

# IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant(s),

vs.

THE STATE OF NEVADA,  
Respondent(s),

Case No: C-14-298879-1  
*Related Case A-22-851874-W*  
Docket No: 85042

# RECORD ON APPEAL VOLUME 5

ATTORNEY FOR APPELLANT  
GENARO PERRY # 1153366,  
PROPER PERSON  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

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

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1 ASTA

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**  
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 GENARO RICHARD PERRY,

14 Defendant(s),  
15

Case No: C-14-298879-1

Dept No: XVII

16  
17 **CASE APPEAL STATEMENT**  
18

19 1. Appellant(s): Genaro R. Perry

20 2. Judge: Michael Villani

21 3. Appellant(s): Genaro R. Perry

22 Counsel:

23 Genaro R. Perry #1153366  
24 P.O. Box 208  
Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney  
28 200 Lewis Ave.  
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes  
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: June 19, 2014

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 69139, 82931, 83278

12. Child Custody or Visitation: N/A

Dated This 31 day of January 2022.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk  
200 Lewis Ave  
PO Box 551601  
Las Vegas, Nevada 89155-1601  
(702) 671-0512

cc: Genaro R. Perry

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 DISTRICT OF NEVADA  
 BY: \_\_\_\_\_ DEPUTY

UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA

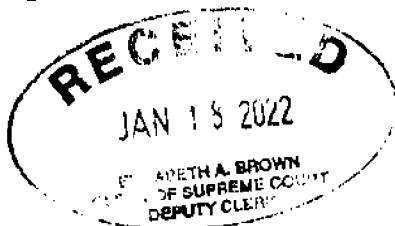
Case Number C-14-298879-1

State of Nevada )  
 Plaintiff, )  
 v. )  
Genaro Perry #1153366 )  
 Defendant(s). )

NOTICE OF APPEAL

NOTICE is hereby given that Genaro Perry in the above named case hereby appeal to the United States Court of Appeals for the Ninth Circuit from the 'Motion to Modify Sentence' entered in this action on the 13th day of January, 2022.  
 GP. GP.

Genaro R Perry  
 Signature of Appellant  
Genaro Perry #1153366  
 Name of Appellant  
S.D.C.C.  
P.O. Box 208  
Indian Springs, NV. 89018  
 Address



RECEIVED  
 FEB 07 2022  
 CLERK OF THE COURT

CERTIFICATE OF SERVICE

I, Genaro Perry #1153366, hereby certify that I am the  
Petitioner in this matter and I am representing myself *in propria persona*.

On this 15th day of January, 2022, I served copies of  
the "Notice of Appeal"

in Case No. C-14-298879-1, and placed said document(s) in the United States  
Mail, first-class postage prepaid, addressed as follows:

Steven D. Grier  
Clerk of the Court  
200 LEWIS AVE  
3RD FLOOR  
Las Vegas, NV. 89155-1160

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he is the Petitioner in the  
above-entitled action, and he has read this Certificate of Service and the information  
contained therein is true and correct.

Executed pursuant to 28 U.S.C. § 1746 and 18 U.S.C. § 1621 at  
Southern Desert Correctional Center on this 13th day of  
January, 2022

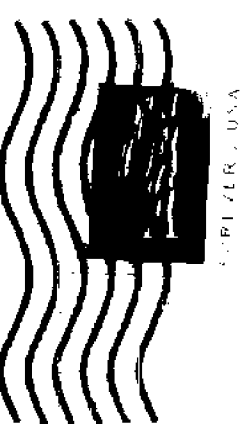
Genaro L. Perry

NDCC No. 1153366

Petitioner - *In Propria Persona*

GRADUATE & LARRY 1153364  
 P.O. BOX 200  
 Indian Springs, NV 89070

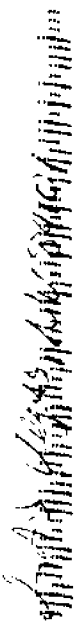
LAS VEGAS NV 890  
 1 FEB 2022 PM 3 L



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CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY	

89101-706934

Clerk, U.S. District Court  
 District of Nevada  
 LLOYD D. GEORGE JR. COURT HOUSE  
 333 Las Vegas Blvd S. Rm 1200



IN GOOD W.F.T. RUST

Beloved, I pray that you may prosper in all  
 things and be in health. Sent 13 years. Real friendship 3.5.12

P. 3/1/11  
 14/1/11

Southern Desert Corporation Center
01 2022
MAIL



1 ASTA

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**  
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 GENARO RICHARD PERRY,

14 Defendant(s),  
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Case No: C-14-298879-1

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20 2. Judge: Michael Villani

21 3. Appellant(s): Genaro R. Perry

22 Counsel:

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24 P.O. Box 208  
Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney  
28 200 Lewis Ave.  
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes  
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: June 19, 2014

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 69139, 82931, 83278, 84175

12. Child Custody or Visitation: N/A

Dated This 14 day of February 2022.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk  
200 Lewis Ave  
PO Box 551601  
Las Vegas, Nevada 89155-1601  
(702) 671-0512

cc: Genaro R. Perry

IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

Supreme Court No. 82931  
District Court Case No. C298879

**FILED**

MAR 16 2022

*Elizabeth A. Brown*  
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

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

JUDGMENT

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

"ORDER the judgment of the district court AFFIRMED."

Judgment, as quoted above, entered this 18th day of February, 2022.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
March 15, 2022.

Elizabeth A. Brown, Supreme Court Clerk

By: Andrew Lococo  
Deputy Clerk

C-14-298879-1  
CCJA  
NV Supreme Court Clerks Certificate/Judgr  
4986823





IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 82931-COA

**FILED**

FEB 18 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*


Genaro Richard Perry appeals from an order of the district court denying a "motion requesting order directing the Las Vegas Metropolitan Police Department to conduct genetic marker and latent fingerprint analysis of evidence impounded at the crime scene." Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.


In his February 3, 2021, motion, Perry first sought, pursuant to NRS 176.0918, genetic marker analysis of blood samples collected from the crime scene. The State's theory at trial was that Perry attacked his ex-girlfriend with a knife, and Perry's theory was self-defense. Perry alleged that the test results would have supported his self-defense theory by showing that the victim had the knife in her hand and that Perry was cut by the knife. The evidence presented at trial was that Perry punched the victim multiple times, there was a struggle, and the victim bit Perry's hand prior to Perry grabbing the knife. In light of this evidence, the presence of Perry's blood at the crime scene or on the knife would not result in a reasonable possibility that Perry would not have been prosecuted or convicted. See NRS 176.09183(1)(c)(1). Therefore, we conclude the district

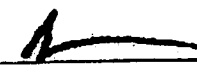
court did not abuse its discretion by denying Perry's request for genetic marker analysis. See NRS 176.09183(5)(b).

Perry also sought an order directing the local police department to conduct latent fingerprint analysis on the knife. No statute or court rule permits an appeal from an order denying such a motion. Therefore, we decline to consider any claims relating to his request for fingerprint analysis. See *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (holding the appellate court lacks jurisdiction where no statute or court rule authorizes the appeal). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
Gibbons C.J.

  
Tao J.

  
Bulla J.

cc: Hon. Jacqueline M. Bluth, District Judge  
Jean J. Schwartzer  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

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

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 82931**  
District Court Case No. C298879

**REMITTITUR**

TO: Steven D. Grierson, Eighth District Court Clerk

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

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

DATE: March 15, 2022

Elizabeth A. Brown, Clerk of Court

By: Andrew Lococo  
Deputy Clerk

cc (without enclosures):

Jean J. Schwartzer  
Clark County District Attorney \ John T. Afshar, Alexander G. Chen  
Hon. Jacqueline M. Bluth, District Judge

**RECEIPT FOR REMITTITUR**

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on MAR 16 2022.

**HEATHER UNGERMANN**  
**Deputy** \_\_\_\_\_  
District Court Clerk

**RECEIVED**  
**APPEALS**  
**MAR 16 2022**

**CLERK OF THE COURT**

*Heather A. Hume*  
CLERK OF THE COURT

**FCL**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**JOHN AFSHAR**  
Deputy District Attorney  
Nevada Bar #14408  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

**GNERARO RICHARD PERRY**  
ID#1456173

Petitioner,

-vs-

**THE STATE OF NEVADA.**

Respondent.

CASE NO: A-22-851874-W

C-14-298879-1

DEPT NO: XVII

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

DATE OF HEARING: June 7, 2022  
TIME OF HEARING: 11:00 AM

THIS CAUSE having come on for hearing before the Honorable MICHAEL VILLANI, District Judge, on the 7<sup>th</sup> day of June 2022, the matter heard in Chambers, and this Court having considered the matter, including briefs, transcripts, and documents on file herein, now therefore, this Court makes the following findings of fact and conclusions of law:

//

//

//

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1  
2 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

3 **PROCEDURAL HISTORY**

4 On June 25, 2014, Genaro Perry (hereinafter “Petitioner”) was charged by way of  
5 Information with Count One: Robbery with Use of a Deadly Weapon (Category B Felony –  
6 NRS 200.380), Count Two: False Imprisonment with Use of a Deadly Weapon (Category B  
7 Felony – NRS 200.460), Count Three: Grand Larceny Auto (Category B Felony – NRS  
8 200.460), Count Four: Assault with a Deadly Weapon (Category B Felony – NRS 207.190),  
9 Count Five: Coercion (Category B Felony – NRS 207.190), Count Six: Battery Resulting in  
10 Substantial Bodily Harm Constituting Domestic Violence (Category C Felony – NRS 200.481,  
11 200.485) and Count Seven: Preventing or Dissuading Witness or Victim from Reporting Crime  
12 or Commencing Prosecution (Category D Felony – NRS 199.305).

13 On October 1, 2015, after a three-day bench trial, the district court found Petitioner  
14 guilty on all counts. On January 6, 2016, Petitioner was sentenced to an aggregate total of a  
15 maximum of three hundred thirty-six (336) months and a minimum of ninety-six (96) months  
16 in the Nevada Department of Corrections, with five hundred ninety-seven (597) days credit  
17 for time served. Petitioner’s Judgment of Conviction was filed on January 22, 2016. An  
18 Amended Judgment of Conviction was filed on April 28, 2017. A second Amended Judgment  
19 of Conviction striking verbiage referencing an aggregate total sentence in Petitioner’s  
20 Amended Judgment of Conviction was filed on August 8, 2017.

21 Petitioner filed a Notice of Appeal on November 4, 2015, appealing this Court’s guilty  
22 verdict. On December 14, 2016, the Nevada Supreme Court affirmed this Court’s verdict and  
23 issued Remittitur on January 10, 2017.

24 On February 7, 2017, Petitioner filed a Petition for Writ of Habeas Corpus (Post-  
25 conviction) (hereinafter “First Petition”), Motion for Appointment of Attorney, Motion to  
26 Dismiss Counsel, and Motion for a New Trial. The State filed its response on April 7, 2017.  
27 On April 24, 2017, the district court denied Petitioner’s Motion for New Trial but granted  
28 Petitioner’s Motion to Withdraw Counsel and Motion to Appoint Counsel. The court appointed

1 Jean Schwartzer Esq. as counsel for the purposes of filing a supplement to the First Petition.

2 On February 3, 2021, Petitioner filed a Motion Requesting Order Directing the Las  
3 Vegas Metropolitan Police Department to Conduct Genetic Marker and Latent Print Analysis  
4 of Evidence Impounded at Crime Scene and requested a hearing. The State filed its Response  
5 on February 11, 2021. On February 17, 2021, Petitioner's Motion was denied, and the district  
6 court issued its Order on April 16, 2021.

7 On August 16, 2021, Petitioner filed a Motion to Withdraw Counsel, which was granted  
8 by the district court. Counsel never filed a supplement to the First Petition before withdrawing.  
9 Petitioner filed a Pro Per Supplement to his own Petition on November 29, 2021.

10 On November 29, 2021, Petitioner filed a Motion to Modify and/or Correct Illegal  
11 Sentence. The State filed its Opposition on December 15, 2021. This Court denied Petitioner's  
12 Motion on December 20, 2021, and issued its Order on December 29, 2021.

13 Petitioner filed a second Notice of Appeal on January 27, 2022, appealing this Court's  
14 decision to deny his Motion to Modify and/or Correct Illegal Sentence. On February 18, 2022,  
15 the Nevada Supreme Court affirmed the district court's denial of Petitioner's Motion and  
16 issued Remittitur on March 15, 2022. However, that Remittitur was recalled by the Nevada  
17 Court of Appeals and is currently still on appeal.

18 Petitioner filed the instant Petition (hereinafter "Second Petition") on April 29, 2022.  
19 The State filed its Response on June 6, 2022. On June 29, 2022, this Court denied both  
20 Petitioner's First and Second Petitions. This Court's Findings of Fact, Conclusions of Law and  
21 Order now follows.

## 22 **STATEMENT OF THE FACTS**

23 Petitioner's Presentence Investigation Report (hereinafter "PSI") summarized the facts  
24 of the crime as follows:

25 Petitioner and Carla Carpenter (hereinafter "Carpenter") were  
26 involved in a six-month relationship. On April 20, 2014, Petitioner  
27 came over to Carpenter's house to get his property. He ended up  
28 spending the night at her house because it was late. The following  
morning, Petitioner asked Carpenter for \$5,000.00 to buy drugs.  
When she refused to lend him the money, Petitioner grabbed a  
steak knife and threatened to kill her and her family. He then

lunged at Carpenter with the knife.

Next, Petitioner banged Carpenter's head against the kitchen floor and kicked her in the face several times. When she tried to call the police, Petitioner threw her phone against the wall. Petitioner would not allow her to leave.

Petitioner then picked up Carpenter's car keys, held the knife to her and said, "I will take these." Before he left in her car, he threw her phone in the toilet and threatened to kill her and her ex-husband if she called the police. Carpenter suffered numerous injuries as well as damage to her house.

PSI 6-7.

## **ANALYSIS**

### **I. PETITIONER RECEIVED THE EFFECTIVE ASSISTANCE OF COUNSEL**

Petitioner alleges nineteen instances of ineffective assistance of counsel. Nevada has adopted the standard outlined in Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984), for determinations regarding the effectiveness of counsel. Warden v. Lyons, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984); Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1113 (1996). Under Strickland, in order to assert a claim of ineffective assistance of counsel, the defendant must prove that he was denied "reasonably effective assistance" of counsel by satisfying a two-pronged test. Strickland, 466 U.S. at 686-687, 104 S. Ct. at 2064; see State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993). Under this test, the defendant must show that his counsel's representation fell below an objective standard of reasonableness, and that, but for counsel's errors, there is a reasonable probability that the result of the proceedings would have been different. See Strickland, 466 U.S. at 687-688, 694, 104 S. Ct. at 2064, 2068.

"Surmounting Strickland's high bar is never an easy task." Padilla v. Kentuck, 559 U.S. 356, 371, 130 S. Ct. 1473, 1485 (2010). The question is whether an attorney's representations amounted to incompetence under prevailing professional norms, "not whether it deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86, 88, 131 S. Ct. 770, 778 (2011). Furthermore, "[e]ffective counsel does not mean errorless counsel, but rather counsel whose assistance is ' [w]ithin the range of competence demanded of attorneys in criminal cases.'" Jackson v. Warden, Nevada State Prison, 91 Nev. 430, 432, 537 P.2d 473, 474

1 (1975) (quoting McMann v. Richardson, 397 U.S. 759, 771, 90 S. Ct. 1441, 1449 (1970)).

2 A court begins with a presumption of effectiveness and then must determine whether  
3 the defendant has demonstrated by a preponderance of the evidence that counsel was  
4 ineffective. Means v. State, 120 Nev. 1001, 1011-12, 103 P.3d 25, 35 (2004). The role of a  
5 court in considering allegations of ineffective assistance of counsel is "not to pass upon the  
6 merits of the action not taken but to determine whether, under the particular facts and  
7 circumstances of the case, trial counsel failed to render reasonably effective assistance."  
8 Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711 (1978) (emphasis added) (citing  
9 Cooper v. Fitzharris, 551 F.2d 1162, 1166 (9th Cir. 1977)).

10 In considering whether trial counsel was effective, the court must determine whether  
11 counsel made a "sufficient inquiry into the information ... pertinent to his client's case."  
12 Doleman v State, 112 Nev. 843, 846, 921 P.2d 278, 280 (1996); citing. Strickland, 466 U.S. at  
13 690-691, 104 S. Ct. at 2066. Once this decision is made, the court will consider whether  
14 counsel made "a reasonable strategy decision on how to proceed with his client's case."  
15 Doleman, 112 Nev. at 846, 921 P.2d at 280; citing Strickland, 466 U.S. at 690-691, 104 S. Ct.  
16 at 2066. Counsel's strategy decision is a "tactical" decision and will be "virtually  
17 unchallengeable absent extraordinary circumstances." Doleman, 112 Nev. at 846, 921 P.2d at  
18 280; see also Howard v. State, 106 Nev. 713, 722, 800 P.2d 175, 180 (1990); Strickland, 466  
19 U.S. at 691, 104 S. Ct. at 2066.

20 This analysis does not indicate that the court should "second guess reasoned choices  
21 between trial tactics, nor does it mean that defense counsel, to protect himself against  
22 allegations of inadequacy, must make every conceivable motion no matter how remote the  
23 possibilities are of success." Donovan, 94 Nev. at 675, 584 P.2d at 711; citing Cooper, 551 F  
24 .2d at 1166 (9th Cir. 1977). In essence, the court must "judge the reasonableness of counsel's  
25 challenged conduct on the facts of the particular case, viewed as of the time of counsel's  
26 conduct." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. However, counsel cannot be deemed  
27 ineffective for failing to make futile objections, file futile motions, or for failing to make futile  
28 arguments. Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006).



1 Even if a defendant can demonstrate that his counsel's representation fell below an  
2 objective standard of reasonableness, he must still demonstrate prejudice and show a  
3 reasonable probability that, but for counsel's errors, the result of the trial would have been  
4 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing  
5 Strickland, 466 U.S. at 687). "A reasonable probability is a probability sufficient to undermine  
6 confidence in the outcome." Strickland, 466 U.S. at 694, 104 S. Ct. at 2068. A defendant who  
7 contends his attorney was ineffective because he did not adequately investigate must show  
8 how a better investigation would have rendered a more favorable outcome probable. Molina  
9 v. State, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004).

10 Finally, claims asserted in a petition for post-conviction relief must be supported with  
11 specific factual allegations, which if true, would entitle the petitioner to relief. Hargrove v.  
12 State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "Bare" and "naked" allegations are not  
13 sufficient, nor are those belied and repelled by the record. Id.

#### 14 **1. Ground 1**

15 Petitioner complains that counsel was ineffective for failing to list or call the TJ Maxx  
16 security guard or Dr. Gabaeff. Motion at 7-9. However, Petitioner cannot demonstrate  
17 deficient performance because counsel retains the authority to determine what witnesses to  
18 call at trial. Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002). Moreover, counsel did try  
19 to call the security guard, but the Court declined his request. RT, 09/30/15, at 62-64. Counsel  
20 was not ineffective for failing to challenge the Court's ruling, as it would have been futile.  
21 Ennis, 122 Nev. at 706, 137 P.3d at 1103.

22 Moreover, Petitioner fails to establish prejudice. Petitioner asserts that counsel was  
23 ineffective for failing to call Dr. Gabaeff because counsel told the Court that "having no doctor  
24 [at trial] to talk about anything for the jury is a little too risky ... " RT, 05/07/15, at 2; Motion  
25 at 8. However, a review of the record belies Petitioner's claim. Hargrove, 100 Nev. at 502, 686  
26 P.2d at 225. On the second day of trial, during jury selection, the State and counsel discussed  
27 with the Court last-minute witness issues. Id. at 2-9. Counsel's discussed strategy was not to  
28 call Dr. Gabaeff, but to introduce Gabaeff's reports through the State's expert and to argue. Id.

1 at 2-3. Moreover, counsel repeatedly discussed cross-examining the State's expert, who was  
2 the victim's attending physician. Id. at 3, 9. In context, counsel was more concerned about  
3 cross-examining the State's expert than calling his own. Id. at 9. Moreover, the "Court  
4 indicated to [counsel] that he knew his doctor would not be available and that he would be  
5 using the State's witness .... " Court Minutes, 05/07/15.

6 Further, Petitioner fails to demonstrate what Dr. Gabaeff's testimony would have  
7 rendered a more favorable outcome probable. See Molina, 120 Nev. at 192, 87 P.3d at 538.  
8 Petitioner argues that Dr. Gabaeff would have impeached the credibility of State's expert  
9 because Dr. Gabaeff's notes alleged false billing. Motion at 7-8. First, Petitioner fails to  
10 establish how Dr. Gabaeff, having never treated the victim, would establish false billing for  
11 her ailments. Moreover, even Dr. Gabaeff's notes confirm there was a severe fracture to the  
12 orbital structure of the victim's right eye. See Exhibit 1. Indeed, there was substantial testimony  
13 and photographic evidence presented at the bench trial, with respect to the victim's injuries.  
14 RT, 09/29/15, at 14-25, 51-55, 65-72, 76-79. As such, Petitioner cannot establish a more  
15 favorable outcome had Dr. Gabaeff testified.

16 Similarly, Petitioner cannot establish prejudice for the failure to call the TJ Maxx  
17 security guard. At trial, the victim, Coria Carpenter, testified that she "lost it" in the store and  
18 chased a woman through the store with a crowbar over money. Id. at 74-76, 80-82. As such,  
19 Petitioner fails to demonstrate what else the security guard would have testified to at trial. See  
20 Molina, 120 Nev. at 192, 87 P.3d at 538. Accordingly, Petitioner's claim is denied.

## 21 **2. Ground 2**

22 In Ground 2, Petitioner complains that counsel was ineffective for failing to have the  
23 knife tested for DNA and fingerprints. Motion at 10. However, Petitioner fails to demonstrate  
24 how further forensic investigation would have rendered a more favorable outcome probable.  
25 Molina, 120 Nev. at 192, 87 P.3d at 538. Indeed, based on the testimony presented at trial, the  
26 results would have confirmed the presence of both the victim's and Petitioner's blood and  
27 fingerprints on the knife. See RT, 09/29/15, at 53. Further, Petitioner's assertion that "this  
28 evidence would have had the charges lowered to a simple domestic violence on both people

involved" is nothing more than a naked assertion suitable only for summary dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. As such, this claim is denied.

### 3. Ground 3

Petitioner next complains that the counsel was ineffective for not challenging the Criminal Complaint, which failed to list the location of the incident. Motion at 11. However, a specific address is not required. A criminal complaint is intended solely to put the defendant on formal written notice of the charge he must defend; it need not show probable cause for arrest on its face and may simply be drawn in the words of the statute so long as the essential elements of the crime are stated. Sanders v. Sheriff, 85 Nev. 179, 451 P.2d 718 (1969). As the victim's address is not an essential element of the crime, it would have been futile to challenge the lack of address. Ennis, 122 Nev. at 706, 137 P.3d at 1103. Moreover, Petitioner has consistently claimed self-defense; surely, he did not need notice of the place where he was allegedly defending himself. Accordingly, the claim is denied.

### 4. Ground 4

In Ground 4, Petitioner argues that counsel was ineffective for failing to object to the removal of self-defense instructions. Motion at 12. Petitioner waived his right to a jury trial so that he could put on a self-defense case and testify without a jury learning about his criminal record. However, at the conclusion of the trial, the Court determined that there was no evidence of self-defense, so a formal objection by counsel would have been futile. RT, 10/01/15, at 3; Ennis, 122 Nev. at 706, 137 P.3d at 1103. Moreover, Petitioner fails to establish prejudice because the Nevada Court of Appeals addressed the issue on direct appeal, under the abuse of discretion standard-as if an objection had been made. Perry v. State, Docket No. 69139 (Order of Affirmance, Dec. 14, 2016). While the Court of Appeals determined that it was error to reject the self-defense instructions, such error was harmless. Id at 2-3. Therefore, he cannot demonstrate a reasonable probability that, but for counsel's errors, the result of the trial would have been different. McNelson, 115 Nev. at 403, 990 P.2d at 1268. Thus, Petitioner's claim is denied.

### 5. Ground 5

1       Petitioner next asserts counsel's ineffectiveness for waiving the preliminary hearing.  
2 Motion at 13. Petitioner fails to recognize that it was he, not counsel, who waived the  
3 preliminary hearing. Reporter's Transcript, 06/19/14, at 2-3. As such, counsel cannot be  
4 deemed ineffective for a decision that belonged solely to Petitioner. See Rhyne, 118 Nev. at  
5 8, 38 P.3d at 167. As such, Petitioner's claim is denied.

## 6       **6. Ground 6**

7       In Ground 6, Petitioner claims counsel was ineffective for failing to have the Court  
8 order a psychiatric examination of the victim. Motion at 13-14. However, the record fails to  
9 demonstrate a compelling need for an examination. A compelling need for an examination  
10 exists if: (1) the State has called or obtained some benefit from a psychological or psychiatric  
11 expert; (2) the evidence of the crime is supported by little or no corroboration beyond the  
12 testimony of the victim; and (3) a reasonable basis exists to believe that mental or emotional  
13 state of the victim may have affected her veracity. Abbott v. State, 122 Nev. 715, 727-32, 138  
14 P.3d 462, 470-73 (2006). As the record is completely bare of evidence supporting any of the  
15 three Abbott factors, such a request would have been futile. Ennis, 122 Nev. at 706, 137 P.3d  
16 at 1103. As counsel cannot be ineffective for failing to make futile requests, Petitioner's claim  
17 is denied.

## 18       **7. Ground 7**

19       Petitioner complains that counsel was ineffective for calling him a "drug-addled  
20 maniac," which "destroyed any possibility of showing [] self-defense." Motion at 14-15. First,  
21 counsel was not ineffective for using the term. During the trial, the victim testified on cross-  
22 examination that Petitioner had "erratic behaviors" and used and sold drugs. RT, 09/29/15, at  
23 84-86, 88. Moreover, in context, counsel's closing argument focused primarily on the victim's  
24 credibility. Counsel highlighted what he believed to be the unreasonableness of her testimony  
25 in an attempt to discredit her. Id at 18-20. He focused on the victim's description of past abuse,  
26 but the seemingly unreasonable act of allowing Petitioner to come over and sleep in her bed  
27 with her. RT, 10/01/15, at 19. And although she denied that Petitioner was a "drug-addled  
28 maniac," counsel's point was that, even if Petitioner was a "drug-addled maniac," the victim's

actions became even more inconsistent and unreasonable. Id.

Further, counsel's comment did not "destroy" Petitioner's self-defense claim. The Court previously denied the requested instructions, finding there was no evidence. RT, 10/01/15, at 3. Indeed, the Nevada Court of Appeals determined that it was "clear beyond a reasonable doubt that a rational trier of fact would have found Perry guilty" even if the instruction had been given. Perry v. State, Docket No. 69139 (Order of Affirmance, Dec. 14, 2016). Accordingly, the claim is denied.

#### **8. Ground 8**

In Ground 8, Petitioner complains that counsel's failure to investigate "Carpenter's life/past" was ineffective. Motion at 15. He asserts that she has mental health issues and is engaged in fraudulent activity selling prescription pills. Id. These are bare assertions suitable only for summary dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly, the claim is denied.

#### **9. Ground 9**

Petitioner next complains that counsel was ineffective for failing to interview the State's expert, Dr. Leibowitz. Motion at 16. However, Petitioner fails to show how a better investigation would have rendered a more favorable outcome probable. Molina, 120 Nev. at 192, 87 P.3d at 538. Indeed, Petitioner's claim is a naked assertion, belied by the record. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

At trial, counsel thoroughly cross-examined Dr. Leibowitz regarding the conclusion that the victim's injuries made it obvious this was an abuse situation. RT, 09/29/15, at 25-28. During counsel's cross-examination, he effectively attacked the doctor's credibility by getting the doctor to discuss potential bias; Dr. Leibowitz told the Court he came to testify because "I have, you know, a sister and daughter and I wouldn't want them punched out and that's how I look at it." Id. at 25-26. Similarly, counsel's cross-examination attacked Dr. Leibowitz's conclusion that this was definitively abuse. See id at 27-28. As the record demonstrates, counsel was more than prepared to cross-examine Dr. Leibowitz. As such, Petitioner's claim is belied by the record and denied. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

1       **10. Ground 10**

2       Petitioner further asserts counsel failed to interview the TJ Maxx security guard. Motion  
3 at 16. However, Petitioner cannot demonstrate prejudice because the Court precluded the  
4 security guard's testimony. RT, 09/30/15, at 62-64. As interviewing the guard was ultimately  
5 unnecessary, counsel cannot be deemed ineffective. See Ennis, 122 Nev. at 706, 137 P.3d at  
6 1103.

7       Moreover, Petitioner fails to show how a better investigation would have rendered a  
8 more favorable outcome probable. Molina, 120 Nev. at 192, 87 P.3d at 538. At trial, Carpenter  
9 testified that she "lost it" in the store and chased a woman through the store with a crowbar  
10 over money. Id. at 74-76, 80-82. As such, it is unclear what the security guard would have  
11 stated that would have been more favorable to Petitioner. Thus, his claim is denied.

12       **11. Ground 11**

13       In Ground 11, Petitioner claims that counsel was ineffective for failing to raise the  
14 court-appointed investigator's "conflict of interest," which resulted in an incomplete  
15 investigation and his waiver of the preliminary hearing. Motion at 17-18. First, Petitioner's  
16 claims that the investigator had a conflict of interest and that the charges might have been  
17 reduced are bare assertions. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Further, as discussed,  
18 supra, Petitioner chose to waive his preliminary hearing. Reporter's Transcript, 06/19/14, at 2-  
19 3. As such, counsel cannot be deemed ineffective for a decision that belonged solely to  
20 Petitioner. See Rhyne, 118 Nev. at 8, 38 P.3d at 167. Accordingly, Petitioner's claim is denied.

21       **12. Ground 12**

22       Petitioner claims that counsel was ineffective for failing to challenge "overlapping  
23 charges" of assault and battery. Motion at 18-19. First, the Assault with a Deadly Weapon and  
24 Battery Resulting in Substantial Bodily Harm charges were based on separate allegations-  
25 Petitioner was charged with Assault with a Deadly Weapon for threatening to kill Carpenter  
26 with the knife and the Battery Resulting in Substantial Bodily Harm was because Petitioner  
27 kicked and punched Carpenter in every room of her home. Moreover, challenging the charges  
28 would have been futile because the Nevada Supreme Court has held that dual convictions

1 under the assault and battery statutes can stand as each crime includes elements the other does  
2 not. Jackson v. State, 128 Nev. 598, 606-07, 291 P.3d 1274, 1279-80 (2012) (citing  
3 Blockburger v. United States, 284 U.S. 299, 52 S. Ct. 180 (1932)). Accordingly, Petitioner's  
4 claim is denied. Ennis, 122 Nev. at 706, 137 P.3d at 1103.

### 5 **13. Ground 13**

6 Petitioner further argues that counsel was ineffective for failing to investigate his claim  
7 that Carpenter poured bleach on his clothes, which would have supported his claim of self-  
8 defense. Motion at 19. However, the only evidence that Petitioner cites to support his claim is  
9 his own statement. See Exhibit 1. As such, this is a bare assertion, and his claim is denied.  
10 Hargrove, 100 Nev. at 502, 686 P.2d at 225.

### 11 **14. Ground 14**

12 In Ground 14, Petitioner asserts counsel failed to investigate the "fabricated [] crime  
13 scene." Motion at 20. Specifically, Petitioner focuses on Carpenter's "placing blood in specific  
14 places" and taking of pictures. Id. However, Carpenter testified at trial that she purposefully  
15 left blood evidence throughout the house because she thought she was going to die and wanted  
16 to leave a sign that "there was a struggle." RT, 09/12, 9/15, at 56. Because Carpenter fully  
17 admitted to purposefully leaving blood evidence, it is unclear what further investigation would  
18 have shown. Molina, 120 Nev. at 192, 87 P.3d at 538.

19 Moreover, Petitioner's claim that counsel was ineffective because Carpenter took all of  
20 the pictures is belied by the record. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Indeed, Crime  
21 Scene Analyst Danielle Keller testified that she took photographs of the scene and of  
22 Carpenter. RT, 09/13/15, at 48, 54-55. As such, Petitioner cannot establish ineffectiveness.

23 Finally, Petitioner's assertion that he was maliciously prosecuted is a bare assertion  
24 suitable only for summary dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly,  
25 Ground 14 is denied.

### 26 **15. Ground 15**

27 Petitioner also claims that counsel's failure to cross-examine the victim "about the  
28 bleach she used" was ineffective. Motion at 21. However, Petitioner cannot demonstrate

deficient performance because counsel retains the authority to determine what questions to ask of witnesses. Rhyne, 118 Nev. at 8, 38 P.3d at 167. Moreover, Petitioner fails to show what questioning Carpenter about pouring bleach on his clothes in a bathtub would have revealed. Thus, he cannot establish the result of the trial would have been different had counsel asked about the alleged bleaching. McNelson, 115 Nev. at 403, 990 P.2d at 1268. Thus, Petitioner's claim is denied.

#### **16. Ground 16**

Next, Petitioner asserts that trial counsel failed to correct incorrect dates in his PSI. Motion at 22. Yet Petitioner fails to state what the alleged errors were or how they "added many more years on [his] sentence." Id. Accordingly, Petitioner's assertion is a bare and naked claim that is denied. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

#### **17. Ground 17**

Petitioner also asserts that counsel should have filed a motion for a new trial because the Court rejected his proposed self-defense instructions. Motion at 22-23. Filing such a motion would have been futile because the Court already rejected Petitioner's first request for those instructions. Ennis, 122 Nev. at 706, 137 P.3d at 1103. Consequently, Petitioner fails to show deficient performance.

Moreover, Petitioner fails to demonstrate prejudice because the Nevada Court of Appeals determined that the presence of a self-defense instruction would not have made any difference in light of the overwhelming evidence of Petitioner's guilt. Perry v. State, Docket No. 69139 (Order of Affirmance, Dec. 14, 2016) (harmless error to reject the self-defense instructions in light of evidence of guilt). Accordingly, Petitioner's claim is denied.

#### **18. Ground 18**

Petitioner again complains that counsel was ineffective for not investigating Carpenter's alleged prescription pill fraud with "Dr. Bruce." Motion at 23. It is unclear who "Dr. Bruce" is; moreover, Petitioner's claim is a bare assertion suitable only for summary dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly, the claim is denied.

#### **19. Ground 19**



1       Petitioner asserts he is entitled to relief because of the cumulative effect of counsel's  
2 ineffectiveness. Motion at 24. While the Nevada Supreme Court has noted that some courts  
3 do apply cumulative error in addressing ineffective assistance claims, it has not specifically  
4 adopted this approach. See McConnell v. State, 125 Nev. 243,250 n.17, 212 P.3d 307,318 n.17  
5 (2009). Nevada is not alone; with respect to claims of cumulative Strickland error, the Eighth  
6 Circuit Court of Appeals has concluded that "a habeas petitioner cannot build a showing of  
7 prejudice on a series of errors, none of which would by itself meet the prejudice test."  
8 Middleton v. Roper, 455 F.3d 83 8, 851 (8th Cir. 2006), cert. denied, 549 U.S. 1134, 127 S.  
9 Ct. 980 (2007).

10       However, the Nevada Supreme Court has noted that that other courts have held that  
11 "multiple deficiencies in counsel's performance may be cumulated for purposes of the  
12 prejudice prong of the Strickland test when the individual deficiencies otherwise would not  
13 meet the prejudice prong." McConnell, 125 Nev. at 259 n.17, 212 P.3d at 318 n.17 (utilizing  
14 this approach to note that the defendant is not entitled to relief). Even if the Court applies  
15 cumulative error analysis to Petitioner's claims of ineffective assistance, Petitioner fails to  
16 demonstrate cumulative error warranting reversal. A cumulative error finding in the context  
17 of a Strickland claim is extraordinarily rare and requires an extensive aggregation of errors.  
18 See, e.g., State v. Hester, 127 N.M. 218, 222, 979 P.2d 729, 733 (1999); Harris by and Through  
19 Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995); Derden v. McNeel, 978 F.2d 1453,  
20 1461 (5th Cir. 1992).

21       Under cumulative error analysis, a defendant must first make a threshold showing that  
22 counsel's performance was deficient and counsels representation fell below an objective  
23 standard of reasonableness. State v. Sheahan, 139 Idaho 267, 287, 77 P.3d 956, 976 (2003);  
24 State v. Savo, 108 P.3d 903, 916 (Alaska 2005); State v. Maestas, 299 P.3d 892, 990 (Utah  
25 2012). In fact, logic dictates that cumulative error cannot exist where the defendant fails to  
26 show that any violation or deficiency existed under Strickland. McConnell, 125 Nev. at 259,  
27 212 P.3d at 318; United States v. Franklin, 321 F.3d 1231, 1241 (9th Cir. 2003); Turner v.  
28 Quarterman, 481 F.3d 292, 301 (5th Cir. 2007); Pearson v. State, 12 P.3d 686, 692 (Wyo.

1 2000); Hester, 979 P .2d at 733. Further, in order to cumulate errors, the defendant must not  
2 only show that an error occurred regarding counsel's representation, but that at least two errors  
3 occurred. Rolle v. State, 236 P.3d 259, 276-77 (Wyo. 2010); Hooks v. Workman, 689 F.3d  
4 1148, 1194-95 (10th Cir. 2012).

5 If the defendant can show that two or more errors existed in counsel's representation,  
6 then he must next show that cumulatively, the errors prejudiced him. McConnell, 125 Nev. at  
7 259n.17, 212 P.3d at 318 n.17; Doyle v. State, 116 Nev. 148, 163, 995 P.2d 465, 474 (2000); State  
8 v. Novak, 124 P .3d 182, 189 (Mont. 2005); Savo, 108 P .13d at 916. A defendant can only  
9 demonstrate the existence of prejudice when he has shown that the cumulative effect of the  
10 errors "were sufficiently significant to undermine [the court's] confidence in the outcome of  
11 the ... trial." In re Jones, 13 Cal.4<sup>th</sup> 552, 584, 917 P.2d 1175, 1193 (1996); Collins v. Sec'y of  
12 Pennsylvania Dep't of Corr., 742 F.3d 528, 542 (3d Cir. 2014). "[M]ere allegations of error  
13 without proof of prejudice" are insufficient to demonstrate cumulative error. Novak, 124 P.3d  
14 at 189. Further, "in most cases errors, even unreasonable errors, will not have a cumulative  
15 impact sufficient to undermine confidence in the outcome of the trial, especially if the evidence  
16 against the defendant remains compelling." Theil, 665 N.W.2d at 322-23; see also Maestas,  
17 299 P.3d at 990 (holding that errors resulting in no harm are insufficient to demonstrate  
18 cumulative error).

19 As discussed, *supra*, Petitioner has failed to make a single showing that counsel's  
20 representation was objectively unreasonable. Further, even if Petitioner had made such a  
21 showing, he has failed to demonstrate that the cumulative effect of these errors was so  
22 prejudicial as to undermine this Court's confidence in the outcome of Petitioner's case. Collins,  
23 742 F.3d at 542. Therefore, his claim of cumulative error is without merit and is denied.

## 24 **20. Claim 20**

25 In Claim 20, Petitioner claims his appellate counsel was ineffective for failing to  
26 include a certificate of service in his motion requesting order directing the Las Vegas  
27 Metropolitan Police Department to Conduct Genetic Marker and Latent Print Analysis of  
28 Evidence Impounded at the Crime Scene, which therefore invalidated the Motion. Second

1 Petition at 25-27. However, the State did not argue that the failure to include a certificate of  
2 service invalidated his Motion, and the district court did not cite that failure in its ruling. There  
3 is no evidence counsel's failure to include a certificate of service in Petitioner's Motion had  
4 any effect on the court's denial of his Motion.

5 **21. Claims 21-22**

6 In Claims 21-22, Petitioner claims counsel "failed to use Nevada statutes or NRS to  
7 support [his Motion] for fingerprint analysis." Second Petition at 26-27. To the contrary, his  
8 counsel cited Nevada statutes and Nevada Supreme Court cases as controlling authority in his  
9 Motion. Additionally, Petitioner fails to identify what statutes or authority his counsel should  
10 have included in his Motion. Therefore, his claims are summarily denied as they are bare and  
11 naked. Further, he cannot demonstrate good cause to overcome the procedural bar because he  
12 was not entitled to effective post-conviction counsel, thus his claims of ineffective assistance  
13 of counsel are without merit and are denied.

14 **ORDER**

15 THEREFORE, IT IS HEREBY ORDERED that this Petition for Writ of Habeas Corpus  
16 (Post-Conviction) shall be, and is, hereby DENIED.

17 Dated this 14th day of July, 2022

18   
19 \_\_\_\_\_  
DISTRICT JUDGE

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

53A 50C E539 063F  
Michael Villani  
District Court Judge

23 BY /s/ John Afshar  
24 JOHN AFSHAR  
25 Deputy District Attorney  
26 Nevada Bar #14408  
27  
28

1 CERTIFICATE OF SERVICE

2 I hereby certify that service of Findings of Fact, Conclusions of Law and Order, was  
3 made this 13th day of July, 2022, by Mail via United States Postal Service to:

4 Genaro Richard Perry #1153366  
5 SDCC  
6 P.O. BOX 208  
Indian Springs, NV 89070

7  
8 /s/ Kristian Falcon

9 Secretary for the District Attorney's Office  
10  
11  
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28 JA/kf/Appeals/DVU

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Genaro Perry, Plaintiff(s)

CASE NO: A-22-851874-W

7 vs.

DEPT. NO. Department 17

8 State of Nevada, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 7/14/2022

15 District Attorney motions@clarkcountyda.com

16 John Taylor john.taylor@clarkcountyda.com

17 Morgan Thomas Morgan.Thomas@ClarkCountyDA.com  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

Supreme Court No. 82931  
District Court Case No. C298879

**FILED**

JUL 20 2022

*Elizabeth A. Brown*  
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

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

JUDGMENT

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

"ORDER the judgment of the district court AFFIRMED."

Judgment, as quoted above, entered this 18th day of February, 2022.

JUDGMENT

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

"Rehearing denied."

Judgment, as quoted above, entered this 22nd day of June, 2022.

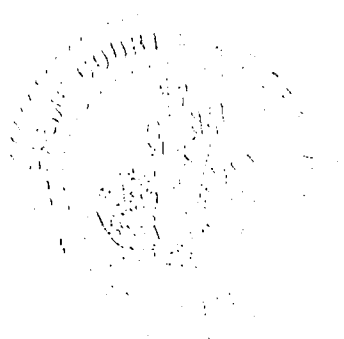
C-14-298879-1  
CCJA  
NV Supreme Court Clerks Certificate/Judgm  
4999841



IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada this July 18, 2022.

Elizabeth A. Brown, Supreme Court Clerk

By: Sandy Young  
Deputy Clerk



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 82931-COA

**FILED**

FEB 18 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

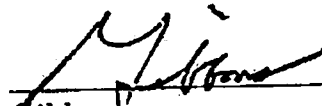
Genaro Richard Perry appeals from an order of the district court denying a "motion requesting order directing the Las Vegas Metropolitan Police Department to conduct genetic marker and latent fingerprint analysis of evidence impounded at the crime scene." Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.


In his February 3, 2021, motion, Perry first sought, pursuant to NRS 176.0918, genetic marker analysis of blood samples collected from the crime scene. The State's theory at trial was that Perry attacked his ex-girlfriend with a knife, and Perry's theory was self-defense. Perry alleged that the test results would have supported his self-defense theory by showing that the victim had the knife in her hand and that Perry was cut by the knife. The evidence presented at trial was that Perry punched the victim multiple times, there was a struggle, and the victim bit Perry's hand prior to Perry grabbing the knife. In light of this evidence, the presence of Perry's blood at the crime scene or on the knife would not result in a reasonable possibility that Perry would not have been prosecuted or convicted. See NRS 176.09183(1)(c)(1). Therefore, we conclude the district


court did not abuse its discretion by denying Perry's request for genetic marker analysis. See NRS 176.09183(5)(b).

Perry also sought an order directing the local police department to conduct latent fingerprint analysis on the knife. No statute or court rule permits an appeal from an order denying such a motion. Therefore, we decline to consider any claims relating to his request for fingerprint analysis. See *Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (holding the appellate court lacks jurisdiction where no statute or court rule authorizes the appeal). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
Gibbons, C.J.

  
Tao, J.

  
Bulla, J.

cc: Hon. Jacqueline M. Bluth, District Judge  
Jean J. Schwartzner  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 82931-COA

**FILED**

JUN 22 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

**ORDER DENYING REHEARING**

Rehearing denied. NRAP 40(c).

It is so ORDERED.

*[Signature]* C.J.  
Gibbons

*[Signature]* J.  
Tao

*[Signature]* J.  
Bulla

cc: Hon. Jacqueline M. Bluth, District Judge  
Genaro Richard Perry  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

Supreme Court No. 82931  
District Court Case No. C298879

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

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

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

DATE: July 18, 2022

Elizabeth A. Brown, Clerk of Court

By: Sandy Young  
Deputy Clerk

cc (without enclosures):

Hon. Jacqueline M. Bluth, District Judge  
Clark County District Attorney \ Alexander G. Chen, Chief Deputy District  
Attorney  
Clark County District Attorney \ John T. Afshar  
Genaro Richard Perry

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on JUL 20 2022.

HEATHER UNGERMANN

Deputy District Court Clerk

RECEIVED  
APPEALS

JUL 19 2022

CLERK OF THE COURT



NEO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

GENARO PERRY,

Petitioner,

Case No: C-14-298879-1

Dept No: XVII

vs.

THE STATE OF NEVADA,

Respondent,

**NOTICE OF ENTRY OF FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER**

**PLEASE TAKE NOTICE** that on July 14, 2022, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on July 20, 2022.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk

**CERTIFICATE OF E-SERVICE / MAILING**

I hereby certify that on this 20 day of July 2022, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

Clark County District Attorney's Office  
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

Genaro Perry # 1153366  
P.O. Box 208  
Indian Springs, NV 89070

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk

**FCL**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**JOHN AFSHAR**  
Deputy District Attorney  
Nevada Bar #14408  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**GNERARO RICHARD PERRY**  
ID#1456173

Petitioner,

-vs-

**THE STATE OF NEVADA.**

Respondent.

**CASE NO: A-22-851874-W**  
**C-14-298879-1**  
**DEPT NO: XVII**

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

**DATE OF HEARING: June 7, 2022**  
**TIME OF HEARING: 11:00 AM**

THIS CAUSE having come on for hearing before the Honorable MICHAEL VILLANI, District Judge, on the 7<sup>th</sup> day of June 2022, the matter heard in Chambers, and this Court having considered the matter, including briefs, transcripts, and documents on file herein, now therefore, this Court makes the following findings of fact and conclusions of law:

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1  
2 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

3 **PROCEDURAL HISTORY**

4 On June 25, 2014, Genaro Perry (hereinafter “Petitioner”) was charged by way of  
5 Information with Count One: Robbery with Use of a Deadly Weapon (Category B Felony –  
6 NRS 200.380), Count Two: False Imprisonment with Use of a Deadly Weapon (Category B  
7 Felony – NRS 200.460), Count Three: Grand Larceny Auto (Category B Felony – NRS  
8 200.460), Count Four: Assault with a Deadly Weapon (Category B Felony – NRS 207.190),  
9 Count Five: Coercion (Category B Felony – NRS 207.190), Count Six: Battery Resulting in  
10 Substantial Bodily Harm Constituting Domestic Violence (Category C Felony – NRS 200.481,  
11 200.485) and Count Seven: Preventing or Dissuading Witness or Victim from Reporting Crime  
12 or Commencing Prosecution (Category D Felony – NRS 199.305).

13 On October 1, 2015, after a three-day bench trial, the district court found Petitioner  
14 guilty on all counts. On January 6, 2016, Petitioner was sentenced to an aggregate total of a  
15 maximum of three hundred thirty-six (336) months and a minimum of ninety-six (96) months  
16 in the Nevada Department of Corrections, with five hundred ninety-seven (597) days credit  
17 for time served. Petitioner’s Judgment of Conviction was filed on January 22, 2016. An  
18 Amended Judgment of Conviction was filed on April 28, 2017. A second Amended Judgment  
19 of Conviction striking verbiage referencing an aggregate total sentence in Petitioner’s  
20 Amended Judgment of Conviction was filed on August 8, 2017.

21 Petitioner filed a Notice of Appeal on November 4, 2015, appealing this Court’s guilty  
22 verdict. On December 14, 2016, the Nevada Supreme Court affirmed this Court’s verdict and  
23 issued Remittitur on January 10, 2017.

24 On February 7, 2017, Petitioner filed a Petition for Writ of Habeas Corpus (Post-  
25 conviction) (hereinafter “First Petition”), Motion for Appointment of Attorney, Motion to  
26 Dismiss Counsel, and Motion for a New Trial. The State filed its response on April 7, 2017.  
27 On April 24, 2017, the district court denied Petitioner’s Motion for New Trial but granted  
28 Petitioner’s Motion to Withdraw Counsel and Motion to Appoint Counsel. The court appointed

1 Jean Schwartzer Esq. as counsel for the purposes of filing a supplement to the First Petition.

2 On February 3, 2021, Petitioner filed a Motion Requesting Order Directing the Las  
3 Vegas Metropolitan Police Department to Conduct Genetic Marker and Latent Print Analysis  
4 of Evidence Impounded at Crime Scene and requested a hearing. The State filed its Response  
5 on February 11, 2021. On February 17, 2021, Petitioner's Motion was denied, and the district  
6 court issued its Order on April 16, 2021.

7 On August 16, 2021, Petitioner filed a Motion to Withdraw Counsel, which was granted  
8 by the district court. Counsel never filed a supplement to the First Petition before withdrawing.  
9 Petitioner filed a Pro Per Supplement to his own Petition on November 29, 2021.

10 On November 29, 2021, Petitioner filed a Motion to Modify and/or Correct Illegal  
11 Sentence. The State filed its Opposition on December 15, 2021. This Court denied Petitioner's  
12 Motion on December 20, 2021, and issued its Order on December 29, 2021.

13 Petitioner filed a second Notice of Appeal on January 27, 2022, appealing this Court's  
14 decision to deny his Motion to Modify and/or Correct Illegal Sentence. On February 18, 2022,  
15 the Nevada Supreme Court affirmed the district court's denial of Petitioner's Motion and  
16 issued Remittitur on March 15, 2022. However, that Remittitur was recalled by the Nevada  
17 Court of Appeals and is currently still on appeal.

18 Petitioner filed the instant Petition (hereinafter "Second Petition") on April 29, 2022.  
19 The State filed its Response on June 6, 2022. On June 29, 2022, this Court denied both  
20 Petitioner's First and Second Petitions. This Court's Findings of Fact, Conclusions of Law and  
21 Order now follows.

## 22 **STATEMENT OF THE FACTS**

23 Petitioner's Presentence Investigation Report (hereinafter "PSI") summarized the facts  
24 of the crime as follows:

25 Petitioner and Carla Carpenter (hereinafter "Carpenter") were  
26 involved in a six-month relationship. On April 20, 2014, Petitioner  
27 came over to Carpenter's house to get his property. He ended up  
28 spending the night at her house because it was late. The following  
morning, Petitioner asked Carpenter for \$5,000.00 to buy drugs.  
When she refused to lend him the money, Petitioner grabbed a  
steak knife and threatened to kill her and her family. He then

lunged at Carpenter with the knife.

Next, Petitioner banged Carpenter's head against the kitchen floor and kicked her in the face several times. When she tried to call the police, Petitioner threw her phone against the wall. Petitioner would not allow her to leave.

Petitioner then picked up Carpenter's car keys, held the knife to her and said, "I will take these." Before he left in her car, he threw her phone in the toilet and threatened to kill her and her ex-husband if she called the police. Carpenter suffered numerous injuries as well as damage to her house.

PSI 6-7.

## **ANALYSIS**

### **I. PETITIONER RECEIVED THE EFFECTIVE ASSISTANCE OF COUNSEL**

Petitioner alleges nineteen instances of ineffective assistance of counsel. Nevada has adopted the standard outlined in Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984), for determinations regarding the effectiveness of counsel. Warden v. Lyons, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984); Kirksey v. State, 112 Nev. 980,998, 923 P.2d 1102, 1113 (1996). Under Strickland, in order to assert a claim of ineffective assistance of counsel, the defendant must prove that he was denied "reasonably effective assistance" of counsel by satisfying a two-pronged test. Strickland, 466 U.S. at 686-687, 104 S. Ct. at 2064; see State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993). Under this test, the defendant must show that his counsel's representation fell below an objective standard of reasonableness, and that, but for counsel's errors, there is a reasonable probability that the result of the proceedings would have been different. See Strickland, 466 U.S. at 687-688, 694, 104 S. Ct. at 2064, 2068.

"Surmounting Strickland's high bar is never an easy task." Padilla v. Kentuck, 559 U.S. 356, 371, 130 S. Ct. 1473, 1485 (2010). The question is whether an attorney's representations amounted to incompetence under prevailing professional norms, "not whether it deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86, 88, 131 S. Ct. 770, 778 (2011). Furthermore, "[e]ffective counsel does not mean errorless counsel, but rather counsel whose assistance is ' [w]ithin the range of competence demanded of attorneys in criminal cases.'" Jackson v. Warden, Nevada State Prison, 91 Nev. 430,432, 537 P.2d 473,474

1 (1975) (quoting McMann v. Richardson, 397 U.S. 759, 771, 90 S. Ct. 1441, 1449 (1970)).

2 A court begins with a presumption of effectiveness and then must determine whether  
3 the defendant has demonstrated by a preponderance of the evidence that counsel was  
4 ineffective. Means v. State, 120 Nev. 1001, 1011-12, 103 P.3d 25, 35 (2004). The role of a  
5 court in considering allegations of ineffective assistance of counsel is "not to pass upon the  
6 merits of the action not taken but to determine whether, under the particular facts and  
7 circumstances of the case, trial counsel failed to render reasonably effective assistance."  
8 Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711 (1978) (emphasis added) (citing  
9 Cooper v. Fitzharris, 551 F.2d 1162, 1166 (9th Cir. 1977)).

10 In considering whether trial counsel was effective, the court must determine whether  
11 counsel made a "sufficient inquiry into the information ... pertinent to his client's case."  
12 Doleman v State, 112 Nev. 843, 846, 921 P.2d 278, 280 (1996); citing. Strickland, 466 U.S. at  
13 690-691, 104 S. Ct. at 2066. Once this decision is made, the court will consider whether  
14 counsel made "a reasonable strategy decision on how to proceed with his client's case."  
15 Doleman, 112 Nev. at 846, 921 P.2d at 280; citing Strickland, 466 U.S. at 690-691, 104 S. Ct.  
16 at 2066. Counsel's strategy decision is a "tactical" decision and will be "virtually  
17 unchallengeable absent extraordinary circumstances." Doleman, 112 Nev. at 846, 921 P.2d at  
18 280; see also Howard v. State, 106 Nev. 713, 722, 800 P.2d 175, 180 (1990); Strickland, 466  
19 U.S. at 691, 104 S. Ct. at 2066.

20 This analysis does not indicate that the court should "second guess reasoned choices  
21 between trial tactics, nor does it mean that defense counsel, to protect himself against  
22 allegations of inadequacy, must make every conceivable motion no matter how remote the  
23 possibilities are of success." Donovan, 94 Nev. at 675, 584 P.2d at 711; citing Cooper, 551 F  
24 .2d at 1166 (9th Cir. 1977). In essence, the court must "judge the reasonableness of counsel's  
25 challenged conduct on the facts of the particular case, viewed as of the time of counsel's  
26 conduct." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. However, counsel cannot be deemed  
27 ineffective for failing to make futile objections, file futile motions, or for failing to make futile  
28 arguments. Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006).



1 Even if a defendant can demonstrate that his counsel's representation fell below an  
2 objective standard of reasonableness, he must still demonstrate prejudice and show a  
3 reasonable probability that, but for counsel's errors, the result of the trial would have been  
4 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing  
5 Strickland, 466 U.S. at 687). "A reasonable probability is a probability sufficient to undermine  
6 confidence in the outcome." Strickland, 466 U.S. at 694, 104 S. Ct. at 2068. A defendant who  
7 contends his attorney was ineffective because he did not adequately investigate must show  
8 how a better investigation would have rendered a more favorable outcome probable. Molina  
9 v. State, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004).

10 Finally, claims asserted in a petition for post-conviction relief must be supported with  
11 specific factual allegations, which if true, would entitle the petitioner to relief. Hargrove v.  
12 State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "Bare" and "naked" allegations are not  
13 sufficient, nor are those belied and repelled by the record. Id.

#### 14 **1. Ground 1**

15 Petitioner complains that counsel was ineffective for failing to list or call the TJ Maxx  
16 security guard or Dr. Gabaeff. Motion at 7-9. However, Petitioner cannot demonstrate  
17 deficient performance because counsel retains the authority to determine what witnesses to  
18 call at trial. Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002). Moreover, counsel did try  
19 to call the security guard, but the Court declined his request. RT, 09/30/15, at 62-64. Counsel  
20 was not ineffective for failing to challenge the Court's ruling, as it would have been futile.  
21 Ennis, 122 Nev. at 706, 137 P.3d at 1103.

22 Moreover, Petitioner fails to establish prejudice. Petitioner asserts that counsel was  
23 ineffective for failing to call Dr. Gabaeff because counsel told the Court that "having no doctor  
24 [at trial] to talk about anything for the jury is a little too risky ... " RT, 05/07/15, at 2; Motion  
25 at 8. However, a review of the record belies Petitioner's claim. Hargrove, 100 Nev. at 502, 686  
26 P.2d at 225. On the second day of trial, during jury selection, the State and counsel discussed  
27 with the Court last-minute witness issues. Id. at 2-9. Counsel's discussed strategy was not to  
28 call Dr. Gabaeff, but to introduce Gabaeff's reports through the State's expert and to argue. Id.

1 at 2-3. Moreover, counsel repeatedly discussed cross-examining the State's expert, who was  
2 the victim's attending physician. Id. at 3, 9. In context, counsel was more concerned about  
3 cross-examining the State's expert than calling his own. Id. at 9. Moreover, the "Court  
4 indicated to [counsel] that he knew his doctor would not be available and that he would be  
5 using the State's witness .... " Court Minutes, 05/07/15.

6 Further, Petitioner fails to demonstrate what Dr. Gabaeff's testimony would have  
7 rendered a more favorable outcome probable. See Molina, 120 Nev. at 192, 87 P.3d at 538.  
8 Petitioner argues that Dr. Gabaeff would have impeached the credibility of State's expert  
9 because Dr. Gabaeff's notes alleged false billing. Motion at 7-8. First, Petitioner fails to  
10 establish how Dr. Gabaeff, having never treated the victim, would establish false billing for  
11 her ailments. Moreover, even Dr. Gabaeff's notes confirm there was a severe fracture to the  
12 orbital structure of the victim's right eye. See Exhibit 1. Indeed, there was substantial testimony  
13 and photographic evidence presented at the bench trial, with respect to the victim's injuries.  
14 RT, 09/29/15, at 14-25, 51-55, 65-72, 76-79. As such, Petitioner cannot establish a more  
15 favorable outcome had Dr. Gabaeff testified.

16 Similarly, Petitioner cannot establish prejudice for the failure to call the TJ Maxx  
17 security guard. At trial, the victim, Coria Carpenter, testified that she "lost it" in the store and  
18 chased a woman through the store with a crowbar over money. Id. at 74-76, 80-82. As such,  
19 Petitioner fails to demonstrate what else the security guard would have testified to at trial. See  
20 Molina, 120 Nev. at 192, 87 P.3d at 538. Accordingly, Petitioner's claim is denied.

