did or not.

23 Q Okay. But it's not like you went into the
24 database. You can't go into the database, right?

25 A I can go into the database and I can review

ROUGH DRAFT TRANSCRIPT

1 footage, but we restricted from -- once it's uploaded, you
2 cannot delete a video.

3 Q Okay.

4 A Well, let me correct that. You cannot delete a
5 video period, whether it's uploaded or not because it's --
6 it's stored in the camera, which I don't have access to other
7 than viewing, and then once you upload it in the docking
8 system, the database that it goes to, I don't have authority
9 to delete them there either.

10 Q Okay. When you responded to 265 North Lamb, did
11 you at some point hear gunshots?

12 A I did.

13 Q Okay. And what did you do in response to those
14 gunshots?

15 A When I initially heard the gunshots, they were very
16 close in proximity of where we were. My initial thought was
17 that we just so happened to be in an area where another crime
18 was occurring. Based on the gunfire, I thought that it was
19 probably highly likely that somebody was injured and needed
20 our assistance. So I left Officer Lopez's location and went
21 in search for where the gun fires came from.

22 Q And once you went over there, you didn't see
23 anything, did you?

24 A I did not, no.

25 Q You didn't see anybody injured?

ROUGH DRAFT TRANSCRIPT

1 A I did not see anyone injured.

2 Q You didn't see Shell casings?

3 A Did not see anything at all.

4 Q You didn't see anybody with gun in their hand?

5 A Nope.

6 Q And you thought there was gunshots were
7 distractions, didn't you?

8 A Well, once I -- once I left Officer Lopez'
9 location, again, my initial thought was somebody just got
10 shot. As I'm looking for either a victim, a suspect, person
11 with a gun or shell casings, any kind of evidence that the
12 shots have been fired, I recalled that we're actually taught
13 these types of scenarios where depending on the nature of the
14 crawl, distract shots will be used to draw officers away so
15 that way other individuals and can go and assist the suspect
16 that we had in custody.

17 So at that time, I immediately stopped my search
18 and went back to Officer Lopez's location in the event that
19 somebody did double-back and he was in trouble.

20 Q Okay.

21 MR. BUNNETT: I have nothing further, Your Honor.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION

24 BY MR. FRIZZELL:

25 Q I just wanted to briefly show you again State's 6.

1 Excuse me, sorry. So State's Exhibit twenty (inaudible). So
2 I just want to make sure I understood your testimony on
3 cross-examination. This hole, as we're seeing it here, was
4 it in this condition that we're seeing it here when you first
5 reached in?

6 A It may not have been exactly in that condition, no.

7 Q Was there anything covering that hole?

8 A You mean initially when I found it or when this
9 picture --

10 Q Initially --

11 A -- was taken?

12 Q -- when you -- initially when you looked in and you
13 say that you pushed on something that gave way. What -- was
14 there something in that hole?

15 A Correct. There was something actually blocking
16 right there. So it didn't look like it does right there.
17 There was actually something that was --

18 Q So something then that was -- was -- it in that
19 hole?

20 A I mean, he was covering the hole so I can't tell
21 you if it was in the hole or like within the exact cut-out of
22 the hole or on the inside of it, but when you touched it, it
23 gave way almost immediately.

24 Q So would you describe it sort of like maybe a
25 puzzle piece that --

ROUGH DRAFT TRANSCRIPT

1 A That would be a good way to describe it, yes. So
2 like --

3 Q So there was some --

4 A -- something that fit there. Correct, something
5 that fit there to block the view inside so you wouldn't
6 necessarily notice at first glance that it was a hole, but
7 upon further examination, you can tell that, you know, it
8 didn't fit, if didn't belong there.

9 Q Okay.

10 MR. FRIZZELL: Nothing more, Your Honor.

11 THE COURT: Anything further?

12 MR. BUNNETT: No, Your Honor.

13 THE COURT: Officer, I just want to clarify
14 something. Is it your testimony that at least back in
15 January of 2016, with regards to body camera footage, that
16 would be up loaded into your document cams. And then if you
17 don't tag it within 45 days, it's your understand that it
18 would be copied over?

19 THE WITNESS: I'm not sure if it's actually copied
20 over or if it's just outright deleted from the --

21 THE COURT: Okay.

22 THE WITNESS: -- system.

23 THE COURT: Okay.

24 THE WITNESS: But it's no longer accessible. I
25 don't know what happens to it, it's not there anymore.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: And you, based on requests from the
2 parties, have attempted to find that and you're saying that
3 there is none.

4 THE WITNESS: Correct. I have logged into the
5 database and looked and it's not there any longer.

6 THE COURT: Okay. Any further questions as a
7 result of my questions, Mr. Frizzell?

8 MR. FRIZZELL: No, Your Honor. Mr. Bunnett?

9 MR. BUNNETT: I just have, I think, probably one
10 question to follow up on.

11 THE COURT: Okay.

12 BY MR. FRIZZELL:

13 Q There -- actually, it's probably two. There's a
14 number system on unloading body cam, right?

15 A Correct, there is.

16 Q So how does it work now?

17 A So now it's actually tied into our CAD system,
18 which is a system that we use to actually assign us to a
19 call. So as soon as you are assigned a call, and you turn
20 your camera on, the two sync up and they took the -- the part
21 of the officer out of it.

22 So now, when you upload that body camera at the end
23 of your shift, it's automatically uploaded with all of the
24 information from the call. If an arrest was made based on
25 the nature of the arrest, whether it be misdemeanor, gross

ROUGH DRAFT TRANSCRIPT

1 misdemeanor felony, it's automatically tagged with the
2 appropriate time stamps and all the information that's
3 required.

4 Q Is it fair to say the system's been proved to
5 prevent things from accidentally going missing?

6 A Yes.

7 Q Okay.

8 MR. BUNNETT: I have nothing further.

9 THE COURT: Mr. Frizzell.

10 MR. FRIZZELL: Nothing further, Your Honor.

11 THE COURT: All right, Officer, thank you so much
12 for your testimony. I appreciate you coming in like that. I
13 requested that you be here, so --

14 THE WITNESS: No problem.

15 THE COURT: All right, thank you.

16 THE WITNESS: Not problem at all.

17 THE COURT: Mr. Frizzell, any further witnesses?

18 MR. FRIZZELL: Court's indulgence.

19 No, Your Honor. Defense has no more witnesses.

20 Defense rests.

21 THE COURT: State, do you have any rebuttal?

22 MR. DICKERSON: Not at this time, Your Honor.

23 THE COURT: All right. Ladies and gentlemen, the
24 parties have rested their case. At this point in time, then
25 -- you've already put together your Power Points? Are you

ROUGH DRAFT TRANSCRIPT

1 prepared for closing arguments?

2 MR. DICKERSON: Yes.

3 THE COURT: All right. Ladies and gentlemen, my
4 marshal's going to hand you a copy of jury instructions that
5 you'll be using or utilizing in this case. Tell me when
6 ya'll have them, okay? Does everyone have one? All right.

7 (COURT READS JURY INSTRUCTIONS TO JURY)

8 THE COURT: Who's going to do the opening?

9 MR. BUNNETT: I am.

10 THE COURT: Or closing, I'm sorry. Opening
11 closing. Mr. Bunnett.

12 STATE'S CLOSING ARGUMENT

13 MR. BUNNETT: So when Jason Althnether testified
14 today, he talked about something that he called the duck
15 test. He said when he looks for something that is -- or when
16 he's looking at something to determine whether it's a
17 controlled substance and looks at it, and it's a, for
18 example, a leafy substance, just looks at the substance, see
19 if it's consistent with what he's seen before. The old
20 saying goes, if it looks like a duck, if it walks like a
21 duck, and it quacks like a duck, it's a duck.

22 Members of the jury, that saying is more than
23 applicable to the case you've heard during the past few days.
24 Defendant was found with drugs in his car, drugs in his house
25 and drugs on his person. He was found with over \$2,000 in

ROUGH DRAFT TRANSCRIPT

1 his wallet. He was found not only with that, but with pipes
2 throughout his house, with syringes, with baggies, both
3 baggies in the car, in the house, and he -- he's found with
4 all these items in the house, the car and on his person. And
5 that's why we're all here today.

6 And this case is exactly what it looks like. State
7 has proven beyond a reasonable doubt that the defendant
8 committed each of the crimes that he's been charged with. So
9 in every criminal case, State of Nevada is required to prove
10 two things. One, that the crimes that are charged occurred.
11 And two, that the defendant is the one who committed them.

12 So we've talked about this a lot, but the charges
13 that are in this case are count 1, trafficking in controlled
14 substance, that being methamphetamine. Count 2, trafficking
15 in controlled substance, heroin. Count 3, possession of
16 controlled substance, marijuana, over one ounce. Count 4,
17 possession of controlled substance with intent to sell
18 methamphetamine. Count 5, possession of controlled substance
19 with intent to sell heroin. Count 6, possession of
20 controlled substance with intent to sell cocaine. And count
21 7, possession with intent, marijuana.

22 Now, in each of these charges, each of these
23 charges, my burden and Mr. Dickerson's burden is to prove the
24 case beyond a reasonable doubt. And to prove the case to
25 you, we have to prove each of the elements of the offense.

ROUGH DRAFT TRANSCRIPT

1 And the way I like to think of elements are they're
2 ingredients to a recipe. If you're trying to bake cookies,
3 you need eggs, you need butter, you need sugar, you need
4 flour. If you don't have those, you don't have cookies. And
5 if you don't have the elements of the crime, the crime didn't
6 occur.

7 But in this case, members of the jury, we've proven
8 that on each of those counts, we've proven beyond a
9 reasonable doubt each of the elements of the offense.

10 So I'm going to go over some general principles,
11 and I know there's no way you're going to read it, but I'm
12 going to -- this instruction, but I'm going to break it down
13 a little bit as we go along. This instruction talks about
14 possession, and there's some general principles about
15 possession that are going to apply to each of the seven
16 counts that we've charged in this case.

17 So the first someone that there's two kinds of
18 possession. There's actual possession and there's
19 constructive possession. And as for actual possession, the
20 way it's defined is a person knowingly has direct physical
21 control over a thing at a given time is then in actual
22 possession of it. Something's in your pocket, something's in
23 your hand, that's actual possession.

24 Now, there's a second concept. It's called
25 constructive possession. And the way your instruction on

ROUGH DRAFT TRANSCRIPT

1 this reads, is that a person who, although not in actual
2 possession, has both the power and the intention to exercise
3 dominion over a thing either directly or through another
4 person is in constructive possession.

5 So for us to prove our case, we don't have to prove
6 that we caught defendant with drugs in his hand. We don't
7 have to prove that he possessed certain drugs that were
8 physically in his hand or in his pocket or anything like
9 that. But we do have to prove that he's got the power to
10 control the substance, he's got the intention to control it,
11 and that he intentionally did this.

12 Now, State is not required to prove that the
13 defendant possessed it alone. And your instructions read
14 that the law also recognizes that possession can be sole or
15 it can be joint. One person can possess an item, but two or
16 more people can possess an item. And if we prove that even
17 if somebody else was in possession of an item, the defendant
18 was as well and he had actual constructive possession of it,
19 then we've shown joint possession and we've satisfied
20 possession as an element of the crime.

21 We've also got to show knowing possession. And I
22 wanted to direct you specifically to this instruction because
23 it tells you that knowingly doesn't only mean that -- well,
24 you have to know the facts, but they can be inferred from the
25 knowledge of other facts that would put an ordinary person, a

ROUGH DRAFT TRANSCRIPT

1 reasonable person on notice.

2 Now, we also have to show for each of these charges
3 that the defendant knew the nature of the substance. We
4 don't have to show necessarily that he knew that the
5 substance was prohibited by law, we have to show that he knew
6 what the substance was. For example, we have to prove that
7 he knew it was methamphetamine, we have to prove that he knew
8 it was heroin, we have to prove he knew it was cocaine, we
9 have to prove that he knew it was marijuana.

10 And this instruction's important because what it
11 tells you is that you can look at both direct and
12 circumstantial evidence, look at that evidence and determine
13 based on the totality of that whether or not -- and you can
14 draw reasonable inferences as well. You can use all of that
15 to determine whether the defendant knew the nature of each of
16 the substances that we've charged. So he has to know what it
17 is. And I think I already talked about this.

18 All right. So let's go to count 1, trafficking in
19 controlled substance, methamphetamine. And before I do, I'm
20 just going to say that this and the rest of counts are each
21 going to have three elements in common. One, we have to show
22 possession. Two, we have to show that he knew the presence
23 of the drugs, knew that he was in possession of them. And
24 three, we have know that he knew the nature.

25 So this is the instruction on trafficking, and it

ROUGH DRAFT TRANSCRIPT

1 says that a person who knowingly or intentionally is in
2 actual or constructive possession, we've already talked about
3 that, of the scheduled one controlled substance or any
4 mixture which contains a scheduled one controlled substance
5 and that substance weighs 28 grams or more is guilty of
6 trafficking in controlled substance.

7 So a couple thing I want to focus on this
8 instruction. You're not required to determine whether the
9 drugs we charge in this case are schedule one controlled
10 substances. You've been instructed that methamphetamine and
11 heroin are both controlled substances and thus, that's not
12 something you're going to have to worry about when you
13 deliberate on this.

14 The other thing I want to point out is note that
15 the instruction says any mixture. Now, I know there was some
16 testimony about determining purity, but when the substance is
17 weighed, we're not required today show that the substance was
18 pure or had some level of purity or that the methamphetamine
19 or the heroin within the substance weighed 28 grams or more.
20 We just have to show that if the mixture that contains
21 methamphetamine or heroin weighs 28 grams or more, then we're
22 good.

23 So break it down again. You already showed
24 possession. Have to show knowledge of the presence,
25 knowledge of the nature. We have to show that the weight of

ROUGH DRAFT TRANSCRIPT

1 the substance or the mixture containing the substance was 28
2 grams or more.

3 So let's talk about methamphetamine. The testimony
4 you've heard today and throughout this trial was that
5 methamphetamine was found in three places. It was found in a
6 2002 Dodge Stratus with that license plate, that is
7 defendant's car. It was found in 265 North Lamb Boulevard,
8 Unit F. That's defendant's condo.

9 Lastly, you heard that it was found taped to
10 defendant's genitals. So let's start with the 2002 Dodge
11 Stratus. So Lopez searched the compartment that was in that
12 Dodge Stratus and found two packages of an off white -- or
13 I'm sorry, not two, but several packages of an off white
14 crystalline substance. That was State's Exhibit 82-A through
15 3 and 82-B through 5. Sorry, 82-A through 3 and 82-B 1
16 through 5. Althnether tested those items. You saw him
17 today. He talked about this. He confirmed that those
18 substances all together by themselves weighed 344.29 grams
19 and that those substances contained methamphetamine.

20 Also, you heard testimony that Lopez found that
21 plastic wrapper, the blue dust, that was State's Exhibit
22 82-A-5. Althnether confirmed that this contained
23 methamphetamine. It contained several other drugs. But
24 methamphetamine was in the substance and he testified as to
25 the weight of the substance. So that's that compartment.

ROUGH DRAFT TRANSCRIPT

1 Compartment's opened up from the other side. Bag
2 is opened up from within. Two bags are pulled out. Those
3 bags contained drugs, and that's the sum of everything that
4 Lopez found in that compartment.

5 You've also heard testimony that there was a
6 Beretta .22 caliber handgun found in that compartment, and it
7 was found along with the drugs. You've heard testimony that
8 .22 caliber's found in the car, and then after that, there's
9 .22 caliber ammunition found in a storage shed by the
10 defendant's house. And you heard CSA Thi testify as to her
11 description of the bullets that were found in the .22 caliber
12 that was found in the car, and she said that they were
13 Remington and that there were ammunition. And as you can see
14 here, that's Remington ammunition found in the defendant's
15 storage closet.

16 This is defendant's car. There is no question
17 about it. The registration in his car has his name on it.
18 DMV records say it's his, and he's driving it. He's got the
19 keys. Those are his records. That's State's Exhibit, I
20 believe, 1, and that's that DMV registration. Now compare
21 that to the pictures that we've shown you of both the VIN
22 number and the license plate that was on the car. They're
23 consistent.

24 Defendant has knowledge of the presence of the
25 methamphetamine in the Dodge Stratus. Think about his

ROUGH DRAFT TRANSCRIPT

1 behavior during the traffic stop. Think about how Lopez
2 described his behavior when he was stopped in the car. Think
3 about the amount of money on him and the denominations of
4 that money. It was over \$2,000, largely in \$20 bills. Think
5 about the amount of drugs found and think about whether or
6 not somebody can reasonably not know about those drugs if
7 they're in his car.

8 Think about the plastic baggies under the seat.
9 You heard defendant say on those calls that he had just
10 bought those baggies. Think about the other places
11 methamphetamine was found. We talked about the house. We
12 talked about where it was found on defendant's body.

13 I think all of those factors, and if you consider
14 all of those factors, you'll find that the defendant knew of
15 the presence of the methamphetamine in the Dodge Stratus.

16 Now, there's been some testimony about this secret
17 compartment. You heard some testimony about what it looked
18 like, where it was found, but it's in the side of the glove
19 box. Who, if anybody, is going to know about the presence of
20 a secret compartment containing drugs in their car? The
21 owner. Be reasonable here. Think about your common sense.
22 Apply that common sense and ask yourself how many cars are
23 out in the road driving with secret compartments that
24 somebody else put there that the driver and the owner doesn't
25 know about? Think about the time it would take to get that

ROUGH DRAFT TRANSCRIPT

1 hole in the compartment and put the drugs in there. And
2 consider whether somebody who would put the drugs in the car
3 would then just leave the drugs and let the defendant drive
4 the vehicle. It doesn't make sense.

5 And also, compare that compartment to the little
6 hole that was made under the defendant's sink. You'll see
7 that they were made in a similar way. They looked like they
8 were both punched out, and I think both of them, if you
9 connect them, show that defendant knew about this
10 compartment.

11 Now let's talk about the defendant's condo, 265
12 North Lamb Boulevard, Unit F. Now, it has unit D, but you've
13 heard testimony that explains that this was not unit D, it
14 was in fact, unit F. Lopez in the condo finds two bags of an
15 off white crystalline substance in the bedroom. That was
16 State's Exhibits 90-A and 90-B.

17 You heard testimony that Althnether tested and
18 weighed these. They were both methamphetamine, and one was
19 3.818 grams and the other was 2.357 grams. You also heard
20 where they were found, particularly in the bedroom. One's
21 found there on the scale. You can see it there right there.
22 And you also heard the testimony about the Ruger 9 millimeter
23 handgun recovered by Detective Embry that was in that closet.
24 The ammunition's also in plain view there.

25 And you've heard testimony from Allison Rubino, who

ROUGH DRAFT TRANSCRIPT

1 said that although she had some difficulty determining
2 further information, she could tell that there was a partial
3 profile of a male on the gun and magazine. Importantly, Ms.
4 Rubino cannot exclude the defendant as a contributor to the
5 DNA on that gun.

6 MR. FRIZZELL: Objection. That was never in that
7 report, Your Honor.

8 MR. BUNNETT: I believe that was the testimony.

9 THE COURT: Ladies and gentlemen, I remind you that
10 are the sole judge of the facts so it's up to you to remember
11 what the facts were what was testified here, okay.

12 MR. BUNNETT: The defendant owns and lives at 265
13 Lamb Boulevard, unit F. DMV records say it. Now, I know
14 that there was testimony about well, the DMV in the slip --
15 the slip in the car says one addresses but the records say
16 something else. I think you can look at those records and
17 you look back at them in the jury room, they'll explain --
18 the discrepancy will be explained to you because if you look
19 at the bottom here, it lists the name and address on the
20 registration. But if you look above, it shows that both the
21 defendant's physical and mailing address is 265 North Lamb,
22 unit F.

23 You've got the assessor's records. That's just the
24 part of it. I think that's State's Exhibit 2. He owns the
25 condo. The deed is in evidence. There's a pay stub in the

ROUGH DRAFT TRANSCRIPT

1 house that has his name on it and lists his address at 265
2 North Lamb, unit F.

3 Defendant's key say it. That's how they got in the
4 house. The defendant's actions say it. Think, if it's not
5 his condo, why is he parking directly in front of it? And
6 finally, the defendant says it. You heard those calls and
7 you heard defendant say in those calls to that lady, move
8 into my house, make that house your home.

9 Who, if anybody, is going to know about
10 methamphetamine in his bedroom? The owner and residents of
11 the house. As you saw from the picture that we've shown you
12 today and throughout this trial, drugs are in plain view.
13 They're next to the one bed in the one bedroom condo, and
14 they're just -- I mean, they're essentially right next to
15 that bed. There's smoking devices throughout the bedroom and
16 in that adjoining bathroom, both clean and dirty.

17 Finally, members of the jury, you heard testimony
18 about the methamphetamine found in defendant's underwear.
19 You heard testimony about Officer Quintero messing with his
20 underwear region or sorry, the defendant messing with his
21 underwear region. You see him rip off part of a magazine,
22 try to snort something. Then Officer Hough found some more
23 crystalline substance taped to the defendant's privates.
24 That's State's Exhibit 83-A. Althnether tests this, and this
25 is, in fact, methamphetamine as well.

ROUGH DRAFT TRANSCRIPT

1 So let's go over the elements of trafficking. We
2 have to show the defendant possessed methamphetamine either
3 actually or constructively. We have. The methamphetamine in
4 the car, we've shown you that it was in his dominion and
5 control. It's in his vehicle. In a place where the owner of
6 the vehicle would know where there was a secret compartment
7 and where drugs were stored.

8 There was methamphetamine in his condo.
9 Essentially, right next to the one bed in that one bedroom
10 condo. And there's methamphetamine in this case. He has
11 knowledge of his presence. This is where looking at the
12 circumstances and looking how all facts come in. They're in
13 plain view of the house. They're in the secret compartment
14 of the car. To think of the quantity of methamphetamine, the
15 fact that there's smoking devices in the house and that the
16 defendant has methamphetamine on his person.

17 The knowledge of his nature. Well, smoking
18 devices, plastic baggies, and he tries to use methamphetamine
19 while he's at northeast area command. Finally, the weight.
20 You got to show the weight greater than 28 grams. Well, that
21 weight was found in the defendant's car alone. So if you
22 found that even if the defendant didn't possess what was in
23 the house or what was in his privates, but you thought what
24 was in the car was his, that would be enough to find the
25 defendant guilty on this.

ROUGH DRAFT TRANSCRIPT

1 But we didn't stop there. There's more evidence of
2 methamphetamine, 6.175 grams in defendant's home, 1.15 grams
3 in the defendant's underwear. In total, you heard evidence
4 of 351.41 grams total of methamphetamine found in defendant's
5 house, car and on his person.

6 Based on this, the State has proven that the
7 defendant is guilty of count 1, trafficking methamphetamine,
8 and your appropriate verdict needs to be that he's guilty of
9 it.

10 So count 2 is also trafficking, and that is in
11 regard to heroin. We already talked about the elements.
12 There's four. So let's jump right to where the
13 methamphetamine is found -- or sorry, the heroin is found.
14 The heroin's found in that 2002 Dodge Stratus we talked
15 about. Clearly, is defendant's car. And it's found in the
16 defendant's condo, which it clearly hits.

17 The Stratus is found in that secret compartment
18 right next to methamphetamine. Lopez found the bags that he
19 thought were heroin, that's State's 82-A-1. And Althnether
20 weighs these and tests them and determined that it's 33.92
21 grams of per win. He's found with that gun match being the
22 ammunition that was found in defendant's shed.

23 At Lamb Boulevard there is heroin. There's a clear
24 plastic bag containing a brown substance in the bedroom.
25 That's Exhibit 90-C. That's tested, and it's .8955 grams of

ROUGH DRAFT TRANSCRIPT

1 heroin. There's clean syringes found in the drawers that
2 were photographed by Officer Hough. There's elastic bands
3 found in another drawer next to the bed, and there's balloons
4 found in the house.

5 And you heard testimony from Officer Hough that
6 heroin is ingested using syringes, that elastic bands can be
7 used to tie up bags and balloons can be used to package
8 heroin.

9 So we've shown that he's possessed heroin either
10 actually or constructively. We've shown that it's in his
11 house in plain view and that he was living there. There's
12 heroin in his car, there's heroin in his condo. We've shown
13 knowledge of his presence -- of its presence. Once again, in
14 plain view in the house in the secret compartment in the car,
15 which using your common sense, I think you'll find that he
16 had to know that it was in the car.

17 There paraphernalia in the house for utilizing that
18 heroin. Think about the quantity and that it was found
19 alongside methamphetamine in the car. Knowledge of its
20 nature. These go back to the same facts essentially.
21 Syringes, elastic bands, balloons. All these items show that
22 the defendant knew of the nature of the substance.

23 And finally the weight, the 28 grams. So 33.92
24 grams of heroin, more than 28 grams and then a much smaller
25 amount in defendant's house. So in total 34.815 grams. So

ROUGH DRAFT TRANSCRIPT

1 we've shown all four elements of count 2. Based on that, the
2 appropriate verdict is that defendant's guilty of count 2.

3 Now, count 3 is possession of controlled substance,
4 marijuana, over one ounce. Now, we've got to show four
5 elements here, but it's a little different because we've got
6 to show the possession, we've got to show knowledge of the
7 presence of the substance, we've got to show the knowledge of
8 nature of the substance, but the weight's different.

9 So here's the instruction. They're the elements of
10 possession of controlled substance, marijuana. And as I
11 said, these were those four elements. So let's talk about
12 possession and whether it was over one ounce and I'm going to
13 group those together.

14 Detective Belmont testified and told you he found a
15 jar of a green leafy substance in the freezer of defendant's
16 home, and he thought that to be marijuana. And that was
17 State's Exhibit 87.

18 Althnether tested this, determined that it was 175
19 grams of marijuana. He told you the rate of conversion, I
20 guess, between grams and ounces, and that conversion comes
21 out to 6.172 ounces, much more than one ounce.

22 Let's talk about knowledge of its presence. It's
23 in the defendant's freezer. It's where he -- food is found.
24 It's in his home. There's small baggies in his car. And the
25 defendant when stopped smelled like marijuana. And I mean,

ROUGH DRAFT TRANSCRIPT

1 this jar, you've seen the jar. The jar was displayed to you
2 during this trial. It's pretty hard to miss.

3 Knowledge of its nature. Look at the same facts.
4 Hard to miss, in his freezer in his house, that he smelled
5 like it. Those facts all show his knowledge of his nature --
6 of its nature. So based on this, we've proven that he
7 possessed marijuana over one ounce, that he knew of its
8 presence and he knew of its nature. The appropriate verdict
9 is guilty of count 3.

10 Now, count 4 through 7 are a little different
11 because that's possess of controlled substance with intent to
12 sell. And they each allege different drugs, but for each the
13 elements are going to be the same. And we're going to start
14 with methamphetamine just because it's a first. But each of
15 these elements are going to guide your decision when it comes
16 to count 4, count 5, count 6 and count 7.

17 The elements, once again, those three, common three
18 that are each of the crimes we've alleged, got to show actual
19 constructive possession, knowledge of its presence, knowledge
20 of its nature. We've got to -- so we've already talked about
21 those in regards to methamphetamine. So I direct you back to
22 when I talked about count 1. Think about the quantity of it.
23 Think about where it was found. Think about that it was
24 found in three places each that defendant had access to.
25 Think about the surrounding circumstances, including the

ROUGH DRAFT TRANSCRIPT

1 circumstances surrounding the stop, circumstances surrounding
2 what was -- what else was found in the house and the
3 circumstances of what else was found on defendant's person.

4 There's one additional element, and that's intent
5 to sell. But we don't need to prove that there was an actual
6 sale. We don't need to prove that defendant had a specific
7 quantity in this one. And we can look to the circumstances,
8 the quantity, the place and the circumstances where the drugs
9 were found and the manner of packaging, we can look to all of
10 those and determine whether the defendant had the intent to
11 sell.

12 Now, this is circumstantial evidence. You've been
13 instructed that circumstantial evidence, direct evidence, law
14 treats them as one in the same, and that there's also an
15 instruction about intent and how it's difficult to prove
16 through direct evidence, but circumstantial evidence can show
17 that.

18 So another thing I want to focus on is that
19 instruction says that he doesn't have to possess with intent
20 to sell all of the drugs he's got. He just has to possess
21 with the intent to sell any portion of the drugs that he's in
22 possession of. So let's look at the evidence of the intent
23 to sell methamphetamine.

24 Think about the money that was found in the
25 defendant's wallet. There's \$2,187 total. Sixty-eight \$20

ROUGH DRAFT TRANSCRIPT

1 bills. Officer Lopez testified to you that this was
2 consistent with the sell of narcotics.

3 I want you to compare that, when you go back into
4 the jury room, compare to the defendant's pay stub. It shows
5 \$275.63 net pay per week in November and consider that.
6 Making 275.63 a week and yet, he's got \$2,187 in his wallet
7 when he's stopped by Officer Lopez.

8 Think about the packaging and the placement of the
9 methamphetamine in the Dodge Stratus. It was in that secret
10 compartment. If drugs were for him, why would he put it in a
11 secret compartment? Why would he put it not only in a secret
12 compartment, but in a bag, in gold packages, in
13 individualized packages and then put a gun in there, too.
14 Think about the quantity. And remember Officer Lopez
15 testified as to the amount he commonly seized for personal
16 use. I submit to you, members of the jury, that that -- the
17 testimony you've heard today as to how much methamphetamine
18 was found in that car and in that house is not personal use.

19 Think about the multiple packages that they were
20 found in. Think about the fact that they were placed with
21 other drugs, including heroin and cocaine with the gun, as I
22 said before. And think about those baggies that were on the
23 floor that the defendant in his call said he had just
24 purchased.

25 The defendant, I think if you listen to that call

ROUGH DRAFT TRANSCRIPT

1 again, and you might have caught it the first time around,
2 but if you listen to it, he refers to a little business that
3 he wants to get back to. So the items in the house are also
4 evidence of intent to sell. We talked about the scales.
5 He's got four scales in his house. Maybe one scale might be
6 consistent with somebody possessing, but why would somebody
7 need four scales just for themselves to weigh out the drugs?
8 It's inconsistent with possession without intent to sell.

9 We have scales. We've got those small baggies.
10 The small baggies were found in the house. Once again, the
11 small baggies found in the car. And those clean pipes that
12 you saw in one of those drawers. Now, you saw the pictures
13 of the pipes in the house, and they are laying in a bunch of
14 places, but they're out in the open. These ones are stored
15 separately and they're clean.

16 Why would you need cleaned pipes when you've got so
17 many dirty pipes lying around that you can utilize? And I
18 want to direct your attention to the sheets. Notice that
19 they list names and they've got numbers next to them. When
20 you look at those, use your common sense. Look at those and
21 determine whether those are sheets showing who owes him
22 money, and consider that in conjunction with the phone call
23 that you listened to where defendant said, he was talking
24 about people owing money. This is all evidence of the
25 defendant's intent to sell methamphetamine.

ROUGH DRAFT TRANSCRIPT

1 So we've proved all four elements of count 4.
2 We've proved actually and constructive possession. Go back
3 to count 1. Knowledge of his presence, knowledge of its
4 nature, and we've shown intent to sell any portion of
5 methamphetamine. If you consider all this evidence and
6 consider the circumstances of the entirety of the evidence
7 you heard, it's clear that the defendant is guilty of count 4
8 and your verdict should be that the defendant's guilty.

9 Count 5, we're now onto the heroin, but we've got
10 to show intent to sell in this one, too. Same four elements
11 that we previously talked about, and refer you back to our
12 discussion at count 2 in regard to this. We have to talk
13 about intent to sell. And once against, the same factors
14 that I just talked about are the same factors that you should
15 apply here when considering count 5.

16 Think about the money. Think about of where the
17 heroin was found and the fact that it was found with other
18 drugs, the packaging of the heroin, the quantity and
19 Detective Lopez's testimony about the amount he had seen for
20 personal use, the gun was found with the heroin, and the
21 defendant's statements that you previously heard about.

22 You heard about scales, clean syringes, balloons.
23 As you heard Officer Hough testify, those are paraphernalia
24 used for heroin and that the syringes and balloons could be
25 utilized for packaging. That paper with names and numbers I

ROUGH DRAFT TRANSCRIPT

1 previously talked about. All of these, evidence of intent to
2 sell. We've proven all four elements in count 5, and the
3 appropriate verdict should be guilty.

4 Count 6, cocaine. We haven't talked about cocaine
5 yet. So same four elements, but before we move on, let's
6 talk about where the cocaine was found. The cocaine was
7 found in the Dodge Stratus. Secret compartment alongside the
8 methamphetamine and heroin, and that's everything laid out
9 right there.

10 Officer Lopez found one bag that contained a white
11 powdery substance believed to be cocaine. Althnether tests
12 this and confirmed that it was, in fact, cocaine. He also
13 found that blue substance that Althnether later tested and
14 determined that it was a mix of cocaine, methamphetamine and
15 amphetamine.

16 So let's break down the elements. Actual or
17 constructive possession. It's in defendant's car, alongside
18 the other drugs we previously talked about, the
19 methamphetamine, the heroin, the gun. It's in the car with
20 the baggies. He's got knowledge of its presence because it's
21 alongside the same drugs in that secret compartment in his
22 car. He's got knowledge of its nature. Think about the same
23 facts. Intent to sell, part of the same facts that we
24 previously talked about, including the facts that it was
25 alongside other drugs with the gun, secret compartment, not

ROUGH DRAFT TRANSCRIPT

1 easily accessible.

2 You heard the testimony from Officer Henry saying
3 that he had some difficulty getting in there, and the small
4 bags are found inside the (inaudible) of the car. I think if
5 you look at each of those, you're going to find that
6 defendant is -- (inaudible) as well. And you'll find that
7 the defendant is guilty of count 6, and we've proven that
8 beyond a reasonable doubt today.

9 Now, count 7's the final count, and it's possession
10 with intent, marijuana. We've talked about the four elements
11 ad nauseam. Go back to count 3 for the first three. But the
12 intent to sell, look at the same factors. Look at the money,
13 the scales in the house, the quantity, the fact that that jar
14 was filled with marijuana, and think about Detective
15 Belmont's testimony. Detective Belmont testified that that
16 was not personal use.

17 So we've proven each of those four elements beyond
18 a reasonable doubt, and the State has proven count 7,
19 possession with intent to sell marijuana, and the defendant
20 is guilty of that.

21 Now, I want to direct your attention to an
22 instruction, the common sense instruction. It says, you're
23 supposed to consider only the evidence in this case, but you
24 have to bring to consideration your everyday common sense,
25 your judgment as reasonable men and women. Mr. Frizzell said

ROUGH DRAFT TRANSCRIPT

1 it perfectly at the beginning of this trial, you don't check
2 your brain at the door. You don't check your common sense at
3 the door.

4 Members of the jury, the evidence you heard today,
5 I want you to apply your common sense. Is that amount of
6 drugs found in a secret compartment, using your common sense,
7 does defendant really not know about those? Are those scales
8 for sales? Is that something that the defendant would know
9 about, those drugs lying on the scale next to his bed? Those
10 balloons, those are consistent with the sell of heroin.
11 Those baggies, those are consistent with the sell of
12 narcotics. That marijuana, that's not personal use. Those
13 sheets, names next to numbers, coupled with defendant's
14 statements about people owing him money. Use your common
15 sense. And in doing so, you'll find that counts 1, 2, 3, 4,
16 5, 6 and 7 have all been proven beyond a reasonable doubt by
17 both of us today, and I'd ask you to find the defendant
18 guilty as charged. Thank you.

19 THE COURT: Thank you, Mr. Bunnett. Mr. Frizzell.

20 DEFENDANT'S CLOSING ARGUMENT

21 MR. FRIZZELL: Yes, Your Honor, thank you. Ladies
22 and gentlemen, I know this has been a long four days, and I
23 appreciate very much, as I know the State and everyone else
24 in here, appreciates your attentiveness and your patience
25 with the process. Oh, and I'm going to need the --

ROUGH DRAFT TRANSCRIPT

1 THE CLERK: That's what I was trying to find out.

2 MR. FRIZZELL: Now, as you'll recall, I told you
3 yesterday morning at the very beginning that we had two --
4 basically two areas that I really wanted you to pay attention
5 to. And basically, I was correct, and I'm going to go
6 through them and show you what I told you and what I was able
7 to show through both State's witnesses on our end and my one
8 witness, Officer Henry.

9 I told you first off that defendant didn't know
10 that drugs were in the car. And I told you that there wasn't
11 going to be one witness that was going to be able to tell you
12 that my client knew any of that was in the car or in the
13 house, that he knew what the nature of what was in the car or
14 in the house, that he was in either actual or constructive
15 possession because there's one instruction that I need you to
16 pay attention to when you go back there. It's instruction
17 number 16, and it's in here. The State --

18 Basically, it's talking about something called mere
19 presence. And as you can see, and when you get back in the
20 back, and take a look at it a little more, mere presence at
21 the scene of a crime or even knowledge that a crime is being
22 committed isn't enough to establish the defendant's guilt.
23 You have to be able to find that he was a participant and not
24 merely a knowing spectator.

25 Now, going back through some of the testimony

ROUGH DRAFT TRANSCRIPT

1 regarding the vehicle, there was a vehicle stop, and
2 basically, you heard -- let's start with Stephanie Thi.
3 Really wasn't much. She just mainly took all the pictures,
4 okay.

5 Now, I want you to understand something, we are not
6 necessarily contesting what we've gone through, the drugs and
7 whatnot, okay? All of this evidence, the officers found what
8 they found. We're not saying oh, they didn't really find
9 that. Okay. It's there. You saw it. Maybe some of you, if
10 it got close enough to you, you may have even smelled it. It
11 is what it is. We're not arguing that, and we're not arguing
12 that point.

13 But you heard Officer Henry say that that hole that
14 was in the State's Exhibit 6, the photo of the glove box
15 didn't look like that when he first got there. He said there
16 was something covering it, and you heard me ask him about
17 would it be fair to say akin to say a puzzle piece that was
18 fitting into that hole?

19 Now, is it my client's car? Yes. Was my client
20 driving it at the time? Yes. Was anyone able to say
21 conclusively, yes, Mr. Keller knew that there was a bag in
22 that secret compartment and it contained all the things that
23 you saw, the gun, the drugs, the bullets, all of those
24 things?

25 You actually heard Officer Lopez say that initially

ROUGH DRAFT TRANSCRIPT

1 he smelled some marijuana and thought he saw a green leafy
2 substance on the floor, but he never tested it. It was never
3 tested so we don't even know if it's marijuana or a crushed
4 leaf, we just don't know, or dirt or fuzz. It could be a
5 million different things, we don't know.

6 So if there is no one who can say that my client
7 knew about it, knew the nature of it, knew what it was, all
8 of these elements that the State went through, and using his
9 word, ad nauseam, there's nobody to say that he knew it was
10 there.

11 If he didn't know it was there, he's not a
12 participant. He's merely present at the scene of the crime.
13 And if you find that he's merely present at the scene of the
14 crime, when it comes certainly to the car, he's not guilty of
15 a crime. If he's not guilty of a crime, that knocks out most
16 of the State's first few charges with regard to the
17 trafficking and the other things that were found in the car
18 that were the photos that Stephanie Thi took, our very first
19 -- State's very first witness.

20 Now, also with the car, you will have the DMV
21 record, you will have that registration, and you will clearly
22 see two different addresses; the 265 North Lamb, unit F and
23 244 Molly Court.

24 The DMV recognized, because it put on the
25 documentation, that 244 Molly Court was part -- is part of

ROUGH DRAFT TRANSCRIPT

1 the DMV's record as to an address for this registration on
2 this car. Now, what does that tell us? Well, that tells us,
3 essentially, that there are two addresses. That my client,
4 Mr. Keller, must have had some connection with 244 Molly
5 Court or it wouldn't be mentioned in those documents.

6 So then it begs the question of where did he
7 actually live? Yes, you're going to see that the condo, 265
8 North Lamb, unit F, is in his name. He bought it, it's his
9 condo. But you also heard evidence, both from Officer Lopez,
10 that a young gal came up and asked him about getting a purse
11 or something out of the car, and they searched the car, and
12 didn't find the purse for the girl. You also heard and maybe
13 you can listen to a little bit more in those phone calls that
14 we played right before lunch that there was some conversation
15 about a girl who said all I do -- I have keys to your -- I
16 have keys to the house. I don't have your car keys.

17 And there was some garbled discussion about --
18 something about another set of keys that was in the center
19 console of the car. But you can clearly hear her say all I
20 have, babe, is the house keys. So somebody else had access
21 to that place. Somebody else had access.

22 Also, you heard Officer Lopez and I believe, it was
23 Officer Belmont, both of which said when we were in there we
24 didn't notice anything that looked even remotely close to a
25 girl's clothing or girl's item other than some purses. You

ROUGH DRAFT TRANSCRIPT

1 heard that, some purses.

2 Well, when you look at, I believe, it's Exhibit 47,
3 that the State's Exhibit 47, there's a picture of that
4 closet. And whether or not you could see it from where
5 you're sitting, you'll have access to it from when you go
6 back to the jury room, and you can make the judgment for
7 yourself. Does it look like there's girl's clothes that are
8 hanging in that closet or not?

9 It's the defendant's position that you can clearly
10 see there are girl's clothes in that closet in the flowery
11 drawers didn't look extremely manly either that were also in
12 the pictures. Likewise, you'll get as part of, remember the
13 close-up of the bathroom counter. And although, the State
14 wanted to focus on the pipes and some of the things that were
15 sitting on that counter, you'll notice, when you see that
16 exhibit, that there's clearly, clearly what appears to be a
17 heart shape box, a canister, if you will, that could very
18 well, it's our position that it's some makeup. And you can
19 make that determination when you go back there as well.

20 So there's definitely evidence of a girl in this
21 condo, in this unit. And evidence of a girl in this unit
22 that was there prior to January 28th, 2016 when this incident
23 took place. So then it kind of begs the question as to
24 credibility. And I believe, that that is -- that is
25 instruction, I believe, number -- bear with me here briefly

ROUGH DRAFT TRANSCRIPT

1 -- is instruction number 8.

2 And you'll have access to this as well to read it.
3 But basically, the credibility or believability of a witness
4 should be determined by his or her manner up on the stand,
5 his or her relationship to the parties, fears, motives,
6 interests or feelings. If you believe that a witness has
7 lied about any material fact in the case, you may disregard
8 the entire testimony of that witness or any portion of his
9 testimony, which is not proved by other evidence.

10 You heard two officers. And granted, Officer
11 Belmont said I don't recall, I don't believe I saw any
12 women's clothes. But you heard Officer Lopez, there were no
13 -- there was nothing of a girl other than a few purses.
14 There was no evidence of a girl in that house. Well, you'll
15 clearly get to see that there was.

16 Now, let's move to Allison Rubino. You remember
17 she was the gal at that tested the DNA. Now, mind you,
18 everybody else's testimony, everyone that was involved, the
19 police officers in retrieving and collecting all of this
20 evidence says the guns and the drugs and everything, they
21 were all found together in the car, that is.

22 Yet, number one, only DNA was even requested to be
23 tested on the two guns and the magazine, on the 9 millimeter
24 Ruger, the .22 Beretta and the magazine for 9 millimeter
25 Ruger.

ROUGH DRAFT TRANSCRIPT

1 Those tests, if you'll recall her testimony, was
2 that they were partial samples and therefore, they were
3 inconclusive and the most she could do was say that there was
4 two contributors, at least one -- at least two contributors
5 and at least one being a male. Well, that is not the same,
6 ladies and gentlemen, as saying Mr. Keller's DNA was on those
7 items. Okay?

8 And mind you, she even says that they had a sample
9 with which to compare. You remember they said they took a
10 buccal swab? A buccal swab is basically just a Q-tip
11 brushing on the inside of your mouth and getting some of your
12 DNA.

13 So they had a known sample from Mr. Keller; yet,
14 what they tested, they couldn't -- she couldn't match up. It
15 came back inconclusive. Not that it could not exclude
16 Mr. Keller. She never said that. She said it was
17 inconclusive.

18 Now, because there was someone else who had access
19 to that house, and we can't say for 100 percent sure or we
20 can't say beyond a reasonable doubt our position, where
21 Mr. Keller actually resided, where he laid his head. You
22 definitely heard in those jail calls about Mr. Keller telling
23 the girl that was on the other end, well, maybe you -- you
24 know, maybe you should move in and pay rent. Didn't say
25 you're not staying there and now all of a sudden you can move

ROUGH DRAFT TRANSCRIPT

1 in, you know, because I'm not around anymore, because I'm not
2 there right now.

3 Ladies and gentlemen, it's our position that there
4 was someone else that had access to all that. And there was
5 someone else that was running that show, and it was not
6 Mr. Keller.

7 Now, lastly, let's talk just a little bit more
8 about Officer Henry. And I'm not laying any fault on Officer
9 Henry at all because we all know that back then body cams
10 were relatively new -- new invention, if you will, on
11 something that was being used more regular, based on things
12 that were happening nationally.

13 He acknowledged he had a body cam, it was
14 operational, it was recording that night. When he got back
15 to the northeast area command, he says he took it off of his
16 glasses, put it on the dock, the docking station to where it
17 would be uploaded to one of the Metro servers or however it
18 got uploaded at the time.

19 But what he also said, that I need you to think
20 about, he said, I don't have any access to delete it, but he
21 said what? If we want to keep it longer than the traditional
22 45 days, I could flag it as something that we might need for
23 later. And you heard me ask him, did you flag it? He says,
24 well obviously, some -- he didn't say no, I didn't flag it.
25 What he said was well, I've checked and because they're only

ROUGH DRAFT TRANSCRIPT

1 kept 45 days if they're not flagged, and it's not there
2 anymore, that I must not have flagged it.

3 Probably would have help make everybody's job
4 easier if we could have seen what actually took place that
5 night, but we can't. It existed at one time, but it doesn't
6 now.

7 So ladies and gentlemen, when you go back there in
8 the jury room and you're deliberating, and you're remembering
9 what I said that I was going to show you, and what I have
10 shown you, which is basically everything that I said I was
11 going to show you, if you add all that up, it's our position
12 that that does not meet the State's burden of proving this
13 case beyond a reasonable doubt; the constructive possession,
14 the intent to sell, the knowledge of the drug, of what it
15 was, the nature of what it was. They haven't shown you that.

16 If they haven't shown you that, then going back to
17 instruction 16, he was merely present at the scene of a
18 crime. If he's merely present at the scene of a crime and
19 the State has not shown you beyond a reasonable doubt that my
20 client knew those things were there or that he had access to
21 them in a -- to prove constructive possession, then they
22 haven't met their burden.

23 And ladies and gentlemen, it comes down to if they
24 haven't met their burden, then when you go back there and you
25 ultimately come up with a decision, that your decision has to

ROUGH DRAFT TRANSCRIPT

1 be that he's not guilty on all counts.

2 Yes, we saw a lot of controlled substances, but the
3 State has never shown you beyond a reasonable doubt that the
4 defendant knew that that stuff was there or that he had
5 reason to believe it was there, that he knew what it was,
6 that he knew its nature or that he knew every single thing
7 that was in that house either, much less in the car.

8 And so when you go back and you apply the law that
9 you've been given to these facts, we feel that you're going
10 to be able to go back there and say, you know, State didn't
11 meet their burden, so Mr. Keller not only was not innocent
12 when he sat down, but that you find him not guilty and
13 therefore that he's innocent, and I'll submit it on that.
14 Thank you very much, ladies and gentlemen.

15 THE COURT: Thank you, Mr. Frizzell.
16 Mr. Dickerson?

17 STATE'S REBUTTAL CLOSING ARGUMENT

18 MR. DICKERSON: Yes, sir. The bottom line, ladies
19 and gentlemen, the defendant was moving. You heard it from
20 him himself. That's the password on his phone. What happens
21 when he gets the call from the lady, nice young lady that
22 he's going to allow to move into his house now that he can't
23 live there? Well, she has his phone, there's a lot of people
24 calling, what's going on here, the password's moving. That's
25 what I'm doing.

1 It's very clear. He even makes it clear to you
2 that he tells her I wish I had been F'ing your ass more
3 instead of worrying about getting money. Ladies and
4 gentlemen, you hear it from the defendant himself in those
5 calls. It's very apparent what's going on here.

6 Now, Mr. Frizzell tells you that, you know, nobody
7 could tell you that the defendant knew that stuff was there.
8 Ladies and gentlemen, nobody needs to tell you the defendant
9 knew that stuff was there. You have an instruction on this.
10 We can't just peer into the minds of people and tell you what
11 they know. So what do we do?

12 We have an instruction on this. We look at the
13 facts and circumstances surrounding the crime. And what are
14 the facts and circumstances of this crime? Well -- could I
15 get 82? The facts and circumstances are the defendant
16 driving down Lamb Boulevard just after 2:00 in the morning,
17 passes a police officer. You heard that from him as well.

18 And you heard that that police officer -- both from
19 the police officer and from him -- made a U-turn, got behind
20 him. That's when he dipped into the Crossing Wood Apartments
21 (phonetic). He was driving his car. His car registered to
22 him, registered to that address, regardless of what it said
23 on the registration that was in his car. You guys will have
24 the certified DMV records. We've looked at them, I think
25 it's pretty clear what they say. Physical address, mailing

ROUGH DRAFT TRANSCRIPT

1 address, both 265 North Lamb, unit F, right where he parked
2 in front.

3 His place of safety because where are you going to
4 go at 2:00 in the morning when you've got that much dope in
5 your car and a cop gets behind you? You're going to go to a
6 place of safety. You're going to try to get away. And
7 unfortunately, Mr. Keller couldn't do that. He couldn't get
8 away from all this meth in time to not have Officer Lopez
9 realize what was going on because it was very clear.

10 In the hurried fashion that Mr. Keller jumped out
11 of that vehicle, he was trying to run. So Officer Lopez came
12 up to him right at that vehicle. That's when he first smells
13 marijuana coming from both the vehicle and Mr. Keller. This
14 is where it all starts. From the moment Officer Lopez had
15 contact with Mr. Keller, there was the indicia of drugs from
16 the first moment that he has contact with him, he smells
17 drugs, and then it just goes on from there.

18 Ladies and gentlemen, if we are to believe that
19 Mr. Keller is a mere spectator, and I use that coming from
20 the instruction that Mr. Frizzell has showed you, mere
21 presence, merely and knowing spectator -- you must believe
22 that he's a mere spectator to his whole life, a life full of
23 coincidences and he's the unluckiest man in the world.
24 Because what did we have happen? Well, in addition to the
25 smell of marijuana, Officer Lopez then looks underneath the

ROUGH DRAFT TRANSCRIPT

1 driver's seat and finds that fresh new pack of baggies.

2 Baggies that you heard are used for selling drugs.

3 And the defendant basically tells us in his call in
4 talking to the female, he found those baggies, those brand
5 new baggies I bought. Somehow off of that he got a search
6 warrant. Well, there's also another coincidental piece
7 missing here. Just a coincidence that when the dog comes
8 out, the dog also hits on that glove box, which led to the
9 search warrant, which led to the finding of all of this
10 methamphetamine.

11 In that 2002, silver Dodge Stratus there's 344
12 grams of methamphetamine sitting there in a secret
13 compartment in the glove box. The owner of the vehicle is
14 driving, and he has no idea what's in it? Ladies and
15 gentlemen, it makes no sense. Coincidence doesn't work that
16 way. To believe that, you would have to believe he is, in
17 fact, the unluckiest man in the world.

18 But it doesn't stop there because there's not just
19 methamphetamine in there. There is a ton of heroin as well.
20 1.19 ounces, 33.9 grams of heroin. That's 1.9 -- 19 ounces.
21 That is a lot of heroin. When you hear that heroin is
22 usually packaged in less than a gram and we have 33.92 grams,
23 that is a lot of heroin. That's not a coincidence.

24 How you just happen to have over an ounce of heroin
25 sitting in your car right next to your 12 plus ounces of

ROUGH DRAFT TRANSCRIPT

1 methamphetamine? Ladies and gentlemen, the only reasonable
2 thing to conclude here is that the defendant had this in his
3 car because this was part of his little business. His little
4 business that he was trying to get together so he and his
5 lady could start to chill, just like he said.

6 In addition to that, there's also cocaine in the
7 vehicle and a mixture of amphetamine, cocaine and
8 methamphetamine. Those two are not coincidences. He's not a
9 mere spectator here. He's not just watching life pass him
10 by. He's taking part in every aspect of what he's doing in
11 his life, and that's what leads into his house right where he
12 parked in front of.

13 Inside his home what do we find? No longer is it
14 in the secret compartment, but it is all over his home. His
15 one bedroom condo that he owns that he tells Officer Henry
16 that's where I live. I live at the place that's on my
17 driver's license. You can see these driver's license records
18 which show unit F, 265 North Lamb, that's where he lives, by
19 his own admission. And by what he says on the jail calls.
20 By what he says in the calls to the female that yeah, you can
21 move into my house. And she says, yeah, I might just do
22 that. I'll make sure I take care of your stuff.

23 It's not her stuff, it's his stuff. That's how
24 it's being referred to. All that's in there is his stuff.
25 Ladies and gentlemen, take a look at those pictures. Sure,

ROUGH DRAFT TRANSCRIPT

1 maybe there's a couple pieces of women's clothing or
2 something like that. We're not saying that the defendant
3 doesn't have ladies. That's not even an issue. I think that
4 the jail calls show us that there's something different.
5 We're seeing no, he's the one who lived there and the only
6 time somebody moved in was right after he got arrested here,
7 and that's very clear when you hear the jail calls, he's
8 arrested on the 28th of January, jail calls starting on the
9 29th, and he's saying, yeah, go ahead and move in. Call my
10 mom. She'll set you up with the alarm code.

11 Significant, because inside the house drugs are
12 located throughout. They aren't hidden anywhere. Everybody
13 who's lived with a roommate or somebody else knows that you
14 just have your own space, right? You have drawers for your
15 things. You've got to put things away. But if you're a
16 bachelor living in a one bedroom condo selling drugs, you can
17 just leave them wherever you want. And that's what we see
18 when we look at the pictures of the defendant's home. We see
19 bags of drugs on scales, scales out here, pipes here, you
20 know, just a collection of drug paraphernalia both used for
21 using and for dealing.

22 Dealing, for instance, being all these clean piped
23 the defendant has. Who better to have a stash of clean
24 methamphetamine pipes than a guy who's selling
25 methamphetamine? I don't know, but it seemed like the

ROUGH DRAFT TRANSCRIPT

1 reasonable place to get that type of thing.

2 Now, ladies and gentlemen, once again, the
3 defendant is not merely present for this. He's not merely
4 present for his life. He is a knowing participant. Making
5 calculated moves to further his business. We know his moves
6 are calculated because we know putting a secret compartment
7 in your car is probably a pretty good idea if you're going to
8 be selling drugs. You can't just put it in the center
9 console because what's in the center console? Well, his
10 keys. His house keys. You heard about that from the girl on
11 the phone. That's where she got the house keys from. If you
12 listen to that, you'll hear that.

13 So why have them there? You can't because the
14 police are going to search there. But the secret compartment
15 inside your car, seems like that would probably be a standard
16 upgrade. This is the line of work that you're going into.
17 And what amounts to an escape route through the bathroom of
18 his own home into the apartment, a vacant apartment next
19 door, also seems like probably something that would be a good
20 idea to have if you're selling drugs. Defendant had both.

21 It doesn't stop there. The defendant goes on to be
22 taken to the northeast area command while they're preparing a
23 warrant for his home. That's where he's sitting in an
24 interview room sleeping and wakes up, and as he tells his
25 female friend on the phone, both of them, actually, he got

ROUGH DRAFT TRANSCRIPT

1 bored so he pulled out that little thing that he had that
2 that guy wanted him to try. Listen to the calls. That's
3 what he says. And he puts it on the table and he crushes it
4 up and he rolls up a piece of magazine and he snorts it.
5 That's brazen right there at the police station.

6 Couldn't have known they were watching, but they
7 were. They come in, what do they find? Methamphetamine
8 taped to the defendant's scrotum. Just another step in the
9 defendant's knowing participation in his life of drug dealing
10 because why would you put it in your pocket, somebody might
11 search there.

12 We learned a lot from the calls the defendant made
13 from the people he spoke to. We learned that gunshots were,
14 in fact, a distraction. It was fake. Something that's
15 suspected all along by officers on scene. It turns out, too,
16 yeah, that's the case. And the defendant, when he's learning
17 that, on the phone is not surprised. He's not saying why
18 would you do that? You caused more attention to none of
19 that. What's the response? It's a laugh. It's a joke.
20 It's like I expected that. Who would expect it? Why would
21 you expect that?

22 There's only really one reason why you would expect
23 that. If you know that you have people out there, they know
24 you have stuff on you, they see you in a situation with the
25 police, and you got to go. That's the only reason you could

ROUGH DRAFT TRANSCRIPT

1 expect something like that. And that's why the defendant
2 expected it. When he heard those gunshots go off, he had to
3 expect it. That's just friends coming through.

4 It didn't work. The defendant ended up still being
5 there on scene. They found everything there. Now, we tend
6 to almost overlook one major piece of evidence in this entire
7 case when we see all these drugs, when we see these multiple
8 bags of crystal rock that's pulled out from the defendant's
9 car, from his home, from the heroin from his car, this black
10 tar substance.

11 We tend to almost not even pay the credit that is
12 due to the \$2,187 in the defendant's front pants pocket.
13 \$2,187. Sixty-eight \$20 bills folded in hundreds
14 meticulously. This is a man who paid attention the way he
15 carried his money.

16 As business people know, you've got to pay
17 attention to the cash register. For a drug dealer, the cash
18 register is a right front pants pack. For Mr. Keller that's
19 the case. So why is that significant beyond just the common
20 sense that yeah, normal people don't carry money that way or
21 in that amount? Well, you see the defendant's pay stub.
22 Year-to-date earnings in November, just over \$4,000. He's
23 carrying over half of the money that he paid for the entire
24 year in his pants pocket.

25 Well, we know also from listening to him on those

ROUGH DRAFT TRANSCRIPT

1 phone calls, his conversations, that he wasn't working.
2 You'll hear it specifically in the call from January 29th,
3 2016 at 1:31 a.m., ten minutes in, he's talking about getting
4 out, someone's mom getting him out. He says yeah, tell her
5 mom I got to go back to work. Her mom doesn't know I ever
6 stopped working. Yet, he still had money because he was
7 moving.

8 Ladies and gentlemen, the defendant was not a mere
9 spectator to his life. He was an active participant. He was
10 the leader of his own life and his own path. And where it
11 got him was right in spot 58 of 265 North Lamb with the Las
12 Vegas Metropolitan Police Department, almost 400 grams of
13 methamphetamine and over 30 grams of heroin as well as
14 cocaine, marijuana and mixtures of all, now in the possession
15 of the State.

16 Ladies and gentlemen, make no mistake about it, the
17 defendant is a drug dealer. He had the intent to sell all
18 those items, everything that he had in his possession. Well,
19 he may have intended to do some of it. Just because he tried
20 the products, doesn't mean that you're not going to sell some
21 of it. And that's all you need to do is sell some of it.
22 With that intent, that makes the defendant guilty of all the
23 possessions with intent to sell and with the clear fact that
24 the defendant had no choice but know of the 344 grams of
25 methamphetamine and the over 30 grams of heroin inside that

ROUGH DRAFT TRANSCRIPT

1 secret compartment in his car, makes the defendant guilty of
2 trafficking a controlled substance for both methamphetamine
3 and heroin.

4 And it's for that reason that myself and
5 Mr. Bunnett ask you to find the defendant guilty of all
6 counts. Thank you very much.

7 THE COURT: Thank you, Mr. Dickerson. At this
8 time, I'm going to have the court clerk then swear my
9 officers to take charge of my jurors and alternate jurors.

10 (CLERK SWEARS OFFICERS OF THE COURT)

11 THE COURT: Ladies and gentlemen, at this point in
12 time, I'm going to send you out with my marshal to start the
13 deliberations. As I indicated, you will have the
14 instructions you have there as well as all the physical
15 evidence. My marshal will talk to you specifically about the
16 controlled substance and the gun, how we -- the guns -- how
17 we use those for you to view them.

18 Ladies and gentlemen, there's two of you here that
19 will not be deliberating in this process. You are my
20 alternates. I don't tell you who you are until the end
21 because it's been my experience that alternates won't pay
22 attention. They are late, they don't think that they're
23 important so they don't think that they need to pay as much
24 attention to the case. At this point in time, my alternates
25 are Ms. Cruz and Ms. Johnson, okay?

ROUGH DRAFT TRANSCRIPT

1 But that doesn't mean that you are not important,
2 and I can't release you at this point, okay? Does the jury
3 wish to deliberate tonight or do you wish to come back
4 tomorrow, tomorrow morning to deliberate tomorrow? You want
5 to come back tomorrow?

6 UNIDENTIFIED JUROR: Yes.

7 THE COURT: Okay. Is everyone okay with that? All
8 right. So what I'm going to do is I'm going to have you exit
9 with my marshal, my marshal and my JEA. Ms. Cruz and Ms.
10 Johnson, I do need you to come back tomorrow. Although, you
11 won't be deliberating, I'm going to have you waiting, okay?

12 So we'll go ahead and have you back tomorrow by --
13 how early do you want to start? I'm here early?

14 UNIDENTIFIED JURORS: Early.

15 THE COURT: Would 8:00 o'clock be -- is that okay
16 with everybody? 8:00 o'clock? Okay. All right. So -- all
17 right. I need to -- once again, you're admonished not to
18 converse amongst yourself or with anyone else on any subject
19 connected with this trial or read, watch or listen to any
20 report or commentary on the trial by any person connected
21 with this case or by any medium of information, including
22 without limitation, newspapers, television, Internet or
23 radio.

24 You are further admonished not to form or express
25 any opinion on any subject connected with this case until the

ROUGH DRAFT TRANSCRIPT

1 case is finally submitted to you. And I'm going to direct
2 you to be back here tomorrow 8:00 o'clock. Just meet out
3 front. My marshal will meet you out front, okay?

4 Ms. Cruz, Ms. Johnson, I do need you to come back
5 as well, all right? Okay. Do you have any questions? All
6 right. Okay, so we'll go ahead and go out the back door with
7 my marshal. Take them all. All of you go out the back.
8 Take them all back, okay?

9 (Jury recessed at 4:54 P.M.)

10 (Outside the presence of the jury)

11 THE COURT: All right. We're outside the presence
12 of the jury. Leave your information with my Clerk. Also,
13 before we go, I want to address the jury instructions, if
14 need be, the second portion of this proceeding. Have you
15 received a copy of that, Mr. --

16 MR. FRIZZELL: I have, Your Honor.

17 THE COURT: Okay. So with respect to instructions
18 1 through 8, are you familiar with them?

19 MR. FRIZZELL: Yes, Your Honor.

20 THE COURT: Do you have any objection to those
21 being given?

22 MR. FRIZZELL: No, should they become necessary.

23 THE COURT: Okay. And do you have any additional
24 instructions to give in addition to the 1 through 8?

25 MR. FRIZZELL: No, Your Honor.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Same with the State, are you familiar
2 with 1 through 8?

3 MR. DICKERSON: We are, Your Honor.

4 THE COURT: And do you have any additional
5 instructions that you proffer at this time?

6 MR. DICKERSON: We don't. We can use the
7 instructions from this round as well, correct, Your Honor?

8 THE COURT: Yes. Yeah, this is just in addition.

9 MR. DICKERSON: Yes.

10 THE COURT: And do you have any objection to these
11 being given?

12 MR. DICKERSON: We do not.

13 THE COURT: Okay. All right. So go ahead and, all
14 right, we're off the record. Is there anything you need to
15 put on the record? Nothing? Okay.

16 MR. DICKERSON: Nothing from the State, Your Honor.

17 THE COURT: All right, we're off the record. All
18 right.

19 (Court recessed at 4:57 P.M., until Friday,
20 March 10, 2017, at 10:33 A.M.)

21 * * * * *

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25

ROUGH DRAFT TRANSCRIPT

**PLEADING
CONTINUES
IN NEXT
VOLUME**

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ROBERT KELLER,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-16-312717-1
Related Case A-19-800950-W
Docket No: 84643

RECORD ON APPEAL VOLUME 2

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I N D E X

<u>VOLUME:</u>	<u>PAGE NUMBER:</u>
1	1 - 241
2	242 - 482
3	483 - 723
4	724 - 964
5	965 - 1187

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	4/29/2016	Amended Information	164 - 167
5	12/12/2017	Amended Judgment of Conviction (Jury Trial)	968 - 971
2	3/9/2017	Amended Jury List	306 - 306
2	8/25/2017	Case Appeal Statement	377 - 379
2	8/12/2016	Certificate of Mailing	274 - 278
5	5/9/2022	Certification of Copy and Transmittal of Record	
1	2/16/2016	Criminal Bindover (Confidential)	1 - 28
2	4/29/2017	Defendant Keller's Substitution of Attorney and Amy A. Feliciano, Esq.'s Notice of Appearance as Counsel of Record	362 - 364
2	2/7/2017	Defendant's Motion for Production Including Potentially Exculpatory Evidence	293 - 301
1	6/10/2016	Defendant's Motion to Suppress	171 - 190
5	5/9/2022	District Court Minutes	1139 - 1187
5	5/9/2022	Documentary Exhibits (Unfiled)	1068 - 1126
5	5/9/2022	Documentary Exhibits (Unfiled) Confidential	1127 - 1138
1	2/17/2016	Information	29 - 32
2	3/10/2017	Instructions to the Jury	314 - 322
2	3/10/2017	Instructions to the Jury	323 - 346
2	8/10/2017	Judgment of Conviction (Jury Trial)	365 - 368
2	3/7/2017	Jury List	305 - 305
5	6/12/2019	Motion for Production of Transcripts at State Expense	1033 - 1036

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
5	3/22/2018	Motion for the Appointment of Counsel & Motion to Dismiss Attorney of Record	980 - 985
4	11/14/2017	Motion for the Appointment of Counsel; Request for Evidentiary Hearing	958 - 962
4	11/14/2017	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents (Continued)	963 - 964
5	11/14/2017	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents (Continuation)	965 - 966
5	12/31/2018	Motion for Withdrawal of Counsel of Record or in the Alternative, Request for Records/Court Case Document "Evidence Photos"	1009 - 1014
5	4/3/2019	Motion to Compel	1022 - 1027
1	6/13/2016	Motion to Dismiss Counsel and Appoint Alternate Counsel	191 - 193
1	6/1/2016	Motion to Reduce Bail	168 - 170
2	8/10/2016	Motion to Withdraw As Counsel	270 - 273
5	11/14/2018	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed	996 - 1007
2	8/24/2017	Notice of Appeal	372 - 372
2	8/24/2017	Notice of Appeal	376 - 376
5	11/29/2017	Notice of Change of Hearing	967 - 967
1	3/29/2016	Notice of Expert Witnesses [NRS 174.234(2)]	156 - 161

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	8/26/2016	Notice of Expert Witnesses [NRS 174.234(2)]	281 - 287
1	3/24/2016	Notice of Intent to Seek Punishment as a Habitual Criminal	151 - 152
2	7/18/2016	Notice of Intent to Seek Punishment as a Habitual Criminal	268 - 269
4	11/14/2017	Notice of Motion	956 - 957
5	12/31/2018	Notice of Motion	1008 - 1008
5	4/3/2019	Notice of Motion	1021 - 1021
1	3/24/2016	Notice of Witnesses [NRS 174.234(1)(a)]	153 - 155
2	1/25/2017	Notice to Introduce Certified Records [NRS 52.260(4)]	291 - 292
5	5/10/2018	Order Denying Defendant's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record	994 - 995
2	8/18/2016	Order Denying Defendant's Motion to Suppress and Defendant's Pro Per Motion to Dismiss Counsel and Appoint Alternative Counsel	279 - 280
5	7/22/2019	Order Denying Defendant's Pro Per Motion for Production of Transcripts at State Expense	1041 - 1042
5	4/11/2018	Order Granting Defendant's Motion for the Appointment of Counsel; Order Denying Defendant's Request for Evidentiary Hearing	986 - 987
5	2/1/2019	Order Granting Petitioner's Pro Per Motion for Withdrawal of Counsel of Record, or in the Alternative, Request for Records/Court Case Document	1015 - 1016

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	4/14/2017	Presentence Investigation Report (Unfiled) Confidential	347 - 361
1	6/16/2016	Receipt of Copy	194 - 194
5	4/3/2019	Request for Records/Court Case Documents	1017 - 1020
5	6/12/2019	Request for Records/Court Case Documents (Specifically Evidence Photos)	1038 - 1040
2	8/24/2017	Request for Rough Draft Transcripts	369 - 371
2	8/24/2017	Request for Rough Draft Transcripts	373 - 375
5	6/12/2019	Request for Submission of Motion	1037 - 1037
2	3/6/2017	Second Amended Information	302 - 304
5	4/13/2018	State's Opposition to Defendant's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record	988 - 993
1	6/17/2016	State's Opposition to Defendant's Motion to Suppress (Continued)	195 - 241
2	6/17/2016	State's Opposition to Defendant's Motion to Suppress (Continuation)	242 - 267
5	1/17/2020	State's Response to Defendant's Pro Per Petition for Writ of Habeas Corpus (Post- Conviction)	1043 - 1067
2	8/29/2016	Supplemental Notice of Witnesses [NRS 174.234(1)(a)]	288 - 290
2	3/10/2017	Third Amended Information	307 - 310
2	10/5/2017	Transcript of Hearing Held on August 7, 2017	380 - 394
1	3/2/2016	Transcript of Hearing Held on February 16, 2016	33 - 91

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	3/4/2016	Transcript of Hearing Held on February 16, 2016	92 - 150
3	11/13/2017	Transcript of Hearing Held on March 10, 2017	485 - 512
2	11/13/2017	Transcript of Hearing Held on March 6, 2017	396 - 417
2	11/13/2017	Transcript of Hearing Held on March 7, 2017 (Continued)	418 - 482
3	11/13/2017	Transcript of Hearing Held on March 7, 2017 (Continuation)	483 - 484
4	11/13/2017	Transcript of Hearing Held on March 8, 2017	726 - 955
3	11/13/2017	Transcript of Hearing Held on March 9, 2017 (Continued)	513 - 723
4	11/13/2017	Transcript of Hearing Held on March 9, 2017 (Continuation)	724 - 725
5	3/1/2018	Unfiled Document(s) - Attorney Letter w/Copy of Unfiled Motion for the Appointment of Counsel; Request for Evidentiary Hearing and w/Copy of Unsigned Order Appointing Counsel	972 - 978
1	4/17/2016	Unfiled Document(s) - Motion for Brady Hearing	162 - 163
5	6/12/2019	Unfiled Document(s) - Motion to Compel	1028 - 1031
2	11/3/2017	Unsigned Document(s) - Order Appointing Counsel	395 - 395
5	3/13/2018	Unsigned Document(s) - Order Appointing Counsel	979 - 979
5	6/12/2019	Unsigned Document(s) - Order to Produce Transcripts	1032 - 1032

C-16-312717-1

State of Nevada
vs
Christopher Keller

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	3/10/2017	Verdict - Counts 1 thru 7	312 - 313
2	3/10/2017	Verdict - Counts 8 and 9	311 - 311

1 the investigation of this particular case?

2 A. I.

3 Q. And that's because you are the first one on
4 the scene, right?

5 A. Correct.

6 Q. Now at some point I am assuming that
7 detectives did show up to help you with that
8 investigation?

9 A. Correct.

10 Q. And they would have assumed the
11 investigation from that point forward, or are you
12 the one ultimately responsible for the case?

13 A. I am ultimately responsible for everything
14 on this case.

15 Q. Now, your testimony was that you said you
16 saw what you thought was some kind of leafy
17 substance on the passenger side, on the floorboard?

18 A. On the driver's side, floorboard.

19 Q. Did you at any point as the primary officer
20 in charge of this investigation take pictures of
21 that area or cause pictures to be taken of that
22 area?

23 A. I don't believe so.

24 Q. Did you at any point cause for pictures to
25 be taken of my client's clothing since you are the

1 primary officer in charge of this investigation?

2 A. I can't recall whether pictures were taken
3 of Mr. Keller or not.

4 Q. Did you take pictures of the inside of the
5 vehicle as the person who was the primary officer in
6 charge of this investigation?

7 A. There were pictures taken of the vehicle. I
8 am not entirely positive what the pictures would
9 tell.

10 MS. KILLER: Your Honor, for the record, we
11 will be requesting photographs from the Metro
12 records and will provide them to counsel.

13 THE COURT: All right.

14 Q. With the smell of marijuana, there was an
15 assumption that someone had just smoked or ingested
16 marijuana, or held marijuana for you to be able to
17 smell that marijuana, right?

18 A. I believe there was marijuana present at
19 some point.

20 Q. Okay.

21 Is your testimony here today that you were
22 able to smell a slight leafy substance on the
23 floorboard of this person's vehicle that made you
24 determine that there was the smell of marijuana on
25 my client's person as well?

1 MS. KILLER: Objection, vague.

2 I am lost.

3 THE COURT: I am not lost. He is just trying
4 to clarify.

5 MR. SANFT: I will rephrase it.

6 Q. Officer Lopez, did you any point -- you said
7 it was coming from my client's person.

8 Did you at any point observe whether or not
9 my client ingested or smoked marijuana during that
10 traffic stop, or before the traffic stop?

11 A. I could not tell whether or not he smoked,
12 or just smoked, or whether there was marijuana that
13 had been smoked inside the vehicle.

14 Does that answer your question?

15 Q. Well, sure.

16 Did you at any point run any type of field
17 sobriety test on my client to determine whether or
18 not he had smoked marijuana that day, or before you
19 pulled him over?

20 A. I did not.

21 Q. But your testimony was that you smelled
22 marijuana.

23 A. I could smell the marijuana, yes.

24 Q. But you didn't at that point determine
25 whether or not the marijuana that was smoked in the

1 vehicle was because my client smoked it?

2 A. I did not.

3 Q. Did you ever cite my client for any of these
4 other traffic violations that you had mentioned, the
5 continuing through a through lane, or the traveling
6 at a high rate of speed, you didn't know how fast
7 he was going?

8 A. I did not cite him on the traffic
9 violations. I cite him for the felonies.

10 Q. Did you cite him for anything other than the
11 fact that he possessed these drugs or so forth
12 inside his vehicle?

13 A. I didn't cite him, I placed him under arrest
14 for the narcotics.

15 Q. So in terms of anything leading up to the
16 actual narcotics, your testimony here is that
17 because of the fact that you are able to smell
18 marijuana, you can't tell us how you smelled the
19 marijuana, or where the marijuana was coming from,
20 and based upon that is the reasons why you at that
21 point arrested my client, and then had enough
22 probable cause to go into the vehicle?

23 MS. KILLER: Objection, misstates the
24 testimony as to the order of events.

25 THE COURT: Not really, but go on.

1 Q. Is it your testimony here today that because
2 of the smell of marijuana to which you at this
3 point, you don't know how it got into the car, is
4 that the probable cause that you used to determine a
5 search of the vehicle?

6 A. Yes.

7 Q. Would it be fair to say that the leafy
8 substance on the ground here today, as you testified
9 here in Court, you don't know if it was marijuana or
10 any other leafy substance?

11 A. Correct.

12 Q. Now, you said that 5 shots were fired from
13 an apartment, did you put that in your declaration
14 of arrest?

15 A. I did not.

16 Q. Was there a case or an event number
17 associated with that particular event?

18 A. Yes. An event number was created.

19 Q. And you said that you had detained my client
20 because of the fact that the shots were fired?

21 A. Initially I detained him because the shots
22 were fired.

23 Q. From the time that you first stopped my
24 client to the time that the K-9 officer arrived on
25 the scene, how long was that?

1 A. I could not tell you the exact time.

2 Q. I am assuming that would be in your CAD.

3 A. Correct.

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

6 THE COURT: Redirect?

7 MS. KILLER: Briefly.

8
9 REDIRECT EXAMINATION

10
11 BY MR. KILLER:

12 Q. Just to clarify you didn't arrest the
13 Defendant just because shots were fired somewhere
14 else in the complex, correct?

15 A. Correct.

16 Q. I believe your testimony was, and correct me
17 if I am wrong had been that you placed him in the
18 vehicle for safety afternoon and that you initially
19 put the cuffs on him because he had been stopped?

20 A. Yes.

21 Q. And when he got out of the vehicle, you felt
22 he might be a risk?

23 A. Yes.

24 Q. The green leafy substance you saw inside of
25 the vehicle not, was that consistent with marijuana?

1 A. Yes, it was.

2 Q. A CSA was called out and responded on the
3 scene, correct?

4 A. Correct.

5 Q. And she took photographs, and you just have
6 personal knowledge as to the content of all of those
7 photographs?

8 A. Correct.

9 Q. Did the Defendant give you permission to
10 remove his wallet and the items from his pocket?

11 A. Yes.

12 Q. And when the defense counsel was asking
13 about turning into the apartment complex and
14 activating your lights, and at which point you did
15 that, from the point where you turned in, to the
16 point when the stop was conducted, did all of that
17 occur within a short period of time?

18 A. A very brief short period of time.

19 Q. Without guessing, could you give us an
20 estimate as to how long that would have been?

21 A range is fine?

22 A. It would have been --

23 Q. Less than a couple of minutes?

24 A. It would have been within less than 10
25 seconds,

1 Q. Were you driving a marked is patrol car when
2 you passed the Defendant on Lamb and made your
3 U-turn?

4 A. I did.

5 Q. And in addition to the high rate of speed
6 traveling further than 3 hundred feet in the 2-way
7 turn lane, did you also observe a broken passenger
8 tail lamp on the back?

9 A. I did.

10 MR. KILLER: No further questions.

11
12 RECROSS-EXAMINATION

13
14 BY MR. SANFT:

15 Q. Did you ever cite him for the broken tail
16 light?

17 A. I did not.

18 MR. SANFT: No further questions.

19
20 FURTHER DIRECT EXAMINATION

21
22 BY MS. KILLER:

23 Q. The charges are determined by our office,
24 not you, correct?

25 A. Yes.

1 Q. The charges that are filed in a case are
2 determined by my office, the District Attorneys
3 office, correct?

4 A. Correct.

5 MR. KILLER: No further questions

6 MR. SANFT: One more question.

7
8 FURTHER RE-CROSS-EXAMINATION
9

10 BY MR. SANFT:

11 Q. Just to make sure we are clear, did you ever
12 recommend at any point ever recommend any of these
13 traffic citations as charges to the DA's office for
14 prosecution?

15 A. I did not recommend charges to the DA's
16 office.

17 Q. Did you ever fill out any paperwork
18 indicating you thought that there were potentially
19 good charges for a broken tail light, or traveling
20 at a high rate of speed, or travelling down the
21 center lane of North Lamb; id you ever put that in
22 any type of documentation here?

23 A. No. That was my decision out in the field.

24 Q. It was your decision to ignore everything
25 leading up to the actual finding of drugs and a gun

1 in my client's car?

2 MS. KILLER: Objection.

3 THE COURT: Sustained.

4 MR. SANFT: No further questions.

5 MS. KILLER: No further questions.

6 THE COURT: Officer, thank you for your
7 testimony today.

8 I will ask you to step down.

9 And please don't discuss your testimony with
10 anyone during the pendency of the case, unless it is
11 representative from Mr. Sanft's office or from the
12 District Attorneys office.

13 And I thank you.

14 State any further witnesses?

15 MS. KILLER: No, Your Honor.

16 The State rests.

17 THE COURT: MR. SANFT: Your Honor, I have
18 spoken with my client, and at this point he will not
19 be testifying at the preliminary hearing, and we
20 don't have any witnesses to call.

21 We also rest at this time.

22 MS. KILLER: We will waive and reserve.

23 MR. SANFT: we will submit it, Your Honor.

24 THE COURT: Mr. Keller, the standard at my
25 particular juncture is slight or marginal evidence

1 as to whether or not a crime may have occurred.

2 For those reasons, I do find that the State
3 has met its burden, and I will hold you to answer in
4 the Eighth Judicial District Court on the charges
5 trafficking in a controlled substance.

6 Possession of a controlled substance,
7 marijuana.

8 Possession of a controlled substance with
9 the intent to sell.

10 And ownership or possession of firearms by a
11 prohibited person.

12 You will need to appear with your attorney
13 in the lower level Arraignment Court on the
14 following date and time.

15 THE CLERK: February 18, 10 a.m., lower
16 level District Court Arraignment.

17 MR. SANFT: Your Honor, before this Court
18 losses jurisdiction, I believe the Court last time
19 indicated they were going to set a bail at
20 preliminary hearing.

21 I don't think we have a bail yet set.

22 THE COURT: That is correct.

23 At this particular juncture there is no bail
24 based upon the information that has been provided to
25 the Court, I will set the total bail at \$250,000 on

1 this particular case total.

2 MR. SANFT: Your Honor, just real quick,
3 based upon my client hearing the bail set for
4 \$250,000, I understand that my client has a total of
5 6 felony convictions, 3 misdemeanor convictions, and
6 12 failures to 13 appear.

7 I do understand what is listed on the
8 pre-trial services information sheet, but my client
9 at this point is looking at this bail and thinking
10 that you might as well set no bail on this matter,
11 because he can't afford \$250,000.

12 THE COURT: Whether or not he can afford it
13 or cannot afford it, I have to set bail based upon
14 the allegations at issue, and the chance of flight,
15 and the chance of return, and your prior criminal
16 history, and there is another case floating around,
17 too, so I think that \$250,000 would probably be low
18 based on what I have heard today.

19 MS. KILLER: Thank you, Your honor.

20 MR. SANFT: Thank you, Your Honor.

21
22 (Proceedings concluded.)
23
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REPORTER'S CERTIFICATE

STATE OF NEVADA)

) ss.

1 CLARK COUNTY)

2
3
4 I, Robert A. Cangemi, a certified court
5 reporter in and for the State of Nevada, hereby
6 certify that pursuant to NRS 239B.030 I have not
7 included the Social Security number of any person
8 within this document.

9 I further certify that I am not a relative
10 or employee of any party involved in said action,
11 nor a person financially interested in said action.

12
13
14 (signed) /s/ Robert A. Cangemi

15 _____
16 ROBERT A. CANGEMI, CCR NO. 888

17
18
19
20
21
22 C E R T I F I C A T E

23 STATE OF NEVADA)

24) ss.

25 CLARK COUNTY)

1
2
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4
5 I, Robert A. Cangemi, CCR 888, do hereby
6 certify that I reported the foregoing proceedings,
7 and that the same is true and accurate as reflected
8 by my original machine shorthand notes taken at said
9 time and place.

