

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSHUA MURCIA,

Petitioner,

V.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
COUNTY OF CLARK, THE
HONORABLE CHRISTY CRAIG,
DISTRICT COURT JUDGE,

Respondent,

THE STATE OF NEVADA,

Real Party in Interest.

No.

(Dist. Ct. No. 15-2022-0904 a.m.)
Elizabeth A. Brown
Clerk of Supreme Court

APPENDIX TO PETITION FOR WRIT OF PROHIBITION/MANDAMUS

DARIN F. IMLAY
Clark County Public Defender
309 S. Third Street, #226
Las Vegas, Nevada 89155

Attorney for Appellant

STEVEN B. WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, NV 89155

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

Counsel for Respondent

INDEX
WRIT OF MANDAMUS
(JOSHUA MURCIA)

PAGE NO.

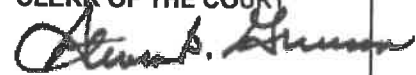
District Court Minutes 02/16/22 through 05/31/22	009-014
Information filed 02/15/22	003-005
Justice Court Minutes	052
Motion to Stay District Court Proceedings filed 06/22/22	
Date of Hrg: 01/30/22	184-186
Motion to Vacate the Evidentiary Hearing and Grant	
Mr. Murcia's Pretrial Writ of Habeas Corpus	
Date of Hrg: 06/21/22	165-182
Notice of Hearing (06/21/22)	183
Order for Writ of Writ of Habeas Corpus filed 04/18/22 ..	030-32
Petition for Writ of Habeas Corpus filed 04/14/22	015-029
Register of Actions, Joshua Murcia	001-002; 006-008
Reply to the State's Return of Writ of Habeas Corpus	
Filed 05/04/22	035-040
State's Return to Writ of Habeas Corpus	
Filed 04/28/22	041-083
Writ of Habeas Corpus filed 04/20/22	033-034

TRANSCRIPTS

Recorder's Transcript of Proceedings:	
Amended Petition for Writ of Habeas Corpus; Status Check	
Reset Trial Date, Date of Hrg: 05/31/22	148-164
Recorder's Transcript	
Motion to Vacate the Evidentiary Hearing and Grant	
Mr. Murcia's Pretrial Writ of Habeas Corpus	
Date of Hrg: 06/21/22	187-197

1	Reporter's Transcript of Proceedings	
	Preliminary Hearing	
2	Date of Hrg: 02/14/22	084-147
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

01/31/2022 **Release Order - Bail AND Electronic Monitoring - High Level** (Judicial Officer: Pro Tempore, Judge)
02/14/2022 **Preliminary Hearing**, (10:00 AM) (Judicial Officer Dotson, Cybill)
 In Custody
 Parties Present
Result: Matter Heard
02/14/2022 **Preliminary Hearing Held**
 Motion to Exclude Witnesses by State - Motion Granted States Witnesses: 1 - Leslie Salazar - Witness identified Defendant State Rests. Defendant Advised of His/Her Statutory Right to call witnesses, present evidence and/or to testify on his/her own behalf. Defendant understands his/her rights and following the advice of his defense counsel, waives his rights at preliminary hearing Defense Witnesses: Defense Rests Closing arguments by Defense not to bind over counts 1 and 3. Argument Against Said Motion by State. Matter taken under advisement by Court.
02/14/2022 **Defendant Rejected the State's Offer**
 State's Offer revoked.
02/14/2022 **Bound Over to District Court as Charged**
02/14/2022 **District Court Appearance Date Set (T10)**
 Feb 16 2022 8:00AM: in custody
02/14/2022 **Bail Stands - Cash or Surety**
 Counts: 001; 002; 003 - \$5,000.00/\$5,000.00 Total Bail
02/14/2022 **Case Closed - Bound Over**
02/14/2022 **Exhibits Ordered Transferred to District Court**
02/14/2022 **Minute Order - Department 10**
02/14/2022 **Certificate, Bindover and Order to Appear**
02/14/2022 **Release Order - Bail AND Electronic Monitoring - High Level** (Judicial Officer: Dotson, Cybill)
02/14/2022 **CR District Court Bind Over Packet**
03/09/2022 **Bind Over Receipt**



1 **INFM**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MELANIE MARLAND
6 Deputy District Attorney
7 Nevada Bar #014577
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

1 I.A. 2/16/22
2 8:00 AM
3 PD

4 THE STATE OF NEVADA,
5
6 Plaintiff,

CASE NO: C-22-362539-1

7 -vs-

DEPT NO: XXXII

8 JOSHUA MURCIA,
9 #7067180

10 Defendant.

INFORMATION

11 STATE OF NEVADA }
12 COUNTY OF CLARK } ss.

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

15 That JOSHUA MURCIA, the Defendant(s) above named, having committed the crimes
16 of **RESIDENTIAL BURGLARY (Category B Felony - NRS 205.060.2C - NOC 61934),**
17 **BATTERY CONSTITUTING DOMESTIC VIOLENCE (Misdemeanor - NRS**
18 **200.485(1)(A), 200.481(1)(A), 33.018 - NOC 50235) and INVASION OF THE HOME**
19 **(Category B Felony - NRS 205.067 - NOC 50435),** on or about the 29th day of October,
20 2021, within the County of Clark, State of Nevada, contrary to the form, force and effect of
21 statutes in such cases made and provided, and against the peace and dignity of the State of
22 Nevada,
23

24 //

25 //

1 COUNT 1 - RESIDENTIAL BURGLARY

2 did willfully, unlawfully, and feloniously enter or unlawfully remain in a dwelling,
3 owned, or occupied by LESLIE SALAZAR, located at 5250 Stewart Avenue, Las Vegas,
4 Clark County, Nevada, with the intent to commit grand or petit larceny, assault, or battery,
5 obtain money or property by false pretenses, and/or a felony.

6 COUNT 2 - BATTERY CONSTITUTING DOMESTIC VIOLENCE

7 did willfully and unlawfully use force or violence against or upon the person of his
8 spouse, former spouse, any other person to whom he is related by blood or marriage, a person
9 with whom he has had or is having a dating relationship, a person with whom he has a child
10 in common, the minor child of any of those persons or his minor child, to wit: LESLIE
11 SALAZAR, by pushing the said LESLIE SALAZAR.

12 COUNT 3 - INVASION OF THE HOME

13 did willfully, unlawfully, feloniously, and forcibly enter an inhabited dwelling, to wit:
14 5250 Stewart Avenue, Las Vegas, Clark County, Nevada, without permission of the owner,
15 resident, or lawful occupant, to wit: LESLIE SALAZAR.

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

18
19 BY /s/ Melanie Marland
20 MELANIE MARLAND
Deputy District Attorney
Nevada Bar #014577

21
22 Names of witnesses known to the District Attorney's Office at the time of filing this
23 Information are as follows:

24
25 COX, NAVEEN; CCDA Process Server

26 CUSTODIAN OF RECORDS; CCDC

27 CUSTODIAN OF RECORDS; LVMPD Communications

28 CUSTODIAN OF RECORDS; LVMPD Records

1 HINCKLEY, S.; LVMPD #14819
2 KNEPP, RYAN; CCDA Process Server
3 MENA, L.; LVMPD #17997
4 NEWCOMB, TRAVIS; CCDA Investigator
5 REYES, A.; LVMPD #16160
6 ROLLING, ANTONIO; C/O CCDA-DVU
7 SALAZAR, LESLIE; C/O CCDA-DVU
8 VAQUERO, EDWARD; CCDA Process Server
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

27 22CR002295/kf/DVU
28 LVMPD EV#211000122298
(TK09)

REGISTER OF ACTIONS**CASE NO. C-22-362539-1****State of Nevada vs Joshua Murcia**§
§
§
§
§
§
§
§
§
§

Case Type: **Felony/Gross Misdemeanor**
 Date Filed: **02/14/2022**
 Location: **Department 32**
 Cross-Reference Case Number: **C362539**
 Defendant's Scope ID #: **7067180**
 ITAG Case ID: **2449948**
 Lower Court Case Number: **22CR002295**

PARTY INFORMATION**Defendant Murcia, Joshua**

DOB: 07/31/1995

Lead Attorneys
Public Defender
Public Defender
 702-455-4685(W)

Plaintiff State of Nevada

Steven B Wolfson
 702-671-2700(W)

CHARGE INFORMATION**Charges: Murcia, Joshua**

1. RESIDENTIAL BURGLARY
2. BATTERY CONSTITUTING DOMESTIC VIOLENCE
3. INVASION OF THE HOME

Statute
 205.060.1A
 200.485.1a
 205.067.2

Level
 Felony
 Misdemeanor
 Felony

Date
 10/29/2021
 10/29/2021
 10/29/2021

EVENTS & ORDERS OF THE COURT**OTHER EVENTS AND HEARINGS**

02/14/2022 **Criminal Bindover** **Doc ID# 1**
 [1]

02/14/2022 **Criminal Bindover - Confidential** **Doc ID# 2**
 [2]

02/15/2022 **Information** **Doc ID# 3**
 [3] Information

02/16/2022 **Initial Arraignment** (8:00 AM) (Judicial Officer Bell, Linda Marie)
Parties Present
Minutes
 Result: Matter Continued

02/23/2022 **Arraignment Continued** (8:00 AM) (Judicial Officers Roohani, Ellie, Vega, Valorie J.; Magistrate Wittenberger, Shannon)
Parties Present
Minutes
 Result: Plea Entered

03/02/2022 **Notice** **Doc ID# 4**
 [4] Notice of SPecific Discovery Requests

03/14/2022 **Motion to Compel** **Doc ID# 5**
 [5] Defendant's Motion to Compel Production of Discovery & Brady Material

03/18/2022 **Notice of Witnesses and/or Expert Witnesses** **Doc ID# 6**
 [6] State's Notice of Witnesses and/or Expert Witnesses

03/21/2022 **Motion to Strike** **Doc ID# 7**
 [7] Defense's Motion to Strike the State's Proposed Expert: Lisa Chapman, J.D.

03/21/2022 **Clerk's Notice of Hearing** **Doc ID# 8**
 [8] Notice of Hearing

03/22/2022 **Ex Parte Order** **Doc ID# 9**
 [9] Ex Parte Application to File Documents Under Seal

03/23/2022 **Filed Under Seal** **Doc ID# 10**
 [10] SEALED PER ORDER 3/28/22 [10] Ex Parte Application for Records

03/23/2022 **Filed Under Seal** **Doc ID# 11**
 [11] SEALED PER ORDER 3/28/22 [11] Ex Parte Order to File Under Seal

03/23/2022 **Filed Under Seal** **Doc ID# 12**
 [12] SEALED PER ORDER 3/28/22 [12] Order for Production of Records

03/28/2022 **Order to Seal** **Doc ID# 13**
 [13] Order Sealing Documents

03/28/2022 **Opposition to Motion** **Doc ID# 14**
 [14] State's Opposition to Defendant's Motion to Strike Expert: Lisa Chapman

03/29/2022 **Motion to Compel** (8:30 AM) (Judicial Officer Craig, Christy)
03/29/2022, 04/05/2022
 Defendant's Motion to Compel Production of Discovery & Brady Material
Parties Present
Minutes

03/29/2022 Result: Continued
Motion to Continue Trial Doc ID# 15
 [15] Motion to Continue Trial Date

03/29/2022 **Clerk's Notice of Hearing** Doc ID# 16
 [16] Notice of Hearing

03/29/2022 **Notice of Change of Hearing** Doc ID# 17
 [17] Notice of Change of Hearing

04/04/2022 **Response** Doc ID# 18
 [18] State's Opposition to Defendant's Motion to Compel Production of Discovery and Brady Material

04/05/2022 **Calendar Call** (8:30 AM) (Judicial Officer Craig, Christy)

04/05/2022 **Motion to Strike** (8:30 AM) (Judicial Officer Craig, Christy)
 Defense's Motion to Strike the State's Proposed Expert: Lisa Chapman, J.D.
 03/31/2022 Reset by Court to 04/07/2022
 04/07/2022 Reset by Court to 04/05/2022

04/05/2022 Result: Matter Heard
Motion to Continue Trial (8:30 AM) (Judicial Officer Craig, Christy)
 Defendant's Motion to Continue Trial Date
 05/03/2022 Reset by Court to 04/05/2022

04/05/2022 Result: Matter Heard
All Pending Motions (8:30 AM) (Judicial Officer Craig, Christy)
Parties Present
Minutes

04/11/2022 Result: Matter Heard
CANCELED Jury Trial (9:00 AM) (Judicial Officer Craig, Christy)
 Vacated - per Judge

04/12/2022 **Clerk's Notice of Nonconforming Document** Doc ID# 19
 [19] Clerk's Notice of Nonconforming Document

04/13/2022 **Opposition** Doc ID# 20
 [20] State's Opposition to Defendant's Motion to Compel Production of Discovery and Brady Material

04/14/2022 **Petition for Writ of Habeas Corpus** Doc ID# 21
 [21] Petition for Writ of Habeas Corpus

04/14/2022 **Amended** Doc ID# 22
 [22] Amended Petition for Writ of Habeas Corpus

04/18/2022 **Order** Doc ID# 23
 [23] Order for Writ of Habeas Corpus

04/18/2022 **Writ Electronically Issued** Doc ID# 24
 [24] Writ Electronically Issued

04/20/2022 **Writ** Doc ID# 25
 [25] Writ of Habeas Corpus

04/28/2022 **Return to Writ of Habeas Corpus** Doc ID# 26
 [26] State's Return to Writ of Habeas Corpus

05/04/2022 **Reply** Doc ID# 27
 [27] Reply to the State's Return to Writ of Habeas Corpus

05/05/2022 **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer Craig, Christy)
 05/05/2022, 05/31/2022, 06/23/2022
 Amended Petition for Writ of Habeas Corpus
Parties Present
Minutes

05/31/2022 Result: Continued
Status Check: Reset Trial Date (8:15 AM) (Judicial Officer Craig, Christy)
 05/31/2022 Reset by Court to 05/31/2022

05/31/2022 Result: Trial Date Set
All Pending Motions (8:15 AM) (Judicial Officer Craig, Christy)
 ALL PENDING - AMENDED PETITION FOR WRIT OF HABEAS CORPUS...STATUS CHECK: RESET TRIAL DATE
Parties Present
Minutes

05/31/2022 Result: Matter Heard
Order Doc ID# 28
 [28] Ex Parte Application and Order for Transcript

06/02/2022 **Recorders Transcript of Hearing** Doc ID# 29
 [29] Recorders Transcript of Hearing Re: Amended Petition for Writ of Habeas Corpus; Status Check: Reset Trial Date, May 31, 2022

06/02/2022 **Motion to Vacate** Doc ID# 30
 [30] Motion to Vacate the Evidentiary Hearing and Grant Mr. Murcia's Pretrial Writ of Habeas Corpus

06/02/2022 **Clerk's Notice of Hearing** Doc ID# 31
 [31] Notice of Hearing

06/21/2022 **Motion to Vacate** (8:30 AM) (Judicial Officer Craig, Christy)
 Motion to Vacate the Evidentiary Hearing and Grant Mr. Murcia's Pretrial Writ of Habeas Corpus

06/23/2022 **Evidentiary Hearing** (1:30 PM) (Judicial Officer Craig, Christy)

08/09/2022 **Calendar Call** (8:30 AM) (Judicial Officer Craig, Christy)

08/15/2022 **Jury Trial** (9:00 AM) (Judicial Officer Craig, Christy)

FINANCIAL INFORMATION

Defendant Murcia, Joshua
 Total Financial Assessment
 Total Payments and Credits

10.00
 10.00

Balance Due as of 06/09/2022

0.00

04/20/2022	Transaction Assessment
04/20/2022	Fee Waiver

10.00
(10.00)

[Skip to Main Content](#) [Logout My Account](#) [Search Menu](#) [New District Criminal/Civil Search Refine](#)
[Search Close](#)

[Location : District Courts](#) [Images Help](#)

REGISTER OF ACTIONS

CASE NO. C-22-362539-1

State of Nevada vs Joshua Murcia

§
§
§
§
§
§
§
§
§
§

Case Type: **Felony/Gross Misdemeanor**
 Date Filed: **02/14/2022**
 Location: **Department 32**
 Cross-Reference Case Number: **C362539**
 Defendant's Scope ID #: **7067180**
 ITAG Case ID: **2449948**
 Lower Court Case Number: **22CR002295**

PARTY INFORMATION

Defendant **Murcia, Joshua**

DOB: 07/31/1995

Lead Attorneys
Public Defender
Public Defender
 702-455-4685(W)

Plaintiff **State of Nevada**

Steven B Wolfson
 702-671-2700(W)

CHARGE INFORMATION

Charges: Murcia, Joshua	Statute	Level	Date
1. RESIDENTIAL BURGLARY	205.060.1A	Felony	10/29/2021
2. BATTERY CONSTITUTING DOMESTIC VIOLENCE	200.485.1a	Misdemeanor	10/29/2021
3. INVASION OF THE HOME	205.067.2	Felony	10/29/2021

EVENTS & ORDERS OF THE COURT

02/16/2022 **Initial Arraignment** (8:00 AM) (Judicial Officers Bell, Linda Marie, Bell, Linda Marie; Magistrate Wittenberger, Shannon)

Minutes

02/16/2022 8:00 AM

- Deputized Law Clerk, Corey Hallquist, Esq., present on behalf of the State. Lynn Avants, Esq., present on behalf of the Public Defender's Office for the Defendant. Defense advised the Guilty Plea Agreement needs to be reviewed. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 02/23/22 (LLA)

[Parties Present](#)

[Return to Register of Actions](#)

[Skip to Main Content](#) [Logout My Account](#) [Search Menu](#) [New District Criminal/Civil Search](#) [Refine Search](#) [Close](#)

[Location : District Courts](#) [Images](#) [Help](#)

REGISTER OF ACTIONS

CASE No. C-22-362539-1

State of Nevada vs Joshua Murcia

§
§
§
§
§
§
§
§
§
§

Case Type: **Felony/Gross Misdemeanor**

Date Filed: **02/14/2022**

Location: **Department 32**

Cross-Reference Case Number: **C362539**

Defendant's Scope ID #: **7067180**

ITAG Case ID: **2449948**

Lower Court Case Number: **22CR002295**

PARTY INFORMATION

Defendant **Murcia, Joshua**

DOB: 07/31/1995

Lead Attorneys
Public Defender
Public Defender
702-455-4685(W)

Plaintiff **State of Nevada**

Steven B Wolfson
702-671-2700(W)

CHARGE INFORMATION

Charges: Murcia, Joshua	Statute	Level	Date
1. RESIDENTIAL BURGLARY	205.060.1A	Felony	10/29/2021
2. BATTERY CONSTITUTING DOMESTIC VIOLENCE	200.485.1a	Misdemeanor	10/29/2021
3. INVASION OF THE HOME	205.067.2	Felony	10/29/2021

EVENTS & ORDERS OF THE COURT

02/23/2022 Arraignment Continued (8:00 AM) (Judicial Officer Vega, Valorie J.)

Minutes

02/23/2022 8:00 AM

- Deputized Law Clerk, Max Anderson, present on behalf of the State of Nevada. DEFT. MURCIA ARRAIGNED, PLED NOT GUILTY, and INVOKE the 60-DAY RULE. COURT ORDERED, matter SET for trial. COURT ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript. CUSTODY CALENDAR CALL 04/05/2022 8:30 A.M. JURY TRIAL 04/11/2022 9:00 A.M. (DEPT 32) CLERK'S NOTE: This minute order was generated utilizing the JAVS recording. /dg 03/03/2022

[Parties Present](#)

[Return to Register of Actions](#)

[Skip to Main Content](#) [Logout My Account](#) [Search Menu](#) [New District Criminal/Civil Search](#) [Refine Search](#) [Close](#)

[Location](#) : [District Courts](#) [Images](#) [Help](#)

REGISTER OF ACTIONS

CASE NO. C-22-362539-1

State of Nevada vs Joshua Murcia

§
§
§
§
§
§
§
§
§
§

Case Type: **Felony/Gross Misdemeanor**
Date Filed: **02/14/2022**
Location: **Department 32**
Cross-Reference Case Number: **C362539**
Defendant's Scope ID #: **7067180**
ITAG Case ID: **2449948**
Lower Court Case Number: **22CR002295**

PARTY INFORMATION

Defendant **Murcia, Joshua**

DOB: 07/31/1995

Lead Attorneys
Public Defender
Public Defender
702-455-4685(W)

Plaintiff **State of Nevada**

Steven B Wolfson
702-671-2700(W)

CHARGE INFORMATION

Charges: Murcia, Joshua	Statute	Level	Date
1. RESIDENTIAL BURGLARY	205.060.1A	Felony	10/29/2021
2. BATTERY CONSTITUTING DOMESTIC VIOLENCE	200.485.1a	Misdemeanor	10/29/2021
3. INVASION OF THE HOME	205.067.2	Felony	10/29/2021

EVENTS & ORDERS OF THE COURT

04/05/2022 **All Pending Motions** (8:30 AM) (Judicial Officer Craig, Christy)

Minutes

04/05/2022 8:30 AM

- DEFENSE'S MOTION TO STRIKE THE STATE'S PROPOSED EXPERT: LISA CHAPMAN, J.D.... DEFENDANT'S MOTION TO COMPEL PRODUCTION OF DISCOVERY & BRADY MATERIAL... DEFENDANT'S MOTION TO CONTINUE TRIAL DATE... CALENDAR CALL... Ms. Carman stated she needed additional time to file a writ and review pertinent documents and asked that the trial be continued. Ms. Marland stated she had no objection to the continuance. COURT ORDERED Trial Date VACATED and matter SET for Status Check. CUSTODY 5/31/22 8:30 AM STATUS CHECK: RESET TRIAL DATE

[Parties Present](#)

[Return to Register of Actions](#)

[Skip to Main Content](#) [Logout My Account](#) [Search Menu](#) [New District Criminal/Civil Search Refine](#)
[Search Close](#)

[Location : District Courts](#) [Images Help](#)

REGISTER OF ACTIONS

CASE NO. C-22-362539-1

State of Nevada vs Joshua Murcia

§
§
§
§
§
§
§
§
§
§

Case Type: **Felony/Gross Misdemeanor**
 Date Filed: **02/14/2022**
 Location: **Department 32**
 Cross-Reference Case Number: **C362539**
 Defendant's Scope ID #: **7067180**
 ITAG Case ID: **2449948**
 Lower Court Case Number: **22CR002295**

PARTY INFORMATION

Defendant	Murcia, Joshua	DOB: 07/31/1995	Lead Attorneys Public Defender Public Defender 702-455-4685(W)
Plaintiff	State of Nevada		Steven B Wolfson 702-671-2700(W)

CHARGE INFORMATION

Charges: Murcia, Joshua	Statute	Level	Date
1. RESIDENTIAL BURGLARY	205.060.1A	Felony	10/29/2021
2. BATTERY CONSTITUTING DOMESTIC VIOLENCE	200.485.1a	Misdemeanor	10/29/2021
3. INVASION OF THE HOME	205.067.2	Felony	10/29/2021

EVENTS & ORDERS OF THE COURT

04/05/2022 **All Pending Motions.** (8:30 AM) (Judicial Officer Craig, Christy)

Minutes

04/05/2022 8:30 AM

- DEFENSE'S MOTION TO STRIKE THE STATE'S PROPOSED
 EXPERT: LISA CHAPMAN, J.D.... DEFENDANT'S MOTION TO
 COMPEL PRODUCTION OF DISCOVERY & BRADY MATERIAL...
 DEFENDANT'S MOTION TO CONTINUE TRIAL DATE... CALENDAR
 CALL... Ms. Carman stated she needed additional time to file a writ
 and review pertinent documents and asked that the trial be continued.
 Ms. Marland stated she had no objection to the continuance. COURT
 ORDERED Trial Date VACATED and matter SET for Status Check.
 CUSTODY 5/31/22 8:30 AM STATUS CHECK: RESET TRIAL DATE

[Parties Present](#)

[Return to Register of Actions](#)

[Skip to Main Content](#) [Logout My Account](#) [Search Menu](#) [New District Criminal/Civil Search](#) [Refine Search](#) [Close](#)

[Location](#) : [District Courts](#) [Images](#) [Help](#)

REGISTER OF ACTIONS

CASE No. C-22-362539-1

State of Nevada vs Joshua Murcia

§
§
§
§
§
§
§
§
§

Case Type: **Felony/Gross Misdemeanor**
Date Filed: **02/14/2022**
Location: **Department 32**
Cross-Reference Case Number: **C362539**
Defendant's Scope ID #: **7067180**
ITAG Case ID: **2449948**
Lower Court Case Number: **22CR002295**

PARTY INFORMATION

Defendant **Murcia, Joshua**

DOB: 07/31/1995

Lead Attorneys
Public Defender
Public Defender
702-455-4685(W)

Plaintiff **State of Nevada**

Steven B Wolfson
702-671-2700(W)

CHARGE INFORMATION

Charges: Murcia, Joshua	Statute	Level	Date
1. RESIDENTIAL BURGLARY	205.060.1A	Felony	10/29/2021
2. BATTERY CONSTITUTING DOMESTIC VIOLENCE	200.485.1a	Misdemeanor	10/29/2021
3. INVASION OF THE HOME	205.067.2	Felony	10/29/2021

EVENTS & ORDERS OF THE COURT

05/31/2022 **All Pending Motions** (8:15 AM) (Judicial Officer Craig, Christy)
ALL PENDING - AMENDED PETITION FOR WRIT OF HABEAS CORPUS...STATUS CHECK: RESET TRIAL DATE

Minutes

05/31/2022 8:15 AM

- ALL PENDING - AMENDED PETITION FOR WRIT OF HABEAS CORPUS...STATUS CHECK: RESET TRIAL DATE Ms. Marland argued the defendant was on the lease and asked to leave due to other case. Further there was an Order to have no contact with the witness. Court STATED it does not believe the defendant can be ordered not to be at the residence without a temporary restraining order when he is on the lease. Ms. Carmen advised Ms. Salazar's testimony indicated she was not a witness. Court STATED the defendant has a right to be in the home and an evidentiary hearing. The evidentiary hearing will be as to counts 1 & 3 and whether the defendant is entitled to be at the home. Ms. Marland further argued there was an agreement between the defendant and Ms. Salazar. COURT ORDERED, Evidentiary Hearing SET and Trial RESET. CUSTODY CONTINUED TO: 6/23/22 1:30 PM 6/23/22 1:30 PM EVIDENTIARY HEARING 8/09/22 8:30 AM CALENDAR CALL 8/15/22 9:00 AM JURY TRIAL

[Parties Present](#)

[Return to Register of Actions](#)



WRTH
DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
JACQUELINE B. CARMAN, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 8016
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
CarmanJB@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-22-362539-1
)	
v.	)	DEPT. NO. XXXII
)	
JOSHUA MURCIA,)	
ID #7067180	)	DATE: May 5, 2022
Defendant,	)	TIME: 8:30 a.m.

PETITION FOR WRIT OF HABEAS CORPUS

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

The Petition of Joshua Murcia submitted by Jacqueline Carman, Deputy Public
Defender, as attorney for the above-captioned individual, respectfully affirms:

1. That he/she is a duly qualified, practicing and licensed attorney in the City
of Las Vegas, County of Clark, State of Nevada.
2. That Petitioner makes application for a Writ of Habeas Corpus; that the
place where the Petitioner is imprisoned actually or constructively imprisoned and restrained of
his liberty is the Clark County Detention Center that the officer by whom he is imprisoned and
restrained is Doug Gillespie, Sheriff;
3. That the imprisonment and restraint of said Petitioner is unlawful in that:
the defendant is being held without probable cause on the felony charges.

000015

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

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

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

10 DATED this 14th of April, 2022.

11 DARIN F. IMLAY
12 CLARK COUNTY PUBLIC DEFENDER

13
14 By: /s/ Jacqueline Carman
15 JACQUELINE, #8016
16 Deputy Public Defender
17
18
19
20
21
22
23
24
25
26
27
28

000016

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

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

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

/s/ Jacqueline Carman
JACQUELINE CARMAN

1 **STATEMENT OF RELEVANT FACTS AND PROCEDURAL HISTORY:**

2 **RELEVANT FACTS:**

3 Mr. Joshua Murcia (Mr. Murcia) was charged by way of Criminal Complaint on January 12,
4 2022, with: Count one, Residential Burglary pursuant to NRS 205.060.2C-NOC 61934; Count
5 two, Battery Constituting Domestic Violence pursuant to NRS 200.485(1)(A), 200.481(1)(A),
6 33.018-NOC 50235; and Count three, Invasion of the Home pursuant to NRS 205.067-NOC
7 50435.
8

9 At issue, the Burglary, and Invasion of the Home involve the address: “5250 Stewart Avenue,
10 Las Vegas, Clark County, Nevada”. This address was occupied by the alleged victim of the
11 Battery Constituting Domestic Violence, “Leslie Salazar” (Ms. Salazar).
12

13 According to the lease agreement, admitted as evidence, Ms. Salazar was listed as an
14 “allowed occupant” of the “premises” along with Mr. Murcia who was also listed as an “allowed
15 occupant” of the “premises”. The address of the jointly leased premises was, “5250 Stewart
16 Avenue, #1129, Las Vegas, Nevada 89110”. The start of this lease was “April 1, 2021” and the
17 expiration of the lease is listed as “March 31, 2022” on page one of the agreement. This address
18 is where the Burglary and Invasion of the Home allegedly occurred on October 29, 2021. See
19 Defense Exhibit A page 1/10 of the Nevada Residential Rental Agreement which was executed
20 March 19, 2021 by both parties.
21

22 Additionally, both Ms. Salazar and Mr. Murcia are listed as “resident[s]” of the agreement
23 who signed the “Notice of Intent to Vacate” on January 18, 2022, with a move out date of March
24 31, 2022, and the method of notifying the landlord of vacating was “in person”. A reading of the
25 document implies they went together to sign the notice to move out. See Defense Exhibit A
26 Notice of Intent to Vacate.
27
28

1 In other words, Mr. Murcia was a lawful occupant with a right of possession and absolute
2 right to enter 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110, along with Ms. Salazar
3 according to the landlord's leasing documents on October 29, 2021. The State did not present
4 any evidence to the contrary. He could not be refused admission if he contacted the landlord
5 telling them he was locked out-the landlord would have to let him in as there was no legal
6 document produced at the Preliminary Hearing divesting him of his possessory interest on
7 October 29, 2021.
8

9 **PROCEDURAL HISTORY:**

10 **21CR027412 (a case which the State tried to use to show this was not a Burglary and Home**
11 **Invasion but the Justice Court ultimately did not use this as a basis for the charges):**
12

13 On June 14, 2021, a Complaint in another case, 21CR027412, was filed involving another
14 alleged victim who was blood-related as a sister, but did not live with Ms. Salazar. According to
15 Ms. Salazar, the alleged victim in that case lived in California and not with her. See PHT 35
16 lines 1-5, 48 lines 11-15. Ms. Salazar was not a witness in 21CR027412. A house arrest review
17 in 21CR027412 was conducted in that case on June 23, 2021, and Mr. Murcia was ordered to
18 stay away from the "victim and witnesses". There was no evidence there was a court order in
19 that case or any other prohibiting Mr. Murcia from coming to the residence although Ms. Salazar
20 did not want him there after the incident with her sister was alleged to have occurred. PHT 13-
21 17. Despite any evidence supporting this, the State believes 21CR027412 is relevant to the
22 current case, and 21CR027412 is referenced in the Preliminary Hearing in the current case
23 although the Court did not state findings to this effect or find there was a district court order
24 granting Ms. Salazar possession of the home as the basis for the bind over.
25
26
27
28

1 **THE CURRENT CASE:**

2 The current case was alleged to have occurred October 29, 2021, and an arrest warrant was
3 issued January 20, 2022. The arrest warrant return hearing was conducted on January 31, 2022.
4 On that date, Mr. Murcia who was present in custody on the warrant was arraigned, counsel was
5 appointed, and bail was set at \$5,000 with high level monitoring. Subsequently, the Preliminary
6 hearing was scheduled for February 14, 2022.
7

8 Mr. Murcia appeared in custody at the Preliminary Hearing February 14, 2022, and the State
9 presented one witness, Ms. Salazar, before resting. During the hearing, the State admitted an
10 exhibit consisting of photos of a window which was broken after Mr. Murcia left the residence
11 and the offenses were alleged to have occurred. PHT 20-21. The defense admitted two exhibits:
12 a copy of the parties lease and notice of intent to vacate the premises showing the landlord
13 conveying a right of possession to Mr. Murcia as well as an exhibit of the House Arrest order
14 which did not state Mr. Murcia was prohibited from contacting Ms. Salazar or going to the
15 residence. PHT 34 and 44.
16

17 This House Arrest order in 21CR027412 did not convey the sole right of possession to Ms.
18 Salazar and dispossess Mr. Murcia of his lawful right of possession. He was ordered to stay
19 away from the named victim of case 21CR027412, J.S. (a relative of Ms. Salazar who resided in
20 a different state) and witnesses none of which was Ms. Salazar nor did it provide Mr. Murcia was
21 to stay away from the address 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110. See
22 Defense Exhibit B and PHT 44. Most importantly, the State presented no evidence that Mr.
23 Murcia was prohibited from going to 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110
24 and violated a court order by going to the residence.
25
26
27
28

1 The State did not provide any evidence in the form of witness lists or court documents, etc.
2 that established Ms. Salazar was a witness, she did not testify at the Preliminary hearing in that
3 case. In fact, Ms. Salazar testified in the current case that she did not witness that alleged crime
4 against her sister—"I was not involved in that" and she agreed with the Court and confirmed she is
5 "not involved in that other case" with her sister. PHT 36, line 19, 37, 43. In fact, Ms. Salazar
6 said she only knew about the other case because she was "made aware" by her "sister" of what
7 allegedly occurred involving her sister in the other case. PHT 16. It is noteworthy, Mr. Murcia
8 had contact with Ms. Salazar since his release in that case and was never violated on house arrest
9 for contacting her.
10

11 The Justice of the Peace did not state findings Ms. Salazar was a witness and Mr. Salazar
12 violated a court order by going to the residence either but rather found he moved out in April
13 2021 and did not occupy the home at the time which is the same scenario as the State v. White,
14 130 Nev. 533, 130 Nev. Adv. Op. 56 (2014), case which is analyzed below. PHT 11.
15

16 Ms. Salazar also testified her sister, the witness whom Mr. Murcia was to stay away from, did
17 not live with Ms. Salazar and lived in California. PHT 34, 35.
18

19 There was no evidence there was a court order prohibiting Mr. Murcia from coming to the
20 residence although Ms. Salazar may not have wanted him there after the incident with her sister
21 was alleged to have occurred. PHT 13-17 (remarkably, on PHT 44, the State says it has concerns
22 Ms. Salazar would not be the appropriate witness to "review" a stay away order and yet the State
23 tried over objection to get Ms. Salazar to testify about the content of this stay away order). The
24 State concedes at some point during the Preliminary Hearing that Ms. Salazar is not necessarily
25 "up-to-date as to everything that occurred with her sister's case." (PHT 37). The Court could
26
27
28

1 not even figure out why the sister visiting in June 2020 had anything to do with whether or not
2 Mr. Murcia was allowed to be at the residence. PHT 38.

3 Ms. Salazar indicated she renewed the lease in March/April 2021, Mr. Murcia signed it with
4 her in March 2021, and he stopped staying there in April. PHT 11, 33. Ms. Salazar testified she
5 occupied the residence with her 3 boys in common with Mr. Murcia and current boyfriend,
6 Antonio Rolling similar to the facts of Troy White. PHT 9-10. She also admitted she and Mr.
7 Murcia signed a Notice of Intent to vacate March 31, 2022, after the alleged incident in this case-
8 the lease and notice of intent to vacate is admitted as evidence at the Preliminary Hearing. PHT
9 33-34.
10

11 The Justice Court did not find probable cause Mr. Murcia should be bound over on the
12 Invasion of the Home and Burglary because of any court order in the case involving the sister,
13 but rather what the defense would describe as a misreading of State v. White. The Justice Court
14 found that Mr. Murcia did not have an “absolute right” to enter his home and a “right of
15 occupancy” because he stayed elsewhere and did not maintain a key. PHT 51-53. As discussed
16 in more detail below, the fact he was staying elsewhere is essentially what happened in the White
17 case and there was no evidence presented at the Preliminary Hearing to support the finding Mr.
18 Murcia did not have an absolute right to enter his home and a right of occupancy nor is there any
19 case law that says staying elsewhere and not maintaining a key divests him of these rights.
20
21

22 ///

23 ///

24 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LEGAL ARGUMENT

Burglary- Under prior statute in Nevada, the penalty for burglary was a Category B felony with a sentence range of 1-10 years and did not require unlawful entry as an element of burglary or distinguish between different types of structures. AB 236 defines dwelling and adds the element of “unlawfully entering and unlawfully remaining” to the burglary statute and defines “unlawfully enters or unlawfully remains” as a person “entering or remaining in a dwelling, structure or motor vehicle or any part thereof, including under false pretenses, when the person is not licensed or privileged to do so”. AB 236 further amends the burglary statute to distinguish different types of structures involved by establishing tiered penalties by type of structures as follows in relevant part: Residential Burglary Dwelling - any structure, building, house, room, apartment, tenement, tent, conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car, including, without limitation, any part thereof that is divided into a separately occupied unit in which any person lives or which is customarily used by a person for overnight accommodations, regardless of whether the person is inside at the time of the offense. A residential burglary is a Category B felony – 1-10 yrs.

It is legally impossible to burglarize and invade your own home.

At common law, burglary was the breaking and entering the house of another in the nighttime, with intent to commit a felony therein, whether the felony is actually committed or not. Smith v. First Judicial District Court, 347 P.2d 526, 75 Nev. 526 (1959).

Nevada, like many other states, has statutorily enlarged the definition of burglary. See NRS 205.060. The enlargement of the burglary statute did not eviscerate its purpose, a point recognized by The Nevada Supreme Court when it affirmed and adopted the Supreme Court of Washington's explanation of the evolution of common law burglary which had held: "While there has been an enlargement of the definition, the central idea which has obtained for hundreds of years, the unlawful breaking and entering of some kind of an enclosed structure, has been retained." Id. The Nevada Supreme Court stated that Washington's reasoning "is directly in point and we approved its reasoning." Id. Simply put, the legislative intent in adopting the current

1 burglary statute was to broaden the definition of a structure, not to abandon in its entirety the
2 common law underpinnings of the charge. Id.

3
4 NRS 205.060 defines burglary as:

5 A person who, by day or night, enters any house, room, apartment, tenement, shop,
6 warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle,
7 vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the
8 intent to commit grand or petit larceny, assault or battery on any person or any felony, or
to obtain money or property by false pretenses.

9 Nevada has directly decided the issue in the same manner as California. In the case of State
10 v. White, 130 Nev. 533, 130 Nev. Adv. Op. 56 (2014), the Nevada Supreme Court held “the
11 common law notion that burglary law is designed to protect a possessory or occupancy right in
12 property remains in effect. Despite the dates in the lease agreement and the Notice of Intent to
13 Vacate, the Justice Court found that Mr. Murcia moved out and did not occupy the property on
14 October 29, 2022. Even if that were the case, he still held a possessory right and was still on the
15 lease. Mr. Troy White also moved out and allowed the mother of his children to remain
16 primarily in the residence, according to Echo Lucas (the ex and named victim of White), Mr.
17 White was not “supposed to be” occupying the residence at the time of his offense, and he too
18 banged on the window like Mr. Murcia while Echo Lucas was in the residence with her new
19 boyfriend and children in common. The Supreme Court in State v. White, 130 Nev. Adv. Op. 56
20 (2014), held that a person cannot commit burglary of a home when he or she has an absolute
21 right to enter the home and while ownership is a factor, the question is whether the alleged
22 burglar has an absolute, unconditional right to enter the home. Here, there is nothing in the law
23 that divested Mr. Murcia of his absolute, unconditional right to enter the residence.

24
25 The Justice Court found that Mr. Murcia did not have an “absolute right” to enter his home
26 and a “right of occupancy” solely because he stayed elsewhere and did not maintain a key. PHT
27 51-53.
28

1 The State failed to present any evidence/documentation at the Preliminary Hearing divesting
2 Mr. Murcia of his possessory interest in the residence on October 29, 2021 or indicating he lost
3 his absolute right to enter his home and right of occupancy. There was no evidence he lost this
4 and no legal authority in the form of statutes or case law for losing this right.

5 There was no evidence of court order in the form of a TPO or House Arrest order, no
6 eviction, etc. In fact he was on the lease before the alleged offense and signed documents
7 showing he was still a tenant who vacated the residence after the alleged offense occurred. He
8 was never an "at will tenant"/guest who needed permission of the owner to occupy the premises
9 nor was there a notice to quit. Baker v. Simonds, 79 Nev. 434, 386 P.2d 86 (1963); 49 Am. Jur.
10 2d, Landlord and Tenant § 118. In fact, Mr. Murcia is like Mr. White who moved out of the
11 premises, stayed elsewhere and allowed the mother of his children to remain there with the
12 children. One of the reasons the Justice Court found Mr. Murcia lost his right of occupancy
13 and absolute right to enter was the fact he stayed elsewhere. To the contrary, Mr. Murcia had
14 an absolute, unconditional right to enter the home just like Mr. White did. Mr. White orally
15 agreed to stay elsewhere during the week but maintained an absolute right to enter the residence
16 during that time he agreed to stay elsewhere and he did not forfeit any possessory right he had in
17 it. This is analogous to Ms. Salazar's testimony about what Mr. Murcia agreed to do-she
18 indicated he made an oral agreement to stay away, allow her and their children to stay there but
19 he remained on the lease holding a possessory interest. The lease and Notice of Intent to Vacate
20 dated March 2022 supports this-if he came there to visit his kids, he could not be cast out if she
21 called the police for trespassing. He is no more a burglar than Mr. White was and should stand
22 trial only for allegedly committing the crime of domestic battery by pushing Ms. Salazar, in their
23 rented residence as opposed to Invasion of the Home and Burglary. He has a common law
24 unconditional, absolute right to be at the residence and he did not invade Ms. Salazar's
25 possessory right. The State failed to establish he did not have an absolute right to enter the
26 structure. The State failed to produce any evidence he was evicted, or there was a court order
27 granting her sole possession of the home like is seen in protective order proceedings. People v.
28

1 Barry, 94 Cal. 481, 29 P. 1026 (1982). A Court Order as required by the Due Process Clause
2 provides specific notice of what a party is prohibited from doing or who they are prohibited from
3 contacting. There is no notice in the minute order or any order from House Arrest that Mr.
4 Murcia was prohibited from contacting Ms. Salazar whom he shared children with or going to
5 the residence.

6 In fact, Mr. Murcia had a contractual right of occupancy and a possessory interest in this real
7 property for a definite duration in the form of a lease. He was responsible for the rent, keeping
8 the premises clean and safe, maintaining the unit and all the provisions of NRS 118A.310. He
9 could be evicted and sued for non-payment of rent of this premises. He could legally terminate
10 the lease pursuant to NRS 118A.340 if he had certain mental conditions or disabilities. NRS
11 118A.150 and lease contract provides the payment of rent grants Mr. Murcia and Ms. Salazar
12 (along with their children) the right of occupancy. Mr. Murcia is listed as a tenant in the lease
13 and a is a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of
14 others-entitled to does not equate to having to occupy the premises. In other words, the lease and
15 NRS provide Mr. Murcia is a tenant who has a right of occupancy. The landlord was obligated
16 to comply with Mr. Murcia's rental agreement and Mr. Murcia could seek a remedy against the
17 landlord if the landlord failed to comply under NRS 118A and even seek actual damages. There
18 is no evidence Mr. Murcia abandoned the unit, in fact he signed a Notice of Intent to Vacate after
19 the alleged offense establishing he had an absolute right to enter his home and a right of
20 occupancy which did not terminate until well after the date of the alleged incident here.

21 Importantly, there is no statute the defense is aware of that provides Mr. Murcia must
22 maintain a key to have an absolute right of occupancy and absolute right to enter. In fact, many
23 people have children or other family members that do not maintain keys but have an absolute
24 right to enter and right of occupancy. Some people have no keys and use a lockbox or keypad or
25 share a key but the bottom line is if Mr. Murcia asked a landlord or locksmith to let him in, they
26 would have to under the law. Sleeping at a home every night is also not a statutory requirement
27 for one to maintain an absolute right of occupancy or possessory interest. Couples separate/take
28

1 a break stay elsewhere like Mr. Murcia and Mr. White. This is why when parties cannot stay in
2 the same residence, the Family Court must grant temporary orders and injunctions and later
3 permanent orders in the form of a Decree etc. with regard to occupying and possessing
4 residential property, but there were no such orders in this case. This is why a Protection
5 Order/Restraining Order must state the address the person must stay away from-there was no
6 such order in this case. Additionally, people stay at vacation homes, stay with friends or family
7 to care for them while sick etc., travel for work even living out of state, get deployed, do
8 renovations, stay away from their home for months even years etc. and do not sleep at their
9 homes and these people do not lose their right to occupy or possess their homes. The
10 requirement of someone sleeping there regularly and maintaining their own key would yield
11 absurd results dispossessing people of their possessory rights to property. There are so many
12 reasons why one may not be staying at their home but the bottom line is, these facts are like Mr.
13 Troy White's facts where he slept elsewhere while his ex and kids stayed at the home.
14 Consequently, the defense respectfully requests this writ be granted with regard to the Burglary
15 charge.

16 **Home Invasion-** AB 236 provides Home Invasion Forcibly as one who "enters a dwelling
17 without permission of owner, resident or lawful occupant" and this is a Category B – 2-15 years
18 (unchanged).

19 Interestingly, Mr. Turner in the White case with Mr. Coffee argued at the Preliminary hearing
20 that "you can't do a home invasion to your own home". The reasoning behind this argument is
21 likely because the statute requires you enter without the permission of the owner, resident, or
22 lawful occupant. In the current case, as noted in detail above, Mr. Murcia was a lawful occupant
23 with a right of possession and absolute right to enter 5250 Stewart Avenue, #1129, Las Vegas,
24 Nevada 89110, according to the landlord's leasing documents and Notice of Intent to Vacate.
25 The State did not present any evidence to the contrary. So he is incapable of committing a home
26 invasion as the statute, by its plain language does not criminalize **home invasion** by forcibly
27
28

1 entering his **own home** if he was lawful occupant, owner, or resident of **home**. Truesdell v.
2 State, 129 Nev. 194 (2013) (Mr. Truesdale was not on the lease, he was served with a TPO
3 ordering him to stay away from that specific address and Mr. Truesdale did not challenge the
4 TPO in the proper court). Mr. Murcia is a lawful occupant/resident according to the lease
5 agreement and Notice of Intent to Vacate. The State failed to present any evidence Ms. Salazar
6 had acquired a protective order which was served, failed to present evidence he was evicted,
7 failed to present evidence there was some sort of order from the family court etc. giving her
8 exclusive possession of the home and the minute order from case 21CR027412 disproves Ms.
9 Salazar's assertion (which lacked any evidentiary foundation) she was given exclusive
10 possession of the home.
11
12

13 CONCLUSION

14 It is clear that the common law definition of burglary still impacts the current statutory
15 interpretation and thus, unlawful entry is still needed for the crime of burglary and an invasion of
16 the home requires an individual enter a dwelling without permission of owner, resident or lawful
17 occupant. At no time did Mr. Murcia enter the residence unlawfully so he cannot be charged
18 with burglary. Mr. Murcia did not require permission to enter as he was on the lease and Notice
19 of Intent to Vacate with no court order divesting him of his possessory interest so he cannot be
20 charged with invasion of the home. The writ should be granted and Counts 1 and 3 should be
21 dismissed as the State has failed to meet their burden.
22
23
24
25
26
27
28

1 **NOTICE**

2 TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

3 YOU WILL PLEASE TAKE NOTICE that the foregoing PETITION FOR WRIT
4 OF HABEAS CORPUS will be heard on May 5, 2022, at 8:30 a.m. in District Court, Department
5 XXII.

6 DATED this 14th day of April, 2022.

7
8
9 **CERTIFICATE OF ELECTRONIC SERVICE**

10 I hereby certify that service of the foregoing WRIT OF HABEAS CORPUS was made
11 this 14th day of April, 2022, by electronic service to the District Attorney's Office at
12 motions@clarkcountynyda.com and District Court Department.

13
14 By: /s/Jacqueline B. Carman - PD

15 An employee of the
16 Clark County Public Defender's Office
17
18
19
20
21
22
23
24
25
26
27
28

000029

Heather S. Simon
CLERK OF THE COURT

ORDR
DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
JACQUELINE B. CARMAN, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 8016
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
CarmanJB@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-22-362539-1
)	
v.	)	DEPT. NO. XXXII
)	
JOSHUA MURCIA,)	
)	
Defendant,)	

ORDER FOR WRIT OF HABEAS CORPUS

The Petition of JOSHUA MURCIA submitted by JACQUELINE B. CARMAN, Deputy Public Defender, as attorney for the above-captioned individual, having been filed in the above-entitled matter,

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

Dated this 18th day of April, 2022

DATED AND DONE at Las Vegas, Nevada, this _____ of April, 2022.

Christy Craig

DISTRICT COURT JUDGE

Submitted By:
DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

E98 5FD 3390 163B
Christy Craig
District Court Judge

By: /s/Jacqueline B. Carman
JACQUELINE B. CARMAN, #8016
Deputy Public Defender

000030

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

I hereby certify that service of the above and forgoing ORDER FOR WRIT OF HABEAS CORPUS was served via electronic e-filing to the Clark County District Attorney's Office at Motions@ClarkCountyDA.com on this ____ day of April, 2022

By: /s/Kristina A Byrd

An employee of the
Clark County Public Defender's Office

1 **CSERV**

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

5
6 State of Nevada

CASE NO: C-22-362539-1

7 vs

DEPT. NO. Department 32

8 JOSHUA MURCIA

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/18/2022

15 DA .

Motions@ClarkCountyDA.com

16 Lynn Avants

avantsla@clarkcountynv.gov

17 Jacqueline Carman

CarmanJB@clarkcountynv.gov

18
19
20
21
22
23
24
25
26
27
28

000032



1 WRTH
2 DARIN F. IMLAY, PUBLIC DEFENDER
3 NEVADA BAR NO. 5674
4 JACQUELINE B. CARMAN, DEPUTY PUBLIC DEFENDER
5 NEVADA BAR NO. 8016
6 PUBLIC DEFENDERS OFFICE
7 309 South Third Street, Suite 226
8 Las Vegas, Nevada 89155
9 Telephone: (702) 455-4685
10 Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,

12 Plaintiff,

13 v.

14 JOSHUA MURCIA,
15 ID #7067180

16 Defendant,

CASE NO. C-22-362539-1

DEPT. NO. XXXII

DATE: May 5, 2022
TIME: 8:30 a.m.

WRIT OF HABEAS CORPUS

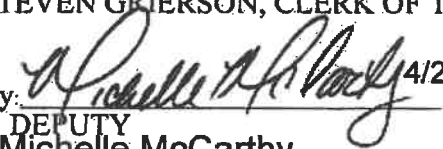
17 To: Clark County Sheriff
18 Clark County, Nevada

19 GREETINGS:

20 We command that you have the body of the above-captioned person, by you imprisoned
21 and detained, as it is alleged, together with the time and cause of such imprisonment and
22 detention, by whatever name said above-captioned person shall be called or charged, before the
23 Honorable Christy Craig, District Court Judge, at his/her chambers or his/her courtroom in the
24 County Courthouse Building in the City of Las Vegas, County of Clark, State of Nevada, on
25 May 5, 2022 at the hour of 8:30 am, to do and receive that which shall then and there be
26 considered concerning the said above-captioned person; and have you then and there this Writ.

27 DATED AND DONE this ____ of April, 2022.

28 STEVEN GRIERSON, CLERK OF THE COURT

By:  4/20/2022
DEPUTY
Michelle McCarthy

1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 I hereby certify that service of the foregoing WRIT OF HABEAS CORPUS was made
3 this 20th day of April by electronic service to the District Attorney's Office at
4 motions@clarkcountyda.com and District Court Department XXXII.

5
6 By: /s/Kristina A Byrd

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

12 **CERTIFICATE OF FACSIMILE TRANSMISSION**

13 I hereby certify that service of the foregoing WRIT OF HABEAS CORPUS was made
14 this 20th day of April, by facsimile transmission to:

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

18 By: /s/Kristina A Byrd

19 An employee of the
20 Clark County Public Defender's Office
21
22
23
24

25 Case Name: JOSHUA MURCIA

26 Case No.: C-22-362539-1

27 Dept. No. XXXII
28

000034



DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
JACQUELINE B. CARMAN, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 8016
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
CarmanJB@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

JOSHUA MURCIA,

Defendant,

CASE NO. C-22-362539-1

DEPT. NO. XXXII

DATE: May 5, 2022
TIME: 8:30 a.m.

REPLY TO THE STATE'S RETURN TO WRIT OF HABEAS CORPUS

COMES NOW, the Defendant, JOSHUA MURCIA, by and through JACQUELINE B. CARMAN, Deputy Public Defender and hereby replies to the State's Return to Writ of Habeas Corpus.

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

DATED this 3rd day of May, 2022.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Jacqueline B. Carman
JACQUELINE B. CARMAN, #8016
Deputy Public Defender

000035

INSUFFICIENT EVIDENCE OF A BURGLARY

The State wrongfully interprets White v State, 130 Nev. 533, 130 Nev. Adv. Op. 56 (2014), as well as Nevada case law, when it states one forfeits their rights to enter the residence by not retaining a key or using it on a weekly basis. White entered the home when he agreed not to be there just the same as Murcia supposedly did. There is nothing in White or any law that says, the residence must be used weekly and a key must be kept in order to maintain an absolute, unconditional right to enter. The State fails to cite any authority that shows this.

Despite what the State claims, Mr. Murcia never forfeited his right to enter and there was no evidence presented at the Preliminary Hearing that he did in the form of a writing-as stated in the defense's writ, he could gain entry by the landlord, by a locksmith, etc. if he asked for it. In fact, he could have signed a Notice of Intent to Vacate earlier (prior to the alleged offenses) but he did not.

The State cites a single case which does not bolster it's argument. In the unpublished, non-binding case of Davis v State, 488 P.3d 579 (Nev. Unpub. June 11, 2021 WL 2432442) it is not 100% clear, but the case reads as if Mr. Davis was renting/residing in a room inside the named victim's home where he lived possibly sharing common areas such as a kitchen/living area etc. Davis was charged with entering the named victim's bedroom with the intent to commit the crime(s). In other words, the case reads as if he was renting/staying in a different room where he was never supposed to have access to the named victim's bedroom and the house/lease may not have been in his name when he entered the named victim's bedroom. This is dissimilar from our case where Mr. Murcia and Ms. Salazar shared the entire residence according to the lease and Mr. Murcia is charged with Burglary of the entire address and not a single bedroom he was never allowed to enter nor was he leasing. This case does not say Mr. Davis forfeited any rights to the

1 property so it does not support the State's assertion Mr. Murcia forfeited any rights to the
2 property.

3 The State also incorrectly asserts Mr. Murcia was ordered to stay away from Ms. Salazar,
4 who had never been present for the issuance of and never seen the House Arrest order. The State
5 tries now for the first time in this writ to paint her as a witness to the case involving her sister-
6 there was no evidence to this effect at the Preliminary Hearing-to the contrary, the evidence at
7 the hearing shows she was not a witness. In addition, she was never found by the Justice of the
8 Peace to be a witness. See State's Return page 6. The State did not provide any evidence in the
9 form of witness lists or court documents, etc. that established Ms. Salazar was a witness, she did
10 not testify at the Preliminary hearing in that case and she testified at the Preliminary Hearing that
11 she was not a witness-"I was not involved in that" and she agreed with the Court and confirmed
12 she is "not involved in that other case" with her sister. PHT 36, line 19, 37, 43. Ms. Salazar said
13 she was "made aware" by her "sister" of what allegedly occurred in the other case-she was not
14 there and the State's representation made in the writ which was not made at the Preliminary
15 Hearing is disingenuous. PHT 16. If she was a witness, Mr. Murcia would have been violated
16 on house arrest for contacting her prior to this alleged incident. Ms. Salazar also testified her
17 sister, the witness whom Mr. Murcia was to stay away from, did not live with Ms. Salazar-she
18 lived in California and after he was placed on House Arrest, there is no written evidence he was
19 ordered to stay away from the address where his children were living just like Mr. White's
20 children. PHT 34, 35. The Justice of the Peace could not even figure out why the sister visiting
21 in June 2020 had anything to do with whether or not Mr. Murcia was allowed to be at the
22 residence. PHT 38. The State has failed to cite any legal authority supporting the proposition he
23 forfeited his rights and this is the reason it is again trying to say Mr. Murcia was prohibited from
24 being there because he was on House Arrest.

1 This House Arrest order in 21CR027412 which the defense admitted did not convey the sole
2 right of possession to Ms. Salazar and dispossess Mr. Murcia of his lawful right of possession.
3 The State had been spinning this unfounded allegation as a violation at the Preliminary Hearing
4 and continues to do so without presenting any documentation to this effect. Simply stated, Mr.
5 Murcia was ordered to stay away from the named victim of case 21CR027412, J.S. (a relative of
6 Ms. Salazar who resided in a different state) and witnesses none of whom were Ms. Salazar.
7 Most importantly, the House Arrest order did not provide Mr. Murcia was to stay away from the
8 address 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110. See Defense Exhibit B and
9 PHT 44. In other words, there was not slight or marginal evince presented that a Burglary had
10 been committed.
11

12 **INSUFFICIENT EVIDENCE OF A HOME INVASION**

13 The State claims in it's return that Mr. Murcia has not cited relevant caselaw to support the
14 "contention that a court order must issue for a Defendant to be divested of his occupancy right".
15 The State then references the Trusedale case the defense cited-that case was used by the defense
16 to show there was a court order directing Mr. Truesdale he was divested of his occupancy right at
17 least temporarily by a TPO. Truesdale v. State, 129 Nev. 194 (2013). We do not have such a
18 TPO or order in the current case so not only did Mr. Murcia never forfeit his rights, he was never
19 divested of them. To show he had every right to be there, he even signed the move out/vacating
20 agreement in person. See Defense Exhibit A. The defense has cited the plain language of the
21 statute which remarkably notes a Home Invasion is committed when one "enters a dwelling
22 without permission of owner, resident or lawful occupant". Mr. Murcia is the resident and
23 lawful occupant according to the lease-there was no evidence to the contrary so the State has not
24 provided slight or marginal evidence of a Home Invasion.
25
26
27
28

1 **CONCLUSION**

2 The State failed to cite any legal authority to establish that Mr. Murcia lost or forfeited his
3 right of occupancy-he signed the lease prior to the alleged offenses and the notice of intent to
4 vacate after the alleged offenses. Mr. Murcia had an absolute and unconditional right to enter the
5 residence under Nevada law so there was no Burglary. Additionally, he was a lawful
6 occupant/resident so he could not invade the residence. The State failed to present sufficient
7 evidence to support both the Burglary and Invasion of the Home Charge. The defense
8 respectfully requests this Court grant the writ with respect to these 2 charges.
9

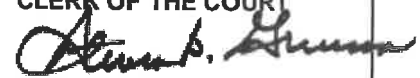
10 DATED this 3rd day of May, 2022.

11 DARIN F. IMLAY
12 CLARK COUNTY PUBLIC DEFENDER

13
14 By: /s/Jacqueline B. Carman
15 JACQUELINE B. CARMAN, #8016
16 Deputy Public Defender
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

By: /s/Kristina Byrd
An employee of the
Clark County Public Defender's Office



RET
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MELANIE H. MARLAND
Deputy District Attorney
Nevada Bar #14577
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
State of Nevada

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of Application,
of
JOSEPH MURCIA,
#7067180
for a Writ of Habeas Corpus.

CASE NO: C-22-362539-1
DEPT NO: XXXII

STATE'S RETURN TO WRIT OF HABEAS CORPUS

DATE OF HEARING: 5/5/22
TIME OF HEARING: 08:30 A.M.

COMES NOW, JOE LOMBARDO, Sheriff of Clark County, Nevada, Respondent, through his counsel, STEVEN B. WOLFSON, Clark County District Attorney, through MELANIE H. MARLAND, Deputy District Attorney, in obedience to a writ of habeas corpus issued out of and under the seal of the above-entitled Court on the 20th day of April, 2022, and made returnable on the 5th day of May, 2022, at the hour of 08:30 o'clock A.M., before the above-entitled Court, and states as follows:

1. Respondent admits the allegations of Paragraph 1 of the Petitioner's Petition for Writ of Habeas Corpus.
2. Respondent denies the allegations of Paragraphs 2, 3 of the Petitioner's Petition for Writ of Habeas Corpus.
3. Paragraphs 4 and 5 do not require admission or denial.