## 21 **2. Ground 2**

22 In Ground 2, Petitioner complains that counsel was ineffective for failing to have the  
23 knife tested for DNA and fingerprints. Motion at 10. However, Petitioner fails to demonstrate  
24 how further forensic investigation would have rendered a more favorable outcome probable.  
25 Molina, 120 Nev. at 192, 87 P.3d at 538. Indeed, based on the testimony presented at trial, the  
26 results would have confirmed the presence of both the victim's and Petitioner's blood and  
27 fingerprints on the knife. See RT, 09/29/15, at 53. Further, Petitioner's assertion that "this  
28 evidence would have had the charges lowered to a simple domestic violence on both people

involved" is nothing more than a naked assertion suitable only for summary dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. As such, this claim is denied.

### 3. Ground 3

Petitioner next complains that the counsel was ineffective for not challenging the Criminal Complaint, which failed to list the location of the incident. Motion at 11. However, a specific address is not required. A criminal complaint is intended solely to put the defendant on formal written notice of the charge he must defend; it need not show probable cause for arrest on its face and may simply be drawn in the words of the statute so long as the essential elements of the crime are stated. Sanders v. Sheriff, 85 Nev. 179, 451 P.2d 718 (1969). As the victim's address is not an essential element of the crime, it would have been futile to challenge the lack of address. Ennis, 122 Nev. at 706, 137 P.3d at 1103. Moreover, Petitioner has consistently claimed self-defense; surely, he did not need notice of the place where he was allegedly defending himself. Accordingly, the claim is denied.

### 4. Ground 4

In Ground 4, Petitioner argues that counsel was ineffective for failing to object to the removal of self-defense instructions. Motion at 12. Petitioner waived his right to a jury trial so that he could put on a self-defense case and testify without a jury learning about his criminal record. However, at the conclusion of the trial, the Court determined that there was no evidence of self-defense, so a formal objection by counsel would have been futile. RT, 10/01/15, at 3; Ennis, 122 Nev. at 706, 137 P.3d at 1103. Moreover, Petitioner fails to establish prejudice because the Nevada Court of Appeals addressed the issue on direct appeal, under the abuse of discretion standard-as if an objection had been made. Perry v. State, Docket No. 69139 (Order of Affirmance, Dec. 14, 2016). While the Court of Appeals determined that it was error to reject the self-defense instructions, such error was harmless. Id at 2-3. Therefore, he cannot demonstrate a reasonable probability that, but for counsel's errors, the result of the trial would have been different. McNelson, 115 Nev. at 403, 990 P.2d at 1268. Thus, Petitioner's claim is denied.

### 5. Ground 5

1       Petitioner next asserts counsel's ineffectiveness for waiving the preliminary hearing.  
2 Motion at 13. Petitioner fails to recognize that it was he, not counsel, who waived the  
3 preliminary hearing. Reporter's Transcript, 06/19/14, at 2-3. As such, counsel cannot be  
4 deemed ineffective for a decision that belonged solely to Petitioner. See Rhyne, 118 Nev. at  
5 8, 38 P.3d at 167. As such, Petitioner's claim is denied.

#### 6       **6. Ground 6**

7       In Ground 6, Petitioner claims counsel was ineffective for failing to have the Court  
8 order a psychiatric examination of the victim. Motion at 13-14. However, the record fails to  
9 demonstrate a compelling need for an examination. A compelling need for an examination  
10 exists if: (1) the State has called or obtained some benefit from a psychological or psychiatric  
11 expert; (2) the evidence of the crime is supported by little or no corroboration beyond the  
12 testimony of the victim; and (3) a reasonable basis exists to believe that mental or emotional  
13 state of the victim may have affected her veracity. Abbott v. State, 122 Nev. 715, 727-32, 138  
14 P.3d 462, 470-73 (2006). As the record is completely bare of evidence supporting any of the  
15 three Abbott factors, such a request would have been futile. Ennis, 122 Nev. at 706, 137 P.3d  
16 at 1103. As counsel cannot be ineffective for failing to make futile requests, Petitioner's claim  
17 is denied.

#### 18       **7. Ground 7**

19       Petitioner complains that counsel was ineffective for calling him a "drug-addled  
20 maniac," which "destroyed any possibility of showing [] self-defense." Motion at 14-15. First,  
21 counsel was not ineffective for using the term. During the trial, the victim testified on cross-  
22 examination that Petitioner had "erratic behaviors" and used and sold drugs. RT, 09/29/15, at  
23 84-86, 88. Moreover, in context, counsel's closing argument focused primarily on the victim's  
24 credibility. Counsel highlighted what he believed to be the unreasonableness of her testimony  
25 in an attempt to discredit her. Id at 18-20. He focused on the victim's description of past abuse,  
26 but the seemingly unreasonable act of allowing Petitioner to come over and sleep in her bed  
27 with her. RT, 10/01/15, at 19. And although she denied that Petitioner was a "drug-addled  
28 maniac," counsel's point was that, even if Petitioner was a "drug-addled maniac," the victim's

actions became even more inconsistent and unreasonable. Id.

Further, counsel's comment did not "destroy" Petitioner's self-defense claim. The Court previously denied the requested instructions, finding there was no evidence. RT, 10/01/15, at 3. Indeed, the Nevada Court of Appeals determined that it was "clear beyond a reasonable doubt that a rational trier of fact would have found Perry guilty" even if the instruction had been given. Perry v. State, Docket No. 69139 (Order of Affirmance, Dec. 14, 2016). Accordingly, the claim is denied.

#### **8. Ground 8**

In Ground 8, Petitioner complains that counsel's failure to investigate "Carpenter's life/past" was ineffective. Motion at 15. He asserts that she has mental health issues and is engaged in fraudulent activity selling prescription pills. Id. These are bare assertions suitable only for summary dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly, the claim is denied.

#### **9. Ground 9**

Petitioner next complains that counsel was ineffective for failing to interview the State's expert, Dr. Leibowitz. Motion at 16. However, Petitioner fails to show how a better investigation would have rendered a more favorable outcome probable. Molina, 120 Nev. at 192, 87 P.3d at 538. Indeed, Petitioner's claim is a naked assertion, belied by the record. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

At trial, counsel thoroughly cross-examined Dr. Leibowitz regarding the conclusion that the victim's injuries made it obvious this was an abuse situation. RT, 09/29/15, at 25-28. During counsel's cross-examination, he effectively attacked the doctor's credibility by getting the doctor to discuss potential bias; Dr. Leibowitz told the Court he came to testify because "I have, you know, a sister and daughter and I wouldn't want them punched out and that's how I look at it." Id. at 25-26. Similarly, counsel's cross-examination attacked Dr. Leibowitz's conclusion that this was definitively abuse. See id at 27-28. As the record demonstrates, counsel was more than prepared to cross-examine Dr. Leibowitz. As such, Petitioner's claim is belied by the record and denied. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

1           **10. Ground 10**

2           Petitioner further asserts counsel failed to interview the TJ Maxx security guard. Motion  
3 at 16. However, Petitioner cannot demonstrate prejudice because the Court precluded the  
4 security guard's testimony. RT, 09/30/15, at 62-64. As interviewing the guard was ultimately  
5 unnecessary, counsel cannot be deemed ineffective. See Ennis, 122 Nev. at 706, 137 P.3d at  
6 1103.

7           Moreover, Petitioner fails to show how a better investigation would have rendered a  
8 more favorable outcome probable. Molina, 120 Nev. at 192, 87 P.3d at 538. At trial, Carpenter  
9 testified that she "lost it" in the store and chased a woman through the store with a crowbar  
10 over money. Id. at 74-76, 80-82. As such, it is unclear what the security guard would have  
11 stated that would have been more favorable to Petitioner. Thus, his claim is denied.

12           **11. Ground 11**

13           In Ground 11, Petitioner claims that counsel was ineffective for failing to raise the  
14 court-appointed investigator's "conflict of interest," which resulted in an incomplete  
15 investigation and his waiver of the preliminary hearing. Motion at 17-18. First, Petitioner's  
16 claims that the investigator had a conflict of interest and that the charges might have been  
17 reduced are bare assertions. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Further, as discussed,  
18 supra, Petitioner chose to waive his preliminary hearing. Reporter's Transcript, 06/19/14, at 2-  
19 3. As such, counsel cannot be deemed ineffective for a decision that belonged solely to  
20 Petitioner. See Rhyne, 118 Nev. at 8, 38 P.3d at 167. Accordingly, Petitioner's claim is denied.

21           **12. Ground 12**

22           Petitioner claims that counsel was ineffective for failing to challenge "overlapping  
23 charges" of assault and battery. Motion at 18-19. First, the Assault with a Deadly Weapon and  
24 Battery Resulting in Substantial Bodily Harm charges were based on separate allegations-  
25 Petitioner was charged with Assault with a Deadly Weapon for threatening to kill Carpenter  
26 with the knife and the Battery Resulting in Substantial Bodily Harm was because Petitioner  
27 kicked and punched Carpenter in every room of her home. Moreover, challenging the charges  
28 would have been futile because the Nevada Supreme Court has held that dual convictions

1 under the assault and battery statutes can stand as each crime includes elements the other does  
2 not. Jackson v. State, 128 Nev. 598, 606-07, 291 P.3d 1274, 1279-80 (2012) (citing  
3 Blockburger v. United States, 284 U.S. 299, 52 S. Ct. 180 (1932)). Accordingly, Petitioner's  
4 claim is denied. Ennis, 122 Nev. at 706, 137 P.3d at 1103.

### 5 **13. Ground 13**

6 Petitioner further argues that counsel was ineffective for failing to investigate his claim  
7 that Carpenter poured bleach on his clothes, which would have supported his claim of self-  
8 defense. Motion at 19. However, the only evidence that Petitioner cites to support his claim is  
9 his own statement. See Exhibit 1. As such, this is a bare assertion, and his claim is denied.  
10 Hargrove, 100 Nev. at 502, 686 P.2d at 225.

### 11 **14. Ground 14**

12 In Ground 14, Petitioner asserts counsel failed to investigate the "fabricated [] crime  
13 scene." Motion at 20. Specifically, Petitioner focuses on Carpenter's "placing blood in specific  
14 places" and taking of pictures. Id. However, Carpenter testified at trial that she purposefully  
15 left blood evidence throughout the house because she thought she was going to die and wanted  
16 to leave a sign that "there was a struggle." RT, 09/12, 9/15, at 56. Because Carpenter fully  
17 admitted to purposefully leaving blood evidence, it is unclear what further investigation would  
18 have shown. Molina, 120 Nev. at 192, 87 P.3d at 538.

19 Moreover, Petitioner's claim that counsel was ineffective because Carpenter took all of  
20 the pictures is belied by the record. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Indeed, Crime  
21 Scene Analyst Danielle Keller testified that she took photographs of the scene and of  
22 Carpenter. RT, 09/13/15, at 48, 54-55. As such, Petitioner cannot establish ineffectiveness.

23 Finally, Petitioner's assertion that he was maliciously prosecuted is a bare assertion  
24 suitable only for summary dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly,  
25 Ground 14 is denied.

### 26 **15. Ground 15**

27 Petitioner also claims that counsel's failure to cross-examine the victim "about the  
28 bleach she used" was ineffective. Motion at 21. However, Petitioner cannot demonstrate

deficient performance because counsel retains the authority to determine what questions to ask of witnesses. Rhyne, 118 Nev. at 8, 38 P.3d at 167. Moreover, Petitioner fails to show what questioning Carpenter about pouring bleach on his clothes in a bathtub would have revealed. Thus, he cannot establish the result of the trial would have been different had counsel asked about the alleged bleaching. McNelson, 115 Nev. at 403, 990 P.2d at 1268. Thus, Petitioner's claim is denied.

#### **16. Ground 16**

Next, Petitioner asserts that trial counsel failed to correct incorrect dates in his PSI. Motion at 22. Yet Petitioner fails to state what the alleged errors were or how they "added many more years on [his] sentence." Id. Accordingly, Petitioner's assertion is a bare and naked claim that is denied. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

#### **17. Ground 17**

Petitioner also asserts that counsel should have filed a motion for a new trial because the Court rejected his proposed self-defense instructions. Motion at 22-23. Filing such a motion would have been futile because the Court already rejected Petitioner's first request for those instructions. Ennis, 122 Nev. at 706, 137 P.3d at 1103. Consequently, Petitioner fails to show deficient performance.

Moreover, Petitioner fails to demonstrate prejudice because the Nevada Court of Appeals determined that the presence of a self-defense instruction would not have made any difference in light of the overwhelming evidence of Petitioner's guilt. Perry v. State, Docket No. 69139 (Order of Affirmance, Dec. 14, 2016) (harmless error to reject the self-defense instructions in light of evidence of guilt). Accordingly, Petitioner's claim is denied.

#### **18. Ground 18**

Petitioner again complains that counsel was ineffective for not investigating Carpenter's alleged prescription pill fraud with "Dr. Bruce." Motion at 23. It is unclear who "Dr. Bruce" is; moreover, Petitioner's claim is a bare assertion suitable only for summary dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly, the claim is denied.

#### **19. Ground 19**



1       Petitioner asserts he is entitled to relief because of the cumulative effect of counsel's  
2 ineffectiveness. Motion at 24. While the Nevada Supreme Court has noted that some courts  
3 do apply cumulative error in addressing ineffective assistance claims, it has not specifically  
4 adopted this approach. See McConnell v. State, 125 Nev. 243,250 n.17, 212 P.3d 307,318 n.17  
5 (2009). Nevada is not alone; with respect to claims of cumulative Strickland error, the Eighth  
6 Circuit Court of Appeals has concluded that "a habeas petitioner cannot build a showing of  
7 prejudice on a series of errors, none of which would by itself meet the prejudice test."  
8 Middleton v. Roper, 455 F.3d 83 8, 851 (8th Cir. 2006), cert. denied, 549 U.S. 1134, 127 S.  
9 Ct. 980 (2007).

10       However, the Nevada Supreme Court has noted that that other courts have held that  
11 "multiple deficiencies in counsel's performance may be cumulated for purposes of the  
12 prejudice prong of the Strickland test when the individual deficiencies otherwise would not  
13 meet the prejudice prong." McConnell, 125 Nev. at 259 n.17, 212 P.3d at 318 n.17 (utilizing  
14 this approach to note that the defendant is not entitled to relief). Even if the Court applies  
15 cumulative error analysis to Petitioner's claims of ineffective assistance, Petitioner fails to  
16 demonstrate cumulative error warranting reversal. A cumulative error finding in the context  
17 of a Strickland claim is extraordinarily rare and requires an extensive aggregation of errors.  
18 See, e.g., State v. Hester, 127 N.M. 218, 222, 979 P.2d 729, 733 (1999); Harris by and Through  
19 Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995); Derden v. McNeel, 978 F.2d 1453,  
20 1461 (5th Cir. 1992).

21       Under cumulative error analysis, a defendant must first make a threshold showing that  
22 counsel's performance was deficient and counsels representation fell below an objective  
23 standard of reasonableness. State v. Sheahan, 139 Idaho 267, 287, 77 P.3d 956, 976 (2003);  
24 State v. Savo, 108 P.3d 903, 916 (Alaska 2005); State v. Maestas, 299 P.3d 892, 990 (Utah  
25 2012). In fact, logic dictates that cumulative error cannot exist where the defendant fails to  
26 show that any violation or deficiency existed under Strickland. McConnell, 125 Nev. at 259,  
27 212 P.3d at 318; United States v. Franklin, 321 F.3d 1231, 1241 (9th Cir. 2003); Turner v.  
28 Quarterman, 481 F.3d 292, 301 (5th Cir. 2007); Pearson v. State, 12 P.3d 686, 692 (Wyo.

1 2000); Hester, 979 P .2d at 733. Further, in order to cumulate errors, the defendant must not  
2 only show that an error occurred regarding counsel's representation, but that at least two errors  
3 occurred. Rolle v. State, 236 P.3d 259, 276-77 (Wyo. 2010); Hooks v. Workman, 689 F.3d  
4 1148, 1194-95 (10th Cir. 2012).

5 If the defendant can show that two or more errors existed in counsel's representation,  
6 then he must next show that cumulatively, the errors prejudiced him. McConnell, 125 Nev. at  
7 259n.17, 212 P.3d at 318 n.17; Doyle v. State, 116 Nev. 148, 163, 995 P.2d 465, 474 (2000); State  
8 v. Novak, 124 P .3d 182, 189 (Mont. 2005); Savo, 108 P .13d at 916. A defendant can only  
9 demonstrate the existence of prejudice when he has shown that the cumulative effect of the  
10 errors "were sufficiently significant to undermine [the court's] confidence in the outcome of  
11 the ... trial." In re Jones, 13 Cal.4<sup>th</sup> 552, 584, 917 P.2d 1175, 1193 (1996); Collins v. Sec'y of  
12 Pennsylvania Dep't of Corr., 742 F.3d 528, 542 (3d Cir. 2014). "[M]ere allegations of error  
13 without proof of prejudice" are insufficient to demonstrate cumulative error. Novak, 124 P.3d  
14 at 189. Further, "in most cases errors, even unreasonable errors, will not have a cumulative  
15 impact sufficient to undermine confidence in the outcome of the trial, especially if the evidence  
16 against the defendant remains compelling." Theil, 665 N.W.2d at 322-23; see also Maestas,  
17 299 P.3d at 990 (holding that errors resulting in no harm are insufficient to demonstrate  
18 cumulative error).

19 As discussed, *supra*, Petitioner has failed to make a single showing that counsel's  
20 representation was objectively unreasonable. Further, even if Petitioner had made such a  
21 showing, he has failed to demonstrate that the cumulative effect of these errors was so  
22 prejudicial as to undermine this Court's confidence in the outcome of Petitioner's case. Collins,  
23 742 F.3d at 542. Therefore, his claim of cumulative error is without merit and is denied.

## 24 **20. Claim 20**

25 In Claim 20, Petitioner claims his appellate counsel was ineffective for failing to  
26 include a certificate of service in his motion requesting order directing the Las Vegas  
27 Metropolitan Police Department to Conduct Genetic Marker and Latent Print Analysis of  
28 Evidence Impounded at the Crime Scene, which therefore invalidated the Motion. Second

1 Petition at 25-27. However, the State did not argue that the failure to include a certificate of  
2 service invalidated his Motion, and the district court did not cite that failure in its ruling. There  
3 is no evidence counsel's failure to include a certificate of service in Petitioner's Motion had  
4 any effect on the court's denial of his Motion.

5 **21. Claims 21-22**

6 In Claims 21-22, Petitioner claims counsel "failed to use Nevada statutes or NRS to  
7 support [his Motion] for fingerprint analysis." Second Petition at 26-27. To the contrary, his  
8 counsel cited Nevada statutes and Nevada Supreme Court cases as controlling authority in his  
9 Motion. Additionally, Petitioner fails to identify what statutes or authority his counsel should  
10 have included in his Motion. Therefore, his claims are summarily denied as they are bare and  
11 naked. Further, he cannot demonstrate good cause to overcome the procedural bar because he  
12 was not entitled to effective post-conviction counsel, thus his claims of ineffective assistance  
13 of counsel are without merit and are denied.

14 **ORDER**

15 THEREFORE, IT IS HEREBY ORDERED that this Petition for Writ of Habeas Corpus  
16 (Post-Conviction) shall be, and is, hereby DENIED.

17 Dated this 14th day of July, 2022

18   
19 \_\_\_\_\_  
DISTRICT JUDGE

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

53A 50C E539 063F  
Michael Villani  
District Court Judge

23 BY /s/ John Afshar  
24 JOHN AFSHAR  
25 Deputy District Attorney  
26 Nevada Bar #14408  
27  
28

1 CERTIFICATE OF SERVICE

2 I hereby certify that service of Findings of Fact, Conclusions of Law and Order, was  
3 made this 13th day of July, 2022, by Mail via United States Postal Service to:

4 Genaro Richard Perry #1153366  
5 SDCC  
6 P.O. BOX 208  
Indian Springs, NV 89070

7  
8 /s/ Kristian Falcon

9 Secretary for the District Attorney's Office  
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28 JA/kf/Appeals/DVU

1 **CSERV**

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

5  
6 **Genaro Perry, Plaintiff(s)**

**CASE NO: A-22-851874-W**

7 **vs.**

**DEPT. NO. Department 17**

8 **State of Nevada, Defendant(s)**  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 **Service Date: 7/14/2022**

15 **District Attorney**

**motions@clarkcountyda.com**

16 **John Taylor**

**john.taylor@clarkcountyda.com**

17 **Morgan Thomas**

**Morgan.Thomas@ClarkCountyDA.com**

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**June 26, 2014**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**June 26, 2014      1:00 PM      Initial Arraignment**

**HEARD BY:** De La Garza, Melisa      **COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Dania Batiste  
Deborah Miller

**RECORDER:** Kiara Schmidt

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Perry, Genaro Richard	Defendant
	Roberts, Tara M.	Attorney
	Smillie, Ross	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- DEFT. PERRY ARRAIGNED, PLED NOT GUILTY, and INVOKED 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 (COC)

7/21/2014 9:30 A.M. Calendar Call (Dept. 6)

7/28/2014 10:00 A.M. Jury Trial (Dept. 6)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 21, 2014**

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

**July 21, 2014      9:30 AM      Calendar Call**

**HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES**

<b>PRESENT:</b>	Perry, Genaro Richard	Defendant
	Smillie, Ross	Attorney
	State of Nevada	Plaintiff
	Stephens, Robert	Attorney

**JOURNAL ENTRIES**

- Mr. Stephens advised he has provided discovery to defense counsel, the Clark County Detention Center (CCDC) records and jail phone calls; the victim is still seeking treatment for the injuries, so all of the medical records are not available to be provided to defense counsel; the State is ready for trial, but if the defense would like a continuance due to all the discovery not being disclosed, and discovery is ongoing, the State is not opposed if the defense needs a continuance. Mr. Smillie advised he has discussed matters with the Deft. in regards to the lack of medical records; the injury to the eye is significant and may be important for use prior to going to trial; the Deft. has invoked, but counsel does not wish to proceed to trial until the records are received and the Deft. is being detained on other matters. Colloquy regarding the continuance of the over flow eligible trial to the September stack. Court noted that in light of the short trial setting and discovery being provided, the defense would like a continuance with the understanding the Deft. will waive to allow the setting. Upon the inquiry of the Court, the Deft. stated he will WAIVE speedy to allow the September 29th setting. COURT ORDERED, trial VACATED and CONTINUED.

**CUSTODY**

PRINT DATE: 07/28/2022

Page 2 of 39

Minutes Date: June 26, 2014

9-22-14 9:30 AM CALENDAR CALL

9-29-14 10:00 AM JURY TRIAL



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 22, 2014**

C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

**September 22, 2014    9:30 AM      Calendar Call**

**HEARD BY:**    Cadish, Elissa F.

**COURTROOM:**    RJC Courtroom 15B

**COURT CLERK:**    Keith Reed

**RECORDER:**    Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Brown, Colleen R.	Attorney
	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	Smillie, Ross	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Mr. Shetler advised they are not ready for trial, and there is a stipulation for a continuance of the trial as there are outstanding medical issues and they don't have the victim's medical records. Colloquy regarding the continuance of the over flow eligible trial. There being no opposition, COURT ORDERED, trial VACATED and CONTINUED.

**CUSTODY**

11-24-14    9:30 AM    CALENDAR CALL

12-1-14    10:00 AM    JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

## COURT MINUTES

November 24, 2014

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

**November 24, 2014      9:30 AM      Calendar Call**

HEARD BY: Cadish, Elissa F.

**COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

## PARTIES

<b>PRESENT:</b>	DiGiacomo, Sandra	Attorney
	Perry, Genaro Richard	Defendant
	Smillie, Ross	Attorney
	State of Nevada	Plaintiff

## JOURNAL ENTRIES

- Ms. Digiacommo advised there is no opposition to the requested continuance by the defense. Mr. Smiley requested a continuance advising they've tried, and continue to try working with the approved county vendor list for a medical expert which is needed on the case; one has yet to be obtained, and which is necessary due to the substantial bodily injury charge. Court stated, good cause is found for the continuance. Colloquy regarding the continuation of the trial. COURT ORDERED, trial CONTINUED.

CUSTODY

2-9-15 9:30 AM CALENDAR CALL

2-17-15 10:00 AM JURY TRIAL

PRINT DATE: 07/28/2022

Page 5 of 39

Minutes Date: June 26, 2014

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 09, 2015**

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

**February 09, 2015      9:30 AM      Calendar Call**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Stephens, Robert	Attorney

**JOURNAL ENTRIES**

- Mr. Shelter advised he has a doctor authorized to do work on the exact extent of the victims injuries, he does not yet have the report, or a date for when the report will be complete, parties have discussed a trial setting in early May, and a 7-10 day status check is requested to attempt to resolve things. Mr. Stephens advised the case is over flow eligible. COURT ORDERED, trial CONTINUED; proceedings SET for status check.

**CUSTODY**

2-18-15 8:30 AM STATUS CHECK: NEGOTIATIONS

4-27-15 9:30 AM CALENDAR CALL

5-4-15 10:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 18, 2015**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**February 18, 2015      8:30 AM      Status Check**

**HEARD BY:**    Cadish, Elissa F.

**COURTROOM:**    RJC Courtroom 15B

**COURT CLERK:**    Keith Reed

**RECORDER:**    Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Cannizzaro, Nicole J.	Attorney
	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	Smillie, Ross	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Mr. Shetler advised there is an agreement that needs to be finalized in writing and signed. COURT ORDERED, matter CONTINUED

CUSTODY

2-23-15 8:30 AM    STATUS CHECK: NEGOTIATIONS

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 23, 2015**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**February 23, 2015      8:30 AM      Status Check**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed  
                                 Adrienne Theeck

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Brown, Colleen R.	Attorney
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Defendant not present

At the request of Mr. Shetler and there being no opposition, COURT ORDERED, proceedings STAND as calendared; matters may be re calendared for entry of plea should an agreement be reached.

**CUSTODY**

4-27-15 9:30 AM CALENDAR CALL

5-4-15 10:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 27, 2015**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**April 27, 2015      9:30 AM      Calendar Call**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Stephens, Robert	Attorney

**JOURNAL ENTRIES**

- Mr. Stephens announced the State is ready to proceed to trial; 7-9 witnesses, 4-5 days, zero out of state witnesses, and the trial is Overflow eligible. Mr. Shetler announced the defense is ready. COURT ORDERED, proceedings CONTINUED to determine if this case will be heard by this Court, or if it will be sent to Overflow.

**CUSTODY**

4-29-15    8:30 AM    CALENDAR CALL

55-4-15    10:00 AM    JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 29, 2015**

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C-14-298879-1      State of Nevada  
   vs  
   Genaro Perry

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**April 29, 2015      8:30 AM      Calendar Call**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

**JOURNAL ENTRIES**

- Mr. Shetler announced he is ready to proceed to trial and advised he has spoken with Ms. Baharav and there's a doctor they will both use for testimony, but he will not be available until Friday and the CSI will not be available until Thursday; it's requested the trial begin Wednesday and will be done by Friday. Ms. Sudano stated she and Ms. Baharav have trials next week and they are looking at getting the trial done. Colloquy regarding trial logistics. COURT ORDERED, case to trial May 5th @ 1:30 PM; by Friday counsel are to provide proposed jury instructions in Word to Judicial Executive Assistant (J.E.A.), and unless there are an unusual number of exhibits they can be brought in at time of trial to be marked.

**CUSTODY**

**5-5-15 1:30 PM JURY TRIAL**

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 06, 2015**

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

**May 06, 2015****1:30 PM****Jury Trial****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES**

<b>PRESENT:</b>	Brown, Colleen R.	Attorney
	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding scheduling, witness testimony, and proceedings going forward. Ms. Baharav stated parties have discussed the potential stipulation to the medical records in lieu of live testimony, and noted concerns by defense counsel that they would like to be heard prior to the witnesses. Court stated the issue will be discussed at the end of the day. Colloquy regarding instructions, peremptory challenges, the jury selection process and alleged relationship between the Defendant and victim. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Introductory comments by the Court. Roll of prospective jurors called and sworn by the Clerk. Introductions on behalf of the State by Ms. Baharav and on behalf of the Defendant by Mr. Shetler as to the names of prospective witnesses to be called and the general nature of the case. General voir dire of prospective jurors by the Court. COURT ORDERED, matter CONTINUED to May 7th @ 1 PM.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****May 07, 2015**

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

**May 07, 2015****1:00 PM****Jury Trial****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Nora Pena**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES**

<b>PRESENT:</b>	Brown, Colleen R.	Attorney
	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURORS: Ms. Baharav advised the State is down to five witnesses. Mr. Shetler advised the expert doctor is not available and he asked to continue the matter to have a doctor present to testify. Ms. Baharav advised the State is prepared to go forward without the doctor and the Defense was going to use their doctor. Mr. Shetler stated there is two sides to the argument, his client is more comfortable to have a doctor take the stand and he wanted the doctor to review the medical records. Ms. Baharav stated she is comfortable for no doctor to take the stand and they can use the medical records; also they have agreed to use the records as they are and Mr. Shetler would discuss this with his client. Court noted if they don't stipulate for the records to come in without the doctor then the State may have a problem. Mr. Shetler advised he would to review this with his client. Court reviewed the time of the case and noted the Deft has been in custody close to a year; therefore, if this case continues her next criminal stack is June/July and September. Court advised she will step out and reminded counsel this case is overflow eligible. Mr. Shetler stated he will be on vacation in July. Matter trailed.

MATTER RECALLED: Mr. Shetler asked to continue the trial to have an expert witness. Court indicated to Mr. Shetler that he knew his doctor would not be available and that he would be using the State's witness but he also cannot be here for the trial and Deft understands that he will be four months more in custody. Court suggested counsel talk about another negotiation. Upon Court's inquiry, Defendant advised he agreed to continue the trial date because of not having a doctor present and he understands that counsel has a vacation scheduled in July but he would like to keep this Judge. Court advised this case may go to overflow and that this case is scheduled the same week as her trial for War Machine. COURT ORDERED, Trial VACATED and Trial date RESET. State's exhibits returned to Ms. Baharav. Court asked the Marshal to advised the jury panel they are dismissed.

CUSTODY

9/21/15 9:30 AM CALENDAR CALL

9/28/15 10:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**August 31, 2015**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**August 31, 2015      8:30 AM      Motion to Admit Evidence**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

**JOURNAL ENTRIES**

- Court noted the State s motion did not make the calendar, but it can be addressed. Mr. Shetler stated he spoke about it with the State. Colloquy. Arguments by counsel. Ms. Sudano moved for a Petrocelli hearing. COURT SO ORDERED; State s motion will not be heard as it s contingent on the door being opened, and should it come up will be taken up outside the presence. Court stated this will be the only matter calendared and requested counsel be on time.

**CUSTODY**

9-17-15 8:30 AM PETROCELLI HEARING...DEFT'S MOTION TO ADMIT EVIDENCE PURSUANT TO NRS 48.045

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****September 17, 2015**

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

**September 17, 2015    8:30 AM      All Pending Motions**

**HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES**

<b>PRESENT:</b>	Caccamo, Anais-Marie H.	Attorney
	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

**JOURNAL ENTRIES**

- DEFT'S MOTION TO ADMIT EVIDENCE PURSUANT TO NRS 48.045...PETROCELLI HEARING

Colloquy regarding calendared matters and the lack of a need for the Petrocelli Hearing. Arguments by counsel. Court stated findings and ORDERED, motion GRANTED in the limited extent described in connection with the self defense defense. Mr. Shetler stated he has spoken with the Defendant and they are comfortable with a Bench Trial. Colloquy regarding the scheduling of the trial. Ms. Sudano stated the State is ready to go forward; and barring any emergency, there should be no issues. COURT ORDERED, request for Bench Trial GRANTED; matters to be discussed further at the calendar call.

9-21-15 9:30 AM CALENDAR CALL

PRINT DATE: 07/28/2022

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Minutes Date: June 26, 2014

9-28-15 10:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 21, 2015**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**September 21, 2015      9:30 AM      Calendar Call**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

**JOURNAL ENTRIES**

- Parties announced ready. Ms. Sudano advised four to five days, seven to nine witnesses and one out of state witness. COURT ORDERED, trial date STANDS. Mr. Shetler advised Deft. requested that he inquire as to waiving jury panel. Ms. Sudano advised the State will not stipulate to waive jury panel. Colloquy. Court instructed counsel to have jury instructions to chambers by Wednesday.

**CUSTODY**

9/28/15 1:30 PM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 29, 2015**

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

**September 29, 2015      1:30 PM      Bench Trial**

**HEARD BY:** Cadish, Elissa F.

**COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney
	Turner, Robert B.	Attorney

**JOURNAL ENTRIES**

- Court noted parties have agreed to a Non-Jury Trial with this Court as the trier of fact, rather than a Jury. Ms. Sudano and Mr. Shetler concurred. Court noted the Defendant is in custody, and a ruling will be issued based upon the facts of the law; proceedings were continued previously due to the unavailability of the doctor, who is now available. Ms. Sudan concurred. Colloquy regarding proceedings going forward. Opening statement on behalf of the State by Ms. Sudano, and on behalf of the Defendant by Mr. Shetler. Mr. Shetler advised parties have stipulated to the admission of State's Exhibits 1-37. COURT SO ORDERED. Exclusionary Rule INVOKED. Testimony and Exhibits presented (See Worksheet). Colloquy regarding proceedings going forward. Court advised the Defendant as to his constitutional rights as to any testimony. COURT ORDERED, matter CONTINUED TO September 30th @ 10:30 AM.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 30, 2015**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**September 30, 2015      1:00 PM      Bench Trial**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Shelley Boyle

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney
	Turner, Robert B.	Attorney

**JOURNAL ENTRIES**

- Colloquy regarding scheduling. Testimony and exhibits presented, (see worksheets). State rests. Court advised Deft. of his right not to testify. Colloquy regarding instructions and scheduling. Defense rests. Further colloquy regarding scheduling. COURT ORDERED, Matter CONTINUED.

CUSTODY

CONTINUED TO: 10/01/15 10:00 A.M.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****October 01, 2015**

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

**October 01, 2015      10:00 AM      Bench Trial**

**HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Shelley Boyle**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES**

<b>PRESENT:</b>	Caccamo, Anais-Marie H.	Attorney
	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

**JOURNAL ENTRIES**

- Stipulation and Order FILED IN OPEN COURT

Ms. Sudano requested the Stipulation and Order be signed as both parties agree to WAIVE a trial by jury; Stipulation and Order SIGNED IN OPEN COURT. Argument by counsel regarding the self-defense instructions. Instructions settled. Upon Court's inquiry, Mr. Shetler made no objection to the Verdict Form, stating he reviewed it with Deft. Colloquy regarding the parties agreeing to the Court reading the Instructions in-chambers. Instructions read in-chambers. Closing statements by Ms. Sudano. Closing arguments by Mr. Shetler. At the hour of 12:00 p.m. the Court retired to deliberate. At the hour of 12:58 p.m. the Court returned with its VERDICT in accordance with the written Verdict Form which was FILED IN OPEN COURT. COURT FINDS Deft. GUILTY as follows: COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON, COUNT 2 - FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON, COUNT 3 - GRAND LARCENY AUTO, COUNT 4 - ASSAULT WITH A DEADLY WEAPON, COUNT 5 - COERCION, COUNT 6 - BATTERY RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE, and

COUNT 7 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION. COURT ORDERED Deft. REMANDED into CUSTODY WITHOUT BAIL, matter REFERRED to the Division of Parole and Probation (P&P) and SET for Sentencing.

CUSTODY

11/16/15 8:30 A.M. SENTENCING

CLERK'S NOTE: This Minute Order was corrected to reflect seven guilty charges. sb/ 11/04/15

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 16, 2015**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**November 16, 2015      8:30 AM      Sentencing**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed  
                                 Natalie Ortega

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Caccamo, Anais-Marie H.	Attorney
	Perry, Genaro Richard	Defendant
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

**JOURNAL ENTRIES**

- Ms. Coccamo moved for a continuance on behalf of Mr. Shetler. Mr. Hamner noted the presence of a speaker. COURT ORDERED, matter CONTINUED.

CUSTODY

11-23-15 8:30 AM SENTENCING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 23, 2015**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**November 23, 2015      8:30 AM      Sentencing**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed  
                                 Natalie Ortega

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

**JOURNAL ENTRIES**

- Mr. Shetler advised he received the Pre-Sentence Investigation Report (PSI) on November 12th, the Deft. wants more time to discuss matters, and requested a continuance for the preparation of the sentencing memorandum. Argument in opposition of continuance by Ms. Sudano; understand Mr. Shetler was ill, and he was allowed to recover, but there is a speaker present. Upon inquiry of Ms. Sudano, Mr. Shetler stated he is not opposed to allowing the victim to speak today. Speaker SWORN and TESTIFIED. Colloquy regarding continuing sentencing, COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 1/6/16 8:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 06, 2016**

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

**January 06, 2016      8:30 AM      Sentencing**

**HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES**

<b>PRESENT:</b>	Perry, Genaro Richard	Defendant
	Shetler, Travis E	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

**JOURNAL ENTRIES**

- Court noted the receipt of the Presentence Investigation Report (PSI), and Sentencing Memorandum, and the review of several of the Defendant's certificates of completion of various programs. Upon the inquiry of the Court, Mr. Shetler stated he decided not to provide a letter to the Court. By virtue of the findings from the Non Jury Trial, Defendant PERRY ADJUDGED GUILTY OF COUNT I, ROBBERY WITH USE OF A DEADLY WEAPON (F), COUNT II, FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON (F), COUNT III, GRAND LARCENY AUTO (F), COUNT IV, ASSAULT WITH A DEADLY WEAPON (F), COUNT V, COERCION (F), COUNT VI, BATTERY RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE (F), AND COUNT VII, PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (F). Arguments by counsel. Statement by Defendant. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$150.00 DNA Analysis fee including testing to determine genetic markers, \$3.00 DNA Collection fee, \$250.00 Indigent Defense Civil Assessment fee, and \$35.00 Domestic Violence fee, as to COUNT I, Defendant SENTENCED to a MAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS, AND A MINIMUM OF THIRTY-SIX (36) MONTHS in the Nevada Department of Corrections (NDC), PLUS A

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Minutes Date: June 26, 2014

CONSECUTIVE SENTENCE OF A MAXIMUM OF ONE HUNDRED TWENTY (120) MONTHS, AND A MINIMUM OF THIRTY-SIX (36) MONTHS in the Nevada Department of Corrections (NDC) for the use of a deadly weapon, and Restitution of \$18,103.28, as to COUNT II, a MAXIMUM OF SIXTY (60) MONTHS, AND A MINIMUM OF EIGHTEEN (18) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT WITH COUNT I, as to COUNT III, a MAXIMUM OF NINETY-SIX (96) MONTHS, AND A MINIMUM OF TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC) CONSECUTIVE TO COUNTS I, AND II, as to COUNT IV, a MAXIMUM OF SIXTY (60) MONTHS, AND A MINIMUM OF EIGHTEEN (18) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT WITH COUNT III, as to COUNT V, a MAXIMUM OF SIXTY (60) MONTHS, AND A MINIMUM OF EIGHTEEN (18) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT WITH COUNT IV, and as to COUNT VI, a MAXIMUM OF FORTY-EIGHT (48) MONTHS, AND A MINIMUM OF EIGHTEEN (18) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT WITH COUNT V, and as to COUNT VII, a MAXIMUM OF THIRTY-SIX (36) MONTHS, AND A MINIMUM OF TWELVE (12) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT WITH COUNT VI ; for an AGGREGATE sentence of a MAXIMUM OF THREE HUNDRED THIRTY-SIX (336) MONTHS, AND A MINIMUM OF NINETY-SIX (96) MONTHS in the Nevada Department of Corrections (NDC), WITH FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 24, 2017**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**April 24, 2017      8:30 AM      All Pending Motions**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed  
                         Aja Brown

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

**PRESENT:**      Beverly, Leah C      Attorney  
                         Shetler, Travis E  
                         State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Defendant's Pro Per Petition for Writ of Habeas Corpus (Post Conviction) (Evidentiary Hearing)...Defendant's Pro Per Motion for a New Trial with Newly Discovered Evidence. Motion to Vacate...Defendant's Pro Per Motion to Withdraw Counsel...Defendant's Pro Per Motion to Appoint Counsel...Defendant's Pro Per Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference

Defendant not present.

Court stated findings and ORDERED, Defendant's Pro Per Motion to Withdraw Counsel GRANTED; Defendant's Pro Per Motion to Appoint Counsel GRANTED to supplement the Petition For Writ of Habeas Corpus; Defendant's Pro Per Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference DENIED to the extent it seeks to have the Defendant transported for today's proceedings, and Defendant's Pro Per Motion for a New Trial with Newly Discovered Evidence DENIED; matter SET for confirmation of counsel. FURTHER ORDERED, pursuant to the receipt of communication from the Nevada

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Minutes Date: June 26, 2014

Department of Corrections, the Judgment of Conviction is to be amended to remove the aggregate sentence imposed due to the offense date of May 1, 2014, which is prior to the aggregation point of July 1, 2014.

NDC

5-1-17 8:30 AM Confirmation of Counsel...Defendant's Pro Per Petition for Writ of Habeas Corpus (Post Conviction) (Evidentiary Hearing)...

CLERK'S NOTE: Drew Christensen notified of calendared proceedings.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**May 01, 2017**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**May 01, 2017      8:30 AM      All Pending Motions**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

**PRESENT:**      Anderlik, Elizabeth J.      Attorney  
                                 State of Nevada      Plaintiff  
                                 Zadrowski, Bernard B.      Attorney

**JOURNAL ENTRIES**

- Confirmation of Counsel...Defendant's Pro Per Petition For Writ Of Habeas Corpus (Post-Conviction)(Evidentiary Hearing)

Ms. Anderlik stated Ms. Schwartzer will confirm as counsel, and requested a continuance to obtain the file. COURT ORDERED, Gene Schwartzer CONFIRMED as counsel; matte SET for status check.

NDC

5-31-17 8:30 AM Status Check...Defendant's Pro Per Petition For Writ Of Habeas Corpus (Post-Conviction)(Evidentiary Hearing)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**June 02, 2017**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**June 02, 2017      8:30 AM      Status Check**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Louisa Garcia

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

**PRESENT:**      Gallo, James C      Attorney  
                         Perry, Genaro Richard      Defendant  
                         State of Nevada      Plaintiff  
                         Zadrowski, Bernard B.      Attorney

**JOURNAL ENTRIES**

- Mr. Gallo requested a continuance to determine what investigation needs to be done. Mr. Zadrowski concurred. COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO 6/28/17 8:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****June 28, 2017**

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

**June 28, 2017      8:30 AM      Status Check**

**HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES**

**PRESENT:**      Rose, Steven      Attorney  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Defendant not present.

Present on behalf of the Defendant, Deputy Public Defender Maxwell Berkley. Mr. Berkley stated he will stand in for this case, and his understanding is attorney Schwartzer will ask for a 60 day status check, and for which there is no objection by the state. Mr. Rose concurred. COURT ORDERED, matter CONTINUED.

NDC

8-30-17 8:30 AM STATUS CHECK

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**August 30, 2017**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**August 30, 2017      8:30 AM      Status Check**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

**PRESENT:**      Allen, Betsy      Attorney  
                         O'Halloran, Rachel      Attorney  
                         State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Defendant not present.

Court noted proceedings were calendared to set a briefing schedule on the post conviction matter. Ms. Allen requested 60 days for investigative purposes and matters that need to be completed prior to setting briefing. COURT ORDERED, proceedings CONTINUED.

NDC

11-1-17 8:30 AM STATUS CHECK

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 01, 2017**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**November 01, 2017      8:30 AM      Status Check**

**HEARD BY:** Cadish, Elissa F.      **COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed

**RECORDER:** Paula Walsh

**REPORTER:**

**PARTIES**

**PRESENT:**      Holthus, Mary Kay      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Defendant not present.

Appearing on behalf of the Defendant, Lance Hendron Esq. Court noted proceedings were calendared for status check on the habeas briefing schedule. Mr. Hendron stated there are ongoing investigations and requested 60 days to file a supplement. COURT ORDERED, Defendant's supplement is due January 15, 2018, State's response March 15, 2018, Defendant's reply April 16, 2018; matter SET for argument, and at which time it will be determined if an evidentiary hearing is needed; Defendant is to be transported at the request of Mr. Hendron; State to prepare the transport order unless otherwise is heard from Mr. Hendron.

NDC

4-30-18 8:30 AM ARGUMENT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 30, 2019**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

---

**January 30, 2019      8:30 AM      Motion**

**HEARD BY:** Bixler, James      **COURTROOM:** RJC Courtroom 10C

**COURT CLERK:** Keith Reed

**RECORDER:** De'Awna Takas

**REPORTER:**

**PARTIES**

**PRESENT:**      State of Nevada      Plaintiff  
                                 Turner, Robert B.      Attorney

**JOURNAL ENTRIES**

- Defendant not present.

Mr. Turner stated Ms. Schwartzer is appellant counsel. Court noted the history of proceedings. Colloquy regarding the grounds for the writ and counsel. Mr. Turner stated all he has is the Defendant's Pro Per motion and he does not have the procedural status of the case now. COURT ORDERED, proceedings CONTINUED for the presence of counsel.

NDC

2-11-19 8:30 AM Motion and Order for Transportation of Inmate for Court Appearance or in the Alternative for Appearance by Telephone or Video Conference

CLERK'S NOTE: Attorney Jean Schwartzer notified of calendared proceedings.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 11, 2019**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**February 11, 2019      8:30 AM      Motion**

**HEARD BY:** Bixler, James      **COURTROOM:** RJC Courtroom 10C

**COURT CLERK:** Keith Reed

**RECORDER:** De'Awna Takas

**REPORTER:**

**PARTIES**

**PRESENT:**      Rhoades, Kristina A.      Attorney  
                                 Schwartz, Jean      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Defendant not present.

Ms. Schwartz requested additional time for briefing and the transport of the Defendant. COURT ORDERED, briefing schedule AMENDED; Defendant's brief is due May 13th, State's response July 15th, Defendant's response August 15th, hearing CONTINUED to September 9th. Ms. Schwartz stated she will be arguing for an evidentiary hearing. COURT ORDERED, Defendant WILL NOT be transported for the argument on the writ.

NDC

9-9-19 8:30 AM ARGUMENT: WRIT OF HABEAS CORPUS

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

## COURT MINUTES

September 09, 2019

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

September 09, 2019	9:30 AM	Argument
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**HEARD BY:** Bluth, Jacqueline M.

**COURTROOM:** RJC Courtroom 10C

**COURT CLERK:** Keith Reed  
Shannon Reid

**RECORDER:** Trisha Garcia

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Schwartz, Jean	Attorney
	State of Nevada	Plaintiff
	Turner, Robert B.	Attorney

## JOURNAL ENTRIES

- Defendant not present.

Record made by Ms. Schwartzer in regards to stipulation and order to extend time. Colloquy regarding Motion to Compel as to Metro. COURT ORDERED, matter OFF CALENDAR.

NDC

PRINT DATE: 07/28/2022

Page 35 of 39

Minutes Date: June 26, 2014



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 17, 2021**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**February 17, 2021      11:00 AM      Motion for Order**

**HEARD BY:** Bluth, Jacqueline M.      **COURTROOM:** RJC Courtroom 10C

**COURT CLERK:** Keith Reed

**RECORDER:** De'Awna Takas

**REPORTER:**

**PARTIES**

**PRESENT:**      Mishler, Karen      Attorney  
                                 Schwartz, Jean      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Argument by Ms. Schwartz and Ms. Mishler. Court stated findings and ORDERED, Petitioner's Motion Requesting Order Directing the Las Vegas Metropolitan Police Department to Conduct Genetic Marker and Latent Print Analysis of Evidence Impounded at Crime Scene DENIED. Colloquy regarding ruling.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****August 16, 2021**

C-14-298879-1      State of Nevada  
vs  
Genaro Perry

**August 16, 2021****11:00 AM****Motion****Motion to Withdraw  
Counsel****HEARD BY:** Clark Newberry, Tara**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Carina Bracamontez-Munguia**RECORDER:** Robin Page**REPORTER:****PARTIES****PRESENT:**

Meng, Yu  
State of Nevada

Attorney  
Plaintiff

**JOURNAL ENTRIES**

- Court noted the Deft. was in the custody of the Nevada Department of Corrections (NDC). COURT ORDERED Motion to Withdraw as Counsel GRANTED; Ms. Schwartzer ORDERED to provide the file and documents to Deft. State DIRECTED to prepare the order.

NDC

CLERK S NOTE: A copy of this minute order has been mailed to: Genaro Perry, #1153366, Southern Desert Correctional Center, PO Box 208, Indian Springs, Nevada 89070-0208, and e-mailed to Jean Schwartzer. // cbm 09-01-2021

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**December 20, 2021**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**December 20, 2021      8:30 AM      Motion to Modify Sentence**

**HEARD BY:** Villani, Michael      **COURTROOM:** RJC Courtroom 11A

**COURT CLERK:** Samantha Albrecht

**RECORDER:** Kristine Santi

**REPORTER:**

**PARTIES**

**PRESENT:**      Conlin, Elise M      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Betsy Allen, Esq. and Defendant not present.

Court advised it was basing its decision on the pleadings on file herein and not accepting oral argument; COURT ADOPTED the Procedural History as set forth by the State. Court FINDS Defendant was sentenced within statutory guidelines, has failed to establish that his sentence was based upon a material untrue assumption or mistake of fact and any claim regarding parole eligibility must be served upon the Attorney General, therefore ORDERED, Motion DENIED and status check SET for the order. Court directed the State to prepare the Order and advised the status check would be vacated once the Order was filed.

NDC

1/10/2022 8:30 AM STATUS CHECK: ORDER

CLERK'S NOTE: A copy of this Minute Order was mailed to Genaro Perry #1153366 SDCC PO Box 208 Indian Springs, NV 89070 (12/28/2021 SA)

PRINT DATE: 07/28/2022

Page 38 of 39

Minutes Date: June 26, 2014



# Certification of Copy and Transmittal of Record

State of Nevada }  
County of Clark } SS:

Pursuant to the Supreme Court order dated July 22, 2022, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises five volumes with pages numbered 1 through 1048.

STATE OF NEVADA,

Plaintiff(s),

vs.

GENARO RICHARD PERRY,

Defendant(s),

Case No: C-14-298879-1

*Related Case A-22-851874-W*

Dept. No: XVII

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 29 day of July 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

# IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant(s),

vs.

THE STATE OF NEVADA,  
Respondent(s),

Case No: C-14-298879-1  
*Related Case A-22-851874-W*  
Docket No: 85042

# RECORD ON APPEAL VOLUME 4

ATTORNEY FOR APPELLANT  
GENARO PERRY # 1153366,  
PROPER PERSON  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

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

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4	6/1/2021	Case Appeal Statement	812 - 816
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4	7/22/2021	Designation of Record on Appeal	858 - 860
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5	7/29/2022	District Court Minutes	1010 - 1048
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1	6/25/2014	Information	25 - 28
1	10/1/2015	Instructions to the Jury	133 - 175
1	1/22/2016	Judgment of Conviction (Jury Trial)	193 - 195
3	3/22/2017	Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	692 - 698
4	1/2/2019	Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	742 - 749
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4	2/3/2021	Motion Requesting Order Directing the Las Vegas Metropolitan Police Department to Conduct Genetic Marker and Latent Print Analysis of Evidence Impounded at Crime Scene; Hearing Requested	770 - 793
1	6/15/2015	Motion to Admit Evidence Pursuant to NRS 48.045	67 - 71
3	2/7/2017	Motion to Appoint Counsel	630 - 635
4	11/29/2021	Motion to Modify and/or Correct Illegal Sentence	903 - 907
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4	7/22/2021	Motion to Withdraw Counsel	861 - 864
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5	3/16/2022	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed	964 - 967
5	7/20/2022	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed; Rehearing Denied	986 - 990
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3	2/24/2017	Order for Petition for Writ of Habeas Corpus (Unfiled)	687 - 687
4	9/1/2021	Order Granting Defendant's Motion to Withdraw as Counsel	880 - 882

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3	3/21/2017	Unsigned Document(s) - Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	690 - 691
4	1/2/2019	Unsigned Document(s) - Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	740 - 741
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1 abuse, but the seemingly unreasonable act of allowing Defendant come over and sleep in her  
2 bed with her. RT, 10/01/15, at 19. And although she denied that Defendant was a “drug-addled  
3 maniac,” counsel’s point was that, even if Defendant was a “drug-addled maniac,” the victim’s  
4 actions became even more inconsistent and unreasonable. Id.

5 Further, counsel’s comment did not “destroy” Defendant’s self-defense claim. The  
6 Court previously denied the requested instructions, finding there was no evidence. RT,  
7 10/01/15, at 3. Indeed, the Nevada Court of Appeals determined that it was “clear beyond a  
8 reasonable doubt that a rational trier of fact would have found Perry guilty” even if the  
9 instruction had been given. Perry v. State, Docket No. 69139 (Order of Affirmance, Dec. 14,  
10 2016). Accordingly, the Court should deny Defendant’s claim.

#### 11 **8. Ground 8**

12 In Ground 8, Defendant complains that counsel’s failure to investigate “Carpenter’s  
13 life/past” was ineffective. Motion at 15. He asserts that she has mental health issues and is  
14 engaged in fraudulent activity selling prescription pills. Id. These are bare assertions suitable  
15 only for summary dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly, the  
16 claim should be denied.

#### 17 **9. Ground 9**

18 Defendant next complains that counsel was ineffective for failing to interview the  
19 State’s expert, Dr. Leibowitz. Motion at 16. However, Defendant fails to show how a better  
20 investigation would have rendered a more favorable outcome probable. Molina, 120 Nev. at  
21 192, 87 P.3d at 538. Indeed, Defendant’s claim is a naked assertion, belied by the record.  
22 Hargrove, 100 Nev. at 502, 686 P.2d at 225.

23 At trial, counsel thoroughly cross-examined Dr. Leibowitz regarding the conclusion  
24 that the victim’s injuries made it obvious this was an abuse situation. RT, 09/29/15, at 25-28.  
25 During counsel’s cross-examination, he effectively attacked the doctor’s credibility by getting  
26 the doctor to discuss potential bias; Dr. Leibowitz told the Court he came to testify because “I  
27 have, you know, a sister and daughter and I wouldn’t want them punched out and that’s how  
28 I look at it.” Id. at 25-26. Similarly, counsel’s cross-examination attacked Dr. Leibowitz’s



1 conclusion that this was definitively abuse. See id. at 27-28. As the record demonstrates,  
2 counsel was more than prepared to cross-examine Dr. Leibowitz. As such, Defendant's claim  
3 is belied by the record and must be dismissed. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

#### 4 **10. Ground 10**

5 Defendant further asserts counsel failed to interview the TJ Maxx security guard.  
6 Motion at 16. However, Defendant cannot demonstrate prejudice because the Court precluded  
7 the security guard's testimony. RT, 09/30/15, at 62-64. As interviewing the guard was  
8 ultimately unnecessary, counsel cannot be deemed ineffective. See Ennis, 122 Nev. at 706,  
9 137 P.3d at 1103.

10 Moreover, Defendant fails to show how a better investigation would have rendered a  
11 more favorable outcome probable. Molina, 120 Nev. at 192, 87 P.3d at 538. At trial, Carpenter  
12 testified that she "lost it" in the store and chased a woman through the store with a crowbar  
13 over money. Id. at 74-76, 80-82. As such, it is unclear what the security guard would have  
14 stated that would have been more favorable to Defendant. Thus, his claim should be denied.

#### 15 **11. Ground 11**

16 In Ground 11, Defendant raises a rambling claim that counsel was ineffective for failing  
17 to raise the court-appointed investigator's "conflict of interest," which resulted in an  
18 incomplete investigation and his waiver of the preliminary hearing. Motion at 17-18. First,  
19 Defendant's claims that the investigator had a conflict of interest and that the charges might  
20 have been reduced are bare assertions. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Further,  
21 as discussed, *supra*, Defendant chose to waive his preliminary hearing. Reporter's Transcript,  
22 06/19/14, at 2-3. As such, counsel cannot be deemed ineffective for a decision that belonged  
23 solely to Defendant. See Rhyne, 118 Nev. at 8, 38 P.3d at 167. Accordingly, Defendant's claim  
24 must be denied.

#### 25 **12. Ground 12**

26 Defendant claims that counsel was ineffective for failing to challenge "overlapping  
27 charges" of assault and battery. Motion at 18-19. First, the Assault with a Deadly Weapon and  
28 Battery Resulting in Substantial Bodily Harm charges were based on separate allegations—

1 Defendant was charged with Assault with a Deadly Weapon for threatening to kill Carpenter  
2 with the knife and the Battery Resulting in Substantial Bodily Harm was because Defendant  
3 kicked and punched Carpenter in every room of her home. Moreover, challenging the charges  
4 would have been futile because the Nevada Supreme Court has held that dual convictions  
5 under the assault and battery statutes can stand as each crime includes elements the other does  
6 not. Jackson v. State, 128 Nev. 598, 606-07, 291 P.3d 1274, 1279-80 (2012) (citing  
7 Blockburger v. United States, 284 U.S. 299, 52 S. Ct. 180 (1932)). Moreover, Accordingly,  
8 Defendant's claim should be denied. Ennis, 122 Nev. at 706, 137 P.3d at 1103.

### 9 **13. Ground 13**

10 Defendant further argues that counsel was ineffective for failing to investigate his claim  
11 that Carpenter poured bleach on his clothes, which would have supported his claim of self-  
12 defense. Motion at 19. However, the only evidence that Defendant cites to support his claim  
13 is his own statement. See Exhibit 1. As such, this is a bare assertion and his claim should be  
14 denied. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

### 15 **14. Ground 14**

16 In Ground 14, Defendant asserts counsel failed to investigate the "fabricated [] crime  
17 scene." Motion at 20. Specifically, Defendant focuses on Carpenter's "placing blood in  
18 specific places" and taking of pictures. Id. However, Carpenter testified at trial that she  
19 purposefully left blood evidence throughout the house because she thought she was going to  
20 die and wanted to leave a sign that "there was a struggle." RT, 09/29/15, at 56. Because  
21 Carpenter fully admitted to purposefully leaving blood evidence, it is unclear what further  
22 investigation would have shown. Molina, 120 Nev. at 192, 87 P.3d at 538.

23 Moreover, Defendant's claim that counsel was ineffective because Carpenter took all  
24 of the pictures is belied by the record. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Indeed,  
25 Crime Scene Analyst Danielle Keller testified that she took photographs of the scene and of  
26 Carpenter. RT, 09/30/15, at 48, 54-55. As such, Defendant cannot establish ineffectiveness.

27 ///

28 ///

1 Finally, Defendant's assertion that he was maliciously prosecuted is a bare assertion  
2 suitable only for summary dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly,  
3 the Court should deny Ground 14.

4 **15. Ground 15**

5 Defendant also claims that counsel's failure to cross-examine the victim "about the  
6 bleach she used" was ineffective. Motion at 21. However, Defendant cannot demonstrate  
7 deficient performance because counsel retains the authority to determine what questions to ask  
8 of witnesses. Rhyne, 118 Nev. at 8, 38 P.3d at 167. Moreover, Defendant fails to show what  
9 questioning Carpenter about pouring bleach on his clothes in a bathtub would have revealed.  
10 Thus, he cannot establish the result of the trial would have been different had counsel asked  
11 about the alleged bleaching. McNelson, 115 Nev. at 403, 990 P.2d at 1268. Thus, the Court  
12 should deny Defendant's claim.

13 **16. Ground 16**

14 Next, Defendant asserts that trial counsel failed to correct incorrect dates in his PSI.  
15 Motion at 22. Yet Defendant fails to state what the alleged errors were or how they "added  
16 many more years on [his] sentence." Id. Accordingly, Defendant's assertion is a bare and  
17 naked claim that must be dismissed. Hargrove, 100 Nev. at 502, 686 P.2d at 225.

18 **17. Ground 17**

19 Defendant also asserts that counsel should have filed a motion for a new trial because  
20 the Court rejected his proposed self-defense instructions. Motion at 22-23. Filing such a  
21 motion would have been futile because the Court already rejected Defendant's first request for  
22 those instructions. Ennis, 122 Nev. at 706, 137 P.3d at 1103. Consequently, Defendant fails to  
23 show deficient performance.