10
11
12 (signed) /s/ Robert A. Cangemi

13 -----
14 Robert A. Cangemi, CCR 888

15 Certified Court Reporter

16 Las Vegas, Nevada
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/s/

can

/	asking (42:12)
/s/ (49:14) (50:8)	associated (40:17)
A	assumed (36:10)
able (34:10) (37:16) (37:22) (39:17)	assuming (28:6) (31:6) (36:6) (41:2)
abrupt (6:11) (7:7) (27:21)	assumption (37:15)
access (14:25)	attention (6:8)
accord (32:20)	attorney (1:19) (46:12)
accurate (50:3)	attorneys (44:2) (45:12)
accurately (24:1)	avenue (6:11) (26:3) (28:25)
action (49:10) (49:11)	avoid (29:18)
activate (7:17)	avoiding (29:20)
activated (31:24) (32:1) (32:12)	away (8:11) (33:8)
activating (42:14)	B
actual (39:16) (44:25)	back (12:14) (21:23) (22:6) (28:20) (43:8)
actually (8:18) (14:22) (14:25)	bag (13:6) (13:11) (15:1) (15:3) (15:5) (15:7) (15:8)
addition (43:5)	(16:19) (17:6) (17:14) (17:15) (18:1) (18:4) (18:7) (18:10)
additional (17:7)	(18:11) (18:13) (21:19) (21:23)
additionally (17:11)	baggie (35:9)
address (12:16)	bags (13:7) (15:4) (16:20) (21:6)
admit (5:8) (24:6)	bail (46:19) (46:21) (46:23) (46:25) (47:3) (47:9) (47:10)
admitted (5:11) (16:3) (16:25) (17:3) (17:8) (17:19)	(47:13)
(17:20) (21:4) (21:18) (22:3) (22:5) (22:15) (24:8)	based (11:15) (12:2) (12:25) (20:22) (21:10) (26:23) (27:7)
admitting (15:25)	(28:11) (34:18) (34:23) (34:25) (35:20) (39:20) (46:24)
afford (47:11) (47:12) (47:13)	(47:3) (47:13) (47:18)
after (12:18)	basically (33:10)
afternoon (41:18)	basis (9:19)
alerted (13:25)	because (9:25) (28:21) (28:24) (29:2) (34:21) (36:3) (39:1)
all (16:10) (24:14) (25:1) (25:6) (26:15) (28:1) (29:22)	(39:17) (40:1) (40:20) (40:21) (41:13) (41:19) (47:11)
(30:15) (35:23) (37:13) (42:6) (42:16)	bedroom (21:6)
allegations (47:14)	been (8:23) (14:6) (14:9) (14:16) (19:24) (20:10) (23:3)
allowed (32:13)	(27:11) (27:15) (29:10) (33:16) (35:21) (38:13) (41:17)
along (12:25)	(41:19) (42:20) (42:22) (42:24) (46:24)
already (31:21)	before (1:13) (29:22) (38:10) (38:18) (46:17)
also (13:9) (16:24) (17:7) (17:14) (17:25) (19:24) (20:3)	began (28:9) (28:23)
(20:8) (21:5) (21:12) (21:22) (24:2) (29:5) (30:1) (32:24)	behalf (3:7)
(43:7) (45:21)	behavior (8:2) (9:12)
ammo (20:8)	behaviors (10:2)
ammunition (20:4)	behind (30:24) (31:1) (31:18)
amount (11:11)	being (3:25) (4:15) (16:25) (17:3) (22:3)
another (15:4) (29:2) (47:16)	believe (3:24) (9:12) (9:21) (13:22) (15:17) (15:24)
answer (38:14) (46:3)	(18:22) (27:4) (29:20) (36:23) (37:18) (41:16) (46:18)
any (3:15) (4:6) (8:13) (13:24) (14:2) (36:19) (36:24)	believed (9:21) (34:19)
(38:6) (38:8) (38:16) (39:3) (40:10) (44:12) (44:17) (44:22)	belmont (20:17)
(45:14) (45:20) (49:7) (49:10)	bench (3:20)
anyone (19:15) (45:10)	beretta (18:14)
anything (10:6) (11:15) (12:18) (14:20) (35:11) (39:10)	besides (35:11)
(39:15)	between (13:9) (33:25) (34:10)
apartment (6:25) (7:8) (7:11) (12:13) (19:21) (20:11)	bills (11:15) (12:1)
(20:14) (22:17) (24:18) (26:13) (26:21) (26:22) (27:2)	black (15:1) (15:3) (15:5) (18:10) (18:11) (18:13) (28:4)
(29:16) (30:12) (30:16) (31:13) (32:1) (32:4) (32:7) (32:11)	blue (9:3)
(32:14) (40:13) (42:13)	both (14:15) (27:9)
appear (46:12) (47:6)	boulevard (24:16)
appearances (1:17)	box (13:25) (14:1) (14:4) (14:5) (14:6) (14:24) (20:8)
appeared (15:13)	(33:10)
approach (3:17) (11:3) (15:22) (19:1) (22:23) (23:5) (23:15)	boxes (20:3)
approaching (27:20)	boy (35:14)
approval (15:20)	brevity (16:7)
approximately (25:5) (33:9)	brief (42:18)
april (13:20)	briefly (41:7)
are (4:3) (4:6) (4:8) (5:16) (6:14) (14:5) (15:25) (16:4)	broken (6:23) (30:1) (43:7) (43:15) (44:19)
(16:8) (23:11) (23:21) (24:14) (28:3) (28:8) (33:21) (34:10)	brown (21:19)
(34:12) (35:23) (36:3) (36:11) (36:25) (39:17) (43:23) (44:1)	bumps (30:16)
(44:11)	burden (46:3)
area (5:23) (13:24) (24:1) (24:2) (25:12) (27:3) (27:5)	but (4:16) (9:15) (11:25) (28:20) (29:2) (29:5) (31:22)
(28:7) (36:21) (36:22)	(38:21) (38:24) (39:25) (47:8)
armed (9:13) (9:21)	C
around (6:3) (25:22) (47:16)	cad (41:2)
arraignment (46:13) (46:16)	call (13:12) (45:20)
arrest (11:7) (39:13) (40:14) (41:12)	called (4:1) (42:2)
arrested (39:21)	calls (3:22)
arrived (13:15) (40:24)	cam (35:14)
article (9:2)	came (12:17) (26:21) (28:24) (29:1)
aside (14:23)	camera (35:17)
ask (4:9) (22:24) (27:8) (45:8)	can (3:17) (9:1) (14:25) (24:14) (24:24) (25:12) (27:5)
asked (10:9)	(27:8) (27:10) (33:25) (35:12) (47:12)

cangemi

cangemi (1:25) (49:4) (49:14) (49:16) (50:1) (50:8) (50:10)
 cannabals (8:21) (13:1) (33:3)
 cannibals (10:1)
 cannot (47:13)
 can't (10:22) (30:10) (37:2) (39:18) (47:11)
 car (7:20) (8:7) (8:10) (8:14) (8:17) (12:19) (12:25)
 (13:16) (13:24) (18:20) (19:13) (19:16) (19:18) (20:6)
 (24:15) (28:4) (34:14) (40:3) (43:1) (45:1)
 cardboard (14:9)
 case (1:1) (1:8) (4:1) (36:1) (36:12) (36:14) (40:16) (44:1)
 (45:10) (47:1) (47:16)
 cash (10:15) (10:18) (10:20) (11:12) (11:24)
 cause (12:24) (13:4) (35:7) (36:21) (36:24) (39:22) (40:4)
 ccr (1:25) (49:16) (50:1) (50:10)
 center (6:12) (6:14) (13:10) (29:6) (29:7) (44:21)
 certificate (48:1)
 certified (5:3) (13:20) (49:4) (50:11)
 certify (49:6) (49:9) (50:2)
 chamber (18:16)
 chance (47:14) (47:15)
 charge (35:25) (36:20) (37:1) (37:6)
 charges (43:23) (44:1) (44:13) (44:15) (44:19) (46:4)
 check (6:20) (13:18) (29:4)
 checked (4:11) (13:23)
 checklist (21:2) (21:16)
 christopher (1:9) (3:4) (4:7) (22:17)
 citations (44:13)
 cite (39:3) (39:8) (39:9) (39:10) (39:13) (43:15)
 clarify (38:4) (41:12)
 clark (1:4) (5:25) (49:1) (49:25)
 clear (13:6) (13:7) (17:15) (44:11)
 clerk (4:19) (4:25) (22:24) (46:15)
 client (24:2) (24:3) (24:11) (24:17) (25:4) (25:7) (25:13)
 (25:16) (26:17) (27:21) (28:12) (31:12) (31:18) (31:19)
 (33:5) (33:10) (34:2) (34:18) (35:8) (38:9) (38:17) (39:1)
 (39:3) (39:21) (40:19) (40:24) (45:18) (47:3) (47:4) (47:8)
 client's (31:3) (33:8) (33:22) (36:25) (37:25) (38:7) (45:1)
 close (34:13)
 clothes (34:7) (35:22)
 clothing (9:2) (9:22) (35:21) (36:25)
 cocaine (17:16) (17:22)
 color (6:6) (27:9)
 come (29:22)
 coming (8:19) (18:6) (25:10) (28:22) (29:23) (29:25) (30:3)
 (30:25) (33:21) (33:23) (33:24) (34:1) (34:7) (34:8) (34:11)
 (38:7) (39:19)
 commands (7:19) (7:21) (7:24) (8:1)
 compartment (14:21) (14:22) (14:24) (15:1) (15:20)
 compartments (14:2)
 complaint (3:12)
 complete (29:2)
 complex (6:25) (7:8) (7:11) (12:13) (24:18) (26:13) (26:22)
 (27:2) (29:16) (30:12) (30:17) (31:13) (32:1) (32:4) (32:7)
 (32:11) (32:14) (41:14) (42:13)
 conceal (35:22)
 concluded (47:22)
 conduct (5:22) (6:5) (9:13) (9:17) (12:24) (29:4)
 conducted (6:20) (9:23) (10:5) (15:18) (21:12) (21:22)
 (21:24) (22:7) (34:21) (42:16)
 conducting (10:7)
 conference (3:20)
 consistent (12:6) (15:11) (16:21) (17:16) (18:8) (18:9)
 (20:6) (20:10) (20:21) (20:23) (21:9) (21:11) (21:20) (41:25)
 console (13:10)
 containing (16:21) (20:18) (21:6)
 content (42:6)
 continued (6:13)
 continuing (39:5)
 contraband (14:10)
 controlled (16:20) (46:5) (46:6) (46:8)
 convictions (5:4) (47:5)
 copy (3:11) (5:3) (11:7) (27:9)
 correct (3:10) (13:21) (16:2) (17:9) (17:10) (17:12)
 (18:18) (18:19) (20:12) (25:17) (25:24) (26:11) (26:14)
 (27:23) (28:4) (28:18) (29:13) (29:14) (29:18) (30:17)
 (30:18) (31:4) (31:15) (33:4) (33:6) (33:12) (33:14) (33:17)
 (34:16) (36:5) (36:9) (40:11) (41:3) (41:14) (41:15) (41:16)

directions

(42:3) (42:4) (42:8) (43:24) (44:3) (44:4) (46:22)
 could (4:7) (8:18) (9:7) (9:23) (10:8) (10:9) (10:18)
 (12:16) (12:21) (25:25) (28:21) (33:23) (34:6) (35:22)
 (38:11) (38:23) (41:1) (42:19)
 couldn't (29:1)
 counsel (5:3) (11:6) (14:16) (17:1) (17:18) (19:3) (19:24)
 (20:24) (21:14) (22:2) (37:12) (42:12)
 county (1:4) (6:1) (49:1) (49:25)
 couple (42:23)
 court (1:4) (3:4) (3:8) (3:11) (3:15) (3:18) (4:3) (4:6)
 (4:23) (5:11) (8:6) (8:22) (8:23) (9:10) (9:15) (11:4) (15:23)
 (16:3) (16:10) (16:16) (16:18) (17:3) (17:20) (17:24) (19:2)
 (21:4) (21:18) (22:5) (22:15) (22:22) (23:1) (23:6) (23:17)
 (24:8) (24:20) (24:22) (27:10) (37:13) (38:3) (39:25) (40:9)
 (41:6) (45:3) (45:6) (45:17) (45:24) (46:4) (46:13) (46:16)
 (46:17) (46:18) (46:22) (46:25) (47:12) (49:4) (50:11)
 courtroom (3:25)
 created (40:18)
 crime (46:1)
 criminal (3:12) (47:15)
 cross (6:24) (7:8) (22:22) (23:21)
 cross-examination (23:8)
 cruz (1:13)
 crystal (15:9) (15:10) (21:6)
 csa (18:18) (42:2)
 cuffs (41:19)
 cul-de-sac (32:11)
 currently (5:16) (5:18)
 custody (3:6)
 cut (30:4) (30:7)
 cynthia (1:13)

D

daniel (2:4) (4:13) (4:21)
 d-a-n-i-e-l (4:21)
 da's (44:13) (44:15)
 date (5:22) (46:14)
 day (38:18)
 decided (29:3) (34:18)
 decision (44:23) (44:24)
 declaration (11:7) (40:13)
 deemed (21:4) (21:18) (22:5) (22:15) (24:8)
 defendant (1:10) (1:21) (9:9) (12:8) (22:17) (41:13) (42:9)
 (43:2)
 defendant's (19:21) (20:11)
 defense (5:2) (14:16) (16:12) (17:1) (17:18) (19:3) (19:24)
 (20:24) (21:14) (22:2) (22:13) (22:24) (23:3) (24:6) (42:12)
 denomination (11:14)
 department (5:19) (27:12)
 depict (24:1)
 dept (1:2)
 deputy (1:19)
 described (10:1) (10:3)
 detain (34:18)
 detained (40:19) (40:21)
 detective (20:17)
 detectives (20:16) (36:7)
 determination (35:20)
 determine (37:24) (38:17) (38:24) (40:4)
 determined (35:7) (43:23) (44:2)
 did (3:11) (5:22) (6:5) (6:7) (7:8) (7:13) (7:17) (7:19)
 (7:23) (8:2) (8:8) (8:13) (8:16) (9:12) (9:17) (9:18) (9:20)
 (10:11) (10:12) (10:20) (12:18) (12:24) (13:3) (13:5) (13:12)
 (13:14) (13:15) (13:17) (13:23) (13:25) (14:1) (14:4) (14:11)
 (14:13) (14:17) (14:19) (14:20) (14:22) (15:3) (15:6) (15:7)
 (16:19) (17:14) (17:17) (17:25) (18:2) (18:10) (18:13)
 (18:15) (18:20) (19:10) (19:20) (19:22) (20:17) (21:5)
 (22:10) (26:16) (26:22) (29:17) (31:9) (31:10) (35:17) (36:7)
 (36:19) (36:24) (37:4) (38:6) (38:8) (38:16) (38:20) (39:2)
 (39:3) (39:8) (39:10) (40:13) (40:15) (42:9) (42:14) (42:16)
 (43:4) (43:7) (43:9) (43:15) (43:17) (44:11) (44:15) (44:17)
 didn't (29:22) (38:24) (39:6) (39:13) (41:12)
 different (34:9)
 differentiate (33:25) (34:10)
 direct (5:13) (43:20)
 direction (24:10) (25:3) (25:4) (25:17) (28:16) (30:3)
 directions (34:9)

directly

directly (31:1)
 discuss (45:9)
 discussing (8:23)
 distance (29:12)
 district (1:19) (44:2) (45:12) (46:4) (46:16)
 document (49:8)
 documentation (44:22)
 dodge (6:6)
 does (11:9) (11:14) (12:3) (19:7) (23:25) (28:6) (38:14)
 dog (13:18)
 doing (7:1)
 don't (16:8) (18:22) (31:22) (35:6) (36:23) (40:3) (40:9)
 (45:9) (45:20) (46:21)
 door (12:19) (14:23) (34:3) (34:5) (34:15)
 double (6:15)
 down (9:13) (9:17) (9:24) (10:5) (10:7) (12:8) (24:2) (25:9)
 (26:3) (27:20) (28:2) (28:22) (29:6) (29:22) (29:25) (30:3)
 (30:13) (34:21) (35:8) (44:20) (45:8)
 drew (6:8)
 driver (6:23)
 driver's (7:14) (10:13) (12:23) (13:8) (13:9) (34:5) (36:18)
 driving (34:24) (43:1)
 drugs (39:11) (44:25)
 duly (4:15)
 during (13:4) (19:25) (22:16) (22:18) (25:7) (35:17) (38:9)
 (45:10)

E

effectuate (26:16) (31:19)
 effectuated (32:18)
 eighth (46:4)
 elbows (9:4)
 else (4:10) (8:10) (19:15) (19:18) (35:11) (41:14)
 employed (5:17) (5:18) (5:20)
 employee (49:10)
 empty (18:3) (18:4)
 enough (39:21)
 entering (7:2)
 entire (27:15)
 entirely (37:8)
 entrance (26:24) (27:1) (27:2)
 esq (1:19) (1:21)
 estimate (42:20)
 even (4:8) (10:18) (29:24) (34:12)
 evening (8:24)
 event (40:16) (40:17) (40:18)
 events (39:24)
 eventually (7:23) (24:3) (24:19)
 over (39:3) (43:15) (44:11) (44:12) (44:17) (44:21)
 everything (36:13) (44:24)
 evidence (45:25)
 exact (30:10) (41:1)
 exactly (26:16)
 examination (5:13) (41:9) (43:20)
 examined (4:16)
 exclusionary (4:4)
 execute (14:18)
 exhibit (5:2) (5:8) (15:24) (16:24) (17:9) (17:19) (20:25)
 (21:15) (22:4) (22:14) (22:25) (23:4) (23:12) (24:6)
 exhibits (5:1)
 exited (8:7) (8:14) (12:20)
 experience (11:16) (12:3) (15:12) (15:13) (20:22) (21:10)

F

facing (11:22) (11:23)
 fact (34:19) (34:23) (39:11) (39:17) (40:20)
 factors (35:2) (35:5) (35:6)
 failed (30:4)
 failures (47:6)
 fair (28:15) (31:2) (40:7)
 familiar (23:11) (23:21)
 far (33:7)
 fast (25:3) (28:24) (29:3) (39:6)
 february (1:14) (3:1) (46:15)
 feet (7:2) (29:10) (29:12) (33:9) (43:6)
 felonies (5:4) (39:9)
 felony (47:5)

had

felt (41:21)
 field (38:16) (44:23)
 file (27:9)
 filed (44:1)
 fill (3:18) (44:17)
 finally (18:10) (18:20) (22:6) (22:16)
 financially (49:11)
 find (14:20) (46:2)
 finding (44:25)
 fine (42:21)
 firearms (46:10)
 fired (12:12) (40:12) (40:20) (40:22) (41:13)
 first (4:15) (4:20) (6:10) (15:7) (15:8) (24:1) (24:11)
 (24:16) (25:4) (25:8) (25:10) (25:13) (26:21) (28:9) (36:3)
 (40:23)
 flight (47:14)
 flip (31:12)
 flipped (25:22) (26:1) (26:8) (28:20)
 floating (47:16)
 floorboard (12:22) (36:17) (36:18) (37:23)
 folded (11:18) (11:19)
 follow (26:12) (28:9) (28:23) (31:12)
 followed (25:23) (26:1)
 following (46:14)
 follows (4:17)
 for (1:19) (1:21) (4:10) (4:20) (5:4) (8:23) (9:1) (10:2)
 (12:15) (13:12) (13:19) (14:14) (15:25) (16:3) (16:11)
 (16:14) (16:24) (17:5) (17:21) (17:22) (18:21) (19:4) (19:10)
 (19:21) (19:23) (21:2) (21:12) (21:22) (21:24) (21:25) (22:7)
 (22:11) (22:21) (23:2) (23:25) (24:5) (24:9) (24:22) (27:9)
 (29:9) (33:16) (34:17) (35:8) (36:12) (36:13) (36:24) (37:10)
 (37:16) (39:3) (39:9) (39:10) (39:14) (41:18) (43:15) (44:13)
 (44:19) (45:6) (46:2) (47:3) (49:5)
 foregoing (50:2)
 form (14:23)
 forth (39:11)
 forward (36:11)
 found (15:19) (20:6)
 free (12:16)
 freezer (20:18)
 from (8:12) (8:19) (10:21) (12:20) (14:22) (15:11) (15:13)
 (18:6) (26:25) (28:8) (33:21) (33:23) (33:24) (34:1) (34:7)
 (34:8) (34:12) (36:11) (37:11) (38:7) (39:19) (40:12) (40:23)
 (42:10) (42:15) (45:11)
 front (10:8) (12:11) (30:4) (30:7)
 further (14:2) (20:13) (22:20) (27:6) (41:4) (43:6) (43:10)
 (43:18) (43:20) (44:5) (44:8) (45:4) (45:5) (45:14) (49:9)
 future (4:8)

G

gave (7:21) (35:3) (35:4)
 get (8:9) (8:10) (8:11) (10:12) (26:22)
 gets (32:18)
 getting (32:24) (33:1)
 give (7:19) (10:11) (42:9) (42:19)
 given (9:11) (12:19)
 giving (34:5)
 glass (20:13) (20:18)
 glove (13:25) (14:1) (14:4) (14:5) (14:6) (14:24)
 going (4:9) (26:3) (26:4) (27:20) (30:16) (35:23) (39:7)
 (46:19)
 gold (15:3) (15:4) (15:7) (15:8) (17:6) (17:25)
 good (33:16) (44:19)
 got (31:18) (31:19) (32:20) (32:21) (33:13) (40:3) (41:21)
 gotten (7:5) (7:10)
 grams (16:15) (17:4) (17:22) (21:2) (21:16) (21:24) (22:10)
 green (12:21) (20:19) (41:24)
 gross (16:15) (17:4) (17:22) (21:2) (21:16) (21:24) (22:10)
 ground (40:8)
 guessing (42:19)
 gun (44:25)

H

had (3:20) (6:23) (7:5) (7:10) (11:19) (11:21) (11:24)
 (12:10) (13:7) (13:17) (14:6) (14:9) (15:8) (16:9) (22:21)
 (30:8) (31:6) (34:19) (34:22) (35:9) (37:15) (38:13) (38:18)
 (39:4) (39:21) (40:19) (41:17) (41:19)

hand (6:16) (27:21) handcuffs (12:8) (12:10) (12:14) handgun (18:14) happened (6:18) has (9:3) (14:23) (19:23) (22:20) (23:3) (46:3) (46:24) have (3:17) (4:25) (5:2) (5:5) (5:9) (7:1) (8:23) (13:16) (14:15) (16:8) (20:10) (27:6) (27:11) (27:15) (28:6) (29:10) (31:22) (33:25) (34:19) (34:21) (35:17) (35:21) (36:10) (41:4) (42:5) (42:20) (42:22) (42:24) (45:17) (45:20) (46:1) having (19:3) head (10:23) (35:13) heard (47:18) hearing (1:7) (16:1) (16:4) (16:11) (45:19) (46:20) (47:3) held (37:16) help (36:7) her (22:24) here (3:25) (5:25) (8:22) (8:25) (23:22) (24:14) (25:14) (26:5) (26:18) (27:3) (27:4) (31:2) (37:21) (39:16) (40:1) herely (49:5) (50:1) heroism (16:21) (16:21) (17:5) (18:9) (21:20) (22:7) (22:11) hidden (15:19) high (7:5) (25:20) (28:2) (30:11) (30:19) (32:13) (34:24) (39:6) (43:5) (44:20) him (7:15) (7:19) (7:21) (8:1) (9:1) (10:9) (12:10) (12:11) (12:13) (12:14) (24:20) (25:8) (25:10) (25:23) (26:1) (26:2) (26:12) (28:9) (28:10) (28:20) (28:23) (28:24) (29:6) (30:24) (30:25) (31:9) (32:13) (34:4) (34:5) (34:20) (34:22) (38:19) (39:8) (39:17) (39:10) (39:13) (40:21) (41:17) (41:19) (43:15) (10:10) (10:12) (10:13) (10:21) (12:15) (13:1) (13:17) (19:6) (28:12) (29:4) (30:17) (32:9) (32:11) (32:15) (32:19) (32:20) (33:10) (33:23) (34:3) (34:7) (35:1) (39:12) (42:10) history (47:16) hit (13:24) hold (9:23) (14:9) (46:3) home (3:10) (3:13) (3:23) (4:24) (5:5) (5:10) (9:7) (11:2) (15:22) (15:24) (16:2) (16:6) (19:1) (22:23) (23:15) (24:5) (37:10) (41:5) (45:15) (45:17) (45:23) (46:17) (47:2) (47:19) honorable (1:13) horrid (18:6) hour (25:5) housekeeping (3:24) how (5:16) (10:20) (25:3) (26:22) (27:11) (28:24) (33:7) (33:25) (39:6) (39:18) (40:3) (40:25) (42:20) however (18:5) hundred (7:2) (29:10) (29:12) (43:6)	identification (9:8) identically (9:2) ignore (44:24) ill (6:25) illegal (27:24) (27:25) (29:8) impounded (18:24) included (17:8) (49:7) increments (11:20) indicate (8:2) (11:15) (12:4) indicated (8:3) (46:19) individual (8:22) information (46:24) (47:8) ingested (37:15) (38:9) initially (40:21) (41:18) initiating (7:16) inside (8:19) (13:6) (18:7) (31:25) (32:22) (33:24) (34:1) (34:7) (37:4) (38:13) (39:12) (41:24) inspect (13:16) instructions (34:6) intent (46:9) interested (49:11) intersection (23:20) into (6:12) (6:24) (7:7) (7:10) (7:12) (24:19) (26:12) (26:21) (26:22) (26:24) (26:25) (27:2) (29:15) (30:12)
hand (30:21) (31:13) (31:25) (32:4) (32:7) (32:10) (32:15) (39:22) (40:3) (42:13) investigation (36:1) (36:8) (36:11) (36:20) (37:1) (37:6) involved (27:16) (49:10) issue (47:14) issues (12:17) items (15:15) (17:5) (17:23) (21:3) (21:17) (22:4) (42:10) its (46:3)	January (5:20) jar (20:18) judicial (46:4) jumping (7:14) (31:21) junction (45:25) (46:23) jurisdiction (46:18) just (3:23) (7:18) (9:25) (11:5) (13:19) (16:6) (23:25) (24:5) (24:9) (24:18) (25:12) (27:8) (35:21) (37:15) (38:3) (38:12) (41:12) (41:13) (42:5) (44:11) (47:2) justice (1:4) (1:13)
K keller (1:9) (3:4) (3:6) (4:7) (8:25) (19:14) (37:3) (45:24) keller's (22:18) kept (6:19) killer (1:19) (3:17) (3:22) (4:2) (4:10) (4:24) (5:7) (5:15) (9:7) (11:2) (11:6) (14:14) (15:22) (15:24) (16:5) (16:14) (16:17) (16:23) (17:4) (17:18) (17:21) (19:1) (19:3) (19:23) (20:24) (21:14) (22:2) (22:13) (22:20) (23:15) (24:7) (27:8) (35:1) (37:10) (38:1) (39:23) (41:7) (41:11) (43:10) (43:22) (44:5) (45:2) (45:5) (45:15) (45:22) (47:19) kind (36:16) know (39:6) (40:3) (40:9) knowledge (13:20) (42:6)	L lamp (5:23) (23:20) (24:10) (24:12) (24:16) (25:9) (26:25) (27:20) (28:3) (28:22) (29:6) (29:25) (30:9) (43:2) (44:21) lamp (6:22) (43:8) lane (6:13) (6:14) (6:19) (7:2) (7:3) (28:22) (29:6) (29:7) (39:5) (43:7) (44:21) lance (6:16) lance (10:15) (13:10) (20:18) larger (11:24) (18:11) las (1:4) (1:21) (3:1) (5:18) (5:25) (50:12) last (4:20) (46:18) leading (9:14) (25:11) (39:15) (44:25) leaky (12:22) (20:19) (36:16) (37:22) (40:7) (40:10) (41:24) leave (7:19) leaving (34:14) led (29:20) left (6:11) (6:15) (25:11) (26:24) (26:25) (27:21) (29:23) (29:24) less (30:25) (33:9) (42:23) (42:24) level (46:13) (46:16) license (10:13) light (32:5) (43:16) (44:19) lights (7:17) (7:18) (28:12) (31:7) (31:13) (31:22) (31:24) (32:12) (32:16) (42:14) like (10:17) (15:9) (15:10) (21:7) (26:10) (27:21) (33:16) likes (26:18) listed (23:22) (47:7) little (14:8) (15:1) (32:11) locate (12:18) (13:5) (15:3) (15:7) (16:20) (17:25) (18:10) (18:13) (18:20) (19:10) (20:18) (21:5) located (5:25) (13:10) (16:8) (20:1) (20:4) (20:11) (20:14) (21:20) (22:18) (27:3) location (24:16) long (9:5) (27:11) (40:25) (42:20) look (10:25) looked (14:1) looking (14:5) (47:9) looks (26:18) loose (35:9) (35:10) (35:21) (2:4) (3:22) (3:24) (4:13) (4:21) (5:16) (21:5)

Lopez

l-o-p-a-z

person

(23:11) (27:11) (38:6) l-o-p-a-z (4:22) losses (46:18) lost (31:3) (38:2) (38:3) lot (9:4) (13:7) (15:8) low (47:17) lower (46:13) (46:15)	(40:12) nrs (49:6) number (15:16) (40:16) (40:18) (49:7) numerous (9:23) (35:2)
M	O
ma'am (3:16) machine (50:4) made (6:20) (7:7) (7:11) (26:24) (26:25) (29:24) (37:23) (43:2) major (23:19) make (8:8) (27:8) (27:21) (29:3) (29:23) (44:11) maker (24:20) making (6:11) (25:11) (32:6) (32:10) map (23:19) (23:22) (23:25) (24:23) (25:25) (26:9) (26:23) marginal (45:25) marijuana (20:23) (21:2) (33:3) (33:15) (37:14) (37:16) (37:17) (37:18) (37:24) (38:9) (38:12) (38:18) (38:22) (38:23) (38:25) (39:18) (39:19) (40:2) (40:9) (41:25) (46:7) mark (22:24) (24:24) (25:12) (26:6) (27:5) marked (23:3) (26:9) (43:1) marker (24:23) marking (16:4) (24:23) matter (3:9) (3:23) (4:5) (4:7) (16:6) (47:10) may (11:2) (11:4) (15:22) (15:23) (19:1) (19:2) (22:23) (23:5) (23:6) (23:15) (34:19) (34:21) (35:21) (46:1) mentioned (39:4) met (46:3) methamphetamine (15:14) (15:19) (16:15) (17:7) (21:11) (21:17) (21:23) (21:25) metro (37:11) metropolitan (5:19) (27:12) michael (1:21) middle (28:22) might (9:12) (9:21) (29:9) (41:22) (47:10) miles (25:5) millimeter (20:1) (20:8) mind (35:7) minutes (42:23) misdemeanor (47:5) misstates (35:1) (39:23) money (12:4) (12:5) more (10:18) (30:25) (44:6) morning (3:12) (4:11) mostly (11:25) move (5:8) (24:6) much (10:20) multi-colored (17:12) must (33:15)	obey (7:23) obeying (8:1) objection (5:9) (8:5) (9:14) (24:7) (35:1) (38:1) (39:23) (45:2) objections (3:15) observation (28:11) observations (8:7) observe (14:2) (28:23) (38:8) (43:7) observed (8:9) (9:11) (10:1) (29:5) (33:2) obtain (14:11) (19:20) obtained (14:17) occur (42:17) occurred (10:6) (46:1) occurring (12:7) odor (8:20) (8:21) (33:3) (33:16) (33:19) (33:21) odors (8:13) odv (15:18) (16:15) (16:24) (17:4) (17:8) (17:22) (21:1) (21:12) (21:16) (21:22) (21:24) (22:7) (22:10) off (6:11) (10:22) (14:25) (25:10) (26:2) (33:5) (34:2) (34:7) (34:11) (35:12) office (43:23) (44:2) (44:3) (44:13) (44:16) (45:11) (45:12) officer (3:22) (3:24) (5:16) (13:13) (13:15) (13:17) (17:6) (19:5) (19:7) (21:5) (23:11) (23:18) (24:22) (27:11) (27:13) (35:25) (36:19) (37:1) (37:5) (38:6) (40:24) (45:6) officers (16:20) okay (9:15) (16:16) (23:24) (24:13) (26:7) (27:18) (28:14) (31:11) (31:16) (32:2) (37:20) once (7:10) (14:17) one (4:10) (6:15) (11:22) (15:15) (15:16) (17:5) (17:23) (18:16) (19:18) (20:8) (29:2) (36:3) (36:12) (44:6) only (3:25) (16:1) (16:4) (28:21) open (12:19) (14:4) (14:5) (14:23) opening (14:8) opposite (25:16) (30:3) order (39:24) original (50:4) other (11:23) (16:19) (20:16) (23:21) (39:4) (39:10) (40:10) our (43:23) out (7:14) (8:9) (10:10) (24:15) (26:2) (29:23) (31:19) (31:21) (32:18) (32:20) (32:21) (33:13) (41:21) (42:2) (44:17) (44:23) outfit (9:3) outside (4:9) (10:15) (32:24) (33:1) oval (17:12) over (7:1) (7:21) (24:3) (29:12) (30:16) (38:19) own (32:20) ownership (46:10)
N	P
name (4:20) named (22:18) narcotics (12:6) (13:18) (14:3) (39:14) (39:16) near (9:4) (34:4) need (46:12) negotiated (3:9) nevada (1:4) (1:6) (1:21) (3:1) (5:4) (6:1) (18:21) (19:10) (48:3) (49:5) (49:23) (50:12) never (31:3) newton (13:17) next (6:18) (11:22) (34:3) (34:4) nor (49:11) north (24:12) (24:16) (25:9) (27:20) (28:3) (28:22) (29:6) (30:9) (44:21) northbound (6:13) (25:11) not (3:9) (7:19) (27:25) (30:13) (31:9) (31:10) (34:14) (35:12) (37:3) (37:8) (38:3) (38:8) (38:11) (38:18) (38:20) (38:25) (39:2) (39:8) (39:25) (40:15) (41:1) (41:25) (43:17) (43:24) (44:15) (45:18) (46:1) (47:12) (49:6) (49:9) notes (50:4) nothing (4:16) noticed (6:10) (6:22) now (29:15) (30:2) (31:17) (33:7) (35:23) (36:6) (36:15)	package (15:15) (17:5) (17:23) (21:3) (21:17) (22:4) (22:6) page (19:6) pants (35:9) paperwork (44:17) parked (33:7) parking (7:12) (30:22) (32:15) (33:11) particular (35:15) (35:18) (36:1) (40:17) (45:25) (46:23) (47:1) party (49:10) party's (27:9) passed (26:5) (43:2) passenger (6:22) (14:23) (36:17) (43:7) passing (24:18) (25:16) (28:3) (28:16) (30:8) past (35:23) pat (9:13) (9:17) (9:24) (10:5) (10:7) (12:7) (34:21) (35:7) patrol (12:15) (27:16) (28:4) (43:1) pay (22:17) peace (1:13) pendency (45:10) period (25:7) (29:9) (42:17) (42:18) permission (10:11) (42:9) person (8:16) (8:18) (13:1) (33:22) (33:23) (34:11) (37:5)

personal

(37:25) (38:7) (46:11) (49:7) (49:11)
 personal (42:6)
 person's (37:23)
 photographs (37:11) (42:5) (42:7)
 pictures (36:20) (36:21) (36:24) (37:2) (37:4) (37:7) (37:8)
 piggyback (19:20) (19:25)
 pills (17:12)
 pint (42:15)
 pipes (20:13)
 place (50:5)
 placed (12:8) (12:10) (12:13) (12:14) (14:9) (39:13) (41:17)
 plain (12:19)
 plaintiff (1:7)
 plastic (13:6) (13:7) (13:10) (17:15) (21:6) (21:19)
 plate (6:21) (19:17) (29:4)
 please (4:19) (27:5) (45:9)
 pocket (10:9) (10:10) (10:21) (42:10)
 point (7:9) (9:1) (12:7) (13:12) (24:15) (25:15) (25:22)
 (28:8) (28:19) (29:15) (30:21) (31:6) (32:4) (32:14) (34:17)
 (36:6) (36:11) (36:19) (36:24) (37:19) (38:6) (38:8) (38:16)
 (38:24) (39:21) (40:3) (42:14) (42:16) (44:12) (45:18) (47:9)
 pointing (23:16)
 police (5:19) (27:12)
 pop (14:25)
 portion (32:11)
 positive (16:15) (17:5) (17:22) (21:1) (21:16) (21:25)
 (22:11) (37:8)
 possessed (39:11)
 possession (46:6) (46:8) (46:10)
 potentially (44:18)
 powdery (17:16)
 precaution (4:5)
 prejudgments (5:3)
 preliminary (1:7) (16:1) (16:4) (16:11) (45:19) (46:20)
 pre-marked (4:25)
 present (3:6) (37:18)
 pre-trail (47:8)
 pretty (33:16) (33:17) (33:19)
 previously (5:2) (10:2) (10:3) (14:15) (19:24)
 primary (35:25) (36:19) (37:1) (37:5)
 printout (23:19)
 prior (8:1) (47:15)
 probable (12:24) (13:4) (35:7) (39:22) (40:4)
 probably (8:3) (26:4) (47:17)
 procedure (16:23)
 proceeded (7:11)
 proceedings (1:12) (47:22) (50:2)
 process (16:9)
 prohibited (46:11)
 prolonged (29:9)
 property (19:4)
 proposed (22:24) (23:3) (23:12)
 prosecution (44:14)
 provide (37:12)
 provided (14:16) (19:24) (46:24)
 providing (17:24)
 proximity (34:13)
 pull (6:24) (26:2)
 pulled (7:12) (10:19) (24:3) (24:19) (29:15) (31:18) (32:3)
 (32:9) (32:15) (38:19)
 pulling (7:15) (30:12) (31:25)
 pulls (30:21) (32:7)
 purposes (16:1) (16:3) (16:11)
 pursuant (15:25) (16:25) (17:19) (20:25) (21:15) (22:3)
 (22:14) (49:6)
 put (40:13) (41:19) (44:21)

Q

question (38:14) (44:6)
 questions (22:21) (27:6) (41:4) (43:10) (43:18) (44:5)
 (45:4) (45:5)
 quick (7:12) (8:10) (8:11) (8:12) (47:2)
 quickly (6:24) (33:17)

R

ran (19:17)
 range (42:21)

same

rate (7:5) (25:20) (28:3) (29:3) (30:11) (30:19) (32:13)
 (34:24) (39:6) (43:5) (44:20)
 reading (3:14)
 real (47:2)
 really (8:11) (8:12) (39:25)
 rear (6:22)
 reason (28:21) (28:23) (34:18)
 reasonable (9:20)
 reasons (39:20) (46:2)
 recall (10:22) (11:11) (25:25) (35:12) (37:2)
 receive (3:11)
 recollection (10:24) (11:9) (18:23) (19:6) (19:8) (19:15)
 recommend (44:12) (44:15)
 record (4:10) (4:20) (9:1) (9:8) (13:19) (14:14) (16:14)
 (17:21) (19:23) (23:2) (23:25) (24:5) (24:9) (24:22) (37:10)
 records (6:20) (29:4) (37:12)
 recover (10:21) (17:15)
 recovered (11:12) (15:15) (18:18) (19:19)
 re-cross-examination (44:8)
 recross-examination (43:12)
 red (24:23)
 redirect (41:6) (41:9)
 referencing (14:15)
 reflect (9:8)
 reflected (50:3)
 refresh (10:24) (11:9) (18:23) (19:6) (19:7)
 regards (15:18)
 registered (19:13) (19:16) (19:18)
 registration (19:10)
 regulation (18:21)
 relative (49:9)
 relatively (34:13)
 remain (7:13)
 remove (42:10)
 removed (10:14) (14:7)
 removing (10:14)
 rephrase (9:16) (38:5)
 report (10:25) (19:4)
 reported (1:25) (50:2)
 reporter (49:5) (50:11)
 reporter's (1:12) (48:1)
 representative (45:11)
 represented (3:7)
 requesting (37:11)
 reserve (45:22)
 reserving (3:15)
 residue (12:22)
 responded (42:2)
 responsible (36:12) (36:13)
 rest (35:24) (45:21)
 rests (45:16)
 result (19:19) (22:10)
 results (16:7) (16:12)
 return (47:15)
 returning (16:17) (22:6)
 review (11:5)
 reviewed (19:16)
 right (7:12) (8:25) (10:9) (14:6) (16:10) (25:1) (25:6)
 (26:15) (26:18) (27:3) (27:4) (28:1) (30:15) (30:24) (30:25)
 (31:18) (32:6) (32:8) (32:10) (36:4) (37:13) (37:17)
 risk (41:22)
 road (6:24)
 roads (7:8)
 robert (1:9) (1:25) (3:4) (49:4) (49:14) (49:16) (50:1)
 (50:8) (50:10)
 rounds (18:14)
 ruger (20:1) (20:11)
 rule (4:4)
 run (38:16)

S

safer (12:15)
 safety (41:18)
 said (25:2) (34:17) (36:15) (38:6) (40:12) (40:19) (49:10)
 (49:11) (50:4)
 sale (12:6)
 same (16:23) (30:8) (30:10) (50:3)

sanft

sanft (1:21) (3:7) (3:10) (3:13) (3:16) (3:23) (4:5) (5:5) (5:9) (8:5) (9:14) (11:8) (16:2) (16:6) (17:2) (22:23) (23:2) (23:10) (24:5) (24:21) (27:6) (35:4) (38:5) (41:4) (43:14) (43:18) (44:6) (44:10) (45:4) (45:17) (45:23) (46:17) (47:2) (47:20)
 sanft's (45:11)
 sarah (1:19)
 saw (24:1) (24:11) (24:16) (25:4) (25:8) (25:10) (25:13) (26:2) (27:20) (28:9) (36:16) (41:24)
 say (6:14) (28:2) (28:15) (30:10) (31:2) (40:7)
 saying (33:21)
 scales (20:14)
 scene (36:4) (40:25) (42:3)
 sealable (13:6) (13:10) (15:4)
 search (12:25) (13:4) (14:11) (14:14) (14:17) (14:18) (19:4) (19:20) (19:25) (20:17) (22:16) (22:18) (40:5)
 searched (19:11)
 seat (13:8) (13:9)
 seated (4:19)
 second (16:19) (17:6) (17:14) (19:5) (21:23)
 seconds (42:25)
 secret (14:20)
 security (49:7)
 see (8:22) (18:23) (23:16) (26:3) (27:10) (30:2)
 seen (5:5)
 sell (46:9)
 semi-auto (20:1)
 sent (5:2)
 separate (21:24)
 service (19:25)
 services (47:8)
 serving (20:17)
 set (46:19) (46:21) (46:25) (47:3) (47:10) (47:13)
 she (42:5)
 sheet (15:18) (16:24) (17:8) (17:22) (18:24) (21:24) (22:7) (47:8)
 shirt (35:10)
 short (9:5) (9:6) (18:14) (20:3) (42:17) (42:18)
 shorthand (50:4)
 shots (12:12) (40:12) (40:20) (40:21) (41:13)
 show (13:19) (36:7)
 showing (11:6) (17:1) (17:18) (19:5) (20:24) (21:14) (22:2) (22:13) (23:2) (23:12) (26:3) (30:13)
 shown (19:3)
 side (7:14) (12:23) (14:6) (14:24) (34:5) (36:17) (36:18)
 signed (49:14) (50:8)
 silver (6:6)
 since (24:14) (36:25)
 sir (6:2)
 siren (7:17)
 sirens (31:7) (31:14) (31:22) (31:24) (32:5)
 sitting (8:25)
 skip (35:23)
 sleeve (9:5) (9:6)
 slight (37:22) (45:25)
 slow (29:22)
 small (14:8) (17:15)
 smaller (11:25) (13:7) (15:4) (17:12) (17:25) (18:10) (18:13)
 small (8:13) (8:16) (8:18) (9:11) (10:1) (18:5) (18:6) (18:8) (33:16) (34:6) (34:11) (37:14) (37:17) (37:22) (37:24) (38:23) (39:17) (40:2)
 smelled (33:3) (33:15) (38:21) (39:18)
 smelling (13:1)
 smoked (37:15) (38:9) (38:11) (38:12) (38:13) (38:18) (38:25) (39:1)
 smoking (20:13)
 sobriety (38:17)
 social (49:7)
 some (12:7) (17:7) (17:11) (23:23) (25:15) (25:22) (28:19) (29:15) (30:21) (36:6) (36:16) (37:19)
 someone (37:15)
 something (3:18) (26:10) (27:21)
 somewhere (8:10) (26:5) (27:4) (41:13)
 southbound (24:12) (29:25)
 space (7:12)
 speculation (8:5)

that

sped (6:23) (6:24) (7:10)
 speed (7:5) (25:20) (28:3) (29:3) (30:8) (30:10) (30:11) (30:19) (32:14) (34:24) (39:6) (43:5) (44:20)
 spell (4:20)
 spoken (45:18)
 spotted (25:8)
 squad (24:15)
 stall (30:22) (31:25) (32:9) (32:15) (33:11)
 standard (45:24)
 standing (34:3) (34:6)
 start (26:12)
 state (1:4) (1:6) (1:19) (3:22) (4:19) (4:23) (5:7) (12:3) (12:5) (22:20) (23:3) (35:4) (45:14) (45:16) (46:2) (48:3) (49:5) (49:23)
 state's (4:25) (5:8) (16:5) (16:8) (16:13) (16:17) (16:23) (17:19) (20:25) (21:15) (22:4) (22:13)
 step (4:9) (45:8)
 stewart (23:20)
 stewy (13:18) (13:23)
 still (32:22)
 stipulate (16:7) (16:12)
 stipulation (15:25) (16:25) (17:19) (21:1) (21:15) (22:3) (22:14)
 stop (5:23) (6:5) (7:16) (26:16) (29:2) (31:19) (32:18) (35:15) (35:18) (38:10) (42:16)
 stopped (8:24) (40:23) (41:19)
 straight (6:12)
 straight-away (32:8)
 stratus (6:6)
 street (28:6) (28:17)
 streetlight (28:8)
 streetlights (28:7)
 streets (23:22)
 strong (18:5) (33:19)
 stub (22:17)
 stuff (35:24)
 submit (45:23)
 substance (15:9) (15:11) (16:20) (17:16) (20:19) (20:21) (21:7) (21:9) (21:20) (36:17) (37:22) (40:8) (40:10) (41:24) (46:5) (46:6) (46:8)
 sunrise (6:11) (24:2) (25:11) (26:2) (28:24)
 sure (4:8) (23:17) (38:15) (44:11)
 suspicion (9:20)
 sustained (8:6) (45:3)
 sworn (4:15)

T

tail (6:22) (43:8) (43:15) (44:19)
 taillight (30:1)
 take (10:9) (36:20) (37:4)
 taken (1:14) (36:21) (36:25) (37:2) (37:7) (50:4)
 talking (6:15)
 tattoos (9:4)
 tell (4:15) (10:8) (10:18) (12:21) (29:1) (33:24) (35:6) (37:9) (38:11) (39:18) (41:1)
 terms (39:15)
 terry (9:13) (9:17) (12:7)
 test (16:7) (21:12) (38:17)
 testified (4:17) (40:8)
 testifying (45:19)
 testimony (24:9) (25:15) (25:19) (27:19) (28:19) (29:5) (29:11) (29:16) (30:2) (31:2) (31:17) (32:3) (32:21) (33:2) (35:2) (36:15) (37:21) (38:21) (39:16) (39:24) (40:1) (41:16) (45:7) (45:9)
 than (33:9) (39:10) (42:23) (42:24) (43:6)
 thank (4:24) (11:8) (45:6) (45:13) (47:19) (47:20)
 that (3:8) (3:10) (3:24) (3:25) (5:22) (5:25) (6:5) (6:6) (6:8) (6:22) (6:23) (7:2) (7:7) (7:9) (7:13) (8:3) (8:9) (8:11) (8:20) (8:23) (8:24) (9:12) (9:21) (9:22) (9:25) (10:8) (10:12) (10:13) (10:15) (10:18) (11:5) (11:9) (11:12) (11:17) (11:18) (12:3) (12:16) (12:18) (12:21) (13:12) (14:1) (14:9) (14:11) (14:17) (14:20) (14:22) (14:24) (15:1) (15:3) (15:7) (15:10) (15:15) (16:2) (16:7) (16:8) (17:8) (17:14) (17:21) (17:24) (18:3) (18:8) (18:13) (18:18) (19:7) (19:11) (19:13) (19:16) (19:17) (19:23) (20:10) (20:21) (20:25) (21:1) (21:4) (21:9) (21:12) (22:8) (22:10) (22:18) (23:14) (23:18) (23:19) (23:22) (24:9) (24:19) (24:24) (25:2) (25:7) (25:12) (25:15)

that's

walk

(25:19) (25:24) (26:6) (26:10) (27:5) (27:7) (27:19) (27:22)
 (27:24) (28:4) (28:6) (28:7) (28:15) (28:19) (28:21) (29:5)
 (29:8) (29:11) (29:12) (29:14) (29:16) (29:17) (29:18)
 (29:20) (30:2) (30:4) (30:8) (30:17) (31:3) (31:17) (32:3)
 (32:4) (32:8) (33:2) (33:16) (33:17) (33:21) (34:17) (34:19)
 (34:23) (35:2) (35:4) (35:11) (35:12) (35:14) (35:18) (35:20)
 (35:22) (36:6) (36:7) (36:11) (36:15) (36:21) (37:15) (37:17)
 (37:21) (37:23) (37:24) (38:9) (38:12) (38:14) (38:18)
 (38:21) (38:24) (38:25) (39:4) (39:11) (39:16) (39:17)
 (39:20) (40:1) (40:4) (40:7) (40:12) (40:13) (40:17) (40:19)
 (40:20) (40:23) (40:24) (40:25) (41:2) (41:17) (41:18)
 (41:25) (42:15) (42:16) (42:20) (44:1) (44:18) (44:21)
 (44:23) (46:2) (46:22) (46:24) (47:4) (47:10) (47:17) (49:6)
 (49:9) (50:2) (50:3)
that's (36:3)
the (1:4) (1:6) (1:13) (1:19) (1:21) (3:4) (3:8) (3:11)
 (3:14) (3:15) (3:18) (3:22) (3:24) (3:25) (4:3) (4:6) (4:8)
 (4:10) (4:15) (4:16) (4:19) (4:20) (4:21) (4:23) (5:7) (5:11)
 (5:18) (5:23) (6:10) (6:12) (6:14) (6:19) (6:21) (6:22) (6:23)
 (6:24) (7:2) (7:7) (7:10) (7:13) (7:14) (7:15) (7:16) (7:20)
 (8:6) (8:7) (8:10) (8:14) (8:17) (8:19) (8:21) (8:22) (8:23)
 (9:1) (9:7) (9:8) (9:10) (9:11) (9:15) (9:22) (10:1) (10:2)
 (10:5) (10:7) (10:14) (10:15) (10:17) (10:19) (10:22) (11:4)
 (11:7) (11:11) (11:12) (11:14) (11:17) (11:18) (11:19)
 (11:21) (11:22) (11:23) (11:24) (11:25) (12:1) (12:3) (12:5)
 (12:6) (12:7) (12:8) (12:11) (12:12) (12:14) (12:19) (12:22)
 (12:23) (12:25) (13:1) (13:4) (13:8) (13:9) (13:15) (13:16)
 (13:18) (13:19) (13:23) (13:24) (13:25) (14:4) (14:5) (14:6)
 (14:14) (14:18) (14:23) (14:24) (15:8) (15:19) (15:23) (16:3)
 (16:7) (16:10) (16:11) (16:12) (16:14) (16:16) (16:17)
 (16:19) (16:23) (16:24) (17:3) (17:6) (17:20) (17:21) (17:24)
 (18:4) (18:7) (18:10) (18:11) (18:14) (18:16) (18:20) (18:21)
 (19:2) (19:4) (19:5) (19:16) (19:18) (19:19) (19:21) (19:23)
 (19:25) (20:6) (20:10) (20:11) (20:14) (20:16) (20:17)
 (20:18) (21:4) (21:5) (21:18) (21:19) (21:23) (22:5) (22:6)
 (22:7) (22:15) (22:16) (22:20) (22:22) (23:1) (23:2) (23:3)
 (23:6) (23:17) (23:19) (23:21) (23:22) (23:25) (24:1) (24:2)
 (24:5) (24:8) (24:9) (24:18) (24:20) (24:22) (25:12) (25:16)
 (26:9) (26:12) (26:16) (26:21) (26:22) (26:24) (27:1) (27:2)
 (27:10) (27:12) (27:15) (28:8) (28:16) (28:21) (28:22)
 (28:23) (29:6) (29:7) (29:15) (29:23) (29:24) (30:1) (30:2)
 (30:3) (30:8) (30:10) (30:12) (30:16) (31:13) (31:19) (31:20)
 (31:21) (31:25) (32:4) (32:7) (32:10) (32:14) (32:16) (32:18)
 (32:22) (33:3) (33:19) (33:24) (34:1) (34:4) (34:7) (34:10)
 (34:12) (34:14) (34:19) (34:23) (35:4) (35:7) (35:12) (35:23)
 (35:24) (35:25) (36:1) (36:3) (36:4) (36:10) (36:12) (36:17)
 (36:18) (36:19) (36:25) (37:4) (37:5) (37:7) (37:8) (37:10)
 (37:11) (37:13) (37:14) (37:22) (37:24) (38:3) (38:10)
 (38:13) (38:23) (38:25) (39:4) (39:5) (39:8) (39:9) (39:10)
 (39:14) (39:15) (39:17) (39:18) (39:19) (39:20) (39:22)
 (39:23) (39:24) (39:25) (40:2) (40:3) (40:4) (40:5) (40:7)
 (40:8) (40:20) (40:21) (40:23) (40:24) (40:25) (41:1) (41:6)
 (41:12) (41:14) (41:17) (41:19) (41:21) (41:24) (41:25)
 (42:2) (42:6) (42:9) (42:10) (42:12) (42:13) (42:15) (42:16)
 (43:2) (43:5) (43:6) (43:8) (43:15) (43:23) (44:1) (44:2)
 (44:13) (44:15) (44:20) (44:23) (44:25) (45:3) (45:6) (45:10)
 (45:11) (45:16) (45:17) (45:19) (45:24) (46:2) (46:4) (46:9)
 (46:13) (46:15) (46:18) (46:22) (46:24) (46:25) (47:3) (47:7)
 (47:12) (47:14) (47:15) (49:5) (49:7) (50:2) (50:3)
them (23:23) (30:5) (30:7) (34:12) (37:12)
then (17:14) (21:15) (25:2) (26:8) (26:12) (30:21) (32:8)
 (32:15) (33:13) (34:17) (39:21)
there (4:6) (7:11) (10:18) (12:11) (12:12) (12:21) (14:8)
 (14:9) (14:25) (15:2) (17:6) (17:11) (18:5) (18:6) (19:15)
 (19:18) (20:3) (22:19) (28:8) (29:24) (29:25) (32:8) (33:15)
 (34:4) (34:6) (35:2) (35:20) (37:7) (37:14) (37:18) (37:24)
 (38:12) (40:16) (44:18) (46:23) (47:16)
these (39:3) (39:11) (44:12)
they (13:15) (36:10) (46:19)
think (46:21) (47:17)
thinking (47:9)
third (17:25) (21:19) (22:6)
this (3:8) (3:12) (4:1) (4:11) (5:7) (6:3) (19:4) (22:24)
 (23:25) (24:23) (25:3) (25:4) (25:25) (26:9) (26:23) (27:3)
 (28:6) (31:6) (36:1) (36:14) (36:20) (37:1) (37:6) (37:23)
 (40:2) (45:18) (45:21) (46:17) (46:23) (47:1) (47:9) (47:10)
 (49:8)

those (5:6) (6:15) (7:23) (8:1) (8:16) (18:16) (35:4) (42:6)
 (46:2)
though (29:24) (34:12)
thought (29:17) (36:16) (44:18)
through (5:1) (16:9) (32:14) (39:5)
time (5:7) (6:5) (7:13) (14:11) (25:7) (29:9) (40:23)
 (40:24) (41:1) (42:17) (42:18) (45:21) (46:14) (46:18) (50:5)
to-- (8:4)
toady (31:3)
today (8:23) (37:21) (40:1) (40:8) (45:7) (47:18)
too (47:17)
took (42:5)
top (10:22) (35:12)
total (10:20) (11:11) (17:8) (46:25) (47:1) (47:4)
totaling (21:2)
towards (28:20)
township (1:4)
traffic (7:16) (29:25) (30:3) (30:4) (38:10) (39:4) (39:8)
 (44:13)
trafficking (46:5)
training (11:16) (12:2) (15:11) (15:13) (20:22) (21:10)
transcript (1:12)
travel (7:3) (24:2) (32:13)
traveled (7:1)
traveling (6:19) (24:10) (24:12) (25:2) (25:3) (25:9)
 (25:16) (25:19) (28:2) (28:15) (28:22) (29:3) (29:6) (29:11)
 (39:5) (43:6) (44:19)
travelling (44:20)
tried (31:19)
true (50:3)
truth (4:15) (4:16)
trying (8:4) (8:9) (8:10) (8:11) (29:17) (38:3)
tuesday (1:14) (3:1)
turn (6:11) (6:14) (7:2) (7:7) (7:12) (25:11) (26:24)
 (26:25) (27:21) (29:7) (29:23) (29:24) (31:12) (32:6) (32:8)
 (32:10) (43:7)
turned (25:22) (32:5) (32:16) (42:15)
turning (42:13)
type (38:16) (44:22)

U

ultimately (36:12) (36:13)
under (39:13)
underneath (13:8)
understand (47:4) (47:7)
understanding (3:8)
unless (45:10)
upon (12:2) (26:23) (28:11) (34:19) (34:23) (35:20) (39:20)
 (46:24) (47:3) (47:13)
use (24:20)
used (40:4)
u-turn (6:20) (29:4) (43:3)

V

vague (38:1)
variety (11:25)
various (15:19)
vegas (1:4) (1:21) (3:1) (5:18) (5:25) (50:12)
vehicle (5:22) (6:5) (6:9) (6:10) (6:12) (6:19) (7:9) (7:13)
 (7:15) (7:22) (8:19) (12:11) (12:15) (12:23) (13:2) (13:18)
 (13:23) (14:18) (18:21) (19:5) (19:11) (19:20) (28:12)
 (30:17) (31:4) (31:20) (31:21) (32:19) (32:20) (32:22)
 (32:23) (32:24) (33:2) (33:7) (33:8) (33:13) (33:24) (34:1)
 (34:8) (34:12) (35:17) (37:5) (37:7) (37:23) (38:13) (39:1)
 (39:12) (39:22) (40:5) (41:18) (41:21) (41:25)
vehicle's (28:12)
verbal (7:21) (7:23) (8:1)
versus (34:11)
very (18:6) (35:9) (35:10) (42:18)
vicinity (26:9) (34:14)
view (12:19)
violations (39:4) (39:9)

W

wad (10:15) (11:24)
waive (3:13) (45:22)
walk (7:21)

wallet

wallet (10:8) (10:10) (10:13) (10:14) (10:16) (10:17)
 (10:19) (10:21) (11:19) (42:10)
 want (24:20) (26:19)
 warrant (14:12) (14:15) (14:17) (14:18) (19:4) (19:20)
 (20:1) (20:17)
 was (3:20) (4:16) (6:3) (6:6) (6:10) (6:23) (7:14) (7:15)
 (8:3) (8:9) (8:10) (8:11) (8:20) (9:15) (9:19) (9:22) (9:25)
 (10:7) (10:8) (10:12) (10:13) (10:14) (10:18) (11:12) (11:25)
 (12:4) (12:5) (12:8) (13:19) (14:8) (14:17) (15:1) (15:10)
 (15:15) (15:18) (17:4) (17:7) (17:8) (17:11) (18:3) (18:4)
 (18:5) (18:6) (18:8) (18:9) (18:16) (18:18) (19:13) (19:15)
 (19:18) (20:1) (20:3) (20:6) (20:21) (20:23) (21:9) (21:11)
 (21:12) (21:19) (21:22) (21:23) (22:7) (22:17) (22:19) (24:9)
 (24:12) (24:18) (25:7) (25:8) (25:10) (25:15) (25:19) (26:3)
 (26:4) (27:4) (27:19) (28:12) (28:19) (29:2) (29:11) (29:16)
 (29:17) (29:20) (29:23) (29:24) (30:1) (30:8) (30:10) (30:11)
 (30:25) (31:21) (31:25) (32:6) (32:10) (32:21) (32:24) (33:2)
 (33:8) (33:9) (33:21) (33:23) (33:24) (34:3) (34:4) (34:5)
 (34:8) (34:11) (34:23) (35:4) (35:21) (36:15) (36:16) (37:5)
 (37:14) (37:18) (37:24) (38:7) (38:12) (38:21) (38:25) (39:1)
 (39:7) (39:19) (40:9) (40:16) (40:18) (40:25) (41:16) (41:25)
 (42:1) (42:2) (42:12) (42:16) (44:23) (44:24)
 wasn't (31:1)
 watch (15:4)
 watching (24:14)
 way (11:17) (11:22) (11:23) (29:2) (29:17)
 weapon (34:20) (35:21) (35:22)
 weapons (9:23) (34:22) (35:8)
 wearing (9:3) (9:22) (35:14)
 weight (15:20) (17:8)
 well (8:19) (10:19) (12:15) (21:1) (30:1) (31:17) (32:25)
 (33:24) (37:25) (38:15) (47:10)
 went (6:12) (30:7)
 were (5:20) (11:17) (11:18) (12:12) (16:12) (20:13) (20:16)
 (24:10) (24:15) (25:2) (25:3) (25:16) (26:8) (27:19) (31:24)
 (32:22) (33:1) (35:2) (35:14) (35:25) (37:2) (37:7) (37:21)
 (40:12) (40:20) (40:22) (41:13) (43:1) (44:18) (46:19)
 westbound (26:25)
 what (6:8) (6:18) (7:8) (8:2) (8:7) (8:20) (9:19) (9:20)
 (9:25) (10:5) (11:11) (12:3) (13:4) (15:7) (15:10) (16:12)
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of Document Name, was made this _____ day
of June, 2016, by Electronic Filing to:

Clerk Name
Email: Email

Secretary for the District Attorney's Office

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of Document Name, was made this _____ day
of June, 2016, by Electronic Filing to:

Clerk Name

Email: Email

Secretary for the District Attorney's Office


CLERK OF THE COURT

1 **NOTC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL DICKERSON
6 Deputy District Attorney
7 Nevada Bar #13476
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-16-312717-1

12 CHRISTOPHER ROBERT KELLER,
13 #1804258

DEPT NO: XIX

14 Defendant.

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

17 TO: CHRISTOPHER ROBERT KELLER, Defendant; and

18 TO: KENNETH FRIZZELL III, ESQ., Counsel of Record:

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that pursuant to NRS
20 207.010, the STATE OF NEVADA will seek punishment of Defendant CHRISTOPHER
21 ROBERT KELLER, as a habitual criminal in the event of a felony conviction in the above-
22 entitled action.

23 That in the event of a felony conviction in the above-entitled action, the STATE OF
24 NEVADA will ask the court to sentence Defendant CHRISTOPHER ROBERT KELLER as
25 a habitual criminal based upon the following felony convictions, to-wit:

26 1. That on or about 2003, the Defendant was convicted in the State of
27 Nevada, for the crime of Possession of Credit Card without Cardholder's Consent (felony) in
28 C189805B.

1 2. That on or about 2003, the Defendant was convicted in the State of
2 Nevada, for the crime of Burglary (felony) in C192923.

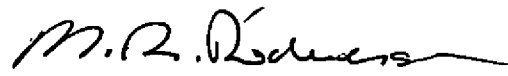
3 3. That on or about 2009, the Defendant was convicted in the State of
4 Nevada, for the crime of Possession of Firearm by Ex-Felon (felony) in C252394.

5 4. That on or about 2013, the Defendant was convicted in the State of
6 Nevada, for the crime of Attempt Possession of Firearm by Ex-Felon (felony) in C279904.

7 5. That on or about 2013, the Defendant was convicted in the State of
8 Nevada, for the crime of Conspiracy to Violate Uniform Controlled Substance Act (felony) in
9 C287724.

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

13 BY


14 MICHAEL DICKERSON
15 Deputy District Attorney
16 Nevada Bar #13476

17 **CERTIFICATE OF ELECTRONIC FILING**

18 I hereby certify that service of NOTICE OF INTENT TO SEEK PUNISHMENT AS
19 A HABITUAL CRIMINAL, was made this 18th day of July, 2016, by Electronic Filing to:

20 KENNETH FRIZZELL III, ESQ.
21 EMAIL: frizzelllaw@yahoo.com


22 Secretary for the District Attorney's Office

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28 16F01430X/mlb/L-2

DISTRICT COURT
CLARK COUNTY, NEVADA


CLERK OF THE COURT

* * *

THE STATE OF NEVADA,
Plaintiff,

vs.

CHRISTOPHER R. KELLER,
#1754046

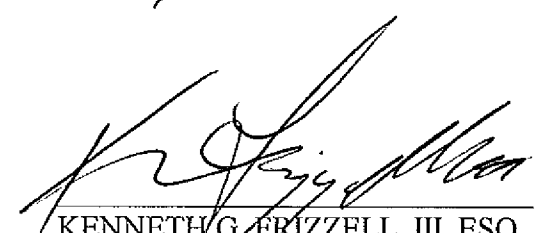
Defendant.

Case No. : C-16-312717-1
Dept. No. : XIX

MOTION TO WITHDRAW AS COUNSEL

COMES NOW, KENNETH G. FRIZZELL, III, ESQ., attorney of record for CHRISTOPHER R. KELLER, and hereby files the instant motion to withdraw as attorney of record. This motion is made and based upon the attached Points and Authorities, the affidavit of KENNETH G. FRIZZELL, III, ESQ., the papers and pleadings on file herein, together with the arguments of counsel to be heard at the time of the hearing on this matter.

DATED this 4 day of August, 2016.


KENNETH G. FRIZZELL, III, ESQ.
Nevada State Bar No.006303
619 South 6th Street
Las Vegas, Nevada 89101
Attorney for Defendant

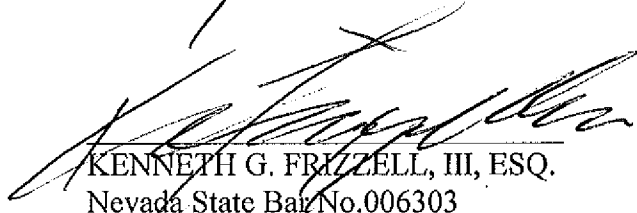
1 NOTICE OF MOTION

2 TO: STEVEN B. WOLFSON, Clark County District Attorney; and

3 TO: CHRISTOPHER R. KELLER, Defendant

4 YOU AND EACH OF YOU will please take notice that a **MOTION TO WITHDRAW**
5
6 **AS COUNSEL** will come on for hearing before the above-entitled Court on the 22 day of
7 Aug., 2016, at the hour of 8:30 a.m. in Department XIX.

8 DATED this 4 day of August, 2016

9
10
11 
12 KENNETH G. FRIZZELL, III, ESQ.
13 Nevada State Bar No. 006303
14 619 South Sixth Street
15 Las Vegas, Nevada 89101
16 Attorney for Defendant

17 POINTS AND AUTHORITIES

18 SCR 46 Withdrawal of change of attorney:

19 The attorney in an action or special proceeding may be changed at any time before
20 judgment or final determination as follows:

- 21 1. Upon consent of the attorney, approved by the client.
22 2. Upon the order of the court or judge thereof on the application of the attorney or
23 client.

24 After judgment or final determination, an attorney may withdraw as attorney of record
25 at any time upon the attorney's filing a withdrawal, with or without the client's consent.


26 Counsel was originally appointed by the Court on May 4th, 2015 .

1 Certain difficulties in communicating with Defendant have arisen, Defendant has
2 communicated to counsel that he no longer wants to see this investigator and, going forward,
3 refuses to assist counsel in preparing defendant defense. It has become impossible for counsel
4 to continue representing Defendant.

5 The next Court Date set is for the 17th day of August, 2016 at 8:30 am for Pre-trial, and
6 Counsel maintains that this motion to withdraw at this time would not be detrimental to
7 Defendant's right to retain, or be appointed, substitute counsel to maintain his defenses without
8 his case being prejudiced.

9
10 WHEREFORE, counsel respectfully requests that this Court grant this motion to
11 withdraw as counsel in this action.

12
13 DATED this 4 day of August, 2016
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17 
KENNETH G. FRIZZELL, III, ESQ.
Nevada State Bar No.006303
619 South 6th Street
Las Vegas, Nevada 89101
Attorney for Defendant
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AFFIDAVIT OF KENNETH G. FRIZZELL, III, ESQ.

STATE OF NEVADA)
)SS:
COUNTY OF CLARK)

KENNETH G. FRIZZELL, III, ESQ., being first duly sworn, deposes and says:

That I am an attorney in good standing in the State of Nevada and the attorney of record for the Defendant herein, possess personal knowledge of the facts herein, and would be competent to testify if called upon to do so.

That Defendant, CHRISTOPHER R. KELLER, had certain difficulties in communicating with attorney and that as a result, the attorney-client relationship has deteriorated such that attorney does not feel that he can continue in good faith to adequately and objectively represent Defendant in this matter any further.

That this motion has been filed in good faith and not for purposes of delay or harassment.

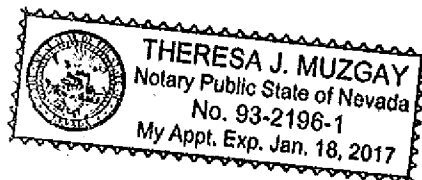
DATED this 4 day of August, 2016

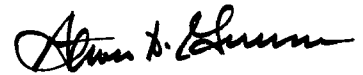

KENNETH G. FRIZZELL, III, ESQ

SUBSCRIBED AND SWORN to before me

this 4 day of August, 2016.


NOTARY PUBLIC, in and for said
County and State





CLERK OF THE COURT

1

2 COM

3 LAW OFFICES OF KENNETH G. FRIZZELL III

4 Kenneth G. Frizzell III, Esq.

5 509 South Sixth Street

6 Las Vegas, NV 89101

(702) 366-1230

(702) 384-9961 (fax)

E-mail: frizzelllaw@yahoo.com

Attorney for Defendant

7

DISTRICT COURT

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CLARK COUNTY, NEVADA

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10 STATE OF NEVADA,

)

Case No. C-16-312717-1

11

Plaintiff,

)

Dept. No. XIX

12

vs.

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CHRISTOPHER, KELLER

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#1754046

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Defendant.

)

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CERTIFICATE OF MAILING

18

I hereby certify that on the — day of August 11, 2016, I placed a true and

19

accurate copy of the Motion to Withdraw as Counsel of Record in the U.S. Mail, first class

20

postage fully prepaid thereon, addressed to the following as follows:

21

Christopher Keller

22

ID No: 0180425

23

Clark County Detention Center

24

330 South Casino Center Blvd.

25

Las Vegas, NV 89101

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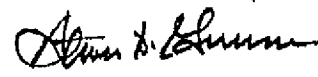


ANNA SALINAS, an employee of
Kenneth G. Frizzell III, Esq.

27

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DISTRICT COURT
CLARK COUNTY, NEVADA


CLERK OF THE COURT

THE STATE OF NEVADA,
Plaintiff,

vs.

CHRISTOPHER R. KELLER,
#1754046

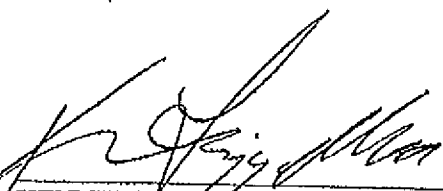
Defendant.

Case No. : C-16-312717-1
Dept. No. : XIX

MOTION TO WITHDRAW AS COUNSEL

COMES NOW, KENNETH G. FRIZZELL, III, ESQ., attorney of record for CHRISTOPHER R. KELLER, and hereby files the instant motion to withdraw as attorney of record. This motion is made and based upon the attached Points and Authorities, the affidavit of KENNETH G. FRIZZELL, III, ESQ., the papers and pleadings on file herein, together with the arguments of counsel to be heard at the time of the hearing on this matter.

DATED this 4 day of August, 2016.


KENNETH G. FRIZZELL, III, ESQ.
Nevada State Bar No. 006303
619 South 6th Street
Las Vegas, Nevada 89101
Attorney for Defendant

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TO: CHRISTOPHER R. KELLER, Defendant

DATED this 4 day of August, 2016

POINTS AND AUTHORITIES

The attorney in an action or special proceeding may be changed at any time before judgment or final determination as follows:

- After judgment or final determination, an attorney may withdraw as attorney of record at any time upon the attorney's filing a withdrawal, with or without the client's consent.


Counsel was originally appointed by the Court on May 4th, 2015.

1 Certain difficulties in communicating with Defendant have arisen, Defendant has
2 communicated to counsel that he no longer wants to see this investigator and, going forward,
3 refuses to assist counsel in preparing defendant defense. It has become impossible for counsel
4 to continue representing Defendant.

5 The next Court Date set is for the 17th day of August, 2016 at 8:30 am for Pre-trial, and
6 Counsel maintains that this motion to withdraw at this time would not be detrimental to
7 Defendant's right to retain, or be appointed, substitute counsel to maintain his defenses without
8 his case being prejudiced.

9
10 WHEREFORE, counsel respectfully requests that this Court grant this motion to
11 withdraw as counsel in this action.

12
13 DATED this 4 day of August, 2016

14
15
16
17 
18 KENNETH G. PRIZZELL, III, ESQ.
19 Nevada State Bar No. 006303
20 619 South 6th Street
21 Las Vegas, Nevada 89101
22 Attorney for Defendant
23
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25
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1
2 AFFIDAVIT OF KENNETH G. FRIZZELL, III, ESQ.
3

4 STATE OF NEVADA }
5 COUNTY OF CLARK } SS:
6

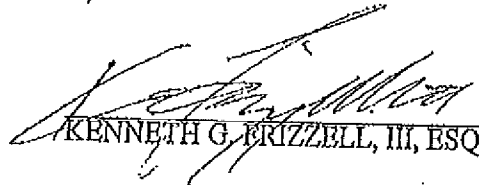
7 KENNETH G. FRIZZELL, III, ESQ., being first duly sworn, deposes and says:

8 That I am an attorney in good standing in the State of Nevada and the attorney of record
9 for the Defendant herein, possess personal knowledge of the facts herein, and would be
10 competent to testify if called upon to do so.

11 That Defendant, CHRISTOPHER R. KELLER, had certain difficulties in communicating
12 with attorney and that as a result, the attorney-client relationship has deteriorated such that
13 attorney does not feel that he can continue in good faith to adequately and objectively represent
14 Defendant in this matter any further.

15 That this motion has been filed in good faith and not for purposes of delay or harassment.

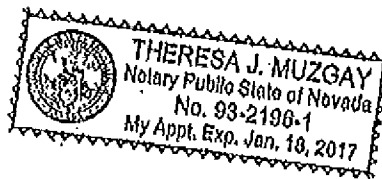
16 DATED this 4 day of August, 2016
17

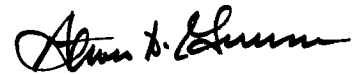
18 
19 KENNETH G. FRIZZELL, III, ESQ.
20

21 SUBSCRIBED AND SWORN to before me

22 this 4 day of August, 2016.

23 
24 NOTARY PUBLIC, in and for said
25 County and State
26
27
28





CLERK OF THE COURT

1 **ORDR**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL DICKERSON
6 Deputy District Attorney
7 Nevada Bar #13476
8 200 Lewis Avenue
9 Las Vegas, NV 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 CHRISTOPHER ROBERT KELLER,
14 #1804258

15 Defendant.

CASE NO: C-16-312717-1

DEPT NO: XIX

16 **ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS**
17 **AND DEFENDANTS PRO PER MOTION TO DISMISS COUNSEL**
18 **AND APPOINT ALTERNATIVE COUNSEL**

19 DATE OF HEARING: July 21, 2016
20 TIME OF HEARING: 10:00 A.M.

21 THIS MATTER having come on for hearing before the above entitled Court on the
22 21st day of July, 2016, the Defendant being present, REPRESENTED BY KENNETH
23 FRIZZELL, III, ESQ., the Plaintiff being represented by STEVEN B. WOLFSON, District
24 Attorney, through MICHAEL DICKERSON, Deputy District Attorney, and the Court having
25 heard the arguments of counsel and good cause appearing therefor,

26 ///

27 ///

28 ///

1 IT IS HEREBY ORDERED that the Defendant's, shall be, and it is DENIED.

2 DATED this 16th day of August, 2016.

3
4 Walt K. [Signature]
DISTRICT JUDGE

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

7
8 BY M. R. Dickerson
9 MICHAEL DICKERSON
10 Deputy District Attorney
11 Nevada Bar #13476
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CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHAEL R. DICKERSON
Deputy District Attorney
Nevada Bar #13476
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER,
#1804258

Defendant.

CASE NO: C-16-312717-1

DEPT NO: XIX

NOTICE OF EXPERT WITNESSES
[NRS 174.234(2)]

TO: CHRISTOPHER ROBERT KELLER, Defendant; and

TO: KENNETH FRIZZELL JR., ESQ., Counsel of Record:

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

BELMONT, MICHAEL P#8240 - He is an expert with the Las Vegas Metropolitan
Police Department in the field of in-the-field controlled substance recognition and testing, and
specifically ODV and NIK brand field tests. He is to testify to controlled substance
recognitive and presumptive field testing of substances.

COLLINGWOOD, ELIZABETH P#9494 - She is an expert with the Las Vegas
Metropolitan Police Department in the field of in-the-field controlled substance recognition
and testing, and specifically ODV and NIK brand field tests. She is to testify to controlled
substance recognitive and presumptive field testing of substances.

1
2 **HOUGH, STEVEN P#7814** - He is an expert with the Las Vegas Metropolitan Police
3 Department in the field of in-the-field controlled substance recognition and testing, and
4 specifically ODV and NIK brand field tests. He is to testify to controlled substance
5 recognitive and presumptive field testing of substances.

6 **LOPEZ, DANIEL P#9806** - He is an expert with the Las Vegas Metropolitan Police
7 Department in the field of in-the-field controlled substance recognition and testing, and
8 specifically ODV and NIK brand field tests. He is to testify to controlled substance
9 recognitive and presumptive field testing of substances.

10 **RUBINO, ALLISON P#14784** – Forensic Scientist with the Las Vegas Metropolitan
11 Police Department. She will testify as an expert in the science and technology underlying
12 DNA testing, the processes and procedures performed in DNA testing, the examinations done
13 on any and all evidence in this case, the results of such testing, and reports prepared in this
14 regard.

15 **TAPIA, DANNY P#10044** - He is an expert with the Las Vegas Metropolitan Police
16 Department in the field of in-the-field controlled substance recognition and testing, and
17 specifically ODV and NIK brand field tests. He is to testify to controlled substance
18 recognitive and presumptive field testing of substances.

19 **THI, STEPHANIE P#14373** – Crime Scene Analyst with the Las Vegas Metropolitan
20 Police Department. She is an expert in the area of the identification, documentation, collection
21 and preservation of evidence and will give opinions related thereto. She is expected to testify
22 regarding the identification, documentation, collection and preservation of evidence in this
23 case.

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


27 ///

28 ///

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

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

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

7 BY 
8 MICHAEL R. DICKERSON
9 Deputy District Attorney
10 Nevada Bar #13476

11 **CERTIFICATE OF ELECTRONIC FILING**

12 I hereby certify that service of NOTICE OF EXPERT WITNESSES, was
13 made this 22nd day of August, 2016, by Electronic Filing to:

14 KENNETH FRIZZELL III, ESQ.
15 EMAIL: frizzelllaw@yahoo.com

16 
17 Secretary for the District Attorney's Office

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

Date: 01/09/14

Name: Allison Rubino P#: 14784 Classification: Forensic Scientist I

Current Discipline of Assignment: Biology/DNA Detail

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances		Toxicology/Blood Alcohol	
Toolmarks		Toxicology/Breath Alcohol	
Trace Evidence		Toxicology/Drugs	
Arson Analysis		Firearms	
Latent Prints		Crime Scene Investigations	
Serology	x	Clandestine Laboratory Response Team	
Document Examination		DNA Analysis	x
Quality Assurance		Technical Support / DNA	
EDUCATION			
Institution	Dates Attended	Major	Degree Completed
University of Scranton	08/03-05/07	Biochemistry	B.S.
University of New Haven	08/07-05/09	Forensic Science (Criminalistics)	M.S.
ADDITIONAL TRAINING / SEMINARS			
Course / Seminar	Location	Dates	
More Ys in half the time. See Y: An Overview of the Global PPY23-YHRD Database Project	Webinar (Armed Forces DNA Identification Laboratory/AFDIL)	October 2013	
Introducing TrueAllele Casework at the New York State Police	Webinar (AFDIL)	October 2013	
Recovery of Human DNA Profiles from Poached Deer Remains/ Australian Centre for Ancient DNA	AFDIL	February 2013	
Lecture about Quant Duo	AFDIL	January 2013	
Y-STR History and Review	AFDIL	January 2013	
LCN Y-filer	AFDIL	December 2012	

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
Promega Fusion	Webinar (AFDIL)	December 2012
Globalfiler System	Webinar (AFDIL)	November 2012
Topics and Techniques for Forensic DNA Analysis	NYC OCME	April 2012
Cognitive Factors in Forensic Decision Making	NYC OCME	September 2011
Forensic Ethics Training	NYC OCME	August 2011
Principles of Genetics	Farmingdale State College	August – December 2011
Forensic Relationship Training	Marshall University at NYS Police Academy	July 2011
Advanced DNA Training	Marshall University	June 2011
TrueAllele Casework Technology by Cybergenetics	Suffolk County Crime Laboratory	April 2011
American Academy of Forensic Science Meeting	Chicago, Illinois	February 2011
Forensic Toxicology	University of Verona	November 2010
Advanced Analytical Techniques in Biomedical and Forensic Investigations	University of Verona	October 2010
19th Annual Markle Symposium Police Involved Shootings-Investigation of Critical Incidents and Issues	Ledyard, CT	September 2010
HID Future Trends in DNA Technology	HID University at NYC OCME	August 2010
Statistics 110	Farmingdale State College	July 2010
Forensic Scientist Criminal Trial Training	New York Prosecutor's Training Institute	March 2010
18th Annual Markle Symposium Investigating International Crimes	Ledyard, CT	April 2009
American Academy of Forensic Science meeting	Denver, CO	February 2009
17th Annual Markle Symposium Conspiracies: Investigating Complex Cases	Ledyard, CT	March 2008
COURTROOM EXPERIENCE		
<i>Court</i>	<i>Discipline</i>	<i>Number of Times</i>
None		

EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Job Title</i>	<i>Date</i>
Las Vegas Metropolitan Police Department	Forensic Scientist I (In-Training)	January 2013- Present
Armed Forces DNA Identification Laboratory (AFDIL)	Forensic Scientist I - Technician	June 2012 – December 2013
Lab Support, A Division of On Assignment/ Suffolk County Crime Laboratory	Research Associate/ Forensic Scientist I	April 2009 – June 2012
University of Verona/University of New Haven	Research Student	January – December 2010
University of New Haven	Graduate Assistant	August 2007 – May 2009
Suffolk County Crime Laboratory	Intern	August 2008
University of Verona	Intern	July 2008
PROFESSIONAL AFFILIATIONS		
<i>Organization</i>	<i>Date(s)</i>	
American Academy of Forensic Sciences	2009-Present	
PUBLICATIONS / PRESENTATIONS:		
American Academy of Forensic Sciences meeting in Chicago, Illinois February 2011; presented a poster in the Toxicology section		
OTHER QUALIFICATIONS:		
<i>Instrumental and Computer Skills:</i> Qiagen - EZ1 Robotics, Qiagility Applied Biosystems – 7500 RT-PCR and software, GeneAmp PCR System 9700, 3130 Genetic Analyzer and software, and GeneMapper ID software v3.2.1 Windows and Macintosh software - Microsoft Word, Excel and PowerPoint, Access TrueAllele Data Review System		

Curriculum Vitae

**Las Vegas Criminalistics Bureau
Statement of Qualifications**

Name: THI, Stephanie

P# 14373

Date: 04-01-13

CURRENT CLASSIFICATION		
	<i>Classification</i>	<i>Minimum Qualifications</i>
	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene Investigation.
X	Crime Scene Analyst II	18 months - 2 years continuous service with LVMPD as a Crime Scene Analyst I.
	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.
FORMAL EDUCATION		
<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
Boston University	Biomedical Forensic Science	Master of Science 09/2009
John Carroll University	Biology	Bachelor of Science 05/2006
TESTIMONY		
<i>Yes</i>	<i>No</i>	
X		District Court, Justice Court
EMPLOYMENT HISTORY		
<i>Employer</i>	<i>Title</i>	<i>Date</i>
LVMPD	CSA II	01-03-13 to Present
LVMPD	CSA I	01-03-11 to 01-03-13


CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHAEL R. DICKERSON
Deputy District Attorney
Nevada Bar #13476
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER,
#1804258

Defendant.

CASE NO: C-16-312717-1

DEPT NO: XIX

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

TO: CHRISTOPHER ROBERT KELLER, Defendant; and

TO: MICHAEL SANFT, Counsel of Record:

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

***Denotes Change**

NAME

ADDRESS

*ALTNETHER, J.

LVMPD P#14211

BARLOW, DAWN

CCDA INVESTIGATOR

BELMONT, M.

LVMPD P#8240

CELAYA, K.

LVMPD P#13524

*CHAVEZ, DOROTHY

259 N. Lamb Blvd., #F, LV, NV

COLLINGWOOD, E.