1 4. The Petitioner is in the actual custody of JOE LOMBARDO, Clark
2 County Sheriff, Respondent herein, pursuant to a Criminal Information, a copy of which is
3 attached hereto as Exhibit 1 and incorporated by reference herein.

4 Wherefore, Respondent prays that the Writ of Habeas Corpus be discharged, and the
5 Petition be dismissed.

6 DATED this 28th day of April, 2022.

7 Respectfully submitted,

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

10 BY /s/ *Melanie Marland*
11 MELANIE H. MARLAND
12 Deputy District Attorney
 Nevada Bar #14577

13
14 POINTS AND AUTHORITIES

15 STATEMENT OF THE CASE

16 Joseph Murcia (hereinafter "Defendant") was charged on January 5, 2022, with
17 BATTERY CONSTITUTING DOMESTIC VIOLENCE (Misdemeanor - NRS
18 200.485(1)(A), 200.481(1)(A), 33.018 - NOC 50235), RESIDENTIAL BURGLARY
19 (Category B Felony - NRS 205.060 - NOC 61934) and INVASION OF THE HOME (Category
20 B Felony - NRS 205.067 - NOC 50435).

21 On February 14, 2022, Defendant, at the conclusion of a preliminary hearing, was held
22 to appear on the charges in District Court.

23 On April 14, 2022, Defendant filed the instant Petition for Writ of Habeas Corpus
24 ("Petition"). The State responds herein.

25 STATEMENT OF THE FACTS

26 On October 29, 2021, Leslie Salazar was living at 5250 Stewart Ave, Apartment 1129.
27 Preliminary Hearing Transcript 2/14/2022 ("PHT") at 9. Salazar lived there with the three sons
28 she shared with Defendant, and her boyfriend, Antonio Rolling, would occasionally stay over.

1 PHT at 9-10. Her sons were 6, 4, and 3 years old at the time. Id. at 10. Defendant had not lived
2 at the Stewart Avenue address since the end of March or early April of 2021. Id. at 11. Both
3 Defendant and Salazar were on the lease that had been renewed in March 2021, but Defendant
4 moved out within weeks of the lease being renewed. Id. at 10, 33. Both Defendant and
5 Salazar's names were on the lease until March of 2022. Id. at 33. Between moving out at the
6 end of March 2021 and October 29, 2021, Defendant had not returned to the Stewart Ave.
7 address. Id. at 12. However, Salazar and Defendant had an arrangement as to the children
8 wherein Salazar would drop off the children at Defendant's house before she went to work,
9 and would pick them up afterward. Id. Defendant was not allowed to go to the Stewart Ave.
10 address due to allegations of sexual abuse having been made by Salazar's fifteen-year old sister
11 in March 2021. Id. at 13-15.¹

12 Since March of 2021, Defendant had been living with his grandfather, where he had a
13 bedroom, a bathroom, and where he had all his meals. Id. at 45. Defendant no longer had a
14 key to the Stewart Avenue address. Id.

15 At approximately 01:30 a.m. on October 29, 2021, Salazar and Rolling were asleep at
16 the Stewart Ave. address. Id. at 18. Defendant called Salazar on her phone asking what she
17 was doing. Id. Salazar hung up on Defendant after stating she was sleeping, and Defendant
18 attempted to video call her again. Id. at 19. Approximately ten minutes later, Defendant was
19 banging on Salazar's bedroom window, waking her up. Id. at 20.

20 Defendant then moved to her living room window and attempted to get through the
21 window. Id. at 23. Salazar got up and moved to the living room and observed Defendant
22 attempting to get in through her living room window. Id. at 24. Defendant eventually pushed
23 his way in through the living room window, climbed inside, and then shoved Salazar out of
24 the way while heading to her bedroom door, telling her to "move out of the way." Id. at 26-
25 27. Defendant went into Salazar's bedroom, where Rolling was sitting on her bed, and started
26 cursing at Salazar and Rolling. Id. at 28-29. Defendant attempted to goad Rolling into a fight,
27

28 ¹ The testimony pertaining to Defendant's other case of Lewdness with a Minor was only introduced after Defense opened
the door by repeatedly objecting as to foundation when Salazar testified that Defendant had been ordered to stay away
from her residence, as the State was not initially planning on introducing any evidence relating to another pending case.

1 and when that did not achieve its desired ends, Defendant left through the front door. Id. at
2 30. After exiting, Defendant punched into the living room window, causing glass to shatter
3 over the inside of the residence and living room table. Id. at 24, 26, 30.

4 5 ARGUMENT

6 **I. LEGAL STANDARD**

7 It is well settled that the District Court's function in reviewing a pretrial writ of habeas
8 corpus challenging the sufficiency of probable cause is to determine whether enough
9 competent evidence was presented to establish a reasonable inference that the accused
10 committed the offenses. State v. Fuchs, 78 Nev. 63 (1962). In a preliminary hearing, the State
11 needs only to show that a crime has been committed and the accused probably committed it.
12 The finding of probable cause to support a criminal charge may be based on "slight, even
13 'marginal' evidence ... because it does not involve a determination of guilt or innocent of an
14 accused." See Sheriff v. Hodges, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980); Sheriff v. Potter,
15 99 Nev. 389, 391, 663 P.2d 350, 352 (1983). Moreover, the corpus delicti in a preliminary
16 hearing may be established by purely direct evidence, partly direct and partly circumstantial
17 evidence, or entirely circumstantial evidence. See Sheriff, Washoe County. v. Middleton, 112
18 Nev. 956, 962, 921 P.2d 282, 286 (1996).

19 Additionally, to commit an accused for trial, the State is not required to negate all
20 inferences which might explain his conduct, but only to present enough evidence to support a
21 reasonable inference that the accused committed the offense." See Kinsey v. Sheriff, 87 Nev.
22 361, 363, 487 P.2d 340, 341 (1971). The Court need not consider whether the evidence
23 presented in the record may, by itself, sustain a conviction, since the State at a preliminary
24 hearing need not produce the quantum of proof required to establish guilt of the accused
25 beyond a reasonable doubt. See Sheriff v. Hodges, supra; Miller v. Sheriff, 95 Nev. 255, 592
26 P.2d 952 (1979).

27 Neither a preliminary hearing nor a hearing on a Petition for Writ of Habeas Corpus is
28 designed to resolve factual disputes, questions of intent or matters of defense which are

1 functions of the trier of fact at trial. See Brymer v. Sheriff, 92 Nev. 598, 555 P.2d 844 (1976);
2 Wrenn v. Sheriff, 87 Nev. 85, 482 P.2d 289 (1971). Likewise, it is not incumbent upon the
3 state to negate all other inferences at the preliminary hearing. See Graves v. Sheriff, 88 Nev.
4 436, 498 P.2d 1324 (1972).

5 **II. THE STATE PRESENTED SUFFICIENT EVIDENCE TO SUPPORT THE**
6 **BURGLARY CHARGE AGAINST DEFENDANT**

7 Defendant argues that Defendant “was a lawful occupant with a right of possession and
8 absolute right to enter the Stewart Avenue residence on October 29, 2021,” and that the State
9 therefore did not prove slight or marginal evidence of Count 2, Burglary.

10 A person cannot commit a burglary of a home when he has an absolute right of entry
11 into the home. State v. White, 130 Nev. 533, 536, 330 P.3d 482, 484 (2014). In that case,
12 White and his wife, the victim, separated, and White offered to move out of the residence, with
13 the agreement that White would stay with the children over the weekend, and the victim would
14 stay there during the week with the children. Id. at 534, 330 P.3d at 483-84. White kept keys
15 for the sole purpose of accessing the house over the weekends, usually starting between 2p.m.
16 and 3p.m. on Fridays, and leaving on Sunday – during this time, the victim would leave the
17 house with her new boyfriend. Id. At approximately 2 a.m. on a Friday morning, White
18 showed up and began banging on the bedroom window, when the victim told him to leave
19 because the children were asleep; later that day, at approximately noon, White entered the
20 house with his keys, and proceeded to shoot the victim and her boyfriend, killing the victim.
21 Id., The White court analyzed the legislative intent of the burglary statute to determine
22 whether a person could burglarize their own residence, noting that burglary laws “are aimed
23 at the danger caused by the unauthorized entry.” Id. at 538, 330 P.3d at 485. In determining
24 whether or not a defendant has an absolute right of entry, the White court noted that White had
25 not forfeited a right to enter the residence, since he retained the keys and entered the house on
26 a weekly basis.

27 In a series of unpublished opinions, the Nevada Supreme Court further noted examples
28 of absolute right of entry: for example, in Davis v. State, Davis lived in the victim’s home, but

1 had no absolute right of entry into the victim's bedroom, so he was appropriately found guilty
2 of burglary of the victim's bedroom. 488 P.3d 579 (Nev. Unpub. June 11, 2021 WL 2432442).

3 Unlike the defendant in White, who still had keys and partially resided at the shared
4 residence; here, the only testimony presented showed that Defendant resided at his
5 grandfather's house, slept at his grandfather's house, ate at his grandfather's house, and had
6 not visited the Stewart Avenue address for at least six months; and, crucially, Defendant *no*
7 *longer had keys to the residence*. Additionally, Defendant had been ordered to stay away from
8 the victim and all witnesses in Defendant's lewdness case; and despite Defendant's assertion
9 that the victim's sister (and his wife) was not a witness for purposes of the stay away order, a
10 brief review of the Declaration of Arrest in that case shows that the minor victim was staying
11 with her sister, Salazar, and Defendant, and that the incident took place after their
12 housewarming party for the Stewart Avenue address. Salazar is accordingly a potential witness
13 in the instant case. The 6/29/21 Justice Court minute order that issued in Case no. 21CR027412
14 specifically ordered Defendant to "stay away from victim and witnesses." 6/29/21 Minute
15 Order, 21CR027412 ("Exhibit 2").

16 Defendant's argument that the State should have presented documentation divesting
17 Defendant of his absolute right of entry is misleading: the State *did* present slight or marginal
18 evidence through Salazar's testimony that Defendant no longer occupied the premises and no
19 longer had an absolute right of entry, given that he did not have the means to even enter the
20 premises anymore. Indeed, the only way Defendant was able to make entry was by crawling
21 in through the window, supporting the State's position that Defendant in no way had an
22 *absolute* right of entry, whether or not his name was still on the lease.

23 Accordingly, the State presented slight or marginal evidence of all elements to support
24 a burglary charge, and Defendant's claim should be denied.

25 **III. THE STATE PRESENTED SUFFICIENT EVIDENCE TO SUPPORT THE**
26 **HOME INVASION CHARGE AGAINST DEFENDANT**

27 Despite not citing to any relevant case law, Defendant argues that he cannot commit a
28 home invasion on his own home. Petition at 13-14. Defendant further fails to cite to any statute

1 or case law that supports his contention that a court order must issue for a Defendant to be
2 divested of his occupancy right. See generally Maresca v. State, 103 Nev. 669, 673, 748 P.2d
3 3, 6 (1987) (“It is appellant’s responsibility to present relevant authority and cogent argument;
4 issues not so presented need not be addressed by this court).”

5 NRS 205.067(1) requires that a person “forcibly enters an inhabited dwelling without
6 permission of the owner, resident or lawful occupant.” “[A] person cannot commit the crime
7 of home invasion by forcibly entering his or her own home if that person is a lawful occupant
8 or resident of the home.” Truesdell v. State, 129 Nev. 194, 202, 304 P.3d 396, 401 (2013). In
9 the instant case, while Defendant’s name was on the lease, he was no longer an occupant of
10 the residence, as he had not occupied the residence or resided at the Stewart Avenue address
11 since March of 2021, nor did Defendant have any keys that would allow him to enter the
12 Stewart Avenue address. Further, Defendant

13 Accordingly, Defendant no longer was a resident or occupant of the Stewart Avenue
14 home, and the State provided slight or marginal evidence to support the elements of Home
15 Invasion.

16 CONCLUSION

17 For all the foregoing, the State respectfully requests that Defendant’ Petition be
18 DENIED.

19 DATED this 28th day of April, 2022.

20 Respectfully submitted,

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

23 BY /s/ Melanie Marland
24 MELANIE H. MARLAND
25 Deputy District Attorney
26 Nevada Bar #14577
27
28

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of Return To Writ of Habeas Corpus, was made this
__28th__ day of April, 2022, by electronic transmission to:

JACQUELINE B. CARMAN, DEPUTY PD
Email: CarmanJB@ClarkCountyNV.gov

BY: /s/ Kristian Falcon
KRISTIAN FALCON
Employee of the District Attorney's Office

mm/kf/dvu

Steven D. Grierson

1 **INFM**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **MELANIE MARLAND**
6 **Deputy District Attorney**
7 **Nevada Bar #014577**
8 **200 Lewis Avenue**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 671-2500**
11 **Attorney for Plaintiff**

12 **I.A. 2/16/22**
13 **8:00 AM**
14 **PD**

DISTRICT COURT
CLARK COUNTY, NEVADA

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

CASE NO: C-22-362539-1

18 **-vs-**

DEPT NO: XXXII

19 **JOSHUA MURCIA,**
20 **#7067180**

21 **Defendant.**

INFORMATION

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

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

26 **That JOSHUA MURCIA, the Defendant(s) above named, having committed the crimes**
27 **of RESIDENTIAL BURGLARY (Category B Felony - NRS 205.060.2C - NOC 61934),**
28 **BATTERY CONSTITUTING DOMESTIC VIOLENCE (Misdemeanor - NRS**
29 **200.485(1)(A), 200.481(1)(A), 33.018 - NOC 50235) and INVASION OF THE HOME**
30 **(Category B Felony - NRS 205.067 - NOC 50435), on or about the 29th day of October,**
31 **2021, within the County of Clark, State of Nevada, contrary to the form, force and effect of**
32 **statutes in such cases made and provided, and against the peace and dignity of the State of**
33 **Nevada,**

34 **//**

35 **//**

\\CLARKCOUNTYDA.NET\CRM\CASE2\2021\55046\202155046C-INFM-(JOSHUA MURCIA)-001.DOCX

EXHIBIT "1"

1 COUNT 1 - RESIDENTIAL BURGLARY

2 did willfully, unlawfully, and feloniously enter or unlawfully remain in a dwelling,
3 owned, or occupied by LESLIE SALAZAR, located at 5250 Stewart Avenue, Las Vegas,
4 Clark County, Nevada, with the intent to commit grand or petit larceny, assault, or battery,
5 obtain money or property by false pretenses, and/or a felony.

6 COUNT 2 - BATTERY CONSTITUTING DOMESTIC VIOLENCE

7 did willfully and unlawfully use force or violence against or upon the person of his
8 spouse, former spouse, any other person to whom he is related by blood or marriage, a person
9 with whom he has had or is having a dating relationship, a person with whom he has a child
10 in common, the minor child of any of those persons or his minor child, to wit: LESLIE
11 SALAZAR, by pushing the said LESLIE SALAZAR.

12 COUNT 3 - INVASION OF THE HOME

13 did willfully, unlawfully, feloniously, and forcibly enter an inhabited dwelling, to wit:
14 5250 Stewart Avenue, Las Vegas, Clark County, Nevada, without permission of the owner,
15 resident, or lawful occupant, to wit: LESLIE SALAZAR.

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

18
19 BY /s/ Melanie Marland
20 MELANIE MARLAND
Deputy District Attorney
Nevada Bar #014577

21
22 Names of witnesses known to the District Attorney's Office at the time of filing this
23 Information are as follows:
24

25 COX, NAVEEN; CCDA Process Server

26 CUSTODIAN OF RECORDS; CCDC

27 CUSTODIAN OF RECORDS; LVMPD Communications

28 CUSTODIAN OF RECORDS; LVMPD Records

1 HINCKLEY, S.; LVMPD #14819
2 KNEPP, RYAN; CCDA Process Server
3 MENA, L.; LVMPD #17997
4 NEWCOMB, TRAVIS; CCDA Investigator
5 REYES, A.; LVMPD #16160
6 ROLLING, ANTONIO; C/O CCDA-DVU
7 SALAZAR, LESLIE; C/O CCDA-DVU
8 VAQUERO, EDWARD; CCDA Process Server

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

22CR002295/kf/DVU
LVMPD EV#211000122298
(TK09)

**Justice Court, Las Vegas Township
Clark County, Nevada**

Department: 02

Court Minutes



L013719931

21-CR-027412 State of Nevada vs. MURCIA, JOSHUA

Lead Atty: Public Defender

6/15/2021 7:45:00 AM Initial Appearance (In custody)

Result: Matter Heard

PARTIES PRESENT: State Of Nevada Attorney Defendant
Overly, Sarah
Bradford, Kristal
MURCIA, JOSHUA

Judge: Sciscento, Joseph S.

Court Reporter: Camgemi, Robert

Court Clerk: Moore, Stacey

PROCEEDINGS

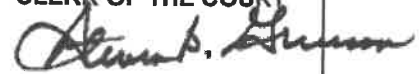
Attorneys:	Bradford, Kristal	MURCIA, JOSHUA	Added
	Public Defender	MURCIA, JOSHUA	Added

Hearings:	6/29/2021 9:00:00 AM: Preliminary Hearing	Added
------------------	--	--------------

Events: **Initial Appearance Completed**
Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint
Public Defender Appointed
Remote Appearance by
Defendant from the Clark County Detention Center
Bail Stands - Cash or Surety *Amount: \$20,000.00*
Counts: 001; 002 - \$20,000.00/\$20,000.00 Total Bail
Release Order - Bail OR Electronic Monitoring - High Level
Bail Condition - No Contact with Victim
Bail Condition - Stay Away From Victim
and witnesses

EXHIBIT "2"

000052



WRTH
DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
JACQUELINE B. CARMAN, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 8016
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
CarmanJB@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-22-362539-1
)	
v.	)	DEPT. NO. XXXII
)	
JOSHUA MURCIA,)	
ID #7067180	)	DATE: May 5, 2022
Defendant,	)	TIME: 8:30 a.m.

PETITION FOR WRIT OF HABEAS CORPUS

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

The Petition of Joshua Murcia submitted by Jacqueline Carman, Deputy Public
Defender, as attorney for the above-captioned individual, respectfully affirms:

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

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

3. That the imprisonment and restraint of said Petitioner is unlawful in that:
the defendant is being held without probable cause on the felony charges.

000053

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

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

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

10 DATED this 14th of April, 2022.

11 DARIN F. IMLAY
12 CLARK COUNTY PUBLIC DEFENDER

13
14 By: /s/ Jacqueline Carman
15 JACQUELINE, #8016
16 Deputy Public Defender
17
18
19
20
21
22
23
24
25
26
27
28

000054

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

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

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

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

/s/ Jacqueline Carman
JACQUELINE CARMAN

/s/ Jacqueline Carman
JACQUELINE CARMAN

1 **STATEMENT OF RELEVANT FACTS AND PROCEDURAL HISTORY:**

2 **RELEVANT FACTS:**

3 Mr. Joshua Murcia (Mr. Murcia) was charged by way of Criminal Complaint on January 12,
4 2022, with: Count one, Residential Burglary pursuant to NRS 205.060.2C-NOC 61934; Count
5 two, Battery Constituting Domestic Violence pursuant to NRS 200.485(1)(A), 200.481(1)(A),
6 33.018-NOC 50235; and Count three, Invasion of the Home pursuant to NRS 205.067-NOC
7 50435.
8

9 At issue, the Burglary, and Invasion of the Home involve the address: “5250 Stewart Avenue,
10 Las Vegas, Clark County, Nevada”. This address was occupied by the alleged victim of the
11 Battery Constituting Domestic Violence, “Leslie Salazar” (Ms. Salazar).
12

13 According to the lease agreement, admitted as evidence, Ms. Salazar was listed as an
14 “allowed occupant” of the “premises” along with Mr. Murcia who was also listed as an “allowed
15 occupant” of the “premises”. The address of the jointly leased premises was, “5250 Stewart
16 Avenue, #1129, Las Vegas, Nevada 89110”. The start of this lease was “April 1, 2021” and the
17 expiration of the lease is listed as “March 31, 2022” on page one of the agreement. This address
18 is where the Burglary and Invasion of the Home allegedly occurred on October 29, 2021. See
19 Defense Exhibit A page 1/10 of the Nevada Residential Rental Agreement which was executed
20 March 19, 2021 by both parties.
21

22 Additionally, both Ms. Salazar and Mr. Murcia are listed as “resident[s]” of the agreement
23 who signed the “Notice of Intent to Vacate” on January 18, 2022, with a move out date of March
24 31, 2022, and the method of notifying the landlord of vacating was “in person”. A reading of the
25 document implies they went together to sign the notice to move out. See Defense Exhibit A
26 Notice of Intent to Vacate.
27
28

1 In other words, Mr. Murcia was a lawful occupant with a right of possession and absolute
2 right to enter 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110, along with Ms. Salazar
3 according to the landlord's leasing documents on October 29, 2021. The State did not present
4 any evidence to the contrary. He could not be refused admission if he contacted the landlord
5 telling them he was locked out-the landlord would have to let him in as there was no legal
6 document produced at the Preliminary Hearing divesting him of his possessory interest on
7 October 29, 2021.
8

9 **PROCEDURAL HISTORY:**

10 **21CR027412 (a case which the State tried to use to show this was not a Burglary and Home**
11 **Invasion but the Justice Court ultimately did not use this as a basis for the charges):**
12

13 On June 14, 2021, a Complaint in another case, 21CR027412, was filed involving another
14 alleged victim who was blood-related as a sister, but did not live with Ms. Salazar. According to
15 Ms. Salazar, the alleged victim in that case lived in California and not with her. See PHT 35
16 lines 1-5, 48 lines 11-15. Ms. Salazar was not a witness in 21CR027412. A house arrest review
17 in 21CR027412 was conducted in that case on June 23, 2021, and Mr. Murcia was ordered to
18 stay away from the "victim and witnesses". There was no evidence there was a court order in
19 that case or any other prohibiting Mr. Murcia from coming to the residence although Ms. Salazar
20 did not want him there after the incident with her sister was alleged to have occurred. PHT 13-
21 17. Despite any evidence supporting this, the State believes 21CR027412 is relevant to the
22 current case, and 21CR027412 is referenced in the Preliminary Hearing in the current case
23 although the Court did not state findings to this effect or find there was a district court order
24 granting Ms. Salazar possession of the home as the basis for the bind over.
25
26
27
28

1 **THE CURRENT CASE:**

2 The current case was alleged to have occurred October 29, 2021, and an arrest warrant was
3 issued January 20, 2022. The arrest warrant return hearing was conducted on January 31, 2022.
4 On that date, Mr. Murcia who was present in custody on the warrant was arraigned, counsel was
5 appointed, and bail was set at \$5,000 with high level monitoring. Subsequently, the Preliminary
6 hearing was scheduled for February 14, 2022.
7

8 Mr. Murcia appeared in custody at the Preliminary Hearing February 14, 2022, and the State
9 presented one witness, Ms. Salazar, before resting. During the hearing, the State admitted an
10 exhibit consisting of photos of a window which was broken after Mr. Murcia left the residence
11 and the offenses were alleged to have occurred. PHT 20-21. The defense admitted two exhibits:
12 a copy of the parties lease and notice of intent to vacate the premises showing the landlord
13 conveying a right of possession to Mr. Murcia as well as an exhibit of the House Arrest order
14 which did not state Mr. Murcia was prohibited from contacting Ms. Salazar or going to the
15 residence. PHT 34 and 44.
16

17 This House Arrest order in 21CR027412 did not convey the sole right of possession to Ms.
18 Salazar and dispossess Mr. Murcia of his lawful right of possession. He was ordered to stay
19 away from the named victim of case 21CR027412, J.S. (a relative of Ms. Salazar who resided in
20 a different state) and witnesses none of which was Ms. Salazar nor did it provide Mr. Murcia was
21 to stay away from the address 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110. See
22 Defense Exhibit B and PHT 44. Most importantly, the State presented no evidence that Mr.
23 Murcia was prohibited from going to 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110
24 and violated a court order by going to the residence.
25
26
27
28

1 The State did not provide any evidence in the form of witness lists or court documents, etc.
2 that established Ms. Salazar was a witness, she did not testify at the Preliminary hearing in that
3 case. In fact, Ms. Salazar testified in the current case that she did not witness that alleged crime
4 against her sister-"I was not involved in that" and she agreed with the Court and confirmed she is
5 "not involved in that other case" with her sister. PHT 36, line 19, 37, 43. In fact, Ms. Salazar
6 said she only knew about the other case because she was "made aware" by her "sister" of what
7 allegedly occurred involving her sister in the other case. PHT 16. It is noteworthy, Mr. Murcia
8 had contact with Ms. Salazar since his release in that case and was never violated on house arrest
9 for contacting her.
10

11 The Justice of the Peace did not state findings Ms. Salazar was a witness and Mr. Salazar
12 violated a court order by going to the residence either but rather found he moved out in April
13 2021 and did not occupy the home at the time which is the same scenario as the State v. White,
14 130 Nev. 533, 130 Nev. Adv. Op. 56 (2014), case which is analyzed below. PHT 11.
15

16 Ms. Salazar also testified her sister, the witness whom Mr. Murcia was to stay away from, did
17 not live with Ms. Salazar and lived in California. PHT 34, 35.
18

19 There was no evidence there was a court order prohibiting Mr. Murcia from coming to the
20 residence although Ms. Salazar may not have wanted him there after the incident with her sister
21 was alleged to have occurred. PHT 13-17 (remarkably, on PHT 44, the State says it has concerns
22 Ms. Salazar would not be the appropriate witness to "review" a stay away order and yet the State
23 tried over objection to get Ms. Salazar to testify about the content of this stay away order). The
24 State concedes at some point during the Preliminary Hearing that Ms. Salazar is not necessarily
25 "up-to-date as to everything that occurred with her sister's case." (PHT 37). The Court could
26
27
28

1 not even figure out why the sister visiting in June 2020 had anything to do with whether or not
2 Mr. Murcia was allowed to be at the residence. PHT 38.

3 Ms. Salazar indicated she renewed the lease in March/April 2021, Mr. Murcia signed it with
4 her in March 2021, and he stopped staying there in April. PHT 11, 33. Ms. Salazar testified she
5 occupied the residence with her 3 boys in common with Mr. Murcia and current boyfriend,
6 Antonio Rolling similar to the facts of Troy White. PHT 9-10. She also admitted she and Mr.
7 Murcia signed a Notice of Intent to vacate March 31, 2022, after the alleged incident in this case-
8 the lease and notice of intent to vacate is admitted as evidence at the Preliminary Hearing. PHT
9 33-34.
10

11 The Justice Court did not find probable cause Mr. Murcia should be bound over on the
12 Invasion of the Home and Burglary because of any court order in the case involving the sister,
13 but rather what the defense would describe as a misreading of State v. White. The Justice Court
14 found that Mr. Murcia did not have an “absolute right” to enter his home and a “right of
15 occupancy” because he stayed elsewhere and did not maintain a key. PHT 51-53. As discussed
16 in more detail below, the fact he was staying elsewhere is essentially what happened in the White
17 case and there was no evidence presented at the Preliminary Hearing to support the finding Mr.
18 Murcia did not have an absolute right to enter his home and a right of occupancy nor is there any
19 case law that says staying elsewhere and not maintaining a key divests him of these rights.
20
21

22 ///

23 ///

24 ///

LEGAL ARGUMENT

Burglary- Under prior statute in Nevada, the penalty for burglary was a Category B felony with a sentence range of 1-10 years and did not require unlawful entry as an element of burglary or distinguish between different types of structures. AB 236 defines dwelling and adds the element of “unlawfully entering and unlawfully remaining” to the burglary statute and defines “unlawfully enters or unlawfully remains” as a person “entering or remaining in a dwelling, structure or motor vehicle or any part thereof, including under false pretenses, when the person is not licensed or privileged to do so”. AB 236 further amends the burglary statute to distinguish different types of structures involved by establishing tiered penalties by type of structures as follows in relevant part: Residential Burglary Dwelling - any structure, building, house, room, apartment, tenement, tent, conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car, including, without limitation, any part thereof that is divided into a separately occupied unit in which any person lives or which is customarily used by a person for overnight accommodations, regardless of whether the person is inside at the time of the offense. A residential burglary is a Category B felony – 1-10 yrs.

It is legally impossible to burglarize and invade your own home.

At common law, burglary was the breaking and entering the house of another in the nighttime, with intent to commit a felony therein, whether the felony is actually committed or not. Smith v. First Judicial District Court. 347 P.2d 526, 75 Nev. 526 (1959).

Nevada, like many other states, has statutorily enlarged the definition of burglary. See NRS 205.060. The enlargement of the burglary statute did not eviscerate its purpose, a point recognized by The Nevada Supreme Court when it affirmed and adopted the Supreme Court of Washington's explanation of the evolution of common law burglary which had held: "While there has been an enlargement of the definition, the central idea which has obtained for hundreds of years, the unlawful breaking and entering of some kind of an enclosed structure, has been retained." Id. The Nevada Supreme Court stated that Washington's reasoning "is directly in point and we approved its reasoning." Id. Simply put, the legislative intent in adopting the current

1 burglary statute was to broaden the definition of a structure, not to abandon in its entirety the
2 common law underpinnings of the charge. Id.

3
4 NRS 205.060 defines burglary as:

5 A person who, by day or night, enters any house, room, apartment, tenement, shop,
6 warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle,
7 vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the
8 intent to commit grand or petit larceny, assault or battery on any person or any felony, or
to obtain money or property by false pretenses.

9 Nevada has directly decided the issue in the same manner as California. In the case of State
10 v. White, 130 Nev. 533, 130 Nev. Adv. Op. 56 (2014), the Nevada Supreme Court held “the
11 common law notion that burglary law is designed to protect a possessory or occupancy right in
12 property remains in effect. Despite the dates in the lease agreement and the Notice of Intent to
13 Vacate, the Justice Court found that Mr. Murcia moved out and did not occupy the property on
14 October 29, 2022. Even if that were the case, he still held a possessory right and was still on the
15 lease. Mr. Troy White also moved out and allowed the mother of his children to remain
16 primarily in the residence, according to Echo Lucas (the ex and named victim of White), Mr.
17 White was not “supposed to be” occupying the residence at the time of his offense, and he too
18 banged on the window like Mr. Murcia while Echo Lucas was in the residence with her new
19 boyfriend and children in common. The Supreme Court in State v. White, 130 Nev. Adv. Op. 56
20 (2014), held that a person cannot commit burglary of a home when he or she has an absolute
21 right to enter the home and while ownership is a factor, the question is whether the alleged
22 burglar has an absolute, unconditional right to enter the home. Here, there is nothing in the law
23 that divested Mr. Murcia of his absolute, unconditional right to enter the residence.

24
25 The Justice Court found that Mr. Murcia did not have an “absolute right” to enter his home
26 and a “right of occupancy” solely because he stayed elsewhere and did not maintain a key. PHT
27 51-53.
28

1 The State failed to present any evidence/documentation at the Preliminary Hearing divesting
2 Mr. Murcia of his possessory interest in the residence on October 29, 2021 or indicating he lost
3 his absolute right to enter his home and right of occupancy. There was no evidence he lost this
4 and no legal authority in the form of statutes or case law for losing this right.

5 There was no evidence of court order in the form of a TPO or House Arrest order, no
6 eviction, etc. In fact he was on the lease before the alleged offense and signed documents
7 showing he was still a tenant who vacated the residence after the alleged offense occurred. He
8 was never an "at will tenant"/guest who needed permission of the owner to occupy the premises
9 nor was there a notice to quit. Baker v. Simonds, 79 Nev. 434, 386 P.2d 86 (1963); 49 Am. Jur.
10 2d, Landlord and Tenant § 118. In fact, Mr. Murcia is like Mr. White who moved out of the
11 premises, stayed elsewhere and allowed the mother of his children to remain there with the
12 children. One of the reasons the Justice Court found Mr. Murcia lost his right of occupancy
13 and absolute right to enter was the fact he stayed elsewhere. To the contrary, Mr. Murcia had
14 an absolute, unconditional right to enter the home just like Mr. White did. Mr. White orally
15 agreed to stay elsewhere during the week but maintained an absolute right to enter the residence
16 during that time he agreed to stay elsewhere and he did not forfeit any possessory right he had in
17 it. This is analogous to Ms. Salazar's testimony about what Mr. Murcia agreed to do-she
18 indicated he made an oral agreement to stay away, allow her and their children to stay there but
19 he remained on the lease holding a possessory interest. The lease and Notice of Intent to Vacate
20 dated March 2022 supports this-if he came there to visit his kids, he could not be cast out if she
21 called the police for trespassing. He is no more a burglar than Mr. White was and should stand
22 trial only for allegedly committing the crime of domestic battery by pushing Ms. Salazar, in their
23 rented residence as opposed to Invasion of the Home and Burglary. He has a common law
24 unconditional, absolute right to be at the residence and he did not invade Ms. Salazar's
25 possessory right. The State failed to establish he did not have an absolute right to enter the
26 structure. The State failed to produce any evidence he was evicted, or there was a court order
27 granting her sole possession of the home like is seen in protective order proceedings. People v.
28

000063

1 Barry, 94 Cal. 481, 29 P. 1026 (1982). A Court Order as required by the Due Process Clause
2 provides specific notice of what a party is prohibited from doing or who they are prohibited from
3 contacting. There is no notice in the minute order or any order from House Arrest that Mr.
4 Murcia was prohibited from contacting Ms. Salazar whom he shared children with or going to
5 the residence.

6 In fact, Mr. Murcia had a contractual right of occupancy and a possessory interest in this real
7 property for a definite duration in the form of a lease. He was responsible for the rent, keeping
8 the premises clean and safe, maintaining the unit and all the provisions of NRS 118A.310. He
9 could be evicted and sued for non-payment of rent of this premises. He could legally terminate
10 the lease pursuant to NRS 118A.340 if he had certain mental conditions or disabilities. NRS
11 118A.150 and lease contract provides the payment of rent grants Mr. Murcia and Ms. Salazar
12 (along with their children) the right of occupancy. Mr. Murcia is listed as a tenant in the lease
13 and a is a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of
14 others-entitled to does not equate to having to occupy the premises. In other words, the lease and
15 NRS provide Mr. Murcia is a tenant who has a right of occupancy. The landlord was obligated
16 to comply with Mr. Murcia's rental agreement and Mr. Murcia could seek a remedy against the
17 landlord if the landlord failed to comply under NRS 118A and even seek actual damages. There
18 is no evidence Mr. Murcia abandoned the unit, in fact he signed a Notice of Intent to Vacate after
19 the alleged offense establishing he had an absolute right to enter his home and a right of
20 occupancy which did not terminate until well after the date of the alleged incident here.

21 Importantly, there is no statute the defense is aware of that provides Mr. Murcia must
22 maintain a key to have an absolute right of occupancy and absolute right to enter. In fact, many
23 people have children or other family members that do not maintain keys but have an absolute
24 right to enter and right of occupancy. Some people have no keys and use a lockbox or keypad or
25 share a key but the bottom line is if Mr. Murcia asked a landlord or locksmith to let him in, they
26 would have to under the law. Sleeping at a home every night is also not a statutory requirement
27 for one to maintain an absolute right of occupancy or possessory interest. Couples separate/take
28

000064

1 a break stay elsewhere like Mr. Murcia and Mr. White. This is why when parties cannot stay in
2 the same residence, the Family Court must grant temporary orders and injunctions and later
3 permanent orders in the form of a Decree etc. with regard to occupying and possessing
4 residential property, but there were no such orders in this case. This is why a Protection
5 Order/Restraining Order must state the address the person must stay away from-there was no
6 such order in this case. Additionally, people stay at vacation homes, stay with friends or family
7 to care for them while sick etc., travel for work even living out of state, get deployed, do
8 renovations, stay away from their home for months even years etc. and do not sleep at their
9 homes and these people do not lose their right to occupy or possess their homes. The
10 requirement of someone sleeping there regularly and maintaining their own key would yield
11 absurd results dispossessing people of their possessory rights to property. There are so many
12 reasons why one may not be staying at their home but the bottom line is, these facts are like Mr.
13 Troy White's facts where he slept elsewhere while his ex and kids stayed at the home.
14 Consequently, the defense respectfully requests this writ be granted with regard to the Burglary
15 charge.

16 **Home Invasion-** AB 236 provides Home Invasion Forcibly as one who "enters a dwelling
17 without permission of owner, resident or lawful occupant" and this is a Category B – 2-15 years
18 (unchanged).

19 Interestingly, Mr. Turner in the White case with Mr. Coffee argued at the Preliminary hearing
20 that "you can't do a home invasion to your own home". The reasoning behind this argument is
21 likely because the statute requires you enter without the permission of the owner, resident, or
22 lawful occupant. In the current case, as noted in detail above, Mr. Murcia was a lawful occupant
23 with a right of possession and absolute right to enter 5250 Stewart Avenue, #1129, Las Vegas,
24 Nevada 89110, according to the landlord's leasing documents and Notice of Intent to Vacate.
25 The State did not present any evidence to the contrary. So he is incapable of committing a home
26 invasion as the statute, by its plain language does not criminalize **home invasion** by forcibly
27
28

1 entering his **own home** if he was lawful occupant, owner, or resident of **home**. Truesdell v.
2 State, 129 Nev. 194 (2013) (Mr. Truesdale was not on the lease, he was served with a TPO
3 ordering him to stay away from that specific address and Mr. Truesdale did not challenge the
4 TPO in the proper court). Mr. Murcia is a lawful occupant/resident according to the lease
5 agreement and Notice of Intent to Vacate. The State failed to present any evidence Ms. Salazar
6 had acquired a protective order which was served, failed to present evidence he was evicted,
7 failed to present evidence there was some sort of order from the family court etc. giving her
8 exclusive possession of the home and the minute order from case 21CR027412 disproves Ms.
9 Salazar's assertion (which lacked any evidentiary foundation) she was given exclusive
10 possession of the home.
11
12

13 CONCLUSION

14 It is clear that the common law definition of burglary still impacts the current statutory
15 interpretation and thus, unlawful entry is still needed for the crime of burglary and an invasion of
16 the home requires an individual enter a dwelling without permission of owner, resident or lawful
17 occupant. At no time did Mr. Murcia enter the residence unlawfully so he cannot be charged
18 with burglary. Mr. Murcia did not require permission to enter as he was on the lease and Notice
19 of Intent to Vacate with no court order divesting him of his possessory interest so he cannot be
20 charged with invasion of the home. The writ should be granted and Counts 1 and 3 should be
21 dismissed as the State has failed to meet their burden.
22
23
24
25
26
27
28

[illegible]

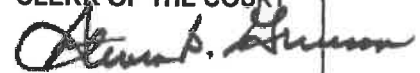
YOU WILL PLEASE TAKE NOTICE that the foregoing PETITION FOR WRIT OF HABEAS CORPUS will be heard on May 5, 2022, at 8:30 a.m. in District Court, Department XXII.

DATED this 14th day of April, 2022.

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that service of the foregoing WRIT OF HABEAS CORPUS was made this 14th day of April, 2022, by electronic service to the District Attorney's Office at motions@clarkcountynyda.com and District Court Department.

**An employee of the
Clark County Public Defender's Office**



WRTH
DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
JACQUELINE B. CARMAN, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 8016
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
CarmanJB@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

JOSHUA MURCIA,
ID #7067180

Defendant,

CASE NO. C-22-362539-1

DEPT. NO. XXXII

DATE: May 5, 2022
TIME: 8:30 a.m.

PETITION FOR WRIT OF HABEAS CORPUS

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

The Petition of Joshua Murcia submitted by Jacqueline Carman, Deputy Public
Defender, as attorney for the above-captioned individual, respectfully affirms:

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

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

3. That the imprisonment and restraint of said Petitioner is unlawful in that:
the defendant is being held without probable cause on the felony charges.

000068

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

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

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

10 DATED this 14th of April, 2022.

11 DARIN F. IMLAY
12 CLARK COUNTY PUBLIC DEFENDER

13
14 By: /s/ Jacqueline Carman
15 JACQUELINE, #8016
16 Deputy Public Defender
17
18
19
20
21
22
23
24
25
26
27
28

[illegible]

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

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

/s/ Jacqueline Carman
JACQUELINE CARMAN

1 **STATEMENT OF RELEVANT FACTS AND PROCEDURAL HISTORY:**

2 **RELEVANT FACTS:**

3 Mr. Joshua Murcia (Mr. Murcia) was charged by way of Criminal Complaint on January 12,
4 2022, with: Count one, Residential Burglary pursuant to NRS 205.060.2C-NOC 61934; Count
5 two, Battery Constituting Domestic Violence pursuant to NRS 200.485(1)(A), 200.481(1)(A),
6 33.018-NOC 50235; and Count three, Invasion of the Home pursuant to NRS 205.067-NOC
7 50435.
8

9 At issue, the Burglary, and Invasion of the Home involve the address: "5250 Stewart Avenue,
10 Las Vegas, Clark County, Nevada". This address was occupied by the alleged victim of the
11 Battery Constituting Domestic Violence, "Leslie Salazar" (Ms. Salazar).
12

13 According to the lease agreement, admitted as evidence, Ms. Salazar was listed as an
14 "allowed occupant" of the "premises" along with Mr. Murcia who was also listed as an "allowed
15 occupant" of the "premises". The address of the jointly leased premises was, "5250 Stewart
16 Avenue, #1129, Las Vegas, Nevada 89110". The start of this lease was "April 1, 2021" and the
17 expiration of the lease is listed as "March 31, 2022" on page one of the agreement. This address
18 is where the Burglary and Invasion of the Home allegedly occurred on October 29, 2021. See
19 Defense Exhibit A page 1/10 of the Nevada Residential Rental Agreement which was executed
20 March 19, 2021 by both parties.
21

22 Additionally, both Ms. Salazar and Mr. Murcia are listed as "resident[s]" of the agreement
23 who signed the "Notice of Intent to Vacate" on January 18, 2022, with a move out date of March
24 31, 2022, and the method of notifying the landlord of vacating was "in person". A reading of the
25 document implies they went together to sign the notice to move out. See Defense Exhibit A
26 Notice of Intent to Vacate.
27
28

1 In other words, Mr. Murcia was a lawful occupant with a right of possession and absolute
2 right to enter 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110, along with Ms. Salazar
3 according to the landlord's leasing documents on October 29, 2021. The State did not present
4 any evidence to the contrary. He could not be refused admission if he contacted the landlord
5 telling them he was locked out-the landlord would have to let him in as there was no legal
6 document produced at the Preliminary Hearing divesting him of his possessory interest on
7 October 29, 2021.
8

9
10 **PROCEDURAL HISTORY:**

11 **21CR027412 (a case which the State tried to use to show this was not a Burglary and Home**
12 **Invasion but the Justice Court ultimately did not use this as a basis for the charges):**

13 On June 14, 2021, a Complaint in another case, 21CR027412, was filed involving another
14 alleged victim who was blood-related as a sister, but did not live with Ms. Salazar. According to
15 Ms. Salazar, the alleged victim in that case lived in California and not with her. See PHT 35
16 lines 1-5, 48 lines 11-15. Ms. Salazar was not a witness in 21CR027412. A house arrest review
17 in 21CR027412 was conducted in that case on June 23, 2021, and Mr. Murcia was ordered to
18 stay away from the "victim and witnesses". There was no evidence there was a court order in
19 that case or any other prohibiting Mr. Murcia from coming to the residence although Ms. Salazar
20 did not want him there after the incident with her sister was alleged to have occurred. PHT 13-
21 17. Despite any evidence supporting this, the State believes 21CR027412 is relevant to the
22 current case, and 21CR027412 is referenced in the Preliminary Hearing in the current case
23 although the Court did not state findings to this effect or find there was a district court order
24 granting Ms. Salazar possession of the home as the basis for the bind over.
25
26
27
28

1 **THE CURRENT CASE:**

2 The current case was alleged to have occurred October 29, 2021, and an arrest warrant was
3 issued January 20, 2022. The arrest warrant return hearing was conducted on January 31, 2022.
4 On that date, Mr. Murcia who was present in custody on the warrant was arraigned, counsel was
5 appointed, and bail was set at \$5,000 with high level monitoring. Subsequently, the Preliminary
6 hearing was scheduled for February 14, 2022.
7

8 Mr. Murcia appeared in custody at the Preliminary Hearing February 14, 2022, and the State
9 presented one witness, Ms. Salazar, before resting. During the hearing, the State admitted an
10 exhibit consisting of photos of a window which was broken after Mr. Murcia left the residence
11 and the offenses were alleged to have occurred. PHT 20-21. The defense admitted two exhibits:
12 a copy of the parties lease and notice of intent to vacate the premises showing the landlord
13 conveying a right of possession to Mr. Murcia as well as an exhibit of the House Arrest order
14 which did not state Mr. Murcia was prohibited from contacting Ms. Salazar or going to the
15 residence. PHT 34 and 44.
16

17 This House Arrest order in 21CR027412 did not convey the sole right of possession to Ms.
18 Salazar and dispossess Mr. Murcia of his lawful right of possession. He was ordered to stay
19 away from the named victim of case 21CR027412, J.S. (a relative of Ms. Salazar who resided in
20 a different state) and witnesses none of which was Ms. Salazar nor did it provide Mr. Murcia was
21 to stay away from the address 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110. See
22 Defense Exhibit B and PHT 44. Most importantly, the State presented no evidence that Mr.
23 Murcia was prohibited from going to 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110
24 and violated a court order by going to the residence.
25
26
27
28

1 The State did not provide any evidence in the form of witness lists or court documents, etc.
2 that established Ms. Salazar was a witness, she did not testify at the Preliminary hearing in that
3 case. In fact, Ms. Salazar testified in the current case that she did not witness that alleged crime
4 against her sister-"I was not involved in that" and she agreed with the Court and confirmed she is
5 "not involved in that other case" with her sister. PHT 36, line 19, 37, 43. In fact, Ms. Salazar
6 said she only knew about the other case because she was "made aware" by her "sister" of what
7 allegedly occurred involving her sister in the other case. PHT 16. It is noteworthy, Mr. Murcia
8 had contact with Ms. Salazar since his release in that case and was never violated on house arrest
9 for contacting her.
10

11 The Justice of the Peace did not state findings Ms. Salazar was a witness and Mr. Salazar
12 violated a court order by going to the residence either but rather found he moved out in April
13 2021 and did not occupy the home at the time which is the same scenario as the State v. White,
14 130 Nev. 533, 130 Nev. Adv. Op. 56 (2014), case which is analyzed below. PHT 11.
15

16 Ms. Salazar also testified her sister, the witness whom Mr. Murcia was to stay away from, did
17 not live with Ms. Salazar and lived in California. PHT 34, 35.
18

19 There was no evidence there was a court order prohibiting Mr. Murcia from coming to the
20 residence although Ms. Salazar may not have wanted him there after the incident with her sister
21 was alleged to have occurred. PHT 13-17 (remarkably, on PHT 44, the State says it has concerns
22 Ms. Salazar would not be the appropriate witness to "review" a stay away order and yet the State
23 tried over objection to get Ms. Salazar to testify about the content of this stay away order). The
24 State concedes at some point during the Preliminary Hearing that Ms. Salazar is not necessarily
25 "up-to-date as to everything that occurred with her sister's case." (PHT 37). The Court could
26
27
28

1 not even figure out why the sister visiting in June 2020 had anything to do with whether or not
2 Mr. Murcia was allowed to be at the residence. PHT 38.

3 Ms. Salazar indicated she renewed the lease in March/April 2021, Mr. Murcia signed it with
4 her in March 2021, and he stopped staying there in April. PHT 11, 33. Ms. Salazar testified she
5 occupied the residence with her 3 boys in common with Mr. Murcia and current boyfriend,
6 Antonio Rolling similar to the facts of Troy White. PHT 9-10. She also admitted she and Mr.
7 Murcia signed a Notice of Intent to vacate March 31, 2022, after the alleged incident in this case-
8 the lease and notice of intent to vacate is admitted as evidence at the Preliminary Hearing. PHT
9 33-34.
10

11 The Justice Court did not find probable cause Mr. Murcia should be bound over on the
12 Invasion of the Home and Burglary because of any court order in the case involving the sister,
13 but rather what the defense would describe as a misreading of State v. White. The Justice Court
14 found that Mr. Murcia did not have an "absolute right" to enter his home and a "right of
15 occupancy" because he stayed elsewhere and did not maintain a key. PHT 51-53. As discussed
16 in more detail below, the fact he was staying elsewhere is essentially what happened in the White
17 case and there was no evidence presented at the Preliminary Hearing to support the finding Mr.
18 Murcia did not have an absolute right to enter his home and a right of occupancy nor is there any
19 case law that says staying elsewhere and not maintaining a key divests him of these rights.
20
21

22 ///

23 ///

24 ///

LEGAL ARGUMENT

Burglary- Under prior statute in Nevada, the penalty for burglary was a Category B felony with a sentence range of 1-10 years and did not require unlawful entry as an element of burglary or distinguish between different types of structures. AB 236 defines dwelling and adds the element of "unlawfully entering and unlawfully remaining" to the burglary statute and defines "unlawfully enters or unlawfully remains" as a person "entering or remaining in a dwelling, structure or motor vehicle or any part thereof, including under false pretenses, when the person is not licensed or privileged to do so". AB 236 further amends the burglary statute to distinguish different types of structures involved by establishing tiered penalties by type of structures as follows in relevant part: Residential Burglary Dwelling - any structure, building, house, room, apartment, tenement, tent, conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car, including, without limitation, any part thereof that is divided into a separately occupied unit in which any person lives or which is customarily used by a person for overnight accommodations, regardless of whether the person is inside at the time of the offense. A residential burglary is a Category B felony – 1-10 yrs.

It is legally impossible to burglarize and invade your own home.

At common law, burglary was the breaking and entering the house of another in the nighttime, with intent to commit a felony therein, whether the felony is actually committed or not. Smith v. First Judicial District Court, 347 P.2d 526, 75 Nev. 526 (1959).

Nevada, like many other states, has statutorily enlarged the definition of burglary. See NRS 205.060. The enlargement of the burglary statute did not eviscerate its purpose, a point recognized by The Nevada Supreme Court when it affirmed and adopted the Supreme Court of Washington's explanation of the evolution of common law burglary which had held: "While there has been an enlargement of the definition, the central idea which has obtained for hundreds of years, the unlawful breaking and entering of some kind of an enclosed structure, has been retained." Id. The Nevada Supreme Court stated that Washington's reasoning "is directly in point and we approved its reasoning." Id. Simply put, the legislative intent in adopting the current

1 burglary statute was to broaden the definition of a structure, not to abandon in its entirety the
2 common law underpinnings of the charge. Id.

3
4 NRS 205.060 defines burglary as:

5 A person who, by day or night, enters any house, room, apartment, tenement, shop,
6 warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle,
7 vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the
8 intent to commit grand or petit larceny, assault or battery on any person or any felony, or
9 to obtain money or property by false pretenses.

10 Nevada has directly decided the issue in the same manner as California. In the case of State
11 v. White, 130 Nev. 533, 130 Nev. Adv. Op. 56 (2014), the Nevada Supreme Court held “the
12 common law notion that burglary law is designed to protect a possessory or occupancy right in
13 property remains in effect. Despite the dates in the lease agreement and the Notice of Intent to
14 Vacate, the Justice Court found that Mr. Murcia moved out and did not occupy the property on
15 October 29, 2022. Even if that were the case, he still held a possessory right and was still on the
16 lease. Mr. Troy White also moved out and allowed the mother of his children to remain
17 primarily in the residence, according to Echo Lucas (the ex and named victim of White), Mr.
18 White was not “supposed to be” occupying the residence at the time of his offense, and he too
19 banged on the window like Mr. Murcia while Echo Lucas was in the residence with her new
20 boyfriend and children in common. The Supreme Court in State v. White, 130 Nev. Adv. Op. 56
21 (2014), held that a person cannot commit burglary of a home when he or she has an absolute
22 right to enter the home and while ownership is a factor, the question is whether the alleged
23 burglar has an absolute, unconditional right to enter the home. Here, there is nothing in the law
24 that divested Mr. Murcia of his absolute, unconditional right to enter the residence.

25 The Justice Court found that Mr. Murcia did not have an “absolute right” to enter his home
26 and a “right of occupancy” solely because he stayed elsewhere and did not maintain a key. PHT
27 51-53.
28

1 The State failed to present any evidence/documentation at the Preliminary Hearing divesting
2 Mr. Murcia of his possessory interest in the residence on October 29, 2021 or indicating he lost
3 his absolute right to enter his home and right of occupancy. There was no evidence he lost this
4 and no legal authority in the form of statutes or case law for losing this right.

5 There was no evidence of court order in the form of a TPO or House Arrest order, no
6 eviction, etc. In fact he was on the lease before the alleged offense and signed documents
7 showing he was still a tenant who vacated the residence after the alleged offense occurred. He
8 was never an "at will tenant"/guest who needed permission of the owner to occupy the premises
9 nor was there a notice to quit. Baker v. Simonds, 79 Nev. 434, 386 P.2d 86 (1963); 49 Am. Jur.
10 2d, Landlord and Tenant § 118. In fact, Mr. Murcia is like Mr. White who moved out of the
11 premises, stayed elsewhere and allowed the mother of his children to remain there with the
12 children. One of the reasons the Justice Court found Mr. Murcia lost his right of occupancy
13 and absolute right to enter was the fact he stayed elsewhere. To the contrary, Mr. Murcia had
14 an absolute, unconditional right to enter the home just like Mr. White did. Mr. White orally
15 agreed to stay elsewhere during the week but maintained an absolute right to enter the residence
16 during that time he agreed to stay elsewhere and he did not forfeit any possessory right he had in
17 it. This is analogous to Ms. Salazar's testimony about what Mr. Murcia agreed to do-she
18 indicated he made an oral agreement to stay away, allow her and their children to stay there but
19 he remained on the lease holding a possessory interest. The lease and Notice of Intent to Vacate
20 dated March 2022 supports this-if he came there to visit his kids, he could not be cast out if she
21 called the police for trespassing. He is no more a burglar than Mr. White was and should stand
22 trial only for allegedly committing the crime of domestic battery by pushing Ms. Salazar, in their
23 rented residence as opposed to Invasion of the Home and Burglary. He has a common law
24 unconditional, absolute right to be at the residence and he did not invade Ms. Salazar's
25 possessory right. The State failed to establish he did not have an absolute right to enter the
26 structure. The State failed to produce any evidence he was evicted, or there was a court order
27 granting her sole possession of the home like is seen in protective order proceedings. People v.
28

1 Barry, 94 Cal. 481, 29 P. 1026 (1982). A Court Order as required by the Due Process Clause
2 provides specific notice of what a party is prohibited from doing or who they are prohibited from
3 contacting. There is no notice in the minute order or any order from House Arrest that Mr.
4 Murcia was prohibited from contacting Ms. Salazar whom he shared children with or going to
5 the residence.

6 In fact, Mr. Murcia had a contractual right of occupancy and a possessory interest in this real
7 property for a definite duration in the form of a lease. He was responsible for the rent, keeping
8 the premises clean and safe, maintaining the unit and all the provisions of NRS 118A.310. He
9 could be evicted and sued for non-payment of rent of this premises. He could legally terminate
10 the lease pursuant to NRS 118A.340 if he had certain mental conditions or disabilities. NRS
11 118A.150 and lease contract provides the payment of rent grants Mr. Murcia and Ms. Salazar
12 (along with their children) the right of occupancy. Mr. Murcia is listed as a tenant in the lease
13 and a is a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of
14 others-entitled to does not equate to having to occupy the premises. In other words, the lease and
15 NRS provide Mr. Murcia is a tenant who has a right of occupancy. The landlord was obligated
16 to comply with Mr. Murcia's rental agreement and Mr. Murcia could seek a remedy against the
17 landlord if the landlord failed to comply under NRS 118A and even seek actual damages. There
18 is no evidence Mr. Murcia abandoned the unit, in fact he signed a Notice of Intent to Vacate after
19 the alleged offense establishing he had an absolute right to enter his home and a right of
20 occupancy which did not terminate until well after the date of the alleged incident here.

21 Importantly, there is no statute the defense is aware of that provides Mr. Murcia must
22 maintain a key to have an absolute right of occupancy and absolute right to enter. In fact, many
23 people have children or other family members that do not maintain keys but have an absolute
24 right to enter and right of occupancy. Some people have no keys and use a lockbox or keypad or
25 share a key but the bottom line is if Mr. Murcia asked a landlord or locksmith to let him in, they
26 would have to under the law. Sleeping at a home every night is also not a statutory requirement
27 for one to maintain an absolute right of occupancy or possessory interest. Couples separate/take
28

1 a break stay elsewhere like Mr. Murcia and Mr. White. This is why when parties cannot stay in
2 the same residence, the Family Court must grant temporary orders and injunctions and later
3 permanent orders in the form of a Decree etc. with regard to occupying and possessing
4 residential property, but there were no such orders in this case. This is why a Protection
5 Order/Restraining Order must state the address the person must stay away from-there was no
6 such order in this case. Additionally, people stay at vacation homes, stay with friends or family
7 to care for them while sick etc., travel for work even living out of state, get deployed, do
8 renovations, stay away from their home for months even years etc. and do not sleep at their
9 homes and these people do not lose their right to occupy or possess their homes. The
10 requirement of someone sleeping there regularly and maintaining their own key would yield
11 absurd results dispossessing people of their possessory rights to property. There are so many
12 reasons why one may not be staying at their home but the bottom line is, these facts are like Mr.
13 Troy White's facts where he slept elsewhere while his ex and kids stayed at the home.
14 Consequently, the defense respectfully requests this writ be granted with regard to the Burglary
15 charge.

16 **Home Invasion-** AB 236 provides Home Invasion Forcibly as one who "enters a dwelling
17 without permission of owner, resident or lawful occupant" and this is a Category B – 2-15 years
18 (unchanged).

19 Interestingly, Mr. Turner in the White case with Mr. Coffee argued at the Preliminary hearing
20 that "you can't do a home invasion to your own home". The reasoning behind this argument is
21 likely because the statute requires you enter without the permission of the owner, resident, or
22 lawful occupant. In the current case, as noted in detail above, Mr. Murcia was a lawful occupant
23 with a right of possession and absolute right to enter 5250 Stewart Avenue, #1129, Las Vegas,
24 Nevada 89110, according to the landlord's leasing documents and Notice of Intent to Vacate,
25 The State did not present any evidence to the contrary. So he is incapable of committing a home
26 invasion as the statute, by its plain language does not criminalize **home invasion** by forcibly
27
28

1 entering his own home if he was lawful occupant, owner, or resident of home. Truesdell v.
2 State, 129 Nev. 194 (2013) (Mr. Truesdale was not on the lease, he was served with a TPO
3 ordering him to stay away from that specific address and Mr. Truesdale did not challenge the
4 TPO in the proper court). Mr. Murcia is a lawful occupant/resident according to the lease
5 agreement and Notice of Intent to Vacate. The State failed to present any evidence Ms. Salazar
6 had acquired a protective order which was served, failed to present evidence he was evicted,
7 failed to present evidence there was some sort of order from the family court etc. giving her
8 exclusive possession of the home and the minute order from case 21CR027412 disproves Ms.
9 Salazar's assertion (which lacked any evidentiary foundation) she was given exclusive
10 possession of the home.
11
12

13 CONCLUSION

14 It is clear that the common law definition of burglary still impacts the current statutory
15 interpretation and thus, unlawful entry is still needed for the crime of burglary and an invasion of
16 the home requires an individual enter a dwelling without permission of owner, resident or lawful
17 occupant. At no time did Mr. Murcia enter the residence unlawfully so he cannot be charged
18 with burglary. Mr. Murcia did not require permission to enter as he was on the lease and Notice
19 of Intent to Vacate with no court order divesting him of his possessory interest so he cannot be
20 charged with invasion of the home. The writ should be granted and Counts 1 and 3 should be
21 dismissed as the State has failed to meet their burden.
22
23
24
25
26
27
28

[illegible]

YOU WILL PLEASE TAKE NOTICE that the foregoing PETITION FOR WRIT OF HABEAS CORPUS will be heard on May 5, 2022, at 8:30 a.m. in District Court, Department XXII.

An employee of the
Clark County Public Defender's Office

EXHIBIT A

1 CASE NO.

2 DEPT. NO. 10

3
4 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
5 COUNTY OF CLARK, STATE OF NEVADA
6

7 THE STATE OF NEVADA,)

8 Plaintiff,)

9 vs.)