24 Moreover, Defendant fails to demonstrate prejudice because the Nevada Court of  
25 Appeals determined that the presence of a self-defense instruction would not have made any  
26 difference in light of the overwhelming evidence of Defendant's guilt. Perry v. State, Docket  
27 No. 69139 (Order of Affirmance, Dec. 14, 2016) (harmless error to reject the self-defense  
28 instructions in light of evidence of guilt). Accordingly, Defendant's claim should be denied.

1                   **18. Ground 18**

2           Defendant again complains that counsel was ineffective for not investigating  
3 Carpenter's alleged prescription pill fraud with "Dr. Bruce." Motion at 23. It is unclear who  
4 "Dr. Bruce" is; moreover, Defendant's claim is a bare assertion suitable only for summary  
5 dismissal. Hargrove, 100 Nev. at 502, 686 P.2d at 225. Accordingly, the claim should be  
6 denied.

7                   **19. Ground 19**

8           Defendant asserts he is entitled to relief because of the cumulative effect of counsel's  
9 ineffectiveness. Motion at 24. While the Nevada Supreme Court has noted that some courts  
10 do apply cumulative error in addressing ineffective assistance claims, it has not specifically  
11 adopted this approach. See McConnell v. State, 125 Nev. 243, 250 n.17, 212 P.3d 307, 318  
12 n.17 (2009). Nevada is not alone; with respect to claims of cumulative Strickland error, the  
13 Eighth Circuit Court of Appeals has concluded that "a habeas petitioner cannot build a  
14 showing of prejudice on a series of errors, none of which would by itself meet the prejudice  
15 test." Middleton v. Roper, 455 F.3d 838, 851 (8th Cir. 2006), cert. denied, 549 U.S. 1134, 127  
16 S. Ct. 980 (2007).

17           However, the Nevada Supreme Court has noted that that other courts have held that  
18 "multiple deficiencies in counsel's performance may be cumulated for purposes of the  
19 prejudice prong of the Strickland test when the individual deficiencies otherwise would not  
20 meet the prejudice prong." McConnell, 125 Nev. at 259 n.17, 212 P.3d at 318 n.17 (utilizing  
21 this approach to note that the defendant is not entitled to relief). Even if the Court applies  
22 cumulative error analysis to Defendant's claims of ineffective assistance, Defendant fails to  
23 demonstrate cumulative error warranting reversal. A cumulative error finding in the context  
24 of a Strickland claim is extraordinarily rare and requires an extensive aggregation of errors.  
25 See, e.g., State v. Hester, 127 N.M. 218, 222, 979 P.2d 729, 733 (1999); Harris By and  
26 Through Ramseyer v. Wood, 64 F.3d 1432, 1438 (9th Cir. 1995); Derden v. McNeel, 978 F.2d  
27 1453, 1461 (5th Cir. 1992).

28   ///

1 Under cumulative error analysis, a defendant must first make a threshold showing that  
2 counsel's performance was deficient and counsel's representation fell below an objective  
3 standard of reasonableness. State v. Sheahan, 139 Idaho 267, 287, 77 P.3d 956, 976 (2003);  
4 State v. Savo, 108 P.3d 903, 916 (Alaska 2005); State v. Maestas, 299 P.3d 892, 990 (Utah  
5 2012). In fact, logic dictates that cumulative error cannot exist where the defendant fails to  
6 show that any violation or deficiency existed under Strickland. McConnell, 125 Nev. at 259,  
7 212 P.3d at 318; United States v. Franklin, 321 F.3d 1231, 1241 (9th Cir. 2003); Turner v.  
8 Quarterman, 481 F.3d 292, 301 (5th Cir. 2007); Pearson v. State, 12 P.3d 686, 692 (Wyo.  
9 2000); Hester, 979 P.2d at 733. Further, in order to cumulate errors, the defendant must not  
10 only show that an error occurred regarding counsel's representation, but that at least two errors  
11 occurred. Rolle v. State, 236 P.3d 259, 276-77 (Wyo. 2010); Hooks v. Workman, 689 F.3d  
12 1148, 1194-95 (10th Cir. 2012).

13 If the defendant can show that two or more errors existed in counsel's representation,  
14 then he must next show that cumulatively, the errors prejudiced him. McConnell, 125 Nev. at  
15 259 n.17, 212 P.3d at 318 n.17; Doyle v. State, 116 Nev. 148, 163, 995 P.2d 465, 474 (2000);  
16 State v. Novak, 124 P.3d 182, 189 (Mont. 2005); Savo, 108 P.3d at 916. A defendant can only  
17 demonstrate the existence of prejudice when he has shown that the cumulative effect of the  
18 errors "were sufficiently significant to undermine [the court's] confidence in the outcome of  
19 the ... trial." In re Jones, 13 Cal.4th 552, 584, 917 P.2d 1175, 1193 (1996); Collins v. Sec'y  
20 of Pennsylvania Dep't of Corr., 742 F.3d 528, 542 (3d Cir. 2014). "[M]ere allegations of error  
21 without proof of prejudice" are insufficient to demonstrate cumulative error. Novak, 124 P.3d  
22 at 189. Further, "in most cases errors, even unreasonable errors, will not have a cumulative  
23 impact sufficient to undermine confidence in the outcome of the trial, especially if the evidence  
24 against the defendant remains compelling." Theil, 665 N.W.2d at 322-23; see also Maestas,  
25 299 P.3d at 990 (holding that errors resulting in no harm are insufficient to demonstrate  
26 cumulative error).

27 As discussed, *supra*, Defendant has failed to make a single showing that counsel's  
28 representation was objectively unreasonable. Further, even if Defendant had made such a

1 showing, he has failed to demonstrate that the cumulative effect of these errors was so  
2 prejudicial as to undermine the court's confidence in the outcome of Defendant's case. Collins,  
3 742 F.3d at 542. Therefore, his claim of cumulative error is without merit and should be  
4 denied.

## 5 II. DEFENDANT IS NOT ENTITLED TO AN EVIDENTIARY HEARING

6 A defendant is entitled to an evidentiary hearing if his petition is supported by specific  
7 factual allegations, which, if true, would entitle him to relief unless the factual allegations are  
8 repelled by the record. Marshall v. State, 110 Nev. 1328, 1331, 885 P.2d 603, 605 (1994).  
9 "The judge or justice, upon review of the return, answer and all supporting documents which  
10 are filed, shall determine whether an evidentiary hearing is required." NRS 34.770(1).  
11 However, "[a] defendant seeking post-conviction relief is not entitled to an evidentiary hearing  
12 on factual allegations belied or repelled by the record." Hargrove, 100 Nev. at 503, 686 P.2d  
13 at 225.

14 As demonstrated above, Defendant's allegations are "bare" and "naked" and are also  
15 belied by the record. Thus, Defendant's claims do not necessitate an evidentiary hearing.  
16 Therefore, the Court should deny Defendant's request for an evidentiary hearing.

## 17 III. DEFENDANT IS NOT ENTITLED TO APPOINTMENT OF COUNSEL

18 In Coleman v. Thompson, 501 U.S. 722, 752, 111 S. Ct. 2546, 2566 (1991), the United  
19 States Supreme Court ruled that the Sixth Amendment provides no right to counsel in post-  
20 conviction proceedings. In McKague v. Warden, 112 Nev. 159, 912 P.2d 255 (1996), the  
21 Nevada Supreme Court similarly observed that "[t]he Nevada Constitution . . . does not  
22 guarantee a right to counsel in post-conviction proceedings, as we interpret the Nevada  
23 Constitution's right to counsel provision as being coextensive with the Sixth Amendment to  
24 the United States Constitution."

25 NRS 34.750 provides, in pertinent part:

26 A petition may allege that the Defendant is unable to pay the costs  
27 of the proceedings or employ counsel. If the court is satisfied that  
28 the allegation of indigency is true and the petition *is not dismissed*  
*summarily*, the court may appoint counsel at the time the court

1 orders the filing of an answer and a return. In making its  
2 determination, the court may consider whether:

- 3 (a) The issues are difficult;  
4 (b) The Defendant is unable to comprehend the  
5 proceedings; or  
6 (c) Counsel is necessary to proceed with discovery.

7 (emphasis added).

8 Under NRS 34.750, it is clear that the Court has discretion in determining whether to  
9 appoint counsel. McKague specifically held that with the exception of cases in which  
10 appointment of counsel is mandated by statute, one does not have “[a]ny constitutional or  
11 statutory right to counsel at all” in post-conviction proceedings. Id. at 164. Defendant has not  
12 met that burden in the instant case. Defendant was able to raise 19 claims of ineffective  
13 assistance of counsel, which are all meritless. Therefore, Defendant is not entitled to the  
14 appointment of counsel.

### 15 CONCLUSION

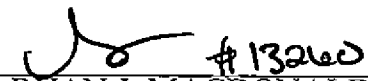
16 For the foregoing reasons, Defendant’s Petition for Writ of Habeas Corpus and Motion  
17 to Appoint Counsel should be DENIED.

18 DATED this 7th day of April, 2017.

19 Respectfully submitted,

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

23 BY

24  #13260  
25 RYAN J. MACDONALD  
26 Deputy District Attorney  
27 Nevada Bar #12615  
28

1 CERTIFICATE OF MAILING

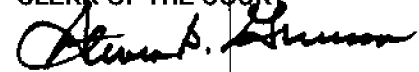
2 I hereby certify that service of the above and foregoing State's Response to Defendant's  
3 Petition for Writ of Habeas Corpus, Request for an Evidentiary Hearing, and Motion to  
4 Appoint Counsel was made this 7th day of April, 2017, by depositing a copy in the U.S.  
5 Mail, postage pre-paid, addressed to:

6 Genaro Richard Perry  
7 Southern Desert Correctional Center  
8 P.O. Box 208  
Indian Springs, Nevada 89070-0208

9 BY: Theresa Dodson  
10 Theresa Dodson  
11 Secretary for the District Attorney's Office  
12  
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28 ms/RJM/td/dvu





1 AJOC

2  
3  
4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6

7 THE STATE OF NEVADA,

8 Plaintiff,

CASE NO. C298879-1

9 -vs-

DEPT. NO. VI

10  
11 GENARO RICHARD PERRY  
#1456173

12 Defendant.

13  
14 AMENDED JUDGMENT OF CONVICTION  
15 (JURY TRIAL)  
16

17 The Defendant previously entered a plea of not guilty to the crimes of  
18 COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in  
19 violation of NRS 200.380, 193.165; COUNT 2 – FALSE IMPRISONMENT WITH USE  
20 OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.460; COUNT 3 –  
21 GRAND LARCENY AUTO (Category B Felony) in violation of NRS 205.228.3; COUNT  
22 4 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS  
23 200.471; COUNT 5 – COERCION (Category B Felony) in violation of NRS 207.190;  
24 COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM  
25 CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of NRS  
26  
27  
28

//

1 200.481, 200.485, 33.018; COUNT 7 – PREVENTING OR DISSUADING WITNESS OR  
2 VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D  
3 Felony) in violation of NRS 199.305; and the matter having been tried before a jury and  
4 the Defendant having been found guilty of said crimes; thereafter, on the 6<sup>th</sup> day of  
5 January, 2016, the Defendant was present in court for sentencing with his counsel,  
6 TRAVIS SHETLER, ESQ., and good cause appearing,  
7

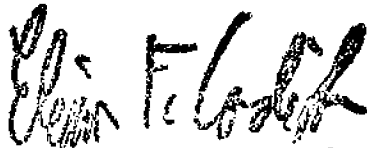
8 THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offense(s) and, in  
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee,  
10 \$250.00 Indigent Defense Civil Assessment Fee, Restitution in the amount of  
11 \$18,103.28, and a \$150.00 DNA Analysis Fee including testing to determine genetic  
12 markers, plus a \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the  
13 Nevada Department of Corrections (NDC) as follows: AS TO **COUNT 1** - TO A  
14 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
15 Eligibility of THIRTY-SIX (36) MONTHS, plus a CONSECUTIVE term of ONE  
16 HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of  
17 THIRTY-SIX (36) MONTHS for use of a Deadly Weapon; AS TO **COUNT 2** - TO A  
18 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of EIGHTEEN  
19 (18) MONTHS, Count 2 to run CONCURRENT with Count 1; AS TO **COUNT 3** - TO A  
20 MAXIMUM of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of  
21 TWENTY-FOUR (24) MONTHS, Count 3 to run CONSECUTIVE to Counts 1 & 2; AS  
22 TO **COUNT 4** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
23 Eligibility of EIGHTEEN (18) MONTHS, Count 4 to run CONCURRENT with Count 3;  
24 AS TO **COUNT 5** - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
25  
26  
27  
28

//

1 Eligibility of EIGHTEEN (18) MONTHS, Count 5 to run CONCURRENT with Count 4;  
2 AS TO COUNT 6 - TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM  
3 Parole Eligibility of EIGHTEEN (18) MONTHS, Count 6 to run CONCURRENT with  
4 Count 5; and AS TO COUNT 7 - TO A MAXIMUM of THIRTY-SIX (36) MONTHS with a  
5 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, Count 7 to run CONCURRENT  
6 with Count 6; with FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.  
7

8 THEREAFTER, upon inquiry of the Nevada Department of Corrections and  
9 ORDER of this Court, the AGGREGATE TOTAL SENTENCE of THREE HUNDRED  
10 THIRTY-SIX (336) MONTHS MAXIMUM with a MINIMUM of NINETY-SIX (96)  
11 MONTHS is REMOVED.  
12

13 DATED this 28 day of April, 2017.

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15  
16 ELISSA F. CADISH  
17 DISTRICT COURT JUDGE  
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1 NOCH

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

5 \*\*\*\*\*

6 State of Nevada

Case No.: C-14-298879-1

7 vs

Department 6

8 Genaro Perry

9  
10 **NOTICE OF CHANGE OF HEARING**

11 The hearings on the Petition for Writ of Habeas Corpus and Status Check, presently set for  
12 May 31, 2017, at 8:30 AM; have been moved to the 2nd day of June, 2017, at 8:30 AM and  
13 will be heard by Judge Elissa F. Cadish.  
14

15 **HONORABLE ELISSA F. CADISH**

16  
17 By: 

18 Timothy D. Kelley  
19 Judicial Executive Assistant

20 **CERTIFICATE OF SERVICE**

21 I hereby certify that this 15th day of May, 2017

22 ☐ The foregoing Notice of Change of Hearing was electronically served to all registered  
23 parties for case number C-14-298879-1.

24  
25   
26 Timothy D. Kelley  
27 Judicial Executive Assistant  
28



JOC

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY  
#1456173

Defendant.

CASE NO. C298879-1

DEPT. NO. VI

AMENDED JUDGMENT OF CONVICTION  
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of  
COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in  
violation of NRS 200.380, 193.165; COUNT 2 – FALSE IMPRISONMENT WITH USE  
OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.460; COUNT 3 –  
GRAND LARCENY AUTO (Category B Felony) in violation of NRS 205.228.3; COUNT  
4 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS  
200.471; COUNT 5 – COERCION (Category B Felony) in violation of NRS 207.190;  
COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM  
CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of NRS

//

1 200.481, 200.485, 33.018; COUNT 7 – PREVENTING OR DISSUADING WITNESS OR  
2 VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D  
3 Felony) in violation of NRS 199.305; and the matter having been tried before a jury and  
4 the Defendant having been found guilty of said crimes; thereafter, on the 6<sup>th</sup> day of  
5 January, 2016, the Defendant was present in court for sentencing with his counsel,  
6 TRAVIS SHETLER, ESQ., and good cause appearing,  
7

8 THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offense(s) and, in  
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee,  
10 \$250.00 Indigent Defense Civil Assessment Fee, Restitution in the amount of  
11 \$18,103.28, and a \$150.00 DNA Analysis Fee including testing to determine genetic  
12 markers, plus a \$3.00 DNA Collection Fee, the Defendant was SENTENCED to the  
13 Nevada Department of Corrections (NDC) as follows: AS TO **COUNT 1** - TO A  
14 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
15 Eligibility of THIRTY-SIX (36) MONTHS, plus a CONSECUTIVE term of ONE  
16 HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of  
17 THIRTY-SIX (36) MONTHS for use of a Deadly Weapon; AS TO **COUNT 2** - TO A  
18 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of EIGHTEEN  
19 (18) MONTHS, Count 2 to run CONCURRENT with Count 1; AS TO **COUNT 3** - TO A  
20 MAXIMUM of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of  
21 TWENTY-FOUR (24) MONTHS, Count 3 to run CONSECUTIVE to Counts 1 & 2; AS  
22 TO **COUNT 4** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
23 Eligibility of EIGHTEEN (18) MONTHS, Count 4 to run CONCURRENT with Count 3;  
24 AS TO **COUNT 5** - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
25  
26  
27  
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1 Eligibility of EIGHTEEN (18) MONTHS, Count 5 to run CONCURRENT with Count 4;  
2 AS TO COUNT 6 - TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM  
3 Parole Eligibility of EIGHTEEN (18) MONTHS, Count 6 to run CONCURRENT with  
4 Count 5; and AS TO COUNT 7 - TO A MAXIMUM of THIRTY-SIX (36) MONTHS with a  
5 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, Count 7 to run CONCURRENT  
6 with Count 6; with FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.  
7 Defendant's AGGREGATE TOTAL SENTENCE is THREE HUNDRED THIRTY-SIX  
8 (336) MONTHS MAXIMUM with a MINIMUM of NINETY-SIX (96) MONTHS.  
9

10  
11 THEREAFTER, on the 31<sup>st</sup> day of July, 2017, the Defendant not appearing in  
12 court and pursuant to a request from the Nevada Department of Corrections (NDC)  
13 regarding aggregate terms of imprisonment imposed in the original Judgment of  
14 Conviction, and good cause appearing to amend the Judgment of Conviction; now  
15 therefore,  
16

17 IT IS HEREBY ORDERED verbiage referencing an aggregate total sentence is  
18 STRICKEN.  
19  
20

21 DATED this 7 day of August, 2017.  
22

23  
24   
25 ELISSA F. CADISH  
26 DISTRICT COURT JUDGE   
27  
28



1 **SAO**  
2 **JEAN J. SCHWARTZER, ESQ.**  
3 Nevada Bar No. 11223  
4 Law Office of Jean J. Schwartzter  
5 10620 Southern Highlands Parkway, Suite 110-473  
6 Phone: (702) 979-9941  
7 Fax: (702) 977-9954  
8 jean.schwartzter@gmail.com  
9 Attorney for Petitioner

7  
8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 GENARO RICHARD PERRY,  
11 #1456173

Petitioner,

12 vs.

13 RENEE BAKER, WARDEN ,  
14 Lovelock Correctional Center

Respondent.

CASE NO: C298879-1

DEPT. NO: VI

15  
16  
17 **STIPULATION AND ORDER TO EXTEND TIME**

18 IT IS HEREBY STIPULATED AND AGREED by and between Attorney for Petitioner, Jean  
19 J. Schwartzter, Esq. of Law Office of Jean J. Schwartzter, and Attorney for the Respondent, Charles W.  
20 Thoman, Esq. for the State, at the request of Petitioner's Attorney due to being ill for an extended  
21 period of time and having to undergo several surgeries, that the Petitioner's Supplemental  
22 Memorandum in Support of his Petition for Writ of Habeas Corpus shall hereby be due on April 15,  
23 2018. Further, the State's Response to Petitioner's Supplemental Memorandum shall be due sixty (60)  
24 days from April 15, 2018 or on June 14, 2018, and that the present hearing date of April 30, 2018 be  
25 vacated.

26 IT IS FURTHER STIPULATED AND AGREED that Petitioner's Reply shall be due fifteen  
27 (15) days from June 14, 2018 or June 29, 2018.

28 ///




1 IT IS STIPULATED AND AGREED that the hearing on this Supplemental Petition shall be  
2 on July 30, 2018 approximately thirty (30) days after the Petitioner's Reply is  
3 filed.  
4

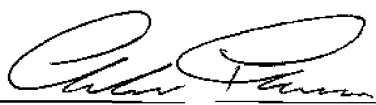
5 **ORDER**

6 IT IS HEREBY ORDERED that the Petitioner's Supplemental Memorandum shall be due  
7 April 15, 2018, the State's Response to Petitioner's Supplemental Memorandum will be due on June  
8 14, 2018, the Petitioner's Reply due on June 29, 2018, and that the present hearing date of March 29,  
9 2018 be vacated.  
10

11 IT IS HEREBY ORDERED that the hearing on this matter shall be on  
12 July 30, 2018 at 8:30 a.m., approximately thirty (30) days after the Reply is  
13 filed.  
14

15  
16   
17 DISTRICT COURT JUDGE   
18

19  
20   
21 JEAN J. SCHWARTZ, ESQ.  
22 Nevada Bar No. 11223  
23 10620 Southern Highlands Parkway  
Suite 110-473  
Las Vegas, NV 89141  
24

25  
26   
27 CHARLES W. THOMAN, ESQ.  
28 Nevada Bar No. 12649  
Clark County District Attorney  
200 Lewis Ave.  
Las Vegas, NV 89101

*Steven D. Grierson*

1 **SAO**

2 **JEAN J. SCHWARTZER, ESQ.**

3 Nevada Bar No. 11223

4 Law Office of Jean J. Schwartzer

5 10620 Southern Highlands Parkway, Suite 110-473

6 Phone: (702) 979-9941

7 Fax: (702) 977-9954

8 [jean.schwartzter@gmail.com](mailto:jean.schwartzter@gmail.com)

9 Attorney for Petitioner

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 GENARO RICHARD PERRY,  
13 #1456173

14 Petitioner,

15 vs.

16 RENEE BAKER, WARDEN ,  
17 Lovelock Correctional Center

18 Respondent.

CASE NO: C298879-1

DEPT. NO: VI

19 **STIPULATION AND ORDER TO EXTEND TIME**

20 IT IS HEREBY STIPULATED AND AGREED by and between Attorney for Petitioner, Jean  
21 J. Schwartzer, Esq. of Law Office of Jean J. Schwartzer, and Attorney for the Respondent, Charles W.  
22 Thoman, Esq. for the State, at the request of Petitioner's Attorney, that the Petitioner's Supplemental  
23 Memorandum in Support of his Petition for Writ of Habeas Corpus shall hereby be due on October 13,  
24 2018. Further, the State's Response to Petitioner's Supplemental Memorandum shall be due sixty (60)  
25 days from October 13, 2018 or on December 12, 2018, and that the present hearing date of October 15,  
26 2018 be vacated.

27 IT IS FURTHER STIPULATED AND AGREED that Petitioner's Reply shall be due thirty  
28 (30) days from December 12, 2018 or January 11, 2019.

///

DEPARTMENT VI  
NOTICE OF HEARING 30  
DATE 1-28-19 TIME 8 AM  
APPROVED BY *[Signature]*

1 IT IS FURTHER STIPULATED AND AGREED that the hearing on this Supplemental  
2 Petition shall be on January 28, 2019 approximately thirty (30) days after the  
3 Petitioner's Reply is filed. *JK*

4  
5 **ORDER**

6 IT IS HEREBY ORDERED that the Petitioner's Supplemental Memorandum shall be due  
7 October 13, 2018, the State's Response to Petitioner's Supplemental Memorandum will be due on  
8 December 12, 2018, the Petitioner's Reply due on January 11, 2019, and that the present hearing date  
9 of October 15, 2018 be vacated.

10  
11 IT IS HEREBY ORDERED that the hearing on this matter shall be on  
12 January 28, 2019 at 8:30 a.m., approximately thirty (30) days after the Reply is  
13 filed. *JK*

14  
15  
16 *Elaine F. Godek*  
17 DISTRICT COURT JUDGE *JK*

18  
19  
20 *Jean J. Schwartzer*  
21 JEAN J. SCHWARTZER, ESQ.  
22 Nevada Bar No. 11223  
23 18620 Southern Highlands Parkway  
Suite 110-473  
Las Vegas, NV 89141

24  
25  
26 *Charles W. Thoman*  
27 CHARLES W. THOMAN, ESQ.  
28 Nevada Bar No. 12649  
Clark County District Attorney  
200 Lewis Ave.  
Las Vegas, NV 89101

*Steven D. Grierson*

1 **SAO**

2 **JEAN J. SCHWARTZER, ESQ.**

3 Nevada Bar No. 11223

4 Law Office of Jean J. Schwartzer

5 10620 Southern Highlands Parkway, Suite 110-473

6 Phone: (702) 979-9941

7 Fax: (702) 977-9954

8 jean.schwartzter@gmail.com

9 Attorney for Petitioner

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 GENARO RICHARD PERRY,  
13 #1456173

14 Petitioner,

15 vs.

16 RENEE BAKER, WARDEN ,  
17 Lovelock Correctional Center

18 Respondent.

CASE NO: C298879-1

DEPT. NO: VI

19 **STIPULATION AND ORDER TO EXTEND TIME**

20 IT IS HEREBY STIPULATED AND AGREED by and between Attorney for Petitioner, Jean  
21 J. Schwartzer, Esq. of Law Office of Jean J. Schwartzer, and Attorney for the Respondent, Charles W.  
22 Thoman, Esq. for the State, at the request of Petitioner's Attorney due to being selected to sit as a juror  
23 in a civil trial that is scheduled to run through November 21, 2018, that the Petitioner's Supplemental  
24 Memorandum in Support of his Petition for Writ of Habeas Corpus shall hereby be due on February  
25 10, 2019. Further, the State's Response to Petitioner's Supplemental Memorandum shall be due sixty  
26 (60) days from February 10, 2019 or on April 11, 2019, and that the present hearing date of January  
27 28, 2019 be vacated.

28 IT IS FURTHER STIPULATED AND AGREED that Petitioner's Reply shall be due thirty  
(30) days from April 11, 2019 or May 11, 2019. DEPARTMENT VI

NOTICE OF HEARING

DATE 5-22-19 TIME 8:30

APPROVED BY TK

1  
2 IT IS FURTHER STIPULATED AND AGREED that the hearing on this Supplemental  
3 Petition shall be on May 22, 2019.  
4


5 **ORDER**

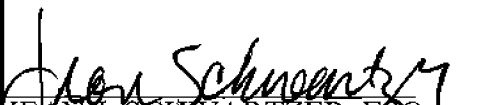
6 IT IS HEREBY ORDERED that the Petitioner's Supplemental Memorandum shall be due  
7 February 10, 2019, the State's Response to Petitioner's Supplemental Memorandum will be due on  
8 April 11, 2019, the Petitioner's Reply due on May 11, 2019, and that the present hearing date of  
9 January 28, 2019 be vacated.  
10


11 IT IS HEREBY ORDERED that the hearing on this matter shall be on  
12 May 22, 2019 at 8:30 a.m.  
13

14 Defel October 31, 2018  
15



16 DISTRICT COURT JUDGE   
17  
18

19   
20 JEAN J. SCHWARTZER, ESQ.  
21 Nevada Bar No. 11223  
22 10620 Southern Highlands Parkway  
Suite 110-473  
Las Vegas, NV 89141  
23  
24  
25  
26  
27  
28

  
CHARLES W. THOMAN, ESQ.  
Nevada Bar No. 12649  
Clark County District Attorney  
200 Lewis Ave.  
Las Vegas, NV 89101

1 IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF THE  
2 STATE OF NEVADA IN AND FOR THE  
3 COUNTY OF CLARK

4 Grenado Richard Perry )  
5 )  
6 Petitioner, )  
7 )

8 v. )

9 Case No. C-14-298879-1

10 State of Nevada )  
11 )

12 Dept. No. 6

13 Respondent. )  
14 )

15  
16 ORDER FOR TRANSPORTATION OF INMATE FOR COURT APPEARANCE  
17 OR, IN THE ALTERNATIVE, FOR APPEARANCE BY TELEPHONE OR VIDEO  
18 CONFERENCE

19 Based upon the above motion, I find that the presence of  
20 \_\_\_\_\_ is necessary for the hearing that is scheduled in this  
21 case on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at  
22 \_\_\_\_\_.

23 THEREFOR, IT IS HEREBY ORDERED that,

24 ☐ Pursuant to NRS 209.274, Warden \_\_\_\_\_  
25 of \_\_\_\_\_ is hereby commanded to have  
26 \_\_\_\_\_ transported to appear before me at a hearing  
27 scheduled for \_\_\_\_\_ at \_\_\_\_\_ at the  
28 \_\_\_\_\_ County Courthouse. Upon completion of the hearing,

C-14-298879-1  
LSF  
Left Side Filing  
4806788



1. \_\_\_\_\_ is to be transported back to the above  
2 named institution.

3  
4 ☐ Pursuant to NRS 209.274(2)(a), Petitioner shall be made available for telephonic  
5 or video conference appearance by his or her institution. My clerk will contact  
6 \_\_\_\_\_ at \_\_\_\_\_ to make  
7 arrangements for the Court to initiate the telephone appearance for the hearing.

8  
9 Dated this \_\_\_\_\_ day of \_\_\_\_\_.

10  
11  
12 \_\_\_\_\_  
13 District Court Judge  
14  
15  
16  
17  
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25  
26  
27  
28  
29

Court Copy

Grenato Richard Perry

NDOC No. 1153366

S.D.C.C. P.O. Box 208

Indian Springs, NV 89070  
In proper person

FILED 7

JAN 02 2019

Alvin L. Blum  
CLERK OF COURT

IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR THE  
COUNTY OF Clark

Grenato Richard Perry

JAN 30, 2019

0 8:30 AM

Petitioner, )

v. )

Case No. C-14-298879-1

State of Nevada

Dept. No. C

Respondent.)

MOTION AND ORDER FOR TRANSPORTATION  
OF INMATE FOR COURT APPEARANCE  
OR, IN THE ALTERNATIVE,  
FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE

Petitioner, Grenato Richard Perry, proceeding pro se, requests  
that this Honorable Court order transportation for his personal appearance or, in the  
alternative, that he be made available to appear by telephone or by video conference  
at the hearing in the instant case that is scheduled for January 28<sup>th</sup> 2018

JAN 02 2019

RECEIVED

at 8:30 AM

C-14-298879-1  
MOT  
Motion  
4808790





1 In support of this Motion, I allege the following:

2 1. I am an inmate incarcerated at Southern Desert Correctional Center.  
3 My mandatory release date is 2023.

4  
5 2. The Department of Corrections is required to transport offenders to and  
6  
7 from Court if an inmate is required or requests to appear before a Court in this state.

8  
9 NRS 209.274 Transportation of Offender to Appear Before Court states:

10 "1. Except as otherwise provided in this section, when an offender is  
11 required or requested to appear before a Court in this state, the  
12 Department shall transport the offender to and from Court on the day  
13 scheduled for his appearance.

14 2. If notice is not provided within the time set forth in NRS 50.215, the  
15 Department shall transport the offender to Court on the date scheduled  
16 for his appearance if it is possible to transport the offender in the usual  
17 manner for the transportation of offenders by the Department. If it is  
18 not possible for the Department to transport the offender in the usual  
19 manner:

20 (a) The Department shall make the offender available on the date scheduled  
21 for his appearance to provide testimony by telephone or by video conference,  
22 if so requested by the Court.

23 (b) The Department shall provide for special transportation of the offender to  
24 and from the Court, if the Court so orders. If the Court orders special  
25 transportation, it shall order the county in which the Court is located to  
26 reimburse the Department for any cost incurred for the special transportation.

27 (c) The Court may order the county sheriff to transport the offender to and  
28 from the Court at the expense of the county."

29 3. My presence is required at the hearing because:

1 ☒ I AM NEEDED AS A WITNESS.

2 My petition raises substantial issues of fact concerning events in which I  
3 participated and about which only I can testify. *See U.S. v. Hayman*, 342 U.S.  
4 205 (1952) (District Court erred when it made findings of fact concerning  
5 Hayman's knowledge and consent to his counsel's representation of a witness  
6 against Hayman without notice to Hayman or Hayman's presence at the  
7 evidentiary hearing).

8 ☒ THE HEARING WILL BE AN EVIDENTIARY HEARING.

9 My petition raises material issues of fact that can be determined only in my  
10 presence. *See Walker v. Johnston*, 312 U.S. 275 (1941) (government's contention  
11 that allegations are improbable and unbelievable cannot serve to deny the  
12 petitioner an opportunity to support them by evidence). The Nevada  
13 Supreme Court has held that the presence of the petitioner for habeas corpus  
14 relief is required at any evidentiary hearing conducted on the merits of the  
15 claim asserted in the petition. *See Gebers v. Nevada*, 118 Nev. 500 (2002).

16 4. The prohibition against ex parte communication requires that I be present  
17 at any hearing at which the state is present and at which issues concerning the claims  
18 raised in my petition are addressed. U.S. Const. amends. V, VI.

19 5. If a person incarcerated in a state prison is required or is requested to  
20 appear as a witness in any action, the Department of Corrections must be notified in  
21 writing not less than 7 business days before the date scheduled for his appearance in  
22 Court if the inmate is incarcerated in a prison located not more than 40 miles from  
23 Las Vegas. NRS 50.215(4). If a person is incarcerated in a prison located 41 miles or  
24 more from Las Vegas, the Department of Corrections must be notified in writing not  
25 less than 14 business days before the date scheduled for the person's appearance in  
26 Court.

27 6. Southern Desert Correctional Center is located approximately

28 40 (fifty) miles from Las Vegas, Nevada.

1           7. If there is insufficient time to provide the required notice to the Department  
2 of Corrections for me to be transported to the hearing, I respectfully request that this  
3 Honorable Court order the Warden to make me available on the date of the  
4 scheduled appearance, by telephone, or video conference, pursuant to NRS  
5 209.274(2)(a), so that I may provide relevant testimony and/or be present for the  
6 evidentiary hearing.

7           8. The rules of the institution prohibit me from placing telephone calls from  
8 the institution, except for collect calls, unless special arrangements are made with  
9 prison staff. Nev. Admin. Code DOC 718.01. However, arrangements for my  
10 telephone appearance can be made by contacting the following staff member at my  
11 institution: N/A, N/A  
12 whose telephone number is N/A

13  
14 Dated this 24<sup>th</sup> day of December, 2018.

15  
16 Genaro Richard Leroy 1153366

17  
18 Genaro Richard Leroy 1153366  
19  
20  
21  
22  
23  
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26  
27  
28  
29

**CERTIFICATE OF SERVICE BY MAILING**

I, Grenado Richard Perry, hereby certify, pursuant to NRCP 5(b), that on this 24<sup>th</sup>  
day of December, 2018, I mailed a true and correct copy of the foregoing, "Motion and as  
for transportation of inmate for court appearance or, in the  
alternative, for appearance by telephone or video conference"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

STEVEN D. GRIERSON  
CLERK OF THE COURT  
200 Lewis Avenue 3rd Floor  
LAS VEGAS, NV  
89155-1160

STEVE WOLFSON  
DISTRICT ATTORNEY  
200 Lewis Avenue  
LAS VEGAS, NV  
89155-2212

CC:FILE

DATED: this 24<sup>th</sup> day of December, 2018.

Grenado Richard Perry  
Grenado R Perry # 1153264  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Motion and order for  
transposition of inmate for court appearance or, in the  
alternative, for appearance by telephone or video conference  
(Title of Document)

filed in District Court Case number C-14-298879-1

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

Genaro Richard Leroy  
Signature

12/24/18  
Date

Genaro Richard Leroy  
Print Name

Petitioner  
Title

Genaro Richard Lopez #1153366  
P.O. Box 208  
Indian Springs, NV 89090

3738  
10A1  
N# 2314807

**CONFIDENTIAL**

Steven D. Grierson, Clerk of the Court  
200 Lewis Avenue, 3rd Floor  
Las Vegas, NV 89155-1160

Hasler

FIRST-CLASS MAIL

12/28/2018

US POSTAGE \$000.68



ZIP 89101

011E12650516

IN God WE TRUST

CONFIDENTIAL

SOUTHERN DESERT  
CORRECTIONAL CENTER

DEC 27 2018

OUTGOING MAIL



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

---

February 19, 2020

**Attorney:** Jean Schwartzer  
Law Office Of Jean J Schwartzer  
Attn Jean J Schwartzer  
10620 Southern Highlands Pkwy  
Suite 110-473  
Las Vegas NV 89141

**Case Number:** C-14-298879-1  
**Department:** Department 6

**Defendant:** Genaro Richard Perry

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

Pleadings: **Ex Parte Communication**

**Rule 3.70. Papers which May Not be Filed**

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

Cordially yours,  
DC Criminal Desk # 7  
Deputy Clerk of the Court



Genaro Richard Perry 1153364

S.D.C.C.

P.O. Box 208

Indian Springs, NV 89070

Cover Letter

Perry

vs

Howel, State Nevada

#C-14-298879-1

Sept VI

Date 2/5/20

Clerk of Court

7 Please accept (2) Motions

#1 EX Parte Communication

#2 Withdraw Counsel

Please accept original and file stamp  
Copy included and mail back to me

Thank You!  
Genaro L. P.

RECEIVED

FEB 18 2020

CLERK OF THE COURT

Original

Gerardo R. Perry ID NO. 1153366

SOUTHERN DESERT CORRECTIONAL CTN.  
20825 COLD CREEK RD.  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

IN the 8<sup>th</sup> Judicial District Court OF  
THE STATE OF Nevada in And FOR the  
COUNTY OF CLARK

Gerardo R. Perry  
Plaintiff  
v. STATE OF Nevada  
Defendant

CASE NO.: C-14-298879-1  
DEPT. NO.: 6  
DOCKET: \_\_\_\_\_

EX PARTE COMMUNICATION  
LETTER TO JUDGE

COMES NOW, Plaintiff, Gerardo Richard Perry, herein above respectfully  
moves this Honorable Court for an ORDER to accept this EX  
PARTE COMMUNICATION letter to Judge

This Motion is made and based upon the accompanying Memorandum of Points and  
Authorities,

DATED: this 15 day of February, 2020

BY: Gerardo R. Perry  
Gerardo R. Perry # 1153366  
~~Defendant~~ In Proper Personam  
Plaintiff

RECEIVED  
FEB 18 2020

ADDITIONAL FACTS OF THE CASE:

1 Motion to Withdraw Counsel; Jean J. Schwartz ESQ.  
2 Case No. 248879-1: Petition for writ of Habeas  
3 Corpus (Post-Conviction) Relief. Constitutional  
4 Rights of Prisoner: Access to the Courts Fourteenth  
5 Amendment has been violated. 2.1 Introduction: Access  
6 to the Courts as a Constitutional Right; The Supreme  
7 Court has repeatedly affirmed that one of the  
8 fundamental rights within the due process clause  
9 of the Fourteenth Amendment is the right of  
10 access to the Courts, Essential to the concept of  
11 due process of law is the right of an individual  
12 to have "an opportunity ... granted at a meaningful  
13 time and in a meaningful manner," for a hearing  
14 appropriate to the nature of the case."

15 7 Jean J. Schwartz ESQ. has been  
16 delaying my Case for three years. No motion to  
17 compel or Supplement memorandum has been  
18 filed. I will like to have a Evidentiary Hearing  
19 for Petition for writ Habeas Corpus (Post-  
20 Conviction) Relief for Case No. 248879-1. I can  
21 prove that I'm illegally imprisoned and restrained  
22 of my liberty. I filed my Petition for writ of  
23 Habeas Corpus (Post-Conviction) Relief on  
24 February 7, 2017 and the Court heard my Petition  
25 on 24th of April 2017 and granted me a lawyer  
26 Jean J. Schwartz ESQ.

1 September 9, 2019 Ms. Schwartz ESQ. in regards  
2 to stipulation and order to extend time colloquy  
3 regarding Motion to Compel as to Metro. Court  
4 Ordered, MATTER OFF CALENDAR. It's now February  
5 15, 2020 No Motion to Compel has been filed therefore  
6 I will like to go Pro Se; I request this Honorable  
7 Court to removed Counsel of Record as attorney of  
8 Record and appoint Stand by Counsel for Evidentiary  
9 hearing and for para-legal services so Court may  
10 have type format motions and arguments, I must  
11 assert my Constitutional Rights to defend myself  
12 and maintain "Control" of my case.

**CERTIFICATE OF SERVICE BY MAILING**

I, Gerardo Richard Perez, hereby certify, pursuant to NRCP 5(b), that on this  
day of Feb 15, 2020, I mailed a true and correct copy of the foregoing, "EX PARTE Communication Letter to Judge"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

8th District Court  
200 Lewis Avenue, 3rd Floor  
Las Vegas, NV 89155-1160

Jean S. Schwartzler Esq.  
10620 Southeast Highland Pkwy, Suite 104B  
Las Vegas, NV 89121

CC:FILE

DATED: this 15 day of February, 2020

Gerardo R. Perez  
Gerardo R. Perez # 115336x  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

EX Parte Communication Letter to Judge  
(Title of Document)

filed in District Court Case number C-14-298879-1

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

  
Signature

2/15/20  
Date

Gerald D. Perry  
Print Name

Pro SE  
Title

## Attachment A

Letter 1: Date January 15, 2020: This letter was a demand letter to file "Motion to Compel".

Letter 2: May 9, 2019: Please look @ the letter from Attorney to get Forensic information concerning my case.

Letter 3: May 23, 2019: My Attorney knew about Forensic info concerning my case.

Letter 4: September 9, 2019: Court order for lawyer to file "Motion to Compel"

Letter 5: Court issues with continues with nothing decided. And next court date was 3/11/20 off calendar.

Granato Richard Perry  
INMATE No: 1153366 Petition for writ of Habeas Corpus  
Southern Desert Correctional (Post-Conviction Relief)

Date: January 15, 2020

Attorney: Jean J. Schwartz ESQ.  
10620 Southern Highlands Pkwy, Suite 110-4,  
LAS VEGAS, NV 89141

Please accept this as a demand letter, to file  
"Motion to Compel". I have repeatedly called  
you and writing you letters, to file my Motion to Compel  
which I feel is violating my rights to access to  
Courts under First Amendment and Fourteenth Amendment.  
Effective Assistant of Counsel.

Please file "Motion to Compel" Within 30 days or  
February 15, 2020 or in the alternative I'll have no  
other choice but to file Pro-Se, #1 Leave of Court  
to file Compel #2 Motion for Compel

\* I want to work with you but I need to get  
my Petition Approve and This Motion to compel  
is central to my Case.  
P.S. "justice too long delayed is justice denied" Dr.  
Martin Luther King Jr.



1A

Summary of Communication

1/15/20

Sept 27, 2019 10 AM to 3 PM

Oct 4, 11, 18, & 25 10 AM to 3 PM

Nov 1, 8, 15, 22, & 29 10 AM to 3 PM

Dec 6, 13, 20, & 27 10 AM to 3 PM

Jan 3, 2020

\* And have sent letters & cards be<sup>ing</sup> very professional  
concerning My Issues...

Sincerely,  
Genavieve Perry

P.S.S. I enclosed copies of Privileged Attorney-  
Client Communication concerning my legal issues about  
DNA dates May 9, 2019, May 23, 2019, & Court date  
September 9, 2019 Motion to Compel as to Metro; Court  
ordered. (Please send me a copy Motion to Compel).  
Thank you & God Bless!!

24

**LAW OFFICE of JEAN J. SCHWARTZER**

10620 Southern Highlands Pkwy, Suite 110-473 • Las Vegas, NV • 89141 •  
(702) 979-9941 jean.schwartzter@gmail.com

---

May 9, 2019

**TO:**

Genaro Perry  
Inmate No: 1153366  
Southern Desert Correctional Facility  
P.O. Box 208  
Indian Springs, Nevada 89070-0650

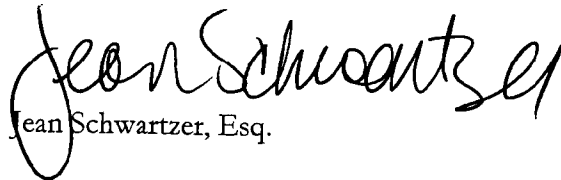
RE: Case No. 298879-1: Petition for Writ of Habeas Corpus (Post-Conviction)

Mr. Perry,

Your new hearing date is set for September 9, 2019. The METRO Forensic Lab that houses DNA has confirmed they have evidence in your case but they are VERY backlogged. There are only two people that work in the lab and they have to process everything for every case—pending for trial, investigation and post-conviction. I was told I would have the DNA reports in about a month. This means the hearing date will most likely have to be moved again but there is nothing I can do about that. I can't speed up the DNA lab.

I apologize for being out of touch. I will let you know as soon as I received the DNA lab reports. Then I will have an expert appointed to review them.

Sincerely,

  
Jean Schwartzter, Esq.

***PRIVILEGED: ATTORNEY-CLIENT COMMUNICATION***

3

**LAW OFFICE of JEAN J. SCHWARTZER**

10620 Southern Highlands Pkwy, Suite 110-473 • Las Vegas, NV • 89141 •  
(702) 979-9941 jean.schwartzter@gmail.com

---

May 23, 2019

**TO:**

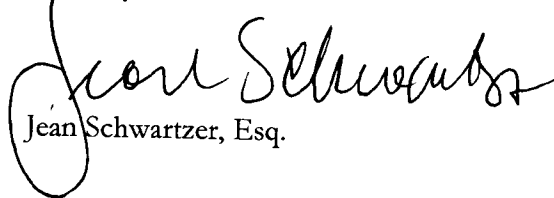
Genaro Perry  
Inmate No: 1153366  
Southern Desert Correctional Facility  
P.O. Box 208  
Indian Springs, Nevada 89070-0650

RE: Case No. 298879-1: Petition for Writ of Habeas Corpus (Post-Conviction)

Mr. Perry,

METRO forensic lab has responded to the subpoena. However, instead of sending me the forensic file, they sent it to the District Attorney's office, which defeats the entire purpose of me asking for it. This was a mistake on their part because in post-conviction litigation, METRO can give the requested discovery directly to a defense attorney and it does not have to go through the DA's office. I am currently working this issue out with the DA as well as METRO. Hopefully I will have an answer by next week.

Sincerely,

  
Jean Schwartzter, Esq.

***PRIVILEGED: ATTORNEY-CLIENT COMMUNICATION***

C-14-298879-1

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 09, 2019**

C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

**September 09, 2019      09:30 AM      Argument**

**HEARD BY:**      Bluth, Jacqueline M.      **COURTROOM:** RJC Courtroom 10C

**COURT CLERK:** Reed, Keith; Reid, Shannon

**RECORDER:**      Garcia, Trisha

**REPORTER:**

**PARTIES PRESENT:**

Jean Schwartzer	Attorney for Defendant
Robert B. Turner	Attorney for Plaintiff
State of Nevada	Plaintiff

**JOURNAL ENTRIES**

Defendant not present.

Record made by Ms. Schwartzer in regards to stipulation and order to extend time. Colloquy regarding Motion to Compel as to Metro. COURT ORDERED, matter OFF CALENDAR.

NDC

Hearings

## State of Nevada vs Genaro Perry

Inactive

Type: Felony/Gross Misdemeanor

Sort: Reverse Date Order ▼

Show: All Hearings ▼

☐ Hearing Comments

Date	Time	Result
<b>Argument (Judicial Officer: Bluth, Jacqueline M.)</b>		
<u>03/11/2020</u>	Wed 9:30 AM	
Cancel Reason: Vacated - On in Error		
<b>Argument (Judicial Officer: Bluth, Jacqueline M.)</b>		
<u>09/09/2019</u>	Mon 9:30 AM	Off Calendar
<b>Motion (Judicial Officer: Bixler, James)</b>		
<u>01/30/2019</u>	Wed 8:30 AM	Continued
<u>02/11/2019</u>	Mon 8:30 AM	Matter Heard
<b>Argument (Judicial Officer: Cadish, Elissa F.)</b>		
<u>10/15/2018</u>	Mon 8:30 AM	
Cancel Reason: Vacated - per Stipulation and Order		
<b>Status Check (Judicial Officer: Cadish, Elissa F.)</b>		
<u>06/02/2017</u>	Fri 8:30 AM	Continued
<u>06/28/2017</u>	Wed 8:30 AM	Continued
<u>08/30/2017</u>	Wed 8:30 AM	Matter Heard
<u>11/01/2017</u>	Wed 8:30 AM	Matter Heard
<b>Confirmation of Counsel (Judicial Officer: Cadish, Elissa F.)</b>		
<u>05/01/2017</u>	Mon 8:30 AM	Confirmed
<b>All Pending Motions (Judicial Officer: Cadish, Elissa F.)</b>		
<u>05/01/2017</u>	Mon 8:30 AM	Matter Heard
<b>Petition for Writ of Habeas Corpus (Judicial Officer: Cadish, Elissa F.)</b>		
<u>04/24/2017</u>	Mon 8:30 AM	Continued
<u>05/01/2017</u>	Mon 8:30 AM	Continued
<u>06/02/2017</u>	Fri 8:30 AM	
Events: 02/07/2017 Petition for Writ of Habeas Corpus		
<b>Motion for New Trial (Judicial Officer: Cadish, Elissa F.)</b>		
<u>04/24/2017</u>	Mon 8:30 AM	Denied
Events: 02/07/2017 Motion for New Trial		
<b>Motion to Withdraw as Counsel (Judicial Officer: Cadish, Elissa F.)</b>		
<u>04/24/2017</u>	Mon 8:30 AM	Granted
Events: 02/07/2017 Motion		



IN God WE TRUST

Thursday will be glorious: No weapon used against  
you will succeed (proper) Isaiah 54:17

Psalm 146:7



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

---

September 24, 2020

**Attorney:** Jean Schwartzer  
Law Office Of Jean J Schwartzer  
Attn Jean J Schwartzer  
10620 Southern Highlands Pkwy  
Suite 110-473  
Las Vegas NV 89141

**Case Number:** C-14-298879-1  
**Department:** Department 6

**Defendant:** Genaro Richard Perry

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

Pleadings: **Motion For Appointment Of Counsel**

**Rule 3.70. Papers which May Not be Filed**

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

Cordially yours,

DC Criminal Desk # 7

Deputy Clerk of the Court



Original

Gerardo L. Perry ID NO. 1153364

SOUTHERN DESERT CORRECTIONAL CTN.  
20825 COLD CREEK RD.  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

8th Judicial District Court of  
The State of Nevada IN and FOR the  
County of Clark

Gerardo L. Perry  
Petitioner

v.

State of Nevada  
Respondent

Hearing Requested

CASE NO.: C-14-298879-1

DEPT. NO.: 6

DOCKET: \_\_\_\_\_

Motion FOR Appointment of Counsel

COMES NOW, Plaintiff, Gerardo Richard Perry, herein above respectfully  
moves this Honorable Court for an Order for Appointment of  
Counsel

This Motion is made and based upon the accompanying Memorandum of Points and  
Authorities,

DATED: this 14 day of September, 2020

BY:

Gerardo L. Perry  
Gerardo L. Perry # 1153364  
Defendant In Proper Personam

# LAW OFFICE of JEAN J. SCHWARTZER

10620 Southern Highlands Pkwy, Suite 110-473 • Las Vegas, NV • 89141 •  
(702) 979-9941 jean.schwartzter@gmail.com

---

February 19, 2020

**TO:**

Genaro Perry  
Inmate No: 1153366  
Southern Desert Correctional Facility  
P.O. Box 208  
Indian Springs, Nevada 89070-0650

RE: Case No. 298879-1: Petition for Writ of Habeas Corpus (Post-Conviction)

Mr. Perry,

When I have something to share with you about your case, I will let you know. You may not hear from me for spans of time. That does not mean I am not working on your case. When I am working on cases, including your case, I do not take calls. Repeatedly calling me and writing to me is not going to speed up the process of your case.

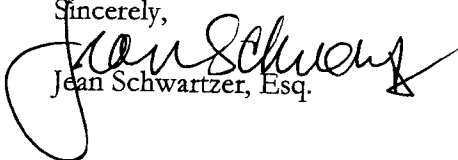
I have the Crime Scene Investigation Report at this point and while a swab of the blood was taken from the door frame and the knife, it does not appear that DNA testing was done. Only a test to confirm the substance was, in fact, blood seems to have been conducted. Therefore a "Motion to Compel" is not the correct pleading to file.

I asked the District Attorney handling your PCR if he would stipulate to a Court order requiring METRO to test the blood for DNA and also the knife for fingerprints. He would not agree to stipulate to the testing and said that he preferred I file a motion.

I will be filing a Petition Requesting Genetic Marker Testing pursuant to NRS 176.09183 and a separate but similar Motion Requesting Order to Conduct Fingerprint Testing and Comparison to Victim's Exemplar.

I see in the defense file that you told Mr. Shetler and the investigator that you were cut in the chest. You also mentioned this in your pro per Petition (Ground 2) and then cited to Exhibit 1, which appears to be defense attorney notes/strategy. Is there any evidence other than a current scar and your statements? By "evidence" I mean any photos taken shortly after the injury; witnesses I could speak with who saw you injured on that day or shortly thereafter; or medical records showing you sought treatment for the wound. If I can get some additional evidence of this injury, it would strengthen this claim. Please do not respond with case law and lengthy briefing. I just need an answer to my question.

Sincerely,

  
Jean Schwartzter, Esq.

**PRIVILEGED: ATTORNEY-CLIENT COMMUNICATION**

General R. Perry 1153366  
P.O. Box 208  
Indian Springs, NV 89070

3763

Steven D. Grierson, Clerk of the Court  
200 Lewis Avenue, 3rd Floor

Las Vegas, NV 89155-1160

8510135300 0075

(Legal Mail)

IN God We Trust

"But still yes, for who knows what  
is possible in Michael's day"

Feb 1967

RECEIVED  
FEB 19 1967

RECEIVED  
FEB 19 1967



**MOT**  
**JEAN J. SCHWARTZER, ESQ.**  
Nevada Bar No. 11223  
LAW OFFICE OF JEAN J. SCHWARTZER, Ltd.  
170 S Green Valley Parkway #300  
Henderson, NV 89012  
Phone: 702-979-9941  
jean.schwartzter@gmail.com  
Attorney for Petitioner

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA FOR THE COUNTY OF CLARK**

GENARO RICHARD PERRY,  
Petitioner,

vs.

RENEE BAKER, WARDEN  
Lovelock Correctional Center,  
Respondent.

Case No.: C298879-1

Dept No.: VI

**HEARING REQUESTED**

**MOTION REQUESTING ORDER DIRECTING THE LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT TO CONDUCT GENETIC MARKER AND LATENT  
FINGERPRINT ANALYSIS OF EVIDENCE IMPOUNDED AT CRIME SCENE**

COMES NOW, Petitioner, GENARO RICHARD PERRY, by and through his attorney, Jean J. Schwartzter, Esq., and respectfully moves this Honorable Court for an order directing the Las Vegas Metropolitan Police Department to conduct latent print analysis of the knife impounded from the crime scene and compare results against the prints of both Genaro Perry and Corla Carpenter and, pursuant to NRS 176.0918, and order directing same to conduct genetic marker analysis of the blood samples impounded from the crime scene and compare results against the genetic markers of both Genaro Perry and Corla Carpenter.

1 This Motion is supported by the attached Memorandum of Points and Authorities and all  
2 relevant papers and pleadings on file in this case.

3  
4  
5 DATED this 3<sup>rd</sup> day of February, 2021.

6  
7 /s/ Jean Schwarzer

JEAN J. SCHWARTZER, ESQ.

Nevada Bar No. 011223

LAW OFFICE OF JEAN J. SCHWARTZER, Ltd.

170 S. Green Valley Parkway #300

Henderson, NV 89012

Phone: 702-979-9941

jean.schwartzter@gmail.com

Attorney for Petitioner

12 **POINTS AND AUTHORITIES**

14 **I. PROCEDURAL HISTORY**

15 On June 15, 2014, the State filed an Information charging Petitioner Genaro Perry ("Perry")  
16 with: Count 1 - Robbery with Use of a Deadly Weapon (Felony - NRS 200.380, 193.165); Count 2 -  
17 False Imprisonment with Use of a Deadly Weapon (Felony - NRS 200.460(3)(b)); Count 3 -Grand  
18 Larceny Auto (Felony- NRS 105.228(3)); Count 4 -Assault with a Deadly Weapon (Felony-NRS  
19 200.471(2)(b)); Count 5 -Coercion (Felony- NRS 207.190(2)(a)); Count 6 - Battery Resulting in  
20 Substantial Bodily Harm Constituting Domestic Violence (Felony- NRS 200.481, 200.485, 33.018);  
21 and Count 7 - Preventing or Dissuading Witness or Victim from Reporting Crime or Commencing  
22 Prosecution (Felony - NRS 199.305).

24 Perry waived his right to a jury and requested a bench trial. Perry's bench trial began on  
25 September 29, 2015. On October 1, 2015, he was found guilty on all counts. On January 6, 2016, the  
26 Court sentenced Perry to the Nevada Department of Corrections as follows:  
27  
28

1     **Count 1** - maximum of 120 months and minimum of 36 months, plus a  
2 consecutive sentence of maximum of 120 months and minimum of 36 months for  
the use of a deadly weapon;

3     **Count 2** - maximum of 60 months and minimum of 18 months, concurrent with  
4 Count 1;

5     **Count 3** - maximum of 96 months and minimum of 24 months, consecutive to  
6 Counts 1 and 2;

7     **Count 4** - maximum of 60 months and minimum of 18 months, concurrent with  
8 Count 3;

9     **Count 5** - maximum of 60 months and minimum of 18 months, concurrent with  
10 Count 4;

11     **Count 6** - maximum of 48 months and minimum of 18 months, concurrent with  
12 Count 5; and,

13     **Count 7** - maximum of 36 months and minimum of 12 months, concurrent with  
14 Count 6.

15             The Judgment of Conviction was filed on January 22, 2016. Perry filed a Notice of Appeal on  
16 November 4, 2015. On December 14, 2016, the Nevada Court of Appeals affirmed Perry's Judgment  
17 of Conviction. Remittitur issued on January 10, 2017.

18             On February 7, 2017, Perry filed a timely Petition for Writ of Habeas Corpus, Request for an  
19 Evidentiary Hearing, and Motion to Appoint Counsel.

## 20     **II. FACTS**

21             Perry and Corla Carpenter ("Carpenter") were involved in a six-month relationship before  
22 breaking up. Trial Transcript Day 1 ("TT1") at 39-41. On the night of April 30, 2014, Perry came to  
23 Carpenter's house after she was already in bed, asking for his blood pressure medication he had left  
24 behind when they broke up. She let him in but told him that he would have to leave by the morning.  
25 TT1 at 41-46.

26             Carpenter claimed that in the morning, Perry started acting aggressively, scaring Carpenter.  
27 She claimed that she tried to call for help but that he grabbed her phone and threw it against the wall,  
28

telling her that she would not call the police on him. TT1 at 41-46. Carpenter claimed she tried to

1 escape to the bathroom and that he punched her in the face. TT1 at 49.

2 Carpenter claimed that she tried to run away from him but fell down the stairs and landed in  
3 the kitchen. TT1 at 46-52. She claimed that Perry beat and kicked her while she was curled in the fetal  
4 position on the kitchen floor. TT1 at 46-52. She claimed that Perry grabbed a knife that was laying on  
5 the stove. TT1 at 52-58. Carpenter claimed that when she saw the knife, she begged him not to kill  
6 her. Id. Carpenter alleged that Perry took her into the living room at knifepoint and made her sit there  
7 for 50 minutes, not moving, while he paced in front of her and made plans to kill her. Id.

8  
9 Carpenter claimed that Perry grabbed her car keys from the living room and marched her to the  
10 bathroom. Finally, she claims that Perry threatened her, saying that he would kill her if she left the  
11 bathroom before she heard the garage door close. TT1 at 58-62.

12  
13 During the investigation of this case, blood samples were impounded from the crime scene.  
14 (See Crime Scene Investigation Report, attached hereto as Exhibit 1; see also Evidence Impound  
15 Report, attached hereto as Exhibit 2.) The knife, which had blood on it, was impounded as well. (See  
16 Id.). Genetic marker analysis was not conducted on these items. Latent print analysis of the knife was  
17 not conducted. (See Id.).