LVMPD P#9494

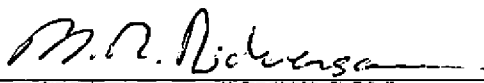
1	CUSTODIAN OF RECORDS	LVMPD, Communications, 400 S. Martin Luther
2	Or Designee	King Blvd, LV, NV
3	CUSTODIAN OF RECORDS	LVMPD, Records, 400 S. Martin Luther King
4	Or Designee	Blvd, LV, NV
5	CUSTODIAN OF RECORDS	Clark County Detention Center, 330 S. Casino
6	Or Designee	Center Blvd., LV, NV
7	*CUSTODIAN OF RECORDS	APT. OWNER, 265 N. Lamb Blvd Apts, LV, NV
8	Or Designee	
9	*CUSTODIAN OF RECORDS	NV DMV, 555 Wright Way, Carson City, NV
10	Or Designee	
11	*CUSTODIAN OF RECORDS	CLARK COUNTY ASSESSOR OFFICE, LV, NV
12	Or Designee	
13	*CUSTODIAN OF RECORDS	NV ENERGY
14	Or Designee	
15	DONELSON, G.	LVMPD P#6508
16	EDENS, J.	LVMPD P#9874
17	EMBRY, C.	LVMPD P#6223
18	*HAAS, F.	LVMPD P#7420
19	HARWELL, N.	LVMPD P#14766
20	HENRY, J.	LVMPD P#14753
21	HOUGH, S.	LVMPD P#7814
22	LOPEZ, D.	LVMPD P#9806
23	LOURENCO, M.	LVMPD P#5661
24	LUERCO, C.	LVMPD P#15405
25	*MANCAO, E.	LVMPD P#6844
26	*MAUGA, R.	LVMPD P#7210
27	*NEWTON, D.	LVMPD P#5278
28	NICOL, T.	LVMPD P#7774

1 *RAMIREZ, J LVMPD P#9791
2 REESE, S. LVMPD P#7322
3 *RUBINO, A. LVMPD P#14784
4 TAPIA, D. LVMPD P#10044
5 THI, S. LVMPD P#14373
6 TROTTER, V. LVMPD P#7972
7 TURNER, G. LVMPD P#13518
8 VANCE, J. LVMPD P#9004
9 WARNER, G. LVMPD P#6187

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

13 STEVEN B. WOLFSON
14 DISTRICT ATTORNEY
 Nevada Bar #001565

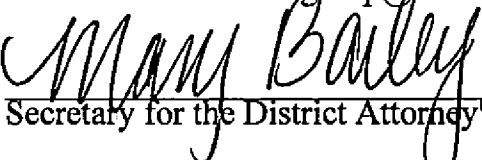
15 BY


16 MICHAEL R. DICKERSON
17 Deputy District Attorney
 Nevada Bar #13476

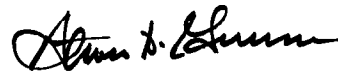
18 **CERTIFICATE OF ELECTRONIC FILING**

19 I hereby certify that service of Notice of Witnesses, was made this 24th day of March,
20 2016, by Electronic Filing to:

21 MICHAEL SANFT, ESQ.
 EMAIL: sanftlawgroup@mac.com

22 
23 Secretary for the District Attorney's Office
24
25
26
27

28 16F01430X/mlb/L-2



CLERK OF THE COURT

1 NWEW
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL R. DICKERSON
6 Deputy District Attorney
7 Nevada Bar #013476
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-16-312717-1

12 CHRISTOPHER ROBERT KELLER,
13 #1804258

DEPT NO: XIX

14 Defendant.

15 NOTICE TO INTRODUCE CERTIFIED RECORDS
16 [NRS 52.260(4)]

17 TO: CHRISTOPHER ROBERT KELLER, Defendant; and

18 TO: KENNETH FRIZZELL, III, ESQ., Counsel of Record;

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
20 NEVADA intends to introduce in its case in chief records made in course of regularly
21 conducted activity and supporting affidavits/declarations pursuant to NRS 52.260 and NRS
22 51.135 from the following custodians of records/employers:

- 23 • LAS VEGAS METROPOLITAN POLICE DEPARTMENT
- 24 • CLARK COUNTY DETENTION CENTER
- 25 • NV ENERGY
- 26 • CLARK COUNTY RECORDER

27 ///

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1 The substance of each record made in course of regularly conducted activity and
2 supporting affidavits/declarations have been provided in discovery.

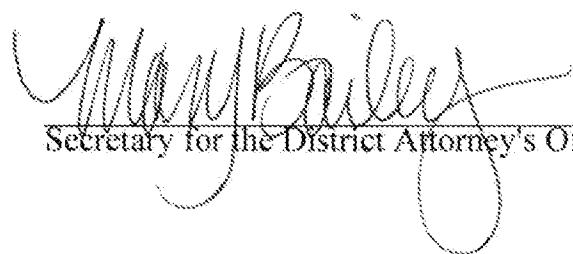
3 STEVEN B. WOLFSON
4 Clark County District Attorney
5 Nevada Bar #001565

6 BY 
7 MICHAEL R. DICKERSON
8 Deputy District Attorney
9 Nevada Bar #013476

10 **CERTIFICATE OF ELECTRONIC FILING**

11 I hereby certify that service of NOTICE TO INTRODUCE CERTIFIED
12 RECORDS, was made this 25th day of January, 2017, by Electronic Filing to:

13 KENNETH FRIZZELL III, ESQ.
14 EMAIL: frizzelllaw@yahoo.com

15 
16 Secretary for the District Attorney's Office
17
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CLERK OF THE COURT

MOTN
LAW OFFICE OF KENNETH G. FRIZZELL, III
Kenneth G. Frizzell, III, Esq.
Nevada Bar No.:006303
619 South 6th Street
Las Vegas, Nevada 89101
(702) 366-1230
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

CHRISTOPHER R. KELLER,
#1754046

Defendant.


Case No.: C-16-312717-1
Dept. No.: XIX

Date:
Time:

**DEFENDANT'S MOTION FOR PRODUCTION
INCLUDING POTENTIALLY EXCULPATORY EVIDENCE**

COMES NOW Defendant, CHRISTOPHER R. KELLER, by and through his attorney, KENNETH G. FRIZZELL, III, ESQ., and hereby moves this Honorable Court to Order the State to produce certain discovery, including potentially exculpatory evidence, as set forth more specifically in the following Points and Authorities. This Motion is based upon the pleadings and papers on file herein, the Points and Authorities attached hereto, and any oral argument allowed at the time of the hearing of this matter.

DATED this 7 day of February, 2017.


KENNETH G. FRIZZELL, III, ESQ.
619 South 6th Street
Las Vegas, Nevada 89101
(702) 366-1230

1 **NOTICE OF MOTION**

2 TO: CLARK COUNTY DISTRICT ATTORNEY.

3 YOU WILL PLEASE TAKE NOTICE that counsel for Defendant, CHRISTOPHER KELLER will
4 bring the foregoing Motion on for hearing in Department No. XIX of on the 06 day of
5 MARCH, 2017, at the hour of 8:30 a.m.

6 DATED this 1 day of March, 2017.

7
8 BY: 

9 KENNETH G. FRIZZELL, III, ESQ.
10 Nevada Bar No.:006303
11 619 South 6th Street
12 Las Vegas, Nevada 89101

13 **POINTS AND AUTHORITIES**

14 **FACTUAL BACKGROUND AND SPECIFIC REQUESTS**

15 In addition to other less severe charges, this case involves multiple charges of
16 TRAFFICKING OF A CONTROLLED SUBSTANCE, and therefore carries the potential for a life
17 sentence if the Defendant is convicted.

18 While the District Attorney's Office has heretofore provided a plethora of discovery to
19 Defendant, there are two matters that as yet have been unavailable which Defendant wants
20 to request on the record for preservation of the same for any ensuing post-conviction appeal.

21 They are:

- 22 1. Copies of any and all DNA test results which positively identify Defendant's DNA
23 on, or in close proximity of, the impounded drugs or guns in this matter;
- 24 2. Video copies of any and all body cameras and/or dash cameras on any involved
25 officers or in any involved police vehicles, and an explanation of their
26 whereabouts if unavailable, as Defendant was informed on the night of the
27 incident in question that such video footage existed.

LEGAL ARGUMENT

NRS 174.235 provides for discovery by the defense from the prosecuting attorney, and reads as follows:

1. Except as otherwise provided in NRS 174.233 to 174.295, inclusive, at the request of a defendant, the prosecuting attorney shall permit the defendant to inspect and to copy or photograph any:

(a) Written or recorded statements or confessions made by the defendant, or any written or recorded statements made by a witness the prosecuting attorney intends to call during the case in chief of the state, or copies thereof, within the possession, custody or control of the state, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney;

(b) Results or reports of physical or mental examinations, scientific tests or scientific experiments made in connection with the particular case, or copies thereof, within the possession, custody or control of the state, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; and

(c) Books, papers, documents, tangible objects, or copies thereof, which the prosecuting attorney intends to introduce during the case in chief of the state and which are within the possession, custody or control of the state, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney.

2. The defendant is not entitled, pursuant to the provisions of this section, to the discovery or inspection of:

(a) An internal report, document or memorandum that is prepared by or on behalf of the prosecuting attorney in connection with the investigation or prosecution of the case.

(b) A statement, report, book, paper, document, tangible object or any other type of item or information that is privileged or protected from disclosure or inspection pursuant to the constitution or laws of this state or the Constitution of the United States.

3. The provisions of this section are not intended to affect any obligation placed upon the prosecuting attorney by the constitution of this state or the Constitution of the United States to disclose exculpatory evidence to the defendant.

Of particular import is paragraph 3 above, which effectively supercedes any limitations placed on the Defendant's ability to obtain discovery where constitutional implications are involved.

A. Constitutional Considerations Mandate the Discovery Requested

As noted, NRS 174.235(3) provides that "[t]he provisions of this section are not intended to affect any obligation placed upon the prosecuting attorney by the constitution of this state or the Constitution of the United States to disclose exculpatory evidence to the defendant." It is clear that the State must provide to the defense all exculpatory evidence in

1 its actual or *constructive* possession prior to trial. Failure to do so results in a violation of the
2 Due Process Clauses of the Fifth and Fourteenth Amendments of the United States
3 Constitution. The rule applies regardless of how the State has chosen to structure its overall
4 discovery process. *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963); *Kyles*
5 *v. Whitley*, 514 U.S. 419, 115 S.Ct. 1555, 131 L.Ed.2d 490 (1995); *Strickler v. Greene*, 527 U.S.
6 263, 119 S.Ct. 1936, 144 L.Ed.2d 286 (1999). Hereinafter this type of exculpatory evidence will
7 be referred to as "*Brady* material."

8 *Brady* material is that evidence which is 1) material, 2) relevant to guilt or punishment,
9 3) favorable to the accused, 4) and within the actual or constructive possession of anyone
10 acting on behalf of the State. *Brady, supra*.

11 **1. Materiality**

12 When the defense makes a specific request for *Brady* material and the State does not
13 provide such material, the Nevada Supreme Court has held that there are grounds for reversal
14 of a conviction "if there exists a reasonable possibility that the claimed evidence would have
15 affected the judgment of the trier of fact." *Roberts v. State*, 110 Nev. 1121, 881 P.2d 1, 5 (1994)
16 *See, also, Jimenez v. State*, 112 Nev. 610, 619, 918 P.2d 687, 692 (1996), and *State v. Bennett*,
17 119 Nev. 589, 81 P.3d 1, 8 (2003).

18 Even if a specific request has not been made, reversal is also warranted "if there exists
19 a reasonable probability that, had the evidence been disclosed, the result of the proceeding
20 would have been different." *Bagley*, 473 U.S. at 682, 685; *Pennsylvania v. Ritchie*, 480 U.S. 39,
21 57 (1986). A 'reasonable probability' is a probability sufficient to undermine confidence in the
22 outcome. *Bagley*, 473 U.S. at 678, 685; *Ritchie*, 480 U.S. at 57." *Roberts, supra*, 110 Nev. At
23 1129.

24 Therefore, absent a specific request for *Brady* material, anything that might have
25 created a probability that the confidence of the verdict was undermined is considered
26 material. Where a specific request is made, however, anything that creates a reasonable
27

1 possibility that the evidence might have affected the fact-finder's judgment is material.

2 **2. Relevancy to Guilt or Punishment**

3 *Brady* material applies not only to evidence which might affect the defendant's guilt,
4 but also includes evidence which could serve to mitigate a defendant's sentence if convicted.
5 *Jimenez v. State*, 112 Nev. 610, 918 P.2d 687 (1996). An example of this kind of evidence
6 might be where the victim of a robbery who identified the defendant as one of two people
7 who robbed him, also indicated that he tried to keep the co-defendant from injuring him.
8 Although the identification would actually go to establishing the defendant's guilt, it would
9 also be *Brady* material because it might serve to mitigate the defendant's sentence because
10 of his effort to aid the victim. Essentially, anything which could convince the court to impose
11 something less than a maximum sentence, or rebut alleged aggravating circumstances would
12 be relevant to punishment.

13 **3. Favorability to the Accused**

14 The Nevada Supreme Court has spoken directly to what is considered "favorable to the
15 accused" and therefore proper *Brady* material. In *Mazzan v. Warden*, 116 Nev. 48, 67, 993 P.2d
16 25, 37 (2000) the court stated:

17 Due process does not require simply the disclosure of "exculpatory"
18 evidence. Evidence also must be disclosed if it provides grounds for the
19 defense to attack the reliability, thoroughness, and good faith of the police
20 investigation, to impeach the credibility of the state's witnesses, or to bolster
21 the defense case against prosecutorial attacks. Furthermore, "discovery in
22 a criminal case is not limited to investigative leads or reports that are
23 admissible in evidence." Evidence "need not have been independently
24 admissible to have been material." (citations omitted)

25 Therefore, *Brady* material under this standard, would include, but not be limited to, the
26 following examples: forensic testing which was ordered, but not done, or which was completed
but did not inculcate the defendant; criminal records or other evidence concerning State's
witnesses which might show their bias (*e.g.*, civil litigation), or otherwise impeach their
credibility; evidence that the alleged victim has been the alleged victim of an unusual number
of crimes; investigative leads or ordinarily appropriate investigation which were not followed-

1 up on or completed by law enforcement; and, of course, anything which is inconsistent with
2 any prior or present statements of a State's witness, including the failure to previously make
3 a statement which is later made or testified to. Additionally, traditionally exculpatory evidence
4 such as that which could show that someone else committed the charged crime or that no
5 crime occurred, would also be included as *Brady* material.

6 **4. Within the Actual or Constructive Possession of Anyone Acting on**
7 **Behalf of the State.**

8 Based on prior experience, it is anticipated that the prosecution may assert that it has
9 an "open file" policy and that the requested material is not available in its file, especially
10 because NRS 174.235 speaks to materials "within the possession or custody of the prosecuting
11 attorney. This argument is unavailing. In *Strickler v. Green, supra*, 527 U.S. at 283, 119 S.Ct.
12 1949, the United States Supreme Court explicitly held that a prosecutor's open file policy does
13 not in any way substitute for or diminish the State's obligation to turn over *Brady* material.
14 The Nevada Supreme Court is in accord. "It is a violation of due process for the prosecutor
15 to withhold exculpatory evidence, and his motive for doing so is immaterial." *Jimenez v. State*,
16 112 Nev. 610, 618, 918 P.2d 687, 692 (1996). Furthermore, "even if the detectives withheld
17 their reports without the prosecutor's knowledge, 'the state attorney is charged with
18 constructive knowledge and possession of evidence withheld by other state agents, such as
19 law enforcement officers." *Id.*, 112 Nev. at 620 (citation omitted). Defendant would submit
20 that other state agents such as probation and parole officers, welfare workers, jail personnel,
21 victim advocates, and similar agents of the State are also included in those from whom the
22 prosecution must seek out *Brady* material.

23 In *Kyles v. Whitley, supra*, the United States Supreme Court made it clear that the
24 prosecutor has an affirmative obligation to obtain *Brady* material and provide it to the
25 defense, even if the prosecutor is initially unaware of its existence. In so finding, the Supreme
26 Court noted that "[t]he prosecution's affirmative duty to disclose evidence favorable to a
27 defendant... has its origins to early 20th century strictures against misrepresentation and
28

1 is of course most prominently associated with this Court's decision in *Brady v. Maryland*. . ."
2 *Id.* 514 U.S. at 432. The *Kyles* Court also made it clear that this obligation exists even where
3 the defense does not make a request for such evidence. *Id.*

4 The *Kyles* Court additionally made the following observations when finding the State
5 had breached its duty to Kyles and discussing the prosecutor's obligations.

6 This in turn means that the individual prosecutor has a duty to learn
7 of any favorable evidence known to the others acting on the govern-
8 ment's behalf in the case, including the police. But whether the
9 prosecutor succeeds or fails in meeting this obligation (whether, that
is, a failure to disclose is in good faith or bad faith, the prosecution's
responsibility for failing to disclose known, favorable evidence rising
to a material level of importance is inescapable.

10 The State of Louisiana would prefer an even more lenient rule. It pleads
11 That some of the favorable evidence in issue here was not disclosed
12 even to the prosecutor until after trial, and it suggested below that it
13 should not be held accountable under *Bagley* and *Brady* for evidence
14 known only to police investigators and not to the prosecutor. To
15 accommodate the State in this manner would, however, amount to a
16 serious change of course from the *Brady* line of cases. In the State's
17 favor it may be said that no one doubts that police investigators some-
18 times fail to inform a prosecutor of all they know. *But neither is there*
19 *any serious doubt that "procedures and regulations can be established*
20 *to carry [the prosecutor's] burden and to insure communication of all*
21 *relevant information on each case to every lawyer who deals with it."*
22 *Since then, the prosecutor has the means to discharge the government's*
23 *Brady responsibility if he will, any argument for excusing a prosecutor*
24 *from disclosing what he does not happen to know about boils down to*
25 *a plea to substitute the police for the prosecutor, and even for the courts*
26 *themselves, as the final arbiter's of the government's obligation to*
27 *ensure fair trials.*

28 *Kyles, supra*, 514 U.S. at 437, 438 (citations and footnotes omitted, emphasis added).

There can be little question, therefore, that despite its "open file policy," the
prosecution has an affirmative duty to seek out the previously discussed *Brady* material,
regardless of whether such material is in the hands of the prosecutor or in the hands of some
other entity acting on behalf of the State.

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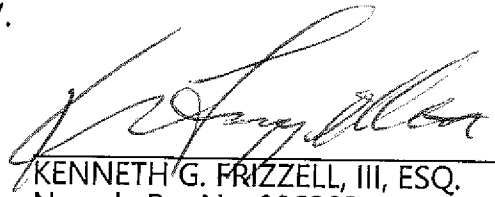
Defendant's position is that he did not know of the existence of the contraband impounded by police officers because his DNA will not be found on, or in close proximity of, any of the contraband seized in this matter. The absence of the same is clearly exculpatory and under Nevada law, is therefore, something that he is entitled to in discovery.

As related per Defendant after he was placed in custody, one of the officers informed him that at least one of the officers involved was equipped with a body-worn cameras as well as the police vehicles that were involved. It is the Defendant's position that such footage would run contrary to officers statements in the reports and evidentiary hearing testimony, that his tail light was out, that he tried to run, and that he knew and acknowledged the existence of the seized contraband. This is also potentially exculpatory in nature and therefore Defendant is entitled to the same or an explanation as to the whereabouts of the same should it not be available.

Although the information Defendant herein seeks may not currently be in the District Attorney's files, it is clear from the authority presented that there is an affirmative duty imposed on the prosecution to obtain the same for the defense. Defendant's constitutional rights to a fair trial, to due process, to present a defense, to confront the evidence against him, and to the effective assistance of counsel, as guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article 1, Section 8 of the Nevada Constitution, mandate the discovery requested in this Motion. For all of the foregoing reasons, Defendant, through counsel, requests that this Honorable Court issue an Order requiring the State, through the Clark County District Attorney, to obtain and provide the discovery herein to the Defendant, and for all other relief just and proper in the

1 premises.

2 Dated this 7 day of February, 2017.

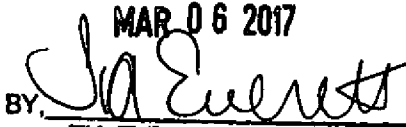
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5 KENNETH G. FRIZZELL, III, ESQ.
6 Nevada Bar No.:006303
7 619 South 6th Street
8 Las Vegas, Nevada 89101
9 (702) 366-1230
10 Attorney for Defendant, KELLER

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Clark County District Attorney
Nevada Bar #001565
MICHAEL R. DICKERSON
Deputy District Attorney
Nevada Bar #13476
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(702) 671-2500
Attorney for Plaintiff

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

MAR 06 2017
BY: 
TIA EVERETT, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

CASE NO: C-16-312717-1

-vs-

DEPT NO: XIX

CHRISTOPHER ROBERT KELLER,
#1804258

SECOND AMENDED
INFORMATION

Defendant.

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That CHRISTOPHER ROBERT KELLER, the Defendant(s) above named, having committed the crimes of **TRAFFICKING IN CONTROLLED SUBSTANCE (Category A Felony - NRS 453.3385.3 - NOC 51160); POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA (Category E Felony - NRS 453.336 - NOC 51127) and POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony - NRS 453.337 - NOC 51141)**, on or about the 28th day of January, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

///

C - 16 - 312717 - 1

AINF

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Amended Information
4629799



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1 COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE

2 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
3 actually or constructively, 28 grams or more, to-wit: approximately 344.29 grams of
4 Methamphetamine, or any mixture of substance consisting of approximately 344.29 grams
5 containing the controlled substance Methamphetamine.

6 COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

7 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
8 actually or constructively, 28 grams or more, to-wit: approximately 33.92 grams of Heroin, or
9 any mixture of substance consisting of approximately 33.92 grams containing the controlled
10 substance Heroin.

11 COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA

12 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a
13 controlled substance, to-wit: Marijuana, over one (1) ounce.

14 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

15 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
16 substance, to-wit: Methamphetamine.

17 COUNT 5 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

18 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
19 substance, to-wit: Heroin.

20 COUNT 6 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

21 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
22 substance, to-wit: Cocaine.

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1 COUNT 7 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

2 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
3 substance, to-wit: Marijuana.

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

7 BY 
8 MICHAEL R. DICKERSON
Deputy District Attorney
9 Nevada Bar #13476

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27 16F01430X /MRD/L-2
28 LVMPD EV#1601280259
(TK5)

MAR 07 2017

BY

TIA EVERETT, DEPUTY

JURL

DISTRICT COURT

CLARK COUNTY, NEVADA

State of Nevada

CASE NO.: C312717

Vs

DEPARTMENT 19

Christopher Keller

JURY LIST

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|---------------------|----------------------|
| 1. Jordan Foster | 8. Glendwyn Reyles |
| 2. Glenn Gamatero | 9. Gina Dewees |
| 3. Rodney Lomibao | 10. Dawn Morrison |
| 4. Nabil Asbushanab | 11. Jin Kim |
| 5. Maricel Ruzol | 12. Shayann Goins |
| 6. Ada Hicks | 13. Rosario Cruz |
| 7. Patricia Seery | 14. Shantese Johnson |

ALTERNATES

SECRET FROM ABOVE

C-18-312717-1
JURL
Jury List
4829839



MAR 09 2017

BY Tia Everett
TIA EVERETT, DEPUTY

JURL

DISTRICT COURT

CLARK COUNTY, NEVADA

State of Nevada

CASE NO.: C312717

Vs

DEPARTMENT 19

Christopher Keller

AMENDED JURY LIST

- | | |
|---------------------|--------------------|
| 1. Jordan Foster | 7. Patricia Seery |
| 2. Glenn Gamatero | 8. Glendwyn Reyles |
| 3. Rodney Lomibao | 9. Gina Dewees |
| 4. Nabil Asbushanab | 10. Dawn Morrison |
| 5. Maricel Ruzol | 11. Jin Kim |
| 6. Ada Hicks | 12. Shayann Goins |

ALTERNATES

- | | |
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| 13. Rosario Cruz | 14. Shantese Johnson |
|------------------|----------------------|

C-18-312717-1
AJUR
Amended Jury List
4830707



ORIGINAL

AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHAEL R. DICKERSON
Deputy District Attorney
Nevada Bar #13476
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(702) 671-2500
Attorney for Plaintiff

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

MAR 10 2017
BY: *TIA Everett*
TIA EVERETT, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-16-312717-1
AINF
Amended Information
4830703



THE STATE OF NEVADA,
Plaintiff,

CASE NO: C-16-312717-1

-vs-

DEPT NO: XIX

CHRISTOPHER ROBERT KELLER,
#1804258

THIRD AMENDED
INFORMATION

Defendant.

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That CHRISTOPHER ROBERT KELLER, the Defendant(s) above named, having committed the crimes of **TRAFFICKING IN CONTROLLED SUBSTANCE (Category A Felony - NRS 453.3385.3 - NOC 51160); POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA (Category E Felony - NRS 453.336 - NOC 51127); POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony - NRS 453.337 - NOC 51141); and OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460)**, on or about the 28th day of January, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

1 COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE

2 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
3 actually or constructively, 28 grams or more, to-wit: approximately 344.29 grams of
4 Methamphetamine, or any mixture of substance consisting of approximately 344.29 grams
5 containing the controlled substance Methamphetamine.

6 COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

7 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
8 actually or constructively, 28 grams or more, to-wit: approximately 33.92 grams of Heroin, or
9 any mixture of substance consisting of approximately 33.92 grams containing the controlled
10 substance Heroin.

11 COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA

12 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a
13 controlled substance, to-wit: Marijuana, over one (1) ounce.

14 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

15 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
16 substance, to-wit: Methamphetamine.

17 COUNT 5 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

18 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
19 substance, to-wit: Heroin.

20 COUNT 6 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

21 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
22 substance, to-wit: Cocaine.

23 COUNT 7 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

24 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
25 substance, to-wit: Marijuana.

26 ///

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1 COUNT 8 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

2 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
3 his custody or control, a firearm, to-wit: a Beretta handgun, the defendant being a convicted
4 felon, having in 2013, been convicted of Conspiracy to Violate Uniform Controlled Substances
5 Act, in Case No. C287724, in the Eighth Judicial District Court, Clark County, a felony under
6 the laws of the State of Nevada; and/or having in 2013, been convicted of Attempt Possession
7 of Firearm by Ex-Felon, in Case No. C279904, in the Eighth Judicial District Court, Clark
8 County, a felony under the laws of the State of Nevada; and/or having in 2009, been convicted
9 of Possession of Firearm by Ex-Felon, in Case No. C252394, in the Eighth Judicial District
10 Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2004,
11 been convicted of Burglary, in Case No. C192923, in the Eighth Judicial District Court, Clark
12 County, a felony under the laws of the State of Nevada; and/or having in 2003, been convicted
13 of Possession of Credit Card Without Cardholder's Consent, in Case No. C189805B, in the
14 Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

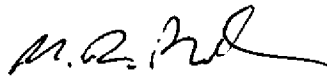
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16 COUNT 9 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

17 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
18 his custody or control, a firearm, to-wit: a 9 mm handgun, the defendant being a convicted
19 felon, having in 2013, been convicted of Conspiracy to Violate Uniform Controlled Substances
20 Act, in Case No. C287724, in the Eighth Judicial District Court, Clark County, a felony under
21 the laws of the State of Nevada; and/or having in 2013, been convicted of Attempt Possession
22 of Firearm by Ex-Felon, in Case No. C279904, in the Eighth Judicial District Court, Clark
23 County, a felony under the laws of the State of Nevada; and/or having in 2009, been convicted
24 of Possession of Firearm by Ex-Felon, in Case No. C252394, in the Eighth Judicial District
25 Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2004,
26 been convicted of Burglary, in Case No. C192923, in the Eighth Judicial District Court, Clark
27 County, a felony under the laws of the State of Nevada; and/or having in 2003, been convicted

1 of Possession of Credit Card Without Cardholder's Consent, in Case No. C189805B, in the
2 Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

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

5
6 BY


7 MICHAEL R. DICKERSON
Deputy District Attorney
Nevada Bar #13476

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27 16F01430X /MRD/L-2
28 LVMPD EV#1601280259
(TK5)

MAR 10 2017
BY TIA EVERETT
TIA EVERETT, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER,
#1804258

Defendant.

CASE NO: C-16-312717-1

DEPT NO: XIX

VERDICT

We, the jury in the above entitled case, find the Defendant CHRISTOPHER ROBERT KELLER, as follows:

COUNT 8 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

(Please check the appropriate box, select only one)

- ☒ Guilty of OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON
☐ Not Guilty

COUNT 9 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

(Please check the appropriate box, select only one)

- ☒ Guilty of OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON
☐ Not Guilty

DATED this 10 day of March, 2017

[Signature]
FOREPERSON

C-16-312717-1
VER
Verdict
4630711



11:24 AM
FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

MAR 10 2017

BY: Tia Everett
TIA EVERETT, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER,
#1804258

Defendant.

CASE NO: C-16-312717-1

DEPT NO: XIX

VERDICT

We, the jury in the above entitled case, find the Defendant CHRISTOPHER ROBERT KELLER, as follows:

COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE

(Please check the appropriate box, select only one)

- ☒ Guilty of Trafficking In Controlled Substance
☐ Not Guilty

COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

(Please check the appropriate box, select only one)

- ☒ Guilty of Trafficking In Controlled Substance
☐ Not Guilty

COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE – MARIJUANA GREATER THAN ONE OUNCE

(Please check the appropriate box, select only one)

- ☒ Guilty of Possession of Controlled Substance – Marijuana Greater than One Ounce
☐ Not Guilty

C-16-312717-1
VER
Verdict
4830710



**COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL -
METHAMPHETAMINE**

(Please check the appropriate box, select only one)

- ☒ Guilty of Possession of Controlled Substance with Intent to Sell
☐ Not Guilty

**COUNT 5 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL -
HEROIN**

(Please check the appropriate box, select only one)

- ☒ Guilty of Possession of Controlled Substance with Intent to Sell
☐ Not Guilty

**COUNT 6 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL -
COCAINE**

(Please check the appropriate box, select only one)

- ☒ Guilty of Possession of Controlled Substance with Intent to Sell
☐ Not Guilty

**COUNT 7 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL -
MARIJUANA**

(Please check the appropriate box, select only one)

- ☒ Guilty of Possession of Controlled Substance with Intent to Sell
☐ Not Guilty

DATED this 10 day of March, 2017


FOREPERSON

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

MAR 10 2017

BY

TIA EVERETT, DEPUTY

1 INST

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 -VS-

CASE NO: C-16-312717-1

10 CHRISTOPHER ROBERT KELLER,
11 #1804258

DEPT NO: XIX

12 Defendant.

13 INSTRUCTIONS TO THE JURY (INSTRUCTION NO. 1)

14 MEMBERS OF THE JURY:

15 It is now my duty as judge to instruct you in the law that applies to this case. It is
16 your duty as jurors to follow these instructions and to apply the rules of law to the facts as
17 you find them from the evidence.

18 You must not be concerned with the wisdom of any rule of law stated in these
19 instructions. Regardless of any opinion you may have as to what the law ought to be, it
20 would be a violation of your oath to base a verdict upon any other view of the law than that
21 given in the instructions of the Court.
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C-16-312717-1
INST
Instructions to the Jury
4630709



If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

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2 An Amended Information is but a formal method of accusing a person of a crime and
3 is not of itself any evidence of his guilt.

4 In this case, it is charged in an Amended Information that on about the 28th day of
5 January, 2016, within the County of Clark, State of Nevada, the Defendant committed the
6 offenses of OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON
7 (Category B Felony - NRS 202.360).

8 COUNT 8 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

9 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
10 his custody or control, a firearm, to-wit: a Beretta handgun, the defendant being a convicted
11 felon, having in 2013, been convicted of Conspiracy to Violate Uniform Controlled
12 Substances Act, in Case No. C287724, in the Eighth Judicial District Court, Clark County, a
13 felony under the laws of the State of Nevada; and/or having in 2013, been convicted of
14 Attempt Possession of Firearm by Ex-Felon, in Case No. C279904, in the Eighth Judicial
15 District Court, Clark County, a felony under the laws of the State of Nevada; and/or having
16 in 2009, been convicted of Possession of Firearm by Ex-Felon, in Case No. C252394, in the
17 Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada;
18 and/or having in 2004, been convicted of Burglary, in Case No. C192923, in the Eighth
19 Judicial District Court, Clark County, a felony under the laws of the State of Nevada; and/or
20 having in 2003, been convicted of Possession of Credit Card Without Cardholder's Consent,
21 in Case No. C189805B, in the Eighth Judicial District Court, Clark County, a felony under
22 the laws of the State of Nevada.

23 COUNT 9 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

24 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
25 his custody or control, a firearm, to-wit: a 9 mm handgun, the defendant being a convicted
26 felon, having in 2013, been convicted of Conspiracy to Violate Uniform Controlled
27 Substances Act, in Case No. C287724, in the Eighth Judicial District Court, Clark County, a
28 felony under the laws of the State of Nevada; and/or having in 2013, been convicted of

1 Attempt Possession of Firearm by Ex-Felon, in Case No. C279904, in the Eighth Judicial
2 District Court, Clark County, a felony under the laws of the State of Nevada; and/or having
3 in 2009, been convicted of Possession of Firearm by Ex-Felon, in Case No. C252394, in the
4 Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada;
5 and/or having in 2004, been convicted of Burglary, in Case No. C192923, in the Eighth
6 Judicial District Court, Clark County, a felony under the laws of the State of Nevada; and/or
7 having in 2003, been convicted of Possession of Credit Card Without Cardholder's Consent,
8 in Case No. C189805B, in the Eighth Judicial District Court, Clark County, a felony under
9 the laws of the State of Nevada.

10 It is the duty of the jury to apply the rules of law contained in these instructions to the
11 facts of the case and determine whether or not the Defendant is guilty one or more of the
12 offenses charged.
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2 A person who has been convicted of a felony in this or any other state, or in any
3 political subdivision thereof, or of a felony in violation of the laws of the United States of
4 America, unless he has received a pardon and the pardon does not restrict his right to bear
5 arms, shall not own or have in his possession or under his custody or control any
6 firearm. Neither the concealment of the firearm nor the carrying of the weapon are necessary
7 elements of the offense.

8 "Firearm" includes any firearm that is loaded or unloaded and operable or inoperable.
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You are instructed that a firearm, whether loaded or unloaded, operable or inoperable, is a deadly weapon. "Firearm" includes:

1. Any Device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion.
2. Any device used to mark the clothing of a person with paint or any other substance.
and
3. Any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

Evidence has been introduced that the defendant is a convicted felon.

Evidence of defendant's prior felony conviction was not received to prove that either the defendant is a person of bad character or that the defendant has a disposition to commit any crime.

Evidence of defendant's prior felony conviction must not be considered by you to prove either the defendant is a person of bad character or that the defendant has a disposition to commit any crime.

Evidence of defendant's prior felony conviction was received and must be considered by you only for the limited purpose to show that he is a felon.

You are not permitted to consider evidence of defendant's felony conviction for any other purpose.

All legal instructions by the court in this case, including these current jury instructions and those previously given, constitute the law in this case and apply to your deliberations regarding the instant case.

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN: Will Kyrst
DISTRICT JUDGE

MAR 10 2017

BY, Tia Everett
TIA EVERETT, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER,
#1804258

Defendant.

CASE NO: C-16-312717-1

DEPT NO: XIX

INSTRUCTIONS TO THE JURY (INSTRUCTION NO. I)

MEMBERS OF THE JURY:

It is now my duty as judge to instruct you in the law that applies to this case. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

You must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

C-16-312717-1
INST
Instructions to the Jury
4630708



If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

An Amended Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Amended Information that on or about the 28th day of January, 2016, within the County of Clark, State of Nevada, the Defendant committed the offenses of TRAFFICKING IN CONTROLLED SUBSTANCE (Category A Felony - NRS 453.3385.3); POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA (Category E Felony - NRS 453.336) and POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony - NRS 453.337).

COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE

did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either actually or constructively, 28 grams or more, to-wit: approximately 344.29 grams of Methamphetamine, or any mixture of substance consisting of approximately 344.29 grams containing the controlled substance Methamphetamine.

COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either actually or constructively, 28 grams or more, to-wit: approximately 33.92 grams of Heroin, or any mixture of substance consisting of approximately 33.92 grams containing the controlled substance Heroin.

COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA

did willfully, unlawfully, feloniously, and knowingly or intentionally possess a controlled substance, to-wit: Marijuana, over one (1) ounce.

COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled substance, to-wit: Methamphetamine.

COUNT 5 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled substance, to-wit: Heroin.

1 COUNT 6 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

2 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a
3 controlled substance, to-wit: Cocaine.

4 COUNT 7 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

5 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a
6 controlled substance, to-wit: Marijuana.

7 It is the duty of the jury to apply the rules of law contained in these instructions to the
8 facts of the case and determine whether or not the Defendant is guilty one or more of the
9 offenses charged.

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

The Defendant is presumed innocent until the contrary is proved. This presumption places upon the State the burden of proving beyond a reasonable doubt every element of the crime charged and that the Defendant is the person who committed the offense.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.

INSTRUCTION NO. 6

You are here to determine the guilt or innocence of the Defendant from the evidence in the case. You are not called upon to return a verdict as to the guilt or innocence of any other person. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt of the Defendant, you should so find, even though you may believe one or more persons are also guilty.

INSTRUCTION NO. 7

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

The credibility or believability of a witness should be determined by his or her manner upon the stand, his or her relationship to the parties, his or her fears, motives, interests or feelings, his or her opportunity to have observed the matter to which he or she testified, the reasonableness of his or her statements and the strength or weakness of his or her recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his or her opinion as to any matter in which he is skilled.

You should consider such expert opinion and weigh the reasons, if any, given for it. You are not bound, however, by such an opinion. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if, in your judgment, the reasons given for it are unsound.

Any person who is knowingly or intentionally in actual or constructive possession of a Schedule I controlled substance or any mixture which contains a Schedule I controlled substance, the quantity of which weighs, or is represented by that person to weigh, 28 grams or more, is guilty of Trafficking in Controlled Substance.

The phrase "28 grams or more" refers to the aggregate weight of the entire mixture rather than the weight of the controlled substance that is contained in the mixture.

Methamphetamine is a Schedule I controlled substance.

Heroin is a Schedule I controlled substance.

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2 Except as authorized by law, anyone who knowingly or intentionally has a controlled
3 substance in his possession with the intent to sell any portion of the controlled substance is
4 guilty of Possession of Controlled Substance With Intent to Sell.

5 Methamphetamine is a controlled substance.

6 Heroin is a controlled substance.

7 Cocaine is a controlled substance.

8 Marijuana is a controlled substance.

9 No actual sale need occur. No specific quantity is necessary. The intent of the
10 possessor is derived from all the circumstances surrounding the possession. Evidence of the
11 specific intent to sell a controlled substance may be circumstantial, and may consist of
12 evidence regarding the quantity of the controlled substance, the place and circumstances
13 where it was found, the manner of packaging, and the opinion of experts that the narcotic
14 was packaged for sale.

15 If you do not find that the defendant had the intent to sell any portion of the controlled
16 substance he possessed, the appropriate verdict is guilty of Possession of Controlled
17 Substance.

1
2 Except as authorized by law, anyone who knowingly or intentionally has marijuana in
3 his possession in an amount weighing greater than one ounce is guilty of Possession of
4 Controlled Substance – Marijuana Greater than One Ounce.

5 “Marijuana” means:

- 6 1. All parts of any plant of the genus Cannabis, whether growing or not;
7 2. The seeds thereof;
8 3. The resin extracted from any part of the plant; and
9 4. Every compound, manufacture, salt, derivative, mixture or preparation of
10 the plant, its seeds or resin.

11 “Marijuana” does not include the mature stems of the plant, fiber produced from the
12 stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt,
13 derivative, mixture or preparation of the mature stems (except the resin extracted therefrom),
14 fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

1
2 In order to prove the commission of Trafficking In Controlled Substance as charged
3 in Counts 1 and 2, Possession Of Controlled Substance, Marijuana as charged in Count 3,
4 and Possession Of Controlled Substance With Intent To Sell as charged in Counts 4 through
5 7, the State must prove that the defendant had knowledge of the item's nature as a controlled
6 substance.

7 A defendant's knowledge that the substance he possessed was a controlled substance
8 may be shown by direct evidence or by circumstantial evidence and reasonably drawn
9 inferences.
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A person is in possession of an article or object if it is carried on his person or, if not carried on his person, he knows that it is present and he has custody, dominion, or control over it.

The law recognizes two kinds of possession: actual possession and constructive possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it.

A person who, although not in actual possession, knowingly has both the power and the intention, at a given time, to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

The law recognizes also that possession may be sole or joint. If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

You may find that the element of possession as that term is used in these instructions is present if you find beyond a reasonable doubt that a defendant had actual or constructive possession, either alone or jointly with others.

"Knowingly" imports a knowledge that the facts exist which constitute the act or omission of a crime, and does not require knowledge of its unlawfulness. Knowledge of any particular fact may be inferred from the knowledge of such other facts as should put an ordinarily prudent person on notice. An act or a failure to act is "knowingly" done if done voluntarily and intentionally, and not because of mistake or accident or other innocent reason.

The intent of a person or the knowledge that a person possesses at any given time may not ordinarily be proved directly because there is no way of directly scrutinizing the workings of the human mind. In determining the issue of what a person knew or what a person intended at a particular time, you may consider any statements made or acts done by that person and all other facts and circumstances received in evidence which may aid in your determination of that person's knowledge or intent.

Mere presence at the scene of a crime or knowledge that a crime is being committed is not sufficient to establish that a defendant is guilty of an offense unless you find beyond reasonable doubt that the defendant was a participant and not merely a knowing spectator.

However, the presence of a person at the scene of a crime and companionship with another person engaged in the commission of the crime and a course of conduct before and after the offense are circumstances which may be considered in determining whether such person directly committed or aided or abetted the commission of that crime.

1
2 Although you are to consider only the evidence in the case in reaching a verdict, you
3 must bring to the consideration of the evidence your everyday common sense and judgment
4 as reasonable men and women. Thus, you are not limited solely to what you see and hear as
5 the witnesses testify. You may draw reasonable inferences from the evidence which you feel
6 are justified in the light of common experience, keeping in mind that such inferences should
7 not be based on speculation or guess.

8 A verdict may never be influenced by sympathy, prejudice or public opinion. Your
9 decision should be the product of sincere judgment and sound discretion in accordance with
10 these rules of law.
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2 It is a constitutional right of a defendant in a criminal trial that he may not be
3 compelled to testify. Thus, the decision as to whether he should testify is left to the
4 defendant on the advice and counsel of his attorney. You must not draw any inference of
5 guilt from the fact that he does not testify, nor should this fact be discussed by you or enter
6 into your deliberations in any way.
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In your deliberation you may not discuss or consider the subject of punishment, as that is a matter which lies solely with the court. Your duty is confined to the determination of the guilt or innocence of the Defendant.

When you retire to consider your verdict, you must select one of your member to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

During the course of this trial, and your deliberations, you are not to:

- 1) Communicate with anyone in any way regarding this case or its merits-either by phone, text, internet, or other means;
- 2) Read, watch, or listen to any news or media accounts or commentary about the case;
- 3) Do any research, such as consulting dictionaries, using the internet, or using reference materials;
- 4) Make any investigation, test a theory of the case, re-create any aspect of the case, or in any other way investigate or learn about the case on your own.

1
2 If, during your deliberation, you should desire to be further informed on any point of
3 law or hear again portions of the testimony, you must reduce your request to writing signed
4 by the foreperson. The officer will then return you to court where the information sought
5 will be given you in the presence of, and after notice to, the district attorney and the
6 Defendant and his/her counsel.

7 Playbacks of testimony are time-consuming and are not encouraged unless you deem
8 it a necessity. Should you require a playback, you must carefully describe the testimony to
9 be played back so that the court recorder can arrange his/her notes. Remember, the court is
10 not at liberty to supplement the evidence.
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Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

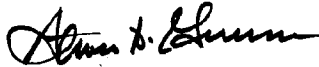
GIVEN:

Will Kerhart
DISTRICT JUDGE

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
347 - 361
WILL FOLLOW VIA
U.S. MAIL**

1 SUBST
2 AMY A. FELICIANO, ESQ.
3 FELICIANO LAW OFFICE, LLC
4 Nevada Bar No. 9596
5 2421 Tech Center Ct, #100
6 Las Vegas, Nevada 89128
7 Tel: (702) 848-4869
8 Fax: (702) 977-8262
9 Email: amy@felicianolawoffice.com
10 Counsel for Defendant Christopher Keller

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

CASE NO.: C-16-312717-1

vs.

DEPT. NO.: XIX

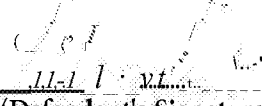
CHRISTOPHER KELLER,

Defendant.

DEFENDANT KELLER'S SUBSTITUTION OF ATTORNEY AND AMY A.
FELICIANO, ESQ.'S NOTICE OF APPEARANCE AS COUNSEL OF RECORD

COMES NOW, Defendant CHRISTOPHER KELLER through his attorney Amy A. Feliciano,
Esq. and hereby substitutes AMY A. FELICIANO, ESQ., Bar# 9596, Feliciano Law Office, LLC,
2421 Tech Center Ct, #100, Las Vegas, Nevada 89128, (702) 848-4869,
amy@felicianolawoffice.com, as attorney of record in place and stead of court-appointed counsel
KENNETH FRIZZELL, ESQ. in the instant matter.

DATED: 4-24-17

BY: 
(Defendant's Signature)

PRINT NAME: Christopher Keller

1 I, KENNETH FRIZZELL, ESQ., am in receipt of Defendant Keller's Substitution of Attorney. I
2 hereby acknowledge that I no longer represent Defendant Keller in the instant matter. I also affirm
3 that I have given Keller's entire criminal file to his new counsel, AMY A. FELICIANO, ESQ.
4

5
6 DATED: 4-18-17

7 BY: 
(Signature)

8
9 **NOTICE OF APPEARANCE AS COUNSEL OF RECORD**

10 COMES NOW AMY A. FELICIANO, ESQ. and provides Notice of Appearance as Counsel of
11 Record for Defendant Christopher Keller in the instant matter. Counsel consents to electronic
12 service. Counsel's contact information is as follows:
13

14 AMY A. FELICIANO, ESQ.
15 Bar No. 9596
16 Feliciano Law Office, LLC
2421 Tech Center Ct., #100
17 Las Vegas, Nevada 89128
(702) 848-4869 (office); (702) 977-8262 (facsimile)
18 amy@felicianolawoffice.com
www.felicianolawoffice.com

19
20 FELICIANO LAW OFFICE, LLC

21
22 DATED: 4/29/17

23 BY: 
(Signature)
24 AMY A. FELICIANO, ESQ.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that service of the above and foregoing was made via United States Postal

3 Service this 24th day of April 2017, to:

4 CLARK COUNTY DISTRICT ATTORNEY
5 200 Lewis Avenue, Second Floor
6 Las Vegas, Nevada 89101

7 Kenneth G. Frizzell, Esq.
8 Law Offices of Kenneth G. Frizzell, III
9 619 South Sixth Street
10 Las Vegas, Nevada 89101

11 /s/ Amy A. Feliciano, Esq.
12 AMY A. FELICIANO, ESQ.
13 FELICIANO LAW OFFICE, LLC
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Steven D. Grierson

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER ROBERT KELLER
#1804258

Defendant.

CASE NO. C-16-312717-1

DEPT. NO. XIX

JUDGMENT OF CONVICTION
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
– TRAFFICKING IN CONTROLLED SUBSTANCE (Category A Felony) in violation of
NRS 453.3385.3; COUNT 2 – TRAFFICKING IN CONTROLLED SUBSTANCE
(Category A Felony) in violation of NRS 453.3385.3; COUNT 3 – POSSESSION OF
CONTROLLED SUBSTANCE, MARIJUANA (Category E Felony) in violation of NRS
453.336; COUNT 4 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT
TO SELL (Category D Felony) in violation of NRS 535.337; COUNT 5 – POSSESSION
OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony) in

//

<input type="checkbox"/> Nolle Prosequi (before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial
<input type="checkbox"/> Dismissed (after diversion)	<input type="checkbox"/> Dismissed (during trial)
<input type="checkbox"/> Dismissed (before trial)	<input type="checkbox"/> Acquittal
<input checked="" type="checkbox"/> Guilty Plea with Sent. (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Transferred (before/during trial)	<input type="checkbox"/> Conviction
<input type="checkbox"/> Other Manner of Disposition	

1 violation of NRS 535.337, of COUNT 6 – POSSESSION OF CONTROLLED
2 SUBSTANCE WITH INTENT TO SELL (Category D Felony) in violation of NRS
3 535.337; COUNT 7 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT
4 TO SELL (Category D Felony) in violation of NRS 535.337; COUNT 8 – OWNERSHIP
5 OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony) in
6 violation of NRS 202.360; COUNT 9 – OWNERSHIP OR POSSESSION OF FIREARM
7 BY PROHIBITED PERSON (Category B Felony) in violation of NRS 202.360, and the
8 matter having been tried before a jury and the Defendant having been found guilty of
9 the crimes of COUNT 1 – TRAFFICKING IN CONTROLLED SUBSTANCE (Category
10 A Felony) in violation of NRS 453.3385.3; COUNT 2 – TRAFFICKING IN
11 CONTROLLED SUBSTANCE (Category A Felony) in violation of NRS 453.3385.3;
12 COUNT 3 – POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA GREATER
13 THAN ONE OUNCE (Category E Felony) in violation of NRS 453.336; COUNT 4 –
14 POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D
15 Felony) in violation of NRS 535.337; COUNT 5 – POSSESSION OF CONTROLLED
16 SUBSTANCE WITH INTENT TO SELL (Category D Felony) in violation of NRS
17 535.337, of COUNT 6 – POSSESSION OF CONTROLLED SUBSTANCE WITH
18 INTENT TO SELL (Category D Felony) in violation of NRS 535.337; COUNT 7 –
19 POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL
20 (Category D Felony) in violation of NRS 535.337; COUNT 8 – OWNERSHIP OR
21 POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony) in
22 violation of NRS 202.360; COUNT 9 – OWNERSHIP OR POSSESSION OF
23 FIREARM BY PROHIBITED PERSON (Category B Felony) in violation of NRS 202.360;

1 thereafter, on the 7th day of August, 2017, the Defendant was present in court for
2 sentencing with counsel KENNETH FRIZZELL, and good cause appearing,
3

4 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses as set forth in
5 the jury's verdict, in addition to the \$25.00 Administrative Assessment Fee and
6 \$10,000.00 fine plus \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the
7 Nevada Department of Corrections (NDC) as follows: **COUNT 1** - LIFE with a
8 **MINIMUM** Parole Eligibility after TEN (10) YEARS; **COUNT 2** - LIFE with a **MINIMUM**
9 Parole Eligibility after TEN (10) YEARS, **CONCURRENT** with **COUNT 1**; **COUNT 3** - a
10 **MAXIMUM** of FORTY-EIGHT (48) MONTHS with a **MINIMUM** Parole Eligibility of
11 TWELVE (12) MONTHS, **CONCURRENT** with **COUNT 2**; **COUNT 4** - a **MAXIMUM** of
12 FORTY-EIGHT (48) MONTHS with a **MINIMUM** Parole Eligibility of TWELVE (12)
13 MONTHS, **CONCURRENT** with **COUNT 3**; **COUNT 5** - a **MAXIMUM** of FORTY-EIGHT
14 (48) MONTHS with a **MINIMUM** Parole Eligibility of TWELVE (12) MONTHS,
15 **CONCURRENT** with **COUNT 4**; **COUNT 6** - a **MAXIMUM** of FORTY-EIGHT (48)
16 MONTHS with a **MINIMUM** Parole Eligibility of TWELVE (12) MONTHS,
17 **CONCURRENT** with **COUNT 5**; **COUNT 7** - a **MAXIMUM** of FORTY-EIGHT (48)
18 MONTHS with a **MINIMUM** Parole Eligibility of TWELVE (12) MONTHS,
19 **CONCURRENT** with **COUNT 6**; **COUNT 8** -LIFE with a **MINIMUM** Parole Eligibility
20 after TEN (10) YEARS under the LARGE HABITUAL Criminal Statute, **CONSECUTIVE**
21 to COUNTS 1, 2, 3, 4, 5, 6 and 7; and **COUNT 9** -LIFE with a **MINIMUM** Parole
22 Eligibility after TEN (10) YEARS under the LARGE HABITUAL Criminal Statute,
23 **CONCURRENT** with **COUNT 8**; with FIVE HUNDRED FIFTY-NINE (559) DAYS credit
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1 for time served. . As the \$150.00 DNA Analysis Fee and Genetic Testing have been
2 previously imposed, the Fee and Testing in the current case are WAIVED.
3

4 The AGGREGATE TOTAL sentence is LIFE with a MINIMUM PAROLE ELIGIBILITY
5 OF TWENTY (20) YEARS

6 DATED this 10th day of August, 2017.
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11 WILLIAM D. KEPHART
12 DISTRICT COURT JUDGE 
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1 **RRDT**
2 LAW OFFICE OF KENNETH G. FRIZZELL, III
3 Kenneth G. Frizzell, III, Esq.
4 Nevada Bar No.:006303
5 619 South 6th Street
6 Las Vegas, Nevada 89101
7 (702) 366-1230
8 Attorney for Defendant, KELLER

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 CHRISTOPHER R. KELLER,
13 #1754046

14 Defendant.

Case No.: C-16-312717-1
Dept. No.: XIX

Date:
Time:

REQUEST FOR ROUGH DRAFT TRANSCRIPTS

15 TO: CHRISTINE ERICKSON, Court Reporter, District Court, Department No. XIX.

16 CHRISTOPHER KELLER, Defendant named above, requests a preparation of a rough
17 draft transcript of certain portions of the proceedings before the District Court, as follows:

18 **Date or dates of proceedings:** Trial: 3/6/17, 3/7/17, 3/8/17, 3/9/17, and 3/10/17;
19 Sentencing: 8/7/17;

20 **Portion of the transcript requested:** – Trial transcripts – All transcripts, include word
21 index - Any and all proceedings, opening statements, testimony, matters heard outside the
22 presence of the jury, settling of instructions, closing arguments and verdict, and – Any and
23 all proceedings, all transcripts to include word index.

24 This Notice requests a transcript of only those portions of the District Court
25 proceedings which counsel reasonably and in good faith believes are necessary to determine
26 whether appellate issues are present. Voir dire examination of jurors, and the reading of jury
27 instructions shall not be transcribed unless specifically requested above.

1 I recognize that I must personally serve a copy of this form on the above-named court
2 reporter and opposing counsel.

3 That the above-named court reporter shall have twenty (20) days from the date of
4 service of this document to prepare an original plus three copies at State expense and file with
5 the District Court Clerk the original rough draft transcript(s) requested herein.

6 Further, pursuant to NRAP 3C(d)(3)(iii), **the court reporter shall also deliver copies**
7 **of the rough draft transcript to the Supreme Court Clerk, to appellant's counsel and**
8 **respondent counsel** no more than twenty (20) days after the date of the appellant's request.

9 DATED this 24 day of August, 2017.

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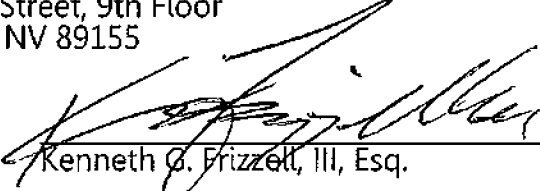
12 KENNETH G. FRIZZELL, III, ESQ.
13 Nevada Bar No.:006303
14 619 South 6th Street
15 Las Vegas, Nevada 89101
16 (702) 366-1230
17 Attorney for Appellant
18
19
20
21
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23
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26
27
28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 24 day of August, 2017, I personally served a true and
3 correct copy of the foregoing Request for Rough Draft Transcripts on the following persons,
4 via Regular U.S. Mail, and the Wiznet Electronic Filing System:

5 Christine Erickson
6 200 South 3rd Street
7 District Court Dept. XIX
8 Las Vegas, NV 89155

9 Steven B. Wolfson, Esq.
10 Clark County District Attorney
11 200 S. 3rd Street, 9th Floor
12 Las Vegas, NV 89155

13 
14 Kenneth G. Frizzell, III, Esq.



1 **NOTC**

2 LAW OFFICE OF KENNETH G. FRIZZELL, III
3 Kenneth G. Frizzell, III, Esq.
4 Nevada Bar No.:006303
5 619 South 6th Street
6 Las Vegas, Nevada 89101
7 (702) 366-1230
8 Attorney for Defendant

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

13 vs.

14 CHRISTOPHER R. KELLER,
15 #1754046

16 Defendant.

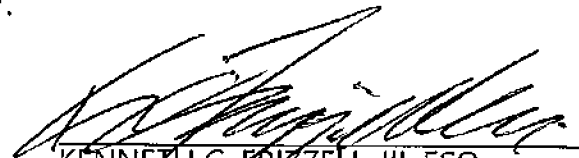
Case No.: C-16-312717-1
Dept. No.: XIX

Date:
Time:

17 **NOTICE OF APPEAL**

18 COMES NOW the Defendant, CHRISTOPHER KELLER, by and through his attorney,
19 KENNETH G. FRIZZELL, III, ESQ, and hereby appeals to the Supreme Court of Nevada from the
20 final Judgment of Conviction entered in this action on August 10, 2017.

21 Dated this 24 day of August, 2017.



22 KENNETH G. FRIZZELL, III, ESQ.
23 Nevada Bar No.:006303
24 619 South 6th Street
25 Las Vegas, Nevada 89101
26 (702) 366-1230
27 Attorney for Defendant, KELLER
28



1 **RRDT**
2 LAW OFFICE OF KENNETH G. FRIZZELL, III
3 Kenneth G. Frizzell, III, Esq.
4 Nevada Bar No.:006303
5 619 South 6th Street
6 Las Vegas, Nevada 89101
7 (702) 366-1230
8 Attorney for Defendant, KELLER

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 CHRISTOPHER R. KELLER,
13 #1754046

14 Defendant.

Case No.: C-16-312717-1
Dept. No.: XIX

Date:
Time:

REQUEST FOR ROUGH DRAFT TRANSCRIPTS

15 TO: CHRISTINE ERICKSON, Court Reporter, District Court, Department No. XIX.

16 CHRISTOPHER KELLER, Defendant named above, requests a preparation of a rough
17 draft transcript of certain portions of the proceedings before the District Court, as follows:

18 **Date or dates of proceedings:** Trial: 3/6/17, 3/7/17, 3/8/17, 3/9/17, and 3/10/17;
19 Sentencing: 8/7/17;

20 **Portion of the transcript requested:** – Trial transcripts – All transcripts, include word
21 index - Any and all proceedings, opening statements, testimony, matters heard outside the
22 presence of the jury, settling of instructions, closing arguments and verdict, and – Any and
23 all proceedings, all transcripts to include word index.

24 This Notice requests a transcript of only those portions of the District Court
25 proceedings which counsel reasonably and in good faith believes are necessary to determine
26 whether appellate issues are present. Voir dire examination of jurors, and the reading of jury
27 instructions shall not be transcribed unless specifically requested above.

1 I recognize that I must personally serve a copy of this form on the above-named court
2 reporter and opposing counsel.

3 That the above-named court reporter shall have twenty (20) days from the date of
4 service of this document to prepare an original plus three copies at State expense and file with
5 the District Court Clerk the original rough draft transcript(s) requested herein.

6 Further, pursuant to NRAP 3C(d)(3)(iii), **the court reporter shall also deliver copies**
7 **of the rough draft transcript to the Supreme Court Clerk, to appellant's counsel and**
8 **respondent counsel** no more than twenty (20) days after the date of the appellant's request.

9 DATED this 24 day of August, 2017.

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11 

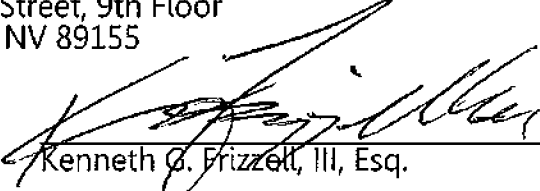
12 KENNETH G. FRIZZELL, III, ESQ.
13 Nevada Bar No.: 006303
14 619 South 6th Street
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16 (702) 366-1230
17 Attorney for Appellant
18
19
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CERTIFICATE OF SERVICE

I hereby certify that on the 24 day of August, 2017, I personally served a true and correct copy of the foregoing Request for Rough Draft Transcripts on the following persons, via Regular U.S. Mail, and the Wiznet Electronic Filing System:

Christine Erickson
200 South 3rd Street
District Court Dept. XIX
Las Vegas, NV 89155

Steven B. Wolfson, Esq.
Clark County District Attorney
200 S. 3rd Street, 9th Floor
Las Vegas, NV 89155


Kenneth G. Frizzell, III, Esq.



1 **NOTC**
2 LAW OFFICE OF KENNETH G. FRIZZELL, III
3 Kenneth G. Frizzell, III, Esq.
4 Nevada Bar No.:006303
5 619 South 6th Street
6 Las Vegas, Nevada 89101
7 (702) 366-1230
8 Attorney for Defendant

9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

13 vs.

14 CHRISTOPHER R. KELLER,
15 #1754046

16 Defendant.

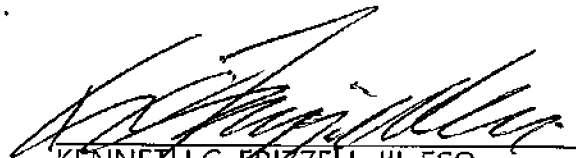
Case No.: C-16-312717-1
Dept. No.: XIX

Date:
Time:

17 **NOTICE OF APPEAL**

18 COMES NOW the Defendant, CHRISTOPHER KELLER, by and through his attorney,
19 KENNETH G. FRIZZELL, III, ESQ, and hereby appeals to the Supreme Court of Nevada from the
20 final Judgment of Conviction entered in this action on August 10, 2017.

21 Dated this 24 day of August, 2017.



22 KENNETH G. FRIZZELL, III, ESQ.
23 Nevada Bar No.:006303
24 619 South 6th Street
25 Las Vegas, Nevada 89101
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27 Attorney for Defendant, KELLER
28



ASTA
LAW OFFICES OF KENNETH G. FRIZZELL, III
Kenneth G. Frizzell, III, Esq.
Nevada Bar #006303
619 South 6th Street
Las Vegas, Nevada 89101
(702) 366-1230
Attorney for Appellant, CHRISTOPHER KELLER

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER KELLER,
#1754046,

Defendant.

Case No.: C-16-312717-1
Dept. No.: XIX

CASE APPEAL STATEMENT

1. Name of the Appellant filing this Case Appeal Statement:
Christopher Keller
2. Identify the Judge issuing the decision, judgment, or order appealed from:
Hon. William "Bill" Kephart.
3. Identify each appellant and respondent and the name and address of counsel for each appellant and respondent:

Appellant: Christopher Keller
Respondent: State of Nevada

Kenneth G. Frizzell III, Esq.
619 S. 6th Street
Las Vegas, Nevada 89101
(702) 366-1230
Attorney for Appellant, Christopher Keller

Michael Dickerson, Esq. (D.A.)
200 South 3rd Street
Las Vegas, NV 89101
(702) 671-2768
Dep. Dist. Atty., Respondent

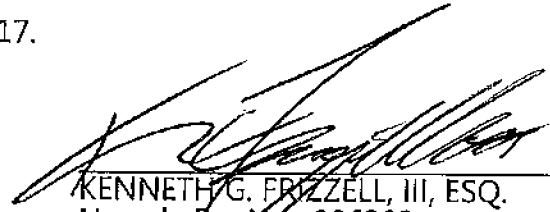
4. Indicate whether any attorney identified above in response to question 3 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42(attach a copy of any district court order

- 1 granting such permission);
- 2 N/A
- 3
- 4 5. Indicate whether appellant was represented by appointed or retained counsel in the
- 5 District Court:
- 6 Appellant was represented by appointed counsel in the District Court.
- 7 6. Indicate whether appellant is represented by appointed or retained counsel on
- 8 appeal:
- 9 Appellant is represented by appointed counsel on appeal.
- 10 7. Indicate whether Appellant was granted leave to proceed in Forma Pauperis, and the
- 11 date of entry of the District Court Order granting such leave:
- 12
- 13 N/A
- 14 8. Indicate the date the proceedings commenced in the District Court:
- 15 February 16, 2016.
- 16 9. Provide a brief description of the nature of the action and the result in district court,
- 17 including the type of judgment or order being appealed and the relief granted by
- 18 the district:
- 19 High-Level Drug Trafficking, Jury verdict, sentenced under Nevada's large habitual
- 20 criminal statute.
- 21 10. Indicate whether this case has previously been the subject of an appeal to, or
- 22 original writ proceeding in, the Supreme Court and, if so, the caption and Supreme
- 23 Court docket number of the prior proceeding:
- 24 N/A.
- 25 11. Indicate whether this appeal involves child custody or visitation:
- 26 No
- 27
- 28

1 12. If this is a civil case, indicate whether this appeal involves the possibility of
2 settlement:

3 N/A

4 DATED this 25 day of August, 2017.


KENNETH G. FRIZZELL, III, ESQ.
Nevada Bar No.: 006303
619 South 6th Street
Las Vegas, Nevada 89101
(702) 366-1230
Attorney for Appellant, CHRISTOPHER
KELLER



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
7

8
9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 CHRISTOPHER ROBERT KELLER,

13 Defendant.

CASE#: C-16-312717-1

DEPT. XIX

14 BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE
15 MONDAY, AUGUST 7, 2017

16 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDING**
17 **SENTENCING**

18 APPEARANCES:

19 For the State:

MICHAEL R. DICKERSON, ESQ.
Deputy District Attorney

20 For the Defendant:

KENNETH G. FRIZZELL, ESQ.

21
22
23
24
25 RECORDED BY: PATTI SLATTERY, COURT RECORDER

1 MONDAY, AUGUST 7, 2017, AT 9:46 A.M.

2
3 THE COURT: Page seven, State of Nevada versus Christopher Robert Keller
4 in C312717. This is the time set for sentencing. The Defendant is present in
5 custody. He's represented by Mr. Frizzell. Is there any legal reason why we can't
6 go forward with sentencing today, Mr. Frizzell?

7 MR. FRIZZELL: No, Your Honor. I would like to put just briefly on the record
8 that while I've spoken with Ms. Feliciano, she was unable to get me back the file I
9 gave to her, but I printed off duplicates of what I had given her that I actually needed
10 back so I'm fine with going forward.

11 THE COURT: Mr. Frizzell -- Mr. Keller, I received a number of letters from
12 family and friends of yours. I have -- let me just for the record count, one, two,
13 three, four, five, six, seven, eight, nine, roughly ten letters. Have you looked at
14 those as well?

15 THE DEFENDANT: I know what they contain, Your Honor.

16 THE COURT: Okay. So, do you want the Court to consider those?

17 THE DEFENDANT: Please, Your Honor.

18 THE COURT: I know there's a note here saying that a copy was sent to the
19 DA and a copy was sent to Mr. Frizzell.

20 MR. FRIZZELL: And I got my copy, as well as the originals and the --

21 THE COURT: Okay.

22 MR. FRIZZELL: -- State just confirmed to me that they got their copy as well.

23 THE COURT: Okay.

24 MR. DICKERSON: I have. I've reviewed them all, Your Honor. Mike
25 Dickerson on behalf of the State.

1 THE COURT: Thank you, Mike. All right. So, is there anything other than
2 what you just told me, Mr. Frizzell, that we can't go forward with this?

3 MR. FRIZZELL: No, Your Honor.

4 THE COURT: All right. So, Mr. Keller, I received a copy of the Presentence
5 Investigation Report dated April 14th, 2017. Did you receive that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Did you take a look at it?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Is there anything in the report that you think is incorrect?

10 THE DEFENDANT: No, Your Honor.

11 MR. FRIZZELL: I think he had a couple things he wanted to add, Your Honor,
12 that he saw that weren't in there that he wanted to --

13 THE COURT: Okay. He can --

14 MR. FRIZZELL: -- add, but I'll wait for that.

15 THE COURT: All right. So, I'll hear from the State and then I'll hear from you
16 and your attorney, all right, Mr. Keller?

17 THE DEFENDANT: Yeah.

18 THE COURT: All right. Mr. Dickerson.

19 MR. DICKERSON: Thank you, Your Honor. Your Honor, you heard all the
20 evidence against Mr. Keller in the jury trial showing that without a doubt Mr. Keller's
21 in fact a drug -- he's a drug dealer not a drug addict. What he's addicted to is
22 money; you heard it from his own mouth in those jail calls that were played during
23 trial. Though maybe at some point in time he did start off with a drug problem which
24 eventually led him to crime which eventually led him into the Court system, he's
25 come a long way since then and we see that with his criminal record. That's why

1 today the State is seeking habitual criminal treatment. I have five Judgements of
2 Conviction here in my hand. If I may approach your clerk, Your Honor.

3 THE COURT: Yes.

4 MR. FRIZZELL: And I've already seen them, Judge.

5 THE COURT: Okay.

6 MR. DICKERSON: I've numbered them in correlation to my notice of habitual
7 criminal. Now, what we see in the Defendant's history is five prior felonies, five prior
8 prison sentences, and three prior probation revocations. That's not to say that he
9 hasn't had the opportunity for treatment; it's far from that. And in fact, the
10 sentencing that he's gotten has been quite light, especially given the fact that he's a
11 five time felon. What we see in his history is directly opposite of what we see in all
12 those letters talking about all the help he needs and he needs another chance, that
13 he's just a drug addict.

14 What we see in his history and the facts of this case is that he's had
15 opportunity after opportunity for help starting when he was convicted in 2003 of
16 possession of credit card without card holder's consent. He was initially sentenced
17 to drug court. He had three probation violations. He's ultimately then sent to boot
18 camp where he has another violation. He's terminated from both boot camp and
19 drug court. That goes in correlation with his 2003 burglary conviction where he had
20 drug court concurrently and ultimately, boot camp concurrently with that conviction.
21 So, he's picked up two felony convictions. He's had the opportunity in both of those
22 for drug court. When he fails that, he then has the opportunity for boot camp; as yet
23 he fails that.

24 I think it's incredibly telling the institutional adjustment that you see in
25 his PSI. Rarely do we see the institutional adjustments being this long and having

1 this much to them. It just goes to show that Mr. Keller has had every opportunity
2 that we could give him to try to get things right. And I submit to you it's likely due to
3 the fact that, I mean, Mr. Keller comes from a good family. He's had opportunity; yet
4 he's rebuked it.

5 And that continues to take us on to after he paroles and he gets out, he
6 later commits another crime, possession of firearm by an ex-felon. In 2009, he's
7 convicted of that. It's his first firearm offense as a felon. He's again sentenced to
8 drug court. Again, he fails to complete it. He's had another opportunity for help.
9 When do we see that, Your Honor, how often do we see somebody after getting two
10 opportunities at drug court and then boot camp, who'd get back into drug court after
11 two prior felonies; yet Mr. Keller had that opportunity.

12 Once again, he paroles and a few years later he has yet another
13 firearms offense as a felon. He's convicted in 2013 of attempt possession of a
14 firearm by an ex-felon; he's sent to prison on that case. Also, in 2013, he's
15 convicted of conspiracy to violate The Uniform Controlled Substances Act, an
16 offense which shows that he's a drug dealer back then. He's running from the
17 police. He has trafficking amounts of controlled substance on him. As you can see,
18 he was originally charged with trafficking in that case and so he's sent to prison
19 there.

20 Here in this case, he had an exorbitant amount of drugs on him. Not
21 personal use by any means, 351.4 grams of methamphetamine. Doing the math,
22 Your Honor, a dose of methamphetamine is approximately 30 mg; that's 11,713
23 doses of methamphetamine. What's I think is even more personally offensive given
24 what we see in society today and that there's finally some attention coming to the
25 opioid epidemic, is the fact that he has 36.4 grams of heroin. Heroin being

1 approximately 20 mg per dose, that's 1,820 doses of heroin.

2 Mr. Keller may have got here by being a drug addict, but now he's
3 creating drug addicts. Mr. Keller's a problem. Mr. Keller needs to be sentenced to
4 at least ten to life on each of those counts. And I'm submitting to you that the meth
5 and the heroin need to run consecutive to each other because one or the other is
6 bad enough and now you have both.

7 In addition to that, he had cocaine and marijuana. He had two
8 handguns, two more firearms that he's had in his possession as a felon; one in his
9 car, one in his bedroom. I would remind you that most of this stuff was found in a
10 secret cubby hole inside his glove box specifically used for his dealings as a drug
11 dealer. And then on his person, \$2,187.00 in cash which as you also saw and you
12 heard, he was not employed to that capacity where he should be carrying around
13 that much money. In fact, I think that his -- if I recall correctly, his paystubs showed
14 about \$400.00 year-to-date.

15 So, in addition to that, he then goes to the police station and decides
16 that he has a couple more grams of methamphetamine taped to his scrotum. He
17 pulls that out and decides to try to dispose of it into his nose before he goes to jail.
18 It shows it just a complete lack of respect for the system, a complete lack of respect
19 for every opportunity he's had, a complete lack of respect for his family who's
20 obviously trying to help him and wants to see the best thing for him.

21 For that reason, Your Honor, I'm asking that he be sentenced to ten to
22 life on Count 1 and 2, have those run consecutive; to 12 to 48 on Count 3,
23 concurrent to Count 1; to large habitual treatment on the rest of the counts 4 through
24 9, that being ten to life on all of them. But the two firearms, I'm asking for those also
25 to be consecutive. So, Count 8 to be concurrent to Count 1, but Count 9 to be

1 consecutive to Count 8, that being ten to life on both for an aggregate sentence of
2 20 to life, Your Honor. I'm showing that he has 558 days credit for time served. I'll
3 submit it with that.

4 THE COURT: All right. Thank you. Mr. Frizzell.

5 MR. FRIZZELL: Well, Your Honor, I think contrary to what the State has kind
6 of brought out to you and just reading in his background of his substance abuse
7 history, quite the opposite, he has had a problem his entire life. And we also know
8 that just because someone is given an opportunity, if they're not ready in their own
9 head to do it, then they're just going to back to it. But as you can see, by his own
10 statements, his life of illegal substances started when he was 12 years old.

11 Now, his mom has been here almost every hearing that we've had, at
12 least since I've been involved in the case, and it's very evident she loves her son.
13 She was instrumental in getting a lot of these reference letters -- these character
14 letters that Your Honor has in front of you.

15 And while I understand the sentencing guidelines, I also understand
16 that essentially what's going to be happening is -- what we're saying is that a
17 33-year-old man really at this age is unredeemable. And I don't know that at this
18 stage I'm willing to concede that he's unredeemable and we just need to warehouse
19 him for however long the aggregate ends up to be.

20 Now, I understand that what he's charged with carries some
21 mandatory -- at least minimum sentencing requirements, and I think, Your
22 Honor -- and obviously, sitting here listening today, in going into what I would
23 consider maybe a bit more creative sentencing, I think that you can achieve a
24 habitual level given what he's charged with, without calling him a habitual criminal.

25 I think that over the time that I've been involved in his case -- and

1 candidly, we have butted heads a few times, but the bottom line is, is I'm back on his
2 case and, Your Honor, he has -- we know for sure he's been drug free for 558 days,
3 and that is the credit he has on the case.

4 But what I'm asking, Your Honor, is if you are inclined to adjudicate him
5 as a habitual, I'd ask that you adjudicate him as a small habitual. But if we can get
6 around the habitual and just go with trafficking, running all of that -- running the
7 trafficking the minimum requirement that you have to give him and running
8 everything concurrent to each other, I think that when Mr. Keller finally ultimately is
9 able to hit the streets again and come back home and be in street clothes -- I think
10 that he's learned his lesson and certainly his head is clear, and he's had an
11 opportunity for his head to be clear.

12 And as you'll recall, when we had our motion to suppress hearing
13 several months ago, we were basically three minutes away from this case not even
14 being remotely close to where we're at now. And, Your Honor, I would just ask that
15 you not sentence him in such a way that we would be sending him a message that
16 at 33 years old he's unredeemable.

17 All of his offenses are drug-related but, you know, possession of
18 weapons, he's not -- he's never used any of the weapons in any of his crimes from
19 what I understand, but he has been in possession of them.

20 And, Your Honor, I would just like to -- I would like to see Mr. Keller
21 have an opportunity to do some of the things that he said in his work history where
22 he was working at the meat market, he worked as a bagger, he worked at other jobs
23 until the drugs just got the better of him. And yes, Your Honor, he was using, but I
24 think that to say that what he was doing was not being done to drive his drug habit
25 would, I think, be a mischaracterization given the fact that we actually saw video in

1 the trial of while he's in custody awaiting being booked, that he does a dose of
2 methamphetamine. He's absolutely got a problem. And if -- and the fact that he's
3 now sat here for 559 days and been able to clean up is probably the only reason
4 he's not dead right now.

5 And so, Your Honor, I still think there's something redeeming about him
6 and I'd ask that you sentence him accordingly and do it in such a way that we can
7 avoid a habitual label. And I'll submit it.

8 THE COURT: Thank you, Mr. Frizzell. Mr. Keller, did you have anything you
9 wanted to say before we impose sentence here?

10 THE DEFENDANT: Yes, Your Honor. Well, I'll start by saying I do have a
11 drug problem. And first, that I have a relationship with God, and I have a close
12 relationship with him to where every time I back slide and stuff, that it just -- he gives
13 me a bigger and bigger wake-up call.

14 And then when I get high I just -- I end up in a big spiraled out of control
15 situation and I'm not -- I've never -- I want to say that I've never committed a crime
16 in my life when I was sober, Your Honor, never was.

17 And that when I got out last time it was the first time that I ever got out,
18 just didn't go get high. I was actually trying this time. I was working clean and sober
19 for a year and a half which was a big step for 'cause I had never gone more than a
20 day without going back in the same situations. And from my hard work I was
21 supervisor at a car wash and I bought a -- that condo and my car from work, from a
22 \$9.00 an hour plus tips job I -- not from any type of illegal activity.

23 And I -- Your Honor, I never had any responsibilities till now. Your
24 Honor, I just want another -- I want a chance to be out hopefully before -- while my
25 parents are still alive. Since I've been here, my stepdad has been -- he's been -- he

1 has cancer, Your Honor, and just -- I need to be there for my mom and for him, like
2 she -- he's always taking care of her. I've never had nothing to worry about. I've
3 never had to worry about nothing in life and now I do, you know, like, 'cause he's
4 always taken good care of my mother. And my mom's the most important thing to
5 me; I have nothing else except for my mom. And I don't know -- I've been tearful
6 since I've been in here because I don't know what's going to happen to my mom if
7 something happened to my stepdad, you know.

8 And I know it seems like I keep messing up and stuff, but I just want to
9 say this is the first time that I tried, you know, this is the first time I got out and I was
10 sober, you know, and I was doing good and I was involved in NA, AA, all that stuff.

11 And besides that, I just wanted to say that as far as my charges -- like
12 you were saying, the first time -- my first two charges I was convicted of when I was
13 18, that was the first time I ever did methamphetamine, and somehow I ended up
14 charged with a bunch of car burglaries from that, like over a three day period, that's
15 what my conviction of my first felony was for. I got too high my first time using and I
16 just got a bunch of burglaries, you know, 'cause I was too high. That's just what
17 happens when I get high, you know. And I knew that this time, that's why I stayed
18 sober, you know, and I knew if I get high I was going to end up going to prison
19 again.

20 And I just, you know, I had some bad situations with a girlfriend, and
21 abortion, and all this stuff and then it just -- I ended up going back to that, you know,
22 and it just -- and I wasn't even telling people. They're like, oh, why don't you get
23 high anymore? 'Cause I know if I get high I'm going back to prison. And I'm not
24 like, you know, some people that they're out there and they're just always out there
25 getting high. And they're like, well, why don't you get high anymore? And I --

1 'cause I can't. I know I can't get high without going to prison, that's not possible
2 'cause it just spirals out of control.

3 You know, I probably used more meth than the average person. When
4 I do it that's -- with my charge -- with my -- the one -- the only other one where the
5 violate controlled substance act, I had ten grams of methamphetamine which was --
6 they consider that like trafficking, but that's like less than three days-worth, that's like
7 three days of meth that I was using. You know, that's not -- I mean, I understand
8 that it's not nothing to have, but it's not -- I wasn't trafficking it or selling it or
9 anything.

10 And then on my other two felonies, there -- it was a gun in someone
11 else's truck. And I was the only felon there and no one took responsibility and I
12 ended up taking the deal. And then another one was a moving truck in my name. I
13 was helping my co-defendant move and there was a gun in there.

14 So, it's like there -- I mean, I know that I'm around some stuff that is just
15 retarded, Your Honor. You know that like when I get high I just go around people
16 that sell drugs or whatever so I don't have to pay for it and then I just go off with
17 other people that are around them, and then, you know, weird stuff just happens,
18 you know, that I would never in life be around. I didn't even talk to none of these
19 people the whole year and a half in my sobriety.

20 And I just want to, you know, I just want a chance to be there for my
21 mother, you know, like, I'm worried about her and I'm worried about my stepdad. I
22 never had any responsibilities before this and now I do.

23 And I mean, I've proven I could be a man. I was a supervisor at a car
24 wash. Then I wanted to get a career, you know. Then I went and I was going to be
25 a butcher and I was trained for that, and I was going to go from Mario's Market

1 where they were training me and then I was going to go over to work at Smith's.
2 And I had -- and I was working all of it. I had just injured my hand cutting it from a --
3 and then it was like a month before I [indiscernible] and it was just like, that month
4 of, you know, that month of not working, that's all it took for the situation to happen.

5 I just wanted to say that this is not something that I want to be involved
6 with. I don't talk to anyone no more, like, I could get -- I could put phone time and I
7 could still talk to those girls and stuff like that, and I don't talk to none of those
8 people and I don't want to, Your Honor. And that's all I have to say, Your Honor.

9 THE COURT: Okay.

10 MR. FRIZZELL: And, Your, Honor, I just wanted to add also, his stepdad is
11 right here in the white shirt in the front row next to his mother.

12 THE COURT: I received a letter from him as well, I believe, as well as from
13 his mom.

14 Okay. Mr. Keller, in accordance with your -- the jury verdict in this
15 matter of March 10th, 2017, I'm adjudicating you guilty Counts 1, Counts 2,
16 trafficking a controlled substance. In addition to a \$25.00 administrative
17 assessment, \$60.00 drug analysis fee. I'm going to waive the genetic testing that
18 was ordered previously, a \$3.00 DNA administrative assessment fee.

19 On Count 1, I'm sentencing you here today under the charge of
20 trafficking a controlled substance, to life in prison with the possibility of parole after
21 ten years being served. I'm also going to order you to pay a fine of \$5,000.00.

22 On Count 2, I'm sentencing you to life in prison with the possibility of
23 parole after ten years, with a fine of \$5,000.00. That will run concurrent with
24 Count 1.

25 I'm adjudicating you guilty of Count 3, possession of controlled

1 substance, marijuana, less than an -- greater than an ounce. I'm sentencing you
2 under the sentence of 12 months minimum, 48 months maximum, Nevada
3 Department of Corrections. That will run concurrent with Count 2.

4 As to Count 4, I'm adjudicating you guilty of possession of controlled
5 substance with intent to sell.

6 Count 5, I'm adjudicating you guilty of possession of controlled
7 substance with intent to sell.

8 Count 6, I'm adjudicating you guilty of possession of controlled
9 substance with intent to sell.

10 Count 7, I'm adjudicating you guilty of possession of controlled
11 substance with intent to sell.

12 As to Count 4, I'm sentencing you under the sentence of 12 months to
13 48 months in Nevada department of prisons that will run concurrent with Count 3.

14 Count 5, 12 months minimum, 48 months maximum, Nevada
15 Department of Corrections, concurrent with Count 4.

16 Count 6, 12 months minimum, 48 months maximum, Nevada
17 Department of Corrections run concurrent with Counts 5.

18 Count 7, 12 months minimum, 48 months maximum that will run
19 concurrent with Count 6.

20 As to Count 8, for the record, I've been provided copies of -- certified
21 copies of Judgements of Conviction in this matter. I have one in C189805B out of
22 the State of Nevada from June of 2004, and it is for the charge of possession of
23 credit card without owner's consent, a felony. I've been provided with a copy of a
24 Judgement of Conviction in C192923 from June of 2004, for the charge of burglary,
25 a felony. I've been provided a copy of a Judgement of Conviction out of the State of

1 Nevada in C252394 from 2010, and it is a Judgment of Conviction in this matter for
2 the felony offense possession of firearm by ex-felon. Count -- I'm sorry. I have
3 been provided a copy of a Judgment of Conviction in C279904 out of the State of
4 Nevada for the charge of attempt possession of firearm by ex-felon, a felony. And I
5 provided a -- been provided a copy of a Judgement of Conviction in C287724 out of
6 the State of Nevada for the offense of a felony conspiracy to violate The Uniform
7 Controlled Substance Act.

8 With that being said, on Count 8, I'm adjudicating you guilty of the
9 charge of ownership or possession of a firearm by a prohibited person. I'm
10 sentencing you under the large habitual sentence of life with a minimum of ten years
11 that will run consecutive to Counts 1, 2, 3, 4, 5, 6, and 7.

12 Count 9, I'm adjudicating you guilty of ownership or possession of
13 firearm by a prohibited person. I'm adjudicating you guilty of the large habitual.
14 You'll be sentenced to life with a minimum of possibility of parole after ten years.
15 That will run concurrent to Count 8. Aggregate would be life, minimum of 20 years.
16 You'll be given in this matter -- is it --

17 MR. FRIZZELL: 558 days is what we counted, Your Honor.

18 THE COURT: -- 558 days credit -- 559 days credit for time served is what you
19 have.

20 MR. FRIZZELL: All right.

21 THE COURT: All right. Anything further from the parties?

22 . . .

23 . . .

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MR. DICKERSON: No, Your Honor, thank you.

MR. FRIZZELL: No, Your Honor.

[Proceeding concluded at 10:12 a.m.]

ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.



Trisha Garcia
Court Transcriber

Case No. C-16-312717-1

Dept. No. XIX

IN THE 8th JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK.

Christopher Keller
Petitioner,

-vs-

STATE OF NEVADA
Respondents.

ORDER APPOINTING COUNSEL

Petitioner, Christopher Keller, has filed a proper person REQUEST FOR APPOINTMENT OF COUNSEL, to represent him on his Petition for Writ of Habeas Corpus (Post-Conviction), in the above-entitled action.