10 JOSHUA MURCIA,)

11 Defendant.)
12 -----

13 REPORTER'S TRANSCRIPT OF PROCEEDINGS
14 BEFORE THE HONORABLE CYBILL DOTSON
15 JUSTICE OF THE PEACE

16 TAKEN ON MONDAY, FEBRUARY 14, 2022
17 AT 9:30 A.M.
18

19 APPEARANCES:

20
21 For the State: Melanie Marland, Esq.
22 Deputy District Attorney

23 For the Defendant: Jacqueline Carman, Esq.
24 Deputy Public Defender

25 REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

000084

I N D E X

WITNESSES:

D

C

RD

RC

LESLIE SALAZAR

9

32

45

000085

EXHIBITS

PAGE:

STATE'S EXHIBITS 1 - 4

20

DEFENSE EXHIBIT A

33

DEFENSE EXHIBIT B

44

000086

1 LAS VEGAS, NEVADA, MONDAY, FEBRUARY 14,

2 2022

3 * * * * *

4
5 THE COURT: Joshua Murcia, 22-CR-002295.

6 MS. CARMAN: May I ask if my client can come
7 and sit down?

8 THE COURT: Okay.

9 MS. CARMAN: And I would ask to invoke the
10 exclusionary rule.

11 MS. MARLAND: I believe both witnesses are
12 out in hallway at this time.

13 Your Honor, the State is ready to proceed
14 with the preliminary hearing.

15 For the record, an offer was extended for
16 the Defendant to plead guilty to one count of home
17 invasion -- attempt home invasion, a Category C
18 felony.

19 The parties are retaining the right to argue
20 on a battery domestic violence misdemeanor, with
21 credit for time served.

22 My understanding is at this time the offer
23 was rejected, and that will now be revoked.

24 THE COURT: Okay.

25 MS. MARLAND: Would the Court be comfortable

000087

1 with me taking off the mask for purposes of the
2 preliminary hearing?

3 THE COURT: Before you leave, let me clarify
4 something. There is 3 charges.

5 We are going forward on the residential
6 burglary, a felony.

7 The home invasion is a felony.

8 What are we doing with the battery domestic
9 violence, is there a bench trial for that?

10 MS. CARMAN: No.

11 MS. MARLAND: Generally what we do is, if
12 Your Honor finds probable cause technically for the
13 misdemeanor as well, we bind everything up together.

14 MS. CARMAN: No. Usually the Court will bind
15 up the battery domestic violence as well, since it
16 is a misdemeanor jury trial.

17 It makes no sense to have 2 jury trials on
18 the same case.

19 THE COURT: But when they waived it, not if
20 we are doing a prelim, when they waive prelim, I
21 have kept them altogether.

22 MS. MARLAND: Yes.

23 THE COURT: And take them all up, but we are
24 here, and we are about to have the prelim.

25 MS. MARLAND: Yes.

1 THE COURT: We can do the prelim on the 2
2 felonies, and do the bench trial.

3 MS. CARMAN: Your Honor, it is my
4 understanding that he didn't waive his right to a
5 jury trial, so I would ask that all of those go up
6 together.

7 MS. MARLAND: And that would be the State's
8 request.

9 MS. CARMAN: My understanding is it wasn't
10 set for trial today, based on the notes, but if you
11 have another record.

12 MS. MARLAND: I am with Ms. Carman on this.
13 If the Court finds probable cause to bind up on the
14 felony, then we would ask to bring the battery
15 domestic violence up to District Court, in order for
16 Defendant to have a jury trial as to all 3 charges.

17 MS. CARMAN: I will talk to him.

18 If it is different than what I said, I will
19 let you know.

20 THE COURT: If you are in agreement, I will
21 do that.

22 Previously we have only done it when they
23 waived the preliminary hearing and keep them all
24 together.

25 MS. MARLAND: And the way that I have done

1 it, at least in front of Judge Graham, was usually
2 keep everything together, since these are all
3 charges that could have jury trials.

4 I will step outside or have Ms. Carman --

5 MS. CARMAN: We can go in the back.

6
7 (A discussion was had off the record.)

8
9 THE COURT: We are back on the record.

10 MS. CARMAN: Thank you, Your Honor.

11 MS. MARLAND: For the record, the other thing
12 I mentioned to Ms. Carman was if we wanted to
13 package, the Defendant has another case pending up
14 in District Court at this point, I believe, for a
15 lewdness with a minor.

16 So, if the Defendant wanted to package them
17 together. My other suggestion was to waive up
18 without negotiations.

19 I understand that that's not the defense's
20 position, but, just for the record.

21 MS. CARMAN: Just for clarification on the
22 misdemeanor, we would ask that that trial not be
23 held today, and he would be having a jury trial on
24 that as well.

25 THE COURT: Okay.

1 MS. CARMAN: Thank you.

2 THE COURT: All right.

3 Do you want opening statements?

4 MS. MARLAND: No, just to call witnesses.

5 THE COURT: All right.

6 Call your first witness.

7 MS. MARLAND: The State would call Leslie
8 Salazar.

9 MS. MARLAND: And for the record, I have had
10 4 exhibits marked, and I have already shown them to
11 defense counsel.

12 THE COURT: Okay.

13
14 LESLIE SALAZAR,

15
16 who, being first duly sworn to tell the truth, the
17 whole truth, and nothing but the truth, was examined
18 and testified as follows:

19
20 THE CLERK: Please be seated.

21 State your first and last name, and spell it
22 for the record.

23 THE WITNESS: Leslie Salazar, L-e-s-l-i-e
24 S-a-l-a-z-a-r.

25 THE COURT: State, you may proceed.

000091

1 MS. MARLAND: Thank you.

2
3 DIRECT EXAMINATION
4

5 BY MS. MARLAND:

6 Q. Good afternoon, Leslie.

7 I would like to draw your attention to
8 October 29 of 2021 at approximately 1:30 a.m.

9 A. Yes.

10 Q. Where you were living at the time?

11 A. 5250 --

12 Q. I am going to ask you to speak up.

13 A. 5250 Stewart Avenue, Apartment 1129.

14 Q. Is that here in Clark County, Nevada?

15 A. Yes.

16 Q. And who were you living with at the time?

17 A. Just me and my boys, and then my boyfriend
18 would stay over.

19 Q. Okay.

20 How many boys do you have?

21 A. We have 3.

22 Q. When you say we, who is we?

23 A. Me and Joshua Murcia.

24 Q. Joshua Murcia?

25 A. Yes.

000092

1 Q. And do you see Joshua Murcia here in the
2 courtroom?

3 A. Yes.

4 Q. Can you point to him and identify a piece of
5 clothing that he is wearing?

6 A. He is right there wearing a blue jump suit.

7 MS. MARLAND: May the record reflect the
8 identification of the Defendant?

9 THE COURT: The record will reflect.

10 THE COURT: Thank you.

11 Q. So you have 3 children together?

12 A. Yes.

13 Q. And how old are they?

14 A. My oldest is 6. And then I have a 4 and a 3
15 year-old.

16 Q. 6, 4 and 3?

17 A. Yes.

18 Q. So it was you, your 3 children, and your
19 boyfriend?

20 A. Yes.

21 Q. What's your boyfriend's name?

22 A. Antonio.

23 Q. Do you know his full name?

24 A. Antonio Rolling.

25 Q. So on October 29, 2021 was Antonio staying

000093

1 with you at the time?

2 A. Yes.

3 Q. And was the Defendant living with you at the
4 time?

5 A. No.

6 Q. And how long had the Defendant not been
7 living at the Stewart Avenue address?

8 A. Since April of 2021.

9 Q. Okay.

10 Had you guys been on the lease together for
11 this apartment?

12 A. Yes.

13 Q. And was this a lease that you had renewed in
14 March of 2021?

15 A. Yes.

16 Q. And within a month or 2 -- when did
17 Mr. Murcia move out?

18 A. It was the end of March, beginning of April
19 of 2021.

20 Q. Is it fair to say within a few weeks of
21 resigning that lease in 2021?

22 A. Yes.

23 Q. All right.

24 Had Mr. Murcia been living at that residence
25 at all between the time he moved out at the end of

000094

1 March, until October 29 of 2021?

2 A. No.

3 Q. Did Mr. Murcia have any contact with his
4 children at that time?

5 A. Yes.

6 Q. Was that pursuant to any type of Court
7 order?

8 A. No.

9 Q. What type of arrangement did you guys have
10 to exchange the children?

11 A. I go to work from 4 to 10, so I would drop
12 them off and pick them up.

13 Q. Okay.

14 So you would bring them where?

15 A. To his house.

16 Q. And you would pick them up there in the
17 evening as well?

18 A. Yes.

19 Q. Did Mr. Murcia, was he allowed to come over
20 to your house?

21 A. Before he was. Before he was on house
22 arrest, yes.

23 MS. CARMAN: Objection.

24 Relevance.

25 MS. MARLAND: It goes towards whether or not

1 the Defendant was able to be at the residence.

2 Your Honor, I will submit it is relevant.

3 THE COURT: Overruled.

4 Q. You mentioned that prior to the Defendant
5 being on house arrest, he was able to come to your
6 house.

7 When was he placed on house arrest, if you
8 know?

9 A. I don't know.

10 Q. Was that prior to October of 2021?

11 A. Yes.

12 Q. After he was placed on house arrest, he was
13 no longer allowed to come to the Stewart Avenue
14 address?

15 MS. CARMAN: Objection.

16 Foundation.

17 THE WITNESS: Correct.

18 MS. MARLAND: I was restating what the
19 victim stated.

20 THE COURT: Restate the question.

21 MS. MARLAND: Sure.

22 Q. You previously stated on direct that the
23 Defendant was not allowed to come to your residence
24 after being placed on house arrest.

25 A. Yes.

1 Q. Then you stated you did not know when he got
2 placed on house arrest.

3 A. Yes.

4 Q. Then I asked, is it fair to say that he was
5 placed on house arrest prior to October of 2021?

6 A. Yes.

7 MS. MARLAND: I would submit that I laid the
8 proper foundation.

9 THE COURT: Overruled.

10 I am sorry, did you want to make a record?

11 MS. CARMAN: Yes.

12 I am objecting to foundation as to her
13 having the ability to say where he is and is not
14 allowed to go.

15 The State has not provided -- laid the
16 proper foundation to show that this witness can
17 testify to that.

18 THE COURT: Are you stating that she can't
19 testify that he could not come to her house, is that
20 what you are saying?

21 MS. CARMAN: Yes. I am saying that she has
22 no firsthand knowledge.

23 The State has not laid the proper foundation
24 that she has, to testify whether or not he can go
25 certain places on house arrest.

000097

1 THE COURT: I will sustain that. If you
2 want to ask additional --

3 MS. MARLAND: Okay.

4 Q. Do you know why the Defendant wasn't allowed
5 to come to your residence after being placed on
6 house arrest?

7 MS. CARMAN: Objection.

8 THE COURT: The defense has objected.

9 She is asking the question to see if she has
10 the knowledge.

11 If she doesn't have the knowledge, then she
12 can't testify to it.

13 Q. Do you know why the Defendant --

14 MS. MARLAND: Is the objection overruled?

15 THE COURT: Yes.

16 Q. -- do you know why the Defendant was placed
17 on house arrest?

18 A. Yes.

19 Q. Why is that?

20 MS. CARMAN: I object to foundation for
21 this.

22 This may be hearsay.

23 I don't know where she got this information
24 from, so she needs to lay a foundation for that, as
25 well,

1 THE COURT: I am going to sustain that.

2 MS. MARLAND: Very well.

3 Q. Ms. Salazar, do you have a sister?

4 A. Yes, I do.

5 Q. How old is your sister?

6 A. 16.

7 Q. How old was she in March of 2021?

8 MS. CARMAN: Objection.

9 Relevance.

10 A. 15.

11 MS. MARLAND: I am laying the foundation.

12 THE COURT: Overruled.

13 Q. How old was she in March of 2020?

14 A. 15.

15 Q. And were you made aware, you personally, of
16 an incident some time -- were you made aware of
17 something in March of 2021 that prompted the
18 Defendant to have to move out of your house?

19 A. Yes.

20 Q. What were you made aware of, and by whom?

21 MS. CARMAN: I would object.

22 Hearsay.

23 THE COURT: Overruled.

24 A. My sister herself, and it was a sexual act
25 of him against her.

1 Q. Okay.

2 And to your knowledge, is that why the
3 Defendant was placed on house arrest?

4 A. Yes.

5 Q. And do you know why he was ordered to stay
6 away from the Stewart Avenue address?

7 MS. CARMAN: Objection.

8 MS. MARLAND: I am asking if she knows.

9 THE COURT: Overruled.

10 Q. Do you know?

11 A. Because of that reason, because my little
12 sister, she'll come to my house.

13 Q. Okay.

14 So just to recap, in October of 2021, was
15 the Defendant allowed to come to your residence?

16 A. No.

17 Q. And is it fair to say that on a personal
18 level he had also not been living at that residence
19 since the end of March of 2021?

20 A. Yes.

21 Q. Drawing your attention to approximately
22 1:30 a.m. on the 29 of October --

23 MS. CARMAN: Your Honor, I apologize, can I
24 take a quick break, because Ms. Bradford came over
25 to talk to me.

1 THE COURT: Is it regarding this case?

2 MS. CARMAN: Yes.

3 MS. MARLAND: I believe she represents the
4 Defendant on his other case.

5 At this point we are in the middle of
6 testimony.

7 Can we finish direct, at least?

8 MS. CARMAN: Yes.

9 Q. At approximately 1:30, 1:40 a.m. on the 29
10 of October, where were you?

11 A. I was asleep.

12 Q. And did anything draw your attention at that
13 time?

14 A. Yes.

15 Q. What drew your attention?

16 A. He called me first.

17 Q. And when you say he, who do you mean?

18 A. Joshua Murcia.

19 Q. Okay.

20 And he called you?

21 A. Yes.

22 Q. Did you answer the phone?

23 A. I did.

24 Q. And what did he tell you?

25 A. Basically, what was I doing. I was asleep.

1 And I hung up the phone, and he video called me.

2 And, again, what are doing?

3 Sleeping. Pitch black.

4 About 10 minutes later I heard my window
5 bedroom window -- somebody was trying to break-in.

6 MS. CARMAN: Objection.

7 Speculation.

8 THE COURT: Overruled.

9 A. It was him trying to get into my bedroom
10 window.

11 Q. Okay.

12 Were you able to see him?

13 A. Yes, I was.

14 Q. And how did you see him?

15 A. Through my window.

16 Q. Okay.

17 You said it was dark?

18 A. Yes.

19 Q. Was there any light outside?

20 A. I have a light in front of my apartment
21 door.

22 Q. Okay.

23 And was that light on?

24 A. Yes.

25 Q. And were you able to see his face?

1 A. Yes.

2 Q. And was Mr. Murcia able to break the window?

3 A. Not my bedroom window, but he did get in
4 through my living room window.

5 Q. And just to be clear, was he invited over on
6 that day?

7 A. No.

8 Q. Was he welcome that day?

9 A. No.

10 Q. You said he came in through living room
11 window?

12 A. Yes.

13 Q. Did he cause damage to your window?

14 A. As he was leaving, yes, he did.

15 Q. And I will show you what's been marked as
16 State's Proposed Exhibits 1, 2, 3 and 4.

17 A. Okay.

18 MS. MARLAND: May I approach?

19 THE COURT: Yes.

20 MS. MARLAND: Thank you.

21 Q. Do you recognize what these photographs are
22 of?

23 A. Yes, of my living room window.

24 Q. So do these fairly and accurately depict
25 your apartment living room window on October 29,

1 2021, after Mr. Murcia came through it?

2 A. Yes.

3 MS. MARLAND: Your Honor, I move to admit
4 State's Proposed 1 through 4.

5 MS. CARMAN: No objection for preliminary
6 hearing purposes only.

7 THE COURT: They are admitted.

8 MS. MARLAND: Thank you.

9 Q. And what are State's 2 and 3 of?

10 A. The outside of my living room window.

11 Q. It appears there are 2 panels, or 4 panels,
12 is that correct?

13 A. Yes.

14 Q. Do you see any damage to the bottom left
15 panel?

16 A. Yes.

17 Q. What do you see?

18 A. Somebody punched the window.

19 MS. CARMAN: Objection.

20 Speculation.

21 Q. Do you know what happened --

22 THE COURT: Rephrase.

23 MS. MARLAND: Yes.

24 Q. Do you know what happened to that lower
25 level pain?

1 A. Yes. Joshua Murcia punched my window.

2 Q. And then is this a view from the outside of
3 the residence?

4 A. Yes.

5 MS. CARMAN: And, Your Honor, I object to
6 foundation for that last statement.

7 THE COURT: About the view?

8 MS. CARMAN: About the punch.

9 THE COURT: I will sustain it.

10 You may want to rephrase it.

11 MS. MARLAND: Okay.

12 THE COURT: I think your question was, what
13 happened.

14 MS. MARLAND: I said do you know what
15 happened.

16 THE COURT: She said he punched it.

17 MS. MARLAND: I don't see how that's
18 speculation.

19 MS. CARMAN: The first response was, it looks
20 like he punched it.

21 The second response was, he punched it, and
22 then asking for foundation of how she knew that.

23 THE COURT: And that's why I was saying,
24 just ask couple more questions to lay a
25 foundation.

1 MS. MARLAND: Sure.

2 Q. Did you hear any noise -- let me start
3 again.

4 After you heard him banging on your bedroom
5 window and you saw him outside of your window --

6 A. Yes.

7 Q. -- did he move away from your bedroom
8 window?

9 A. Yes.

10 Q. Okay.

11 And where did he move towards?

12 A. He went to my living room window first.

13 Q. Okay.

14 And did you hear any noise coming from the
15 living room windows?

16 A. Yes.

17 Q. What type of noise?

18 A. Him trying to get in through my living room
19 window.

20 Q. Did you get up?

21 A. Yes.

22 Q. And did you go to the living room?

23 A. Yes.

24 Q. And did you see anything from inside of the
25 living room?

000106

1 A. Yes.

2 Q. What did you see?

3 A. Joshua Murcia trying to get into my window.

4 MS. MARLAND: May I proceed?

5 THE COURT: Yes.

6 MS. MARLAND: Thank you.

7 Q. State's Proposed 2 and 3, do these appear to
8 be views from the outside of your living room?

9 A. Yes.

10 Q. From the outside of the house?

11 A. Yes.

12 Q. State's Exhibit 1 and 4, are those views
13 from the inside of the house?

14 A. Yes.

15 Q. And do you see any broken glass or damage
16 inside the apartment?

17 A. Yes, I do.

18 Q. And what do you see?

19 A. The broken glass on my table.

20 Q. And is that the glass from the window?

21 A. Yes.

22 Q. And that is State's Propose Exhibit 1?

23 A. Yes.

24 Q. So how did that window break?

25 A. Joshua Murcia punched my window.

000107

1 Q. Did he then --

2 MS. CARMAN: Your Honor, again, objection.
3 Foundation, if she actually saw that.

4 MS. MARLAND: She just testified that she
5 saw Joshua punch the window.

6 THE COURT: No. She said she saw him trying
7 to get in.

8 MS. MARLAND: Okay.

9 Very well.

10 Q. Ms. Salazar --

11 A. Yes.

12 Q. -- you were in the living room, correct?

13 A. Yes.

14 Q. And you saw Mr. Murcia outside of the
15 window?

16 A. Yes.

17 Q. And then you saw Mr. Murcia trying to get
18 in?

19 A. Yes.

20 Q. How was he trying to get in?

21 A. Through my living room window.

22 Q. What was he doing?

23 A. He was trying to open up my living room
24 window.

25 Q. Okay.

1 And did you see him manage to get through
2 the living room window?

3 A. Yes.

4 Q. And how did he get through the window?

5 A. He opened the window and climbed through it.
6 And I was standing right there in front of the
7 window.

8 Q. Okay.

9 At that point was the window broken?

10 A. No.

11 Q. Okay.

12 And when did the window break?

13 A. When he was leaving.

14 Q. How did he break the window?

15 A. He punched the window.

16 Q. Were you in the living room observing this
17 at this time?

18 A. Yes.

19 Q. Is it fair to say that on those pictures
20 from the outside of the apartment -- you mentioned
21 damage to the lower left panel.

22 Is that correct?

23 A. Yes.

24 Q. When was that damage done?

25 A. I don't know the exact time.

000109

1 Q. Would it have been before or after he came
2 in?

3 A. It was after.

4 Q. Okay.

5 Once he came inside the living room, what
6 happened?

7 A. He pushed his way in through my window.
8 He pushed me out of the way.

9 And the first place he went into was my
10 bedroom window.

11 Q. Into your bedroom?

12 A. My bedroom door, sorry.

13 Q. Was he saying anything as he came inside of
14 your living room?

15 A. Yes. Just to move out of the way.

16 Q. You mentioned he pushed you.

17 A. Yes.

18 Q. How did he push you, if you recall?

19 MS. CARMAN: Objection.

20 Relevance.

21 THE COURT: Overruled.

22 A. He just shoved me.

23 Q. Okay.

24 Did he shove you against anything or just
25 shove you out of the way?

1 A. He just shoved me out of the way.
2 Q. And he went into the bedroom?
3 A. Yes.
4 Q. Did you follow him?
5 A. Yes, I did.
6 Q. And did you see what happened next?
7 A. He went in through my bedroom door, and my
8 boyfriend was sitting on the bed.
9 Q. And did Mr. Murcia say anything at that
10 time?
11 A. Yes.
12 Q. What did he say?
13 A. I don't recall everything.
14 Q. Okay.
15 What was his tone of voice?
16 A. Drunk.
17 MS. CARMAN: Objection.
18 Speculation.
19 MS. MARLAND: I will rephrase.
20 THE COURT; Go ahead.
21 Q. Did Mr. Murcia appear to be happy?
22 A. No.
23 Q. How long had you been with Mr. Murcia prior
24 to the incident?
25 A. 6 years.

000111

1 Q. Is it fair to say you know his emotions?

2 A. Yes.

3 Q. Did he appear to be angry?

4 A. Yes.

5 Q. Was he loud?

6 A. Yes.

7 Q. Was he cursing?

8 A. Oh, yes.

9 Q. Who was he cursing at?

10 A. Me.

11 Q. Anyone else?

12 And Antonio.

13 Q. Okay.

14 And did he approach Antonio at all?

15 A. Yes, he did.

16 Q. Did anything happen?

17 A. No.

18 Q. All right.

19 At some point, how did Mr. Murcia exit the
20 apartment?

21 A. Loudly, slamming the door against my wall,
22 and leaving.

23 And as he was leaving, that's when he
24 punched my window.

25 Q. Okay.

1 And just going back to the interaction
2 between the Defendant and Antonio --

3 A. Yes.

4 Q. -- did the Defendant attempt to get
5 Mr. Rolling to fight?

6 A. Yes.

7 Q. Do you recall what he was saying?

8 A. Basically to have him get up and go outside,
9 and fight him.

10 Q. Okay.

11 And then you mentioned he left?

12 A. Yes.

13 Q. And did he leave the same way he came in?

14 A. No.

15 Q. How did he leave?

16 A. He went through the front door.

17 Q. Prior to leaving, what kind of damage did he
18 cause?

19 A. There was no damage.

20 Q. You mentioned punching the window.

21 A. Yes. That was after him walking out my
22 front door, yes.

23 Q. Just to be clear, the sequence of events, he
24 comes in through the window?

25 A. Yes.

000113

1 Q. He pushes you out of the way?

2 A. Yes.

3 Q. And he goes into your bedroom?

4 A. Yes.

5 Q. And he was yelling with Antonio?

6 A. Yes.

7 Q. He challenges him to fight?

8 A. Yes.

9 Q. And he exits through the front door?

10 A. Yes.

11 Q. And after that, is that when he punched the
12 window?

13 A. Yes.

14 Q. Did he punch the window from outside?

15 A. Yes.

16 Q. And you mentioned the window breaking.

17 A. Yes.

18 Q. And is that the glass we saw in State's
19 Exhibits 1 and 4?

20 A. Yes, it was.

21 Q. How did you feel when Joshua came in?

22 MS. CARMAN: Objection.

23 Relevance.

24 THE COURT: Overruled.

25 Q. Were you concerned?

1 A. Oh, yeah.

2 Q. Scared?

3 A. Yes.

4 Q. Were you scared of the Defendant?

5 A. Not of him, just of what could have
6 happened.

7 MS. MARLAND: Court's brief indulgence.

8 Q. And just to be clear, the Defendant had not
9 resided at that address since late March, early
10 April of 2021.

11 Correct?

12 A. Correct.

13 MS. MARLAND: I have no further questions at
14 this time, Your Honor.

15 MS. CARMAN: Your Honor, if we can just take
16 a brief break.

17 THE COURT: Sure.

18 Go ahead.

19 MS. CARMAN: Thank you.

20
21 (Recess taken.)

22
23 CROSS-EXAMINATION

24
25 BY MS. CARMAN:

000115

1 Q. Ms. Salazar, you indicated that you signed a
2 lease with Joshua, was that about March 19 of 2021?

3 A. Around there.

4 Q. Was it in March of 2021?

5 A. Yes.

6 Q. Okay.

7 And do you remember you also signed a notice
8 of intent to vacate that lease?

9 A. Yes, I did.

10 Q. Okay.

11 And that was about March 31 of 2022?

12 A. Yes.

13 Q. And do you recall if you were listed as a
14 resident, as well as Joshua, on that notice of
15 intent to vacate?

16 A. Yes, we both were.

17 MS. CARMAN: Okay.

18 Your Honor, if I can approach the witness
19 with what's been marked as Defense Exhibit A?

20 THE COURT: Yes.

21 MS. CARMAN: Thank you.

22 Q. Ms. Salazar, if you can take a look at that
23 document, does that look like the -- you can open
24 it, if you like.

25 On top is the notice of intent to vacate,

1 does that look familiar?

2 A. This?

3 Q. Yes.

4 A. Yes.

5 Q. Okay.

6 And that's the document that you said that
7 you signed?

8 A. Yes.

9 Q. Okay.

10 Then underneath is the lease?

11 A. Yes.

12 Q. That's the one that you signed as well in
13 March of 2021?

14 A. Yes.

15 Q. Does that fairly and accurately reflect the
16 lease that we talked about?

17 A. Yes.

18 MS. CARMAN: Permission to admit Defense
19 Exhibit A.

20 MS. MARLAND: No objection.

21 MS. CARMAN: Thank you.

22 THE COURT: Exhibit A will be admitted.

23 MS. CARMAN: Thank you.

24 Q. And I am going to ask you some questions
25 about your sister that you brought up.

000117

1 Your sister did not live with you, correct?

2 A. Correct.

3 Q. She actually lives in California, doesn't
4 she?

5 A. Yes.

6 Q. And prior to March --

7 THE COURT: Hold on one second, I am sorry,
8 counsel.

9 Sorry, Ms. Carman.

10 MS. CARMAN: Okay.

11 And I apologize, Your Honor, I may need --
12 Ms. Bradford was going to get something for me, a
13 transcript.

14 I apologize. I may need a minute to get
15 that.

16 I will ask her some questions. I may not
17 need that information.

18 Q. Your sister has not visited your home since
19 March, and she is the one that lives in California?

20 A. Yes, she has.

21 Q. She has.

22 When did she come?

23 MS. MARLAND: I object as to relevance.

24 THE COURT: I will allow it.

25 A. I can't give you the exact time frame.

1 Q. Can you give me a month?

2 A. Probably like June.

3 Q. June of 2021?

4 A. Yes.

5 Q. Would it surprise you to learn that she
6 testified she has not been to your home since --

7 MS. MARLAND: Your Honor, I object.

8 THE COURT: What's your reason, Ms. Carman,
9 for --

10 MS. CARMAN: The State brought up the fact
11 that he was not allowed to be at the residence, and,
12 so, I am getting into that.

13 MS. MARLAND: No. The defense is getting into
14 the victim's sister, his other victim's statement,
15 which I am not sure Ms. Salazar knows of.

16 I think we are going down a whole another
17 path trying to get evidence in for the defense's
18 other case.

19 THE WITNESS: I was not involved in that.

20 THE COURT: I am curious as to -- I
21 understand this is the same sister with the other
22 order?

23 MS. CARMAN: Yes.

24 THE COURT: Okay.

25 And what is your reasoning for why she

1 visited here, why you are asking why her sister
2 visited?

3 MS. CARMAN: Because, she claims he wasn't
4 allowed to be there because of her sister.

5 MS. MARLAND: And I would submit, Your Honor,
6 that the testimony was that she was aware of the
7 house arrest order, wherein the Defendant was not
8 allowed to be there.

9 Ms. Salazar is not necessarily up-to-date as
10 to everything that occurred with her sister's case.

11 I don't believe it is appropriate to then
12 have Ms. Salazar opine as to whether or not her
13 sister was telling the truth or not.

14 I believe that's completely inappropriate
15 for the purposes of this preliminary hearing.

16 MS. CARMAN: That was my point, Your Honor.
17 I was objecting before to the foundation of her.

18 She testified that she was not involved in
19 that case.

20 She testified that -- you know, the State is
21 saying she doesn't know what's going on in that
22 case.

23 She is allowed to testify. She knows what's
24 in the house arrest order. And then I am going to
25 get into what's exactly in the house arrest order in

1 a minute, because he is allowed to be there,
2 pursuant to this lease that I just admitted.

3 MS. MARLAND: Ms. Carman did not ask whether
4 the Defendant was allowed to be there pursuant to
5 the house arrest.

6 Ms. Carman asked this victim to opine as to
7 whether her sister was telling the truth or not at
8 her preliminary hearing, at a different date.

9 Again, I don't believe that's the
10 appropriate route to get to what Ms. Carman wants to
11 get to.

12 THE COURT: I am trying to figure out what
13 her sister visiting in June of 2021 has to do with
14 him not being allowed, how does this relate to him
15 not being allowed to be at the residence?

16 MS. CARMAN: The is State arguing that the
17 stay away order, which if the Court would take
18 judicial notice of what the minutes are in that case
19 says, it says to stay away from the victim and
20 witnesses.

21 It doesn't say to stay away from that
22 address.

23 THE COURT: Okay.

24 MS. CARMAN: And, so --

25 THE COURT: Are you putting that in evidence?

1 MS. CARMAN: Yes. I would ask that that be
2 admitted into evidence.

3 I was trying to get a copy for Your Honor.

4 MS. MARLAND: Of the minutes?

5 MS. CARMAN: The minute order in the other
6 case.

7 Ms. Brad was helping me with that.

8 MS. MARLAND: You mentioned the preliminary
9 hearing transcript.

10 MS. CARMAN: The preliminary hearing
11 transcript as an offer of proof would say that my
12 understanding -- do we need to excuse the witness,
13 if we are going down this road?

14 THE COURT: Let's excuse the witness.

15 Ms. Salazar, can you step out for a second?

16 THE WITNESS: Yes.

17 MS. CARMAN: So, my understanding is, and I
18 haven't seen the transcript yet. Ms. Bradford was
19 getting me that, is that the sister testified, I
20 believe it was her sister, but it might have been
21 another relative.

22 She testified that she had not been at the
23 residence since that other offense was alleged to
24 have been committed.

25 So, since the minute order doesn't say, stay

1 away from that residence, since she had not been
2 there, and since he is on the lease.

3 MS. MARLAND: It just appears that Ms. Carman
4 is trying to, I guess, impeach either this victim
5 with the prior preliminary hearing, or impeach his
6 other victim with this victim.

7 And I am just very confused as to how that
8 is, A, relevant, and, B, admissible at this time.

9 I don't believe it is appropriate testimony.
10 I believe we are getting a little off course.

11 Ms. Carman asked me to lay a foundation for
12 why there was that -- that he wasn't allowed to come
13 over.

14 I did, as to Ms. Carman's objection, and at
15 this point I am just -- I am happy to stipulate that
16 there is a minute order saying the Defendant is to
17 stay away from the victim and any witnesses.

18 THE COURT: That's what you are saying
19 doesn't exist?

20 MS. CARMAN: And State versus White says you
21 can't burglarize your own home.

22 A person can't commit a burglary of a home
23 which he has an absolute right to be there, so it is
24 relevant.

25 The State is trying to say that he has no

1 right to be there, but there is no minute order or
2 order given to my client telling him to stay away
3 from that residence.

4 He is on the lease.

5 THE COURT: I understand.

6 So, I don't see -- the line of questioning
7 that you were just going with her, I don't see the
8 relevance to that.

9 However, I do see relevance as to whether or
10 not was there a stay away order.

11 MS. CARMAN: Yes.

12 THE COURT: If there was a stay away order,
13 are you planning on putting that into evidence?

14 MS. CARMAN: Yes.

15 THE COURT: Is that what the other attorney
16 is getting?

17 MS. CARMAN: Yes. That was one of them.

18 THE COURT: Okay.

19 I see a relevance to that. That's exactly
20 what Ms. Salazar was saying she had knowledge of.

21 MS. MARLAND: I have no objection to that
22 part of it.

23 MS. CARMAN: Okay.

24 THE COURT: If you get that, and that comes
25 in, we can put that into evidence. I think that's

1 relevant.

2 MS. CARMAN: I understand.

3 Thank you.

4 MS. MARLAND: I would object to any line of
5 questioning that involves any preliminary hearing
6 testimony by the victim's sister.

7 I don't believe that's in any way, shape or
8 form, appropriate.

9 THE COURT: I don't think it is relevant
10 asking her about her sister. I think it is relevant
11 for that order.

12 MS. CARMAN: Okay.

13 THE COURT: If there is an order that says
14 he wasn't to be there, that's the crux of, I assume,
15 what you are going to with Count 1 and Count 3.

16 MS. CARMAN: Yes.

17 THE COURT: Yes.

18 MS. CARMAN: Yes.

19 THE COURT: So, we are waiting for the other
20 counsel to come back with that?

21 MS. CARMAN: Yes.

22 THE COURT: All right.

23 Are we clear?

24 MS. CARMAN: I understand. I appreciate it.
25 Court's indulgence.

1 THE COURT: Ms. Salazar, you are still under
2 oath.

3 Do you understand that?

4 THE WITNESS: Yes.

5 THE COURT: Okay.

6 MS. CARMAN: Court's indulgence.

7 THE COURT: Yes.

8 MS. CARMAN: Sorry for the delay,
9 Ms. Salazar, and everyone in the courtroom.

10 Q. You indicated that you are not involved in
11 that other case with your sister.

12 Correct?

13 A. Yes.

14 Q. And the police did not interview you for
15 that case, correct?

16 A. They did ask me questions.

17 Q. What did they ask you?

18 MS. MARLAND: Objection as to relevance.

19 Q. Did you fill out a witness statement for
20 that case?

21 A. No.

22 Q. Okay.

23 Did they ask you for someone's phone number?

24 A. Yes.

25 Q. Anyone else?

000126

1 A. I don't remember.

2 Q. You did not see that other case occur,
3 correct?

4 A. No.

5 Q. And you were not called to testify at that
6 preliminary hearing.

7 Correct?

8 A. Correct.

9 MS. CARMAN: Court's indulgence.

10 Your Honor, may I approach your clerk?

11 I have a copy of the stay away order from
12 the other proceeding.

13 THE COURT: Sure.

14 MS. MARLAND: I will stipulate to its
15 admission. That being said, I have no problem
16 admitting it.

17 I don't know if Ms. Salazar would be the
18 appropriate witness to review it.

19 THE COURT: Okay.

20 MS. CARMAN: I would ask that the Court admit
21 that as Exhibit B.

22 MS. CARMAN: Court's indulgence.

23 No further questions for this witness, Your
24 Honor.

25 THE COURT: Redirect?

1 MS. MARLAND: Briefly.

2
3 REDIRECT EXAMINATION

4
5 BY MS. MARLAND:

6 Q. Ms. Salazar, where was the Defendant living
7 from March of 2021 to October of 2021?

8 A. His grandfather's house.

9 Q. Did he have a room there?

10 A. Yes.

11 Q. Is that where he had his bedroom?

12 A. Yes.

13 Q. Is that where he had a bathroom?

14 A. Yes.

15 Q. Is that where he ate his food?

16 A. Yes.

17 Q. Did he still have a key to your residence?

18 A. No.

19 THE COURT: Your Honor, I have no further
20 questions at this time.

21 THE COURT: Okay.

22 MS. CARMAN: No questions.

23 THE COURT: Thank you, Ms. Salazar.

24 MS. MARLAND: And, just for the record, I am
25 not sure whether the Court heard this when the

1 victim was previously excused, the Defendant made a
2 statement and asked her to say hello to his boys.

3 I would just note that that is not
4 appropriate.

5 MS. CARMAN: I told him that, too, Your
6 Honor.

7 THE COURT: I didn't hear it.

8 Are you calling a second witness?

9 MS. MARLAND: No, Your Honor, if I may just
10 have the Court's very brief indulgence.

11 Your Honor, at this point, the State would
12 rest.

13 MS. CARMAN: Court's indulgence.

14 Your Honor, I have advised my client of his
15 right to testify.

16 He is not going to be testifying.

17 THE COURT: Okay.

18 THE COURT: THE defense rests?

19 MS. CARMAN: Yes, we do.

20 THE COURT: Closing argument?

21 MS. MARLAND: Reserve for rebuttal.

22 MS. CARMAN: Our position is that the State
23 has not met its burden with regard to Count 1 and
24 Count 3.

25 The case that I would be citing is the State

1 of Nevada versus Troy Richard White. That's a 2014
2 case.

3 In that case, the Nevada Supreme Court
4 addressed for the first time whether a person
5 burglarized his or her own home, and concluded that
6 a person cannot when she or he has an absolute right
7 to enter that home.

8 We would submit to Your Honor that the
9 Defense Exhibit A shows that Mr. Murcia was on the
10 lease, and did not vacate until March 31 of 2022.

11 That lease began in March of 2021. So,
12 approximately a year. And the date of the alleged
13 offense here is October 29 of 2021.

14 So, on October 29 of 2021, he had an
15 absolute right to be there. There was no testimony
16 or evidence that he was ever evicted from the
17 residence.

18 The State tried to argue that he was not
19 allowed to be there based on a house arrest order.
20 That's the only evidence that Your Honor has that he
21 shouldn't be there.

22 However, Your Honor now has the minute order
23 from that other case. We have testimony from
24 Ms. Salazar that she was not -- she did not give a
25 witness statement in that case, a written witness

000130

1 statement, I am sorry.

2 And she was not called at the preliminary
3 hearing to testify. It is my understanding that she
4 is not a witness in that case.

5 She also testified that she did not
6 permanently observe that offense occur.

7 It sounds like she may have given some
8 information, contact numbers to the police, so the
9 police could contact people who were actually
10 witnesses.

11 But, as Your Honor can see in Exhibit B, the
12 minute order said he is supposed to stay away from
13 the victim in that case, who lives in California.
14 She does not live at that this address on that
15 lease.

16 And, he is supposed to stay away from
17 witnesses, and he did do that, otherwise he would
18 have been taken into custody sooner for a house
19 arrest violation.

20 There is no evidence that he was taken into
21 custody on a house arrest violation for contacting
22 witnesses he was not supposed to.

23 So, based on that, we believe the State has
24 not met its burden with regard to Count 1 and Count
25 3 in this case.

000131

1 THE COURT: State.

2 MS. MARLAND: Your Honor, at this point I
3 would just note State v. White, 130 Nevada 533
4 specifically State's that occupancy is an important
5 factor.

6 And it also involves the absolute right of a
7 Defendant to enter his or her own home.

8 While the Defendant was still on the lease,
9 the evidence adduced today shows that the Defendant
10 had not lived there since April of 2021.

11 In fact, he was residing in an entirely
12 different location. He further did no longer have a
13 key, as evidenced by how he entered the residence on
14 October 29, 2021.

15 So I would submit that he did not have the
16 absolute right of ownership or occupancy to that
17 residence.

18 He did not have an absolute right to enter
19 that residence. The victim here, Ms. Salazar,
20 testified that he no longer had a key, that he was
21 living somewhere else.

22 And I would note that whether or not she
23 gave a witness statement, in her sister's case, she
24 did testify that her sister told her what the
25 Defendant had done to her.

1 That would, for the State, qualify as
2 someone potentially being a witness. We don't call
3 all of our witnesses for a preliminary hearing, as
4 Ms. Carman and Your Honor well knows.

5 For purposes of this specific case, I would
6 submit that the victim testified that the Defendant
7 forcibly entered the residence.

8 That there was damage to the structure that
9 he entered. He pushed the victim out of way,
10 screaming, yelling, and went to confront her new
11 boyfriend, which would qualify for the specific
12 intent for the burglary.

13 And in terms of ownership or occupancy, the
14 victim here, Ms. Salazar, and her 3 children were
15 the only occupants of the Stewart Avenue address on
16 October 29 of 2021, whether or not the Defendant was
17 still on the lease.

18 He no longer had a key. He no longer
19 resided there. So, not only am I referring to the
20 fact that there was a stay away order that had,
21 according to Ms. Salazar, been ordered in her
22 sister's case, moreover even without that, the
23 Defendant was no longer residing at that address.

24 A lease alone is not sufficient to show that
25 the Defendant had an unqualified, absolute right to

000133

1 enter a residence.

2 And with that, Your Honor, I believe that
3 the State has proved by slight or marginal evidence
4 to support the reasonable inference that the
5 Defendant committed these crimes.

6 I would ask that Your Honor bind over all 3
7 charges.

8 And I will submit it.

9 THE COURT: I am going to take a quick
10 break.

11 I will be right back.

12 MS. CARMAN: Thank you.

13

14 (Recess taken.)

15

16 THE COURT: I went down to call State versus
17 White, and reviewed the case, which is 130 Nevada
18 533.

19 And I understand the Defendant's position.
20 However, where I find that the Court concluded in
21 State versus White that while the legislature has
22 expanded common law burglary in several respects, it
23 has, at least, retained the notion that, one, the
24 burglary law is designed to protect the possessory
25 or the occupancy right of property.

1 And, 2, one cannot burglarize his own home
2 so long as he has an absolute right to enter the
3 home.

4 Thus, while ownership may be one factor to
5 consider, the appropriate question is whether the
6 alleged burglar has an absolute, unconditional right
7 to enter the home.

8 And I think that's where the facts in this
9 case differ. I do not believe that, based on the
10 evidence presented and the testimony that we heard
11 today, that the Defendant had an absolute right to
12 enter the home.

13 I also don't believe he had an occupancy
14 right in the property. And the facts, specifically
15 the facts that I heard that support that is, one,
16 that he was living elsewhere. He did not live at
17 that location, at the residence.

18 He did not have a key to the residence at
19 the time of this incident.

20 So, based on that, I do not believe that he
21 had an occupancy right, and I don't believe he had
22 an unconditional right to enter the home.

23 And that he did not have an absolute,
24 unconditional right to enter the home, as the case
25 states.

1 Thus, I do believe that I -- I do find
2 there's slight or marginal evidence to hold the
3 Defendant, to hold him on Count 1 and Count 3.

4 I will bind him over to District Court, and
5 we will include them. We will include Count 2 with
6 the other 2 counts.

7 That date will be?

8 THE CLERK: February 16, 8:00 a.m., District
9 Court, lower level Arraignment.

10 THE COURT: Thank you.

11 MS. MARLAND: Thank you, Judge.

12
13 (Proceedings concluded.)
14
15
16
17
18
19
20
21
22
23
24
25

000136

1 REPORTER'S CERTIFICATE

2
3 STATE OF NEVADA)

4) ss.

5 CLARK COUNTY)
6
7

8 I, Robert A. Cangemi, a certified court
9 reporter in and for the State of Nevada, hereby
10 certify that pursuant to NRS 239B.030 I have not
11 included the Social Security number of any person
12 within this document.

13 I further certify that I am not a relative
14 or employee of any party involved in said action,
15 nor a person financially interested in said action.
16
17

18 (signed) /s/ Robert A. Cangemi
19

20 -----
21 ROBERT A. CANGEMI, CCR NO. 888
22
23
24
25

000137

C E R T I F I C A T E

STATE OF NEVADA)

) ss.

CLARK COUNTY)

I, Robert A. Cangemi, CCR 888, do hereby
certify that I reported the foregoing proceedings,
and that the same is true and accurate as reflected
by my original machine shorthand notes taken at said
time and place.

(signed) /s/ Robert A. Cangemi

Robert A. Cangemi, CCR 888

Certified Court Reporter

Las Vegas, Nevada

000138

<p>/s/ (54:18) (55:16)</p>	<p>(14:25) (15:6) (15:17) (17:3) (37:7) (37:24) (37:25) (38:5) (47:19) (48:19) (48:21)</p>
<p>A</p>	<p>ask (4:6) (4:9) (6:5) (6:14) (7:22) (9:12) (15:2) (22:24) (34:24) (35:16) (38:3) (39:1) (43:16) (43:17) (43:23) (44:20) (51:6)</p>
<p>ability (14:13) able (13:1) (13:5) (19:12) (19:25) (20:2) absolute (40:23) (47:6) (47:15) (49:6) (49:16) (49:18) (50:25) (52:2) (52:6) (52:11) (52:23) according (50:21) accurate (55:11) accurately (20:24) (34:15) act (16:24) action (54:14) (54:15) actually (25:3) (35:3) (48:9) additional (15:2) address (11:7) (13:14) (17:6) (32:9) (38:22) (48:14) (50:15) (50:23) addressed (47:4) adduced (49:9) admissible (40:8) admission (44:15) admit (21:3) (34:18) (44:20) admitted (21:7) (34:22) (38:2) (39:2) admitting (44:16) advised (46:14) after (13:12) (13:24) (15:5) (21:1) (23:4) (27:1) (27:3) (30:21) (31:11) afternoon (9:6) again (19:2) (23:3) (25:2) (38:9) against (16:25) (27:24) (29:21) agreement (6:20) ahead (28:20) (32:18) all (5:23) (6:5) (6:16) (6:23) (7:2) (8:2) (8:5) (11:23) (11:25) (29:14) (29:18) (42:22) (50:3) (51:6) alleged (39:23) (47:12) (52:6) allow (35:24) allowed (12:19) (13:13) (13:23) (14:14) (15:4) (17:15) (36:11) (37:4) (37:8) (37:23) (38:1) (38:4) (38:14) (38:15) (40:12) (47:19) alone (50:24) already (8:10) also (17:18) (33:7) (48:5) (49:6) (52:13) altogether (5:21) angry (29:3) another (6:11) (7:13) (36:16) (39:21) answer (18:22) antonio (10:22) (10:24) (10:25) (29:12) (29:14) (30:2) (31:5) any (12:3) (12:6) (19:19) (21:14) (23:2) (23:14) (24:15) (40:17) (42:4) (42:5) (42:7) (54:11) (54:14) anyone (29:11) (43:25) anything (18:12) (23:24) (27:13) (27:24) (28:9) (29:16) apartment (9:13) (11:11) (19:20) (20:25) (24:16) (26:20) (29:20) apologize (17:23) (35:11) (35:14) appear (24:7) (28:21) (29:3) appearances (1:19) appears (21:11) (40:3) appreciate (42:24) approach (20:18) (29:14) (33:18) (44:10) appropriate (37:11) (38:10) (40:9) (42:8) (44:18) (46:4) (52:5) approximately (9:8) (17:21) (18:9) (47:12) april (11:8) (11:18) (32:10) (49:10) are (4:11) (4:19) (5:5) (5:8) (5:20) (5:23) (5:24) (6:20) (7:2) (7:9) (10:13) (14:18) (14:20) (18:5) (19:2) (20:21) (21:7) (21:9) (21:11) (24:12) (36:16) (37:1) (38:18) (38:25) (39:13) (40:10) (40:18) (41:13) (42:15) (42:19) (42:23) (43:1) (43:10) (46:8) argue (4:19) (47:18) arguing (38:16) argument (46:20) around (33:3) arraignment (53:9) arrangement (12:9) arrest (12:22) (13:5) (13:7) (13:12) (13:24) (14:2) (14:5)</p>	<p>asked (14:4) (38:6) (40:11) (46:2) asking (15:9) (17:8) (22:22) (37:1) (42:10) asleep (18:11) (18:25) assume (42:14) ate (45:15) attempt (4:17) (30:4) attention (9:7) (17:21) (18:12) (18:15) attorney (1:21) (41:15) avenue (9:13) (11:7) (13:19) (17:6) (50:15) aware (16:15) (16:16) (16:20) (37:6) away (17:6) (23:7) (38:17) (38:19) (38:21) (40:1) (40:17) (41:2) (41:10) (41:12) (44:11) (48:12) (48:16) (50:20)</p>
	<p>B</p>
	<p>back (7:5) (7:9) (30:1) (42:20) (51:11) banging (23:4) based (6:10) (47:19) (48:23) (52:9) (52:20) basically (18:25) (30:8) bathroom (45:13) battery (4:20) (5:8) (5:15) (6:14) because (17:11) (17:24) (37:3) (37:4) (38:1) bed (28:8) bedroom (19:5) (19:9) (20:3) (23:4) (23:7) (27:10) (27:11) (27:12) (28:2) (28:7) (31:3) (45:11) been (11:6) (11:10) (11:24) (17:18) (20:15) (27:1) (28:23) (33:19) (36:6) (39:20) (39:22) (39:24) (40:1) (48:18) (50:21) before (1:14) (5:3) (12:21) (27:1) (37:17) began (47:11) beginning (11:18) being (8:16) (13:5) (13:24) (15:5) (38:14) (38:15) (44:15) (50:2) believe (4:11) (7:14) (18:3) (37:11) (37:14) (38:9) (39:20) (40:9) (40:10) (42:7) (48:23) (51:2) (52:9) (52:13) (52:20) (52:21) (53:1) bench (5:9) (6:2) between (11:25) (30:2) bind (5:13) (5:14) (6:13) (51:6) (53:4) black (19:3) blue (10:6) both (4:11) (33:16) bottom (21:14) boyfriend (9:17) (10:19) (28:8) (50:11) boyfriend's (10:21) boys (9:17) (9:20) (46:2) brad (39:7) bradford (17:24) (35:12) (39:18) break (17:24) (20:2) (24:24) (26:12) (26:14) (32:16) (51:10) break-in (19:5) breaking (31:16) brief (32:7) (32:16) (46:10) briefly (45:1) bring (6:14) (12:14) broken (24:15) (24:19) (26:9) brought (34:25) (36:10) burden (46:23) (48:24) burglar (52:6) burglarize (40:21) (52:1) burglarized (47:5) burglary (5:6) (40:22) (50:12) (51:22) (51:24) but (5:19) (5:23) (6:10) (7:20) (8:17) (20:3) (39:20) (41:1) (48:11)</p>
	<p>C</p>
	<p>california (35:3) (35:19) (48:13) call (8:4) (8:6) (8:7) (50:2) (51:16) called (18:16) (18:20) (19:1) (44:5) (48:2) calling (46:8) came (17:24) (20:10) (21:1) (27:1) (27:5) (27:13) (30:13) (31:21) can (4:6) (6:1) (7:5) (10:4) (14:16) (14:24) (17:23) (18:7) (32:15) (33:18) (33:22) (33:23) (36:1) (39:15) (41:25) (48:11) cangemi (1:25) (54:8) (54:18) (54:20) (55:9) (55:16) (55:18)</p>

cannot

enter

cannot {47:6} {52:1}
 can't {14:18} {15:12} {35:25} {40:21} {40:22}
 carman {1:23} {4:6} {4:9} {5:10} {5:14} {6:3} {6:9} {6:12}
 {6:17} {7:4} {7:5} {7:10} {7:12} {7:21} {8:1} {12:23} {13:15}
 {14:11} {14:21} {15:7} {15:20} {16:8} {16:21} {17:7} {17:23}
 {18:2} {18:8} {19:6} {21:5} {21:19} {22:5} {22:8} {22:19}
 {25:2} {27:19} {28:17} {31:22} {32:15} {32:19} {32:25}
 {33:17} {33:21} {34:18} {34:21} {34:23} {35:9} {35:10} {36:8}
 {36:10} {36:23} {37:3} {37:16} {38:3} {38:6} {38:10} {38:16}
 {38:24} {39:1} {39:5} {39:10} {39:17} {40:3} {40:11} {40:20}
 {41:11} {41:14} {41:17} {41:23} {42:2} {42:12} {42:16}
 {42:18} {42:21} {42:24} {43:6} {43:8} {44:9} {44:20} {44:22}
 {45:22} {46:5} {46:13} {46:19} {46:22} {50:4} {51:12}
 carman's {40:14}
 case {1:1} {1:9} {5:18} {7:13} {18:1} {18:4} {36:18} {37:10}
 {37:19} {37:22} {38:18} {39:6} {43:11} {43:15} {43:20} {44:2}
 {46:25} {47:2} {47:3} {47:23} {47:25} {48:4} {48:13} {48:25}
 {49:23} {50:5} {50:22} {51:17} {52:9} {52:24}
 category {4:17}
 cause {5:12} {6:13} {20:13} {30:18}
 ccr {1:25} {54:20} {55:9} {55:18}
 certain {14:25}
 certificate {54:1}
 certified {54:8} {55:19}
 certify {54:10} {54:13} {55:10}
 challenges {31:7}
 charges {5:4} {6:16} {7:3} {51:7}
 children {10:11} {10:18} {12:4} {12:10} {50:14}
 citing {46:25}
 claims {37:3}
 clarification {7:21}
 clarify {5:3}
 clark {1:4} {9:14} {54:5} {55:4}
 clear {20:5} {30:23} {32:8} {42:23}
 clerk {8:20} {44:10} {53:8}
 client {4:6} {41:2} {46:14}
 climbed {26:5}
 closing {46:20}
 clothing {10:5}
 come {4:6} {12:19} {13:5} {13:13} {13:23} {14:19} {15:5}
 {17:12} {17:15} {35:22} {40:12} {42:20}
 comes {30:24} {41:24}
 comfortable {4:25}
 coming {23:14}
 commit {40:22}
 committed {39:24} {51:5}
 common {51:22}
 completely {37:14}
 concerned {31:25}
 concluded {47:5} {51:20} {53:13}
 confront {50:10}
 confused {40:7}
 consider {52:5}
 contact {12:3} {48:8} {48:9}
 contacting {48:21}
 copy {39:3} {44:11}
 correct {13:17} {21:12} {25:12} {26:22} {32:11} {32:12}
 {35:1} {35:2} {43:12} {43:15} {44:3} {44:7} {44:8}
 could {7:3} {14:19} {32:5} {48:9}
 counsel {8:11} {35:8} {42:20}
 count {4:16} {42:15} {46:23} {46:24} {48:24} {53:3} {53:5}
 counts {53:6}
 county {1:4} {9:14} {54:5} {55:4}
 couple {22:24}
 course {40:10}
 court {1:4} {4:5} {4:8} {4:24} {4:25} {5:3} {5:14} {5:19}
 {5:23} {6:1} {6:13} {6:15} {6:20} {7:9} {7:14} {7:25} {8:2}
 {8:5} {8:12} {8:25} {10:9} {10:10} {12:6} {13:3} {13:20}
 {14:9} {14:18} {15:1} {15:8} {15:15} {16:1} {16:12} {16:23}
 {17:9} {18:1} {19:8} {20:19} {21:7} {21:22} {22:7} {22:9}
 {22:12} {22:16} {22:23} {24:5} {25:6} {27:21} {28:20} {31:24}
 {32:17} {33:20} {34:22} {35:7} {35:24} {36:8} {36:20} {36:24}
 {38:12} {38:17} {38:23} {38:25} {39:14} {40:18} {41:5}
 {41:12} {41:15} {41:18} {41:24} {42:9} {42:13} {42:17}
 {42:19} {42:22} {43:1} {43:5} {43:7} {44:13} {44:19} {44:20}
 {44:25} {45:19} {45:21} {45:23} {45:25} {46:7} {46:17}
 {46:18} {46:20} {47:3} {49:1} {51:9} {51:16} {51:20} {53:4}

{53:9} {53:10} {54:8} {55:19}
 courtroom {10:2} {43:9}
 court's {32:7} {42:25} {43:6} {44:9} {44:22} {46:10} {46:13}
 credit {4:21}
 crimes {51:5}
 cross-examination {32:23}
 crux {42:14}
 curious {36:20}
 cursing {29:7} {29:9}
 custody {48:18} {48:21}
 cybill {1:14}

D

damage {20:13} {21:14} {24:15} {26:21} {26:24} {30:17}
 {30:19} {50:8}
 dark {19:17}
 date {38:8} {47:12} {53:7}
 day {20:6} {20:8}
 defendant {1:11} {1:23} {4:16} {6:16} {7:13} {7:16} {10:8}
 {11:3} {11:6} {13:1} {13:4} {13:23} {15:4} {15:13} {15:16}
 {16:18} {17:3} {17:15} {18:4} {30:2} {30:4} {32:4} {32:8}
 {37:7} {38:4} {40:16} {45:6} {46:1} {49:7} {49:8} {49:9}
 {49:25} {50:6} {50:16} {50:23} {50:25} {51:5} {52:11} {53:3}
 defendant's {51:19}
 defender {1:23}
 defense {3:5} {3:6} {8:11} {15:8} {33:19} {34:18} {36:13}
 {46:18} {47:9}
 defense's {7:19} {36:17}
 delay {43:8}
 depict {20:24}
 dept {1:2}
 deputy {1:21} {1:23}
 designed {51:24}
 did {11:16} {12:3} {12:9} {12:19} {14:1} {14:10} {18:12}
 {18:22} {18:23} {18:24} {19:14} {20:3} {20:13} {20:14} {23:2}
 {23:7} {23:11} {23:14} {23:20} {23:22} {23:24} {24:2} {24:24}
 {25:1} {26:1} {26:4} {26:12} {26:14} {27:18} {27:24} {28:4}
 {28:5} {28:6} {28:9} {28:12} {28:21} {29:3} {29:14} {29:15}
 {29:16} {29:19} {30:4} {30:13} {30:15} {30:17} {31:14}
 {31:21} {33:9} {35:1} {35:22} {38:3} {40:14} {43:14} {43:16}
 {43:17} {43:19} {43:23} {44:2} {45:9} {45:17} {47:10} {47:24}
 {48:5} {48:17} {49:12} {49:15} {49:18} {49:24} {52:16}
 {52:18} {52:23}
 didn't {6:4} {46:7}
 differ {52:9}
 different {6:18} {38:8} {49:12}
 direct {9:3} {13:22} {18:7}
 discussion {7:7}
 district {1:21} {6:15} {7:14} {53:4} {53:8}
 document {33:23} {34:6} {54:12}
 does {33:23} {34:1} {34:15} {38:14} {48:14}
 doesn't {15:11} {35:3} {37:21} {38:21} {39:25} {40:19}
 doing {5:8} {5:20} {18:25} {19:2} {25:22}
 domestic {4:20} {5:8} {5:15} {6:15}
 done {6:22} {6:25} {26:24} {49:25}
 don't {13:9} {15:23} {22:17} {26:25} {28:13} {37:11} {38:9}
 {40:9} {41:6} {41:7} {42:7} {42:9} {44:1} {44:17} {50:2}
 {52:13} {52:21}
 door {19:21} {27:12} {28:7} {29:21} {30:16} {30:22} {31:9}
 dotson {1:14}
 down {4:7} {36:16} {39:13} {51:16}
 draw {9:7} {18:12}
 drawing {17:21}
 drew {18:15}
 drop {12:11}
 drunk {28:16}
 duly {8:16}

E

early {32:9}
 either {40:4}
 else {29:11} {43:25} {49:21}
 elsewhere {52:16}
 emotions {29:1}
 employee {54:14}
 end {11:18} {11:25} {17:19}
 enter {47:7} {49:7} {49:18} {51:1} {52:2} {52:7} {52:12}

entered

house

G

(52:22) (52:24)
 entered (49:13) (50:7) (50:9)
 entirely (49:11)
 esq (1:21) (1:23)
 even (50:22)
 evening (12:17)
 events (30:23)
 ever (47:16)
 everyone (43:9)
 everything (5:13) (7:2) (28:13) (37:10)
 evicted (47:16)
 evidence (36:17) (38:25) (39:2) (41:13) (41:25) (47:16)
 (47:20) (48:20) (49:9) (51:3) (52:10) (53:2)
 evidenced (49:13)
 exact (26:25) (35:25)
 exactly (37:25) (41:19)
 examination (9:3) (45:3)
 examined (8:17)
 exchange (12:10)
 exclusionary (4:10)
 excuse (39:12) (39:14)
 excused (46:1)
 exhibit (3:5) (3:6) (24:12) (24:22) (33:19) (34:19) (34:22)
 (44:21) (47:9) (48:11)
 exhibits (3:1) (3:4) (8:10) (20:16) (31:19)
 exist (40:19)
 exit (29:19)
 exits (31:9)
 expanded (51:22)
 extended (4:15)