18  
19 Perry attempted to present a self-defense case with the assertion that it was Carpenter who  
20 attacked Perry with the knife and Perry acted in self-defense. TT1 at 10; TT2 at 63-64. This defense  
21 was thwarted by the Court's error in denying Perry the opportunity to present evidence of Carpenter's  
22 past violent history as well as his proposed self-defense instruction. TT2 at 63-64; TT3 at 3-6. The  
23 Nevada Supreme Court held that the District Court's failure to allow Perry a self-defense instruction  
24 was error. (See Order of Affirmance Case No.69139, attached hereto as Exhibit3). However, the  
25 Supreme Court held that this error was harmless due to the evidence presented against Perry at trial.  
26  
27 Id.

1       **III. LAW**

2       NRS 176.0918 states:

3  
4           1. A person convicted of a felony who otherwise meets the requirements of  
5           this section may file a post-conviction petition requesting a genetic marker  
6           analysis of evidence within the possession or custody of the State which may  
7           contain genetic marker information relating to the investigation or  
8           prosecution that resulted in the judgment of conviction. If the case involves a  
9           sentence of death, the petition must include, without limitation, the date  
10          scheduled for the execution, if it has been scheduled.

11          2. Such a petition must be filed with the clerk of the district court for the  
12          county in which the petitioner was convicted on a form prescribed by the  
13          Department of Corrections. A copy of the petition must be served by  
14          registered mail upon:

15           (a) The Attorney General; and

16           (b) The district attorney in the county in which the petitioner was convicted.

17          3. A petition filed pursuant to this section must be accompanied by a  
18          declaration under penalty of perjury attesting that the information contained  
19          in the petition does not contain any material misrepresentation of fact and  
20          that the petitioner has a good faith basis relying on particular facts for the  
21          request. The petition must include, without limitation:

22           (a) Information identifying specific evidence either known or believed to be  
23           in the possession or custody of the State that can be subject to genetic marker  
24           analysis;

25           (b) The rationale for why a reasonable possibility exists that the petitioner  
26           would not have been prosecuted or convicted if exculpatory results had been  
27           obtained through a genetic marker analysis of the evidence identified in  
28           paragraph (a);

          (c) An identification of the type of genetic marker analysis the petitioner is  
          requesting to be conducted on the evidence identified in paragraph (a);

          (d) If applicable, the results of all prior genetic marker analysis performed on  
          evidence in the trial which resulted in the petitioner's conviction; and

          (e) A statement that the type of genetic marker analysis the petitioner is  
          requesting was not available at the time of trial or, if it was available, that the



1 failure to request genetic marker analysis before the petitioner was convicted  
2 was not a result of a strategic or tactical decision as part of the representation  
3 of the petitioner at the trial.

4 4. If a petition is filed pursuant to this section, the court may:

5 (a) Enter an order dismissing the petition without a hearing if the court  
6 determines, based on the information contained in the petition, that the  
7 petitioner does not meet the requirements set forth in this section;

8 (b) After determining whether the petitioner is indigent pursuant to NRS  
9 171.188 and whether counsel was appointed in the case which resulted in the  
10 conviction, appoint counsel for the limited purpose of reviewing,  
11 supplementing and presenting the petition to the court; or

12 (c) Schedule a hearing on the petition. If the court schedules a hearing on the  
13 petition, the court shall determine which person or agency has possession or  
14 custody of the evidence and shall immediately issue an order requiring,  
15 during the pendency of the proceeding, each person or agency in possession  
16 or custody of the evidence to:

17 (1) Preserve all evidence within the possession or custody of the person or  
18 agency that may be subjected to genetic marker analysis pursuant to this  
19 section;

20 (2) Within 90 days, prepare an inventory of all evidence relevant to the  
21 claims in the petition within the possession or custody of the person or  
22 agency that may be subjected to genetic marker analysis pursuant to this  
23 section; and

24 (3) Within 90 days, submit a copy of the inventory to the petitioner, the  
25 prosecuting attorney and the court.

26 5. Within 90 days after the inventory of all evidence is prepared pursuant to  
27 subsection 4, the prosecuting attorney may file a written response to the  
28 petition with the court.

6. If the court holds a hearing on a petition filed pursuant to this section, the  
hearing must be presided over by the judge who conducted the trial that  
resulted in the conviction of the petitioner, unless that judge is unavailable.  
Any evidence presented at the hearing by affidavit must be served on the  
opposing party at least 15 days before the hearing.

7. If a petitioner files a petition pursuant to this section, the court schedules a  
hearing on the petition and a victim of the crime for which the petitioner was  
convicted has requested notice pursuant to NRS 178.5698, the district  
attorney in the county in which the petitioner was convicted shall provide to  
the victim notice of:

1 (a) The fact that the petitioner filed a petition pursuant to this section;

2 (b) The time and place of the hearing scheduled by the court as a result of the  
3 petition; and

4 (c) The outcome of any hearing on the petition.

5 Nev. Rev. State §176.0918 (2013).

6 Perry argues in Ground Two of his Petition that his counsel was ineffective for failing to  
7 investigate Perry's self-defense claims. Specifically, Perry alleges that his counsel was ineffective for  
8 failing to request genetic marker analysis of the blood samples taken from the crimes scene as well as  
9 examination of the knife for latent fingerprints. Had counsel done so, Perry alleges that the results  
10 would show that it was Carpenter who had the knife in her hand and that he was cut with said knife.  
11 Additionally but not subject to the instant motion, Perry claims his counsel was ineffective for failing  
12 to present medical evidence showing that Perry was cut with the knife during this altercation. This  
13 evidence would have supported his self-defense claim. Given the fact that the Supreme Court of  
14 Nevada found that it was error for the District Court to preclude Perry from giving a self-defense  
15 instruction *without* this additional evidence of his injuries and genetic marker analysis, had the District  
16 Court heard this evidence, it would have surely allowed Perry to give a self-defense instruction.  
17 Without the self-defense instruction, Perry had no chance of being found not guilty due to self-  
18 defense.  
19  
20

21 In order for Perry to properly allege that his attorney was ineffective for failing to investigate  
22 his self-defense claims, he must demonstrate how such proposed investigation would have rendered a  
23 more favorable outcome. Molina v. State, 120 Nev. 185, 87 P.3d 533 (2004). Therefore, Perry moves  
24 this Court for an order directing the Las Vegas Metropolitan Police Department to conduct latent print  
25 analysis on the knife (Item #1/Package #1) impounded from the crime scene and compare the prints to  
26 the prints of both Genaro Perry and Corla Carpenter; and also an order, pursuant to NRS 176.0918,  
27 directing the Las Vegas Metropolitan Police Department to conduct genetic marker analysis of the  
28

1 blood on the knife (Item #1/Package #1) and blood samples and knife impounded from the scene  
2 (Items #2 and #3/Package #2) and compare results against the genetic markers of both Genaro Perry  
3 and Corla Carpenter.  
4

5  
6 DATED this 3<sup>rd</sup> day of February, 2021.  
7

8 /s/ Jean Schwartzer  
9 JEAN J. SCHWARTZER, ESQ.  
10 Nevada Bar No. 011223  
11 LAW OFFICE OF JEAN J. SCHWARTZER  
12 170 S. Green Valley Parkway #300  
13 Henderson, NV 89012  
14 Phone: 702-979-9941  
15 jean.schwartzter@gmail.com  
16 Attorney for Petitioner  
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1  
2 **CERTIFICATE OF SERVICE**

3 **IT IS HEREBY CERTIFIED** by the undersigned that on 3<sup>rd</sup> day of February, 2021, I served  
4 a true and correct copy of the foregoing **MOTION REQUESTING ORDER**  
5 **DIRECTING THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT TO CONDUCT GENETIC**  
6 **MARKER AND LATENT PRINT ANALYSIS OF EVIDENCE IMPOUNDED AT CRIME SCENE** on the parties  
7 listed on the attached service list via one or more of the methods of service described below as  
8 indicated next to the name of the served individual or entity by a checked box:

9 **VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage thereon  
10 fully prepaid, in the United States mail at Las Vegas, Nevada.

11 **VIA FACSIMILE:** by transmitting to a facsimile machine maintained by the attorney or the party  
12 who has filed a written consent for such manner of service.

13 **BY PERSONAL SERVICE:** by personally hand-delivering or causing to be hand delivered by such  
14 designated individual whose particular duties include delivery of such on behalf of the firm, addressed  
15 to the individual(s) listed, signed by such individual or his/her representative accepting on his/her  
16 behalf. A receipt of copy signed and dated by such an individual confirming delivery of the document  
17 will be maintained with the document and is attached.

18 **BY E-MAIL:** by transmitting a copy of the document in the format to be used for attachments to the  
19 electronic-mail address designated by the attorney or the party who has filed a written consent for such  
20 manner of service.

21 **BY: /s/ Jean J. Schwartz**  
22 **JEAN J. SCHWARTZER, ESQ.**  
23 Nevada Bar No. 11223  
24 Law Office of Jean J. Schwartz, Ltd.  
25 170 S. Green Valley Parkway, #300  
26 Henderson, Nevada 89012  
27 Phone: (702) 979-9941  
28 jean.schwartz@gmail.com  
Attorney for Defendant

**SERVICE LIST**

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ATTORNEYS OF RECORD	PARTIES REPRESENTED	METHOD OF SERVICE
CLARK COUNTY DISTRICT ATTORNEY'S OFFICE 200 E. Lewis Ave Las Vegas, NV 89101  Alexander.chen@clarkcountyda.com	State of Nevada	<input type="checkbox"/> Personal service <input checked="" type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service

# **EXHIBIT 1**

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**CRIME SCENE INVESTIGATION REPORT**

Incident Battery with Substantial Bodily Harm		Sector/Beat H2	Event Number 140501-1127
Requesting Officer A. Bragg #4150		Division PD	Date 05/01/2014
Victim(s) Corla Capreuter (DOB- 08/29/1975)		Location(s) 2461 Old Forge Lane #106	

**Connecting Reports and Related Event Numbers**

☒ Evidence Impound Report     
 ☐ Firearms Report     
 ☐ Officer's Report     
 ☐ \_\_\_\_\_  
☐ Related Event Number(s): \_\_\_\_\_

**DOCUMENTATION**

☒ Crime Scene Photography    ☐ Comparative Photography  
☐ Aerial Photography          ☐ Diagram(s)  
☐ \_\_\_\_\_

**LATENT PRINT EVIDENCE**

☐ Processing Conducted  
☐ Lift(s) / Cast(s)  
☐ Photograph(s)  
☐ Eliminations  
☐ Negative Results  
☐ \_\_\_\_\_

**FIREARMS EVIDENCE**

☐ Bullet(s) / Fragment(s)  
☐ Cartridge Case(s)  
☐ Cartridge(s)  
☐ Weapon(s)  
☐ \_\_\_\_\_

**FOOTWEAR AND TIRE EVIDENCE**

☐ Footwear                      ☐ Tire  
☐ Lift(s) / Cast(s)          ☐ Original Surface(s)  
☐ Photograph(s)              ☐ Exemplar(s)

**BIOLOGICAL EVIDENCE**

☒ Apparent Blood              ☐ Apparent Semen  
☐ Possible DNA                ☐ Unknown Substance(s)  
☒ Swab(s)                      ☒ Original Surface(s)  
☐ Buccal Swabs                ☐ \_\_\_\_\_

**TOOL MARK EVIDENCE**

☐ Cast(s)                      ☐ Original Surface(s)  
☐ Photograph(s)              ☐ Tool(s)

**OTHER**

	6
--	---

PH 1011Y 6 PM 12 46

**VEHICLE(S):**  
**GENERAL INFORMATION:**  
**The Scene-**

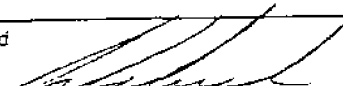
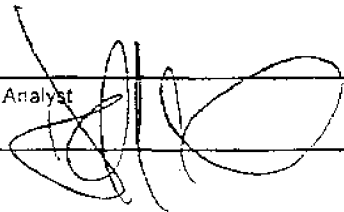
The scene was located in the above listed two story condominium. The front door faced south.

There was apparent blood on the floor of the north central kitchen, on tissue on the east kitchen counter, on the north wall of the northwest bathroom and on the west side of the door frame to the northwest bathroom (A sample of which is Item #2). There was also apparent blood on bedding on the bed along the south wall of the west master bedroom (A sample of which is Item #3).

There was a steak knife with a black handle and 4.5" blade with apparent blood (Item #1) on the ground at the northeast corner of the west garage.

**Photography-**

Color digital images were recorded to show the address location and overall condition of the scene as described above.

Approved 	P# 3075	Crime Scene Analyst D. Keller 	P# 12712
---	------------	---	-------------

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
CRIME SCENE INVESTIGATION REPORT  
CONTINUATION

Incident: Battery with Substantial  
Bodily Harm

Event Number: 140501-1127

**Evidence-**

The above listed items were recovered and impounded as evidence. Samples from the stains in which Item #2 and Item #3 were recovered, were tested with Phenolphthalein, a presumptive test for blood, with positive results.

No further at this time.

2019 MAY 6 PM 2 46

Crime Scene Analyst  
D. Keller

F#

12712



# **EXHIBIT 2**

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**EVIDENCE IMPOUND REPORT**

☒ **EVIDENCE**

☐ **FOUND PROPERTY**

☐ **SAFEKEEPING**

Event Number: **140501-1127**

Incident: <b>Battery with Substantial Bodily Harm</b>	Date: <b>05/01/2014</b>
Victim(s): <b>Corla Carpenter (DOB- 08/29/1975)</b>	
Location: <b>2461 Old Forge Ln.</b>	
Vehicle(s):	
Additional Information:	

Description of Evidence

Location of Recovered Evidence

**Package #1**

Item #1- One (1) steak knife with a black handle and 4.5" blade with apparent blood.

On the ground at the northeast corner of the west garage.

**Package #2**

Item #2- One (1) swab with apparent blood.


On the west side of the door frame to the northwest bathroom.

Item #3- One (1) swab with apparent blood.

On bedding on the bed along the south wall of the west master bedroom.

**Note- Samples of the stains from which Item #2 and Item #3 were recovered were tested with Phenolphthalein, a presumptive test for blood, with positive results.**

2014 MAY 6 PM 2 46

Approved: 	P#: <b>2045</b>	Crime Scene Analyst: <b>D. Keller</b>	P#: <b>12712</b>
---	-----------------	---------------------------------------	------------------

# **EXHIBIT 3**

IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

Supreme Court No. 69139  
District Court Case No. C298879

FILED

JAN 18 2017

*Elizabeth A. Brown*  
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

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

JUDGMENT

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

"ORDER the judgment of conviction AFFIRMED."

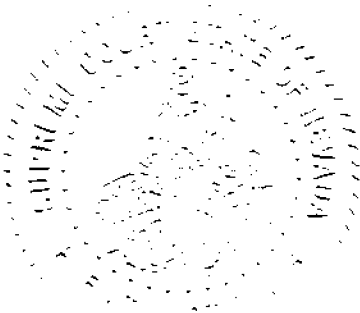
Judgment, as quoted above, entered this 14th day of December, 2016.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
January 10, 2017.

Elizabeth A. Brown, Supreme Court Clerk

By: Amanda Ingersoll  
Chief Deputy Clerk

C-14-298879-1  
CCJA  
NV Supreme Court Clerks Certificate/Judgm  
4614711



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 69139

**FILED**

DEC 14 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

**ORDER OF AFFIRMANCE**

Appellant Genaro Richard Perry appeals from a judgment of conviction entered pursuant to a bench trial of robbery with the use of a deadly weapon, false imprisonment with the use of a deadly weapon, grand larceny of an automobile, assault with a deadly weapon, coercion, battery resulting in substantial harm and constituting domestic violence, and preventing or dissuading a witness or victim from reporting a crime or commencing prosecution. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

*Evidentiary ruling*

Perry claims the district court erred by excluding testimony necessary to support his self-defense claim. "We review a district court's decision to admit or exclude evidence for an abuse of discretion." *McLellan v. State*, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008). Prior to trial, the district court conducted a hearing on Perry's motion to admit evidence pursuant to NRS 48.045(2). Perry sought to elicit testimony from the victim to show the victim previously chased a woman through TJ Maxx with a knife and crowbar, the victim told Perry about this prior incident, and Perry's knowledge of this prior incident affected how he responded to

the victim in the instant case. The district court found the evidence was relevant to Perry's claim of self-defense, it was clear and convincing evidence, and it was not more prejudicial than probative. However, the district court limited the admission of this evidence to "evidence about this incident of which [Perry] was aware to show . . . that it affected his state of mind" on the day of the charged offenses.

During the trial, Perry sought to present the testimony of a security guard who witnessed the TJ Maxx incident in order to bolster his self-defense claim. The district court reiterated it was only allowing evidence about the TJ Maxx incident to the extent that it affected Perry's state of mind. And the district court ruled, unless Perry had talked to the security guard, the security guard's testimony was not pertinent to the issue of self-defense. We conclude the district court did not abuse its discretion by excluding the security guard's testimony. *See Daniel v. State*, 119 Nev. 498, 515-17, 78 P.3d 890, 902-03 (2003) (discussing the admission of evidence when a defendant claims self-defense and knew of the victim's prior violent conduct).

#### *Self-defense instructions*

Perry claims the district court erred by rejecting the parties' proposed instructions on self-defense. We review a district court's exercise of discretion when settling jury instructions for abuse of discretion or judicial error. *Crawford v. State*, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005). "[A] defendant is entitled to a jury instruction on his theory of the case so long as there is some evidence to support it, regardless of whether the evidence is weak, inconsistent, believable, or incredible." *Hoagland v. State*, 126 Nev. 381, 386, 240 P.3d 1043, 1047 (2010).

We conclude the district court abused its discretion by rejecting the instructions on self-defense because Perry presented some evidence in support of his self-defense claim through the victim's testimony. However, we further conclude the error was harmless because it is clear beyond a reasonable doubt that a rational trier of fact would have found Perry guilty absent the error. *See Gonzalez v. State*, 131 Nev. \_\_\_, \_\_\_, 366 P.3d 680, 684 (2015) (instructional errors involving a defendant's right to self-defense have constitutional dimension); *Nay v. State*, 123 Nev. 326, 333-34; 167 P.3d 430, 435 (2007) (stating the test for harmless-error analysis of an instructional error with constitutional dimension).

#### *Sufficiency of the evidence*

Perry claims insufficient evidence supports his convictions because the trier of fact did not take into consideration the evidence supporting his claim of self-defense. We review the evidence in the light most favorable to the prosecution and determine whether "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

The trier of fact heard testimony that the victim allowed Perry to spend the night at her residence. Perry became agitated and aggressive when the victim asked him to leave the following morning. Perry grabbed the victim's cell phone, threw it against the wall, and told her she "was not going to call the police on him." Perry punched the victim in the face, and he continued to punch her after she fell backwards into the bathroom.

The victim bit Perry's hand, stood up, and ran for the staircase. Perry kicked the victim in the back as she started down the stairs, causing her to tumble down the stairs and into the kitchen. Perry

continued to kick and punch the victim while she lay in a fetal position on the kitchen floor. He grabbed a steak knife from the stove and swung the knife at the victim, striking her hands.

Perry dragged the victim into the living room and told her to sit on the love seat. He paced back and forth in front of the victim for about 50 minutes, all the while holding the knife and threatening to kill her. At some point, Perry spotted the keys to the victim's Mercedes on a coffee table and grabbed them. He then marched the victim back upstairs at knifepoint, placed her in a bathroom, told her not to leave or he would kill her, and threw her cell phone in the toilet.

After Perry drove off in the victim's Mercedes, the victim called the police and eventually went to the hospital. She suffered an orbital fracture, a broken nose, the loss of two teeth, a cut hand, and damage to the area of her right hip. She testified that she purchased her Mercedes for \$4,200 and it was valued at \$5,100.

We conclude a rational trier of fact could reasonably infer from this evidence that Perry assaulted, battered, robbed, imprisoned, and coerced his former girlfriend; he prevented her from reporting a crime and stole her car; he used a deadly weapon and caused her to suffer substantial bodily harm; and he was not acting in self-defense when he committed these criminal acts. See NRS 33.018(1); NRS 193.165(1); NRS 199.305(1); NRS 200.380(1); NRS 200.460(1); NRS 200.471(1); NRS 200.481(1); NRS 205.228(1); NRS 207.190(1); *Pineda v. State*, 120 Nev. 204, 212, 88 P.3d 827, 833 (2004) (the right to self-defense exists when there is a reasonably perceived apparent danger or actual danger); *People v. Hardin*, 102 Cal. Rptr. 2d 262, 268 n.7 (Ct. App. 2000) (the right to use force in self-defense ends when the danger ceases). It is for the trier of




fact to determine the weight and credibility to give conflicting testimony, and the trier of fact's verdict will not be disturbed on appeal where, as here, sufficient evidence supports its verdict. *See Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

*Cumulative error*

Perry claims cumulative error deprived him of a fair trial. However, we reject this claim because there was one error and the error was harmless. *See United States v. Sager*, 227 F.3d 1138, 1149 (9th Cir. 2000) ("One error is not cumulative error."); *Pascua v. State*, 122 Nev. 1001, 1008 n.16, 145 P.3d 1031, 1035 n.16 (2006).

Having concluded Perry is not entitled to relief, we  
ORDER the judgment of conviction AFFIRMED.

  
Gibbons C.J.

  
Tao J.

  
Silver J.

cc: Hon. Elissa F. Cadish, District Judge  
Travis E. Shetler  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk

**CERTIFIED COPY**

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

DATE: January 10, 2017  
Supreme Court Clerk, State of Nevada

By A. Ingassu Deputy

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

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 69139**  
District Court Case No. C298879

**REMITTITUR**

TO: Steven D. Grierson, Eighth District Court Clerk

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

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

DATE: January 10, 2017

Elizabeth A. Brown, Clerk of Court

By: Amanda Ingersoll  
Chief Deputy Clerk

cc (without enclosures):  
Hon. Elissa F. Cadish, District Judge  
Travis E. Shetler  
Clark County District Attorney  
Attorney General/Carson City

**RECEIPT FOR REMITTITUR**

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on JAN 18 2017.

**HEATHER UNGERMANN**  
Deputy District Court Clerk

**RECEIVED**

**JAN 17 2017**

**CLERK OF THE COURT**

DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*

Electronically Filed  
2/4/2021 7:28 AM  
Steven D. Grierson  
CLERK OF THE COURT



State of Nevada  
vs  
Genaro Perry

Case No.: C-14-298879-1  
Department 6

**NOTICE OF HEARING**

Please be advised that the Petitioner's Motion Requesting Order Directing the Las Vegas Metropolitan Police Department to Conduct Genetic Marker and Latent Print Analysis of Evidence Impounded at Crime Scene in the above-entitled matter is set for hearing as follows:

**Date:** February 17, 2021  
**Time:** 11:00 AM  
**Location:** RJC Courtroom 10C  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89101

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

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Marie Kramer  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

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

By: /s/ Marie Kramer  
Deputy Clerk of the Court



**RSPN**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
KAREN MISHLER  
Chief Deputy District Attorney  
Nevada Bar #013730  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173  
  
Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

**STATE'S RESPONSE TO DEFENDANT'S MOTION REQUESTING ORDER  
DIRECTING THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
TO CONDUCT GENETIC MARKER AND LATENT FINGERPRINT ANALYSIS  
OF EVIDENCE IMPOUNDED AT CRIME SCENE**

DATE OF HEARING: FEBRUARY 17, 2021  
TIME OF HEARING: 11:00 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through KAREN MISHLER, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Defendant's Motion Requesting Order Directing the Las Vegas Metropolitan Police Department to Conduct Genetic Marker and Latent Fingerprint Analysis of Evidence Impounded at Crime Scene.

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

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On June 15, 2014, Defendant Genaro Richard Perry (“Defendant”) was charged by way  
4 of Information with seven felonies. The victim listed for all seven felonies was Corla  
5 Carpenter, with whom he had previously been in a dating relationship. The Defendant waived  
6 his right to a jury and requested a bench trial. The bench trial commenced on September 29,  
7 2015. On October 1, 2015, Defendant was found guilty of all seven counts. On January 6,  
8 2016, he was sentenced to the Nevada Department of Corrections as follows:

- 9 1. Count 1 – Robbery with Use of a Deadly Weapon – a maximum of 120 months and  
10 minimum of 36 months, plus a consecutive sentence of maximum of 120 months  
11 and minimum of 36 months for the use of a deadly weapon.
- 12 2. Count 2 – False Imprisonment with Use of a Deadly Weapon – a maximum of 60  
13 months and minimum of 18 months, concurrent with Count 1.
- 14 3. Count 3 – Grand Larceny Auto – a maximum of 96 months and minimum of 24  
15 months, consecutive to Counts 1 and 2.
- 16 4. Count 4 – Assault with a Deadly Weapon – a maximum of 60 months and minimum  
17 of 18 months, concurrent with Count 3.
- 18 5. Count 5 – Coercion – a maximum of 60 months and minimum of 18 months,  
19 concurrent with Count 4.
- 20 6. Count 6 – Battery Resulting in Substantial Bodily Harm Constituting Domestic  
21 Violence – a maximum of 48 months and minimum of 18 months, concurrent with  
22 Count 5.
- 23 7. Count 7 – Preventing or Dissuading Witness or Victim from Reporting Crime or  
24 Commencing Prosecution – a maximum of 36 months and minimum of 12 months,  
25 concurrent with Count 6.

26 Defendant’s total aggregate sentence was a maximum of 330 months and a minimum  
27 of 96 months. The Judgment of Conviction was filed on January 22, 2016. Defendant filed a  
28 Notice of Appeal on November 4, 2015. On December 14, 2016, the Nevada Court of Appeals  
affirmed Defendant’s convictions. Perry v. State, Docket No. 69139-COA (Order of

1 Affirmance, Dec. 14, 2016). Remittitur issued on February 2, 2017. On February 7, 2017,  
2 Defendant filed a pro per Petition for Writ of Habeas Corpus (Post-Conviction). On April 7,  
3 2017, the State filed its Response. On April 24, 2017, the Court granted Defendant's request  
4 for the appointment of counsel, and on May 1, 2017, Jean J. Schwartz, Esq. affirmed as  
5 Defendant's counsel. No supplemental post-conviction petition has ever been filed in this case.  
6 On September 9, 2019 - the most recent status check on the post-conviction proceedings - the  
7 matter was taken off calendar. Defendant's pro per Petition remains pending.

8 On February 3, 2021, Defendant filed the instant Motion Requesting Order Directing  
9 The Las Vegas Metropolitan Police Department To Conduct Genetic Marker And Latent  
10 Fingerprint Analysis Of Evidence Impounded At Crime Scene ("Motion"). The State responds  
11 as follows.

## 12 ARGUMENT

### 13 **I. DEFENDANT HAS NOT DEMONSTRATED HE IS ENTITLED TO** 14 **GENETIC MARKER TESTING**

15 Five years after his convictions, Defendant requests this Court order the Las Vegas  
16 Metropolitan Police Department to perform a genetic marker and latent print analysis on  
17 certain items of evidence impounded from the crime scene. Defendant cites NRS 176.0918 in  
18 support of this request, yet blatantly ignores the requirements of this statute. Because  
19 Defendant fails entirely to meet the statutory requirements, and also requests testing not  
20 provided for in this statute, the State requests this Court deny the Motion.

21 Defendant has the burden of meeting the requirements of NRS 176.0918. NRS  
22 176.0918(3) states, in pertinent part:

23 A petition filed pursuant to this section must be accompanied by a  
24 *declaration under penalty of perjury* attesting that the information  
25 contained in the petition does not contain any material misrepresentation  
26 of fact and that the defendant has a good faith basis relying on particular  
facts for the request. The petition must include, without limitation:

27 (a) Information identifying specific evidence either known or believed to  
28 be in the possession or custody of the State that can be subject to genetic  
marker analysis;

1           (b) *The rationale for why a reasonable possibility exists that the defendant*  
2           *would not have been prosecuted or convicted if exculpatory results had*  
3           *been obtained through a genetic marker analysis of the evidence identified*  
4           *in paragraph (a);*

5           (c) *An identification of the type of genetic marker analysis the defendant*  
6           *is requesting to be conducted on the evidence identified in paragraph (a);*

7           (d) *If applicable, the results of all prior genetic marker analysis performed*  
8           *on evidence in the trial which resulted in the defendant's conviction; and*

9           (e) *A statement that the type of genetic marker analysis the defendant is*  
10          *requesting was not available at the time of trial or, if it was available, that*  
11          *the failure to request genetic marker analysis before the defendant was*  
12          *convicted was not a result of a strategic or tactical decision as part of the*  
13          *representation of the defendant at the trial.*

14 (emphasis added). Further, NRS 176.0918(4) states in pertinent part:

15           If a petition is filed pursuant to this section, the court may:

16                   (a) Enter an order dismissing the petition without a hearing if the court  
17                   determines, based on the information contained in the petition, that the  
18                   defendant does not meet the requirements set forth in this section.

19           **A. Defendant has failed to provide a declaration under penalty of perjury**

20           As an initial matter, the Motion is not accompanied by a declaration under penalty of  
21           perjury, as required by NRS 176.0918(3). It is Defendant's responsibility to file a petition that  
22           complies with all of the requirements in NRS 176.0918. This failure alone should preclude  
23           consideration of the Petition and require its dismissal pursuant to NRS 176.0918(4).

24           **B. Defendant has failed to demonstrate a reasonable possibility exists that he**  
25           **would not have been prosecuted or convicted if exculpatory results had been**  
26           **obtained through a genetic marker analysis**

27           Defendant has failed entirely to even address this requirement of NRS 176.0918(3).  
28           This is perhaps unsurprising, because even if the results Defendant predicts were obtained  
29           through genetic marker testing, such results would not be exculpatory and would not have  
30           prevented him from being prosecuted.

31           Defendant requests genetic marker testing of the blood samples impounded from the  
32           crime scene: the apparent blood from the steak knife (Item #1 in Package #1), and two swabs  
33           of apparent blood (Package #2, Items #2 and #3). Motion, at 7-8, Exhibit 2. Defendant asks



1 that these samples be compared against his own genetic markers as well as those of Carpenter.  
2 Motion, at 8. Defendant contends that such testing would show that he was cut with the knife,  
3 and that Carpenter had the knife in her hand. Motion, at 7.

4 Even if the blood on the knife and the blood samples matched Defendant's genetic  
5 markers, at most it would show that Defendant left his blood at the scene, and would not be  
6 exculpatory. Finding Defendant's blood on the knife or elsewhere at the crime scene would  
7 not prove that Carpenter cut Defendant with the knife; Defendant could have cut himself with  
8 the knife in the course of committing the crime. Carpenter also testified during trial that she  
9 bit Defendant while he was attacking her; this could have resulted in Defendant bleeding. Trial  
10 Transcript, Day 1, p. 48. The only relevance of the knife to this case was as the deadly weapon  
11 enhancement for the Robbery, False Imprisonment, and Assault With Deadly Weapon  
12 charges. Information, filed June 25, 2014.

13 Although Carpenter did testify at trial that Defendant cut her with the knife, Defendant  
14 was not charged or convicted of any battery involving the knife. Trial Transcript, Day 1, p. 53.  
15 Count 6 alleged that Defendant committed Battery Resulting in Substantial Bodily Harm  
16 Constituting Domestic Violence by striking Carpenter's head against the floor and/or by  
17 kicking her repeatedly in the face. Information, filed June 25, 2014. There was substantial  
18 evidence presented at trial to support a finding of guilt as to this offense. Any testing of the  
19 knife or blood found at the scene would not call this evidence into serious question.

20 Carpenter testified that, the morning after she allowed Defendant to spend the night at  
21 her residence, Defendant punched her in the face, and then kicked her in the back as she fled  
22 from him. Trial Transcript, Day 1, pp. 43-51. Defendant kicked and punched her while she  
23 was in a fetal position on the floor. Id. at 51-52. Carpenter sustained a broken nose, an orbital  
24 fracture, hip damage, and the loss of two teeth. Id. at 15, 66-70. Evidence of Carpenter's  
25 injuries at trial was introduced through her own testimony, photographs taken of Carpenter,  
26 testimony from the responding police officer, and testimony from the surgeon who repaired  
27 Carpenter's orbital fracture. Id. at 15-37, 66-70, 76, 78; Trial Transcript, Day 2, p. 21.

1 Carpenter's surgeon testified that Carpenter required surgery because her eyeball had sunk  
2 back into her eye socket. Trial Transcript, Day 1, p. 18.

3 Thus, the presence of Defendant's blood at the scene, if found, would not call his guilt  
4 into serious question, given the documentation of the severe injuries Carpenter received.<sup>1</sup> A  
5 genetic marker match between Defendant and the blood at the scene would not exculpate him  
6 from any of the charges for which he was convicted.

7 Even assuming *in arguendo* that a match between Defendant's genetic markers and  
8 blood found at the scene would support his self-defense theory, this is not a sufficient basis  
9 for ordering testing under NRS 176.0918. A request for testing under this statute must  
10 demonstrate more than a mere possibility that such testing could theoretically support a  
11 defense to the charges; it requires a demonstration of a reasonable possibility that the  
12 defendant would not have been prosecuted or convicted if exculpatory results had been  
13 obtained through a genetic marker analysis.

14 Similarly, Defendant's contention that genetic marker testing would assist him in  
15 demonstrating ineffective assistance of counsel is not a valid basis for ordering testing under  
16 NRS 176.0918. The requirements of NRS 176.0918(3) make clear that the purpose of testing  
17 is to obtain exculpatory evidence, not to gather evidence to support allegations of ineffective  
18 assistance of counsel. Allegations of ineffective assistance of counsel must be raised in a Post-  
19 Conviction Petition for Writ of Habeas Corpus and are not appropriately addressed in the  
20 current motion. NRS 34.724(2)(b); Harris v. State, 130 Nev. 435, 445, 329 P.3d 619, 626  
21 (2014); Gibbons v. State, 97 Nev. 520, 521, 634 P.2d 1214, 1216 (1981).

22 **C. Defendant has failed to provide a statement regarding the availability of**  
23 **genetic marker analysis at the time of trial**

24 NRS 176.0918(e) requires a petition requesting genetic marker analysis to include a  
25 "statement that the type of genetic marker analysis the defendant is requesting was not  
26 available at the time of trial or, if it was available, that the failure to request genetic marker

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27 <sup>1</sup>Defendant does not explain how his self-defense theory or the presence of his blood at the scene relates to his convictions  
28 for Robbery With Use of a Deadly Weapon, Grand Larceny Auto, Coercion, or Preventing or Dissuading Witness. As he  
focuses solely on the knife and the blood at the scene, the State presumes that Defendant does not intend to challenge his  
convictions for these offenses via any genetic or latent print testing.

1 analysis before the defendant was convicted was not a result of a strategic or tactical decision  
2 as part of the representation of the defendant at the trial.” Defendant has failed entirely to  
3 address this requirement. Perhaps this is unsurprising, as had trial counsel requested genetic  
4 testing, it easily could have produced evidence that corroborated Carpenter’s testimony at trial-  
5 namely, that Defendant cut her with the knife, resulting in her blood on the knife’s blade, and  
6 that it was her blood on the wall. Defendant’s complete failure to meet this requirement  
7 requires summary dismissal of the Motion.

8 **II. DEFENDANT HAS NOT DEMONSTRATED THAT HE IS ENTITLED**  
9 **TO LATENT FINGERPRINT ANALYSIS**

10 **A. NRS 176.0918 does not provide for latent fingerprint testing**

11 The only statute Defendant cites to support his motion is NRS 176.0918. This statute  
12 sets forth the procedure and criteria for a convicted person to request genetic marker analysis  
13 of evidence. It authorizes no other form of evidence testing. As Defendant has failed to provide  
14 any legal basis for his request for latent fingerprint analysis, this request must be denied.<sup>2</sup>

15 **B. Even if latent fingerprint testing could be requested pursuant to NRS**  
16 **176.0918, latent fingerprint testing of the knife cannot lead to**  
17 **exculpatory evidence in this case.**

18 Defendant appears to believe that latent fingerprint analysis would reveal Carpenter’s  
19 fingerprints on the steak knife that was found at the scene. Motion, at 7. Such a finding would  
20 hardly be surprising, as the knife belonged to Carpenter. In fact, Carpenter testified at trial that  
21 she had used the knife the evening before the crime to eat her steak dinner, and after eating  
22 she had left the knife on the kitchen stove. Trial Transcript, Day 1, p. 53. Thus, Carpenter’s  
23 fingerprints on the knife would clearly not constitute exculpatory evidence in this case.  
24 Similarly, the absence of Defendant’s fingerprints on the knife would be in no way

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25 <sup>2</sup>Should Defendant claim that he is requesting latent fingerprint analysis as discovery related to his pending post-conviction  
26 proceeding, he has also not demonstrated he is entitled to discovery. There is no constitutional right to discovery in post-  
27 conviction proceedings. DA’s Office v. Osborne, 557 U.S. 52, 69-70, 129 S. Ct. 2308, 2320-21 (2009). Even in the federal  
28 system, “[a] habeas defendant, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of  
ordinary course.” Bracy v. Gramley, 520 U.S. 899, 904, 117 S. Ct. 1793, 1796-97 (1997). In Nevada, discovery is only  
available in post-conviction proceedings upon a judicial determination of good cause justifying it and after an evidentiary  
hearing has been set. NRS 34.780(2).

1 exculpatory, as it would not prove Defendant did not handle the knife nor would it support his  
2 self-defense claim. It is also unclear whether the knife was impounded in a manner preserving  
3 it for latent fingerprint analysis. There is no mention of visible prints or the preservation of  
4 potential fingerprints in either the Crime Scene Investigation Report or the Evidence Impound  
5 Report. Motion, Exhibits 1 and 2. There is simply no basis for granting Defendant's request  
6 for fingerprint analysis.

7 **III. SHOULD THE COURT DECIDE TO HEAR DEFENDANT'S MOTION**  
8 **ON THE MERITS, THE STATE RESERVES THE RIGHT TO FILE AN**  
9 **OPPOSITION UNDER NRS 176.0918(5).**

10 NRS 176.0918(4)(c) states, in relevant part:

11 4. If a petition is filed pursuant to this section, the court may:

12 (c) Schedule a hearing on the petition. If the court schedules a hearing on  
13 the petition, the court shall determine which person or agency has possession or  
14 custody of the evidence and shall immediately issue an order requiring, during  
15 the pendency of the proceeding, each person or agency in possession or custody  
16 of the evidence to:

17 (1) Preserve all evidence within the possession or custody of the person  
18 or agency that may be subjected to genetic marker analysis pursuant to this  
19 section;

20 (2) Within 90 days, prepare an inventory of all evidence relevant to the  
21 claims in the petition within the possession or custody of the person or agency  
22 that may be subjected to genetic marker analysis pursuant to this section; and

23 (3) Within 90 days, submit a copy of the inventory to the defendant, the  
24 prosecuting attorney and the court.

25 Further, NRS 176.0918(5) states:

26 Within 90 days after the inventory of all evidence is prepared pursuant to  
27 subsection 4, the prosecuting attorney may file a written response to the petition  
28 with the court.

Even if the court wished to consider Defendant's claims, it would be premature to issue  
the requested orders because no inventory has been completed. The items Defendant wishes  
to have tested were impounded nearly seven years ago, and it is unknown if these items are  
still in the custody of the Las Vegas Metropolitan Police Department.

///

1 Furthermore, the State notes that Defendant has requested comparisons of the blood  
2 samples and fingerprints with Carpenter's fingerprints and genetic markers. None of the  
3 documentation attached to the instant Motion suggests that the Las Vegas Metropolitan Police  
4 Department is in possession a genetic sample or fingerprint exemplar from Carpenter that  
5 could be used for such comparisons. The State has no reason to believe such a sample is in the  
6 possession of the Las Vegas Metropolitan Police Department. NRS 176.0918 authorizes  
7 testing of evidence that already exists; it is not intended as a mechanism for gathering new  
8 evidence. NRS 176.0918 does not empower this Court to compel an order for an individual to  
9 provide a genetic sample or fingerprint exemplar. Even if it did, this would likely run afoul of  
10 the Fourth Amendment.

11 Should the Court decide to hear Defendant's petition on the merits, under NRS  
12 176.0918(4) the Court must allow for 90 days to prepare an inventory of all evidence relevant  
13 to the claims. Within 90 days after such an inventory is prepared, the State has the ability to  
14 file an opposition. Although it is the State's position that Defendant's petition must be  
15 dismissed for its failure to comply with statutory requirements, the State reserves the right to  
16 file an opposition pursuant to NRS 176.0918(5) should this Court decide to hear Defendant's  
17 petition on the merits.

### 18 CONCLUSION

19 For the foregoing reasons, the State respectfully requests Defendant's Motion  
20 Requesting Order Directing the Las Vegas Metropolitan Police Department to Conduct  
21 Genetic Marker and Latent Fingerprint Analysis of Evidence Impounded at Crime Scene be  
22 DENIED.

23 DATED this 11th day of February, 2021.

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

26  
27 BY /s/ Karen Mishler  
KAREN MISHLER  
28 Chief Deputy District Attorney  
Nevada Bar #013730

1                                    CERTIFICATE OF ELECTRONIC TRANSMISSION

2                    I hereby certify that service of the above and foregoing was made this 11th day of  
3 February, 2021, by electronic transmission, through Odyssey eFileNV EfileAndServe, to:

4                                    JEAN SCHWARTZER, ESQ.  
5                                    Email Address: jean.schwartzter@gmail.com

6                                    BY: /s/ Jennifer Georges  
7                                    Secretary for the District Attorney's Office

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**ORDR**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
KAREN MISHLER  
Chief Deputy District Attorney  
Nevada Bar #013730  
200 Lewis Avenue  
Las Vegas, NV 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173

Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

**ORDER DENYING DEFENDANT'S MOTION REQUESTING ORDER  
DIRECTING THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
TO CONDUCT GENETIC MARKER AND LATENT FINGERPRINT ANALYSIS  
OF EVIDENCE IMPOUNDED AT CRIME SCENE**

DATE OF HEARING: February 17, 2021  
TIME OF HEARING: 11:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 17th day of February, 2021, the Defendant not being present, represented by JEAN SCHWARTZER, ESQ., the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through KAREN MISHLER, Chief Deputy District Attorney, and the Court having heard the arguments of counsel, based on the pleadings, and good cause appearing therefore, the Court hereby RULES as follows:

The instant Motion was made pursuant to NRS 176.0918. The Court has waived the requirement contained in NRS 176.0918(3) that a petition filed pursuant to this statute must contain a declaration under penalty of perjury.

1 As to the Defendant's request for fingerprint analysis, NRS 176.0918 does not  
2 authorize a court to order testing or analysis of latent fingerprints. No other statute or legal  
3 basis was offered to support the request for latent fingerprint analysis.

4 Furthermore, even if the victim's fingerprints were found on the knife, this would not  
5 be exculpatory, because the victim testified at trial that she owned the knife and had used it  
6 the evening before.

7 Accordingly, the request for an order directing the Las Vegas Metropolitan Police  
8 Department to conduct latent fingerprint analysis of the evidence impounded in this case is  
9 denied.

10 As to the request for genetic marker analysis, the Court finds that if such testing were  
11 conducted, and the results anticipated by Defendant were obtained, such results would not  
12 rise to a reasonable possibility that the Defendant would not have been prosecuted or  
13 convicted. See NRS 176.0918(3)(b).

14 Even if the blood on the knife and the blood samples matched Defendant's genetic  
15 markers, at most it would show that Defendant left his blood at the scene. Such results would  
16 not exculpate him of guilt as to the crimes for which he was convicted.

17 Accordingly, the request for an order directing the Las Vegas Metropolitan Police  
18 Department to conduct genetic marker analysis of the evidence impounded in this case is  
19 denied.

20 Dated this 16th day of April, 2021

21   
22

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

DEB D87 89BA ACD2  
Jacqueline M. Bluth  
District Court Judge

MT

25 BY /s/ Karen Mishler  
26 KAREN MISHLER  
27 Chief Deputy District Attorney  
Nevada Bar #013730

28 jg/DVU



1 **CSERV**

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

5  
6 State of Nevada

CASE NO: C-14-298879-1

7 vs

DEPT. NO. Department 6

8 Genaro Perry  
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: 4/16/2021

15 Clark County District Attorney's Office .

PDMotions@clarkcountyda.com

16 Patricia Pinotti .

plpinotti@gmail.com

17 Travis Shetler .

travisshtler@gmail.com

18 Jean Schwartzer

jean.schwartzter@gmail.com

*Steven D. Grierson*

1 COSCC

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3  
4  
5 DISTRICT COURT  
CLARK COUNTY, NEVADA

6 \* \* \* \*

7 STATE OF NEVADA

CASE NO.: C-14-298879-1

8 VS

DEPARTMENT 6

9 GENARO PERRY

10  
11 CRIMINAL ORDER TO STATISTICALLY CLOSE CASE

12 Upon review of this matter and good cause appearing,

13 IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to  
14 statistically close this case for the following reason:

15 **DISPOSITIONS:**

- 16 ☐ Nolle Prosequi (before trial)  
17 ☐ Dismissed (after diversion)  
18 ☐ Dismissed (before trial)  
19 ☐ Guilty Plea with Sentence (before trial)  
20 ☐ Transferred (before/during trial)  
21 ☐ Bench (Non-Jury) Trial  
22 ☐ Dismissed (during trial)  
23 ☐ Acquittal  
24 ☐ Guilty Plea with Sentence (during trial)  
25 ☐ Conviction  
26 ☐ Jury Trial  
27 ☐ Dismissed (during trial)  
28 ☐ Acquittal  
☐ Guilty Plea with Sentence (during trial)  
☐ Conviction

25 ☒ Other Manner of Disposition

26 DATED this 11th day of May, 2021.

27  
28 *J. Bluth*  
JACQUELINE M. BLUTH  
DISTRICT COURT JUDGE



NOASC  
JEAN J. SCHWARTZER, ESQ.  
Nevada Bar No. 11223  
LAW OFFICE OF JEAN J. SCHWARTZER, Ltd.  
170 S Green Valley Parkway #300  
Henderson, NV 89012  
Phone: 702-979-9941  
jean.schwartzter@gmail.com  
Attorney for Petitioner

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA FOR THE COUNTY OF CLARK

GENARO RICHARD PERRY,	)	Case No.: C298879-1
	)	
Petitioner,	)	Dept No.: VI
	)	
vs.	)	
	)	
RENEE BAKER, WARDEN	)	
	)	
Lovelock Correctional Center,	)	
	)	
Respondent.	)	

**NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that GENARO RICHARD PERRY, defendant above named, hereby appeals to the Supreme Court of Nevada from the denial of his **MOTION REQUESTING ORDER DIRECTING THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT TO CONDUCT GENETIC MARKER AND LATENT PRINT ANALYSIS OF EVIDENCE IMPOUNDED AT CRIME SCENE** entered in this action on the 16<sup>th</sup> day of April, 2021.

DATED this 14<sup>th</sup> day of May, 2021.

/s/ Jean J. Schwartzter  
JEAN J. SCHWARTZER, ESQ.  
Nevada Bar No. 11223  
LAW OFFICE OF JEAN J. SCHWARTZER  
Counsel for Appellant

1 **CERTIFICATE OF SERVICE**

2  
3 **IT IS HEREBY CERTIFIED** by the undersigned that on 14<sup>th</sup> day of  
4 May, 2021, I served a true and correct copy of the foregoing **NOTICE OF APPEAL** on the parties  
5 listed on the attached service list via one or more of the methods of service described below as  
6 indicated next to the name of the served individual or entity by a checked box:

7 **VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage thereon  
8 fully prepaid, in the United States mail at Las Vegas, Nevada.

9 **VIA FACSIMILE:** by transmitting to a facsimile machine maintained by the attorney or the party  
10 who has filed a written consent for such manner of service.

11 **BY PERSONAL SERVICE:** by personally hand-delivering or causing to be hand delivered by such  
12 designated individual whose particular duties include delivery of such on behalf of the firm,  
13 addressed to the individual(s) listed, signed by such individual or his/her representative accepting on  
14 his/her behalf. A receipt of copy signed and dated by such an individual confirming delivery of the  
15 document will be maintained with the document and is attached.

16 **BY E-MAIL:** by transmitting a copy of the document in the format to be used for attachments to the  
17 electronic-mail address designated by the attorney or the party who has filed a written consent for  
18 such manner of service.

19 By:

/s/ Jean J. Schwartzer

20 JEAN J. SCHWARTZER, ESQ.

Nevada Bar No. 11223

21 LAW OFFICE OF JEAN J. SCHWARTZER

10620 Southern Highlands Parkway, Suite 110-473

22 Las Vegas, Nevada 89141

(702) 979-9941

23 Counsel for Appellant

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**SERVICE LIST**

<b>ATTORNEYS OF RECORD</b>	<b>PARTIES REPRESENTED</b>	<b>METHOD OF SERVICE</b>
CLARK COUNTY DISTRICT ATTORNEY’S OFFICE 200 E. Lewis Ave Las Vegas, NV 89101  <a href="mailto:pdmotions@clarkcountyda.com">pdmotions@clarkcountyda.com</a>	State of Nevada	<input type="checkbox"/> Personal service <input checked="" type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service



1 **ASTA**  
2 **JEAN J. SCHWARTZER, ESQ.**  
3 Nevada Bar No. 11223  
4 **LAW OFFICE OF JEAN J. SCHWARTZER, Ltd.**  
5 170 S Green Valley Parkway #300  
6 Henderson, NV 89012  
7 Phone: 702-979-9941  
8 jean.schwartzter@gmail.com  
9 Attorney for Petitioner

6  
7 **DISTRICT COURT**  
8  
9 **CLARK COUNTY, NEVADA**

10 **GENARO RICHARD PERRY,**  
11 **Petitioner,**  
12 **vs.**  
13 **RENEE BAKER, WARDEN**  
14 **Lovelock Correctional Center,**  
15 **Respondent.**

) Case No.: C298879-1

) Dept No.: VI

16  
17 **CASE APPEAL STATEMENT**

- 18  
19 1. **Name of appellant filing this case appeal statement:** Genaro Richard Perry,  
20 hereinafter referred to as "Appellant."  
21  
22 2. **Judge issuing the decision:** Honorable Judge Jacqueline M. Bluth denied  
23 Appellant's Motion Requesting Order Directing the Las Vegas Metropolitan Police  
24 Department to Conduct Genetic Marker and Latent Print Analysis of Evidence Impounded  
25 at Crime Scene.  
26  
27 3. **Identify each appellant and counsel:** Appellant is currently represented by Jean J.  
28 Schwartzter, Esq., of Law Office of Jean J. Schwartzter, located at 170 S Green Valley  
Parkway #300 Henderson, NV 89012 Phone: 702-979-9941.  
4. **Identify each respondent and counsel:** STATE OF NEVADA through Alexander  
Chen, Esq., of the Clark County District Attorney's Office, located at 200 Lewis

Avenue, 9<sup>th</sup> Floor, Las Vegas, Nevada 89155; phone number (702) 671-2500.

5. **License status of attorneys mentioned in Nos. 3 and 4:** Both attorneys are currently licensed in Nevada.
6. **Indicate whether Appellant was represented in the District Court by retained or appointed counsel:** Appointed.
7. **Indicate whether Appellant is represented in his appeal by retained or appointed counsel:** Appointed.
8. **Indicate whether appellant was granted leave to proceed in forma pauperis:**  
N/A
9. **Indicate the date the proceedings commenced in the District Court:** The proceedings referenced herein were initiated before the District Court with the filing of a Motion Requesting Order Directing the Las Vegas Metropolitan Police Department to Conduct Genetic Marker and Latent Print Analysis of Evidence Impounded at Crime Scene on February 3, 2021.
10. **Provide a brief description of the nature of the action and result in the District Court:** This appeal stems from the denial of a Motion Requesting Order Directing the Las Vegas Metropolitan Police Department to Conduct Genetic Marker and Latent Print Analysis of Evidence Impounded at Crime Scene.
11. **Indicate whether this case has previously been the subject of an appeal or original writ proceeding in the Supreme Court:** Yes. Appellant previously appealed his judgment of conviction.
12. **Indicate whether this appeal involves child custody or visitation:** This appeal does not involve child custody or visitation.

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13. If this is a civil case, indicate whether this appeal involves the possibility of  
settlement: This is a criminal case.

Dated this 1<sup>st</sup> day of June, 2021.

BY: /s/ Jean J. Schwartzer  
**JEAN J. SCHWARTZER, ESQ.**  
Nevada Bar No. 011223  
LAW OFFICE OF JEAN J. SCHWARTZER, Ltd.  
170 S. Green Valley Parkway #300  
Henderson, NV 89012  
Phone: 702-979-9941  
jean.schwartzter@gmail.com  
Attorney for Petitioner



**CERTIFICATE OF SERVICE**

**IT IS HEREBY CERTIFIED** by the undersigned that on the 1<sup>st</sup> day of June, 2021, I served a true and correct copy of the foregoing **CASE APPEAL STATEMENT** on the parties listed on the attached service list via one or more of the methods of service described below as indicated next to the name of the served individual or entity by a checked box:

**VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada.

**VIA FACSIMILE:** by transmitting to a facsimile machine maintained by the attorney or the party who has filed a written consent for such manner of service.

**BY PERSONAL SERVICE:** by personally hand-delivering or causing to be hand delivered by such designated individual whose particular duties include delivery of such on behalf of the firm, addressed to the individual(s) listed, signed by such individual or his/her representative accepting on his/her behalf. A receipt of copy signed and dated by such an individual confirming delivery of the document will be maintained with the document and is attached.

**BY E-MAIL:** by transmitting a copy of the document in the format to be used for attachments to the electronic-mail address designated by the attorney or the party who has filed a written consent for such manner of service.

By: /s/ Jean J. Schwartz  
JEAN J. SCHWARTZER, ESQ.  
Nevada Bar No. 011223  
LAW OFFICE OF JEAN J. SCHWARTZER, Ltd.  
170 S. Green Valley Parkway #300  
Henderson, NV 89012  
Phone: 702-979-9941  
jean.schwartz@gmail.com  
Attorney for Petitioner

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SERVICE LIST

ATTORNEYS OF RECORD	PARTIES REPRESENTED	METHOD OF SERVICE
CLARK COUNTY DISTRICT ATTORNEY’S OFFICE 200 E. Lewis Ave Las Vegas, NV 89101 Alexander.Chen@clarkcountyda.com	State of Nevada	<input type="checkbox"/> Personal service <input checked="" type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER  
200 LEWIS AVENUE, 3<sup>rd</sup> FL.  
LAS VEGAS, NEVADA 89155-1160  
(702) 671-4554

Steven D. Grierson  
Clerk of the Court

Anntoinette Naumec-Miller  
Court Division Administrator

---

June 16, 2021

**Attorney:** Jean Schwartzer  
Law Office Of Jean J Schwartzer  
Attn Jean J Schwartzer  
10620 Southern Highlands Pkwy  
Suite 110-473  
Las Vegas NV 89141

**Case Number:** C-14-298879-1  
**Department:** Department 6

**Defendant:** Genaro Richard Perry

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

Pleadings: **Motion To Modify Sentence**

**Rule 3.70. Papers which May Not be Filed**

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

Cordially yours,  
DC Criminal Desk # 7  
Deputy Clerk of the Court

1 Genaro Richard Perry 1153364  
2 Defendant/ In Propria Person  
3 Post Office Box 203  
4 Indian Springs, Nevada 89070

5 IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF THE STATE  
6 OF NEVADA IN AND FOR THE COUNTY OF Clark

7  
8 The State of Nevada  
9 Plaintiff,

10 VS

11 Genaro Richard Perry,  
12 Defendant,

Case No. C298879-1

Dept NO. V1

13  
14  
15 MOTION TO MODIFY AND/OR CORRECT  
16 ILLEGAL SENTENCE

17  
18 Date of hearing :  
19 Time of hearing :

20 COMES NOW, DEFENDENT, Genaro Richard Perry, proceeding  
21 in proper person, hereby motion this Honorable Court  
22 pursuant to N.R.S 176.555 and Edwards v. state.

23 This motion is made in based upon all papers and pleadings  
24 on file, the points and authorities and exhibits attached  
25 here to.

RECEIVED  
JUN 14 2021

26  
27 Dated; this 30<sup>th</sup> day of May, 2021.

CLERK OF THE COURT

28  
Genaro R. Perry  
Genaro Richard Perry  
DEFENDENT

### POINTS AND AUTHORITIES

"Motion to modify sentence" is limited in scope to sentences based on mistaken assumptions about defendant's criminal record which work to defendant's extreme detriment, while " Motion to correct illegal sentence " addresses only facial legality of sentence. State v. District Court, 100 Nev. 90, 97, 677 p.2d 1044 1048 (1984), and Edwards v. State, 918 p.2d 321 (nev. 1996).

Further N.R.S 176.555 Motion to Modify and/or Correct a sentence, may be filed at any time.

Defendant herein alleges that his sentence should be modified and/or corrected pursuant to the following facts.

#### Background

Defendant was sentenced on 1/22/2016, after trial and conviction of the following crimes.

Count (1)

Robbery with the use of a deadly weapon

Count (2)

False imprisonment with the use of a deadly weapon.

Count (3)

Grand Larceny Auto

## Background

Count (4)

Assault with a deadly weapon

Count (5)

Coercion

Count (6)

Battery resulting in substantial bodily harm

Count (7)

Preventing or dissuading witness or victim from reporting crime or commencing prosecution.

Defendant was sentenced to a aggregate total sentence of Three Hundred Thirty Six (336) months maximum with a minimum of Ninety-Six (96) months.

As per NRS. 213.1212. On or after July 1, 2014. All sentences are automatically aggregated by the sentencing court.

On 4/28/2017. Upon inquiry of the Nevada Department of Corrections and order of this court, the aggregate total sentence of Three Hundred Thirty-Six (336) months maximum

-CONT-

with a minimum of ninety-six (96) months is removed and a new (JOC) was issued out of the presence of defendant.

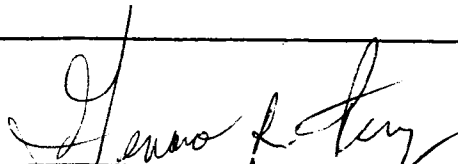
Then on 8/8/2017 a new (JOC) was ordered again out of the presence and without the knowledge of defendant. Wick states the following. "It is hereby ordered verbiage referencing an aggregate total sentence is stricken."

### Legal Argument

Defendant was sentenced properly to the aggregate term of (96) months to (336) months.

So for my sentence to be changed because of a inquiry by the Nevada Department of Corrections. Goes against the statute of NRS 213.1212. Wick defendant was correctly sentenced under.

Also in-order for a new (JOC) to be issued. The defendant must be present in court with defense counsel at the time of sentencing.

  
Genaro Richard Perry #1153366  
Defendent/ In

Thereby, pursuant to the facts and the law stated herein,  
Defendant, request that his sentence be modified/corrected as  
follows:

A aggregate total sentence of  
Three Hundred Thirty-Six (336) months  
maximum with a minimum of Ninety-Six  
(96) months.

Dated; this 30 DAY OF May, 2021.

Genaro R. Perry  
Genaro Richard Perry # 1153586  
Defendant/propria person



1 Genaro Richard Perry ID NO: 1153366

2 Southern Desert Correctional Center

3 Post Office Box 208

4 Indian Springs, Nevada 89070-0208

5  
6 IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 FOR THE COUNTY OF Clark

8  
9 State of Nevada  
10 Plaintiff,

Case No: C298879-1

Dept. No: V1

11 v.  
12 Genaro Richard Perry  
13 Defendant

Hearing requested:

14 NOTICE OF MOTION

15 MOTIONS FOR MODIFICATION OF SENTENCE

16  
17 Comes now, Defendant, Genaro Richard Perry pro per, and respectfully moves  
18 this Honorable court for a modification of sentence.

19 This motion is based pursuant to the supporting Points and Authorities attached hereto, NRS  
20 176.555, as well as all papers pleading, and documents on file herein.