The Court has reviewed Petitioner's Request and the entire file in this action, and Good Cause Appearing, IT IS HEREBY ORDERED, that petitioner's Request for Appointment of Counsel is GRANTED.

IT IS FURTHER ORDERED that _____, Esq., is appointed to represent Petitioner on his Post-Conviction for Writ of Habeas Corpus.

Dated this _____ day of _____, 20 ____.

Submitted by:

Chris Keller
Christopher Keller
Petitioner, In Proper Person

DISTRICT COURT JUDGE

C-16-312717-1
LSF
Left Side Filing
4696198





TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-16-312717-1
	.	
Plaintiff,	.	DEPT. NO. XIX
	.	
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
CHRISTOPHER ROBERT KELLER,	.	
	.	
Defendant.	.	
.	

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

**ROUGH DRAFT TRANSCRIPT OF
JURY TRIAL - DAY 1**

**PARTIAL TRANSCRIPT
(EXCLUDES JURY VOIR DIRE)**

MONDAY, MARCH 6, 2017

APPEARANCES:

FOR THE STATE:	MATTHEW T. BUNNETT, ESQ. MICHAEL DICKERSON, ESQ. <i>Deputy District Attorneys</i>
FOR THE DEFENDANT:	KENNETH G. FRIZZELL, III., ESQ. AMY FELICIANO, ESQ.

RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, MONDAY, MARCH 6, 2017, 1:00 P.M.

2 (Outside the presence of the jury)

3 THE COURT: All right. We're on the record in the
4 case of State of Nevada versus Christopher Keller. This is
5 C312717. This is the time set for jury trial. I'd like the
6 record to reflect the presence of the defendant, his counsel,
7 Mr. Frizzell, as well as counsel for the State. Are we ready
8 to go forward on this?

9 MR. DICKERSON: State's ready, Your Honor.

10 THE COURT: Okay. I've just been handed a copy of
11 Defendant Keller's substitution attorney, Amy Feliciano,
12 appearance for record. Okay, Ms. Feliciano, you're
13 substituting in on this matter now?

14 MS. FELICIANO: I would ask the Court to allow me to
15 substitute in. And I have not -- I just received today from
16 Mr. Frizzell the file, Mr. Keller's case file. I'm not
17 prepared to go to trial. I did notify the parties and
18 chambers last week by e-mail that Mr. Keller's mother had
19 retained me, but I would not be ready to go to trial.

20 And just to kind of -- I let the parties know one of
21 the issues here and why this is coming on the eve of, you
22 know, of trial.

23 THE COURT: Okay.

24 MS. FELICIANO: Mr. Keller's mother has been -- got
25 in touch with me in February, beginning of February, about

ROUGH DRAFT TRANSCRIPT

1 retention. However, right after that I -- my husband and I
2 had, unfortunately, involuntary commit our 16-year-old son to
3 Spring Mountain Behavioral Center for mental illness.

4 At the same time, I started having seizures. I had
5 two grand mal seizures in February and was hospitalized in
6 Valley Hospital for over a week. I'm up to ten seizures now.
7 It came out of nowhere. After the grand mals and when I left
8 Valley, I suffered extreme aphasia, which I stutter, et
9 cetera. Long story short, by the time I was able to work
10 again and get back to normal, I contacted Mr. Keller's mother
11 again, as I was catching up with my contacts, my telephone
12 calls, et cetera, and his mother had graciously been waiting
13 for me to contact her.

14 And this was on about the -- sorry, Judge.

15 THE COURT: No, that's okay. Just relax. We're
16 fine.

17 MS. FELICIANO: This is part of it. 26th of
18 February --

19 THE COURT: Okay.

20 MS. FELICIANO: -- and was retained at that time and
21 prepared the documents to enter into with Mr. Keller and his
22 mother. And that, Your Honor, is -- and Mr. Keller's mother
23 when we had -- when we spoke, informed me that she and her
24 husband had always been going to let him on his own, not hire
25 counsel for him, but at this time, they wish to.

ROUGH DRAFT TRANSCRIPT

1 And so she used -- and we listened to jail calls,
2 her savings account to retain me and so that's -- it's my
3 fault that I was not retained at the beginning of February
4 when Mr. Keller's mother first contacted me. Just to let you
5 know, Your Honor, kind of where my position is at and why
6 everything was so last minute and, you know, let the parties
7 know as best I could, you know, once the payment clears and
8 things are firm. So thank you, Judge.

9 THE COURT: Ms. Feliciano, the concern I have here,
10 and it would play part in every case, is that when we have
11 certain dates that we put out there, everyone knows about
12 them, and I know that you probably researched this to find out
13 when a trial date was scheduled. You know that in the
14 beginning prior to actually having an evidentiary hearing your
15 client was invoking -- well, Mr. Keller was invoking his right
16 to a speedy trial.

17 It's been -- I've dealt with a number of changes
18 here. Full Frizzell has come in. He's not the first attorney
19 to handle this matter. And so the concern that I have is that
20 you would even do this, even probably as late as -- I mean as
21 early as February knowing when we have a trial date coming up.

22 And I appreciate you're trying to step in here to
23 assist Mr. -- I mean, Mr. Keller, but I set trial dates
24 because I'm trying to move these cases. I have an
25 availability to do this case now, and I think when you accept

ROUGH DRAFT TRANSCRIPT

1 a case like this or if I even allow you to substitute in at
2 this time, you do it at your own peril, and your client -- and
3 that's something that you need to discuss with your client.

4 Mr. Frizzell's been involved in this matter. We've
5 had an evidentiary hearing on this matter. I think this is a
6 simple case. It's not going to take a lot of litigation here,
7 as we've dealt with that already. This probably could be
8 tried in a few days. But the concern I have is that, you
9 know, I don't like the fact that you've put the Court in a
10 position you now. Is that you're here, you're saying, you
11 know, please let me substitute in, Judge, however, I need to
12 continue this because I'm not ready.

13 I've told individuals at calendar calls if you
14 substitute in, you're going to be going because it's just not
15 fair to the parties. It's not even fair to the Court here.
16 And it's certainly not fair to your client.

17 So you know, I'm in a position now to deny your
18 motion to substitute in. Mr. Frizzell has the case. He's
19 prepared to go forward on this. He announced ready before on
20 this matter. Or if you insist on substituting in, we're going
21 to go to trial here.

22 MS. FELICIANO: If I can just make the record and
23 the calendar call in this case was quite early. And when I
24 looked at the matter and the calendar call was quite early and
25 saw that it was in overflow, there was no guarantee that it

ROUGH DRAFT TRANSCRIPT

1 would be starting trial on Monday.

2 THE COURT: No, I know, but you have to understand
3 that if I send it to overflow, it's sent with the expectation
4 that we're going to be starting on the date that the trial
5 date is set. So --

6 MS. FELICIANO: It's also -- I'm sorry, Your Honor.

7 THE COURT: No, it's -- go ahead.

8 MS. FELICIANO: My understanding is that the State
9 provided new evidence this morning. There are jail calls.
10 There are some other documents.

11 THE COURT: This morning?

12 MR. DICKERSON: Well, as far as that, Your Honor,
13 those jail calls are only in relation to this purpose right
14 here. This motion to continue.

15 THE COURT: It's not something you'd be presenting
16 at trial?

17 MR. DICKERSON: Nothing we'd be presenting in trial.
18 Just for Your Honor's edification as to the background of this
19 continuance here and you'll hear a call, if we admit it in
20 evidence from Mr. Keller and his mother speaking about Ms.
21 Feliciano for the first time on the 27th of February. His
22 mother telling him that I've hired you an attorney, here's her
23 name, here's her phone number, and it gives you an idea of
24 exactly why we're doing this.

25 Mr. Keller's saying, great, that's great, she can

ROUGH DRAFT TRANSCRIPT

1 then come in and I'll get rid of Ken, and then she can file a
2 bunch of motions and the DA will give me a better deal. I got
3 to get a better deal. This is only for the purposes of delay,
4 Your Honor. Only to continue this case. This case is now --

5 THE COURT: You're certainly not suggesting Ms.
6 Feliciano is involved that, are you?

7 MR. DICKERSON: No. I think that Ms. Feliciano is
8 simply the pawn in that play. And what we have here, Your
9 Honor, is the sixth trial setting. The same thing kind of
10 happened relatively at the second trial setting in May 2016,
11 when after calendar call, Mr. Sanft withdrew and Mr. Frizzell
12 was appointed.

13 Now we've come four settings since then, and we're
14 just putting it on the record today that the first we hear
15 about any of this in the background is on that February 27th
16 call between Mr. Keller and his mother. It wasn't until the
17 next day on the 28th that Ms. Feliciano then sent the e-mail
18 out to the Court and to some DAs in my office that ultimately
19 forwarded it to me saying that she was planning on
20 substituting in, which as Your Honor knows with well after the
21 calendar call in this case.

22 So pursuant to Eighth Judicial District Court Rule
23 7.40, no substitution can occur if it would cause a delay in
24 the trial. And pursuant to Rimer v. State, 351 P.3d 697,
25 which I have a copy for, Your Honor, it was a case that came

ROUGH DRAFT TRANSCRIPT

1 out of Judge Herndon's court, and it was actually a child
2 death case and a child abuse case where on the eve of trial,
3 just like this, Mr. Rimer in this case wanted to substitute in
4 counsel. Judge Herndon denied that and the Supreme Court came
5 down and said there's nothing wrong with that.

6 It's not an arbitrary and unreasoning denial of that
7 substitution and that continuance and there's absolutely
8 nothing wrong with denying it and there's no constitutional
9 concern there. So for those reasons, Your Honor, we oppose
10 the substitution if it would cause delay, but if it wouldn't
11 cause delay, then, of course, we'd have no problem with it.

12 THE COURT: I understand.

13 MR. DICKERSON: That's it.

14 THE COURT: I understand.

15 MR. DICKERSON: We'd submit it.

16 THE COURT: That's what I was getting at is he was
17 wanting to know what Ms. Feliciano wanted to do. If you want
18 to substitute in, I'll grant that, but we're going to go to
19 trial on this.

20 MS. FELICIANO: And Judge, for the record, in taking
21 the case, I would have -- it would have been my case the
22 beginning of February. I would have substituted in then, been
23 able to appear at the calendar call and let the Court know
24 whether I was ready or file what I needed to do, investigate,
25 but for the extenuating circumstances of my very serious

ROUGH DRAFT TRANSCRIPT

1 health condition, with which I have a follow-up with the
2 neurologist on April 3rd to see if I have damage in my
3 temporal lobe and my son's involuntarily, you know, being
4 committed, I would have been, you know, long on this case and
5 ready to go.

6 You know, I -- I'm asking the Court to substitute in
7 via Mr. Keller. I appreciate the State is citing, you know,
8 the rules on it. At the same time, he does have the right to
9 counsel of his choosing. I certainly am not doing this for
10 the purposes of delay and was going to ask the Court just for
11 a short resetting of this case to give me an opportunity with
12 my investigator to go through the file, to, you know, do what
13 I feel is necessary and then try the case.

14 And in letting -- in accepting the case on Sunday,
15 you know, his mother had been contacting me and, you know, I
16 -- I forgot what I was going to say, Judge. It happens. But
17 that's why the late substitution, and I --

18 THE COURT: Ms. Feliciano, for --

19 MR. FRIZZELL: Your Honor, if I could make a couple
20 of points.

21 THE COURT: I will. I'll allow you.

22 MR. FRIZZELL: Okay, sorry, go ahead.

23 THE COURT: I was just going to make a point. For
24 any reason, for whatever reason and I'm really sorry what's
25 happened to you, but for any reason a substitution at this

ROUGH DRAFT TRANSCRIPT

1 point in time does cause -- has a natural effect of causing
2 delay on it if I grant it and you can't go to trial now.

3 And so for those reasons, for those reasons by
4 themselves, let alone the nature of how long this has been
5 going on, the number of substitutions that we've had is the
6 reason why I'm denying that. Unless you want to -- unless
7 you're prepared to go forward, I don't see any benefit to your
8 client or to this case at all to allow you to substitute in.
9 And so I mean, if you want to go forward, I'll grant you the
10 -- I'll grant the motion. If not, I'm going to deny the
11 motion. I'm not granting you a continuance. We're going to
12 go forward with this today.

13 Either way, you can sit there with Mr. Frizzell or
14 whatever you want to do, but Mr. Frizzell is the attorney of
15 record on this.

16 MS. FELICIANO: I cannot effectively represent
17 Mr. Keller or go to trial in this. If the Court is going to
18 deny my motion to substitute, then I'm in a position where I
19 would then need to refund the fees the that I have been
20 paid --

21 THE COURT: Okay.

22 MS. FELICIANO: -- for representation and then
23 Mr. Frizzell.

24 THE COURT: Okay.

25 MR. FRIZZELL: Your Honor, I have a couple points

ROUGH DRAFT TRANSCRIPT

1 that I wanted to bring up to the Court on this because I was
2 notified by your chambers that this was taking place -- that
3 Ms. Feliciano had contacted chambers about coming in.

4 Being the attorney of record and that's why I had my
5 investigator, Mark Maston (phonetic), come here today, we went
6 over to see Mr. Keller on Tuesday, and -- last Tuesday. What
7 was that, the -- it was the 28th.

8 THE COURT: March 1st.

9 (Pause in the proceedings)

10 MR. FRIZZELL: On the 1st. And we had -- the
11 meeting was less than five minutes because Mr. Keller
12 informed me that he had -- he had other counsel, and he
13 didn't want to go over anything to prepare with me. He
14 didn't want to talk to me. And then coming out today and
15 listening to these jail calls, there's quite some vitriolic
16 terminology used to towards me and my ineffectiveness, and
17 that I didn't -- that there was 15 more -- there were 15 more
18 motions that need to be filed and whatnot that my concern, if
19 you make this go today, is that I am now being opened up,
20 based on these calls with his mother, that we all listened to
21 back in the conference room, that I'm opening up -- I'm being
22 opened then for an ineffective assistance claim.

23 And regardless of whether or not it would actually
24 go anywhere, I would have to be dealing with that. So even
25 though Your Honor, I have been on this thing for quite some

ROUGH DRAFT TRANSCRIPT

1 time and the fact that Mr. Keller refuse today talk with me
2 or my investigator coupled with what I heard today on these
3 calls, there was even a threat made, almost a collusion, if
4 you will, between Mr. Keller and his mother that there's
5 going to be a bar complaint coming from this.

6 And so for me to go today knowing what I've heard,
7 Your Honor, as much as I appreciate your policies and how you
8 run your court --

9 THE COURT: It's really not policies.

10 MR. FRIZZELL: Well, I'm asking -- I'm asking for a
11 brief continuance because I'm going to get -- I know what's
12 going to be coming if we go and the inevitable --

13 THE COURT: Well, Mr. Frizzell --

14 MR. FRIZZELL: -- happens and I lose.

15 THE COURT: Mr. Frizzell, if we succumb to that
16 type of behavior on behalf of your clients, then we'd be
17 getting controlled by him. This whole case has been going
18 that way. He's been playing this whole card game that way
19 where he's trying to control this court. He's been trying to
20 order certain things, get the court to order certain things.
21 You've filed motions in this matter.

22 MR. FRIZZELL: I have.

23 THE COURT: He's challenged other attorneys. He's
24 not going to be happy until he gets his way all the time.
25 But the problem is he's in a position right now that he

ROUGH DRAFT TRANSCRIPT

1 doesn't necessarily get his way. All he gets is due process.
2 And right now due process is afoot. And if he wants to make
3 arguments and complaints on you, I -- you know, I appreciate
4 your concerns, Mr. Frizzell. I've seen you practice for your
5 whole year -- your whole career as an attorney I've watched
6 you practice. I don't -- I'm not going to weigh in on
7 anything with that, but I'm not -- I'm confident in your
8 abilities. That's why you're an attorney that's appointed in
9 my courtroom so --

10 MR. FRIZZELL: I understand, and I appreciate that,
11 Your Honor.

12 THE COURT: So we're --

13 MR. FRIZZELL: I just want to make those points --

14 THE COURT: Okay.

15 MR. FRIZZELL: -- to Your Honor.

16 THE COURT: You have, and, you know, there's always
17 claims of this ineffective assistance making, always have
18 those claims. And until I see them or hear him, I can't make
19 any rulings on them. But at this point, we have a time set
20 for trial and that's what we're here for.

21 I'm not going to let individuals dictate how the
22 Court proceeds on this. I've been more than gracious, I
23 think, to your client in this case. I've listened to him.
24 I've watched him. I still have his eye -- I mean, his -- my
25 vision of him where he sat in the back row on one particular

ROUGH DRAFT TRANSCRIPT

1 day that we had some exchange. But all I want to do -- he
2 wants a trial, I'm giving him a trial. It's been continued a
3 number of -- what did you -- six --

4 MR. DICKERSON: This is the sixth setting, Your
5 Honor.

6 THE COURT: So, Mr. Keller, time is up. We're
7 going to go to trial now and what happens happens. If you're
8 fortunate, you'll be found not guilty. If you're
9 unfortunate, you won't be, and then you'll have to deal with
10 any litigation beyond this.

11 And if this comes into play, then you have a
12 record. You've made your record, and we'll deal with that.
13 But at this point in time, Ms. Feliciano, I'm going to ask
14 you once again, are you substituting in? If you are, we are
15 going to trial today. If you can't because you need to
16 continue it, then I'm not going to allow you to substitute
17 in.

18 MS. FELICIANO: No, I can't be effective --

19 THE COURT: Okay.

20 MS. FELICIANO: -- were I to go to trial today.

21 THE COURT: Okay.

22 MS. FELICIANO: Just one thing for the record, Your
23 Honor, you had mentioned taking this case and being ready for
24 trial. You know, I -- as I said, I would have been, but for
25 the extenuating circumstances, but as well as, I mean, this

ROUGH DRAFT TRANSCRIPT

1 is how I make my living, Your Honor, is, you know, accepting
2 cases and, you know, being retained to represent clients. I
3 mean, this is a significant --

4 THE COURT: Well, sometimes I -- I've made this
5 comment a number of times. I think sometimes the attorneys,
6 and you should -- you -- I imagine you are aware of this, but
7 it's something you probably need to keep under an
8 understanding of at the time frame of where the case is as to
9 when you set your fees.

10 I would imagine that if somebody's going to come
11 hire me and my trial starts in a week, the fees are going to
12 be a lot higher knowing that you have to get prepared for it
13 than, you know, coming in and just asking to continue it. I
14 don't know, but that's not me. I'm not -- that's just what I
15 would think but --

16 MS. FELICIANO: And --

17 THE COURT: -- here we have a trial date scheduled.
18 You know, I appreciate your candor and I'm so sorry about
19 what happened, and you'll get -- I'm sure you'll get through
20 it. You're healthy and you're strong. But at this point in
21 time, I need to make a decision on this case.

22 So if -- once again, so you're telling me you
23 cannot go forward today?

24 MS. FELICIANO: I cannot, Your Honor.

25 THE COURT: Okay.

ROUGH DRAFT TRANSCRIPT

1 MS. FELICIANO: And --

2 THE COURT: All right.

3 MS. FELICIANO: -- I just want today point out one
4 more thing on behalf of there Keller, if I may. There was --
5 he did file a bar complaint against Mr. Frizzell, I believe,
6 on --

7 MR. FRIZZELL: I haven't even received it yet.

8 MS. FELICIANO: It was last year --

9 MR. FRIZZELL: Oh.

10 MS. FELICIANO: And I'm sorry, it was against both
11 -- a grievance against both Mr. Frizzell and Mr. Sanft on
12 June 16, 2016, and the bar counsel, State Bar, reviewed the
13 court records and it informed Mr. Keller that his grievance
14 involved issues best addressed in appropriate court settings
15 and in the judicial forum.

16 So I just wanted to make that record as well to
17 dovetail on Mr. Frizzell's argument that there is a conflict
18 and a breakdown in communication.

19 THE COURT: But we also know that simply filing a
20 bar complaint even Bar's decision doesn't bar the attorney
21 from representing him in the case. So I mean, and that's not
22 grounds to remove an attorney as well. So all right, so Ms.
23 Feliciano, thank you so much for your representation. Go
24 ahead and get the jury in. We're ready to start on the trial
25 in this matter.

ROUGH DRAFT TRANSCRIPT

1 MR. DICKERSON: And Your Honor, would you like us
2 to move a copy as a court exhibit of those calls that we
3 listened to with defense counsel?

4 THE COURT: You can -- I'd like them marked as a
5 court exhibit.

6 MR. DICKERSON: Yes.

7 THE COURT: Yeah.

8 (Pause in the proceedings)

9 MR. FRIZZELL: Your Honor, while we're doing that,
10 could I just take a brief recess to talk with Mr. Keller?
11 There was a new offer proposed while we were awaiting you.

12 THE COURT: You can have a brief recess.

13 MR. FRIZZELL: Okay.

14 THE COURT: I'll go ahead and exit.

15 MR. FRIZZELL: Yeah.

16 THE COURT: I'm going to ask the State to exit, but
17 they're going to go get the jury right now.

18 MR. FRIZZELL: That's fine, Your Honor.

19 THE COURT: It's right across the hall. Once they
20 get them lined up, come get me.

21 THE MARSHAL: Thorough lined up already.

22 THE COURT: Oh, they're already out there?

23 THE MARSHAL: Yes.

24 THE COURT: All right. I'm going to give you --
25 I'll give you five minutes.

ROUGH DRAFT TRANSCRIPT

1 MR. FRIZZELL: Okay, fair enough.

2 THE COURT: All right? Okay.

3 (Court recessed at 1:22 p.m. until 1:39 p.m.)

4 (Pause in the proceedings)

5 (Outside the presence of the jury)

6 MR. FRIZZELL: Mr. Keller wanted to ask the

7 Court --

8 THE COURT RECORDER: When we're on the record.

9 THE COURT: Okay, hold on.

10 MR. FRIZZELL: Yes.

11 THE COURT RECORDER: We're not on yet.

12 THE COURT: When we get on then I can let him ask
13 it.

14 THE COURT RECORDER: Okay, we're on.

15 MR. FRIZZELL: Ask the Court something.

16 THE COURT: All right, go ahead. We're back on the
17 record. State of Nevada versus Christopher Keller, C-312717.
18 Mr. Keller?

19 THE DEFENDANT: I wanted to -- I've been trying to
20 file this motion since the last time in court, but in here,
21 if you wanted to just read it and then decide if you wanted
22 to file, it was one of the reasons because my attorney
23 could never get another investigator and that was my point is
24 the same investigator's with Sanft, and my problem was never
25 with Sanft or with Frizzell to begin with. It was with the

ROUGH DRAFT TRANSCRIPT

1 investigator. And then he -- so I've been trying to get
2 another lawyer and just now I haven't had no money. Just now
3 I've been able to file my taxes, you know, but, I mean, I'm
4 in here.

5 I have no control over when they could get money to
6 hire me a lawyer on the street. But I had in this motion
7 that I've been trying to, you know, been trying to put in
8 here that I -- what my problem is. Why I've never been able
9 to discuss my case with him really because he has sent his
10 investigator and then, you know, I've just been trying to get
11 another investigator since the beginning of this case and
12 since the beginning of all this.

13 THE COURT: Okay. Well, the reason why you can't
14 file it on your own is you file it through your attorney.
15 Otherwise, it's a fugitive document. And, you know, we've
16 been dealing with this case -- this case has been here for a
17 number of -- Mr. Keller, you don't just come in the day of
18 trial and here's the problem, you're familiar with the
19 proceedings. You've been doing this a long time. You've
20 been in more courts than I can probably think of.

21 And so then for the last minute like this for you
22 to do this, you know, I understand you think you may have
23 concern, but I don't believe so. I believe you're doing this
24 for purposes of delaying this, and that's all you've been
25 doing.

ROUGH DRAFT TRANSCRIPT

1 THE DEFENDANT: But I have here the visiting log
2 from my attorney and then --

3 THE COURT: But what's that got to do with you not
4 talking to him?

5 THE DEFENDANT: Oh, because I haven't been able to
6 talk to -- he's never came.

7 THE COURT: But you won't talk to the --

8 THE DEFENDANT: He's only sent the --

9 THE COURT: -- the investigator because you don't
10 -- you have an issue with the investigator so you won't talk
11 to him, right?

12 THE DEFENDANT: That's somewhat, that's the --
13 yeah.

14 THE COURT: Okay. All right.

15 THE DEFENDANT: But my attorney hasn't never came
16 to see me or anything.

17 THE COURT: Because they work through their
18 investigators. All right. You ready?

19 MR. DICKERSON: One thing, Your Honor. With the
20 charges in this case, we're going to just move for the filing
21 of the second amended information bifurcating the charge of
22 prohibited person. We will at that time be file ago third
23 amended information when we approach those charges of the
24 prohibited person in possession of a firearm.

25 That's solely for the purposes of not introducing

ROUGH DRAFT TRANSCRIPT

1 the defendant's prior felonies, unless he should testify in
2 this first part of the trial. So for that we'd ask for this
3 second amended information be filed for that limited purpose
4 only.

5 THE COURT: Okay. So you're bifurcating the
6 charges in this matter?

7 MR. DICKERSON: That's correct.

8 THE COURT: Okay. All right, do you have any
9 objection to that, Mr. Frizzell?

10 MR. FRIZZELL: No, Your Honor.

11 THE COURT: Okay. All right, so just read counts 1
12 through 7, and then 8 and 9 will be --

13 MR. DICKERSON: I actually have a second amended
14 information right there.

15 MR. FRIZZELL: I'm just a little confused because
16 you did say third at one point here.

17 MR. DICKERSON: Third amended information will be
18 filed after this first part of the trial. That will include
19 all the charges that are currently on the amended
20 information, which is going to be the --

21 THE COURT: Well, why do you need to file a third?
22 Because you go on this and then you go on the other one, if
23 need be and you just bring the jury in and you give them that
24 and then they add it. So I see what you mean, you wanted to
25 add it to it?

ROUGH DRAFT TRANSCRIPT

1 MR. DICKERSON: Right. I think -- I -- there was
2 some talk with some folks in my office about what's easier
3 for the clerk's office, whether I file the second amended
4 with the bifurcated charges so the prohibited person not
5 being on that second amended, and then after the verdict
6 comes down on the first part of the trial, we file the third
7 amended which has all the charges again on it.

8 THE COURT: That's fine. However you want to do
9 it. Okay. So we got the second amended. All right. Okay.
10 So get the jury in, Ed.

11 (Transcribed proceedings concluded at 1:43 P.M.;
12 balance of proceedings, jury voir dire, not transcribed
13 herein.)

14 * * * * *

15 ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of
16 Appellate Procedure, I acknowledge that this is a rough draft
17 transcript, expeditiously prepared, not proofread, corrected,
18 or certified to be an accurate transcript.

19

20

Julie Lord

21

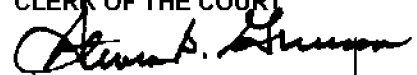
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JULIE LORD, INDEPENDENT TRANSCRIBER

24

ROUGH DRAFT TRANSCRIPT



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-16-312717-1
	.	
Plaintiff,	.	DEPT. NO. XIX
	.	
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
CHRISTOPHER ROBERT KELLER,	.	
	.	
Defendant.	.	
.	

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

**ROUGH DRAFT TRANSCRIPT OF
JURY TRIAL - DAY 2**

**PARTIAL TRANSCRIPT
(EXCLUDES JURY VOIR DIRE)**

TUESDAY, MARCH 7, 2017

APPEARANCES:

FOR THE STATE:	MATTHEW T. BUNNETT, ESQ. MICHAEL DICKERSON, ESQ. <i>Deputy District Attorneys</i>
FOR THE DEFENDANT:	KENNETH G. FRIZZELL, III., ESQ.

RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, TUESDAY, MARCH 7, 2017, 10:50 A.M.

2 (Proceedings from 10:50 A.M. to 1:22 P.M. not transcribed)

3 * * * * *

4 (CLERK SWEARS JURY PANEL)

5 THE COURT: All right, ladies and gentlemen, we'll
6 wait until you get all those together. What I'm going to do
7 at this point in time is I'm going to charge you. Meaning I'm
8 going to read some instructions that I read to the jury before
9 we get started. I'd like to be able to just speak them to
10 you, as I am now, but there's a lot of instructions. Some of
11 them are quite complicated and some of them are quite long.
12 So bear with me. Let me know when you're all ready and you're
13 all situated. Okay.

14 Then I'm going to take -- I'm going to give you all
15 a break after this because the parties want to get time to get
16 everything together to get started, okay? All right. You all
17 ready? Okay.

18 For the record, ladies and gentlemen, you're now my
19 sworn jurors in this matter. Before we commence opening
20 statements, I want to give you some introductory remarks.
21 What I will now say is intended to serve as a general
22 introduction to the trial of this case. It is not a
23 substitute for the detailed instructions on the law, which I
24 will give you at the close of this case before you retire to
25 render your verdict.

ROUGH DRAFT TRANSCRIPT

1 This is a criminal case commenced by the State of
2 Nevada, which I may sometimes refer to as State against
3 Mr. Keller. The case is based on an information, and I'm
4 going to have the clerk now read the information to you and
5 state the pleadings of the defendant.

6 (CLERK READS SECOND AMENDED INFORMATION TO THE JURY)

7 THE COURT: Ladies and gentlemen, this case is based
8 on this information that we was just read to you by my clerk.
9 You should distinctly understand that an information is simply
10 a charge and it is not in any sense evidence of the allegation
11 that is it contains. The defendant has pled not guilty to
12 this information and State therefore then has the burden of
13 proving each of the essential elements of the charges beyond a
14 reasonable doubt.

15 As the defendant sits here now he is not guilty.
16 The purpose of this trial is to determine whether the State
17 will meet that burden. It is your primary responsibility as
18 jurors to find as determine the facts. Under our system of
19 criminal procedure, you are the judge and sole judge of the
20 facts. You are to determine the facts from the testimony you
21 hear and other evidence including exhibits introduced here in
22 court. It is up to you to determine the inferences in which
23 you feel may be drawn -- properly drawn from the evidence.

24 The trial begins with opening statements. The
25 district attorney will make an opening statement, if they

ROUGH DRAFT TRANSCRIPT

1 desire to, which is an outline to help you understand what the
2 State expects that they will prove. Next the defendant's
3 attorneys may, if they so desire, make an opening statement,
4 but he does not have to.

5 Opening statements serve as an introduction to the
6 evidence which the party making the statement intends to
7 prove, but it is not evidence. Next the State will commence
8 with its case in chief. This is the State's opportunity to
9 present its evidence. This consists of the calling of
10 witnesses and the production of physical items of evidence,
11 such as documents and/or photographs and the like.

12 Counsel for the defendant may cross-examine the
13 State's witnesses. Following State's case in chief, the
14 defendant may present evidence and the district attorneys may
15 cross-examine the defense witnesses. However, as I've said,
16 the defendant is not obligated to present any evidence. There
17 are two kinds of evidence; direct and circumstantial. Direct
18 evidence is testimony by a witness about what that witness
19 personally saw or heard or did. Circumstantial evidence is
20 testimony or exhibits which are proof of a particular fact
21 from which, if proven, you may infer the existence of a second
22 fact.

23 You may consider both direct and circumstantial
24 evidence in deciding this case. The law permits you to give
25 equal weight to both but it is for you to decide how much

ROUGH DRAFT TRANSCRIPT

1 weight to give any evidence. Anything you may have heard or
2 seen outside the courtroom is not evidence and you must
3 disregard that.

4 Regarding the presentation of evidence, it is the
5 duty of an attorney to object to evidence which he or she
6 feels may not be properly brought before the jury. At times I
7 may sustain objections or direct the jury to disregard certain
8 testimony or exhibits. You must not consider any evidence
9 which an objection has been sustained or which I have
10 instructed you to disregard.

11 In considering the weight and value of the testimony
12 of any witness, you may take into consideration the
13 appearance, attitude and behavior of that witness, the
14 interest of the witness in the outcome of the case, if any,
15 the relation of the witness to the defendant or the State, the
16 inclination of the witness to speak truthfully or not and the
17 probability or improbability of the witnesses' statements and
18 all the facts and circumstances in evidence. Thus, you may
19 give the testimony of any witness you to determine such weight
20 and value ayes you believe the testimony of that witness is
21 entitled to receive.

22 If the defendant presents evidence, the State will
23 have the opportunity to present rebuttal evidence, and the
24 defendant may have the opportunity to present surrebuttal
25 evidence.

ROUGH DRAFT TRANSCRIPT

1 After all the evidence has been presented, I will
2 then instruct you on the law. After the instructions on the
3 law have been read to you, each side will the opportunity to
4 present closing arguments. What is said in closing argument
5 is not evidence, just like opening statements are not
6 evidence. The arguments are designed to summarize and
7 interpret the evidence while discussing with you how to apply
8 the law to the particular facts in this case.

9 Since the State has the burden of proving the
10 defendant guilty beyond a reasonable doubt, State has the
11 right to open and close the arguments. This means that State
12 will make a closing argument, followed by closing arguments by
13 the defense and then the State will make rebuttal argument.

14 After the arguments have been completed, you will
15 retire to deliberate on your verdict. I may during this trial
16 take notes of witness testimony. You are not to make any
17 inference from that action. I am required to prepare for
18 legal arguments of counsel during this trial, and for that
19 reason, I may take notes.

20 The jury will not have a transcript to consult at
21 the close of the case; however, you will be furnished note
22 pads. You all have note pads? Okay. And pencils to allow
23 you to take notes yourself. Mr. Lamago (sic), okay. I didn't
24 put you to sleep, did I? Okay.

25 If any juror discovers during the trial or after the

ROUGH DRAFT TRANSCRIPT

1 jury has retired to deliberate that he or she has personal
2 knowledge of any of the fact in controversy in this case, you
3 shall disclose that situation to myself in the absence of the
4 other jurors. This means that if you learn during the course
5 of this trial that you were acquainted with the facts of this
6 case or the witnesses that you have heard or been previously
7 told about, and then you must declare that to me, and you do
8 so through my marshal.

9 Additionally, if the aforementioned situation does
10 arise, you're admonished that you may not relate to any of
11 your fellow jurors any of facts relating to this case or
12 within your own personal knowledge.

13 Likewise, if you discover that any other juror has
14 personal knowledge of any fact in controversy in this case,
15 you shall also disclose that situation to myself in absence of
16 the or jurors. Once again, you communicate that through my
17 marshal and if the aforementioned situation does arise, you're
18 admonished that you may not relate to any fellow jurors any of
19 the facts relating to this case that are within your own
20 knowledge or that which you have just learned from other
21 jurors.

22 You will also recall that during the course of this
23 trial the attorneys -- I this indicate this had previously,
24 but both sides of the parties, the witnesses and court
25 personnel, other than the marshal, are not permitted to

ROUGH DRAFT TRANSCRIPT

1 converse with members of the jury.

2 As I previously stated, these individuals are not
3 being antisocial. Rather, they are bound by ethics and the
4 law may not -- and by law and not talk to you. To do so might
5 contaminate your verdict. If anyone approaches you to try to
6 talk to you, I want you to immediately notify my marshal, if
7 they try to talk to you about this case.

8 If you see anyone in this courtroom that tries to
9 talk to you during this case, other than my marshal, I want
10 you to notify my marshal. Okay? Moreover, you're admonished
11 that you are not to visit the scene of any of the acts or
12 occurrences made mention of during the trial unless
13 specifically directed to do so by me. Please don't
14 investigate this case or anyone who has anything to do with
15 this case on your own. Do not undertake any legal or factual
16 research on your own.

17 That's why I talk about don't get on the Internet,
18 don't pull up anything on your own, don't do any legal
19 research on your own. Finally, you must not be influenced in
20 any degree by any personal feelings of sympathy for or
21 prejudice against the State or the defendant. Both sides are
22 entitled to the same fair and impartial considerations.

23 That's what you had indicated earlier during voir
24 dire that you could be fair and impartial. You will be given
25 the opportunity to ask written questions of any of the

ROUGH DRAFT TRANSCRIPT

1 witnesses called to testify in this case. You are not
2 encouraged to ask a large number of questions because that is
3 the primary responsibility of these attorneys. Only a limited
4 number of questions may be posed by jurors, and you will not
5 be allowed to become the third attorney or to advocate a
6 certain position with your questions.

7 I have the discretion to preclude individuals from
8 asking any excessive number of questions. Questions may be
9 asked after both lawyers have finished questioning the
10 witnesses and only at that time. For example shall the State
11 calls a witness, conducts direct examination, the defense then
12 has the opportunity to cross-examine, the defense may -- I
13 mean, the State may go on direct and maybe recross, redirect,
14 recross. Sometimes it goes back and forth a number of times.
15 Until and only when they conclude their questioning you'll
16 have an opportunity to then ask questions.

17 Sometimes their going back and forth may answer your
18 questions. So if you want to ask questions at the beginning,
19 you might waste your time, okay? And if you wish to do so, if
20 you want to ask a question, then what you do is on your
21 notebook write your question on a full sheet of paper. Put
22 your name and your juror number on there, Juror No. 1 would be
23 Mr. Foster, Juror No. 2, based on where you're seated. Put
24 your badge number -- I mean, your seat number and your name on
25 there.

ROUGH DRAFT TRANSCRIPT

1 Just fold it in half, raise it up, my marshal will
2 come over and get it. I'll look at the jury to see if there's
3 any other questions. Any questions that you pose must be
4 factual in nature and designed to clarify information that
5 you've already was presented. All questions must be directed
6 to the witness and not to the lawyers or to me or the judge.

7 So if you're asking the question, you ask it as if
8 you're asking the witness. You don't say Judge, will you ask
9 him, okay? Understand? After you've indicated that you have
10 a question, my marshal, as I said, will get it, will bring it
11 up here and the parties will approach and we will discuss that
12 question.

13 Only questions permissible under the rules of
14 evidence will be asked and the jurors should not draw any
15 inferences or conclusions if the questions have been submitted
16 were not asked. We have a lot of times jurors ask hearsay
17 questions, and so since it's not proper, the same objections
18 that the parties would be make being, as if one of the other
19 parties were making the question, would be how we deal with
20 questions from the jury. As if you're one of litigants, but
21 you still have to follow the rules of evidence.

22 If I determine that your question may be properly
23 asked, I will ask it of the witness. The attorneys will have
24 the opportunity to follow up if necessary. The question will
25 be asked exactly like you write it. So please understand that

ROUGH DRAFT TRANSCRIPT

1 when you give it to me, I need to be -- it needs to be
2 legible, I need to be able to read it. If I determine that
3 it's not legible, it won't be asked. If I determine it's not
4 proper, it won't be asked. If I determine that it has been
5 asked already, I won't ask it. Okay?

6 Until the case is submitted to you, you must not
7 discuss this with anyone, even with your fellow jurors.
8 Meaning, you can't -- when you go to lunch, you can't go out
9 and just start talking about the case. You cannot do that.

10 After it is submitted to you, you must discuss it
11 only with your fellow jurors in the jury room. Okay? You
12 understand? It's important that you keep an open mind and not
13 decide any issue in this case until the entire case has been
14 submitted to you under the instructions from me.

15 When -- okay. If you cannot hear a witness, please
16 raise your hand as an indication. Also, if you need to use
17 the restroom or if you feel ill, please raise your hand as an
18 indication. I'll try to take a break about every 90 minutes,
19 once get the trial going, and give you an opportunity to
20 stretch your legs. And I have no objections, as I indicated,
21 you can bring in drinks, as long as you have some type of lid.
22 I don't even mind if you bring in snacks. Some individuals
23 need to because of diabetes issues or health issues they need
24 to. And I don't mind that, as long as it's not disruptive.

25 And I always use the example my clerk and my staff's

ROUGH DRAFT TRANSCRIPT

1 getting tired of it, but if you're sitting in there and you're
2 eating Doritos and it crunching and it's making noise and it's
3 disruptive, I'm going to stop you, okay? That's just the
4 simplest way I can tell you. So please understand also this
5 is not your home, and that we have to clean up after you, and
6 I would appreciate that you're conscientious of that.

7 Again, let me remind you until the case is submitted
8 to you, do not talk to each other about it or about anyone who
9 has anything to do with this until the case has ended and
10 you've been allow today decide your verdict or I've released
11 you from your duties.

12 Do not talk to anyone else about this case or anyone
13 that has anything to do with it until the trial has ended and
14 you have been discharged as jurors. Anyone else includes
15 members of your family and your friends. Oftentimes, spouses
16 want to drill you and drill you and drill you and find out
17 what are you doing, where are you really at, how come you're
18 not telling me about it? And when you tell them I can't talk
19 to you about it, automatically, their antennas go up and they
20 think that you're being dishonest with them.

21 So what I tell you to do, if you have a spouse like
22 that, that won't take no for an answer, contact me or my
23 marshal and we'll get it straightened out. We're real good at
24 that. Or tell them to come down. Tell them to come down and
25 sit and watch what you're doing. Obviously, they can't -- you

ROUGH DRAFT TRANSCRIPT

1 can't discuss with them, but they're more than welcome to be
2 here.

3 I will tell you, though, that when the trial starts,
4 you need to let them know that they need to stay in the
5 courtroom. I won't let them come and go as it goes. I got a
6 button here that I can actually lock the door, and I've done
7 that before. When people get up, I think it's extremely rude
8 when we have witnesses up here and we have people running in
9 and out of my courtroom, and I won't let that happen.

10 Do not let anyone talk to you about the case or
11 about anyone who has anything to do with it. If someone
12 should try to do so, immediately contact my marshal. And do
13 not read any news stories or articles or listen to any radio
14 or television reports about the case about anyone who has
15 anything to do with it.

16 You're on your honor system now. So if it's somehow
17 this hits the news and it's on TV tonight and you see it, and
18 go, I kind of recognize that, walk away from it. I'd ask you
19 to do so. If you see it in a newspaper, get away from it. If
20 you're running something on Google and this name comes up, get
21 away from it. That's -- you're on your honor system, that's
22 all I can tell you.

23 But I will tell you that in today's technology,
24 parties have an ability to find out certain things that jurors
25 are doing, and it's caused problems. And I have you back here

ROUGH DRAFT TRANSCRIPT

1 on your own, and now rather than a witness being up here,
2 you're sitting up here, and I don't think any of you want to
3 do that and it's really easy to avoid that. Just follow my
4 instructions.

5 Do not -- once again, do not visit the scene. I
6 don't think we'll have an issue with that at all during this
7 trial. Or undertake any investigation or research on your
8 own. That's -- I can't stress that enough. Do not. Okay?

9 While this trial is going, I'm going to ask also
10 that you have your phones off. And if you have anyone that
11 comes in, like your family member, tell them that they're
12 going to have to have their phones off, okay? Do you have any
13 questions before we go any further? All right.

14 Ladies and gentlemen, at this point in time, it's 20
15 to 2:00. Have you all eaten? You've been kind of hanging out
16 here? Okay. I'm going to give you an opportunity. Be back
17 here -- I'll give you an hour. Be back here 20 to 3:00.
18 We're only going to go until 4:30 today. We got -- there's
19 other arrangements that we have (indiscernible), but okay?
20 Everybody -- any questions?

21 All right.

22 UNIDENTIFIED JUROR: Our notebooks, do we keep them
23 with us or --

24 THE COURT: You can leave them on your chair.

25 UNIDENTIFIED JUROR: Okay.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Okay? If you'd like to, if you have any
2 belongings, whatever, you want to leave it, you can. I prefer
3 you take it. That way we just don't have any issues, but if
4 you'd like -- you don't want to carry a pillow or a sweater or
5 anything like that, you can leave them on your chair. Okay?
6 All right. So we'll be at ease while the jury exits the room,
7 okay? Twenty to 2:00.

8 I know we start late sometimes, but be here, we're
9 going to get started right at 20 to -- 20 to 3:00 I'm sorry,
10 20 to 3:00.

11 (Outside the presence of the jury.)

12 THE COURT: Okay. We're outside the presence of
13 the jury. Be ready 20 to 3:00. Probably one or two
14 witnesses.

15 MR. DICKERSON: That's what I'm thinking. We had a
16 couple lined up. We'll go ahead and call off about four of
17 them.

18 THE COURT: Okay.

19 MR. DICKERSON: Plan on putting two on. One should
20 be a CSA, very short, and the next one will be --

21 THE COURT: Okay.

22 MR. DICKERSON: -- through the rest of the day.

23 THE COURT: Okay.

24 MR. DICKERSON: We also have physical evidence here
25 right now. Can we bring that in?

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Yeah, go ahead and mark it now.

2 THE CLERK: Sure.

3 THE COURT: Have it marked. Okay. All right.

4 We'll see you back at 20 to 3:00.

5 MR. DICKERSON: All right. Thanks, Judge.

6 (Court recessed at 1:42 p.m. until 2:56 p.m.)

7 (Outside the presence of the jury.).

8 THE COURT: Okay. We're back on the record in the
9 State of Nevada versus Christopher Keller in Case No. C-
10 312717. The defendant is present with Mr. Frizzell. State
11 is also represented by Mr. Dickerson and Matthew Bunnett.
12 We're outside the presence of the jury. Is there anything
13 that needs to be put on the record before we start opening
14 statements?

15 MR. FRIZZELL: I mean, State -- Your Honor, Ken
16 Frizzell. The State has as part of their opening and as part
17 of their case in chief, there were -- there was a search
18 warrant that was issued for the residence owned by
19 Mr. Keller, and upon that search warrant being executed,
20 there was quite a volume of contraband that was located. And
21 candidly, my question and my concern is what the probable
22 cause was for that search warrant when, basically, everything
23 happened as a result of this car stop.

24 THE COURT: Mr. Frizzell, do you have a copy --

25 MR. FRIZZELL: Of this traffic stop.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: -- of the search warrant? Do you have
2 it?

3 MR. FRIZZELL: I believe that I do, Your Honor;
4 however, I think State can probably get to it faster than me.

5 THE COURT: Okay. Does not the search warrant
6 contain the information provided to the reviewing judge for
7 purposes of establishing probable --

8 MR. FRIZZELL: Well, it --

9 THE COURT: -- cause for that search?

10 MR. FRIZZELL: And the short answer to that is yes,
11 it does, Your Honor. However, it does not say what -- in
12 other words, what caused based on a traffic stop where as
13 you'll recall when we were in front of you on our motion to
14 suppress evidentiary hearing, that basically, my client was
15 handcuffed and ultimately in a vehicle, in a police vehicle,
16 for approximately, three hours, and there were items found in
17 the car, in his car. The items that we've opened up prior to
18 going on the record here as part of the evidence.

19 And it's my concern that, basically, we're at point
20 A with what was found in the car, and what exactly what is
21 the probable cause to think that there was anything in the
22 house when everything was found in the car? And the problem
23 is, is I don't see a nexus between those two; i.e.,
24 Mr. Keller, and this is not in the record, this is purely
25 hypothetical, but Mr. Keller saying something to the effect

ROUGH DRAFT TRANSCRIPT

1 that well, it's a good thing you didn't look in my house or
2 something like -- I mean, if he would have said something
3 like that, Your Honor, then --

4 THE COURT: Do you have --

5 MR. FRIZZELL: -- there would have been probably
6 cause to get in that house, but there was no probable cause
7 to get in that house.

8 THE COURT: Hold on, Mr. Frizzell. Do you have a
9 copy of the search warrant that was issued by Judge Tobiasson
10 in this matter as well?

11 MR. DICKERSON: I do, Your Honor.

12 THE COURT: Okay. Okay, Mr. Frizzell, what's your
13 argument? There's two search warrants. One search warrant
14 was done initially signed by Judge Tobiasson for the vehicle.
15 A second search warrant, based on what was found in that
16 vehicle, led to the search of the residence, and that was
17 signed by Judge Sciscento.

18 MR. FRIZZELL: Well, and candidly, Your Honor, my
19 concern with that, again, I'm just going to restate it to
20 you, that there was nothing that was found in that vehicle
21 that would have led them or there's nothing -- there's
22 nothing enumerated or stated in any affidavit, in any
23 declaration or in any search warrant that says other than the
24 general term probable cause exists.

25 But my problem is, is how do we get from the car to

ROUGH DRAFT TRANSCRIPT

1 the house when it does not say what it was in the house or
2 excuse me, in the car or any statement maybe, possibly made
3 by Mr. Keller after he was Mirandized, which that didn't
4 happen --

5 THE COURT: Okay.

6 MR. FRIZZELL: -- that leads the officers to say,
7 oh, wow, we found this here so there must be something in the
8 house because we found this.

9 THE COURT: Okay.

10 MR. FRIZZELL: There's --

11 THE COURT: Mr. Frizzell, I understand your
12 argument.

13 MR. FRIZZELL: Okay, all right.

14 THE COURT: Notwithstanding the timing of when
15 you've made this basically oral motion, I'm going to hear
16 from the State on that.

17 MR. DICKERSON: Yes, Your Honor.

18 THE COURT: What, if anything, was provided to
19 Judge Sciscento for additional information or probable cause
20 in order to allow the officers to search his apartment?

21 MR. DICKERSON: The additional information or
22 probable cause was that they identified the apartment as
23 being belonging to Mr. Keller that he had pulled up in front
24 of this apartment and was in the officer's affidavit
25 attempting to enter that apartment, and that was then

ROUGH DRAFT TRANSCRIPT

1 preceding and after this point they find the large quantities
2 of drugs indicative of drug dealing inside his vehicle that
3 is also his vehicle.

4 So his vehicle, his apartment, same location, and
5 it is based on the probable cause that a drug dealer is
6 likely to have his supply inside his home. And so when they
7 established there was that large quantity of drugs there in
8 his vehicle, it established that he is a drug dealer. Those
9 are without a doubt not drugs of personal use.

10 With that, Judge Sciscento found probable cause and
11 that creates a presumption of validity. The officers relied
12 on that and relied on that in good faith. So regardless of
13 anything, the good faith exception that applies going back
14 even to the probable cause in this case.

15 THE COURT: Okay. So the bottom line is, is that
16 he gets stopped. Based on the stop, a search warrant was
17 issued. They were able to search his vehicle. They found a
18 large number of narcotics, multiple types of narcotics and
19 the stop was, if not adjacent to, but in front of the
20 apartment, and they were -- the apartment complex, they were
21 able to identify him as living in one of those apartments,
22 and based on the training and experience of the officer, they
23 felt that as drug dealers, based on what they found in the
24 vehicle, that he would have firearms, narcotics, money from
25 drug proceeds in his residence.

ROUGH DRAFT TRANSCRIPT

1 And so based on that, Judge Sciscento issued a
2 search warrant for that, notwithstanding, finding whether or
3 not there is sufficient probable cause on this, the -- your
4 argument is that the officers acts in good faith, and based
5 on the Leon decision, that acting in good faith then the
6 drugs are not suppressible.

7 MR. DICKERSON: That's correct.

8 THE COURT: Or what's found in the house; is that
9 correct?

10 MR. DICKERSON: That's correct, Your Honor.

11 THE COURT: All right. Mr. Frizzell, anything
12 further?

13 MR. FRIZZELL: Just that for the record, I want to
14 -- assuming that you're going to go ahead and allow it to
15 come in, I just want my objection lodged.

16 THE COURT: Okay. All right.

17 MR. FRIZZELL: For the record.

18 THE COURT: All right. Okay, your motion to
19 suppress any proceeds of -- or any information involving the
20 narcotics or drug dealings or illegal firearms found in the
21 residence I'm going to deny your motion at this time. You've
22 made your objection.

23 I do believe that even notwithstanding a finding
24 that it lacks probable cause, there was a good faith
25 exception to this because a previous judge had made a

ROUGH DRAFT TRANSCRIPT

1 determination that it was sufficient based on what was
2 represented to him. So for that reason, I've denied your
3 motion.

4 MR. FRIZZELL: Okay.

5 THE COURT: Okay? All right.

6 MR. FRIZZELL: Thank you.

7 THE COURT: Okay.

8 MR. DICKERSON: And with that, State would be ready
9 to proceed to openings.

10 THE COURT: All right. Go ahead and get the jury
11 in, Ed.

12 THE MARSHAL: All rise for the jury.

13 (In the presence of the jury)

14 THE COURT: Okay. We're back on the record in Case
15 No. C-312717, State of Nevada versus Christopher Keller. Go
16 ahead and have a seat, everybody.

17 I'd like the record to reflect the presence of the
18 defendant and his counsel, Mr. Frizzell, the State and their
19 counsel, Mr. Dickerson and Mr. Bunnett and all members of the
20 jury. Will the parties stipulate to the presence of the
21 jury?

22 MR. FRIZZELL: Yes, Your Honor.

23 MR. DICKERSON: Yes, Your Honor.

24 THE COURT: Okay. Before we took a break, we were
25 just beginning to start this trial. At this time, the State,

ROUGH DRAFT TRANSCRIPT

1 if they wish, can do an opening statement. Mr. Bunnett.

2 MR. BUNNETT: Thank you, Your Honor.

3 THE COURT: Can ya'll see that okay? Do you need
4 my marshal to move it and adjust it? Sometimes the light
5 kind of affects it? All right. Everyone's fine. Go ahead,
6 Mr. Bunnett.

7 STATE'S OPENING STATEMENT

8 MR. BUNNETT: Methamphetamine, cocaine, heroin and
9 marijuana. These drugs were found in the defendant's house
10 and the defendant's car. And that, ladies and gentlemen of
11 the jury, is why we're all here today.

12 The story begins last year on January 28th of 2016
13 in the early morning hours, approximately, 2:51 in the
14 morning. Daniel Lopez, who was then a officer for the
15 Metropolitan Police Department was on patrol in the area of
16 Stewart and Lamb here in Clark County, Nevada. While on
17 patrol, Lopez noticed that a 2002 silver Dodge Stratus was
18 turning from Sunrise Avenue onto Lamb Boulevard and did so
19 abruptly.

20 As the car turned and after the car turned, the car
21 stayed in the center turn lane, the lane that drivers are
22 supposed to utilize to complete a turn and then enter the
23 travel lanes. The car did not enter travel lanes. Stayed in
24 that center lane and was driving at a high rate of speed.

25 Officer Lopez turns his car around, and upon doing

ROUGH DRAFT TRANSCRIPT

1 so, gets behind the Dodge Stratus, and when he gets behind
2 the Dodge Stratus, he notices that the taillight that's on
3 the passenger side is not in accordance with the traffic laws
4 of Nevada. Based on this, he continues following the
5 vehicle. The vehicle turns into the Crossroads 3 Apartment
6 complex (phonetic). That's at the corner of Stewart and
7 Lamb. It's the several white buildings up at the top.

8 So it turns into the apartment complex, keeps
9 going, and the car stops at parking spot 58. Now, as you can
10 see, there are two white doors in front of the spot. And one
11 of these says apartment D. Eventually, Lopez determines that
12 this apartment is not apartment D. It is, in fact, unit F,
13 and he does that basically by searching around the nearby
14 apartments or condo units and determines that there's two Ds
15 and this D doesn't make sense based on what he's seeing.

16 But before he does that, he initiates his lights
17 and sirens, and upon doing so, he sees the defendant,
18 Christopher Keller, get out of his car and head towards that
19 -- one of those units. He initiates the traffic stop, speaks
20 to Mr. Keller, and eventually obtains a driver's license
21 which establishes to him that Mr. Keller does, in fact, live
22 at the apartment collection 265 North Lamb, and that he lives
23 specifically in unit F.

24 While also searching his wallet, he notices that
25 Mr. Keller has \$2,187 in his wallet, mainly in the form of

ROUGH DRAFT TRANSCRIPT

1 \$20 bills. Also, when Mr. -- or when Lopez approaches
2 Mr. Keller, he notices that the defendant has the distinct
3 smell that cannabis has.

4 So after this happens, Officer Jacob Henry, who
5 also worked for Metro, comes to the scene. He comes to
6 assist Lopez in the traffic stop, and soon after he arrives,
7 he hears a gunshot. That gunshot draws Henry from that area
8 to another area. There's nothing over there. Doesn't see
9 anybody who's injured, doesn't see any shell casings, but he
10 goes over there for a little bit, eventually comes back and
11 the traffic stop continues.

12 Lopez looks in the car and Lopez finds green leafy
13 substance on the floor, which he believed to be marijuana.
14 So based on this, based on the other things that he had
15 noticed, he made the decision to obtain the help of a canine
16 officer and a canine dog named Stewie (phonetic).

17 So the officer shows up with Stewie, and Stewie
18 goes around the car, and he indicates at the glove box, he
19 indicates the presence of narcotics at the glove box. Based
20 on this, Lopez tries to go into the glove box and notices
21 that when he does so, there's a secret compartment on the
22 side. He puts his hand in there and he feels what he
23 believes to be a gun.

24 So based on that, he backs out and immediately goes
25 to get a search warrant. The search warrant's obtained, and

ROUGH DRAFT TRANSCRIPT

1 he, Officer Henry, and crime scene analyst Stephanie Thi,
2 search the vehicle. And inside that secret compartment in
3 the glove compartment there is a mesh bag. Inside that mesh
4 bag are two gold bags. And one those bags has a Beretta .22
5 caliber firearm in there.

6 In addition, inside those bags Lopez finds several
7 other smaller bags that draws attention. He finds several
8 packages of an off white crystal substance. Based on his
9 training and experience, he believed that this was
10 methamphetamine. Forensic scientist Jason Althnether later
11 tested this substance and determined that this substance was,
12 indeed, methamphetamine. And he weighed the substance, he
13 determined that the net weight of the substance was 344.29
14 grams.

15 Lopez also finds plastic wrappers with a brown
16 substance, and he believes this to be heroin. Jason
17 Althnether again tests this substance. He determines that
18 the substance is, indeed, heroin, and that the weight -- net
19 weight of that substance is 33.92 grams. Lopez also finds a
20 plastic bag containing an off white powdery substance. Based
21 on his training and experience, he believes this to be
22 cocaine.

23 Jason Althnether tests this substance, and once
24 again, determines that the substance is cocaine and that
25 essentially, Officer Lopez was correct in his assessment.

ROUGH DRAFT TRANSCRIPT

1 Now, Lopez also finds in that compartment a blue powdery
2 substance, and he doesn't really know what to make of it, but
3 eventually that substance is weighed -- or tested and weighed
4 by Jason Althnether. Jason Althnether determines that it is
5 a combination of the drugs methamphetamine, amphetamine and
6 cocaine.

7 So based on what's found in the car -- and before I
8 move on, this was a total sum of everything that was found in
9 that compartment. So based on what this shows, what he found
10 in the car, Lopez decides to get a search warrant for the
11 defendant's house. That's 265 North Lamb, unit F.

12 And he searches the house with the help of, amongst
13 others, Officer Steven Hough, Officer Chad Embry -- Detective
14 Chad Embry and Detective Michael Belmont. So this condo unit
15 is a one-bedroom unit. It's got an adjoining master
16 bathroom, and it's got a living area and a kitchen.

17 So Lopez's search is mainly relegated to the
18 bedroom. In the bedroom Lopez finds smoking pipes, he finds
19 four scales, including some that are sitting on the floor, he
20 finds a box of 9 millimeter ammunition on the ground in the
21 bedroom, he finds two bag in the bedroom that contain an off
22 white crystalline substance.

23 Based on his training and experience, he thought
24 this was methamphetamine. So those are the pipes. That's
25 just a overall summary of the bedroom. Those are the scales.

ROUGH DRAFT TRANSCRIPT

1 That's the ammunition. And he finds an off white crystalline
2 substance he believes to be methamphetamine.

3 Jason Althnether tests this, he finds out he's
4 correct, it's indeed, methamphetamine. One bag weighs 3.818
5 grams, while the other bag weighs 2.357 grams. Additionally,
6 Lopez in the bedroom finds a brown substance that he once
7 again, believes to be heroin. Jason Althnether tested that
8 substance, finds out it's heroin and it weighs .895 grams.

9 Detective Chad Embry assists in the search and he
10 searches both the bedroom and a storage closet that is
11 outside of the apartment but directly in front. In the
12 storage closet he finds 22 short ammunition. Remember,
13 members of the jury, that the firearm that was found in the
14 car was a .22 caliber firearm.

15 Embry in the bedroom closet finds a Ruger handgun,
16 9 millimeters. Remember that Officer Lopez found 9
17 millimeter ammunition on the floor of the bedroom. He also
18 finds a pay stub. It has the defendant's name on it in that
19 bedroom.

20 Now, Detective Belmont searched the kitchen. And
21 in the kitchen Officer Belmont found a glass jar containing a
22 green leafy substance that he thought was marijuana.
23 Forensic scientist Jason Althnether tested the substance, and
24 determines that it is, indeed, marijuana.

25 Now, in addition to what I've discussed previously,

ROUGH DRAFT TRANSCRIPT

1 also found in the house are balloons, clean pipes, syringes
2 and elastic bands. So members of the jury, as you listen tot
3 evidence, I'd like you to listen carefully to evidence that
4 connects the defendant to the car and the (inaudible).

5 That evidence in terms of the car includes the fact
6 that he was driving it, includes the fact that DMV
7 registration records list him as the registered owner of that
8 Dodge Stratus. In addition, connecting the house -- listen
9 carefully as you hear that the pay stub with the defendant's
10 name was found in the house. You'll see assessor records
11 that lists him as the owner of the house. And you'll also
12 look at the DMV records, and they will also show you that
13 this address, 265 North Lamb, unit F, is listed as his
14 physical address.

15 So based on all of this and all the evidence I've
16 discussed, at the conclusion of this trial, I'm going to
17 return to you and I'm going to ask you to return a verdict of
18 guilty as to seven counts. Those counts are trafficking in a
19 controlled substance, methamphetamine; trafficking in a
20 controlled substance, heroin; possession of controlled
21 substance, marijuana over an ounce; possession of controlled
22 substance with intent to sell methamphetamine, possession of
23 controlled substance with intent to sell heroin; possession
24 with intent to sell cocaine; and possession with intent to
25 sale marijuana. Thank you.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Thank you, Mr. Bunnett. Mr. Frizzell,
2 did you have any --

3 MR. FRIZZELL: Yes, Your Honor.

4 THE CLERK: Do you need the Elmo counter or
5 anything?

6 MR. FRIZZELL: I'm sorry?

7 THE CLERK: Do you need the Elmo or anything?

8 DEFENDANT'S OPENING STATEMENT

9 MR. FRIZZELL: No. Now, ladies and gentlemen, I
10 know we've been here a couple of days already, and now it
11 gets to the parts that's a little bit more interesting for
12 you, as the judge was saying. Got through that jury
13 selection stuff.

14 I want to thank you first off, because without a
15 jury in our system of government, in our system, our justice
16 system, without you, this system breaks down. We are one of
17 the few countries in the world that have an innocent until
18 proven guilty standard. And for your service, I appreciate
19 it because we live in the greatest country in the world.

20 Now, the State -- if everything were the way the
21 State said, if everything that they said was just gospel
22 truth, there would be no reason for me, there would be no
23 reason for you, we'd just proceed right to sentencing and
24 we'd just hang Mr. Keller and that would be it. Okay?

25 MR. DICKERSON: And Your Honor --

ROUGH DRAFT TRANSCRIPT

1 MR. FRIZZELL: However --

2 THE COURT: Hold on, hold on.

3 MR. DICKERSON: I'm going to -- may I approach?

4 THE COURT: Yes.

5 (Off-record bench conference.)

6 THE COURT: Go ahead, Mr. Frizzell.

7 MR. FRIZZELL: It's what the State doesn't tell you
8 that's what I want you to pay attention to. And we've got a
9 couple of issues here that ya'll are going to have to grapple
10 with back in the jury room. I don't know if you remember
11 today when Mr. Dickerson was talking about forensic evidence
12 and the lack of forensic evidence and how everybody agreed
13 that you don't necessarily need forensic evidence to convict
14 someone if the evidence shows otherwise.

15 Well, all of these things were tested. Okay. We
16 have some things sitting out over there on the top of that
17 cabinet and some things that just haven't been opened up yet
18 just because of time and whatnot. But you will hear from the
19 State's DNA analyst, their DNA witness, that essentially,
20 everything that you are going to be able to see, you're going
21 to be able to look at up close on the screen and whatnot,
22 especially those things that were found, as State's said,
23 they were found in that little compartment inside of the
24 vehicle.

25 My client's DNA was not found on any of those

ROUGH DRAFT TRANSCRIPT

1 things. And why that's important is because that is not
2 something that -- well, you saw the hole, you saw that in the
3 car there -- that is not something where you could take salad
4 tongs or something like that and put it in there. It would
5 be something where you'd have to physically put it in there
6 and jam it in there.

7 My client didn't know what was in that car. He
8 didn't touch any of those items. So when we say you need
9 forensic evidence to convict someone or you don't need
10 forensic evidence to convict someone, you certainly, as I
11 said earlier, you're not checking your brain at the door
12 either. Okay. You can use your common sense to see if this
13 is something where somebody's going to have to stick this in
14 here and going to have to handle it and push it down in a
15 hole, that at no time are you -- when there is no DNA
16 evidence found, there is that inference that we were talking
17 about. And that's something you need -- that you're going to
18 need weigh back in the jury room when we ultimately get
19 there.

20 If none of my client's DNA, his fingerprints,
21 saliva, anything was found on these items, did he even put
22 them there? Did he even know they were there? I'm going to
23 pause it to you that the State's not going to be able to
24 survive any witnesses that are going to be able to say yeah,
25 defendant knew it was there.

ROUGH DRAFT TRANSCRIPT

1 Now, we also have, as State's showed you, some
2 items that were located inside of his residence. During the
3 traffic stop, sometime between the traffic stop and between
4 the actual end of the arrest, when Mr. Keller was ultimately
5 arrested on this, and you'll hear this from one of the
6 officers as well, he was approached -- one of the officers
7 was approached by someone. And that someone had asked, hey,
8 can I get into the residence because I was staying there and
9 I got some of my stuff in there, can I go get my stuff out?

10 Well, the police, like they should, say, no this is
11 a crime scene, you're not going in, you're not getting
12 anything out. But so then there's a question, was it even
13 Mr. Keller -- was any of it even Mr. Keller's?

14 Ladies and gentlemen, that's -- like I say, we've
15 got some gray area here. This isn't just a black and white,
16 the State throws the -- throws this evidence in front of you,
17 gives their opening and it's gospel truth. There are some
18 gray areas here.

19 And as we go through the evidence over these next
20 couple of days, the rest of today and hopefully just
21 tomorrow, I think that you're going to see that State isn't
22 going to be able to meet that high burden, meet that burden
23 that they have, that beyond a reasonable doubt burden that
24 Mr. Keller was in possession of these items that were found
25 in the car or that he had knowledge of these items that were

ROUGH DRAFT TRANSCRIPT

1 found in the house. And that's for you to weigh.

2 And we trust that when you go back there in the
3 jury box -- jury room, excuse me -- and you deliberate that
4 you keep these things in mind when you come out and you find
5 my client not guilty on all charges. Thank you.

6 THE COURT: Thank you, Mr. Frizzell. Mr.
7 Dickerson --

8 MR. DICKERSON: Yes.

9 THE COURT: -- call your first witness.

10 MR. DICKERSON: State's first witness is going to
11 be Stephanie Thi.

12 (Pause in the proceedings)

13 STEPHANIE THI, STATE'S WITNESS, SWORN

14 THE CLERK: Thank you. Please be seated. Please
15 state your full name, spelling your first and last name for
16 the record.

17 THE WITNESS: My name is Stephanie Thi,
18 S-t-e-p-h-a-n-i-e, T-h-i.

19 THE COURT: Your witness.

20 MR. DICKERSON: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. DICKERSON:

23 Q How are you employed, ma'am?

24 A I'm a crime scene analyst with the Las Vegas
25 Metropolitan Police Department.

ROUGH DRAFT TRANSCRIPT

1 Q And what is a crime scene analyst?

2 A A crime scene analyst conducts crime scene
3 investigations for the department.

4 Q Okay. And so it's kind of like the show CSI?

5 A Loosely.

6 Q Loosely. Very loosely, right?

7 A Yes.

8 Q So what are your specific duties?

9 A Our main duties involve documentation of a crime
10 scene through reports and photographs and evidence collection
11 and preservation.

12 Q Okay. What sort of training and experience do you
13 have to have to do this job?

14 A I have a bachelor of science in biology. I also
15 have a master of science in biomedical forensic sciences. I
16 completed the CSA academy with the police department, as well
17 as a field training program.

18 Q So this -- your background, education and your
19 training through the department, does that teach you how to
20 collect evidence?

21 A Yes, it does.

22 Q And so what are important aspects for collecting a
23 document and evidence?

24 A It's important to understand how to properly
25 preserve and package evidence, how do you document it through

ROUGH DRAFT TRANSCRIPT

1 photographs, the types of information that would be relevant
2 for documentation purposes, issues with contamination and
3 cross-contamination, and how to properly package the evidence
4 for preservation.

5 Q You said photographs. Is that a big part of your
6 job?

7 A Yes, it is.

8 Q Did you take photographs in this case that we're
9 here for today?

10 A Yes.

11 Q Do you generally take photographs on most scenes
12 that you go to?

13 A Yes, I do.

14 Q And why is that?

15 A We take photographs for documentations so that they
16 can be used in a courtroom setting to depict the scene as it
17 was observed during the incident.

18 Q So specifically the events that bring us here, let
19 me draw your attention to those, the early morning hours of
20 January 28, 2016. Do you recall that day and time?

21 A Yes.

22 Q What was it that led you to become involved in this
23 case?

24 A A request was made for a CSA to respond for
25 documentation of the service of a search warrant.

ROUGH DRAFT TRANSCRIPT

1 Q And was that specifically at 265 Lamb Boulevard?

2 A Yes, it was.

3 Q And when you were called for the search warrant that
4 you were specifically called for, was that for a search
5 warrant on a vehicle?

6 A Yes.

7 Q Specifically, a 2002 silver Dodge Stratus?

8 A Yes.

9 Q Parked in -- parked in spot number 58?

10 A Yes.

11 Q So when you arrived, what was the state of vehicle?

12 A The vehicle was parked in the parking space number
13 58. The hood was open, the trunk was open, as was the
14 passenger side door.

15 Q Okay. And so what, if anything, did you do upon
16 first arriving on scene?

17 A When I first arrived on scene, I always make contact
18 with officers that are present on scene to gather information
19 as it relates to the event and why I am there. I then take
20 notes to document my observations and then I take
21 photographs.

22 Q So you first got some information about this
23 vehicle?

24 A Yes.

25 Q The background behind the search warrant, generally?

ROUGH DRAFT TRANSCRIPT

1 A For search warrant purposes, the information would
2 have been what items were being searched for under the search
3 warrant.

4 Q Okay. And so do you just go and begin the search
5 warrant or do you take steps to document the scene first?

6 A The scene is always documented as I find it and then
7 overall photos are taken of the entirety of the scene, which
8 would include the exterior of the vehicle as well as the
9 interior of the vehicle and then a search would commence in
10 layers so that further documentation can be done if items
11 were located.

12 Q So then if I understand you correctly, before you
13 event start the search, you take all around photos of the
14 vehicle?

15 A Yes.

16 Q Just as you found it when you arrived?

17 A Yes.

18 Q Okay.

19 MR. DICKERSON: At this point in time, Your Honor,
20 pursuant to stipulation, the State is going to move for the
21 admission of State's Proposed 6 through 37 and State's
22 Proposed 39.

23 THE COURT: You have no objection to those being
24 admitted.

25 MR. FRIZZELL: No, Your Honor, we previously

ROUGH DRAFT TRANSCRIPT

1 agreed.

2 THE COURT: Okay, 6 through 37 and 39 will be
3 admitted.

4 (State's Exhibits 6 through 37 and 39 admitted)

5 MR. DICKERSON: Thank you, Your Honor.

6 BY MR. DICKERSON:

7 Q Now, Ms. Thi, I'm going to show you some photos,
8 everything that I just spoke to the judge about, and you just
9 tell me if you recognize these photos as a whole. Take a
10 minute and go ahead and look through those.

11 A I recognize these as my photos.

12 Q Okay. And these are the photos that you took on
13 scene there at 265 Lamb Boulevard?

14 A Yes.

15 Q So when we speak of initially looking at these go
16 ahead and look at State's 6.

17 MR. DICKERSON: Madam clerk or would this be 1?

18 THE CLERK: That would be the number on the back of
19 it.

20 MR. DICKERSON: Thank you very much.

21 BY MR. DICKERSON:

22 Q State's 6. Would this be one of the images that you
23 took when you first arrived on scene?

24 A Yes, it is.

25 Q And what does this show?

ROUGH DRAFT TRANSCRIPT

1 A That is the rear of the vehicle in the parking space
2 -- a covered parking space marked 58.

3 Q Okay. And from there you continue to take all
4 around photos?

5 A Yes, that's correct.

6 Q Including this, State's 8?

7 A Yes.

8 Q And what is this a photo of?

9 A That is a photo of the license plate on the vehicle.

10 Q And State's 9, is this a photo that you took as an
11 overall?

12 A Yes, it is.

13 Q Looking at State's 9, it appears that there are keys
14 in the trunk; is that right?

15 A Yes.

16 Q Were those keys in there when you first arrived on
17 scene?

18 A Yes, they were.

19 Q Okay. And State's 10, another overall of the
20 vehicle?

21 A Yes.

22 Q Just from the passenger side?

23 A Yes, that's correct.

24 Q And State's 13, is that a close-up of that same
25 area?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q And State's 16, what is this a photo of?

3 A That's a photo of the interior as I'm standing at
4 the open passenger side door.

5 Q Now, was there a certain area of the vehicle that
6 the search warrant that was about to proceed was focusing on?

7 A Yes.

8 Q And what area was that?

9 A I was directed by the officers on scene that the
10 area of concern was the glove compartment area.

11 Q Okay. And do you see that area here in this photo
12 of this State's Exhibit 16?

13 A Yes.

14 Q If you could please just point to that on the screen
15 that there's there on your left. And what was the state of
16 that area in particular when you arrived?

17 A The glove compartment had been removed and is
18 sitting on the floor board, and the glove compartment area is
19 now exposed.

20 Q So the focus of the search warrant that was about to
21 proceed you said was in this area?

22 A Yes.

23 Q And was there any particular thing about that area
24 that caused it to be the focus?

25 A I was directed to a -- an area within the glove

ROUGH DRAFT TRANSCRIPT

1 compartment that appeared to have access to a space behind
2 the plastic paneling.

3 Q Okay. First, showing you State's Exhibit 18. Is
4 this that same general area just a frontal view of it?

5 A Yes.

6 Q And now showing you State's 19, do you recognize
7 what's depicted here in this image?

8 A Yes.

9 Q And what is that?

10 A This is a view of the glove compartment from around
11 the area of the center console.

12 Q And State's 20, just a closer of that?

13 A Yes.

14 Q So were you, as part of this search warrant, able to
15 recover the items through that hole there?

16 A No, I was not.

17 Q What was done?

18 A A separate piece of paneling was removed to gain
19 access to that area.

20 Q And where was that paneling?

21 A The paneling was on the passenger side, the portion
22 of the vehicle that is in contact with the door when it
23 closes.

24 Q Okay. I'm going to show you here State's Exhibit
25 17. Do you recognize that area that you just spoke of in

ROUGH DRAFT TRANSCRIPT

1 this image?

2 A Yes.

3 Q If you could please point to that on the screen to
4 your left.

5 A It's not --

6 Q It's not working? Try it again. And so what is it
7 about this area that allows you to ultimately make entry into
8 that location?

9 A That piece of paneling was removable.

10 Q And were you there when this piece of paneling was
11 removed?

12 A Yes, I was.

13 Q How did it come up?

14 A It just -- it snapped off or popped off.

15 Q Okay. Did it have to be pried off or anything like
16 that?

17 A I don't know how much force was involved because I
18 was not the one who physically removed that piece of
19 paneling.

20 Q Did you see tools or anything being used?

21 A No.

22 Q Okay. State's Exhibit 21 here, what is depicted
23 here in this image?

24 A That is the same area with the piece of paneling
25 removed.

ROUGH DRAFT TRANSCRIPT

1 Q So that's what it looked like after that paneling
2 was removed?

3 A Yes.

4 Q And what was the located inside of that area there?

5 A There was a black zip bag, apparently a nylon type
6 material.

7 Q I'm going to show you here State's Exhibit 22. What
8 is depicted here in State's Exhibit 22?

9 A That is a closer view of that compartment with the
10 black bag inside of it.

11 Q Is that how you found it when that plastic piece
12 came off the side?

13 A Yes, it is.

14 Q So as the crime scene analyst on scene, what's your
15 duty from this point forward?

16 A From this point forward, I would remove the item
17 after it has been documented and I would remove the items
18 from that bag continuing with the documentation as those
19 items were being removed.

20 Q So when you're talking about your documentation, are
21 you taking notes?

22 A Notes and photographs.

23 Q Okay. And photographs? So photographs through each
24 step of the way?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q So what was the next step from here?

2 A The item was removed and laid out so that the pouch
3 could be photographed before it was opened.

4 Q Okay. I'm going to show you State's Exhibit 23. Do
5 you recognize that item, ma'am?

6 A Yes, I do.

7 Q And what is that?

8 A That is a black zipper nylon pouch.

9 Q And do you recognize this from specifically this
10 event?

11 MR. FRIZZELL: I'm going to object. Leading on
12 that one.

13 THE COURT: Are you asking if that's leading if
14 she --

15 MR. FRIZZELL: No, I -- I'm object --

16 THE COURT: -- remembers this --

17 MR. FRIZZELL: How do you know?

18 MR. DICKERSON: It was an open-ended question,
19 Your Honor.

20 THE COURT: Overruled. Go ahead. Can you answer
21 that?

22 THE WITNESS: Yes, I do recognize it as the bag
23 that I removed.

24 BY MR. DICKERSON:

25 Q That you removed from where?

ROUGH DRAFT TRANSCRIPT

1 A From the compartment behind the glove box of the
2 vehicle.

3 Q Okay. The one that we were looking at earlier in
4 this exhibit, State's Exhibit 23?

5 A Yes.

6 Q Or 22, excuse me? So when you pulled out that black
7 bag, did it appear as it did here in State's Exhibit 23?

8 A Yes.

9 Q And what was the next step from there, ma'am?

10 A The zipper compartment, the main zipper compartment
11 was opened and photographed.

12 MR. FRIZZELL: And Your Honor, just for the record,
13 I'll withdraw that objection.

14 THE COURT: Okay. All right.

15 BY MR. DICKERSON:

16 Q And does that appear here in -- you recognize this
17 State's Exhibit 24?

18 A Yes.

19 Q And what do you recognize this being, ma'am?

20 A That is my hand holding the pouch open showing the
21 contents.

22 Q And so this is you unzipping the pouch?

23 A Yes.

24 Q Okay. And from there, what did you do?

25 A The items were removed and documented as well.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. Showing you State's Exhibit 25. Do you
2 recognize what's depicted here?

3 A That is a watch.

4 Q Would this have been a watch recovered from this
5 bag?

6 A Yes.

7 Q And State's Exhibit 26, do you recognize these
8 items?

9 A Yes, I do.

10 Q And what is this?

11 A Those are two gold colored plastic ziplock type
12 bags.

13 Q And where did you come in contact with these bags?

14 A Both of those were inside of that black pouch.

15 Q So did you remove these bags from the black pouch?

16 A I did.

17 Q And did you then subsequently take this photograph?

18 A Yes.

19 Q What was the next step removing these gold bags from
20 the black pouch?

21 A The pouches were then opened and the contents
22 photographed.

23 Q Showing you State's Exhibit 27, do you recognize
24 what's depicted here, ma'am?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q And what is that?

2 A That is one of the pouches opened again with my hand
3 holding it open showing the contents within.

4 Q And what, if anything, do you recall being in this
5 particular bag?

6 A There were several baggies of unknown substance.

7 Q Okay. And onto State's Exhibit 29, do you recognize
8 this, ma'am?

9 A Yes.

10 Q And what do you recognize that to be?

11 A That is the other gold bag opening again with my
12 hand showing the contents.

13 Q So from here you pulled out these bags and taken a
14 look inside, what's the next step?

15 A As with the other pouch, the items were removed and
16 documented.

17 Q All right. Showing you here State's Exhibit 28. Do
18 you recognize this image?

19 A Yes.

20 Q And what do you recognize this to be?

21 A Those are the pouches and the contents removed and
22 laid out.

23 Q So the black item on the right-hand side of the
24 screen right here where I'm pointing, what is that item?

25 A That appeared to be a nylon type of a draw string

ROUGH DRAFT TRANSCRIPT

1 bag.

2 Q And was that the item that we just seen in the last
3 photograph, State's Exhibit 29?

4 A Yes.

5 Q And the other items aside from that watch, what are
6 those items?

7 A Those are various plastic bags containing unknown
8 substances.

9 Q Okay. And were those recovered from the other bag?

10 A Yes.

11 Q Looking at State's Exhibit 30, is this that black
12 nylon bag that you were referring to?

13 A Yes.

14 Q And you're opening it here in this photograph? Is
15 this your hand?

16 A Yes, that's my hand.

17 Q And what, if anything, did you recover in there?

18 A A firearm was recovered.

19 Q Showing you State's Exhibit 31. Do you recognize
20 this image, ma'am?

21 A Yes.

22 Q And what do you recognize that to be?

23 A That is the black nylon bag laid open showing the
24 firearm that was inside it.

25 Q Okay. The firearm that was inside it, did you

ROUGH DRAFT TRANSCRIPT

1 recover that?

2 A Yes.

3 Q Showing you State's Exhibit 32, do you recognize
4 this image?

5 A Yes.

6 Q And what do you recognize that to be?

7 A That is the firearm on top of the nylon bag with a
8 scale in photo.

9 Q And what is that scale? What's the purpose of that?

10 A The scale provides reference for the size of the
11 item.

12 Q Okay. Now, when you recover a firearm like this,
13 could it be loaded?

14 A Yes.

15 Q And so what, if anything, do you do?

16 A The firearm is first documented as-is, the condition
17 of the firearm. And then the firearm is then unloaded to
18 reveal the contents, if any.

19 Q So would this have been the condition of the firearm
20 when you first recovered it?

21 A Yes.

22 Q And as you start to -- what's the word that you
23 used?

24 A Either unload or download the firearm.

25 Q Okay. As you start to unload or download the

ROUGH DRAFT TRANSCRIPT

1 firearm, what do you first do?

2 A The first step in unloading a firearm is to remove
3 the source of ammunition. In this case, it was the magazine.

4 Q And did you do that?

5 A Yes.

6 Q And what did you find when you took out the magazine
7 from this gun?

8 A The magazine is first removed and it's laid out to
9 be documented. The slide of the gun is then racked to
10 remove, if any, additional ammunition that might be in the
11 chamber. All of those items are photographed. And then the
12 magazine itself is downloaded, meaning that the ammunition
13 from the magazine is removed.

14 Q Do you have an estimate of how many firearms you've
15 recovered in your career as a CSA?

16 A I would estimate hundreds.

17 Q And how long have you been a CSA?

18 A Six and a half years.

19 Q Okay. And hundreds of firearms in that time. So
20 you're pretty familiar with firearms?

21 A Yes.

22 Q For members of the jury who aren't so familiar, if
23 you could please just indicate for them the two things that
24 you previously mentioned. First magazine, if you could
25 indicate for them on the screen where the magazine is located

ROUGH DRAFT TRANSCRIPT

1 on this firearm.

2 A This here is the bottom portion of the magazine, and
3 it feeds into the magazine well in this direction, and the
4 ammunition follows up in this direction. It feeds into the
5 firearm here, and this is where the chamber is located.

6 Q Okay. And so that area that you indicated there at
7 the bottom of the firearm would have been the bottom of the
8 magazine?

9 A Yes.

10 Q And that's the part that you first take out to
11 download the weapon?

12 A Yes.

13 Q And then you indicated that there is the slide of
14 the gun. If you could please indicate for the members of the
15 jury what is the slide that you're referring to?

16 A The slide is this entire top portion, and that's the
17 portion of the firearm that moves when the gun is fired.

18 Q Okay. How does that work?

19 A When the trigger is pulled, there is the action of
20 the slide moving that causes the round to be ejected and a
21 fresh one to be inserted into the chamber.

22 Q So when downloading the weapon, what is the purpose
23 of pulling that slide down?

24 A To remove any ammunition that might be in the
25 chamber.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. Showing you here State's Exhibit 36, do you
2 recognize this image, ma'am?

3 A Yes.

4 Q And what do you recognize this to be?

5 A That is the firearm with the magazine removed and a
6 single round that had been removed from the chamber.

7 Q And State's Exhibit 37, what is this?

8 A That is the same image, but the magazine has been
9 unloaded with all the ammunition removed.

10 Q So in this particular case there was ammunition
11 within this gun?

12 A Yes, there was.

13 Q One in the chamber?

14 A Yes.

15 Q And so six rounds in the magazine; is that correct?

16 A Yes.

17 Q And that was found out when you downloaded the gun?

18 A Yes.

19 Q This particular picture, that's what documents it?

20 A Yes, that's correct.

21 Q I'm going to show you here what's been marked as
22 State's Proposed 81 and -- and 81-D and E. Do you recognize
23 these items?