F

face (19:25)
 fact (36:10) (49:11) (50:20)
 factor (49:5) (52:4)
 facts (52:8) (52:14) (52:15)
 fair (11:20) (14:4) (17:17) (26:19) (29:1)
 fairly (20:24) (34:15)
 familiar (34:1)
 february (1:15) (4:1) (53:8)
 feel (31:21)
 felonies (6:2)
 felony (4:18) (5:6) (5:7) (6:14)
 few (11:20)
 fight (30:5) (30:9) (31:7)
 figure (38:12)
 fill (43:19)
 financially (54:15)
 find (51:20) (53:1)
 finds (5:12) (6:13)
 finish (18:7)
 first (8:6) (8:16) (8:21) (18:16) (22:19) (23:12) (27:9)
 (47:4)
 firsthand (14:22)
 follow (28:4)
 follows (8:18)
 food (45:15)
 for (1:21) (1:23) (4:15) (4:21) (5:1) (5:9) (5:12) (6:10)
 (6:15) (7:11) (7:14) (7:20) (7:21) (8:9) (8:22) (11:10)
 (15:20) (15:24) (21:5) (22:6) (22:22) (35:12) (36:9) (36:17)
 (36:25) (37:15) (39:3) (39:15) (40:11) (42:11) (42:19) (43:8)
 (43:14) (43:19) (43:23) (44:23) (45:24) (46:21) (47:4)
 (48:18) (48:21) (50:1) (50:3) (50:5) (50:11) (50:12) (54:9)
 forcibly (50:7)
 foregoing (55:10)
 form (42:8)
 forward (5:5)
 foundation (13:16) (14:8) (14:12) (14:16) (14:23) (15:20)
 (15:24) (16:11) (22:6) (22:22) (22:25) (25:3) (37:17) (40:11)
 frame (35:25)
 from (12:11) (15:24) (17:6) (22:2) (23:7) (23:14) (23:24)
 (24:8) (24:10) (24:13) (24:20) (26:20) (31:14) (38:19)
 (38:21) (40:1) (40:17) (41:3) (44:11) (45:7) (47:16) (47:23)
 (48:12) (48:16)
 front (7:1) (19:20) (26:6) (30:16) (30:22) (31:9)
 full (10:23)
 further (32:13) (44:23) (45:19) (49:12) (54:13)

gave (49:23)
 generally (5:11)
 get (19:9) (20:3) (23:18) (23:20) (24:3) (25:7) (25:17)
 (25:20) (26:1) (26:4) (30:4) (30:8) (35:12) (35:14) (36:17)
 (37:25) (38:10) (38:11) (39:3) (41:24)
 getting (36:12) (36:13) (39:19) (40:10) (41:16)
 give (35:25) (36:1) (47:24)
 given (41:2) (48:7)
 glass (24:15) (24:19) (24:20) (31:18)
 goes (12:25) (31:3)
 going (5:5) (9:12) (16:1) (30:1) (34:24) (35:12) (36:16)
 (37:21) (37:24) (39:13) (41:7) (42:15) (46:16) (51:9)
 good (9:6)
 got (14:1) (15:23)
 graham (7:1)
 grandfather's (45:8)
 guess (40:4)
 guilty (4:16)
 guys (11:10) (12:9)

H

had (7:7) (8:9) (11:6) (11:10) (11:13) (11:24) (17:18)
 (28:23) (32:8) (39:22) (40:1) (41:20) (45:11) (45:13) (47:14)
 (49:10) (49:20) (49:25) (50:18) (50:20) (50:25) (52:11)
 (52:13) (52:21)
 hallway (4:12)
 happen (29:16)
 happened (21:21) (21:24) (22:13) (22:15) (27:6) (28:6)
 (32:6)
 happy (28:21) (40:15)
 has (7:13) (14:15) (14:21) (14:23) (14:24) (15:8) (15:9)
 (35:18) (35:20) (35:21) (36:6) (38:13) (40:23) (40:25)
 (46:23) (47:6) (47:20) (47:22) (48:23) (51:3) (51:21) (51:23)
 (52:2) (52:6)
 have (5:17) (5:21) (5:24) (6:11) (6:16) (6:22) (6:25) (7:3)
 (7:4) (8:9) (8:10) (9:20) (9:21) (10:11) (10:14) (12:3) (12:9)
 (15:11) (16:3) (16:18) (19:20) (27:1) (30:8) (32:5) (32:13)
 (37:12) (39:20) (39:24) (41:21) (44:11) (44:15) (45:9)
 (45:17) (45:19) (46:10) (46:14) (47:23) (48:7) (48:18)
 (49:12) (49:15) (49:18) (52:18) (52:23) (54:10)
 haven't (39:18)
 having (7:23) (14:13)
 hear (23:2) (23:14) (46:7)
 heard (19:4) (23:4) (45:25) (52:10) (52:15)
 hearing (1:8) (4:14) (5:2) (6:23) (21:6) (37:15) (38:8)
 (39:9) (39:10) (40:5) (42:5) (44:6) (48:3) (50:3)
 hearsay (15:22) (16:22)
 held (7:23)
 hello (46:2)
 helping (39:7)
 her (14:12) (14:19) (16:25) (35:16) (37:1) (37:4) (37:10)
 (37:12) (37:17) (38:7) (38:8) (38:13) (39:20) (41:7) (42:10)
 (46:2) (47:5) (49:7) (49:23) (49:24) (49:25) (50:10) (50:14)
 (50:21)
 here (5:24) (9:14) (10:1) (37:1) (47:13) (49:19) (50:14)
 hereby (54:9) (55:9)
 herself (16:24)
 him (6:17) (10:4) (16:25) (19:9) (19:12) (19:14) (23:4)
 (23:5) (23:18) (25:6) (26:1) (28:4) (30:8) (30:9) (30:21)
 (31:7) (32:5) (38:14) (41:2) (46:5) (53:3) (53:4)
 his (6:4) (10:23) (12:3) (12:15) (18:4) (19:25) (27:7)
 (28:15) (29:1) (36:14) (40:5) (45:8) (45:11) (45:15) (46:2)
 (46:14) (47:5) (49:7) (52:1)
 hold (35:7) (53:2) (53:3)
 home (4:16) (4:17) (5:7) (35:18) (36:6) (40:21) (40:22)
 (47:5) (47:7) (49:7) (52:1) (52:3) (52:7) (52:12) (52:22)
 (52:24)
 honor (4:13) (5:12) (6:3) (7:10) (13:2) (17:23) (21:3)
 (22:5) (25:2) (32:14) (32:15) (33:18) (35:11) (36:7) (37:5)
 (37:16) (39:3) (44:10) (44:24) (45:19) (46:6) (46:9) (46:11)
 (46:14) (47:8) (47:20) (47:22) (48:11) (49:2) (50:4) (51:2)
 (51:6)
 honorable (1:14)
 house (12:15) (12:20) (12:21) (13:5) (13:6) (13:7) (13:12)
 (13:24) (14:2) (14:5) (14:19) (14:25) (15:6) (15:17) (16:18)

how

murcia

{17:3} {17:12} {24:10} {24:13} {37:7} {37:24} {37:25} {38:5}
 {45:8} {47:19} {48:18} {48:21}
 how {9:20} {10:13} {11:6} {16:5} {16:7} {16:13} {19:14}
 {22:17} {22:22} {24:24} {25:20} {26:4} {26:14} {27:18}
 {28:23} {29:19} {30:15} {31:21} {38:14} {40:7} {49:13}
 however {41:9} {47:22} {51:20}
 hung {19:1}

I

identification {10:8}
 identify {10:4}
 impeach {40:4} {40:5}
 important {49:4}
 inappropriate {37:14}
 incident {16:16} {28:24} {52:19}
 include {53:5}
 included {54:11}
 indicated {33:1} {43:10}
 indulgence {32:7} {42:25} {43:6} {44:9} {44:22} {46:10}
 {46:13}
 inference {51:4}
 information {15:23} {35:17} {48:8}
 inside {23:24} {24:13} {24:16} {27:5} {27:13}
 intent {33:8} {33:15} {33:25} {50:12}
 interaction {30:1}
 interested {54:15}
 interview {43:14}
 into {19:9} {24:3} {27:9} {27:11} {28:2} {31:3} {36:12}
 {36:13} {37:25} {39:2} {41:13} {41:25} {48:18} {48:20}
 invasion {4:17} {5:7}
 invited {20:5}
 invoke {4:9}
 involved {36:19} {37:18} {43:10} {54:14}
 involves {42:5} {49:6}
 its {44:14} {46:23} {48:24}

J

jacqueline {1:23}
 joshua {1:10} {4:5} {9:23} {9:24} {10:1} {18:18} {22:1}
 {24:3} {24:25} {25:5} {31:21} {33:2} {33:14}
 judge {7:1} {53:11}
 judicial {38:18}
 jump {10:6}
 june {36:2} {36:3} {38:13}
 jury {5:16} {5:17} {6:5} {6:16} {7:3} {7:23}
 just {7:20} {7:21} {8:4} {9:17} {17:14} {20:5} {22:24}
 {25:4} {27:15} {27:22} {27:24} {28:1} {30:1} {30:23} {32:5}
 {32:8} {32:15} {38:2} {40:3} {40:7} {40:15} {41:7} {45:24}
 {46:3} {46:9} {49:3}
 justice {1:4} {1:14}

K

keep {6:23} {7:2}
 kept {5:21}
 key {45:17} {49:13} {49:20} {50:18} {52:18}
 kind {30:17}
 knew {22:22}
 know {6:19} {10:23} {13:8} {13:9} {14:1} {15:4} {15:13}
 {15:16} {15:23} {17:5} {17:10} {21:21} {21:24} {22:14}
 {26:25} {29:1} {37:20} {37:21} {44:17}
 knowledge {14:22} {15:10} {15:11} {17:2} {41:20}
 knows {17:8} {36:15} {37:23} {50:4}

L

laid {14:7} {14:15} {14:23}
 las {1:4} {4:1} {55:20}
 last {8:21} {22:6}
 late {32:9}
 later {19:4}
 law {51:22} {51:24}
 lay {15:24} {22:24} {40:11}
 laying {16:11}
 learn {36:5}
 lease {11:10} {11:13} {11:21} {33:2} {33:8} {34:10} {34:16}
 {38:2} {40:2} {41:4} {47:10} {47:11} {48:15} {49:8} {50:17}
 {50:24}
 least {7:1} {18:7} {51:23}

leave {5:3} {30:13} {30:15}
 leaving {20:14} {26:13} {29:22} {29:23} {30:17}
 left {21:14} {26:21} {30:11}
 legislature {51:21}
 leslie {2:5} {8:7} {8:14} {8:23} {9:6}
 l-e-s-l-i-e {8:23}
 let {5:3} {6:19} {23:2}
 let's {39:14}
 level {17:18} {21:25} {53:9}
 lewdness {7:15}
 light {19:19} {19:20} {19:23}
 like {9:7} {22:20} {33:23} {33:24} {36:2} {48:7}
 line {41:6} {42:4}
 listed {33:13}
 little {17:11} {40:10}
 live {35:1} {48:14} {52:16}
 lived {49:10}
 lives {35:3} {35:19} {48:13}
 living {9:10} {9:16} {11:3} {11:7} {11:24} {17:18} {20:4}
 {20:10} {20:23} {20:25} {21:10} {23:12} {23:15} {23:18}
 {23:22} {23:25} {24:8} {25:12} {25:21} {25:23} {26:2} {26:16}
 {27:5} {27:14} {45:6} {49:21} {52:16}
 location {49:12} {52:17}
 long {11:6} {28:23} {52:2}
 longer {13:13} {49:12} {49:20} {50:18} {50:23}
 look {33:22} {33:23} {34:1}
 looks {22:19}
 loud {29:5}
 loudly {29:21}
 lower {21:24} {26:21} {53:9}

M

machine {55:12}
 made {16:15} {16:16} {16:20} {46:1}
 make {14:10}
 makes {5:17}
 manage {26:1}
 many {9:20}
 march {11:14} {11:18} {12:1} {16:7} {16:13} {16:17} {17:19}
 {32:9} {33:2} {33:4} {33:11} {34:13} {35:6} {35:19} {45:7}
 {47:10} {47:11}
 marginal {51:3} {53:2}
 marked {8:10} {20:15} {33:19}
 marland {1:21} {4:11} {4:25} {5:11} {5:22} {5:25} {6:7}
 {6:12} {6:25} {7:11} {8:4} {8:7} {8:9} {9:1} {9:5} {10:7}
 {12:25} {13:18} {13:21} {14:7} {15:3} {15:14} {16:2} {16:11}
 {17:8} {18:3} {20:18} {20:20} {21:3} {21:8} {21:23} {22:11}
 {22:14} {22:17} {23:1} {24:4} {24:6} {25:4} {25:8} {28:19}
 {32:7} {32:13} {34:20} {35:23} {36:7} {36:13} {37:5} {38:3}
 {39:4} {39:8} {40:3} {41:21} {42:4} {43:18} {44:14} {45:1}
 {45:5} {45:24} {46:9} {46:21} {49:2} {53:11}
 mask {5:1}
 may {4:6} {8:25} {10:7} {15:22} {20:18} {22:10} {24:4}
 {35:11} {35:14} {35:16} {44:10} {46:9} {48:7} {52:4}
 mean {18:17}
 melanie {1:21}
 mentioned {7:12} {13:4} {26:20} {27:16} {30:11} {30:20}
 {31:16} {39:8}
 met {46:23} {48:24}
 middle {18:5}
 might {39:20}
 minor {7:15}
 minute {35:14} {38:1} {39:5} {39:25} {40:16} {41:1} {47:22}
 {48:12}
 minutes {19:4} {38:18} {39:4}
 misdemeanor {4:20} {5:13} {5:16} {7:22}
 monday {1:15} {4:1}
 month {11:16} {36:1}
 more {22:24}
 moreover {50:22}
 move {11:17} {16:18} {21:3} {23:7} {23:11} {27:15}
 moved {11:25}
 murcia {1:10} {4:5} {9:23} {9:24} {10:1} {11:17} {11:24}
 {12:3} {12:19} {18:18} {20:2} {21:1} {22:1} {24:3} {24:25}
 {25:14} {25:17} {28:9} {28:21} {28:23} {29:19} {47:9}

name	push
<p>N</p> <p>name (8:21) (10:21) (10:23) necessarily (37:9) need (35:11) (35:14) (35:17) (39:12) needs (15:24) negotiations (7:18) nevada (1:4) (1:7) (4:1) (9:14) (47:1) (47:3) (49:3) (51:17) (54:3) (54:9) (55:2) (55:20) new (50:10) next (28:6) noise (23:2) (23:14) (23:17) nor (54:15) not (5:19) (7:19) (7:22) (11:6) (12:25) (13:23) (14:1) (14:13) (14:15) (14:19) (14:23) (14:24) (17:18) (20:3) (32:5) (32:8) (35:1) (35:16) (35:18) (36:6) (36:11) (36:15) (36:19) (37:7) (37:9) (37:12) (37:13) (37:18) (38:3) (38:7) (38:14) (38:15) (39:22) (40:1) (41:10) (43:10) (43:14) (44:2) (44:5) (45:25) (46:3) (46:16) (46:23) (47:10) (47:18) (47:24) (48:2) (48:4) (48:5) (48:14) (48:22) (48:24) (49:10) (49:15) (49:18) (49:22) (50:16) (50:19) (50:24) (52:9) (52:16) (52:18) (52:20) (52:23) (54:10) (54:13) note (46:3) (49:3) (49:22) notes (6:10) (55:12) nothing (8:17) notice (33:7) (33:14) (33:25) (38:18) notion (51:23) now (4:23) (47:22) nrs (54:10) number (43:23) (54:11) numbers (48:8)</p>	<p>out (4:12) (11:17) (11:25) (16:18) (27:8) (27:15) (27:25) (28:1) (30:21) (31:1) (38:12) (39:15) (43:19) (50:9) outside (7:4) (19:19) (21:10) (22:2) (23:5) (24:8) (24:10) (25:14) (26:20) (30:8) (31:14) over (9:18) (12:19) (17:24) (20:5) (40:13) (51:6) (53:4) overruled (13:3) (14:9) (15:14) (16:12) (16:23) (17:9) (19:8) (27:21) (31:24) own (40:21) (47:5) (49:7) (52:1) ownership (49:16) (50:13) (52:4)</p>
<p>O</p> <p>oath (43:2) object (15:20) (16:21) (22:5) (35:23) (36:7) (42:4) objected (15:8) objecting (14:12) (37:17) objection (12:23) (13:15) (15:7) (15:14) (16:8) (17:7) (19:6) (21:5) (21:19) (25:2) (27:19) (28:17) (31:22) (34:20) (40:14) (41:21) (43:18) observe (48:6) observing (26:16) occupancy (49:4) (49:16) (50:13) (51:25) (52:13) (52:21) occupants (50:15) occur (44:2) (48:6) occurred (37:10) october (9:8) (10:25) (12:1) (13:10) (14:5) (17:14) (17:22) (18:10) (20:25) (45:7) (47:13) (47:14) (49:14) (50:16) off (5:1) (7:7) (12:12) (40:10) offense (39:23) (47:13) (48:6) offer (4:15) (4:22) (39:11) okay (4:8) (4:24) (7:25) (8:12) (9:19) (11:9) (12:13) (15:3) (17:1) (17:13) (18:19) (19:11) (19:16) (19:22) (20:17) (22:11) (23:10) (23:13) (25:8) (25:25) (26:8) (26:11) (27:4) (27:23) (28:14) (29:13) (29:25) (30:10) (33:6) (33:10) (33:17) (34:5) (34:9) (35:10) (36:24) (38:23) (41:18) (41:23) (42:12) (43:5) (43:22) (44:19) (45:21) (46:17) old (10:13) (16:5) (16:7) (16:13) oldest (10:14) once (27:5) one (4:16) (34:12) (35:7) (35:19) (41:17) (51:23) (52:1) (52:4) (52:15) only (6:22) (21:6) (47:20) (50:15) (50:19) open (25:23) (33:23) opened (26:5) opening (8:3) opine (37:12) (38:6) order (6:15) (12:7) (36:22) (37:7) (37:24) (37:25) (38:17) (39:5) (39:25) (40:16) (41:1) (41:2) (41:10) (41:12) (42:11) (42:13) (44:11) (47:19) (47:22) (48:12) (50:20) ordered (17:5) (50:21) original (55:12) other (7:11) (7:17) (18:4) (36:14) (36:18) (36:21) (39:5) (39:23) (40:6) (41:15) (42:19) (43:11) (44:2) (44:12) (47:23) (53:6) otherwise (48:17) our (46:22) (50:3)</p>	<p>P</p> <p>package (7:13) (7:16) page (3:2) pain (21:25) panel (21:15) (26:21) panels (21:11) part (41:22) parties (4:19) party (54:14) path (36:17) peace (1:14) pending (7:13) people (48:9) permanently (48:6) permission (34:18) person (40:22) (47:4) (47:6) (54:11) (54:15) personal (17:17) personally (16:15) phone (18:22) (19:1) (43:23) photographs (20:21) pick (12:12) (12:16) pictures (26:19) piece (10:4) pitch (19:3) place (27:9) (55:13) placed (13:7) (13:12) (13:24) (14:2) (14:5) (15:5) (15:16) (17:3) places (14:25) plaintiff (1:8) planning (41:13) plead (4:16) please (8:20) point (7:14) (10:4) (18:5) (26:9) (29:19) (37:16) (40:15) (46:11) (49:2) police (43:14) (48:8) (48:9) position (7:20) (46:22) (51:19) possessory (51:24) potentially (50:2) prelim (5:20) (5:24) (6:1) preliminary (1:8) (4:14) (5:2) (6:23) (21:5) (37:15) (38:8) (39:8) (39:10) (40:5) (42:5) (44:6) (48:2) (50:3) presented (52:10) previously (6:22) (13:22) (46:1) prior (13:4) (13:10) (14:5) (28:23) (30:17) (35:6) (40:5) probable (5:12) (6:13) probably (36:2) problem (44:15) proceed (4:13) (8:25) (24:4) proceeding (44:12) proceedings (1:13) (53:13) (55:10) prompted (16:17) proof (39:11) proper (14:8) (14:16) (14:23) property (51:25) (52:14) propose (24:22) proposed (20:16) (21:4) (24:7) protect (51:24) proved (51:3) provided (14:15) public (1:23) punch (22:8) (25:5) (31:14) punched (21:18) (22:1) (22:16) (22:20) (22:21) (24:25) (26:15) (29:24) (31:11) punching (30:20) purposes (5:1) (21:6) (37:15) (50:5) pursuant (12:6) (38:2) (38:4) (54:10) push (27:18)</p>

pushed	state
<p>pushed (27:7) (27:8) (27:16) (50:9)</p> <p>pushes (31:1)</p> <p>put (41:25)</p> <p>putting (38:25) (41:13)</p> <p>Q</p> <p>qualify (50:1) (50:11)</p> <p>question (13:20) (15:9) (22:12) (52:5)</p> <p>questioning (41:6) (42:5)</p> <p>questions (22:24) (32:13) (34:24) (35:16) (43:16) (44:23) (45:20) (45:22)</p> <p>quick (17:24) (51:9)</p> <p>R</p> <p>ready (4:13)</p> <p>reason (17:11) (36:8)</p> <p>reasonable (51:4)</p> <p>reasoning (36:25)</p> <p>rebuttal (46:21)</p> <p>recall (27:18) (28:13) (30:7) (33:13)</p> <p>recap (17:14)</p> <p>recess (32:21) (51:14)</p> <p>recognize (20:21)</p> <p>record (4:15) (6:11) (7:7) (7:9) (7:11) (7:20) (8:9) (8:22) (10:7) (10:9) (14:10) (45:24)</p> <p>redirect (44:25) (45:3)</p> <p>referring (50:19)</p> <p>reflect (10:7) (10:9) (34:15)</p> <p>reflected (55:11)</p> <p>regard (46:23) (48:24)</p> <p>regarding (18:1)</p> <p>rejected (4:23)</p> <p>relate (38:14)</p> <p>relative (39:21) (54:13)</p> <p>relevance (12:24) (16:9) (27:20) (31:23) (35:23) (41:8) (41:9) (41:19) (43:18)</p> <p>relevant (13:2) (40:8) (40:24) (42:1) (42:9) (42:10)</p> <p>remember (33:7) (44:1)</p> <p>renewed (11:13)</p> <p>rephrase (21:22) (22:10) (28:19)</p> <p>reported (1:25) (55:10)</p> <p>reporter (54:9) (55:19)</p> <p>reporter's (1:13) (54:1)</p> <p>represents (18:3)</p> <p>request (6:8)</p> <p>reserve (46:21)</p> <p>resided (32:9) (50:19)</p> <p>residence (11:24) (13:1) (13:23) (15:5) (17:15) (17:18) (22:3) (36:11) (38:15) (39:23) (40:1) (41:3) (45:17) (47:17) (49:13) (49:17) (49:19) (50:7) (51:1) (52:17) (52:18)</p> <p>resident (33:14)</p> <p>residential (5:5)</p> <p>residing (49:11) (50:23)</p> <p>resigning (11:21)</p> <p>respects (51:22)</p> <p>response (22:19) (22:21)</p> <p>rest (46:12)</p> <p>restate (13:20)</p> <p>restating (13:18)</p> <p>rests (46:18)</p> <p>retained (51:23)</p> <p>retaining (4:19)</p> <p>review (44:18)</p> <p>reviewed (51:17)</p> <p>revoked (4:23)</p> <p>richard (47:1)</p> <p>right (4:19) (6:4) (8:2) (8:5) (10:6) (11:23) (26:6) (29:18) (40:23) (41:1) (42:22) (46:15) (47:6) (47:15) (49:6) (49:16) (49:18) (50:25) (51:11) (51:25) (52:2) (52:6) (52:11) (52:14) (52:21) (52:22) (52:24)</p> <p>road (39:13)</p> <p>robert (1:25) (54:8) (54:18) (54:20) (55:9) (55:16) (55:18)</p> <p>rolling (10:24) (30:5)</p> <p>room (20:4) (20:10) (20:23) (20:25) (21:10) (23:12) (23:15) (23:18) (23:22) (23:25) (24:8) (25:12) (25:21) (25:23) (26:2) (26:16) (27:5) (27:14) (45:9)</p> <p>route (38:10)</p>	<p>rule (4:10)</p> <p>S</p> <p>said (6:18) (19:17) (20:10) (22:14) (22:16) (25:6) (34:6) (44:15) (48:12) (54:14) (54:15) (55:12)</p> <p>salazar (2:5) (8:8) (8:14) (8:23) (16:3) (25:10) (33:1) (33:22) (36:15) (37:9) (37:12) (39:15) (41:20) (43:1) (43:9) (44:17) (45:6) (45:23) (47:24) (49:19) (50:14) (50:21)</p> <p>s-a-l-a-z-a-r (8:24)</p> <p>same (5:18) (30:13) (36:21) (55:11)</p> <p>saw (23:5) (25:3) (25:5) (25:6) (25:14) (25:17) (31:18)</p> <p>say (9:22) (11:20) (14:4) (14:13) (17:17) (18:17) (26:19) (28:9) (28:12) (29:1) (38:21) (39:11) (39:25) (40:25) (46:2)</p> <p>saying (14:20) (14:21) (22:23) (27:13) (30:7) (37:21) (40:16) (40:18) (41:20)</p> <p>says (38:19) (40:20) (42:13)</p> <p>scared (32:2) (32:4)</p> <p>screaming (50:10)</p> <p>seated (8:20)</p> <p>second (22:21) (35:7) (39:15) (46:8)</p> <p>security (54:11)</p> <p>see (10:1) (15:9) (19:12) (19:14) (19:25) (21:14) (21:17) (22:17) (23:24) (24:2) (24:15) (24:18) (26:1) (28:6) (41:6) (41:7) (41:9) (41:19) (44:2) (48:11)</p> <p>seen (39:18)</p> <p>sense (5:17)</p> <p>sequence (30:23)</p> <p>served (4:21)</p> <p>set (6:10)</p> <p>several (51:22)</p> <p>sexual (16:24)</p> <p>shape (42:7)</p> <p>she (14:18) (14:21) (14:24) (15:9) (15:11) (15:23) (15:24) (16:7) (16:13) (17:8) (18:3) (22:16) (22:22) (25:3) (25:4) (25:6) (35:3) (35:4) (35:19) (35:20) (35:21) (35:22) (36:5) (36:6) (36:25) (37:3) (37:6) (37:18) (37:20) (37:21) (37:23) (39:22) (40:1) (41:20) (47:6) (47:24) (48:2) (48:3) (48:5) (48:7) (48:14) (49:22) (49:23)</p> <p>she'll (17:12)</p> <p>shorthand (55:12)</p> <p>shouldn't (47:21)</p> <p>shove (27:24) (27:25)</p> <p>shoved (27:22) (28:1)</p> <p>show (14:16) (20:15) (50:24)</p> <p>shown (8:10)</p> <p>shows (47:9) (49:9)</p> <p>signed (33:1) (33:7) (34:7) (34:12) (54:18) (55:16)</p> <p>since (5:15) (7:2) (11:8) (17:19) (32:9) (35:18) (36:6) (39:23) (39:25) (40:1) (40:2) (49:10)</p> <p>sister (16:3) (16:5) (16:24) (17:12) (34:25) (35:1) (35:18) (36:14) (36:21) (37:1) (37:4) (37:13) (38:7) (38:13) (39:19) (39:20) (42:6) (42:10) (43:11) (49:24)</p> <p>sister's (37:10) (49:23) (50:22)</p> <p>sit (4:7)</p> <p>sitting (28:8)</p> <p>slamming (29:21)</p> <p>sleeping (19:3)</p> <p>slight (51:3) (53:2)</p> <p>social (54:11)</p> <p>some (16:16) (29:19) (34:24) (35:16) (48:7)</p> <p>somebody (19:5) (21:18)</p> <p>someone (50:2)</p> <p>someone's (43:23)</p> <p>something (5:4) (16:17) (35:12)</p> <p>somewhere (49:21)</p> <p>sooner (48:18)</p> <p>sorry (14:10) (27:12) (35:7) (35:9) (43:8) (48:1)</p> <p>sounds (48:7)</p> <p>speak (9:12)</p> <p>specific (50:5) (50:11)</p> <p>specifically (49:4) (52:14)</p> <p>speculation (19:7) (21:20) (22:18) (28:18)</p> <p>spell (8:21)</p> <p>standing (26:6)</p> <p>start (23:2)</p> <p>state (1:4) (1:7) (1:21) (4:13) (8:7) (8:21) (8:25) (14:15) (14:23) (36:10) (37:20) (38:16) (40:20) (40:25) (46:11)</p>

stated

(46:22) (46:25) (47:18) (48:23) (49:1) (49:3) (50:1) (51:3)
 (51:16) (51:21) (54:3) (54:9) (55:2)
stated (13:19) (13:22) (14:1)
statement (22:6) (36:14) (43:19) (46:2) (47:25) (48:1)
 (49:23)
statements (8:3)
states (52:25)
state's (3:4) (6:7) (20:16) (21:4) (21:9) (24:7) (24:12)
 (24:22) (31:18) (49:4)
stating (14:18)
stay (9:18) (17:5) (38:17) (38:19) (38:21) (39:25) (40:17)
 (41:2) (41:10) (41:12) (44:11) (48:12) (48:16) (50:20)
staying (10:25)
step (7:4) (39:15)
stewart (9:13) (11:7) (13:13) (17:6) (50:15)
still (43:1) (45:17) (49:8) (50:17)
stipulate (40:15) (44:14)
structure (50:8)
submit (13:2) (14:7) (37:5) (47:8) (49:15) (50:6) (51:8)
sufficient (50:24)
suggestion (7:17)
suit (10:6)
support (51:4) (52:15)
supposed (48:12) (48:16) (48:22)
supreme (47:3)
sure (13:21) (23:1) (32:17) (36:15) (44:13) (45:25)
surprise (36:5)
sustain (15:1) (16:1) (22:9)
sworn (8:16)

T

table (24:19)
take (5:23) (17:24) (32:15) (33:22) (38:17) (51:9)
taken (1:15) (32:21) (48:18) (48:20) (51:14) (55:12)
taking (5:1)
talk (6:17) (17:25)
talked (34:16)
technically (5:12)
tell (8:16) (18:24)
telling (37:13) (38:7) (41:2)
terms (50:13)
testified (8:18) (25:4) (36:6) (37:18) (37:20) (39:19)
 (39:22) (48:5) (49:20) (50:6)
testify (14:17) (14:19) (14:24) (15:12) (37:23) (44:5)
 (46:15) (48:3) (49:24)
testifying (46:16)
testimony (18:6) (37:6) (40:9) (42:6) (47:15) (47:23)
 (52:10)
than (6:18)
thank (7:10) (8:1) (9:1) (10:10) (20:20) (21:8) (24:6)
 (32:19) (33:21) (34:21) (34:23) (42:3) (45:23) (51:12)
 (53:10) (53:11)
that (4:23) (5:9) (6:4) (6:5) (6:7) (6:21) (6:25) (7:3)
 (7:19) (7:22) (7:24) (9:14) (10:5) (11:13) (11:21) (11:24)
 (12:4) (12:6) (13:4) (13:10) (13:22) (14:4) (14:7) (14:16)
 (14:17) (14:18) (14:19) (14:21) (14:24) (15:1) (15:19)
 (15:24) (16:1) (16:17) (17:2) (17:11) (17:17) (17:18) (18:12)
 (19:23) (20:6) (20:8) (21:12) (21:24) (22:6) (22:22) (24:20)
 (24:22) (24:24) (25:3) (25:4) (26:9) (26:19) (26:22) (26:24)
 (28:9) (30:21) (31:11) (31:18) (32:9) (33:1) (33:2) (33:8)
 (33:11) (33:14) (33:22) (33:23) (34:1) (34:6) (34:12) (34:15)
 (34:16) (34:25) (35:15) (35:17) (35:19) (36:5) (36:11)
 (36:12) (36:19) (37:6) (37:10) (37:16) (37:18) (37:19)
 (37:20) (37:21) (38:2) (38:16) (38:18) (38:21) (38:25) (39:1)
 (39:7) (39:11) (39:19) (39:22) (39:23) (40:1) (40:3) (40:7)
 (40:12) (40:15) (40:25) (41:3) (41:7) (41:8) (41:13) (41:15)
 (41:17) (41:19) (41:21) (41:24) (41:25) (42:5) (42:11)
 (42:13) (42:20) (43:3) (43:10) (43:11) (43:15) (43:20) (44:2)
 (44:5) (44:15) (44:20) (44:21) (45:11) (45:13) (45:15) (46:3)
 (46:5) (46:22) (46:25) (47:3) (47:5) (47:7) (47:8) (47:9)
 (47:11) (47:16) (47:18) (47:20) (47:23) (47:24) (47:25)
 (48:3) (48:4) (48:5) (48:6) (48:13) (48:14) (48:17) (48:20)
 (48:23) (49:4) (49:9) (49:15) (49:16) (49:19) (49:20) (49:22)
 (49:24) (50:1) (50:6) (50:8) (50:20) (50:22) (50:23) (50:24)
 (51:2) (51:4) (51:6) (51:20) (51:21) (51:23) (52:9) (52:10)
 (52:11) (52:15) (52:16) (52:17) (52:20) (52:23) (53:1) (53:7)
 (54:10) (54:13) (55:10) (55:11)

today

that's (7:19) (22:17) (22:23) (29:23) (34:6) (34:12)
 (37:14) (38:9) (40:18) (41:19) (41:25) (42:7) (42:14) (47:1)
 (47:20) (52:8)
the (1:4) (1:7) (1:14) (1:21) (1:23) (4:5) (4:8) (4:9) (4:13)
 (4:14) (4:15) (4:16) (4:19) (4:22) (4:24) (4:25) (5:1) (5:3)
 (5:5) (5:7) (5:8) (5:12) (5:14) (5:15) (5:18) (5:19) (5:23)
 (5:24) (6:1) (6:2) (6:7) (6:10) (6:13) (6:14) (6:20) (6:23)
 (6:25) (7:5) (7:7) (7:9) (7:11) (7:13) (7:16) (7:19) (7:20)
 (7:21) (7:25) (8:2) (8:5) (8:7) (8:9) (8:12) (8:16) (8:17)
 (8:20) (8:22) (8:23) (8:25) (9:10) (9:16) (10:1) (10:7) (10:8)
 (10:9) (10:10) (11:1) (11:3) (11:6) (11:7) (11:10) (11:18)
 (11:25) (12:10) (12:16) (13:1) (13:3) (13:4) (13:13) (13:17)
 (13:18) (13:20) (13:22) (14:7) (14:9) (14:13) (14:15) (14:18)
 (14:23) (15:1) (15:4) (15:8) (15:9) (15:10) (15:11) (15:13)
 (15:14) (15:15) (15:16) (16:1) (16:11) (16:12) (16:17)
 (16:23) (17:2) (17:6) (17:9) (17:15) (17:19) (17:22) (18:1)
 (18:3) (18:5) (18:9) (18:22) (19:1) (19:8) (20:2) (20:19)
 (21:7) (21:10) (21:14) (21:18) (21:22) (22:2) (22:3) (22:7)
 (22:8) (22:9) (22:12) (22:16) (22:19) (22:21) (22:23) (23:14)
 (23:22) (23:24) (24:5) (24:8) (24:10) (24:13) (24:16) (24:19)
 (24:20) (25:5) (25:6) (25:12) (25:14) (26:2) (26:4) (26:5)
 (26:6) (26:9) (26:12) (26:14) (26:15) (26:16) (26:20) (26:21)
 (26:25) (27:5) (27:8) (27:9) (27:15) (27:21) (27:25) (28:1)
 (28:2) (28:8) (28:20) (28:24) (29:19) (29:21) (30:1) (30:2)
 (30:4) (30:13) (30:16) (30:20) (30:23) (30:24) (31:1) (31:9)
 (31:11) (31:14) (31:16) (31:18) (31:24) (32:4) (32:8) (32:17)
 (33:18) (33:20) (33:23) (33:25) (34:6) (34:10) (34:12)
 (34:15) (34:22) (35:7) (35:19) (35:24) (35:25) (36:8) (36:10)
 (36:11) (36:13) (36:14) (36:17) (36:19) (36:20) (36:21)
 (36:24) (37:6) (37:7) (37:13) (37:15) (37:17) (37:20) (37:24)
 (37:25) (38:4) (38:5) (38:7) (38:9) (38:12) (38:15) (38:16)
 (38:17) (38:18) (38:19) (38:23) (38:25) (39:4) (39:5) (39:8)
 (39:10) (39:12) (39:14) (39:16) (39:18) (39:19) (39:22)
 (39:25) (40:2) (40:5) (40:16) (40:17) (40:18) (40:25) (41:4)
 (41:5) (41:6) (41:7) (41:12) (41:15) (41:18) (41:24) (42:6)
 (42:9) (42:13) (42:14) (42:17) (42:19) (42:22) (43:1) (43:4)
 (43:5) (43:7) (43:8) (43:9) (43:14) (44:11) (44:12) (44:13)
 (44:17) (44:19) (44:20) (44:25) (45:6) (45:19) (45:21)
 (45:23) (45:24) (45:25) (46:1) (46:7) (46:10) (46:11) (46:17)
 (46:18) (46:20) (46:22) (46:25) (47:3) (47:4) (47:8) (47:9)
 (47:12) (47:16) (47:18) (47:20) (47:22) (48:2) (48:8) (48:11)
 (48:13) (48:23) (49:1) (49:6) (49:8) (49:9) (49:13) (49:15)
 (49:19) (49:24) (50:1) (50:6) (50:7) (50:8) (50:9) (50:11)
 (50:12) (50:13) (50:15) (50:16) (50:17) (50:19) (50:22)
 (50:25) (51:3) (51:4) (51:9) (51:16) (51:17) (51:19) (51:20)
 (51:21) (51:23) (51:24) (51:25) (52:2) (52:5) (52:7) (52:8)
 (52:9) (52:10) (52:11) (52:12) (52:14) (52:15) (52:17)
 (52:18) (52:19) (52:22) (52:24) (53:2) (53:6) (53:8) (53:10)
 (54:9) (54:11) (55:10) (55:11)
them (5:21) (5:23) (6:23) (7:16) (8:10) (12:12) (12:14)
 (12:16) (41:17) (53:5)
then (6:14) (9:17) (10:14) (14:1) (14:4) (15:11) (22:2)
 (22:22) (25:1) (25:17) (30:11) (34:10) (37:11) (37:24)
there (5:4) (5:9) (10:6) (12:16) (19:19) (21:11) (26:6)
 (30:19) (33:3) (37:4) (37:8) (38:1) (38:4) (40:2) (40:12)
 (40:16) (40:23) (41:1) (41:10) (41:12) (42:13) (42:14) (45:9)
 (47:15) (47:19) (47:21) (48:20) (49:10) (50:8) (50:19) (50:20)
there's (53:2)
these (7:2) (20:21) (20:24) (24:7) (51:5)
they (5:19) (5:20) (6:22) (10:13) (21:7) (43:16) (43:17)
 (43:23)
thing (7:11)
think (22:12) (36:16) (41:25) (42:9) (42:10) (52:8)
this (4:12) (4:22) (6:12) (7:14) (11:11) (11:13) (14:16)
 (15:21) (15:22) (15:23) (18:1) (18:5) (22:2) (26:16) (26:17)
 (32:14) (34:2) (36:21) (37:15) (38:2) (38:6) (38:14) (39:13)
 (40:4) (40:6) (40:8) (40:15) (44:23) (45:20) (45:25) (46:11)
 (48:14) (48:25) (49:2) (50:5) (52:8) (52:19) (54:12)
those (6:5) (24:12) (26:19)
through (19:15) (20:4) (20:10) (21:1) (21:4) (23:18)
 (25:21) (26:1) (26:4) (26:5) (27:7) (28:7) (30:16) (30:24)
 (31:9)
thus (52:4) (53:1)
time (4:12) (4:21) (4:22) (9:10) (9:16) (11:1) (11:4)
 (11:25) (12:4) (16:16) (18:13) (26:17) (26:25) (28:10)
 (32:14) (35:25) (40:8) (45:20) (47:4) (52:19) (55:13)
today (6:10) (7:23) (49:9) (52:11)

together

yes

together (5:13) (6:6) (6:24) (7:2) (7:17) (10:11) (11:10)
 told (46:5) (49:24)
 tone (28:15)
 too (46:5)
 top (33:25)
 towards (12:25) (23:11)
 township (1:4)
 transcript (1:13) (35:13) (39:9) (39:11) (39:18)
 trial (5:9) (5:16) (6:2) (6:5) (6:10) (6:16) (7:22) (7:23)
 trials (5:17) (7:3)
 tried (47:18)
 troy (47:1)
 true (55:11)
 truth (8:16) (8:17) (37:13) (38:7)
 trying (19:5) (19:9) (23:18) (24:3) (25:6) (25:17) (25:20)
 (25:23) (36:17) (38:12) (39:3) (40:4) (40:25)
 type (12:6) (12:9) (23:17)

U

unconditional (52:6) (52:22) (52:24)
 under (43:1)
 underneath (34:10)
 understand (7:19) (36:21) (41:5) (42:2) (42:24) (43:3)
 (51:19)
 understanding (4:22) (6:4) (6:9) (39:12) (39:17) (48:3)
 unqualified (50:25)
 until (12:1) (47:10)
 up-to-date (37:9)
 usually (5:14) (7:1)

V

vacate (33:8) (33:15) (33:25) (47:10)
 vegas (1:4) (4:1) (55:20)
 versus (40:20) (47:1) (51:16) (51:21)
 very (16:2) (25:9) (40:7) (46:10)
 victim (13:19) (38:6) (38:19) (40:4) (40:6) (40:17) (46:1)
 (48:13) (49:19) (50:6) (50:9) (50:14)
 victim's (36:14) (42:6)
 video (19:1)
 view (22:2) (22:7)
 views (24:8) (24:12)
 violation (48:19) (48:21)
 violence (4:20) (5:9) (5:15) (6:15)
 visited (35:18) (37:1) (37:2)
 visiting (38:13)
 voice (28:15)

W

waiting (42:19)
 waive (5:20) (6:4) (7:17)
 waived (5:19) (6:23)
 walking (30:21)
 wall (29:21)
 want (8:3) (14:10) (15:2) (22:10)
 wanted (7:12) (7:16)
 wants (38:10)
 was (4:15) (4:23) (7:1) (7:7) (7:12) (7:17) (8:17) (10:18)
 (10:25) (11:3) (11:13) (11:18) (12:6) (12:19) (12:21) (13:1)
 (13:5) (13:7) (13:10) (13:12) (13:18) (13:23) (14:4) (15:16)
 (16:7) (16:13) (16:24) (17:3) (17:5) (17:14) (18:11) (18:25)
 (19:5) (19:9) (19:13) (19:17) (19:19) (19:23) (20:2) (20:5)
 (20:8) (20:14) (22:12) (22:19) (22:21) (22:23) (25:20)
 (25:22) (25:23) (26:6) (26:9) (26:13) (26:24) (27:3) (27:9)
 (27:13) (28:8) (28:15) (29:5) (29:7) (29:9) (29:23) (30:7)
 (30:19) (30:21) (31:5) (31:20) (33:2) (33:4) (33:11) (35:12)
 (36:11) (36:19) (37:6) (37:7) (37:13) (37:16) (37:17) (37:18)
 (38:4) (38:7) (39:3) (39:7) (39:18) (39:20) (39:23) (40:12)
 (41:10) (41:12) (41:17) (41:20) (45:6) (46:1) (47:9) (47:15)
 (47:16) (47:18) (47:24) (48:2) (48:20) (48:22) (49:8) (49:11)
 (49:20) (50:8) (50:16) (50:20) (50:23) (52:16)
 wasn't (6:9) (15:4) (37:3) (40:12) (42:14)
 way (6:25) (27:7) (27:8) (27:15) (27:25) (28:1) (30:13)
 (31:1) (42:7) (50:9)
 wearing (10:5) (10:6)
 weeks (11:20)
 welcome (20:8)
 well (5:13) (5:15) (7:24) (12:17) (15:25) (16:2) (25:9)

(33:14) (34:12) (50:4)
 went (23:12) (27:9) (28:2) (28:7) (30:16) (50:10) (51:16)
 were (9:10) (9:16) (16:15) (16:16) (16:20) (18:10) (19:12)
 (19:25) (25:12) (26:16) (31:25) (32:4) (33:13) (33:16) (41:7)
 (44:5) (48:9) (50:14)
 what (5:8) (5:11) (6:18) (12:9) (13:18) (14:20) (16:20)
 (18:15) (18:24) (18:25) (19:2) (20:21) (21:9) (21:17) (21:21)
 (21:24) (22:12) (22:14) (23:17) (24:2) (24:18) (25:22) (27:5)
 (28:6) (28:12) (28:15) (30:7) (30:17) (32:5) (36:25) (38:10)
 (38:12) (38:18) (40:18) (41:15) (41:20) (42:15) (43:17)
 (49:24)
 what's (10:21) (20:15) (33:19) (36:8) (37:21) (37:23)
 (37:25)
 when (5:19) (5:20) (6:22) (9:22) (11:16) (13:7) (14:1)
 (18:17) (26:12) (26:13) (26:24) (29:23) (31:11) (31:21)
 (35:22) (45:25) (47:6)
 where (9:10) (12:14) (14:13) (15:23) (18:10) (23:11) (45:6)
 (45:11) (45:13) (45:15) (51:20) (52:8)
 wherein (37:7)
 whether (12:25) (14:24) (37:12) (38:3) (38:7) (41:9)
 (45:25) (47:4) (49:22) (50:16) (52:5)
 which (36:15) (38:17) (40:23) (50:11) (51:17)
 while (49:8) (51:21) (52:4)
 white (40:20) (47:1) (49:3) (51:17) (51:21)
 who (8:16) (9:16) (9:22) (18:17) (29:9) (48:9) (48:13)
 whole (8:17) (36:16)
 whom (16:20)
 why (15:4) (15:13) (15:16) (15:19) (17:2) (17:5) (22:23)
 (36:25) (37:1) (40:12)
 will (4:23) (5:14) (6:17) (6:18) (6:20) (7:4) (10:9) (13:2)
 (15:1) (20:15) (22:9) (28:19) (34:22) (35:16) (35:24) (44:14)
 (51:8) (51:11) (53:4) (53:5) (53:7)
 window (19:4) (19:5) (19:10) (19:15) (20:2) (20:3) (20:4)
 (20:11) (20:13) (20:23) (20:25) (21:10) (21:18) (22:1) (23:5)
 (23:8) (23:12) (23:19) (24:3) (24:20) (24:24) (24:25) (25:5)
 (25:15) (25:21) (25:24) (26:2) (26:4) (26:5) (26:7) (26:9)
 (26:12) (26:14) (26:15) (27:7) (27:10) (29:24) (30:20)
 (30:24) (31:12) (31:14) (31:16)
 windows (23:15)
 with (4:14) (4:20) (5:1) (5:8) (6:12) (7:15) (9:16) (11:1)
 (11:3) (12:3) (28:23) (31:5) (33:2) (33:19) (35:1) (36:21)
 (37:10) (38:13) (39:7) (40:5) (40:6) (41:7) (42:15) (42:20)
 (43:11) (46:23) (48:24) (51:2) (53:5)
 within (11:16) (11:20) (54:12)
 without (7:18) (50:22)
 witness (8:6) (8:23) (13:17) (14:16) (33:18) (36:19)
 (39:12) (39:14) (39:16) (43:4) (43:19) (44:18) (44:23) (46:8)
 (47:25) (48:4) (49:23) (50:2)
 witnesses (2:3) (4:11) (8:4) (38:20) (40:17) (48:10)
 (48:17) (48:22) (50:3)
 work (12:11)
 would (4:9) (4:25) (6:5) (6:7) (6:14) (7:22) (7:23) (8:7)
 (9:7) (9:18) (12:11) (12:14) (12:16) (14:7) (16:21) (27:1)
 (36:5) (37:5) (38:17) (39:1) (39:11) (42:4) (44:17) (44:20)
 (46:3) (46:11) (46:25) (47:8) (48:17) (49:3) (49:15) (49:22)
 (50:1) (50:5) (50:11) (51:6)
 written (47:25)

Y

yeah (32:1)
 year (47:12)
 year-old (10:15)
 years (28:25)
 yelling (31:5) (50:10)
 yes (5:22) (5:25) (9:9) (9:15) (9:25) (10:3) (10:12) (10:17)
 (10:20) (11:2) (11:12) (11:15) (11:22) (12:5) (12:18) (12:22)
 (13:11) (13:25) (14:3) (14:6) (14:11) (14:21) (15:15) (15:18)
 (16:4) (16:19) (17:4) (17:20) (18:2) (18:8) (18:14) (18:21)
 (19:13) (19:18) (19:24) (20:1) (20:12) (20:14) (20:19)
 (20:23) (21:2) (21:13) (21:16) (21:23) (22:1) (22:4) (23:6)
 (23:9) (23:16) (23:21) (23:23) (24:1) (24:5) (24:9) (24:11)
 (24:14) (24:17) (24:21) (24:23) (25:11) (25:13) (25:16)
 (25:19) (26:3) (26:18) (26:23) (27:15) (27:17) (28:3) (28:5)
 (28:11) (29:2) (29:4) (29:6) (29:8) (29:15) (30:3) (30:6)
 (30:12) (30:21) (30:22) (30:25) (31:2) (31:4) (31:6) (31:8)
 (31:10) (31:13) (31:15) (31:17) (31:20) (32:3) (33:5) (33:9)
 (33:12) (33:16) (33:20) (34:3) (34:4) (34:8) (34:11) (34:14)

yet

your

{34:17} {35:5} {35:20} {36:4} {36:23} {39:1} {39:16} {41:11}
 {41:14} {41:17} {42:16} {42:17} {42:18} {42:21} {43:4} {43:7}
 {43:13} {43:24} {45:10} {45:12} {45:14} {45:16} {46:19}
yet {39:18}
you {5:3} {6:10} {6:19} {6:20} {7:10} {8:1} {8:3} {8:25}
 {9:1} {9:10} {9:12} {9:16} {9:20} {9:22} {10:1} {10:4} {10:10}
 {10:11} {10:18} {10:23} {11:1} {11:3} {11:10} {11:13} {12:9}
 {12:14} {12:16} {13:4} {13:7} {13:22} {14:1} {14:10} {14:18}
 {14:20} {15:1} {15:4} {15:13} {15:16} {16:3} {16:15} {16:16}
 {16:20} {17:5} {17:10} {18:10} {18:17} {18:20} {18:22}
 {18:24} {19:12} {19:14} {19:17} {19:25} {20:10} {20:15}
 {20:20} {20:21} {21:8} {21:14} {21:17} {21:21} {21:24}
 {22:10} {22:14} {23:2} {23:4} {23:5} {23:14} {23:20} {23:22}
 {23:24} {24:2} {24:6} {24:15} {24:18} {25:12} {25:14} {25:17}
 {26:1} {26:16} {26:20} {27:16} {27:18} {27:24} {27:25} {28:4}
 {28:6} {28:23} {29:1} {30:7} {30:11} {30:20} {31:1} {31:16}
 {31:21} {31:25} {32:4} {32:19} {33:1} {33:7} {33:13} {33:21}
 {33:22} {33:23} {33:24} {34:6} {34:7} {34:12} {34:21} {34:23}
 {34:24} {34:25} {35:1} {35:25} {36:1} {36:5} {37:1} {37:20}
 {38:25} {39:8} {39:15} {40:18} {40:20} {41:7} {41:13} {41:24}
 {42:3} {42:15} {43:1} {43:3} {43:10} {43:14} {43:17} {43:19}
 {43:23} {44:2} {44:5} {45:23} {46:8} {51:12} {53:10} {53:11}
your {4:13} {5:12} {6:3} {7:10} {8:6} {8:21} {9:7} {10:18}
 {10:21} {12:20} {13:2} {13:5} {13:23} {15:5} {16:5} {16:18}
 {17:2} {17:15} {17:21} {17:23} {18:12} {18:15} {20:13}
 {20:25} {21:3} {22:5} {22:12} {23:4} {23:5} {23:7} {24:8}
 {25:2} {27:11} {27:14} {31:3} {32:14} {32:15} {33:18} {34:25}
 {35:1} {35:11} {35:18} {36:6} {36:7} {36:8} {36:25} {37:5}
 {37:16} {39:3} {40:21} {43:11} {44:10} {44:23} {45:17}
 {45:19} {46:5} {46:9} {46:11} {46:14} {47:8} {47:20} {47:22}
 {48:11} {49:2} {50:4} {51:2} {51:6}



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,
Plaintiff,

vs.

JOSHUA MURCIA,
Defendant.

CASE NO: C-22-362539-1
DEPT. XXXII

BEFORE THE HONORABLE CHRISTY CRAIG, DISTRICT COURT JUDGE
TUESDAY, MAY 31, 2022

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
AMENDED PETITION FOR WRIT OF HABEAS CORPUS; STATUS
CHECK: RESET TRIAL DATE**

APPEARANCES:

For the State:

MELANIE H. MARLAND, ESQ.
Deputy District Attorney

For the Defendant:

JACQUELINE B. CARMAN, ESQ.
Deputy Public Defender

RECORDED BY: KAIHLA BERNDT, COURT RECORDER

1 Las Vegas, Nevada; Tuesday, May 31, 2022

2
3 [Proceeding commenced at 8:18 a.m.]

4 THE COURT: All right, State of Nevada versus Joshua
5 Murcia on page 1, C362539. Mr. Murcia, come on up here with your
6 attorney. I have Ms. Carman on behalf of Mr. Murcia, the State is
7 represented by Ms. Marland.

8 This is the defense's motion -- or pardon me, writ with regard
9 to the residential burglary and the home invasion. I've read through two
10 of them -- I mean, two of them -- I read through them, and I have some
11 questions. And most of them revolve around, of course, as you guessed
12 probably, is the ownership or his ability to be inside that particular
13 apartment.

14 Ms. Marland, is it fair to say that he had -- that he was on the
15 lease?

16 MS. MARLAND: That's correct, Your Honor.

17 THE COURT: Okay.

18 MS. MARLAND: He was on the lease. I believe it had been
19 renewed in March of 2021. [Indiscernible] takes place prior to March
20 2022 and he was asked to leave the residence a month later due to the
21 accusations in the other case.

22 THE COURT: Right, but I don't think that that can happen
23 unless there's been -- I mean, was there an order?

24 MS. MARLAND: There was an order, Your Honor, in the
25 other case. And I believe Ms. Carman or myself may have attached it

1 as an exhibit to have no contact with any witnesses in the case. And the
2 incident in the other case involved the victim in this case, this younger
3 sister, and the incident took place at this residence. Obviously, the
4 victim in our instant case would be a witness in that she is the part
5 leaseholder of the residence, the incident took place at her house. So,
6 for purposes of any trial --

7 THE COURT: I thought it was a cousin or someone else that
8 was --

9 MS. MARLAND: No, it was --

10 THE COURT: -- the victim in this -- in that other case.

11 MS. MARLAND: -- younger sister, Your Honor, who had
12 come in from California.

13 THE COURT: So, the younger sister lives at that apartment?

14 MS. MARLAND: No, the younger sister was visiting from
15 California and often --

16 THE COURT: So, she doesn't live there.

17 MS. MARLAND: -- no -- and often visited at the residence is
18 my understanding from reading that transcript. I understand Your Honor
19 may --

20 THE COURT: That was my understanding, as well.

21 MS. MARLAND: And my understanding is, so she came and
22 she had visited --

23 THE COURT: Younger sister is the younger sister of
24 Defendant's wife?

25 MS. MARLAND: Correct, of Leslie.

1 THE COURT: Okay. She lives in California --
2 MS. MARLAND: Was visiting --
3 THE COURT: All right.
4 MS. MARLAND: -- and had visited before.
5 THE COURT: Okay.
6 MS. MARLAND: And in this specific -- in the incident involving
7 the other case, the allegations took place at this residence right here.
8 THE COURT: Okay.
9 MS. MARLAND: So, the Defendant was asked to leave the
10 residence, no longer had a key, no longer had access to that --
11 THE COURT: Well, I don't want to get to the key part --
12 MS. MARLAND: Okay.
13 THE COURT: -- so much right now. I'm just interested in that
14 underlying order.
15 MS. MARLAND: Yes, Your Honor.
16 THE COURT: Because I'm not sure that that underlying order
17 could prevent him from being at a house that he has -- that he's on the
18 lease.
19 MS. MARLAND: My --
20 THE COURT: Unless there's a -- maybe if there was a
21 temporary restraining order or if he'd been served with something.
22 MS. MARLAND: Well, and Your Honor, my understanding,
23 based on the testimony provided by Ms. Salazar is that the Defendant
24 left the residence not only because the victim in the other case was
25 allegedly his -- her sister --

1 THE COURT: Right.

2 MS. MARLAND: -- but also because there was a no contact
3 order that was put in place by that other Court indicating the Defendant
4 was to have no contact with the victim or any witnesses.

5 THE COURT: So, that's an interesting question. Can a Court
6 remove someone from a place that they're able to be residents at --

7 MS. MARLAND: And I --

8 THE COURT: -- and lawful authority to be there?

9 MS. MARLAND: -- and I'm not sure that the Court order is
10 what made the Defendant move out. My understanding -- and I can't
11 remember if this was on the stand, but at least speaking with Ms.
12 Salazar was that the Defendant left the marital household within a month
13 after the incident took place due to the allegations there. And they were
14 still -- the allegations in that other --

15 THE COURT: No, I got that. He left a month after --

16 MS. MARLAND: So --

17 THE COURT: -- what date?

18 MS. MARLAND: -- I believe the initial allegations took place in
19 -- the actual incident took place in March or April -- spring of 2020.

20 Victim in the other case --

21 MS. CARMAN: Your Honor, I'm sorry. I --

22 MS. MARLAND: -- did not report it for a year.

23 MS. CARMAN: -- can't hear. I'm sorry. I can't hear. I'm
24 sorry.

25 MS. MARLAND: Oh.

1 THE COURT: Oh, it's okay.

2 MS. MARLAND: I believe the initial allegations took place a
3 year prior. It was a delayed disclosure that took place some time in
4 March or April of last year.

5 THE COURT: Okay.

6 MS. MARLAND: At which point, Ms. Salazar, within a few
7 weeks of renewing the lease with Mr. Murcia, Mr. Murcia moved out,
8 gave up his key to the apartment, was living with his father. And that
9 was my understanding of what took place. Now, I don't know whether
10 the Defendant moved out due to the Court order, but I do know that he
11 moved out after Ms. Salazar was made aware of the allegations in the
12 other case.

13 THE COURT: All right. Stand by for a second.

14 MS. MARLAND: Yes, Your Honor.

15 THE COURT: Did you attach that -- I don't even know if it can
16 be called an order. I think it was just in the minutes.

17 MS. MARLAND: It's a minute order.

18 MS. CARMAN: It was a minute order. I did.

19 I just want to clarify something though --

20 THE COURT: Well, wait a minute. Do -- you attached it to
21 the writ or to the return -- or the reply? Pardon me.

22 MS. CARMAN: I'm not 100 percent sure, Your Honor.

23 MS. MARLAND: I don't believe it would be the reply. I
24 believe it may have been the writ.

25 MS. CARMAN: I know it wasn't the reply. I'm not sure if I

1 attached it to the writ. It was an exhibit at the preliminary hearing
2 though.

3 THE COURT: Right. I just --

4 MS. CARMAN: I'm not sure if I attached it, I apologize --

5 THE COURT: All right

6 MS. CARMAN: -- if I did not.

7 THE COURT: That's okay. I just wanted to get -- I mean, I
8 think I went and looked at the minutes, and I --

9 MS. MARLAND: And --

10 THE COURT: -- it was not clear to me what the Court --
11 what's it attached to?

12 MS. MARLAND: My opposition.

13 THE COURT: Okay, let me find --

14 MS. MARLAND: It's Exhibit 2.

15 THE COURT: -- your opposition because I want to look at it
16 again. Because I'm -- just based off my notes, I didn't look at it again.

17 MS. CARMAN: And Your Honor, when you're done looking at
18 that, if I could just respond briefly to something.

19 THE COURT: Yeah, yeah, yeah, yeah.

20 MS. CARMAN: Thank you.

21 THE COURT: All right.

22 [Colloquy between counsel and the Defendant]

23 THE COURT: Was that for 8/28? Was that when you filed it?

24 MS. MARLAND: My opposition was filed --

25 THE COURT: This says return, so --

1 MS. MARLAND: -- yes, 4/28.

2 THE COURT: -- I was looking for opposition. Okay.

3 Yeah so, the minutes just say no contact with victim. They
4 don't say anything about the witness. I'm reading it here, it says, no
5 contact with victim, stay away from victim.