21 POINTS AND AUTHORITIES

22 1. STANDARD OF REVIEW

23 The Nevada Supreme Court has long recognized that Court's have the power and Jurisdiction to  
24 Modify a sentence, see, Staley v. State, 787 P.2d 396, 106 Nev. 75 (1990):

25  
26 "That if a sentencing court pronounces sentence within statutory limits, the court will have  
27 Jurisdiction to MODIFY, suspend or other wise correct that sentence if it is based upon  
28 materially untrue assumptions or mistakes which work to the extreme detriment of the  
defendant"

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JUN 14 2021

CLERK OF THE COURT

1 Defendant believes that this court has, based upon Staley, the jurisdiction to MODIFY his  
2 sentence, due to that sentence being pronounced based upon a Pre-Sentence Investigation Report which  
3 did have several material facts in error, which will be discussed below in the statement of facts.

4 Respondent may argue that laches apply due to the fact that three [3] years have passed since  
5 sentence was pronounced. However, the Nevada Supreme Court held that such time requirement does not  
6 apply to a request for Modification of Sentence, see, *Passanisi v. State*, 831 P2d 1371, 108 Nev. 318  
7 (1995):

8 ... "we note that the trial court has inherent authority to correct a sentence at any time if such  
9 sentence based on mistake of material fact that worked to the extreme detriment of the defendant.  
10 (Citations Omitted). If the trial court has inherent authority to correct a sentence, a Fortiori, if has  
11 the power to entertain a motion requesting it to exercise that inherent authority.... Thus, the time  
12 limits and other restrictions with respect to a post-conviction relief do not apply to a Motion to  
13 Modify a Sentence based on a claim that the sentence was illegal or was based on an untrue  
14 assumption of the fact that amounted to denial of due process (Emphasis added) Id. 831 P2d at  
15 1372n. 1. See also, *Edwards v. State*, 918 P2d 321, 324, 112 Nev. 704 (1996).

16 Defendant, as stated above, is alleging that his sentence by this Court was based upon  
17 assumptions founded upon his Pre-Sentence Investigation Report (PSI) that had several factors in error,  
18 and as such, his constitutional right to due process was violated. See, *State v. District Court*, 677 P2d  
19 1044, 100 Nev. 90 (1984):

20 The district court's inherent authority to correct a judgment or sentence founded on mistake is in  
21 accord with the constitutional considerations underlying the sentencing process. The United  
22 States Supreme Court has expressly held that where a defendant is sentenced on the basis of  
23 materially untrue assumptions concerning his criminal record, "(the) result whether caused by  
24 carelessness or design, is inconsistent with due process of law". *Townsend v. Burke*, 736, 741,  
25 68 S. Ct. 12552, 1255, 92 L. Ed. 1690 (1948). Further, the cases clearly established that  
26 constitutionally Violate "materially untrue assumptions" concerning a criminal record may arise  
27 either as a result of a sentencing judge's correct perception of misapprehension. (Emphasis in  
28 original). Id. 677 P2d at 1048 n. 3.

29 Defendant would asks that this Court not perceive this request to be pointing the finger at the  
30 Court and saying 'you were wrong' as that is not the case. Defendant is merely requesting that the Court  
31 reconsider the sentence that was pronounced based upon mistakes of fact in the PSI report and at  
32 sentencing.

II. STATEMENT OF FACTS

Motions for modification of sentence.

1 CONCLUSION

2 WHEREFORE, all of the above stated reasons, Defendant respectfully requests this Honorable Court to  
3 Modify his/her Sentence in accordance with this Court's fair and just consideration of the facts of the case.

4  
5 Dated this 30 day of May, 20 21

6  
7  
8 By: Genaro R. Perry  
9 Genaro Richard Perry # 1153366

10 Southern Desert Correctional Center

11 P.O. BOX 208

12 INDIAN SPRINGS, NEVADA 89070-208  
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1. Genaro Richard Perry, certify that the foregoing "Motion For Modification of Sentence", was served upon the Respondent pursuant to NRCP 5 (b), by placing same in the United States Postal Service, postage being fully pre-paid, and addressed as follows:

Clerk of Courts

200 Lewis Ave 3rd floor  
LV NV 89155-1160

District Attorney's Office

Dated this 30 day of May, 2021.

By:

Genaro R Perry  
Genaro Richard Perry #1153366

P.O. Box 208  
Indian Springs, NV. 89070

Defendant, In Proper Person

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

Notice of Motion  
(Title of Document)

filed in District Court Case number C298879-1

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

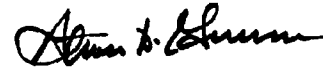
Genaro R. Perry  
Signature

May 30 2021  
Date

Genaro Richard Perry  
Print Name

\_\_\_\_\_  
Title

00  
Exhibit  
ONE



CLERK OF THE COURT

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY  
#1456173

Defendant.

CASE NO. C298879-1

DEPT. NO. VI

JUDGMENT OF CONVICTION  
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of  
COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in  
violation of NRS 200.380, 193.165; COUNT 2 – FALSE IMPRISONMENT WITH USE  
OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.460; COUNT 3 –  
GRAND LARCENY AUTO (Category B Felony) in violation of NRS 205.228.3; COUNT  
4 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS  
200.471; COUNT 5 – COERCION (Category B Felony) in violation of NRS 207.190;  
COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM  
CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of NRS

//



1 200.481, 200.485, 33.018; COUNT 7 – PREVENTING OR DISSUADING WITNESS OR  
2 VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D  
3 Felony) in violation of NRS 199.305; and the matter having been tried before a jury and  
4 the Defendant having been found guilty of said crimes; thereafter, on the 6<sup>th</sup> day of  
5 January, 2016, the Defendant was present in court for sentencing with his counsel,  
6 TRAVIS SHETLER, ESQ., and good cause appearing,  
7

8 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in  
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee,  
10 \$250.00 Indigent Defense Civil Assessment Fee, Restitution in the amount of  
11 \$18,103.28, and a \$150.00 DNA Analysis Fee including testing to determine genetic  
12 markers, plus a \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the  
13 Nevada Department of Corrections (NDC) as follows: AS TO **COUNT 1** - TO A  
14 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
15 Eligibility of THIRTY-SIX (36) MONTHS, plus a CONSECUTIVE term of ONE  
16 HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of  
17 THIRTY-SIX (36) MONTHS for use of a Deadly Weapon; AS TO **COUNT 2** - TO A  
18 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of EIGHTEEN  
19 (18) MONTHS, Count 2 to run CONCURRENT with Count 1; AS TO **COUNT 3** - TO A  
20 MAXIMUM of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of  
21 TWENTY-FOUR (24) MONTHS, Count 3 to run CONSECUTIVE to Counts 1 & 2; AS  
22 TO **COUNT 4** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
23 Eligibility of EIGHTEEN (18) MONTHS, Count 4 to run CONCURRENT with Count 3;  
24 AS TO **COUNT 5** - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
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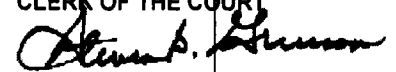
//

1 Eligibility of EIGHTEEN (18) MONTHS, Count 5 to run CONCURRENT with Count 4;  
2 AS TO **COUNT 6** - TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM  
3 Parole Eligibility of EIGHTEEN (18) MONTHS, Count 6 to run CONCURRENT with  
4 Count 5; and AS TO **COUNT 7** - TO A MAXIMUM of THIRTY-SIX (36) MONTHS with a  
5 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, Count 7 to run CONCURRENT  
6 with Count 6; with FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.  
7 Defendant's AGGREGATE TOTAL SENTENCE is THREE HUNDRED THIRTY-SIX  
8 (336) MONTHS MAXIMUM with a MINIMUM of NINETY-SIX (96) MONTHS.  
9  
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11  
12 DATED this 22 day of January, 2016.

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15 ELISSA F. CADISH  
16 DISTRICT COURT JUDGE  
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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

CASE NO. C298879-1

9 -vs-

DEPT. NO. VI

10  
11 GENARO RICHARD PERRY  
12 #1456173

Defendant.

13  
14 AMENDED JUDGMENT OF CONVICTION  
15 (JURY TRIAL)  
16

17 The Defendant previously entered a plea of not guilty to the crimes of  
18 COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in  
19 violation of NRS 200.380, 193.165; COUNT 2 – FALSE IMPRISONMENT WITH USE  
20 OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.460; COUNT 3 –  
21 GRAND LARCENY AUTO (Category B Felony) in violation of NRS 205.228.3; COUNT  
22 4 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS  
23 200.471; COUNT 5 – COERCION (Category B Felony) in violation of NRS 207.190;  
24 COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM  
25 CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of NRS  
26  
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28

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1 200.481, 200.485, 33.018; COUNT 7 – PREVENTING OR DISSUADING WITNESS OR  
2 VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D  
3 Felony) in violation of NRS 199.305; and the matter having been tried before a jury and  
4 the Defendant having been found guilty of said crimes; thereafter, on the 6<sup>th</sup> day of  
5 January, 2016, the Defendant was present in court for sentencing with his counsel,  
6 TRAVIS SHETLER, ESQ., and good cause appearing,  
7

8 THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offense(s) and, in  
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee,  
10 \$250.00 Indigent Defense Civil Assessment Fee, Restitution in the amount of  
11 \$18,103.28, and a \$150.00 DNA Analysis Fee including testing to determine genetic  
12 markers, plus a \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the  
13 Nevada Department of Corrections (NDC) as follows: AS TO COUNT 1 - TO A  
14 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
15 Eligibility of THIRTY-SIX (36) MONTHS, plus a CONSECUTIVE term of ONE  
16 HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of  
17 THIRTY-SIX (36) MONTHS for use of a Deadly Weapon; AS TO COUNT 2 - TO A  
18 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of EIGHTEEN  
19 (18) MONTHS, Count 2 to run CONCURRENT with Count 1; AS TO COUNT 3 - TO A  
20 MAXIMUM of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of  
21 TWENTY-FOUR (24) MONTHS, Count 3 to run CONSECUTIVE to Counts 1 & 2; AS  
22 TO COUNT 4 – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
23 Eligibility of EIGHTEEN (18) MONTHS, Count 4 to run CONCURRENT with Count 3;  
24 AS TO COUNT 5 - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
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1 Eligibility of EIGHTEEN (18) MONTHS, Count 5 to run CONCURRENT with Count 4;  
2 AS TO **COUNT 6** - TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM  
3 Parole Eligibility of EIGHTEEN (18) MONTHS, Count 6 to run CONCURRENT with  
4 Count 5; and AS TO **COUNT 7** - TO A MAXIMUM of THIRTY-SIX (36) MONTHS with a  
5 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, Count 7 to run CONCURRENT  
6 with Count 6; with FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.  
7

8 THEREAFTER, upon inquiry of the Nevada Department of Corrections and  
9 ORDER of this Court, the AGGREGATE TOTAL SENTENCE of THREE HUNDRED  
10 THIRTY-SIX (336) MONTHS MAXIMUM with a MINIMUM of NINETY-SIX (96)  
11 MONTHS is REMOVED.  
12

13 DATED this 28 day of April, 2017.

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16 ELISSA F. CADISH  
17 DISTRICT COURT JUDGE  
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*Steven D. Grierson*

JOC

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY  
#1456173

Defendant.

CASE NO. C298879-1

DEPT. NO. VI

AMENDED JUDGMENT OF CONVICTION  
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of  
COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in  
violation of NRS 200.380, 193.165; COUNT 2 – FALSE IMPRISONMENT WITH USE  
OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.460; COUNT 3 –  
GRAND LARCENY AUTO (Category B Felony) in violation of NRS 205.228.3; COUNT  
4 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS  
200.471; COUNT 5 – COERCION (Category B Felony) in violation of NRS 207.190;  
COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM  
CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of NRS

//

1 200.481, 200.485, 33.018; COUNT 7 – PREVENTING OR DISSUADING WITNESS OR  
2 VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D  
3 Felony) in violation of NRS 199.305; and the matter having been tried before a jury and  
4 the Defendant having been found guilty of said crimes; thereafter, on the 6<sup>th</sup> day of  
5 January, 2016, the Defendant was present in court for sentencing with his counsel,  
6 TRAVIS SHETLER, ESQ., and good cause appearing,  
7

8 THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offense(s) and, in  
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee,  
10 \$250.00 Indigent Defense Civil Assessment Fee, Restitution in the amount of  
11 \$18,103.28, and a \$150.00 DNA Analysis Fee including testing to determine genetic  
12 markers, plus a \$3.00 DNA Collection Fee, the Defendant was SENTENCED to the  
13 Nevada Department of Corrections (NDC) as follows: AS TO **COUNT 1** - TO A  
14 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
15 Eligibility of THIRTY-SIX (36) MONTHS, plus a CONSECUTIVE term of ONE  
16 HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of  
17 THIRTY-SIX (36) MONTHS for use of a Deadly Weapon; AS TO **COUNT 2** - TO A  
18 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of EIGHTEEN  
19 (18) MONTHS, Count 2 to run CONCURRENT with Count 1; AS TO **COUNT 3** - TO A  
20 MAXIMUM of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of  
21 TWENTY-FOUR (24) MONTHS, Count 3 to run CONSECUTIVE to Counts 1 & 2; AS  
22 TO **COUNT 4** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
23 Eligibility of EIGHTEEN (18) MONTHS, Count 4 to run CONCURRENT with Count 3;  
24 AS TO **COUNT 5** - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
25  
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//

1 Eligibility of EIGHTEEN (18) MONTHS, Count 5 to run CONCURRENT with Count 4;  
2 AS TO **COUNT 6** - TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM  
3 Parole Eligibility of EIGHTEEN (18) MONTHS, Count 6 to run CONCURRENT with  
4 Count 5; and AS TO **COUNT 7** - TO A MAXIMUM of THIRTY-SIX (36) MONTHS with a  
5 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, Count 7 to run CONCURRENT  
6 with Count 6; with FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.  
7 Defendant's AGGREGATE TOTAL SENTENCE is THREE HUNDRED THIRTY-SIX  
8 (336) MONTHS MAXIMUM with a MINIMUM of NINETY-SIX (96) MONTHS.  
9

10  
11 THEREAFTER, on the 31<sup>st</sup> day of July, 2017, the Defendant not appearing in  
12 court and pursuant to a request from the Nevada Department of Corrections (NDC)  
13 regarding aggregate terms of imprisonment imposed in the original Judgment of  
14 Conviction, and good cause appearing to amend the Judgment of Conviction; now  
15 therefore,  
16

17 IT IS HEREBY ORDERED verbiage referencing an aggregate total sentence is  
18 STRICKEN.  
19

20  
21 DATED this 7 day of August, 2017.  
22

23  
24   
25 ELISSA F. CADISH  
26 DISTRICT COURT JUDGE   
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 24, 2017**

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C-14-298879-1      State of Nevada  
                                 vs  
                                 Genaro Perry

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**April 24, 2017      8:30 AM      All Pending Motions**

**HEARD BY:** Cadish, Elissa F.

**COURTROOM:** RJC Courtroom 15B

**COURT CLERK:** Keith Reed  
Aja Brown

**RECORDER:** Jessica Kirkpatrick

**REPORTER:**

**PARTIES**

**PRESENT:**      Beverly, Leah C      Attorney  
                                 Shetler, Travis E  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Defendant's Pro Per Petition for Writ of Habeas Corpus (Post Conviction) (Evidentiary Hearing)...Defendant's Pro Per Motion for a New Trial with Newly Discovered Evidence. Motion to Vacate...Defendant's Pro Per Motion to Withdraw Counsel...Defendant's Pro Per Motion to Appoint Counsel...Defendant's Pro Per Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference

Defendant not present.

Court stated findings and ORDERED, Defendant's Pro Per Motion to Withdraw Counsel GRANTED; Defendant's Pro Per Motion to Appoint Counsel GRANTED to supplement the Petition For Writ of Habeas Corpus; Defendant's Pro Per Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference DENIED to the extent it seeks to have the Defendant transported for today's proceedings, and Defendant's Pro Per

PRINT DATE: 05/19/2021

Page 3 of 6

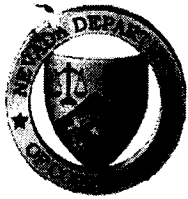
Minutes Date: April 24, 2017

Motion for a New Trial with Newly Discovered Evidence DENIED; matter SET for confirmation of counsel. FURTHER ORDERED, pursuant to the receipt of communication from the Nevada Department of Corrections, the Judgment of Conviction is to be amended to remove the aggregate sentence imposed due to the offense date of May 1, 2014, which is prior to the aggregation point of July 1, 2014.

NDC

5-1-17 8:30 AM Confirmation of Counsel...Defendant's Pro Per Petition for Writ of Habeas Corpus (Post Conviction) (Evidentiary Hearing)...

CLERK'S NOTE: Drew Christensen notified of calendared proceedings.



State of Nevada  
Department of Corrections  
Credit History by Sentence  
MAX Term

Offender: PERRY, GENARO - 0001153366

Sentence: 9

Count: 1

Current Earned Expiration Date: 06/20/2034

Case	Sentence Dt	JC	Retro Dt	MAX Term	Days Owed	PED	PEXD	Status
AG_171194_9	10/02/2018	0		18y 0m 0d	6575	10/01/2023	12/13/2027	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
09/10/2018	12/21/2018	MR_VC_CP	60	Computers	6515
10/01/2018	10/31/2018	WORK	7	Reduction for not working	6508
10/02/2018	10/31/2018	FLAT	30	No Comment	6478
10/02/2018	10/31/2018	STAT	20	No Comment	6458
11/01/2018	11/30/2018	FLAT	30	No Comment	6428
11/01/2018	11/30/2018	STAT	20	No Comment	6408
11/01/2018	11/30/2018	WORK	10	No Comment	6398
12/01/2018	12/31/2018	FLAT	31	No Comment	6367
12/01/2018	12/31/2018	STAT	20	No Comment	6347
12/01/2018	12/31/2018	WORK	10	No Comment	6337
01/01/2019	01/31/2019	FLAT	31	No Comment	6306
01/01/2019	01/31/2019	STAT	20	No Comment	6286
01/01/2019	01/31/2019	WORK	0	Reduction for not working	6286
01/24/2019	03/07/2019	MR_CP_AM	15	Anger Management for Substance Abuse and Mental	6271
02/01/2019	02/28/2019	FLAT	28	No Comment	6243
02/01/2019	02/28/2019	STAT	20	No Comment	6223
02/01/2019	02/28/2019	WORK	0	Reduction for not working	6223
03/01/2019	03/31/2019	FLAT	31	No Comment	6192
03/01/2019	03/31/2019	STAT	20	No Comment	6172
03/01/2019	03/31/2019	WORK	0	Reduction for not working	6172
04/01/2019	04/30/2019	FLAT	30	No Comment	6142
04/01/2019	04/30/2019	STAT	20	No Comment	6122
04/01/2019	04/30/2019	WORK	3	No Comment	6119
05/01/2019	05/31/2019	FLAT	31	No Comment	6088
05/01/2019	05/31/2019	STAT	20	No Comment	6068
05/01/2019	05/31/2019	WORK	10	No Comment	6058
06/01/2019	06/30/2019	FLAT	30	No Comment	6028
06/01/2019	06/30/2019	STAT	20	No Comment	6008
06/01/2019	06/30/2019	WORK	10	No Comment	5998
06/25/2019	08/29/2019	MR_CP_VI	30	Victim Impact: Listen and Learn	5968
07/01/2019	07/31/2019	FLAT	31	No Comment	5937
07/01/2019	07/31/2019	STAT	20	No Comment	5917
07/01/2019	07/31/2019	WORK	10	No Comment	5907
08/01/2019	08/31/2019	FLAT	31	No Comment	5876
08/01/2019	08/31/2019	STAT	20	No Comment	5856
08/01/2019	08/31/2019	WORK	8	Reduction for not working	5848
09/01/2019	09/30/2019	FLAT	30	No Comment	5818

The PEXD is the 'Projected Expiration Date', as such it is a projected date, and should only be considered an approximation of the actual release date. When NDOC staff have determined the actual release date, the offender's release caseworker will be informed. Entries in Blue are future credits that have not been earned yet.

Offender: PERRY, GENARO - 0001153366

Sentence: 9

Count: 1

Current Earned Expiration Date: 06/20/2034

Case	Sentence Dt	JC	Retro Dt	MAX Term	Days Owed	PED	PEXD	Status
AG_171194_9	10/02/2018	0		18y 0m 0d	6575	10/01/2023	12/13/2027	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
09/01/2019	09/30/2019	STAT	20	No Comment	5798
09/01/2019	09/30/2019	WORK	0	Reduction for not working	5798
10/01/2019	10/31/2019	FLAT	31	No Comment	5767
10/01/2019	10/31/2019	STAT	20	No Comment	5747
10/01/2019	10/31/2019	WORK	0	Reduction for not working	5747
11/01/2019	11/30/2019	FLAT	30	No Comment	5717
11/01/2019	11/30/2019	STAT	20	No Comment	5697
11/01/2019	11/30/2019	WORK	0	Reduction for not working	5697
12/01/2019	12/31/2019	FLAT	31	No Comment	5666
12/01/2019	12/31/2019	STAT	20	No Comment	5646
12/01/2019	12/31/2019	WORK	0	Reduction for not working	5646
01/01/2020	01/31/2020	FLAT	31	No Comment	5615
01/01/2020	01/31/2020	STAT	20	No Comment	5595
01/01/2020	01/31/2020	WORK	0	Reduction for not working	5595
02/01/2020	02/29/2020	FLAT	29	No Comment	5566
02/01/2020	02/29/2020	STAT	20	No Comment	5546
02/01/2020	02/29/2020	WORK	0	Reduction for not working	5546
03/01/2020	03/31/2020	FLAT	31	No Comment	5515
03/01/2020	03/31/2020	STAT	20	No Comment	5495
03/01/2020	03/31/2020	WORK	0	Reduction for not working	5495
04/01/2020	04/30/2020	FLAT	30	No Comment	5465
04/01/2020	04/30/2020	STAT	20	No Comment	5445
04/01/2020	04/30/2020	WORK	0	Reduction for not working	5445
05/01/2020	05/31/2020	FLAT	31	No Comment	5414
05/01/2020	05/31/2020	STAT	20	No Comment	5394
05/01/2020	05/31/2020	WORK	0	Reduction for not working	5394
06/01/2020	06/30/2020	FLAT	30	No Comment	5364
06/01/2020	06/30/2020	STAT	20	No Comment	5344
06/01/2020	06/30/2020	WORK	0	Reduction for not working	5344
07/01/2020	07/31/2020	FLAT	31	No Comment	5313
07/01/2020	07/31/2020	STAT	20	No Comment	5293
07/01/2020	07/31/2020	WORK	0	Reduction for not working	5293
08/01/2020	08/31/2020	FLAT	31	No Comment	5262
08/01/2020	08/31/2020	STAT	20	No Comment	5242
08/01/2020	08/31/2020	WORK	0	Reduction for not working	5242
09/01/2020	09/30/2020	FLAT	30	No Comment	5212
09/01/2020	09/30/2020	STAT	20	No Comment	5192
09/01/2020	09/30/2020	WORK	0	Reduction for not working	5192
10/01/2020	10/31/2020	FLAT	31	No Comment	5161
10/01/2020	10/31/2020	STAT	20	No Comment	5141
10/01/2020	10/31/2020	WORK	0	Reduction for not working	5141
11/01/2020	11/30/2020	FLAT	30	No Comment	5111
11/01/2020	11/30/2020	STAT	20	No Comment	5091

The PEXD is the 'Projected Expiration Date', as such it is a projected date, and should only be considered an approximation of the actual release date. When NDOC staff have determined the actual release date, the offender's release caseworker will be informed. Entries in Blue are future credits that have not been earned yet.

Offender: PERRY, GENARO - 0001153366

Sentence: 9

Count: 1

Current Earned Expiration Date: 06/20/2034

Case	Sentence Dt	JC	Retro Dt	MAX Term	Days Owed	PED	PEXD	Status
AG_171194_9	10/02/2018	0		18y 0m 0d	6575	10/01/2023	12/13/2027	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
11/01/2020	11/30/2020	WORK	0	Reduction for not working	5091
12/01/2020	12/31/2020	FLAT	31	No Comment	5060
12/01/2020	12/31/2020	STAT	20	No Comment	5040
12/01/2020	12/31/2020	WORK	5	Reduction for not working	5035
01/01/2021	01/31/2021	FLAT	31	No Comment	5004
01/01/2021	01/31/2021	STAT	20	No Comment	4984
01/01/2021	01/31/2021	WORK	6	Reduction for not working	4978
02/01/2021	02/28/2021	FLAT	28	No Comment	4950
02/01/2021	02/28/2021	STAT	20	No Comment	4930
02/01/2021	02/28/2021	WORK	10	No Comment	4920
03/01/2021	03/31/2021	FLAT	31	No Comment	4889
03/01/2021	03/31/2021	STAT	20	No Comment	4869
03/01/2021	03/31/2021	WORK	10	No Comment	4859
04/01/2021	04/30/2021	FLAT	30	No Comment	4829
04/01/2021	04/30/2021	STAT	20	No Comment	4809
04/01/2021	04/30/2021	WORK	10	No Comment	4799
05/01/2021	05/31/2021	FLAT	31	No Comment	4768
05/01/2021	05/31/2021	STAT	20	No Comment	4748
05/01/2021	05/31/2021	WORK	10	No Comment	4738
06/01/2021	06/30/2021	FLAT	30	No Comment	4708
06/01/2021	06/30/2021	STAT	20	No Comment	4688
06/01/2021	06/30/2021	WORK	10	No Comment	4678
07/01/2021	07/31/2021	FLAT	31	No Comment	4647
07/01/2021	07/31/2021	STAT	20	No Comment	4627
07/01/2021	07/31/2021	WORK	10	No Comment	4617
08/01/2021	08/31/2021	FLAT	31	No Comment	4586
08/01/2021	08/31/2021	STAT	20	No Comment	4566
08/01/2021	08/31/2021	WORK	10	No Comment	4556
09/01/2021	09/30/2021	FLAT	30	No Comment	4526
09/01/2021	09/30/2021	STAT	20	No Comment	4506
09/01/2021	09/30/2021	WORK	10	No Comment	4496
10/01/2021	10/31/2021	FLAT	31	No Comment	4465
10/01/2021	10/31/2021	STAT	20	No Comment	4445
10/01/2021	10/31/2021	WORK	10	No Comment	4435
11/01/2021	11/30/2021	FLAT	30	No Comment	4405
11/01/2021	11/30/2021	STAT	20	No Comment	4385
11/01/2021	11/30/2021	WORK	10	No Comment	4375
12/01/2021	12/31/2021	FLAT	31	No Comment	4344
12/01/2021	12/31/2021	STAT	20	No Comment	4324
12/01/2021	12/31/2021	WORK	10	No Comment	4314
01/01/2022	01/31/2022	FLAT	31	No Comment	4283
01/01/2022	01/31/2022	STAT	20	No Comment	4263
01/01/2022	01/31/2022	WORK	10	No Comment	4253

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Offender: PERRY, GENARO - 0001153366

Sentence: 9

Count: 1

Current Earned Expiration Date: 06/20/2034

Case	Sentence Dt	JC	Retro Dt	MAX Term	Days Owed	PED	PEXD	Status
AG_171194_9	10/02/2018	0		18y 0m 0d	6575	10/01/2023	12/13/2027	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
02/01/2022	02/28/2022	FLAT	28	No Comment	4225
02/01/2022	02/28/2022	STAT	20	No Comment	4205
02/01/2022	02/28/2022	WORK	10	No Comment	4195
03/01/2022	03/31/2022	FLAT	31	No Comment	4164
03/01/2022	03/31/2022	STAT	20	No Comment	4144
03/01/2022	03/31/2022	WORK	10	No Comment	4134
04/01/2022	04/30/2022	FLAT	30	No Comment	4104
04/01/2022	04/30/2022	STAT	20	No Comment	4084
04/01/2022	04/30/2022	WORK	10	No Comment	4074
05/01/2022	05/31/2022	FLAT	31	No Comment	4043
05/01/2022	05/31/2022	STAT	20	No Comment	4023
05/01/2022	05/31/2022	WORK	10	No Comment	4013
06/01/2022	06/30/2022	FLAT	30	No Comment	3983
06/01/2022	06/30/2022	STAT	20	No Comment	3963
06/01/2022	06/30/2022	WORK	10	No Comment	3953
07/01/2022	07/31/2022	FLAT	31	No Comment	3922
07/01/2022	07/31/2022	STAT	20	No Comment	3902
07/01/2022	07/31/2022	WORK	10	No Comment	3892
08/01/2022	08/31/2022	FLAT	31	No Comment	3861
08/01/2022	08/31/2022	STAT	20	No Comment	3841
08/01/2022	08/31/2022	WORK	10	No Comment	3831
09/01/2022	09/30/2022	FLAT	30	No Comment	3801
09/01/2022	09/30/2022	STAT	20	No Comment	3781
09/01/2022	09/30/2022	WORK	10	No Comment	3771
10/01/2022	10/31/2022	FLAT	31	No Comment	3740
10/01/2022	10/31/2022	STAT	20	No Comment	3720
10/01/2022	10/31/2022	WORK	10	No Comment	3710
11/01/2022	11/30/2022	FLAT	30	No Comment	3680
11/01/2022	11/30/2022	STAT	20	No Comment	3660
11/01/2022	11/30/2022	WORK	10	No Comment	3650
12/01/2022	12/31/2022	FLAT	31	No Comment	3619
12/01/2022	12/31/2022	STAT	20	No Comment	3599
12/01/2022	12/31/2022	WORK	10	No Comment	3589
01/01/2023	01/31/2023	FLAT	31	No Comment	3558
01/01/2023	01/31/2023	STAT	20	No Comment	3538
01/01/2023	01/31/2023	WORK	10	No Comment	3528
02/01/2023	02/28/2023	FLAT	28	No Comment	3500
02/01/2023	02/28/2023	STAT	20	No Comment	3480
02/01/2023	02/28/2023	WORK	10	No Comment	3470
03/01/2023	03/31/2023	FLAT	31	No Comment	3439
03/01/2023	03/31/2023	STAT	20	No Comment	3419
03/01/2023	03/31/2023	WORK	10	No Comment	3409
04/01/2023	04/30/2023	FLAT	30	No Comment	3379

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AG_171194_9	10/02/2018	0		18y 0m 0d	6575	10/01/2023	12/13/2027	A

From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
04/01/2023	04/30/2023	STAT	20	No Comment	3359
04/01/2023	04/30/2023	WORK	10	No Comment	3349
05/01/2023	05/31/2023	FLAT	31	No Comment	3318
05/01/2023	05/31/2023	STAT	20	No Comment	3298
05/01/2023	05/31/2023	WORK	10	No Comment	3288
06/01/2023	06/30/2023	FLAT	30	No Comment	3258
06/01/2023	06/30/2023	STAT	20	No Comment	3238
06/01/2023	06/30/2023	WORK	10	No Comment	3228
07/01/2023	07/31/2023	FLAT	31	No Comment	3197
07/01/2023	07/31/2023	STAT	20	No Comment	3177
07/01/2023	07/31/2023	WORK	10	No Comment	3167
08/01/2023	08/31/2023	FLAT	31	No Comment	3136
08/01/2023	08/31/2023	STAT	20	No Comment	3116
08/01/2023	08/31/2023	WORK	10	No Comment	3106
09/01/2023	09/30/2023	FLAT	30	No Comment	3076
09/01/2023	09/30/2023	STAT	20	No Comment	3056
09/01/2023	09/30/2023	WORK	10	No Comment	3046
10/01/2023	10/31/2023	FLAT	31	No Comment	3015
10/01/2023	10/31/2023	STAT	20	No Comment	2995
10/01/2023	10/31/2023	WORK	10	No Comment	2985
11/01/2023	11/30/2023	FLAT	30	No Comment	2955
11/01/2023	11/30/2023	STAT	20	No Comment	2935
11/01/2023	11/30/2023	WORK	10	No Comment	2925
12/01/2023	12/31/2023	FLAT	31	No Comment	2894
12/01/2023	12/31/2023	STAT	20	No Comment	2874
12/01/2023	12/31/2023	WORK	10	No Comment	2864
01/01/2024	01/31/2024	FLAT	31	No Comment	2833
01/01/2024	01/31/2024	STAT	20	No Comment	2813
01/01/2024	01/31/2024	WORK	10	No Comment	2803
02/01/2024	02/29/2024	FLAT	29	No Comment	2774
02/01/2024	02/29/2024	STAT	20	No Comment	2754
02/01/2024	02/29/2024	WORK	10	No Comment	2744
03/01/2024	03/31/2024	FLAT	31	No Comment	2713
03/01/2024	03/31/2024	STAT	20	No Comment	2693
03/01/2024	03/31/2024	WORK	10	No Comment	2683
04/01/2024	04/30/2024	FLAT	30	No Comment	2653
04/01/2024	04/30/2024	STAT	20	No Comment	2633
04/01/2024	04/30/2024	WORK	10	No Comment	2623
05/01/2024	05/31/2024	FLAT	31	No Comment	2592
05/01/2024	05/31/2024	STAT	20	No Comment	2572
05/01/2024	05/31/2024	WORK	10	No Comment	2562
06/01/2024	06/30/2024	FLAT	30	No Comment	2532
06/01/2024	06/30/2024	STAT	20	No Comment	2512

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From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
06/01/2024	06/30/2024	WORK	10	No Comment	2502
07/01/2024	07/31/2024	FLAT	31	No Comment	2471
07/01/2024	07/31/2024	STAT	20	No Comment	2451
07/01/2024	07/31/2024	WORK	10	No Comment	2441
08/01/2024	08/31/2024	FLAT	31	No Comment	2410
08/01/2024	08/31/2024	STAT	20	No Comment	2390
08/01/2024	08/31/2024	WORK	10	No Comment	2380
09/01/2024	09/30/2024	FLAT	30	No Comment	2350
09/01/2024	09/30/2024	STAT	20	No Comment	2330
09/01/2024	09/30/2024	WORK	10	No Comment	2320
10/01/2024	10/31/2024	FLAT	31	No Comment	2289
10/01/2024	10/31/2024	STAT	20	No Comment	2269
10/01/2024	10/31/2024	WORK	10	No Comment	2259
11/01/2024	11/30/2024	FLAT	30	No Comment	2229
11/01/2024	11/30/2024	STAT	20	No Comment	2209
11/01/2024	11/30/2024	WORK	10	No Comment	2199
12/01/2024	12/31/2024	FLAT	31	No Comment	2168
12/01/2024	12/31/2024	STAT	20	No Comment	2148
12/01/2024	12/31/2024	WORK	10	No Comment	2138
01/01/2025	01/31/2025	FLAT	31	No Comment	2107
01/01/2025	01/31/2025	STAT	20	No Comment	2087
01/01/2025	01/31/2025	WORK	10	No Comment	2077
02/01/2025	02/28/2025	FLAT	28	No Comment	2049
02/01/2025	02/28/2025	STAT	20	No Comment	2029
02/01/2025	02/28/2025	WORK	10	No Comment	2019
03/01/2025	03/31/2025	FLAT	31	No Comment	1988
03/01/2025	03/31/2025	STAT	20	No Comment	1968
03/01/2025	03/31/2025	WORK	10	No Comment	1958
04/01/2025	04/30/2025	FLAT	30	No Comment	1928
04/01/2025	04/30/2025	STAT	20	No Comment	1908
04/01/2025	04/30/2025	WORK	10	No Comment	1898
05/01/2025	05/31/2025	FLAT	31	No Comment	1867
05/01/2025	05/31/2025	STAT	20	No Comment	1847
05/01/2025	05/31/2025	WORK	10	No Comment	1837
06/01/2025	06/30/2025	FLAT	30	No Comment	1807
06/01/2025	06/30/2025	STAT	20	No Comment	1787
06/01/2025	06/30/2025	WORK	10	No Comment	1777
07/01/2025	07/31/2025	FLAT	31	No Comment	1746
07/01/2025	07/31/2025	STAT	20	No Comment	1726
07/01/2025	07/31/2025	WORK	10	No Comment	1716
08/01/2025	08/31/2025	FLAT	31	No Comment	1685
08/01/2025	08/31/2025	STAT	20	No Comment	1665
08/01/2025	08/31/2025	WORK	10	No Comment	1655

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From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
09/01/2025	09/30/2025	FLAT	30	No Comment	1625
09/01/2025	09/30/2025	STAT	20	No Comment	1605
09/01/2025	09/30/2025	WORK	10	No Comment	1595
10/01/2025	10/31/2025	FLAT	31	No Comment	1564
10/01/2025	10/31/2025	STAT	20	No Comment	1544
10/01/2025	10/31/2025	WORK	10	No Comment	1534
11/01/2025	11/30/2025	FLAT	30	No Comment	1504
11/01/2025	11/30/2025	STAT	20	No Comment	1484
11/01/2025	11/30/2025	WORK	10	No Comment	1474
12/01/2025	12/31/2025	FLAT	31	No Comment	1443
12/01/2025	12/31/2025	STAT	20	No Comment	1423
12/01/2025	12/31/2025	WORK	10	No Comment	1413
01/01/2026	01/31/2026	FLAT	31	No Comment	1382
01/01/2026	01/31/2026	STAT	20	No Comment	1362
01/01/2026	01/31/2026	WORK	10	No Comment	1352
02/01/2026	02/28/2026	FLAT	28	No Comment	1324
02/01/2026	02/28/2026	STAT	20	No Comment	1304
02/01/2026	02/28/2026	WORK	10	No Comment	1294
03/01/2026	03/31/2026	FLAT	31	No Comment	1263
03/01/2026	03/31/2026	STAT	20	No Comment	1243
03/01/2026	03/31/2026	WORK	10	No Comment	1233
04/01/2026	04/30/2026	FLAT	30	No Comment	1203
04/01/2026	04/30/2026	STAT	20	No Comment	1183
04/01/2026	04/30/2026	WORK	10	No Comment	1173
05/01/2026	05/31/2026	FLAT	31	No Comment	1142
05/01/2026	05/31/2026	STAT	20	No Comment	1122
05/01/2026	05/31/2026	WORK	10	No Comment	1112
06/01/2026	06/30/2026	FLAT	30	No Comment	1082
06/01/2026	06/30/2026	STAT	20	No Comment	1062
06/01/2026	06/30/2026	WORK	10	No Comment	1052
07/01/2026	07/31/2026	FLAT	31	No Comment	1021
07/01/2026	07/31/2026	STAT	20	No Comment	1001
07/01/2026	07/31/2026	WORK	10	No Comment	991
08/01/2026	08/31/2026	FLAT	31	No Comment	960
08/01/2026	08/31/2026	STAT	20	No Comment	940
08/01/2026	08/31/2026	WORK	10	No Comment	930
09/01/2026	09/30/2026	FLAT	30	No Comment	900
09/01/2026	09/30/2026	STAT	20	No Comment	880
09/01/2026	09/30/2026	WORK	10	No Comment	870
10/01/2026	10/31/2026	FLAT	31	No Comment	839
10/01/2026	10/31/2026	STAT	20	No Comment	819
10/01/2026	10/31/2026	WORK	10	No Comment	809
11/01/2026	11/30/2026	FLAT	30	No Comment	779

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From Date	To Date	Adjust Code	Adjust Days	Comments	Days Remaining
11/01/2026	11/30/2026	STAT	20	No Comment	759
11/01/2026	11/30/2026	WORK	10	No Comment	749
12/01/2026	12/31/2026	FLAT	31	No Comment	718
12/01/2026	12/31/2026	STAT	20	No Comment	698
12/01/2026	12/31/2026	WORK	10	No Comment	688
01/01/2027	01/31/2027	FLAT	31	No Comment	657
01/01/2027	01/31/2027	STAT	20	No Comment	637
01/01/2027	01/31/2027	WORK	10	No Comment	627
02/01/2027	02/28/2027	FLAT	28	No Comment	599
02/01/2027	02/28/2027	STAT	20	No Comment	579
02/01/2027	02/28/2027	WORK	10	No Comment	569
03/01/2027	03/31/2027	FLAT	31	No Comment	538
03/01/2027	03/31/2027	STAT	20	No Comment	518
03/01/2027	03/31/2027	WORK	10	No Comment	508
04/01/2027	04/30/2027	FLAT	30	No Comment	478
04/01/2027	04/30/2027	STAT	20	No Comment	458
04/01/2027	04/30/2027	WORK	10	No Comment	448
05/01/2027	05/31/2027	FLAT	31	No Comment	417
05/01/2027	05/31/2027	STAT	20	No Comment	397
05/01/2027	05/31/2027	WORK	10	No Comment	387
06/01/2027	06/30/2027	FLAT	30	No Comment	357
06/01/2027	06/30/2027	STAT	20	No Comment	337
06/01/2027	06/30/2027	WORK	10	No Comment	327
07/01/2027	07/31/2027	FLAT	31	No Comment	296
07/01/2027	07/31/2027	STAT	20	No Comment	276
07/01/2027	07/31/2027	WORK	10	No Comment	266
08/01/2027	08/31/2027	FLAT	31	No Comment	235
08/01/2027	08/31/2027	STAT	20	No Comment	215
08/01/2027	08/31/2027	WORK	10	No Comment	205
09/01/2027	09/30/2027	FLAT	30	No Comment	175
09/01/2027	09/30/2027	STAT	20	No Comment	155
09/01/2027	09/30/2027	WORK	10	No Comment	145
10/01/2027	10/31/2027	FLAT	31	No Comment	114
10/01/2027	10/31/2027	STAT	20	No Comment	94
10/01/2027	10/31/2027	WORK	10	No Comment	84
11/01/2027	11/30/2027	FLAT	30	No Comment	54
11/01/2027	11/30/2027	STAT	20	No Comment	34
11/01/2027	11/30/2027	WORK	10	No Comment	24
12/01/2027	12/13/2027	FLAT	13	No Comment	11
12/01/2027	12/13/2027	STAT	8	No Comment	3
12/01/2027	12/13/2027	WORK	3	No Comment	0

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Gen. No. 10 & Fe. 11/11/11  
P.O. Box 208  
Indiana Springs, N.C. 89070

B15 #292901

RECEIVED  
JUN 14 2021  
CLERK OF THE COURT

STEVEN D. GRIERSON  
Clerk of the Court  
200 Lewis Avenue  
Jas. W. W. 89155

Delight yourself in the Lord, and He will give  
you the desires of your heart. Psalm 3;

IN God WE TRUST



1 **REQT**  
2 **JEAN J. SCHWARTZER, ESQ.**  
3 Nevada Bar No. 11223  
4 LAW OFFICE OF JEAN J. SCHWARTZER, Ltd.  
5 170 S Green Valley Parkway #300  
6 Henderson, NV 89012  
7 Phone: 702-979-9941  
8 jean.schwartzter@gmail.com  
9 Attorney for Petitioner

6  
7 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
8 **STATE OF NEVADA FOR THE COUNTY OF CLARK**

9 GENARO RICHARD PERRY,

10 Petitioner,

11 vs.

12 RENEE BAKER, WARDEN

13 Lovelock Correctional Center,

14 Respondent.

) Case No.: C298879-1

) Dept No.: VI

15  
16 **REQUEST FOR TRANSCRIPT**

17  
18 TO: DE'AWNA TAKAS

19 GENARO PERRY, defendant above named, requests preparation of a transcript of certain  
20 portions of the proceedings before the District Court, as follows:

- 21  
22 1. February 17, 2021: Hearing on Motion Requesting Order  
23 Directing the Las Vegas Metropolitan Police Department to Conduct Genetic  
24 Marker and Latent Print Analysis of Evidence Impounded at Crime Scene.

25 This notice requests a transcript of only those portions of the District Court proceedings which  
26 counsel reasonably and in good faith believes are necessary to determine whether appellate issues are  
27 present.

1 I recognize that I must serve a copy of this form on the above-named court reporter and that  
2 the above-named reporter shall have thirty (30) days from receipt of this notice to prepare and submit  
3 to the district court the transcript requested herein.

4 DATED this 1<sup>th</sup> day of July, 2021.

5  
6 By: /s/ Jean Schwarzer  
7 JEAN J. SCHWARTZER, ESQ.  
8 Nevada Bar No. 011223  
9 LAW OFFICE OF JEAN J. SCHWARTZER, Ltd.  
10 170 S. Green Valley Parkway #300  
11 Henderson, NV 89012  
12 Phone: 702-979-9941  
13 jean.schwartzter@gmail.com  
14 Attorney for Defendant  
15  
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1 **CERTIFICATE OF SERVICE**

2 **IT IS HEREBY CERTIFIED** by the undersigned that on 1<sup>st</sup> day of July, 2021, I served a true and  
3 correct copy of the foregoing **REQUEST FOR TRANSCRIPT** on the parties listed on the attached service  
4 list via one or more of the methods of service described below as indicated next to the name of the  
5 served individual or entity by a checked box:

6 **VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage thereon  
7 fully prepaid, in the United States mail at Las Vegas, Nevada.

8 **VIA FACSIMILE:** by transmitting to a facsimile machine maintained by the attorney or the party  
who has filed a written consent for such manner of service.

9 **BY PERSONAL SERVICE:** by personally hand-delivering or causing to be hand delivered by such  
10 designated individual whose particular duties include delivery of such on behalf of the firm, addressed  
to the individual(s) listed, signed by such individual or his/her representative accepting on his/her  
11 behalf. A receipt of copy signed and dated by such an individual confirming delivery of the document  
will be maintained with the document and is attached.

12 **BY E-MAIL:** by transmitting a copy of the document in the format to be used for attachments to the  
13 electronic-mail address designated by the attorney or the party who has filed a written consent for  
such manner of service.

14 **BY:** /s/ Jean Schwartzer  
15 **JEAN SCHWARTZER**  
16 **Law Office of Jean J. Schwartzer**  
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**SERVICE LIST**

<b>ATTORNEYS OF RECORD</b>	<b>PARTIES REPRESENTED</b>	<b>METHOD OF SERVICE</b>
CLARK COUNTY DISTRICT ATTORNEY'S OFFICE 200 E. Lewis Ave Las Vegas, NV 89101  Alexander.chen@clarkcountynyda.com	State of Nevada	<input type="checkbox"/> Personal service <input checked="" type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service

<b>ADDITIONAL INDIVIDUALS</b>	<b>PARTIES REPRESENTED</b>	<b>METHOD OF SERVICE</b>
DE'AWNA TAKAS EIGHTH JUDICIAL DISTRICT COURT CLARK COUNTY, NEVADA DEPARTMENT XI 200 E. Lewis Ave Las Vegas, NV 89101 TakasD@ClarkCountyCourts.us	N/A	<input type="checkbox"/> Personal service <input checked="" type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service

*Steven D. Grierson*

Genaro Perry 115.3366

In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018

IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF Clark

Genaro Perry

Plaintiff,

vs.

State of Nevada

Defendant.

C-14-298879-1

Case No. 298879-1

Dept. No. 6

Docket \_\_\_\_\_

**NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,  
Genaro Perry, in and through his proper person, hereby  
appeals to the Supreme Court of Nevada from the ORDER denying and/or  
dismissing the

Writ of habeas corpus

ruled on the 17 day of February, 20 21

Dated this 17 day of July, 20 21

Respectfully Submitted.

Genaro Perry

RECEIVED

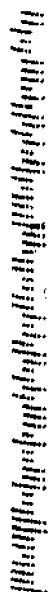
JUL 22 2021

CLERK OF THE COURT

Genaro Perry #1153566  
SPDC  
PO Box 208  
Indian Springs NV  
89070

Legal

0915333999



I N God we Trust

Send me your light and your faithful love,  
Let them lead me Psalm 43:3

Psalm 146:1

Clerk of the Court  
200 Lewis Ave 3rd floor  
LV NV  
89155-1160



Genaro Perry # 1153366  
Petitioner/In Propria Persona  
Post Office Box 208, SDCC  
Indian Springs, Nevada 89070-0208

*Steven D. Grierson*

IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF Clark

Genaro Perry  
Plaintiff,  
vs.  
State of Nevada  
Defendant.

C-14-298879-1

CASE No. 298879-1  
DEPT. No. 6

DESIGNATION OF RECORD ON APPEAL

TO: Clerk of the court  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 17 day of July, 2021.

RESPECTFULLY SUBMITTED BY:

Genaro Perry  
# 1153366  
Plaintiff/In Propria Persona

**CERTIFICATE OF SERVICE BY MAILING**

I, Genaro Perry, hereby certify, pursuant to NRCP 5(b), that on this 17  
day of July, 2021, I mailed a true and correct copy of the foregoing, "

Notice of Appeal"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Clerk of the Court

CC:FILE

DATED: this 17 day of July, 2021.

Genaro R Perry  
Genaro Perry # 1153366  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

## AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding

Notice of appeal  
(Title of Document)

(Title of Document)

filed in District Court Case number 298877-1

☒ Does not contain the social security number of any person.

**-OR-**

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

A. A specific state or federal law, to wit:

(State specific law)

**-or-**

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

Signature Stanley L. Perry Date 7-17-21

Genaro Perry  
Print Name

Title

Genaro Perry, 1153366

Petitioner/In Propria Persona  
Post Office Box 208, SDCC  
Indian Springs, Nevada 89070

FILED

JUL 22 2021

CLERK OF COURT

IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR THE  
COUNTY OF Clark

Genaro Perry

Plaintiff,

vs.

State of Nevada

Defendant,

Case No.

C-14-298879-1

Dept. No.

Dept. 6

Docket

August 16, 2021  
11:00 AM

MOTION TO WITHDRAW COUNSEL

Date of Hearing: \_\_\_\_\_

Time of Hearing: \_\_\_\_\_

"ORAL ARGUMENT REQUESTED, Yes \_\_\_\_\_ No \_\_\_\_\_"

COMES NOW, Defendant, Genaro Perry, proceeding in proper  
person, moves this Honorable Court for an ORDER Granting him permission to withdraw his  
present counsel of record in the proceeding action, namely,

Jean Schwartzer

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

DATED: this 17 day of July, 2021

BY:

Genaro Perry #1153366  
Defendant/In Propria Personam

RECEIVED

JUL 22 2021

CLERK OF THE COURT

1 POINTS AND AUTHORITIES

2 The Nevada Revised Statute 7.055(1), which deals with the duty of a discharged attorney, states:

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

5 As can be seen in this case, the defendant does not owe any fees, in fact, they, meaning counsel(s)  
6 of record, were appointed by the Court to represent the defendant, who was an indigent, in Case  
7 Number, 2988774, in Department No. 6.

8 N.R.S. 7.055(2) gives this Court the power to Order the Attorney(s) of record to produce and  
9 deliver to the defendant in his/her possession, which states:

10 "A client who, after demand therefore and payment of the fee due from him, does not receive from his  
11 discharged attorney all papers, documents, pleadings and items of tangible personal property may, by  
12 a motion filed after at least 5 days' notice to the attorney, obtain an order for the production of his papers,  
Documents, pleadings and other property."

13 In numerous cases throughout this great land, the courts have held attorneys to a high degree of  
14 professional responsibility and integrity. This carried from the time of hiring to and through the  
15 attorney's termination of employment.

16 Supreme Court Rule 173 states quite clear that a withdrawn attorney owes his former client a  
17 . . . prompt accounting of all his client's . . . property in his possession." This is echoed in Canon 2 of  
18 the Code of Professional Responsibility of the American Bar Association, which states in pertinent  
19 part EC 2-32: "A lawyer should protect the welfare of his client by . . . delivering to the client all  
20 papers and property to which the client is entitled." Again in Disciplinary Rule 2-110(A)(2) of the  
21 ABA, this is brought out that a withdrawn attorney must deliver to the client all papers and comply with  
22 applicable laws on the subject.

23 In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963) and State v. Alvey, 215 Kan. 460,  
24 324 P.2d 747 (1974), both of which dealt with a factual situation involving a withdrawn attorney  
25 refusing to deliver to a former client his documents after being requested to do so by the client. The  
26 court in Yount, supra, ordered the attorney disbarred while in Alvey, supra, the court had the attorney  
27 censured.



1 While not the intention of the Defendant in this case to have the attorney disbarred, these cases do  
2 show a pattern in the court in considering the refusal to deliver to a former client all his documents  
3 and property after being requested to do so, a serious infraction of the law and of professional ethics.  
4 See, In Re Sullivan, 212 Kan. 233, 510 P.2d 1199 (1973).

5 In summary, this court has jurisdiction through NRS 7.055 to Order the attorney(s) to produce and  
6 deliver to the Defendant all documents and personal property in his/their possession belonging to him  
7 or prepared for him. The Defendant has fulfilled his obligations in trying to obtain the papers. The  
8 attorney(s) is in discord with Cannon 2 of the Code of Professional responsibility and the Nevada  
9 Supreme Court Rules 173, 176 and 203.

10  
11 DATED: this 17 day of July, 2021

12  
13 BY:

Genaro R. Perry  
14 GENARO PERRY #153366  
15 Defendant/In Propria Personam  
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AFFIDAVIT OF: Genaro Perry

STATE OF NEVADA )  
COUNTY OF CLARK ) ss:

TO WHOM IT MAY CONCERN:

I, Genaro Perry the undersigned, do hereby swear that all statements, facts and events within my foregoing Affidavit are true and correct of my own knowledge, information and belief, and as to those, I believe them to be True and Correct. Signed under the penalty of perjury, pursuant to, NRS. 29.010; 53.045; 208.165, and state the following:

FURTHER YOUR AFFIANT SAYETH NAUGHT.

EXECUTED At: Indian Springs, Nevada, this 17 Day of July, 2021.

BY: Genaro Perry #1153300  
Post Office Box-203 (SDCC)  
Indian Springs, Nevada. 89070.  
Affiant, In Propria Personam:



1 ASTA

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5  
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA IN AND FOR**  
8 **THE COUNTY OF CLARK**  
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 GENARO RICHARD PERRY,

14 Defendant(s),  
15

Case No: C-14-298879-1

Dept No: VI

16  
17 **CASE APPEAL STATEMENT**  
18

19 1. Appellant(s): Genaro R. Perry

20 2. Judge: Jacqueline M. Bluth

21 3. Appellant(s): Genaro R. Perry

22 Counsel:

23 Genaro R. Perry #1153366  
24 P.O. Box 208  
Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney  
28 200 Lewis Ave.  
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes  
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: June 19, 2014

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Writ of Habeas Corpus

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 69139, 82931

12. Child Custody or Visitation: N/A

Dated This 22 day of July 2021.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk  
200 Lewis Ave  
PO Box 551601  
Las Vegas, Nevada 89155-1601  
(702) 671-0512

cc: Genaro R. Perry



1 RTRAN

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7  
8 STATE OF NEVADA

CASE NO. C-14-298879-1

9 Plaintiff,

DEPT. VI

10 vs.

11 GENARO RICHARD PERRY,

12 Defendant.

13 BEFORE THE HONORABLE JACQUELINE M. BLUTH, DISTRICT COURT JUDGE  
14 WEDNESDAY, FEBRUARY 17, 2021

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS: PETITIONER'S MOTION**  
16 **REQUESTING ORDER DIRECTING THE LAS VEGAS METROPOLITAN POLICE**  
17 **DEPARTMENT TO CONDUCT GENETIC MARKER AND LATENT PRINT**  
18 **ANALYSIS OF EVIDENCE IMPOUNDED AT CRIME SCENE**  
**(Via audio ~ Via BlueJeans)**

19 APPEARANCES:

20 For the State:

KAREN LYNN MISHLER, ESQ.  
Chief Deputy District Attorney

22 For the Defendant:

JEAN J. SCHWARTZER, ESQ.

23  
24  
25 RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

1 Wednesday, February 17, 2021, Las Vegas, Nevada

2  
3 [Proceedings began at 1:54 a.m.]

4 THE COURT: -- he is not present, in custody in Nevada Department  
5 of Correction. C298879 Ms. Schwartz is present on his behalf via BlueJeans.  
6 And do I have Ms. Mishler -- on behalf of the State on this matter?

7 I'm sorry Ms. Mishler you're muted.

8 Ms. Mishler can you unmute yourself for me?

9 MS. MISHLER: Sorry about that.

10 THE COURT: That's okay.

11 MS. MISHLER: Karen Mishler, bar number 13730.

12 THE COURT: All right. Thank you.

13 Okay. All right so I've had the opportunity to read through everything.  
14 Ms. Schwartz, I mean, I think the one easiest argument, right, the State makes  
15 is that the -- proper affidavit or documentation wasn't filed therefore the Court  
16 shouldn't be able to consider it. So while I recognize that that's definitely the law, I  
17 also feel like you could just go easily file that and refile this. So I'm hesitant to just  
18 say, well I'm just denying it because -- knowing all the work you've put into this I  
19 know you're just gonna go file an affidavit and refile this. So I don't --

20 MS. SCHWARTZER: Well, and Your Honor, --

21 THE COURT: -- have any. Go ahead.

22 MS. SCHWARTZER: Sorry.

23 THE COURT: No that's okay.

24 MS. SCHWARTZER: Also, Your Honor, you know, my client attached  
25 a declaration to his petition for writ habeas corpus wherein he makes, essentially,

1 the same arguments. They might not, you know, they're drafted by an attorney,  
2 but it's the same argument. And so I would just ask that Your Honor take judicial  
3 notice of that declaration and apply it to this motion. But, you're right, I could just  
4 go get a declaration from him if that is what you want me to do.

5 THE COURT: Okay.

6 So I do wanna hear it on -- I wanna hear the petition on its merits  
7 today. And if you could -- Ms. Schwartz if you could address the State's  
8 opposition -- in regards to, you know, the even if you got what you wanted, I  
9 mean, the latent prints are one issue, right? The blood is a different. But even if  
10 you got this testing -- done, it wouldn't necessarily show -- that the petitioner  
11 would've been -- would not have been prosecuted or wouldn't have been  
12 convicted, because it wouldn't have that exculpatory nature that is needed under  
13 the statute. Could you address that?

14 MS. SCHWARTZER: Yes, Your Honor. So the argument that my  
15 client is making -- is that, you know, his trial attorney didn't properly investigate his  
16 self-defense claims. His self-defense claim is that the -- Ms. Carpenter, is the one  
17 who had the knife, she came at him and he acted in self-defense. Now, co-  
18 counsel attempted to present a self-defense case at trial and he wasn't really  
19 allowed to. It was a bench trial. The Court would not allow a self-defense  
20 instruction and the Nevada Supreme Court ruled that there was some evidence of  
21 self-defense and that he should've received an instruction.

22 I believe that if the forensic evidence shows that it's her finger prints  
23 on the knife, not his, and that it's his blood on the knife, not hers, combined with  
24 evidence of his injuries that he sustained, which CCDC would have, that would  
25 support his self-defense claim. And if-in-fact this was all done at the pre-trial

1 stage, he may have, in fact, gotten that self-defense instruction and it would've  
2 changed the outcome of trial.

3 You know interestingly in response to Mr. Perry's petition on ground 2,  
4 the State argues that defendant fails to demonstrate how further forensic  
5 investigation would've rendered a more favorable outcome probably and that the  
6 results would've confirmed the presence of both the victims and defendants blood  
7 and finger prints on the knife. Well that's pure speculation on the State's part. We  
8 don't know that because we don't have the forensic evidence in. So in order for  
9 me to make that argument in ground 2, and to get past the State's opposition, I  
10 have to make the request to get that forensic evidence that I'm saying trial counsel  
11 should've done prior to trial. You know I'm sort of being cut off at the knees here if  
12 I'm not permitted to get this evidence.

13 THE COURT: Ms. Mishler your response.

14 MS. MISHLER: Yes, Your Honor, the -- I mean, there are a number of  
15 issues here, but the -- what the defendant is asking this Court to do is not  
16 authorized by the statute. For one thing, finger prints. There's been no legal  
17 basis provided for this Court to order any finger print analysis. The only legal  
18 basis -- offered for the request is NRS 176.0918, which does not authorize this  
19 Court order a finger print analysis.