24 A Yes, I do.

25 Q And how do you recognize them?

ROUGH DRAFT TRANSCRIPT

1 A By the markings that are on the firearm.

2 Q Okay. What do you recognize them to be?

3 A It is a Beretta model 950, .22 caliber
4 semi-automatic firearm.

5 Q Okay. Is this the same firearm that you recovered
6 in this case? Appear to be that firearm?

7 A Yes.

8 MR. DICKERSON: State moves for the admission of
9 State's 81-D through E. I believe there's -- that we had
10 talked about that.

11 MR. FRIZZELL: Didn't -- yeah, I thought we already
12 did.

13 MR. DICKERSON: Yeah. By stipulation, Your Honor.

14 THE COURT: Any objection?

15 MR. FRIZZELL: No, Your Honor. We previously
16 agreed --

17 THE COURT: All right.

18 MR. FRIZZELL: -- as well.

19 THE COURT: Exhibit 81-D through E will be
20 admitted.

21 (State's Exhibits 81-D through E admitted)

22 MR. DICKERSON: Thank you very much, Your Honor.

23 BY MR. DICKERSON:

24 Q And what's been marked as -- and admitted as State's
25 Exhibit 81-F, do you recognize this item, ma'am? These two

ROUGH DRAFT TRANSCRIPT

1 items, I should say.

2 A These two vials contain -- one contains six
3 cartridges and the other one contains one cartridge.

4 Q And do these appear to be the same type of
5 cartridges -- same cartridges you recovered here in this
6 case?

7 A Yes.

8 Q Is there any information contained on cartridges in
9 particular?

10 A Depending on the type of ammunition and the
11 manufacturer, there may be manufacturer's markings indicating
12 the brand and possibly a caliber.

13 Q Is that information that is pertinent to you as a
14 crime scene analyst?

15 A Yes.

16 Q Where do you find that sort of information?

17 A That sort of information is located on what we call
18 a headstamp.

19 Q Do the cartridges in this case have headstamps?

20 A Yes.

21 Q Are you able to tell what those are?

22 A It says REM.

23 Q Does that have any sort of significance to you,
24 ma'am?

25 A That typically is the marking for Remington.

ROUGH DRAFT TRANSCRIPT

1 Q And what is Remington?

2 A Remington is a manufacturer of firearms.

3 Q And do they produce ammunition as well?

4 A Yes.

5 Q So the headstamp in this case would indicate what to
6 you?

7 A That it is a Remington made ammunition.

8 Q Okay. Now, the suspected narcotics or substances
9 that were recovered in the other bag --

10 A Yes.

11 Q -- were those impounded by you?

12 A No.

13 Q Do you know who impounded those?

14 A All of the items would have been impounded by a
15 patrol officer.

16 Q Okay. While there on scene, did you find -- or
17 photograph something else indicative of ownership inside the
18 vehicle?

19 A The vehicle registration.

20 Q Showing you here State's Exhibit 15. Do you
21 recognize this, ma'am?

22 A Yes.

23 Q What do you recognize that to be?

24 A That is a Nevada DMV registration for the year 2016.

25 Q And was this recovered in the vehicle?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q And is that there in the top left, does that say
3 Keller, Christopher Robert?

4 A Yes.

5 Q And did you also take a photograph of the defendant
6 in this case?

7 A I did.

8 Q When did you take that photograph?

9 A I took that photograph when I initially responded to
10 the scene.

11 Q Okay. So this was there at 265 Lamb?

12 A Yes.

13 Q And showing you State's Exhibit 39, do you recognize
14 that to be the photograph?

15 A Yes.

16 Q Okay. Now, did you also take a photograph of any
17 specific markings that would have been specific to this
18 particular vehicle?

19 A Yes.

20 Q And what sort of marking would that have been?

21 A I took a photograph of the VIN plate, which is the
22 vehicle identification number.

23 Q And I'm showing you here State's Exhibit 7, do you
24 recognize this image, ma'am?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q And what do you recognize that to be?

2 A That is the VIN plate that is located on the dash of
3 vehicles.

4 Q Is this the specific VIN plate that was on this
5 Dodge Stratus located in spot 58 at 265 Lamb Boulevard?

6 A Yes.

7 MR. DICKERSON: State would pass the witness.

8 THE COURT: Cross.

9 CROSS-EXAMINATION

10 BY MR. FRIZZELL:

11 Q CSA Thi, I'm Ken Frizzell. I just have a few
12 questions for you. In the picture that Mr. Dickerson showed
13 you regarding when you arrived and the glove box lid you said
14 was on the ground. Were you the one that removed that?

15 A No, I was not.

16 Q So when you arrived on scene, that was how you found
17 it?

18 A Yes, that's correct.

19 Q And do you know how it came to be off?

20 A No, I do not.

21 Q But you were the one that removed that side
22 paneling?

23 A No, I -- I had attempted to gain access to that area
24 and was unable to, and patrol officers subsequently were the
25 ones who ultimately gained access.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. Were you there when they did it?

2 A Yes, I was.

3 Q So you saw them pry off that little plastic piece?

4 A Yes.

5 Q Okay. Before you had them pry that off and you saw
6 that little hole inside the glove box, did you attempt to
7 reach down in it?

8 A I did.

9 Q And at that time, did you feel anything?

10 A I could feel an item that felt pliable, soft to the
11 touch, but I was not able to remove it through that hole that
12 was in the picture.

13 Q So you put your hand in, but you couldn't pull the
14 items out; is that what you're saying?

15 A Yes.

16 Q Okay. And did you have an occasion to examine the
17 outer panel that you say the police removed so that you could
18 gain access?

19 A Examine in what way?

20 Q In other words, did it look like it had been pried
21 off before or did you even look?

22 A Not that I had noticed.

23 Q So to the best of your knowledge, it looked like
24 this was going to be the first time that it had been taken
25 off?

ROUGH DRAFT TRANSCRIPT

1 A It -- there were no obvious signs indicating that it
2 had been damaged or tampered with.

3 Q Okay. How did they take it off? Did they use
4 screwdrivers; do you recall? What did they --

5 A I don't recall them using tools, but I wouldn't be
6 able to say for certain. I was standing at the edge waiting
7 for documentation, if anything was found. There were several
8 officers in that small area that were trying to gain access.

9 Q Was that panel -- was that panel later destroyed as
10 it was being taken off or did it pop off and it was just all
11 in one piece?

12 A It came off in one piece.

13 Q Now, you were not the one -- did you have any
14 contact with Mr. Keller other than taking his photo?

15 A No, I did not.

16 Q So you did not talk with him? You did not get any
17 statements from him, anything like that?

18 A No. And if anything, it would have just been
19 providing instructions while taking the photographs.

20 Q And so maybe his response may have been yes, ma'am
21 or something to that effect?

22 A Yes.

23 Q And do you recall if he actually communicated with
24 you or did he just obey?

25 A No, I don't recall any specific communication

ROUGH DRAFT TRANSCRIPT

1 between us.

2 Q Okay. Other than what you said about, you know,
3 stand this way, look towards me, and that sort of thing?

4 A Yeah. Some individuals may respond, and other
5 individuals will just silently follow the instructions.

6 Q Okay. To the best of your knowledge, he just
7 silently followed instructions?

8 A I wouldn't be able to say for certain one way or the
9 other. I don't recall.

10 Q All right. That's all I have. Thank you.

11 THE COURT: Redirect?

12 MR. DICKERSON: Nothing from the State.

13 THE COURT: All right. Thank you, ma'am. You're
14 excused. You can step down. Pretty long one?

15 MR. DICKERSON: Yeah.

16 THE COURT: Okay. Ladies and gentlemen, we're
17 going to take our evening recess. Tomorrow be here by 11:30.
18 Eat lunch before you come. We're going to go through all the
19 way probably until 5:00, okay? All right. I'll give you a
20 break and everything in the middle, but plan on eating lunch
21 before you come. I'm not going to give you a lunch break
22 like I did today, okay? All right.

23 So during this overnight recess, ladies and
24 gentlemen, you're admonished not to converse amongst yourself
25 or with anyone else on any subject connected with this trial

ROUGH DRAFT TRANSCRIPT

1 or read, watch or listen to any report of or commentary on
2 the trial by any person connected with this case or by any
3 medium of information, including without limitation, to
4 newspapers, television, Internet or radio.

5 You're further admonished not to form or express
6 any opinion on any subject connected with this case until the
7 case is finally submitted to you for deliberation. You are
8 directed to return tomorrow right outside the courtroom.
9 Don't come in the courtroom. My marshal will get you by
10 11:30. Okay? All right. We'll be at ease while the jury
11 exits the courtroom.

12 (Jury recessed at 4:04 P.M.)

13 THE COURT: All right. We're outside the presence
14 of the jury. Mr. Dickerson, I don't know whether or not you
15 neglected or you just chose not to do it. My understanding
16 of the record right now is that you moved to admit 6 through
17 37, 39, State's Exhibit 81-D and E and then 81-F, but you
18 didn't ask to move in 81-F.

19 MR. DICKERSON: Okay. I think that by stipulation
20 we're moving in --

21 MR. FRIZZELL: Well --

22 THE COURT: What did you agree to?

23 MR. FRIZZELL: That one's not going to be by
24 stipulation, but I have no objection to it.

25 THE COURT: To what? I don't know what -- what are

ROUGH DRAFT TRANSCRIPT

1 you asking for.

2 MR. DICKERSON: To F.

3 THE COURT: D and E's in. 81-D and E. 81-F.

4 MR. DICKERSON: 38-F (sic). So State, yeah --

5 THE CLERK: 81-F.

6 MR. DICKERSON: Okay, 81-F, State moves for the
7 admission.

8 THE COURT: Any objection to that?

9 MR. FRIZZELL: And I don't have an objection.

10 THE COURT: Okay, that's --

11 MR. FRIZZELL: That's just not one that we --

12 THE COURT: All right.

13 MR. FRIZZELL: -- talked about to physically
14 stipulate to so --

15 THE COURT: Okay. You have no objection to it
16 being admitted?

17 MR. FRIZZELL: No.

18 THE COURT: Okay, I'll admit that then tomorrow.
19 And then D and E?

20 THE CLERK: D and E he moved to admit, but B is the
21 actual Beretta. Are you moving to -- are you moving that in?

22 MR. DICKERSON: State's moving to admit that as
23 well.

24 THE COURT: Was that something you agreed to?

25 MR. FRIZZELL: Yes, and I do think that he said

ROUGH DRAFT TRANSCRIPT

1 that, but I could be wrong, but we did agree to those.

2 THE COURT: Okay. Are you talk being B through E?
3 B, C, D and E?

4 MR. DICKERSON: At this point in time, State would
5 move to admit 86 and all its --

6 THE COURT: 86, you haven't even gotten --

7 THE CLERK: You mean 81.

8 MR. DICKERSON: 81 --

9 THE COURT: 81?

10 MR. DICKERSON: -- and all its subparts.

11 THE COURT: 81-A through F?

12 MR. DICKERSON: A through F.

13 MR. FRIZZELL: And no objection.

14 THE COURT: All right. Okay.

15 MR. FRIZZELL: Some of it was stipulated, some of
16 it is no objection.

17 THE COURT: All right. So I'll admit that on the
18 record tomorrow. All right. So be ready to get started by
19 11:30 tomorrow. We have a pretty good morning calendar.

20 MR. FRIZZELL: I'm going to be here for a morning
21 one so --

22 THE COURT: Okay.

23 THE COURT: All right. Okay. So anything else
24 need to be put on the record before we leave?

25 MR. DICKERSON: No, Your Honor.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: All right.

2 MR. FRIZZELL: Not at this time, Judge.

3 THE COURT: Okay, we'll see you tomorrow, then.

4 MR. DICKERSON: All right.

5 THE COURT: Okay.

6 (Court recessed at 4:07 P.M., until Wednesday,

7 March 8, 2017, at 11:54 A.M.

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ROUGH DRAFT TRANSCRIPT

**PLEADING
CONTINUES
IN NEXT
VOLUME**

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ROBERT KELLER,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
Case No: C-16-312717 May 9, 2022 2:31 p.m.
Related Case A-19-800950-W
Docket No: 84643 Elizabeth A. Brown
Clerk of Supreme Court

RECORD ON APPEAL VOLUME 1

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I N D E X

<u>VOLUME:</u>	<u>PAGE NUMBER:</u>
1	1 - 241
2	242 - 482
3	483 - 723
4	724 - 964
5	965 - 1187

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	4/29/2016	Amended Information	164 - 167
5	12/12/2017	Amended Judgment of Conviction (Jury Trial)	968 - 971
2	3/9/2017	Amended Jury List	306 - 306
2	8/25/2017	Case Appeal Statement	377 - 379
2	8/12/2016	Certificate of Mailing	274 - 278
5	5/9/2022	Certification of Copy and Transmittal of Record	
1	2/16/2016	Criminal Bindover (Confidential)	1 - 28
2	4/29/2017	Defendant Keller's Substitution of Attorney and Amy A. Feliciano, Esq.'s Notice of Appearance as Counsel of Record	362 - 364
2	2/7/2017	Defendant's Motion for Production Including Potentially Exculpatory Evidence	293 - 301
1	6/10/2016	Defendant's Motion to Suppress	171 - 190
5	5/9/2022	District Court Minutes	1139 - 1187
5	5/9/2022	Documentary Exhibits (Unfiled)	1068 - 1126
5	5/9/2022	Documentary Exhibits (Unfiled) Confidential	1127 - 1138
1	2/17/2016	Information	29 - 32
2	3/10/2017	Instructions to the Jury	314 - 322
2	3/10/2017	Instructions to the Jury	323 - 346
2	8/10/2017	Judgment of Conviction (Jury Trial)	365 - 368
2	3/7/2017	Jury List	305 - 305
5	6/12/2019	Motion for Production of Transcripts at State Expense	1033 - 1036

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
5	3/22/2018	Motion for the Appointment of Counsel & Motion to Dismiss Attorney of Record	980 - 985
4	11/14/2017	Motion for the Appointment of Counsel; Request for Evidentiary Hearing	958 - 962
4	11/14/2017	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents (Continued)	963 - 964
5	11/14/2017	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents (Continuation)	965 - 966
5	12/31/2018	Motion for Withdrawal of Counsel of Record or in the Alternative, Request for Records/Court Case Document "Evidence Photos"	1009 - 1014
5	4/3/2019	Motion to Compel	1022 - 1027
1	6/13/2016	Motion to Dismiss Counsel and Appoint Alternate Counsel	191 - 193
1	6/1/2016	Motion to Reduce Bail	168 - 170
2	8/10/2016	Motion to Withdraw As Counsel	270 - 273
5	11/14/2018	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed	996 - 1007
2	8/24/2017	Notice of Appeal	372 - 372
2	8/24/2017	Notice of Appeal	376 - 376
5	11/29/2017	Notice of Change of Hearing	967 - 967
1	3/29/2016	Notice of Expert Witnesses [NRS 174.234(2)]	156 - 161

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	8/26/2016	Notice of Expert Witnesses [NRS 174.234(2)]	281 - 287
1	3/24/2016	Notice of Intent to Seek Punishment as a Habitual Criminal	151 - 152
2	7/18/2016	Notice of Intent to Seek Punishment as a Habitual Criminal	268 - 269
4	11/14/2017	Notice of Motion	956 - 957
5	12/31/2018	Notice of Motion	1008 - 1008
5	4/3/2019	Notice of Motion	1021 - 1021
1	3/24/2016	Notice of Witnesses [NRS 174.234(1)(a)]	153 - 155
2	1/25/2017	Notice to Introduce Certified Records [NRS 52.260(4)]	291 - 292
5	5/10/2018	Order Denying Defendant's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record	994 - 995
2	8/18/2016	Order Denying Defendant's Motion to Suppress and Defendant's Pro Per Motion to Dismiss Counsel and Appoint Alternative Counsel	279 - 280
5	7/22/2019	Order Denying Defendant's Pro Per Motion for Production of Transcripts at State Expense	1041 - 1042
5	4/11/2018	Order Granting Defendant's Motion for the Appointment of Counsel; Order Denying Defendant's Request for Evidentiary Hearing	986 - 987
5	2/1/2019	Order Granting Petitioner's Pro Per Motion for Withdrawal of Counsel of Record, or in the Alternative, Request for Records/Court Case Document	1015 - 1016

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	4/14/2017	Presentence Investigation Report (Unfiled) Confidential	347 - 361
1	6/16/2016	Receipt of Copy	194 - 194
5	4/3/2019	Request for Records/Court Case Documents	1017 - 1020
5	6/12/2019	Request for Records/Court Case Documents (Specifically Evidence Photos)	1038 - 1040
2	8/24/2017	Request for Rough Draft Transcripts	369 - 371
2	8/24/2017	Request for Rough Draft Transcripts	373 - 375
5	6/12/2019	Request for Submission of Motion	1037 - 1037
2	3/6/2017	Second Amended Information	302 - 304
5	4/13/2018	State's Opposition to Defendant's Motion to Appoint Counsel and Motion to Dismiss Attorney of Record	988 - 993
1	6/17/2016	State's Opposition to Defendant's Motion to Suppress (Continued)	195 - 241
2	6/17/2016	State's Opposition to Defendant's Motion to Suppress (Continuation)	242 - 267
5	1/17/2020	State's Response to Defendant's Pro Per Petition for Writ of Habeas Corpus (Post- Conviction)	1043 - 1067
2	8/29/2016	Supplemental Notice of Witnesses [NRS 174.234(1)(a)]	288 - 290
2	3/10/2017	Third Amended Information	307 - 310
2	10/5/2017	Transcript of Hearing Held on August 7, 2017	380 - 394
1	3/2/2016	Transcript of Hearing Held on February 16, 2016	33 - 91

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	3/4/2016	Transcript of Hearing Held on February 16, 2016	92 - 150
3	11/13/2017	Transcript of Hearing Held on March 10, 2017	485 - 512
2	11/13/2017	Transcript of Hearing Held on March 6, 2017	396 - 417
2	11/13/2017	Transcript of Hearing Held on March 7, 2017 (Continued)	418 - 482
3	11/13/2017	Transcript of Hearing Held on March 7, 2017 (Continuation)	483 - 484
4	11/13/2017	Transcript of Hearing Held on March 8, 2017	726 - 955
3	11/13/2017	Transcript of Hearing Held on March 9, 2017 (Continued)	513 - 723
4	11/13/2017	Transcript of Hearing Held on March 9, 2017 (Continuation)	724 - 725
5	3/1/2018	Unfiled Document(s) - Attorney Letter w/Copy of Unfiled Motion for the Appointment of Counsel; Request for Evidentiary Hearing and w/Copy of Unsigned Order Appointing Counsel	972 - 978
1	4/17/2016	Unfiled Document(s) - Motion for Brady Hearing	162 - 163
5	6/12/2019	Unfiled Document(s) - Motion to Compel	1028 - 1031
2	11/3/2017	Unsigned Document(s) - Order Appointing Counsel	395 - 395
5	3/13/2018	Unsigned Document(s) - Order Appointing Counsel	979 - 979
5	6/12/2019	Unsigned Document(s) - Order to Produce Transcripts	1032 - 1032

C-16-312717-1

State of Nevada
vs
Christopher Keller

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	3/10/2017	Verdict - Counts 1 thru 7	312 - 313
2	3/10/2017	Verdict - Counts 8 and 9	311 - 311

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
1 - 28
WILL FOLLOW VIA
U.S. MAIL**


CLERK OF THE COURT

INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SARAH KILLER
Deputy District Attorney
Nevada Bar #12795
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

I.A. 2/18/16
10:00 AM
SANFT

THE STATE OF NEVADA,
Plaintiff,

CASE NO: C-16-312717-1

-vs-

DEPT NO: XIX

CHRISTOPHER ROBERT KELLER,
#1804258

Defendant.

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That CHRISTOPHER ROBERT KELLER, the Defendant(s) above named, having committed the crimes of **TRAFFICKING IN CONTROLLED SUBSTANCE (Category A Felony - NRS 453.3385.3 - NOC 51160); POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA (Category E Felony - NRS 453.336 - NOC 51127); POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony - NRS 453.337 - NOC 51141); and OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460)**, on or about the 28th day of January, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

1 COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE

2 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
3 actually or constructively, 28 grams or more, to-wit: approximately 351.4 grams of
4 Methamphetamine, or any mixture of substance consisting of approximately 351.4 grams
5 containing the controlled substance Methamphetamine.

6 COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

7 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
8 actually or constructively, 28 grams or more, to-wit: approximately 36.4 grams of Heroin, or
9 any mixture of substance consisting of approximately 36.4 grams containing the controlled
10 substance Heroin.

11 COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA

12 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a
13 controlled substance, to-wit: Marijuana, over one (1) ounce.

14 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

15 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
16 substance, to-wit: Methamphetamine.

17 COUNT 5 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

18 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
19 substance, to-wit: Heroin.

20 COUNT 6 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

21 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
22 substance, to-wit: Cocaine.

23 COUNT 7 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

24 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
25 substance, to-wit: Marijuana.

26 COUNT 8 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

27 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
28 his custody or control, a firearm, to-wit: a Beretta handgun, the defendant being a convicted

1 felon, having in 2013, been convicted of Conspiracy to Violate Uniform Controlled Substances
2 Act, in Case No. C287724, in the Eighth Judicial District Court, Clark County, a felony under
3 the laws of the State of Nevada; and/or having in 2013, been convicted of Attempt Possession
4 of Firearm by Ex-Felon, in Case No. C279904, in the Eighth Judicial District Court, Clark
5 County, a felony under the laws of the State of Nevada; and/or having in 2009, been convicted
6 of Possession of Firearm by Ex-Felon, in Case No. C252394, in the Eighth Judicial District
7 Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2004,
8 been convicted of Burglary, in Case No. C192923, in the Eighth Judicial District Court, Clark
9 County, a felony under the laws of the State of Nevada; and/or having in 2003, been convicted
10 of Possession of Credit Card Without Cardholder's Consent, in Case No. C189805B, in the
11 Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

12 COUNT 9 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

13 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
14 his custody or control, a firearm, to-wit: a 9 mm handgun, the defendant being a convicted
15 felon, having in 2013, been convicted of Conspiracy to Violate Uniform Controlled Substances
16 Act, in Case No. C287724, in the Eighth Judicial District Court, Clark County, a felony under
17 the laws of the State of Nevada; and/or having in 2013, been convicted of Attempt Possession
18 of Firearm by Ex-Felon, in Case No. C279904, in the Eighth Judicial District Court, Clark
19 County, a felony under the laws of the State of Nevada; and/or having in 2009, been convicted
20 of Possession of Firearm by Ex-Felon, in Case No. C252394, in the Eighth Judicial District
21 Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2004,
22 been convicted of Burglary, in Case No. C192923, in the Eighth Judicial District Court, Clark
23 County, a felony under the laws of the State of Nevada; and/or having in 2003, been convicted
24 of Possession of Credit Card Without Cardholder's Consent, in Case No. C189805B, in the
25 Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

26 ///

27 ///


28 ///

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

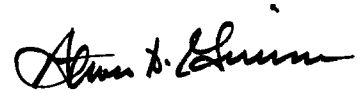
<u>NAME</u>	<u>ADDRESS</u>
BARLOW, DAWN	CCDA INVESTIGATOR
BELMONT, M.	LVMPD P#8240
COLLINGWOOD, E.	LVMPD P#9494
CUSTODIAN OF RECORDS	LVMPD, Communications, 400 S. Martin Luther
Or Designee	King Blvd, LV, NV
CUSTODIAN OF RECORDS	LVMPD, Records, 400 S. Martin Luther King
Or Designee	Blvd, LV, NV
CUSTODIAN OF RECORDS	Clark County Detention Center, 330 S. Casino
Or Designee	Center Blvd., LV, NV
EMBRY, C.	LVMPD P#6223
HENRY, J.	LVMPD P#14753
HOUGH, S.	LVMPD P#7814
LOPEZ, D.	LVMPD P#9806
TAPIA, D.	LVMPD P#10044
THI, S.	LVMPD P#14373
VANCE, J.	LVMPD P#9004

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

BY


SARAH KILLER
Deputy District Attorney
Nevada Bar #12795

16F01430X /mlb/L-2
LVMPD EV#1601280259
(TK5)



CLERK OF THE COURT

1 CASE NO. C-16-312717-1

2 DEPT. NO. 5

3
4 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
5 COUNTY OF CLARK, STATE OF NEVADA

6 THE STATE OF NEVADA,)
7)
8 Plaintiff,) PRELIMINARY HEARING
9)
10 vs.) Case No.
11) 16F01430X
12)
13 CHRISTOPHER ROBERT)
14 KELLER,)
15)
16 Defendant.)
17 -----

18
19 REPORTER'S TRANSCRIPT OF PROCEEDINGS
20 BEFORE THE HONORABLE CYNTHIA CRUZ
21 JUSTICE OF THE PEACE

22
23 TAKEN ON TUESDAY, FEBRUARY 16, 2016
24 AT 9:00 A.M.

25 APPEARANCES:

For the State: Sarah Killer, Esq.
Deputy District Attorney

For the Defendant: Michael Sanft, Esq.
Las Vegas, Nevada

REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

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I N D E X

WITNESSES :	D	C	RD	RC	FD	FC
DANIEL LOPEZ	5	23	41	43	43	44

1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY
2 16, 2016

3 * * * * *

4 THE COURT: Christopher Robert Keller,
5 16F01430X.

6 Mr. Keller is present in custody,
7 represented behalf Mr. Sanft.

8 THE COURT: It is my understanding that this
9 matter is not negotiated?

10 MR. SANFT: That is correct, Your Honor.

11 THE COURT: Did you receive a copy of the
12 criminal complaint this morning?

13 MR. SANFT: Yes, Your Honor, and we waive
14 the reading.

15 THE COURT: Reserving any objections?

16 MR. SANFT: Yes, Ma'am.

17 MS. KILLER: If we can approach, we have
18 something to fill the Court in on.

19
20 (A Bench conference was had.)
21

22 MS. KILLER: The State calls Officer Lopez.

23 MR. SANFT: Your Honor, just as a matter of
24 housekeeping I believe that Officer Lopez is the
25 ~~only witness that is here in the courtroom, being~~

1 called as a witness in this case; am I wrong?

2 MS. KILLER: No.

3 THE COURT: Are you invoking the
4 exclusionary rule?

5 MR. SANFT: As a matter of precaution.

6 THE COURT: If there are any witnesses on
7 Christopher Keller matter, whether you could be a
8 witness in the future, or even if you are sure, I am
9 going to ask you to step outside.

10 MS. KILLER: For the record, no one else
11 checked in this morning.

12
13 DANIEL LOPEZ,

14
15 who, being first duly sworn to tell the truth, the
16 whole truth, and nothing but the truth, was examined
17 and testified as follows:

18
19 THE CLERK: Please be seated and state and
20 spell your first and last name for the record.

21 THE WITNESS: Daniel Lopez, D-a-n-i-e-l
22 L-o-p-e-z.

23 THE COURT: State, your witness.

24 MS. KILLER: Thank you, Your Honor.

25 I have pre-marked with your clerk State's

1 Exhibits 1 through 8.

2 Exhibit 8 I have previously sent defense
3 counsel a copy of his certified prejudgments of
4 convictions for felonies in Nevada.

5 MR. SANFT: Yes, Your Honor, I have seen
6 those.

7 MR. KILLER: And at this time the State
8 would move to admit State's Exhibit 8.

9 MR. SANFT: We have no objection, Your
10 Honor.

11 THE COURT: 8 will be admitted.
12

13 DIRECT EXAMINATION
14

15 BY MS. KILLER:

16 Q. Officer Lopez, how are you currently
17 employed?

18 A. I am currently employed with the Las Vegas
19 Metropolitan Police Department.

20 Q. Were you so employed on January 28 of 2016?

21 A. Yes.

22 Q. On that date, did you conduct a vehicle
23 stop in the area 123 Lamb?

24 A. Yes.

25 Q. And is that located here in Las Vegas, Clark

1 County, Nevada?

2 A. Yes, sir.

3 Q. And was this around 2:25 a.m.?

4 A. Yes.

5 Q. At that time did you conduct a vehicle stop
6 on 2002 Dodge Stratus that was silver in color?

7 A. Yes, I did.

8 Q. And what drew your attention to that
9 vehicle?

10 A. When I first noticed the vehicle, it was
11 making an abrupt left turn off of Sunrise Avenue.

12 The vehicle went straight into the center
13 lane, and continued northbound.

14 Q. When you say the center turn lane, are we
15 talking about one of those double yellow 2-way left
16 hand lanes?

17 A. Yes.

18 Q. What happened next?

19 A. The vehicle kept on traveling in the lane
20 made a U-turn, and I conducted a records check on
21 the plate.

22 I noticed that the rear passenger tail lamp
23 was broken, and that the driver had sped up to
24 quickly sped up to quickly pull into the Cross Road
25 III apartment complex.

1 Q. And in doing so have you traveled over 3
2 hundred feet in that turn lane without entering the
3 travel lane?

4 A. Yes.

5 Q. And had you gotten to a high rate of speed?

6 A. Yes.

7 Q. And when he made that abrupt turn into the
8 Cross Roads 3 apartment complex, what did he do with
9 his vehicle at that point?

10 A. He sped up. Once he had gotten into the
11 apartment complex, he proceeded in there and made a
12 quick right turn, and pulled into a parking space.

13 Q. Did he remain in the vehicle at that time?

14 A. He was jumping out of the driver's side of
15 the vehicle as I was pulling up on him, and
16 initiating the traffic stop.

17 Q. And did you activate your lights and siren?

18 A. Just my lights.

19 Q. And did you give him commands not to leave
20 the car?

21 A. Yes, I gave him verbal commands to walk over
22 to my vehicle.

23 Q. Did he eventually obey those verbal
24 commands?

25 A. Yes.

1 Q. Prior to him obeying those verbal commands,
2 what did his behavior indicate to you?

3 A. It indicated to me that he was probably
4 trying to--

5 MR. SANFT: Objection, speculation.

6 THE COURT: Sustained.

7 Q. When he exited the car, what observations
8 did you make?

9 A. I observed that he was trying to get out of
10 the car quick. He was trying to get somewhere else
11 really quick, and that he was trying to get away
12 from me really quick.

13 Q. And did you smell any to odors when he
14 exited the car?

15 A. Yes.

16 Q. And did you smell those on his person or in
17 the car?

18 A. I could smell it on his person, and actually
19 coming from inside the vehicle as well.

20 Q. And what odor was that?

21 A. The odor of cannabis.

22 Q. Do you see the individual here in Court
23 today that you have been discussing for the Court
24 that you stopped on that evening?

25 A. Yes, Mr. Keller, sitting right here.

1 Q. Can you point to him for the record
2 and identify an article of clothing?

3 A. He is wearing a blue outfit. He has
4 a lot of tattoos near his elbows.

5 Q. Short sleeve or long?

6 A. Short sleeve.

7 MS. KILLER: Your Honor, could the
8 record reflect the identification of the
9 Defendant?

10 THE COURT: It will.

11 Q. Given the smell you observed and his
12 behavior, did you believe that he might be
13 armed and conduct a Terry pat down?

14 MR. SANFT: Objection, leading.

15 THE COURT: If was, but, okay,
16 rephrase.

17 Q. Did you conduct a Terry pat down?

18 A. I did.

19 Q. And what was your basis?

20 What reasonable suspicion did you
21 believe that believed that he might be armed?

22 A. The clothing that he was wearing
23 could hold numerous weapons, so I conducted a
24 pat down.

25 Q. And that was because of what you just

1 observed, the cannibals smell you described
2 previously for us and the behaviors you
3 described previously?

4 A. Yes.

5 Q. When you conducted the pat down, what
6 if anything occurred?

7 A. While I was conducting the pat down,
8 I could tell that his wallet was in his front
9 right pocket, and I asked him if I could take
10 his wallet out of his pocket.

11 Q. Did he give you permission to do so?

12 A. Yes, he did. And that was to get his
13 driver's license that was in his wallet, and
14 as I was removing the wallet, I removed a
15 large wad of cash that outside of the
16 wallet.

17 And when I like at the wallet, I
18 could tell that there was even more cash, and
19 pulled it up within the wallet as well.

20 Q. And how much total cash did you
21 recover from his wallet and pocket?

22 A. I can't recall off the top of my
23 head.

24 Q. Would it refresh your recollection to
25 look at your report?

1 A. Yes.

2 MR. KILLER: Your Honor, may I
3 approach?

4 THE COURT: You may.

5 Q. Just review that by yourself.

6 MS. KILLER: Counsel, I am showing a
7 copy of the declaration of arrest.

8 MR. SANFT: Thank you.

9 Q. Does that refresh your recollection?

10 A. Yes.

11 Q. Do you recall what the total amount
12 of the cash that was recovered?

13 A. \$2,187.00.

14 Q. And does the denomination of the
15 bills indicate anything to you, based on your
16 training and experience?

17 A. Yes. The way that the 20's were
18 folded up, the 20's that were within the
19 wallet, he had the 20's folded up in
20 increments of \$100.

21 He had and the 5's and the 20's
22 facing one way, and the next 5 and 20's
23 facing the other way.

24 The larger wad of cash had a wide
25 variety, but it was mostly of the smaller

1 bills, the 5's and 10's.

2 Q. And based upon your training and
3 experience, what does the state that the
4 money was in indicate to you?

5 A. The state the money was in was
6 consistent with the sale of narcotics.

7 Q. At some point occurring the Terry pat
8 down was, the Defendant placed in handcuffs
9 and if so, why?

10 A. I placed him in handcuffs while I had
11 him there at the front of the vehicle.

12 There were 5 shots fired within the
13 apartment complex, and I placed him
14 handcuffs, and placed him in the back of my
15 patrol vehicle for his safer, as well as to
16 free me up, so that I could address whatever
17 issues came about.

18 Q. After that, did you locate anything
19 in plain view in the car, given the open door
20 from which he exited?

21 A. Yes, I could tell that there a green
22 leafy residue on the floorboard of the
23 driver's side of the vehicle.

24 Q. Did you conduct a probable cause
25 search of the car based on the car along with

1 the smelling of cannabis on his person and in the
2 vehicle?

3 A. Yes, I did.

4 Q. And during the probable cause search, what
5 did you locate?

6 A. A sealable plastic bag clear, and inside it,
7 it had a lot of smaller clear plastic bags
8 underneath the driver's seat.

9 And also between the driver's seat and the
10 center console, I located a large sealable plastic
11 bag.

12 Q. And at that point did you call for a K-9
13 officer and a K-9?

14 A. I did.

15 Q. And when they arrived, did the K-9 officer
16 have the K-9 inspect the car?

17 A. Yes, he did. K-9 Officer Newton had his
18 narcotics dog Stewy check the vehicle.

19 Q. And just for the record, I show was
20 certified as of April of 2013, to your knowledge,
21 correct?

22 A. I believe so, yes.

23 Q. And when Stewy checked the vehicle, did he
24 hit on any area of the car?

25 A. He did. He alerted to the glove box.

1 Q. And when you looked at that glove box, did
2 you observe any further compartments or any
3 narcotics?

4 A. I did. If you open the glove box, and if
5 you are looking at the glove box, you open it up, to
6 the right of it, the side of the glove box had been
7 removed.

8 There was a small little opening with
9 cardboard that had been placed within there to hold
10 contraband.

11 Q. At that time did you obtain a search
12 warrant?

13 A. I did.

14 MR. KILLER: And for the record, the search
15 warrant, both we will be referencing have previously
16 been provided to defense counsel.

17 Q. Once that search warrant was obtained, did
18 you execute the search warrant on the vehicle?

19 A. I did.

20 Q. And did you find anything in that secret
21 compartment?

22 A. I did. From that compartment, it actually
23 has aside form, so if the passenger door is open,
24 the side compartment, or the side of that glove box
25 will actually pop off, and you can access, and there

1 was a black bag within that little compartment
2 there.

3 Q. And in that black bag, did you locate a gold
4 watch and 3 sealable gold bags, and another smaller
5 black bag?

6 A. Yes, I did.

7 Q. In that first gold bag, what did you locate?

8 A. The first gold bag had a whole lot of white
9 crystal like substance.

10 Q. And what was that white crystal like
11 substance consistent with from your training and
12 experience?

13 A. From my training and experience, it appeared
14 to be methamphetamine.

15 Q. And was that recovered as package one, item
16 number one?

17 A. I believe so.

18 Q. Was an on ODV sheet conducted in regards to
19 the various methamphetamine found within the hidden
20 compartment as to approval and weight?

21 A. Yes.

22 MR. KILLER: Your Honor, may I approach?

23 THE COURT: You may.

24 MS. KILLER: Your Honor, Exhibit 1 I believe
25 we are admitting pursuant to stipulation, for

1 purposes of preliminary hearing only.

2 MR. SANFT: That is correct, Your Honor.

3 THE COURT: It will admitted for purposes of
4 preliminary hearing only, and you are marking it --

5 MS. KILLER: State's 1.

6 MR. SANFT: Your Honor, just as matter of
7 brevity, we will stipulate to the test results that
8 are located in State's 1 so that we don't have to go
9 through had process.

10 THE COURT: All right.

11 For purposes of preliminary hearing, the
12 defense will stipulate to what the results were in
13 State's 1.

14 MR. KILLER: Which, for the record, is 354.4
15 gross grams of ODV positive methamphetamine.

16 THE COURT: Okay.

17 MR. KILLER: I am returning State's 1 to the
18 Court.

19 Q. And in the second bag, did you and the other
20 officers locate 4 bags of a controlled substance
21 containing consistent with heroin?

22 A. Yes.

23 MR. KILLER: And the same procedure, State's
24 Exhibit 2, the ODV sheet for the heroin, is also
25 being admitted pursuant to stipulation.

1 I am showing defense counsel.

2 MR. SANFT: Yes.

3 THE COURT: 2 is being admitted.

4 MR. KILLER: And was 36.4 gross grams of ODV
5 positive for heroin, package one, item 2.

6 Q. And, officer, in the second gold bag there
7 was also some additional methamphetamine which was
8 included in total weight ODV sheet that was admitted
9 as Exhibit 1, correct?

10 A. Correct.

11 Q. And additionally there was some 3 multi-
12 colored pills, 4 smaller oval pills, correct?

13 A. Yes.

14 Q. And then also in that second bag did you
15 recover a small clear plastic bag with a white
16 powdery substance consistent with cocaine?

17 A. Yes, I did.

18 MR. KILLER: I am showing defense counsel
19 State's Exhibit 3 admitted pursuant to stipulation.

20 THE COURT: 3 will be admitted.

21 MR. KILLER: And for the record, that is an
22 ODV positive sheet for .8 gross grams of cocaine,
23 package one, item 3.

24 I am providing that to the Court.

25 Q. Did you also locate a third smaller gold

1 bag?

2 A. I did.

3 Q. And was that empty?

4 A. The bag was empty.

5 Q. Was there a strong smell, however?

6 A. There was a very horrid smell coming from
7 inside the bag.

8 Q. And what was that smell consistent with?

9 A. It was consistent with heroin.

10 Q. Finally did you locate the smaller black bag
11 within the larger black bag?

12 A. Yes.

13 Q. And in that smaller black bag did you locate
14 a 22 Beretta handgun and the 7 22 short rounds?

15 A. Yes, I did.

16 Q. And was one of those in the chamber?

17 A. Yes.

18 Q. And that was recovered by CSA Ty, correct?

19 A. Correct.

20 Q. And finally in the car did you locate a
21 Nevada regulation for the vehicle?

22 A. I don't believe so.

23 Q. Would it refresh your recollection to see
24 your impounded sheet?

25 A. Yes.

1 MS. KILLER: Your Honor, may I approach?

2 THE COURT: You may.

3 MS. KILLER: Having shown defense counsel
4 this is the property report for the search warrant
5 of the vehicle, I am showing the officer the second
6 page to refresh his recollection.

7 Q. Officer, does that refresh your
8 recollection?

9 A. Yes.

10 Q. And did you locate a Nevada registration for
11 that vehicle when you searched it?

12 A. Yes.

13 Q. And who was that car registered to?

14 A. To Mr. Keller.

15 Q. To your recollection, was there anyone else
16 registered to the car when you reviewed that, or
17 when you ran that plate?

18 A. There was no one else registered to the car.

19 Q. As a result of what you recovered in the
20 vehicle, did you obtain a piggyback search warrant
21 for the Defendant's apartment?

22 A. I did.

23 MR. KILLER: And, for the record, that has
24 also been previously provided to defense counsel.

25 Q. During the service of the piggyback search

1 warrant, was a 9 millimeter semi-auto ruger located?

2 A. Yes.

3 Q. Was there also 3 boxes is of 22 short
4 ammunition located?

5 A. Yes.

6 Q. Consistent with what was found in the car?

7 A. Yes.

8 Q. And also one box of 9 millimeter ammo?

9 A. Yes.

10 Q. And that would have been consistent with the
11 Ruger located at the Defendant's apartment?

12 A. Correct.

13 Q. And further were 5 glass smoking pipes and 4
14 scales located in the apartment?

15 A. Yes.

16 Q. While you and the other detectives were
17 serving the search warrant, did Detective Belmont
18 locate a large glass jar in the freezer containing a
19 green leafy substance?

20 A. Yes.

21 Q. And what was that substance consistent with,
22 based on your training and experience?

23 A. It was consistent with marijuana.

24 MR. KILLER: And showing defense counsel
25 State's Exhibit 4, and that is pursuant to

1 stipulation as well, is that an ODV positive a
2 checklist for marijuana, totaling 180.4 gross grams
3 package 4, item 4.

4 THE COURT: That will be deemed admitted.

5 Q. Officer Lopez, did you also locate in the
6 bedroom 3 plastic bags, 2 containing a white crystal
7 like substance?

8 A. Yes.

9 Q. And what was that substance consistent with,
10 based on your training and experience?

11 A. It was consistent methamphetamine.

12 Q. And was an ODV test also conducted for that?

13 A. Yes.

14 MR. KILLER: I am showing defense counsel
15 State's Exhibit 5, and then pursuant to stipulation,
16 is an ODV positive checklist 4.4 gross grams of
17 methamphetamine, package 8 item 9.

18 THE COURT: It is deemed admitted.

19 Q. And in the third plastic bag was a brown
20 substance consistent with heroin located?

21 A. Yes.

22 Q. And was an ODV also conducted for -- if we
23 go back to the second bag of methamphetamine, was a
24 separate ODV sheet conducted for 3.1 gross grams ODV
25 positive for methamphetamine?

1 A. Yes.

2 MR. KILLER: I am showing defense counsel
3 what is being admitted pursuant to stipulation as
4 State's Exhibit 6, package 8, item 10.

5 THE COURT: 6 will be deemed admitted.

6 Q. Finally returning back to the third package
7 with the heroin, was an ODV sheet conducted for
8 that?

9 A. Yes.

10 Q. And did that result 1.1 gross grams ODV
11 positive for heroin?

12 A. Yes.

13 MR. KILLER: I am showing defense State's
14 Exhibit 7, pursuant to stipulation.

15 THE COURT: 7 is deemed admitted.

16 Q. And finally during the search of the
17 apartment, was pay stub in Defendant Christopher
18 Keller's named located during that search?

19 A. Yes, there was.

20 MR. KILLER: The State has no further
21 questions for had witness.

22 THE COURT: Cross.

23 MR. SANFT: Your Honor, may I approach your
24 Clerk and ask her to mark this as a Proposed Defense
25 Exhibit?

1 THE COURT: Yes.

2 MR. SANFT: And For the record I am showing
3 the State what has been marked as Proposed Defense
4 Exhibit A.

5 May I approach?

6 THE COURT: You may.

7
8 CROSS-EXAMINATION
9

10 BY MR. SANFT:

11 Q. Officer Lopez, are you familiar with what I
12 am showing you as Proposed Exhibit A?

13 A. Yes.

14 Q. What is that?

15 MS. KILLER: Your Honor, may I approach to
16 see where he is pointing?

17 THE COURT: Sure.

18 Q. Officer, what is that?

19 A. That is a map printout, and the major
20 intersection is Stewart and Lamb.

21 Q. Are your familiar with the other cross
22 streets that listed in here on the map?

23 A. Some of them.

24 Q. Okay.

25 And just for the record, does this map

1 accurately depict the area which you first saw my
2 client travel down Sunrise, and also the area where
3 you eventually pulled my client over?

4 A. Yes.

5 MR. SANFT: Your Honor, just for the record
6 we move to admit Defense Exhibit A.

7 MR. KILLER: No objection.

8 THE COURT: It will be deemed admitted.

9 Q. Just for the record, your testimony was that
10 you were traveling in which direction on Lamb when
11 you first saw my client?

12 A. I was traveling southbound on North Lamb.

13 Q. Okay,

14 And since we are all here watching, can
15 point out where you were in your squad car, what
16 location on North Lamb Boulevard when you first saw
17 my client?

18 A. I was just passing the apartment complex
19 that that he eventually pulled into.

20 THE COURT: Do you want him to use a marker

21 MR. SANFT: Yes.

22 THE COURT: For the record, the officer will
23 be marking on this map with a red marker.

24 Q. Can you mark that with an A?

25 A. Yes.

1 Q. All right.

2 And then you said that as you were traveling
3 in this direction, how fast were you traveling in
4 this direction when you first saw my client?

5 A. Approximately 40 miles an hour.

6 Q. All right.

7 And during that time period where was client
8 when He was first spotted, when you first saw him
9 traveling down North Lamb?

10 A. When I first saw him, he was coming off of
11 Sunrise making left turn leading northbound.

12 Q. And if you can just mark the area that you
13 first saw my client with a B.

14 A. Here.

15 Q. At some point, your testimony was that you
16 were passing my client traveling in the opposite
17 direction, correct?

18 A. Yes.

19 Q. And your testimony was that he was traveling
20 at a high rate of speed?

21 A. Yes.

22 Q. At some point you turned around, flipped a
23 U, and you followed him?

24 A. That is correct.

25 Q. Could you recall where on this map you

1 flipped you U and followed him?

2 A. When I saw him pull out off of Sunrise
3 Avenue, I was showing down to see what he was going
4 to do, where he was going to go, so he probably
5 passed me somewhere about here.

6 Q. Mark that with a C.

7 A. Okay.

8 Q. And then you flipped a U, and you were in
9 this vicinity where C is marked on the map,
10 something like that?

11 A. Correct.

12 Q. Then you start to follow him into the
13 apartment complex?

14 A. Correct.

15 Q. All right.

16 Where exactly did you effectuate the stop on
17 my client?

18 A. It looks likes right about here.

19 Do you want a D?

20 Q. Yes.

21 When you first came into the apartment
22 complex, how did you get into the apartment complex,
23 based upon this map?

24 A. He made a left turn into the entrance, and I
25 made a a left turn to go westbound from Lamb into

1 the entrance.

2 Q. So the entrance into the apartment complex
3 is located in this area right here?

4 A. I believe it was somewhere right about here.

5 Q. Can you mark that area with an E, please?

6 MR. SANFT: I have no further questions
7 based on that.

8 MS. KILLER: We just ask if we can make a
9 color copy for both party's file.

10 THE COURT: I can see if we can.

11 Q. Officer Lopez, how long have you been with
12 the Metropolitan Police Department as a police
13 officer?

14 A. 9 years.

15 Q. And the entire 9 years, have you been
16 involved with patrol?

17 A. Yes.

18 Q. Okay.

19 Your testimony was that when you were
20 approaching, going down North Lamb, you saw my
21 client make an abrupt left hand turn, something like
22 that?

23 A. Correct.

24 Q. Is that illegal?

25 A. No, it is not illegal.

1 Q. All right.

2 So as he is traveling down you say in a high
3 rate of speed passing you on North Lamb, you are in
4 a black and white patrol car, is that correct?

5 A. Yes.

6 Q. I am assuming that this street does have
7 streetlights on that area?

8 A. There are no streetlight from the point of
9 where I first saw him to where I began to follow
10 him.

11 Q. And based upon your oh, observation of my
12 client in his vehicle, was his vehicle's lights on?

13 A. Yes.

14 Q. Okay.

15 So would be fair to say that he is traveling
16 in a direction where he is passing you on the
17 street?

18 A. Correct.

19 Q. And at some point your testimony was that
20 you flipped a U, and you go back towards him, but
21 the only reason why you could that is because he is
22 traveling in the middle lane coming down North Lamb?

23 A. The reason I began to follow him and observe
24 him is because of how fast he came up to Sunrise
25 Avenue.

1 I couldn't tell whether he came to a
2 complete stop one way or another, but because he was
3 traveling at a fast rate of speed, I decided to make
4 U-turn and conduct a records check on his plate.

5 Q. But your testimony also is that you observed
6 him traveling down the center lane of North Lamb?

7 A. The center turn lane, yes.

8 Q. Is that illegal?

9 A. For a prolonged period of time. It might
10 have been 2 hundred feet.

11 Q. So your testimony was that he was traveling
12 at a distance of over 3 hundred feet, is that
13 correct?

14 A. That is correct.

15 Q. Now, at some point he pulled into the
16 apartment complex, and your testimony was that he
17 did so in a way that you thought he was trying to
18 avoid you, is that correct?

19 A. Yes.

20 Q. What led you to believe that he was avoiding
21 you?

22 A. He didn't slow down come at all before he
23 was coming out to make the left turn.

24 He made the left turn, even though there was
25 southbound traffic coming down on Lamb, and there

1 was also the broken taillight as well.

2 Q. So your testimony now is that you see the
3 traffic coming down in the opposite direction and he
4 failed to yield to that traffic and he cut in front
5 of them?

6 A. Yes.

7 Q. And he cut in front of them, and he went at
8 the same speed that he had when he was passing you
9 on North Lamb?

10 A. I can't say it was the exact same speed. It
11 was at a high rate of speed.

12 Q. As he is pulling into the apartment complex,
13 he is not slowing down?

14 A. No.

15 Q. All right.

16 So he is going over bumps in the apartment
17 complex in his vehicle, is that correct?

18 A. Correct.

19 Q. At a high rate of speed?

20 A. Yes.

21 Q. And at some point he then pulls into a
22 parking stall?

23 A. Yes.

24 Q. With you right behind him?

25 A. I was coming up on him. More or less right

1 behind him. I wasn't directly behind him.

2 Q. It would be fair to say your testimony here
3 you toady is that you never lost of my client's
4 vehicle, correct?

5 A. No.

6 Q. At this point, I am assuming you had your
7 lights and sirens on?

8 A. No.

9 Q. You did not?

10 A. I did not.

11 Q. Okay.

12 So you flip a U, and turn follow my client
13 into the apartment complex without your lights and
14 sirens on?

15 A. Correct.

16 Q. Okay.

17 Now, your testimony as well is that when you
18 pulled in, you got right behind my client, and you
19 tried to effectuate the stop, and my client got out
20 of the vehicle?

21 A. He was already jumping out of the vehicle.

22 Q. But you don't have your lights and sirens
23 on?

24 A. My lights and sirens were activated as he
25 was pulling into the stall. It was inside the

1 apartment complex is when I activated.

2 Q. Okay.

3 So your testimony is that when you pulled
4 into the apartment complex it is at that point that
5 your turned your light and sirens on?

6 A. It was when he was making a right turn.

7 When he pulls into the apartment complex
8 that is a straight-away, and then there a right turn
9 where he pulled up to his stall

10 As he was making a right turn into the
11 little cul-de-sac portion of his apartment complex
12 is when I activated my lights.

13 Q. So you allowed him to travel at a high rate
14 of speed through the apartment complex to the point
15 he pulled into his parking stall, and then you
16 turned on the lights?

17 A. Yes.

18 Q. So you effectuated the stop, and he gets out
19 of his vehicle?

20 A. He got out of his vehicle on own accord.

21 Q. And your testimony was when he got out of
22 the vehicle, where you were, were you still inside
23 your vehicle?

24 A. No, I was also getting outside of my vehicle
25 as well.

1 Q. So, as you were getting outside of your
2 vehicle, your testimony was that you observed, or
3 you smelled the odor of cannabis, marijuana?

4 A. Correct.

5 Q. Off of my client?

6 A. Correct.

7 Q. Now, when you parked your vehicle, how far
8 away was your vehicle to my client's vehicle?

9 A. It was approximately less than 10 feet.

10 Q. So you basically box my client in, in his
11 parking stall?

12 A. Correct.

13 Q. And then you got out of your vehicle?

14 A. Correct.

15 Q. And you smelled marijuana. There must have
16 been a pretty good odor for you to smell that like
17 that pretty quickly, correct?

18 A. Yes.

19 Q. Pretty strong, the odor?

20 A. Yes.

21 Q. And you are saying that odor was coming from
22 my client's person?

23 A. It was coming from his person, and I could
24 tell it was coming from inside the vehicle as well.

25 Q. How can you differentiate between what is

1 coming from inside of the vehicle and what is coming
2 off of my client?

3 A. While he was standing next to his door, and
4 I was up there next to him, while he was near the
5 driver's side door, and I was giving him
6 instructions, standing there, I could smell it
7 coming off of his clothes and from inside the
8 vehicle, coming from -- it was coming from 2
9 different directions.

10 Q. So you are able to differentiate between the
11 smell coming off of a person versus what was coming
12 from the vehicle, even though the 2 of them are in
13 relatively close proximity.

14 He is not leaving the vicinity of the car
15 door?

16 A. Correct.

17 Q. Then at that point you said that you for
18 whatever reason decided to detain my client based
19 upon the fact that you believed that he may have had
20 a weapon on him?

21 A. I conducted a pat down, because he may have
22 had weapons on him.

23 Q. And you based that upon the fact that he was
24 driving at a high rate of speed?

25 A. No. I based --

1 MS. KILLER: Objection misstates his
2 testimony. There were numerous factors that he
3 gave.

4 MR. SANFT: It was the State that gave those
5 factors.

6 Q. So why don't you tell me what factors
7 determined in your mind the probable cause to pat
8 down my client for weapons?

9 A. He had baggie pants on, very loose pants,
10 and a very loose shirt on.

11 Q. Anything else besides that?

12 A. Not that I can recall on off of the top of
13 my head.

14 Q. Were you wearing a body cam on that
15 particular stop?

16 A. No.

17 Q. Did you have a camera in your vehicle during
18 that particular stop?

19 A. No.

20 Q. And based upon your determination that there
21 may have been a weapon was just on loose clothing?

22 A. On clothes that could conceal a weapon, yes.

23 Q. Now we are going to skip past all of the
24 rest of the stuff.

25 Were you the primary officer in Charge of

1 the investigation of this particular case?

2 A. I.

3 Q. And that's because you are the first one on
4 the scene, right?

5 A. Correct.

6 Q. Now at some point I am assuming that
7 detectives did show up to help you with that
8 investigation?

9 A. Correct.

10 Q. And they would have assumed the
11 investigation from that point forward, or are you
12 the one ultimately responsible for the case?

13 A. I am ultimately responsible for everything
14 on this case.

15 Q. Now, your testimony was that you said you
16 saw what you thought was some kind of leafy
17 substance on the passenger side, on the floorboard?

18 A. On the driver's side, floorboard.

19 Q. Did you at any point as the primary officer
20 in charge of this investigation take pictures of
21 that area or cause pictures to be taken of that
22 area?

23 A. I don't believe so.

24 Q. Did you at any point cause for pictures to
25 be taken of my client's clothing since you are the

1 primary officer in charge of this investigation?

2 A. I can't recall whether pictures were taken
3 of Mr. Keller or not.

4 Q. Did you take pictures of the inside of the
5 vehicle as the person who was the primary officer in
6 charge of this investigation?

7 A. There were pictures taken of the vehicle. I
8 am not entirely positive what the pictures would
9 tell.

10 MS. KILLER: Your Honor, for the record, we
11 will be requesting photographs from the Metro
12 records and will provide them to counsel.

13 THE COURT: All right.

14 Q. With the smell of marijuana, there was an
15 assumption that someone had just smoked or ingested
16 marijuana, or held marijuana for you to be able to
17 smell that marijuana, right?

18 A. I believe there was marijuana present at
19 some point.

20 Q. Okay.

21 Is your testimony here today that you were
22 able to smell a slight leafy substance on the
23 floorboard of this person's vehicle that made you
24 determine that there was the smell of marijuana on
25 my client's person as well?

1 MS. KILLER: Objection, vague.

2 I am lost.

3 THE COURT: I am not lost. He is just trying
4 to clarify.

5 MR. SANFT: I will rephrase it.

6 Q. Officer Lopez, did you any point -- you said
7 it was coming from my client's person.

8 Did you at any point observe whether or not
9 my client ingested or smoked marijuana during that
10 traffic stop, or before the traffic stop?

11 A. I could not tell whether or not he smoked,
12 or just smoked, or whether there was marijuana that
13 had been smoked inside the vehicle.

14 Does that answer your question?

15 Q. Well, sure.

16 Did you at any point run any type of field
17 sobriety test on my client to determine whether or
18 not he had smoked marijuana that day, or before you
19 pulled him over?

20 A. I did not.

21 Q. But your testimony was that you smelled
22 marijuana.

23 A. I could smell the marijuana, yes.

24 Q. But you didn't at that point determine
25 whether or not the marijuana that was smoked in the

1 vehicle was because my client smoked it?

2 A. I did not.

3 Q. Did you ever cite my client for any of these
4 other traffic violations that you had mentioned, the
5 continuing through a through lane, or the traveling
6 at a high rate of speed, you didn't know how fast
7 he was going?

8 A. I did not cite him on the traffic
9 violations. I cite him for the felonies.

10 Q. Did you cite him for anything other than the
11 fact that he possessed these drugs or so forth
12 inside his vehicle?

13 A. I didn't cite him, I placed him under arrest
14 for the narcotics.

15 Q. So in terms of anything leading up to the
16 actual narcotics, your testimony here is that
17 because of the fact that you are able to smell
18 marijuana, you can't tell us how you smelled the
19 marijuana, or where the marijuana was coming from,
20 and based upon that is the reasons why you at that
21 point arrested my client, and then had enough
22 probable cause to go into the vehicle?

23 MS. KILLER: Objection, misstates the
24 testimony as to the order of events.

25 THE COURT: Not really, but go on.

1 Q. Is it your testimony here today that because
2 of the smell of marijuana to which you at this
3 point, you don't know how it got into the car, is
4 that the probable cause that you used to determine a
5 search of the vehicle?

6 A. Yes.

7 Q. Would it be fair to say that the leafy
8 substance on the ground here today, as you testified
9 here in Court, you don't know if it was marijuana or
10 any other leafy substance?

11 A. Correct.

12 Q. Now, you said that 5 shots were fired from
13 an apartment, did you put that in your declaration
14 of arrest?

15 A. I did not.

16 Q. Was there a case or an event number
17 associated with that particular event?

18 A. Yes. An event number was created.

19 Q. And you said that you had detained my client
20 because of the fact that the shots were fired?

21 A. Initially I detained him because the shots
22 were fired.

23 Q. From the time that you first stopped my
24 client to the time that the K-9 officer arrived on
25 the scene, how long was that?

1 A. I could not tell you the exact time.

2 Q. I am assuming that would be in your CAD.

3 A. Correct.

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

6 THE COURT: Redirect?

7 MS. KILLER: Briefly.

8
9 REDIRECT EXAMINATION

10
11 BY MR. KILLER:

12 Q. Just to clarify you didn't arrest the
13 Defendant just because shots were fired somewhere
14 else in the complex, correct?

15 A. Correct.

16 Q. I believe your testimony was, and correct me
17 if I am wrong had been that you placed him in the
18 vehicle for safety afternooon and that you initially
19 put the cuffs on him because he had been stopped?

20 A. Yes.

21 Q. And when he got out of the vehicle, you felt
22 he might be a risk?

23 A. Yes.

24 Q. The green leafy substance you saw inside of
25 the vehicle not, was that consistent with marijuana?

1 A. Yes, it was.

2 Q. A CSA was called out and responded on the
3 scene, correct?

4 A. Correct.

5 Q. And she took photographs, and you just have
6 personal knowledge as to the content of all of those
7 photographs?

8 A. Correct.

9 Q. Did the Defendant give you permission to
10 remove his wallet and the items from his pocket?

11 A. Yes.

12 Q. And when the defense counsel was asking
13 about turning into the apartment complex and
14 activating your lights, and at which point you did
15 that, from the point where you turned in, to the
16 point when the stop was conducted, did all of that
17 occur within a short period of time?

18 A. A very brief short period of time.

19 Q. Without guessing, could you give us an
20 estimate as to how long that would have been?

21 A range is fine?

22 A. It would have been --

23 Q. Less than a couple of minutes?

24 A. It would have been within less than 10
25 seconds,

1 Q. Were you driving a marked is patrol car when
2 you passed the Defendant on Lamb and made your
3 U-turn?

4 A. I did.

5 Q. And in addition to the high rate of speed
6 traveling further than 3 hundred feet in the 2-way
7 turn lane, did you also observe a broken passenger
8 tail lamp on the back?

9 A. I did.

10 MR. KILLER: No further questions.

11
12 RECROSS-EXAMINATION

13
14 BY MR. SANFT:

15 Q. Did you ever cite him for the broken tail
16 light?

17 A. I did not.

18 MR. SANFT: No further questions.

19
20 FURTHER DIRECT EXAMINATION

21
22 BY MS. KILLER:

23 Q. The charges are determined by our office,
24 not you, correct?

25 A. Yes.

1 Q. The charges that are filed in a case are
2 determined by my office, the District Attorneys
3 office, correct?

4 A. Correct.

5 MR. KILLER: No further questions

6 MR. SANFT: One more question.

7
8 FURTHER RE-CROSS-EXAMINATION
9

10 BY MR. SANFT:

11 Q. Just to make sure we are clear, did you ever
12 recommend at any point ever recommend any of these
13 traffic citations as charges to the DA's office for
14 prosecution?

15 A. I did not recommend charges to the DA's
16 office.

17 Q. Did you ever fill out any paperwork
18 indicating you thought that there were potentially
19 good charges for a broken tail light, or traveling
20 at a high rate of speed, or travelling down the
21 center lane of North Lamb; id you ever put that in
22 any type of documentation here?

23 A. No. That was my decision out in the field.

24 Q. It was your decision to ignore everything
25 leading up to the actual finding of drugs and a gun

1 in my client's car?

2 MS. KILLER: Objection.

3 THE COURT: Sustained.

4 MR. SANFT: No further questions.

5 MS. KILLER: No further questions.

6 THE COURT: Officer, thank you for your
7 testimony today.

8 I will ask you to step down.

9 And please don't discuss your testimony with
10 anyone during the pendency of the case, unless it is
11 representative from Mr. Sanft's office or from the
12 District Attorneys office.

13 And I thank you.

14 State any further witnesses?

15 MS. KILLER: No, Your Honor.

16 The State rests.

17 THE COURT: MR. SANFT: Your Honor, I have
18 spoken with my client, and at this point he will not
19 be testifying at the preliminary hearing, and we
20 don't have any witnesses to call.

21 We also rest at this time.

22 MS. KILLER: We will waive and reserve.

23 MR. SANFT: we will submit it, Your Honor.

24 THE COURT: Mr. Keller, the standard at my
25 particular juncture is slight or marginal evidence

1 as to whether or not a crime may have occurred.

2 For those reasons, I do find that the State
3 has met its burden, and I will hold you to answer in
4 the Eighth Judicial District Court on the charges
5 trafficking in a controlled substance.

6 Possession of a controlled substance,
7 marijuana.

8 Possession of a controlled substance with
9 the intent to sell.

10 And ownership or possession of firearms by a
11 prohibited person.

12 You will need to appear with your attorney
13 in the lower level Arraignment Court on the
14 following date and time.

15 THE CLERK: February 18, 10 a.m., lower
16 level District Court Arraignment.

17 MR. SANFT: Your Honor, before this Court
18 losses jurisdiction, I believe the Court last time
19 indicated they were going to set a bail at
20 preliminary hearing.

21 I don't think we have a bail yet set.

22 THE COURT: That is correct.

23 At this particular juncture there is no bail
24 based upon the information that has been provided to
25 the Court, I will set the total bail at \$250,000 on

1 this particular case total.

2 MR. SANFT: Your Honor, just real quick,
3 based upon my client hearing the bail set for
4 \$250,000, I understand that my client has a total of
5 6 felony convictions, 3 misdemeanor convictions, and
6 12 failures to 13 appear.

7 I do understand what is listed on the
8 pre-trial services information sheet, but my client
9 at this point is looking at this bail and thinking
10 that you might as well set no bail on this matter,
11 because he can't afford \$250,000.

12 THE COURT: Whether or not he can afford it
13 or cannot afford it, I have to set bail based upon
14 the allegations at issue, and the chance of flight,
15 and the chance of return, and your prior criminal
16 history, and there is another case floating around,
17 too, so I think that \$250,000 would probably be low
18 based on what I have heard today.

19 MS. KILLER: Thank you, Your honor.

20 MR. SANFT: Thank you, Your Honor.

21
22 (Proceedings concluded.)
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REPORTER'S CERTIFICATE

STATE OF NEVADA)

) ss.

1 CLARK COUNTY)

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3
4 I, Robert A. Cangemi, a certified court
5 reporter in and for the State of Nevada, hereby
6 certify that pursuant to NRS 239B.030 I have not
7 included the Social Security number of any person
8 within this document.

9 I further certify that I am not a relative
10 or employee of any party involved in said action,
11 nor a person financially interested in said action.

12
13
14 (signed) /s/ Robert A. Cangemi

15 -----
16 ROBERT A. CANGEMI, CCR NO. 888

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22 C E R T I F I C A T E

23 STATE OF NEVADA)

24) ss.

25 CLARK COUNTY)

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5 I, Robert A. Cangemi, CCR 888, do hereby
6 certify that I reported the foregoing proceedings,
7 and that the same is true and accurate as reflected
8 by my original machine shorthand notes taken at said
9 time and place.

10
11
12 (signed) /s/ Robert A. Cangemi

13 -----
14 Robert A. Cangemi, CCR 888

15 Certified Court Reporter

16 Las Vegas, Nevada
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/s/ (49:14) (50:8)									
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cangemi

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cangemi (1:25) (49:4) (49:14) (49:16) (50:1) (50:8) (50:10)
cannabis (8:21) (13:1) (33:3)
cannibals (10:1)
cannot (47:13)
can't (10:22) (30:10) (37:2) (39:18) (47:11)
car (7:20) (8:7) (8:10) (8:14) (8:17) (12:19) (12:25) (13:16) (13:24) (18:20) (19:13) (19:16) (19:18) (20:6) (24:15) (28:4) (34:14) (40:3) (43:1) (45:1)
cardboard (14:9)
case (1:1) (1:8) (4:1) (36:1) (36:12) (36:14) (40:16) (44:1) (45:10) (47:1) (47:16)
cash (10:15) (10:18) (10:20) (11:12) (11:24)
cause (12:24) (13:4) (35:7) (36:21) (36:24) (39:22) (40:4)
ccr (1:25) (49:16) (50:1) (50:10)
center (6:12) (6:14) (13:10) (29:6) (29:7) (44:21)
certificate (48:1)
certified (5:3) (13:20) (49:4) (50:11)
certify (49:6) (49:9) (50:2)
chamber (18:16)
chance (47:14) (47:15)
charge (35:25) (36:20) (37:1) (37:6)
charges (43:23) (44:1) (44:13) (44:15) (44:19) (46:4)
check (6:20) (13:18) (29:4)
checked (4:11) (13:23)
checklist (21:2) (21:16)
christopher (1:9) (3:4) (4:7) (22:17)
citations (44:13)
cite (39:3) (39:8) (39:9) (39:10) (39:13) (43:15)
clarify (38:4) (41:12)
clark (1:4) (5:25) (49:1) (49:25)
clear (13:6) (13:7) (17:15) (44:11)
clerk (4:19) (4:25) (22:24) (46:15)
client (24:2) (24:3) (24:11) (24:17) (25:4) (25:7) (25:13) (25:16) (26:17) (27:21) (28:12) (31:12) (31:18) (31:19) (33:5) (33:10) (34:2) (34:18) (35:8) (38:9) (38:17) (39:1) (39:3) (39:21) (40:19) (40:24) (45:18) (47:3) (47:4) (47:8)
client's (31:3) (33:8) (33:22) (36:25) (37:25) (38:7) (45:1)
close (34:13)
clothes (34:7) (35:22)
clothing (9:2) (9:22) (35:21) (36:25)
cocaine (17:16) (17:22)
color (6:6) (27:9)
come (29:22)
coming (8:19) (18:6) (25:10) (28:22) (29:23) (29:25) (30:3) (30:25) (33:21) (33:23) (33:24) (34:1) (34:7) (34:8) (34:11) (38:7) (39:19)
commands (7:19) (7:21) (7:24) (8:1)
compartment (14:21) (14:22) (14:24) (15:1) (15:20)
compartments (14:2)
complaint (3:12)
complete (29:2)
complex (6:25) (7:8) (7:11) (12:13) (24:18) (26:13) (26:22) (27:2) (29:16) (30:12) (30:17) (31:13) (32:1) (32:4) (32:7) (32:11) (32:14) (41:14) (42:13)
conceal (35:22)
concluded (47:22)
conduct (5:22) (6:5) (9:13) (9:17) (12:24) (29:4)
conducted (6:20) (9:23) (10:5) (15:18) (21:12) (21:22) (21:24) (22:7) (34:21) (42:16)
conducting (10:7)
conference (3:20)
consistent (12:6) (15:11) (16:21) (17:16) (18:8) (18:9) (20:6) (20:10) (20:21) (20:23) (21:9) (21:11) (21:20) (41:25)
console (13:10)
containing (16:21) (20:18) (21:6)
content (42:6)
continued (6:13)
continuing (39:5)
contraband (14:10)
controlled (16:20) (46:5) (46:6) (46:8)
convictions (5:4) (47:5)
copy (3:11) (5:3) (11:7) (27:9)
correct (3:10) (13:21) (16:2) (17:9) (17:10) (17:12) (18:18) (18:19) (20:12) (25:17) (25:24) (26:11) (26:14) (27:23) (28:4) (28:18) (29:13) (29:14) (29:18) (30:17) (30:18) (31:4) (31:15) (33:4) (33:6) (33:12) (33:14) (33:17) (34:16) (36:5) (36:9) (40:11) (41:3) (41:14) (41:15) (41:16)

(42:3) (42:4) (42:8) (43:24) (44:3) (44:4) (46:22)
could (4:7) (8:18) (9:7) (9:23) (10:8) (10:9) (10:18) (12:16) (12:21) (25:25) (28:21) (33:23) (34:6) (35:22) (38:11) (38:23) (41:1) (42:19)
couldn't (29:1)
counsel (5:3) (11:6) (14:16) (17:1) (17:18) (19:3) (19:24) (20:24) (21:14) (22:2) (37:12) (42:12)
county (1:4) (6:1) (49:1) (49:25)
couple (42:23)
court (1:4) (3:4) (3:8) (3:11) (3:15) (3:18) (4:3) (4:6) (4:23) (5:11) (8:6) (8:22) (8:23) (9:10) (9:15) (11:4) (15:23) (16:3) (16:10) (16:16) (16:18) (17:3) (17:20) (17:24) (19:2) (21:4) (21:18) (22:5) (22:15) (22:22) (23:1) (23:6) (23:17) (24:8) (24:20) (24:22) (27:10) (37:13) (38:3) (39:25) (40:9) (41:6) (45:3) (45:6) (45:17) (45:24) (46:4) (46:13) (46:16) (46:17) (46:18) (46:22) (46:25) (47:12) (49:4) (50:11)
courtroom (3:25)
created (40:18)
crime (46:1)
criminal (3:12) (47:15)
cross (6:24) (7:8) (22:22) (23:21)
cross-examination (23:8)
cruz (1:13)
crystal (15:9) (15:10) (21:6)
csa (18:18) (42:2)
cuffs (41:19)
cul-de-sac (32:11)
currently (5:16) (5:18)
custody (3:6)
cut (30:4) (30:7)
cynthia (1:13)

D

daniel (2:4) (4:13) (4:21)
d-a-n-i-e-l (4:21)
da's (44:13) (44:15)
date (5:22) (46:14)
day (38:18)
decided (29:3) (34:18)
decision (44:23) (44:24)
declaration (11:7) (40:13)
deemed (21:4) (21:18) (22:5) (22:15) (24:8)
defendant (1:10) (1:21) (9:9) (12:8) (22:17) (41:13) (42:9) (43:2)
defendant's (19:21) (20:11)
defense (5:2) (14:16) (16:12) (17:1) (17:18) (19:3) (19:24) (20:24) (21:14) (22:2) (22:13) (22:24) (23:3) (24:6) (42:12)
denomination (11:14)
department (5:19) (27:12)
depict (24:1)
dept (1:2)
deputy (1:19)
described (10:1) (10:3)
detain (34:18)
detained (40:19) (40:21)
detective (20:17)
detectives (20:16) (36:7)
determination (35:20)
determine (37:24) (38:17) (38:24) (40:4)
determined (35:7) (43:23) (44:2)
did (3:11) (5:22) (6:5) (6:7) (7:8) (7:13) (7:17) (7:19) (7:23) (8:2) (8:8) (8:13) (8:16) (9:12) (9:17) (9:18) (9:20) (10:11) (10:12) (10:20) (12:18) (12:24) (13:3) (13:5) (13:12) (13:14) (13:15) (13:17) (13:23) (13:25) (14:1) (14:4) (14:11) (14:13) (14:17) (14:19) (14:20) (14:22) (15:3) (15:6) (15:7) (16:19) (17:14) (17:17) (17:25) (18:2) (18:10) (18:13) (18:15) (18:20) (19:10) (19:20) (19:22) (20:17) (21:5) (22:10) (26:16) (26:22) (29:17) (31:9) (31:10) (35:17) (36:7) (36:19) (36:24) (37:4) (38:6) (38:8) (38:16) (38:20) (39:2) (39:3) (39:8) (39:10) (40:13) (40:15) (42:9) (42:14) (42:16) (43:4) (43:7) (43:9) (43:15) (43:17) (44:11) (44:15) (44:17)
didn't (29:22) (38:24) (39:6) (39:13) (41:12)
different (34:9)
differentiate (33:25) (34:10)
direct (5:13) (43:20)
direction (24:10) (25:3) (25:4) (25:17) (28:16) (30:3)
directions (34:9)

directly

had

directly (31:1)
discuss (45:9)
discussing (8:23)
distance (29:12)
district (1:19) (44:2) (45:12) (46:4) (46:16)
document (49:8)
documentation (44:22)
dodge (6:6)
does (11:9) (11:14) (12:3) (19:7) (23:25) (28:6) (38:14)
dog (13:18)
doing (7:1)
don't (16:8) (18:22) (31:22) (35:6) (36:23) (40:3) (40:9)
(45:9) (45:20) (46:21)
door (12:19) (14:23) (34:3) (34:5) (34:15)
double (6:15)
down (9:13) (9:17) (9:24) (10:5) (10:7) (12:8) (24:2) (25:9)
(26:3) (27:20) (28:2) (28:22) (29:6) (29:22) (29:25) (30:3)
(30:13) (34:21) (35:8) (44:20) (45:8)
drew (6:8)
driver (6:23)
driver's (7:14) (10:13) (12:23) (13:8) (13:9) (34:5) (36:18)
driving (34:24) (43:1)
drugs (39:11) (44:25)
duly (4:15)
during (13:4) (19:25) (22:16) (22:18) (25:7) (35:17) (38:9)
(45:10)

E

effectuate (26:16) (31:19)
effectuated (32:18)
eighth (46:4)
elbows (9:4)
else (4:10) (8:10) (19:15) (19:18) (35:11) (41:14)
employed (5:17) (5:18) (5:20)
employee (49:10)
empty (18:3) (18:4)
enough (39:21)
entering (7:2)
entire (27:15)
entirely (37:8)
entrance (26:24) (27:1) (27:2)
esq (1:19) (1:21)
estimate (42:20)
even (4:8) (10:18) (29:24) (34:12)
evening (8:24)
event (40:16) (40:17) (40:18)
events (39:24)
eventually (7:23) (24:3) (24:19)
ever (39:3) (43:15) (44:11) (44:12) (44:17) (44:21)
everything (36:13) (44:24)
evidence (45:25)
exact (30:10) (41:1)
exactly (26:16)
examination (5:13) (41:9) (43:20)
examined (4:16)
exclusionary (4:4)
execute (14:18)
exhibit (5:2) (5:8) (15:24) (16:24) (17:9) (17:19) (20:25)
(21:15) (22:4) (22:14) (22:25) (23:4) (23:12) (24:6)
exhibits (5:1)
exited (8:7) (8:14) (12:20)
experience (11:16) (12:3) (15:12) (15:13) (20:22) (21:10)

F

facing (11:22) (11:23)
fact (34:19) (34:23) (39:11) (39:17) (40:20)
factors (35:2) (35:5) (35:6)
failed (30:4)
failures (47:6)
fair (28:15) (31:2) (40:7)
familiar (23:11) (23:21)
far (33:7)
fast (25:3) (28:24) (29:3) (39:6)
february (1:14) (3:1) (46:15)
feet (7:2) (29:10) (29:12) (33:9) (43:6)
felonies (5:4) (39:9)
felony (47:5)

felt (41:21)
field (38:16) (44:23)
file (27:9)
filed (44:1)
fill (3:18) (44:17)
finally (18:10) (18:20) (22:6) (22:16)
financially (49:11)
find (14:20) (46:2)
finding (44:25)
fine (42:21)
firearms (46:10)
fired (12:12) (40:12) (40:20) (40:22) (41:13)
first (4:15) (4:20) (6:10) (15:7) (15:8) (24:1) (24:11)
(24:16) (25:4) (25:8) (25:10) (25:13) (26:21) (28:9) (36:3)
(40:23)
flight (47:14)
flip (31:12)
flipped (25:22) (26:1) (26:8) (28:20)
floating (47:16)
floorboard (12:22) (36:17) (36:18) (37:23)
folded (11:18) (11:19)
follow (26:12) (28:9) (28:23) (31:12)
followed (25:23) (26:1)
following (46:14)
follows (4:17)
for (1:19) (1:21) (4:10) (4:20) (5:4) (8:23) (9:1) (10:2)
(12:15) (13:12) (13:19) (14:14) (15:25) (16:3) (16:11)
(16:14) (16:24) (17:5) (17:21) (17:22) (18:21) (19:4) (19:10)
(19:21) (19:23) (21:2) (21:12) (21:22) (21:24) (21:25) (22:7)
(22:11) (22:21) (23:2) (23:25) (24:5) (24:9) (24:22) (27:9)
(29:9) (33:16) (34:17) (35:8) (36:12) (36:13) (36:24) (37:10)
(37:16) (39:3) (39:9) (39:10) (39:14) (41:18) (43:15) (44:13)
(44:19) (45:6) (46:2) (47:3) (49:5)
foregoing (50:2)
form (14:23)
forth (39:11)
forward (36:11)
found (15:19) (20:6)
free (12:16)
freezer (20:18)
from (8:12) (8:19) (10:21) (12:20) (14:22) (15:11) (15:13)
(18:6) (26:25) (28:8) (33:21) (33:23) (33:24) (34:1) (34:7)
(34:8) (34:12) (36:11) (37:11) (38:7) (39:19) (40:12) (40:23)
(42:10) (42:15) (45:11)
front (10:8) (12:11) (30:4) (30:7)
further (14:2) (20:13) (22:20) (27:6) (41:4) (43:6) (43:10)
(43:18) (43:20) (44:5) (44:8) (45:4) (45:5) (45:14) (49:9)
future (4:8)

G

gave (7:21) (35:3) (35:4)
get (8:9) (8:10) (8:11) (10:12) (26:22)
gets (32:18)
getting (32:24) (33:1)
give (7:19) (10:11) (42:9) (42:19)
given (9:11) (12:19)
giving (34:5)
glass (20:13) (20:18)
glove (13:25) (14:1) (14:4) (14:5) (14:6) (14:24)
going (4:9) (26:3) (26:4) (27:20) (30:16) (35:23) (39:7)
(46:19)
gold (15:3) (15:4) (15:7) (15:8) (17:6) (17:25)
good (33:16) (44:19)
got (31:18) (31:19) (32:20) (32:21) (33:13) (40:3) (41:21)
gotten (7:5) (7:10)
grams (16:15) (17:4) (17:22) (21:2) (21:16) (21:24) (22:10)
green (12:21) (20:19) (41:24)
gross (16:15) (17:4) (17:22) (21:2) (21:16) (21:24) (22:10)
ground (40:8)
guessing (42:19)
gun (44:25)