6 MS. CARMAN: And --

7 MS. MARLAND: I have stay away from victim and witnesses
8 in the 6/29/21 minute order. Did I not --

9 THE COURT: I'm looking at the 6/15 minute order. Stand by,
10 there's two minute orders. I only have one minute order from June --
11 well, hang on, let me check because the dates on the minute orders are
12 weirdly done.

13 Prelim is set for 6/29. I have 6/15 minute order.

14 MS. MARLAND: So, it'd be the 6/29 minute order, I believe.

15 THE COURT: I don't have a 6/29 minute order attached,
16 unless it's someplace else. Stand by, let me look. That's Exhibit 1. So,
17 I have Exhibit 1 and then I have Exhibit 2, which is the 6/15 minute
18 order.

19 MS. MARLAND: Did -- I may have attached the wrong order;
20 that may be my mistake.

21 THE COURT: All right because it says no contact with victim,
22 stay away from victim.

23 MS. MARLAND: And I apologize. That would be my mistake,
24 Your Honor, I must have attached the wrong order. It is the 6/29/21
25 minute order in Case Number 21CR027412.

1 THE COURT: Okay. Go ahead, Ms. Carman.

2 MS. CARMAN: I was going to just clarify for the record, and I
3 think I put this in my writ, as well as my reply, there was actually
4 testimony by Ms. Salazar that she was not a witness in that case. So, I
5 just wanted to point that out, so --

6 MS. MARLAND: And --

7 THE COURT: Is that true?

8 MS. CARMAN: -- that was kind of an important --

9 MS. MARLAND: She was not a witness for purposes of
10 preliminary hearing, Your Honor. But as Your Honor well knows, a
11 witness for purposes of preliminary hearing is not necessarily a witness
12 in the case generally.

13 THE COURT: So, how would he know that she's a witness?

14 MS. MARLAND: Well, the offense took place at their
15 residence.

16 THE COURT: That's not what I asked you.

17 MS. MARLAND: Well --

18 THE COURT: If the Court says stay away from witnesses,
19 and she said, I'm not a witness --

20 MS. MARLAND: Well, and that was the victim on the stand
21 when the -- and I believe the question that was asked was were -- did --
22 were you a witness at the hearing? And she was not. I'm not contesting
23 that.

24 THE COURT: All right.

25 MS. CARMAN: It's the transcript on pages, I believe, 34

1 through 36 that are relevant if Your Honor would like to review that.

2 THE COURT: So, here's -- so, was there other things you
3 want to argue, Ms. -- because frankly, I think I'm going to need an
4 evidentiary hearing. Because I mean, it really turns on -- it's clear that
5 he has the right to be in the home because he's on the lease. Until the
6 lease is done, he's not there. And the lease is in March, which is around
7 and about the time of the allegations. It's unclear to me why Ms.
8 Salazar would continue to be on a lease with him, why she hasn't
9 changed the lease, why she hasn't had him sign off; I don't understand
10 any of that.

11 But really the key thing is whether or not he's entitled under
12 that lease agreement to occupy the dwelling. And it's just not clear to
13 me enough to make a ruling about how that occurs. So, I think we need
14 to set an evidentiary hearing.

15 Yes, Ms. Marland? You're making those faces.

16 MS. MARLAND: Sorry, I just want to make sure I'm not
17 interrupting.

18 THE COURT: It's okay.

19 MS. MARLAND: I believe the testimony that was adduced at
20 preliminary hearing is sufficient to support a slight or marginal inference
21 the Defendant no longer had an absolute right of entry, which is the
22 standard for purposes of a burglary. I understand he was on the lease --

23 THE COURT: Well, I appreciate the fact that you're saying
24 that, but for purposes of this writ, I am not comfortable making that
25 finding based on the information that was provided to me. I reviewed

1 the preliminary hearing transcript, and I've reviewed the case law,
2 mostly *Truesdell* and *Henry*, and I just am not comfortable making that
3 decision with the evidence that we have.

4 So, I think I'd like to set an evidentiary hearing. We can set a
5 tentative date, and then you can check with your witnesses. I'm not
6 going to tell you who to call. I think you guys should know who you want
7 to call. So, figure that out.

8 It looks like --

9 MS. MARLAND: May I just inquire as to the limitations of the
10 preliminary hearing? Is it just to determine whether the Defendant had --
11 I mean, if Your Honor is finding that I didn't prove slight or marginal
12 evidence that he had -- he did not have an absolute -- I'm sorry. If Your
13 Honor is at this point finding that the State did not prove at preliminary
14 hearing that the Defendant had no absolute right of entry --

15 THE COURT: I know what you're saying.

16 MS. MARLAND: Yeah. I'm -- I understand Your Honor's
17 ruling if that's the case. I understand you would like further evidence --

18 THE COURT: I --

19 MS. MARLAND: -- I'm just not sure what -- I'm --

20 THE COURT: It seems to me the key person is going to be
21 Ms. Salazar.

22 MS. MARLAND: Correct, and she's already testified for
23 purposes of preliminary hearing. I'm just not sure whether we can
24 expand the record. And I understand Your Honor's giving the State a
25 chance to do so.

1 THE COURT: Are you not inclined to do that? Because in the
2 event -- that event, then I'm likely to grant their writ.

3 MS. MARLAND: Would it just be --

4 THE COURT: Because I don't think --

5 MS. MARLAND: -- as to count 1?

6 THE COURT: It would be as to count -- stand by -- count 1
7 and count 3, the residential burglary and a home invasion.

8 I'm not sure that based on the information that at least that I
9 have right now, I am not sure how the State intends to go forward. I
10 think I need -- that's why I'm saying, I think I need more information.

11 I mean, it looks to me, based on my notes, that he -- I don't
12 know how he gave up the key. I don't know what the agreement was
13 between the two of them. If she testifies and gives me more information,
14 that would be interesting to know and might help me make a decision
15 with regard to whether or not he has an ownership or a right of access.
16 But the -- I just don't have enough information.

17 So, tell me what it is you want to do.

18 MS. MARLAND: Your Honor, if Your Honor is inclined to
19 grant an evidentiary hearing, we can set one.

20 THE COURT: All right.

21 MS. MARLAND: I would note that she did testify that there
22 was an agreement in terms of the children, pick-up, drop off, and the
23 Defendant had all his affairs at his father's house. That was --

24 THE COURT: So, that's evidence as far --

25 MS. MARLAND: -- brought out at preliminary hearing.

1 THE COURT: -- as you're concerned, that he no longer had a
2 possessory interest in the home that he actually has a lease on, a
3 signed lease?

4 MS. MARLAND: I believe Your Honor has just indicated that
5 you want to hear from Ms. Salazar as to whether there was any --

6 THE COURT: I do.

7 MS. MARLAND: -- agreement with the Defendant in terms of
8 the keys, in terms of coming over, etcetera. And I believe part of that
9 was adduced at preliminary hearing. If you'd like the State to expand
10 the record, I can do so.

11 THE COURT: I think it's necessary, otherwise I'm inclined to
12 grant the writ.

13 MS. MARLAND: Very well. And in that case, I would just
14 note, I'm out of the jurisdiction until the 20th, so I would just ask for a
15 date on or after the 20th.

16 THE COURT: Yeah, I was just looking to see -- do we have a
17 trial date?

18 MS. MARLAND: Not yet.

19 MS. CARMAN: We don't, Your Honor. He has another case
20 that's set for trial in August. We thought we were going to do a package
21 negotiation.

22 THE COURT: Okay.

23 MS. CARMAN: We did not.

24 THE COURT: Okay.

25 MS. CARMAN: So, based on that, we had vacated the trial

1 date and we were going to reset it.

2 THE COURT: All right because I was like why would I not
3 reset this? It kind of freaked me out. So --

4 MS. CARMAN: Right.

5 THE COURT: -- do you want to do that now?

6 MS. CARMAN: Yes.

7 THE COURT: All right.

8 THE DEFENDANT: Yeah.

9 THE COURT: Let's --

10 MS. CARMAN: Well, unless -- yes, we could and then we
11 could set the evidentiary hearing before that, Your Honor, I assume?

12 THE COURT: All right, yeah.

13 MS. CARMAN: Thank you.

14 THE COURT: So, had he invoked? I don't recall.

15 MS. MARLAND: I believe he had.

16 THE COURT: Okay.

17 MS. CARMAN: Yeah.

18 MS. MARLAND: I can double-check, but -- he had.

19 THE COURT: So, let's set a trial date in 60 days.

20 MS. CARMAN: When would that be?

21 THE COURT: Where is that other case pending? I didn't go
22 pull that.

23 MS. CARMAN: Do you remember what department it was?

24 THE COURT: What Judge?

25 MS. CARMAN: It's in --

1 THE DEFENDANT: It's Erica --
2 THE COURT: Ballou?
3 THE DEFENDANT: Yes.
4 THE COURT: Okay.
5 MS. MARLAND: Twenty-four?
6 THE COURT CLERK: I can do August 15th.
7 THE COURT: Okay. August 15th.
8 THE COURT CLERK: Calendar call will be August 9th at 8:30.
9 THE COURT: And then let me go get a date for --
10 THE COURT CLERK: The trial will be August 15th at 9:00
11 a.m.
12 THE COURT: Thank you.
13 MS. CARMAN: And when's your other -- court's indulgence?
14 [Colloquy between counsel and the Defendant]
15 MS. CARMAN: His other trial is --
16 THE DEFENDANT: 8th or 6th.
17 MS. CARMAN: -- the week before. Just so --
18 THE COURT: So, do you want this after that or do you want it
19 before?
20 MS. CARMAN: It is actually -- if it would be the 15th, it would
21 be after that. So, but it would just be right after that.
22 THE COURT: So, what are you asking me?
23 MS. CARMAN: Would you like it a little bit further in August?
24 MS. MARLAND: I don't believe Ms. Carman is counsel in that
25 case, correct? It's Ms. --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. CARMAN: No.

MS. MARLAND: Okay, just wanted to check.

[Colloquy between counsel and the Defendant]

MS. CARMAN: August 15th will work, Your Honor. Apologize for that.

THE COURT: All right. So, I have June 23rd, June 28th, June 29th.

MS. CARMAN: Court's indulgence?

THE COURT: All those -- the first two are at 1:30, and the 29th is at 10:30. And noting that for that date, of course, it all depends on if the witnesses are available. And if the parties indicate that they're not, I've got tons of dates, so all you have --

MS. MARLAND: Okay.

THE COURT: -- to is reach out to my JEA, and she'll give you a new date.

MS. MARLAND: Perfect, thank you, Judge.

THE COURT: So, we'll take a tentative date.

MS. CARMAN: We'll take one. Thank you.

Would -- you said June 23rd, Your Honor?

THE COURT: I said June 23rd is at 1:30, June 16th is at 1:30, June 29th is at 10:30, June 30th is at 1:30.

MS. CARMAN: I can do June 23rd if that's good with the State.

MS. MARLAND: It works for the State, yes.

THE COURT: All right, so we've got a tentative date of June

1 23rd at 1:30 p.m. understanding that it's tentative. If I don't hear from
2 you, then it stands.

3 Is there anything else? And both of you can decide who you
4 need to call, who I need to hear from, and we'll go from there.

5 Is there anything else, Ms. Carman?

6 MS. CARMAN: We do have other motions. Should we have
7 those on the same date?

8 THE COURT: Yes.

9 MS. CARMAN: Okay. Then that is it for this case.

10 [Colloquy between counsel and the Defendant]

11 THE COURT: Anything else, Ms. Carman?

12 MS. CARMAN: Not on this case, Your Honor.


13 THE COURT: All right. Thank you very much. Ms. Marland,
14 thank you so much for coming right on time at 8:15. You did really well,
15 so thank you.

16 MS. MARLAND: Thank you, Judge.

17 [Proceeding concluded at 8:34 a.m.]

18 * * * * *

19
20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed
22 the audio/video proceedings in the above-entitled case to the best of my
23 ability.

24 

25 Kaihla Berndt
Court Recorder/Transcriber



DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
JACQUELINE B. CARMAN, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 8016
PUBLIC DEFENDERS OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Facsimile: (702) 455-5112
CarmanJB@clarkcountynv.gov
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

v.

JOSHUA MURCIA,
Defendant,

CASE NO. C-22-362539-1

DEPT. NO. XXXII

DATE: June 21, 2022
TIME: 9:30 AM

MOTION TO VACATE THE EVIDENTIARY HEARING AND GRANT MR.
MURCIA'S PRETRIAL WRIT OF HABEAS CORPUS

COMES NOW, the Defendant, JOSHUA MURCIA, by and through
JACQUELINE B. CARMAN, Deputy Public Defender and hereby .

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

DATED this 2nd day of June, 2022.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: /s/Jacqueline B. Carman
JACQUELINE B. CARMAN, #8016
Deputy Public Defender

000165

[illegible]

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

3. That I feel I would be ineffective for failing to file this motion.

EXECUTED this 31st day of May, 2022.

2

000166

1 **STATEMENT OF RELEVANT FACTS AND PROCEDURAL HISTORY:**

2 **RELEVANT FACTS:**

3 Mr. Joshua Murcia (Mr. Murcia) was charged by way of Criminal Complaint on January 12,
4 2022, with: Count one, Residential Burglary pursuant to NRS 205.060.2C-NOC 61934; Count
5 two, Battery Constituting Domestic Violence pursuant to NRS 200.485(1)(A), 200.481(1)(A),
6 33.018-NOC 50235; and Count three, Invasion of the Home pursuant to NRS 205.067-NOC
7 50435.
8

9 At issue, the Burglary, and Invasion of the Home involve the address: "5250 Stewart Avenue,
10 Las Vegas, Clark County, Nevada". This address was occupied by the alleged victim of the
11 Battery Constituting Domestic Violence, "Leslie Salazar" (Ms. Salazar).

12 Based upon the evidence adduced at the Preliminary Hearing, Mr. Murcia was a lawful
13 occupant with a right of possession and absolute right to enter 5250 Stewart Avenue, #1129, Las
14 Vegas, Nevada 89110, along with Ms. Salazar according to the landlord's leasing documents on
15 October 29, 2021. The State did not present any evidence to the contrary and there was no legal
16 document produced at the Preliminary Hearing divesting him of his possessory interest on
17 October 29, 2021.
18

19 **PROCEDURAL HISTORY:**

20 The current case was alleged to have occurred October 29, 2021, and an arrest warrant was
21 issued January 20, 2022. The arrest warrant return hearing was conducted on January 31, 2022.
22 On that date, Mr. Murcia who was present in custody on the warrant was arraigned, counsel was
23 appointed, and bail was set at \$5,000 with high level monitoring. Subsequently, the Preliminary
24 hearing was scheduled for February 14, 2022.
25

26 Mr. Murcia appeared in custody at the Preliminary Hearing February 14, 2022, and the State
27 presented one witness, Ms. Salazar, before resting.
28

1 The House Arrest order in 21CR027412 did not convey the sole right of possession to Ms.
2 Salazar and dispossess Mr. Murcia of his lawful right of possession. He was ordered to stay
3 away from the named victim of case 21CR027412, J.S. (a relative of Ms. Salazar who resided in
4 a different state) and witnesses none of which was Ms. Salazar nor did it provide Mr. Murcia was
5 to stay away from the address 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110. See
6 Defense Exhibit B and PHT 44. The State presented no evidence that Mr. Murcia was prohibited
7 from going to 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110 and violated a court order
8 by going to the residence. The case was bound up to District Court February 14, 2022, and upon
9 receiving the Preliminary Hearing transcript, the defense filed a pretrial petition for Writ of
10 Habeas Corpus February 14, 2022, challenging the sufficiency of the evidence. The State filed
11 it's return April 28, 2022, which included an exhibit it did not introduce at the Preliminary
12 Hearing and the defense filed it's reply May 4, 2022. May 5, 2022, the Court noted "it had
13 significant questions to ask counsel on the petition" and ordered the matter be continued to May
14 31, 2022. On May 31, 2022, the Court sua sponte indicated it wanted to set an evidentiary
15 hearing and it is defense counsel's understanding the Court wanted to hear from Ms. Salazar with
16 respect to the Burglary and Home Invasion charges as there was not sufficient evidence to
17 answer the Court's questions about those charges from the Preliminary Hearing testimony. It is
18 defense counsel's understanding that the Court indicated it wanted the evidentiary hearing for the
19 State to call Ms. Salazar as a witness so she could testify in regards to what agreement Ms.
20 Salazar had with Mr. Murcia with the residence and how he gave up his key. Upon never
21 having a District Court request this type of evidentiary hearing for a writ, defense counsel did
22 some legal research, and ultimately filed this motion not seeing a basis in law for such a hearing
23 and having a concern she would be ineffective as counsel for failing to address this issue.
24
25
26
27
28

LEGAL ARGUMENT

Mr. Murcia's pretrial Petition for Writ of Habeas Corpus is based on the insufficiency of the evidence adduced at the Preliminary Hearing. Specifically stated, the defense challenges the charges of Burglary, and Invasion of the Home as both Ms. Salazar and Mr. Murcia were listed as an "allowed occupant" of the "premises" "5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110". The start of this lease was "April 1, 2021" and the expiration of the lease is listed as "March 31, 2022" on page one of the agreement which was admitted by the defense as an Exhibit at the Preliminary Hearing. This address is where the Burglary and Invasion of the Home allegedly occurred on October 29, 2021. See Defense Exhibit A page 1/10 of the Nevada Residential Rental Agreement which was executed March 19, 2021 by both parties. Both Ms. Salazar and Mr. Murcia are listed as "resident[s]" of the agreement who signed the "Notice of Intent to Vacate" on January 18, 2022, with a move out date of March 31, 2022, and the method of notifying the landlord of vacating was "in person". A reading of the document implies they went together to sign the notice to move out. See Defense Exhibit A Notice of Intent to Vacate. In other words, Mr. Murcia was a lawful occupant with a right of possession and absolute right to enter 5250 Stewart Avenue, #1129, Las Vegas, Nevada 89110, along with Ms. Salazar according to the landlord's leasing documents on October 29, 2021 and as such there was insufficient evidence adduced at the Preliminary Hearing by the State for Burglary and Home Invasion charge.

The defense perhaps should have sought clarity on May 31, 2022, when this Court sua sponte indicated it needed an evidentiary hearing because it had unanswered questions. The hearing was set for June 23, 2022. Now the defense is uncertain what the Court is relying on as a basis for this evidentiary hearing and cannot find any legal authority supporting the basis for such a hearing so it is asking this Court to vacate the evidentiary hearing and grant Mr. Murcia's

1 writ. Not finding a basis in law, counsel would be ineffective for failing to bring this to the
2 attention of the Court.

3 **NRS 34 DOES NOT ALLOW FOR NEW EVIDENCE ADDUCED AT AN**
4 **EVIDENTIARY HEARING BASED ON CASE LAW INTERPRETING THE**
5 **STATUTES:**

6 If the Court is relying on NRS 34.360-710 which detail the provisions for a writ of Habeas
7 Corpus, there is not a provision that allows for such a hearing based on Nevada Supreme Court
8 law. It is undisputed there are different types of pretrial writs other than ones that challenge the
9 sufficiency of the evidence adduced at the Preliminary Hearing. For instance, if an accused is
10 arrested and not brought before a magistrate within 72 hours, the person who is being detained
11 may file a pre-trial writ of habeas corpus. Although NRS 34.470(3), provides a hearing for other
12 pretrial writs such as this 72 hour hearing issue, the Nevada Supreme Court has specifically ruled
13 in Lamb v. Loveless, 86 Nev. 286, 468 P.2d 24 (1970), that the ability to hold an evidentiary
14 hearing does not apply to the current type of writ at issue in this case where the accused is
15 challenging the sufficiency of the evidence. In the Loveless case, the State asserted that the
16 District Court erred in not permitting the State to introduce new evidence at the habeas hearing to
17 prove that a crime had been committed and relied on NRS 34.470 (3) and NRS 34.520, but the
18 Nevada Supreme Court specifically held these statutes are not applicable at all as probable cause
19 that a crime has been committed and that the defendant committed it must be established at the
20 preliminary hearing- the very reason for the preliminary hearing is to weed out groundless or
21 unsupported charges, so that the accused may be relieved of the degradation of a criminal trial
22 and the deprivation of his liberty and to suggest, as the State does, that evidence deficiencies in
23 the preliminary hearing may later be cured at a habeas hearing by offering new evidence would
24 not only emasculate the purpose of the preliminary hearing but also the effectiveness of the
25
26
27
28

1 ancient writ of habeas corpus. Id. See Exhibit 1. The Lamb case is still good law and based on
2 what the Nevada Supreme Court has held, we still cannot supplement the record with evidence at
3 a separate evidentiary hearing. As a result, the defense respectfully requests this hearing be
4 vacated. Further, in Shelby v. Sixth Judicial Court, 82 Nev 213 (1966), abrogated Ex Parte
5 Stearns, 68 Nev. 155, 227 P.2d 204 (1951) which was “expressly disapproved” as well as
6 Eureka County Banks, 35 Nev. 80, 126 P. 655 (1912). See Exhibit 2. The Shelby case is also
7 still good law and the record cannot be supplemented with an evidentiary hearing. As such, the
8 defense cannot find a basis in law for the evidentiary hearing set June 23, 2022, and respectfully
9 requests it be vacated and the writ be granted.

11 **CONCLUSION:**

12 Lamb v. Loveless, 86 Nev. 286, 468 P.2d 24 (1970) and Shelby v. Sixth Judicial Court,
13 82 Nev 213 (1966), prohibit an evidentiary hearing intended to supplement the record for a writ
14 challenging a sufficiency of the evidence. As such the defense requests the evidentiary hearing
15 be vacated and the defense’s Writ of Habeas Corpus be granted as there was insufficient
16 evidence of a Burglary and Invasion of the Home presented February 14, 2022, at the
17 Preliminary Hearing.
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

Lamb v. Loveless, 86 Nev. 286, 468 P.2d 24 (1970)

April 17, 1970 · Supreme Court of Nevada · No. 6014

86 Nev. 286, 468 P.2d 24

RALPH LAMB, Sheriff of Clark County, Nevada,
Appellant, v. GAROLD DAVE LOVELESS, Respondent

468 P.2d 24

Harvey Dickerson, Attorney General; *George E. Franklin, Jr.*, District Attorney,
and *Addelmar D. Guy*, Deputy District Attorney, Clark County, for Appellant.
Foley, Garner & Shoemaker, of Las Vegas, for Respondent.

*287 OPINION

By the Court,

Mowbray, J.:

This is an appeal from an order of the district judge granting the respondent-defendant's petition for habeas on the ground that insufficient evidence was adduced at the preliminary hearing to require him to answer the charge of embezzlement in the district court. We agree with the district judge, and we affirm his order discharging the defendant.

1. *The Facts.*

Garold Dave Loveless was charged by criminal complaint with embezzlement. NRS 205.300.¹ The complaint arose out of a consignment to sell a vehicle. According to the transcript of the preliminary hearing, Loveless was "manager" of Fortune Traders Inc., a Nevada corporation that operated a sales agency in Las Vegas known as the Auto Center. The Center received and sold, for a commission, cars of individuals on a consignment basis. This is one of those cases. The owner of the car was Thomas J. Schultz, who testified at the hearing that *288 he did not know Loveless.² Mr. Shultz on June 6, 1968, delivered his 1963 half-ton Chevrolet truck to Marion Russell Gal-pin, Jr., who was employed at the Center. At the time of delivery a consignment agreement was signed by Mr. Schultz and his wife, authorizing Auto Center to sell their truck for them.³

The truck was sold on June 18, 1968, to Ronald Bloxham for a total purchase price of \$875. The Schultzes never received one cent of the money due them. Evidently the Center ran into financial difficulties and was closed down by "two constables." Loveless testified at the hearing that he was manager of Fortune Traders Inc. and knew of the Schultz transaction but never received "one red penny" from the sale of the vehicle. His contention was that the money was taken by two constables and a bondsman, Robert M. Bohen.⁴

1 2. *The Habeas Hearing.*

2 The district judge during the habeas hearing requested the State to show him in the
3 record of the preliminary hearing any evidence that would establish that Loveless
4 received and converted the proceeds from the sale of the Schultzes' car to his own use:

5 “Court: We’re going to judge this thing on the record as ^{*289}it was made at the
6 preliminary hearing, and that is the basis of the writ. I would like to have you examine
7 the transcript of the testimony taken at the preliminary hearing and point out to me
8 where the defendant, other than accepting the money from the purchaser, got any other
9 benefits from that money, or used it for his own benefit.

10 “Mr. Guy: Your Honor, I don’t think that the State can prove one hundred percent that
11 the defendant got the use of the money for his own benefit. We can prove that he got the
12 money.”

13 The State was unable to show to the district judge that the crime of embezzlement had
14 been committed, and the writ was granted.

15 3. *New Evidence.*

16 The State on this appeal urges that the district judge erred in not permitting the State to
17 introduce new evidence at the habeas hearing to prove that a crime had been
18 committed. The district judge correctly denied the State’s attempt to do so. In support of
19 this rather novel suggestion, the State relies on NRS 34.470 (3)⁵ and NRS
20 34.520.⁶ These statutes are not applicable at all. Probable cause that a crime has been
21 committed and that the defendant committed it must be established at the preliminary
22 hearing, since the very reason for the preliminary hearing is to weed out groundless or
23 unsupported charges, so that the accused may be relieved of the degradation of a
24 criminal trial and the deprivation of his liberty. To suggest, as the State does, that
25 evidence deficiencies in the preliminary hearing may later be cured at a habeas hearing
26 by offering new ^{*290}evidence would not only emasculate the purpose of the preliminary
27 hearing but also the effectiveness of the ancient writ of habeas corpus.⁷

28 Affirmed.

Collins, C. J., Zenoff, Batjer, and Thompson, JJ., concur.

¹
NRS 205.300 reads, in relevant part:

“1. Any bailee of any money, goods or property, who shall convert the same to his own
use, with the intent to steal the same or to defraud the owner or owners thereof and any
agent, manager or clerk of any person, corporation, association or partnership; or any
person with whom any money, property or effects shall have been deposited or
entrusted, who shall use or appropriate such money, property or effects or any part
thereof in any manner or for any other purpose than that for which the same was
deposited or entrusted, shall be guilty of embezzlement, and shall be punished in the

1 manner prescribed by law for the stealing or larceny of property of the kind and- name
2 of the money, goods, property or effects so taken, converted, stolen, used or
appropriated."

3 2
"Q. [by Addeliar D. Guy, Deputy District Attorney, Clark County] Sir, what is your
4 name?

5 "A. Thomas J. Schultz.

6 "Q Do you know the defendant, Garold D. Loveless?

7 "A I didn't.

8 "Q Do you know the defendant, Garold D. Loveless?

9 "A I know who he is, yes.

10 "The Court: Do you know the defendant in this action, Garold D. Loveless?

11 "The Witness: I have seen his pictures. That is the man over there (indicating)."

12 3
The agreement was received in evidence at the preliminary hearing and apparently
13 received by the district judge. It was not made part of the record on this appeal. (It was
14 attached to respondent's reply brief.)

15 4
"The Court: When you sold the truck to Mr. Bloxham, why was not the sum of \$800
16 turned over to Mr. Schultz at that time prior to turning the money into the company?

17 "The Witness [Loveless]: Gee, I don't know why it wasn't unless they picked up the
18 money and everything. I don't know what happened.

19 "The Court: Who picked the money up?

20 "The Witness: The two constables and Mr. Bohen.

21 "The Court: What time did they come down and padlock the business?

22 "The Witness: I don't know because I was not there."

23 5
NRS 34.470(3):

24 "The judge shall have full power and authority to require and compel the attendance of
25 witnesses by process of subpoena and attachment and to do and perform all other acts
26 and things necessary to a full and fair hearing and determination of the case."

27 6
NRS 34.520:

28 "If it shall appear to the judge, by affidavit, or upon hearing of the matter, or otherwise,
or upon the inspection of the process or warrant of commitment, and such other papers
in the proceedings as may be shown to the judge, that the party is guilty of a criminal
offense, or ought not to be discharged, the judge, although the charge is defectively or
unsubstantially set forth in such process or warrant of commitment, shall cause the
complainant, or other necessary witnesses, to be subpoenaed to attend at such time as

1 ordered, to testify before the judge; and upon the examination, he shall discharge such
2 prisoner, let him to bail, if the offense be bailable, or recommit him to custody, as may
3 be just and legal."

4 Z

5 There was no prohibition against the State's refiling the complaint and presenting, if
6 available, adequate and sufficient evidence to establish probable cause at a new
7 preliminary hearing, which procedure would appear far more expedient than
8 prosecuting this appeal.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT B

Supreme Court of Nevada.

Charlie SHELBY, Petitioner,

v.

**The SIXTH JUDICIAL DISTRICT COURT of the State
of Nevada, IN AND FOR the COUNTY OF PERSHING,
and the Honorable Merwyn H. Brown, Judge Thereof,
Presiding, Respondents.**

No. 5094.

Sept. 14, 1966.

Synopsis

Original proceeding in prohibition to stay trial upon indictment. The Supreme Court denied the application, 414 P.2d 942. On petition for rehearing, the Supreme Court, Thompson, J., held that habeas corpus may be used to determine whether any substantial evidence exists which, if true, would support a verdict of conviction, for if there is none grand jury has exceeded its powers, and indictment is void.

Rehearing denied.

West Headnotes (5) Collapse West Headnotes

Grid ViewList View

1Habeas Corpus

Writ of habeas corpus is proper method for seeking relief from a grand jury indictment which was not based upon reasonable or probable cause.

1 Case that cites this headnote

197Habeas Corpus

197IIGrounds for Relief; Illegality of Restraint

197II(B)Particular Defects and Authority for Detention in General

197k473Grand jury

(Formerly 197k30(2))

2Habeas Corpus

Court in passing on grand jury indictment in habeas corpus proceeding can inquire whether any substantial evidence exists which, if true, would support a conviction, for if there is none grand jury has exceeded its powers, and indictment is void.

1 Case that cites this headnote

197Habeas Corpus

197IIGrounds for Relief; Illegality of Restraint

197II(B)Particular Defects and Authority for Detention in General

197k474Indictment, information, affidavit, or complaint

(Formerly 197k92(1))

3Habeas Corpus

If prosecution elects to proceed by grand jury presentment or grand jury indictment, it must assume burden of showing existence of reasonable or probable cause to hold accused for trial if challenged on that ground by habeas corpus.

2 Cases that cite this headnote

197Habeas Corpus

197IIGrounds for Relief; Illegality of Restraint

197II(B)Particular Defects and Authority for Detention in General

197k473Grand jury

(Formerly 197k85.2(1))

4Indictments and Charging Instruments

Absent transcript of testimony before grand jury on which indictment was returned, question whether kind and quality of evidence required by statute was produced before grand jury cannot be determined. N.R.S. 172.260, subd. 2.

210Indictments and Charging Instruments

210IIFinding or Filing

210II(B)Indictment

210k352Evidence Supporting Indictment

210k354Judicial review of evidence

(Formerly 210k10.2(7))

5Indictments and Charging Instruments

Person who has been indicted by grand jury may challenge indictment and test legal sufficiency of evidence supporting grand jury indictment as to whether it was in fact "the best evidence" rather than mere "hearsay or secondary evidence". N.R.S. 172.260, subd. 2.

210Indictments and Charging Instruments

210IIFinding or Filing

210II(B)Indictment

210k352Evidence Supporting Indictment

210k356Competency or Legality of Evidence Supporting Indictment

210k356(2)Hearsay

(Formerly 210k10.2(2))

Attorneys and Law Firms

213** *132** J. Rayner Kjeldsen, Reno, for petitioner.

Roland W. Belanger, Pershing County Dist. Atty., Lovelock, for respondents.

OPINION ON PETITION FOR REHEARING

***214** THOMPSON, Justice.

In seeking a rehearing on the recent decision rendered by this court in Shelby v. Sixth Judicial District Court, **82 Nev. 204, 414 P.2d 942 (1966)**, the respondents cite a single sentence of dictum¹ from Ex parte Stearns, **68 Nev. 155, 227 P.2d 971 (1951)**, also cited in Ex parte Colton, **72 Nev. 83, 295 P.2d 383 (1956)**. That dictum is inconsistent with the holding of the court in the Stearns case, *supra*, and conflicts with our expressions in Shelby, *supra*.

¹²³⁴In both the Eureka County Bank Habeas Corpus Cases, **35 Nev. 80, 126 P. 655, 129 P. 308 (1912)** and Ex parte Stearns, *supra*, this court held that the writ of habeas corpus was the proper method for seeking relief from a grand jury indictment which was not based upon 'reasonable or probable cause,' and that the court 'can inquire whether any substantial evidence exists which, if true, would support a verdict of conviction, for if there is none ****133** the grand jury has exceeded its powers, and the indictment is void.' Ex parte Colton, *supra*, Ex parte Stearns, *supra*, and the Eureka County Bank Habeas Corpus Cases, *supra*, all stand for the proposition that the prosecution, if it elects to proceed by grand jury presentment or grand jury indictment, must assume the burden of showing the existence of reasonable or probable cause to hold the accused for trial, if challenged on that ground. In the instant case we held that showing cannot be made in the absence of a transcript of the testimony of the witnesses.

⁵Further, under the statute, NRS 172.260(2), the grand jury 'can receive none but legal evidence, and the best ***215** evidence in degree, to the exclusion of hearsay or secondary evidence.' Under this mandate, a person who had been indicted by the grand jury could challenge the indictment and test the legal sufficiency of the evidence supporting the grand jury indictment as to whether it was in fact 'the best evidence' rather than mere 'hearsay or secondary evidence.'

The inconsistent statement of dictum contained in Ex parte Stearns, *supra*, is expressly disapproved.

Rehearing denied.

ZENOFF, D. J., concurs.

COLLINS, Justice.

I would grant the rehearing.

All Citations

82 Nev. 213, 418 P.2d 132

Footnotes

1

It reads: 'There is no doubt that inquiry upon habeas corpus may not be extended to determine the sufficiency of the evidence before the grand jury to warrant a finding of an indictment.'

Id., 68 Nev. at 157, 227 P.2d, at 972.

[illegible]

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 21st day of June, 2022 at 9:30 a.m.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

CERTIFICATE OF ELECTRONIC SERVICE

By: /s/Kristina Byrd
An employee of the
Clark County Public Defender's Office

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
6/2/2022 4:23 PM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Joshua Murcia

Case No.: C-22-362539-1

Department 32

NOTICE OF HEARING

Please be advised that the Motion to Vacate the Evidentiary Hearing and Grant Mr. Murcia's Pretrial Writ of Habeas Corpus in the above-entitled matter is set for hearing as follows:

Date: June 21, 2022

Time: 8:30 AM

Location: RJC Courtroom 05D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

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

STEVEN D. GRIERSON, CEO/Clerk of the Court

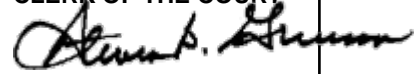
By: /s/ Imelda Murrieta
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

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

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

000183



DARIN F. IMLAY, PUBLIC DEFENDER
NEVADA BAR NO. 5674
JACQUELINE B. CARMAN, DEPUTY PUBLIC DEFENDER
NEVADA BAR NO. 8016
PUBLIC DEFENDER'S OFFICE
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
Telephone: (702) 455-4685
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-22-362539-1
)	
v.	)	DEPT. NO. XXXII
)	
JOSHUA MURCIA,)	
	)	DATE: June 30, 2022
Defendant,	)	TIME: 1:30 p.m.
_____)	

MOTION TO STAY DISTRICT COURT PROCEEDINGS

COMES NOW, the Defendant, JOSHUA MURCIA, by and through JACQUELINE B. CARMAN, Deputy Public Defender and hereby respectfully moves this Court for an Order granting a stay of the District Court case scheduled for argument July 21, 2022, calendar call August 9, 2022, and trial August 15, 2022, while Mr. Murcia seeks extraordinary relief from the Nevada Supreme Court.

This Motion for Stay is sought to allow the Petitioner to pursue a Petition for Writ of Mandamus challenging the District Court's Order denying Mr. Murcia's Pretrial Writ of Habeas Corpus.

DATED this 22nd day of June, 2022.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

By: Jacqueline Carman
JACQUELINE B. CARMAN, #8016
Deputy Public Defender

000184

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

JACQUELINE B. CARMAN makes the following declaration:

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

2. Mr. Murcia has authorized me to file this motion.

3. On June 21, 2022, this Court vacated the evidentiary hearing it set for Mr. Murcia's pre-trial Writ of Habeas Corpus and denied his Petition for Writ of Habeas Corpus.

4. A Stay of Proceedings is necessary in the instant case because the issuing of a Writ will promote the interest of judicial economy, protect Mr. Murcia's rights, and clarify important issues of law.

5. That if this Court denies the instant Motion, Mr. Murcia will be required to request a stay pursuant to NRAP 8 in the Nevada Supreme Court.

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

EXECUTED this 22nd day of June, 2022.

Jacqueline Carman
JACQUELINE B. CARMAN

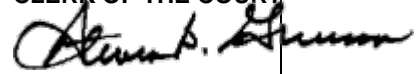
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

YOU WILL PLEASE TAKE NOTICE that the Public Defender's Office will bring the above and foregoing MOTION on for hearing before the Court on the 30th day of June, 2022, at 8:30 a.m.

DARIN F. IMLAY
CLARK COUNTY PUBLIC DEFENDER

CERTIFICATE OF ELECTRONIC SERVICE

By: /s/Kristina Byrd
An employee of the
Clark County Public Defender's Office



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,
Plaintiff,

vs.

JOSHUA MURCIA,
Defendant.

CASE NO: C-22-362539-1
DEPT. XXXII

BEFORE THE HONORABLE CHRISTY CRAIG, DISTRICT COURT JUDGE
TUESDAY, JUNE 21, 2022

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
MOTION TO VACATE THE EVIDENTIARY HEARING AND GRANT
MR. MURCIA'S PRETRIAL WRIT OF HABEAS CORPUS**

APPEARANCES:

For the State:

MELANIE H. MARLAND.
Deputy District Attorney

For the Defendant:

JACQUELINE P. CARMAN, ESQ.
Deputy Public Defender

RECORDED BY: KAIHLA BERNDT, COURT RECORDER

1 Las Vegas, Nevada; Tuesday, June 21, 2022

2
3 [Proceeding commenced at 9:49 a.m.]

4 THE COURT: All right, State of Nevada versus Joshua
5 Murcia on page 9, C362539. Mr. Murcia is present here in custody with
6 Ms. Carman, the State of Nevada with Ms. Marland. Mr. Murcia, as I
7 recall, you speak English, right?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: All right, so right off the top, I need to make a
10 record. I looked at Ms. Carman's motion to vacate the evidentiary
11 hearing, and she's absolutely right. I don't know what the heck I was
12 thinking when I set an evidentiary hearing in a writ. I must have had it in
13 my head that it was a motion. So, her motion to vacate the evidentiary
14 hearing is set. The Court notes that in a writ, we are stuck with
15 whatever happened at the preliminary hearing.

16 I apologize to both parties.

17 MS. CARMAN: That's okay.

18 THE COURT: I don't know. I have no idea what I was
19 thinking.

20 MS. MARLAND: I was going to --

21 THE COURT: I went back and I was even reading my notes.
22 I must have thought it was a motion. But anyway, I apologize. So, the
23 motion to vacate the evidentiary hearing is granted. We already heard
24 argument on the writ. Did either of you need to add anything? Because
25 I'm ready to rule.

1 MS. MARLAND: No, Your Honor.

2 MS. CARMAN: No, Your Honor.

3 THE COURT: All right. So, the Court notes -- as I noted, I'm
4 granting the motion to vacate the evidentiary hearing because it's just
5 not something the Court can do on a writ of habeas corpus.

6 With regard to the writ, the Court notes that a person cannot
7 commit burglary of a home when he has an absolute right to enter the
8 home. And while ownership is a factor, the question of whether the
9 alleged Defendant has an absolute, unconditional right to enter the
10 home is an additional factor that the Court has to consider.

11 Here, there does not appear anything in the law that divested
12 Mr. Murcia of his absolute, unconditional right to enter the residence.
13 It's noted that he was still on the lease and that he and the victim had
14 signed the lease -- alleged victim, I apologize -- had signed the lease on
15 March of 2021, just a few weeks before the alleged incident with the
16 alleged victim's sister.

17 The only testimony at the prelim was that he had moved out of
18 the shared home and into his grandfather's home in late March or early
19 April, some six months or before the alleged incident on October 21. At
20 the preliminary hearing, also it came out that both parties together
21 signed an intent to vacate on March 31st of 2021, which indicates to the
22 Court that he was still on the lease. And that was well after the alleged
23 incident.

24 Additionally, the Court notes that -- hang on, let me read the
25 rest of it -- in order to -- so burglary is designed to protect a possessory

1 and occupancy right in the property, and one cannot burglarize their --
2 own home, so long as they had an absolute right to enter the home. In
3 order to determine whether or not he still maintained or retained an
4 absolute right to enter the residence and did not forfeit any possessory
5 right, the Court had reviewed the transcript.

6 As I noted, the only witness was the alleged victim, the
7 Defendant's former girlfriend and the mother of his children. She
8 testified that he had agreed to move out. There was the issue of the
9 stay away order keeping him away, not only from the sister of the
10 alleged victim but from the alleged victim potentially as a witness in the
11 other case. The Court acknowledges that the sister lives in California,
12 and the alleged victim in the instant case may not have been a witness.
13 So, I'm not really considering that.

14 However, the alleged victim testified that the Defendant no
15 longer had a key to the apartment and that -- in the apartment that is the
16 subject of the alleged criminal incident at the heart of this matter. The
17 alleged victim indicated that she took her children to visit him, but he did
18 not come to the apartment that's at the heart of this matter to see the
19 children. Additionally, it's noted that she had a new boyfriend, who
20 occasionally stayed at the apartment, and was at the apartment that
21 night.

22 Finally, the Court notes that on the night of the incident,
23 October, it is alleged the Defendant did not use a key to enter. And if he
24 had a key, that might have impacted the Court's decision. Instead, he
25 broke a window and entered through the window in the early morning --

1 MS. CARMAN: Your Honor, I apologize for interrupting. But I
2 just wanted to make it clear that he broke the window on the way out,
3 according to the transcript.

4 THE COURT: The transcript is not clear. Nobody -- there
5 was no questioning that I saw in the preliminary hearing transcript --

6 MS. CARMAN: I can --

7 THE COURT: -- that indicated that he entered with a key.
8 She indicated that -- she testified -- I mean, I can look it up again. But
9 as I noted, she testified that she saw him at the bedroom window and
10 then heard the window break and that he was in the apartment.

11 MS. CARMAN: Your Honor, can I find that?

12 THE COURT: I'll go ahead and look at the preliminary
13 hearing transcript again --

14 MS. CARMAN: Okay.

15 THE COURT: -- but that's what I recall the testimony being.

16 MS. CARMAN: Okay.

17 THE COURT: And that's the only testimony.

18 MS. MARLAND: And I believe the transcript will show that the
19 Defendant crawled in through the living room window.

20 THE COURT: That --

21 MS. CARMAN: Yeah, he came in the window. It was the
22 same situation as the *White* case where he was knocking on the window
23 and he didn't enter with his key. But he broke the window on the way
24 out. I can find that --

25 THE COURT: So, he slid the window up and crawled through

1 a window to get in the apartment? You said he came in through --

2 MS. CARMAN: That's my --

3 THE COURT: -- the window.

4 MS. CARMAN: My understanding from the testimony is he
5 came in through a window.

6 THE COURT: So, why would a person who has a key come
7 in through a window?

8 MS. CARMAN: So, Your Honor, I'm just letting you know
9 what was in the transcript.

10 THE COURT: I understand. But I'm saying, as the Court
11 looks at this and compares it to *White*, the Court is considering whether
12 or not he had -- it's clear that he's still on the lease. The question then
13 becomes whether he had an absolute, unconditional right to enter the
14 home. The only testimony at the preliminary hearing indicated that he
15 moved out six months before, he didn't visit the apartment, and he no
16 longer had a key to enter.

17 And additionally, it indicated that he entered through a
18 window, which implies that he didn't have a key. Because why on Earth
19 would anybody crawl through a window if they had a key to the front
20 door?

21 In light of that, the Court is finding that the State has provided
22 slight or marginal evidence that the Defendant no longer had an
23 absolute right and unconditional -- absolute and unconditional right to
24 enter the home. And therefore, his entry into the residence was
25 unlawful. Therefore, the Defendant's writ as to counts 1 and 3, the

1 burglary and home invasion is denied. State if you'd prepare the order.

2 MS. MARLAND: Yes, Your Honor.

3 THE COURT: And if you think we need an order on the
4 vacating of the evidentiary hearing, feel free to submit one, Ms. Carman.
5 But I think probably me saying it is enough.

6 MS. MARLAND: I was going to submit on it because I don't
7 disagree with Ms. Carman's position at all. So, I'm --

8 THE COURT: On the writ?

9 MS. MARLAND: No, on the motion to --

10 THE COURT: Yeah, on the motion --

11 MS. MARLAND: -- vacate. Yeah.

12 THE COURT: Yeah. Yeah, I went back and looked at my
13 notes and said the Court was just 1,000 percent wrong. I never should
14 have set an evidentiary hearing, so I apologize to both parties.

15 All right, so as I look at this --

16 THE COURT CLERK: So, then the -- that was on -- your
17 ruling was just on the amended petition that was also on that date of the
18 evidentiary hearing? So, I'll move that --

19 THE COURT: Correct.

20 THE COURT CLERK: -- up to today.

21 THE COURT: Yeah, sure.

22 THE COURT CLERK: Okay.

23 THE COURT: Yeah, I went ahead and ruled. And it looks like
24 we've got a calendar call on August 9th and a jury trial on August 15th.

25 How's discovery going? I can't -- I didn't look to see if we had

1 a Rule 7. Forgive me.

2 MS. MARLAND: I think I may have just received the 911 call,
3 and if I didn't send that to Ms. Carman before I left for out of town, I'll
4 make sure to do that.

5 THE COURT: Okay.

6 MS. MARLAND: But I think everything else --

7 MS. CARMAN: And I'm looking to see if our motions were
8 ever --

9 MS. MARLAND: Ruled on? No.

10 MS. CARMAN: Yeah, I don't believe they were.

11 THE COURT: You have a discovery motion pending?

12 MS. CARMAN: I do, as well as a motion to strike.

13 MS. MARLAND: I -- sorry. What was the --

14 THE COURT CLERK: They're not on calendar.

15 THE COURT: So --

16 MS. CARMAN: They're not. But I filed them.

17 THE COURT: -- let's go ahead and put them on calendar.

18 What's the next possible date we can do that?

19 And Ms. Marland, have you responded to them?

20 MS. MARLAND: I have not. I was actually going to see if Ms.
21 Carman would like to come over this week and do a file review, that way
22 we can --

23 MS. CARMAN: Yeah, we can do that.

24 MS. MARLAND: -- figure out the discovery issues --

25 THE COURT: So, if you have --

1 MS. MARLAND: -- ahead of time.

2 THE COURT: -- gone through the discovery and you want to
3 pare down the discovery motion, just file a supplemental, both of you
4 sign it, and then we'll just go straight to the issues that are in -- being
5 contested, and then I don't have to go through them all. Or not, then I'll
6 go through them all, whichever you decide.

7 MS. MARLAND: And I'll file any oppositions.

8 THE COURT: Have you responded to the motion to strike?

9 MS. MARLAND: I don't believe so, Your Honor. I need to go
10 through the prior motions. I know that we had set them out and then --

11 THE COURT: Okay.

12 MS. MARLAND: -- pushed them back.

13 THE COURT: So, let's set it out for two weeks for you to
14 respond to it, and then one week for argument on the motion to strike
15 and the discovery motion.

16 THE COURT CLERK: State --

17 MS. CARMAN: Court's indulgence, I'll check my calendar.

18 THE COURT: I couldn't hear you.

19 MS. MARLAND: Was the motion to strike for Lisa Chapman?
20 Was that it?

21 THE COURT: I think so, yeah.

22 MS. CARMAN: Yeah.

23 MS. MARLAND: I think I need to double-check what I
24 responded to. I know I responded to one of Ms. Carman's motions --

25 THE COURT: Okay.

1 MS. MARLAND: -- for that. So, that might be it.

2 THE COURT: So, two weeks just to respond, two weeks for
3 you guys to go see each other and have a discussion about discovery.
4 File a supplemental if you can narrow it down a little bit; that would be
5 wonderful. If not, we'll just hear it. So, two weeks for her to -- for Ms.
6 Marland.

7 MS. MARLAND: Thank you, Judge.

8 THE COURT CLERK: This is on the State's response to the
9 motion to strike?

10 THE COURT: And the discovery.

11 THE COURT CLERK: Okay, both. Okay. That'll be July 5th.

12 THE COURT: And then one week later for argument.

13 THE COURT CLERK: And that'll be -- hold on --

14 MS. CARMAN: So, this is --

15 THE COURT CLERK: -- July the --

16 MS. CARMAN: Sorry. The State -- go ahead, I'm sorry.

17 THE COURT CLERK: -- July the 12th at 8:30 for the --

18 THE COURT: And then you're checking your calendar, Ms.
19 Carman?

20 MS. CARMAN: Yeah, could we --

21 THE COURT CLERK: -- argument on the motion --

22 MS. CARMAN: -- do a different date other than July 12th?

23 MS. MARLAND: That's fine with the State.

24 THE COURT CLERK: July 19th?

25 MS. CARMAN: Could we do --

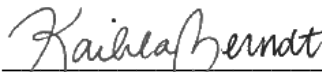
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

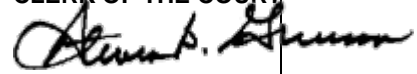
THE COURT CLERK: Twenty-first?
MS. CARMAN: That will work, thanks.
THE COURT CLERK: July 21st, 8:30 for the motion --
THE COURT: All right.
THE COURT CLERK: -- to strike and discovery.
THE COURT: And discovery.
MS. MARLAND: Thank you, Judge.
THE COURT: All right, thank you, ladies.
THE COURT CLERK: That was the motion to compel,
correct?
MS. CARMAN: That's correct.

[Proceeding concluded at 9:59 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


Kaihla Berndt
Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,
Plaintiff,

vs.

JOSHUA MURCIA,
Defendant.

CASE NO: C-22-362539-1
DEPT. XXXII

BEFORE THE HONORABLE CHRISTY CRAIG, DISTRICT COURT JUDGE
THURSDAY, JULY 7, 2022

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
DEFENDANT'S MOTION TO STAY DISTRICT COURT
PROCEEDINGS**

APPEARANCES:

For the State:

MELANIE H. MARLAND, ESQ.
Deputy District Attorney

For the Defendant:

JACQUELINE B. CARMAN, ESQ.
Deputy Public Defender

RECORDED BY: KAIHLA BERNDT, COURT RECORDER

1 Las Vegas, Nevada; Thursday, July 7, 2022

2
3 [Proceeding commenced at 8:45 a.m.]

4 THE COURT: State of Nevada versus Joshua Murcia on
5 page 12, C362539. Mr. Murcia is present in custody, along with his
6 attorney Ms. Waldo -- or sorry, Ms. Carman. The State is represented
7 by Ms. Marland. That's probably why I said Waldo. Mr. Murcia is
8 present.

9 So, this is your motion for a stay.

10 MS. CARMAN: Yes.

11 THE COURT: I'm happy to listen, but I'm not inclined to grant
12 it, and if you want to get a stay, you can get it from the Supreme Court.

13 MS. CARMAN: Okay.

14 THE COURT: It looks like jury trial is still set for August 15th of
15 2022. So, I'm going to deny the stay. If you want to make a record, I'm
16 happy to -- but I read your pleadings, so.

17 MS. CARMAN: Your Honor, I would submit it on my motion.
18 It sounds like you've already made your decision, so my record is my
19 motion.

20 THE COURT: Well, I mean, if you had something you thought
21 would change my mind, I'm happy to listen, but --

22 MS. CARMAN: No, Your Honor, I don't believe that I would.

23 THE COURT: All right. If you get a stay from the Supreme
24 Court, they'll let us know, and that's what will happen.

25 MS. CARMAN: Of course.

1 THE COURT: If not, we're ready to go forward on August
2 15th. I'll see all the parties here on the 9th.

3 Have I asked you all about discovery? Have we done a Rule
4 7?

5 MS. MARLAND: I think Ms. --

6 THE COURT: I forgot to look.

7 MS. MARLAND: -- Ms. Carman and I were going to get a file
8 review taken care of, and then I think the motion for stay was filed. But
9 obviously, the invitation still stands. So, if there's anything missing then
10 --

11 MS. CARMAN: And -- hold -- and after my motion was heard,
12 I think the State said we could do a file review that week. I emailed the
13 State that week, so I believe we --

14 MS. MARLAND: I may have missed that.

15 MS. CARMAN: -- need to coordinate.

16 MS. MARLAND: I apologize. But yeah, whenever.

17 MS. CARMAN: That's okay. So, but I did reach out.

18 THE COURT: So you two are going to do a file review. Is
19 there any outstanding discovery, any discovery issues that you're
20 currently aware of?

21 MS. MARLAND: Not as far as I know.

22 MS. CARMAN: No, if there is, I will let the Court know after
23 the file review.

24 THE COURT: It looks like there's a motion to compel on July
25 21st. Could you go through that motion, and if everything's been

1 resolved, let's take it off calendar. If you still have outstanding items, if
2 you could email me and let me know what's left undone so that I'm not
3 just --

4 MS. CARMAN: If -- Your Honor, I don't --

5 THE COURT: -- willy-nilly.

6 MS. CARMAN: -- have my complete file with me today. So, I
7 apologize, so I don't have that --

8 THE COURT: That's okay.

9 MS. CARMAN: -- entire motion. So, I'm not prepared --

10 THE COURT: I don't expect you to do it today.

11 MS. CARMAN: -- yeah, okay.

12 THE COURT: I just meant, like if you could send an email to
13 Ms. Marland and to the Court. If there are certain things in your motion
14 you want me to focus on and other things have been resolved, let me
15 know, so that I'm not just reading the entire thing.

16 MS. MARLAND: And I have an opposition that'll be filed. And
17 if by then we've resolved some of the issues, I'll put that in the
18 opposition as well.

19 THE COURT: Okay.

20 MS. MARLAND: Thank you, Judge.

21 ///

22 ///

23 ///

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Is there anything else, Ms. Carman?

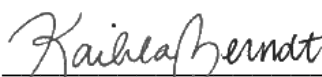
MS. CARMAN: No, Your Honor.

THE COURT: All right. Thank you very much. I'll see the parties back here on that date.

[Proceeding concluded at 8:48 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


Kaihla Berndt
Court Recorder/Transcriber

1 C-12-286357-1
2 IN THE JUSTICE COURT OF THE LAS VEGAS TOWNSHIP
3 IN AND FOR THE COUNTY OF CLARK

4
5
6 THE STATE OF NEVADA,))
7 Plaintiff,) CASE NO. 12F12500X
8) DEPT. NO. 5
9 TROY WHITE,)
10 Defendant,))
11)
12)
13)
14)

15 BEFORE THE HONORABLE WILLIAM D. JANSEN
16 JUSTICE OF THE PEACE
17 REPORTER'S TRANSCRIPT OF
18 PRELIMINARY HEARING
19 TAKEN ON WEDNESDAY, DECEMBER 12, 2012
20 AT 8:30 O'CLOCK A.M.

21 APPEARANCES:

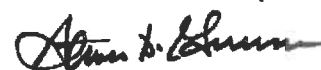
22 For the State: L. MERCER, ESQ.
23 B. TURNER, ESQ.
24 Deputy District Attorneys
25 For the Defendant: S. COFFEE, ESQ.
D. NEGRETE-LOPEZ, ESQ.
Special Deputy Public Defenders

1 INDEX OF EXAMINATION

3 JOSEPH AVERMAN

4
5 Direct Examination by Ms. Mercer 10
6 Cross-examination by Mr. Coffee 34
7 Redirect Examination by Ms. Mercer 48
8 Recross-examination by Mr. Coffee 52
9
10
11
12
13
14

Electronically Filed
01/14/2013 08:50:55 AM



CLERK OF THE COURT

1 INDEX OF EXHIBITS

2
3 M A
4 State's Exhibit 1 53 53
5 State's Exhibit 1 64 64
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 LAS VEGAS JUSTICE COURT, WEDNESDAY, DECEMBER 12, 20
2 *** PROCEEDINGS ***
3

4 THE COURT: All right. Then, Mr. Coffee,
5 are you ready to proceed?

6 MR. COFFEE: Yes.

7 THE COURT: All right. This is now the
8 time and place for the preliminary hearing in
9 the State of Nevada versus Troy Richard White.

10 Let the record reflect that the -- the
11 exclusionary rule will be invoked.

12 MS. MERCER: Liz Mercer, Your Honor.

13 THE COURT: It's been a while since I've
14 seen you.

15 MS. MERCER: Yeah. I've been in DV court.

16 THE COURT: Yeah.

17 I know you, Brad.

18 MR. TURNER: Yes, sir.

19 THE COURT: Okay. Let the record reflect
20 the defendant is present, along with his
21 attorney, Mr. Coffee. And I don't know the
22 individual --

23 MR. LOPEZ-NEGRETE: David Lopez-Negrete
24 for the record.

25 THE COURT: David Lopez?

1 MR. LOPEZ-NEGRETE: Yes.
 2 THE COURT: Okay. And then for the State
 3 there's Brad Turner and Liz Mercer.
 4 MS. MERCER: Yes.
 5 THE COURT: So, let me ask you this, how
 6 many witnesses do you anticipate?
 7 MR. TURNER: Judge, it looks like at this
 8 point we're only going to need one to put this
 9 on.
 10 THE COURT: All right. Now, are there any
 11 other potential witnesses in the courtroom that
 12 would be subject to be called. Because if so,
 13 I am going to have to ask them to be excluded
 14 from the courtroom just in case if something
 15 comes down the line.
 16 MS. MERCER: Your Honor, we don't believe
 17 so at this time.
 18 THE COURT: Now, if they are in the
 19 courtroom, I can't allow them to testify.
 20 You understand that?
 21 MS. MERCER: Yes.
 22 THE COURT: You all understand that?
 23 Now, Mr. Coffee, do you have any
 24 witnesses, other than possibly the defendant
 25 himself to testify?

1 THE COURT: Well, my policy is if they're
 2 subpoenaed witnesses to be here, those are the
 3 only ones to be excluded.
 4 MS. MERCER: They have not been
 5 subpoenaed.
 6 THE COURT: And they've not been
 7 subpoenaed, and I can only do it for this
 8 hearing. So, therefore, your motion to exclude
 9 them for this hearing, I'm not going to grant,
 10 so we'll proceed.
 11 MR. COFFEE: That's fine, Judge. Pursuant
 12 to any possible motions, I request we get the
 13 names of the people that are in the courtroom
 14 and sitting through the proceedings, so that we
 15 have it in the record if we need it later.
 16 MS. MERCER: And, Your Honor, this entire
 17 side of the courtroom is full of people related
 18 to the victim, so...
 19 THE COURT: Well, if you want to stand and
 20 give your names, each one want to stand and
 21 give your name for the record, we will go for
 22 it.
 23 THE COURT REPORTER: Can we please take a
 24 paper and pass it around so they can write
 25 their names and spell them?

1 MR. COFFEE: I don't, Judge.
 2 Can I speak to the District Attorney,
 3 please?
 4 THE COURT: Sure.
 5 MR. COFFEE: Judge, after a conversation
 6 with the District Attorney, I don't know if
 7 this is going to be a capital case one way or
 8 the other. It's too early in the process to
 9 know that. They have more review to do.
 10 The concern that I have is there are a
 11 number of people in the courtroom who may well
 12 be victim impact witnesses at a penalty phase,
 13 if we get to that point, if this is a capital
 14 case.
 15 I talked to the District Attorney, and
 16 they agree with that proposition. I think
 17 they're probably going to say that it would be
 18 a penalty phase issue, not a trial issue.
 19 While I understand the difference, the
 20 Supreme Court said penalty phase, trial, all
 21 the same thing for evidentiary purposes, so I
 22 have some concerns about leaving those people
 23 in the courtroom during this testimony.
 24 And I would object and submit it to your
 25 discretion.