20 But I do wanna address the potential of the victims finger prints bring  
21 found on the knife that would be no surprise if that happened, because it was her  
22 steak knife. This was domestic violence case. The victim and the defendant  
23 knew each other, and this occurred in the victim's home, and she testified at trial  
24 [indiscernible] herself for being a poor housekeeper and stated that the evening  
25 before the offense occurred she had -- she used that steak knife to eat her dinner



1 and she left the knife on the stove in the kitchen. And then the following morning  
2 the defendant grabbed it and then -- threatened her with it, and committed a  
3 number of crimes with it. So that wouldn't be exculpatory for the victim's finger  
4 prints to be found on the knife. You would expect those to be there, as well as the  
5 absence of defendant's finger prints on the knife would not be surprising either,  
6 but regardless there's been no legal basis for ordering finger evidence.

7 And there -- and I understand, Your Honor, I agree with you that there  
8 are number of technical statutory requirements that were not present in this  
9 motion and some of them are less important than others, but the key defect in the  
10 motion is that the defendant has not presented a reasonable possibility he would  
11 not have been prosecuted or convicted if exculpatory results had been obtained  
12 for genetic marker analysis. I mean, there's a reason DNA evidence is typically a  
13 limited -- of limited probative value in a domestic violence case because identity  
14 isn't at issue. And the argument that such evidence, if the -- anticipated results  
15 were obtained that that would -- assist in creating a self-defense case. That's not  
16 -- a lawful basis for requesting DNA testing under the statute. The evidence has  
17 to be more than just helpful in establishing a theoretical defense.

18 And regarding the self-defense, the Nevada Supreme Court ruled that  
19 the self-defense jury instruction should have been given but not because -- a lot of  
20 self-defense evidence was introduce, but simply because some -- self-defense  
21 evidence was introduced during cross examination of the victim in the form of -- an  
22 incident in the victim's past where she -- threatens someone with a knife. That  
23 was the extent of the self-defense evidence that was introduced here. And the --  
24 Court ruled that it was harmless error, because irrational trier of fact could  
25 reasonability -- infer that the defendant committed these crimes and was not

1 acting in self-defense when he committed this criminal act. I'm reading: the error  
2 was harmless because it is clear beyond a reasonable doubt that a rational trier of  
3 fact would've found Perry guilty absent the error. That's direct from the order of  
4 affirmance, and that was literally the only self-defense evidence. The defendant --  
5 did not testify at all so no evidence was introduced that this was -- other than the  
6 incident in the victim's past, no other evidence of self-defense was introduced.

7 But the statute requires that the anticipated results be so exculpatory  
8 that had the State been in possession of such results the State would not have  
9 prosecuted the defendant. That's not the case here. Even if before trial the State  
10 had evidence that the defendant's blood was on the knife, as well as elsewhere in  
11 the residence, the State would have gone forward with the prosecution. And even  
12 -- self-defense argument could be enough for ordering testing, the victim, Ms.  
13 Carpenter, testimony was that the defendant repeatedly punched and kicked her  
14 in the face and on her body. This was corroborated by the surgeon who operated  
15 on her and repaired her orbital fracture. Testimony was that the eyeball has sunk  
16 back into her head as a result of trauma, and that her orbital fracture was  
17 consistent with being kicked and punched. There was testimony introduced from  
18 the responding officer and the crime scene analyst about Ms. Carpenter's  
19 condition regarding her bloody face and an eye that was swollen shut. Photos  
20 that were taken on the date of the offense showing these injuries were introduced  
21 at trial.

22 The defendant's DNA at the scene would not call this into question,  
23 even if the -- defendant's DNA was found -- on the knife, that would not -- mean  
24 that Ms. Carpenter injured -- did testify that she bite the defendant's hand during  
25 the course of them struggling. It's possible that he bleed as a result of that.

1 That's still not enough to create self-defense. And if there was blood elsewhere in  
2 the house where this occurred, that still doesn't establish that -- Ms. Carpenter  
3 caused the defendant to be injured. It's really just the defendant's DNA at the  
4 scene. And the relevance of the knife is that the defendant used it to threaten the  
5 victim and it allowed him to keep her confined and to steal her vehicle. She  
6 testified that he was jabbing at her with a knife and holding it up to her throat.  
7 There was a struggle -- it wouldn't be surprising if the defendant's blood were  
8 found on the knife. It's not unusual for a preparatory in these types of crimes to  
9 cut himself when using a knife like this.

10 Excuse me.

11 Just the purpose of NRS 176.0[indiscernible]8 is to allow a convicted  
12 person to obtain DNA testing when such results could theoretically exonerate that  
13 person. And that just can't happen here. And then -- lastly it hasn't really been  
14 addressed the fact that if the defense wants to find the victim's DNA on these  
15 items, I -- no evidence has been introduced that -- the police department is in  
16 possession of a genetic sample from Ms. Carpenter, and I don't believe the Court  
17 has the authority to order her to provide a sample. So I think that would have to  
18 already be in the police department's possessions. So with that, I'll submit.

19 THE COURT: Ms. Schwartzer --

20 MS. SCHWARTZER: [Indiscernible]

21 THE COURT: -- your response.

22 MS. SCHWARTZER: Just a few things. I whole heartedly disagree  
23 that it would not be exculpatory if her DNA is not on the knife, and his DNA is, and  
24 her finger prints are on the knife, and his finger prints are not. I understand that  
25 it's her knife, so we would expect her finger prints to be on it, but if his are not, and

1 his DNA is from his blood, I think that is exculpatory. I mean, evidence of a self-  
2 defense claim is exculpatory. And I think it's a little absurd for the State to argue  
3 that it's not.

4 As far as the Supreme Court ruling, yes the Court ruled that ultimately  
5 the error was harmless based upon the evidence presented at trial. My argument  
6 is that additional evidence in the form of forensic evidence should have been  
7 presented at trial and if it had been there would've been a self-defense instruction.  
8 I think that the judge would have given one at that point. There was no way for  
9 him to be found not guilty, be acquitted, without that instruction.

10 As far as, you know, whether or not the State wants to argue the  
11 meaning of his blood being on the knife, or her finger prints being on the knife, and  
12 his finger prints not being on the knife, that goes to the weight of the evidence and  
13 that would be for the jury or, in this case, the judge at a bench trial to decide. But I  
14 don't think it's dispositive of this motion. So with that, I'll submit it,

15 THE COURT: Let me ask you one question though, Ms. Schwartzer,  
16 about a specific portion that the State had said. So they say, thus the presence of  
17 defendant's blood at the scene if found, would not call his guilty into serious  
18 question given the documentation of the severe injuries Carpenter received. So I  
19 guess my question --

20 MS. SCHWARTZER: Do you have a page?

21 THE COURT: Sorry, go ahead.

22 MS. SCHWARTZER: Do you have a page number? I'm sorry.

23 THE COURT: I don't, I apologize. It's just in my notes. But basically  
24 it's just from -- it's there main -- it's one of their main arguments that, listen  
25 because of the severity of Carpenter's injuries and the way that it was

1 documented, the way that she appeared once officers got there, the surgery that  
2 she had, this and that; right? So they're saying look -- because of the -- so even if  
3 defendant's blood was at the scene, or was on this, or was on that, it really doesn't  
4 have that much of an effect because, hypothetically, let's say she's the one that  
5 goes after him with the knife, right? But at some point he obviously gets the upper  
6 hand and, you know, beats her, for lack of a better word, like into a pulp, right? So  
7 --

8 MS. SCHWARTZER: Uh-huh.

9 THE COURT: -- I, you know, self-defense -- to be self-defense has to  
10 be reasonable. So how would that make it exculpatory in a jury trial sense?

11 MS. SCHWATZER: Well, I mean, I guess the argument would be if  
12 she came at him with a knife and he was truly scared for his life, and he wanted to  
13 neutralize the threat, it could be pretty severe. [Indiscernible] I understand she  
14 testified that a lot of other things happened, but if the forensic evidence tells a bit  
15 of a different story that calls her credibility into question. Again that is a jury  
16 determination or, in this case, the judge presiding over the bench trial. So, again, I  
17 think it goes to the weight. But, you know -- and I go back to the State's response  
18 to this ground in the PCR pleadings. You know, for them to say that the results  
19 would've confirmed the presence of both the victims and defendants blood, and  
20 finger prints, on the knife, its speculation. I think its best if we just get the actually  
21 forensic evidence and then proper arguments can be made, but until now, it's all  
22 speculative.

23 THE COURT: Okay, thank you. All right, so I've looked a lot into the  
24 facts of this case as well as to the applicable statute. As I noted, preliminarily, the  
25 defendant's motion was not accompanied by the declaration, you know the

1 affidavit, that we spoke about, under penalty of perjury, which is required by  
2 176.09183. However, I do see as Ms. Schwartz pointed out that there was a  
3 declaration originally filed by the defendant himself, so I am going to consider that.  
4 And as well as I do think it's most expedient to handle the matter now, because  
5 otherwise this would just be refiled with the proper affidavit and we would be back  
6 here in a couple weeks just arguing the same thing.

7           However, I do not find underneath the statute that the defendant has  
8 demonstrated that there is a reasonable possibility that exist that the petition  
9 would not have been prosecuted or convicted if exculpatory results had been  
10 obtained through a genetic marker analysis of the evidence, which is the  
11 requirement under NRS 176.09183(b). I definitely understand the argument being  
12 made by the defendant, but I -- in looking at everything I think even if the blood on  
13 the knife, and the blood samples were a match, at most it shows that defendant  
14 did leave his blood at the scene; however, I don't know how exculpatory or -- I  
15 don't think it meets the exculpatory requirement as provided by the statute. I think  
16 finding the defendant's blood on the knife or elsewhere at the crime scene would  
17 not prove that he was, you know, cut by Carpenter with the knife. He could've cut  
18 himself. He could have, you know, she state that she bit him during the  
19 altercation, so I don't think that this evidence rises to the level that is needed  
20 pursuant to the statute.

21           As regard to the latent prints, I don't believe that the latent prints are  
22 something that was considered by the statute. It's more in regards to genetic  
23 marker testing so it's denied on that basis in regard to the latent prints.

24           Does anybody have any questions or need clarity in regards to my  
25 ruling this morning -- or this afternoon, which started this morning?

1 MS. SCHWARTZER: Yes, Your Honor. You mentioned that  
2 according to the statute there has to be a responsible possibility that exist that the  
3 petitioner would not have been prosecuted. The statute actually says, prosecuted  
4 or convicted --

5 THE COURT: Or convicted.

6 MS. SCHWARTZER: -- so. Okay. So --

7 THE COURT: Sorry if I shortened --

8 MS. SCHWARTZER: -- you're ruling is that --

9 THE COURT: If I shortened that that was my fault. But I do recognize  
10 that it is --

11 MS. SCHWARTZER: Okay.

12 THE COURT: -- prosecuted or convicted for the crime, yes.

13 MS. SCHWARTZER: Okay. And then with respect to the request for  
14 finger print analysis, I understand I put it all in one motion, I could've filed it in two  
15 separation motions, I thought it would be a better use of time if I put it together.  
16 I'm not basing the print request on the statute. It is just a standalone request, as  
17 part of post-conviction investigation. I mean, normally when I investigate cases I  
18 don't need to get permission from the Court to go do anything.

19 THE COURT: Right.

20 MS. SCHWARTZER: But in this case I can't tell Metro to do this --

21 THE COURT: Right.

22 MS. SCHWARTZER: -- I have to get a court order. So it's just a  
23 standalone [indiscernible].

24 THE COURT: Okay. I understand. I'm sorry I thought you were  
25 arguing it pursuant to that statute. But -- so let me address that. I don't think that

1 there's good enough cause shown to order Metro to do that because as was  
2 pointed out, you know by the State, this is a battery -- obviously battery domestic  
3 violence issue that occurs within the home. But not only is it a knife within the  
4 home, but it's also a knife that the victim discusses that she used to eat dinner  
5 with that evening. So because of that, that motion is denied in regards to the  
6 latent prints.

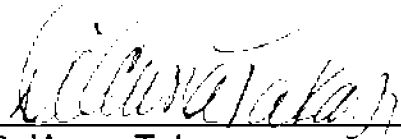
7 MS. SCHWARTZER: Okay. Thank you.

8 THE COURT: Thank you.

9 [Proceedings concluded at 2:12 p.m.]

10 \* \* \* \* \*

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
22 audio/video proceedings in the above-entitled case to the best of my ability.

23   
24 De'Awna Takas  
25 Court Recorder/Transcriber





IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

GENARO RICHARD PERRY,

Defendant.

CASE NO. C-14-298879-1

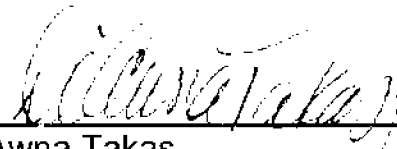
Supreme Court No. 82931

DEPT. NO. VI

CERTIFICATE OF SERVICE

I, De'Awna Takas, certify that I am the Court Recorder in Department VI District Court, Clark County, Nevada; that the transcript of the proceeding heard on February 17, 2021 by the Honorable Judge Jacqueline M. Bluth was e-filed with the Clerk of Court, Clark County, Nevada, in Case Number C-14-298879-1 on August 9, 2021 and that courtesy copies were provided to Jean J. Schwartzer, the requesting party, and Jennifer Garcia and Eileen Davis.

Dated this 10<sup>th</sup> day of August, 2021.



De'Awna Takas  
Court Recorder/Transcriber  
Eighth Judicial District Court, Dept. VI  
Regional Justice Center  
Las Vegas, Nevada 89155

*Heather A. Hume*

CLERK OF THE COURT

**ORDR**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
YU MENG  
Deputy District Attorney  
Nevada Bar #14741  
200 Lewis Avenue  
Las Vegas, NV 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173

Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

**ORDER GRANTING DEFENDANT'S MOTION TO WITHDRAW COUNSEL**

DATE OF HEARING: August 16, 2021

TIME OF HEARING: 11:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 16th day of August, 2021, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through YU MENG, Deputy District Attorney, and the Court without argument, based on the pleadings and good cause appearing therefor,

///

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///

1 IT IS HEREBY ORDERED that the Defendant's Motion to Withdraw Counsel, shall  
2 be, and it is GRANTED.

3 Dated this 1st day of September, 2021

4   
5

kj

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

89B 4F3 8D20 3E19  
Jacqueline M. Bluth  
District Court Judge

9 BY /s/ YU MENG  
10 YU MENG  
11 Deputy District Attorney  
12 Nevada Bar #14741

13 CERTIFICATE OF SERVICE

14 I certify that on the 1st day of September, 2021, I mailed a copy of the foregoing Order  
15 to:

16 GENARO RICHARD PERRY, BAC #1153366  
17 SOUTHERN DESERT CORRECTIONAL CENTER  
18 P. O. BOX 208  
19 INDIAN SPRINGS, NEVADA 89070-0208

20 BY /s/ J. HAYES  
21 Secretary for the District Attorney's Office  
22  
23  
24  
25  
26  
27

28 14F07966X/jh/DVU

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 State of Nevada

CASE NO: C-14-298879-1

7 vs

DEPT. NO. Department 6

8 Genaro Perry  
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: 9/1/2021

15 Clark County District Attorney's Office .

PDMotions@clarkcountyda.com

16 Patricia Pinotti .

plpinotti@gmail.com

17 Travis Shetler .

travisssetler@gmail.com

18 Jean Schwartzer

jean.schwartzzer@gmail.com

1 Genaro Richard Perry ID NO: 1153366

2 Southern Desert Correctional Center

3 Post Office Box 208

4 Indian Springs, Nevada 89070-0208

FILED

NOV 29 2021

CLERK OF COURT

5  
6 IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 FOR THE COUNTY OF Clark

8  
9 State of Nevada  
10 Plaintiff,

Case No: C298879-1

Dept. No: V1

11 v.  
12 Genaro Richard Perry  
Defendant

December 20, 2021  
8:30 AM

13 NOTICE OF MOTION

14 MOTIONS FOR MODIFICATION OF SENTENCE

15  
16 Comes now, Defendant, Genaro Richard Perry pro per, and respectfully moves  
17 this Honorable court for a modification of sentence.

18 This motion is based pursuant to the supporting Points and Authorities attached hereto, NRS  
19 176.555, as well as all papers pleading, and documents on file herein.

20 POINTS AND AUTHORITIES

21 1. STANDARD OF REVIEW

22 The Nevada Supreme Court has long recognized that Court's have the power and Jurisdiction to  
23 Modify a sentence, see, Staley v. State, 787 P.2d 396, 106 Nev. 75 (1990):

24  
25 "That if a sentencing court pronounces sentence within statutory limits, the court will have  
26 Jurisdiction to MODIFY, suspend or other wise correct that sentence if it is based upon  
27 materially untrue assumptions or mistakes which work to the extreme detriment of the  
28 defendant"

1 Defendant believes that this court has, based upon Staley, the jurisdiction to MODIFY his  
2 sentence, due to that sentence being pronounced based upon a Pre-Sentence Investigation Report which  
3 did have several material facts in error, which will be discussed below in the statement of facts.

4 Respondent may argue that laches apply due to the fact that thee [3] years have passed since  
5 sentence was pronounced. However, the Nevada Supreme Court held that such time requirement does not  
6 apply to a request for Modification of Sentence, see, Passanisi v. State, 831 P2d 1371, 108 Nev. 318  
7 (1995):

8  
9 ... "we note that the trial court has inherent authority to correct a sentence at any time if such  
10 sentence based on mistake of material fact that worked to the extreme detriment of the defendant.  
11 (Citations Omitted). If the trial court has inherent authority to correct a sentence, a Fortiori, if has  
12 the power to entertain a motion requesting it to exercise that inherent authority.... Thus, the time  
13 limits and other restrictions with respect to a post-conviction relief do not apply to a Motion to  
14 Modify a Sentence based on a claim that the sentence was illegal or was based on an untrue  
15 assumption of the fact that amounted to denial of due process (Emphasis added) Id. 831 P2d at  
16 1372n. 1. See also, Edwards v. State, 918 P2d 321, 324, 112 Nev. 704 (1996).

17 Defendant, as stated above, is alleging that his sentence by this Court was based upon  
18 assumptions founded upon his Pre-Sentence Investigation Report (PSI) that had several factors in error,  
19 and as such, his constitutional right to due process was violated. See, State v. District Court, 677 P2d  
20 1044, 100 Nev. 90 (1984):

21 The district court's inherent authority to correct a judgment or sentence founded on mistake is in  
22 accord with the constitutional considerations underlying the sentencing process. The United  
23 States Supreme Court has expressly held that where a defendant is sentenced on the basis of  
24 materially untrue assumptions concerning his criminal record, "(the) result whether caused by  
25 carelessness or design, is inconsistent with due process of law". Townsend v. Burke, 736, 741,  
26 68 S. Ct. 12552, 1255, 92 L. Ed. 1690 (1948). Further, the cases clearly established that  
27 constitutionally Violate "materially untrue assumptions" concerning a criminal record may arise  
28 either as a result of a sentencing judge's correct perception of misapprehension. (Emphasis in  
29 original). Id. 677 P2d at 1048 n. 3.

30 Defendant would asks that this Court not perceive this request to be pointing the finger at the  
31 Court and saying 'you were wrong' as that is not the case. Defendant is merely requesting that the Court  
32 reconsider the sentence that was pronounced based upon mistakes of fact in the PSI report and at  
33 sentencing.

II. STATEMENT OF FACTS

Motions for modification of Sentence.

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CONCLUSION

WHEREFORE, all of the above stated reasons, Defendant respectfully requests this Honorable Court to  
Modify his/her Sentence in accordance with this Court's fair and just consideration of the facts of the case.

Dated this 28<sup>th</sup> day of October, 20 21

By: Genaro L. Perry  
Genaro Richard Perry # 1153366

Southern Desert Correctional Center

P.O. BOX 208

INDIAN SPRINGS, NEVADA 89070-208



1. Genaro Richard Perry, certify that the foregoing "Motion For  
Modification of Sentence", was served upon the Respondent pursuant to NRCP 5 (b), by placing same in  
the United States Postal Service, postage being fully pre-paid, and addressed as follows:

Clerk of Courts

District Attorney's Office

200 Lewis Ave 3rd floor  
LV NV 89155-1160

Dated this 28<sup>th</sup> day of October, 20 21.

By: Genaro R Perry  
Genaro Richard Perry #1153366

P.O. Box 208  
Indian Springs, NV. 89070

Defendant, In Proper Person

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

Notice of Motion  
(Title of Document)

filed in District Court Case number CZ98879-1

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

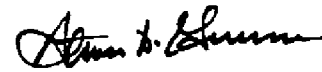
Genaro R. Perry  
Signature

October 28, 2021  
Date

Genaro Richard Perry  
Print Name

\_\_\_\_\_  
Title

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Exhibit  
ONE



CLERK OF THE COURT

JOC

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY  
#1456173

Defendant.

CASE NO. C298879-1

DEPT. NO. VI

JUDGMENT OF CONVICTION  
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of  
COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in  
violation of NRS 200.380, 193.165; COUNT 2 – FALSE IMPRISONMENT WITH USE  
OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.460; COUNT 3 –  
GRAND LARCENY AUTO (Category B Felony) in violation of NRS 205.228.3; COUNT  
4 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS  
200.471; COUNT 5 – COERCION (Category B Felony) in violation of NRS 207.190;  
COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM  
CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of NRS

//


1 200.481, 200.485, 33.018; COUNT 7 – PREVENTING OR DISSUADING WITNESS OR  
2 VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D  
3 Felony) in violation of NRS 199.305; and the matter having been tried before a jury and  
4 the Defendant having been found guilty of said crimes; thereafter, on the 6<sup>th</sup> day of  
5 January, 2016, the Defendant was present in court for sentencing with his counsel,  
6 TRAVIS SHETLER, ESQ., and good cause appearing,  
7

8 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in  
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee,  
10 \$250.00 Indigent Defense Civil Assessment Fee, Restitution in the amount of  
11 \$18,103.28, and a \$150.00 DNA Analysis Fee including testing to determine genetic  
12 markers, plus a \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the  
13 Nevada Department of Corrections (NDC) as follows: AS TO **COUNT 1** - TO A  
14 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
15 Eligibility of THIRTY-SIX (36) MONTHS, plus a CONSECUTIVE term of ONE  
16 HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of  
17 THIRTY-SIX (36) MONTHS for use of a Deadly Weapon; AS TO **COUNT 2** - TO A  
18 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of EIGHTEEN  
19 (18) MONTHS, Count 2 to run CONCURRENT with Count 1; AS TO **COUNT 3** - TO A  
20 MAXIMUM of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of  
21 TWENTY-FOUR (24) MONTHS, Count 3 to run CONSECUTIVE to Counts 1 & 2; AS  
22 TO **COUNT 4** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
23 Eligibility of EIGHTEEN (18) MONTHS, Count 4 to run CONCURRENT with Count 3;  
24 AS TO **COUNT 5** - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
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1 Eligibility of EIGHTEEN (18) MONTHS, Count 5 to run CONCURRENT with Count 4;  
2 AS TO **COUNT 6** - TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM  
3 Parole Eligibility of EIGHTEEN (18) MONTHS, Count 6 to run CONCURRENT with  
4 Count 5; and AS TO **COUNT 7** - TO A MAXIMUM of THIRTY-SIX (36) MONTHS with a  
5 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, Count 7 to run CONCURRENT  
6 with Count 6; with FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.  
7 Defendant's AGGREGATE TOTAL SENTENCE is THREE HUNDRED THIRTY-SIX  
8 (336) MONTHS MAXIMUM with a MINIMUM of NINETY-SIX (96) MONTHS.  
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11  
12 DATED this 22 day of January, 2016.

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15 ELISSA F. CADISH  
16 DISTRICT COURT JUDGE  
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*Steven D. Grierson*

1 AJOC

2  
3  
4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6  
7 THE STATE OF NEVADA,

8 Plaintiff,

CASE NO. C298879-1

9 -VS-

DEPT. NO. VI

10  
11 GENARO RICHARD PERRY  
#1456173

12 Defendant.

13  
14 AMENDED JUDGMENT OF CONVICTION  
15 (JURY TRIAL)

16  
17 The Defendant previously entered a plea of not guilty to the crimes of  
18 COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in  
19 violation of NRS 200.380, 193.165; COUNT 2 – FALSE IMPRISONMENT WITH USE  
20 OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.460; COUNT 3 –  
21 GRAND LARCENY AUTO (Category B Felony) in violation of NRS 205.228.3; COUNT  
22 4 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS  
23 200.471; COUNT 5 – COERCION (Category B Felony) in violation of NRS 207.190;  
24 COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM  
25 CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of NRS  
26  
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28

//

1 200.481, 200.485, 33.018; COUNT 7 – PREVENTING OR DISSUADING WITNESS OR  
2 VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D  
3 Felony) in violation of NRS 199.305; and the matter having been tried before a jury and  
4 the Defendant having been found guilty of said crimes; thereafter, on the 6<sup>th</sup> day of  
5 January, 2016, the Defendant was present in court for sentencing with his counsel,  
6 TRAVIS SHETLER, ESQ., and good cause appearing,  
7

8 THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offense(s) and, in  
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee,  
10 \$250.00 Indigent Defense Civil Assessment Fee, Restitution in the amount of  
11 \$18,103.28, and a \$150.00 DNA Analysis Fee including testing to determine genetic  
12 markers, plus a \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the  
13 Nevada Department of Corrections (NDC) as follows: AS TO **COUNT 1** - TO A  
14 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
15 Eligibility of THIRTY-SIX (36) MONTHS, plus a CONSECUTIVE term of ONE  
16 HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of  
17 THIRTY-SIX (36) MONTHS for use of a Deadly Weapon; AS TO **COUNT 2** - TO A  
18 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of EIGHTEEN  
19 (18) MONTHS, Count 2 to run CONCURRENT with Count 1; AS TO **COUNT 3** - TO A  
20 MAXIMUM of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of  
21 TWENTY-FOUR (24) MONTHS, Count 3 to run CONSECUTIVE to Counts 1 & 2; AS  
22 TO **COUNT 4** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
23 Eligibility of EIGHTEEN (18) MONTHS, Count 4 to run CONCURRENT with Count 3;  
24 AS TO **COUNT 5** - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
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1 Eligibility of EIGHTEEN (18) MONTHS, Count 5 to run CONCURRENT with Count 4;  
2 AS TO COUNT 6 - TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM  
3 Parole Eligibility of EIGHTEEN (18) MONTHS, Count 6 to run CONCURRENT with  
4 Count 5; and AS TO COUNT 7 - TO A MAXIMUM of THIRTY-SIX (36) MONTHS with a  
5 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, Count 7 to run CONCURRENT  
6 with Count 6; with FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.  
7

8 THEREAFTER, upon inquiry of the Nevada Department of Corrections and  
9 ORDER of this Court, the AGGREGATE TOTAL SENTENCE of THREE HUNDRED  
10 THIRTY-SIX (336) MONTHS MAXIMUM with a MINIMUM of NINETY-SIX (96)  
11 MONTHS is REMOVED.  
12

13 DATED this 28 day of April, 2017.

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16 ELISSA F. CADISH  
17 DISTRICT COURT JUDGE  
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*Steven D. Grierson*

JOC

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY  
#1456173

Defendant.

CASE NO. C298879-1

DEPT. NO. VI

AMENDED JUDGMENT OF CONVICTION  
(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of  
COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in  
violation of NRS 200.380, 193.165; COUNT 2 – FALSE IMPRISONMENT WITH USE  
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CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of NRS

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3 Felony) in violation of NRS 199.305; and the matter having been tried before a jury and  
4 the Defendant having been found guilty of said crimes; thereafter, on the 6<sup>th</sup> day of  
5 January, 2016, the Defendant was present in court for sentencing with his counsel,  
6 TRAVIS SHETLER, ESQ., and good cause appearing,  
7

8 THE DEFENDANT WAS THEREBY ADJUDGED guilty of said offense(s) and, in  
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee,  
10 \$250.00 Indigent Defense Civil Assessment Fee, Restitution in the amount of  
11 \$18,103.28, and a \$150.00 DNA Analysis Fee including testing to determine genetic  
12 markers, plus a \$3.00 DNA Collection Fee, the Defendant was SENTENCED to the  
13 Nevada Department of Corrections (NDC) as follows: AS TO **COUNT 1** - TO A  
14 **MAXIMUM** of ONE HUNDRED TWENTY (120) MONTHS with a **MINIMUM** Parole  
15 Eligibility of THIRTY-SIX (36) MONTHS, plus a **CONSECUTIVE** term of ONE  
16 HUNDRED TWENTY (120) MONTHS **MAXIMUM** with a **MINIMUM** Parole Eligibility of  
17 THIRTY-SIX (36) MONTHS for use of a Deadly Weapon; AS TO **COUNT 2** - TO A  
18 **MAXIMUM** of SIXTY (60) MONTHS with a **MINIMUM** Parole Eligibility of EIGHTEEN  
19 (18) MONTHS, Count 2 to run **CONCURRENT** with Count 1; AS TO **COUNT 3** - TO A  
20 **MAXIMUM** of NINETY-SIX (96) MONTHS with a **MINIMUM** Parole Eligibility of  
21 TWENTY-FOUR (24) MONTHS, Count 3 to run **CONSECUTIVE** to Counts 1 & 2; AS  
22 TO **COUNT 4** – TO A **MAXIMUM** of SIXTY (60) MONTHS with a **MINIMUM** Parole  
23 Eligibility of EIGHTEEN (18) MONTHS, Count 4 to run **CONCURRENT** with Count 3;  
24 AS TO **COUNT 5** - TO A **MAXIMUM** of SIXTY (60) MONTHS with a **MINIMUM** Parole  
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1 Eligibility of EIGHTEEN (18) MONTHS, Count 5 to run CONCURRENT with Count 4;  
2 AS TO COUNT 6 - TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM  
3 Parole Eligibility of EIGHTEEN (18) MONTHS, Count 6 to run CONCURRENT with  
4 Count 5; and AS TO COUNT 7 - TO A MAXIMUM of THIRTY-SIX (36) MONTHS with a  
5 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, Count 7 to run CONCURRENT  
6 with Count 6; with FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.  
7 Defendant's AGGREGATE TOTAL SENTENCE is THREE HUNDRED THIRTY-SIX  
8 (336) MONTHS MAXIMUM with a MINIMUM of NINETY-SIX (96) MONTHS.  
9

10  
11 THEREAFTER, on the 31<sup>st</sup> day of July, 2017, the Defendant not appearing in  
12 court and pursuant to a request from the Nevada Department of Corrections (NDC)  
13 regarding aggregate terms of imprisonment imposed in the original Judgment of  
14 Conviction, and good cause appearing to amend the Judgment of Conviction; now  
15 therefore,  
16

17 IT IS HEREBY ORDERED verbiage referencing an aggregate total sentence is  
18 STRICKEN.  
19  
20

21 DATED this 7 day of August, 2017.  
22

23  
24   
25 ELISSA F. CADISH  
26 DISTRICT COURT JUDGE  
27  
28

*Heather L. Smith*  
CLERK OF THE COURT

**ORDR**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
YU MENG  
Deputy District Attorney  
Nevada Bar #14741  
200 Lewis Avenue  
Las Vegas, NV 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173

Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

**ORDER GRANTING DEFENDANT'S MOTION TO WITHDRAW COUNSEL**

DATE OF HEARING: August 16, 2021  
TIME OF HEARING: 11:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 16th day of August, 2021, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through YU MENG, Deputy District Attorney, and the Court without argument, based on the pleadings and good cause appearing therefor,

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1 IT IS HEREBY ORDERED that the Defendant's Motion to Withdraw Counsel, shall  
2 be, and it is GRANTED.

Dated this 1st day of September, 2021

3  
4   
5

kj

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

89B 4F3 8D20 3E19  
Jacqueline M. Bluth  
District Court Judge

8  
9 BY /s/ YU MENG  
10 YU MENG  
11 Deputy District Attorney  
12 Nevada Bar #14741

13 CERTIFICATE OF SERVICE

14 I certify that on the 1st day of September, 2021, I mailed a copy of the foregoing Order  
15 to:

16 GENARO RICHARD PERRY, BAC #1153366  
17 SOUTHERN DESERT CORRECTIONAL CENTER  
P. O. BOX 208  
INDIAN SPRINGS, NEVADA 89070-0208

18  
19 BY /s/ J. HAYES  
20 Secretary for the District Attorney's Office  
21  
22  
23  
24  
25  
26  
27

28 14F07966X/jh/DVU

1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA

4  
5  
6 State of Nevada

CASE NO: C-14-298879-1

7 vs

DEPT. NO. Department 6

8 Genaro Perry  
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: 9/1/2021

15 Clark County District Attorney's Office .

PDmotions@clarkcountynyda.com

16 Patricia Pinotti .

pipinotti@gmail.com

17 Travis Shetler .

travisshetler@gmail.com

18 Jean Schwartzer

jean.schwartzner@gmail.com

General Richard Perry #1153460  
SAC

PO Box 208  
Indian Springs NJ  
89101D

815 7 11660 200

89101  
01 MAR 2001 PM

Clerk of the Court  
200 Lewis Ave 3rd floor  
NJ NJ  
89155-1160

Legal



1 Genaro Richard Perry 1153364  
2 Defendant/ In Propria Person  
3 Post Office Box 208  
4 Indian Springs, Nevada 89070

FILED  
NOV 29 2021

John J. Blum  
CLERK OF COURT

5 IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF THE STATE  
6 OF NEVADA IN AND FOR THE COUNTY OF Clark

7  
8 The State of Nevada  
9 Plaintiff,

10 VS

11 Genaro Richard Perry  
12 Defendant;

Case No. C298879-1

Dept NO. ✓1

14  
15 MOTION TO MODIFY AND/OR CORRECT  
16 ILLEGAL SENTENCE

December 20, 2021  
8:30 AM

17 Date of hearing :

18 Time of hearing :

19  
20 COMES NOW, DEFENDENT, Genaro Richard Perry, proceeding  
21 in proper person, hereby motion this Honorable Court  
22 pursuant to N.R.S 176.555 and Edwards v. state.

23 This motion is made in based upon all papers and pleadings  
24 on file, the points and authorities and exhibits attached  
25 here to.

26  
27 Dated: his 28<sup>th</sup> day of October, 2021.

28  
Genaro R. Perry  
Genaro Richard Perry  
DEFENDENT/

RECEIVED  
NOV 22 2021  
CLERK OF THE COURT

### POINTS AND AUTHORITIES

"Motion to modify sentence" is limited in scope to sentences based on mistaken assumptions about defendant's criminal record which work to defendant's extreme detriment, while "Motion to correct illegal sentence" addresses only facial legality of sentence. State v. District Court, 100 Nev. 90, 97, 677 p.2d 1044 1048 (1984), and Edwards v. State, 918 p.2d 321 (Nev. 1996).

Further N.R.S 176.555 Motion to Modify and/or Correct a sentence, may be filed at any time.

Defendant herein alleges that his sentence should be modified and/or corrected pursuant to the following facts.

#### Background

Defendant was sentenced on 1/27/2016, after trial and conviction of the following crimes.

Count (1)

Robbery with the use of a deadly weapon

Count (2)

False imprisonment with the use of a deadly weapon.

Count (3)

Grand Larceny Auto

## Background

Count (4)

Assault with a deadly weapon

Count (5)

Coercion

Count (6)

Battery resulting in substantial bodily harm

Count (7)

Preventing or dissuading witness or victim from reporting crime or commencing prosecution.

Defendant was sentenced to a aggregate total sentence of Three Hundred Thirty Six (336) months maximum with a minimum of Ninety-Six (96) months.

As per NRS-213.1212. On or after July 1, 2014. All sentences are automatically aggregated by the sentencing court.

On 4/28/2017. Upon inquiry of the Nevada Department of Corrections and order of this court, the aggregate total sentence of Three Hundred Thirty-Six (336) months maximum

-CONT-

with a minimum of Ninety-Six (96) months is removed and a new (JOC) was issued out of the presence of defendant.

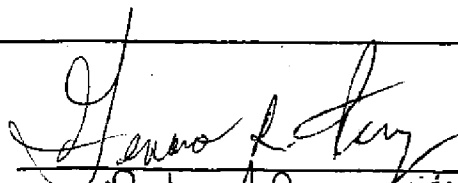
Then on 8/8/2017 a new (JOC) was ordered again out of the presence and without the knowledge of defendant. Wick states the following. "It is hereby ordered verbiage referencing an aggregate total sentence is stricken."

### Legal Argument

Defendant was sentenced properly to the aggregate term of (96) months to (336) months.

So for my sentence to be changed because of a inquiry by the Nevada Department of Corrections. Goes against the statute of NRS 213.1212. Wick defendant was correctly sentenced under.

Also in-order for a new (JOC) to be issued. The defendant must be present in court with defense counsel at the time of sentencing.

  
Genaro Richard Perry #1153366  
Defendant / In

Thereby, pursuant to the facts and the law stated herein,  
Defendant, request that his sentence be modified/corrected as  
follows:

A aggregate total sentence of  
Three Hundred Thirty-Six (336) months  
maximum with a minimum of Ninety-Six  
(96) months.

Dated; this 29<sup>th</sup> DAY OF October, 2021.

Genaro R. Perry  
Genaro Richard Perry #153366  
Defendant/propria person

Genaro Richard Perry ID NO. 1153366

SOUTHERN DESERT CORRECTIONAL CTN.  
20825 COLD CREEK RD.  
P.O. BOX 208  
INDIAN SPRINGS, NV 89010

FILED

NOV 29 2021

*John J. Williams*  
CLERK OF COURT

District Court  
Clark County Nevada

Genaro Richard Perry  
Defendant

v.

The State of Nevada  
respondent

CASE NO. C-14-298879-1

DEPT. NO.: V1

DOCKET: \_\_\_\_\_

Supplement For Genaro Richard Perry's  
Writ of Habeas Corpus

COMES NOW, Genaro Richard Perry, herein above respectfully  
moves this Honorable Court for an evidentiary hearing

This Motion is made and based upon the accompanying Memorandum of Points and  
Authorities,

DATED: this 28 day of October, 2021

BY: Genaro R. Perry  
Genaro Richard Perry # 1153366  
Defendant In Proper Personam

ADDITIONAL FACTS OF THE CASE:

Background

General Richard Perry was sentenced on 1-22-2016  
after trial and conviction of the following crimes

Count (1)

Robbery with the use of a deadly weapon

Count (2)

False imprisonment with the use of a deadly weapon

Count (3)

grand larceny auto

Count (4)

Assault with a deadly weapon

Count (5)

Coercion

Count (6)

Battery resulting in substantial bodily harm

Count (7)

Preventing or dissuading witness or victim from  
reporting crime or commencing prosecution.

4-24-2017 Petition for writ of habeas corpus filed

## Legal argument

Comes now Genaro Richard Perry, with the supplemental for the petition for writ of habeas corpus.

There were decisions made before, during, and after trial. That prove the bench trial that Mr. Perry was subjected to. Is unconstitutional and without a doubt. A one way railroad to prison.

Even after Mr. Perry was incarcerated. The court went back and altered Mr. Perry's sentence. In-order to make Mr. Perry do more time than the judge intended Mr. Perry to do.

Petitioner was appointed Jean Schwartzer Esq. as court appointed counsel. To file a supplement and do a evidentiary hearing for the petition for writ of habeas corpus. Which was filed on 4-24-2017.

To this day, the only thing done by Jean Schwartzer is a motion requesting Las Vegas Metro Police (LVM PD) to conduct Genetic Marker and latent fingerprint Analysis. Filed 2-3-2021.



## Legal Argument

This motion was raised under NRS 176.0918 which states in part NRS 176.0918(2)

Such a petition must be filed with the clerk of the district court for the county in which the petitioner was convicted on a form prescribed by the department of corrections.

This motion was filed by counsel and there's no doubt that the test results on Corla Carpenter's fingerprints and Mr. Perry's blood (that is on the knife) would change the outcome at trial.

Molina V State 120 Nev, 185, 87 P.3d 533 (2004)

A) How defense counsel went from having Dr. Steven Gabaeff M.D. ready to testify at the first jury trial date. To not showing up for a bench trial. Shall be flushed out as Mr. Perry is going to put the trial attorney and Dr. Gabaeff on the stand for the evidentiary hearing.

Dr. Gabaeff support's Mr. Perry's self-defense claim. As Corla Carpenter's story changed

## Legal Argument

several times before trial. And the doctors testimony would have enabled cross-examination of Corla Carpenter and the states doctor. To actually bring out the fact that Corla Carpenter was the aggressor and not the victim.

This is a 6<sup>th</sup> & 14<sup>th</sup> Amendment violation to the United States Constitution.

Strickland v Washington 966 U.S. 668 (1984)

B) Trial counsel was ineffective for failing to call the TJ Maxx security guard who witnessed Corla Carpenter running through TJ Maxx with a knife and crowbar. To testify at trial.

This testimony goes directly to Corla Carpenters credibility. Which is crucial in a he said/she said case.

This is a 6<sup>th</sup> Amendment violation to the United States Constitution.

Strickland v Washington 966 U.S. 668 (1984)

C) Trial counsel was worse than ineffective. As its standard procedure to have any DNA and fingerprints tested before trial.

# Legal Argument

Especially from any weapon or crime scene

It doesn't take a rocket scientist to figure out that, if the state hasn't done that testing, then there's evidence that favors the defendant's self-defense theory.

Obviously the defense counsel's monthly payments from the court-appointed cases and/or political aspirations are more important than sending an innocent man to prison.

This is a 6<sup>th</sup> Amendment violation to the U.S. Constitution.

Strickland v Washington 966 U.S. 668 (1994)

D) Trial and appellate counsel were ineffective for failing to raise that the criminal complaint fails to state the physical address and cross streets of this incident.

According to the Nevada Rules of Criminal Procedure. The complaint is fraudulent. Which is a due process violation and error.

## Legal Argument

The conviction must be reversed and a new trial given to Mr. Perry.

This is a 6<sup>th</sup> & 14<sup>th</sup> Amendment violation to the United States Constitution.

Strickland v Washington 966 U.S. 668 (1994)

E) Trial counsel's failure to object at trial to the removal of the self-defense instruction undermines the self-defense theory as a whole.

Therefore defense counsel didn't present a defense

This is a 6<sup>th</sup> Amendment violation of the United States Constitution.

Strickland v Washington 966 U.S. 668 (1994)

F) Trial counsel was ineffective for waiving the preliminary hearing.

Especially in a case of he said/she said. When Cork Carpenter's story didn't line up with the evidence at that time.

Locking Carpenter's testimony in on the record

## Legal Argument

is crucial.

So when the prosecution has carpenter change her testimony at trial. The defense counsel can destroy carpenter's credibility.

This is a 6<sup>th</sup> Amendment Violation to the United States Constitution

Strickland v Washington 966 U.S. 668 (1994)

G) Trial counsel was ineffective for failing to have a psychiatric test done on Carla Carpenter.

It's obvious that anyone carrying a crowbar and knife through the TJ Maxx is deeply disturbed.

If this were to happen today, chances are Carpenter would make primetime news or even worse.

Therefore without a psychiatric evaluation. How can she be considered credible?

This is a 6<sup>th</sup> and 14<sup>th</sup> Amendment violation to the United States Constitution.

# Legal Argument

Strickland v Washington 966 U.S. 668 (1994)

State v Cogood 2003 SD 87 N.W. 2d 687 SD (2003)

H) Trial counsel called Mr. Perry a "drug-addled maniac" in his closing argument.

This rises to the level of admitting the defendant's guilt.

This is a 6<sup>th</sup> & 14<sup>th</sup> Amendment violation of due process to the United States Constitution.

McCoy v Louisiana 138 S. Ct 1500 (2018)

I) Trial counsel was ineffective for the lack of pre-trial investigation.

Carpenter's history of selling prescription drugs, that she obtained through a doctor who was charged and convicted in this matter. Goes to the heart of Carpenter's credibility.

This is a 6<sup>th</sup> Amendment violation of the United States Constitution.

Strickland v Washington 966 U.S. 668 (1994)

## Legal Argument

1 J) Trial counsel was ineffective for not  
2 doing pre-trial investigation on the states  
3 doctor before trial.

4 The doctor testified as a abuse expert.  
5 knowing he wasnt one. However his  
6 opinion carried great weight with the  
7 court.

8 Pre-trial investigation would have warranted  
9 the defense getting its own expert on  
10 the abuse issue.  
11

12 This is a 6<sup>th</sup> Amendment violation of the  
13 United States Constitution.  
14

15 Strickland v Washington 966 U.S. 668 (1994)  
16

17 K) Trial counsel's failure to even contact  
18 the TJ Maxx security guard is ineffectiveness  
19 at its core.  
20

21 The TJ Maxx security guard's testimony  
22 would have changed the whole scope  
23 of this case. Therefore resulting in a  
24 acquittal.  
25

26 This is a 6<sup>th</sup> Amendment violation of the  
27

# Legal Argument

United States Constitution.

Strickland v Washington 966 U.S. 668 (1994)

4) Trial counsel was ineffective for not having the duplicate charges dismissed.

A person can be charged for assault with a deadly weapon or battery resulting in bodily harm. But not both charges for the same incident.

If this is not corrected now, by this court. It will be the Nevada Supreme Court that reverses this conviction.

As the Honorable Judge Cadish does not want this matter going over her head to the federal court. As no doubt her record and political aspirations could be adversely effected by this case as Judge Cadish conducted a bench bench trial on these felony charges. Which is not only unheard of. But unconstitutional.

This is a 6<sup>th</sup> & 14<sup>th</sup> Amendment violation to the United States Constitution.



## Legal Argument

1 Strickland v Washington 966 U.S. 668 (1994)

2  
3  
4 m) Trial counsel was ineffective for failing  
5 to investigate the crime scene and the  
6 fact that Carla Carpenter poured bleach  
7 on Perry's clothes. To destroy evidence.

8 There was also blood on the floor and  
9 walls of the garage.

10 These needed to be tested in order to  
11 confirm testimony at trial.

12  
13 This is a 6<sup>th</sup> Amendment violation of the United  
14 States Constitution.

15  
16 Strickland v Washington 966 U.S. 668 (1994)

## Conclusion

Petitioner has listed (19) grounds in his petition for writ of Habeas corpus.

Mr. Perry would request to put the trial attorney, appellate attorneys and Dr. Steven Gabbert M.D. on the stand. In order to get all the supporting facts on record.

Therefore all the evidence can go through the Nevada Supreme Court. Then on to the federal court. Were I have no doubt this conviction will be overturned.

**CERTIFICATE OF SERVICE BY MAILING**

I, Genaro Richard Perry, hereby certify, pursuant to NRCP 5(b), that on this 28  
day of October, 2021, I mailed a true and correct copy of the foregoing, "Supplement for Perry's Writ of Habeas Corpus"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Clerk of the Court  
200 Lewis Ave 3rd floor  
LV NV  
89155-1160

Steven B. Wolfson  
Office of the district attorney  
200 Lewis Ave  
P.O. Box 552212  
LV NV 89155-2212

CC:FILE

DATED: this 28 day of October, 2021.

Genaro R. Perry  
Genaro Richard Perry #1153366  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

Supplement for writ of Habeas Corpus  
(Title of Document)

filed in District Court Case number C-14-298879-1

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

Genaro R. Perry  
Signature

10-28-21  
Date

Genaro Richard Perry  
Print Name

\_\_\_\_\_  
Title



**OPPS**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JOHN AFSHAR  
Deputy District Attorney  
Nevada Bar #014408  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173  
  
Defendant.

CASE NO: C-14-298879-1

DEPT NO: XVII

**STATE'S OPPOSITION TO DEFENDANT'S  
MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE**

DATE OF HEARING: December 20, 2021  
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JOHN AFSHAR, Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion to Modify and/or Correct Illegal Sentence.

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

//

//

//

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On June 15, 2014, Defendant Genaro Richard Perry (“Defendant”) was charged by way  
4 of Information with seven felonies. The victim listed for all seven felonies was Corla  
5 Carpenter, with whom he had previously been in a dating relationship. The Defendant waived  
6 his right to a jury and requested a bench trial. The bench trial commenced on September 29,  
7 2015. On October 1, 2015, Defendant was found guilty of all seven counts. On January 6,  
8 2016, he was sentenced to the Nevada Department of Corrections as follows:

- 9 1. Count 1 – Robbery with Use of a Deadly Weapon – a maximum of 120 months and  
10 minimum of 36 months, plus a consecutive sentence of maximum of 120 months  
11 and minimum of 36 months for the use of a deadly weapon.
- 12 2. Count 2 – False Imprisonment with Use of a Deadly Weapon – a maximum of 60  
13 months and minimum of 18 months, concurrent with Count 1.
- 14 3. Count 3 – Grand Larceny Auto – a maximum of 96 months and minimum of 24  
15 months, consecutive to Counts 1 and 2.
- 16 4. Count 4 – Assault with a Deadly Weapon – a maximum of 60 months and minimum  
17 of 18 months, concurrent with Count 3.
- 18 5. Count 5 – Coercion – a maximum of 60 months and minimum of 18 months,  
19 concurrent with Count 4.
- 20 6. Count 6 – Battery Resulting in Substantial Bodily Harm Constituting Domestic  
21 Violence – a maximum of 48 months and minimum of 18 months, concurrent with  
22 Count 5.
- 23 7. Count 7 – Preventing or Dissuading Witness or Victim from Reporting Crime or  
24 Commencing Prosecution – a maximum of 36 months and minimum of 12 months,  
25 concurrent with Count 6.

26 Defendant’s total aggregate sentence was a maximum of 336 months and a minimum  
27 of 96 months. The Judgment of Conviction was filed on January 22, 2016. Defendant filed a  
28 Notice of Appeal on November 4, 2015. On December 14, 2016, the Nevada Court of Appeals  
affirmed Defendant’s convictions. Perry v. State, Docket No. 69139-COA (Order of  
Affirmance, Dec. 14, 2016). Remittitur issued on February 2, 2017.

1 On February 7, 2017, Defendant filed a Motion For New Trial With Newly Discovered  
2 Evidence and Motion To Vacate and a pro per Petition for Writ of Habeas Corpus (Post-  
3 Conviction). On April 7, 2017, the State filed an Opposition and a Response, respectively. On  
4 April 24, 2017, the Court denied the Motion and granted Defendant's request for the  
5 appointment of counsel, and on May 1, 2017, Jean J. Schwartz, Esq. affirmed as Defendant's  
6 counsel.

7 On April 28, 2017, this Court filed an Amended Judgment of Conviction based on the  
8 Nevada Department of Corrections' ("NDOC") inquiry and ordered "the aggregate total  
9 sentence of three hundred thirty-six (336) months maximum with a minimum of ninety-six  
10 (96) months is removed."

11 On February 3, 2021, Defendant filed a Motion Requesting Order Directing The Las  
12 Vegas Metropolitan Police Department To Conduct Genetic Marker And Latent Fingerprint  
13 Analysis Of Evidence Impounded At Crime Scene ("Motion"). On February 11, 2021, the  
14 State filed its Response. On February 17, 2021, the Court denied Defendant's Motion.

15 On July 22, 2021, Defendant filed a Motion to Withdraw Counsel. On August 16, 2021,  
16 the Court granted Defendant's Motion.

17 On August, 8, 2021, this Court filed a second Amended Judgment of Conviction based  
18 on an inquiry by NDOC regarding aggregate terms of imprisonment imposed in the original  
19 Judgment of Conviction and ordered the "verbiage referencing an aggregate total sentence is  
20 stricken."

21 On November 29, 2021, Defendant filed a Motion for Modification of Sentence and a  
22 Motion to Modify and/or Correct Illegal Sentence. On the same day, Defendant also filed a  
23 Supplement to his Petition for Writ of Habeas Corpus. The State's Oppositions to his Motions  
24 follows.

25 //

26 //

27 //

28 //

1 **ARGUMENT**

2 **I. DEFENDANT IS NOT ENTITLED TO A SENTENCE MODIFICATION**

3 In general, a district court lacks jurisdiction to modify a sentence once the defendant  
4 has started serving it. Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1373 (1992).  
5 However, a district court has inherent authority to correct, vacate, or modify a sentence that  
6 violates due process where the defendant can demonstrate the sentence is based on a materially  
7 untrue assumption or mistake of fact about the defendant's criminal record that has worked to  
8 the *extreme detriment* of the defendant. Edwards v. State, 112 Nev. 704,707, 918 P.2d 321,  
9 324 (1996) (emphasis added); see also Passanisi, 108 Nev. at 322, 831 P.2d at 1373.

10 Not every mistake or error during sentencing gives rise to a due process violation. State  
11 v. Eighth Judicial Dist. Court, 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984). A district  
12 court has jurisdiction to modify a defendant's sentence "only if (1) the district court actually  
13 sentenced appellant based on a materially false assumption of fact that worked to appellant's  
14 extreme detriment, and (2) the particular mistake at issue was of the type that would rise to the  
15 level of a violation of due process." Passanisi, 108 Nev. at 322-23, 831 P.2d at 1373-74.

16 Edwards explains that a court may modify a defendant's sentence "only if the mistaken  
17 sentence 'is the result of the sentencing judge's misapprehension of a *defendant's criminal*  
18 *record*.'" 112 Nev. at 707, 918 P.2d at 324 (quoting Husney, 100 Nev. at 97, 677 P.2d at 1048  
19 (emphasis in original)). Such material mistakes surrounding a defendant's criminal record can  
20 arise, "either as a result of a sentencing judge's *correct* perception of inaccurate or false  
21 information, or a sentencing judge's *incorrect* perception or misapprehension of otherwise  
22 accurate or true information." Husney, 100 Nev. at 97, 677 P.2d at 1048 (emphasis in original).

23 Here, Defendant is not entitled to a sentence modification because his sentence does  
24 not violate due process. His allegation that his sentence is based on several errors in his Pre-  
25 Sentence Investigation is unsupported. Defendant does not even specify what those alleged  
26 error are. Defendant fails to demonstrate his sentence is based on a materially untrue  
27 assumption or mistake of fact about his criminal record that worked to his extreme detriment.  
28 Therefore, Defendant's motion should be denied.



1           **II.     DEFENDANT IS NOT ENTITLED TO A SENTENCE CORRECTION**

2           Defendant also contends the Amended Judgment of Conviction should have never  
3     been issued based on an inquiry by the Nevada Department of Corrections (“NDOC”) or in  
4     his absence. Defendant’s claims fails because a motion to correct a sentence only applies to  
5     facial legality of the sentence.

6           NRS 176.555 states that “[t]he court may correct an illegal sentence at any time.” See  
7     also Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1372 (1992). However, the grounds  
8     to correct an illegal sentence are interpreted narrowly under a limited scope. See Edwards v.  
9     State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996); see also Haney v. State, 124 Nev. 408,  
10    411, 185 P.3d 350, 352 (2008). “A motion to correct an illegal sentence is an appropriate  
11    vehicle for raising the claim that a sentence is facially illegal at any time; such a motion cannot  
12    be used as a vehicle for challenging the validity of a judgment of conviction or sentence based  
13    on alleged errors occurring at trial or sentencing.” Edwards, 112 Nev. at 708, 918 P.2d at 324.  
14    “Motions to correct illegal sentences address only the facial legality of a sentence.” Id.  
15    Motions to correct illegal sentences evaluate whether the sentence imposed on the defendant  
16    is ““at variance with the controlling statute, or illegal in the sense that the court goes beyond  
17    its authority by acting without jurisdiction or imposing a sentence in excess of the statutory  
18    maximum provided.”” Id. (quoting Allen v. United States, 495 A.2d 1145, 1149 (D.C. 1985)).  
19    Other claims attacking the conviction or sentence must be raised by a timely filed direct appeal  
20    or a timely filed Petition for a Post-Conviction Writ of Habeas Corpus per NRS 34.720-34.830,  
21    or other appropriate motion. See id.

22           Accordingly, because Defendant’s motion does not go towards the facial legality of his  
23    sentence, his motion to correct his sentence should be denied. Moreover, there was no error in  
24    sentencing Defendant. He cannot provide any authority for his claim as there is none.  
25    Defendant’s reliance on NRS 213.1212 is misplaced because that statute concerns parole  
26    eligibility and not sentencing. Nevertheless, the proper office to file and serve Defendant’s  
27    motion is with the Attorney General because they represent the NDOC. Therefore,  
28    Defendant’s motion should be dismissed.

1 CONCLUSION

2 For the foregoing reasons, the State respectfully requests this Court deny Defendant's  
3 Motion for Modification of Sentence in its entirety.

4  
5 DATED this 15th day of December, 2021.

6 Respectfully submitted,

7 STEVEN B. WOLFSON  
8 Clark County District Attorney  
9 Nevada Bar #014408

10 BY /s/ John Afshar  
11 JOHN AFSHAR  
12 Deputy District Attorney  
13 Nevada Bar #014408

14 CERTIFICATE OF SERVICE

15 I hereby certify that service of State's Opposition to Defendant's Motion to Modify,  
16 was made this 15th day of December, 2021, by Mail via United States Postal Service  
17 to:

18 GENARO RICHARD PERRY #1153366  
19 SOUTHERN DESERT CORRECTIONAL CENTER  
20 PO BOX 208  
21 INDIAN SPRINGS, NV 89070

22 /s/ Kristian Falcon

23 Secretary for the District Attorney's Office  
24  
25  
26

27 ja/kf/DVU  
28

1 Gregorio R. Perry ID NO. 1153366

2 SOUTHERN DESERT CORRECTIONAL CTN.  
3 20825 COLD CREEK RD.  
4 P.O. BOX 208  
5 INDIAN SPRINGS, NV 89010

FILED

DEC 16 2021

Donna R. Perry  
CLERK OF COURT

6 District Court  
7 Clark County Nevada

January 10, 2022  
8:30 AM

8 Gregorio Richard Perry  
9 Defendant

10 v.

11 THE STATE OF Nevada  
12 Respondent

CASE NO.: C-14-298879-1

DEPT. NO.: VI

DOCKET: \_\_\_\_\_

Date of hearing: December 20, 2021  
Time of hearing: 8:30 am

13 MOTION TO TRANSPORT to Clark County Detention  
14 Center / Video Conference in Nevada Department of  
15 Collections @ Southern Desert Correctional Center

17 COMES NOW, Gregorio Richard Perry, herein above respectfully  
18 moves this Honorable Court for an Motion to Modify And / OR  
19 Correct illegal sentence.

20  
21 This Motion is made and based upon the accompanying Memorandum of Points and  
22 Authorities,

23 DATED: this 9 day of December, 2021

24 BY

Donna R. Perry  
Gregorio Richard Perry # 1153366  
Defendant In Proper Personam

1 Motion to Transport to Clark County Detention  
2 Center / Video conference in Nevada Department  
3 of Corrections @ Southern Desert Correctional  
4 Center; District Court Clark County Nevada  
5 Case # C-14-248874-1 Dept. No. VI Date of  
6 Hearing: December 20, 2021. Time of Hearing:  
7 8:30 am.

**CERTIFICATE OF SERVICE BY MAILING**

I, Gerardo Richard Lopez, hereby certify, pursuant to NRCP 5(b), that on this 9  
day of December, 2021, I mailed a true and correct copy of the foregoing, "Motion  
TO TRANSPORT / Video Conference @ Southern Desert Correctional Center"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Clerk of the Court  
200 Lewis Ave. 3rd Floor  
Las Vegas, Nevada 89155-1162

STEVEN B. WOLFSON  
Office of the District Attorney  
200 Lewis Ave. 3rd Floor  
Las Vegas, NV 89155-2212

CC: FILE

DATED: this 9 day of December, 2021

Gerardo R. Lopez  
Gerardo R. Lopez #115-3566  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

Motion TO TRANSPORT  
(Title of Document)

filed in District Court Case number C-14-298879-1

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

*Gerardo L. Perry*  
Signature

12/9/21  
Date

Gerardo L. Perry  
Print Name

\_\_\_\_\_  
Title

Gerardo R. Leroy 115356

P.O. Box 208

Indian Springs, NV 89000



Las Vegas PAID 89199

FRI 10 DEC 2021 PM

STEVEN D. GRIFFIN, Clerk of the Court

200 Lewis Avenue, 3rd Floor

Las Vegas, NV 89155-1160

Psalm 146:7

God rescue me from my powerful enemy. (Psalm 22:8)

Southern Desert  
Correctional Center  
DEC 10 2021  
OUTGOING MAIL

IN GOD WE TRUST



*Heather L. Hume*

CLERK OF THE COURT

**ORDR**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
ELISE M. CONLIN  
Deputy District Attorney  
Nevada Bar #14856  
200 Lewis Avenue  
Las Vegas, NV 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173

Defendant.