H

had (3:20) (6:23) (7:5) (7:10) (11:19) (11:21) (11:24)
(12:10) (13:7) (13:17) (14:6) (14:9) (15:8) (16:9) (22:21)
(30:8) (31:6) (34:19) (34:22) (35:9) (37:15) (38:13) (38:18)
(39:4) (39:21) (40:19) (41:17) (41:19)

hand	lopez
hand (6:16) (27:21) handcuffs (12:8) (12:10) (12:14) handgun (18:14) happened (6:18) has (9:3) (14:23) (19:23) (22:20) (23:3) (46:3) (46:24) (47:4) have (3:17) (4:25) (5:2) (5:5) (5:9) (7:1) (8:23) (13:16) (14:15) (16:8) (20:10) (27:6) (27:11) (27:15) (28:6) (29:10) (31:22) (33:15) (34:19) (34:21) (35:17) (35:21) (36:10) (41:4) (42:5) (42:20) (42:22) (42:24) (45:17) (45:20) (46:1) (46:21) (47:13) (47:18) (49:6) having (19:3) head (10:23) (35:13) heard (47:18) hearing (1:7) (16:1) (16:4) (16:11) (45:19) (46:20) (47:3) held (37:16) help (36:7) her (22:24) here (3:25) (5:25) (8:22) (8:25) (23:22) (24:14) (25:14) (26:5) (26:18) (27:3) (27:4) (31:2) (37:21) (39:16) (40:1) (40:8) (40:9) (44:22) hereby (49:5) (50:1) heroin (16:21) (16:24) (17:5) (18:9) (21:20) (22:7) (22:11) hidden (15:19) high (7:5) (25:20) (28:2) (30:11) (30:19) (32:13) (34:24) (39:6) (43:5) (44:20) him (7:15) (7:19) (7:21) (8:1) (9:1) (10:9) (12:10) (12:11) (12:13) (12:14) (24:20) (25:8) (25:10) (25:23) (26:1) (26:2) (26:12) (28:9) (28:10) (28:20) (28:23) (28:24) (29:6) (30:24) (30:25) (31:1) (32:13) (34:4) (34:5) (34:20) (34:22) (38:19) (39:8) (39:9) (39:10) (39:13) (40:21) (41:17) (41:19) (43:15) his (5:3) (7:9) (8:2) (8:16) (8:18) (9:4) (9:11) (10:8) (10:10) (10:12) (10:13) (10:21) (12:15) (13:1) (13:17) (19:6) (28:12) (29:4) (30:17) (32:9) (32:11) (32:15) (32:19) (32:20) (33:10) (33:23) (34:3) (34:7) (35:1) (39:12) (42:10) history (47:16) hit (13:24) hold (9:23) (14:9) (46:3) honor (3:10) (3:13) (3:23) (4:24) (5:5) (5:10) (9:7) (11:2) (15:22) (15:24) (16:2) (16:6) (19:1) (22:23) (23:15) (24:5) (37:10) (41:5) (45:15) (45:17) (45:23) (46:17) (47:2) (47:19) (47:20) honorable (1:13) horrid (18:6) hour (25:5) housekeeping (3:24) how (5:16) (10:20) (25:3) (26:22) (27:11) (28:24) (33:7) (33:25) (39:6) (39:18) (40:3) (40:25) (42:20) however (18:5) hundred (7:2) (29:10) (29:12) (43:6)	(30:21) (31:13) (31:25) (32:4) (32:7) (32:10) (32:15) (39:22) (40:3) (42:13) investigation (36:1) (36:8) (36:11) (36:20) (37:1) (37:6) invoking (4:3) involved (27:16) (49:10) issue (47:14) issues (12:17) item (15:15) (17:5) (17:23) (21:3) (21:17) (22:4) items (42:10) its (46:3)
J	
	january (5:20) jar (20:18) judicial (46:4) jumping (7:14) (31:21) juncture (45:25) (46:23) jurisdiction (46:18) just (3:23) (7:18) (9:25) (11:5) (13:19) (16:6) (23:25) (24:5) (24:9) (24:18) (25:12) (27:8) (35:21) (37:15) (38:3) (38:12) (41:12) (41:13) (42:5) (44:11) (47:2) justice (1:4) (1:13)
K	
	keller (1:9) (3:4) (3:6) (4:7) (8:25) (19:14) (37:3) (45:24) keller's (22:18) kept (6:19) killer (1:19) (3:17) (3:22) (4:2) (4:10) (4:24) (5:7) (5:15) (9:7) (11:2) (11:6) (14:14) (15:22) (15:24) (16:5) (16:14) (16:17) (16:23) (17:4) (17:18) (17:21) (19:1) (19:3) (19:23) (20:24) (21:14) (22:2) (22:13) (22:20) (23:15) (24:7) (27:8) (35:1) (37:10) (38:1) (39:23) (41:7) (41:11) (43:10) (43:22) (44:5) (45:2) (45:5) (45:15) (45:22) (47:19) kind (36:16) know (39:6) (40:3) (40:9) knowledge (13:20) (42:6)
L	
	lamb (5:23) (23:20) (24:10) (24:12) (24:16) (25:9) (26:25) (27:20) (28:3) (28:22) (29:6) (29:25) (30:9) (43:2) (44:21) lamp (6:22) (43:8) lane (6:13) (6:14) (6:19) (7:2) (7:3) (28:22) (29:6) (29:7) (39:5) (43:7) (44:21) lanes (6:16) large (10:15) (13:10) (20:18) larger (11:24) (18:11) las (1:4) (1:21) (3:1) (5:18) (5:25) (50:12) last (4:20) (46:18) leading (9:14) (25:11) (39:15) (44:25) leafy (12:22) (20:19) (36:16) (37:22) (40:7) (40:10) (41:24) leave (7:19) leaving (34:14) led (29:20) left (6:11) (6:15) (25:11) (26:24) (26:25) (27:21) (29:23) (29:24) less (30:25) (33:9) (42:23) (42:24) level (46:13) (46:16) license (10:13) light (32:5) (43:16) (44:19) lights (7:17) (7:18) (28:12) (31:7) (31:13) (31:22) (31:24) (32:12) (32:16) (42:14) like (10:17) (15:9) (15:10) (21:7) (26:10) (27:21) (33:16) likes (26:18) listed (23:22) (47:7) little (14:8) (15:1) (32:11) locate (12:18) (13:5) (15:3) (15:7) (16:20) (17:25) (18:10) (18:13) (18:20) (19:10) (20:18) (21:5) located (5:25) (13:10) (16:8) (20:1) (20:4) (20:11) (20:14) (21:20) (22:18) (27:3) location (24:16) long (9:5) (27:11) (40:25) (42:20) look (10:25) looked (14:1) looking (14:5) (47:9) looks (26:18) loose (35:9) (35:10) (35:21) lopez (2:4) (3:22) (3:24) (4:13) (4:21) (5:16) (21:5)
I	
identification (9:8) identify (9:2) ignore (44:24) iii (6:25) illegal (27:24) (27:25) (29:8) impounded (18:24) included (17:8) (49:7) increments (11:20) indicate (8:2) (11:15) (12:4) indicated (8:3) (46:19) indicating (44:18) individual (8:22) information (46:24) (47:8) ingested (37:15) (38:9) initially (40:21) (41:18) initiating (7:16) inside (8:19) (13:6) (18:7) (31:25) (32:22) (33:24) (34:1) (34:7) (37:4) (38:13) (39:12) (41:24) inspect (13:16) instructions (34:6) intent (46:9) interested (49:11) intersection (23:20) into (6:12) (6:24) (7:7) (7:10) (7:12) (24:19) (26:12) (26:21) (26:22) (26:24) (26:25) (27:2) (29:15) (30:12)	

l-o-p-e-z

person

<p>(23:11) (27:11) (38:6)</p> <p>l-o-p-e-z (4:22)</p> <p>losses (46:18)</p> <p>lost (31:3) (38:2) (38:3)</p> <p>lot (9:4) (13:7) (15:8)</p> <p>low (47:17)</p> <p>lower (46:13) (46:15)</p>	<p>(40:12)</p> <p>nrs (49:6)</p> <p>number (15:16) (40:16) (40:18) (49:7)</p> <p>numerous (9:23) (35:2)</p>
M	
<p>ma'am (3:16)</p> <p>machine (50:4)</p> <p>made (6:20) (7:7) (7:11) (26:24) (26:25) (29:24) (37:23) (43:2)</p> <p>major (23:19)</p> <p>make (8:8) (27:8) (27:21) (29:3) (29:23) (44:11)</p> <p>maker (24:20)</p> <p>making (6:11) (25:11) (32:6) (32:10)</p> <p>map (23:19) (23:22) (23:25) (24:23) (25:25) (26:9) (26:23)</p> <p>marginal (45:25)</p> <p>marijuana (20:23) (21:2) (33:3) (33:15) (37:14) (37:16) (37:17) (37:18) (37:24) (38:9) (38:12) (38:18) (38:22) (38:23) (38:25) (39:18) (39:19) (40:2) (40:9) (41:25) (46:7)</p> <p>mark (22:24) (24:24) (25:12) (26:6) (27:5)</p> <p>marked (23:3) (26:9) (43:1)</p> <p>marker (24:23)</p> <p>marking (16:4) (24:23)</p> <p>matter (3:9) (3:23) (4:5) (4:7) (16:6) (47:10)</p> <p>may (11:2) (11:4) (15:22) (15:23) (19:1) (19:2) (22:23) (23:5) (23:6) (23:15) (34:19) (34:21) (35:21) (46:1)</p> <p>mentioned (39:4)</p> <p>met (46:3)</p> <p>methamphetamine (15:14) (15:19) (16:15) (17:7) (21:11) (21:17) (21:23) (21:25)</p> <p>metro (37:11)</p> <p>metropolitan (5:19) (27:12)</p> <p>michael (1:21)</p> <p>middle (28:22)</p> <p>might (9:12) (9:21) (29:9) (41:22) (47:10)</p> <p>miles (25:5)</p> <p>millimeter (20:1) (20:8)</p> <p>mind (35:7)</p> <p>minutes (42:23)</p> <p>misdemeanor (47:5)</p> <p>misstates (35:1) (39:23)</p> <p>money (12:4) (12:5)</p> <p>more (10:18) (30:25) (44:6)</p> <p>morning (3:12) (4:11)</p> <p>mostly (11:25)</p> <p>move (5:8) (24:6)</p> <p>much (10:20)</p> <p>multi-colored (17:12)</p> <p>must (33:15)</p>	<p>obey (7:23)</p> <p>obeying (8:1)</p> <p>objection (5:9) (8:5) (9:14) (24:7) (35:1) (38:1) (39:23) (45:2)</p> <p>objections (3:15)</p> <p>observation (28:11)</p> <p>observations (8:7)</p> <p>observe (14:2) (28:23) (38:8) (43:7)</p> <p>observed (8:9) (9:11) (10:1) (29:5) (33:2)</p> <p>obtain (14:11) (19:20)</p> <p>obtained (14:17)</p> <p>occur (42:17)</p> <p>occurred (10:6) (46:1)</p> <p>occurring (12:7)</p> <p>odor (8:20) (8:21) (33:3) (33:16) (33:19) (33:21)</p> <p>odors (8:13)</p> <p>odv (15:18) (16:15) (16:24) (17:4) (17:8) (17:22) (21:1) (21:12) (21:16) (21:22) (21:24) (22:7) (22:10)</p> <p>off (6:11) (10:22) (14:25) (25:10) (26:2) (33:5) (34:2) (34:7) (34:11) (35:12)</p> <p>office (43:23) (44:2) (44:3) (44:13) (44:16) (45:11) (45:12)</p> <p>officer (3:22) (3:24) (5:16) (13:13) (13:15) (13:17) (17:6) (19:5) (19:7) (21:5) (23:11) (23:18) (24:22) (27:11) (27:13) (35:25) (36:19) (37:1) (37:5) (38:6) (40:24) (45:6)</p> <p>officers (16:20)</p> <p>okay (9:15) (16:16) (23:24) (24:13) (26:7) (27:18) (28:14) (31:11) (31:16) (32:2) (37:20)</p> <p>once (7:10) (14:17)</p> <p>one (4:10) (6:15) (11:22) (15:15) (15:16) (17:5) (17:23) (18:16) (19:18) (20:8) (29:2) (36:3) (36:12) (44:6)</p> <p>only (3:25) (16:1) (16:4) (28:21)</p> <p>open (12:19) (14:4) (14:5) (14:23)</p> <p>opening (14:8)</p> <p>opposite (25:16) (30:3)</p> <p>order (39:24)</p> <p>original (50:4)</p> <p>other (11:23) (16:19) (20:16) (23:21) (39:4) (39:10) (40:10)</p> <p>our (43:23)</p> <p>out (7:14) (8:9) (10:10) (24:15) (26:2) (29:23) (31:19) (31:21) (32:18) (32:20) (32:21) (33:13) (41:21) (42:2) (44:17) (44:23)</p> <p>outfit (9:3)</p> <p>outside (4:9) (10:15) (32:24) (33:1)</p> <p>oval (17:12)</p> <p>over (7:1) (7:21) (24:3) (29:12) (30:16) (38:19)</p> <p>own (32:20)</p> <p>ownership (46:10)</p>
N	
<p>name (4:20)</p> <p>named (22:18)</p> <p>narcotics (12:6) (13:18) (14:3) (39:14) (39:16)</p> <p>near (9:4) (34:4)</p> <p>need (46:12)</p> <p>negotiated (3:9)</p> <p>nevada (1:4) (1:6) (1:21) (3:1) (5:4) (6:1) (18:21) (19:10) (48:3) (49:5) (49:23) (50:12)</p> <p>never (31:3)</p> <p>newton (13:17)</p> <p>next (6:18) (11:22) (34:3) (34:4)</p> <p>nor (49:11)</p> <p>north (24:12) (24:16) (25:9) (27:20) (28:3) (28:22) (29:6) (30:9) (44:21)</p> <p>northbound (6:13) (25:11)</p> <p>not (3:9) (7:19) (27:25) (30:13) (31:9) (31:10) (34:14) (35:12) (37:3) (37:8) (38:3) (38:8) (38:11) (38:18) (38:20) (38:25) (39:2) (39:8) (39:25) (40:15) (41:1) (41:25) (43:17) (43:24) (44:15) (45:18) (46:1) (47:12) (49:6) (49:9)</p> <p>notes (50:4)</p> <p>nothing (4:16)</p> <p>noticed (6:10) (6:22)</p> <p>now (29:15) (30:2) (31:17) (33:7) (35:23) (36:6) (36:15)</p>	<p>package (15:15) (17:5) (17:23) (21:3) (21:17) (22:4) (22:6)</p> <p>page (19:6)</p> <p>pants (35:9)</p> <p>paperwork (44:17)</p> <p>parked (33:7)</p> <p>parking (7:12) (30:22) (32:15) (33:11)</p> <p>particular (35:15) (35:18) (36:1) (40:17) (45:25) (46:23) (47:1)</p> <p>party (49:10)</p> <p>party's (27:9)</p> <p>passed (26:5) (43:2)</p> <p>passenger (6:22) (14:23) (36:17) (43:7)</p> <p>passing (24:18) (25:16) (28:3) (28:16) (30:8)</p> <p>past (35:23)</p> <p>pat (9:13) (9:17) (9:24) (10:5) (10:7) (12:7) (34:21) (35:7)</p> <p>patrol (12:15) (27:16) (28:4) (43:1)</p> <p>pay (22:17)</p> <p>peace (1:13)</p> <p>pendency (45:10)</p> <p>period (25:7) (29:9) (42:17) (42:18)</p> <p>permission (10:11) (42:9)</p> <p>person (8:16) (8:18) (13:1) (33:22) (33:23) (34:11) (37:5)</p>
P	

personal

(37:25) (38:7) (46:11) (49:7) (49:11)
personal (42:6)
person's (37:23)
photographs (37:11) (42:5) (42:7)
pictures (36:20) (36:21) (36:24) (37:2) (37:4) (37:7) (37:8)
piggyback (19:20) (19:25)
pills (17:12)
pint (42:15)
pipes (20:13)
place (50:5)
placed (12:8) (12:10) (12:13) (12:14) (14:9) (39:13) (41:17)
plain (12:19)
plaintiff (1:7)
plastic (13:6) (13:7) (13:10) (17:15) (21:6) (21:19)
plate (6:21) (19:17) (29:4)
please (4:19) (27:5) (45:9)
pocket (10:9) (10:10) (10:21) (42:10)
point (7:9) (9:1) (12:7) (13:12) (24:15) (25:15) (25:22)
 (28:8) (28:19) (29:15) (30:21) (31:6) (32:4) (32:14) (34:17)
 (36:6) (36:11) (36:19) (36:24) (37:19) (38:6) (38:8) (38:16)
 (38:24) (39:21) (40:3) (42:14) (42:16) (44:12) (45:18) (47:9)
pointing (23:16)
police (5:19) (27:12)
pop (14:25)
portion (32:11)
positive (16:15) (17:5) (17:22) (21:1) (21:16) (21:25)
 (22:11) (37:8)
possessed (39:11)
possession (46:6) (46:8) (46:10)
potentially (44:18)
powdery (17:16)
precaution (4:5)
prejudgments (5:3)
preliminary (1:7) (16:1) (16:4) (16:11) (45:19) (46:20)
pre-marked (4:25)
present (3:6) (37:18)
pre-trail (47:8)
pretty (33:16) (33:17) (33:19)
previously (5:2) (10:2) (10:3) (14:15) (19:24)
primary (35:25) (36:19) (37:1) (37:5)
printout (23:19)
prior (8:1) (47:15)
probable (12:24) (13:4) (35:7) (39:22) (40:4)
probably (8:3) (26:4) (47:17)
procedure (16:23)
proceeded (7:11)
proceedings (1:12) (47:22) (50:2)
process (16:9)
prohibited (46:11)
prolonged (29:9)
property (19:4)
proposed (22:24) (23:3) (23:12)
prosecution (44:14)
provide (37:12)
provided (14:16) (19:24) (46:24)
providing (17:24)
proximity (34:13)
pull (6:24) (26:2)
pulled (7:12) (10:19) (24:3) (24:19) (29:15) (31:18) (32:3)
 (32:9) (32:15) (38:19)
pulling (7:15) (30:12) (31:25)
pulls (30:21) (32:7)
purposes (16:1) (16:3) (16:11)
pursuant (15:25) (16:25) (17:19) (20:25) (21:15) (22:3)
 (22:14) (49:6)
put (40:13) (41:19) (44:21)

Q

question (38:14) (44:6)
questions (22:21) (27:6) (41:4) (43:10) (43:18) (44:5)
 (45:4) (45:5)
quick (7:12) (8:10) (8:11) (8:12) (47:2)
quickly (6:24) (33:17)

R

ran (19:17)
range (42:21)

same

rate (7:5) (25:20) (28:3) (29:3) (30:11) (30:19) (32:13)
 (34:24) (39:6) (43:5) (44:20)
reading (3:14)
real (47:2)
really (8:11) (8:12) (39:25)
rear (6:22)
reason (28:21) (28:23) (34:18)
reasonable (9:20)
reasons (39:20) (46:2)
recall (10:22) (11:11) (25:25) (35:12) (37:2)
receive (3:11)
recollection (10:24) (11:9) (18:23) (19:6) (19:8) (19:15)
recommend (44:12) (44:15)
record (4:10) (4:20) (9:1) (9:8) (13:19) (14:14) (16:14)
 (17:21) (19:23) (23:2) (23:25) (24:5) (24:9) (24:22) (37:10)
records (6:20) (29:4) (37:12)
recover (10:21) (17:15)
recovered (11:12) (15:15) (18:18) (19:19)
re-cross-examination (44:8)
recross-examination (43:12)
red (24:23)
redirect (41:6) (41:9)
referencing (14:15)
reflect (9:8)
reflected (50:3)
refresh (10:24) (11:9) (18:23) (19:6) (19:7)
regards (15:18)
registered (19:13) (19:16) (19:18)
registration (19:10)
regulation (18:21)
relative (49:9)
relatively (34:13)
remain (7:13)
remove (42:10)
removed (10:14) (14:7)
removing (10:14)
rephrase (9:16) (38:5)
report (10:25) (19:4)
reported (1:25) (50:2)
reporter (49:5) (50:11)
reporter's (1:12) (48:1)
representative (45:11)
represented (3:7)
requesting (37:11)
reserve (45:22)
reserving (3:15)
residue (12:22)
responded (42:2)
responsible (36:12) (36:13)
rest (35:24) (45:21)
rests (45:16)
result (19:19) (22:10)
results (16:7) (16:12)
return (47:15)
returning (16:17) (22:6)
review (11:5)
reviewed (19:16)
right (7:12) (8:25) (10:9) (14:6) (16:10) (25:1) (25:6)
 (26:15) (26:18) (27:3) (27:4) (28:1) (30:15) (30:24) (30:25)
 (31:18) (32:6) (32:8) (32:10) (36:4) (37:13) (37:17)
risk (41:22)
road (6:24)
roads (7:8)
robert (1:9) (1:25) (3:4) (49:4) (49:14) (49:16) (50:1)
 (50:8) (50:10)
rounds (18:14)
ruger (20:1) (20:11)
rule (4:4)
run (38:16)

S

safer (12:15)
safety (41:18)
said (25:2) (34:17) (36:15) (38:6) (40:12) (40:19) (49:10)
 (49:11) (50:4)
sale (12:6)
same (16:23) (30:8) (30:10) (50:3)

sanft

that

sanft (1:21) (3:7) (3:10) (3:13) (3:16) (3:23) (4:5) (5:5) (5:9) (8:5) (9:14) (11:8) (16:2) (16:6) (17:2) (22:23) (23:2) (23:10) (24:5) (24:21) (27:6) (35:4) (38:5) (41:4) (43:14) (43:18) (44:6) (44:10) (45:4) (45:17) (45:23) (46:17) (47:2) (47:20)
sanft's (45:11)
sarah (1:19)
saw (24:1) (24:11) (24:16) (25:4) (25:8) (25:10) (25:13) (26:2) (27:20) (28:9) (36:16) (41:24)
say (6:14) (28:2) (28:15) (30:10) (31:2) (40:7)
saying (33:21)
scales (20:14)
scene (36:4) (40:25) (42:3)
sealable (13:6) (13:10) (15:4)
search (12:25) (13:4) (14:11) (14:14) (14:17) (14:18) (19:4) (19:20) (19:25) (20:17) (22:16) (22:18) (40:5)
searched (19:11)
seat (13:8) (13:9)
seated (4:19)
second (16:19) (17:6) (17:14) (19:5) (21:23)
seconds (42:25)
secret (14:20)
security (49:7)
see (8:22) (18:23) (23:16) (26:3) (27:10) (30:2)
seen (5:5)
sell (46:9)
semi-auto (20:1)
sent (5:2)
separate (21:24)
service (19:25)
services (47:8)
serving (20:17)
set (46:19) (46:21) (46:25) (47:3) (47:10) (47:13)
she (42:5)
sheet (15:18) (16:24) (17:8) (17:22) (18:24) (21:24) (22:7) (47:8)
shirt (35:10)
short (9:5) (9:6) (18:14) (20:3) (42:17) (42:18)
shorthand (50:4)
shots (12:12) (40:12) (40:20) (40:21) (41:13)
show (13:19) (36:7)
showing (11:6) (17:1) (17:18) (19:5) (20:24) (21:14) (22:2) (22:13) (23:2) (23:12) (26:3) (30:13)
shown (19:3)
side (7:14) (12:23) (14:6) (14:24) (34:5) (36:17) (36:18)
signed (49:14) (50:8)
silver (6:6)
since (24:14) (36:25)
sir (6:2)
siren (7:17)
sirens (31:7) (31:14) (31:22) (31:24) (32:5)
sitting (8:25)
skip (35:23)
sleeve (9:5) (9:6)
slight (37:22) (45:25)
slow (29:22)
small (14:8) (17:15)
smaller (11:25) (13:7) (15:4) (17:12) (17:25) (18:10) (18:13)
smell (8:13) (8:16) (8:18) (9:11) (10:1) (18:5) (18:6) (18:8) (33:16) (34:6) (34:11) (37:14) (37:17) (37:22) (37:24) (38:23) (39:17) (40:2)
smelled (33:3) (33:15) (38:21) (39:18)
smelling (13:1)
smoked (37:15) (38:9) (38:11) (38:12) (38:13) (38:18) (38:25) (39:1)
smoking (20:13)
sobriety (38:17)
social (49:7)
some (12:7) (17:7) (17:11) (23:23) (25:15) (25:22) (28:19) (29:15) (30:21) (36:6) (36:16) (37:19)
someone (37:15)
something (3:18) (26:10) (27:21)
somewhere (8:10) (26:5) (27:4) (41:13)
southbound (24:12) (29:25)
space (7:12)
speculation (8:5)

sped (6:23) (6:24) (7:10)
speed (7:5) (25:20) (28:3) (29:3) (30:8) (30:10) (30:11) (30:19) (32:14) (34:24) (39:6) (43:5) (44:20)
spell (4:20)
spoken (45:18)
spotted (25:8)
squad (24:15)
stall (30:22) (31:25) (32:9) (32:15) (33:11)
standard (45:24)
standing (34:3) (34:6)
start (26:12)
state (1:4) (1:6) (1:19) (3:22) (4:19) (4:23) (5:7) (12:3) (12:5) (22:20) (23:3) (35:4) (45:14) (45:16) (46:2) (48:3) (49:5) (49:23)
state's (4:25) (5:8) (16:5) (16:8) (16:13) (16:17) (16:23) (17:19) (20:25) (21:15) (22:4) (22:13)
step (4:9) (45:8)
stewart (23:20)
stewy (13:18) (13:23)
still (32:22)
stipulate (16:7) (16:12)
stipulation (15:25) (16:25) (17:19) (21:1) (21:15) (22:3) (22:14)
stop (5:23) (6:5) (7:16) (26:16) (29:2) (31:19) (32:18) (35:15) (35:18) (38:10) (42:16)
stopped (8:24) (40:23) (41:19)
straight (6:12)
straight-away (32:8)
stratus (6:6)
street (28:6) (28:17)
streetlight (28:8)
streetlights (28:7)
streets (23:22)
strong (18:5) (33:19)
stub (22:17)
stuff (35:24)
submit (45:23)
substance (15:9) (15:11) (16:20) (17:16) (20:19) (20:21) (21:7) (21:9) (21:20) (36:17) (37:22) (40:8) (40:10) (41:24) (46:5) (46:6) (46:8)
sunrise (6:11) (24:2) (25:11) (26:2) (28:24)
sure (4:8) (23:17) (38:15) (44:11)
suspicion (9:20)
sustained (8:6) (45:3)
sworn (4:15)

T

tail (6:22) (43:8) (43:15) (44:19)
taillight (30:1)
take (10:9) (36:20) (37:4)
taken (1:14) (36:21) (36:25) (37:2) (37:7) (50:4)
talking (6:15)
tattoos (9:4)
tell (4:15) (10:8) (10:18) (12:21) (29:1) (33:24) (35:6) (37:9) (38:11) (39:18) (41:1)
terms (39:15)
terry (9:13) (9:17) (12:7)
test (16:7) (21:12) (38:17)
testified (4:17) (40:8)
testifying (45:19)
testimony (24:9) (25:15) (25:19) (27:19) (28:19) (29:5) (29:11) (29:16) (30:2) (31:2) (31:17) (32:3) (32:21) (33:2) (35:2) (36:15) (37:21) (38:21) (39:16) (39:24) (40:1) (41:16) (45:7) (45:9)
than (33:9) (39:10) (42:23) (42:24) (43:6)
thank (4:24) (11:8) (45:6) (45:13) (47:19) (47:20)
that (3:8) (3:10) (3:24) (3:25) (5:22) (5:25) (6:5) (6:6) (6:8) (6:22) (6:23) (7:2) (7:7) (7:9) (7:13) (8:3) (8:9) (8:11) (8:20) (8:23) (8:24) (9:12) (9:21) (9:22) (9:25) (10:8) (10:12) (10:13) (10:15) (10:18) (11:5) (11:9) (11:12) (11:17) (11:18) (12:3) (12:16) (12:18) (12:21) (13:12) (14:1) (14:9) (14:11) (14:17) (14:20) (14:22) (14:24) (15:1) (15:3) (15:7) (15:10) (15:15) (16:2) (16:7) (16:8) (17:8) (17:14) (17:21) (17:24) (18:3) (18:8) (18:13) (18:18) (19:7) (19:11) (19:13) (19:16) (19:17) (19:23) (20:10) (20:21) (20:25) (21:1) (21:4) (21:9) (21:12) (22:8) (22:10) (22:18) (23:14) (23:18) (23:19) (23:22) (24:9) (24:19) (24:24) (25:2) (25:7) (25:12) (25:15)

that's

walk

(25:19) (25:24) (26:6) (26:10) (27:5) (27:7) (27:19) (27:22)
 (27:24) (28:4) (28:6) (28:7) (28:15) (28:19) (28:21) (29:5)
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 (32:4) (32:8) (33:2) (33:16) (33:17) (33:21) (34:17) (34:19)
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 (39:20) (40:1) (40:4) (40:7) (40:12) (40:13) (40:17) (40:19)
 (40:20) (40:23) (40:24) (40:25) (41:2) (41:17) (41:18)
 (41:25) (42:15) (42:16) (42:20) (44:1) (44:18) (44:21)
 (44:23) (46:2) (46:22) (46:24) (47:4) (47:10) (47:17) (49:6)
 (49:9) (50:2) (50:3)

that's (36:3)

the (1:4) (1:6) (1:13) (1:19) (1:21) (3:4) (3:8) (3:11)
 (3:14) (3:15) (3:18) (3:22) (3:24) (3:25) (4:3) (4:6) (4:8)
 (4:10) (4:15) (4:16) (4:19) (4:20) (4:21) (4:23) (5:7) (5:11)
 (5:18) (5:23) (6:10) (6:12) (6:14) (6:19) (6:21) (6:22) (6:23)
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 (8:6) (8:7) (8:10) (8:14) (8:17) (8:19) (8:21) (8:22) (8:23)
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 (11:7) (11:11) (11:12) (11:14) (11:17) (11:18) (11:19)
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 (31:21) (31:25) (32:4) (32:7) (32:10) (32:14) (32:16) (32:18)
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 (36:18) (36:19) (36:25) (37:4) (37:5) (37:7) (37:8) (37:10)
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 (40:8) (40:20) (40:21) (40:23) (40:24) (40:25) (41:1) (41:6)
 (41:12) (41:14) (41:17) (41:19) (41:21) (41:24) (41:25)
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 (43:2) (43:5) (43:6) (43:8) (43:15) (43:23) (44:1) (44:2)
 (44:13) (44:15) (44:20) (44:23) (44:25) (45:3) (45:6) (45:10)
 (45:11) (45:16) (45:17) (45:19) (45:24) (46:2) (46:4) (46:9)
 (46:13) (46:15) (46:18) (46:22) (46:24) (46:25) (47:3) (47:7)
 (47:12) (47:14) (47:15) (49:5) (49:7) (50:2) (50:3)

them (23:23) (30:5) (30:7) (34:12) (37:12)

then (17:14) (21:15) (25:2) (26:8) (26:12) (30:21) (32:8)
 (32:15) (33:13) (34:17) (39:21)

there (4:6) (7:11) (10:18) (12:11) (12:12) (12:21) (14:8)
 (14:9) (14:25) (15:2) (17:6) (17:11) (18:5) (18:6) (19:15)
 (19:18) (20:3) (22:19) (28:8) (29:24) (29:25) (32:8) (33:15)
 (34:4) (34:6) (35:2) (35:20) (37:7) (37:14) (37:18) (37:24)
 (38:12) (40:16) (44:18) (46:23) (47:16)

these (39:3) (39:11) (44:12)

they (13:15) (36:10) (46:19)

think (46:21) (47:17)

thinking (47:9)

third (17:25) (21:19) (22:6)

this (3:8) (3:12) (4:1) (4:11) (5:7) (6:3) (19:4) (22:24)
 (23:25) (24:23) (25:3) (25:4) (25:25) (26:9) (26:23) (27:3)
 (28:6) (31:6) (36:1) (36:14) (36:20) (37:1) (37:6) (37:23)
 (40:2) (45:18) (45:21) (46:17) (46:23) (47:1) (47:9) (47:10)
 (49:8)

those (5:6) (6:15) (7:23) (8:1) (8:16) (18:16) (35:4) (42:6)
 (46:2)
though (29:24) (34:12)
thought (29:17) (36:16) (44:18)
through (5:1) (16:9) (32:14) (39:5)
time (5:7) (6:5) (7:13) (14:11) (25:7) (29:9) (40:23)
 (40:24) (41:1) (42:17) (42:18) (45:21) (46:14) (46:18) (50:5)
to-- (8:4)
toady (31:3)
today (8:23) (37:21) (40:1) (40:8) (45:7) (47:18)
too (47:17)
took (42:5)
top (10:22) (35:12)
total (10:20) (11:11) (17:8) (46:25) (47:1) (47:4)
totaling (21:2)
towards (28:20)
township (1:4)
traffic (7:16) (29:25) (30:3) (30:4) (38:10) (39:4) (39:8)
 (44:13)
trafficking (46:5)
training (11:16) (12:2) (15:11) (15:13) (20:22) (21:10)
transcript (1:12)
travel (7:3) (24:2) (32:13)
traveled (7:1)
traveling (6:19) (24:10) (24:12) (25:2) (25:3) (25:9)
 (25:16) (25:19) (28:2) (28:15) (28:22) (29:3) (29:6) (29:11)
 (39:5) (43:6) (44:19)
travelling (44:20)
tried (31:19)
true (50:3)
truth (4:15) (4:16)
trying (8:4) (8:9) (8:10) (8:11) (29:17) (38:3)
tuesday (1:14) (3:1)
turn (6:11) (6:14) (7:2) (7:7) (7:12) (25:11) (26:24)
 (26:25) (27:21) (29:7) (29:23) (29:24) (31:12) (32:6) (32:8)
 (32:10) (43:7)
turned (25:22) (32:5) (32:16) (42:15)
turning (42:13)
type (38:16) (44:22)

U

ultimately (36:12) (36:13)
under (39:13)
underneath (13:8)
understand (47:4) (47:7)
understanding (3:8)
unless (45:10)
upon (12:2) (26:23) (28:11) (34:19) (34:23) (35:20) (39:20)
 (46:24) (47:3) (47:13)
use (24:20)
used (40:4)
u-turn (6:20) (29:4) (43:3)

V

vague (38:1)
variety (11:25)
various (15:19)
vegas (1:4) (1:21) (3:1) (5:18) (5:25) (50:12)
vehicle (5:22) (6:5) (6:9) (6:10) (6:12) (6:19) (7:9) (7:13)
 (7:15) (7:22) (8:19) (12:11) (12:15) (12:23) (13:2) (13:18)
 (13:23) (14:18) (18:21) (19:5) (19:11) (19:20) (28:12)
 (30:17) (31:4) (31:20) (31:21) (32:19) (32:20) (32:22)
 (32:23) (32:24) (33:2) (33:7) (33:8) (33:13) (33:24) (34:1)
 (34:8) (34:12) (35:17) (37:5) (37:7) (37:23) (38:13) (39:1)
 (39:12) (39:22) (40:5) (41:18) (41:21) (41:25)
vehicle's (28:12)
verbal (7:21) (7:23) (8:1)
versus (34:11)
very (18:6) (35:9) (35:10) (42:18)
vicinity (26:9) (34:14)
view (12:19)
violations (39:4) (39:9)

W

wad (10:15) (11:24)
waive (3:13) (45:22)
walk (7:21)

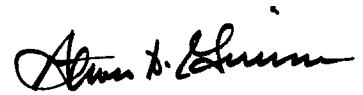
wallet

wallet (10:8) (10:10) (10:13) (10:14) (10:16) (10:17)
 (10:19) (10:21) (11:19) (42:10)
want (24:20) (26:19)
warrant (14:12) (14:15) (14:17) (14:18) (19:4) (19:20)
 (20:1) (20:17)
was (3:20) (4:16) (6:3) (6:6) (6:10) (6:23) (7:14) (7:15)
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 (42:1) (42:2) (42:12) (42:16) (44:23) (44:24)
wasn't (31:1)
watch (15:4)
watching (24:14)
way (11:17) (11:22) (11:23) (29:2) (29:17)
weapon (34:20) (35:21) (35:22)
weapons (9:23) (34:22) (35:8)
wearing (9:3) (9:22) (35:14)
weight (15:20) (17:8)
well (8:19) (10:19) (12:15) (21:1) (30:1) (31:17) (32:25)
 (33:24) (37:25) (38:15) (47:10)
went (6:12) (30:7)
were (5:20) (11:17) (11:18) (12:12) (16:12) (20:13) (20:16)
 (24:10) (24:15) (25:2) (25:3) (25:16) (26:8) (27:19) (31:24)
 (32:22) (33:1) (35:2) (35:14) (35:25) (37:2) (37:7) (37:21)
 (40:12) (40:20) (40:22) (41:13) (43:1) (44:18) (46:19)
westbound (26:25)
what (6:8) (6:18) (7:8) (8:2) (8:7) (8:20) (9:19) (9:20)
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 (35:6) (36:16) (37:8) (47:7) (47:18)
whatever (12:16) (34:18)
when (6:10) (6:14) (7:7) (8:7) (8:13) (10:5) (10:17) (13:15)
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 (42:16) (43:1)
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 (26:16) (28:9) (28:16) (32:9) (32:22) (39:19) (42:15)
whether (4:7) (29:1) (37:2) (38:8) (38:11) (38:12) (38:17)
 (38:25) (46:1) (47:12)
which (12:20) (16:14) (17:7) (24:1) (24:10) (40:2) (42:14)
while (10:7) (12:10) (20:16) (34:3) (34:4)
white (15:8) (15:10) (17:15) (21:6) (28:4)
who (4:15) (19:13) (37:5)
whole (4:16) (15:8)
why (12:9) (28:21) (35:6) (39:20)
wide (11:24)
will (5:11) (9:10) (14:15) (14:25) (16:3) (16:7) (16:12)
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within (10:19) (11:18) (12:12) (14:9) (15:1) (15:19)
 (18:11) (42:17) (42:24) (49:8)
without (7:2) (31:13) (42:19)
witness (3:25) (4:1) (4:8) (4:21) (4:23) (22:21)
witnesses (2:3) (4:6) (45:14) (45:20)
would (5:8) (10:24) (18:23) (20:10) (28:15) (31:2) (36:10)
 (37:8) (40:7) (41:2) (42:20) (42:22) (42:24) (47:17)
wrong (4:1) (41:17)

yourself

Y

years (27:14) (27:15)
yellow (6:15)
yes (3:13) (3:16) (5:5) (5:21) (5:24) (6:2) (6:4) (6:7)
 (6:17) (7:4) (7:6) (7:21) (7:25) (8:15) (8:25) (10:4) (10:12)
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 (40:18) (41:20) (41:23) (42:1) (42:11) (43:25)
yet (46:21)
yield (30:4)
you (3:11) (4:3) (4:7) (4:8) (4:9) (4:24) (5:16) (5:20)
 (5:22) (6:5) (6:14) (7:1) (7:5) (7:17) (7:19) (8:2) (8:8)
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CLERK OF THE COURT

1 CASE NO. C-16-312717-1

2 DEPT. NO. 5

3
4 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
5 COUNTY OF CLARK, STATE OF NEVADA

6 THE STATE OF NEVADA,)
7)
8 Plaintiff,) PRELIMINARY HEARING
9)
10 vs.) Case No.
11) 16F01430X
12)
13 CHRISTOPHER ROBERT)
14 KELLER,)
15)
16 Defendant.)
17 -----

18
19 REPORTER'S TRANSCRIPT OF PROCEEDINGS
20 BEFORE THE HONORABLE CYNTHIA CRUZ
21 JUSTICE OF THE PEACE

22
23 TAKEN ON TUESDAY, FEBRUARY 16, 2016
24 AT 9:00 A.M.

25 APPEARANCES:

For the State: Sarah Killer, Esq.
Deputy District Attorney

For the Defendant: Michael Sanft, Esq.
Las Vegas, Nevada

REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

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I N D E X

WITNESSES :	D	C	RD	RC	FD	FC
DANIEL LOPEZ	5	23	41	43	43	44

1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY
2 16, 2016

3 * * * * *

4 THE COURT: Christopher Robert Keller,
5 16F01430X.

6 Mr. Keller is present in custody,
7 represented behalf Mr. Sanft.

8 THE COURT: It is my understanding that this
9 matter is not negotiated?

10 MR. SANFT: That is correct, Your Honor.

11 THE COURT: Did you receive a copy of the
12 criminal complaint this morning?

13 MR. SANFT: Yes, Your Honor, and we waive
14 the reading.

15 THE COURT: Reserving any objections?

16 MR. SANFT: Yes, Ma'am.

17 MS. KILLER: If we can approach, we have
18 something to fill the Court in on.

19
20 (A Bench conference was had.)
21

22 MS. KILLER: The State calls Officer Lopez.

23 MR. SANFT: Your Honor, just as a matter of
24 housekeeping I believe that Officer Lopez is the
25 ~~only witness that is here in the courtroom, being~~

1 called as a witness in this case; am I wrong?

2 MS. KILLER: No.

3 THE COURT: Are you invoking the
4 exclusionary rule?

5 MR. SANFT: As a matter of precaution.

6 THE COURT: If there are any witnesses on
7 Christopher Keller matter, whether you could be a
8 witness in the future, or even if you are sure, I am
9 going to ask you to step outside.

10 MS. KILLER: For the record, no one else
11 checked in this morning.

12
13 DANIEL LOPEZ,

14
15 who, being first duly sworn to tell the truth, the
16 whole truth, and nothing but the truth, was examined
17 and testified as follows:

18
19 THE CLERK: Please be seated and state and
20 spell your first and last name for the record.

21 THE WITNESS: Daniel Lopez, D-a-n-i-e-l
22 L-o-p-e-z.

23 THE COURT: State, your witness.

24 MS. KILLER: Thank you, Your Honor.

25 I have pre-marked with your clerk State's

1 Exhibits 1 through 8.

2 Exhibit 8 I have previously sent defense
3 counsel a copy of his certified prejudgments of
4 convictions for felonies in Nevada.

5 MR. SANFT: Yes, Your Honor, I have seen
6 those.

7 MS. KILLER: And at this time the State
8 would move to admit State's Exhibit 8.

9 MR. SANFT: We have no objection, Your
10 Honor.

11 THE COURT: 8 will be admitted.
12

13 DIRECT EXAMINATION
14

15 BY MS. KILLER:

16 Q. Officer Lopez, how are you currently
17 employed?

18 A. I am currently employed with the Las Vegas
19 Metropolitan Police Department.

20 Q. Were you so employed on January 28 of 2016?

21 A. Yes.

22 Q. On that date, did you conduct a vehicle
23 stop in the area 123 Lamb?

24 A. Yes.

25 Q. And is that located here in Las Vegas, Clark

1 County, Nevada?

2 A. Yes, sir.

3 Q. And was this around 2:25 a.m.?

4 A. Yes.

5 Q. At that time did you conduct a vehicle stop
6 on 2002 Dodge Stratus that was silver in color?

7 A. Yes, I did.

8 Q. And what drew your attention to that
9 vehicle?

10 A. When I first noticed the vehicle, it was
11 making an abrupt left turn off of Sunrise Avenue.

12 The vehicle went straight into the center
13 lane, and continued northbound.

14 Q. When you say the center turn lane, are we
15 talking about one of those double yellow 2-way left
16 hand lanes?

17 A. Yes.

18 Q. What happened next?

19 A. The vehicle kept on traveling in the lane
20 made a U-turn, and I conducted a records check on
21 the plate.

22 I noticed that the rear passenger tail lamp
23 was broken, and that the driver had sped up to
24 quickly sped up to quickly pull into the Cross Road
25 III apartment complex.

1 Q. And in doing so have you traveled over 3
2 hundred feet in that turn lane without entering the
3 travel lane?

4 A. Yes.

5 Q. And had you gotten to a high rate of speed?

6 A. Yes.

7 Q. And when he made that abrupt turn into the
8 Cross Roads 3 apartment complex, what did he do with
9 his vehicle at that point?

10 A. He sped up. Once he had gotten into the
11 apartment complex, he proceeded in there and made a
12 quick right turn, and pulled into a parking space.

13 Q. Did he remain in the vehicle at that time?

14 A. He was jumping out of the driver's side of
15 the vehicle as I was pulling up on him, and
16 initiating the traffic stop.

17 Q. And did you activate your lights and siren?

18 A. Just my lights.

19 Q. And did you give him commands not to leave
20 the car?

21 A. Yes, I gave him verbal commands to walk over
22 to my vehicle.

23 Q. Did he eventually obey those verbal
24 commands?

25 A. Yes.

1 Q. Prior to him obeying those verbal commands,
2 what did his behavior indicate to you?

3 A. It indicated to me that he was probably
4 trying to--

5 MR. SANFT: Objection, speculation.

6 THE COURT: Sustained.

7 Q. When he exited the car, what observations
8 did you make?

9 A. I observed that he was trying to get out of
10 the car quick. He was trying to get somewhere else
11 really quick, and that he was trying to get away
12 from me really quick.

13 Q. And did you smell any to odors when he
14 exited the car?

15 A. Yes.

16 Q. And did you smell those on his person or in
17 the car?

18 A. I could smell it on his person, and actually
19 coming from inside the vehicle as well.

20 Q. And what odor was that?

21 A. The odor of cannabis.

22 Q. Do you see the individual here in Court
23 today that you have been discussing for the Court
24 that you stopped on that evening?

25 A. Yes, Mr. Keller, sitting right here.

1 Q. Can you point to him for the record
2 and identify an article of clothing?

3 A. He is wearing a blue outfit. He has
4 a lot of tattoos near his elbows.

5 Q. Short sleeve or long?

6 A. Short sleeve.

7 MS. KILLER: Your Honor, could the
8 record reflect the identification of the
9 Defendant?

10 THE COURT: It will.

11 Q. Given the smell you observed and his
12 behavior, did you believe that he might be
13 armed and conduct a Terry pat down?

14 MR. SANFT: Objection, leading.

15 THE COURT: If was, but, okay,
16 rephrase.

17 Q. Did you conduct a Terry pat down?

18 A. I did.

19 Q. And what was your basis?

20 What reasonable suspicion did you
21 believe that believed that he might be armed?

22 A. The clothing that he was wearing
23 could hold numerous weapons, so I conducted a
24 pat down.

25 Q. And that was because of what you just

1 observed, the cannibals smell you described
2 previously for us and the behaviors you
3 described previously?

4 A. Yes.

5 Q. When you conducted the pat down, what
6 if anything occurred?

7 A. While I was conducting the pat down,
8 I could tell that his wallet was in his front
9 right pocket, and I asked him if I could take
10 his wallet out of his pocket.

11 Q. Did he give you permission to do so?

12 A. Yes, he did. And that was to get his
13 driver's license that was in his wallet, and
14 as I was removing the wallet, I removed a
15 large wad of cash that outside of the
16 wallet.

17 And when I like at the wallet, I
18 could tell that there was even more cash, and
19 pulled it up within the wallet as well.

20 Q. And how much total cash did you
21 recover from his wallet and pocket?

22 A. I can't recall off the top of my
23 head.

24 Q. Would it refresh your recollection to
25 look at your report?

1 A. Yes.

2 MS. KILLER: Your Honor, may I
3 approach?

4 THE COURT: You may.

5 Q. Just review that by yourself.

6 MS. KILLER: Counsel, I am showing a
7 copy of the declaration of arrest.

8 MR. SANFT: Thank you.

9 Q. Does that refresh your recollection?

10 A. Yes.

11 Q. Do you recall what the total amount
12 of the cash that was recovered?

13 A. \$2,187.00.

14 Q. And does the denomination of the
15 bills indicate anything to you, based on your
16 training and experience?

17 A. Yes. The way that the 20's were
18 folded up, the 20's that were within the
19 wallet, he had the 20's folded up in
20 increments of \$100.

21 He had and the 5's and the 20's
22 facing one way, and the next 5 and 20's
23 facing the other way.

24 The larger wad of cash had a wide
25 variety, but it was mostly of the smaller

1 bills, the 5's and 10's.

2 Q. And based upon your training and
3 experience, what does the state that the
4 money was in indicate to you?

5 A. The state the money was in was
6 consistent with the sale of narcotics.

7 Q. At some point occurring the Terry pat
8 down was, the Defendant placed in handcuffs
9 and if so, why?

10 A. I placed him in handcuffs while I had
11 him there at the front of the vehicle.

12 There were 5 shots fired within the
13 apartment complex, and I placed him
14 handcuffs, and placed him in the back of my
15 patrol vehicle for his safer, as well as to
16 free me up, so that I could address whatever
17 issues came about.

18 Q. After that, did you locate anything
19 in plain view in the car, given the open door
20 from which he exited?

21 A. Yes, I could tell that there a green
22 leafy residue on the floorboard of the
23 driver's side of the vehicle.

24 Q. Did you conduct a probable cause
25 search of the car based on the car along with

1 the smelling of cannabis on his person and in the
2 vehicle?

3 A. Yes, I did.

4 Q. And during the probable cause search, what
5 did you locate?

6 A. A sealable plastic bag clear, and inside it,
7 it had a lot of smaller clear plastic bags
8 underneath the driver's seat.

9 And also between the driver's seat and the
10 center console, I located a large sealable plastic
11 bag.

12 Q. And at that point did you call for a K-9
13 officer and a K-9?

14 A. I did.

15 Q. And when they arrived, did the K-9 officer
16 have the K-9 inspect the car?

17 A. Yes, he did. K-9 Officer Newton had his
18 narcotics dog Stewy check the vehicle.

19 Q. And just for the record, I show was
20 certified as of April of 2013, to your knowledge,
21 correct?

22 A. I believe so, yes.

23 Q. And when Stewy checked the vehicle, did he
24 hit on any area of the car?

25 A. He did. He alerted to the glove box.

1 Q. And when you looked at that glove box, did
2 you observe any further compartments or any
3 narcotics?

4 A. I did. If you open the glove box, and if
5 you are looking at the glove box, you open it up, to
6 the right of it, the side of the glove box had been
7 removed.

8 There was a small little opening with
9 cardboard that had been placed within there to hold
10 contraband.

11 Q. At that time did you obtain a search
12 warrant?

13 A. I did.

14 MS. KILLER: And for the record, the search
15 warrant, both we will be referencing have previously
16 been provided to defense counsel.

17 Q. Once that search warrant was obtained, did
18 you execute the search warrant on the vehicle?

19 A. I did.

20 Q. And did you find anything in that secret
21 compartment?

22 A. I did. From that compartment, it actually
23 has aside form, so if the passenger door is open,
24 the side compartment, or the side of that glove box
25 will actually pop off, and you can access, and there

1 was a black bag within that little compartment
2 there.

3 Q. And in that black bag, did you locate a gold
4 watch and 3 sealable gold bags, and another smaller
5 black bag?

6 A. Yes, I did.

7 Q. In that first gold bag, what did you locate?

8 A. The first gold bag had a whole lot of white
9 crystal like substance.

10 Q. And what was that white crystal like
11 substance consistent with from your training and
12 experience?

13 A. From my training and experience, it appeared
14 to be methamphetamine.

15 Q. And was that recovered as package one, item
16 number one?

17 A. I believe so.

18 Q. Was an on ODV sheet conducted in regards to
19 the various methamphetamine found within the hidden
20 compartment as to approval and weight?

21 A. Yes.

22 MS. KILLER: Your Honor, may I approach?

23 THE COURT: You may.

24 MS. KILLER: Your Honor, Exhibit 1 I believe
25 we are admitting pursuant to stipulation, for

1 purposes of preliminary hearing only.

2 MR. SANFT: That is correct, Your Honor.

3 THE COURT: It will admitted for purposes of
4 preliminary hearing only, and you are marking it --

5 MS. KILLER: State's 1.

6 MR. SANFT: Your Honor, just as matter of
7 brevity, we will stipulate to the test results that
8 are located in State's 1 so that we don't have to go
9 through had process.

10 THE COURT: All right.

11 For purposes of preliminary hearing, the
12 defense will stipulate to what the results were in
13 State's 1.

14 MS. KILLER: Which, for the record, is 354.4
15 gross grams of ODV positive methamphetamine.

16 THE COURT: Okay.

17 MS. KILLER: I am returning State's 1 to the
18 Court.

19 Q. And in the second bag, did you and the other
20 officers locate 4 bags of a controlled substance
21 containing consistent with heroin?

22 A. Yes.

23 MS. KILLER: And the same procedure, State's
24 Exhibit 2, the ODV sheet for the heroin, is also
25 being admitted pursuant to stipulation.

1 I am showing defense counsel.

2 MR. SANFT: Yes.

3 THE COURT: 2 is being admitted.

4 MS. KILLER: And was 36.4 gross grams of ODV
5 positive for heroin, package one, item 2.

6 Q. And, officer, in the second gold bag there
7 was also some additional methamphetamine which was
8 included in total weight ODV sheet that was admitted
9 as Exhibit 1, correct?

10 A. Correct.

11 Q. And additionally there was some 3 multi-
12 colored pills, 4 smaller oval pills, correct?

13 A. Yes.

14 Q. And then also in that second bag did you
15 recover a small clear plastic bag with a white
16 powdery substance consistent with cocaine?

17 A. Yes, I did.

18 MS. KILLER: I am showing defense counsel
19 State's Exhibit 3 admitted pursuant to stipulation.

20 THE COURT: 3 will be admitted.

21 MS. KILLER: And for the record, that is an
22 ODV positive sheet for .8 gross grams of cocaine,
23 package one, item 3.

24 I am providing that to the Court.

25 Q. Did you also locate a third smaller gold

1 bag?

2 A. I did.

3 Q. And was that empty?

4 A. The bag was empty.

5 Q. Was there a strong smell, however?

6 A. There was a very horrid smell coming from
7 inside the bag.

8 Q. And what was that smell consistent with?

9 A. It was consistent with heroin.

10 Q. Finally did you locate the smaller black bag
11 within the larger black bag?

12 A. Yes.

13 Q. And in that smaller black bag did you locate
14 a 22 Beretta handgun and the 7 22 short rounds?

15 A. Yes, I did.

16 Q. And was one of those in the chamber?

17 A. Yes.

18 Q. And that was recovered by CSA Ty, correct?

19 A. Correct.

20 Q. And finally in the car did you locate a
21 Nevada regulation for the vehicle?

22 A. I don't believe so.

23 Q. Would it refresh your recollection to see
24 your impounded sheet?

25 A. Yes.

1 MS. KILLER: Your Honor, may I approach?

2 THE COURT: You may.

3 MS. KILLER: Having shown defense counsel
4 this is the property report for the search warrant
5 of the vehicle, I am showing the officer the second
6 page to refresh his recollection.

7 Q. Officer, does that refresh your
8 recollection?

9 A. Yes.

10 Q. And did you locate a Nevada registration for
11 that vehicle when you searched it?

12 A. Yes.

13 Q. And who was that car registered to?

14 A. To Mr. Keller.

15 Q. To your recollection, was there anyone else
16 registered to the car when you reviewed that, or
17 when you ran that plate?

18 A. There was no one else registered to the car.

19 Q. As a result of what you recovered in the
20 vehicle, did you obtain a piggyback search warrant
21 for the Defendant's apartment?

22 A. I did.

23 MS. KILLER: And, for the record, that has
24 also been previously provided to defense counsel.

25 Q. During the service of the piggyback search

1 warrant, was a 9 millimeter semi-auto ruger located?

2 A. Yes.

3 Q. Was there also 3 boxes is of 22 short
4 ammunition located?

5 A. Yes.

6 Q. Consistent with what was found in the car?

7 A. Yes.

8 Q. And also one box of 9 millimeter ammo?

9 A. Yes.

10 Q. And that would have been consistent with the
11 Ruger located at the Defendant's apartment?

12 A. Correct.

13 Q. And further were 5 glass smoking pipes and 4
14 scales located in the apartment?

15 A. Yes.

16 Q. While you and the other detectives were
17 serving the search warrant, did Detective Belmont
18 locate a large glass jar in the freezer containing a
19 green leafy substance?

20 A. Yes.

21 Q. And what was that substance consistent with,
22 based on your training and experience?

23 A. It was consistent with marijuana.

24 MS. KILLER: And showing defense counsel
25 State's Exhibit 4, and that is pursuant to

1 stipulation as well, is that an ODV positive a
2 checklist for marijuana, totaling 180.4 gross grams
3 package 4, item 4.

4 THE COURT: That will be deemed admitted.

5 Q. Officer Lopez, did you also locate in the
6 bedroom 3 plastic bags, 2 containing a white crystal
7 like substance?

8 A. Yes.

9 Q. And what was that substance consistent with,
10 based on your training and experience?

11 A. It was consistent methamphetamine.

12 Q. And was an ODV test also conducted for that?

13 A. Yes.

14 MS. KILLER: I am showing defense counsel
15 State's Exhibit 5, and then pursuant to stipulation,
16 is an ODV positive checklist 4.4 gross grams of
17 methamphetamine, package 8 item 9.

18 THE COURT: It is deemed admitted.

19 Q. And in the third plastic bag was a brown
20 substance consistent with heroin located?

21 A. Yes.

22 Q. And was an ODV also conducted for -- if we
23 go back to the second bag of methamphetamine, was a
24 separate ODV sheet conducted for 3.1 gross grams ODV
25 positive for methamphetamine?

1 A. Yes.

2 MS. KILLER: I am showing defense counsel
3 what is being admitted pursuant to stipulation as
4 State's Exhibit 6, package 8, item 10.

5 THE COURT: 6 will be deemed admitted.

6 Q. Finally returning back to the third package
7 with the heroin, was an ODV sheet conducted for
8 that?

9 A. Yes.

10 Q. And did that result 1.1 gross grams ODV
11 positive for heroin?

12 A. Yes.

13 MS. KILLER: I am showing defense State's
14 Exhibit 7, pursuant to stipulation.

15 THE COURT: 7 is deemed admitted.

16 Q. And finally during the search of the
17 apartment, was pay stub in Defendant Christopher
18 Keller's named located during that search?

19 A. Yes, there was.

20 MS. KILLER: The State has no further
21 questions for had witness.

22 THE COURT: Cross.

23 MR. SANFT: Your Honor, may I approach your
24 Clerk and ask her to mark this as a Proposed Defense
25 Exhibit?

1 THE COURT: Yes.

2 MR. SANFT: And For the record I am showing
3 the State what has been marked as Proposed Defense
4 Exhibit A.

5 May I approach?

6 THE COURT: You may.

7
8 CROSS-EXAMINATION
9

10 BY MR. SANFT:

11 Q. Officer Lopez, are you familiar with what I
12 am showing you as Proposed Exhibit A?

13 A. Yes.

14 Q. What is that?

15 MS. KILLER: Your Honor, may I approach to
16 see where he is pointing?

17 THE COURT: Sure.

18 Q. Officer, what is that?

19 A. That is a map printout, and the major
20 intersection is Stewart and Lamb.

21 Q. Are your familiar with the other cross
22 streets that listed in here on the map?

23 A. Some of them.

24 Q. Okay.

25 And just for the record, does this map

1 accurately depict the area which you first saw my
2 client travel down Sunrise, and also the area where
3 you eventually pulled my client over?

4 A. Yes.

5 MR. SANFT: Your Honor, just for the record
6 we move to admit Defense Exhibit A.

7 MS. KILLER: No objection.

8 THE COURT: It will be deemed admitted.

9 Q. Just for the record, your testimony was that
10 you were traveling in which direction on Lamb when
11 you first saw my client?

12 A. I was traveling southbound on North Lamb.

13 Q. Okay,

14 And since we are all here watching, can
15 point out where you were in your squad car, what
16 location on North Lamb Boulevard when you first saw
17 my client?

18 A. I was just passing the apartment complex
19 that that he eventually pulled into.

20 THE COURT: Do you want him to use a marker

21 MR. SANFT: Yes.

22 THE COURT: For the record, the officer will
23 be marking on this map with a red marker.

24 Q. Can you mark that with an A?

25 A. Yes.

1 Q. All right.

2 And then you said that as you were traveling
3 in this direction, how fast were you traveling in
4 this direction when you first saw my client?

5 A. Approximately 40 miles an hour.

6 Q. All right.

7 And during that time period where was client
8 when He was first spotted, when you first saw him
9 traveling down North Lamb?

10 A. When I first saw him, he was coming off of
11 Sunrise making left turn leading northbound.

12 Q. And if you can just mark the area that you
13 first saw my client with a B.

14 A. Here.

15 Q. At some point, your testimony was that you
16 were passing my client traveling in the opposite
17 direction, correct?

18 A. Yes.

19 Q. And your testimony was that he was traveling
20 at a high rate of speed?

21 A. Yes.

22 Q. At some point you turned around, flipped a
23 U, and you followed him?

24 A. That is correct.

25 Q. Could you recall where on this map you

1 flipped you U and followed him?

2 A. When I saw him pull out off of Sunrise
3 Avenue, I was showing down to see what he was going
4 to do, where he was going to go, so he probably
5 passed me somewhere about here.

6 Q. Mark that with a C.

7 A. Okay.

8 Q. And then you flipped a U, and you were in
9 this vicinity where C is marked on the map,
10 something like that?

11 A. Correct.

12 Q. Then you start to follow him into the
13 apartment complex?

14 A. Correct.

15 Q. All right.

16 Where exactly did you effectuate the stop on
17 my client?

18 A. It looks likes right about here.

19 Do you want a D?

20 Q. Yes.

21 When you first came into the apartment
22 complex, how did you get into the apartment complex,
23 based upon this map?

24 A. He made a left turn into the entrance, and I
25 made a a left turn to go westbound from Lamb into

1 the entrance.

2 Q. So the entrance into the apartment complex
3 is located in this area right here?

4 A. I believe it was somewhere right about here.

5 Q. Can you mark that area with an E, please?

6 MR. SANFT: I have no further questions
7 based on that.

8 MS. KILLER: We just ask if we can make a
9 color copy for both party's file.

10 THE COURT: I can see if we can.

11 Q. Officer Lopez, how long have you been with
12 the Metropolitan Police Department as a police
13 officer?

14 A. 9 years.

15 Q. And the entire 9 years, have you been
16 involved with patrol?

17 A. Yes.

18 Q. Okay.

19 Your testimony was that when you were
20 approaching, going down North Lamb, you saw my
21 client make an abrupt left hand turn, something like
22 that?

23 A. Correct.

24 Q. Is that illegal?

25 A. No, it is not illegal.

1 Q. All right.

2 So as he is traveling down you say in a high
3 rate of speed passing you on North Lamb, you are in
4 a black and white patrol car, is that correct?

5 A. Yes.

6 Q. I am assuming that this street does have
7 streetlights on that area?

8 A. There are no streetlight from the point of
9 where I first saw him to where I began to follow
10 him.

11 Q. And based upon your oh, observation of my
12 client in his vehicle, was his vehicle's lights on?

13 A. Yes.

14 Q. Okay.

15 So would be fair to say that he is traveling
16 in a direction where he is passing you on the
17 street?

18 A. Correct.

19 Q. And at some point your testimony was that
20 you flipped a U, and you go back towards him, but
21 the only reason why you could that is because he is
22 traveling in the middle lane coming down North Lamb?

23 A. The reason I began to follow him and observe
24 him is because of how fast he came up to Sunrise
25 Avenue.

1 I couldn't tell whether he came to a
2 complete stop one way or another, but because he was
3 traveling at a fast rate of speed, I decided to make
4 U-turn and conduct a records check on his plate.

5 Q. But your testimony also is that you observed
6 him traveling down the center lane of North Lamb?

7 A. The center turn lane, yes.

8 Q. Is that illegal?

9 A. For a prolonged period of time. It might
10 have been 2 hundred feet.

11 Q. So your testimony was that he was traveling
12 at a distance of over 3 hundred feet, is that
13 correct?

14 A. That is correct.

15 Q. Now, at some point he pulled into the
16 apartment complex, and your testimony was that he
17 did so in a way that you thought he was trying to
18 avoid you, is that correct?

19 A. Yes.

20 Q. What led you to believe that he was avoiding
21 you?

22 A. He didn't slow down come at all before he
23 was coming out to make the left turn.

24 He made the left turn, even though there was
25 southbound traffic coming down on Lamb, and there

1 was also the broken taillight as well.

2 Q. So your testimony now is that you see the
3 traffic coming down in the opposite direction and he
4 failed to yield to that traffic and he cut in front
5 of them?

6 A. Yes.

7 Q. And he cut in front of them, and he went at
8 the same speed that he had when he was passing you
9 on North Lamb?

10 A. I can't say it was the exact same speed. It
11 was at a high rate of speed.

12 Q. As he is pulling into the apartment complex,
13 he is not slowing down?

14 A. No.

15 Q. All right.

16 So he is going over bumps in the apartment
17 complex in his vehicle, is that correct?

18 A. Correct.

19 Q. At a high rate of speed?

20 A. Yes.

21 Q. And at some point he then pulls into a
22 parking stall?

23 A. Yes.

24 Q. With you right behind him?

25 A. I was coming up on him. More or less right

1 behind him. I wasn't directly behind him.

2 Q. It would be fair to say your testimony here
3 you toady is that you never lost of my client's
4 vehicle, correct?

5 A. No.

6 Q. At this point, I am assuming you had your
7 lights and sirens on?

8 A. No.

9 Q. You did not?

10 A. I did not.

11 Q. Okay.

12 So you flip a U, and turn follow my client
13 into the apartment complex without your lights and
14 sirens on?

15 A. Correct.

16 Q. Okay.

17 Now, your testimony as well is that when you
18 pulled in, you got right behind my client, and you
19 tried to effectuate the stop, and my client got out
20 of the vehicle?

21 A. He was already jumping out of the vehicle.

22 Q. But you don't have your lights and sirens
23 on?

24 A. My lights and sirens were activated as he
25 was pulling into the stall. It was inside the

1 apartment complex is when I activated.

2 Q. Okay.

3 So your testimony is that when you pulled
4 into the apartment complex it is at that point that
5 your turned your light and sirens on?

6 A. It was when he was making a right turn.

7 When he pulls into the apartment complex
8 that is a straight-away, and then there a right turn
9 where he pulled up to his stall

10 As he was making a right turn into the
11 little cul-de-sac portion of his apartment complex
12 is when I activated my lights.

13 Q. So you allowed him to travel at a high rate
14 of speed through the apartment complex to the point
15 he pulled into his parking stall, and then you
16 turned on the lights?

17 A. Yes.

18 Q. So you effectuated the stop, and he gets out
19 of his vehicle?

20 A. He got out of his vehicle on own accord.

21 Q. And your testimony was when he got out of
22 the vehicle, where you were, were you still inside
23 your vehicle?

24 A. No, I was also getting outside of my vehicle
25 as well.

1 Q. So, as you were getting outside of your
2 vehicle, your testimony was that you observed, or
3 you smelled the odor of cannabis, marijuana?

4 A. Correct.

5 Q. Off of my client?

6 A. Correct.

7 Q. Now, when you parked your vehicle, how far
8 away was your vehicle to my client's vehicle?

9 A. It was approximately less than 10 feet.

10 Q. So you basically box my client in, in his
11 parking stall?

12 A. Correct.

13 Q. And then you got out of your vehicle?

14 A. Correct.

15 Q. And you smelled marijuana. There must have
16 been a pretty good odor for you to smell that like
17 that pretty quickly, correct?

18 A. Yes.

19 Q. Pretty strong, the odor?

20 A. Yes.

21 Q. And you are saying that odor was coming from
22 my client's person?

23 A. It was coming from his person, and I could
24 tell it was coming from inside the vehicle as well.

25 Q. How can you differentiate between what is

1 coming from inside of the vehicle and what is coming
2 off of my client?

3 A. While he was standing next to his door, and
4 I was up there next to him, while he was near the
5 driver's side door, and I was giving him
6 instructions, standing there, I could smell it
7 coming off of his clothes and from inside the
8 vehicle, coming from -- it was coming from 2
9 different directions.

10 Q. So you are able to differentiate between the
11 smell coming off of a person versus what was coming
12 from the vehicle, even though the 2 of them are in
13 relatively close proximity.

14 He is not leaving the vicinity of the car
15 door?

16 A. Correct.

17 Q. Then at that point you said that you for
18 whatever reason decided to detain my client based
19 upon the fact that you believed that he may have had
20 a weapon on him?

21 A. I conducted a pat down, because he may have
22 had weapons on him.

23 Q. And you based that upon the fact that he was
24 driving at a high rate of speed?

25 A. No. I based --

1 MS. KILLER: Objection misstates his
2 testimony. There were numerous factors that he
3 gave.

4 MR. SANFT: It was the State that gave those
5 factors.

6 Q. So why don't you tell me what factors
7 determined in your mind the probable cause to pat
8 down my client for weapons?

9 A. He had baggie pants on, very loose pants,
10 and a very loose shirt on.

11 Q. Anything else besides that?

12 A. Not that I can recall on off of the top of
13 my head.

14 Q. Were you wearing a body cam on that
15 particular stop?

16 A. No.

17 Q. Did you have a camera in your vehicle during
18 that particular stop?

19 A. No.

20 Q. And based upon your determination that there
21 may have been a weapon was just on loose clothing?

22 A. On clothes that could conceal a weapon, yes.

23 Q. Now we are going to skip past all of the
24 rest of the stuff.

25 Were you the primary officer in Charge of

1 the investigation of this particular case?

2 A. I.

3 Q. And that's because you are the first one on
4 the scene, right?

5 A. Correct.

6 Q. Now at some point I am assuming that
7 detectives did show up to help you with that
8 investigation?

9 A. Correct.

10 Q. And they would have assumed the
11 investigation from that point forward, or are you
12 the one ultimately responsible for the case?

13 A. I am ultimately responsible for everything
14 on this case.

15 Q. Now, your testimony was that you said you
16 saw what you thought was some kind of leafy
17 substance on the passenger side, on the floorboard?

18 A. On the driver's side, floorboard.

19 Q. Did you at any point as the primary officer
20 in charge of this investigation take pictures of
21 that area or cause pictures to be taken of that
22 area?

23 A. I don't believe so.

24 Q. Did you at any point cause for pictures to
25 be taken of my client's clothing since you are the

1 primary officer in charge of this investigation?

2 A. I can't recall whether pictures were taken
3 of Mr. Keller or not.

4 Q. Did you take pictures of the inside of the
5 vehicle as the person who was the primary officer in
6 charge of this investigation?

7 A. There were pictures taken of the vehicle. I
8 am not entirely positive what the pictures would
9 tell.

10 MS. KILLER: Your Honor, for the record, we
11 will be requesting photographs from the Metro
12 records and will provide them to counsel.

13 THE COURT: All right.

14 Q. With the smell of marijuana, there was an
15 assumption that someone had just smoked or ingested
16 marijuana, or held marijuana for you to be able to
17 smell that marijuana, right?

18 A. I believe there was marijuana present at
19 some point.

20 Q. Okay.

21 Is your testimony here today that you were
22 able to smell a slight leafy substance on the
23 floorboard of this person's vehicle that made you
24 determine that there was the smell of marijuana on
25 my client's person as well?

1 MS. KILLER: Objection, vague.

2 I am lost.

3 THE COURT: I am not lost. He is just trying
4 to clarify.

5 MR. SANFT: I will rephrase it.

6 Q. Officer Lopez, did you any point -- you said
7 it was coming from my client's person.

8 Did you at any point observe whether or not
9 my client ingested or smoked marijuana during that
10 traffic stop, or before the traffic stop?

11 A. I could not tell whether or not he smoked,
12 or just smoked, or whether there was marijuana that
13 had been smoked inside the vehicle.

14 Does that answer your question?

15 Q. Well, sure.

16 Did you at any point run any type of field
17 sobriety test on my client to determine whether or
18 not he had smoked marijuana that day, or before you
19 pulled him over?

20 A. I did not.

21 Q. But your testimony was that you smelled
22 marijuana.

23 A. I could smell the marijuana, yes.

24 Q. But you didn't at that point determine
25 whether or not the marijuana that was smoked in the

1 vehicle was because my client smoked it?

2 A. I did not.

3 Q. Did you ever cite my client for any of these
4 other traffic violations that you had mentioned, the
5 continuing through a through lane, or the traveling
6 at a high rate of speed, you didn't know how fast
7 he was going?

8 A. I did not cite him on the traffic
9 violations. I cite him for the felonies.

10 Q. Did you cite him for anything other than the
11 fact that he possessed these drugs or so forth
12 inside his vehicle?

13 A. I didn't cite him, I placed him under arrest
14 for the narcotics.

15 Q. So in terms of anything leading up to the
16 actual narcotics, your testimony here is that
17 because of the fact that you are able to smell
18 marijuana, you can't tell us how you smelled the
19 marijuana, or where the marijuana was coming from,
20 and based upon that is the reasons why you at that
21 point arrested my client, and then had enough
22 probable cause to go into the vehicle?

23 MS. KILLER: Objection, misstates the
24 testimony as to the order of events.

25 THE COURT: Not really, but go on.

1 Q. Is it your testimony here today that because
2 of the smell of marijuana to which you at this
3 point, you don't know how it got into the car, is
4 that the probable cause that you used to determine a
5 search of the vehicle?

6 A. Yes.

7 Q. Would it be fair to say that the leafy
8 substance on the ground here today, as you testified
9 here in Court, you don't know if it was marijuana or
10 any other leafy substance?

11 A. Correct.

12 Q. Now, you said that 5 shots were fired from
13 an apartment, did you put that in your declaration
14 of arrest?

15 A. I did not.

16 Q. Was there a case or an event number
17 associated with that particular event?

18 A. Yes. An event number was created.

19 Q. And you said that you had detained my client
20 because of the fact that the shots were fired?

21 A. Initially I detained him because the shots
22 were fired.

23 Q. From the time that you first stopped my
24 client to the time that the K-9 officer arrived on
25 the scene, how long was that?

1 A. I could not tell you the exact time.

2 Q. I am assuming that would be in your CAD.

3 A. Correct.

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

6 THE COURT: Redirect?

7 MS. KILLER: Briefly.

8
9 REDIRECT EXAMINATION

10
11 BY MS. KILLER:

12 Q. Just to clarify you didn't arrest the
13 Defendant just because shots were fired somewhere
14 else in the complex, correct?

15 A. Correct.

16 Q. I believe your testimony was, and correct me
17 if I am wrong had been that you placed him in the
18 vehicle for safety afternoon and that you initially
19 put the cuffs on him because he had been stopped?

20 A. Yes.

21 Q. And when he got out of the vehicle, you felt
22 he might be a risk?

23 A. Yes.

24 Q. The green leafy substance you saw inside of
25 the vehicle not, was that consistent with marijuana?

1 A. Yes, it was.

2 Q. A CSA was called out and responded on the
3 scene, correct?

4 A. Correct.

5 Q. And she took photographs, and you just have
6 personal knowledge as to the content of all of those
7 photographs?

8 A. Correct.

9 Q. Did the Defendant give you permission to
10 remove his wallet and the items from his pocket?

11 A. Yes.

12 Q. And when the defense counsel was asking
13 about turning into the apartment complex and
14 activating your lights, and at which point you did
15 that, from the point where you turned in, to the
16 point when the stop was conducted, did all of that
17 occur within a short period of time?

18 A. A very brief short period of time.

19 Q. Without guessing, could you give us an
20 estimate as to how long that would have been?

21 A range is fine?

22 A. It would have been --

23 Q. Less than a couple of minutes?

24 A. It would have been within less than 10
25 seconds,

1 Q. Were you driving a marked is patrol car when
2 you passed the Defendant on Lamb and made your
3 U-turn?

4 A. I did.

5 Q. And in addition to the high rate of speed
6 traveling further than 3 hundred feet in the 2-way
7 turn lane, did you also observe a broken passenger
8 tail lamp on the back?

9 A. I did.

10 MS. KILLER: No further questions.

11
12 RECROSS-EXAMINATION

13
14 BY MR. SANFT:

15 Q. Did you ever cite him for the broken tail
16 light?

17 A. I did not.

18 MR. SANFT: No further questions.

19
20 FURTHER DIRECT EXAMINATION

21
22 BY MS. KILLER:

23 Q. The charges are determined by our office,
24 not you, correct?

25 A. Yes.

1 Q. The charges that are filed in a case are
2 determined by my office, the District Attorneys
3 office, correct?

4 A. Correct.

5 MS. KILLER: No further questions

6 MR. SANFT: One more question.

7
8 FURTHER RE-CROSS-EXAMINATION
9

10 BY MR. SANFT:

11 Q. Just to make sure we are clear, did you ever
12 recommend at any point ever recommend any of these
13 traffic citations as charges to the DA's office for
14 prosecution?

15 A. I did not recommend charges to the DA's
16 office.

17 Q. Did you ever fill out any paperwork
18 indicating you thought that there were potentially
19 good charges for a broken tail light, or traveling
20 at a high rate of speed, or travelling down the
21 center lane of North Lamb; id you ever put that in
22 any type of documentation here?

23 A. No. That was my decision out in the field.

24 Q. It was your decision to ignore everything
25 leading up to the actual finding of drugs and a gun

1 in my client's car?

2 MS. KILLER: Objection.

3 THE COURT: Sustained.

4 MR. SANFT: No further questions.

5 MS. KILLER: No further questions.

6 THE COURT: Officer, thank you for your
7 testimony today.

8 I will ask you to step down.

9 And please don't discuss your testimony with
10 anyone during the pendency of the case, unless it is
11 representative from Mr. Sanft's office or from the
12 District Attorneys office.

13 And I thank you.

14 State any further witnesses?

15 MS. KILLER: No, Your Honor.

16 The State rests.

17 THE COURT: MR. SANFT: Your Honor, I have
18 spoken with my client, and at this point he will not
19 be testifying at the preliminary hearing, and we
20 don't have any witnesses to call.

21 We also rest at this time.

22 MS. KILLER: We will waive and reserve.

23 MR. SANFT: we will submit it, Your Honor.

24 THE COURT: Mr. Keller, the standard at my
25 particular juncture is slight or marginal evidence

1 as to whether or not a crime may have occurred.

2 For those reasons, I do find that the State
3 has met its burden, and I will hold you to answer in
4 the Eighth Judicial District Court on the charges
5 trafficking in a controlled substance.

6 Possession of a controlled substance,
7 marijuana.

8 Possession of a controlled substance with
9 the intent to sell.

10 And ownership or possession of firearms by a
11 prohibited person.

12 You will need to appear with your attorney
13 in the lower level Arraignment Court on the
14 following date and time.

15 THE CLERK: February 18, 10 a.m., lower
16 level District Court Arraignment.

17 MR. SANFT: Your Honor, before this Court
18 losses jurisdiction, I believe the Court last time
19 indicated they were going to set a bail at
20 preliminary hearing.

21 I don't think we have a bail yet set.

22 THE COURT: That is correct.

23 At this particular juncture there is no bail
24 based upon the information that has been provided to
25 the Court, I will set the total bail at \$250,000 on

1 this particular case total.

2 MR. SANFT: Your Honor, just real quick,
3 based upon my client hearing the bail set for
4 \$250,000, I understand that my client has a total of
5 6 felony convictions, 3 misdemeanor convictions, and
6 12 failures to 13 appear.

7 I do understand what is listed on the
8 pre-trial services information sheet, but my client
9 at this point is looking at this bail and thinking
10 that you might as well set no bail on this matter,
11 because he can't afford \$250,000.

12 THE COURT: Whether or not he can afford it
13 or cannot afford it, I have to set bail based upon
14 the allegations at issue, and the chance of flight,
15 and the chance of return, and your prior criminal
16 history, and there is another case floating around,
17 too, so I think that \$250,000 would probably be low
18 based on what I have heard today.

19 MS. KILLER: Thank you, Your honor.

20 MR. SANFT: Thank you, Your Honor.

21
22 (Proceedings concluded.)
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REPORTER'S CERTIFICATE

STATE OF NEVADA)

) ss.

1 CLARK COUNTY)

2
3
4 I, Robert A. Cangemi, a certified court
5 reporter in and for the State of Nevada, hereby
6 certify that pursuant to NRS 239B.030 I have not
7 included the Social Security number of any person
8 within this document.

9 I further certify that I am not a relative
10 or employee of any party involved in said action,
11 nor a person financially interested in said action.

12
13
14 (signed) /s/ Robert A. Cangemi

15 -----
16 ROBERT A. CANGEMI, CCR NO. 888

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21
22 C E R T I F I C A T E

23 STATE OF NEVADA)

24) ss.

25 CLARK COUNTY)

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4
5 I, Robert A. Cangemi, CCR 888, do hereby
6 certify that I reported the foregoing proceedings,
7 and that the same is true and accurate as reflected
8 by my original machine shorthand notes taken at said
9 time and place.