1 THE COURT: Maybe that would be better,
 2 yeah. Take a legal pad and then we'll read it
 3 off for the record. That might be a better
 4 idea.
 5 MR. COFFEE: We have to notice all of them
 6 anyway.
 7 MR. TURNER: I understand.
 8 MR. COFFEE: But if you didn't notice
 9 them, there would be a breach you didn't notice
 10 them.
 11 (Whereupon, an unrelated matter was
 12 heard.)
 13 THE COURT: Now, in the Troy Richard White
 14 case, the charges are Burglary While in
 15 Possession of Firearm, Murder With Use of a
 16 Deadly Weapon, and Attempt Murder With Use of a
 17 Deadly Weapon.
 18 Oh, wait a minute, I've got the amended
 19 criminal complaint. Burglary While in
 20 Possession of a Firearm -- I just got that.
 21 Murder With Use of a Deadly Weapon, Attempt
 22 Murder With Use of a Deadly Weapon, Carrying a
 23 Concealed Firearm or Other Deadly Weapon, and
 24 Child Abuse and Neglect or Endangerment.
 25 MR. COFFEE: And they notified us

1 beforehand that they were going to be filing an
2 amended. We have no objection.
3 THE COURT: All right. So, then, you can
4 go ahead and call your first witness, State.
5 MS. MERCER: Your Honor, the State calls
6 Joseph Averman.
7 THE COURT: Joseph who?
8 MS. MERCER: Averman.
9 THE COURT: I thought you said Immerman,
10 and I was going to say.
11 THE MARSHAL: Step up here, sir. Remain
12 standing, face the clerk over there, and raise
13 your right hand.
14 THE CLERK: Do you solemnly swear to tell
15 the truth, the whole truth, and nothing but the
16 truth, so help you God?
17 THE WITNESS: I do.
18 THE CLERK: Please be seated. State your
19 full name and spell your name, please.
20 THE WITNESS: Joseph Douglas Averman.
21 J-O-S-E-P-H, Douglas, D-O-U-G-L-A-S, Averman,
22 A-V, as in Victor, E-R-M-A-N.
23 MS. MERCER: May I proceed, Your Honor?
24 THE COURT: Now, Mr. Averman, if the
25 question is asked of you by either one of these

1 attorneys calls for a "yes" or "no" answer,
2 please state "yes" or "no." Do not just shake
3 your head or say "ugh-huh," because down below
4 you is a court reporter, and she cannot record
5 those types of responses.
6 Do you understand that?
7 THE WITNESS: Yes, Your Honor.
8 THE COURT: So why don't you scoot up
9 close to the mic so everyone can hear you.
10 Okay?
11 THE WITNESS: Yes, sir.
12 THE COURT: All right. You may proceed.
13 MS. MERCER: Thank you, Your Honor.

JOSEPH AVERMAN

Having been first duly sworn to tell
the truth, the whole truth and nothing but
the truth testified as follows:

DIRECT EXAMINATION

21 BY MS. MERCER:
22 Q Sir, do you know an individual by the name
23 of Troy White?
24 A Yes, I do.
25 Q And do you see him in the courtroom today?

1 A Yes, I do.
2 Q Could you please point to him for me and
3 identify an article of clothing that he is wearing
4 today?
5 A He is sitting right there with a blue
6 sleeveless shirt.
7 MS. MERCER: Your Honor, may the record
8 reflect that he's identified the defendant?
9 THE COURT: So reflect.
10 BY MS. MERCER:
11 Q And, sir, did you also know an individual
12 by the name of Echo Lucas White?
13 A Yes, I did.
14 Q And when did you first meet Echo Lucas
15 White?
16 A About eight years ago.
17 Q About eight years ago.
18 Where did the two of you meet?
19 A We originally met at church.
20 Q And did the two of you have a close
21 friendship in that eight years or just see each
22 other infrequently?
23 A Close friendship.
24 Q To your knowledge, were the defendant and
25 Echo Lucas White married?

1 A Yes.
2 Q Earlier this year, did you become aware
3 that the two had separated?
4 A Yes.
5 Q Do you recall when that was?
6 A About in June.
7 Q June of 2012?
8 A Yes.
9 Q Do you recall whether it was early in June
10 or late in June?
11 A Early in June.
12 Q And after the two had separated, did you
13 and Echo develop a relationship?
14 A Yes.
15 Q And that relationship was a romantic
16 relationship?
17 A Yes.
18 Q At some point, did you move in with Echo?
19 A Yes.
20 Q Where did you move into?
21 A To her house.
22 Q Do you recall where that house was?
23 A On Altamira.
24 Q Okay. And that's here in Clark County?
25 A Yes.

1 Q What are the closest cross streets?
 2 A Buffalo and Alta.
 3 Q Okay. Who else resided in the house with
 4 you and Echo?
 5 A Her kids.
 6 Q And what are the children's names for the
 7 record?
 8 A Jodey, Jayce, Jesse, Jett, and Jazzy.
 9 Q And could you do me a favor and spell
 10 those names for the court reporter?
 11 A Jodey is J-O-D-E-Y. Jayce, J-A-Y-C-E.
 12 Jesse, J-E-S-S-E. Jett, J-E-T-T. Jazzy, J-A-Z-Z-Y.
 13 Q Okay. And do you know the children's
 14 ages?
 15 A I believe Jodey was ten, Jayce was nine,
 16 Jesse is six, Jett is two, and Jazzy is almost a
 17 year.
 18 Q What did you say about Jazzy, I'm sorry?
 19 A Almost a year.
 20 Q Okay. When is Jazzy's birthday?
 21 A January 16th.
 22 Q So back in June she would have been -- or
 23 July she would have been about six months?
 24 A Six months.
 25 Q During the time that you resided with Echo

1 and her children, were you familiar with or did you
 2 know the defendant had visitation with the children?
 3 A Yes.
 4 Q And do you know how that visitation took
 5 place?
 6 A On the weekends.
 7 Q And what was the arrangement?
 8 A He would come and pick them up on Fridays
 9 after he got off work, and then Sunday nights he
 10 would have the kids back.
 11 Q Did he stay in the home at some point on
 12 the weekends?
 13 A On the weekends.
 14 Q And was that because of the number of
 15 children it was just easier to do it that way?
 16 A Yes.
 17 Q You indicated that his visitation would
 18 begin when he got off work on Fridays?
 19 A Yes.
 20 Q About what time would he typically show up
 21 for visitation?
 22 A It would be somewhere between two and
 23 three.
 24 Q In the afternoon?
 25 A Yes.

1 Q Okay. During the time period of your
 2 relationship with Echo, did you learn that the
 3 defendant was upset about the separation?
 4 A Yes.
 5 Q And how did you become aware of that?
 6 A Between Echo and harassing phone calls and
 7 text messages.
 8 Q When you say harassing phone calls and
 9 text messages, was the defendant calling her and
 10 texting her continuously?
 11 A Yes.
 12 Q And is it something that occurred every
 13 day throughout the day, or every other day? You
 14 know, what kind of frequency are we talking about?
 15 A Every day.
 16 Q And you were with her when she would
 17 receive those text messages and phone calls?
 18 A Yes.
 19 Q Did he ever make -- did he know that the
 20 two of you were dating?
 21 A Yes.
 22 Q And when I say "the two of you," I mean
 23 you and Echo?
 24 A Yes.
 25 Q Did he ever make any threats to you

1 because of your relationship with Echo?
 2 A Yes, he did.
 3 Q And when did he make those threats?
 4 A A few different times over texts and voice
 5 mails.
 6 Q And when did those threats begin?
 7 A About in June.
 8 Q June of 2012?
 9 A Yes.
 10 Q I apologize if I already asked you this,
 11 but what point in June did you move into the
 12 residence?
 13 A Later on in June towards the end of the
 14 month.
 15 Q And was the defendant aware that you were
 16 living there?
 17 A Yes.
 18 Q What kind of specific threats was he
 19 making to you?
 20 A He said that "If you don't stay away, I'm
 21 going to fucking kill you."
 22 Q And when he made those threats to you, was
 23 it over the phone or in person?
 24 A Voice mails.
 25 Q Voice mails.

1 Okay. I want to fast-forward to
 2 July 27th of 2012. On that date, were you at the
 3 residence with Echo and the children?
 4 A Yes, I was.
 5 Q And what day of the week was that for the
 6 record?
 7 A A Friday.
 8 Q Did something unusual happen about
 9 2:00 a.m. that morning?
 10 A About 2:00 in the morning, there was a big
 11 bang, which I thought was on the front door.
 12 THE COURT: Excuse me, what date did you
 13 say? July what?
 14 MS. MERCER: July 27th.
 15 THE COURT: July 27th, okay. I thought
 16 you said — that is a Friday. You're correct,
 17 that is a Friday.
 18 Go ahead.
 19 MS. MERCER: Thank you, Your Honor.
 20 BY MS. MERCER:
 21 Q I'm sorry, you heard a big bang and you
 22 thought what?
 23 A I thought there was a bang on the front
 24 door, and I guess it was on the bedroom window from
 25 what Echo had told me.

1 THE COURT: All women like to do their
 2 hair, not just Echo, all of them. I have one
 3 that does it all the time.
 4 BY MS. MERCER:
 5 Q When you said that she was doing her hair,
 6 what did you mean?
 7 A She was putting her hair in braids.
 8 Q And did she have something on her hands?
 9 A She had some gel or whatever to help her
 10 do her hair. I'm not really for sure exactly what
 11 it was.
 12 Q Okay. But she couldn't answer the phone
 13 with that substance on her hands?
 14 A Yes.
 15 Q Okay. And she called him because he was
 16 constantly calling and texting throughout that
 17 period?
 18 A Well, at that time, she wasn't responding
 19 until after the banging on the door.
 20 Q Okay. And then she called him?
 21 A And then she called him.
 22 Q And then what happened?
 23 A She had asked him basically "What are you
 24 doing? You can't be coming over here banging on the
 25 door or window. We have our kids over here.

1 Q What was the loud bang?
 2 A He was pounding on the door or the window.
 3 Q I'm sorry, it was what?
 4 A He was pounding on the door or the window.
 5 Q And by "he," you mean the defendant?
 6 A Troy.
 7 Q The defendant?
 8 A Yes.
 9 Q Did he come into the residence at that
 10 point?
 11 A No.
 12 Q Where were you when that occurred?
 13 A In the living room.
 14 Q The living room of the residence?
 15 A Yes.
 16 Q And that's the house on Altamira?
 17 A Yes.
 18 Q After the banging, what happened? Did the
 19 two of you just go to sleep?
 20 A Echo had called Troy after the banging
 21 because he had texted her and called her numerous
 22 times, and she didn't respond. She was doing her
 23 hair. All you guys know how Echo loved to do her
 24 hair.
 25 Q Okay.

1 They're trying to sleep." And the other part of the
 2 conversation I don't know.
 3 Q Did he eventually leave the area?
 4 A He eventually left.
 5 Q And then did the two of you go to sleep
 6 after that, shortly after that?
 7 A Yes.
 8 Q Do you recall about what time you woke up
 9 later that morning?
 10 A I want to say around seven or eight.
 11 Q And were the children all still with you
 12 at this point?
 13 A Yes.
 14 Q What were you all doing that day, that
 15 morning when you woke up?
 16 A Had some breakfast, cleaning, and then we
 17 were watching "I Shouldn't Be Alive."
 18 Q Is that a TV show?
 19 A Yes.
 20 Q And what was Echo doing?
 21 A She was doing some laundry, folding
 22 laundry, and then she fell asleep on the couch from
 23 being awake all night.
 24 Q Okay. So she took a nap on the sofa?
 25 A She took a nap.

1 Q And that was in the living room?
 2 A Yes.
 3 Q Where you and the children were watching
 4 TV?
 5 A Yes, which was around 10:30 in the
 6 morning.
 7 Q 10:30 in the morning?
 8 A Yes.
 9 Q Was she still receiving communications
 10 from the defendant during this period?
 11 A At that time, I'm not for sure.
 12 Q At some point, did she wake up from her
 13 nap on the sofa?
 14 A Yes.
 15 Q And what time did she wake up?
 16 A About ten to 12.
 17 Q Ten to 12?
 18 A Quarter to 12.
 19 Q And when she woke up, do you know whether
 20 she received any communication?
 21 A She told me that there was numerous texts
 22 and phone calls and voice mails.
 23 Q That she missed --
 24 A Yes.
 25 Q -- while she was napping?

1 first she told him that he wasn't supposed to be
 2 there yet. You know, "Come back whenever or later
 3 when you are supposed to get the kids, and we'll
 4 talk then."
 5 And he looked at me and he said,
 6 "Joe, please, just give me five minutes. She hasn't
 7 returned my calls or my texts all day long. I just
 8 need to talk to her."
 9 Q Okay. Let me stop you for a minute.
 10 When he came into the house, did you
 11 see him carrying anything?
 12 A No.
 13 Q Did you see a gun in his hand?
 14 A No.
 15 Q Okay. So after he asked you to let him
 16 speak with Echo for five minutes, what happens next?
 17 A Echo looked at me and she said, "All
 18 right, just give me five minutes."
 19 Q And then did they have a discussion?
 20 A They went into the back bedroom, the spare
 21 bedroom.
 22 Q Where is the spare bedroom in relation to
 23 the master bedroom in which the crib was in?
 24 A Directly across the hall.
 25 Q Okay. And that spare bedroom, what kinds

1 A Yes.
 2 Q What happened after she woke up?
 3 A She woke up. She apologized for falling
 4 asleep and having me sit there with the kids, and I
 5 told her it was fine. And I told her why didn't she
 6 go lay down in bed. So she went to go lay down in
 7 bed, and I had -- I was holding Jazzy, and I put her
 8 to sleep, so as Echo was going to lay down in the
 9 bed, they have the crib in the bedroom.
 10 Q In the master bedroom where Echo sleeps?
 11 A Yes.
 12 And I went to put Jazzy in bed to lay
 13 her down in her crib, and shortly after, Troy comes
 14 to the house.
 15 Q And how did you know that he was there?
 16 A 'Cause the two older boys, Jodey and
 17 Jayce, were saying, "Mommy, Mommy, Daddy's here."
 18 Q Do you know how he entered the residence?
 19 A He still had a key for that so he came in
 20 with the key.
 21 Q Okay. Once the defendant was inside, what
 22 happened?
 23 A He had asked to speak to her.
 24 Q Asked who?
 25 A Troy had asked Echo to talk to her, and

1 of things were kept in it?
 2 A Just a bunch of crafting stuff.
 3 Q Okay. So the defendant and Echo go into
 4 the spare bedroom?
 5 A Yes.
 6 Q Where are you at this point?
 7 A I'm in the master bedroom.
 8 Q With Jazzy?
 9 A Yes.
 10 Q At the time that he walked into the
 11 bedroom, did you see anything in his hand?
 12 A No.
 13 Q When you went into the master bedroom, did
 14 you have the door open or shut?
 15 A I shut -- it wasn't completely shut, but I
 16 closed it some way.
 17 Q And why did you close it?
 18 A Just, I'm not sure. I just closed it.
 19 Q Okay. When Echo and the defendant went
 20 into the spare bedroom, did they have the door open
 21 or shut?
 22 A Shut.
 23 Q At some point when you were in the master
 24 bedroom with Jazzy, did you become alarmed?
 25 A Yes.

1 Q And why?
 2 A Because I heard Echo say, "Troy, no,
 3 please don't, and stop."
 4 Q When you heard that, what did you do?
 5 A I opened the door to go make sure she was
 6 okay. From prior abuse that he's done to her, I was
 7 making sure that he wasn't hurting her.
 8 Q When you opened the door, was the door to
 9 the craft room open at this point?
 10 A It was -- she was trying to come out of
 11 the bedroom.
 12 Q And what did you see?
 13 A He grabbed her arm and he pulled her back
 14 into the room.
 15 Q When you say that "he pulled her back in
 16 the room," which room are we talking about?
 17 A The spare room.
 18 Q So he pulled her back into the craft room
 19 when she was trying to walk away?
 20 A Yes.
 21 Q And when you saw him grab her, what
 22 happened after that?
 23 A He pushed her to the wall and then he shot
 24 her.
 25 Q Could you tell where she was shot?

1 Q In relation to where the door to enter the
 2 room is, which wall was it?
 3 A It was the wall that the door is right up
 4 against.
 5 Q On the same wall as the door?
 6 A Yes.
 7 Q And is that the wall that is against the
 8 hallway that divides that room from the hallway?
 9 A Yes.
 10 Q So that wall is directly across from where
 11 the baby was situated?
 12 A Yes.
 13 Q Then after you saw Echo buckle over, what
 14 happened?
 15 A He turned and he shot me.
 16 THE COURT: I didn't hear you. What did
 17 you say?
 18 THE WITNESS: Troy shot me.
 19 BY MS. MERCER:
 20 Q Where were you shot?
 21 A I was shot once in the right arm and twice
 22 in the abdomen.
 23 Q After you were shot, what did you do?
 24 A I fell over.
 25 Q And where were you at the time that he

1 A It looked like she was shot in the
 2 stomach, but I'm not for sure.
 3 Q What led you to believe that she was shot
 4 in the stomach?
 5 A Just how she -- how she buckled over.
 6 Q When he shot her, did you see the gun in
 7 his hand?
 8 A Can you repeat that?
 9 Q When he shot her, did you actually see the
 10 gun in his hand?
 11 A Yes.
 12 Q And where was he holding the firearm?
 13 A About waist high.
 14 Q At the point that he shot her, where were
 15 all of the children in the house?
 16 A They were -- I believe the two oldest boys
 17 were in the hallway.
 18 Q And the two oldest boys are?
 19 A Jodey and Jayce.
 20 Jesse and Jett, I'm not for sure
 21 where they were. And Jazzy was in her crib.
 22 Q And when you say that he pushed her
 23 against the wall, which wall to the bedroom was it
 24 that he pushed her?
 25 A I'm -- it's --

1 shot you?
 2 A In the master bedroom.
 3 Q Okay. So had he come into the master
 4 bedroom or was he still standing in the hallway?
 5 A He was basically in the doorway of the
 6 spare bedroom. When I was shot, I was in the
 7 doorway of the master bedroom.
 8 Q And did he look at you when he shot you?
 9 A Yes.
 10 Q Did he say anything to you when he shot
 11 you?
 12 A When he first shot me, no.
 13 Q Where was the defendant standing when he
 14 shot Echo?
 15 A Directly in front of her, about arm's
 16 length away.
 17 Q At the time that you were shot, where were
 18 the children?
 19 A I'm not for sure.
 20 Q After you fell to the floor, what
 21 happened?
 22 A Troy comes to the bedroom.
 23 Q When you say that he came to the bedroom,
 24 what was he doing in the bedroom? Was he talking to
 25 you? Was he just wandering around? What was he

1 doing?
 2 A He came in the bedroom and he said, "I
 3 told you this would happen." And then I believe it
 4 was Jodey and Jayce that come into the bedroom, but
 5 they were right there in the hallway in between the
 6 doors, and they were checking on Echo and me.
 7 Q And how were they behaving at the time?
 8 A Hysterical.
 9 Q When you say hysterical --
 10 A Crying.
 11 Q -- were they saying anything?
 12 A They said, "We need to call for help. You
 13 killed Mommy."
 14 Q They told the defendant that?
 15 A Troy.
 16 Q What happened at that point?
 17 A He said that -- Troy had said that he was
 18 trying to call but his phone wasn't working.
 19 Q And then what happened?
 20 A Then I guess he tried to corral the kids
 21 all into one room, and Jayce managed to get by.
 22 Jayce had come back into the room where I was at, to
 23 the master bedroom.
 24 Q Why did he go back to the room where you
 25 were at?

1 push the kids back into the other room.
 2 Q And then what happened?
 3 A And Troy come back into the room, and he
 4 told me, you know, "You're a coward. I told you
 5 this was going to happen. I told you to stay away."
 6 And...
 7 Q Did he make any comments to you about him
 8 going to prison?
 9 A He said if he -- he mentioned if I'm going
 10 to go to prison, that he was going to kill me.
 11 Q Did you ever ask the defendant to call for
 12 help?
 13 A No. Oh, yes, I did. I'm sorry. Yes, I
 14 did.
 15 Q What specifically did you tell him?
 16 A I told him, "Forget me. Let me die. I
 17 don't care. Just call for help and get her help."
 18 Echo.
 19 Q And what did he say to you?
 20 A I can't recall.
 21 Q Did he call for help, to your knowledge?
 22 A Not that I'm aware of.
 23 Q At some point, did you become aware the
 24 police were called?
 25 A I didn't know that they were called.

1 A I guess to check on me.
 2 Q Okay. Did he have anything with him when
 3 he went back there?
 4 A No.
 5 Q And what happened at that point?
 6 A I told Jayce to go get my phone that was
 7 on the nightstand so I could call.
 8 Q Did he get your phone?
 9 A Yes, he did.
 10 Q And what happened once he had the phone?
 11 A He had told Troy he got my phone so I
 12 could call for help.
 13 Q So the child told Troy that he was getting
 14 you the phone to call for help?
 15 A Yes.
 16 Q And how did the defendant respond to that?
 17 A He came back into the room and stood over
 18 me with the gun to my head, and he took my phone and
 19 said, "You ain't calling nobody."
 20 Q What happened at that point?
 21 A I'm not sure which children it was, a few
 22 of them, they had come back into the room to the
 23 master bedroom.
 24 Q Where you were?
 25 A Where I was and distracted Troy to try to

1 Q Did they come into the house?
 2 A Yes, they did.
 3 Q While you were still lying on the master
 4 bedroom floor?
 5 A Yes.
 6 Q And were you ultimately removed from the
 7 house in an ambulance?
 8 A Yes.
 9 Q Which hospital were you taken to?
 10 A I believe it was UMC.
 11 Q And how long were you in the hospital?
 12 A Three days.
 13 Q Three days?
 14 A Three days.
 15 Q Do you know what kind of car Echo had?
 16 A She had a Durango. It was silver or gray.
 17 Q A Dodge Durango?
 18 A Dodge Durango.
 19 Q And was that car there in the morning when
 20 you got up on July 27th of 2012?
 21 A Yes, it was.
 22 Q When you were taken to the hospital, was
 23 the car still there?
 24 A No.
 25 Q When the police arrived to the house, was

1 the defendant still there?
 2 A No.
 3 Q Did you have any firearms on you on that
 4 day?
 5 A No.
 6 Q To your knowledge, did Echo have any
 7 firearms?
 8 A No.
 9 Q During the time period that the defendant
 10 was at the house, did either one of you ever have a
 11 weapon?
 12 A Repeat that.
 13 Q During the time the defendant was at the
 14 house on July 27th of 2012, did either you or Echo
 15 ever have a weapon?
 16 A No.
 17 Q Did you see the firearm that the defendant
 18 shot Echo and yourself with?
 19 A Yes.
 20 Q And what did it look like?
 21 A A pistol.
 22 Q Okay. Was it a revolver or --
 23 A Semiautomatic.
 24 Q Okay. Do you recall what color it was?
 25 A Black.

1 when he was coming back and forth, "Who's a coward
 2 now?"
 3 A Yes.
 4 Q He had made some threats in the past to
 5 you?
 6 A Yes.
 7 Q You didn't necessarily take those threats
 8 very seriously, though, did you?
 9 A No, I didn't.
 10 Q Why not?
 11 A I guess just, I don't know, didn't seem
 12 like that kind of a person.
 13 Q You had known him for a number of years,
 14 right?
 15 A Yes.
 16 Q You said you had met Echo about eight
 17 years before. You met Troy around the same time?
 18 A Yes.
 19 Q You were a family friend; is that a fair
 20 characterization?
 21 A Yes.
 22 Q Friends with Mr. White, as well as with
 23 Echo?
 24 A Yes.
 25 Q You'd seen him around his children?

1 MS. MERCER: Court's indulgence?
 2 I'll pass the witness, Your Honor.
 3 THE COURT: All right. Mr. Coffee?

CROSS-EXAMINATION

6 BY MR. COFFEE:
 7 Q Good morning, Mr. Averman.
 8 A Good morning.
 9 Q I'm going to ask you some questions, and
 10 if anything I ask you is confusing, please stop me
 11 and I'll try to do more to make sure it is clear.
 12 All right?
 13 A Yes, sir.
 14 Q Okay. Very good. It's Scott or
 15 Mr. Coffee. You don't need to call me sir.
 16 You talked a moment ago about
 17 Mr. White coming back and forth in the room saying
 18 something about a coward or mentioning the word
 19 coward. Do you remember that?
 20 A Yes.
 21 Q When you talked to the police, do you
 22 remember saying what he said is "Who's a coward
 23 now?"
 24 A Yes.
 25 Q Does that sound like what he actually said

1 A Yes.
 2 Q There were five children in the household?
 3 A Yes.
 4 Q Three were Mr. White's?
 5 A Yes.
 6 Q The house -- there was a Dodge Durango
 7 that eventually left the home that night, right?
 8 A Yes.
 9 Q Echo drove that car?
 10 A Yes.
 11 Q It was registered to Mr. White; is that
 12 true?
 13 A Yes.
 14 Q Same thing with the home, the home was
 15 actually in Mr. White's name, correct?
 16 A Yes.
 17 Q And you said that he would come to visit,
 18 he would stay there on the weekends to take care of
 19 the children; is that a fair characterization?
 20 A Yes.
 21 Q He took good care of the children, yes?
 22 Let me put it this way. You cared
 23 about the children?
 24 A Yes.
 25 Q If you thought he was abusing the

1 children, you would have reported it to somebody?
 2 A Yes.
 3 Q You never made any of those reports?
 4 A No.
 5 Q You never had information that he was
 6 abusing those children, correct?
 7 A No.
 8 Q In fact, he moved out of the home that was
 9 in his name, left the car that was in his name with
 10 Echo, so she could help provide for those children;
 11 is that fair?
 12 A Yes.
 13 Q You said that you moved in in June?
 14 A Yes.
 15 Q And you said your relationship started in
 16 June?
 17 A Yes.
 18 Q Had there been a relationship before that?
 19 A It -- there was not a serious -- we had
 20 started talking a little bit before that, but it
 21 became --
 22 Q How much before?
 23 A Around April.
 24 Q April.
 25 Is it fair to say that Mr. White was

1 aware these sorts of conversations or suspected
 2 there was something going on with you and his wife,
 3 Echo?
 4 A Yes.
 5 Q And he confronted you about that?
 6 A Yes.
 7 Q He wasn't happy about it?
 8 A No.
 9 Q That's why he made the threats to you?
 10 A Yes.
 11 Q Mr. White leaves the house in June?
 12 A Yes.
 13 Q And you move in in June?
 14 A Yes.
 15 Q How soon after Mr. White left the house
 16 did you move in, if I might ask?
 17 A He moved out towards the beginning of
 18 June, and I started staying there towards the end of
 19 June.
 20 Q Fairly quickly. Not immediately, but
 21 within a few weeks?
 22 A Yes.
 23 Q Had you had a discussion with Echo and
 24 Mr. White about the relationship when the three of
 25 you talked about you moving into the house?

1 A Yes.
 2 Q Did Mr. White eventually give his blessing
 3 to that, at least temporarily? I mean, I know it
 4 didn't turn out that way.
 5 A Yes. Not to me, but to Echo.
 6 Q Okay. From living there, though, it was
 7 clear that Mr. White was having problems getting
 8 over the relationship; is that fair?
 9 A Yes.
 10 Q Wanted desperately to have the
 11 relationship back, wasn't he?
 12 A Yes.
 13 Q I want to move forward to the day of the
 14 shooting, if I might.
 15 You said there was a knock at the
 16 door or a knock on the window at two in the morning?
 17 A Yes.
 18 Q Did you actually see Mr. White knock on
 19 the window?
 20 A No.
 21 Q Do you know for certain it was Mr. White?
 22 A From what Echo said, yes.
 23 Q But you didn't actually see it yourself?
 24 A No.
 25 Q And I suppose that brings up another

1 point. You talked about there being perhaps other
 2 abuse in the past.
 3 Did you ever actually see Mr. White
 4 abuse Echo?
 5 A No.
 6 Q Now, the day in question, he comes into
 7 the house. He still has a key?
 8 A Yes.
 9 Q Does he still have some things there for
 10 when he stays on the weekends?
 11 A I'm not for sure.
 12 Q Okay. He has a key, he comes into the
 13 house, and he tells you "I need to talk to Echo,"
 14 something along those lines?
 15 A Yes.
 16 Q At that point, can you describe his
 17 demeanor for me?
 18 A He seemed a little irate or irritated.
 19 Q Said that his calls hadn't been returned
 20 all night by Echo?
 21 A Yes.
 22 Q Not openly angered?
 23 A Correct.
 24 Q Did not make any particular threats
 25 towards you at that point?

1 A No.
 2 Q Did not pull out a handgun and wave it
 3 towards you at that point?
 4 A No.
 5 Q Okay. You didn't see the gun at that
 6 point?
 7 A No.
 8 Q Didn't make any threats towards Echo?
 9 A No.
 10 Q If you had thought anything was out of the
 11 ordinary, I would imagine -- how old are you, sir,
 12 if I might ask?
 13 A Twenty-eight.
 14 Q Twenty-eight.
 15 You are old enough to know how to
 16 dial 9-1-1 obviously?
 17 A Yes.
 18 Q If there had been anything out of the
 19 ordinary, unusual, if you thought the situation was
 20 going to explode, you know enough to call 9-1-1?
 21 A Yes.
 22 Q Okay. Or to perhaps intervene on your
 23 own?
 24 A Yes. That's why I stayed right there by
 25 the back door.

1 A Yes.
 2 Q Were you in the military during the time
 3 that you knew them?
 4 A I eventually joined the military, yes.
 5 Q Okay. There we go.
 6 You said there weren't any weapons
 7 around the house; true? No weapons around your
 8 house?
 9 A My house, no.
 10 Q But you're familiar with weapons. In the
 11 military, you learned how to shoot them. I know
 12 that?
 13 A Yes.
 14 Q And were able to identify the gun that was
 15 used, for example, in this case, as a semiautomatic.
 16 You know the difference between that and a revolver
 17 and pistol?
 18 A Yes.
 19 Q They go into a room and the door is
 20 closed?
 21 A Yes.
 22 Q And at first, you don't hear much; is that
 23 fair?
 24 A Correct.
 25 Q But the conversation escalates at some

1 Q That's why you stayed back there.
 2 You weren't necessarily frightened of
 3 Mr. White; is that fair?
 4 A Yes.
 5 Q Now you obviously would be frightened of
 6 Mr. White, you know what he might be capable of with
 7 a weapon, but at the time, you weren't necessarily
 8 frightened of him; true?
 9 A Yes.
 10 Q You've actually got -- you were in the
 11 military?
 12 A Yes.
 13 Q What branch?
 14 A Army National Guard.
 15 Q For how long?
 16 A Almost three years.
 17 Q Was that while you had the relationship,
 18 or relationship is an inappropriate word. Is that
 19 while you were a family friend of Mr. White's and
 20 Echo?
 21 A Can you repeat that?
 22 Q Yeah.
 23 You've known him for about eight
 24 years, so that means you met him when you were
 25 around 20; is that true?

1 point; is that right?
 2 A Yes.
 3 Q When the conversation escalates, you
 4 become concerned?
 5 A Yes.
 6 Q Were you able to hear what led to the
 7 escalation of the conversation or why the
 8 conversation escalated? Did you hear any of those
 9 things?
 10 A No.
 11 Q You don't know what was said back and
 12 forth?
 13 A No.
 14 Q Don't know what happened up until the
 15 point you hear Echo say something along the lines of
 16 "Troy, don't" or "Troy, stop"?
 17 A That's correct.
 18 Q And that's the first time that you become
 19 concerned?
 20 A Yes.
 21 Q Become concerned enough to enter into the
 22 room; yes?
 23 A I didn't enter the room.
 24 Q Opened the door. I'm sorry.
 25 A Open the door.

1 Q Okay. You open the door, and you see
 2 Mr. White with a weapon; yes? Or did you notice the
 3 weapon then?
 4 A Not at that point.
 5 Q Okay. Did the fight -- is it fair to say
 6 Mr. White's demeanor had changed from the time he
 7 walked in until the time you opened that door?
 8 A Yes.
 9 Q How had it changed?
 10 A More angry and aggressive.
 11 Q Angry, aggressive, upset?
 12 A Yes.
 13 Q Irrational to some extent?
 14 A Yes.
 15 Q You open the door and there is a shot
 16 fired. That happens pretty quickly I imagine?
 17 A Yes.
 18 Q Okay. And before you can either run in or
 19 run out to call 9-1-1, Mr. White turns and shoots
 20 you?
 21 A Correct.
 22 Q How quickly did that happen between the
 23 time Echo is shot and the time you were shot? Is it
 24 a matter of seconds?
 25 A Yes.

1 Q Now, afterward, the police do arrive?
 2 A Yes.
 3 Q You were unable to call 9-1-1? You just
 4 weren't physically able to do it, right?
 5 A He took the phone.
 6 Q He took the phone.
 7 You told the police at one point that
 8 you thought that Mr. White may have called 9-1-1,
 9 you just don't know; is that true?
 10 A Correct.
 11 Q Mr. White mentioned threats when he was
 12 standing over you?
 13 A Yes.
 14 Q Had a gun, said "If I'm going" -- and I
 15 think we paraphrased it before. Tell me if I'm
 16 pretty close to what he says. You understand what
 17 the question is going to be, right?
 18 A Yes.
 19 Q He says something along the lines of "If I
 20 am going to go to prison anyway, I should just kill
 21 you, too," or "I can just kill you, too," something
 22 along those lines?
 23 A Yes.
 24 Q Okay. But he just leaves eventually,
 25 correct?

1 A After he heard the sirens coming, yes.
 2 Q Okay. How long did that go on in the
 3 house? How long was he going in and out of the room
 4 making threats?
 5 A I'm not for sure.
 6 Q And, obviously, you're injured, you don't
 7 have a stopwatch, I understand.
 8 Fair to say everything does move
 9 pretty quickly in that situation? It's a tense
 10 situation?
 11 A Yes.
 12 Q You were hit three times, twice in the
 13 stomach, once in the wrist; is that right?
 14 A Once in the arm.
 15 Q Once in the arm.
 16 Do you know how many shots were
 17 fired? And I understand it is a tense situation,
 18 but I thought there was going to be a stipulation at
 19 some point that there were three shell casings found
 20 in the house. We're going to be stipulating to
 21 that.
 22 Do you know if there were actually
 23 four shots fired or three? And it's not critical if
 24 you don't. I'm just curious.
 25 A I don't know.

1 Q Okay. When all of this was going on, did
 2 you hear any threats to the children at all?
 3 A No.
 4 Q Did Mr. White work, to your knowledge?
 5 A I'm sorry?
 6 Q Did Mr. White work?
 7 A Yes.
 8 Q Where did he work?
 9 A Yesco.
 10 Q Young Electric Sign Company?
 11 A Yes.
 12 Q Had he been there for a while?
 13 A Yes.
 14 MR. COFFEE: Court's indulgence?
 15 Thank you for answering my questions. We
 16 appreciate it.
 17 Pass the witness.
 18 MS. MERCER: Briefly, Your Honor.
 19 THE COURT: Sure.

REDIRECT EXAMINATION

22 BY MS. MERCER:
 23 Q Sir, the gun that you saw the defendant
 24 with that night, had you seen that gun on any prior
 25 occasions?

1 A Yes.
 2 Q And when?
 3 A I can't recall the date, but he brought it
 4 out and showed it to me.
 5 Q And when you say "he," you're --
 6 A Troy.
 7 Q -- referring to the defendant?
 8 A Yes.
 9 Q Okay. Now, defense counsel asked you
 10 about how you knew that it was the defendant
 11 knocking on the window at 2:00 in the morning. You
 12 indicated that you didn't personally see him or hear
 13 his voice?
 14 A Correct.
 15 Q Were you present when Echo called him and
 16 told him to knock it off?
 17 A Yes.
 18 Q You were also asked about whether or not
 19 you witnessed any incidents of prior abuse by the
 20 defendant against the victim. Do you recall that
 21 question?
 22 A Yes.
 23 Q And I believe your response was no?
 24 A Correct.
 25 Q Did you ever have the opportunity to

1 observe any injuries on Echo's person that she
 2 claimed was from the defendant?
 3 A She had had some bruises and scratches on
 4 her back.
 5 Q And she showed you those?
 6 A Yes.
 7 Q Defense counsel also asked you whether or
 8 not you were frightened of the defendant when he
 9 came to the house around noon on July 27th of 2012.
 10 Do you recall that question?
 11 A Yes.
 12 Q You indicated that you weren't personally
 13 afraid for your safety?
 14 A Correct.
 15 Q What was it that made you stay so close to
 16 the defendant and Echo?
 17 A For Echo's sake and the kids.
 18 Q Okay so you believed that he might harm
 19 Echo?
 20 A Yes.
 21 Q After the defendant shot you and Echo, did
 22 you see the children going in and out of the room
 23 where Echo was lying?
 24 A I could not see.
 25 Q Okay. Could you hear them in the

1 vicinity?
 2 A Yes.
 3 Q And from the time that you were shot and
 4 the time that the police arrived on scene, did the
 5 demeanor of the children change at all, or did they
 6 remain hysterical the entire time?
 7 A Hysterical.
 8 Q Were they crying?
 9 A Yes.
 10 Q You indicated that the defendant was not
 11 screaming at the children or being angry towards
 12 them. Did you hear him trying to console them in
 13 any way?
 14 A No.
 15 Q How many times did the defendant come in
 16 and out of the room which you were in before the
 17 police arrived on scene after he shot you?
 18 A I believe at least three times.
 19 Q At the time that you were shot by the
 20 defendant, you indicated that you were standing in
 21 the doorway of the master bedroom where the crib was
 22 situated, correct?
 23 A Correct.
 24 Q Where were you standing in relation to the
 25 crib in that room?

1 A Right next to it. It was off to my right
 2 side.
 3 Q And Jazzy was still in it?
 4 A Yes.
 5 MS. MERCER: No further questions, Your
 6 Honor.

RE-CROSS-EXAMINATION

8 BY MR. COFFEE:
 9 Q The children, just so we're clear, three
 10 were Mr. White's and two were not. Echo had had
 11 them before she met Mr. White?
 12 A Correct.
 13 Q Was he abusive to the two that weren't his
 14 biological children or did he treat the children, by
 15 and large, the same?
 16 A Very much the same.
 17 Q Pretty much the same.
 18 MR. COFFEE: Okay. Thank you,
 19 Mr. Averman.
 20 THE COURT: Anything else?
 21 MS. MERCER: No, Your Honor.
 22 THE COURT: How did you meet Echo? If you
 23 did say that, I didn't hear you.
 24 THE WITNESS: I met her at church.
 25 THE COURT: Okay. Okay. I guess you're

1 excused then. Thank you for coming and
 2 testifying.
 3 Any other witnesses?
 4 MR. TURNER: Your Honor, at this time, I
 5 believe that the parties just have to put on
 6 the stipulations.
 7 THE COURT: Okay.
 8 MR. TURNER: I think we do have a State's
 9 Proposed Exhibit 1, which is an affidavit from
 10 Sergeant E.T. Brown, with the concealed
 11 firearms detail, that indicates in the exhibit
 12 that he did a thorough search for subject, Troy
 13 White, with the defendant's ID number, 1383512.
 14 After that diligent search, he was unable
 15 to locate any concealed firearm permit for that
 16 particular individual.
 17 And I would move to admit that proposed
 18 exhibit.
 19 MR. COFFEE: No objection.
 20 THE COURT: So admitted.
 21 (State's Proposed Exhibit No. 1
 22 was marked for identification
 23 and admitted into evidence.)
 24 MS. MERCER: And then just, Your Honor,
 25 it's my understanding that defense counsel at

1 Honor, he observed a spent bullet that was
 2 located in the driveway. There was a black and
 3 white backpack. Inside of that backpack was an
 4 empty holster for a handgun. There was also a
 5 bullet hole on the exterior of the front of
 6 that residence.
 7 That he went inside the residence, and in
 8 the northwest bedroom, which would have been
 9 the crafts room, as testified by Mr. Averman,
 10 he located a spent shell casing for a
 11 9-millimeter. That would be a 9-millimeter
 12 Win, capital W-I-N, 9-millimeter Luger head
 13 stamp on that. And that that door was open
 14 when he went through the residence.
 15 That in the southwest bedroom, which has
 16 been described as the master bedroom, he
 17 located the baby crib, which is in close
 18 proximity to that doorway, as well as a bullet
 19 hole with a direct trajectory, indicating that
 20 that bullet hole went through that bedroom, and
 21 it openly exited out the front, which is
 22 consistent with where the bullet was recovered
 23 in the driveway.
 24 That he also in the hallway between those
 25 two bedrooms, in proximity to those two

1 this time is willing to stipulate that Dr. Lisa
 2 Gavin, with the Clark County Coroner's office,
 3 performed an autopsy on the victim in this
 4 case, Echo Lucas White, and that she
 5 determined, pursuant to that autopsy, that the
 6 cause of death was a gunshot wound to the
 7 abdomen, and that the manner of death was
 8 homicide, and that he's stipulating to the
 9 identity of the victim for purposes of
 10 preliminary hearing.

11 MR. COFFEE: Correct, as well.

12 THE COURT: Okay.

13 MR. TURNER: And finally, Your Honor, the
 14 final stipulation would be to the following
 15 facts: That Detective Travis Ivie, the last
 16 name I-V-I-E, who's with the homicide detail of
 17 the Las Vegas Metropolitan Police Department,
 18 responded to the crime scene in this case, that
 19 being at 325 Altamira on July 27th of this
 20 year, approximately 1:44 p.m. and he was there
 21 to investigate the homicide of Echo White and
 22 the shooting of Joe Averman.

23 And that while there, he observed the
 24 following items of evidence at that crime
 25 scene. In the driveway of that residence, Your

1 bedrooms, he located a third spent shell
 2 casing, also 9-millimeter Win Luger consistent
 3 with the other two shell casings that he
 4 recovered.

5 Later that same day, Your Honor,
 6 July 27th, approximately 8:00 p.m., Detective
 7 Ivie, with another detective and a crime scene
 8 analyst, responded to Yavapai, the spelling is
 9 Y-A-V-A-P-A-I, County Sheriff's office in
 10 Prescott, Arizona. There he came into contact
 11 with the defendant, Troy White.

12 He was also present during the execution
 13 of the search warrant of Mr. White's vehicle, a
 14 silver Durango, license plate NV USN3PYZ. That
 15 there was a bullet strike to the bottom
 16 driver's side door of that vehicle.

17 That additionally, in the trunk of that
 18 vehicle, that was ultimately impounded, was a
 19 black Torres 9-millimeter with a serial number
 20 of TOA33791. That firearm was unloaded.

21 However, next to the firearm were two
 22 magazines for a 9-millimeter handgun. In those
 23 magazines, one magazine contained 12 cartridge
 24 cases for a Win 9-millimeter Luger. The second
 25 cartridge case had nine Win 9-millimeter Luger

1 shell casings in it.
 2 And I believe that concludes the
 3 stipulation.
 4 MR. COFFEE: We agree.
 5 THE COURT: So that is all stipulated to?
 6 MR. COFFEE: Yes.
 7 THE COURT: And all that testimony is in
 8 and stipulated to.
 9 MR. TURNER: And I believe with that, Your
 10 Honor, the State would rest.
 11 MR. COFFEE: Judge, I've advised Mr. White
 12 of his right to testify, and he's not going to
 13 avail himself of that today.
 14 I would ask that the list of names of
 15 those people that may be potential witnesses in
 16 the penalty phase that was taken earlier, and I
 17 thank everybody for providing those names, I'd
 18 ask that that be made part of the record.
 19 THE COURT: What I am going to do now
 20 because I want to make sure I have these names
 21 correct, I'm going to call these names for the
 22 record, and acknowledge that you signed it,
 23 okay?
 24 Is there, first of all, a Betty Blake, the
 25 grandmother of the victim. Did you sign your

1 that correct?
 2 MS. NANCY MANNING: Here.
 3 THE COURT: And a Theresa -- is that
 4 Sheahan?
 5 MS. THERESA SHEAHAN: Yes.
 6 THE COURT: A cousin; is that correct?
 7 MS. THERESA SHEAHAN: Correct.
 8 THE COURT: And an Ashley and --
 9 MS. ASHLEY OWSLEY: Owsley.
 10 THE COURT: Owsley. Is that O-U --
 11 MS. ASHLEY OWSLEY: O-W-S-L-E-Y.
 12 THE COURT: O-W-S-L-E-Y. That's why it's
 13 important we get the spelling for the record.
 14 That's all.
 15 And then there is a Jennifer Gaines, a
 16 sister?
 17 MS. JENNIFER GAINES: Yes.
 18 THE COURT: And then there's a Joanna --
 19 is that Rens?
 20 MS. JOANNA RENS: Yes.
 21 THE COURT: R-E-N-S?
 22 MS. JOANNA RENS: Yes.
 23 THE COURT: And you're listed as a friend;
 24 is that correct?
 25 MS. JOANNA RENS: Correct.

1 name to that?
 2 MS. BETTY BLAKE: Yes.
 3 THE COURT: Okay. There is an Amber -- is
 4 that Gaines?
 5 MS. AMBER GAINES: Yes.
 6 THE COURT: And listed as the mother of
 7 the victim; is that correct?
 8 MS. AMBER GAINES: Yes.
 9 THE COURT: Then there's a Michael Gaines,
 10 a stepfather. Is that you?
 11 MR. MICHAEL GAINES: Yes, sir.
 12 THE COURT: And then there's a Brad Blake.
 13 I can't read the first name.
 14 MR. BRAD BLAKE: Uncle.
 15 THE COURT: Is that uncle? Uncle Brad
 16 Blake.
 17 And then there's a Florence H. Potter, a
 18 friend?
 19 MS. FLORENCE M. POTTER: M. Potter.
 20 THE COURT: And what?
 21 MS. FLORENCE M. POTTER: M, as in Mary.
 22 Florence M. Potter.
 23 THE COURT: Oh, Florence M. Potter. I'm
 24 sorry.
 25 And then a Nancy Manning, a cousin; is

1 THE COURT: And then there's a Misty Todd,
 2 a friend?
 3 MS. MISTY TODD: Yes.
 4 THE COURT: A Jacqueline Trujillo, a
 5 friend; is that correct?
 6 MS. JACQUELINE TRUJILLO: Yes.
 7 THE COURT: Diego -- Diego Trujillo?
 8 MR. DIEGO TRUJILLO: Diego.
 9 THE COURT: I have as a friend.
 10 MR. DIEGO TRUJILLO: Yes.
 11 THE COURT: Raquel Brooks as a friend.
 12 MS. RAQUEL BROOKS: Yes.
 13 THE COURT: You have best friend.
 14 MS. RAQUEL BROOKS: Yes.
 15 THE COURT: I didn't want to get anything
 16 going.
 17 All right. Then Jennifer, and what is
 18 that -- who is Jennifer? I have Jennifer
 19 A-R-T-U-R-O; is that right?
 20 A FEMALE VOICE: She stepped out, Your
 21 Honor.
 22 THE COURT: Is that correct? Is that her
 23 name?
 24 And then Crystal Becker. Okay.
 25 And then it looks like -- is that

1 Romandia?
 2 MS. SHEENA ROMANDIA: Correct.
 3 THE COURT: What's your first name?
 4 MS. SHEENA ROMANDIA: Sheena.
 5 THE COURT: Sheena, S-H-E-E-N-A. Okay.
 6 And that's spelled R-O-M-A-N-D-I-A?
 7 MS. SHEENA ROMANDIA: Yes.
 8 THE COURT: As a friend.
 9 Nichole Robertson listed as a family
 10 friend; is that correct?
 11 And Bruce -- is that Behl?
 12 MR. BRYCE BEHL: Bryce.
 13 THE COURT: What is it?
 14 MR. BRYCE BEHL: Bryce.
 15 THE COURT: I have Bruce B-E-H-L.
 16 MR. BRYCE BEHL: B-R-Y-C-E.
 17 THE COURT: B what?
 18 MS. MERCER: B-R-Y-C-E.
 19 THE COURT: Oh, B-R -- all right, Bryce.
 20 I'm sorry. And your last name is?
 21 MR. BRYCE BEHL: Behl.
 22 THE COURT: B-E-H-L?
 23 MR. BRYCE BEHL: Yes.
 24 THE COURT: Listed as a friend.
 25 Okay. Did you get all that now? Leave

1 THE COURT: You're a friend of?
 2 MS. NICOLE ANTILL: Echo.
 3 THE COURT: Okay. And then we have Gina
 4 Antill, also a friend of Echo.
 5 Then we have Sara Spencer, I presume also
 6 a friend of Echo.
 7 And then we have Patricia Lucas; is that
 8 right? And you're a friend of Echo. And
 9 Nicole, again, R-O-M-A-N-D-I-A, and you're a
 10 friend of Echo?
 11 MS. NICOLE ROMANDIA: Yes.
 12 THE COURT: Okay. Now, the Court is going
 13 to take both of these lists and make them as
 14 exhibits for the State, if you have no
 15 objection.
 16 MR. TURNER: No, Your Honor.
 17 MS. MERCER: No, Your Honor.
 18 THE COURT: And I'm going to ask that they
 19 be entered into evidence for the people who are
 20 here today, who may be called at future
 21 hearings, put it that way.
 22 MR. COFFEE: I appreciate it.
 23 THE COURT: Okay. And I've done that at
 24 the request of the defense attorney.
 25 Are you satisfied or do you want anything

1 the list. And these are the names, and you get
 2 them for the record.
 3 MS. MERCER: Your Honor, I believe that
 4 side of the room did not get the paper to sign,
 5 unfortunately.
 6 THE COURT: Okay. Then we'll get those
 7 papers signed, and I want you to -- and when
 8 you're done signing that, then I will have
 9 those for the record.
 10 MR. COFFEE: Thank you, Judge.
 11 THE COURT: Okay. Now, when I say the
 12 relatives and the friends and the names I just
 13 called, they were all relatives and friends of
 14 the victim in this case, of Echo Lucas White;
 15 is that correct?
 16 A FEMALE VOICE: Correct.
 17 THE COURT: Okay.
 18 Let's wait until they get signed and then
 19 we'll proceed on.
 20 Okay. I'm going to call these names now
 21 and acknowledge that you signed it.
 22 I have a Nicole -- is that Antill,
 23 A-N-T-I-L-L? And I presume you're a friend of
 24 the defendant; is that correct or not?
 25 MS. NICOLE ANTILL: No.

1 else?
 2 MR. COFFEE: No. And I thank everybody
 3 for their cooperation.
 4 (State's Proposed Exhibit No. 2
 5 was marked for identification
 6 and admitted into evidence.)
 7 THE COURT: Okay. All right. Now, you
 8 may proceed.
 9 I think the State rests now.
 10 MR. COFFEE: Defense rests.
 11 THE COURT: Okay. So any argument?
 12 MS. MERCER: We'll waive and reserve, Your
 13 Honor.
 14 THE COURT: Okay.
 15 MR. COFFEE: A couple things, and the
 16 amended is fairly long, so it's going to take a
 17 few more minutes to go through them and try to
 18 do it a piece at a time.
 19 THE COURT: Go ahead. Take your time. If
 20 you want time to read it, go ahead.
 21 MR. COFFEE: No, I've familiarized myself
 22 with it.
 23 And the first thing I'm going to question
 24 about, Judge, is Count I, the Burglary in
 25 Possession of a Firearm. It is clear that the

1 home is in Mr. White's name. He has a key to
 2 the home that he resides there on the weekends
 3 with the children. So there's a couple legal
 4 questions I think.
 5 First off, can you burglarize your own
 6 house? Second off, did they show an intent to
 7 commit one of the underlying things that they
 8 have alleged here? They alleged assault,
 9 battery, those were the things upon entry.
 10 I know he comes into the house with a gun.
 11 That's the testimony you have before you
 12 anyway. Is that enough to show an intent to
 13 commit assault or battery because what we have
 14 is testimony that his demeanor when entering
 15 the house was nothing out of the usual. They
 16 go into a room and things escalate. That's not
 17 burglary necessarily.
 18 I think for those two reasons the burglary
 19 count as alleged in Count I should bail, I
 20 think. Rather than try to confuse things,
 21 maybe we should deal with it at the end of the
 22 time because —
 23 THE COURT: I agree.
 24 MR. COFFEE: -- this might get long.
 25 THE COURT: I agree.

1 holster, he entered that residence with the
 2 intent to shoot somebody. That's an assault or
 3 battery and/or kill.
 4 And I think that's it with regard to the
 5 burglary count, Your Honor.
 6 MR. COFFEE: I don't know if you need more
 7 argument or not.
 8 THE COURT: What?
 9 MR. COFFEE: I don't know if you need any
 10 more input from our side or not.
 11 THE COURT: I know that the house is in
 12 joint tenancy, and that they both are the
 13 owners of it, but who — at the time, who had
 14 the primary possession of the house?
 15 MR. COFFEE: Well, it is a switch thing.
 16 He showed up earlier on switch days, so I
 17 suppose the argument is that it is, you know,
 18 burglary for showing up early that day. But
 19 he's got a key. Nobody tells him not to be
 20 there. So we've got that issue.
 21 Additionally, while I would like to say
 22 there was agitation beforehand, he might have
 23 been agitated the night before. When he comes
 24 in, what we heard from the gentleman who was
 25 there, Mr. Averman, is when he walked in he

1 MS. MERCER: Your Honor, I'm not aware of
 2 any case law that says you can't burglarize
 3 your own home. The issue is the intent when
 4 you enter the residence.
 5 And in this case, you heard testimony that
 6 in the weeks leading up to the murder and
 7 attempted murder, the defendant was threatening
 8 Joseph Averman, that he was constantly calling,
 9 texting, harassing Echo.
 10 That when he showed up at the house, the
 11 testimony wasn't that he was calm, cool, and
 12 collected. The testimony was that he was
 13 agitated, that he was upset that she wasn't
 14 returning his phone calls.
 15 That when she awoke from her nap in the
 16 minutes leading up to her death, she had
 17 several missed telephone calls and text
 18 messages. That he had showed up at the house
 19 at two a.m. the night before, upset with her,
 20 banging on the bedroom window.
 21 Certainly you can draw the inference that
 22 when he arrived at the residence with a firearm
 23 concealed on his person and an empty backpack
 24 that was found in the driveway with a -- or not
 25 an empty backpack, a backpack with an empty gun

1 didn't think there was anything particularly
 2 unusual about his demeanor.
 3 "I stayed by the door because of past
 4 incidences, but there was nothing that told me
 5 there was doing to be a fight. I know enough
 6 to call 9-1-1. I didn't do it, wasn't that
 7 concerned about it."
 8 It escalated, started slow and it
 9 escalated. That's not burglary, and I think
 10 for those two reasons, the burglary can't
 11 stand.
 12 MR. TURNER: Well, Judge, home invasion, I
 13 think counsel is mixing up his felonies here.
 14 Home invasion, you can't do a home invasion to
 15 your own home. With a burglary, certainly you
 16 can.
 17 If you go into your residence with the
 18 intent to commit a crime, murder, whatever it
 19 may be, you are guilty of burglary. It being
 20 your own home is not a defense.
 21 MR. COFFEE: With all due respect, I'm not
 22 mixing up anything. If that is the case, if it
 23 is burglary any time you commit a felony in
 24 your own home, then the statute is void for
 25 vagueness, and I can give you a very simple

1 example.
 2 If I go into my house and smoke
 3 methamphetamine, under his theory that would be
 4 a felony burglary also. That seems a
 5 ridiculous extension of the law. I have never
 6 seen it charged that way because it wouldn't
 7 hold up to scrutiny. It would be void for
 8 vagueness. You couldn't figure out what you
 9 were doing inside your own house.
 10 So while I appreciate the difference
 11 between burglary and home invasion, I'm not
 12 mixing up the two.
 13 MR. TURNER: Well, I'm just telling you,
 14 that's the state of the law. If we could
 15 somehow prove in every case the individual went
 16 in their home with the intent to commit a
 17 felony, then we could.
 18 I know *Crawford* case where we allege
 19 burglary where he went into the house, and you
 20 can commit a burglary in your own home. Home
 21 invasion, you can't. I don't know of any case
 22 law where counsel can point to.
 23 I know the elements of the offense are you
 24 enter into a structure with the intent to
 25 commit a crime, assault, battery, petit larceny

1 answer without doing some research, okay? So
 2 I'll be truthful on that.
 3 MR. COFFEE: Okay.
 4 THE COURT: I think it's best to let it
 5 go, I'll bind it up, and then you can argue
 6 that and have it researched in front of the
 7 District Court Judge.
 8 MR. COFFEE: I'd ask this Court to
 9 consider doing some of the research. I know
 10 you only have a couple weeks left, but I trust
 11 this Court's opinion on things, and I hate to
 12 bind something up when it may not be legally
 13 appropriate.
 14 THE COURT: I'll be glad to do it, if you
 15 want to.
 16 MS. MERCER: Your Honor, the statute
 17 specifically says --
 18 THE COURT: Let me have the statute. Let
 19 me have it.
 20 MR. COFFEE: The statute says any room
 21 residence.
 22 MS. MERCER: It's 205.060.
 23 THE COURT: 205 --
 24 MS. MERCER: 060.
 25 THE COURT: Let me get it. 205.060.

1 or a felony. I don't know of any case law that
 2 says anything different than that.
 3 I know with home invasion, it is
 4 specifically within it, it can't be your own
 5 residence for that particular offense.
 6 MR. COFFEE: But with all due respect,
 7 Counsel, *Crawford* was my case, and I took the
 8 issue up to the Supreme Court. It wasn't
 9 Mr. Crawford's house. It was the home of his
 10 girlfriend.
 11 MR. TURNER: Okay.
 12 MR. COFFEE: I can give her name and the
 13 verse, if you'd like. What it says is you
 14 don't have to charge individual rooms in a home
 15 particularly --
 16 THE COURT: With burglary.
 17 MR. COFFEE: -- when you come in for a
 18 burglary. It's just individual rooms of the
 19 home, but it wasn't his home. He drove from
 20 Pahrump with his gun. The prelim was in front
 21 of this Court, in fact.
 22 MR. TURNER: Okay. Either way, it doesn't
 23 change the fact. I think we've proven the
 24 elements for a burglary.
 25 THE COURT: Right now, I don't know the

1 MR. COFFEE: The statute doesn't make a
 2 distinguishment between your home or somebody
 3 else's home.
 4 THE COURT: That's the --
 5 MR. COFFEE: I agree with that.
 6 MS. MERCER: Or would there be one that
 7 states that there's not.
 8 MR. COFFEE: You'd think there would be
 9 something. I think there probably is.
 10 *Crawford* is not it.
 11 MR. TURNER: And I'd also ask the Court to
 12 review the home invasion statute where it talks
 13 about to enter a residence or structure without
 14 permission, so that there is that added element
 15 that we have to prove.
 16 MR. COFFEE: And so the playing field
 17 is --
 18 THE COURT: Well, I think the issue is
 19 whether a person can be charged with burglary
 20 by entering a home which the person owns.
 21 MR. COFFEE: That is the issue because
 22 there are some cases that say what Mr. Turner
 23 is saying. For example, by going into a
 24 7/eleven, even though I have a public license
 25 to enter that place, that can certainly be a

1 burglary. There's some Nevada cases on point
2 on that.

3 I don't know that there's anything on
4 point when it is your own home. That's really
5 just the crux of the question, and I think it
6 is a different property issue, by the way, than
7 it is when I enter a 7-Eleven under some sort
8 of false pretense. I'm entering my own home.
9 How can I be entering under some sort of false
10 pretense?

11 MR. TURNER: Consent just isn't --
12 permission isn't an element. I'd just ask the
13 Court for a plain reading of the statute, as
14 opposed to home invasion, which requires
15 permission, and you have to show that it was
16 done without permission. And in this one, that
17 doesn't matter. It's enters --

18 THE COURT: Well, does the person need
19 permission to enter a person's home?

20 MR. TURNER: Well, we have to prove -- in
21 other words, a homeowner is always going to
22 have permission to enter into his own home.

23 THE COURT: Right.

24 MR. TURNER: So in a home invasion, we
25 have to establish that they didn't have a right

1 to be there.

2 THE COURT: Right.

3 MR. TURNER: It was done without
4 permission. In a burglary, that's not
5 required. We just have to prove a specific
6 intent. We have to prove entry and a specific
7 intent to commit one of the enumerated
8 offenses.

9 MR. COFFEE: But, again, if it's that
10 broad, if I call somebody to commit a fraud on
11 the telephone, I've committed a burglary --

12 MR. TURNER: Yes.

13 MR. COFFEE: -- by making a call in my own
14 house to say, "Please buy these vitamins that
15 aren't actually good for you," or whatever it
16 might be. That seems unduly expansive and
17 seems unconstitutional.

18 MR. TURNER: Well, now he's arguing the
19 constitutionality of it.

20 MR. COFFEE: I'm arguing both. I'm
21 arguing either it doesn't apply, or if it does
22 apply, it's unconstitutional.

23 MR. TURNER: I mean we don't charge those,
24 but because we elect not to charge them in the
25 D.A.'s office, doesn't mean it's not a burglary

1 according to the legislature.