CASE NO: C-14-298879-1

DEPT NO: XVII

**ORDER DENYING DEFENDANT'S MOTION FOR MODIFICATION OF  
SENTENCE**

DATE OF HEARING: December 20, 2021  
TIME OF HEARING: 08:30 A.M.

THIS MATTER having come on for hearing before the above-entitled Court on the 20th day of December, 2021, the Defendant not being present, BETSY ALLEN, ESQ. appeared on behalf of Defendant, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through ELISE M. CONLIN, Deputy District Attorney, and the Court without argument, based on the pleadings and good cause appearing therefor,

Court advised it was basing its decision on the pleadings on file herein; COURT ADOPTED the Procedural History as set forth by the State. Court FINDS Defendant was

///

///

///

1 sentenced within statutory guidelines, has failed to establish that his sentence was based upon  
2 a material untrue assumption or mistake of fact and any claim  
3 regarding parole eligibility must be served upon the Attorney General, therefore ORDERED,  
4 Motion DENIED.

Dated this 29th day of December, 2021



359 99A CE8C C304  
Michael Villani  
District Court Judge

5  
6  
7  
8 STEVEN B. WOLFSON  
Clark County District Attorney  
9 Nevada Bar #001565

10  
11 BY /s/ ELISE M. CONLIN  
12 ELISE M. CONLIN  
Deputy District Attorney  
13 Nevada Bar #14856  
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28 14F07966X/jh/DVU

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 State of Nevada

CASE NO: C-14-298879-1

7 vs

DEPT. NO. Department 17

8 Genaro Perry  
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: 12/29/2021

15 Clark County District Attorney's Office .

PDMotions@clarkcountyda.com

16 Patricia Pinotti .

plpinotti@gmail.com

17 Travis Shetler .

travissHetler@gmail.com

18 Jean Schwartzer

jean.schwartzet@gmail.com

19 District Court Department 17

dept17lc@clarkcountycourts.us

ORIGINAL 7/6

Genaro Richard Perry

NDOC No. 1153366

P.O. BOX 208 S.D.C.C.

Indian Springs, NV 89070  
In proper person

FILED

JAN 07 2022

Adam L. Hines  
CLERK OF COURT

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

Genaro R. Perry

Petitioner,

v.

The STATE OF Nevada

Respondent.)

January 31, 2022  
8:30 AM

Case No. C-14-248879-1

Dept. No. 6

MOTION AND ORDER FOR TRANSPORTATION  
OF INMATE FOR COURT APPEARANCE  
OR, IN THE ALTERNATIVE,  
FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE

Petitioner, Genaro Richard Perry proceeding pro se, requests  
that this Honorable Court order transportation for his personal appearance or, in the  
alternative, that he be made available to appear by telephone or by video conference  
at the hearing in the instant case that is scheduled for December 20, 2021  
at 8:30 AM.

1 In support of this Motion, I allege the following:

2 1. I am an inmate incarcerated at S.D.C.C. P.O. Box 208 Indian Springs, NV 89070  
3 My mandatory release date is UNKNOWN.

4  
5 2. The Department of Corrections is required to transport offenders to and  
6  
7 from Court if an inmate is required or requests to appear before a Court in this state.  
8

9 NRS 209.274 Transportation of Offender to Appear Before Court states:

10 "1. Except as otherwise provided in this section, when an offender is  
11 required or requested to appear before a Court in this state, the  
12 Department shall transport the offender to and from Court on the day  
13 scheduled for his appearance.

14 2. If notice is not provided within the time set forth in NRS 50.215, the  
15 Department shall transport the offender to Court on the date scheduled  
16 for his appearance if it is possible to transport the offender in the usual  
17 manner for the transportation of offenders by the Department. If it is  
18 not possible for the Department to transport the offender in the usual  
19 manner:

20 (a) The Department shall make the offender available on the date scheduled  
21 for his appearance to provide testimony by telephone or by video conference,  
22 if so requested by the Court.

23 (b) The Department shall provide for special transportation of the offender to  
24 and from the Court, if the Court so orders. If the Court orders special  
25 transportation, it shall order the county in which the Court is located to  
26 reimburse the Department for any cost incurred for the special transportation.

27 (c) The Court may order the county sheriff to transport the offender to and  
28 from the Court at the expense of the county."

29 3. My presence is required at the hearing because:

☒ I AM NEEDED AS A WITNESS.

My petition raises substantial issues of fact concerning events in which I participated and about which only I can testify. *See U.S. v. Hayman*, 342 U.S. 205 (1952) (District Court erred when it made findings of fact concerning Hayman's knowledge and consent to his counsel's representation of a witness against Hayman without notice to Hayman or Hayman's presence at the evidentiary hearing).

☐ THE HEARING WILL BE AN EVIDENTIARY HEARING.

My petition raises material issues of fact that can be determined only in my presence. *See Walker v. Johnston*, 312 U.S. 275 (1941) (government's contention that allegations are improbable and unbelievable cannot serve to deny the petitioner an opportunity to support them by evidence). The Nevada Supreme Court has held that the presence of the petitioner for habeas corpus relief is required at any evidentiary hearing conducted on the merits of the claim asserted in the petition. *See Gebbers v. Nevada*, 118 Nev. 500 (2002).

4. The prohibition against ex parte communication requires that I be present at any hearing at which the state is present and at which issues concerning the claims raised in my petition are addressed. U.S. Const. amends. V, VI.

5. If a person incarcerated in a state prison is required or is requested to appear as a witness in any action, the Department of Corrections must be notified in writing not less than 7 business days before the date scheduled for his appearance in Court if the inmate is incarcerated in a prison located not more than 40 miles from Las Vegas. NRS 50.215(4). If a person is incarcerated in a prison located 41 miles or more from Las Vegas, the Department of Corrections must be notified in writing not less than 14 business days before the date scheduled for the person's appearance in Court.

6. Southern Desert Correctional Center is located approximately 40 miles from Las Vegas, Nevada.

1 7. If there is insufficient time to provide the required notice to the Department  
2 of Corrections for me to be transported to the hearing, I respectfully request that this  
3 Honorable Court order the Warden to make me available on the date of the  
4 scheduled appearance, by telephone, or video conference, pursuant to NRS  
5 209.274(2)(a), so that I may provide relevant testimony and/or be present for the  
6 evidentiary hearing.

7 8. The rules of the institution prohibit me from placing telephone calls from  
8 the institution, except for collect calls, unless special arrangements are made with  
9 prison staff. Nev. Admin. Code DOC 718.01. However, arrangements for my  
10 telephone appearance can be made by contacting the following staff member at my  
11 institution: Southern Desert Correctional Center, Indian Springs, NV 89070  
12 whose telephone number is UNKNOWN

13  
14 Dated this 13<sup>th</sup> day of December, 2021.

15 Genaro R. Perry

16 Genaro R. Perry 1153364

**CERTIFICATE OF SERVICE BY MAILING**

I, Crenato R Perry, hereby certify, pursuant to NRCP 5(b), that on this 13<sup>th</sup>  
day of December, 2021, I mailed a true and correct copy of the foregoing, "Motion and  
ORDER FOR TRANSLOCATION OF INMATE FOR COURT APPEARANCE"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

STEVEN D. GRIERSON  
CLERK OF THE COURT  
200 NEW 5 AVE, 3RD FLOOR  
LAS VEGAS, NV  
7155-1160

STEVE WOLFSON  
DISTRICT ATTORNEY  
200 LEWIS AVE  
LAS VEGAS, NV  
7155-2212

CC:FILE

DATED: this 13<sup>th</sup> day of December, 2021

Crenato R. Perry  
Crenato R. Perry # 1153266  
Petitioner In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:



## AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Motion

And order for transportation of Inmate for Court Appearance  
(Title of Document)

filed in District Court Case number C-14-298879-

☒ Does not contain the social security number of any person.

**-OR-**

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

A. A specific state or federal law, to wit:

(State specific law)

**-or-**

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

Gerard L. Perry  
Signature

December 13<sup>th</sup> 2021  
Date

Clement L. Perry  
Print Name

Title Petitioner

General R. Perry 153360

P.O. Box 208

Indian Springs, NV 89070

B15 2612842

RECEIVED  
DEC 21 2021  
CLERK OF THE COURT

STEVEN D. GRIERSON, Clerk of the Court  
200 Lewis Avenue 3rd Floor

Las Vegas, NV 89155-1160

12/17/2021  
US POSTAGE \$001.76  
ZIP 89101  
041M1254121

Genaro Richard Perry ID NO. 1153366

FILED

JAN 14 2022

CLERK OF COURT

SOUTHERN DESERT CORRECTIONAL CTN.  
20825 COLD CREEK RD.  
P.O. BOX 208  
INDIAN SPRINGS, NV 89010

District Court  
Clark County Nevada

Genaro Richard Perry  
Defendant

v.

State of Nevada  
Plaintiff

CASE NO.: C-14-298879-1

DEPT. NO.: 6

DOCKET:

Defendants Response To State Opposition  
To Defendants Motion to Modify And/OR  
Correct Illegal Sentence

COMES NOW, Genaro Richard Perry, herein above respectfully  
moves this Honorable Court for an Order to modify or  
correct Illegal Sentence

This Motion is made and based upon the accompanying Memorandum of Points and  
Authorities,

DATED: this 1 day of January, 2022

BY:

Genaro R. Perry  
Genaro Richard Perry 1153366  
Defendant In Proper Personam

RECEIVED

JAN 10 2022

CLERK OF THE COURT

ADDITIONAL FACTS OF THE CASE:

Discussion

Mr. Perry was properly and legally sentenced the first time to a aggregate maximum of (336) months and minimum of (96) months before parole eligibility.

It wasn't until this issue was brought to Mr. Perry's attention after the new (JOC) had been issued out of the presence or knowledge of Mr. Perry. That his sentence was no longer aggregated. Thus causing Mr. Perry to do more time on the minimum parole eligibility portion of his sentence.

As stated in the motion to modify or correct illegal sentence.

All sentencing done after (7-1-2014) are to be automatically aggregated by the court.  
NRS 213.1212.

If the court had originally sentenced Mr. Perry with a sentence that wasn't aggregated. Then Mr. Perry would have petitioned the court to aggregate his sentence.

## Discussion

1 However, he cannot do that now as the damage  
2 has already been done.  
3

4 In this instance. The NDOC asked the court  
5 to change Mr. Perry's sentence, to a illegal one.  
6

7 Mr. Perry is unsure why a now currently seated  
8 judge on the Nevada Supreme Court would participate  
9 in such a illegal activity.  
10

11 As stated in the states opposition. This is a  
12 matter for the attorney General's office.  
13

14 However, In order to get this to that level.  
15 This motion has to go through the process  
16 of exhaustion.  
17  
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28

## Conclusion

The issuance of the new (JOC) out of the presence of Mr. Perry is definitely of extreme detriment.

Edwards v State 112 Nev, 704, 707, 918 P2d 321, 324 (1996)  
As it caused Mr. Perry to do more time before he eligible for parole.

In order for the court to give Mr. Perry more time than the original (JOC), Mr. Perry must be present in the courtroom with counsel.

Mr. Perry simply asks for a order to return his sentence to the aggregate term of (336) months maximum and (96) months minimum for parole eligibility.

**CERTIFICATE OF SERVICE BY MAILING**

I, Genaro Richard Perry, hereby certify, pursuant to NRCP 5(b), that on this 15<sup>th</sup>  
day of January, 2021, I mailed a true and correct copy of the foregoing, "Defendants response to states opposition"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Clerk of the Court  
200 Lewis Ave 3rd floor  
LV NV  
89155

CC:FILE

DATED: this 1 day of January, 2021

Genaro Richard Perry  
#1153366  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

response to states opposition  
(Title of Document)

filed in District Court Case number C-14-298879-1

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

Genaro R. Perry  
Signature

1-1-2022  
Date

Genaro Richard Perry  
Print Name

\_\_\_\_\_  
Title



— The Government of the Promised Son For  
 He is a child is born, into a Son is given, And  
 a government will be upon His shoulder, And His name will be  
 called Wonderful Counselor, Mighty God, Everlasting Father, Prince of Peace

Page 104: 7

B/S 26/2893

Genaro Ricardo Perry # 1153366  
SAC  
PQ Box 208  
Indian Springs NV  
89070

Clerk of the Court  
200 Lewis Ave 3rd floor  
LS NV  
89/55-1160

Legal

1 Genaro Perry #1153366

2 In Propria Personam  
3 Post Office Box 208, S.D.C.C.  
4 Indian Springs, Nevada 89018

FILED

JAN 27 2022

*Glenn A. Hoffman*  
CLERK OF COURT

5 IN THE Eighth JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF Clark

7  
8  
9 STATE of Nevada  
10 Plaintiff,

11 vs.

12 Genaro Perry  
13 #1153366 Defendant.

Case No. C-14-298879-1

Dept. No. 6

Docket \_\_\_\_\_

14  
15  
16 **NOTICE OF APPEAL**

17 NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,  
18 Genaro Perry, in and through his proper person, hereby  
19 appeals to the Supreme Court of Nevada from the ORDER denying and/or  
20 dismissing the

21 " Motion to Modify Sentence "

22 \_\_\_\_\_  
23 ruled on the 20<sup>th</sup> day of December, 20 21.

24  
25 Dated this 13<sup>th</sup> day of January, 20 22

26 RECEIVED

27 JAN 18 2022

28 CLERK OF THE COURT

Respectfully Submitted,

Genaro L. Perry

**CERTIFICATE OF SERVICE BY MAILING**

I, Genavo Perry, hereby certify, pursuant to NRCP 5(b), that on this 18<sup>th</sup>  
day of January, 20 22 I mailed a true and correct copy of the foregoing, "Notice  
of Appeal"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Steven D. Grievson  
Clerk of the Court  
200 Lewis Ave  
3RD FLOOR  
Las Vegas, NV. 89155-1160

CC:FILE

DATED: this 13<sup>th</sup> day of January, 20 22

Genavo D. Perry  
Genavo Perry # 1153366  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

Notice of Appeal "

(Title of Document)

filed in District Court Case number C-14-298879-1

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by: \_\_\_\_\_

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

Genaro R. Perry  
Signature

1-13-2022  
Date

Genaro Perry  
Print Name

MR.  
Title

**Southwest International Center**

JAN 14 2022

OUTGOING MAIL

Palmer 146.7

If knoeked down, I will get back up,  
every time... I am never out of the fight. US NAVY SEAL CREW

Ear (and wife)

Genaro R. Felix 15336  
P.O. Box 208  
Indian Springs, W 89070

LAS VEGAS NV 890  
14 JAN 2022 PM 4 L

RECEIVED

JAN 18 2022

CLERK OF THE COURT

STEVEN D. GRIEDER, Clerk of the Court  
200 Lewis Avenue, 3rd Floor

Las Vegas, NV 89155-1160

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[illegible]

955

Genaro Perry, 1153366  
Petitioner/In Propria Persona  
Post Office Box 208, SDCC  
Indian Springs, Nevada 89070-0208

FILED

JAN 27 2022

Sharon A. Hoffman  
CLERK OF COURT

IN THE Eighth JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

State of Nevada

Plaintiff,

vs.

Genaro Perry #1153366  
Defendant.

CASE No. C-14-298879-1  
DEPT. No. 6

DESIGNATION OF RECORD ON APPEAL

TO: ~~Steven D. Grierson~~  
~~Clerk of the Court~~  
~~200 Lewis Ave~~  
~~3RD Floor~~  
~~Las Vegas, NV 89155-1160~~ (EP)

To: Supreme Court of Nevada  
Office of the Clerk  
201 S. Carson Street, Suite 201  
Carson City, Nevada 89701

The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 13th day of January, 20 22.

RESPECTFULLY SUBMITTED BY:

Genaro R. Perry  
Genaro Perry #1153366  
Plaintiff/In Propria Persona

# IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant(s),

vs.

THE STATE OF NEVADA,  
Respondent(s),

Case No: C-14-298879-1  
*Related Case A-22-851874-W*  
Docket No: 85042

# RECORD ON APPEAL VOLUME 3

ATTORNEY FOR APPELLANT  
GENARO PERRY # 1153366,  
PROPER PERSON  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

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

**I N D E X**

<b><u>VOLUME:</u></b>	<b><u>PAGE NUMBER:</u></b>
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4	718 - 956
5	957 - 1048



I N D E X

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4	8/8/2017	Amended Judgment of Conviction (Jury Trial)	731 - 733
3	2/1/2017	Application to Proceed Informa Pauperis (Confidential)	627 - 629
4	6/1/2021	Case Appeal Statement	812 - 816
4	7/22/2021	Case Appeal Statement	865 - 866
5	1/31/2022	Case Appeal Statement	957 - 958
5	2/14/2022	Case Appeal Statement	962 - 963
4	8/10/2021	Certificate of Service	879 - 879
5	7/29/2022	Certification of Copy and Transmittal of Record	
1	6/19/2014	Criminal Bindover (Confidential)	1 - 24
1	1/7/2016	Criminal Order to Statistically Close Case	192 - 192
4	5/12/2021	Criminal Order to Statistically Close Case	808 - 808
4	1/14/2022	Defendants Response to State Opposition to Defendants Motion to Modify and/or Correct Illegal Sentence	945 - 951
4	7/22/2021	Designation of Record on Appeal	858 - 860
4	1/27/2022	Designation of Record on Appeal	956 - 956
5	7/29/2022	District Court Minutes	1010 - 1048
1	10/16/2014	Ex Parte Motion for Release of Medical Records	47 - 48
1	10/17/2014	Ex Parte Motion for Release of Medical Records	55 - 56

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1	10/17/2014	Ex Parte Motion for Release of Medical Records	57 - 58
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1	7/1/2015	Ex Parte Motion for Release of Medical Records	74 - 75
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1	7/1/2015	Ex Parte Motion for Release of Medical Records	78 - 79
1	7/1/2015	Ex Parte Motion for Release of Medical Records	80 - 81
1	7/1/2015	Ex Parte Motion for Release of Medical Records	82 - 83
3	2/1/2017	Financial Certificate (Sealed)	626 - 626
5	7/14/2022	Findings of Fact, Conclusions of Law, and Order	968 - 985
1	6/25/2014	Information	25 - 28
1	10/1/2015	Instructions to the Jury	133 - 175
1	1/22/2016	Judgment of Conviction (Jury Trial)	193 - 195
3	3/22/2017	Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	692 - 698
4	1/2/2019	Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference	742 - 749
4	1/7/2022	Motion and Order for Transportation of Inmate for Court Appearance or, in the	938 - 944

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		Alternative, for Appearance by Telephone or Video Conference	
3	2/7/2017	Motion for a New Trial with Newly Discovered Evidence. Motion to Vacate	680 - 685
4	2/3/2021	Motion Requesting Order Directing the Las Vegas Metropolitan Police Department to Conduct Genetic Marker and Latent Print Analysis of Evidence Impounded at Crime Scene; Hearing Requested	770 - 793
1	6/15/2015	Motion to Admit Evidence Pursuant to NRS 48.045	67 - 71
3	2/7/2017	Motion to Appoint Counsel	630 - 635
4	11/29/2021	Motion to Modify and/or Correct Illegal Sentence	903 - 907
4	12/16/2021	Motion to Transport to Clark County Detention Center / Video Conference in Nevada Department of Corrections @ Southern Desert Correctional Center	929 - 934
3	2/7/2017	Motion to Withdraw Counsel	636 - 641
4	7/22/2021	Motion to Withdraw Counsel	861 - 864
3	1/18/2017	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed	617 - 624
5	3/16/2022	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed	964 - 967
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1 them sit there uncomfortably while you pass the paper back and forth. So, take  
2 whatever notes you need to take to be able to do your perempts without looking at  
3 them. And we also, unless you object now, we also don't pick who of -- alternate  
4 jurors will be. My intention is to select 14 jurors and if we still have more than 12 at  
5 the end then we randomly select which one or two would be the alternates and  
6 would not go back with the other 12. And because of our practice of doing it that  
7 way and having alternates, when you do your preempts you'll give five preempts to  
8 use anywhere in the list. In other words, rather than four for the petty jury and one  
9 for the preempts you'll give to use anywhere in the list of those who have passed for  
10 cause. So, then we'll have -- we will have passed 24 for cause. You'll each get five  
11 preempts. That takes it down to the 14 for the trial. Okay. Is that understood?

12 MS. BAHARAV: We have no objection to randomly selecting the alternates,  
13 Your Honor.

14 MR. SHETLER: No, nor do we. Is there -- if we waive a challenge, is it  
15 waived period or --

16 THE COURT: So, when you do the preempts if you waive any it doesn't  
17 necessarily waive future challenges. And what happens is so the list goes down the  
18 page of those that we passed for cause. If any of the challenges are waived, then  
19 the first 14 starting at the top that aren't challenged sit as the jurors.

20 MS. BAHARAV: And, Your Honor, does Your Honor have any objection to  
21 Ms. Sudano asking some -- like switching off sometimes for the jurors?

22 THE COURT: No; I mean, you know --

23 MS. BAHARAV: We won't both ask questions. Just that we argue one --

24 THE COURT: But you can alternate, yeah, yeah. I've had people do that  
25 before.

1 MS. BAHARAV: And just to be clear. If you waive one you're not waiving the  
2 rest of them?

3 THE COURT: Right.

4 MR. SHETLER: You're just waiving that individual challenge.

5 MS. BAHARAV: Yes.

6 THE COURT: Right, right. If you waive on number three but then you see  
7 who they do on four and now you want to challenge someone, you still can use the  
8 others. Okay. We'll try to move through this. Just for my benefit although I'm not  
9 going to do a lot of talking about it, so obviously one of the charges is domestic  
10 violence. What is the alleged relationship between the Defendant and the victim?

11 MS. BAHARAV: At the time of the incident they had been broken up but they  
12 were at one point in time boyfriend and girlfriend.

13 THE COURT: Okay All right. Obviously when I ask you to briefly describe  
14 the case just brief neutral description --

15 MS. BAHARAV: Yes, Your Honor.

16 THE COURT: -- not opening statement.

17 MS. BAHARAV: I generally say the State has alleged that on or about this  
18 date the Defendant committed the following crimes and we're going to call these  
19 witnesses.

20 THE COURT: Great. Okay. Do we have the jurors ready, Anthony? Okay.  
21 Let's go ahead and bring 'em in.

22 MR. SHETLER: Your Honor, table, podium, do you have a preference?

23 THE COURT: Either one as long as you're on a mic somewhere because we  
24 are recording. And, right, if you're away from a mic you can get the hand mic to be  
25 picked up. The jury will have the mic so you need to be on a stable one.

1 [Inside the presence of the prospective jury panel]

2 THE COURT: All right. So, good afternoon, everyone. I appreciate your  
3 patience. This is the time set for the trial of case number C298879, the State of  
4 Nevada, plaintiff versus Genaro Richard Perry, the Defendant. The record will  
5 reflect the presence of the Defendant and his counsel, the Deputy District Attorneys  
6 and all officers of the Court. Are the parties ready to proceed?

7 MS. BAHARAV: Yes, Your Honor, the State's ready.

8 MR. SHETLER: Defense is ready, Your Honor.

9 THE COURT: Great. Okay. So, Ladies and gentlemen, you're in  
10 Department 6 of the Eighth Judicial District Court of the state of Nevada. My name  
11 is Elissa Cadish and I'm the presiding judge in this department. Let me take this  
12 opportunity to introduce the Court staff with whom you may be coming into contact  
13 during the course of these proceedings.

14 To my far right is Jessica Kirkpatrick. She is our court recorder. She'll  
15 be making sure everything that is said during the proceedings is recorded so it can  
16 be transcribed later for any appeals or further proceedings. So, it is important when  
17 you speak during these matters that you keep your voice up.

18 To my immediately right is Keith Reed. He is our courtroom clerk. He  
19 swears witnesses, marks exhibits, keeps track of evidence, and prepares minutes or  
20 descriptions of the proceedings for the official record.

21 You've already met Anthony Russo. He is our marshal. He is in charge  
22 of courtroom security and the only person that you may talk directly with during the  
23 trial except of course when we're actually having conversation with you on the  
24 record in open Court.

25 Now at this time does any party wish to present a challenge to the

1 prospective jury panel as a whole?

2 MS. BAHARAV: The State does not.

3 MR. SHETLER: The Defense does not, Your Honor.

4 THE COURT: Thank you. All right. So, Mr. Clerk, please call the roll of the  
5 panel of prospective jurors. When your name is called, please answer present or  
6 here.

7 [The Court Clerk called the roll of the prospective jury panel]

8 THE COURT: Thank you. Is there anyone whose name was not called? No  
9 hands. Okay. Good.

10 So, we're about to begin what's called the voir dire process. That's the  
11 legal term for the process where I and the attorneys can ask you questions bearing  
12 on your ability to serve as fair and impartial jurors in this particular case. At times it  
13 may seem like the questions are kind of personal and it's not that we're trying to  
14 invade your privacy, but sometimes we need to ask questions of that nature to make  
15 sure that you can be fair and impartial in this particular case given the nature of the  
16 nature of the case and the parties who are involved.

17 I'll be asking some general questions of the whole group of you and  
18 then we'll be going individually for the folks up front. But even when we're doing that  
19 I need the folks in the back pay attention because if anyone up front needs to be  
20 excused, we'll be bringing up some of you from the back to replace them. So, it  
21 helps if you pay attention and have an idea of what the questions are during the  
22 course of the process.

23 Now during the whole process, there are two methods by which any of  
24 you may be excused from jury service in this particular case. There's one process  
25 which is for cause which means if any of you can't be fair and impartial in this

1 particular case or for some other reason you cannot serve during the course of this  
2 case, you may be excused for cause. And that's my decision as the Judge.

3           Once we pass enough jurors for cause, at the end the attorneys will be  
4 allowed to exercise what are called peremptory challenges; that is, there are a  
5 certain number of challenges that they get by statute where they can excuse a  
6 certain number of jurors without giving any particular reason. Please don't be  
7 offended if you're excused using either of these challenge procedures. It's just part  
8 of the process designed to ensure a fair trial for everybody involved.

9           Now this process of the questioning is done under oath. So would you  
10 all please stand and raise your right hand so the clerk can administer the oath.

11                               [The jury panel is sworn in by the Clerk]

12           THE COURT: Okay. Before we get too far into the process, let me just ask,  
13 do any of you have difficulty understanding the English language? If you have  
14 trouble with that, would you raise your hand and we can talk to you about that.  
15 Okay. I see one gentleman up front. Sir, can you tell me your name and badge  
16 number, please.

17           PROSPECTIVE JUROR #009: My name is Javier Gonzalez, badge number  
18 is 009.

19           THE COURT: Correct. Okay. All right, sir. You have difficulty understanding  
20 English?

21           PROSPECTIVE JUROR #009: My English is not a hundred percent.

22           THE COURT: Okay.

23           PROSPECTIVE JUROR #009: I got a problem with writing and sometimes  
24 reading, actually, yes.

25           THE COURT: So, you have some trouble reading English; yes?

1 PROSPECTIVE JUROR #009: Yes.

2 THE COURT: Okay. Do you understand spoken English? In other words, if  
3 witnesses are on the stand testifying about things that happened or things they  
4 observed, would you able to understand that?

5 PROSPECTIVE JUROR #009: Yes.

6 THE COURT: Okay. All right. Thanks very much. I appreciate you letting us  
7 know about that. Anyone else? No. Great. Okay.

8 Now we're about -- and just so it's clear. I'm going to be asking a lot of  
9 questions and getting a lot of information from people. After I finish asking  
10 questions of the whole group of you I'll be talking to the attorneys about all the  
11 information I've gathered and determining whether anyone needs to be excused as  
12 a result of that information. So, I'm not ignoring anything that we talk about. So,  
13 first we're going to have some introductions now. So, please pay attention to these  
14 introductions because you're going to be asked in a few minutes if you know anyone  
15 involved in the case or anything about it.

16 So, first with the State. Please introduce yourself and your colleague,  
17 tell prospective jurors the names of the witnesses you intend to call and a general  
18 description of the nature of the case.

19 MS. BAHARAV: Yes, Your Honor.

20 Good afternoon. My name is Colleen Baharav and I along with Michelle  
21 Sudano represent the State of Nevada in the case of the State of Nevada versus  
22 Genaro Perry. The State has alleged that on or about the first day of May 2014, Mr.  
23 Perry committed the crimes of robbery with use of a deadly weapon, false  
24 imprisonment with the use of a deadly weapon, grand larceny auto, assault with a  
25 deadly weapon, coercion, battery resulting in substantial bodily harm constituting

1 domestic violence and prevent or dissuading witness or victim from reporting crime  
2 or commencing prosecution. We have alleged that those crimes all occurred here in  
3 Clark County Nevada. To provide events on our case, the State anticipates calling  
4 some maybe not all of the following witnesses: Corla Carpenter also known as  
5 Corla Muhammed, Ahmedia Bragg, Franklin Elam, George Laster, Danielle Keller,  
6 Dr. Steven Leibowitz, Shakeel Abdal-Karim, Justin Terry, and Deborah Ashenfelder  
7 formerly known as Deborah Marriott [phonetic]. Thank you.

8 THE COURT: Thank you very much. Counsel, introduce yourself and your  
9 client.

10 MR. SHETLER: Thank you, Your Honor.

11 Ladies and gentlemen, my name is Travis Shetler. I'm a solo  
12 practitioner here in town. I represent Genaro Perry. The State's accused him of the  
13 crimes Ms. Baharav just talked of. In addition to possibly hearing testimony from Mr.  
14 Perry, you may hear some testimony or some information from Dr. Steven Gabeef  
15 [phonetic] who is a reconstructive surgeon here in town. Thank you.

16 THE COURT: Okay. So, I have a few basic questions first which I'm required  
17 to ask in every case. So, if you do need to respond in the affirmative to any of these  
18 questions, raise your hand. We'll get you the mic and then before you explain why  
19 you raised your hand, if you could state your name and the last three digits of your  
20 badge number.

21 So, first, have any of you been convicted of a felony? Please raise your  
22 hand if you have. No hands. Okay. Are any of you not a United States citizen?  
23 Raise your hand if you're not a citizen. No hands. Good. Now do any of you have  
24 such a sympathy, prejudice or bias relating to age, religion, race, gender or national  
25 origin that you feel that would affect your ability to be an open minded, fair and

1 impartial juror? Anyone feel that way. Okay. We've got one hand up front and one  
2 the back, a couple in the back. Okay. So, we'll start up front and then we'll get the  
3 mic back to you and hear what your views are there.

4 PROSPECTIVE JUROR #002: Andy Yi, 002.

5 THE COURT: Okay, sir. Why did you raise your hand on that question?

6 PROSPECTIVE JUROR #002: I raised by my hand because I personally  
7 have been robbed at gunpoint and I never had a fair shot to go to a trial because  
8 they never found the gentleman.

9 THE COURT: Okay. So, they never found the person who did that to you?

10 PROSPECTIVE JUROR #002: Yes.

11 THE COURT: Okay. And so how long ago was that?

12 PROSPECTIVE JUROR #002: About 14 years ago.

13 THE COURT: Okay. And was that here in Las Vegas?

14 PROSPECTIVE JUROR #002: No.

15 THE COURT: Where was it?

16 PROSPECTIVE JUROR #002: It was in Chicago, Illinois.

17 THE COURT: In Chicago.

18 PROSPECTIVE JUROR #002: Yes.

19 THE COURT: Okay. Got it. And so would how would that incident that  
20 happened to you affect your ability to be fair and impartial or cause you any  
21 sympathy, prejudice or bias in this case?

22 PROSPECTIVE JUROR #002: From my personal experience and from other  
23 people I know that went through the same thing, I believe they got off easier, like  
24 they never found the person and that's the reason why it happens, you know, so  
25 often. And I feel as in this case, you know, I would, you know, judge the case



1 biasedly.

2 THE COURT: So, do you think that you would hold it against Mr. Perry here  
3 because of someone robbing you at gunpoint those years ago?

4 PROSPECTIVE JUROR #002: Yes, I believe so.

5 THE COURT: Okay. All right. Thank you. And there were a couple people  
6 that raised hands in the back.

7 PROSPECTIVE JUROR #050: I'm Doris E. Foley, 050. I'm understanding --  
8 anyway, I have a long list of police in my family, prosecutor's office including. I have  
9 been -- had a misdemeanor, and I'm not a fan of undercover cops and since he's  
10 got a long list already, I already presume he's guilty.

11 THE COURT: He's got a long list of what?

12 PROSPECTIVE JUROR #050: Of things that he's being, you know, on trial  
13 for. So, to me, he's already guilty.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR #050: That's it, ma'am.

16 THE COURT: And so the police and prosecutors in your family, have they  
17 conveyed that view that someone that's charged with a lot of crimes must be guilty?

18 PROSPECTIVE JUROR #050: Yes; especially from the prosecutor's office.

19 THE COURT: Okay. Thank you, ma'am.

20 PROSPECTIVE JUROR #055: Terry Arcemont, 055. I have several things.  
21 First, my belief does not allow me to pass judgment on another human being and,  
22 second, I'm very, very opinionated so I have to keep it to myself and I cannot be fair  
23 to Court because I'm brutally honest and I'm being right up four front. I will form an  
24 opinion on myself.

25 THE COURT: Okay. So, you're both judgmental and can exercise a

1 judgment?

2 PROSPECTIVE JUROR #055: Yes. And I cannot pass a judgment on  
3 another human being. That's not up to me.

4 THE COURT: And is that based on certain religious beliefs that you have?

5 PROSPECTIVE JUROR #055: I have many religious beliefs and it's hard to  
6 explain because we are all children of God.

7 THE COURT: Right.

8 PROSPECTIVE JUROR #055: But yet I am partially to atheism also. So, I  
9 cannot swear on a bible.

10 THE COURT: Okay. Rather than swear you could affirm to meet the  
11 requirements.

12 PROSPECTIVE JUROR #055: Yeah.

13 THE COURT: I understand some folks don't want to swear and that's fine.

14 PROSPECTIVE JUROR #055: And I'm very, very opinionated.

15 THE COURT: You're very, very opinionated.

16 PROSPECTIVE JUROR #055: Yes.

17 THE COURT: But you can't pass judgment on somebody?

18 PROSPECTIVE JUROR #055: I can't because I'm in conflict. That's how  
19 come I cannot be a fair juror at all. I never served in jury duty.

20 THE COURT: Okay. So, if you were sitting on the jury after hearing all of the  
21 evidence and then went back to the jury room with the other jurors, you couldn't vote  
22 guilty or not guilty?

23 PROSPECTIVE JUROR #055: No, ma'am, and I will be kicked off the jury  
24 before that because a couple of judges already did because I already told them that  
25 I already formed an opinion and I cannot sit in the jury box. And that's the honest

1 truth.

2 THE COURT: Okay. All right. Thanks very much.

3 Do any of you know the Defendant, Mr. Perry, or his counsel, Mr.  
4 Shetler? No hands. Okay. Do any of you know our Deputy District Attorneys, Ms.  
5 Baharav or Ms. Sudano? No hands. Okay. Do any of you know our District  
6 Attorney Steve Wolfson or other personnel in the District Attorney's office? Yes,  
7 okay.

8 PROSPECTIVE JUROR #039: Yeah, I'm Martin Orsinelli, 039. I've worked  
9 with Steve Wolfson when he was a defense attorney. I'm a Deputy City Attorney  
10 with the City of Las Vegas. I don't know these two deputies but I do know Steve  
11 Wolfson.

12 THE COURT: Right. Okay. And that was what I asked. And so was that like  
13 when he was on the city council?

14 PROSPECTIVE JUROR #039: City council, as a Defense attorney. I don't  
15 know him personally outside the office. I've seen him at functions.

16 THE COURT: Right.

17 PROSPECTIVE JUROR #039 But, yeah, I do know. If we saw each other in  
18 the elevator we would say hi. That's about it.

19 THE COURT: Okay. Fair enough. And that is what I asked. So, let me ask  
20 you this. As a result of your relationship as you've described it with Mr. Wolfson,  
21 would that affect your ability to be fair and impartial as a juror in this case?

22 PROSPECTIVE JUROR #039: No, it would not.

23 THE COURT: Do you think you'd have a tendency to favor the District  
24 Attorney's office because of your relationship with Mr. Wolfson?

25 PROSPECTIVE JUROR #039: No, I do not.

1 THE COURT: Okay. You think you can be fair to both sides?

2 PROSPECTIVE JUROR #039: Yes, I do.

3 THE COURT: Great. Thank you. Okay. Do any of you know any of the  
4 witnesses whose names were read by either of the attorneys? One hand in the  
5 back.

6 PROSPECTIVE JUROR #055: I believe it's Dr. Steven Leibowitz.

7 THE COURT: I need your name and badge number again.

8 PROSPECTIVE JUROR #055: Oh, Terry Arcemont, 055. Sorry.

9 THE COURT: It's okay.

10 PROSPECTIVE JUROR #055: Yeah. Dr. Leibowitz did an operation on left  
11 eye and I still have no feeling in it. So, I got a little issues with him.

12 THE COURT: Okay. Great. I appreciate you letting me know about that.

13 PROSPECTIVE JUROR #055: I'm honest.

14 THE COURT: Yes; thank you.

15 All right. So, it's now -- it's Wednesday; right? It's now Wednesday  
16 afternoon. The trial itself is going to be complete by this Friday so that's good news  
17 for you. It's possible that we would finish the trial on Friday but the jurors might still  
18 be deliberating on Monday. So, I want to give a heads up about that in case any of  
19 you have issues on Monday. So, with that being said, I understand it's difficult for  
20 everyone to be here as a juror. You all have other things you should be doing,  
21 perhaps other things you would rather be doing whether it's at work or at home,  
22 whatever you would ordinarily be doing if you weren't here, and I get that. But my  
23 question is whether serving these few days as a juror would represent an undue  
24 burden for any of you, that is, more of a burden than it is for everyone else who has  
25 got to be here to serve as a juror. Okay.

1           So, what we'll do is we'll start going through the folks -- so we'll hand it  
2 to the first person and then once they're done if the other folks raise their hands so  
3 we can pass it around and get the information from all of you who have raised your  
4 hands. Okay. Yes, ma'am, name and badge number.

5           PROSPECTIVE JUROR #003: Phoebe Downing, badge number 003.

6           THE COURT: Yes, ma'am, what's your issue?

7           PROSPECTIVE JUROR #003: Child care. If it goes through -- because me  
8 and my husband we schedule ourselves opposite days for one of us to be home  
9 with the kids, if it ends on Friday that's fine but if it goes on to Monday that'll be a  
10 problem for me.

11          THE COURT: So, your husband works on Monday?

12          PROSPECTIVE JUROR #003: Yeah.

13          THE COURT: And so you would be the one with the children?

14          PROSPECTIVE JUROR #003: Yes.

15          THE COURT: And how old are the children?

16          PROSPECTIVE JUROR #003: Nine and 13.

17          THE COURT: Okay. So, are they in school during the day?

18          PROSPECTIVE JUROR #003: Yes.

19          THE COURT: Okay. So, is it just an issue of drop and pick up?

20          PROSPECTIVE JUROR #003: Yes.

21          THE COURT: Okay. So, what time do they need to be dropped off?

22          PROSPECTIVE JUROR #003: My son gets dropped off by 8 o'clock, my  
23 daughter at nine. They both get picked up by 3:20.

24          THE COURT: Okay. If you were able to do the drop off in the morning, is  
25 there anyone, a friend or anyone, who might be able to help out with pick-up in the

1 afternoon if you were?

2 PROSPECTIVE JUROR #003: [Witness nodding head in the negative].

3 THE COURT: No? Okay. You're nodding, for the record. Okay. Thanks.  
4 Okay. Go ahead.

5 PROSPECTIVE JUROR #012: Adam Taylor, 012. I'm fine for every day but  
6 just if it -- I don't know how long these things go for. That was the question I had a  
7 for a long time. If it ends at like five or so, that's fine, because the job I'm in is -- I'm  
8 the only one that can do it. So, there's no replacement for me on the job and it runs  
9 Friday, Saturday, Sunday. That's it.

10 THE COURT: So, you work Friday, Saturday, Sunday.

11 PROSPECTIVE JUROR #012: Mm-hmm.

12 THE COURT: And what time?

13 PROSPECTIVE JUROR #012: I have to be there at six, 6:30ish, but no later  
14 than that. I just don't know how late these go. Any day is fine.

15 THE COURT: Okay. So, you could be here on Friday as long as we had you  
16 out by about five?

17 PROSPECTIVE JUROR #012: Yeah, that's perfect.

18 THE COURT: And you could get to work?

19 PROSPECTIVE JUROR #012: Mm-hmm. And up until then I'm cool.

20 THE COURT: Okay. Thanks very much.

21 PROSPECTIVE JUROR #012: Than you.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR #013: I'm Donna Jolly, it's 0013. I don't know if you  
24 consider this an undue burden; I do. I have a new boss starting on Monday who I  
25 will be reporting to. I would really like to be there on Monday. There's some stuff

1 going on at work that makes me very tensed and stressed and I really want to be  
2 there for that first day of her work.

3 THE COURT: And so what do you do for work?

4 PROSPECTIVE JUROR #013: I am in marketing.

5 THE COURT: Okay. And the new person who is starting, what position are  
6 they going to be in?

7 PROSPECTIVE JUROR #013: She would be my direct report; I mean, she  
8 would be my boss.

9 THE COURT: Right.

10 PROSPECTIVE JUROR #013: That's what I'm trying to say.

11 THE COURT: And so like over the marketing department?

12 PROSPECTIVE JUROR #013: Over three different departments, marketing  
13 being one.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR #013: And we had an employee quit today. You  
16 know, I don't want to get into too many details about this but, you know, it's a  
17 stressful situation. Like I said, it's undue for me. I don't know if you would consider it  
18 that way.

19 THE COURT: What's your work hours on Monday?

20 PROSPECTIVE JUROR #013: On Mondays, eight to five.

21 THE COURT: Eight to five. Okay. All right. Thank. Pass it down that way.

22 PROSPECTIVE JUROR #014: Ashley Gomez, 014.

23 THE COURT: Yes.

24 PROSPECTIVE JUROR #014: I actually work from home because I have an  
25 infant, a ten month old, and he's fine today. He's with dad but dad is going to be

1 traveling over the weekend. And at this moment I don't have anybody else to care  
2 for him. His grandmother is in the hospital right now. So, this is a very, very bad  
3 timing. And grandpa travels. He's a comedian on Carnival Cruise ships. So, he's  
4 never here. And I, quite frankly, don't like leaving my kid with anybody I don't know.

5 THE COURT: Okay. So, when you say -- so dad's there to watch the baby to  
6 day.

7 PROSPECTIVE JUROR #014: Today. I actually moved -- my brother passed  
8 way a couple months ago. He was shot in a triple homicide off of Sahara and Fort  
9 Apache. I don't know if anybody heard about this. So, being in this courtroom right  
10 now is not doing me good at all. But I moved it, my jury service, to today so that I  
11 could be here. However, my boyfriend got a job, a gig in another state. I don't know  
12 how long this thing runs, but he's got to leave Friday morning.

13 THE COURT: Okay. So, when you say he's got to be gone for the weekend  
14 he's leaving Friday morning?

15 PROSPECTIVE JUROR #014: Yeah.

16 THE COURT: Okay. So, on Friday you don't have any coverage for your ten  
17 month old?

18 PROSPECTIVE JUROR #014: Correct.

19 THE COURT: Okay. Thank you

20 PROSPECTIVE JUROR #015: Badge number 015, Mary Logan.

21 THE COURT: Okay, ma'am, thank you.

22 PROSPECTIVE JUROR #015: Your question was framed in convenience; is  
23 that correct?

24 THE COURT: No. My question is it would be an undue burden for you to be  
25 here.



1 PROSPECTIVE JUROR #015: Okay, yes. All right. I have a disability. I  
2 have arthritis in my spine and sciatic nerve damage and I have great difficulty either  
3 sitting for a long period of time or standing for a long period of time, and I'm afraid  
4 that the pain level would increase substantially and as a result I would lose my  
5 ability to concentrate on the details. I am taking -- I take medication, prescribed  
6 medication for my condition and I just believe that that would be a burden for me.

7 THE COURT: So, just so I understand. Is the -- do you only take the  
8 medication if you get the pain to where it's difficult for you otherwise or do you take  
9 the medication regularly to avoid the pain?

10 PROSPECTIVE JUROR #015: Both. Actually I take the medication on a  
11 regular basis and then I take more medication --

12 THE COURT: Okay.

13 PROSPECTIVE JUROR #015: -- if it, you know, requires such.

14 THE COURT: And so the medication that you take, that interferes with your  
15 ability to concentrate?

16 PROSPECTIVE JUROR #015: I'm afraid that the pain would make it such  
17 that eventually I would not be comfortable seated and I would -- that would draw my  
18 concentration away.

19 THE COURT: Okay. So, how long can you sit for?

20 PROSPECTIVE JUROR #015: Probably an hour, 45 minutes or an hour.

21 THE COURT: And then -- so when you get to that point like, okay, I can't sit  
22 anymore, you just -- do you need to stand up or do you need to be able to walk  
23 around?

24 PROSPECTIVE JUROR #015: I prefer to get up and walk around because  
25 it's the sciatic that goes down my left leg.

1 THE COURT: Got it. Okay. Do you work, ma'am?

2 PROSPECTIVE JUROR #015: No; I'm retired.

3 THE COURT: Okay. All right. Thanks very much.

4 PROSPECTIVE JUROR #015: Thank you.

5 THE COURT: Anyone else in that row? Okay.

6 PROSPECTIVE JUROR #018: Badge number 018, Michelle Zira.

7 THE COURT: Yes, ma'am.

8 PROSPECTIVE JUROR #018: Currently I am the sole manager of two real  
9 estate communities, new homes communities. At this time I don't have any backup.  
10 I am the sole person, the sole agent running these two communities of which I am  
11 commissioned based. And having the doors closed for three days with no  
12 opportunity to work with the customers that I've been working with in the past to  
13 convert into incoming sale along with the people that would be coming in throughout  
14 those three days that I would lose the amount of income to have the doors closed  
15 for three days would be pretty devastating financially.

16 THE COURT: Okay. So, when you say it would be financially devastating,  
17 how would it affect you? I mean, would you be able to, you know, pay your rent or  
18 mortgage, have food on the table, things like that?

19 PROSPECTIVE JUROR #018: That's a unforeseen answer. It depends on  
20 what would come in throughout those three days. It could significant and it could be  
21 insignificant which is the purpose of having to be there for those three days to be  
22 able to generate any form of income that would be possible during those three days.

23 THE COURT: So, are you saying it's like model homes and you're sitting  
24 there on site or --

25 PROSPECTIVE JUROR #018: I have two communities and individual

1 communities that are in the same neighborhood that I'm operating, yes. So, if I'm  
2 not there I have no opportunity to earn any income.

3 THE COURT: Right. Okay. And are you the sole support in your household?

4 PROSPECTIVE JUROR #018: I am.

5 THE COURT: Okay. And so -- okay. All right. Thank you.

6 PROSPECTIVE JUROR #021: I'm Brian Mersis, 0021. I actually very  
7 recently moved to California. I drove back from LA this morning just to get here.  
8 Unfortunately I work freelance. I work executive protection and body guarding and I  
9 have a client that I'm supposed to be back for this evening and work this evening  
10 through next Monday. And that's really my sole income, my sole client for this  
11 month. So, as far as rent or car payment or anything it would be severely  
12 devastating to the monthly situation.

13 THE COURT: When did you move to California?

14 PROSPECTIVE JUROR #021: Within the last two weeks.

15 THE COURT: So, you've actually moved your permanent residence there  
16 from here?

17 PROSPECTIVE JUROR #021: Yes; I still have my -- I didn't get a chance to  
18 get my California driver's license yet. I'm coming back just to finish wrapping up,  
19 you know, my loose ends here. I still have my valid Las Vegas ID.

20 THE COURT: Okay. Thank you.

21 PROSPECTIVE JUROR #019: Mike Brilliant, 019. I'm a program manager for  
22 a company based out of the East Coast. We are currently in negotiations for a  
23 contract. The period performance ends tomorrow. The negotiations are ongoing  
24 today and tomorrow. I've missed a couple meetings today that requires my  
25 decisions. It would be extremely difficult to get through those negotiations by the

1 period performance end date and then negotiate an extension for the following six  
2 months. The performance of the contract includes overseas locations and  
3 continental United States locations I would say ten or 15 different sites where we  
4 employ folks to work on unmanned aircraft. So, if I don't get the contract extended  
5 and properly pushed and signed it is a hardship for me as a program manager.

6 THE COURT: All right. And, you know, I don't know about your company or  
7 whatever but there's no one else who can take it over for you?

8 PROSPECTIVE JUROR #019: No, ma'am. Unfortunately I'm the only  
9 program manager that does this kind of work in the company. Business developers,  
10 they don't have the decision making authority to do so, so it would be me.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR #019: I have a boss, of course. He could probably  
13 make those decisions in my stead but it's mine to win or lose.

14 THE COURT: Okay. Thank you.

15 PROSPECTIVE JUROR #025: Number 025, Shawn Waldman.

16 THE COURT: Yes.

17 PROSPECTIVE JUROR #025: I have a ten month old daughter. My wife and  
18 I are full time employees. So, we are the ones doing childcare for our daughter. So,  
19 we rotate with our days off so I have nobody to watch my daughter tomorrow. So,  
20 that would be an issue for me.

21 THE COURT: So, tomorrow your wife works?

22 PROSPECTIVE JUROR #025: Correct.

23 THE COURT: And you normally would not be working tomorrow?

24 PROSPECTIVE JUROR #025: Correct. I'm off Wednesday, Thursday my  
25 wife is off the weekends. The person that watches our child on Monday, Tuesday,

1 Friday can do it tomorrow. I had to pull teeth to get him to watch her today. I have  
2 no family, no grandparents in the state of Nevada or Las Vegas. So, tomorrow I  
3 have nobody to watch her.

4 THE COURT: Okay. Thank you.

5 PROSPECTIVE JUROR #051: My name is Hung Nguyen. My badge number  
6 051. I am a dentist in my office, the only dentist in my office, and I owner. So, my  
7 schedule has been booked. It's very difficult to cancel all of my patients and nobody  
8 to take care of emergency patients.

9 THE COURT: So, I think you said this. There's no other dentist in your  
10 office?

11 PROSPECTIVE JUROR #025: No; only me.

12 THE COURT: And so you've got bookings for the next couple days for  
13 people?

14 PROSPECTIVE JUROR #025: Yeah. I book in advance two weeks.

15 THE COURT: I'm sorry I missed that.

16 PROSPECTIVE JUROR #025: The schedule is full.

17 THE COURT: The schedule is full. Okay. Thank you. Anyone else back  
18 there?

19 PROSPECTIVE JUROR #052: Steven Stowers, badge number 052.

20 THE COURT: Yes, sir.

21 PROSPECTIVE JUROR #052: I care for a five month year old and my wife,  
22 she works during the day and I work evenings so it will be a difficult situation of  
23 switching and finding someone to watch her during the day.

24 THE COURT: Who is watching the child today?

25 PROSPECTIVE JUROR #052: I got a friend of a friend to watch it -- sorry --

1 her. Sorry. Just nervous.

2 THE COURT: Okay. I understand. It's okay. So, you have a friend taking  
3 care of your baby today?

4 PROSPECTIVE JUROR #052: Yes, my wife's friend.

5 THE COURT: Right. But you don't have -- you wouldn't have any coverage  
6 the other days. She works during the day tomorrow and Friday?

7 PROSPECTIVE JUROR #052: She works today, tomorrow, and Friday. I'm  
8 off today and tomorrow.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR #052: It's just that if she is able to take off that would  
11 be fine, but if she's not able to take off then that would be the situation there.

12 THE COURT: Okay. Thank you.

13 PROSPECTIVE JUROR #055: Terry Arcemont, 055. I hate to sound like I'm  
14 whining but I carry on a Asian tradition and I take care of my elderly mother and then  
15 I'm a provider for her. I quit my hourly job four years ago so I became a full hundred  
16 percent commission employee so I could basically schedule my own schedule and  
17 leave work at any time to take care of my elderly mother. She has a degenerative  
18 disk. So, she needs assistance to move around. And then now it's kind of hard on  
19 me because I got a Jones fracture on my right leg and gained 30 pounds in the last  
20 three months. So, anyways, that's it.

21 THE COURT: Thank you. All right. A couple more questions before I talk to  
22 counsel about all the information we've got.

23 First, a little bit about the role of a judge and jury in a case like this. As  
24 the judge I'm the judge of the questions of law. It's my job to know what the law is  
25 and to instruct the jurors on the law that applies to this case. The jurors are the

1 judges of questions of fact. They decide what really happened with respect to the  
2 charges that are brought, but the jurors are required to follow my instructions on the  
3 law that applies. With that in mind, is there anyone who thinks you may not be able  
4 to follow my instructions on the law even if they were different from what you thought  
5 the law ought to be? Anyone have difficulty with that? No hands. Great. Thank  
6 you.

7 Under our system of justice there are certain principles of law that apply  
8 in every criminal trial. They are that the charging document filed in this case is a  
9 mere accusation and is not evidence of guilt; that the Defendant, Mr. Perry, is  
10 presumed innocent and the State must prove that he is guilty beyond a reasonable  
11 doubt. Does anyone not understand or believe in these basic principles of American  
12 justice? Okay. I got a hand up front.

13 PROSPECTIVE JUROR #023: Kara Shrader, Juror 0062. I basically --

14 THE COURT: Okay. It's 23. Okay.

15 PROSPECTIVE JUROR #023: 023.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR #023: I basically just don't think it's right to put  
18 anybody in jail no matter what they do. I think God will take care of that. That's  
19 what I have to say about that.

20 THE COURT: Okay. So, if you were on the jury would you be able to  
21 evaluate the evidence in accordance with the law I give you and vote as to whether  
22 guilt was proven beyond a reasonable doubt or not?

23 PROSPECTIVE JUROR #023: I just don't think -- irregardless it's not right to  
24 send anybody to jail; that they can find their own spiritual path without jail.

25 THE COURT: Okay. So, the jurors won't have anything to do with

1 sentencing in this case; does that make a difference for you?

2 PROSPECTIVE JUROR #023: Yeah; as long as I don't have to -- my  
3 decision is a result of, you know, I wouldn't say anything that's going to make  
4 somebody have to go to jail.

5 THE COURT: The jurors' decision will be as to each of the charges  
6 considering whether Mr. Perry is guilty or not guilty based on the evidence and the  
7 law presented; is that something you could do?

8 PROSPECTIVE JUROR #023: I probably would not say guilty if he's going to  
9 have to go to jail.

10 THE COURT: Okay. So, you think people who commit any crimes should  
11 just be out walking the streets anyway?

12 PROSPECTIVE JUROR #023: I think everything happens for a reason and  
13 that, you know, God has a law over everything and things will be taken care of as  
14 they're supposed to. I don't think it's right just for people to just always go to jail.

15 THE COURT: Okay. All right. Thank you. Anyone else? No. Okay.

16 Does anyone know anything about this case other than what's been  
17 stated in the courtroom so far? No hands. Okay. Good.

18 All right. Counsel, come on up and bring your notes, please.

19 [Bench conference -- begins]

20 THE COURT: We've got some interesting folks in the crowd today.

21 MR. SHETLER: That certainly is true. You have an amazing poker face,  
22 Judge.

23 THE COURT: Okay. So, unfortunately we have several that I think we're  
24 going to have to excuse but we'll probably be okay. So, I'm just going to go in order  
25 through the list. So, 002, Mr. Yi.



1 MS. BAHARAV: He said he'd hold it against the Defendant, and this is  
2 Colleen for the record. I can't object to that, Your Honor.

3 THE COURT: Right. So, we're going to have excuse him. Okay. Next, 003,  
4 Ms. Downey. I think we can probably work around her schedule on Monday. We  
5 could just have them no come here until ten and she can get here at ten if they were  
6 deliberating, and we could probably get her out by three if we had to. I want to hold  
7 onto to her for right now.

8 MS. BAHARAV: Okay.

9 THE COURT: 012, Mr. Taylor. I think we're okay with him too. We could end  
10 by five on Friday.

11 MS. SHETLER: That's what he meant was p.m.? I couldn't catch that.

12 THE COURT: I think so.

13 MS. BAHARAV: Yes, he did. 009, Mr. Gonzalez said he had issues with  
14 English, but I think --

15 THE COURT: You know what. I didn't even write it down.

16 MS. BAHARAV: Oh, that's okay. This is Colleen again.

17 THE COURT: He seemed to be fine.

18 MS. BAHARAV: He did. The only thing that he'd be reading --

19 THE COURT: Do we have written documents?

20 MS. SUDANO: Just jury instructions, Your Honor. This is Michelle.

21 THE COURT: Oh, jury instructions.

22 MS. BAHARAV: And potentially medical records if we have to admit those.

23 THE COURT: Do you want to excuse me?

24 MR. SHETLER: I have no problem with him going.

25 MS. BAHARAV: That's fine, Your Honor. I don't know. Maybe if you want to

1 him go back down and get re-assigned to somewhere else, but we do have to admit  
2 medical records it could be really hard for him to review those.

3 THE COURT: Yeah; no, that's a good point. I was thinking well it's mostly  
4 testimony so I wasn't worried about it.

5 MR. SHETLER: Right; testimony.

6 MS. BAHARAV: It was -- it should be.

7 THE COURT: You're right.

8 MS. BAHARAV: I'd say yes.

9 THE COURT: Okay. Let's excuse him. Okay. So, we talked about Mr.  
10 Taylor. I'm going to hang with him for now. 013, Ms. Jolly. She has a new boss  
11 starting Monday. I'm not overly concerned about that.

12 MS. BAHARAV: No.

13 THE COURT: I'm more concerned about if she is actually going to be  
14 stressed and distracted.

15 MS. SHETLER: Right. More important be fair to listen to all the testimony  
16 and not be punishing just in general.

17 MS. BAHARAV: We'll submit it to counsel's discretion. If he wants her gone,  
18 we're fine with it.

19 MS. SHETLER: I think she should probably go.

20 THE COURT: You think she should be excused?

21 MR. SHETLER: Yeah.

22 THE COURT: Okay. I'll excuse her. 014, Gomez.

23 MR. SHETLER: She's got --

24 MS. BAHARAV: No; I have to explain something about this. The issue that  
25 she's talking about, that triple homicide, that was a domestic related homicide. The

1 victim --

2 THE COURT: Yeah; because I remember Sahara and Fort Apache and I  
3 thought, really, and then I remember reading in the paper. That was her brother.

4 MS. BAHARAV: Her brother was dating --

5 MR. SHETLER: The mom.

6 MS. BAHARAV: -- the daughter of the woman that was married to the man  
7 that killed him. So, he was just in the wrong place at the wrong time. He got shot  
8 because he was the daughter. So, the fact that this is a domestic case --

9 THE COURT: And that's close in time.

10 MS. BAHARAV: Yeah.

11 THE COURT: Okay. So, let's excuse her --

12 MS. BAHARAV: I would ask the Court to excuse her, yeah.

13 THE COURT: -- yes, for several reasons. 015, Logan. Okay. She's the lady  
14 with the arthritis.

15 MS. BAHARAV: She's got health issues.

16 MR. SHETLER: Yeah. I'm most comfortable with her being excused.

17 THE COURT: Okay. Sometimes we can work around it but it sounds like  
18 she's got it pretty bad. 018, Ms. Zira.

19 MS. BAHARAV: It seems like she was trying to say she couldn't pay her bills,  
20 but I don't -- but then she didn't say that. I don't know.