10
11
12 (signed) /s/ Robert A. Cangemi

13 -----
14 Robert A. Cangemi, CCR 888

15 Certified Court Reporter

16 Las Vegas, Nevada
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<p style="text-align: center;">/</p> <p>/s/ (49:14) (50:8)</p> <p style="text-align: center;">A</p> <p>able (34:10) (37:16) (37:22) (39:17) abrupt (6:11) (7:7) (27:21) access (14:25) accord (32:20) accurate (50:3) accurately (24:1) action (49:10) (49:11) activate (7:17) activated (31:24) (32:1) (32:12) activating (42:14) actual (39:16) (44:25) actually (8:18) (14:22) (14:25) addition (43:5) additional (17:7) additionally (17:11) address (12:16) admit (5:8) (24:6) admitted (5:11) (16:3) (16:25) (17:3) (17:8) (17:19) (17:20) (21:4) (21:18) (22:3) (22:5) (22:15) (24:8) admitting (15:25) afford (47:11) (47:12) (47:13) after (12:18) afternoon (41:18) alerted (13:25) all (16:10) (24:14) (25:1) (25:6) (26:15) (28:1) (29:22) (30:15) (35:23) (37:13) (42:6) (42:16) allegations (47:14) allowed (32:13) along (12:25) already (31:21) also (13:9) (16:24) (17:7) (17:14) (17:25) (19:24) (20:3) (20:8) (21:5) (21:12) (21:22) (24:2) (29:5) (30:1) (32:24) (43:7) (45:21) ammo (20:8) ammunition (20:4) amount (11:11) another (15:4) (29:2) (47:16) answer (38:14) (46:3) any (3:15) (4:6) (8:13) (13:24) (14:2) (36:19) (36:24) (38:6) (38:8) (38:16) (39:3) (40:10) (44:12) (44:17) (44:22) (45:14) (45:20) (49:7) (49:10) anyone (19:15) (45:10) anything (10:6) (11:15) (12:18) (14:20) (35:11) (39:10) (39:15) apartment (6:25) (7:8) (7:11) (12:13) (19:21) (20:11) (20:14) (22:17) (24:18) (26:13) (26:21) (26:22) (27:2) (29:16) (30:12) (30:16) (31:13) (32:1) (32:4) (32:7) (32:11) (32:14) (40:13) (42:13) appear (46:12) (47:6) appearances (1:17) appeared (15:13) approach (3:17) (11:3) (15:22) (19:1) (22:23) (23:5) (23:15) approaching (27:20) approval (15:20) approximately (25:5) (33:9) april (13:20) are (4:3) (4:6) (4:8) (5:16) (6:14) (14:5) (15:25) (16:4) (16:8) (23:11) (23:21) (24:14) (28:3) (28:8) (33:21) (34:10) (34:12) (35:23) (36:3) (36:11) (36:25) (39:17) (43:23) (44:1) (44:11) area (5:23) (13:24) (24:1) (24:2) (25:12) (27:3) (27:5) (28:7) (36:21) (36:22) armed (9:13) (9:21) around (6:3) (25:22) (47:16) arraignment (46:13) (46:16) arrest (11:7) (39:13) (40:14) (41:12) arrested (39:21) arrived (13:15) (40:24) article (9:2) aside (14:23) ask (4:9) (22:24) (27:8) (45:8) asked (10:9)</p>	<p>asking (42:12) associated (40:17) assumed (36:10) assuming (28:6) (31:6) (36:6) (41:2) assumption (37:15) attention (6:8) attorney (1:19) (46:12) attorneys (44:2) (45:12) avenue (6:11) (26:3) (28:25) avoid (29:18) avoiding (29:20) away (8:11) (33:8)</p> <p style="text-align: center;">B</p> <p>back (12:14) (21:23) (22:6) (28:20) (43:8) bag (13:6) (13:11) (15:1) (15:3) (15:5) (15:7) (15:8) (16:19) (17:6) (17:14) (17:15) (18:1) (18:4) (18:7) (18:10) (18:11) (18:13) (21:19) (21:23) baggie (35:9) bags (13:7) (15:4) (16:20) (21:6) bail (46:19) (46:21) (46:23) (46:25) (47:3) (47:9) (47:10) (47:13) based (11:15) (12:2) (12:25) (20:22) (21:10) (26:23) (27:7) (28:11) (34:18) (34:23) (34:25) (35:20) (39:20) (46:24) (47:3) (47:13) (47:18) basically (33:10) basis (9:19) because (9:25) (28:21) (28:24) (29:2) (34:21) (36:3) (39:1) (39:17) (40:1) (40:20) (40:21) (41:13) (41:19) (47:11) bedroom (21:6) been (8:23) (14:6) (14:9) (14:16) (19:24) (20:10) (23:3) (27:11) (27:15) (29:10) (33:16) (35:21) (38:13) (41:17) (41:19) (42:20) (42:22) (42:24) (46:24) before (1:13) (29:22) (38:10) (38:18) (46:17) began (28:9) (28:23) behalf (3:7) behavior (8:2) (9:12) behaviors (10:2) behind (30:24) (31:1) (31:18) being (3:25) (4:15) (16:25) (17:3) (22:3) believe (3:24) (9:12) (9:21) (13:22) (15:17) (15:24) (18:22) (27:4) (29:20) (36:23) (37:18) (41:16) (46:18) believed (9:21) (34:19) belmont (20:17) bench (3:20) beretta (18:14) besides (35:11) between (13:9) (33:25) (34:10) bills (11:15) (12:1) black (15:1) (15:3) (15:5) (18:10) (18:11) (18:13) (28:4) blue (9:3) both (14:15) (27:9) boulevard (24:16) box (13:25) (14:1) (14:4) (14:5) (14:6) (14:24) (20:8) (33:10) boxes (20:3) boy (35:14) brevity (16:7) brief (42:18) briefly (41:7) broken (6:23) (30:1) (43:7) (43:15) (44:19) brown (21:19) bumps (30:16) burden (46:3) but (4:16) (9:15) (11:25) (28:20) (29:2) (29:5) (31:22) (38:21) (38:24) (39:25) (47:8)</p> <p style="text-align: center;">C</p> <p>cad (41:2) call (13:12) (45:20) called (4:1) (42:2) calls (3:22) cam (35:14) came (12:17) (26:21) (28:24) (29:1) camera (35:17) can (3:17) (9:1) (14:25) (24:14) (24:24) (25:12) (27:5) (27:8) (27:10) (33:25) (35:12) (47:12)</p>
---	---

cangemi

directions

cangemi (1:25) (49:4) (49:14) (49:16) (50:1) (50:8) (50:10)
cannabis (8:21) (13:1) (33:3)
cannibals (10:1)
cannot (47:13)
can't (10:22) (30:10) (37:2) (39:18) (47:11)
car (7:20) (8:7) (8:10) (8:14) (8:17) (12:19) (12:25) (13:16) (13:24) (18:20) (19:13) (19:16) (19:18) (20:6) (24:15) (28:4) (34:14) (40:3) (43:1) (45:1)
cardboard (14:9)
case (1:1) (1:8) (4:1) (36:1) (36:12) (36:14) (40:16) (44:1) (45:10) (47:1) (47:16)
cash (10:15) (10:18) (10:20) (11:12) (11:24)
cause (12:24) (13:4) (35:7) (36:21) (36:24) (39:22) (40:4)
ccr (1:25) (49:16) (50:1) (50:10)
center (6:12) (6:14) (13:10) (29:6) (29:7) (44:21)
certificate (48:1)
certified (5:3) (13:20) (49:4) (50:11)
certify (49:6) (49:9) (50:2)
chamber (18:16)
chance (47:14) (47:15)
charge (35:25) (36:20) (37:1) (37:6)
charges (43:23) (44:1) (44:13) (44:15) (44:19) (46:4)
check (6:20) (13:18) (29:4)
checked (4:11) (13:23)
checklist (21:2) (21:16)
christopher (1:9) (3:4) (4:7) (22:17)
citations (44:13)
cite (39:3) (39:8) (39:9) (39:10) (39:13) (43:15)
clarify (38:4) (41:12)
clark (1:4) (5:25) (49:1) (49:25)
clear (13:6) (13:7) (17:15) (44:11)
clerk (4:19) (4:25) (22:24) (46:15)
client (24:2) (24:3) (24:11) (24:17) (25:4) (25:7) (25:13) (25:16) (26:17) (27:21) (28:12) (31:12) (31:18) (31:19) (33:5) (33:10) (34:2) (34:18) (35:8) (38:9) (38:17) (39:1) (39:3) (39:21) (40:19) (40:24) (45:18) (47:3) (47:4) (47:8)
client's (31:3) (33:8) (33:22) (36:25) (37:25) (38:7) (45:1)
close (34:13)
clothes (34:7) (35:22)
clothing (9:2) (9:22) (35:21) (36:25)
cocaine (17:16) (17:22)
color (6:6) (27:9)
come (29:22)
coming (8:19) (18:6) (25:10) (28:22) (29:23) (29:25) (30:3) (30:25) (33:21) (33:23) (33:24) (34:1) (34:7) (34:8) (34:11) (38:7) (39:19)
commands (7:19) (7:21) (7:24) (8:1)
compartment (14:21) (14:22) (14:24) (15:1) (15:20)
compartments (14:2)
complaint (3:12)
complete (29:2)
complex (6:25) (7:8) (7:11) (12:13) (24:18) (26:13) (26:22) (27:2) (29:16) (30:12) (30:17) (31:13) (32:1) (32:4) (32:7) (32:11) (32:14) (41:14) (42:13)
conceal (35:22)
concluded (47:22)
conduct (5:22) (6:5) (9:13) (9:17) (12:24) (29:4)
conducted (6:20) (9:23) (10:5) (15:18) (21:12) (21:22) (21:24) (22:7) (34:21) (42:16)
conducting (10:7)
conference (3:20)
consistent (12:6) (15:11) (16:21) (17:16) (18:8) (18:9) (20:6) (20:10) (20:21) (20:23) (21:9) (21:11) (21:20) (41:25)
console (13:10)
containing (16:21) (20:18) (21:6)
content (42:6)
continued (6:13)
continuing (39:5)
contraband (14:10)
controlled (16:20) (46:5) (46:6) (46:8)
convictions (5:4) (47:5)
copy (3:11) (5:3) (11:7) (27:9)
correct (3:10) (13:21) (16:2) (17:9) (17:10) (17:12) (18:18) (18:19) (20:12) (25:17) (25:24) (26:11) (26:14) (27:23) (28:4) (28:18) (29:13) (29:14) (29:18) (30:17) (30:18) (31:4) (31:15) (33:4) (33:6) (33:12) (33:14) (33:17) (34:16) (36:5) (36:9) (40:11) (41:3) (41:14) (41:15) (41:16)

(42:3) (42:4) (42:8) (43:24) (44:3) (44:4) (46:22)
could (4:7) (8:18) (9:7) (9:23) (10:8) (10:9) (10:18) (12:16) (12:21) (25:25) (28:21) (33:23) (34:6) (35:22) (38:11) (38:23) (41:1) (42:19)
couldn't (29:1)
counsel (5:3) (11:6) (14:16) (17:1) (17:18) (19:3) (19:24) (20:24) (21:14) (22:2) (37:12) (42:12)
county (1:4) (6:1) (49:1) (49:25)
couple (42:23)
court (1:4) (3:4) (3:8) (3:11) (3:15) (3:18) (4:3) (4:6) (4:23) (5:11) (8:6) (8:22) (8:23) (9:10) (9:15) (11:4) (15:23) (16:3) (16:10) (16:16) (16:18) (17:3) (17:20) (17:24) (19:2) (21:4) (21:18) (22:5) (22:15) (22:22) (23:1) (23:6) (23:17) (24:8) (24:20) (24:22) (27:10) (37:13) (38:3) (39:25) (40:9) (41:6) (45:3) (45:6) (45:17) (45:24) (46:4) (46:13) (46:16) (46:17) (46:18) (46:22) (46:25) (47:12) (49:4) (50:11)
courtroom (3:25)
created (40:18)
crime (46:1)
criminal (3:12) (47:15)
cross (6:24) (7:8) (22:22) (23:21)
cross-examination (23:8)
cruz (1:13)
crystal (15:9) (15:10) (21:6)
csa (18:18) (42:2)
cuffs (41:19)
cul-de-sac (32:11)
currently (5:16) (5:18)
custody (3:6)
cut (30:4) (30:7)
cynthia (1:13)

D

daniel (2:4) (4:13) (4:21)
d-a-n-i-e-l (4:21)
da's (44:13) (44:15)
date (5:22) (46:14)
day (38:18)
decided (29:3) (34:18)
decision (44:23) (44:24)
declaration (11:7) (40:13)
deemed (21:4) (21:18) (22:5) (22:15) (24:8)
defendant (1:10) (1:21) (9:9) (12:8) (22:17) (41:13) (42:9) (43:2)
defendant's (19:21) (20:11)
defense (5:2) (14:16) (16:12) (17:1) (17:18) (19:3) (19:24) (20:24) (21:14) (22:2) (22:13) (22:24) (23:3) (24:6) (42:12)
denomination (11:14)
department (5:19) (27:12)
depict (24:1)
dept (1:2)
deputy (1:19)
described (10:1) (10:3)
detain (34:18)
detained (40:19) (40:21)
detective (20:17)
detectives (20:16) (36:7)
determination (35:20)
determine (37:24) (38:17) (38:24) (40:4)
determined (35:7) (43:23) (44:2)
did (3:11) (5:22) (6:5) (6:7) (7:8) (7:13) (7:17) (7:19) (7:23) (8:2) (8:8) (8:13) (8:16) (9:12) (9:17) (9:18) (9:20) (10:11) (10:12) (10:20) (12:18) (12:24) (13:3) (13:5) (13:12) (13:14) (13:15) (13:17) (13:23) (13:25) (14:1) (14:4) (14:11) (14:13) (14:17) (14:19) (14:20) (14:22) (15:3) (15:6) (15:7) (16:19) (17:14) (17:17) (17:25) (18:2) (18:10) (18:13) (18:15) (18:20) (19:10) (19:20) (19:22) (20:17) (21:5) (22:10) (26:16) (26:22) (29:17) (31:9) (31:10) (35:17) (36:7) (36:19) (36:24) (37:4) (38:6) (38:8) (38:16) (38:20) (39:2) (39:3) (39:8) (39:10) (40:13) (40:15) (42:9) (42:14) (42:16) (43:4) (43:7) (43:9) (43:15) (43:17) (44:11) (44:15) (44:17)
didn't (29:22) (38:24) (39:6) (39:13) (41:12)
different (34:9)
differentiate (33:25) (34:10)
direct (5:13) (43:20)
direction (24:10) (25:3) (25:4) (25:17) (28:16) (30:3)
directions (34:9)

directly

had

directly (31:1)
discuss (45:9)
discussing (8:23)
distance (29:12)
district (1:19) (44:2) (45:12) (46:4) (46:16)
document (49:8)
documentation (44:22)
dodge (6:6)
does (11:9) (11:14) (12:3) (19:7) (23:25) (28:6) (38:14)
dog (13:18)
doing (7:1)
don't (16:8) (18:22) (31:22) (35:6) (36:23) (40:3) (40:9)
 (45:9) (45:20) (46:21)
door (12:19) (14:23) (34:3) (34:5) (34:15)
double (6:15)
down (9:13) (9:17) (9:24) (10:5) (10:7) (12:8) (24:2) (25:9)
 (26:3) (27:20) (28:2) (28:22) (29:6) (29:22) (29:25) (30:3)
 (30:13) (34:21) (35:8) (44:20) (45:8)
drew (6:8)
driver (6:23)
driver's (7:14) (10:13) (12:23) (13:8) (13:9) (34:5) (36:18)
driving (34:24) (43:1)
drugs (39:11) (44:25)
duly (4:15)
during (13:4) (19:25) (22:16) (22:18) (25:7) (35:17) (38:9)
 (45:10)

E

effectuate (26:16) (31:19)
effectuated (32:18)
eighth (46:4)
elbows (9:4)
else (4:10) (8:10) (19:15) (19:18) (35:11) (41:14)
employed (5:17) (5:18) (5:20)
employee (49:10)
empty (18:3) (18:4)
enough (39:21)
entering (7:2)
entire (27:15)
entirely (37:8)
entrance (26:24) (27:1) (27:2)
esq (1:19) (1:21)
estimate (42:20)
even (4:8) (10:18) (29:24) (34:12)
evening (8:24)
event (40:16) (40:17) (40:18)
events (39:24)
eventually (7:23) (24:3) (24:19)
ever (39:3) (43:15) (44:11) (44:12) (44:17) (44:21)
everything (36:13) (44:24)
evidence (45:25)
exact (30:10) (41:1)
exactly (26:16)
examination (5:13) (41:9) (43:20)
examined (4:16)
exclusionary (4:4)
execute (14:18)
exhibit (5:2) (5:8) (15:24) (16:24) (17:9) (17:19) (20:25)
 (21:15) (22:4) (22:14) (22:25) (23:4) (23:12) (24:6)
exhibits (5:1)
exited (8:7) (8:14) (12:20)
experience (11:16) (12:3) (15:12) (15:13) (20:22) (21:10)

F

facing (11:22) (11:23)
fact (34:19) (34:23) (39:11) (39:17) (40:20)
factors (35:2) (35:5) (35:6)
failed (30:4)
failures (47:6)
fair (28:15) (31:2) (40:7)
familiar (23:11) (23:21)
far (33:7)
fast (25:3) (28:24) (29:3) (39:6)
february (1:14) (3:1) (46:15)
feet (7:2) (29:10) (29:12) (33:9) (43:6)
felonies (5:4) (39:9)
felony (47:5)

felt (41:21)
field (38:16) (44:23)
file (27:9)
filed (44:1)
fill (3:18) (44:17)
finally (18:10) (18:20) (22:6) (22:16)
financially (49:11)
find (14:20) (46:2)
finding (44:25)
fine (42:21)
firearms (46:10)
fired (12:12) (40:12) (40:20) (40:22) (41:13)
first (4:15) (4:20) (6:10) (15:7) (15:8) (24:1) (24:11)
 (24:16) (25:4) (25:8) (25:10) (25:13) (26:21) (28:9) (36:3)
 (40:23)
flight (47:14)
flip (31:12)
flipped (25:22) (26:1) (26:8) (28:20)
floating (47:16)
floorboard (12:22) (36:17) (36:18) (37:23)
folded (11:18) (11:19)
follow (26:12) (28:9) (28:23) (31:12)
followed (25:23) (26:1)
following (46:14)
follows (4:17)
for (1:19) (1:21) (4:10) (4:20) (5:4) (8:23) (9:1) (10:2)
 (12:15) (13:12) (13:19) (14:14) (15:25) (16:3) (16:11)
 (16:14) (16:24) (17:5) (17:21) (17:22) (18:21) (19:4) (19:10)
 (19:21) (19:23) (21:2) (21:12) (21:22) (21:24) (21:25) (22:7)
 (22:11) (22:21) (23:2) (23:25) (24:5) (24:9) (24:22) (27:9)
 (29:9) (33:16) (34:17) (35:8) (36:12) (36:13) (36:24) (37:10)
 (37:16) (39:3) (39:9) (39:10) (39:14) (41:18) (43:15) (44:13)
 (44:19) (45:6) (46:2) (47:3) (49:5)
foregoing (50:2)
form (14:23)
forth (39:11)
forward (36:11)
found (15:19) (20:6)
free (12:16)
freezer (20:18)
from (8:12) (8:19) (10:21) (12:20) (14:22) (15:11) (15:13)
 (18:6) (26:25) (28:8) (33:21) (33:23) (33:24) (34:1) (34:7)
 (34:8) (34:12) (36:11) (37:11) (38:7) (39:19) (40:12) (40:23)
 (42:10) (42:15) (45:11)
front (10:8) (12:11) (30:4) (30:7)
further (14:2) (20:13) (22:20) (27:6) (41:4) (43:6) (43:10)
 (43:18) (43:20) (44:5) (44:8) (45:4) (45:5) (45:14) (49:9)
future (4:8)

G

gave (7:21) (35:3) (35:4)
get (8:9) (8:10) (8:11) (10:12) (26:22)
gets (32:18)
getting (32:24) (33:1)
give (7:19) (10:11) (42:9) (42:19)
given (9:11) (12:19)
giving (34:5)
glass (20:13) (20:18)
glove (13:25) (14:1) (14:4) (14:5) (14:6) (14:24)
going (4:9) (26:3) (26:4) (27:20) (30:16) (35:23) (39:7)
 (46:19)
gold (15:3) (15:4) (15:7) (15:8) (17:6) (17:25)
good (33:16) (44:19)
got (31:18) (31:19) (32:20) (32:21) (33:13) (40:3) (41:21)
gotten (7:5) (7:10)
grams (16:15) (17:4) (17:22) (21:2) (21:16) (21:24) (22:10)
green (12:21) (20:19) (41:24)
gross (16:15) (17:4) (17:22) (21:2) (21:16) (21:24) (22:10)
ground (40:8)
guessing (42:19)
gun (44:25)

H

had (3:20) (6:23) (7:5) (7:10) (11:19) (11:21) (11:24)
 (12:10) (13:7) (13:17) (14:6) (14:9) (15:8) (16:9) (22:21)
 (30:8) (31:6) (34:19) (34:22) (35:9) (37:15) (38:13) (38:18)
 (39:4) (39:21) (40:19) (41:17) (41:19)

hand	lopez
hand (6:16) (27:21) handcuffs (12:8) (12:10) (12:14) handgun (18:14) happened (6:18) has (9:3) (14:23) (19:23) (22:20) (23:3) (46:3) (46:24) (47:4) have (3:17) (4:25) (5:2) (5:5) (5:9) (7:1) (8:23) (13:16) (14:15) (16:8) (20:10) (27:6) (27:11) (27:15) (28:6) (29:10) (31:22) (33:15) (34:19) (34:21) (35:17) (35:21) (36:10) (41:4) (42:5) (42:20) (42:22) (42:24) (45:17) (45:20) (46:1) (46:21) (47:13) (47:18) (49:6) having (19:3) head (10:23) (35:13) heard (47:18) hearing (1:7) (16:1) (16:4) (16:11) (45:19) (46:20) (47:3) held (37:16) help (36:7) her (22:24) here (3:25) (5:25) (8:22) (8:25) (23:22) (24:14) (25:14) (26:5) (26:18) (27:3) (27:4) (31:2) (37:21) (39:16) (40:1) (40:8) (40:9) (44:22) hereby (49:5) (50:1) heroin (16:21) (16:24) (17:5) (18:9) (21:20) (22:7) (22:11) hidden (15:19) high (7:5) (25:20) (28:2) (30:11) (30:19) (32:13) (34:24) (39:6) (43:5) (44:20) him (7:15) (7:19) (7:21) (8:1) (9:1) (10:9) (12:10) (12:11) (12:13) (12:14) (24:20) (25:8) (25:10) (25:23) (26:1) (26:2) (26:12) (28:9) (28:10) (28:20) (28:23) (28:24) (29:6) (30:24) (30:25) (31:1) (32:13) (34:4) (34:5) (34:20) (34:22) (38:19) (39:8) (39:9) (39:10) (39:13) (40:21) (41:17) (41:19) (43:15) his (5:3) (7:9) (8:2) (8:16) (8:18) (9:4) (9:11) (10:8) (10:10) (10:12) (10:13) (10:21) (12:15) (13:1) (13:17) (19:6) (28:12) (29:4) (30:17) (32:9) (32:11) (32:15) (32:19) (32:20) (33:10) (33:23) (34:3) (34:7) (35:1) (39:12) (42:10) history (47:16) hit (13:24) hold (9:23) (14:9) (46:3) honor (3:10) (3:13) (3:23) (4:24) (5:5) (5:10) (9:7) (11:2) (15:22) (15:24) (16:2) (16:6) (19:1) (22:23) (23:15) (24:5) (37:10) (41:5) (45:15) (45:17) (45:23) (46:17) (47:2) (47:19) (47:20) honorable (1:13) horrid (18:6) hour (25:5) housekeeping (3:24) how (5:16) (10:20) (25:3) (26:22) (27:11) (28:24) (33:7) (33:25) (39:6) (39:18) (40:3) (40:25) (42:20) however (18:5) hundred (7:2) (29:10) (29:12) (43:6)	(30:21) (31:13) (31:25) (32:4) (32:7) (32:10) (32:15) (39:22) (40:3) (42:13) investigation (36:1) (36:8) (36:11) (36:20) (37:1) (37:6) invoking (4:3) involved (27:16) (49:10) issue (47:14) issues (12:17) item (15:15) (17:5) (17:23) (21:3) (21:17) (22:4) items (42:10) its (46:3)
J	
	january (5:20) jar (20:18) judicial (46:4) jumping (7:14) (31:21) juncture (45:25) (46:23) jurisdiction (46:18) just (3:23) (7:18) (9:25) (11:5) (13:19) (16:6) (23:25) (24:5) (24:9) (24:18) (25:12) (27:8) (35:21) (37:15) (38:3) (38:12) (41:12) (41:13) (42:5) (44:11) (47:2) justice (1:4) (1:13)
K	
	keller (1:9) (3:4) (3:6) (4:7) (8:25) (19:14) (37:3) (45:24) keller's (22:18) kept (6:19) killer (1:19) (3:17) (3:22) (4:2) (4:10) (4:24) (5:7) (5:15) (9:7) (11:2) (11:6) (14:14) (15:22) (15:24) (16:5) (16:14) (16:17) (16:23) (17:4) (17:18) (17:21) (19:1) (19:3) (19:23) (20:24) (21:14) (22:2) (22:13) (22:20) (23:15) (24:7) (27:8) (35:1) (37:10) (38:1) (39:23) (41:7) (41:11) (43:10) (43:22) (44:5) (45:2) (45:5) (45:15) (45:22) (47:19) kind (36:16) know (39:6) (40:3) (40:9) knowledge (13:20) (42:6)
L	
	lamb (5:23) (23:20) (24:10) (24:12) (24:16) (25:9) (26:25) (27:20) (28:3) (28:22) (29:6) (29:25) (30:9) (43:2) (44:21) lamp (6:22) (43:8) lane (6:13) (6:14) (6:19) (7:2) (7:3) (28:22) (29:6) (29:7) (39:5) (43:7) (44:21) lanes (6:16) large (10:15) (13:10) (20:18) larger (11:24) (18:11) las (1:4) (1:21) (3:1) (5:18) (5:25) (50:12) last (4:20) (46:18) leading (9:14) (25:11) (39:15) (44:25) leafy (12:22) (20:19) (36:16) (37:22) (40:7) (40:10) (41:24) leave (7:19) leaving (34:14) led (29:20) left (6:11) (6:15) (25:11) (26:24) (26:25) (27:21) (29:23) (29:24) less (30:25) (33:9) (42:23) (42:24) level (46:13) (46:16) license (10:13) light (32:5) (43:16) (44:19) lights (7:17) (7:18) (28:12) (31:7) (31:13) (31:22) (31:24) (32:12) (32:16) (42:14) like (10:17) (15:9) (15:10) (21:7) (26:10) (27:21) (33:16) likes (26:18) listed (23:22) (47:7) little (14:8) (15:1) (32:11) locate (12:18) (13:5) (15:3) (15:7) (16:20) (17:25) (18:10) (18:13) (18:20) (19:10) (20:18) (21:5) located (5:25) (13:10) (16:8) (20:1) (20:4) (20:11) (20:14) (21:20) (22:18) (27:3) location (24:16) long (9:5) (27:11) (40:25) (42:20) look (10:25) looked (14:1) looking (14:5) (47:9) looks (26:18) loose (35:9) (35:10) (35:21) lopez (2:4) (3:22) (3:24) (4:13) (4:21) (5:16) (21:5)
I	
identification (9:8) identify (9:2) ignore (44:24) iii (6:25) illegal (27:24) (27:25) (29:8) impounded (18:24) included (17:8) (49:7) increments (11:20) indicate (8:2) (11:15) (12:4) indicated (8:3) (46:19) indicating (44:18) individual (8:22) information (46:24) (47:8) ingested (37:15) (38:9) initially (40:21) (41:18) initiating (7:16) inside (8:19) (13:6) (18:7) (31:25) (32:22) (33:24) (34:1) (34:7) (37:4) (38:13) (39:12) (41:24) inspect (13:16) instructions (34:6) intent (46:9) interested (49:11) intersection (23:20) into (6:12) (6:24) (7:7) (7:10) (7:12) (24:19) (26:12) (26:21) (26:22) (26:24) (26:25) (27:2) (29:15) (30:12)	

l-o-p-e-z

person

<p>(23:11) (27:11) (38:6)</p> <p>l-o-p-e-z (4:22)</p> <p>losses (46:18)</p> <p>lost (31:3) (38:2) (38:3)</p> <p>lot (9:4) (13:7) (15:8)</p> <p>low (47:17)</p> <p>lower (46:13) (46:15)</p>	<p>(40:12)</p> <p>nrs (49:6)</p> <p>number (15:16) (40:16) (40:18) (49:7)</p> <p>numerous (9:23) (35:2)</p>
M	
<p>ma'am (3:16)</p> <p>machine (50:4)</p> <p>made (6:20) (7:7) (7:11) (26:24) (26:25) (29:24) (37:23) (43:2)</p> <p>major (23:19)</p> <p>make (8:8) (27:8) (27:21) (29:3) (29:23) (44:11)</p> <p>maker (24:20)</p> <p>making (6:11) (25:11) (32:6) (32:10)</p> <p>map (23:19) (23:22) (23:25) (24:23) (25:25) (26:9) (26:23)</p> <p>marginal (45:25)</p> <p>marijuana (20:23) (21:2) (33:3) (33:15) (37:14) (37:16) (37:17) (37:18) (37:24) (38:9) (38:12) (38:18) (38:22) (38:23) (38:25) (39:18) (39:19) (40:2) (40:9) (41:25) (46:7)</p> <p>mark (22:24) (24:24) (25:12) (26:6) (27:5)</p> <p>marked (23:3) (26:9) (43:1)</p> <p>marker (24:23)</p> <p>marking (16:4) (24:23)</p> <p>matter (3:9) (3:23) (4:5) (4:7) (16:6) (47:10)</p> <p>may (11:2) (11:4) (15:22) (15:23) (19:1) (19:2) (22:23) (23:5) (23:6) (23:15) (34:19) (34:21) (35:21) (46:1)</p> <p>mentioned (39:4)</p> <p>met (46:3)</p> <p>methamphetamine (15:14) (15:19) (16:15) (17:7) (21:11) (21:17) (21:23) (21:25)</p> <p>metro (37:11)</p> <p>metropolitan (5:19) (27:12)</p> <p>michael (1:21)</p> <p>middle (28:22)</p> <p>might (9:12) (9:21) (29:9) (41:22) (47:10)</p> <p>miles (25:5)</p> <p>millimeter (20:1) (20:8)</p> <p>mind (35:7)</p> <p>minutes (42:23)</p> <p>misdemeanor (47:5)</p> <p>misstates (35:1) (39:23)</p> <p>money (12:4) (12:5)</p> <p>more (10:18) (30:25) (44:6)</p> <p>morning (3:12) (4:11)</p> <p>mostly (11:25)</p> <p>move (5:8) (24:6)</p> <p>much (10:20)</p> <p>multi-colored (17:12)</p> <p>must (33:15)</p>	<p>obey (7:23)</p> <p>obeying (8:1)</p> <p>objection (5:9) (8:5) (9:14) (24:7) (35:1) (38:1) (39:23) (45:2)</p> <p>objections (3:15)</p> <p>observation (28:11)</p> <p>observations (8:7)</p> <p>observe (14:2) (28:23) (38:8) (43:7)</p> <p>observed (8:9) (9:11) (10:1) (29:5) (33:2)</p> <p>obtain (14:11) (19:20)</p> <p>obtained (14:17)</p> <p>occur (42:17)</p> <p>occurred (10:6) (46:1)</p> <p>occurring (12:7)</p> <p>odor (8:20) (8:21) (33:3) (33:16) (33:19) (33:21)</p> <p>odors (8:13)</p> <p>odv (15:18) (16:15) (16:24) (17:4) (17:8) (17:22) (21:1) (21:12) (21:16) (21:22) (21:24) (22:7) (22:10)</p> <p>off (6:11) (10:22) (14:25) (25:10) (26:2) (33:5) (34:2) (34:7) (34:11) (35:12)</p> <p>office (43:23) (44:2) (44:3) (44:13) (44:16) (45:11) (45:12)</p> <p>officer (3:22) (3:24) (5:16) (13:13) (13:15) (13:17) (17:6) (19:5) (19:7) (21:5) (23:11) (23:18) (24:22) (27:11) (27:13) (35:25) (36:19) (37:1) (37:5) (38:6) (40:24) (45:6)</p> <p>officers (16:20)</p> <p>okay (9:15) (16:16) (23:24) (24:13) (26:7) (27:18) (28:14) (31:11) (31:16) (32:2) (37:20)</p> <p>once (7:10) (14:17)</p> <p>one (4:10) (6:15) (11:22) (15:15) (15:16) (17:5) (17:23) (18:16) (19:18) (20:8) (29:2) (36:3) (36:12) (44:6)</p> <p>only (3:25) (16:1) (16:4) (28:21)</p> <p>open (12:19) (14:4) (14:5) (14:23)</p> <p>opening (14:8)</p> <p>opposite (25:16) (30:3)</p> <p>order (39:24)</p> <p>original (50:4)</p> <p>other (11:23) (16:19) (20:16) (23:21) (39:4) (39:10) (40:10)</p> <p>our (43:23)</p> <p>out (7:14) (8:9) (10:10) (24:15) (26:2) (29:23) (31:19) (31:21) (32:18) (32:20) (32:21) (33:13) (41:21) (42:2) (44:17) (44:23)</p> <p>outfit (9:3)</p> <p>outside (4:9) (10:15) (32:24) (33:1)</p> <p>oval (17:12)</p> <p>over (7:1) (7:21) (24:3) (29:12) (30:16) (38:19)</p> <p>own (32:20)</p> <p>ownership (46:10)</p>
N	
<p>name (4:20)</p> <p>named (22:18)</p> <p>narcotics (12:6) (13:18) (14:3) (39:14) (39:16)</p> <p>near (9:4) (34:4)</p> <p>need (46:12)</p> <p>negotiated (3:9)</p> <p>nevada (1:4) (1:6) (1:21) (3:1) (5:4) (6:1) (18:21) (19:10) (48:3) (49:5) (49:23) (50:12)</p> <p>never (31:3)</p> <p>newton (13:17)</p> <p>next (6:18) (11:22) (34:3) (34:4)</p> <p>nor (49:11)</p> <p>north (24:12) (24:16) (25:9) (27:20) (28:3) (28:22) (29:6) (30:9) (44:21)</p> <p>northbound (6:13) (25:11)</p> <p>not (3:9) (7:19) (27:25) (30:13) (31:9) (31:10) (34:14) (35:12) (37:3) (37:8) (38:3) (38:8) (38:11) (38:18) (38:20) (38:25) (39:2) (39:8) (39:25) (40:15) (41:1) (41:25) (43:17) (43:24) (44:15) (45:18) (46:1) (47:12) (49:6) (49:9)</p> <p>notes (50:4)</p> <p>nothing (4:16)</p> <p>noticed (6:10) (6:22)</p> <p>now (29:15) (30:2) (31:17) (33:7) (35:23) (36:6) (36:15)</p>	<p>package (15:15) (17:5) (17:23) (21:3) (21:17) (22:4) (22:6)</p> <p>page (19:6)</p> <p>pants (35:9)</p> <p>paperwork (44:17)</p> <p>parked (33:7)</p> <p>parking (7:12) (30:22) (32:15) (33:11)</p> <p>particular (35:15) (35:18) (36:1) (40:17) (45:25) (46:23) (47:1)</p> <p>party (49:10)</p> <p>party's (27:9)</p> <p>passed (26:5) (43:2)</p> <p>passenger (6:22) (14:23) (36:17) (43:7)</p> <p>passing (24:18) (25:16) (28:3) (28:16) (30:8)</p> <p>past (35:23)</p> <p>pat (9:13) (9:17) (9:24) (10:5) (10:7) (12:7) (34:21) (35:7)</p> <p>patrol (12:15) (27:16) (28:4) (43:1)</p> <p>pay (22:17)</p> <p>peace (1:13)</p> <p>pendency (45:10)</p> <p>period (25:7) (29:9) (42:17) (42:18)</p> <p>permission (10:11) (42:9)</p> <p>person (8:16) (8:18) (13:1) (33:22) (33:23) (34:11) (37:5)</p>
P	

personal

(37:25) (38:7) (46:11) (49:7) (49:11)
personal (42:6)
person's (37:23)
photographs (37:11) (42:5) (42:7)
pictures (36:20) (36:21) (36:24) (37:2) (37:4) (37:7) (37:8)
piggyback (19:20) (19:25)
pills (17:12)
pint (42:15)
pipes (20:13)
place (50:5)
placed (12:8) (12:10) (12:13) (12:14) (14:9) (39:13) (41:17)
plain (12:19)
plaintiff (1:7)
plastic (13:6) (13:7) (13:10) (17:15) (21:6) (21:19)
plate (6:21) (19:17) (29:4)
please (4:19) (27:5) (45:9)
pocket (10:9) (10:10) (10:21) (42:10)
point (7:9) (9:1) (12:7) (13:12) (24:15) (25:15) (25:22)
 (28:8) (28:19) (29:15) (30:21) (31:6) (32:4) (32:14) (34:17)
 (36:6) (36:11) (36:19) (36:24) (37:19) (38:6) (38:8) (38:16)
 (38:24) (39:21) (40:3) (42:14) (42:16) (44:12) (45:18) (47:9)
pointing (23:16)
police (5:19) (27:12)
pop (14:25)
portion (32:11)
positive (16:15) (17:5) (17:22) (21:1) (21:16) (21:25)
 (22:11) (37:8)
possessed (39:11)
possession (46:6) (46:8) (46:10)
potentially (44:18)
powdery (17:16)
precaution (4:5)
prejudgments (5:3)
preliminary (1:7) (16:1) (16:4) (16:11) (45:19) (46:20)
pre-marked (4:25)
present (3:6) (37:18)
pre-trail (47:8)
pretty (33:16) (33:17) (33:19)
previously (5:2) (10:2) (10:3) (14:15) (19:24)
primary (35:25) (36:19) (37:1) (37:5)
printout (23:19)
prior (8:1) (47:15)
probable (12:24) (13:4) (35:7) (39:22) (40:4)
probably (8:3) (26:4) (47:17)
procedure (16:23)
proceeded (7:11)
proceedings (1:12) (47:22) (50:2)
process (16:9)
prohibited (46:11)
prolonged (29:9)
property (19:4)
proposed (22:24) (23:3) (23:12)
prosecution (44:14)
provide (37:12)
provided (14:16) (19:24) (46:24)
providing (17:24)
proximity (34:13)
pull (6:24) (26:2)
pulled (7:12) (10:19) (24:3) (24:19) (29:15) (31:18) (32:3)
 (32:9) (32:15) (38:19)
pulling (7:15) (30:12) (31:25)
pulls (30:21) (32:7)
purposes (16:1) (16:3) (16:11)
pursuant (15:25) (16:25) (17:19) (20:25) (21:15) (22:3)
 (22:14) (49:6)
put (40:13) (41:19) (44:21)

Q

question (38:14) (44:6)
questions (22:21) (27:6) (41:4) (43:10) (43:18) (44:5)
 (45:4) (45:5)
quick (7:12) (8:10) (8:11) (8:12) (47:2)
quickly (6:24) (33:17)

R

ran (19:17)
range (42:21)

same

rate (7:5) (25:20) (28:3) (29:3) (30:11) (30:19) (32:13)
 (34:24) (39:6) (43:5) (44:20)
reading (3:14)
real (47:2)
really (8:11) (8:12) (39:25)
rear (6:22)
reason (28:21) (28:23) (34:18)
reasonable (9:20)
reasons (39:20) (46:2)
recall (10:22) (11:11) (25:25) (35:12) (37:2)
receive (3:11)
recollection (10:24) (11:9) (18:23) (19:6) (19:8) (19:15)
recommend (44:12) (44:15)
record (4:10) (4:20) (9:1) (9:8) (13:19) (14:14) (16:14)
 (17:21) (19:23) (23:2) (23:25) (24:5) (24:9) (24:22) (37:10)
records (6:20) (29:4) (37:12)
recover (10:21) (17:15)
recovered (11:12) (15:15) (18:18) (19:19)
re-cross-examination (44:8)
recross-examination (43:12)
red (24:23)
redirect (41:6) (41:9)
referencing (14:15)
reflect (9:8)
reflected (50:3)
refresh (10:24) (11:9) (18:23) (19:6) (19:7)
regards (15:18)
registered (19:13) (19:16) (19:18)
registration (19:10)
regulation (18:21)
relative (49:9)
relatively (34:13)
remain (7:13)
remove (42:10)
removed (10:14) (14:7)
removing (10:14)
rephrase (9:16) (38:5)
report (10:25) (19:4)
reported (1:25) (50:2)
reporter (49:5) (50:11)
reporter's (1:12) (48:1)
representative (45:11)
represented (3:7)
requesting (37:11)
reserve (45:22)
reserving (3:15)
residue (12:22)
responded (42:2)
responsible (36:12) (36:13)
rest (35:24) (45:21)
rests (45:16)
result (19:19) (22:10)
results (16:7) (16:12)
return (47:15)
returning (16:17) (22:6)
review (11:5)
reviewed (19:16)
right (7:12) (8:25) (10:9) (14:6) (16:10) (25:1) (25:6)
 (26:15) (26:18) (27:3) (27:4) (28:1) (30:15) (30:24) (30:25)
 (31:18) (32:6) (32:8) (32:10) (36:4) (37:13) (37:17)
risk (41:22)
road (6:24)
roads (7:8)
robert (1:9) (1:25) (3:4) (49:4) (49:14) (49:16) (50:1)
 (50:8) (50:10)
rounds (18:14)
ruger (20:1) (20:11)
rule (4:4)
run (38:16)

S

safer (12:15)
safety (41:18)
said (25:2) (34:17) (36:15) (38:6) (40:12) (40:19) (49:10)
 (49:11) (50:4)
sale (12:6)
same (16:23) (30:8) (30:10) (50:3)

sanft

that

sanft (1:21) (3:7) (3:10) (3:13) (3:16) (3:23) (4:5) (5:5) (5:9) (8:5) (9:14) (11:8) (16:2) (16:6) (17:2) (22:23) (23:2) (23:10) (24:5) (24:21) (27:6) (35:4) (38:5) (41:4) (43:14) (43:18) (44:6) (44:10) (45:4) (45:17) (45:23) (46:17) (47:2) (47:20)
sanft's (45:11)
sarah (1:19)
saw (24:1) (24:11) (24:16) (25:4) (25:8) (25:10) (25:13) (26:2) (27:20) (28:9) (36:16) (41:24)
say (6:14) (28:2) (28:15) (30:10) (31:2) (40:7)
saying (33:21)
scales (20:14)
scene (36:4) (40:25) (42:3)
sealable (13:6) (13:10) (15:4)
search (12:25) (13:4) (14:11) (14:14) (14:17) (14:18) (19:4) (19:20) (19:25) (20:17) (22:16) (22:18) (40:5)
searched (19:11)
seat (13:8) (13:9)
seated (4:19)
second (16:19) (17:6) (17:14) (19:5) (21:23)
seconds (42:25)
secret (14:20)
security (49:7)
see (8:22) (18:23) (23:16) (26:3) (27:10) (30:2)
seen (5:5)
sell (46:9)
semi-auto (20:1)
sent (5:2)
separate (21:24)
service (19:25)
services (47:8)
serving (20:17)
set (46:19) (46:21) (46:25) (47:3) (47:10) (47:13)
she (42:5)
sheet (15:18) (16:24) (17:8) (17:22) (18:24) (21:24) (22:7) (47:8)
shirt (35:10)
short (9:5) (9:6) (18:14) (20:3) (42:17) (42:18)
shorthand (50:4)
shots (12:12) (40:12) (40:20) (40:21) (41:13)
show (13:19) (36:7)
showing (11:6) (17:1) (17:18) (19:5) (20:24) (21:14) (22:2) (22:13) (23:2) (23:12) (26:3) (30:13)
shown (19:3)
side (7:14) (12:23) (14:6) (14:24) (34:5) (36:17) (36:18)
signed (49:14) (50:8)
silver (6:6)
since (24:14) (36:25)
sir (6:2)
siren (7:17)
sirens (31:7) (31:14) (31:22) (31:24) (32:5)
sitting (8:25)
skip (35:23)
sleeve (9:5) (9:6)
slight (37:22) (45:25)
slow (29:22)
small (14:8) (17:15)
smaller (11:25) (13:7) (15:4) (17:12) (17:25) (18:10) (18:13)
smell (8:13) (8:16) (8:18) (9:11) (10:1) (18:5) (18:6) (18:8) (33:16) (34:6) (34:11) (37:14) (37:17) (37:22) (37:24) (38:23) (39:17) (40:2)
smelled (33:3) (33:15) (38:21) (39:18)
smelling (13:1)
smoked (37:15) (38:9) (38:11) (38:12) (38:13) (38:18) (38:25) (39:1)
smoking (20:13)
sobriety (38:17)
social (49:7)
some (12:7) (17:7) (17:11) (23:23) (25:15) (25:22) (28:19) (29:15) (30:21) (36:6) (36:16) (37:19)
someone (37:15)
something (3:18) (26:10) (27:21)
somewhere (8:10) (26:5) (27:4) (41:13)
southbound (24:12) (29:25)
space (7:12)
speculation (8:5)

sped (6:23) (6:24) (7:10)
speed (7:5) (25:20) (28:3) (29:3) (30:8) (30:10) (30:11) (30:19) (32:14) (34:24) (39:6) (43:5) (44:20)
spell (4:20)
spoken (45:18)
spotted (25:8)
squad (24:15)
stall (30:22) (31:25) (32:9) (32:15) (33:11)
standard (45:24)
standing (34:3) (34:6)
start (26:12)
state (1:4) (1:6) (1:19) (3:22) (4:19) (4:23) (5:7) (12:3) (12:5) (22:20) (23:3) (35:4) (45:14) (45:16) (46:2) (48:3) (49:5) (49:23)
state's (4:25) (5:8) (16:5) (16:8) (16:13) (16:17) (16:23) (17:19) (20:25) (21:15) (22:4) (22:13)
step (4:9) (45:8)
stewart (23:20)
stewy (13:18) (13:23)
still (32:22)
stipulate (16:7) (16:12)
stipulation (15:25) (16:25) (17:19) (21:1) (21:15) (22:3) (22:14)
stop (5:23) (6:5) (7:16) (26:16) (29:2) (31:19) (32:18) (35:15) (35:18) (38:10) (42:16)
stopped (8:24) (40:23) (41:19)
straight (6:12)
straight-away (32:8)
stratus (6:6)
street (28:6) (28:17)
streetlight (28:8)
streetlights (28:7)
streets (23:22)
strong (18:5) (33:19)
stub (22:17)
stuff (35:24)
submit (45:23)
substance (15:9) (15:11) (16:20) (17:16) (20:19) (20:21) (21:7) (21:9) (21:20) (36:17) (37:22) (40:8) (40:10) (41:24) (46:5) (46:6) (46:8)
sunrise (6:11) (24:2) (25:11) (26:2) (28:24)
sure (4:8) (23:17) (38:15) (44:11)
suspicion (9:20)
sustained (8:6) (45:3)
sworn (4:15)

T

tail (6:22) (43:8) (43:15) (44:19)
taillight (30:1)
take (10:9) (36:20) (37:4)
taken (1:14) (36:21) (36:25) (37:2) (37:7) (50:4)
talking (6:15)
tattoos (9:4)
tell (4:15) (10:8) (10:18) (12:21) (29:1) (33:24) (35:6) (37:9) (38:11) (39:18) (41:1)
terms (39:15)
terry (9:13) (9:17) (12:7)
test (16:7) (21:12) (38:17)
testified (4:17) (40:8)
testifying (45:19)
testimony (24:9) (25:15) (25:19) (27:19) (28:19) (29:5) (29:11) (29:16) (30:2) (31:2) (31:17) (32:3) (32:21) (33:2) (35:2) (36:15) (37:21) (38:21) (39:16) (39:24) (40:1) (41:16) (45:7) (45:9)
than (33:9) (39:10) (42:23) (42:24) (43:6)
thank (4:24) (11:8) (45:6) (45:13) (47:19) (47:20)
that (3:8) (3:10) (3:24) (3:25) (5:22) (5:25) (6:5) (6:6) (6:8) (6:22) (6:23) (7:2) (7:7) (7:9) (7:13) (8:3) (8:9) (8:11) (8:20) (8:23) (8:24) (9:12) (9:21) (9:22) (9:25) (10:8) (10:12) (10:13) (10:15) (10:18) (11:5) (11:9) (11:12) (11:17) (11:18) (12:3) (12:16) (12:18) (12:21) (13:12) (14:1) (14:9) (14:11) (14:17) (14:20) (14:22) (14:24) (15:1) (15:3) (15:7) (15:10) (15:15) (16:2) (16:7) (16:8) (17:8) (17:14) (17:21) (17:24) (18:3) (18:8) (18:13) (18:18) (19:7) (19:11) (19:13) (19:16) (19:17) (19:23) (20:10) (20:21) (20:25) (21:1) (21:4) (21:9) (21:12) (22:8) (22:10) (22:18) (23:14) (23:18) (23:19) (23:22) (24:9) (24:19) (24:24) (25:2) (25:7) (25:12) (25:15)

that's

walk

(25:19) (25:24) (26:6) (26:10) (27:5) (27:7) (27:19) (27:22)
 (27:24) (28:4) (28:6) (28:7) (28:15) (28:19) (28:21) (29:5)
 (29:8) (29:11) (29:12) (29:14) (29:16) (29:17) (29:18)
 (29:20) (30:2) (30:4) (30:8) (30:17) (31:3) (31:17) (32:3)
 (32:4) (32:8) (33:2) (33:16) (33:17) (33:21) (34:17) (34:19)
 (34:23) (35:2) (35:4) (35:11) (35:12) (35:14) (35:18) (35:20)
 (35:22) (36:6) (36:7) (36:11) (36:15) (36:21) (37:15) (37:17)
 (37:21) (37:23) (37:24) (38:9) (38:12) (38:14) (38:18)
 (38:21) (38:24) (38:25) (39:4) (39:11) (39:16) (39:17)
 (39:20) (40:1) (40:4) (40:7) (40:12) (40:13) (40:17) (40:19)
 (40:20) (40:23) (40:24) (40:25) (41:2) (41:17) (41:18)
 (41:25) (42:15) (42:16) (42:20) (44:1) (44:18) (44:21)
 (44:23) (46:2) (46:22) (46:24) (47:4) (47:10) (47:17) (49:6)
 (49:9) (50:2) (50:3)

that's (36:3)

the (1:4) (1:6) (1:13) (1:19) (1:21) (3:4) (3:8) (3:11)
 (3:14) (3:15) (3:18) (3:22) (3:24) (3:25) (4:3) (4:6) (4:8)
 (4:10) (4:15) (4:16) (4:19) (4:20) (4:21) (4:23) (5:7) (5:11)
 (5:18) (5:23) (6:10) (6:12) (6:14) (6:19) (6:21) (6:22) (6:23)
 (6:24) (7:2) (7:7) (7:10) (7:13) (7:14) (7:15) (7:16) (7:20)
 (8:6) (8:7) (8:10) (8:14) (8:17) (8:19) (8:21) (8:22) (8:23)
 (9:1) (9:7) (9:8) (9:10) (9:11) (9:15) (9:22) (10:1) (10:2)
 (10:5) (10:7) (10:14) (10:15) (10:17) (10:19) (10:22) (11:4)
 (11:7) (11:11) (11:12) (11:14) (11:17) (11:18) (11:19)
 (11:21) (11:22) (11:23) (11:24) (11:25) (12:1) (12:3) (12:5)
 (12:6) (12:7) (12:8) (12:11) (12:12) (12:14) (12:19) (12:22)
 (12:23) (12:25) (13:1) (13:4) (13:8) (13:9) (13:15) (13:16)
 (13:18) (13:19) (13:23) (13:24) (13:25) (14:4) (14:5) (14:6)
 (14:14) (14:18) (14:23) (14:24) (15:8) (15:19) (15:23) (16:3)
 (16:7) (16:10) (16:11) (16:12) (16:14) (16:16) (16:17)
 (16:19) (16:23) (16:24) (17:3) (17:6) (17:20) (17:21) (17:24)
 (18:4) (18:7) (18:10) (18:11) (18:14) (18:16) (18:20) (18:21)
 (19:2) (19:4) (19:5) (19:16) (19:18) (19:19) (19:21) (19:23)
 (19:25) (20:6) (20:10) (20:11) (20:14) (20:16) (20:17)
 (20:18) (21:4) (21:5) (21:18) (21:19) (21:23) (22:5) (22:6)
 (22:7) (22:15) (22:16) (22:20) (22:22) (23:1) (23:2) (23:3)
 (23:6) (23:17) (23:19) (23:21) (23:22) (23:25) (24:1) (24:2)
 (24:5) (24:8) (24:9) (24:18) (24:20) (24:22) (25:12) (25:16)
 (26:9) (26:12) (26:16) (26:21) (26:22) (26:24) (27:1) (27:2)
 (27:10) (27:12) (27:15) (28:8) (28:16) (28:21) (28:22)
 (28:23) (29:6) (29:7) (29:15) (29:23) (29:24) (30:1) (30:2)
 (30:3) (30:8) (30:10) (30:12) (30:16) (31:13) (31:19) (31:20)
 (31:21) (31:25) (32:4) (32:7) (32:10) (32:14) (32:16) (32:18)
 (32:22) (33:3) (33:19) (33:24) (34:1) (34:4) (34:7) (34:10)
 (34:12) (34:14) (34:19) (34:23) (35:4) (35:7) (35:12) (35:23)
 (35:24) (35:25) (36:1) (36:3) (36:4) (36:10) (36:12) (36:17)
 (36:18) (36:19) (36:25) (37:4) (37:5) (37:7) (37:8) (37:10)
 (37:11) (37:13) (37:14) (37:22) (37:24) (38:3) (38:10)
 (38:13) (38:23) (38:25) (39:4) (39:5) (39:8) (39:9) (39:10)
 (39:14) (39:15) (39:17) (39:18) (39:19) (39:20) (39:22)
 (39:23) (39:24) (39:25) (40:2) (40:3) (40:4) (40:5) (40:7)
 (40:8) (40:20) (40:21) (40:23) (40:24) (40:25) (41:1) (41:6)
 (41:12) (41:14) (41:17) (41:19) (41:21) (41:24) (41:25)
 (42:2) (42:6) (42:9) (42:10) (42:12) (42:13) (42:15) (42:16)
 (43:2) (43:5) (43:6) (43:8) (43:15) (43:23) (44:1) (44:2)
 (44:13) (44:15) (44:20) (44:23) (44:25) (45:3) (45:6) (45:10)
 (45:11) (45:16) (45:17) (45:19) (45:24) (46:2) (46:4) (46:9)
 (46:13) (46:15) (46:18) (46:22) (46:24) (46:25) (47:3) (47:7)
 (47:12) (47:14) (47:15) (49:5) (49:7) (50:2) (50:3)

them (23:23) (30:5) (30:7) (34:12) (37:12)

then (17:14) (21:15) (25:2) (26:8) (26:12) (30:21) (32:8)
 (32:15) (33:13) (34:17) (39:21)

there (4:6) (7:11) (10:18) (12:11) (12:12) (12:21) (14:8)
 (14:9) (14:25) (15:2) (17:6) (17:11) (18:5) (18:6) (19:15)
 (19:18) (20:3) (22:19) (28:8) (29:24) (29:25) (32:8) (33:15)
 (34:4) (34:6) (35:2) (35:20) (37:7) (37:14) (37:18) (37:24)
 (38:12) (40:16) (44:18) (46:23) (47:16)

these (39:3) (39:11) (44:12)

they (13:15) (36:10) (46:19)

think (46:21) (47:17)

thinking (47:9)

third (17:25) (21:19) (22:6)

this (3:8) (3:12) (4:1) (4:11) (5:7) (6:3) (19:4) (22:24)
 (23:25) (24:23) (25:3) (25:4) (25:25) (26:9) (26:23) (27:3)
 (28:6) (31:6) (36:1) (36:14) (36:20) (37:1) (37:6) (37:23)
 (40:2) (45:18) (45:21) (46:17) (46:23) (47:1) (47:9) (47:10)
 (49:8)

those (5:6) (6:15) (7:23) (8:1) (8:16) (18:16) (35:4) (42:6)
 (46:2)
 though (29:24) (34:12)
 thought (29:17) (36:16) (44:18)
 through (5:1) (16:9) (32:14) (39:5)
 time (5:7) (6:5) (7:13) (14:11) (25:7) (29:9) (40:23)
 (40:24) (41:1) (42:17) (42:18) (45:21) (46:14) (46:18) (50:5)
 to-- (8:4)
 toady (31:3)
 today (8:23) (37:21) (40:1) (40:8) (45:7) (47:18)
 too (47:17)
 took (42:5)
 top (10:22) (35:12)
 total (10:20) (11:11) (17:8) (46:25) (47:1) (47:4)
 totaling (21:2)
 towards (28:20)
 township (1:4)
 traffic (7:16) (29:25) (30:3) (30:4) (38:10) (39:4) (39:8)
 (44:13)
 trafficking (46:5)
 training (11:16) (12:2) (15:11) (15:13) (20:22) (21:10)
 transcript (1:12)
 travel (7:3) (24:2) (32:13)
 traveled (7:1)
 traveling (6:19) (24:10) (24:12) (25:2) (25:3) (25:9)
 (25:16) (25:19) (28:2) (28:15) (28:22) (29:3) (29:6) (29:11)
 (39:5) (43:6) (44:19)
 travelling (44:20)
 tried (31:19)
 true (50:3)
 truth (4:15) (4:16)
 trying (8:4) (8:9) (8:10) (8:11) (29:17) (38:3)
 tuesday (1:14) (3:1)
 turn (6:11) (6:14) (7:2) (7:7) (7:12) (25:11) (26:24)
 (26:25) (27:21) (29:7) (29:23) (29:24) (31:12) (32:6) (32:8)
 (32:10) (43:7)
 turned (25:22) (32:5) (32:16) (42:15)
 turning (42:13)
 type (38:16) (44:22)

U

ultimately (36:12) (36:13)
 under (39:13)
 underneath (13:8)
 understand (47:4) (47:7)
 understanding (3:8)
 unless (45:10)
 upon (12:2) (26:23) (28:11) (34:19) (34:23) (35:20) (39:20)
 (46:24) (47:3) (47:13)
 use (24:20)
 used (40:4)
 u-turn (6:20) (29:4) (43:3)

V

vague (38:1)
 variety (11:25)
 various (15:19)
 vegas (1:4) (1:21) (3:1) (5:18) (5:25) (50:12)
 vehicle (5:22) (6:5) (6:9) (6:10) (6:12) (6:19) (7:9) (7:13)
 (7:15) (7:22) (8:19) (12:11) (12:15) (12:23) (13:2) (13:18)
 (13:23) (14:18) (18:21) (19:5) (19:11) (19:20) (28:12)
 (30:17) (31:4) (31:20) (31:21) (32:19) (32:20) (32:22)
 (32:23) (32:24) (33:2) (33:7) (33:8) (33:13) (33:24) (34:1)
 (34:8) (34:12) (35:17) (37:5) (37:7) (37:23) (38:13) (39:1)
 (39:12) (39:22) (40:5) (41:18) (41:21) (41:25)
 vehicle's (28:12)
 verbal (7:21) (7:23) (8:1)
 versus (34:11)
 very (18:6) (35:9) (35:10) (42:18)
 vicinity (26:9) (34:14)
 view (12:19)
 violations (39:4) (39:9)

W

wad (10:15) (11:24)
 waive (3:13) (45:22)
 walk (7:21)

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CLERK OF THE COURT

1 **NOTC**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ELIZABETH ANDERLIK
6 Deputy District Attorney
7 Nevada Bar #13444
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-16-312717-1

12 CHRISTOPHER ROBERT KELLER,
13 #1804258

DEPT NO: XIX

14 Defendant.

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

17 TO: CHRISTOPHER ROBERT KELLER, Defendant; and

18 TO: MICHAEL SANFT, ESQ., Counsel of Record:

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that pursuant to NRS
20 207.010, the STATE OF NEVADA will seek punishment of Defendant CHRISTOPHER
21 ROBERT KELLER, as a habitual criminal in the event of a felony conviction in the above-
22 entitled action.

23 That in the event of a felony conviction in the above-entitled action, the STATE OF
24 NEVADA will ask the court to sentence Defendant CHRISTOPHER ROBERT KELLER as
25 a habitual criminal based upon the following felony convictions, to-wit:

26 1. That on or about 2003, the Defendant was convicted in the State of
27 Nevada, for the crime of Possession of a Credit Card Without Cardholder Consent (felony) in
28 Case No. C189805B.


1 2. That on or about 2003, the Defendant was convicted in the State of
2 Nevada, for the crime of Burglary (felony) in Case No. C192923.

3 3. That on or about 2009, the Defendant was convicted in the State of
4 Nevada, for the crime of Possession of a Firearm by Ex-Felon (felony) in Case No. C252394.

5 4. That on or about 2013, the Defendant was convicted in the State of
6 Nevada, for the crime of Attempt Possession of a Firearm by Ex-Felon (felony) in Case No.
7 C279904.

8 5. That on or about 2013, the Defendant was convicted in the State of
9 Nevada, for the crime of Conspiracy To Violate Uniform Controlled Substances Act (felony)
10 in Case No. C287724.

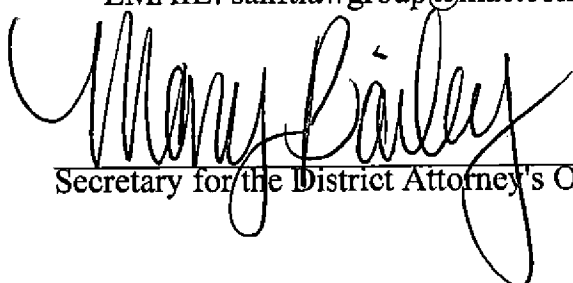
11 STEVEN B. WOLFSON
12 Clark County District Attorney
13 Nevada Bar #001565

14 BY 
15 ELIZABETH ANDERLIK
16 Deputy District Attorney
17 Nevada Bar #13444

18 CERTIFICATE OF ELECTRONIC FILING

19 I hereby certify that service of NOTICE OF INTENT TO SEEK PUNISHMENT AS
20 A HABITUAL CRIMINAL, was made this 24th day of March, 2016, by Electronic Filing to:

21 MICHAEL SANFT, ESQ.
22 EMAIL: sanftlawgroup@mac.com

23 
24 Secretary for the District Attorney's Office

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28 16F01430X/mlb/L-2


CLERK OF THE COURT

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ELIZABETH ANDERLIK
Deputy District Attorney
Nevada Bar #13444
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: C-16-312717-1

CHRISTOPHER ROBERT KELLER,
#1804258

DEPT NO: XIX

Defendant.

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

TO: CHRISTOPHER ROBERT KELLER, Defendant; and

TO: MICHAEL SANFT, Counsel of Record:

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

<u>NAME</u>	<u>ADDRESS</u>
BARLOW, DAWN	CCDA INVESTIGATOR
BELMONT, M.	LVMPD P#8240
CELAYA, K.	LVMPD P#13524
COLLINGWOOD, E.	LVMPD P#9494
CUSTODIAN OF RECORDS	LVMPD, Communications, 400 S. Martin Luther
Or Designee	King Blvd, LV, NV

///

1	CUSTODIAN OF RECORDS	LVMPD, Records, 400 S. Martin Luther King
2	Or Designee	Blvd, LV, NV
3	CUSTODIAN OF RECORDS	Clark County Detention Center, 330 S. Casino
4	Or Designee	Center Blvd., LV, NV
5	DONELSON, G.	LVMPD P#6508
6	EDENS, J.	LVMPD P#9874
7	EMBRY, C.	LVMPD P#6223
8	HARWELL, N.	LVMPD P#14766
9	HENRY, J.	LVMPD P#14753
10	HOUGH, S.	LVMPD P#7814
11	LOPEZ, D.	LVMPD P#9806
12	LOURENCO, M.	LVMPD P#5661
13	LUERCO, C.	LVMPD P#15405
14	NICOL, T.	LVMPD P#7774
15	REESE, S.	LVMPD P#7322
16	TAPIA, D.	LVMPD P#10044
17	THI, S.	LVMPD P#14373
18	TROTTER, V.	LVMPD P#7972
19	TURNER, G.	LVMPD P#13518
20	VANCE, J.	LVMPD P#9004
21	WARNER, G.	LVMPD P#6187

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

4 STEVEN B. WOLFSON
5 DISTRICT ATTORNEY
6 Nevada Bar #001565

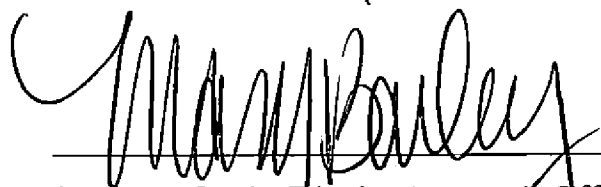
7 BY 
8 ELIZABETH ANDERLIK
9 Deputy District Attorney
10 Nevada Bar #13444

11 **CERTIFICATE OF ELECTRONIC FILING**

12 I hereby certify that service of Notice of Witnesses, was made this 24th day of March,
13 2016, by Electronic Filing to:

14 MICHAEL SANFT, ESQ.

15 EMAIL: sanftlawgroup@mac.com

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17 Secretary for the District Attorney's Office
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28 16F01430X/mlb/L-2

NWEW
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ELIZABETH ANDERLIK
Deputy District Attorney
Nevada Bar #13444
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff


CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: C-16-312717-1

CHRISTOPHER ROBERT KELLER,
#1804258

DEPT NO: XIX

Defendant.

NOTICE OF EXPERT WITNESSES
[NRS 174.234(2)]

TO: CHRISTOPHER ROBERT KELLER, Defendant; and

TO: MICHAEL SANFT, ESQ., Counsel of Record:

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

ALTHNETHER, JASON, P#14221 - a Forensic Scientist with the Las Vegas
Metropolitan Police Department. He is an expert in the field of chemical analysis of controlled
substances, techniques employed in this case, results of those tests and any reports therefrom,
including the weight of the questioned substance.

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

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

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

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

7 BY

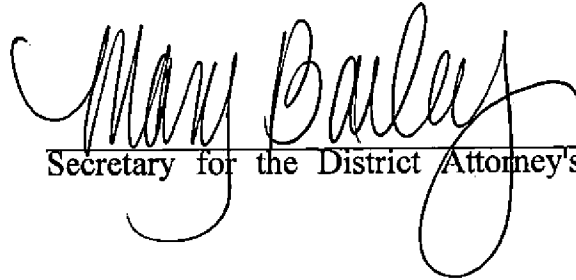


8 ELIZABETH ANDERLIK
9 Deputy District Attorney
10 Nevada Bar #13444

11 **CERTIFICATE OF ELECTRONIC FILING**

12 I hereby certify that service of Notice of Expert Witnesses, was made this
13 29th day of March, 2016, by Electronic Filing to:

14 MICHAEL SANFT, ESQ.
15 EMAIL: sanftlawgroup@mac.com

16 

17 Secretary for the District Attorney's Office
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**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
FORENSIC LABORATORY
CURRICULUM VITAE**

Date: 9/23/2015

Name: Jason S. Altnether P#: 14211 Classification: Forensic Scientist II

Current Discipline of Assignment: Controlled Substances

EXPERIENCE IN THE FOLLOWING DISCIPLINE(S)			
Controlled Substances	X	Toxicology/Blood Alcohol	
Toolmarks		Toxicology/Breath Alcohol	
Trace Evidence		Toxicology/Drugs	
Arson Analysis		Firearms	
Latent Prints		Crime Scene Investigations	
Serology		Clandestine Laboratory Response Team	X
Document Examination		DNA Analysis	
Quality Assurance		Technical Support / DNA	
EDUCATION			
Institution	Dates Attended	Major	Degree Completed
Arizona State University	1994-1999	Chemistry	B/S
ADDITIONAL TRAINING / SEMINARS			
Course / Seminar	Location	Dates	
Hazard Assessment and Response Management for CBRNE Incidents – Center for Domestic Preparedness (FEMA)	Anniston, AL	09/09/15-09/11/15	
Forensic GC-MS Workshop	Las Vegas, NV	04/27/15-04/29/15	
Instructor Development Program	Las Vegas, NV	02/23/15-02/26/15	
Clandestine Laboratory/Hazmat Recertification	Las Vegas, NV	11/05/2014	

ADDITIONAL TRAINING / SEMINARS		
<i>Course / Seminar</i>	<i>Location</i>	<i>Dates</i>
Hazardous Material Technician for CBRNE Incidents – Center for Domestic Preparedness (FEMA)	Anniston, AL	01/12/14-01/18/14
Emergency Responder Hazardous Materials Technician for CBRNE Incidents – Center for Domestic Preparedness (FEMA)	Anniston, AL	01/08/12-01/14/12
Infrared Spectroscopy for Trace Analysis – presented by the Federal Bureau of Investigation	Quantico, VA	03/21/05-03/25/05
Anhydrous Ammonia Analysis & Identification (SWAFS)	Fort Worth, TX	11/03/03-11/06/03
GHB Analysis (SWAFS)	Fort Worth, TX	11/03/03-11/06/03
Methamphetamine Investigation Management Workshop – presented by the Bureau of Justice Assistance	Scottsdale, AZ	09/08/03-09/10/03
Mass Spectra: Theory and Interpretation – presented by the California Criminalists Institute	Huntington Beach, CA	05/20/03-05/22/03
Courtroom Presentation of Evidence – presented by the California Criminalists Institute	Sacramento, CA	08/28/02-08/30/02
Logical Care, Maintenance and Troubleshooting GC Columns – presented by Agilent Technologies	Phoenix, AZ	05/30/02
Chromatographic Methods in Forensic Sciences – presented by the Federal Bureau of Investigation	Quantico, VA	02/04/02-02/08/02
State and Local Forensic Chemists Seminar – presented by the Drug Enforcement Administration	Chantilly, VA	06/11/01-06/15/01
FT-Raman Operations Course – presented by ThermoNicolet	Madison, WI	02/19/01-02/21/01
Optimizing Performance of your Gas Chromatograph (SWAFS) – presented by Varian Inc.	Colorado Springs, CO	11/09/00
GC Applications (SWAFS)	Colorado Springs, CO	11/09/00

ADDITIONAL TRAINING / SEMINARS		
Course / Seminar	Location	Dates
Presumptive Drug ID (SWAFS)	Colorado Springs, CO	11/07/00
Collision Avoidance Training	Mesa, AZ	Fall 2000
COURTROOM EXPERIENCE		
Court	Discipline	Number of Times
Clark County District Court (VIII)	Controlled Substances	21
Clark County Juvenile Court	Controlled Substances	2
Clark County Justice Court	Controlled Substances	1
Nye County Civil Court	Controlled Substances	1
Nye County District Court	Controlled Substances	5
Nye County Justice Court	Controlled Substances	1
Superior Court (Maricopa County, AZ)	Controlled Substances	16
Juvenile Court (Maricopa County, AZ)	Controlled Substances	1
EMPLOYMENT HISTORY		
Employer	Job Title	Date
Las Vegas Metropolitan Police Department	Forensic Scientist II	12/2009 - Present
Aichi Prefectural Board of Education (Japan)	Assistant English Teacher	7/2005 - 7/2008
Mesa Police Department, Mesa, AZ	Criminalist	8/2000 - 7/2005
PROFESSIONAL AFFILIATIONS		
Organization	Date(s)	
Southwestern Association of Forensic Scientists (SWAFS)	2011 - Present	
Clandestine Laboratory Investigating Chemists (CLIC) Association	2013 - Present	
PUBLICATIONS / PRESENTATIONS:		
None		

PUBLICATIONS / PRESENTATIONS:
OTHER QUALIFICATIONS:
None

DISTRICT COURT
CLARK COUNTY, NEVADA

PLEASE FILE
LEFT SIDE

STATE OF NEVADA

CASE No. C312717
16F01430X

PLAINTIFF,

DEPT. No. _____

VS.

DOCKET No. _____

CHRISTOPHER KELLER

DEFENDANT

C-16-312717-1
LSF
Left Side Filing
4563662



MOTION FOR BRADY HEARING

I, CHRISTOPHER R. KELLER, SAID DEFENDANT IN
THE ABOVE CASE NUMBER MOVE YOUR HONORABLE
COURT TO ALLOW ME A BRADY HEARING AND ALSO
TO DISMISS MY ATTORNEY AT THAT TIME AND
APPOINT THE PUBLIC DEFENDER. AS I HAVE YET
TO RELIEVE MY DISCOVERY OR ONE RETURN PHONE
CALL OR A VISIT FROM MY ATTORNEY SINCE I'VE
BEEN IN CUSTODY. I HAVE CALLED EVERY DAY FOR
3 WEEKS & HAVE HAD ABOUT TEN FAMILY MEMBERS
AND FRIENDS CALL AND LEAVE MESSAGES NUMEROUS
TIMES TO NO AVAIL.

DATED THIS 17th DAY OF APRIL, 2016. I, CHRISTOPHER KELLER
DO SOLEMNLY SWEAR, UNDER THE PENALTY OF PERJURY, THAT
THE ABOVE BRADY MOTION IS ACCURATE, CORRECT, AND
TRUE TO THE BEST OF MY KNOWLEDGE. NRS. 171.102 & NRS. 201.165

RESPECTFULLY SUBMITTED

Chris Keller

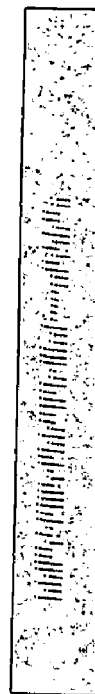
CHRISTOPHER KELLER
DEFENDANT

CHRISTOPHER KELLER #1804256
330 S. CASINO CT. DR.
LAS VEGAS, NV 89101



Court Clerk for Judge
William "Bill" Kephart
200 Lewis Ave.
Las Vegas, NV 89155

LEGAL



ORIGINAL

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

APR 29 2016

BY, Keri Cromer
KERI CROMER, DEPUTY

C-16-312717-1
AINF
Amended Information
4543281



DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

CASE NO: C-16-312717-1

-vs-

DEPT NO: XIX

CHRISTOPHER ROBERT KELLER,
#1804258

AMENDED

Defendant.

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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

That CHRISTOPHER ROBERT KELLER, the Defendant(s) above named, having committed the crimes of **TRAFFICKING IN CONTROLLED SUBSTANCE (Category A Felony - NRS 453.3385.3 - NOC 51160); POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA (Category E Felony - NRS 453.336 - NOC 51127); POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony - NRS 453.337 - NOC 51141); and OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony - NRS 202.360 - NOC 51460)**, on or about the 28th day of January, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

1 COUNT 1 - TRAFFICKING IN CONTROLLED SUBSTANCE

2 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
3 actually or constructively, 28 grams or more, to-wit: approximately 344.29 grams of
4 Methamphetamine, or any mixture of substance consisting of approximately 344.29 grams
5 containing the controlled substance Methamphetamine.

6 COUNT 2 - TRAFFICKING IN CONTROLLED SUBSTANCE

7 did willfully, unlawfully, feloniously, and knowingly or intentionally possess, either
8 actually or constructively, 28 grams or more, to-wit: approximately 33.92 grams of Heroin, or
9 any mixture of substance consisting of approximately 33.92 grams containing the controlled
10 substance Heroin.

11 COUNT 3 - POSSESSION OF CONTROLLED SUBSTANCE, MARIJUANA

12 did willfully, unlawfully, feloniously, and knowingly or intentionally possess a
13 controlled substance, to-wit: Marijuana, over one (1) ounce.

14 COUNT 4 - POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

15 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
16 substance, to-wit: Methamphetamine.

17 COUNT 5 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

18 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
19 substance, to-wit: Heroin.

20 COUNT 6 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

21 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
22 substance, to-wit: Cocaine.

23 COUNT 7 – POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

24 did willfully, unlawfully, and feloniously possess, for the purpose of sale, a controlled
25 substance, to-wit: Marijuana.

26 COUNT 8 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

27 did willfully, unlawfully, and feloniously own, or have in his possession and/or under
28 his custody or control, a firearm, to-wit: a Beretta handgun, the defendant being a convicted

felon, having in 2013, been convicted of Conspiracy to Violate Uniform Controlled Substances Act, in Case No. C287724, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2013, been convicted of Attempt Possession of Firearm by Ex-Felon, in Case No. C279904, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2009, been convicted of Possession of Firearm by Ex-Felon, in Case No. C252394, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2004, been convicted of Burglary, in Case No. C192923, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2003, been convicted of Possession of Credit Card Without Cardholder's Consent, in Case No. C189805B, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

COUNT 9 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

did willfully, unlawfully, and feloniously own, or have in his possession and/or under his custody or control, a firearm, to-wit: a 9 mm handgun, the defendant being a convicted felon, having in 2013, been convicted of Conspiracy to Violate Uniform Controlled Substances Act, in Case No. C287724, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2013, been convicted of Attempt Possession of Firearm by Ex-Felon, in Case No. C279904, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2009, been convicted of Possession of Firearm by Ex-Felon, in Case No. C252394, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2004, been convicted of Burglary, in Case No. C192923, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada; and/or having in 2003, been convicted of Possession of Credit Card Without Cardholder's Consent, in Case No. C189805B, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

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

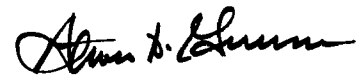
<u>NAME</u>	<u>ADDRESS</u>
BARLOW, DAWN	CCDA INVESTIGATOR
BELMONT, M.	LVMPD P#8240
COLLINGWOOD, E.	LVMPD P#9494
CUSTODIAN OF RECORDS	LVMPD, Communications, 400 S. Martin Luther
Or Designee	King Blvd, LV, NV
CUSTODIAN OF RECORDS	LVMPD, Records, 400 S. Martin Luther King
Or Designee	Blvd, LV, NV
CUSTODIAN OF RECORDS	Clark County Detention Center, 330 S. Casino
Or Designee	Center Blvd., LV, NV
EMBRY, C.	LVMPD P#6223
HENRY, J.	LVMPD P#14753
HOUGH, S.	LVMPD P#7814
LOPEZ, D.	LVMPD P#9806
TAPIA, D.	LVMPD P#10044
THI, S.	LVMPD P#14373
VANCE, J.	LVMPD P#9004

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

BY


ELIZABETH ANDERLIK
Deputy District Attorney
Nevada Bar #13444

16F01430X /mlb/L-2
LVMPD EV#1601280259
(TK5)



CLERK OF THE COURT

0001
LAW OFFICES OF KENNETH G. FRIZZELL, III
Kenneth G. Frizzell, III, Esq.
Nevada Bar No.:006303
619 South 6th Street
Las Vegas, NV 89101
(702) 366-1230
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER R. KELLER,
#1754046

Defendant.

Case No.: C-16-312717-1
Dept No.: XIX


Date:
Time:

MOTION TO REDUCE BAIL

COMES NOW the Defendant, CHRISTOPHER R. KELLER (Keller), by and through his counsel, Kenneth G. Frizzell, III, Esq., and moves this Court for its Order reducing bail pursuant to NRS 178.498.

This Motion is made and based on the papers and pleadings on file herein and any oral argument allowed at the time of the hearing of this matter.

DATED this 31 day of May, 2016.




KENNETH G. FRIZZELL, III, ESQ.
Nevada Bar #006303
619 South 6th Street
Las Vegas, Nevada 89101
(702) 366-1230
Attorney for Defendant

1 NOTICE OF MOTION

2 TO: STEVEN A. WOLFSON, ESQ., District Attorney;

3 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing
4 Motion on for hearing before the above entitled Court on the 13 day of
5 June, 2016, at the hour of 8:30AM .m, in Department 24, or as soon
6 thereafter as counsel can be heard.

7 DATED this 31 day of May, 2016.

8
9 
10 KENNETH G. FRIZZELL, III, ESQ.
11 Nevada Bar No. 006303
12 619 South 6th Street
13 Las Vegas, Nevada 89101
14 (702) 366-1230
15 Attorney for Defendant

14 POINTS AND AUTHORITIES

15 I. APPLICABLE LAW

16 N.R.S. 178.498. Amount

17 If the defendant is admitted to bail, the bail must be set at an amount which
18 in the judgment of the magistrate will reasonably ensure the appearance of the
19 defendant and the safety of other persons and of the community, having regard to:

- 18 1. The nature and circumstances of the offense charged;
- 19 2. The financial ability of the defendant to give bail;
- 20 3. The character of the defendant; and
- 21 4. The factors listed in NRS 178.4853. (1967, p.1452; 1985, p.809.)

21 II. ARGUMENT

22 Defendant has essentially been a life-long resident of the State of Nevada in that
23 he and his family moved to Las Vegas when he was but a mere three (3) years old. His
24 mother, Nancy Graham, is a professor with the University of Phoenix, teaching criminal
25 justice. His father, Will Graham, is currently a Lieutenant with the Las Vegas MPD.
26 Defendant is a homeowner of a condo located at 265 North Lamb, #F, Las Vegas, Nevada.
27 The mother of his child, Brianna Hembé, also lives in Las Vegas with their minor child. In
28 addition to this case, he is a felon and does have a record.


1 In this matter, the bail has been previously set at \$250,000.00, ostensibly due to the
2 nature of the charges. Defendant is requesting a bail reduction to \$50,000.00. Defendant
3 has a place to go if and when he gets released. he can then resume working and being a
4 productive member of society pending the outcome of this case. Prior to his incarceration
5 in this matter, he was gainfully employed at Mario's Market as a meat butcher. Should this
6 Court see fit to reduce his bail, defendant believes he can obtain this job back.
7 Additionally, and other than for legitimate business purposes, he will not possess
8 implements that could be used for purposes alleged in the complaint and, further, he will
9 abstain from use or possession of any illegal narcotics or alcohol.

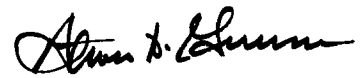
10 As the statute mandates, bail is to ensure the Defendant's attendance at Court and
11 to protect the community. While his crimes with which he is charged are not light matter,
12 there is no allegation of violence or violent behavior. Therefore, a bail reduction to
13 \$50,000.00 and be placed on house arrest would insure that defendant shows up for his
14 court appearances and the monitoring would adequately protect the community.

15 III. CONCLUSION

16 It is therefore respectfully requested that this Court grant Defendant a reduction in
17 his bail from \$250,000.00 to \$50,000.00 and be placed on House Arrest as requested
18 above.

19 DATED this 31 day of May, 2016.

20
21 
22 KENNETH G. FRIZZELL, III, ESQ.
23 Nevada Bar No.:006303
24 619 South 6th Street
25 Las Vegas, Nevada 89101
26 (702) 366-1230
27 Attorney for Defendant
28



CLERK OF THE COURT

MOT
KENNETH G. FRIZZELL, III, ESQ.
Nevada Bar No. 6303
Law Offices of Kenneth G. Frizzell, III
619 S. Sixth Street
Las Vegas, NV 89101
Phone: 702.366.1230
Facsimile: 702.384.9961
ATTORNEYS FOR DEFENDANT CHRISTOPHER R. KELLER

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA)	CASE NO. C-16-312717-1
)	DEPARTMENT NO. XIX
Plaintiff,)	
)	
vs.)	DEFENDANT'S MOTION TO SUPPRESS
)	
Christopher R. Keller,)	
)	
Defendant.)	

COMES NOW the Defendant, Christopher R. Keller, through his Counsel, Kenneth G. Frizzell, III, and files this Motion to Suppress evidence gathered in violation of his Fourth and Fourteenth Amendment rights against unreasonable searches and seizures. This Motion is based on all the papers and pleadings on file herein as well as oral arguments, if any, before this Court.

Dated this 10 day of June, 2016.



KENNETH G. FRIZZELL, III, ESQ.

Nevada Bar No. 6303

Law Offices of Kenneth G. Frizzell, III

619 S. Sixth Street

Las Vegas, NV 89101

Phone: 702.366.1230

Facsimile: 702.384.9961

ATTORNEYS FOR DEFENDANT CHRISTOPHER R. KELLER

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NOTICE OF MOTION

TO: ALL COUNSEL OF RECORD:

YOU AND EACH OF YOU will please take Notice that the undersigned will bring the foregoing MOTION TO SUPPRESS on the 20 day of June, 2016, at the hour of 8:30 ~~AM~~ ^{PM} in Department 19, or as soon thereafter as counsel may be heard.


KENNETH G. FRIZZELL, III, ESQ.

Nevada Bar No. 6303

Law Offices of Kenneth G. Frizzell, III

619 S. Sixth Street

Las Vegas, NV 89101

Phone: 702.366.1230

Facsimile: 702.384.9961

ATTORNEYS FOR DEFENDANT CHRISTOPHER R. KELLER

DEFENDANT CHRISTOPHER R. KELLER'S MOTION TO SUPPRESS

This is a Motion to Suppress contraband allegedly recovered following a traffic stop on or about January 28, 2016. This Motion is brought pursuant to Rule 3.20 of the Eight Judicial Rules of Practice. This matter is set for jury trial on June 27, 2016.

The instant case began when Officer D. Lopez, LVMPD No. 9806 is alleged to have witnessed Christopher Keller commit three minor traffic violations, specifically traveling more than 300 feet in the center lane and traveling at a high rate of speed with one non-operational taillight. Lopez believed that Christopher's "abrupt" turning into an apartment complex was indicative of Christopher's "trying to avoid him." No citation is made to any traffic violation that entails trying to avoid an officer (likely because none such exists). According to the Declaration of Arrest, Christopher turned into parking space #58 and exited the vehicle. Lopez conducted a traffic stop and "jumped out" of his own vehicle. A copy of this Declaration of Arrest is attached hereto as Exhibit 1.

1 Lopez claimed to smell a strong odor of cannabis about Christopher and conducted a pat-down
2 search for weapons. Lopez believed that Christopher would flee, so he placed him in handcuffs. This
3 seizure occurred at 0225 AM, or 2:25 in the morning.

4 Besides the trivial traffic offenses mentioned above, Lopez had no grounds to stop
5 Christopher. In, Nevada, persons stopped for traffic infractions or other misdemeanors must not be
6 subject to a full custodial arrest unless the arresting officer articulates a reason why he or she believes
7 this particular individual will not appear for said traffic violation or other misdemeanors. *State v.*
8 *Bayard*, 119 Nev. 241 (2003). As noted in *Bayard*, the State of Nevada stated it provided protections
9 over and above that of the Fourth Amendment of the Constitution of the United States, which are
10 minimal per the United States Supreme Court in *Atwater v. Lago Vista*, 532 U.S. 318 (2001). In
11 *Atwater*, an officer pulled over a self described "soccer mom" with no criminal record for not wearing
12 her seatbelt and subjected her to a full custodial arrest. A sharply divided Supreme Court (5-4) held
13 that this custodial arrest did not violate the Fourth Amendment. The Court distinctly recognized,
14 however, the states' power to legislatively restrict such arrests and give citizens greater protections.

15 Nevada gives its citizens additional protections in NRS 484A.730. This statute states that a
16 peace officer has the option to take a person before a magistrate, i.e. effectuate a custodial arrest,
17 when this person refuses to submit to a safety test of his or her vehicle, refuse to submit his/her
18 vehicle to a weight test, or is driving under the influence. The statute reads:

19
20
21 **484A.730. When peace officer has option to take person
22 before magistrate.**

23 Whenever any person is halted by a peace officer for any
24 violation of this chapter and is not required to be taken
25 before a magistrate, the person may, in the discretion of the
26 peace officer, either be given a traffic citation, or be taken
27 without unnecessary delay before the proper magistrate.
28 The person must be taken before the magistrate in any of
the following cases:

1. When the person does not furnish satisfactory evidence
of identity or when the peace officer has reasonable and
probable grounds to believe the person will disregard a
written promise to appear in court;

1 2. When the person is charged with a violation of NRS
2 484D.580 relating to the refusal of a driver of a vehicle to
3 submit the vehicle to an inspection and test;

4 3. When the person is charged with a violation of NRS
5 484D.675 relating to the failure or refusal of a driver of a
6 vehicle to submit the vehicle and load to a weighing or to
7 remove excess weight therefrom; or

8 4. When the person is charged with a violation of NRS
9 484C.110 or 484C.120, unless the person is incapacitated
10 and is being treated for injuries at the time the peace officer
11 would otherwise be taking the person before the magistrate.

12 As this Court is aware, NRS 484 is designated as "traffic laws." It follows that if the Nevada
13 Legislature spelled out three instances wherein an individual may be arrested for traffic infractions,
14 these are inclusive and complete. If none of these situations is present, an individual may not be
15 arrested based simply on traffic infractions. Instead, an individual is to be cited, unless said individual
16 cannot provide satisfactory evidence of a residence or gives other indicia that he or she will not
17 appear.

18 Officer Lopez noted in the Declaration that Christopher had prior convictions for controlled
19 substance violations, possessing a firearm, burglary and credit card charges; but not a single failure to
20 appear, warrant, or other indicia that he would not honor a traffic ticket. The Declaration of Arrest
21 indicates that Officer Lopez retrieved Christopher's wallet which correctly identified him and his
22 address. As such, there is no justification for a full custodial arrest based on the traffic offenses.

23 The Supreme Court of Nevada has recently interpreted NRS 484A.730 in *Bayard, supra*. In
24 *Bayard*, the defendant was stopped for a minor traffic violation. The officer ordered the defendant out
25 of the car and the defendant told the officer he had a gun. The defendant produced a gun from his
26 waistband and a valid concealed-carry permit. The officer elected to arrest the defendant and upon
27 arrival to the jail, numerous bundles of cocaine were located in the defendant's underwear. These
28 drugs were suppressed because of the officer's violation of NRS 484.795. The opinion states:

 We hold that an arrest made in violation of NRS 484.795
 violates a suspect's right to be free from unlawful searches
 and seizures under Article 1, Section 18, even though the

1 arrest does not offend the Fourth Amendment. An officer
2 violates NRS 484.795 if the officer abuses his or her
3 discretion in making a full custodial arrest instead of
4 issuing a traffic citation. We adopt the test set forth by the
5 Montana Supreme Court in *State v. Bauer* for determining
6 the proper exercise of police discretion to arrest under NRS
7 484.795. To make a valid arrest based on state
8 constitutional grounds, "an officer's exercise of discretion
9 must be reasonable." Reasonableness requires probable
10 cause that a traffic offense has been committed and
11 circumstances that require immediate arrest. Absent
12 special circumstances requiring immediate arrest,
13 individuals should not be made to endure the humiliation of
14 arrest and detention when a citation will satisfy the state's
15 interest. Such special circumstances are contained in the
16 mandatory section of NRS 484.795 or exist when an officer
17 has probable cause to believe other criminal misconduct is
18 afoot. This rule will help minimize arbitrary arrests based
19 on race, religion, or other improper factors and will benefit
20 law enforcement by limiting the high costs associated with
21 arrests for minor traffic offenses.

22 In the instant case, the only justification for Officer's Lopez near immediate seizure of
23 Christopher is an "abrupt turn" into an apartment complex and a "strong odor of cannabis on his
24 person and coming inside the vehicle." The latter justification is suspect at best because Lopez's
25 report indicates that that Christopher "jumped out" of the driver's side door. At that time, Lopez
26 activated his lights and "jumped out" of his own patrol vehicle. At the time Lopez began issuing
27 commands to Christopher, the latter was standing beside his car, Lopez was standing by the police
28 car. For the smell of cannabis to emanate between these two vehicles on a chilly January morning is
rather suspect, more so in light of the fact that Christopher's door was closed.

CHRISTOPHER'S ARREST VIOLATED NRS 171.1771

24 In Nevada it is illegal to drive under the influence of cannabis, the first offense is a
25 misdemeanor, as is the second. NRS 484C.110. At the time Officer Lopez smelled the cannabis, he
26 had seen Christopher driving and supposedly violating three traffic laws—staying too long in a turn
27 lane, speeding, and having one non-operational taillight. At this juncture, the only action allowed
28 under the law is to issue Christopher a citation for these misdemeanor citations. Under Nevada Law,

1 Christopher could only be taken into custody if there were indicia of previous failures to appear or
2 other indicators that he would not honor the written promise to appear.

3 Officer Lopez's report is silent as to any field sobriety tests or questions about the supposed
4 smell of marijuana. Rather than question whether Christopher was driving impaired, Officer Lopez
5 immediately seized him by handcuffing him, supposedly afraid that Christopher would flee on foot.
6 There is no basis for Officer Lopez's fear that Christopher would run away, only that he "tensed up"
7 and his talking "became more nervous." Nervousness alone cannot be a basis for seizure. The
8 Supreme Court of the United States has continually reasoned that all people—even those with nothing
9 to hide—are liable to become nervous when stopped or questioned by a peace officer. Nervousness
10 can be part of the calculus of reasonable suspicion, but standing alone carries little weight. *United*
11 *States v. Arizu*, 534 U.S. 266, 122 S.Ct. 744; *United States v. Richardson*, 385 F.3d 625 630-31 (6th
12 Cir. 2004). At this juncture, Christopher is seized and in handcuffs. The only basis for this seizure is
13 minor traffic offenses and the smell of marijuana.
14

15 As is plain from the above, Officer Lopez's stop became unlawful after he elected not to issue
16 the necessary citations or conduct field sobriety tests. A traffic stop that is legitimate when initiated
17 becomes illegitimate when the officer detains the car and driver beyond the time required to process
18 the traffic offense, unless the extended detention is consensual, de minimis, or justified by a
19 reasonable articulable suspicion of criminal activity. *State v. Beckman*, 305 P.3d 912, (Nev.2013).
20

21 In *Beckman*, a Nevada State Trooper stopped the defendant for speeding. He checked his
22 license and registration which was all valid and then decided to warn him about the speed. Based on
23 the defendant's nervousness and some fingerprints near a door panel, the Trooper suspected the
24 defendant of transporting drugs. The Trooper asked the defendant to remain at the scene just long
25 enough for a dog sniff, which was positive. The additional wait was between 7-8 minutes. Despite
26 this brief detention, all the drugs recovered were suppressed.
27
28

1 The instant case is similar to *Beckman* in that Christopher was seized based on an officer's
2 assumption or hunch. Officer Lopez mentions in the Declaration that he observed very trivial traffic
3 infractions and that Christopher "was trying to avoid me." The only basis for the assumption that
4 Christopher was trying to avoid Officer Lopez was an abrupt (but legal) turn into an apartment
5 complex. There are countless reasons why a vehicle would make an abrupt turn into an apartment
6 complex; one of the tens of thousands may include avoiding an officer, which is not illegal. As such,
7 Christopher's stop, even assuming it was legitimate, quickly morphed into an illegal stop when the
8 time passed wherein Officer Lopez could write Christopher a ticket and/or do field sobriety tests.
9 Because none of the legal actions were performed after Christopher's traffic stop; all evidence
10 recovered from this vehicle stop must be suppressed. *Beckman, supra*.