2 And what we're talking about here, I know
3 he's talking about these other potential
4 scenarios, but what we're talking about here is
5 the facts of this case.

6 I believe the constitutionality of the
7 burglary statute has been upheld multiple
8 times. It is a clear reading. If you go into
9 a structure with the intent to commit a felony,
10 it's a burglary, whatever it may be.

11 MS. MERCER: And if he's challenging the
12 constitutionality of the statute, it has to be
13 done by a written motion and served on the
14 A.G.'s office. This isn't the appropriate
15 forum to challenge that.

16 MR. COFFEE: So I'm just explaining why my
17 statutory interpretation is correct, because if
18 we adopt here, it would be unconstitutional.

19 THE COURT: Well, I can do one of two
20 things. I've got to admit I don't know the
21 answer to it without sufficient research of
22 whether a person can be charged with burglary
23 for entering his or her own home when they have
24 a key and all that. That's the issue.

25 MR. COFFEE: And there might be some law

1 that I'm not aware of.

2 THE COURT: I can do one of two things,
3 you know, send it up, and you can address it
4 and argue it in District Court. I think that
5 would be the best where you have more time,
6 because you are going to have briefs and
7 briefs, and my time here is short, as you well
8 know.

9 MS. MERCER: Correct.

10 THE COURT: So I think it is best. I
11 don't know the answer. I'll let the record
12 know, but I think it should be researched and
13 it should be argued in the District Court, and
14 properly briefed, and at that time, allow the
15 District Court Judge to make a decision.

16 MR. COFFEE: And in regards to that,
17 working on that assumption, the Court is making
18 a factual finding that coming into the house is
19 enough to support probable cause for burglary,
20 coming into the house with a weapon?

21 THE COURT: Do what now?

22 MR. COFFEE: There's a factual question
23 and a legal question. Can you burglarize your
24 own house? You got a factual question. Did
25 they establish factually a burglary, to

1 establish probable cause for a burglary
2 factually?
3 MR. TURNER: I think --
4 MR. COFFEE: Can he --
5 MR. TURNER: Is there sufficient evidence
6 to support a specific intent when he entered
7 that he was going to commit assault and/or
8 battery and --
9 MS. MERCER: Or murder.
10 MR. TURNER: -- or murder. And we've
11 already submitted on that argument.
12 THE COURT: Well, that will be a question
13 of fact for the jury to determine as far as I'm
14 concerned.
15 I think the State's met the burden, as far
16 as I'm concerned, that a person who enters a
17 house with a gun and, you know, with the
18 intent.
19 MR. COFFEE: Fair enough. That was the
20 only question as to whether or not the Court
21 was finding probable cause and the intent,
22 because if we do do a writ at some point, it
23 would probably be on both issues, and it's
24 better to have a clear ruling on the record.
25 Moving forward.

1 and parcel. It is really the same activity.
2 It is shooting with children nearby.
3 Now, I think there is a question
4 factually, but it is probably a jury question,
5 is whether it is child abuse and neglect simply
6 firing a weapon inside a home, which is what
7 they've pled. This is another issue that we
8 will writ. But we'll submit on that at this
9 point.
10 But I think it's really one count child
11 abuse and neglect. It's one incident. It's
12 not two firings of the weapon. I don't think
13 there's been any facts to support two charges.
14 I think they should be combined, one count to
15 each of the children, and we'd submit that to
16 the Court.
17 MR. TURNER: And, Judge, what we've done
18 in those two counts, as the Court can see, is
19 we did allege two separate counts for each
20 child, but what we're alleging are two separate
21 things.
22 As the Court is aware, with child abuse,
23 you have a situation where you either cause
24 physical injury or place the child in a
25 situation where physical injury may result.

1 THE COURT: Okay. And I'm going to have
2 that looked up myself because before I leave I
3 want to get an answer.
4 MR. COFFEE: I will submit on Counts II
5 through IV, Count V and Count VI, and there is
6 one argument, rather than going in -- in five
7 and six.
8 MR. TURNER: Okay.
9 MR. COFFEE: I think that Counts V and VI
10 should be combined. I think Counts VI and
11 VII -- let's see, let me make sure I'm doing
12 this right. Five and six, six and seven, eight
13 and nine, and it is every other count. I think
14 there should be one count of child abuse and
15 neglect for each child, not two counts.
16 The way they pled it, if you take a look
17 at the way this is pled, and it's essentially a
18 consistent pleading for each child, right?
19 MR. TURNER: Correct.
20 MR. COFFEE: Okay. The way they've pled
21 it, it says, okay, on Count V, by discharging a
22 firearm inside the child's home, in the
23 proximity of the child.
24 If you take a look at Count VI, it says by
25 shooting the child's mother. Okay. It is part

1 We've charged that for each of those for him
2 discharging that firearm in the residence with
3 the children being present.
4 But there's also the alternative, the
5 other theory under child abuse, which is cause
6 them to suffer unjustifiable mental injury or
7 be placed in a situation where mental injury
8 may result.
9 So there may be a circumstance where the
10 jury, when we go in front of the jury, they may
11 decide that, you know what, there wasn't a risk
12 of harm to this child, physical harm, but
13 nevertheless, him murdering their mother in
14 their presence, not seeking help for her,
15 leaving the children there, that would result
16 in mental injury to that child.
17 So that is a separate act or separate
18 circumstance that we're arguing under that same
19 statute, and the statute allows two separate
20 theories.
21 MR. COFFEE: What I would suggest is
22 combining the counts into a single count and
23 making them disjunctive, or by doing this, or
24 doing that. I don't have a problem doing it
25 that way.

1 THE COURT: I think that would be the best
2 way of doing it. I think by going in, I think
3 where the endangerment took place is not when
4 he entered in at first, but when the shooting
5 took place. That's where it is, so I sort of
6 agree with counsel that you can reword that and
7 have one count with each child.
8 MR. COFFEE: And I don't mind binding
9 over — combining the language again from both
10 counts. I'm just stating it's disjunctive,
11 that he prove either theory that they like, but
12 what they can't do is charge him separate
13 counts for that. That's the problem.
14 MR. TURNER: Well, I don't know of any
15 case law for that either. I mean while we can
16 combine the two and/or. I mean what we're
17 alleging is two separate —
18 THE COURT: I agree with counsel there. I
19 agree that the fact that coming in with the
20 child in danger with the gun and when the
21 shooting took place. That would do it.
22 In other words, he coming in, they did not
23 see the gun, and went into the room. And after
24 the shooting took place is where the child was
25 in danger. They didn't know what was going to

1 MR. TURNER: Yes, Judge.
2 THE COURT: And/or, but not two in each
3 one.
4 MR. TURNER: Okay.
5 THE COURT: Yeah, I agree with counsel
6 that to have that amended as to and/or where
7 there's five counts of child abuse and neglect,
8 instead of ten.
9 MR. COFFEE: So, Judge, just so we're
10 clear on what the Court will be doing is
11 binding over Count V, incorporating the
12 language of Count VI in the alternative. Is
13 that appropriate, Counsel?
14 MR. TURNER: I think that's what the
15 Court's ruling is to combine those in theory as
16 to one.
17 THE COURT: Right.
18 MR. COFFEE: And the same thing with seven
19 and eight, binding over Count VII, and
20 incorporating language in Count VIII in the
21 alternative. Same thing with nine and ten, and
22 11 and 12, and 13 and 14.
23 THE COURT: That's correct. Now, what
24 we're doing is. What we'll do is — hold it.
25 We'll bind them over like on Count V with

1 take place. He was home. He could walk in.
2 He was their dad. So I agree with counsel. I
3 agree.
4 MS. MERCER: But, Your Honor, the way that
5 we pled it is the —
6 THE COURT: Well, why don't you plead it
7 like that in one count?
8 MS. MERCER: We're not alleging that he
9 endangered the child when he came into the
10 residence. We're alleging that he endangered
11 the child when he fired a firearm in close
12 proximity of them, and then separately that he
13 continued to endanger them or —
14 THE COURT: I think it is an all
15 continuation thing. I agree with counsel. I
16 agree with counsel.
17 MR. COFFEE: Would ask that it be amended
18 again. I don't think they should have to do up
19 this hearing.
20 MR. TURNER: Then we'll just consolidate
21 it and/or, so...
22 MS. MERCER: But there still will be five
23 separate counts of child abuse.
24 THE COURT: Yes, there will still be five
25 separate charges.

1 and/or in placing them in mental suffering, and
2 then dismiss Count VI.
3 MR. COFFEE: So the even numbered counts
4 would be eliminated.
5 THE COURT: Yeah, the even numbered counts
6 would be —
7 MR. COFFEE: Six, eight, ten, 12 and 14.
8 THE COURT: Right.
9 MR. TURNER: Consolidated.
10 THE COURT: Consolidated in Count —
11 Count VI would be consolidated in five. That
12 would be for Jodey.
13 And Count VIII would be consolidated in
14 seven for Jesse.
15 Count X would be consolidated in Count IX
16 for Jayce.
17 Count XII would be consolidated into
18 Count XI for Jazzy.
19 And Count XIV would be consolidated into
20 Count XIII for Jett.
21 MR. TURNER: Yes, Your Honor.
22 THE COURT: Okay. I think that is the
23 appropriate way of doing it.
24 MR. COFFEE: Very good.
25 MR. TURNER: Thank you, Your Honor.

1 THE COURT: And you've still got it there.
 2 You've still got the and/or, and you still have
 3 the whole thing.
 4 MR. TURNER: Okay.
 5 THE COURT: I think it's not a separate
 6 count.
 7 So, therefore, I'm not done yet, so,
 8 therefore, it appearing to me from the
 9 complaint on file herein that crimes have been
 10 committed, and those are the crimes that are
 11 set forth now in the amended criminal complaint
 12 in Case 12F12500X, and those are the crimes in
 13 Count I, Burglary While in Possession of a
 14 Firearm; Count II, Murder With Use of a Deadly
 15 Weapon; Count III, Attempt Murder With Use of a
 16 Deadly Weapon; Count IV, Carrying a Concealed
 17 Firearm or Other Deadly Weapon; and then
 18 Count V, Child Abuse and Neglect; as well as
 19 Count VII, Child Abuse and Neglect; as well as
 20 Count IX, Child Abuse and Neglect; as well as
 21 Count XI, Child Abuse and Neglect; and 13, as
 22 to Child Abuse and Neglect, and there's
 23 reasonable cause to believe that the defendant,
 24 Troy Richard White, committed these crimes, I
 25 hereby order said defendant to be held to

1 answer to said charges in the Eighth Judicial
 2 District Court, State of Nevada, in and for the
 3 County of Clark.
 4 MR. TURNER: Thank you, Your Honor.
 5 MS. MERCER: Thank you, Your Honor.
 6 MR. COFFEE: Thank you, Your Honor.
 7 THE CLERK: January 2nd, 1:30. Lower
 8 level, Courtroom A.
 9 MR. TURNER: May I approach briefly on an
 10 unrelated matter?
 11 MS. MERCER: What time was that?
 12 THE CLERK: Are you setting bail on this?
 13 THE COURT: I'll get with you in just a
 14 minute.
 15 MS. MERCER: What was the time?
 16 THE CLERK: 1:30.
 17 MR. COFFEE: Thanks, Judge. Good seeing
 18 you again.
 19 THE COURT: All righty.
 20 MS. MERCER: Your Honor, we've added four,
 21 five, seven and nine. It should be set in
 22 court.
 23 THE COURT: I think what we did was we
 24 have him held on no bail. So let's just hold
 25 him on no bail at this time.

1
 2 (Whereupon, the proceedings
 3 concluded.)
 4
 5 ATTEST: Full, true, and
 6 accurate transcript of
 7 proceedings.
 8
 9 /s/ Carlila Jasper
 10 Carlila Jasper, CCR #346
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

'	able [3] 43/14 44/6 46/4	and/or [8] 67/3 77/7 81/16 82/21 83/2 83/6 84/1 85/2
'Cause [1] 22/16	about [37] 6/22 11/16 11/17 12/6 13/18 13/23 14/20 15/3 15/14 16/7 17/8 17/10 20/8 21/16 25/16 26/13 28/15 31/7 34/16 34/18 35/16 36/23 38/5 38/7 38/24 38/25 40/1 42/23 49/10 49/18 64/24 68/2 68/7 72/13 75/2 75/3 75/4	angered [1] 40/22
'	abuse [17] 8/24 25/6 40/2 40/4 49/19 78/14 79/5 79/11 79/22 80/5 82/23 83/7 85/18 85/19 85/20 85/21 85/22	angry [3] 45/10 45/11 51/11
so [1] 50/18	abusing [2] 36/25 37/6	another [3] 39/25 56/7 79/7
/	abusive [1] 52/13	answer [7] 10/1 19/12 71/1 75/21 76/11 78/3 86/1
/S [1] 87/8	according [1] 75/1	answering [1] 48/15
0	accurate [1] 87/6	anticipate [1] 5/6
060 [1] 71/24	acknowledge [2] 57/22 62/21	Antill [2] 62/22 63/4
1	across [2] 23/24 27/10	any [29] 5/10 5/23 7/12 15/25 21/20 31/7 33/3 33/6 37/3 40/24 41/8 43/6 44/8 48/2 48/24 49/19 50/1 51/13 53/3 53/15 64/11 66/2 67/9 68/23 69/21 70/1 71/20 79/13 81/14
10 [1] 2/5	act [1] 80/17	anything [15] 23/11 24/11 28/10 29/11 30/2 34/10 41/10 41/18 52/20 60/15 63/25 68/1 68/22 70/2 73/3
10:30 [2] 21/5 21/7	activity [1] 79/1	anyway [3] 8/6 46/20 65/12
11 [1] 83/22	actually [9] 26/9 34/25 36/15 39/18 39/23 40/3 42/10 47/22 74/15	apologize [1] 16/10
12 [8] 1/17 4/1 21/16 21/17 21/18 56/23 83/22 84/7	added [2] 72/14 86/20	apologized [1] 22/3
12F12500X [2] 1/7 85/12	additionally [2] 56/17 67/21	APPEARANCES [1] 1/21
13 [2] 83/22 85/21	address [1] 76/3	appearing [1] 85/8
1383512 [1] 53/13	admit [2] 53/17 75/20	apply [2] 74/21 74/22
14 [2] 83/22 84/7	admitted [3] 53/20 53/23 64/6	appreciate [3] 48/16 63/22 69/10
16th [1] 13/21	adopt [1] 75/18	approach [1] 86/9
1:30 [2] 86/7 86/16	advised [1] 57/11	appropriate [4] 71/13 75/14 83/13 84/23
1:44 [1] 54/20	affidavit [1] 53/9	approximately [2] 54/20 56/6
2	afraid [1] 50/13	April [2] 37/23 37/24
20 [1] 42/25	after [21] 6/5 12/12 14/9 18/18 18/20 19/19 20/6 20/6 22/2 22/13 23/15 25/22 27/13 27/23 28/20 38/15 47/1 50/21 51/17 53/14 81/23	are [30] 4/5 5/10 5/18 6/10 7/2 7/13 8/14 13/1 13/6 15/14 19/23 23/3 24/6 25/16 26/18 41/11 41/15 62/1 63/19 63/25 67/12 68/19 69/23 72/22 76/6 79/20 85/10 85/10 85/12 86/12
2012 [8] 1/17 4/1 12/7 16/8 17/2 32/20 33/14 50/9	afternoon [1] 14/24	area [1] 20/3
205 [1] 71/23	afterward [1] 46/1	aren't [1] 74/15
205.060 [2] 71/22 71/25	again [5] 63/9 74/9 81/9 82/18 86/18	argue [2] 71/5 76/4
27th [8] 17/2 17/14 17/15 32/20 33/14 50/9 54/19 56/6	against [4] 26/23 27/4 27/7 49/20	argued [1] 76/13
2:00 [2] 17/10 49/11	ages [1] 13/14	arguing [4] 74/18 74/20 74/21 80/18
2:00 a.m [1] 17/9	aggressive [2] 45/10 45/11	argument [5] 64/11 67/7 67/17 77/11 78/6
2nd [1] 86/7	agitated [2] 66/13 67/23	Arizona [1] 56/10
3	agitation [1] 67/22	arm [4] 25/13 27/21 47/14 47/15
325 [1] 54/19	ago [3] 11/16 11/17 34/16	arm's [1] 28/15
34 [1] 2/6	agree [13] 6/16 57/4 65/23 65/25 72/5 81/6 81/18 81/19 82/2 82/3 82/15 82/16 83/5	Army [1] 42/14
346 [1] 87/9	ahead [4] 9/4 17/18 64/19 64/20	around [11] 7/24 20/10 21/5 28/25 35/17 35/25 37/23 42/25 43/7 43/7 50/9
4	ain't [1] 30/19	arrangement [1] 14/7
48 [1] 2/7	alarmed [1] 24/24	arrive [1] 46/1
5	Alive [1] 20/17	arrived [4] 32/25 51/4 51/17 66/22
52 [1] 2/8	all [39] 4/4 4/7 5/10 5/22 6/20 8/5 9/3 10/12 18/23 19/1 19/2 19/3 20/11 20/14 20/23 23/7 23/17 26/15 29/21 34/3 34/12 40/20 48/1 48/2 51/5 57/5 57/7 57/24 59/14 60/17 61/19 61/25 62/13 64/7 68/21 70/6 75/24 82/14 86/19	article [1] 11/3
53 [2] 3/4 3/4	allege [2] 69/18 79/19	as [40] 9/22 10/18 22/8 27/5 35/22 35/22 43/15 54/11 55/9 55/16 55/18 55/18 58/6 58/21 59/23 60/9 60/11 61/8 61/9 61/24 63/13 65/19 73/13 76/7 77/13 77/13 77/15 77/16 77/20 79/18 79/22 83/6 83/15 85/18 85/18 85/19 85/19 85/20 85/20 85/21
6	alleged [3] 65/8 65/8 65/19	Ashley [1] 59/8
64 [2] 3/5 3/5	alleging [4] 79/20 81/17 82/8 82/10	ask [14] 5/5 5/13 31/11 34/9 34/10 38/16 41/12 57/14 57/18 63/18 71/8 72/11 73/12 82/17
7	allow [2] 5/19 76/14	asked [10] 9/25 16/10 19/23 22/23 22/24 22/25 23/15 49/9 49/18 50/7
7-Eleven [1] 73/7	allows [1] 80/19	asleep [2] 20/22 22/4
7/Eleven [1] 72/24	almost [3] 13/16 13/19 42/16	assault [5] 65/8 65/13 67/2 69/25 77/7
8	along [5] 4/20 40/14 44/15 46/19 46/22	assumption [1] 76/17
8:00 p.m [1] 56/6	already [2] 16/10 77/11	Attempt [3] 8/16 8/21 85/15
8:30 [1] 1/17	also [12] 11/11 49/18 50/7 55/4 55/24 56/2 56/12 63/4 63/5 69/4 72/11 80/4	attempted [1] 66/7
9	Alta [1] 13/2	ATTEST [1] 87/5
9-1-1 [6] 41/16 41/20 45/19 46/3 46/8 68/6	Altamira [3] 12/23 18/16 54/19	attorney [5] 4/21 6/2 6/6 6/15 63/24
9-millimeter [8] 55/11 55/11 55/12 56/2 56/19 56/22 56/24 56/25	alternative [3] 80/4 83/12 83/21	attorneys [2] 1/23 10/1
A	always [1] 73/21	autopsy [2] 54/3 54/5
A-N-T-I-L-L [1] 62/23	am [3] 5/13 46/20 57/19	avail [1] 57/13
A-R-T-U-R-O [1] 60/19	Amber [1] 58/3	AVERMAN [13] 2/3 9/6 9/8 9/20 9/21 9/24
A-V [1] 9/22	ambulance [1] 32/7	
A.G.'s [1] 75/14	amended [6] 8/18 9/2 64/16 82/17 83/6 85/11	
a.m [3] 1/17 17/9 66/19	analyst [1] 56/8	
abdomen [2] 27/22 54/7		

A AVERMAN... [7] 10/15 34/7 52/19 54/22 55/9 66/8 67/25 awake [1] 20/23 aware [9] 12/2 15/5 16/15 31/22 31/23 38/1 66/1 76/1 79/22 away [4] 16/20 25/19 28/16 31/5 awoke [1] 66/15	bind [3] 71/5 71/12 83/25 binding [3] 81/8 83/11 83/19 biological [1] 52/14 birthday [1] 13/20 bit [1] 37/20 black [3] 33/25 55/2 56/19 Blake [3] 57/24 58/12 58/16 blessing [1] 39/2 blue [1] 11/5 both [5] 63/13 67/12 74/20 77/23 81/9 bottom [1] 56/15 boys [3] 22/16 26/16 26/18 Brad [4] 4/17 5/3 58/12 58/15 braids [1] 19/7 branch [1] 42/13 breach [1] 8/9 breakfast [1] 20/16 briefed [1] 76/14 briefly [2] 48/18 86/9 briefs [2] 76/6 76/7 brings [1] 39/25 broad [1] 74/10 Brooks [1] 60/11 brought [1] 49/3 Brown [1] 53/10 Bruce [2] 61/11 61/15 bruises [1] 50/3 Bryce [3] 61/12 61/14 61/19 buckle [1] 27/13 buckled [1] 26/5 Buffalo [1] 13/2 bullet [6] 55/1 55/5 55/18 55/20 55/22 56/15 bunch [1] 24/2 burden [1] 77/15 burglarize [3] 65/5 66/2 76/23 burglary [31] 8/14 8/19 64/24 65/17 65/18 67/5 67/18 68/9 68/10 68/15 68/19 68/23 69/4 69/11 69/19 69/20 70/16 70/18 70/24 72/19 73/1 74/4 74/11 74/25 75/7 75/10 75/22 76/19 76/25 77/1 85/13 buy [1] 74/14	69/18 69/21 70/1 70/7 75/5 81/15 85/12 cases [3] 56/24 72/22 73/1 casing [2] 55/10 56/2 casings [3] 47/19 56/3 57/1 cause [7] 54/6 76/19 77/1 77/21 79/23 80/5 85/23 CCR [1] 87/9 certain [1] 39/21 certainly [3] 66/21 68/15 72/25 challenge [1] 75/15 challenging [1] 75/11 change [2] 51/5 70/23 changed [2] 45/6 45/9 characterization [2] 35/20 36/19 charge [4] 70/14 74/23 74/24 81/12 charged [4] 69/6 72/19 75/22 80/1 charges [4] 8/14 79/13 82/25 86/1 check [1] 30/1 checking [1] 29/6 child [26] 8/24 30/13 78/14 78/15 78/18 78/23 79/5 79/10 79/20 79/22 79/24 80/5 80/12 80/16 81/7 81/20 81/24 82/9 82/11 82/23 83/7 85/18 85/19 85/20 85/21 85/22 child's [2] 78/22 78/25 children [29] 14/1 14/2 14/15 17/3 20/11 21/3 26/15 28/18 30/21 35/25 36/2 36/19 36/21 36/23 37/1 37/6 37/10 48/2 50/22 51/5 51/11 52/9 52/14 52/14 65/3 79/2 79/15 80/3 80/15 children's [2] 13/6 13/13 church [2] 11/19 52/24 circumstance [2] 80/9 80/18 claimed [1] 50/2 CLARK [4] 1/3 12/24 54/2 86/3 cleaning [1] 20/16 clear [7] 34/11 39/7 52/9 64/25 75/8 77/24 83/10 clerk [1] 9/12 close [8] 10/9 11/20 11/23 24/17 46/16 50/15 55/17 82/11 closed [3] 24/16 24/18 43/20 closest [1] 13/1 clothing [1] 11/3 COFFEE [8] 1/24 2/6 2/8 4/4 4/21 5/23 34/3 34/15 collected [1] 66/12 color [1] 33/24 combine [2] 81/16 83/15 combined [2] 78/10 79/14 combining [2] 80/22 81/9 come [13] 14/8 18/9 23/2 25/10 28/3 29/4 29/22 30/22 31/3 32/1 36/17 51/15 70/17 comes [7] 5/15 22/13 28/22 40/6 40/12 65/10 67/23 coming [9] 19/24 34/17 35/1 47/1 53/1 76/18 76/20 81/19 81/22 comments [1] 31/7 commit [11] 65/7 65/13 68/18 68/23 69/16 69/20 69/25 74/7 74/10 75/9 77/7 committed [3] 74/11 85/10 85/24 communication [1] 21/20 communications [1] 21/9 Company [1] 48/10 complaint [3] 8/19 85/9 85/11 completely [1] 24/15 concealed [5] 8/23 53/10 53/15 66/23 85/16 concern [1] 6/10 concerned [6] 44/4 44/19 44/21 68/7 77/14 77/16 concerns [1] 6/22 concluded [1] 87/3 concludes [1] 57/2 confronted [1] 38/5
B B-E-H-L [2] 61/15 61/22 B-R [1] 61/19 B-R-Y-C-E [2] 61/16 61/18 baby [2] 27/11 55/17 back [21] 13/22 14/10 23/2 23/20 25/13 25/15 25/18 29/22 29/24 30/3 30/17 30/22 31/1 31/3 34/17 35/1 39/11 41/25 42/1 44/11 50/4 backpack [5] 55/3 55/3 66/23 66/25 66/25 ball [4] 65/19 86/12 86/24 86/25 bang [4] 17/11 17/21 17/23 18/1 banging [5] 18/18 18/20 19/19 19/24 66/20 basically [2] 19/23 28/5 battery [5] 65/9 65/13 67/3 69/25 77/8 be [75] 4/11 5/12 5/12 5/13 6/7 6/12 6/17 7/2 7/3 8/1 8/3 8/9 9/1 9/18 14/22 19/24 20/17 23/1 42/5 42/6 46/17 47/18 47/20 54/14 55/11 57/15 57/18 63/19 63/20 67/19 68/5 68/19 69/3 69/7 70/4 71/2 71/12 71/14 72/6 72/8 72/19 72/25 73/9 74/1 74/16 75/10 75/12 75/18 75/22 75/25 76/5 76/12 76/13 77/12 77/23 78/10 78/14 79/14 80/7 80/9 81/1 82/17 82/22 82/24 83/10 84/4 84/6 84/11 84/12 84/13 84/15 84/17 84/19 85/25 86/21 became [1] 37/21 because [18] 5/12 10/3 14/14 16/1 18/21 19/15 25/2 57/20 65/13 65/22 68/3 69/6 72/21 74/24 75/17 76/6 77/22 78/2 Becker [1] 60/24 become [7] 12/2 15/5 24/24 31/23 44/4 44/18 44/21 bed [4] 22/6 22/7 22/9 22/12 bedroom [34] 17/24 22/9 22/10 23/20 23/21 23/22 23/23 23/25 24/4 24/7 24/11 24/13 24/20 24/24 25/11 26/23 28/2 28/4 28/6 28/7 28/22 28/23 28/24 29/2 29/4 29/23 30/23 32/4 51/21 55/8 55/15 55/16 55/20 66/20 bedrooms [2] 55/25 56/1 been [17] 4/13 4/15 7/4 7/6 10/16 13/22 13/23 37/18 40/19 41/18 48/12 55/8 55/16 67/23 75/7 79/13 85/9 before [13] 1/15 35/17 37/18 37/20 37/22 45/18 46/15 51/16 52/11 65/11 66/19 67/23 78/2 beforehand [2] 9/1 67/22 begin [2] 14/18 16/6 beginning [1] 38/17 behaving [1] 29/7 Behl [2] 61/11 61/21 being [6] 20/23 40/1 51/11 54/19 68/19 80/3 believe [14] 5/16 13/15 26/3 26/16 29/3 32/10 49/23 51/18 53/5 57/2 57/9 62/3 75/6 85/23 believed [1] 50/18 below [1] 10/3 best [5] 60/13 71/4 76/5 76/10 81/1 better [3] 8/1 8/3 77/24 Betty [1] 57/24 between [8] 14/22 15/6 29/5 43/16 45/22 55/24 69/11 72/2 big [2] 17/10 17/21	bind [3] 71/5 71/12 83/25 binding [3] 81/8 83/11 83/19 biological [1] 52/14 birthday [1] 13/20 bit [1] 37/20 black [3] 33/25 55/2 56/19 Blake [3] 57/24 58/12 58/16 blessing [1] 39/2 blue [1] 11/5 both [5] 63/13 67/12 74/20 77/23 81/9 bottom [1] 56/15 boys [3] 22/16 26/16 26/18 Brad [4] 4/17 5/3 58/12 58/15 braids [1] 19/7 branch [1] 42/13 breach [1] 8/9 breakfast [1] 20/16 briefed [1] 76/14 briefly [2] 48/18 86/9 briefs [2] 76/6 76/7 brings [1] 39/25 broad [1] 74/10 Brooks [1] 60/11 brought [1] 49/3 Brown [1] 53/10 Bruce [2] 61/11 61/15 bruises [1] 50/3 Bryce [3] 61/12 61/14 61/19 buckle [1] 27/13 buckled [1] 26/5 Buffalo [1] 13/2 bullet [6] 55/1 55/5 55/18 55/20 55/22 56/15 bunch [1] 24/2 burden [1] 77/15 burglarize [3] 65/5 66/2 76/23 burglary [31] 8/14 8/19 64/24 65/17 65/18 67/5 67/18 68/9 68/10 68/15 68/19 68/23 69/4 69/11 69/19 69/20 70/16 70/18 70/24 72/19 73/1 74/4 74/11 74/25 75/7 75/10 75/22 76/19 76/25 77/1 85/13 buy [1] 74/14	69/18 69/21 70/1 70/7 75/5 81/15 85/12 cases [3] 56/24 72/22 73/1 casing [2] 55/10 56/2 casings [3] 47/19 56/3 57/1 cause [7] 54/6 76/19 77/1 77/21 79/23 80/5 85/23 CCR [1] 87/9 certain [1] 39/21 certainly [3] 66/21 68/15 72/25 challenge [1] 75/15 challenging [1] 75/11 change [2] 51/5 70/23 changed [2] 45/6 45/9 characterization [2] 35/20 36/19 charge [4] 70/14 74/23 74/24 81/12 charged [4] 69/6 72/19 75/22 80/1 charges [4] 8/14 79/13 82/25 86/1 check [1] 30/1 checking [1] 29/6 child [26] 8/24 30/13 78/14 78/15 78/18 78/23 79/5 79/10 79/20 79/22 79/24 80/5 80/12 80/16 81/7 81/20 81/24 82/9 82/11 82/23 83/7 85/18 85/19 85/20 85/21 85/22 child's [2] 78/22 78/25 children [29] 14/1 14/2 14/15 17/3 20/11 21/3 26/15 28/18 30/21 35/25 36/2 36/19 36/21 36/23 37/1 37/6 37/10 48/2 50/22 51/5 51/11 52/9 52/14 52/14 65/3 79/2 79/15 80/3 80/15 children's [2] 13/6 13/13 church [2] 11/19 52/24 circumstance [2] 80/9 80/18 claimed [1] 50/2 CLARK [4] 1/3 12/24 54/2 86/3 cleaning [1] 20/16 clear [7] 34/11 39/7 52/9 64/25 75/8 77/24 83/10 clerk [1] 9/12 close [8] 10/9 11/20 11/23 24/17 46/16 50/15 55/17 82/11 closed [3] 24/16 24/18 43/20 closest [1] 13/1 clothing [1] 11/3 COFFEE [8] 1/24 2/6 2/8 4/4 4/21 5/23 34/3 34/15 collected [1] 66/12 color [1] 33/24 combine [2] 81/16 83/15 combined [2] 78/10 79/14 combining [2] 80/22 81/9 come [13] 14/8 18/9 23/2 25/10 28/3 29/4 29/22 30/22 31/3 32/1 36/17 51/15 70/17 comes [7] 5/15 22/13 28/22 40/6 40/12 65/10 67/23 coming [9] 19/24 34/17 35/1 47/1 53/1 76/18 76/20 81/19 81/22 comments [1] 31/7 commit [11] 65/7 65/13 68/18 68/23 69/16 69/20 69/25 74/7 74/10 75/9 77/7 committed [3] 74/11 85/10 85/24 communication [1] 21/20 communications [1] 21/9 Company [1] 48/10 complaint [3] 8/19 85/9 85/11 completely [1] 24/15 concealed [5] 8/23 53/10 53/15 66/23 85/16 concern [1] 6/10 concerned [6] 44/4 44/19 44/21 68/7 77/14 77/16 concerns [1] 6/22 concluded [1] 87/3 concludes [1] 57/2 confronted [1] 38/5

<p>C</p> <p>confuse [1] 65/20 confusing [1] 34/10 Consent [1] 73/11 consider [1] 71/9 consistent [3] 55/22 56/2 78/18 console [1] 51/12 consolidate [1] 82/20 consolidated [7] 84/9 84/10 84/11 84/13 84/15 84/17 84/19 constantly [2] 19/16 66/8 constitutionality [3] 74/19 75/6 75/12 contact [1] 56/10 contained [1] 56/23 continuation [1] 82/15 continued [1] 82/13 continuously [1] 15/10 conversation [6] 6/5 20/2 43/25 44/3 44/7 44/8 conversations [1] 38/1 cool [1] 66/11 cooperation [1] 64/3 Coroner's [1] 54/2 corral [1] 29/20 correct [34] 17/16 36/15 37/6 40/23 43/24 44/17 45/21 46/10 46/25 49/14 49/24 50/14 51/22 51/23 52/12 54/11 57/21 58/7 59/1 59/6 59/7 59/24 59/25 60/5 60/22 61/2 61/10 62/15 62/16 62/24 75/17 76/9 78/19 83/23 couch [1] 20/22 could [11] 11/2 13/9 25/25 30/7 30/12 37/10 50/24 50/25 69/14 69/17 82/1 couldn't [2] 19/12 69/8 counsel [13] 49/9 50/7 53/25 68/13 69/22 70/7 81/6 81/18 82/2 82/15 82/16 83/5 83/13 count [39] 64/24 65/19 65/19 67/5 78/5 78/5 78/13 78/14 78/21 78/24 79/10 79/14 80/22 81/7 82/7 83/11 83/12 83/19 83/20 83/25 84/2 84/10 84/11 84/13 84/15 84/15 84/17 84/18 84/19 84/20 85/6 85/13 85/14 85/15 85/16 85/18 85/19 85/20 85/21 Count V [1] 85/18 Count VI [1] 84/11 Count XI [1] 84/18 counts [13] 78/4 78/9 78/10 78/15 79/18 79/19 80/22 81/10 81/13 82/23 83/7 84/3 84/5 COUNTY [5] 1/3 12/24 54/2 56/9 86/3 couple [3] 64/15 65/3 71/10 court [24] 1/2 4/1 4/15 6/20 10/4 13/10 63/12 70/8 70/21 71/7 71/8 72/11 73/13 76/4 76/13 76/15 76/17 77/20 79/16 79/18 79/22 83/10 86/2 86/22 Court's [4] 34/1 48/14 71/11 83/15 courtroom [9] 5/11 5/14 5/19 6/11 6/23 7/13 7/17 10/25 86/8 cousin [2] 58/25 59/6 coward [5] 31/4 34/18 34/19 34/22 35/1 craft [2] 25/9 25/18 crafting [1] 24/2 crafts [1] 55/9 Crawford [3] 69/18 70/7 72/10 Crawford's [1] 70/9 crib [7] 22/9 22/13 23/23 26/21 51/21 51/25 55/17 crime [5] 54/18 54/24 56/7 68/18 69/25 crimes [4] 85/9 85/10 85/12 85/24 criminal [2] 8/19 85/11 critical [1] 47/23 cross [3] 2/6 13/1 34/5 Cross-examination [2] 2/6 34/5 crux [1] 73/5</p>	<p>crying [2] 29/10 51/8 Crystal [1] 60/24 curious [1] 47/24</p> <p>D</p> <p>D-O-U-G-L-A-S [1] 9/21 D.A.'s [1] 74/25 dad [1] 82/2 Daddy's [1] 22/17 danger [2] 81/20 81/25 date [3] 17/2 17/12 49/3 dating [1] 15/20 David [2] 4/23 4/25 day [12] 15/13 15/13 15/13 15/15 17/5 20/14 23/7 33/4 39/13 40/6 56/5 67/18 days [4] 32/12 32/13 32/14 67/16 Deadly [8] 8/16 8/17 8/21 8/22 8/23 85/14 85/16 85/17 deal [1] 65/21 death [3] 54/6 54/7 66/16 DECEMBER [2] 1/17 4/1 decide [1] 80/11 decision [1] 76/15 defendant [40] 1/10 1/24 4/20 5/24 11/8 11/24 14/2 15/3 15/9 16/15 18/5 18/7 21/10 22/21 24/3 24/19 28/13 29/14 30/16 31/11 33/1 33/9 33/13 33/17 48/23 49/7 49/10 49/20 50/2 50/8 50/16 50/21 51/10 51/15 51/20 56/11 62/24 66/7 85/23 85/25 defendant's [1] 53/13 Defender [1] 1/25 defense [6] 49/9 50/7 53/25 63/24 64/10 68/20 demeanor [5] 40/17 45/6 51/5 65/14 68/2 Department [1] 54/17 DEPT [1] 1/8 Deputy [2] 1/23 1/25 describe [1] 40/16 described [1] 55/16 desperately [1] 39/10 detail [2] 53/11 54/16 detective [3] 54/15 56/6 56/7 determine [1] 77/13 determined [1] 54/5 develop [1] 12/13 dial [1] 41/16 did [103] didn't [21] 8/8 8/9 18/22 22/5 27/16 31/25 35/7 35/9 35/11 39/4 39/23 41/5 41/8 44/23 49/12 52/23 60/15 68/1 68/6 73/25 81/25 die [1] 31/16 Diego [3] 60/7 60/7 60/8 difference [3] 6/19 43/16 69/10 different [3] 16/4 70/2 73/6 diligent [1] 53/14 direct [3] 2/5 10/20 55/19 directly [3] 23/24 27/10 28/15 discharging [2] 78/21 80/2 discretion [1] 6/25 discussion [2] 23/19 38/23 disjunctive [2] 80/23 81/10 dismiss [1] 84/2 distinguishment [1] 72/2 distracted [1] 30/25 District [9] 1/23 6/2 6/6 6/15 71/7 76/4 76/13 76/15 86/2 divides [1] 27/8 do [55] 5/6 5/23 6/9 7/7 9/14 9/17 10/2 10/6 10/22 10/24 10/25 11/1 12/5 12/9 12/22 13/9 13/13 14/4 14/15 18/23 19/1 19/10 20/8 21/19 22/18 25/4 27/23 32/15 33/24 34/11 34/19 34/21 39/21 46/1 46/4 47/16 47/22 49/20 50/10 53/8 57/19 63/25 64/18 68/6</p>	<p>68/14 71/14 75/19 76/2 76/21 77/22 77/22 81/12 81/21 82/18 83/24 Dodge [3] 32/17 32/18 36/6 does [6] 19/3 34/25 40/9 47/8 73/18 74/21 doesn't [5] 70/22 72/1 73/17 74/21 74/25 doing [20] 18/22 19/5 19/24 20/14 20/20 20/21 28/24 29/1 68/5 69/9 71/1 71/9 78/11 80/23 80/24 80/24 81/2 83/10 83/24 84/23 don't [35] 4/21 5/16 6/1 6/6 10/8 16/20 20/2 25/3 31/17 34/15 35/11 43/22 44/11 44/14 44/16 46/9 47/6 47/24 47/25 67/6 67/9 69/21 70/1 70/14 70/25 73/3 74/23 75/20 76/11 79/12 80/24 81/8 81/14 82/6 82/18 done [8] 25/6 62/8 63/23 73/16 74/3 75/13 79/17 85/7 door [25] 17/11 17/24 18/2 18/4 19/19 19/25 24/14 24/20 25/5 25/8 25/8 27/1 27/3 27/5 39/16 41/25 43/19 44/24 44/25 45/1 45/7 45/15 55/13 56/16 68/3 doors [1] 29/6 doorway [4] 28/5 28/7 51/21 55/18 Douglas [2] 9/20 9/21 down [6] 5/15 10/3 22/6 22/6 22/8 22/13 Dr [1] 54/1 draw [1] 66/21 driver's [1] 56/16 driveway [4] 54/25 55/2 55/23 66/24 drove [2] 36/9 70/19 due [2] 68/21 70/6 duly [1] 10/16 Durango [5] 32/16 32/17 32/18 36/6 56/14 during [8] 6/23 13/25 15/1 21/10 33/9 33/13 43/2 56/12 DV [1] 4/15</p> <p>E</p> <p>E-R-M-A-N [1] 9/22 E.T [1] 53/10 each [9] 7/20 11/21 78/15 78/18 79/15 79/19 80/1 81/7 83/2 earlier [3] 12/2 57/16 67/16 early [4] 6/8 12/9 12/11 67/18 easier [1] 14/15 Echo [64] 11/12 11/14 11/25 12/13 12/18 13/4 13/25 15/2 15/6 15/23 16/1 17/3 17/25 18/20 18/23 19/2 20/20 22/8 22/10 22/25 23/16 23/17 24/3 24/19 25/2 27/13 28/14 29/6 31/18 32/15 33/6 33/14 33/18 35/16 35/23 36/9 37/10 38/3 38/23 39/5 39/22 40/4 40/13 40/20 41/8 42/20 44/15 45/23 49/15 50/16 50/19 50/21 50/23 52/10 52/22 54/4 54/21 62/14 63/2 63/4 63/6 63/8 63/10 66/9 Echo's [2] 50/1 50/17 eight [11] 11/16 11/17 11/21 20/10 35/16 41/13 41/14 42/23 78/12 83/19 84/7 Elighth [1] 86/1 either [9] 9/25 33/10 33/14 45/18 70/22 74/21 79/23 81/11 81/15 elect [1] 74/24 Electric [1] 48/10 element [2] 72/14 73/12 elements [2] 69/23 70/24 Eleven [2] 72/24 73/7 eliminated [1] 84/4 else [3] 13/3 52/20 64/1 else's [1] 72/3 empty [4] 55/4 66/23 66/25 66/25 end [3] 16/13 38/18 65/21 endanger [1] 82/13 endangered [2] 82/9 82/10 endangerment [2] 8/24 81/3 enough [7] 41/15 41/20 44/21 65/12 68/5 76/19 77/19</p>
--	--	---

E enter [10] 27/1 44/21 44/23 66/4 69/24 72/13 72/25 73/7 73/19 73/22 entered [5] 22/18 63/19 67/1 77/6 81/4 entering [5] 65/14 72/20 73/8 73/9 75/23 enters [2] 73/17 77/16 entire [2] 7/16 51/6 entry [2] 65/9 74/6 enumerated [1] 74/7 escalate [1] 65/16 escalated [3] 44/8 68/8 68/9 escalates [2] 43/25 44/3 escalation [1] 44/7 ESQ [4] 1/22 1/22 1/24 1/24 essentially [1] 78/17 establish [3] 73/25 76/25 77/1 even [3] 72/24 84/3 84/5 eventually [6] 20/3 20/4 36/7 39/2 43/4 46/24 ever [7] 15/19 15/25 31/11 33/10 33/15 40/3 49/25 every [5] 15/12 15/13 15/15 69/15 78/13 everybody [2] 57/17 64/2 everyone [1] 10/9 everything [1] 47/8 evidence [5] 53/23 54/24 63/19 64/6 77/5 evidentiary [1] 62/1 exactly [1] 19/10 examination [9] 2/1 2/5 2/6 2/7 2/8 10/20 34/5 48/21 52/7 example [3] 43/15 69/1 72/23 exclude [1] 7/8 excluded [2] 5/13 7/3 exclusionary [1] 4/11 Excuse [1] 17/12 excused [1] 53/1 execution [1] 56/12 exhibit [7] 3/4 3/5 53/9 53/11 53/18 53/21 64/4 exhibits [2] 3/1 63/14 exited [1] 55/21 expansive [1] 74/16 explaining [1] 75/16 explode [1] 41/20 extension [1] 69/5 extent [1] 45/13 exterior [1] 55/5	file [1] 85/9 filing [1] 9/1 final [1] 54/14 finally [1] 54/13 finding [2] 76/18 77/21 fine [2] 7/11 22/5 firearm [15] 8/15 8/20 8/23 26/12 33/17 53/15 56/20 56/21 64/25 66/22 78/22 80/2 82/11 85/14 85/17 firearms [3] 33/3 33/7 53/11 fired [4] 45/16 47/17 47/23 82/11 firing [1] 79/6 firings [1] 79/12 first [13] 9/4 10/16 11/14 23/1 28/12 43/22 44/18 57/24 58/13 61/3 64/23 65/5 81/4 five [11] 23/6 23/16 23/18 36/2 78/6 78/12 82/22 82/24 83/7 84/11 86/21 floor [2] 28/20 32/4 Florence [3] 58/17 58/22 58/23 Florence M [1] 58/22 folding [1] 20/21 following [2] 54/14 54/24 follows [1] 10/18 Forget [1] 31/16 forth [4] 34/17 35/1 44/12 85/11 forum [1] 75/15 forward [3] 17/1 39/13 77/25 found [2] 47/19 66/24 four [2] 47/23 86/20 fraud [1] 74/10 frequency [1] 15/14 Friday [3] 17/7 17/16 17/17 Fridays [2] 14/8 14/18 friend [18] 35/19 42/19 58/18 59/23 60/2 60/5 60/9 60/11 60/13 61/8 61/10 61/24 62/23 63/1 63/4 63/6 63/8 63/10 friends [3] 35/22 62/12 62/13 friendship [2] 11/21 11/23 frightened [4] 42/2 42/5 42/8 50/8 front [8] 17/11 17/23 28/15 55/5 55/21 70/20 71/6 80/10 fucking [1] 16/21 full [3] 7/17 9/19 87/5 further [1] 52/5 future [1] 63/20	got [13] 8/18 8/20 14/9 14/18 30/11 32/20 42/10 67/19 67/20 75/20 76/24 85/1 85/2 grab [1] 25/21 grabbed [1] 25/13 grandmother [1] 57/25 grant [1] 7/9 gray [1] 32/16 Guard [1] 42/14 guess [5] 17/24 29/20 30/1 35/11 52/25 guilty [1] 68/19 gun [15] 23/13 26/6 26/10 30/18 41/5 43/14 46/14 48/23 48/24 65/10 66/25 70/20 77/17 81/20 81/23 gunshot [1] 54/6 guys [1] 18/23
F face [1] 9/12 fact [5] 37/8 70/21 70/23 77/13 81/19 facts [3] 54/15 75/5 79/13 factual [3] 76/18 76/22 76/24 factually [3] 76/25 77/2 79/4 fair [10] 35/19 36/19 37/11 37/25 39/8 42/3 43/23 45/5 47/8 77/19 fairly [2] 38/20 64/16 falling [1] 22/3 false [2] 73/8 73/9 familiar [2] 14/1 43/10 familiarized [1] 64/21 family [3] 35/19 42/19 61/9 far [2] 77/13 77/15 fast [1] 17/1 fast-forward [1] 17/1 favor [1] 13/9 fell [3] 20/22 27/24 28/20 felonies [1] 68/13 felony [5] 68/23 69/4 69/17 70/1 75/9 few [4] 16/4 30/21 38/21 64/17 field [1] 72/16 fight [2] 45/5 68/5 figure [1] 69/8	G Gaines [3] 58/4 58/9 59/15 Gavin [1] 54/2 gel [1] 19/9 gentleman [1] 67/24 get [18] 6/13 7/12 23/3 29/21 30/6 30/8 31/17 59/13 60/15 61/25 62/1 62/4 62/6 62/18 65/24 71/25 78/3 86/13 getting [2] 30/13 39/7 Gina [1] 63/3 girlfriend [1] 70/10 give [7] 7/20 7/21 23/6 23/18 39/2 68/25 70/12 glad [1] 71/14 go [25] 7/21 9/4 17/18 18/19 20/5 22/6 22/6 24/3 25/5 29/24 30/6 31/10 43/5 43/19 46/20 47/2 64/17 64/19 64/20 65/16 68/17 69/2 71/5 75/8 80/10 God [1] 9/16 going [41] 5/8 5/13 6/7 6/17 7/9 9/1 9/10 16/21 22/8 31/5 31/8 31/9 31/10 34/9 38/2 41/20 46/14 46/17 46/20 47/3 47/18 47/20 48/1 50/22 57/12 57/19 57/21 60/16 62/20 63/12 63/18 64/16 64/23 72/23 73/21 76/6 77/7 78/1 78/6 81/2 81/25 good [7] 34/7 34/8 34/14 36/21 74/15 84/24 86/17	H had [45] 12/3 12/12 14/2 17/25 18/20 18/21 19/9 19/23 20/16 22/7 22/19 22/23 22/25 28/3 29/17 29/22 30/10 30/11 30/22 32/15 32/16 35/4 35/13 35/16 37/5 37/18 37/19 38/23 38/23 41/10 41/18 42/17 45/6 45/9 46/14 48/12 48/24 50/3 50/3 52/10 52/10 56/25 66/16 66/18 67/13 hadn't [1] 40/19 hair [6] 18/23 18/24 19/2 19/5 19/7 19/10 hall [1] 23/24 hallway [6] 26/17 27/8 27/8 28/4 29/5 55/24 hand [5] 9/13 23/13 24/11 26/7 26/10 handgun [3] 41/2 55/4 56/22 hands [2] 19/8 19/13 happen [4] 17/8 29/3 31/5 45/22 happened [14] 18/18 19/22 22/2 22/22 25/22 27/14 28/21 29/16 29/19 30/5 30/10 30/20 31/2 44/14 happens [2] 23/16 45/16 happy [1] 38/7 harassing [3] 15/6 15/8 66/9 harm [3] 50/18 80/12 80/12 has [6] 40/7 40/12 55/15 65/1 75/7 75/12 hasn't [1] 23/6 hate [1] 71/11 have [77] 5/13 5/23 6/9 6/10 6/22 7/4 7/15 8/5 9/2 11/20 13/22 13/23 14/10 19/2 19/8 19/25 22/9 23/19 24/14 24/20 30/2 33/3 33/6 33/10 33/15 37/1 39/10 40/9 46/8 47/7 49/25 53/5 53/8 55/8 57/20 60/9 60/13 60/18 61/15 62/8 62/22 63/3 63/5 63/7 63/14 65/8 65/11 65/13 67/22 69/5 70/14 71/6 71/10 71/18 71/19 72/15 72/24 73/15 73/20 73/22 73/25 73/25 74/5 74/6 75/23 76/5 76/6 77/24 78/1 79/23 80/24 81/7 82/18 83/6 85/2 85/9 86/24 having [3] 10/16 22/4 39/7 he [177] he's [8] 11/8 25/6 54/8 57/12 67/19 74/18 75/3 75/11 head [3] 10/3 30/18 55/12 hear [11] 10/9 27/16 43/22 44/6 44/8 44/15 48/2 49/12 50/25 51/12 52/23 heard [7] 8/12 17/21 25/2 25/4 47/1 66/5 67/24 hearing [6] 1/16 4/8 7/8 7/9 54/10 82/19 hearings [1] 63/21 held [2] 85/25 86/24 help [11] 9/16 19/9 29/12 30/12 30/14 31/12 31/17 31/17 31/21 37/10 80/14 her [51] 12/21 13/5 14/1 15/9 15/10 15/16 18/21 18/21 18/22 18/23 19/5 19/7 19/8 19/9 19/10 19/13 21/12 22/5 22/5 22/7 22/13 22/13 22/23 22/25 23/8 25/6 25/7 25/13 25/13 25/15 25/18 25/21 25/23 25/24 26/6 26/9 26/14 26/21 26/22 26/24 28/15 31/17 50/4 52/24 60/22 66/15 66/16 66/19 70/12

H her... [2] 75/23 80/14 here [14] 7/2 9/11 12/24 19/24 19/25 22/17 59/2 63/20 65/8 68/13 75/2 75/4 75/18 76/7 hereby [1] 85/25 herein [1] 85/9 high [1] 26/13 him [29] 10/25 11/2 19/15 19/20 19/21 19/23 23/1 23/11 23/15 25/21 30/2 31/7 31/15 31/16 35/13 35/25 42/8 42/23 42/24 49/12 49/15 49/16 51/12 67/19 80/1 80/13 81/12 86/24 86/25 himself [2] 5/25 57/13 his [28] 4/20 14/17 23/13 24/11 26/7 26/10 29/18 35/25 37/9 37/9 38/2 39/2 40/16 40/19 49/13 52/13 57/12 65/14 66/14 66/23 68/2 68/13 69/3 70/9 70/19 70/20 73/22 75/23 hit [1] 47/12 hold [3] 69/7 83/24 86/24 holding [2] 22/7 26/12 hole [3] 55/5 55/19 55/20 holster [2] 55/4 67/1 home [37] 14/11 36/7 36/14 36/14 37/8 65/1 65/2 66/3 68/12 68/14 68/14 68/15 68/20 68/24 69/11 69/16 69/20 69/20 70/3 70/9 70/14 70/19 70/19 72/2 72/3 72/12 72/20 73/4 73/8 73/14 73/19 73/22 73/24 75/23 78/22 79/6 82/1 homeowner [1] 73/21 homicide [3] 54/8 54/16 54/21 Honor [34] 4/12 5/16 7/16 9/5 9/23 10/7 10/13 11/7 17/19 34/2 48/18 52/6 52/21 53/4 53/24 54/13 55/1 56/5 57/10 60/21 62/3 63/16 63/17 64/13 66/1 67/5 71/16 82/4 84/21 84/25 86/4 86/5 86/6 86/20 HONORABLE [1] 1/15 hospital [3] 32/9 32/11 32/22 house [40] 12/21 12/22 13/3 18/16 22/14 23/10 26/15 32/1 32/7 32/25 33/10 33/14 36/6 38/11 38/15 38/25 40/7 40/13 43/7 43/8 43/9 47/3 47/20 50/9 65/6 65/10 65/15 66/10 66/18 67/11 67/14 69/2 69/9 69/19 70/9 74/14 76/18 76/20 76/24 77/17 household [1] 36/2 how [26] 5/5 14/4 15/5 18/23 22/15 22/18 26/5 26/5 29/7 30/16 32/11 37/22 38/15 41/11 41/15 42/15 43/11 45/9 45/22 47/2 47/3 47/16 49/10 51/15 52/22 73/9 However [1] 56/21 huh [1] 10/3 hurting [1] 25/7 hysterical [4] 29/8 29/9 51/6 51/7	Identity [1] 54/9 II [2] 78/4 85/14 III [1] 85/15 Imagine [2] 41/11 45/16 Immediately [1] 38/20 Immerman [1] 9/9 Impact [1] 6/12 important [1] 59/13 Impounded [1] 56/18 inappropriate [1] 42/18 incidences [1] 68/4 incident [1] 79/11 incidents [1] 49/19 incorporating [2] 83/11 83/20 INDEX [2] 2/1 3/1 Indicated [5] 14/17 49/12 50/12 51/10 51/20 Indicates [1] 53/11 indicating [1] 55/19 individual [7] 4/22 10/22 11/11 53/16 69/15 70/14 70/18 indulgence [2] 34/1 48/14 Inference [1] 66/21 information [1] 37/5 Infrequently [1] 11/22 injured [1] 47/6 injuries [1] 50/1 injury [5] 79/24 79/25 80/6 80/7 80/16 input [1] 67/10 inside [6] 22/21 55/3 55/7 69/9 78/22 79/6 instead [1] 83/8 intent [13] 65/6 65/12 66/3 67/2 68/18 69/16 69/24 74/6 74/7 75/9 77/6 77/18 77/21 interpretation [1] 75/17 intervene [1] 41/22 invasion [9] 68/12 68/14 68/14 69/11 69/21 70/3 72/12 73/14 73/24 investigate [1] 54/21 invoked [1] 4/11 irate [1] 40/18 Irrational [1] 45/13 irritated [1] 40/18 is [154] isn't [3] 73/11 73/12 75/14 Issue [10] 6/18 6/18 66/3 67/20 70/8 72/18 72/21 73/6 75/24 79/7 Issues [1] 77/23 it [155] it's [24] 4/13 6/8 26/25 34/14 47/9 47/23 53/25 59/12 64/16 70/18 71/4 71/22 73/17 74/9 74/22 74/25 75/10 77/23 78/17 79/10 79/11 79/11 81/10 85/5 Items [1] 54/24 IV [2] 78/5 85/16 Ivle [2] 54/15 56/7 IX [2] 84/15 85/20	Jennifer [4] 59/15 60/17 60/18 60/18 Jesse [5] 13/8 13/12 13/16 26/20 84/14 Jett [5] 13/8 13/12 13/16 26/20 84/20 Joanna [1] 59/18 Jodey [7] 13/8 13/11 13/15 22/16 26/19 29/4 84/12 Joe [2] 23/6 54/22 joined [1] 43/4 joint [1] 67/12 JOSEPH [6] 2/3 9/6 9/7 9/20 10/15 66/8 Judge [14] 5/7 6/1 6/5 7/11 57/11 62/10 64/24 68/12 71/7 76/15 79/17 83/1 83/9 86/17 Judicial [1] 86/1 July [10] 13/23 17/2 17/13 17/14 17/15 32/20 33/14 50/9 54/19 56/6 July 27th [4] 17/2 32/20 54/19 56/6 June [16] 12/6 12/7 12/9 12/10 12/11 13/22 16/7 16/8 16/11 16/13 37/13 37/16 38/11 38/13 38/18 38/19 June of [1] 16/8 Jury [4] 77/13 79/4 80/10 80/10 just [39] 5/14 8/20 10/2 11/21 14/15 18/19 19/2 23/6 23/7 23/18 24/2 24/18 24/18 26/5 28/25 31/17 35/11 46/3 46/9 46/20 46/21 46/24 47/24 52/9 53/5 53/24 62/12 69/13 70/18 73/5 73/11 73/12 74/5 75/16 81/10 82/20 83/9 86/13 86/24 JUSTICE [3] 1/2 1/15 4/1
I I'd [4] 57/17 71/8 72/11 73/12 I'll [7] 34/2 34/11 71/2 71/5 71/14 76/11 86/13 I'm [46] 7/9 13/18 16/20 17/21 18/3 19/10 21/11 24/7 24/18 26/2 26/20 26/25 28/19 30/21 31/9 31/13 31/22 34/9 40/11 44/24 46/14 46/15 47/5 47/24 48/5 57/21 58/23 61/20 62/20 63/18 64/23 66/1 68/21 69/11 69/13 73/8 74/20 74/20 75/16 76/1 77/13 77/16 78/1 78/11 81/10 85/7 I've [8] 4/13 4/15 8/18 57/11 63/23 64/21 74/11 75/20 I-V-I-E [1] 54/16 ID [1] 53/13 idea [1] 8/4 identification [2] 53/22 64/5 identified [1] 11/8 identify [2] 11/3 43/14	J J-A-Y-C-E [1] 13/11 J-A-Z-Z-Y [1] 13/12 J-E-S-S-E [1] 13/12 J-E-T-T [1] 13/12 J-O-D-E-Y [1] 13/11 J-O-S-E-P-H [1] 9/21 Jacqueline [1] 60/4 JANSEN [1] 1/15 January [2] 13/21 86/7 January 16th [1] 13/21 Jasper [2] 87/8 87/9 Jayce [10] 13/8 13/11 13/15 22/17 26/19 29/4 29/21 29/22 30/6 84/16 Jazzy [11] 13/8 13/12 13/16 13/18 22/7 22/12 24/8 24/24 26/21 52/3 84/18 Jazzy's [1] 13/20	L language [3] 81/9 83/12 83/20 larceny [1] 69/25 large [1] 52/15 LAS [3] 1/2 4/1 54/17 last [2] 54/15 61/20 late [1] 12/10 later [5] 7/15 16/13 20/9 23/2 56/5 laundry [2] 20/21 20/22 law [7] 66/2 69/5 69/14 69/22 70/1 75/25 81/15 lay [4] 22/6 22/6 22/8 22/12 leading [2] 66/6 66/16 learn [1] 15/2 learned [1] 43/11 least [2] 39/3 51/18 leave [3] 20/3 61/25 78/2 leaves [2] 38/11 46/24

<p>L</p> <p>leaving [2] 6/22 80/15 led [2] 26/3 44/6 left [5] 20/4 36/7 37/9 38/15 71/10 legal [3] 8/2 65/3 76/23 legally [1] 71/12 legislature [1] 75/1 length [1] 28/16 let [13] 4/10 4/19 5/5 23/9 23/15 31/16 36/22 71/4 71/18 71/18 71/25 76/11 78/11 let's [3] 62/18 78/11 86/24 level [1] 86/8 license [2] 56/14 72/24 like [12] 5/7 19/1 26/1 33/20 34/25 35/12 60/25 67/21 70/13 81/11 82/7 83/25 line [1] 5/15 lines [4] 40/14 44/15 46/19 46/22 Lisa [1] 54/1 list [2] 57/14 62/1 listed [4] 58/6 59/23 61/9 61/24 lists [1] 63/13 little [2] 37/20 40/18 living [5] 16/16 18/13 18/14 21/1 39/6 Liz [2] 4/12 5/3 locate [1] 53/15 located [4] 55/2 55/10 55/17 56/1 long [7] 23/7 32/11 42/15 47/2 47/3 64/16 65/24 look [4] 28/8 33/20 78/16 78/24 looked [4] 23/5 23/17 26/1 78/2 looks [2] 5/7 60/25 LOPEZ [3] 1/24 4/23 4/25 Lopez-Negrete [1] 4/23 loud [1] 18/1 loved [1] 18/23 Lower [1] 86/7 Lucas [6] 11/12 11/14 11/25 54/4 62/14 63/7 Luger [4] 55/12 56/2 56/24 56/25 living [2] 32/3 50/23</p>	<p>mental [4] 80/6 80/7 80/16 84/1 mentioned [2] 31/9 46/11 mentioning [1] 34/18 MERCER [5] 1/22 2/5 2/7 4/12 5/3 messages [4] 15/7 15/9 15/17 66/18 mel [7] 11/19 35/16 35/17 42/24 52/11 52/24 77/15 methamphetamine [1] 69/3 Metropolitan [1] 54/17 mic [1] 10/9 Michael [1] 58/9 might [10] 8/3 38/16 39/14 41/12 42/6 50/18 65/24 67/22 74/16 75/25 military [4] 42/11 43/2 43/4 43/11 millimeter [8] 55/11 55/11 55/12 56/2 56/19 56/22 56/24 56/25 mind [1] 81/8 minute [3] 8/18 23/9 86/14 minutes [5] 23/6 23/16 23/18 64/17 66/16 missed [2] 21/23 66/17 Misty [1] 60/1 mixing [3] 68/13 68/22 69/12 moment [1] 34/16 Mommy [3] 22/17 22/17 29/13 month [1] 16/14 months [2] 13/23 13/24 more [7] 6/9 34/11 45/10 64/17 67/6 67/10 76/5 morning [11] 17/9 17/10 20/9 20/15 21/6 21/7 32/19 34/7 34/8 39/16 49/11 mother [3] 58/6 78/25 80/13 motion [2] 7/8 75/13 motions [1] 7/12 move [8] 12/18 12/20 16/11 38/13 38/16 39/13 47/8 53/17 moved [3] 37/8 37/13 38/17 moving [2] 38/25 77/25 Mr [3] 2/6 2/8 39/7 Mr. [40] 4/4 4/21 5/23 9/24 34/3 34/7 34/15 34/17 35/22 36/4 36/11 36/15 37/25 38/11 38/15 38/24 39/2 39/18 39/21 40/3 42/3 42/6 42/19 45/2 45/6 45/19 46/8 46/11 48/4 48/6 52/10 52/11 52/19 55/9 56/13 57/11 65/1 67/25 70/9 72/22 Mr. Averman [5] 9/24 34/7 52/19 55/9 67/25 Mr. Coffee [5] 4/4 4/21 5/23 34/3 34/15 Mr. Crawford's [1] 70/9 Mr. Turner [1] 72/22 Mr. White [21] 34/17 35/22 36/11 37/25 38/11 38/15 38/24 39/2 39/18 39/21 40/3 42/3 42/6 45/2 45/19 46/8 46/11 48/4 48/6 52/11 57/11 Mr. White's [7] 36/4 36/15 42/19 45/6 52/10 56/13 65/1 Ms [2] 2/5 2/7 much [4] 37/22 43/22 52/16 52/17 multiple [1] 75/7 murder [11] 8/15 8/16 8/21 8/22 66/6 66/7 68/18 77/9 77/10 85/14 85/15 murdering [1] 80/13 my [17] 7/1 23/7 23/7 30/6 30/11 30/18 30/18 43/9 48/15 52/1 53/25 69/2 70/7 73/8 74/13 75/16 76/7 myself [2] 64/21 78/2</p>	<p>napping [1] 21/25 National [1] 42/14 nearby [1] 79/2 necessarily [4] 35/7 42/2 42/7 65/17 need [9] 5/8 7/15 23/8 29/12 34/15 40/13 67/6 67/9 73/18 neglect [10] 8/24 78/15 79/5 79/11 83/7 85/18 85/19 85/20 85/21 85/22 NEGRETE [2] 1/24 4/23 NEGRETE-LOPEZ [1] 1/24 NEVADA [4] 1/6 4/9 73/1 86/2 never [3] 37/3 37/5 69/5 nevertheless [1] 80/13 next [3] 23/16 52/1 56/21 Nichole [1] 61/9 Nicole [2] 62/22 63/9 night [6] 20/23 36/7 40/20 48/24 66/19 67/23 nights [1] 14/9 nightstand [1] 30/7 nine [5] 13/15 56/25 78/13 83/21 86/21 no [49] 1/7 1/8 9/2 10/1 10/2 18/11 23/12 23/14 24/12 25/2 28/12 30/4 31/13 32/24 33/2 33/5 33/8 33/16 35/9 37/4 37/7 38/8 39/20 39/24 40/5 41/1 41/4 41/7 41/9 43/7 43/9 44/10 44/13 48/3 49/23 51/14 52/5 52/21 53/19 53/21 62/25 63/14 63/16 63/17 64/2 64/4 64/21 86/24 86/25 nobody [2] 30/19 67/19 noon [1] 50/9 northwest [1] 55/8 not [60] 6/18 7/4 7/6 7/9 10/2 19/2 19/10 21/11 24/18 26/2 26/20 28/19 30/21 31/22 35/10 37/19 38/20 39/5 40/11 40/22 40/24 41/2 45/4 47/5 47/23 49/18 50/8 50/24 51/10 52/10 57/12 62/4 62/24 65/16 66/1 66/24 67/7 67/10 67/19 68/9 68/20 68/21 69/11 71/12 72/7 72/10 74/4 74/24 74/25 76/1 77/20 78/15 79/12 80/14 81/3 81/22 82/8 83/2 85/5 85/7 nothing [4] 9/15 10/17 65/15 68/4 notice [4] 8/5 8/8 8/9 45/2 notified [1] 8/25 now [25] 4/7 5/10 5/18 5/23 8/13 9/24 34/23 35/2 40/6 42/5 46/1 49/9 57/19 61/25 62/11 62/20 63/12 64/7 64/9 70/25 74/18 76/21 79/3 83/23 85/11 number [5] 6/11 14/14 35/13 53/13 56/19 numbered [2] 84/3 84/5 numerous [2] 18/21 21/21 NV [1] 56/14</p>
<p>M</p> <p>made [6] 16/22 35/4 37/3 38/9 50/15 57/18 magazine [1] 56/23 magazines [2] 56/22 56/23 mails [4] 16/5 16/24 16/25 21/22 make [13] 15/19 15/25 16/3 25/5 31/7 34/11 40/24 41/8 57/20 63/13 72/1 76/15 78/11 making [6] 16/19 25/7 47/4 74/13 76/17 80/23 managed [1] 29/21 manner [1] 54/7 Manning [1] 58/25 many [3] 5/6 47/16 51/15 marked [2] 53/22 64/5 married [1] 11/25 Mary [1] 58/21 master [13] 22/10 23/23 24/7 24/13 24/23 28/2 28/3 28/7 29/23 30/23 32/3 51/21 55/16 matter [4] 8/11 45/24 73/17 86/10 may [16] 6/11 9/23 10/12 11/7 46/8 57/15 63/20 64/8 68/19 71/12 75/10 79/25 80/8 80/9 80/10 86/9 maybe [2] 8/1 65/21 me [35] 5/5 11/2 13/9 17/12 17/25 21/21 22/4 23/5 23/6 23/9 23/17 23/18 27/15 27/18 28/12 29/6 30/1 30/18 31/4 31/10 31/16 31/16 34/10 34/15 36/22 39/5 40/17 46/15 49/4 68/4 71/18 71/19 71/25 78/11 85/8 mean [8] 15/22 18/5 19/6 39/3 74/23 74/25 81/15 81/16 means [1] 42/24 meet [3] 11/14 11/18 52/22</p>	<p>N</p> <p>name [16] 7/21 9/19 9/19 10/22 11/12 36/15 37/9 37/9 54/16 58/1 58/13 60/23 61/3 61/20 65/1 70/12 names [12] 7/13 7/20 7/25 13/6 13/10 57/14 57/17 57/20 57/21 62/1 62/12 62/20 Nancy [1] 58/25 nap [4] 20/24 20/25 21/13 66/15</p>	<p>O</p> <p>O'CLOCK [1] 1/17 O-U [1] 59/10 O-W-S-L-E-Y [2] 59/11 59/12 object [1] 6/24 objection [3] 9/2 53/19 63/15 observe [1] 50/1 observed [2] 54/23 55/1 obviously [3] 41/16 42/5 47/6 occasions [1] 48/25 occurred [2] 15/12 18/12 off [7] 8/3 14/9 14/18 49/16 52/1 65/5 65/6 offense [2] 69/23 70/5 offenses [1] 74/8 office [4] 54/2 56/9 74/25 75/14 Oh [4] 8/18 31/13 58/23 61/19 okay [73] 4/19 5/2 10/10 12/24 13/3 13/13 13/20 15/1 17/1 17/15 18/25 19/12 19/15 19/20 20/24 22/21 23/9 23/15 23/25 24/3 24/19 25/6 28/3 30/2 33/22 33/24 34/14 39/6 40/12 41/5 41/22 43/5 45/1 45/5 45/18 46/24 47/2 48/1 49/9 50/18 50/25 52/18 52/25</p>

<p>O</p> <p>okay... [30] 52/25 53/7 54/12 57/23 58/3 60/24 61/5 61/25 62/6 62/11 62/17 62/20 63/3 63/12 63/23 64/7 64/11 64/14 70/11 70/22 71/1 71/3 78/1 78/8 78/20 78/21 78/25 83/4 84/22 85/4</p> <p>old [2] 41/11 41/15</p> <p>older [1] 22/16</p> <p>oldest [2] 26/16 26/18</p> <p>once [6] 22/21 27/21 30/10 47/13 47/14 47/15</p> <p>one [24] 5/8 6/7 7/20 9/25 19/2 29/21 33/10 46/7 56/23 65/7 72/6 73/16 74/7 75/19 76/2 78/6 78/14 79/10 79/11 79/14 81/7 82/7 83/3 83/16</p> <p>ones [1] 7/3</p> <p>only [5] 5/8 7/3 7/7 71/10 77/20</p> <p>open [7] 24/14 24/20 25/9 44/25 45/1 45/15 55/13</p> <p>opened [4] 25/5 25/8 44/24 45/7</p> <p>openly [2] 40/22 55/21</p> <p>opinion [1] 71/11</p> <p>opportunity [1] 49/25</p> <p>opposed [1] 73/14</p> <p>order [1] 85/25</p> <p>ordinary [2] 41/11 41/19</p> <p>originally [1] 11/19</p> <p>other [17] 5/11 5/24 6/8 8/23 11/22 15/13 20/1 31/1 40/1 53/3 56/3 73/21 75/3 78/13 80/5 81/22 85/17</p> <p>our [2] 19/25 67/10</p> <p>out [16] 25/10 37/8 38/17 39/4 41/2 41/10 41/18 45/19 47/3 49/4 50/22 51/16 55/21 60/20 65/15 69/8</p> <p>over [15] 9/12 16/4 16/23 19/24 19/25 26/5 27/13 27/24 30/17 39/8 46/12 81/9 83/11 83/19 83/25</p> <p>own [15] 41/23 65/5 66/3 68/15 68/20 68/24 69/9 69/20 70/4 73/4 73/8 73/22 74/13 75/23 76/24</p> <p>owners [1] 67/13</p> <p>owns [1] 72/20</p> <p>Owsley [2] 59/9 59/10</p>	<p>petit [1] 69/25</p> <p>phase [4] 6/12 6/18 6/20 57/16</p> <p>phone [16] 15/6 15/8 15/17 16/23 19/12 21/22 29/18 30/6 30/8 30/10 30/11 30/14 30/18 46/5 46/6 66/14</p> <p>physical [3] 79/24 79/25 80/12</p> <p>physically [1] 46/4</p> <p>pick [1] 14/8</p> <p>piece [1] 64/18</p> <p>pistol [2] 33/21 43/17</p> <p>place [9] 4/8 14/5 72/25 79/24 81/3 81/5 81/21 81/24 82/1</p> <p>placed [1] 80/7</p> <p>placing [1] 84/1</p> <p>plain [1] 73/13</p> <p>Plaintiff [1] 1/7</p> <p>plate [1] 56/14</p> <p>playing [1] 72/16</p> <p>plead [1] 82/6</p> <p>pleading [1] 78/18</p> <p>please [10] 6/3 7/23 9/18 9/19 10/2 11/2 23/6 25/3 34/10 74/14</p> <p>pled [5] 78/16 78/17 78/20 79/7 82/5</p> <p>point [32] 5/8 6/13 11/2 12/18 14/11 16/11 18/10 20/12 21/12 24/6 24/23 25/9 26/14 29/16 30/5 30/20 31/23 40/1 40/16 40/25 41/3 41/6 44/1 44/15 45/4 46/7 47/19 69/22 73/1 73/4 77/22 79/9</p> <p>police [8] 31/24 32/25 34/21 46/1 46/7 51/4 51/17 54/17</p> <p>policy [1] 7/1</p> <p>possession [5] 8/15 8/20 64/25 67/14 85/13</p> <p>possible [1] 7/12</p> <p>possibly [1] 5/24</p> <p>potential [3] 5/11 57/15 75/3</p> <p>Potter [4] 58/17 58/19 58/22 58/23</p> <p>pounding [2] 18/2 18/4</p> <p>prelim [1] 70/20</p> <p>preliminary [3] 1/16 4/8 54/10</p> <p>Prescott [1] 56/10</p> <p>presence [1] 80/14</p> <p>present [4] 4/20 49/15 56/12 80/3</p> <p>presume [2] 62/23 63/5</p> <p>pretense [2] 73/8 73/10</p> <p>pretty [4] 45/16 46/16 47/9 52/17</p> <p>primary [1] 67/14</p> <p>prior [3] 25/6 48/24 49/19</p> <p>prison [3] 31/8 31/10 46/20</p> <p>probable [3] 76/19 77/11 77/21</p> <p>probably [4] 6/17 72/9 77/23 79/4</p> <p>problem [2] 80/24 81/13</p> <p>problems [1] 39/7</p> <p>proceed [6] 4/5 7/10 9/23 10/12 62/19 64/8</p> <p>proceedings [4] 4/2 7/14 87/2 87/7</p> <p>process [1] 6/8</p> <p>properly [1] 76/14</p> <p>property [1] 73/6</p> <p>proposed [4] 53/9 53/17 53/21 64/4</p> <p>proposition [1] 6/16</p> <p>prove [6] 69/15 72/15 73/20 74/5 74/6 81/11</p> <p>proven [1] 70/23</p> <p>provide [1] 37/10</p> <p>providing [1] 57/17</p> <p>proximity [4] 55/18 55/25 78/23 82/12</p> <p>public [2] 1/25 72/24</p> <p>pull [1] 41/2</p> <p>pulled [3] 25/13 25/15 25/18</p> <p>purposes [2] 6/21 54/9</p> <p>pursuant [2] 7/11 54/5</p> <p>push [1] 31/1</p> <p>pushed [3] 25/23 26/22 26/24</p> <p>put [6] 5/8 22/7 22/12 36/22 53/5 63/21</p> <p>putting [1] 19/7</p>	<p>Q</p> <p>Quarter [1] 21/18</p> <p>question [14] 9/25 40/6 46/17 49/21 50/10 64/23 73/5 76/22 76/23 76/24 77/12 77/20 79/3 79/4</p> <p>questions [4] 34/9 48/15 52/5 65/4</p> <p>quickly [4] 38/20 45/16 45/22 47/9</p> <p>R</p> <p>R-E-N-S [1] 59/21</p> <p>R-O-M-A-N-D-I-A [2] 61/6 63/9</p> <p>raise [1] 9/12</p> <p>Raquel [1] 60/11</p> <p>rather [2] 65/20 78/6</p> <p>read [3] 8/2 58/13 64/20</p> <p>reading [2] 73/13 75/8</p> <p>ready [1] 4/5</p> <p>really [4] 19/10 73/4 79/1 79/10</p> <p>reasonable [1] 85/23</p> <p>reasons [2] 65/18 68/10</p> <p>recall [9] 12/5 12/9 12/22 20/8 31/20 33/24 49/3 49/20 50/10</p> <p>receive [1] 15/17</p> <p>received [1] 21/20</p> <p>receiving [1] 21/9</p> <p>record [17] 4/10 4/19 4/24 7/15 7/21 8/3 10/4 11/7 13/7 17/6 57/18 57/22 59/13 62/2 62/9 76/11 77/24</p> <p>recovered [2] 55/22 56/4</p> <p>Recross [2] 2/8 52/7</p> <p>Recross-examination [2] 2/8 52/7</p> <p>Redirect [2] 2/7 48/21</p> <p>referring [1] 49/7</p> <p>reflect [4] 4/10 4/19 11/8 11/9</p> <p>regard [1] 67/4</p> <p>regards [1] 76/16</p> <p>registered [1] 36/11</p> <p>related [1] 7/17</p> <p>relation [3] 23/22 27/1 51/24</p> <p>relationship [12] 12/13 12/15 12/16 15/2 16/1 37/15 37/18 38/24 39/8 39/11 42/17 42/18</p> <p>relatives [2] 62/12 62/13</p> <p>remain [2] 9/11 51/6</p> <p>remember [2] 34/19 34/22</p> <p>removed [1] 32/6</p> <p>Rens [1] 59/19</p> <p>repeat [3] 26/8 33/12 42/21</p> <p>reported [1] 37/1</p> <p>reporter [2] 10/4 13/10</p> <p>REPORTER'S [1] 1/16</p> <p>reports [1] 37/3</p> <p>request [2] 7/12 63/24</p> <p>required [1] 74/5</p> <p>requies [1] 73/14</p> <p>research [3] 71/1 71/9 75/21</p> <p>researched [2] 71/6 76/12</p> <p>reserve [1] 64/12</p> <p>resided [2] 13/3 13/25</p> <p>residence [18] 16/12 17/3 18/9 18/14 22/18 54/25 55/6 55/7 55/14 66/4 66/22 67/1 68/17 70/5 71/21 72/13 80/2 82/10</p> <p>resides [1] 65/2</p> <p>resolver [1] 33/22</p> <p>respect [2] 68/21 70/6</p> <p>respond [2] 18/22 30/16</p> <p>responded [2] 54/18 56/8</p> <p>responding [1] 19/18</p> <p>response [1] 49/23</p> <p>responses [1] 10/5</p> <p>rest [1] 57/10</p> <p>resis [2] 64/9 64/10</p>
--	---	--

R			
result [3] 79/25 80/8 80/15	81/12 81/17 82/23 82/25 85/5	30/7 30/11 30/13 37/10 42/24 50/15 52/9	
returned [2] 23/7 40/19	separated [2] 12/3 12/12	53/20 57/5 64/11 64/16 65/3 67/16 67/20	
returning [1] 66/14	separately [1] 82/12	69/10 71/1 72/14 72/16 73/24 75/16 76/10	
review [2] 6/9 72/12	separation [1] 15/3	80/9 80/17 81/5 82/2 82/21 83/9 83/9 84/3	
revolver [1] 43/16	Sergeant [1] 53/10	85/7 85/7 86/24	
reword [1] 81/6	serial [1] 56/19	sofa [2] 20/24 21/13	
Richard [3] 4/9 8/13 85/24	serious [1] 37/19	solemnly [1] 9/14	
ridiculous [1] 69/5	seriously [1] 35/8	some [25] 6/22 12/18 14/11 19/9 20/16 20/21	
right [36] 4/4 4/7 5/10 9/3 9/13 10/12 11/5	served [1] 75/13	21/12 24/16 24/23 31/23 34/9 35/4 40/9	
23/18 27/3 27/21 29/5 34/3 34/12 35/14 36/7	set [2] 85/11 86/21	43/25 45/13 47/19 50/3 71/1 71/9 72/22 73/1	
41/24 44/1 46/4 46/17 47/13 52/1 52/1 57/12	setting [1] 86/12	73/7 73/9 75/25 77/22	
60/17 60/19 61/19 63/8 64/7 70/25 73/23	seven [5] 20/10 78/12 83/18 84/14 86/21	somebody [4] 37/1 67/2 72/2 74/10	
73/25 74/2 78/12 78/18 83/17 84/8	several [1] 66/17	somehow [1] 69/15	
rightly [1] 86/19	shake [1] 10/2	something [12] 5/14 15/12 17/8 19/8 34/18	
risk [1] 80/11	she [55] 10/4 13/22 13/23 15/16 18/22 18/22	38/2 40/14 44/15 46/19 46/21 71/12 72/9	
Robertson [1] 61/9	19/5 19/7 19/8 19/9 19/12 19/15 19/18 19/20	somewhere [1] 14/22	
Romandia [1] 61/1	19/21 19/23 20/21 20/22 20/24 20/25 21/9	soon [1] 38/1	
romantic [1] 12/15	21/12 21/15 21/19 21/20 21/21 21/23 21/25	sorry [8] 13/18 17/21 18/3 31/13 44/24 48/5	
room [31] 18/13 18/14 21/1 25/9 25/14 25/16	22/2 22/3 22/3 22/5 22/6 23/1 23/6 23/17	58/24 61/20	
25/16 25/17 25/18 27/2 27/8 29/21 29/22	25/5 25/10 25/19 25/25 26/1 26/3 26/5 26/5	sort [3] 73/7 73/9 81/5	
29/24 30/17 30/22 31/1 31/3 34/17 43/19	32/16 37/10 50/1 50/3 50/5 52/11 54/4 60/20	sorts [1] 38/1	
44/22 44/23 47/3 50/22 51/16 51/25 55/9	66/13 66/15 66/16	sound [1] 34/25	
62/4 65/16 71/20 81/23	Sheahan [1] 59/4	southwest [1] 55/15	
rooms [2] 70/14 70/18	Sheena [2] 61/4 61/5	spare [7] 23/20 23/22 23/25 24/4 24/20 25/17	
rule [1] 4/11	shell [5] 47/19 55/10 56/1 56/3 57/1	28/6	
ruling [2] 77/24 83/15	Sheriff's [1] 56/9	speak [3] 6/2 22/23 23/16	
run [2] 45/18 45/19	shirt [1] 11/6	Special [1] 1/25	
S	shoot [2] 43/11 67/2	specific [4] 16/18 74/5 74/6 77/6	
S-H-E-E-N-A [1] 61/5	shooting [7] 39/14 54/22 78/25 79/2 81/4	specifically [3] 31/15 70/4 71/17	
safety [1] 50/13	81/21 81/24	spell [3] 7/25 9/19 13/9	
said [27] 6/20 9/9 16/20 17/16 19/5 23/5	shoots [1] 45/19	spelled [1] 61/6	
23/17 29/2 29/12 29/17 29/17 30/19 31/9	short [1] 76/7	spelling [2] 56/8 59/13	
34/22 34/25 35/16 36/17 37/13 37/15 39/15	shortly [2] 20/6 22/13	Spencer [1] 63/5	
39/22 40/19 43/6 44/11 46/14 85/25 86/1	shot [27] 25/23 25/25 26/1 26/3 26/6 26/9	spent [3] 55/1 55/10 56/1	
sake [1] 50/17	26/14 27/15 27/18 27/20 27/21 27/23 28/1	stamp [1] 55/13	
same [12] 6/21 27/5 35/17 36/14 52/15 52/16	28/6 28/8 28/10 28/12 28/14 28/17 33/18	stand [3] 7/19 7/20 68/11	
52/17 56/5 79/1 80/18 83/18 83/21	45/15 45/23 45/23 50/21 51/3 51/17 51/19	standing [6] 9/12 28/4 28/13 46/12 51/20	
Sara [1] 63/5	shots [2] 47/16 47/23	51/24	
satisfied [1] 63/25	should [10] 46/20 65/19 65/21 76/12 76/13	started [4] 37/15 37/20 38/18 68/8	
saw [3] 25/21 27/13 48/23	78/10 78/14 79/14 82/18 86/21	state [13] 1/6 1/22 4/9 5/2 9/4 9/5 9/18 10/2	
say [26] 6/17 9/10 10/3 13/18 15/8 15/22	Shouldn't [1] 20/17	57/10 63/14 64/9 69/14 86/2	
17/13 20/10 25/2 25/15 26/22 27/17 28/10	show [5] 14/20 50/18 65/6 65/12 73/15	State's [6] 3/4 3/5 53/8 53/21 64/4 77/15	
28/23 29/9 31/19 37/25 44/15 45/5 47/8 49/5	showed [5] 49/4 50/5 66/10 66/18 67/16	states [1] 72/7	
52/23 62/11 67/21 72/22 74/14	showing [1] 67/18	stating [1] 81/10	
saying [5] 22/17 29/11 34/17 34/22 72/23	shut [5] 24/14 24/15 24/15 24/21 24/22	statute [11] 68/24 71/16 71/18 71/20 72/1	
says [9] 46/16 46/19 66/2 70/2 70/13 71/17	side [5] 7/17 52/2 56/16 62/4 67/10	72/12 73/13 75/7 75/12 80/19 80/19	
71/20 78/21 78/24	sign [3] 48/10 57/25 62/4	statutory [1] 75/17	
scenarios [1] 75/4	signed [4] 57/22 62/7 62/18 62/21	stay [5] 14/11 16/20 31/5 36/18 50/15	
scene [5] 51/4 51/17 54/18 54/25 56/7	signing [1] 62/8	stayed [3] 41/24 42/1 68/3	
scoot [1] 10/8	silver [2] 32/16 56/14	staying [1] 38/18	
Scott [1] 34/14	simple [1] 68/25	stays [1] 40/10	
scratches [1] 50/3	simply [1] 79/5	Step [1] 9/11	
screaming [1] 51/11	since [1] 4/13	stepfather [1] 58/10	
scrutiny [1] 69/7	single [1] 80/22	stepped [1] 60/20	
search [3] 53/12 53/14 56/13	sir [10] 4/18 9/11 10/11 10/22 11/11 34/13	still [15] 20/11 21/9 22/19 28/4 32/3 32/23	
seated [1] 9/18	34/15 41/11 48/23 58/11	33/1 40/7 40/9 52/3 82/22 82/24 85/1 85/2	
second [2] 56/24 65/6	slrens [1] 47/1	85/2	
seconds [1] 45/24	sister [1] 59/16	stipulate [1] 54/1	
see [20] 10/25 11/21 23/11 23/13 24/11 25/12	sit [1] 22/4	stipulated [2] 57/5 57/8	
26/6 26/9 33/17 39/18 39/23 40/3 41/5 45/1	sitting [2] 7/14 11/5	stipulating [2] 47/20 54/8	
49/12 50/22 50/24 78/11 79/18 81/23	situated [2] 27/11 51/22	stipulation [3] 47/18 54/14 57/3	
seeing [1] 86/17	situation [7] 41/19 47/9 47/10 47/17 79/23	stipulations [1] 53/6	
seeking [1] 80/14	79/25 80/7	stomach [3] 26/2 26/4 47/13	
seem [1] 35/11	slx [7] 13/16 13/23 13/24 78/7 78/12 78/12	stood [1] 30/17	
seemed [1] 40/18	84/7	stop [4] 23/9 25/3 34/10 44/16	
seems [3] 69/4 74/16 74/17	sleep [4] 18/19 20/1 20/5 22/8	stopwatch [1] 47/7	
seen [4] 4/14 35/25 48/24 69/6	sleeps [1] 22/10	streets [1] 13/1	
semiautomatic [2] 33/23 43/15	sleeveless [1] 11/6	strike [1] 56/15	
send [1] 76/3	slow [1] 68/8	structure [3] 69/24 72/13 75/9	
separate [10] 79/19 79/20 80/17 80/17 80/19	smoke [1] 69/2	stuff [1] 24/2	
	so [56] 5/5 5/12 5/17 6/21 7/8 7/10 7/14 7/18	subject [2] 5/12 53/12	
	7/24 9/3 9/16 10/8 10/9 11/9 13/22 20/24	submit [4] 6/24 78/4 79/8 79/15	
	22/6 22/8 22/19 23/15 24/3 25/18 27/10 28/3	submitted [1] 77/11	

<p>S</p> <p>subpoenaed [3] 7/2 7/5 7/7</p> <p>substance [1] 19/13</p> <p>suffer [1] 80/6</p> <p>suffering [1] 84/1</p> <p>sufficient [2] 75/21 77/5</p> <p>suggest [1] 80/21</p> <p>Sunday [1] 14/9</p> <p>support [3] 76/19 77/6 79/13</p> <p>suppose [2] 39/25 67/17</p> <p>supposed [2] 23/1 23/3</p> <p>Supreme [2] 6/20 70/8</p> <p>sure [16] 6/4 19/10 21/11 24/18 25/5 25/7 26/2 26/20 28/19 30/21 34/11 40/11 47/5 48/19 57/20 78/11</p> <p>suspected [1] 38/1</p> <p>swear [1] 9/14</p> <p>switch [2] 67/15 67/16</p> <p>sworn [1] 10/16</p>	<p>32/19 32/23 33/1 36/2 36/6 36/18 37/18 37/19 38/2 38/18 39/6 39/15 40/1 40/9 41/18 41/24 42/1 43/5 43/6 45/15 47/18 47/19 47/22 48/12 54/20 54/23 55/2 55/4 56/10 56/15 57/24 58/3 59/15 65/2 67/20 67/22 67/25 68/1 68/4 68/5 72/6 72/8 72/9 72/14 72/22 74/1 75/25 77/5 78/5 78/14 79/3 80/9 80/11 80/15 81/18 82/22 82/24 85/1</p> <p>there's [15] 5/3 58/9 58/12 58/17 59/18 60/1 65/3 72/7 73/1 73/3 76/22 79/13 80/4 83/7 85/22</p> <p>therefore [3] 7/8 85/7 85/8</p> <p>Theresa [1] 59/3</p> <p>these [10] 9/25 38/1 57/20 57/21 62/1 62/20 63/13 74/14 75/3 85/24</p> <p>they [45] 5/18 6/9 6/16 7/4 7/24 8/25 9/1 22/9 23/19 23/20 24/20 26/16 26/21 29/5 29/6 29/7 29/11 29/12 29/14 30/22 31/25 32/1 32/2 43/19 51/5 51/8 62/13 62/18 63/18 65/6 65/7 65/8 65/15 67/12 73/25 75/23 76/25 78/16 79/14 80/10 81/11 81/12 81/22 81/25 82/18</p> <p>they're [3] 6/17 7/1 20/1</p> <p>they've [3] 7/6 78/20 79/7</p> <p>thing [8] 6/21 36/14 64/23 67/15 82/15 83/18 83/21 85/3</p> <p>things [12] 24/1 40/9 44/9 64/15 65/7 65/9 65/16 65/20 71/11 75/20 76/2 79/21</p> <p>think [38] 6/16 46/15 53/8 64/9 65/4 65/18 65/20 67/4 68/1 68/9 68/13 70/23 71/4 72/8 72/9 72/18 73/5 76/4 76/10 76/12 77/3 77/15 78/9 78/10 78/13 79/3 79/10 79/12 79/14 81/1 81/2 81/2 82/14 82/18 83/14 84/22 85/5 86/23</p> <p>third [1] 56/1</p> <p>this [45] 4/7 5/5 5/7 5/8 5/17 6/7 6/13 6/23 7/7 7/9 7/16 12/2 16/10 20/12 21/10 24/6 25/9 29/3 31/5 36/22 43/15 48/1 53/4 54/1 54/3 54/18 54/19 62/14 65/24 66/5 70/21 71/8 71/11 73/16 75/5 75/14 78/12 78/17 79/7 79/8 80/12 80/23 82/19 86/12 86/25</p> <p>thorough [1] 53/12</p> <p>those [32] 6/22 7/2 10/5 13/10 15/17 16/3 16/6 16/22 35/7 37/3 37/6 37/10 40/14 44/8 46/22 50/5 55/24 55/25 56/22 57/15 57/17 62/6 62/9 65/9 65/18 68/10 74/23 79/18 80/1 83/15 85/10 85/12</p> <p>though [3] 35/8 39/6 72/24</p> <p>thought [10] 9/9 17/11 17/15 17/22 17/23 36/25 41/10 41/19 46/8 47/18</p> <p>threatening [1] 66/7</p> <p>threats [13] 15/25 16/3 16/6 16/18 16/22 35/4 35/7 38/9 40/24 41/8 46/11 47/4 48/2</p> <p>three [12] 14/23 32/12 32/13 32/14 36/4 38/24 42/16 47/12 47/19 47/23 51/18 52/9</p> <p>through [5] 7/14 55/14 55/20 64/17 78/5</p> <p>throughout [2] 15/13 19/16</p> <p>time [42] 4/8 5/17 13/25 14/20 15/1 19/3 19/18 20/8 21/11 21/15 24/10 27/25 28/17 29/7 33/9 33/13 35/17 42/7 43/2 44/18 45/6 45/7 45/23 45/23 51/3 51/4 51/6 51/19 53/4 54/1 64/18 64/19 64/20 65/22 67/13 68/23 76/5 76/7 76/14 86/11 86/15 86/25</p> <p>times [6] 16/4 18/22 47/12 51/15 51/18 75/8</p> <p>TOA33791 [1] 56/20</p> <p>today [4] 10/25 11/4 57/13 63/20</p> <p>Todd [1] 60/1</p> <p>told [17] 17/25 21/21 22/5 22/5 23/1 29/3 29/14 30/6 30/11 30/13 31/4 31/4 31/5 31/16 46/7 49/16 68/4</p> <p>too [3] 6/8 46/21 46/21</p> <p>took [12] 14/4 20/24 20/25 30/18 36/21 46/5 46/6 70/7 81/3 81/5 81/21 81/24</p>	<p>Torres [1] 56/19</p> <p>towards [7] 16/13 38/17 38/18 40/25 41/3 41/8 51/11</p> <p>TOWNSHIP [1] 1/2</p> <p>trajectory [1] 55/19</p> <p>transcript [2] 1/16 87/6</p> <p>Travis [1] 54/15</p> <p>treat [1] 52/14</p> <p>trial [2] 6/18 6/20</p> <p>tried [1] 29/20</p> <p>TROY [24] 1/9 4/9 8/13 10/23 18/6 18/20 22/13 22/25 25/2 27/18 28/22 29/15 29/17 30/11 30/13 30/25 31/3 35/17 44/16 44/16 49/6 53/12 56/11 85/24</p> <p>true [6] 36/12 42/8 42/25 43/7 46/9 87/5</p> <p>Trujillo [2] 60/4 60/7</p> <p>trunk [1] 56/17</p> <p>trust [1] 71/10</p> <p>truth [6] 9/15 9/15 9/16 10/17 10/17 10/18</p> <p>truthful [1] 71/2</p> <p>try [4] 30/25 34/11 64/17 65/20</p> <p>trying [5] 20/1 25/10 25/19 29/18 51/12</p> <p>turn [1] 39/4</p> <p>turned [1] 27/15</p> <p>TURNER [3] 1/22 5/3 72/22</p> <p>turns [1] 45/19</p> <p>TV [2] 20/18 21/4</p> <p>Twenty [2] 41/13 41/14</p> <p>Twenty-eight [2] 41/13 41/14</p> <p>twice [2] 27/21 47/12</p> <p>two [36] 11/18 11/20 12/3 12/12 13/16 14/22 15/20 15/22 18/19 20/5 22/16 26/16 26/18 39/16 52/10 52/13 55/25 55/25 56/3 56/21 65/18 66/19 68/10 69/12 75/19 76/2 78/15 79/12 79/13 79/18 79/19 79/20 80/19 81/16 81/17 83/2</p> <p>types [1] 10/5</p> <p>typically [1] 14/20</p>
<p>T</p> <p>take [10] 7/23 8/2 35/7 36/18 63/13 64/16 64/19 78/16 78/24 82/1</p> <p>taken [4] 1/17 32/9 32/22 57/16</p> <p>talk [4] 22/25 23/4 23/8 40/13</p> <p>talked [5] 6/15 34/16 34/21 38/25 40/1</p> <p>talking [7] 15/14 25/16 28/24 37/20 75/2 75/3 75/4</p> <p>talks [1] 72/12</p> <p>telephone [2] 66/17 74/11</p> <p>tell [5] 9/14 10/16 25/25 31/15 46/15</p> <p>telling [1] 69/13</p> <p>tells [2] 40/13 67/19</p> <p>temporarily [1] 39/3</p> <p>ten [6] 13/15 21/16 21/17 83/8 83/21 84/7</p> <p>tenancy [1] 67/12</p> <p>tense [2] 47/9 47/17</p> <p>testified [2] 10/18 55/9</p> <p>testify [3] 5/19 5/25 57/12</p> <p>testifying [1] 53/2</p> <p>testimony [7] 6/23 57/7 65/11 65/14 66/5 66/11 66/12</p> <p>text [4] 15/7 15/9 15/17 66/17</p> <p>texted [1] 18/21</p> <p>texting [3] 15/10 19/16 66/9</p> <p>texts [3] 16/4 21/21 23/7</p> <p>than [5] 5/24 65/20 70/2 73/6 78/6</p> <p>thank [12] 10/13 17/19 48/15 52/18 53/1 57/17 62/10 64/2 84/25 86/4 86/5 86/6</p> <p>Thanks [1] 86/17</p> <p>that [357]</p> <p>that's [25] 7/11 12/24 18/16 38/9 41/24 42/1 44/17 44/18 59/12 59/14 61/6 65/11 65/16 67/2 67/4 68/9 69/14 72/4 73/4 74/4 75/24 81/5 81/13 83/14 83/23</p> <p>their [7] 7/25 19/1 64/3 69/16 80/13 80/14 82/2</p> <p>them [26] 5/13 5/19 7/9 7/25 8/5 8/9 8/10 14/8 19/2 30/22 43/3 43/11 50/25 51/12 51/12 52/11 62/2 63/13 64/17 74/24 80/6 80/23 82/12 82/13 83/25 84/1</p> <p>then [45] 4/4 5/2 8/2 9/3 14/9 19/20 19/21 19/22 20/5 20/16 20/22 23/4 23/19 25/23 27/13 29/3 29/19 29/20 31/2 45/3 53/1 53/24 58/9 58/12 58/17 58/25 59/15 59/18 60/1 60/17 60/24 60/25 62/6 62/8 62/18 63/3 63/5 63/7 68/24 69/17 71/5 82/12 82/20 84/2 85/17</p> <p>theories [1] 80/20</p> <p>theory [4] 69/3 80/5 81/11 83/15</p> <p>there [72] 5/10 6/10 8/9 9/12 11/5 16/16 17/10 17/23 21/21 22/4 22/15 23/2 29/5 30/3</p>	<p>they're [3] 6/17 7/1 20/1</p> <p>they've [3] 7/6 78/20 79/7</p> <p>thing [8] 6/21 36/14 64/23 67/15 82/15 83/18 83/21 85/3</p> <p>things [12] 24/1 40/9 44/9 64/15 65/7 65/9 65/16 65/20 71/11 75/20 76/2 79/21</p> <p>think [38] 6/16 46/15 53/8 64/9 65/4 65/18 65/20 67/4 68/1 68/9 68/13 70/23 71/4 72/8 72/9 72/18 73/5 76/4 76/10 76/12 77/3 77/15 78/9 78/10 78/13 79/3 79/10 79/12 79/14 81/1 81/2 81/2 82/14 82/18 83/14 84/22 85/5 86/23</p> <p>third [1] 56/1</p> <p>this [45] 4/7 5/5 5/7 5/8 5/17 6/7 6/13 6/23 7/7 7/9 7/16 12/2 16/10 20/12 21/10 24/6 25/9 29/3 31/5 36/22 43/15 48/1 53/4 54/1 54/3 54/18 54/19 62/14 65/24 66/5 70/21 71/8 71/11 73/16 75/5 75/14 78/12 78/17 79/7 79/8 80/12 80/23 82/19 86/12 86/25</p> <p>thorough [1] 53/12</p> <p>those [32] 6/22 7/2 10/5 13/10 15/17 16/3 16/6 16/22 35/7 37/3 37/6 37/10 40/14 44/8 46/22 50/5 55/24 55/25 56/22 57/15 57/17 62/6 62/9 65/9 65/18 68/10 74/23 79/18 80/1 83/15 85/10 85/12</p> <p>though [3] 35/8 39/6 72/24</p> <p>thought [10] 9/9 17/11 17/15 17/22 17/23 36/25 41/10 41/19 46/8 47/18</p> <p>threatening [1] 66/7</p> <p>threats [13] 15/25 16/3 16/6 16/18 16/22 35/4 35/7 38/9 40/24 41/8 46/11 47/4 48/2</p> <p>three [12] 14/23 32/12 32/13 32/14 36/4 38/24 42/16 47/12 47/19 47/23 51/18 52/9</p> <p>through [5] 7/14 55/14 55/20 64/17 78/5</p> <p>throughout [2] 15/13 19/16</p> <p>time [42] 4/8 5/17 13/25 14/20 15/1 19/3 19/18 20/8 21/11 21/15 24/10 27/25 28/17 29/7 33/9 33/13 35/17 42/7 43/2 44/18 45/6 45/7 45/23 45/23 51/3 51/4 51/6 51/19 53/4 54/1 64/18 64/19 64/20 65/22 67/13 68/23 76/5 76/7 76/14 86/11 86/15 86/25</p> <p>times [6] 16/4 18/22 47/12 51/15 51/18 75/8</p> <p>TOA33791 [1] 56/20</p> <p>today [4] 10/25 11/4 57/13 63/20</p> <p>Todd [1] 60/1</p> <p>told [17] 17/25 21/21 22/5 22/5 23/1 29/3 29/14 30/6 30/11 30/13 31/4 31/4 31/5 31/16 46/7 49/16 68/4</p> <p>too [3] 6/8 46/21 46/21</p> <p>took [12] 14/4 20/24 20/25 30/18 36/21 46/5 46/6 70/7 81/3 81/5 81/21 81/24</p>	<p>try [4] 30/25 34/11 64/17 65/20</p> <p>trying [5] 20/1 25/10 25/19 29/18 51/12</p> <p>turn [1] 39/4</p> <p>turned [1] 27/15</p> <p>TURNER [3] 1/22 5/3 72/22</p> <p>turns [1] 45/19</p> <p>TV [2] 20/18 21/4</p> <p>Twenty [2] 41/13 41/14</p> <p>Twenty-eight [2] 41/13 41/14</p> <p>twice [2] 27/21 47/12</p> <p>two [36] 11/18 11/20 12/3 12/12 13/16 14/22 15/20 15/22 18/19 20/5 22/16 26/16 26/18 39/16 52/10 52/13 55/25 55/25 56/3 56/21 65/18 66/19 68/10 69/12 75/19 76/2 78/15 79/12 79/13 79/18 79/19 79/20 80/19 81/16 81/17 83/2</p> <p>types [1] 10/5</p> <p>typically [1] 14/20</p> <p>U</p> <p>ugh [1] 10/3</p> <p>ugh-huh [1] 10/3</p> <p>ultimately [2] 32/6 56/18</p> <p>UMC [1] 32/10</p> <p>unable [2] 46/3 53/14</p> <p>uncle [3] 58/14 58/15 58/15</p> <p>unconstitutional [3] 74/17 74/22 75/18</p> <p>under [5] 69/3 73/7 73/9 80/5 80/18</p> <p>underlying [1] 65/7</p> <p>understand [8] 5/20 5/22 6/19 8/7 10/6 46/16 47/7 47/17</p> <p>understanding [1] 53/25</p> <p>unduly [1] 74/16</p> <p>unfortunately [1] 62/5</p> <p>unjustifiable [1] 80/6</p> <p>unloaded [1] 56/20</p> <p>unrelated [2] 8/11 86/10</p> <p>until [4] 19/19 44/14 45/7 62/18</p> <p>unusual [3] 17/8 41/19 68/2</p> <p>up [31] 9/11 10/8 14/8 14/20 20/8 20/15 21/12 21/15 21/19 22/2 22/3 27/3 32/20 39/25 44/14 66/6 66/10 66/16 66/18 67/16 67/18 68/13 68/22 69/7 69/12 70/8 71/5 71/12 76/3 78/2 82/18</p> <p>upheld [1] 75/7</p> <p>upon [1] 65/9</p> <p>upset [4] 15/3 45/11 66/13 66/19</p> <p>us [1] 8/25</p> <p>Use [6] 8/15 8/16 8/21 8/22 85/14 85/15</p> <p>used [1] 43/15</p> <p>USN3PYZ [1] 56/14</p> <p>usual [1] 65/15</p>

<p>V</p> <p>VEGAS [3] 1/2 4/1 54/17</p> <p>vehicle [3] 56/13 56/16 56/18</p> <p>verse [1] 70/13</p> <p>versus [1] 4/9</p> <p>very [5] 34/14 35/8 52/16 68/25 84/24</p> <p>VI [7] 78/5 78/9 78/10 78/24 83/12 84/2 84/11</p> <p>vicinity [1] 51/1</p> <p>victim [8] 6/12 7/18 49/20 54/3 54/9 57/25 58/7 62/14</p> <p>Victor [1] 9/22</p> <p>VII [3] 78/11 83/19 85/19</p> <p>VIII [2] 83/20 84/13</p> <p>visit [1] 36/17</p> <p>visitation [4] 14/2 14/4 14/17 14/21</p> <p>vitamins [1] 74/14</p> <p>voice [5] 16/4 16/24 16/25 21/22 49/13</p> <p>void [2] 68/24 69/7</p>	<p>were [67] 9/1 11/24 14/1 15/16 15/20 16/15 17/2 18/12 20/11 20/14 20/17 21/3 22/17 24/1 24/23 26/14 26/16 26/17 26/21 27/20 27/23 27/25 28/17 28/17 29/5 29/6 29/7 29/11 29/25 30/24 31/24 31/25 32/3 32/6 32/9 32/11 32/22 35/19 36/2 36/4 42/10 42/19 42/24 43/2 43/14 44/6 45/23 46/3 47/12 47/16 47/19 47/22 49/15 49/18 50/8 51/3 51/8 51/16 51/19 51/20 51/24 52/10 52/10 56/21 62/13 65/9 69/9</p> <p>weren't [6] 42/2 42/7 43/6 46/4 50/12 52/13</p> <p>what [89]</p> <p>What's [1] 61/3</p> <p>whatever [4] 19/9 68/18 74/15 75/10</p> <p>when [72] 11/14 12/5 13/20 14/18 15/8 15/16 15/22 16/3 16/6 16/22 18/12 19/5 20/15 21/19 23/3 23/10 24/13 24/19 24/23 25/4 25/8 25/15 25/19 25/21 26/6 26/9 26/22 28/6 28/8 28/10 28/12 28/13 28/23 29/9 30/2 32/19 32/22 32/25 34/21 35/1 38/24 40/10 42/24 44/3 46/11 48/1 49/2 49/5 49/15 50/8 55/14 62/7 62/11 65/14 66/3 66/10 66/15 66/22 67/23 67/25 70/17 71/12 73/4 73/7 75/23 77/6 80/10 81/3 81/4 81/20 82/9 82/11</p> <p>whenever [1] 23/2</p> <p>where [40] 11/18 12/20 12/22 18/12 21/3 22/10 23/22 24/6 25/25 26/12 26/14 26/21 27/1 27/10 27/20 27/25 28/13 28/17 29/22 29/24 30/24 30/25 48/8 50/23 51/21 51/24 55/22 69/18 69/19 69/22 72/12 76/5 79/23 79/25 80/7 80/9 81/3 81/5 81/24 83/6</p> <p>Whereupon [2] 8/11 8/72</p> <p>whether [8] 12/9 21/19 49/18 50/7 72/19 75/22 77/20 79/5</p> <p>which [18] 17/11 21/5 23/23 25/16 26/23 27/2 30/21 32/9 51/16 53/9 55/8 55/15 55/17 55/21 72/20 73/14 79/6 80/5</p> <p>while [14] 4/13 6/19 8/14 8/19 21/25 32/3 42/17 42/19 48/12 54/23 67/21 69/10 81/15 85/13</p> <p>white [36] 1/9 4/9 8/13 10/23 11/12 11/15 11/25 34/17 35/22 36/11 37/25 38/11 38/15 38/24 39/2 39/7 39/18 39/21 40/3 42/3 42/6 45/2 45/19 46/8 46/11 48/4 48/6 52/11 53/13 54/4 54/21 55/3 56/11 57/11 62/14 85/24</p> <p>White's [7] 36/4 36/15 42/19 45/6 52/10 56/13 65/1</p> <p>who [11] 6/11 9/7 13/3 22/24 60/18 63/19 63/20 67/13 67/13 67/24 77/16</p> <p>who's [3] 34/22 35/1 54/16</p> <p>whole [3] 9/15 10/17 85/3</p> <p>why [13] 10/8 22/5 24/17 25/1 29/24 35/10 38/9 41/24 42/1 44/7 59/12 75/16 82/6</p> <p>wife [1] 38/2</p> <p>will [9] 4/11 7/21 62/8 77/12 78/4 79/8 82/22 82/24 83/10</p> <p>WILLIAM [1] 1/15</p> <p>willing [1] 54/1</p> <p>Win [4] 55/12 56/2 56/24 56/25</p> <p>window [8] 17/24 18/2 18/4 19/25 39/16 39/19 49/11 66/20</p> <p>within [2] 38/21 70/4</p> <p>without [5] 71/1 72/13 73/16 74/3 75/21</p> <p>witness [3] 9/4 34/2 48/17</p> <p>witnessed [1] 49/19</p> <p>witnesses [7] 5/6 5/11 5/24 6/12 7/2 53/3 57/15</p> <p>woke [5] 20/8 20/15 21/19 22/2 22/3</p> <p>women [1] 19/1</p> <p>word [2] 34/18 42/18</p> <p>words [2] 73/21 81/22</p> <p>work [5] 14/9 14/18 48/4 48/6 48/8</p> <p>working [2] 29/18 76/17</p>	<p>would [46] 5/12 6/17 6/24 8/1 8/9 13/22 13/23 14/8 14/10 14/17 14/20 14/22 15/16 29/3 36/17 36/18 37/1 41/11 42/5 53/17 54/14 55/8 55/11 57/10 57/14 67/21 69/3 69/7 72/6 72/8 75/18 76/5 77/23 80/15 80/21 81/1 81/21 82/17 84/4 84/6 84/11 84/12 84/13 84/15 84/17 84/19</p> <p>wouldn't [1] 69/6</p> <p>wound [1] 54/6</p> <p>wrist [1] 47/13</p> <p>writ [2] 77/22 79/8</p> <p>write [1] 7/24</p> <p>written [1] 75/13</p>
<p>W</p> <p>W-I-N [1] 55/12</p> <p>waist [1] 26/13</p> <p>wait [2] 8/18 62/18</p> <p>waive [1] 64/12</p> <p>wake [2] 21/12 21/15</p> <p>walk [2] 25/19 82/1</p> <p>walked [3] 24/10 45/7 67/25</p> <p>wall [8] 25/23 26/23 26/23 27/2 27/3 27/5 27/7 27/10</p> <p>wandering [1] 28/25</p> <p>want [12] 7/19 7/20 17/1 20/10 39/13 57/20 60/15 62/7 63/25 64/20 71/15 78/3</p> <p>Wanted [1] 39/10</p> <p>warrant [1] 56/13</p> <p>was [168]</p> <p>wasn't [13] 19/18 23/1 24/15 25/7 29/18 38/7 39/11 66/11 66/13 68/6 70/8 70/19 80/11</p> <p>watching [2] 20/17 21/3</p> <p>wave [1] 41/2</p> <p>way [17] 6/7 14/15 24/16 36/22 39/4 51/13 63/21 69/6 70/22 73/6 78/16 78/17 78/20 80/25 81/2 82/4 84/23</p> <p>we [47] 5/16 6/13 7/12 7/14 7/15 7/21 7/23 8/5 9/2 11/19 15/14 19/25 20/16 25/16 29/12 37/19 43/5 46/15 48/15 53/8 57/4 59/13 63/3 63/5 63/7 65/13 65/21 67/24 69/14 69/17 69/18 72/15 73/20 73/24 74/5 74/6 74/23 74/24 75/18 77/22 79/7 79/19 80/10 81/15 82/5 86/23 86/23</p> <p>we'd [1] 79/15</p> <p>we'll [10] 7/10 8/2 23/3 62/6 62/19 64/12 79/8 82/20 83/24 83/25</p> <p>we're [12] 5/8 47/20 52/9 75/2 75/4 79/20 80/18 81/16 82/8 82/10 83/9 83/24</p> <p>we've [6] 67/20 70/23 77/10 79/17 80/1 86/20</p> <p>weapon [16] 8/16 8/17 8/21 8/22 8/23 33/11 33/15 42/7 45/2 45/3 76/20 79/6 79/12 85/15 85/16 85/17</p> <p>weapons [3] 43/6 43/7 43/10</p> <p>wearing [1] 11/3</p> <p>WEDNESDAY [2] 1/17 4/1</p> <p>week [1] 17/5</p> <p>weekends [6] 14/6 14/12 14/13 36/18 40/10 65/2</p> <p>weeks [3] 38/21 66/6 71/10</p> <p>well [22] 6/11 7/1 7/19 19/18 35/22 54/11 55/18 67/15 68/12 69/13 72/18 73/18 73/20 74/18 75/19 76/7 77/12 81/14 82/6 85/18 85/19 85/20</p> <p>went [12] 22/6 22/12 23/20 24/13 24/19 30/3 55/7 55/14 55/20 69/15 69/19 81/23</p>	<p>were [67] 9/1 11/24 14/1 15/16 15/20 16/15 17/2 18/12 20/11 20/14 20/17 21/3 22/17 24/1 24/23 26/14 26/16 26/17 26/21 27/20 27/23 27/25 28/17 28/17 29/5 29/6 29/7 29/11 29/25 30/24 31/24 31/25 32/3 32/6 32/9 32/11 32/22 35/19 36/2 36/4 42/10 42/19 42/24 43/2 43/14 44/6 45/23 46/3 47/12 47/16 47/19 47/22 49/15 49/18 50/8 51/3 51/8 51/16 51/19 51/20 51/24 52/10 52/10 56/21 62/13 65/9 69/9</p> <p>weren't [6] 42/2 42/7 43/6 46/4 50/12 52/13</p> <p>what [89]</p> <p>What's [1] 61/3</p> <p>whatever [4] 19/9 68/18 74/15 75/10</p> <p>when [72] 11/14 12/5 13/20 14/18 15/8 15/16 15/22 16/3 16/6 16/22 18/12 19/5 20/15 21/19 23/3 23/10 24/13 24/19 24/23 25/4 25/8 25/15 25/19 25/21 26/6 26/9 26/22 28/6 28/8 28/10 28/12 28/13 28/23 29/9 30/2 32/19 32/22 32/25 34/21 35/1 38/24 40/10 42/24 44/3 46/11 48/1 49/2 49/5 49/15 50/8 55/14 62/7 62/11 65/14 66/3 66/10 66/15 66/22 67/23 67/25 70/17 71/12 73/4 73/7 75/23 77/6 80/10 81/3 81/4 81/20 82/9 82/11</p> <p>whenever [1] 23/2</p> <p>where [40] 11/18 12/20 12/22 18/12 21/3 22/10 23/22 24/6 25/25 26/12 26/14 26/21 27/1 27/10 27/20 27/25 28/13 28/17 29/22 29/24 30/24 30/25 48/8 50/23 51/21 51/24 55/22 69/18 69/19 69/22 72/12 76/5 79/23 79/25 80/7 80/9 81/3 81/5 81/24 83/6</p> <p>Whereupon [2] 8/11 8/72</p> <p>whether [8] 12/9 21/19 49/18 50/7 72/19 75/22 77/20 79/5</p> <p>which [18] 17/11 21/5 23/23 25/16 26/23 27/2 30/21 32/9 51/16 53/9 55/8 55/15 55/17 55/21 72/20 73/14 79/6 80/5</p> <p>while [14] 4/13 6/19 8/14 8/19 21/25 32/3 42/17 42/19 48/12 54/23 67/21 69/10 81/15 85/13</p> <p>white [36] 1/9 4/9 8/13 10/23 11/12 11/15 11/25 34/17 35/22 36/11 37/25 38/11 38/15 38/24 39/2 39/7 39/18 39/21 40/3 42/3 42/6 45/2 45/19 46/8 46/11 48/4 48/6 52/11 53/13 54/4 54/21 55/3 56/11 57/11 62/14 85/24</p> <p>White's [7] 36/4 36/15 42/19 45/6 52/10 56/13 65/1</p> <p>who [11] 6/11 9/7 13/3 22/24 60/18 63/19 63/20 67/13 67/13 67/24 77/16</p> <p>who's [3] 34/22 35/1 54/16</p> <p>whole [3] 9/15 10/17 85/3</p> <p>why [13] 10/8 22/5 24/17 25/1 29/24 35/10 38/9 41/24 42/1 44/7 59/12 75/16 82/6</p> <p>wife [1] 38/2</p> <p>will [9] 4/11 7/21 62/8 77/12 78/4 79/8 82/22 82/24 83/10</p> <p>WILLIAM [1] 1/15</p> <p>willing [1] 54/1</p> <p>Win [4] 55/12 56/2 56/24 56/25</p> <p>window [8] 17/24 18/2 18/4 19/25 39/16 39/19 49/11 66/20</p> <p>within [2] 38/21 70/4</p> <p>without [5] 71/1 72/13 73/16 74/3 75/21</p> <p>witness [3] 9/4 34/2 48/17</p> <p>witnessed [1] 49/19</p> <p>witnesses [7] 5/6 5/11 5/24 6/12 7/2 53/3 57/15</p> <p>woke [5] 20/8 20/15 21/19 22/2 22/3</p> <p>women [1] 19/1</p> <p>word [2] 34/18 42/18</p> <p>words [2] 73/21 81/22</p> <p>work [5] 14/9 14/18 48/4 48/6 48/8</p> <p>working [2] 29/18 76/17</p>	<p>X</p> <p>XI [2] 84/18 85/21</p> <p>XII [1] 84/17</p> <p>XIII [1] 84/20</p> <p>XIV [1] 84/19</p> <p>Y</p> <p>Y-A-V-A-P-A-I [1] 56/9</p> <p>Yavapai [1] 56/8</p> <p>yeah [6] 4/15 4/16 8/2 42/22 83/5 84/5</p> <p>year [4] 12/2 13/17 13/19 54/20</p> <p>years [7] 11/16 11/17 11/21 35/13 35/17 42/16 42/24</p> <p>yes [163]</p> <p>Yesco [1] 48/9</p> <p>yet [2] 23/2 85/7</p> <p>you [353]</p> <p>you'd [3] 35/25 70/13 72/8</p> <p>you're [12] 17/16 31/4 43/10 47/6 49/5 52/25 59/23 62/8 62/23 63/1 63/8 63/9</p> <p>you've [4] 42/10 42/23 85/1 85/2</p> <p>Young [1] 48/10</p> <p>your [71] 4/12 5/16 6/24 7/8 7/16 7/20 7/21 9/4 9/5 9/13 9/18 9/19 9/23 10/3 10/7 10/13 11/7 11/24 15/1 16/1 17/19 30/8 31/21 33/6 34/2 37/15 41/22 43/7 48/4 48/18 49/23 50/13 52/5 52/21 53/4 53/24 54/13 54/25 56/5 57/9 57/25 60/20 61/3 61/20 62/3 63/16 63/17 64/12 64/19 65/5 66/1 66/3 67/5 68/15 68/17 68/20 68/24 69/9 69/20 70/4 71/16 72/2 73/4 76/23 82/4 84/21 84/25 86/4 86/5 86/6 86/20</p> <p>yourself [2] 33/18 39/23</p>

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

V.

Real Party in Interest.

(Dist Ct. No. C-22-362539-1)

Counsel for Respondent

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 14th day of July , 2022. Electronic Service of the

1 foregoing document shall be made in accordance with the Master Service List as
2 follows:

3 AARON D. FORD
4 ALEXANDER CHEN
5 MELANIE MARLAND

JACQUELINE CARMAN

6 I further certify that I served a copy of this document by email:

7 JUDGE CHRISTY CRAIG
8 c/o dept32lc@ClarkCountyCourts.us

9 BY /s/ Carrie M. Connolly
10 Employee,
11 Clark County Public Defender
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28