11
12 Suppression is a question of facts and law. *Johnson v. State*, 118 Nev. 787, 794, 59 P.3d 450,
13 455 (2002), *overruled on other grounds by Nunnery v. State*, 127 Nev. ___, 263 P.3d 235, 250-51
14 (2011). It is hornbook doctrine that evidence gathered from an illegal or illegitimate search is
15 suppressed; as is the "fruit" of the illegal search or the poisonous tree. *Torres v. State*, 341 P.3d 652
16 (Nev. 2015). In *Torres*, an Elko deputy saw the defendant, a smaller man, staggering near a bridge.
17 This deputy believed that the defendant was intoxicated and underage. After the defendant produced
18 identification that he was older than 21 and therefore allowed to drink alcohol and be out past curfew,
19 the detention had to cease. Because this Elko deputy had a hunch that the identification card was fake,
20 he detained the defendant long enough to learn he had warrants out of California. After learning the
21 arrest was extraditable, the defendant was arrested and a gun was found on his person.

22
23 The Supreme Court of Nevada held that all evidence gathered after the reasons for the initial
24 stop (age and alcohol) were resolved had to be suppressed. The same should be true of the present
25 case. Christopher was believed to be driving bad and possibly smoking marijuana. When Christopher
26 was stopped, Officer Lopez should have resolved the concern by issuing a citation and performing
27
28

1 field sobriety tests; not elevating a minor traffic stop into a full custodial arrest within minutes based
2 on the hunch.

3 Christopher anticipates that the State will argue that cash money found on his person created
4 the necessary probable cause to increase the scope of the search. As will be explained below, the
5 minimal amount of cash is insufficient to give rise to the assumption that Christopher was involved in
6 illegal activity.
7

8 When Christopher was stopped, he had a total of \$2,187.00 on his person. During the later
9 search of Christopher's residence, pay stubs were recovered from Christopher's residence. These pay
10 stubs prove that Christopher works as a butcher. Furthermore, currency alone is insufficient to justify
11 a more invasive search unless the monies can be tied directly to narcotics. Probable cause to connect
12 the currency to a violation of the narcotics laws exists when the government has reasonable grounds
13 to believe that the property in question was related to an illegal drug transaction. This standard
14 requires more than mere suspicion but less than prima facie proof. *United States v. \$93,685.61 in U.S.*
15 *Currency*, 730 F.2d 571, 572 (9th Cir.1984), cert. denied, 469 U.S. 831 (1984). Probable cause may
16 be established by "the aggregate of the facts." *\$93,685.61 in U.S. Currency*, 730 F.2d at 572. In this
17 case, the amount of money is small. A mere \$2,187 is insufficient to establish probable cause that
18 Christopher engaged in narcotics trafficking. Indeed, the United States Treasury does not require cash
19 transactions to be reported unless said transaction consists of ten thousand dollars or more—almost
20 five times the amount of money Christopher was alleged to have carried. See IRS .GOV/form 8300.
21

22 As is shown from the case law and recitation of facts, the stop for misdemeanor traffic
23 infractions cannot lead to a custodial arrest under these facts. Nevada likewise has a prohibition
24 against making arrests for misdemeanors. Nevada enacted NRS 171.1771 which restricts custodial
25 arrests to situations where the person "does not furnish satisfactory evidence of identity or when the
26 peace officer has reasonable and probable grounds to believe the person . . . will disregard a written
27 promise to appear." The statute is set forth in full below:
28

1 NRS 171.1771 Issuance of citation when person detained
2 by peace officer. Whenever any person is detained by a
3 peace officer for any violation of a county, city or town
4 ordinance or a state law which is punishable as a
5 misdemeanor and the person is not required to be taken
6 before a magistrate, the person shall, in the discretion of the
7 peace officer, either be given a misdemeanor citation, or be
8 taken without unnecessary delay before the proper
9 magistrate. Any such person shall be taken before the
10 magistrate when the person does not furnish satisfactory
11 evidence of identity or when the peace officer has
12 reasonable and probable grounds to believe the person
13 will disregard a written promise to appear in court.
14 (Emphasis added).

15 The statute clearly spells out when a misdemeanant can be arrested, and it follows that when a
16 misdemeanant does not meet the criteria set forth in NRS 171.1771, he or she cannot be subject to a
17 custodial arrest. The facts of this case, briefly restated, are that Christopher pulled into "Crossroads
18 III" apartment complex. Pulling into this apartment was deemed evasive by Officer Lopez. After the
19 vehicle stop quickly morphed into a full custodial arrest, Officer Lopez sought a search warrant for
20 Christopher's car located at 265 North Lamb, space #58 and 265 North Lamb, Apartment F, with the
21 letter D taped on the door.

22 By the time Christopher was seized and handcuffed, he was only guilty of smelling like
23 marijuana and three minor traffic infractions as well as being nervous. None of these factors are
24 sufficient to justify a custodial arrest. The cash, a mere \$2,187.00 is insufficient to elevate the
25 aforementioned misdemeanors into a custodial arrest.

26 **THE THREE HOUR DELAY BETWEEN CHRISTOPHER'S APPREHENSION AND**
27 **OBTAINING A WARRANT MAKES THE VEHICLE STOP INVALID**

28 Officer Lopez and the State agree that Officer Lopez conducted a "traffic stop" on Christopher.
The Declaration of Arrest reads: "Keller pulled his Dodge Stratus into space #58 and jumped out of the
driver's side door. I conducted a traffic stop by activating my lights and jumped out of my own patrol
vehicle." See Exhibit 1 (emphasis added).

1 In Nevada, a traffic stop or other investigative detention that lasts longer than sixty (60)
2 minutes is presumed invalid and is unlawful. NRS 171.123. According to the recent landmark search
3 and seizure case of *Rodriguez v. United States*, 135 S. Ct. 1609 (2015), a routine traffic stop is more
4 like a brief stop under *Terry v. Ohio* 392 U. S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889, than an arrest,
5 see, e.g., *Arizona v. Johnson*, 555 U. S. 323, 330, 129 S. Ct. 781, 172 L. Ed. 2d 694. The goal of a
6 traffic stop is to address the violation that warranted the stop, *Illinois v. Caballes*, 543 U. S. 405, 407,
7 125 S. Ct. 834, 160 L. Ed. 2d 842 and attend to related safety concerns. Authority for the seizure ends
8 when tasks tied to the traffic infraction are--or reasonably should have been--completed.

9
10 Christopher's traffic stop occurred at 2:25 AM. As stated above, Christopher's traffic stop
11 quickly and unlawfully turned into a full custodial interrogation within minutes. Christopher argues
12 this was erroneous and that the authority for this admitted traffic stop ended after a reasonable time to
13 write a ticket or conduct a field sobriety test (based on the smell of marijuana). However, should this
14 Court rule that Christopher was lawfully seized at or about 2:25 through 2:40, the fact that no search
15 warrant was issued until three hours later is problematic. While there is reference to Christopher
16 sleeping in the back of Officer Lopez's police car; there is no justification as to why three hours
17 elapsed between the seizure and the issuance of the warrant. It is unlikely that Officer Lopez
18 continued to perform police duties with Christopher asleep in the back of his car; it is likewise unlikely
19 that Officer Lopez stood idly by in excess of 1/3 of his ten hour shift before deciding to obtain a
20 warrant.
21

22
23 Searches conducted without a warrant are presumed invalid. *California v. Acevedo*, 111 S.Ct.
24 1982 (1991), *Phillips v. State*, 106 Nev. 763 (1990). Any evidence gathered following a violation of
25 the Fourth Amendment is tainted with the violation and must be suppressed under the "fruit of the
26 poisonous tree." *Wong Sun v. United States*, 371 U.S. 407 (1963). In this case, Officer Lopez alleges
27 he made a full arrest, found baggies and a secret compartment, waited three hours and then obtained a
28

1 warrant. Pursuant to *Wong Sun* and its many concurring opinions, any contraband seized before the
2 issuance of the warrant is to be suppressed.

3 Officer Lopez conducted the traffic stop at 2:25 AM. Immediately thereafter, Lopez claimed
4 “probable cause” for a warrantless search of the car. At this time, Christopher is already seized in the
5 legal sense (he is in handcuffs) and the warrant exception was based on the plain view of marijuana
6 residue on the floorboard of Christopher’s car. It should be stated what is obvious and that is at 2:25
7 AM on a January morning it is very dark and therefore the claim of visible and obvious marijuana is
8 suspect. There is no mention of Officer Lopez using his flashlight, nor is there any mention of
9 overhead lighting. Marijuana *residue* by definition is difficult to see, and most telling, there is no
10 mention of any marijuana, burnt roaches, residue, pipes, or paraphernalia being recovered from the car.
11
12 See Exhibit 2, Arrest Report.

13
14 Officer Lopez relies on the car search exception and admittedly started searching before
15 obtaining a warrant. The car search exception is invalid under the facts of Christopher’s seizure. The
16 car search exception in Nevada was set forth in *Camacho v. State*, 119 Nev. 395, 75 P.3d 370 (2003).
17 In *Camacho*, police waited in a parking lot for the defendant who was there to sell drugs. The police
18 had planned to arrest Camacho and seize his car. The arrest was made, and after Camacho was
19 secured in a patrol car, a detective searched his car and recovered methamphetamine. The search was
20 held invalid inasmuch as there was no exigency, the defendant was unable to lose or destroy the
21 evidence, the car could be easily secured against third parties, and a warrant was available
22 telephonically. Camacho’s drugs were not suppressed based on inevitable discovery, which is not
23 applicable here. In *Camacho*, the police intended to seize (and eventually forfeit) the defendant’s
24 vehicle and it would have been inventoried. Here, Christopher was unlawfully seized for misdemeanor
25 traffic violations and his car was lawfully parked at his residence. There was no exigency to justify a
26 warrantless search of the car much less seizure of the same. Exigency connotes an immediate threat to
27
28

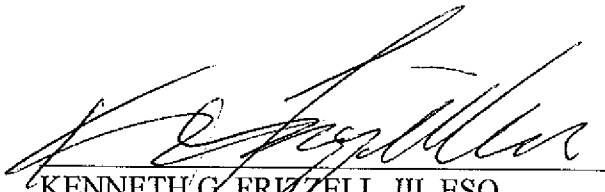
1 loss or destruction of evidence. Officer Lopez waited three hours before obtaining a warrant and
2 multiple officers participated in Christopher's detention; as such, any exigency is fictional.

3 4 CONCLUSION

5 Nevada law prohibits a custodial arrest for a misdemeanor or traffic violation. Officer Lopez
6 stopped Christopher for making an "abrupt turn" that Lopez interpreted as evasive, but not unlawful.
7 Christopher attempted to exit his vehicle but was detained and handcuffed—seized—because he
8 smelled like marijuana (a possible misdemeanor) and appeared nervous and had committed three
9 misdemeanor traffic offenses. Officer Lopez had no right to escalate the traffic stop into a full
10 custodial arrest. If Christopher did smell of marijuana (which he denies), the proper course of action
11 would have been to perform a field sobriety test to see if he was driving impaired. This was not done.
12 Instead, Officer Lopez claimed to see marijuana residue on the floor of a parked vehicle in the dark of
13 a January morning. This marijuana was never recovered.

14
15 Christopher was arrested in violation of NRS 484A.730 and NRS 171.1771 as well as
16 controlling precedent from the Supreme Court of Nevada and the Supreme Court of the United States.
17 Based on the statutes and authority cited herein, Christopher R. Keller requests all evidence seized
18 from his vehicle on January 28, 2016 be suppressed.

19 Dated June 10, 2016.

20
21
22 

23 KENNETH G. FRIZZELL, III, ESQ.

24 Nevada Bar No. 6303

25 Law Offices of Kenneth G. Frizzell, III

26 619 S. Sixth Street

27 Las Vegas, NV 89101

28 Phone: 702.366.1230

Facsimile: 702.384.9961

ATTORNEYS FOR DEFENDANT CHRISTOPHER R. KELLER

EXHIBIT 1

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

DECLARATION OF ARREST

"Click here to add/edit Event# and ID# on all pages"

Event #: 160128-0259

I.D. #: 1804258

"PRINT"

True Name: KELLER, CHRISTOPHER Date of Arrest: 01-28-16 Time of Arrest: 0244

OTHER CHARGES RECOMMENDED FOR CONSIDERATION:

Other Charges

THE UNDERSIGNED MAKES THE FOLLOWING DECLARATIONS SUBJECT TO THE PENALTY FOR PERJURY AND SAYS: That I am a peace officer with the Las Vegas Metropolitan Police Department, Clark County, Nevada, being so employed for a period of 9 years.

That I learned the following facts and circumstances which lead me to believe that the above named subject committed (or was committing) the offense(s) of POSS FIREARM BY PROHIBITED PERSON, TRAFF METH, PCS WITS, PCS HEROIN, PCS MJ MORE THAN 1OZ, at the location of 265 N LAMB, LV NV 89110, and that the offense(s) occurred at approximately 0225 hours on the 28th day of Jan, 2016, in the:

☒ County of Clark☐ City of Las Vegas

DETAILS FOR PROBABLE CAUSE:

On 01-28-16, at 0225, I Officer Lopez, P#9806, while operating as marked patrol 1G24, observed a silver 2002 Dodge Stratus with NV plate 098ASW travelling northbound at 132 N Lamb in the center turn lane. The Dodge stratus had made an abrupt left turn from Sunrise Ave and had continued the entire time in the center turn lane while never entering the #1 northbound travel lane. The Dodge stratus was travelling at high rate of speed. I made a U-turn to conduct a records check on the vehicle and noticed the passenger tail lamp was broken. The driver continued to accelerate and made an abrupt left turn into the "Crossroads III" apartment complex. It was apparent the driver, who would later identify himself with a NV DL as Keller, Christopher 09-08-84, was trying to avoid me. Keller had traveled well over 300ft while he was in the center turn lane. Keller pulled his Dodge Stratus into space #58 and jumped out of the driver's side door. I conducted a traffic stop by activating my lights and jumped out of my own patrol vehicle. I began giving verbal instructions to Keller who was still at the driver's side door.

Keller had the strong odor of cannabis on his person and coming from inside the vehicle. Keller was very nervous and was upset about being stopped. Keller was wearing loose jeans and a baggy shirt that could easily conceal weapons so I informed Keller I was going to conduct a pat down for weapons. As I began my pat down, Keller tensed up and his talking became more nervous. I feared Keller was a flight risk so I placed Keller in handcuffs.

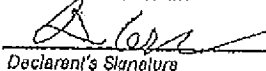
I asked Keller if he had a driver's license and he said "yes". I asked Keller if his license was in his wallet and if I could

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

Declarant must sign all page(s) with an original signature.

D. LOPEZ P#9806

Print Declarant's Name



Declarant's Signature

9806

P#

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

Event #: 160128-0259

ID#: 1804258

remove the item from his pocket. Keller stated "Yes" I could remove his wallet and driver's license from his front right pants pocket. I removed a large wad of cash along with Keller's Wallet. I noticed there was more cash folded in Keller's wallet. From my training and experience involving narcotics investigations and my professional dealings with narcotics detectives I have learned it is common practice for narcotics dealers to carry their currency in multiple locations on their person for several reasons. Most commonly narcotic dealers separate their "working" money they use to make change while selling narcotics from their "personal" money or proceeds they have accumulated through selling their narcotics. Secondly narcotics dealers often fear being victimized by their customers and "robbed" of their money. The "working" money typically consists of smaller denomination bills (\$1's, \$5's, \$10's and \$20's) such as the large roll of cash I located in Keller's pocket. The total cash amount located on Keller's person was \$2187.00.

I could see in plain view green leafy residue on the driver's side floor board of the Dodge Stratus. The green leafy residue substance was consistent with my training and experience to be marijuana. With the odor of cannabis on Keller's person and in the vehicle, and the fact that I could see residue on the floor board I had probable cause that there was a controlled substance inside the vehicle. I began searching the vehicle and located a medium size plastic sealable bag containing more sealable plastic bags inside it. Between the driver's seat and center console I located a large clear sealable plastic bag. I requested a K9 narcotics dog through dispatch.

K9 Officer Newton, P#5278, along with K9 narcotics dog "Stewie" who was certified as a narcotics dog April of 2013. Stewie hit on the glove box and closer inspection revealed there was a hidden compartment on the side of the glove box that is only accessible when the glove box is open.

I conducted a records check on Keller which revealed Keller has 5 felony convictions one of which was violating controlled substance act.

Based on the large amount of cash, the large amount of sealable plastic bags, Keller's prior conviction for narcotics and the fact that the narcotics dog hit on a secret compartment inside the vehicle I believe the substance hidden inside the compartment is a schedule 1-4 controlled substance.

I applied for a search warrant at 0656 on 01-28-16, I spoke to Judge Toblason who approved the warrant. I executed the warrant with ID tech THI, P#14373, Officers Henry, P#14753 and Officer Vance, P#9002. I located a side entrance to the secret compartment that revealed a black bag. Inside the black bag was a very expensive looking watch. It is common for stolen jewelry to be used to purchase narcotics. There were also three gold colored sealable bags, and a smaller black bag. The first gold bag had a large amount of white crystal like substance bagged into five separate bundles with

Declarant must sign all page(s)
with an original signature.

D. LOPEZ P#9806

Print Declarant's Name

Declarant's Signature

P#

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

Event #: 160128-0259

ID#: 1804268

clear plastic wrap. The white crystal like substance was consistent with my training and experience to be meth. These five bundles would later be weighed at NEAC for a total gross weight of 343 grams and with the help of Officer Hough, P#7814 who witnessed as I ODV tested the substance which was positive for meth.

The second gold bag had 8 blue pills with "VGR 100" on one side and "Pfizer" on the other. I contacted poison control and spoke to Tim under case number 5578876. Tim was able to identify the blue pills with "VGR 100" as sildenafil 100mg which requires a prescription. There were twenty one circular white pills with "30" on one side and an "R" and "P" on the other side. Tim identified these pills as oxycodone 30mg schedule 2. There were four bags of a brown like substance which was consistent with my training and experience to be heroin. Officer Hough, along with Officer E Collingwood P# 9494 ODV tested the brown substance which was positive for heroin and weighed 36.4 grams gross. There was another clear plastic wrap containing more white crystal like substance that was consistent with the other meth in appearance. This second bag weighed 8.4 grams gross. The total meth weight was 351.4 grams gross. There were three small multicolored pills in a single clear plastic bag that I was unable to identify at this time. There were four smaller oval pills that were the same size and also could not be positively identified. There was a white powdery substance in a small clear plastic bag that was consistent with my training and experience to be cocaine. I ODV tested the powdery substance which was positive for cocaine and weighed .8 grams gross. The last item in the second gold bag was a blue powdery substance which weighed 1.1 grams gross and I was unable to positively identify at this time.

The last smaller gold sealable bag was empty but had a horrid smell coming from inside it.

The smaller black bag had a small semi auto handgun in it. ID tech THI had evidence gloves on and was the only person to touch or manipulate the firearm. THI removed a total of seven .22 short rounds from the firearm including one from the chamber. The handgun was a Beretta .22 with serial number C35418.

I conducted a piggyback warrant on the car and Keller's apartment at 0935 which was approved by Judge Sciento. The warrant was executed and numerous items were recovered from the apartment.

During the warrant, Det Embry located a Ruger P89 semi auto handgun with 4" USA 9mm w/ mag & bullets was recovered from the bedroom closet. Det Embry located 3 boxes of 22 short ammunition in the shed storage. I located 5 glass smoking pipes, 4 scales, and 1 box of 9mm ammunition containing 15 rounds. Det Belmont P#8240 located a glass jar in the freezer with a green leafy substance that was consistent with our training and experience to be marijuana. Det Belmont ODV tested the green leafy substance which was positive for marijuana and weighed 188.4 grams gross. Det Embry located a pay stub in the bedroom indicating Keller resides at the residence. Det Embry conducted a buccal swab kit according to the warrant. I located two bags in the bedroom containing a white crystal substance that was consistent with meth. I located a third clear plastic bag containing a brown substance that was consistent in appearance with heroin.

Declarant must sign all page(s)
with an original signature.

D. LOPEZ P#9806

Print Declarant's Name

Declarant's Signature

P#

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

Event #: 160128-0259

ID#: 1804258

Det Tapla, P#10044, Belmont and Hough ODV tested the two clear plastic wraps containing the white crystal like substance which was positive for meth. The first one weighed 4.4 grams net and the second weighed 3.1 grams net. Officer Hough and Collingwood ODV tested the last clear plastic bag containing the brown substance which was positive for heroin and weighed 1.1 grams net.

I conducted a records check on Keller who was convicted 06-09-14 for violating the controlled substance act. Keller was also convicted for possessing a firearm by ex-felon and was convicted 06-09-14, own possess firearm ex-fel 06-09-14, burglary 06-17-08 and possession of credit card without owners consent on 04-24-03.

Based on all these facts and circumstances, I charged Keller with 2 counts of possession of firearm by prohibited person, one count of trafficking a controlled substance meth, PCS marijuana greater than 1 ounce, PCS heroin, and PCS Ecstasy.

At 1422, Officer Collingwood was watching Keller via video while he was in the holding cell. Keller began grabbing an item from inside his pants around his groin area. Keller removed part of a magazine and ripped a piece of paper. Keller proceeded to make a line and snort an unknown item. Officer Collingwood was able to stop him before he snorted a second clear plastic wrap containing more white crystal like substance. This new purported meth was impounded as item 16.

Keller was transported to CCDC where he was booked accordingly.

Declarant must sign all page(s)
with an original signature.

D. LOPEZ P#9806

Print Declarant's Name

Declarant's Signature

EXHIBIT 2

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
ARREST REPORT

☐ City ☒ County ☒ Adult ☐ Juvenile Sector/Beat G2

ID/EVENT# 1804258		ARRESTEE'S NAME (Last) (First) (Middle) KELLER CHRISTOPHER				S.S.# 595364138	
ARRESTEE'S ADDRESS (Number, Street, City, State, Zip Code) 285 N LAMB APT F, LV NV 89110							
CHARGES PROH PERS POSS FIREARM(2X), TRAFF METH, PCS MJ >1OZ, PCS HEROIN, PCS ECSTACY.							
OCCURRED DATE 01-28-16		DAY OF WEEK THUR		TIME 0244		LOCATION OF ARREST (Number, Street, City, State, Zip Code) 285 N LAMB, LV NV 89110	
RACE W	SEX M	D.O.B. 09-08-84	HT. 5'8	WT. 170	HAIR BRO	EYES BRO	PLACE OF BIRTH EGLIN AFB, FL
ARRESTING OFFICER #1: D. LOPEZ			PH: 9806		ARRESTING OFFICER #2:		PH:
CONNECTING REPORTS (Type or Event Number) 160128-0259							

APPROVED BY (PRINTED NAME): _____

CIRCUMSTANCES OF ARREST:

OFFICERS:

D. LOPEZ 9806
J. HENRY 14753
J. VANCE 9002
C. EMBRY 6223
S. HOUGH 7814
E. COLLINGWOOD 9494
M. BELMONT 8240

ID TECH:

S. THI 14373

VEHICLE:

2002 DODGE STRATUS, NV PLATE 098ASW, VIN 4B3AG42HX2E162394

PROPERTY CAR:

- 1) ODV+METH 351.4GG W/CHECKLIST
- 2) ODV+HEROIN 36.4 GG W/ CHECKLIST
- 3) ODV+COCAINE .8 GG W/ CHECKLIST
- 4) SMALL BLUE PILLS 25.3 GG
- 5) BLUE DUST 1.1GG
- 6) OXYCODONE 30 MG
- 7) SILDENAFIL 100MG
- 8) MULTI COL PILLS
- 9) SMALL OVAL PILLS
- 10) SEMI AUTO HANDGUN USA BERETTA 22

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

ID/EVENT #: 160128-0259

- 11) MAG
- 12) 22 SHORT AMMUNITION
- 13) US CURRENCY \$2187.00
- 14) NICE MENS WRIST WATCH
- 15) NV REG, KELLER, CHRISTOPHER
- 16) CRYSTAL SUBSTANCE .3GG
- 17) BAGGIES W/ BLACK POUCH

PROPERTY RESIDENCE:

- 1) SEMI AUTO HANDGUN 4" usa 9MM W/ MAG \$ BULLETS
- 2) BOX(S) .22 SHORT BULLET
- 3) GLASS SMOKING PIPES
- 4) GLASS JAR W/ ODV MARIJUANA 188.4GR NET/TS
- 5) SCALES
- 6) BOX .9MM AMMO
- 7) PAYSTUB CHRISTOPHER KELLER
- 8) BUCCAL SWAB/ CHRISTOPHER KELLER
- 9) BAG ODV+METH 4.4 GR NET/TS
- 10) BAG ODV+METH 3.1 GR NET/TS
- 11) BAG ODV+HEROIN/TS 1.1GR NET.

On 01-28-16, at 0225, I Officer Lopez, P#9806, while operating as marked patrol 1G24, observed a silver 2002 Dodge Stratus with NV plate 098ASW travelling northbound at 132 N Lamb in the center turn lane. The Dodge stratus had made an abrupt left turn from Sunrise Ave and had continued the entire time in the center turn lane while never entering the #1 northbound travel lane. The Dodge stratus was traveling at high rate of speed. I made a U-turn to conduct a records check on the vehicle and noticed the passenger tail lamp was broken. The driver continued to accelerate and made an abrupt left turn into the "Crossroads III" apartment complex. It was apparent the driver, who would later identify himself with a NV DL as Keller, Christopher 09-08-84, was trying to avoid me. Keller had traveled well over 300ft while he was in the center turn lane. Keller pulled his Dodge Stratus into space #58 and jumped out of the driver's side door. I conducted a traffic stop by activating my lights and jumped out of my own patrol vehicle. I began giving verbal instructions to Keller who was still at the driver's side door.

Keller had the strong odor of cannabis on his person and coming from inside the vehicle. Keller was very nervous and was upset about being stopped. Keller was wearing loose jeans and a baggy shirt that could easily conceal weapons so I informed Keller I was going to conduct a pat down for weapons. As I began my pat down, Keller tensed up and his talking became more nervous. I feared Keller was a flight risk so I placed Keller in handcuffs.

I asked Keller if he had a driver's license and he said "yes". I asked Keller if his license was in his wallet and if I could remove the item from his pocket. Keller stated "Yes" I could remove his wallet and driver's license from his front right pants pocket. I removed a large wad of cash along with Keller's Wallet. I noticed there was more cash folded in Keller's wallet. From my training and experience involving narcotics investigations and my professional dealings with narcotics detectives I have learned it is common practice for narcotics dealers to carry their currency in multiple locations on their person for several reasons. Most commonly narcotic dealers separate their "working" money they use to make change while selling narcotics from their "personal" money or

JUN 13 2016

DISTRICT COURT
CLARK COUNTY, NEVADA

BY: TIA EVERETT
TIA EVERETT, DEPUTY

C-16-312717-1

STATE OF NEVADA

) Case No.: 16F01430X

Plaintiff,

) Dept. No.: XIX

vs.

) Docket No.: _____

CHRISTOPHER R. KELLER
#1804258

Defendant

MOTION TO DISMISS COUNSEL
AND
APPOINT ALTERNATE COUNSEL

COMES NOW, the DEFENDANT CHRISTOPHER R. KELLER, AND MOVES THIS HONORABLE COURT TO DISMISS COUNSEL, KENNETH G. FRIZZELL, III, AND APPOINT OTHER COUNSEL TO REPRESENT DEFENDANT.

THIS MOTION IS BASED UPON ALL PAPERS, PLEADINGS AND DOCUMENTS ON FILE. FACTUAL STATEMENTS ARE SET FORTH IN THE POINTS AND AUTHORITIES CONTAINED THEREIN.

DATED THIS 13th DAY OF JUNE, 2016.

C-16-312717-1
MDC
Motion to Dismiss Counsel
4554987



POINTS AND AUTHORITIES

IT IS RESPECTFULLY REQUESTED OF THIS COURT TO GRANT THIS MOTION TO DISMISS COUNSEL AND APPOINT OTHER COUNSEL FOR THE REASONS LISTED BELOW:

I. PROCEDURAL BACKGROUND AND FACTUAL SUMMARY

SINCE KENNETH FRIZZELL WAS APPOINTED AS COUNSEL DEFENDANT CHRISTOPHER R. KELLER HAS BEEN PREJUDICED AND SUFFERED MANIFEST INJUSTICE BASED ON COUNSEL'S FAILURE TO:

1. USE A DIFFERENT INVESTIGATOR OTHER THEN THE ONE USED BY MY LAST ATTORNEY WHERE PRIVILEGED INFORMATION WAS EXPOSED TO ANOTHER OF HIS CLIENTS.

2. PROVIDE FULL DISCOVERY AND FILE APPROPRIATE MOTIONS IN A TIMELY MANNER.

3. REFUSED TO KEEP ORIGINAL TRIAL DATE AGAINST THE WISHES OF DEFENDANT.

II. ARGUMENT

DEFENDANT, CHRISTOPHER R. KELLER, ASSERTS HE IS BEING DENIED HIS RIGHT TO EFFECTIVE REPRESENTATION DUE TO WHOLLY

1 INADEQUATE ACTIONS OF HIS COURT-APPOINTED
2 COUNSEL. FURTHER, COUNSEL'S ACTIONS CONSTITUTE
3 A VIOLATION OF THE DEFENDANT'S DUE PROCESS RIGHTS.

4 DEFENDANT HAS AN UNQUALIFIED RIGHT
5 TO LEGAL ASSISTANCE THAT EXPRESSES LOYALTY
6 AND EFFECTIVENESS (CUYLER V. SULLIVAN), 100 S.Ct.
7 1708 (1980); AND (FRAZIER V. UNITED STATES), 18 F.3d 778
8 (9th Cir. 1994). Thus, THE ADVERSARIAL PROCESS PROTECTED
9 BY THE SIXTH AMENDMENT REQUIRES THAT THE
10 ACCUSED HAVE ADVOCATE COUNSEL. (ANDERS V. CALIFORNIA),
11 87 S.Ct. 1396 (1967). "IF THE COMPLETE COLLAPSE OF THE
12 ATTORNEY-CLIENT RELATIONSHIP IS EVIDENT..." (YOUNG V.
13 STATE, 120 NEV. 963 (2004)).

14 WHEREFORE, THE UNDERSIGNED PRAYS THAT THE COURT GRANTS
15 THIS MOTION TO DISMISS COUNSEL AND APPOINT OTHER COUNSEL FOR DEFENDANT.

16 DATED THIS 13th day of JUNE, 2016.

17 I, CHRISTOPHER R. KELLER, do

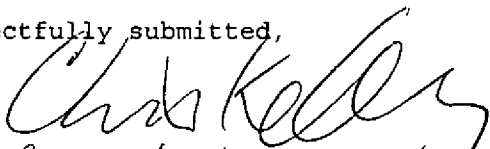
18 solemnly swear, under the penalty of perjury, that

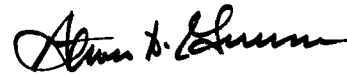
19 the above MOTION TO DISMISS COUNSEL is accurate,

20 correct, and true to the best of my knowledge.

21 NRS 171.102 and NRS 208.165.

22 Respectfully submitted,

23 
24 CHRISTOPHER R. KELLER
25 Defendant



CLERK OF THE COURT

ROC
LAW OFFICES OF KENNETH G. FRIZZELL III
Kenneth G. Frizzell III, Esq.
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(702) 366-1230
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Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

THE STATE OF NEVADA,

Plaintiff,

vs.

KELLER, CHRISTOPHER
#01804258

Defendant.

Case No.: C-16-312717-1

Dept. No.: XIX

RECEIPT OF COPY

RECEIPT OF COPY of the attached DEFENDANT'S MOTION TO SUPPRESS are
hereby acknowledged on this 10 day of June, 2016.



OFFICE OF THE DISTRICT ATTORNEY
CRIMINAL DIVISION
200 Lewis Avenue
Las Vegas, NV 89101


CLERK OF THE COURT

1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ELIZABETH J. ANDERLIK
6 Deputy District Attorney
7 Nevada Bar #013444
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,

11 -vs-

12 CHRISTOPHER ROBERT KELLER,
13 #1804258

14 Defendant.

CASE NO: C-16-312717-1

DEPT NO: XIX

15 STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS

16 DATE OF HEARING: JUNE 20, 2016
17 TIME OF HEARING: 8:30 AM

18 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
19 District Attorney, through ELIZABETH J. ANDERLIK, Deputy District Attorney, and hereby
20 submits the attached Points and Authorities in Opposition to Defendant's Motion to Suppress.

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

24 //

25 //

26 //

27 //

28 //

1 POINTS AND AUTHORITIES

2 I. Statement of Facts

3 On January 28, 2016, Officer Lopez conducted a vehicle stop on a 2002 Dodge later
4 learned to be driven by Christopher Keller ("Defendant"). Preliminary Hearing Tr. Feb. 16,
5 2016 (hereinafter "PH"), at 5-6. Officer Lopez conducted the vehicle stop because the vehicle
6 had travelled over 300 feet in a double-yellow left-hand turn lane, made a U-turn, made an
7 abrupt turn into a residential area, was travelling at a high rate of speed, and had a broken tail
8 light. PH at 6-7. Once the vehicle entered the residential area, it parked, and Defendant
9 quickly left the vehicle. PH at 8. Officer Lopez observed Defendant quickly jump out of the
10 vehicle, and was "trying to get somewhere else really quick, was trying to get away from
11 [Officer Lopez] really quick." PH at 8. Officer Lopez was able to smell the odor of marijuana
12 coming from Defendant's person as well as from the inside of the vehicle. PH at 8.

13 Defendant consented to allow Officer Lopez to remove his wallet from his pocket to
14 see Defendant's identification. PH at 10. Upon removing the wallet, Officer Lopez noted that
15 Defendant was carrying what appeared to be a large amount of cash. PH at 10. The amount
16 of cash was determined to be \$2,187.00. PH at 11. Based upon the manner in which the cash
17 was situated, and the amount of cash that Defendant carried, Officer Lopez determined that
18 the cash was, in his training and experience, consistent with the sale of narcotics. PH at 11-
19 12. Officer Lopez based this conclusion, in part, on the denominations of the cash, the way
20 the cash was specifically folded, the fact that 20-dollar-bills were folded in increments of \$100,
21 the direction the bills were facing, and the fact that the larger separate "wad of cash" was made
22 up of mostly smaller denominations, such as \$5 and \$10 bills. PH at 11-12.

23 During the Terry stop and pat-down, "there were five shots fired within the apartment
24 complex," so Officer Lopez placed Defendant in handcuffs and into the patrol vehicle not only
25 for Defendant's safety, but also so that Officer Lopez would be able to safely address any
26 issues stemming from the shots fired. PH at 12. Additionally, Officer Lopez believed that
27 Defendant would be a flight risk based upon his attempts to avoid the officer, his nervousness,

28 //

1 the fact that he was so upset about being stopped, and Defendant's behavior while Officer
2 Lopez conducted the pat down for weapons. Def. Exhibit 1 at 1.

3 Afterward, Officer Lopez located noticed a green leafy residue on the floorboard of the
4 driver's side vehicle in plain view. PH at 12. Based upon the vehicle, the odor of marijuana
5 emanating from Defendant and the vehicle, and the green leafy residue in plain view, Officer
6 Lopez conducted a probable cause search. PH at 12-13. During the probable cause search,
7 Officer Lopez located a clear sealable plastic bag containing multiple smaller clear plastic
8 bags as well as another large sealable plastic bag. PH at 13. At that point, Officer Lopez
9 called for a K-9 team. PH at 13. The dog alerted to the glove box, wherein Officer Lopez
10 located a concealed compartment. PH at 13-14. At that time Officer Lopez obtained a search
11 warrant. PH at 14. Pursuant to the search warrant, Officer Lopez located several items of
12 evidence. PH at 15; Def. Exhibit 1 at 2-3.

13 **II. Officer Lopez did not arrest Defendant for misdemeanor offenses.**

14 In his Motion, Defendant alleges that he was unlawfully arrested for misdemeanor
15 offenses, and therefore all evidence must be suppressed. However, Defendant's proposition
16 is based upon a faulty premise: Defendant was not arrested for misdemeanor traffic offenses.
17 As Officer Lopez explained at the preliminary hearing as well as in his report, Defendant was
18 placed in handcuffs for a variety of reasons, none of which included his arrest for traffic
19 violations. PH at 12; Def. Exhibit 1 at 1. Defendant was placed in handcuffs not only because
20 Officer Lopez believed he was a flight risk based on Defendant's behavior and the officer's
21 training and experience, but also because five shots were fired nearby and Officer Lopez
22 needed to secure the area. Id. Handcuffing Defendant was not part of an arrest for traffic
23 violations, but his being handcuffed and placed in the patrol vehicle was an attempt to protect
24 the safety of officers as well as Defendant given the situation. Specifically, Officer Lopez
25 testified that he placed Defendant in handcuffs because, "There were 5 shots fired within the
26 apartment complex, and I placed him in handcuffs, and placed him in the back of my patrol
27 vehicle for his safet[y], as well as to free me up, so that I could address whatever issues came
28 about." PH at 12.

1 Defendant claims that Officer Lopez's belief that Defendant was attempting to avoid
2 him based upon his traffic violations was unfounded. However, Officer Lopez articulated
3 more than Defendant's erratic driving to support his conclusion that Defendant was attempting
4 to avoid him and was a flight risk. For example, Officer Lopez believed that Defendant would
5 be a flight risk based upon Defendant's attempts to avoid the officer by jumping quickly from
6 the vehicle and attempting to leave the area quickly, his attempts to "get away from [Officer
7 Lopez] really quick," his nervousness, the fact that he was so upset about being stopped, and
8 Defendant's behavior while Officer Lopez conducted the pat down for weapons. PH at 8; Def.
9 Exhibit 1 at 1.

10 Because Defendant was not actually arrested for minor traffic violations, Defendant's
11 arguments based upon that premise are inapplicable, as are his citation to such legal authority
12 as NRS 484A.730, NRS 484.795, and State v. Baynard, 119 Nev. 241 (2003). Moreover,
13 Defendant's detention through the use of handcuffs was never articulated by Officer Lopez to
14 be an arrest at all. Defendant was being detained for his own and officer safety. In U.S. v.
15 Navarrete-Baron, 192 F.3d 786 (8th Cir. 1999), the Court held that police officers did not
16 exceed scope of Terry stop when they handcuffed occupants of automobile and placed them
17 in separate patrol cars while officers searched automobile; there were two suspects and only
18 two officers at scene, detention did not last for unreasonably long time, and in light of
19 dangerous nature of suspected crime of drug trafficking and good possibility that driver or
20 passenger had weapon, their confinement with handcuffs in back of patrol cars during search
21 was reasonably necessary to maintain status quo, protect officers, and allow them to conduct
22 search immediately and without interference.

23 Additionally, in U.S. v. Meza-Corrales, 183 F.3d 1116 (9th Cir. 1999), drug
24 enforcement agents' temporarily detaining defendant with the use of handcuffs, was
25 reasonable and did not escalate into a full-blown arrest, given relatively small number of
26 officers present at scene, fact that weapons had been found and more weapons potentially
27 remained hidden, fleeing persons were on the loose, uncooperative persons were inside the
28 residence, an armed lookout was outside and blew a car horn when DEA came.

1 The Court held that detentions do not rise to the level of an arrest in circumstances
2 when the details of the detention are a reasonable response to legitimate safety concerns on
3 the part of the investigating officers. The Court stated, "When we make such judgments,
4 common sense and ordinary human experience rather than bright-line rules serve as our guide,
5 and we recognize that we allow intrusive and aggressive police conduct without deeming it an
6 arrest in those circumstances when it is a reasonable response to legitimate safety concerns on
7 the part of the investigating officers." *Id.*, 183 F.3d at 1123.

8 Here, Officer Lopez's detention of Defendant was reasonable given the fact that five
9 shots were fired in the apartment complex at approximately the same time as he was
10 conducting the stop and Terry pat-down of Defendant. It was reasonable for Officer Lopez to
11 secure Defendant in the patrol vehicle both for Defendant's safety considering the
12 circumstances and for officer safety while he investigated the shots fired. It's hard to imagine
13 a more legitimate safety concern than five gunshots in the immediate vicinity. Based upon the
14 holding and reasoning in Meza-Corrales, Defendant's detention given the circumstances did
15 not escalate to a full arrest at that time.

16 **III. Defendant's arrest did not violate NRS 171.1771.**

17 Defendant argues additionally that he was arrested unlawfully under NRS 171.1771.
18 Pursuant to NRS 171.1771,

19 Whenever any person is detained by a peace officer for any violation of
20 a county, city or town ordinance or a state law which is punishable as a
21 misdemeanor and the person is not required to be taken before a magistrate, the
22 person shall, in the discretion of the peace officer, either be given a misdemeanor
23 citation, or be taken without unnecessary delay before the proper magistrate.
24 Any such person shall be taken before the magistrate when the person does not
furnish satisfactory evidence of identity or when the peace officer has reasonable
and probable grounds to believe the person will disregard a written promise to
appear in court.¹

25 Once again, this statute is inapplicable. For the reasons explained above, Defendant was not
26 under arrest for minor misdemeanors. At the time that he was first placed in handcuffs, he

27 ¹ Even if NRS 171.1771 applied here, it would still not result in the suppression of the evidence. Officer Lopez would
28 have reasonably believed that Defendant would "disregard a written promise to appear" based upon his behavior in
trying to avoid Officer Lopez. His attempts to hurry away from his vehicle and from law enforcement rather than face
the officer who pulled him over indicate he would not be likely to appear on a traffic citation.

1 was not under arrest at all, but was simply being detained because he was deemed a flight risk
2 and for officer and Defendant's safety. Therefore, Defendant's argument must fail.

3 Defendant suggests that because no field sobriety tests were conducted, Defendant was
4 not subject to arrest because he was only subject to citation for the traffic infractions.
5 However, Defendant assumes that Defendant had been arrested at the time the contraband was
6 found, and moreover that he was arrested for traffic violations and apparently driving under
7 the influence of cannabis. There is no indication in the police reports or preliminary hearing
8 transcript that Defendant was under arrest at that time, nevertheless that it was for traffic
9 violations or driving under the influence of cannabis. Instead, as was outlined above,
10 Defendant was being detained because he was deemed a flight risk, and the detention was
11 continued for officer and Defendant's safety due to five gunshots in the area. Defendant's
12 claim that "the only basis for [his] seizure is minor traffic offenses and the smell of marijuana,"
13 Def's Motion at 6, is contradicted by the evidence. As discussed previously, substantial
14 evidence exists through Officer Lopez's testimony as well as the police reports that Defendant
15 was detained for legitimate reasons and not arrested for minor offenses in violation of Nevada
16 law.

17 Moreover, Defendant's claim that the officer's failure to issue citations for the traffic
18 offenses or to conduct field sobriety tests is evidence of the unlawful arrest is specious. In
19 fact, the officer's decision not to issue such citations and to not conduct field sobriety tests is
20 actually evidence in support of the conclusion that Defendant *was not under arrest for such*
21 *offenses*. Instead, he was being detained for legitimate and reasonable reasons as articulated
22 above.

23 Beckman and Torres, *infra*, do not apply to the facts of this case in the manner
24 Defendant suggests because here, the need for detention continued. Here, Officer Lopez found
25 additional evidence during the process of attempting to identify Defendant that increased his
26 probable cause to believe that Defendant was committing a felony offense. He had not yet
27 completed the steps necessary to address the initial reason for the stop when he discovered

28 //

1 additional evidence of potential crimes and when a new issue presented itself: the five
2 gunshots.

3 In State v. Beckman, 305 P.3d 912, 915 (Nev. 2013), the Court held that “A traffic stop
4 that is legitimate when initiated becomes illegitimate when the officer detains the car and
5 driver beyond the time required to process the traffic offense, unless the extended detention is
6 consensual, de minimis, or justified by a reasonable articulable suspicion of criminal activity.”

7 (Emphasis added.) Additionally,

8 During the course of a lawful traffic stop, officers may complete a
9 number of routine tasks. For example, they may ask for a driver's license and
10 vehicle registration, run a computer check, and issue a ticket. See United States
11 v. Vaughan, 700 F.3d 705, 710 (4th Cir. 2012). Officers may also inquire about
12 the occupants' destination, route, and purpose. United States v. Sanchez, 417
13 F.3d 971, 975 (8th Cir. 2005). And if necessary, law enforcement may conduct
14 a brief, limited investigation for safety purposes. Terry v. Ohio, 392 U.S. 1, 27,
15 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968); Dixon v. State, 103 Nev. 272, 273, 737
16 P.2d 1162, 1163-64 (1987).

17 Id. at 916. Here, Defendant's detention was reasonable pursuant to the standards set under
18 Beckman, Vaughan, Sanchez, Terry, Dixon, and Meza-Corrales, *supra*. Officer Lopez
19 detained Defendant briefly due to his belief that Defendant was a flight risk and may have
20 weapons on his person. While conducting a Terry pat down for weapons, Officer Lopez was
21 given consent to pull Defendant's wallet from his pocket to obtain his identification card. In
22 the process of doing so, Officer Lopez also found the cash which through his training and
23 experience he believed, combined with the odor of marijuana emanating from Defendant and
24 his vehicle, was indicative of drug sales. Finally, five gunshots created an emergency situation
25 wherein Officer Lopez needed to continue Defendant's detention for his own safety as well as
26 that of Officer Lopez while he investigated the gunshots and was then able to continue his
27 investigation into Defendant's potential criminal activity.

28 In Torres, the defendant's detention was deemed by the Nevada Supreme Court to be
unreasonable because

Once Torres produced his ID card verifying he was not a minor and over the age
of 21, the suspicion for the original encounter was cured and Officer Shelley no
longer had reasonable suspicion to detain Torres. But rather than release Torres,
Officer Shelley continued to detain him, and contacted dispatch to check for

1 warrants. The officer explained his further detention of Torres as his "standard
2 practice" because he 'very often get[s] fake I.D.'s, altered information on I.D.'s,
3 I.D.'s that resemble the person but is not truly that person.' However, there is no
evidence to show that Torres's ID card was fake or altered in any way.

4 Torres v. State, 341 P.3d 652, 657 (Nev. 2015). Thus, Torres is unlike the instant case. While
5 in Torres the suspect was cleared of wrongdoing *before* the officer continued the detention to
6 check for warrants when the officer had *no other indication* that the suspect was guilty of any
7 other wrongdoing, thus making additional detention unlawful, the same is not the case here.
8 Here, Officer Lopez was continuing the detention necessary regarding the initial stop, i.e.
9 retrieving Defendant's identification, when he also discovered additional evidence of potential
10 wrongdoing, i.e. the odor of illegal substance, cash in denominations and folded in such a way
11 as to indicate sales, and Defendant's behavior. Further, the emergent situation of shots fired
12 added to the reasonable nature of the continued detention.

13 Finally, Defendant's claim that his possession of \$2,187.00 on his person was not
14 sufficient indication of wrongdoing is without merit. Officer Lopez explained at the
15 preliminary hearing as well as in his reports (see Def. Exhibits 1 and 2) that it was not only
16 the amount of cash that Defendant carried, but the specific manner in which he carried the
17 various denominations that indicated to him that, with the combination of the odor of
18 marijuana emanating from Defendant and his vehicle, the cash was related to narcotics sales.
19 It is not as though Officer Lopez noted that Defendant had \$200 in cash and assumed he must
20 be dealing drugs. Officer Lopez articulated in his reports and at the preliminary hearing the
21 aggregated facts necessary to establish probable cause. See U.S. v. \$93,685.61 in U.S.
22 Currency, 730 F.2d 571, 572, cert. denied, 469 U.S. 831 (1984). Whether Defendant was
23 employed or had pay stubs in his residence is irrelevant to the analysis firstly because such
24 information was not available to Officer Lopez at the time that he discovered the case, but was
25 only discovered later. Thus it could not have been part of his consideration at the time that he
26 located the cash. Moreover, Defendant's pay stub indicates he was paid \$275.63 on November
27 27, 2015. State's Exhibit 1. The pay stub could hardly explain the over \$2,000 in cash he had
28 on his person at the time of his detention. Thus Defendant's argument must fail.

1 IV. Any delay in obtaining a search warrant was reasonable under the
2 circumstances.

3 In Rodriguez v. United States, 135 S. Ct. 1609, 1612 (2015), the U.S. Supreme Court
4 reiterated that once the goal of a traffic stop has been achieved or reasonably should have been,
5 the detainment becomes unlawful. Under Nevada law, detention may not last longer than 60
6 minutes without probable cause for arrest. NRS 171.123. Once a detention exceeds the 60-
7 minute time limit under NRS 171.123, the detention then ripens into a de facto arrest for
8 which probable cause is necessary. State v. McKellips, 118 Nev. 465, 49 P.3d 655, (Nev.
9 2002).

10 In the instant case, the traffic stop occurred sometime shortly after 2:25 am. Def.
11 Exhibit 1 at 1. Officer Lopez applied for a search warrant at 5:56 am. Def. Exhibit 1 at 2.
12 During that time, Officer Lopez was in a position where he had to investigate five gunshots in
13 the immediate vicinity, and he determined that there was sufficient probable cause to apply
14 for and was granted a search warrant for the hidden compartment. Defendant's allegation that
15 it is unlikely that Officer Lopez continued in executing his duties while Defendant was in the
16 back of the police vehicle is directly contradicted by Officer Lopez's testimony that he placed
17 Defendant in the back of the vehicle for his safety while the officer investigated the gunshots.
18 Although the detention was more lengthy than would ordinarily be allowed for a traffic stop,
19 exigent circumstances existed to justify the officer's actions. Moreover, by the time that the
20 60 minute limit was reached, Officer Lopez had already established probable cause to believe
21 that Defendant was engaged in illegal activity, and thus to justify his arrest, based upon the
22 odor of marijuana, Defendant's attempt to flee, and the cash he found on Defendant's person
23 indicating narcotics sales.

24 After smelling the odor of marijuana on Defendant's person and emanating from his
25 vehicle, and after finding cash in Defendant's pocket that indicated through his training and
26 experience that it was the proceeds of narcotics sale, Officer Lopez found the marijuana
27 residue that was in plain view, and, although there is no specific mention of a flashlight, it is
28 //

1 difficult to imagine a situation in which an officer would conduct an investigation without
2 sufficient lighting to do so.

3 Moreover, Defendant cites to Camacho v. State, 119 Nev. 395 (2003) as the rule on car
4 search exceptions. However, a more recent case, State v. Lloyd, 312 P.3d 467 (Nev. 2013),
5 refines the rule. In that case, the Nevada Supreme Court held that when probable cause exists
6 to believe that a controlled substance will be found inside a vehicle, and the vehicle was
7 occupied and mobile at the time the officer initiated the stop, the warrantless search is valid.
8 Id. At 474. Here, the odor of marijuana combined with Defendant's attempts to avoid the
9 officer and the cash indicative of narcotics sales and the marijuana residue in plain view clearly
10 meet the requirement for probable cause under Lloyd, and thus the search leading to Officer
11 Lopez finding the plastic baggies and the hidden compartment before obtaining a search
12 warrant are valid. Moreover, at that time, Officer Lopez immediately stopped the search and
13 applied for a search warrant, which was granted, before any further search took place,
14 indicating that Officer Lopez was operating on a good faith basis with probable cause
15 sufficient to support the search under Lloyd.

16 CONCLUSION

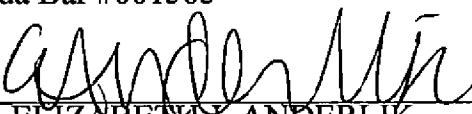
17 Defendant was not placed under custodial arrest for minor misdemeanor offenses.
18 Instead, Defendant was detained lawfully, and at some point later was under arrest based upon
19 probable cause for more serious offenses. The officer's search of Defendant's person as well
20 as the vehicle comported with Nevada law, and therefore the evidence should not be
21 suppressed. Based upon the foregoing, Defendant's motion must be denied.

22 DATED this _____ day of June, 2016.

23 Respectfully submitted,

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

27 BY

28 
ELIZABETH J. ANDERLIK
Deputy District Attorney
Nevada Bar #013444

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Opposition to Defendant's Motion to Suppress,
was made this 17th day of June, 2016, by electronic filing to:

KENNETH G. FRIZZELL, ESQ.
ATTORNEY FOR DEFENDANT
EMAIL: frizzelllaw@yahoo.com;

BY: P. Manis

P. Manis
Employee of the District Attorney's Office

EJA/pm /L-2

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 LAS VEGAS, NV 89102

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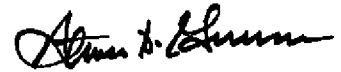
WARRIOR WEST ONE WAY
 1400 N. LAMAR BLVD
 LAS VEGAS, NV 89102

Christopher R. KELLER
 255 N. LAMAR BLVD
 LAS VEGAS, NV 89110

	Rate	Frequency	This Month	Year to Date	Other Credits and Information	Rate	Frequency	This Month	Year to Date
Electricity	2.50	23.75	77.00	432.00					
Water	0.50	0.00	0.00	0.00					
Gas	0.50	0.00	0.00	0.00					
Phone	0.50	0.00	0.00	0.00					
Internet	0.50	0.00	0.00	0.00					
Total Pay			77.00	432.00					

	Rate	Frequency	This Month	Year to Date
Electricity	2.50	23.75	77.00	432.00
Water	0.50	0.00	0.00	0.00
Gas	0.50	0.00	0.00	0.00
Phone	0.50	0.00	0.00	0.00
Internet	0.50	0.00	0.00	0.00
Total Pay			77.00	432.00

EXHIBIT "1"



CLERK OF THE COURT

1 CASE NO. C-16-312717-1

2 DEPT. NO. 5

3
4 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
5 COUNTY OF CLARK, STATE OF NEVADA

6 THE STATE OF NEVADA,)
7 Plaintiff,) PRELIMINARY HEARING
8 vs.) Case No.
9 CHRISTOPHER ROBERT) 16F01430X
10 KELLER,)
11 Defendant.)

12 REPORTER'S TRANSCRIPT OF PROCEEDINGS
13 BEFORE THE HONORABLE CYNTHIA CRUZ
14 JUSTICE OF THE PEACE

15 TAKEN ON TUESDAY, FEBRUARY 16, 2016
16 AT 9:00 A.M.

17 APPEARANCES:

18
19 For the State: Sarah Killer, Esq.
20 Deputy District Attorney

21 For the Defendant: Michael Sanft, Esq.
22 Las Vegas, Nevada

23
24
25 REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

I N D E X

WITNESSES:	D	C	RD	RC	FD	FC
DANIEL LOPEZ	5	23	41	43	43	44

1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY
2 16, 2016

3 * * * * *

4 THE COURT: Christopher Robert Keller,
5 16F01430X.

6 Mr. Keller is present in custody,
7 represented behalf Mr. Sanft.

8 THE COURT: It is my understanding that this
9 matter is not negotiated?

10 MR. SANFT: That is correct, Your Honor.

11 THE COURT: Did you receive a copy of the
12 criminal complaint this morning?

13 MR. SANFT: Yes, Your Honor, and we waive
14 the reading.

15 THE COURT: Reserving any objections?

16 MR. SANFT: Yes, Ma'am.

17 MS. KILLER: If we can approach, we have
18 something to fill the Court in on.

19
20 (A Bench conference was had.)

21
22 MS. KILLER: The State calls Officer Lopez.

23 MR. SANFT: Your Honor, just as a matter of
24 housekeeping I believe that Officer Lopez is the
25 ~~only witness that is here in the courtroom, being~~

1 called as a witness in this case; am I wrong?

2 MS. KILLER: No.

3 THE COURT: Are you invoking the
4 exclusionary rule?

5 MR. SANFT: As a matter of precaution.

6 THE COURT: If there are any witnesses on
7 Christopher Keller matter, whether you could be a
8 witness in the future, or even if you are sure, I am
9 going to ask you to step outside.

10 MS. KILLER: For the record, no one else
11 checked in this morning.

12
13 DANIEL LOPEZ,

14
15 who, being first duly sworn to tell the truth, the
16 whole truth, and nothing but the truth, was examined
17 and testified as follows:

18
19 THE CLERK: Please be seated and state and
20 spell your first and last name for the record.

21 THE WITNESS: Daniel Lopez, D-a-n-i-e-l
22 L-o-p-e-z.

23 THE COURT: State, your witness.

24 MS. KILLER: Thank you, Your Honor.

25 I have pre-marked with your clerk State's

1 Exhibits 1 through 8.

2 Exhibit 8 I have previously sent defense
3 counsel a copy of his certified prejudgments of
4 convictions for felonies in Nevada.

5 MR. SANFT: Yes, Your Honor, I have seen
6 those.

7 MR. KILLER: And at this time the State
8 would move to admit State's Exhibit 8.

9 MR. SANFT: We have no objection, Your
10 Honor.

11 THE COURT: 8 will be admitted.

12
13 DIRECT EXAMINATION
14

15 BY MS. KILLER:

16 Q. Officer Lopez, how are you currently
17 employed?

18 A. I am currently employed with the Las Vegas
19 Metropolitan Police Department.

20 Q. Were you so employed on January 28 of 2016?

21 A. Yes.

22 Q. On that date, did you conduct a vehicle
23 stop in the area 123 Lamb?

24 A. Yes.

25 Q. And is that located here in Las Vegas, Clark

1 County, Nevada?

2 A. Yes, sir.

3 Q. And was this around 2:25 a.m.?

4 A. Yes.

5 Q. At that time did you conduct a vehicle stop
6 on 2002 Dodge Stratus that was silver in color?

7 A. Yes, I did.

8 Q. And what drew your attention to that
9 vehicle?

10 A. When I first noticed the vehicle, it was
11 making an abrupt left turn off of Sunrise Avenue.

12 The vehicle went straight into the center
13 lane, and continued northbound.

14 Q. When you say the center turn lane, are we
15 talking about one of those double yellow 2-way left
16 hand lanes?

17 A. Yes.

18 Q. What happened next?

19 A. The vehicle kept on traveling in the lane
20 made a U-turn, and I conducted a records check on
21 the plate.

22 I noticed that the rear passenger tail lamp
23 was broken, and that the driver had sped up to
24 quickly sped up to quickly pull into the Cross Road
25 III apartment complex.

1 Q. And in doing so have you traveled over 3
2 hundred feet in that turn lane without entering the
3 travel lane?

4 A. Yes.

5 Q. And had you gotten to a high rate of speed?

6 A. Yes.

7 Q. And when he made that abrupt turn into the
8 Cross Roads 3 apartment complex, what did he do with
9 his vehicle at that point?

10 A. He sped up. Once he had gotten into the
11 apartment complex, he proceeded in there and made a
12 quick right turn, and pulled into a parking space.

13 Q. Did he remain in the vehicle at that time?

14 A. He was jumping out of the driver's side of
15 the vehicle as I was pulling up on him, and
16 initiating the traffic stop.

17 Q. And did you activate your lights and siren?

18 A. Just my lights.

19 Q. And did you give him commands not to leave
20 the car?

21 A. Yes, I gave him verbal commands to walk over
22 to my vehicle.

23 Q. Did he eventually obey those verbal
24 commands?

25 A. Yes.

1 Q. Prior to him obeying those verbal commands,
2 what did his behavior indicate to you?

3 A. It indicated to me that he was probably
4 trying to--

5 MR. SANFT: Objection, speculation.

6 THE COURT: Sustained.

7 Q. When he exited the car, what observations
8 did you make?

9 A. I observed that he was trying to get out of
10 the car quick. He was trying to get somewhere else
11 really quick, and that he was trying to get away
12 from me really quick.

13 Q. And did you smell any to odors when he
14 exited the car?

15 A. Yes.

16 Q. And did you smell those on his person or in
17 the car?

18 A. I could smell it on his person, and actually
19 coming from inside the vehicle as well.

20 Q. And what odor was that?

21 A. The odor of cannabis.

22 Q. Do you see the individual here in Court
23 today that you have been discussing for the Court
24 that you stopped on that evening?

25 A. Yes, Mr. Keller, sitting right here.

1 Q. Can you point to him for the record
2 and identify an article of clothing?

3 A. He is wearing a blue outfit. He has
4 a lot of tattoos near his elbows.

5 Q. Short sleeve or long?

6 A. Short sleeve.

7 MS. KILLER: Your Honor, could the
8 record reflect the identification of the
9 Defendant?

10 THE COURT: It will.

11 Q. Given the smell you observed and his
12 behavior, did you believe that he might be
13 armed and conduct a Terry pat down?

14 MR. SANFT: Objection, leading.

15 THE COURT: If was, but, okay,
16 rephrase.

17 Q. Did you conduct a Terry pat down?

18 A. I did.

19 Q. And what was your basis?

20 What reasonable suspicion did you
21 believe that believed that he might be armed?

22 A. The clothing that he was wearing
23 could hold numerous weapons, so I conducted a
24 pat down.

25 Q. And that was because of what you just

1 observed, the cannibals smell you described
2 previously for us and the behaviors you
3 described previously?

4 A. Yes.

5 Q. When you conducted the pat down, what
6 if anything occurred?

7 A. While I was conducting the pat down,
8 I could tell that his wallet was in his front
9 right pocket, and I asked him if I could take
10 his wallet out of his pocket.

11 Q. Did he give you permission to do so?

12 A. Yes, he did. And that was to get his
13 driver's license that was in his wallet, and
14 as I was removing the wallet, I removed a
15 large wad of cash that outside of the
16 wallet.

17 And when I like at the wallet, I
18 could tell that there was even more cash, and
19 pulled it up within the wallet as well.

20 Q. And how much total cash did you
21 recover from his wallet and pocket?

22 A. I can't recall off the top of my
23 head.

24 Q. Would it refresh your recollection to
25 look at your report?

1 A. Yes.

2 MR. KILLER: Your Honor, may I
3 approach?

4 THE COURT: You may.

5 Q. Just review that by yourself.

6 MS. KILLER: Counsel, I am showing a
7 copy of the declaration of arrest.

8 MR. SANFT: Thank you.

9 Q. Does that refresh your recollection?

10 A. Yes.

11 Q. Do you recall what the total amount
12 of the cash that was recovered?

13 A. \$2,187.00.

14 Q. And does the denomination of the
15 bills indicate anything to you, based on your
16 training and experience?

17 A. Yes. The way that the 20's were
18 folded up, the 20's that were within the
19 wallet, he had the 20's folded up in
20 increments of \$100.

21 He had and the 5's and the 20's
22 facing one way, and the next 5 and 20's
23 facing the other way.

24 The larger wad of cash had a wide
25 variety, but it was mostly of the smaller

1 bills, the 5's and 10's.

2 Q. And based upon your training and
3 experience, what does the state that the
4 money was in indicate to you?

5 A. The state the money was in was
6 consistent with the sale of narcotics.

7 Q. At some point occurring the Terry pat
8 down was, the Defendant placed in handcuffs
9 and if so, why?

10 A. I placed him in handcuffs while I had
11 him there at the front of the vehicle.

12 There were 5 shots fired within the
13 apartment complex, and I placed him
14 handcuffs, and placed him in the back of my
15 patrol vehicle for his safer, as well as to
16 free me up, so that I could address whatever
17 issues came about.

18 Q. After that, did you locate anything
19 in plain view in the car, given the open door
20 from which he exited?

21 A. Yes, I could tell that there a green
22 leafy residue on the floorboard of the
23 driver's side of the vehicle.

24 Q. Did you conduct a probable cause
25 search of the car based on the car along with

1 the smelling of cannabis on his person and in the
2 vehicle?

3 A. Yes, I did.

4 Q. And during the probable cause search, what
5 did you locate?

6 A. A sealable plastic bag clear, and inside it,
7 it had a lot of smaller clear plastic bags
8 underneath the driver's seat.

9 And also between the driver's seat and the
10 center console, I located a large sealable plastic
11 bag.

12 Q. And at that point did you call for a K-9
13 officer and a K-9?

14 A. I did.

15 Q. And when they arrived, did the K-9 officer
16 have the K-9 inspect the car?

17 A. Yes, he did. K-9 Officer Newton had his
18 narcotics dog Stewy check the vehicle.

19 Q. And just for the record, I show was
20 certified as of April of 2013, to your knowledge,
21 correct?

22 A. I believe so, yes.

23 Q. And when Stewy checked the vehicle, did he
24 hit on any area of the car?

25 A. He did. He alerted to the glove box.

1 Q. And when you looked at that glove box, did
2 you observe any further compartments or any
3 narcotics?

4 A. I did. If you open the glove box, and if
5 you are looking at the glove box, you open it up, to
6 the right of it, the side of the glove box had been
7 removed.

8 There was a small little opening with
9 cardboard that had been placed within there to hold
10 contraband.

11 Q. At that time did you obtain a search
12 warrant?

13 A. I did.

14 MR. KILLER: And for the record, the search
15 warrant, both we will be referencing have previously
16 been provided to defense counsel.

17 Q. Once that search warrant was obtained, did
18 you execute the search warrant on the vehicle?

19 A. I did.

20 Q. And did you find anything in that secret
21 compartment?

22 A. I did. From that compartment, it actually
23 has aside form, so if the passenger door is open,
24 the side compartment, or the side of that glove box
25 will actually pop off, and you can access, and there

1 was a black bag within that little compartment
2 there.

3 Q. And in that black bag, did you locate a gold
4 watch and 3 sealable gold bags, and another smaller
5 black bag?

6 A. Yes, I did.

7 Q. In that first gold bag, what did you locate?

8 A. The first gold bag had a whole lot of white
9 crystal like substance.

10 Q. And what was that white crystal like
11 substance consistent with from your training and
12 experience?

13 A. From my training and experience, it appeared
14 to be methamphetamine.

15 Q. And was that recovered as package one, item
16 number one?

17 A. I believe so.

18 Q. Was an on ODV sheet conducted in regards to
19 the various methamphetamine found within the hidden
20 compartment as to approval and weight?

21 A. Yes.

22 MR. KILLER: Your Honor, may I approach?

23 THE COURT: You may.

24 MS. KILLER: Your Honor, Exhibit 1 I believe
25 we are admitting pursuant to stipulation, for

1 purposes of preliminary hearing only.

2 MR. SANFT: That is correct, Your Honor.

3 THE COURT: It will admitted for purposes of
4 preliminary hearing only, and you are marking it --

5 MS. KILLER: State's 1.

6 MR. SANFT: Your Honor, just as matter of
7 brevity, we will stipulate to the test results that
8 are located in State's 1 so that we don't have to go
9 through had process.

10 THE COURT: All right.

11 For purposes of preliminary hearing, the
12 defense will stipulate to what the results were in
13 State's 1.

14 MR. KILLER: Which, for the record, is 354.4
15 gross grams of ODV positive methamphetamine.

16 THE COURT: Okay.

17 MR. KILLER: I am returning State's 1 to the
18 Court.

19 Q. And in the second bag, did you and the other
20 officers locate 4 bags of a controlled substance
21 containing consistent with heroin?

22 A. Yes.

23 MR. KILLER: And the same procedure, State's
24 Exhibit 2, the ODV sheet for the heroin, is also
25 being admitted pursuant to stipulation.

1 I am showing defense counsel.

2 MR. SANFT: Yes.

3 THE COURT: 2 is being admitted.

4 MR. KILLER: And was 36.4 gross grams of ODV
5 positive for heroin, package one, item 2.

6 Q. And, officer, in the second gold bag there
7 was also some additional methamphetamine which was
8 included in total weight ODV sheet that was admitted
9 as Exhibit 1, correct?

10 A. Correct.

11 Q. And additionally there was some 3 multi-
12 colored pills, 4 smaller oval pills, correct?

13 A. Yes.

14 Q. And then also in that second bag did you
15 recover a small clear plastic bag with a white
16 powdery substance consistent with cocaine?

17 A. Yes, I did.

18 MR. KILLER: I am showing defense counsel
19 State's Exhibit 3 admitted pursuant to stipulation.

20 THE COURT: 3 will be admitted.

21 MR. KILLER: And for the record, that is an
22 ODV positive sheet for .8 gross grams of cocaine,
23 package one, item 3.

24 I am providing that to the Court.

25 Q. Did you also locate a third smaller gold

1 bag?

2 A. I did.

3 Q. And was that empty?

4 A. The bag was empty.

5 Q. Was there a strong smell, however?

6 A. There was a very horrid smell coming from
7 inside the bag.

8 Q. And what was that smell consistent with?

9 A. It was consistent with heroin.

10 Q. Finally did you locate the smaller black bag
11 within the larger black bag?

12 A. Yes.

13 Q. And in that smaller black bag did you locate
14 a 22 Beretta handgun and the 7 22 short rounds?

15 A. Yes, I did.

16 Q. And was one of those in the chamber?

17 A. Yes.

18 Q. And that was recovered by CSA Ty, correct?

19 A. Correct.

20 Q. And finally in the car did you locate a
21 Nevada regulation for the vehicle?

22 A. I don't believe so.

23 Q. Would it refresh your recollection to see
24 your impounded sheet?

25 A. Yes.

1 MS. KILLER: Your Honor, may I approach?

2 THE COURT: You may.

3 MS. KILLER: Having shown defense counsel
4 this is the property report for the search warrant
5 of the vehicle, I am showing the officer the second
6 page to refresh his recollection.

7 Q. Officer, does that refresh your
8 recollection?

9 A. Yes.

10 Q. And did you locate a Nevada registration for
11 that vehicle when you searched it?

12 A. Yes.

13 Q. And who was that car registered to?

14 A. To Mr. Keller.

15 Q. To your recollection, was there anyone else
16 registered to the car when you reviewed that, or
17 when you ran that plate?

18 A. There was no one else registered to the car.

19 Q. As a result of what you recovered in the
20 vehicle, did you obtain a piggyback search warrant
21 for the Defendant's apartment?

22 A. I did.

23 MR. KILLER: And, for the record, that has
24 also been previously provided to defense counsel.

25 Q. During the service of the piggyback search

1 warrant, was a 9 millimeter semi-auto ruger located?

2 A. Yes.

3 Q. Was there also 3 boxes is of 22 short
4 ammunition located?

5 A. Yes.

6 Q. Consistent with what was found in the car?

7 A. Yes.

8 Q. And also one box of 9 millimeter ammo?

9 A. Yes.

10 Q. And that would have been consistent with the
11 Ruger located at the Defendant's apartment?

12 A. Correct.

13 Q. And further were 5 glass smoking pipes and 4
14 scales located in the apartment?

15 A. Yes.

16 Q. While you and the other detectives were
17 serving the search warrant, did Detective Belmont
18 locate a large glass jar in the freezer containing a
19 green leafy substance?

20 A. Yes.

21 Q. And what was that substance consistent with,
22 based on your training and experience?

23 A. It was consistent with marijuana.

24 MR. KILLER: And showing defense counsel
25 State's Exhibit 4, and that is pursuant to

1 stipulation as well, is that an ODV positive a
2 checklist for marijuana, totaling 180.4 gross grams
3 package 4, item 4.

4 THE COURT: That will be deemed admitted.

5 Q. Officer Lopez, did you also locate in the
6 bedroom 3 plastic bags, 2 containing a white crystal
7 like substance?

8 A. Yes.

9 Q. And what was that substance consistent with,
10 based on your training and experience?

11 A. It was consistent methamphetamine.

12 Q. And was an ODV test also conducted for that?

13 A. Yes.

14 MR. KILLER: I am showing defense counsel
15 State's Exhibit 5, and then pursuant to stipulation,
16 is an ODV positive checklist 4.4 gross grams of
17 methamphetamine, package 8 item 9.

18 THE COURT: It is deemed admitted.

19 Q. And in the third plastic bag was a brown
20 substance consistent with heroin located?

21 A. Yes.

22 Q. And was an ODV also conducted for -- if we
23 go back to the second bag of methamphetamine, was a
24 separate ODV sheet conducted for 3.1 gross grams ODV
25 positive for methamphetamine?

1 A. Yes.

2 MR. KILLER: I am showing defense counsel
3 what is being admitted pursuant to stipulation as
4 State's Exhibit 6, package 8, item 10.

5 THE COURT: 6 will be deemed admitted.

6 Q. Finally returning back to the third package
7 with the heroin, was an ODV sheet conducted for
8 that?

9 A. Yes.

10 Q. And did that result 1.1 gross grams ODV
11 positive for heroin?

12 A. Yes.

13 MR. KILLER: I am showing defense State's
14 Exhibit 7, pursuant to stipulation.

15 THE COURT: 7 is deemed admitted.

16 Q. And finally during the search of the
17 apartment, was pay stub in Defendant Christopher
18 Keller's named located during that search?

19 A. Yes, there was.

20 MR. KILLER: The State has no further
21 questions for had witness.

22 THE COURT: Cross.

23 MR. SANFT: Your Honor, may I approach your
24 Clerk and ask her to mark this as a Proposed Defense
25 Exhibit?

1 THE COURT: Yes.

2 MR. SANFT: And For the record I am showing
3 the State what has been marked as Proposed Defense
4 Exhibit A.

5 May I approach?

6 THE COURT: You may.

7
8 CROSS-EXAMINATION
9

10 BY MR. SANFT:

11 Q. Officer Lopez, are you familiar with what I
12 am showing you as Proposed Exhibit A?

13 A. Yes.

14 Q. What is that?

15 MS. KILLER: Your Honor, may I approach to
16 see where he is pointing?

17 THE COURT: Sure.

18 Q. Officer, what is that?

19 A. That is a map printout, and the major
20 intersection is Stewart and Lamb.

21 Q. Are your familiar with the other cross
22 streets that listed in here on the map?

23 A. Some of them.

24 Q. Okay.

25 And just for the record, does this map

1 accurately depict the area which you first saw my
2 client travel down Sunrise, and also the area where
3 you eventually pulled my client over?

4 A. Yes.

5 MR. SANFT: Your Honor, just for the record
6 we move to admit Defense Exhibit A.

7 MR. KILLER: No objection.

8 THE COURT: It will be deemed admitted.

9 Q. Just for the record, your testimony was that
10 you were traveling in which direction on Lamb when
11 you first saw my client?

12 A. I was traveling southbound on North Lamb.

13 Q. Okay,

14 And since we are all here watching, can
15 point out where you were in your squad car, what
16 location on North Lamb Boulevard when you first saw
17 my client?

18 A. I was just passing the apartment complex
19 that that he eventually pulled into.

20 THE COURT: Do you want him to use a marker

21 MR. SANFT: Yes.

22 THE COURT: For the record, the officer will
23 be marking on this map with a red marker.

24 Q. Can you mark that with an A?

25 A. Yes.

1 Q. All right.

2 And then you said that as you were traveling
3 in this direction, how fast were you traveling in
4 this direction when you first saw my client?

5 A. Approximately 40 miles an hour.

6 Q. All right.

7 And during that time period where was client
8 when He was first spotted, when you first saw him
9 traveling down North Lamb?

10 A. When I first saw him, he was coming off of
11 Sunrise making left turn leading northbound.

12 Q. And if you can just mark the area that you
13 first saw my client with a B.

14 A. Here.

15 Q. At some point, your testimony was that you
16 were passing my client traveling in the opposite
17 direction, correct?

18 A. Yes.

19 Q. And your testimony was that he was traveling
20 at a high rate of speed?

21 A. Yes.

22 Q. At some point you turned around, flipped a
23 U, and you followed him?

24 A. That is correct.

25 Q. Could you recall where on this map you

1 flipped you U and followed him?

2 A. When I saw him pull out off of Sunrise
3 Avenue, I was showing down to see what he was going
4 to do, where he was going to go, so he probably
5 passed me somewhere about here.

6 Q. Mark that with a C.

7 A. Okay.

8 Q. And then you flipped a U, and you were in
9 this vicinity where C is marked on the map,
10 something like that?

11 A. Correct.

12 Q. Then you start to follow him into the
13 apartment complex?

14 A. Correct.

15 Q. All right.

16 Where exactly did you effectuate the stop on
17 my client?

18 A. It looks likes right about here.

19 Do you want a D?

20 Q. Yes.

21 When you first came into the apartment
22 complex, how did you get into the apartment complex,
23 based upon this map?

24 A. He made a left turn into the entrance, and I
25 made a a left turn to go westbound from Lamb into

1 the entrance.

2 Q. So the entrance into the apartment complex
3 is located in this area right here?

4 A. I believe it was somewhere right about here.

5 Q. Can you mark that area with an E, please?

6 MR. SANFT: I have no further questions
7 based on that.

8 MS. KILLER: We just ask if we can make a
9 color copy for both party's file.

10 THE COURT: I can see if we can.

11 Q. Officer Lopez, how long have you been with
12 the Metropolitan Police Department as a police
13 officer?

14 A. 9 years.

15 Q. And the entire 9 years, have you been
16 involved with patrol?

17 A. Yes.

18 Q. Okay.

19 Your testimony was that when you were
20 approaching, going down North Lamb, you saw my
21 client make an abrupt left hand turn, something like
22 that?

23 A. Correct.

24 Q. Is that illegal?

25 A. No, it is not illegal.

1 Q. All right.

2 So as he is traveling down you say in a high
3 rate of speed passing you on North Lamb, you are in
4 a black and white patrol car, is that correct?

5 A. Yes.

6 Q. I am assuming that this street does have
7 streetlights on that area?

8 A. There are no streetlight from the point of
9 where I first saw him to where I began to follow
10 him.

11 Q. And based upon your oh, observation of my
12 client in his vehicle, was his vehicle's lights on?

13 A. Yes.

14 Q. Okay.

15 So would be fair to say that he is traveling
16 in a direction where he is passing you on the
17 street?

18 A. Correct.

19 Q. And at some point your testimony was that
20 you flipped a U, and you go back towards him, but
21 the only reason why you could that is because he is
22 traveling in the middle lane coming down North Lamb?

23 A. The reason I began to follow him and observe
24 him is because of how fast he came up to Sunrise
25 Avenue.

1 I couldn't tell whether he came to a
2 complete stop one way or another, but because he was
3 traveling at a fast rate of speed, I decided to make
4 U-turn and conduct a records check on his plate.

5 Q. But your testimony also is that you observed
6 him traveling down the center lane of North Lamb?

7 A. The center turn lane, yes.

8 Q. Is that illegal?

9 A. For a prolonged period of time. It might
10 have been 2 hundred feet.

11 Q. So your testimony was that he was traveling
12 at a distance of over 3 hundred feet, is that
13 correct?

14 A. That is correct.

15 Q. Now, at some point he pulled into the
16 apartment complex, and your testimony was that he
17 did so in a way that you thought he was trying to
18 avoid you, is that correct?

19 A. Yes.

20 Q. What led you to believe that he was avoiding
21 you?

22 A. He didn't slow down come at all before he
23 was coming out to make the left turn.

24 He made the left turn, even though there was
25 southbound traffic coming down on Lamb, and there

1 was also the broken taillight as well.

2 Q. So your testimony now is that you see the
3 traffic coming down in the opposite direction and he
4 failed to yield to that traffic and he cut in front
5 of them?

6 A. Yes.

7 Q. And he cut in front of them, and he went at
8 the same speed that he had when he was passing you
9 on North Lamb?

10 A. I can't say it was the exact same speed. It
11 was at a high rate of speed.

12 Q. As he is pulling into the apartment complex,
13 he is not slowing down?

14 A. No.

15 Q. All right.

16 So he is going over bumps in the apartment
17 complex in his vehicle, is that correct?

18 A. Correct.

19 Q. At a high rate of speed?

20 A. Yes.

21 Q. And at some point he then pulls into a
22 parking stall?

23 A. Yes.

24 Q. With you right behind him?

25 A. I was coming up on him. More or less right

1 behind him. I wasn't directly behind him.

2 Q. It would be fair to say your testimony here
3 you toady is that you never lost of my client's
4 vehicle, correct?

5 A. No.

6 Q. At this point, I am assuming you had your
7 lights and sirens on?

8 A. No.

9 Q. You did not?

10 A. I did not.

11 Q. Okay.

12 So you flip a U, and turn follow my client
13 into the apartment complex without your lights and
14 sirens on?

15 A. Correct.

16 Q. Okay.

17 Now, your testimony as well is that when you
18 pulled in, you got right behind my client, and you
19 tried to effectuate the stop, and my client got out
20 of the vehicle?

21 A. He was already jumping out of the vehicle.

22 Q. But you don't have your lights and sirens
23 on?

24 A. My lights and sirens were activated as he
25 was pulling into the stall. It was inside the

1 apartment complex is when I activated.

2 Q. Okay.

3 So your testimony is that when you pulled
4 into the apartment complex it is at that point that
5 your turned your light and sirens on?

6 A. It was when he was making a right turn.

7 When he pulls into the apartment complex
8 that is a straight-away, and then there a right turn
9 where he pulled up to his stall

10 As he was making a right turn into the
11 little cul-de-sac portion of his apartment complex
12 is when I activated my lights.

13 Q. So you allowed him to travel at a high rate
14 of speed through the apartment complex to the point
15 he pulled into his parking stall, and then you
16 turned on the lights?

17 A. Yes.

18 Q. So you effectuated the stop, and he gets out
19 of his vehicle?

20 A. He got out of his vehicle on own accord.

21 Q. And your testimony was when he got out of
22 the vehicle, where you were, were you still inside
23 your vehicle?

24 A. No, I was also getting outside of my vehicle
25 as well.

1 Q. So, as you were getting outside of your
2 vehicle, your testimony was that you observed, or
3 you smelled the odor of cannabis, marijuana?

4 A. Correct.

5 Q. Off of my client?

6 A. Correct.

7 Q. Now, when you parked your vehicle, how far
8 away was your vehicle to my client's vehicle?

9 A. It was approximately less than 10 feet.

10 Q. So you basically box my client in, in his
11 parking stall?

12 A. Correct.

13 Q. And then you got out of your vehicle?

14 A. Correct.

15 Q. And you smelled marijuana. There must have
16 been a pretty good odor for you to smell that like
17 that pretty quickly, correct?

18 A. Yes.

19 Q. Pretty strong, the odor?

20 A. Yes.

21 Q. And you are saying that odor was coming from
22 my client's person?

23 A. It was coming from his person, and I could
24 tell it was coming from inside the vehicle as well.

25 Q. How can you differentiate between what is

1 coming from inside of the vehicle and what is coming
2 off of my client?

3 A. While he was standing next to his door, and
4 I was up there next to him, while he was near the
5 driver's side door, and I was giving him
6 instructions, standing there, I could smell it
7 coming off of his clothes and from inside the
8 vehicle, coming from -- it was coming from 2
9 different directions.

10 Q. So you are able to differentiate between the
11 smell coming off of a person versus what was coming
12 from the vehicle, even though the 2 of them are in
13 relatively close proximity.

14 He is not leaving the vicinity of the car
15 door?

16 A. Correct.

17 Q. Then at that point you said that you for
18 whatever reason decided to detain my client based
19 upon the fact that you believed that he may have had
20 a weapon on him?

21 A. I conducted a pat down, because he may have
22 had weapons on him.

23 Q. And you based that upon the fact that he was
24 driving at a high rate of speed?

25 A. No. I based --

1 MS. KILLER: Objection misstates his
2 testimony. There were numerous factors that he
3 gave.

4 MR. SANFT: It was the State that gave those
5 factors.

6 Q. So why don't you tell me what factors
7 determined in your mind the probable cause to pat
8 down my client for weapons?

9 A. He had baggie pants on, very loose pants,
10 and a very loose shirt on.

11 Q. Anything else besides that?

12 A. Not that I can recall on off of the top of
13 my head.

14 Q. Were you wearing a boy cam on that
15 particular stop?

16 A. No.

17 Q. Did you have a camera in your vehicle during
18 that particular stop?

19 A. No.

20 Q. And based upon your determination that there
21 may have been a weapon was just on loose clothing?

22 A. On clothes that could conceal a weapon, yes.

23 Q. Now we are going to skip past all of the
24 rest of the stuff.

25 Were you the primary officer in Charge of

**PLEADING
CONTINUES
IN NEXT
VOLUME**