21 THE COURT: Yeah. Right. She said -- right -- she said basically well, you  
22 know, I don't know. I guess it depends on what commission she would get.

23 MS. BAHARAV: True.

24 THE COURT: I don't know. She's the only one out there on two  
25 communities. I don't know.

1 MS. BAHARAV: Yeah.

2 MR. SHETLER: Right.

3 MS. BAHARAV: And she's the only one in her house, I think she said.

4 MR. SHETLER: She did say that.

5 THE COURT: She did say that, yes.

6 MR. SHETLER: I have no problem with her being excused.

7 THE COURT: Okay. 019, Michael Brilliant. So, he's trying to wrap up

8 negotiations of the contract that ends tomorrow.

9 MR. SHETLER: Right.

10 THE COURT: He's going to send drones out.

11 MS. SHETLER: Right.

12 MS. BAHARAV: Right.

13 MR. SHETLER: So, he can control the future.

14 MS. BAHARAV: The only thing I think with that is that I wonder if could

15 handle those things, kind of, in the morning before he comes in, but if there's

16 ongoing negotiations it looks like he's going to be focused on that.

17 MR. SHETLER: He has to win or lose he said.

18 THE COURT: It's the urgent timing. It were just in general I'm important in

19 my job I'd say no.

20 MR. SHETLER: Right.

21 THE COURT: But this sounds like it's really bad timing. It probably would

22 have been better to re-schedule and do it another time.

23 MR. SHETLER: Right.

24 MS. BAHARAV: A lot of people don't know they can do that actually.

25 MR. SHETLER: Well I wonder how many people we're talking about -- he

1 said 15 locations.

2 MS. BAHARAV: He said -- I think that they wouldn't be allowed to work if they  
3 didn't [indiscernible].

4 MR. SHETLER: Yeah.

5 THE COURT: 021, Mersis. Okay.

6 MS. BAHARAV: He moved to California.

7 MR. SHETLER: Yeah.

8 THE COURT: Yeah. Okay.

9 MS. SUDANO: It's always something.

10 THE COURT: Yes; he doesn't need to be here. 023, Shrader.

11 MS. BAHARAV: Your Honor --

12 MR. SHETLER: I'd like to retain Ms. Shrader.

13 MS. BAHARAV: I ran her. She's got a really long record of prostituting  
14 related offenses that our office has prosecuted her on. So, given this --

15 THE COURT: I guess that's how she's serving God.

16 MS. BAHARAV: Indeed.

17 THE COURT: I shouldn't make that one [indiscernible].

18 MS. BAHARAV: Well trespasses too. Maybe she just likes to go through --  
19 the thing I would say is that she indicated that she'd have a hard time feeling guilty if  
20 she thought he'd go to jail and that's going to be hard for the State.

21 THE COURT: Right. I mean, if she's looking at a robbery charge I think she  
22 knows that he's looking at jail.

23 MR. SHETLER: I just don't see a way that I can try and keep her on, Judge,  
24 but I would certainly love to.

25 THE COURT: Okay. I'm going to excuse her. We're going to have to fill a

1 bunch of spots up front. That's okay. 025, Waldman. Okay. He's also got no child  
2 care coverage for the ten month old. I think I would let him go. Mr. Orsinelli is  
3 staying so that's good.

4 MS. BAHARAV: Yeah. She knows my thoughts. Maybe it's a good thing,  
5 Travis.

6 THE COURT: 050, Ms. Foley, was pretty determined to get out here.

7 MR. SHETLER: Yes.

8 MS. BAHARAV: She said she would presume the Defendant is guilty.

9 THE COURT: She said he's already guilty because I wrote that down. So, I  
10 need to excuse her even though the genuineness of it is in question.

11 MR. SHETLER: Right. I would agree with that a hundred percent.

12 MS. BAHARAV: She made a good record.

13 THE COURT: But I don't think we want that record. 051, the dentist.

14 MR. SHETLER: He says he's got no other coverage. People are relying and  
15 changing their schedules based on him.

16 THE COURT: He's going to have to re-schedule everyone for the next few  
17 days. I wouldn't want to have that happen.

18 MR. SHETLER: Although the other doctor didn't say anything; did they?

19 MS. BAHARAV: Which doctor?

20 THE COURT: There's another doctor?

21 MS. BAHARAV: Someone didn't like our doctor.

22 THE COURT: He's a doctor.

23 MR. SHETLER: A doctor in back row.

24 THE COURT: No? Okay. So, I'm going to excuse Dr. Nguyen.

25 MR. SHETLER: Yes.

1 THE COURT: 052, He's got the five month old.  
2 MS. BAHARAV: It.  
3 THE COURT: Yes. I felt bad because other people called him out on that.  
4 MR. SHETLER: I think it's nervous. It sounds like it's a problem.  
5 THE COURT: Yeah, I need to excuse him. Mr. Arcemont. He's got every  
6 problem in the book, 055.  
7 MR. SHETLER: You took the words right out of my mouth. You can't judge.  
8 THE COURT: He can't judge but he's very judgmental, all in the same  
9 sentence.  
10 MS. BAHARAV: He knows that doctor and he --  
11 MR. SHETLER: Oh, that's right. I did write that.  
12 THE COURT: Yes; he got treatment. WE got to get him out of here because  
13 he causes any harm to the rest of us.  
14 MR. SHETLER: We're keeping Martin now; Arcemont is out.  
15 THE COURT: So, I'm going to excuse all of those. We'll replace any open  
16 seats up front. I don't have them all shift. We just fill the open seats and then we'll  
17 start in seat number one with questions.  
18 MR. SHETLER: Well what are we doing with -- oh no, we talked about  
19 Gomez. I'm sorry. I'm just checking my notes.  
20 MS. BAHARAV: That's okay.  
21 MR. SHETLER: Logan is out. Michelle, did we decide on her or not?  
22 THE COURT: Which one?  
23 MS. BAHARAV: Zira.  
24 MR. SHETLER: 018. She's out.  
25 MS. BAHARAV: Yeah, she's out.

1 MR. SHETLER: Mr. Brilliant's out; Kara's out. Thank you for your patience,  
2 Judge.

3 THE COURT: Okay.

4 MS. BAHARAV: Thank you.

5 [Bench conference -- concluded]

6 THE COURT: Okay, folks. Thanks for your patience. I'm going to excuse the  
7 following people at this time. After I'm done reading this list, then the folks who I  
8 announce will be excused. You'll need to report down to the third floor and let them  
9 know that I've excused you. So, wait till I'm done reading these folks out loud and  
10 then we'll be continuing with the jury selection process with the rest of you. 002,  
11 Andy Yi, 009, Javier Gonzalez, 013, Donna Jolly, 014, Ashley Gomez, 015, Mary  
12 Rogan, 018, Michelle Zira, 019, Michael Brilliant, 021, Brian Mersis, 023, Kara  
13 Shrader, 025, Shawn Waldman, 050, Doris Foley, 051, Hung Nguyen, 052, Steven  
14 Stowers, 055, Terry Arcemont. If I read your name you're excused. Report down  
15 to the third floor.

16 THE COURT CLERK: Next in seat number 1, Badge number 029, Jennifer  
17 Ward; next, seat number 8, Badge number 030, Kateley Grayson; seat number 12,  
18 Badge number 032, George Ward; seat number 13, Badge number 034, Erik  
19 Adamek; seat number 14, Badge number 036, Jennifer Bautista; seat number 16,  
20 Badge number 037, Serena Compton; seat number 17, Badge number 038, Karlo  
21 Maalouf; seat number 19, Badge number 039, Martin Orsinelli. Next in seat number  
22 20, Badge number 040, Stephanie Ruiz.

23 THE COURT: Okay. We'll get her when she comes back in.

24 THE COURT CLERK: And in seat 22, Badge number 041, Melinda Lopez.

25 THE COURT: Okay. So, we have Ms. Ward; correct?



1 PROSPECTIVE JUROR #029: Yes.

2 THE COURT: Okay. Ms. Ward, is there any reason you could not be fair and  
3 impartial in this case?

4 PROSPECTIVE JUROR #029: No.

5 THE COURT: Can you wait in forming your opinion on the appropriate result  
6 until all of the evidence has been heard?

7 PROSPECTIVE JUROR #029: Yes.

8 THE COURT: Have you or anyone close to you worked in law enforcement?

9 PROSPECTIVE JUROR #029: No.

10 THE COURT: Have you or anyone close to you been charged with a serious  
11 crime?

12 PROSPECTIVE JUROR #029: No.

13 THE COURT: Have you or anyone close to you been the victim of a serious  
14 crime?

15 PROSPECTIVE JUROR #029: No.

16 THE COURT: Is there anything about the charges in this case that would  
17 make it difficult for you to be fair and impartial?

18 PROSPECTIVE JUROR #029: No.

19 THE COURT: Can you base your verdict solely on the evidence brought out  
20 at trial and the law that applies as stated in my instructions without fear of criticism  
21 or popular opinion?

22 PROSPECTIVE JUROR #029: Yes.

23 THE COURT: Have you ever been a juror before?

24 PROSPECTIVE JUROR #029: No.

25 THE COURT: If you were a party to this case would you be comfortable with

1 jurors of a like frame of mind as yourself sitting in judgment?

2 PROSPECTIVE JUROR #029: Yes.

3 THE COURT: And, ma'am, how long have you lived in Clark County?

4 PROSPECTIVE JUROR #029: Forty-one years.

5 THE COURT: And what's the highest level of education you completed?

6 PROSPECTIVE JUROR #029: Associates degree.

7 THE COURT: In what?

8 PROSPECTIVE JUROR #029: Nursing.

9 THE COURT: And are you employed?

10 PROSPECTIVE JUROR #029: Yes.

11 THE COURT: Doing what?

12 PROSPECTIVE JUROR #029: Registered nurse.

13 THE COURT: Okay. And are you married?

14 PROSPECTIVE JUROR #029: Yes.

15 THE COURT: Is your spouse employed?

16 PROSPECTIVE JUROR #029: Yes.

17 THE COURT: Doing what?

18 PROSPECTIVE JUROR #029: He works at the Mandalay Bay, a

19 maintenance engineer.

20 THE COURT: Okay. Do you have children?

21 PROSPECTIVE JUROR #029: Yep.

22 THE COURT: How many?

23 PROSPECTIVE JUROR #029: Two girls.

24 THE COURT: And how old are they?

25 PROSPECTIVE JUROR #029: Sixteen and 14.

1 THE COURT: Okay. State.

2 MS. BAHARAV: Hi. I'm Colleen. I think I introduced myself to you earlier, but  
3 welcome. Ms. Ward, have anyone in your family ever been the victim of domestic  
4 violence?

5 PROSPECTIVE JUROR #029: No.

6 MS. BAHARAV: Any of your friends ever been the victim of domestic  
7 violence?

8 PROSPECTIVE JUROR #029: No.

9 MS. BAHARAV: Have you been the victim of domestic violence?

10 PROSPECTIVE JUROR #029: No.

11 MS. BAHARAV: Do you watch the show CSI?

12 PROSPECTIVE JUROR #029: Yes.

13 MS. BAHARAV: Do you watch the one from Las Vegas?

14 PROSPECTIVE JUROR #029: Uh-huh.

15 MS. BAHARAV: Do you see all those awesome tools and gadgets that they  
16 have in that show?

17 PROSPECTIVE JUROR #029: Yeah.

18 MS. BAHARAV: Okay. You understand that's fiction; right?

19 PROSPECTIVE JUROR #029: Oh, yeah.

20 MS. BAHARAV: Okay. The Las Vegas Metropolitan Police Department  
21 works on a budget so they do not have those types of fancy computer screens and  
22 things like that; you understand that, right?

23 PROSPECTIVE JUROR #029: Oh, yeah.

24 MS. BAHARAV: Now knowing what you know about CSI Las Vegas, you're  
25 not going to hold the State to that particular forensic standard; are you?

1 PROSPECTIVE JUROR #029: No.

2 MS. BAHARAV: Do you understand that not every case has fingerprint or  
3 DNA; do you understand that?

4 PROSPECTIVE JUROR #029: I do.

5 MS. BAHARAV: Are you going to hold that against us if we don't present any  
6 DNA or fingerprints?

7 PROSPECTIVE JUROR #029: No.

8 MS. BAHARAV: Or a really fancy computer screen with someone's face next  
9 to it?

10 PROSPECTIVE JUROR #029: No.

11 MS. BAHARAV: Okay. Have you ever had contact with the Las Vegas  
12 Metropolitan Police Department?

13 PROSPECTIVE JUROR #029: No.

14 MS. BAHARAV: Traffic tickets or anything like that?

15 PROSPECTIVE JUROR #029: Yeah, I'm sure I've had a ticket. I don't know  
16 if it was Las Vegas. I live in Boulder City.

17 MS. BAHARAV: Oh, okay. Well anything about your law enforcement  
18 contact, maybe if you had a ticket stand out to you positive or negative?

19 PROSPECTIVE JUROR #029: No.

20 MS. BAHARAV: No. Nothing about that experience stands out to you at all?

21 PROSPECTIVE JUROR #029: No.

22 MS. BAHARAV: Great. We heard some comments earlier about someone's  
23 beliefs not being -- allowing them to be able to sit in judgment of anyone else. Do  
24 you have any beliefs that will hinder your ability to make a decision in this particular  
25 case?

1 PROSPECTIVE JUROR #029: No.

2 MS. BAHARAV: And if the State proves after you listen to the instructions by  
3 the Court, if the State meets the elements beyond a reasonable doubt, would you be  
4 able to find a verdict of guilty in that instance?

5 PROSPECTIVE JUROR #029: Yes.

6 MS. BAHARAV: If the State doesn't meet every element beyond a  
7 reasonable doubt, would you be able to vote not guilty?

8 PROSPECTIVE JUROR #029: Yes.

9 MS. BAHARAV: Thank you. State will pass for cause.

10 THE COURT: Thank you. Mr. Shetler.

11 MR. SHETLER: Thank you, Your Honor.

12 Ms. Ward, notwithstanding the budget limitations of the Las Vegas  
13 Metropolitan Police Department, would you still expect them to thorough investigate  
14 a crime scene?

15 PROSPECTIVE JUROR #029: Yes.

16 MR. SHETLER: And if they didn't thorough investigate a crime scene, could  
17 you still be a fair and impartial juror?

18 PROSPECTIVE JUROR #029: Yeah.

19 MR. SHETLER: Do you have -- Ms. Baharav asked you -- I forgot to ask one  
20 question I was curious about. What type of field of nursing are you involved in?

21 PROSPECTIVE JUROR #029: I postpartum nursing and same day surgery  
22 nursing.

23 MR. SHETLER: Have you ever had experience in your -- and you've been a  
24 nurse for how long?

25 PROSPECTIVE JUROR #029: Seven years.

1 MR. SHETLER: Have you ever had to deal with victims of domestic violence  
2 in your career?

3 PROSPECTIVE JUROR #029: I don't know. We've had suspected in our  
4 postpartum unit but nothing that was directly evident or that was reported. We've  
5 had people that didn't want certain people coming to their room because of  
6 possibilities of threats of that.

7 MR. SHETLER: Understand. It's unfortunate. Would any of your  
8 experiences in those situations impact your ability to be a fair and impartial juror  
9 here today?

10 PROSPECTIVE JUROR #029: No.

11 MR. SHETLER: How long have you been out in Boulder City?

12 PROSPECTIVE JUROR #029: Forty-one years.

13 MR. SHETLER: You heard earlier in Ms. Foley's comment and as Judge  
14 Cadish said, we're not here to pry or get into your personal life, but you understand  
15 the Constitution gives my client a right to a trial by jury of his peers and that the  
16 State although budget restraints and extremely qualified lawyers notwithstanding,  
17 they have a duty to establish my client's guilt beyond a reasonable doubt; do you  
18 understand that?

19 PROSPECTIVE JUROR #029: Yes, I do.

20 MR. SHETLER: Ms. Baharav asked you if there was anything if you were  
21 sitting at either table if you would want a person such as yourself on the jury and  
22 you're comfortable with [indiscernible] for either person?

23 PROSPECTIVE JUROR #029: Yes.

24 MR. SHETLER: I started to mention Ms. Foley. I'm sorry. I got sidetracked.  
25 Her comment was a little surprising but that's the kind of honesty unfortunately that

1 we need. This is Mr. Perry's probably the most important couple days of his life right  
2 now, and we all come in with certain prejudices and opinions. I'm certainly well  
3 aware of that when I drive through the streets of Las Vegas. It's the ability to set  
4 aside those personal beliefs as some people have said that they couldn't do, right,  
5 as we were going through this and purely judge Mr. Perry based on the evidence  
6 that the State produces, that Judge Cadish allows into trial and that you take back  
7 and then you're going to -- this is a long question; I'm sorry. You're going to get a  
8 set of jury instructions at the end and I think we're going to end up with somewhere  
9 around 25 pages of instructions. You have to take the evidence you heard here and  
10 apply it to those jury instructions or vice versa. Maintaining that lack of a pre-formed  
11 opinion which is difficult and some people are much more vocal about what they can  
12 and can't do and what they do and don't want to do, however you want to interpret  
13 that. That long winded -- [indiscernible] unidirectional question aside, does any of  
14 that strike a bell with you at all or do you hear anything in there that you believe  
15 would give you a problem, Ms. Ward?

16 PROSPECTIVE JUROR #029: No.

17 MR. SHETLER: Thank you for your patience. I appreciate that. Your Honor,  
18 we would pass Ms. Ward for cause

19 THE COURT: Thank you. Go ahead and pass the mic to the next juror.  
20 Thank you. All right. So, Ms. Downing, how are you doing?

21 PROSPECTIVE JUROR #003: Okay.

22 THE COURT: I took note of what you told me earlier about your childcare  
23 issue and counsel and I agreed that we will make sure we accommodate your need  
24 to do drop off and pick up for your children on Monday if you have to be here  
25 Monday. Okay.

1 PROSPECTIVE JUROR #003: Okay.

2 THE COURT: I don't want you to be concerned that I'm going to keep you  
3 from that. With that being said, is there any reason you could not be fair and  
4 impartial in this case?

5 THE COURT: Can you wait in forming your opinion on the appropriate result  
6 until all of the evidence has been heard?

7 PROSPECTIVE JUROR #003: Yes.

8 THE COURT: Have you or anyone close to you worked in law enforcement?

9 PROSPECTIVE JUROR #003: No.

10 THE COURT: Have you or anyone close to you been charged with a serious  
11 crime?

12 PROSPECTIVE JUROR #003: No.

13 THE COURT: Have you or anyone close to you been the victim of a serious  
14 crime?

15 PROSPECTIVE JUROR #003: No.

16 THE COURT: Is there anything about the charges in this case that would  
17 make it difficult for you to be fair and impartial?

18 PROSPECTIVE JUROR #003: Yes; after hearing her part and like having  
19 hearing them about domestic violence, that affected me.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR #003: I've had people that I know that has been  
22 friends of friends; it bothers me.

23 THE COURT: So, you know people who have been victims of domestic  
24 violence?

25 PROSPECTIVE JUROR #003: Yes.



1 THE COURT: Okay. And so the charges relate to an alleged domestic  
2 violence incident. Do you think that you could listen to the evidence and evaluate  
3 the evidence under the law that I give you to reach a verdict based on the evidence  
4 and the law?

5 PROSPECTIVE JUROR #003: I'm not sure truthfully. I don't know how  
6 emotional I would get doing it.

7 THE COURT: Right. I can see you're getting emotional now talking about it.  
8 You're nodding yes. So, a verdict can't be based on sympathy or prejudice. It's got  
9 to be based on the facts and the law. Now we're all human beings. We may all  
10 have sympathy when we all come with our own biases and prejudices. But the  
11 decision that the jurors make as a jurors in the case can't be based on that; it has to  
12 be based on the facts and the law. So, do you think that you would be able to do  
13 that or do you think you can't.

14 PROSPECTIVE JUROR #003: I don't think I could.

15 THE COURT: Okay. And who is it -- obviously I'm not looking for names, but  
16 who is it who you are aware of who have been victims of domestic violence?

17 PROSPECTIVE JUROR #003: Just close friends that I've known, actually  
18 three or four people that I can think of right off the top of my head.

19 THE COURT: Okay. And have they --

20 PROSPECTIVE JUROR #003: Verbal and physical.

21 THE COURT: I apologize. I was talking over you. What did you say?

22 PROSPECTIVE JUROR #003: Both verbal and physical.

23 THE COURT: Right. And do you know whether they have reported those  
24 issues to the police?

25 PROSPECTIVE JUROR #003: Yes; they're out of it now but it was just a long

1 process.

2 THE COURT: Were you supporting them at all through the legal process?

3 PROSPECTIVE JUROR #003: Yes; I was listening to them and I think that's  
4 what makes me more emotional.

5 THE COURT: Yeah. Okay. Counsel, come on up, please.

6 [Bench conference -- begins]

7 THE COURT: Okay. Are you seeking to excuse her?

8 MR. SHETLER: She just seems to have hard time -- I mean, at this point in  
9 time she's pretty emotional and I don't know how we would get through actual  
10 testimony.

11 THE COURT: Sure. And I should note for the record it looks like she's  
12 tearing up while she's talking about it.

13 MS. BAHARAV: You can hear it in her voice.

14 THE COURT: Once we got to an issue about the charges and she had to  
15 address domestic violence she's getting all teary eyed.

16 MR. SHETLER: You want to ask her questions?

17 MS. BAHARAV: I'll submit it.

18 MR. SHETLER: Yeah. Judge, we can let her go.

19 THE COURT: All right. I'll excuse her. It's getting empty back there.

20 MR. SHETLER: Thank you, Your Honor.

21 THE COURT: Okay.

22 [Bench conference -- concluded]

23 THE COURT: Ms. Downing, I'm going to excuse you at this time because of  
24 the nature of the case and I can see the emotional effect it has on you. Thanks very  
25 much for your time today.

1 PROSPECTIVE JUROR #003: Thank you.

2 THE COURT: So, just leave the mic there and we'll fill it in. So, just go down  
3 to the third floor and tell them I excused you.

4 THE COURT CLERK: Next in seat number 2, Badge number 042, Ruth  
5 Etnire.

6 THE COURT: All right, ma'am. If you could grab the mic, please. How do yo  
7 pronounce your last name?

8 PROSPECTIVE JUROR #042: Etnire.

9 THE COURT: Okay. Ms. Etnire, how are you doing today?

10 PROSPECTIVE JUROR #042: I'm here.

11 THE COURT: Yes, I see that. Have you got a broken arm there?

12 PROSPECTIVE JUROR #042: Yes, I do.

13 THE COURT: Okay. Is that causing you any pain that would be distracting  
14 for you while you're here?

15 PROSPECTIVE JUROR #042: It's a constant ache, you know. The doctor is  
16 allowing me to go work and drive so I didn't figure that it was probably enough to not  
17 come here.

18 THE COURT: Got it. I appreciate that. So, is there any reason you could not  
19 be fair and impartial in this case?

20 PROSPECTIVE JUROR #042: I don't think so.

21 THE COURT: Can you wait in forming your opinion on the appropriate result  
22 until all of the evidence has been heard?

23 PROSPECTIVE JUROR #042: Yes.

24 THE COURT: Have you or anyone close to you worked in law enforcement?

25 PROSPECTIVE JUROR #042: The closest my daughter-in-law is a Metro

1 dispatch, 9-1-1.

2 THE COURT: Okay. Does she work -- she works for Metro?

3 PROSPECTIVE JUROR #042: She works for Metro.

4 THE COURT: And how long has she been doing that?

5 PROSPECTIVE JUROR #042: Six, seven years, I believe.

6 THE COURT: Okay. So, she's a civilian employee; correct?

7 PROSPECTIVE JUROR #042: She's a civilian employee.

8 THE COURT: So, does she sometimes talk about the kinds of calls that she  
9 takes in that role?

10 PROSPECTIVE JUROR #042: Some of them are bizarre calls, yes.

11 THE COURT: Sure. Has she talked to you about some domestic violence  
12 calls she's gotten?

13 PROSPECTIVE JUROR #042: I don't believe so, no.

14 THE COURT: Would the fact that your daughter is in that role with Metro  
15 affect your ability to be fair and impartial in this case?

16 PROSPECTIVE JUROR #042: No.

17 THE COURT: Do you think that it will cause you to give extra weight or lesser  
18 weight or credibility to law enforcement officers as compared with law witnesses?

19 PROSPECTIVE JUROR #042: I don't think so, no.

20 THE COURT: Do you think you can weigh all the witnesses, the testimony  
21 the same way?

22 PROSPECTIVE JUROR #042: I think so, yes.

23 THE COURT: Have you or anyone close to you been charged with a serious  
24 crime?

25 PROSPECTIVE JUROR #042: I have a son who has multiple charges for

1 assault and burglary.

2 THE COURT: Okay. And that is here in Las Vegas?

3 PROSPECTIVE JUROR #042: It is, and in Reno.

4 THE COURT: Pardon?

5 PROSPECTIVE JUROR #042: And in Reno.

6 THE COURT: And in Reno. Okay. Has he actually been convicted?

7 PROSPECTIVE JUROR #042: Yes, he has; he's served time.

8 THE COURT: Okay. Is he out of custody now?

9 PROSPECTIVE JUROR #042: I think so.

10 THE COURT: I gather you're not in touch with him much?

11 PROSPECTIVE JUROR #042: He's kind of burned all his bridges with his  
12 family.

13 THE COURT: I understand. Do you feel that he's been treated fairly in his  
14 cases?

15 PROSPECTIVE JUROR #042: Yes.

16 THE COURT: Has the Court Clark District Attorney's office prosecuted him?

17 PROSPECTIVE JUROR #042: Yes.

18 THE COURT: Okay. Will the fact that they've prosecuted him cause you to  
19 either be prejudiced against their office or favor their office?

20 PROSPECTIVE JUROR #042: No.

21 THE COURT: Do you think you can be fair to both sides here, ma'am?

22 PROSPECTIVE JUROR #042: I think so, yes.

23 THE COURT: And will your son's cases and what he's gone through in his  
24 cases affect your ability to be fair and impartial?

25 PROSPECTIVE JUROR #042: No; it just affects my ability to be fair and

1 impartial to him.

2 THE COURT: Fair enough.

3 THE COURT: Have you or anyone close to you been the victim of a serious  
4 crime?

5 PROSPECTIVE JUROR #042: No.

6 THE COURT: Is there anything about the charges in this case that would  
7 make it difficult for you to be fair and impartial?

8 PROSPECTIVE JUROR #042: I don't believe so, no.

9 THE COURT: Can you base your verdict solely on the evidence brought out  
10 at trial and the law that applies as stated in my instructions without fear of criticism  
11 or popular opinion?

12 PROSPECTIVE JUROR #042: Yes.

13 THE COURT: Have you ever been a juror before?

14 PROSPECTIVE JUROR #042: No: I've gotten this far; I never stayed.

15 THE COURT: Right. But you've never actually been seated?

16 PROSPECTIVE JUROR #042: No.

17 THE COURT: Okay. If you were a party to this case would you be  
18 comfortable with jurors of a like frame of mind as yourself sitting in judgment?

19 PROSPECTIVE JUROR #042: Yes.

20 THE COURT: And, ma'am, how long have you lived in Clark County?

21 PROSPECTIVE JUROR #042: I'm going to say 40 years.

22 THE COURT: Okay. What's the highest level of education you completed?

23 PROSPECTIVE JUROR #042: I have a master's degree plus hours.

24 THE COURT: So, what's your master's in?

25 PROSPECTIVE JUROR #042: Master of education.

1 THE COURT: And what was your undergraduate degree in?  
2 PROSPECTIVE JUROR #042: Bachelor of science in mathematics.  
3 THE COURT: And are you employed?  
4 PROSPECTIVE JUROR #042: I am.  
5 THE COURT: What do you do?  
6 PROSPECTIVE JUROR #042: I'm a teacher.  
7 THE COURT: And what do you teach?  
8 PROSPECTIVE JUROR #042: Mathematics.  
9 THE COURT: Makes sense. And are you married?  
10 PROSPECTIVE JUROR #042: I am.  
11 THE COURT: Is your spouse employed?  
12 PROSPECTIVE JUROR #042: He is not; he's retired.  
13 THE COURT: What did he do before retiring?  
14 PROSPECTIVE JUROR #042: He was a teacher.  
15 THE COURT: What did he teach?  
16 PROSPECTIVE JUROR #042: Math.  
17 THE COURT: Okay. So, we know you have a son and you have a daughter  
18 who is Metro --  
19 PROSPECTIVE JUROR #042: I have four children, two sons and two  
20 daughters.  
21 THE COURT: Okay. So, we know about two of them now. What are the  
22 other two doing?  
23 PROSPECTIVE JUROR #042: My youngest daughter works for a company  
24 in Portland, a start-up kind of company; my older daughter works in California at  
25 Vandenberg Air Force Base, and my oldest son works at the test site and it's his

1 wife who is -- works for Metro.

2 THE COURT: Okay. Got it. Okay. State.

3 MS. SUDANO: Thank you, Your Honor. Hi, Ms. Etnire, I'm Michelle. How  
4 are you doing?

5 PROSPECTIVE JUROR #042: I'm fine. Thank you.

6 MS. SUDANO: So, have you or a close family member ever been the victim  
7 of a domestic violence?

8 PROSPECTIVE JUROR #042: No.

9 MS. SUDANO: Have you or a close family member ever been accused of  
10 domestic violence?

11 PROSPECTIVE JUROR #042: No.

12 MS. SUDANO: And I'm going to ask the same question Ms. Baharav asked.  
13 Do you watch the CSI shows?

14 PROSPECTIVE JUROR #042: We watch the NCIS shows, not Las Vegas  
15 but, yeah.

16 MS. SUDANO: Same general idea though. You understand that some of the  
17 things in those shows aren't necessarily realistic?

18 PROSPECTIVE JUROR #042: Yes.

19 MS. SUDANO: You understand that the Las Vegas Metropolitan Police  
20 Department can't do some of the fancy high tech things --

21 PROSPECTIVE JUROR #042: Exactly.

22 MS. SUDANO: Right. And you understand that witness testimony and  
23 statements and things like that are also evidence to be considered?

24 PROSPECTIVE JUROR #042: Yes.

25 MS. SUDANO: Would you be able to come back with a verdict in this case



1 even if the State did not present DNA evidence, fingerprints?

2 PROSPECTIVE JUROR #042: Yes.

3 MS. SUDANO: Have you ever had any contact with Metro, Henderson Police,  
4 anything like that?

5 PROSPECTIVE JUROR #042: Well I have had contact with Metro when we  
6 had difficulties with my son.

7 MS. SUDANO: Okay. Anything about -- how would you characterize that  
8 interaction with law enforcement?

9 PROSPECTIVE JUROR #042: They were very supportive.

10 MS. SUDANO: Supportive of you?

11 PROSPECTIVE JUROR #042: Yes.

12 MS. SUDANO: Okay. Do you think that anything about those interactions  
13 would affect your ability to be fair and impartial to both sides in this case?

14 PROSPECTIVE JUROR #042: No.

15 MS. SUDANO: Do you think your son was treated fairly by the police in his  
16 cases?

17 PROSPECTIVE JUROR #042: Yes.

18 MS. SUDANO: Okay. And I think that Judge Cadish may have asked you  
19 questions about whether or not he had been prosecuted by our office, the Clark  
20 County DA's office previously?

21 PROSPECTIVE JUROR #042: Yes.

22 MS. SUDANO: And I noticed that you hesitated a little bit when you saying  
23 whether or not you thought he had been treated fairly.

24 PROSPECTIVE JUROR #042: I think he's been treated fairly, more than  
25 fairly sometimes, I think.

1 MS. SUDANO: So, the fact -- when you say that he's been treated more than  
2 fairly, do you want to explain a little bit?

3 PROSPECTIVE JUROR #042: You know, sometimes I felt like there should  
4 have been a longer sentence for him actually than he got.

5 MS. SUDANO: So, anything about that experience in thinking that our office  
6 maybe the Judge was too lenient on your son; would that affect your abilities to be  
7 fair and impartial?

8 PROSPECTIVE JUROR #042: No.

9 MS. SUDANO: Court's indulgence. Do you have any personal beliefs or  
10 religious convictions that would affect your ability to sit in judgment of someone  
11 else?

12 PROSPECTIVE JUROR #042: No.

13 MS. SUDANO: Your Honor, the State would ass Ms. Etnire for cause.

14 THE COURT: Thank you. Mr. Shetler.

15 MR. SHETLER: Thank you, Your Honor. Ms. Etnire, this is a fine way to  
16 celebrate teacher appreciation week.

17 PROSPECTIVE JUROR #042: Thank you.

18 MR. SHETLER: Thank you for being here. I want to ask again just as I  
19 inartfully did with Ms. Ward. Your honesty is greatly appreciated, and just as Ms.  
20 Downing's was. It's serious stuff and it impact people's lives on a daily basis. In the  
21 cases involving your son, I didn't hear if you mentioned if there was any drug usage  
22 or drug activity involved in those cases?

23 PROSPECTIVE JUROR #042: Yes.

24 MR. SHETLER: You may well hear testimony of drug usage or drug activity in  
25 this case; will that impact your decision to be a fair and impartial juror?

1 PROSPECTIVE JUROR #042: No.

2 MR. SHETLER: People have pretty strong feelings about drugs.

3 PROSPECTIVE JUROR #042: I have strong feelings about drugs, but that  
4 can be a basis, I guess, of causing behavior.

5 MR. SHETLER: And I mean this completely respectfully; I'm not trying to pry.  
6 Your son's activities do you believe that drugs played a significant role in his --

7 PROSPECTIVE JUROR #042: Yes.

8 MR. SHETLER: Okay. So, people might act differently under the influence of  
9 drugs?

10 PROSPECTIVE JUROR #042: I believe so, yes.

11 MR. SHETLER: And I know I'm asking you the same question one more time.  
12 Please bear with me. You can separate a person's activities while possibly using  
13 drugs or trying to acquire drugs from -- as they sit here in front of you for judgment?

14 PROSPECTIVE JUROR #042: I'm not sure I understand.

15 MR. SHETLER: If there were testimony put on that talked about Mr. Perry  
16 and drug usage or possibly drug -- selling drugs, is that going to impact your ability  
17 to listen to the evidence and make a determination just on those jury instructions as  
18 to what he's charged with here?

19 PROSPECTIVE JUROR #042: No.

20 MR. SHETLER: Does that make sense or am I making it too muddy?

21 PROSPECTIVE JUROR #042: It just seems like you're talking about -- I don't  
22 know if you're saying drug use played a role in the crime that he's accused of or  
23 you're just saying that's incidental and it might be brought up.

24 MR. SHETLER: If evidence -- and there are certain rules on what I can and I  
25 can't say right at this point.

1 PROSPECTIVE JUROR #042: Right. I understand.

2 MR. SHETLER: But if evidence were to come out in either of those fashions,  
3 would that impact your ability to sit as a fair and impartial juror, and most  
4 importantly, this is what Mr. Perry is worried about. If you were in a situation similar  
5 to Mr. Perry and a person with your experiences and what you've had to go through  
6 with your son's cases, will sitting on a jury would you be comfortable with that  
7 person sitting in judgment on you? That's really the nut of the matter.

8 PROSPECTIVE JUROR #042: I believe so, yes.

9 MR. SHETLER: That's fair enough. That's -- your patience is much  
10 appreciated. Thank you. Your Honor, we pass Ms. Etnire; correct? We pass for  
11 cause, Your Honor.

12 THE COURT: Thank you. Ms. De Paz, how are you?

13 PROSPECTIVE JUROR #004: Hello. Sorry I'm short.

14 THE COURT: Me too. It's all right. Is there any reason you could not be fair  
15 and impartial in this case?

16 PROSPECTIVE JUROR #004: I don't believe so.

17 THE COURT: Can you wait in forming your opinion on the appropriate result  
18 until all of the evidence has been heard?

19 PROSPECTIVE JUROR #004: Yes.

20 THE COURT: Have you or anyone close to you worked in law enforcement?

21 PROSPECTIVE JUROR #004: Kind of. I've been rein -- I can't say the word  
22 right now -- reacquainted with my mother's side of the family. I have an aunt who is  
23 a Los Angeles Sheriff and my mother's birth mother is a civilian service member with  
24 -- fortunately -- abuse cases, trials of domestic abuse.

25 THE COURT: Is that someone who you are close with?

1 PROSPECTIVE JUROR #004: No.

2 THE COURT: Okay. But she is a relative so I figured you need to know.

3 THE COURT: No, I do. I appreciate you letting me know. Thanks. So, my  
4 question is whether the fact that you've got those relatives who were in law  
5 enforcement would affect your ability to be fair and impartial in this case?

6 PROSPECTIVE JUROR #004: I don't believe so.

7 THE COURT: And the person you were just talking about, your mother's birth  
8 mom, does she work here in Las Vegas?

9 PROSPECTIVE JUROR #004: No; she lives in San Francisco.

10 THE COURT: Okay. And do you think that you would have a tendency to  
11 give extra weight or credibility to the testimony of law enforcement officers because  
12 they're law enforcement officers?

13 PROSPECTIVE JUROR #004: No; everybody's human, everybody makes  
14 mistakes.

15 THE COURT: Okay. So, you think you could weigh their testimony like you  
16 would weigh any witness testimony?

17 PROSPECTIVE JUROR #004: Yes.

18 THE COURT: Have you or anyone close to you been charged with a serious  
19 crime?

20 PROSPECTIVE JUROR #004: My father was charged with domestic abuse  
21 when I was 13 and before I was born he stole a car. I don't remember what that's  
22 called.

23 THE COURT: Okay. That's fine. The domestic abuse issue, were you  
24 present during the incident?

25 PROSPECTIVE JUROR #004: It was against -- it was because of me and my

1 sister. At the time I truly -- my stepmother or step-grandmother blew things out of  
2 proportion. We got hit by my dad. I -- now as an adult with kids of my own truly  
3 believe we deserved to get hit. We should not have been doing what we were doing  
4 which was hitting each other, but it blew out of proportion. The Court's threw it in as  
5 being beaten and so on and so forth and we were hit, we weren't beaten. So, that  
6 was the issue with that case. But we had a -- what is it called -- the social worker,  
7 he kept pushing it and pressing it and making it bigger than it was. Once we  
8 changed social workers, it completely away.

9 THE COURT: Was he actually convicted of a crime, your dad I mean?

10 PROSPECTIVE JUROR #004: He served time for the grand theft auto but  
11 not for -- he went to jail but he didn't go to prison for the domestic violence.

12 THE COURT: Okay. So, as you know, one of the charges here is for a  
13 domestic battery.

14 PROSPECTIVE JUROR #004: I do.

15 THE COURT: And the different charges relate to, I think, the same one  
16 incident. Okay. So, there are different charges that are brought and obviously we  
17 haven't heard any evidence about them yet. But my question is given that the  
18 nature of it involves a domestic situation, do you think that you could put aside your  
19 personal experience and base your decision in this case on the evidence presented  
20 and the law that I give you?

21 PROSPECTIVE JUROR #004: I do.

22 THE COURT: And do you have any difficulty following my instructions on the  
23 law even as to what does or doesn't constitute the crime of battery domestic  
24 violence?

25 PROSPECTIVE JUROR #004: No, I don't have a problem with that.

1 THE COURT: So, the next question is about whether you or anyone close to  
2 you has been the victim of a serious crime. You already talked about that --

3 PROSPECTIVE JUROR #004: Yes.

4 THE COURT: -- that circumstance.

5 PROSPECTIVE JUROR #004: Unfortunately my dad was abusive with my  
6 mother until I was about six years old, but they're still together, 32 years strong. I  
7 understand that drugs did have a role in it but he was able to change and things  
8 happen.

9 THE COURT: Okay. So, he stopped being abusive?

10 PROSPECTIVE JUROR #004: Yes.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR #004: Now it's just a really depressed old man.  
13 Sorry.

14 THE COURT: Okay. So, from -- I need to focus on you. Do you feel you can  
15 be fair to both sides here?

16 PROSPECTIVE JUROR #004: I do. I've been on both sides, my mother and  
17 my father so I can totally understand both sides of the story.

18 THE COURT: So, is there anything about the charges in this case that would  
19 make it difficult for you to be fair and impartial?

20 PROSPECTIVE JUROR #004: I don't believe so.

21 THE COURT: Can you base your verdict solely on the evidence brought out  
22 at trial and the law that applies as stated in my instructions without fear of criticism  
23 or popular opinion?

24 PROSPECTIVE JUROR #004: Of course.

25 THE COURT: Have you ever been a juror before?

1 PROSPECTIVE JUROR #004: No.

2 THE COURT: If you were a party to this case would you be comfortable with  
3 jurors of a like frame of mind as yourself sitting in judgment?

4 PROSPECTIVE JUROR #004: Yes.

5 THE COURT: And how long have you lived in Clark County?

6 PROSPECTIVE JUROR #004: Five years.

7 THE COURT: Where did you live before that?

8 PROSPECTIVE JUROR #004: Pasadena and Long Beach, California.

9 THE COURT: And what's the highest level of education you completed?

10 PROSPECTIVE JUROR #004: High school. I did a couple years in college  
11 but I never completed it.

12 THE COURT: Did you have a particular major or course of study in college?

13 PROSPECTIVE JUROR #004: I went into English and social work.

14 THE COURT: And are you employed?

15 PROSPECTIVE JUROR #004: I am.

16 THE COURT: What do you do?

17 PROSPECTIVE JUROR #004: I'm a receptionist at the spay and neuter  
18 center.

19 THE COURT: Okay. And are you married?

20 PROSPECTIVE JUROR #004: I guess. We're together; we're engaged, not  
21 officially married but we've been together for ten years --

22 THE COURT: Okay.

23 PROSPECTIVE JUROR #004: -- which I heard is common law marriage.

24 THE COURT: Not in Nevada but okay.

25 PROSPECTIVE JUROR #004: Well that's good to know.



1 THE COURT: But you're engaged?

2 PROSPECTIVE JUROR #004: Yeah, we're engaged, yeah.

3 THE COURT: Is your fiancé employed?

4 PROSPECTIVE JUROR #004: Yes; he works for Walmart, overnight stock.

5 THE COURT: And do you have children?

6 PROSPECTIVE JUROR #004: I have one and one on the way.

7 THE COURT: Oh, congratulations.

8 PROSPECTIVE JUROR #004: Thank you.

9 THE COURT: And how old is your child?

10 PROSPECTIVE JUROR #004: She's ten months.

11 THE COURT: All right. State.

12 MS. BAHARAV: Hi.

13 PROSPECTIVE JUROR #004: Hello.

14 MS. BAHARAV: So, let's first start with the CSI show. I'm going to have to

15 ask all of you questions and I'm apologizing in advance.

16 PROSPECTIVE JUROR #004: I watched all of 'em and I understand.

17 MS. BAHARAV: All right.

18 PROSPECTIVE JUROR #004: We would be broke, completely, and never

19 ever see any kind of social anything if we were able to do that in our law

20 enforcement.

21 MS. BAHARAV: Also some of that's fiction. So, some of that technology

22 actually doesn't really exist, yes. So, will you hold it against the State if we do not

23 present any DNA or fingerprint evidence in this case?

24 PROSPECTIVE JUROR #004: No.

25 MS. BAHARAV: You're not going to require the State to present that

1 particular type of evidence?

2 PROSPECTIVE JUROR #004: No.

3 MS. BAHARAV: You'll be able to listen to testimony and view photographs  
4 and things of that nature?

5 PROSPECTIVE JUROR #004: Yes.

6 MS. BAHARAV: Yes.

7 PROSPECTIVE JUROR #004: And based upon that evidence will you be  
8 able to come to a conclusion?

9 PROSPECTIVE JUROR #004: Yes.

10 MS. BAHARAV: If the State meets every element of the crimes beyond a  
11 reasonable doubt, will you be able to find the Defendant guilty?

12 PROSPECTIVE JUROR #004: Beyond a reasonable doubt, yes.

13 MS. BAHARAV: And similarly if we do not meet those elements beyond a  
14 reasonable doubt, would you be able to vote not guilty?

15 PROSPECTIVE JUROR #004: Yes.

16 MS. BAHARAV: So, I have to ask about this.

17 PROSPECTIVE JUROR #004: Go ahead.

18 MS. BAHARAV: This case involves domestic violence. I apologize for prying.

19 PROSPECTIVE JUROR #004: It's okay.

20 MS. BAHARAV: You indicated that the issue with your father and you two  
21 girls got blown a little bit out of proportion?

22 PROSPECTIVE JUROR #004: Yes.

23 MS. BAHARAV: Do you understand that there are situations where people  
24 can cross a line?

25 PROSPECTIVE JUROR #004: Yes; no, I completely understand. It is just

1 that situation we totally deserve what we got, and it wasn't as bad as it turned out  
2 being said it was.

3 MS. BAHARAV: You understand that some -- it's maybe a mandatory  
4 reporter have learned that you had been harmed in any physical way that they do  
5 have an obligation to provide that information to law enforcement.

6 PROSPECTIVE JUROR #004: Yes.

7 MS. BAHARAV: Okay. So, given the fact that you believe that issue was  
8 blown out of proportion but also that your mother was the victim of domestic  
9 violence, would you say that the issue involving your mother and father was different  
10 than the issue involving you and your sister?

11 PROSPECTIVE JUROR #004: Yes. I understand. I've spoken with both of  
12 them and I do know people who have had those kind of relationships. The thing is,  
13 is everybody is different. There's certain things that are going on, you know, people  
14 make mistakes and people can change. So, I believe that I can be impartial.

15 MS. BAHARAV: If you're provided some instructions by the Judge indicating  
16 that a particular behavior is a crime even if you maybe you think that was blown out  
17 of proportion, would you still be able to find somebody guilty of that charge?

18 PROSPECTIVE JUROR #004: I can, yes.

19 MS. BAHARAV: Now you indicated that aside from your father and your  
20 mother, did you know anyone else that has been the victim of domestic violence?

21 PROSPECTIVE JUROR #004: Not personally but heard of them. Not  
22 closely. I've known people in the neighborhood who have had situations, but we  
23 were never really close to our neighbors growing up but I know of it, yes.

24 MS. BAHARAV: What about accused of domestic violence; do you know  
25 anyone else like that?

1 PROSPECTIVE JUROR #004: I don't.

2 MS. BAHARAV: Now you were here earlier when certain people indicated  
3 that they can't sit in judgment of others. Is that something that you hold a belief or  
4 conviction that won't allow you to sit in judgment of somebody else?

5 PROSPECTIVE JUROR #004: Nope. But I want to hear all sides of the story  
6 before I pass judge.

7 MS. BAHARAV: And you understand that as Mr. Perry sits there he doesn't  
8 have to say one word?

9 PROSPECTIVE JUROR #004: Yes.

10 MS. BAHARAV: You understand that Mr. Shetler, though he won't do this  
11 because he's very professional, could sit there and give me dirty faces and giggle at  
12 randomly but he doesn't actually have to say anything?

13 PROSPECTIVE JUROR #004: Yes.

14 MS. BAHARAV: And if they don't say anything are you going to ultimately  
15 think that Mr. Perry is guilty because he did not provide you with a story?

16 PROSPECTIVE JUROR #004: No.

17 MS. BAHARAV: You understand that he doesn't have to say anything and it's  
18 the State's burden of proof in this case?

19 PROSPECTIVE JUROR #004: Yes.

20 MS. BAHARAV: Would you like someone such as yourself on this jury?

21 PROSPECTIVE JUROR #004: I believe so?

22 MS. BAHARAV: Why?

23 PROSPECTIVE JUROR #004: Because I want to hear -- I want to  
24 understand what's going on before I say anything or pass judgment.

25 MS. BAHARAV: Do you think you're a fair person?

1 PROSPECTIVE JUROR #004: I do.

2 MS. BAHARAV: And do you think that if somebody was facing or if you were  
3 sitting in the shoes of Mr. Perry that you would like yourself -- somebody like  
4 yourself on the jury?

5 PROSPECTIVE JUROR #004: Yes.

6 MS. BAHARAV: We'll pass for cause, Your Honor.

7 THE COURT: Thank you. Mr. Shetler.

8 MR. SHETLER: Thank you, Your Honor.

9 Ms. Paz, you've heard my earlier questions?

10 PROSPECTIVE JUROR #004: Yes.

11 MR. SHETLER: Any of those questions bring up any issues for you other  
12 than maybe slight boredom?

13 PROSPECTIVE JUROR #004: No, not at all.

14 MR. SHETLER: I think you are uniquely situated in some regards to sit on  
15 this jury. You understand that if -- what type of social work do you do?

16 PROSPECTIVE JUROR #004: I'm not in the social work field but I started to  
17 study it and I just -- I couldn't get past certain things. When you're a social worker  
18 for children you have to defend both the parent who abused the child and the child.  
19 I couldn't get past the sexual element of that. That's the only issue that I had.  
20 Personally growing up I had different types of social workers. I understand the pros  
21 and the cons. I understand that the law says that if you hit a child and you raise a  
22 welt or its red that is considered abuse. I understand that that is also considered  
23 overboard or not something that, you know, that can be blown out of proportion. I  
24 seriously should have got smacked for hitting my sister that day. Like, I understand  
25 these things. So, the only issue that I have with the social work deal that I couldn't

1 finish it was the sexual abuse part of it.

2 MR. SHETLER: We understand that. You understand that if someone is in  
3 fear of being hurt that they can defend themselves?

4 PROSPECTIVE JUROR #004: Yes.

5 MR. SHETLER: And that's somewhat involved in the situation with you and  
6 your sister. Your father, without getting into details, intervened to stop further  
7 violence, you could say.

8 PROSPECTIVE JUROR #004: Yes; with violence but it was necessary at the  
9 time.

10 MR. SHETLER: Right, right. And you understand that in Nevada if I walk into  
11 Ms. Baharav's home and I put my hand in my pocket and I aim at her and I tell her  
12 to do whatever, give me the keys to her car, if she thinks I have a gun and she  
13 doesn't know I only have my finger in a pocket and she thinks I have a gun, well  
14 whatever she thinks I have, but if she thinks I'm going to kill her she can kill me and  
15 it's okay with that.

16 PROSPECTIVE JUROR #004: Yeah. I was blown apart by that ruling in  
17 California. We don't have that or at least under my understanding.

18 MR. SHETLER: We are slightly different than California.

19 PROSPECTIVE JUROR #004: Yeah. It kind of blew my mind but, yes, I  
20 understand.

21 THE COURT: We'll instruct on the law later.

22 PROSPECTIVE JUROR #004: Sorry.

23 MR. SHETLER: Thank you, Your Honor. But it's just what's in her mind at  
24 the point in time that she makes that decision that's relevant.

25 PROSPECTIVE JUROR #004: Yes, yes, I understand.

1 MR. SHETLER: If I do giggle at Ms. Baharav, are you going to hold that  
2 against me? We'll pass, Your Honor.

3 THE COURT: Thank you. Okay. Mr. Williams, how are you today?

4 PROSPECTIVE JUROR #005: Pretty good.

5 THE COURT: Is there any reason you could not be fair and impartial in this  
6 case?

7 PROSPECTIVE JUROR #005: I don't think so.

8 THE COURT: Can you wait in forming your opinion on the appropriate result  
9 until all of the evidence has been heard?

10 PROSPECTIVE JUROR #005: Yes.

11 THE COURT: Have you or anyone close to you worked in law enforcement?

12 PROSPECTIVE JUROR #005: I have brother-in-law was a county deputy in  
13 Texas for several years, and my sister was a dispatcher in the same county.

14 THE COURT: Is that where you grew up?

15 PROSPECTIVE JUROR #005: Yeah -- yes.

16 THE COURT: Okay. Would the fact that they worked in law enforcement  
17 affect your ability to be fair and impartial in this case?

18 PROSPECTIVE JUROR #005: No, I don't think so.

19 THE COURT: Do you think you would have a tendency to favor law  
20 enforcement officers because they are law enforcement?

21 PROSPECTIVE JUROR #005: No.

22 THE COURT: Have you or anyone close to you been charged with a serious  
23 crime?

24 PROSPECTIVE JUROR #005: No.

25 THE COURT: Have you or anyone close to you been the victim of a serious

1 crime?

2 PROSPECTIVE JUROR #005: Yes.

3 THE COURT: What's that; what happened?

4 PROSPECTIVE JUROR #005: It was my wife's ex son-in-law. He was shot  
5 and killed by another relative.

6 THE COURT: And how long ago did that happen?

7 PROSPECTIVE JUROR #005: I think ten years.

8 THE COURT: Did you know them at the time?

9 PROSPECTIVE JUROR #005: Yes.

10 THE COURT: Okay. We had his daughters at our house when it happened.  
11 I got the phone call.

12 THE COURT: And did the shooting happen here in Las Vegas?

13 PROSPECTIVE JUROR #005: Yes.

14 THE COURT: And was -- and were charges brought?

15 PROSPECTIVE JUROR #005: Yes, they were.

16 THE COURT: And was that the Clark County District Attorney's office that  
17 brought charges?

18 PROSPECTIVE JUROR #005: Yes.

19 THE COURT: Do you think that that case was handled appropriately in the  
20 legal system?

21 PROSPECTIVE JUROR #005: I believe so.

22 THE COURT: Is there anything about that set of circumstances that would  
23 affect your ability to be fair and impartial in this case?

24 PROSPECTIVE JUROR #005: No.

25 THE COURT: You think you can be fair to both the State and the Defendant,



1 Mr. Perry here?

2 PROSPECTIVE JUROR #005: Yes, I do.

3 THE COURT: And so similarly, was that the victim question or the charge  
4 question? You told me about that incident. Is there any other circumstance where  
5 your or someone close to you has been the victim of a serious crime?

6 PROSPECTIVE JUROR #005: No.

7 THE COURT: Is there anything about the charges in this case that would  
8 make it difficult for you to be fair and impartial?

9 PROSPECTIVE JUROR #005: I don't think so.

10 THE COURT: Can you base your verdict solely on the evidence brought out  
11 at trial and the law that applies as stated in my instructions without fear of criticism  
12 or popular opinion?

13 PROSPECTIVE JUROR #005: Yes.

14 THE COURT: Have you ever been a juror before?

15 PROSPECTIVE JUROR #005: Yes.

16 THE COURT: How many times?

17 PROSPECTIVE JUROR #005: Just once.

18 THE COURT: How long ago?

19 PROSPECTIVE JUROR #005: Quite a ways back, 20 plus years.

20 THE COURT: Was that here in Las Vegas?

21 PROSPECTIVE JUROR #005: No; it was in California.

22 THE COURT: And was that a civil or a criminal case?

23 PROSPECTIVE JUROR #005: The man was contesting his traffic ticket.

24 THE COURT: Okay. Sounds criminal, I guess. There was a jury on that;  
25 huh?

1 PROSPECTIVE JUROR #005: Yeah. He wanted to exercise his rights I  
2 guess.

3 THE COURT: Okay. Without telling us what the verdict was, did the jury  
4 reach a verdict in that case?

5 PROSPECTIVE JUROR #005: No; he gave up.

6 THE COURT: Oh, they ended up -- there ended up being a deal before you  
7 had to deliberate?

8 PROSPECTIVE JUROR #005: Yes.

9 THE COURT: Okay. Anything about that jury experience that would affect  
10 your ability to be a fair and impartial juror in this case?

11 PROSPECTIVE JUROR #005: No.

12 THE COURT: If you were a party to this case would you be comfortable with  
13 jurors of a like frame of mind as yourself sitting in judgment?

14 PROSPECTIVE JUROR #005: Yes.

15 THE COURT: How long have you lived in Clark County?

16 PROSPECTIVE JUROR #005: Twenty-five years.

17 THE COURT: And what's the highest level of education you completed?

18 PROSPECTIVE JUROR #005: High school with a little college; nothing  
19 finished.

20 THE COURT: And are you employed?

21 PROSPECTIVE JUROR #005: Yes.

22 THE COURT: Doing what?

23 PROSPECTIVE JUROR #005: I'm a construction manager for -- I'm a  
24 construction manager consultant to the Clark County Public Works.

25 THE COURT: Okay. And are you married?

1 PROSPECTIVE JUROR #005: Yes.

2 THE COURT: Is your spouse employed?

3 PROSPECTIVE JUROR #005: No, she's not

4 THE COURT: Okay. Do you have children?

5 PROSPECTIVE JUROR #005: I married into them.

6 THE COURT: Got it. Are they all adults?

7 PROSPECTIVE JUROR #005: Yeah. Her three daughters are, yeah.

8 THE COURT: State.

9 MS. SUDANO: Hello.

10 PROSPECTIVE JUROR #005: Hello.

11 MS. SUDANO: All right. You said that you have some family, a brother-in-

12 law and a sister that were in law enforcement?

13 PROSPECTIVE JUROR #005: Yes.

14 MS. SUDANO: Would anything about that cause you to give more or less

15 weight to a police officer's testimony just because they are police officers?

16 PROSPECTIVE JUROR #005: No, I don't believe so.

17 MS. SUDANO: You understand that there are good and bad people in every

18 sort of job employment?

19 PROSPECTIVE JUROR #005: Sure.

20 MS. SUDANO: So, the CSI question.

21 PROSPECTIVE JUROR #005: Don't watch it.

22 MS. SUDANO: So, are you going to hold it against us if we don't present

23 DNA or fingerprint evidence?

24 PROSPECTIVE JUROR #005: No; you just have to convince us; right?

25 MS. SUDANO: Right. So, if the State's able to prove to you beyond a

1 reasonable doubt in this case that the Defendant's guilty, could you come back with  
2 a verdict of guilty?

3 PROSPECTIVE JUROR #005: I believe so.

4 MS. SUDANO: So, right now if we had you go in the back to deliberate what  
5 would your verdict be?

6 PROSPECTIVE JUROR #005: Right now probably guilty.

7 MS. SUDANO: And do you understand that we haven't presented any  
8 evidence in this case?

9 PROSPECTIVE JUROR #005: Yes, I do.

10 MS. SUDANO: And you understand the -- are you familiar with the phrase  
11 innocent until proven guilty?

12 PROSPECTIVE JUROR #005: Say that again. Sorry.

13 MS. SUDANO: You're familiar with the phrase innocent until proven guilty?

14 PROSPECTIVE JUROR #005: Yes.

15 MS. SUDANO: So, if the State hasn't presented any evidence in this case,  
16 what is innocent until proven guilty mean to you?

17 PROSPECTIVE JUROR #005: Well you have to prove that he's guilty to me  
18 so maybe I can think whatever I want. But you have to -- you're going to change my  
19 mind at this point. Perhaps.

20 MS. SUDANO: So, if you were to go back there right now you understand  
21 you don't have any evidence; right?

22 PROSPECTIVE JUROR #005: Right.

23 MS. SUDANO: And so if you went back there right now could you find the  
24 Defendant not guilty?

25 PROSPECTIVE JUROR #005: I don't have any evidence.

1 MS. SUDANO: Right. And so what would you have to do?

2 PROSPECTIVE JUROR #005: Isn't he innocent until proven guilty theory. I  
3 can't honestly say.

4 MS. SUDANO: So, move on a little bit. Have you ever had any contact with  
5 Metro or any other law enforcement agency?

6 PROSPECTIVE JUROR #005: Nothing a crime or a ticket manner.

7 MS. SUDANO: Have you contact with them in any other way?

8 PROSPECTIVE JUROR #005: In some statements and some things that I've  
9 witnessed around the neighborhood in the past.

10 MS. SUDANO: Okay. So, nothing too serious?

11 PROSPECTIVE JUROR #005: No.

12 MS. SUDANO: Anything about that, positive, negative, neutral?

13 PROSPECTIVE JUROR #005: Neutral.

14 MS. SUDANO: Okay. So, it hasn't given you any positive or negative  
15 feelings about law enforcement one way or the other?

16 PROSPECTIVE JUROR #005: No.

17 MS. SUDANO: Would that affect your ability to be fair and impartial in this  
18 case?

19 PROSPECTIVE JUROR #005: Does it affect it? No.

20 MS. SUDANO: Now have you or any close members of your family ever been  
21 the victims of domestic violence?

22 PROSPECTIVE JUROR #005: No.

23 MS. SUDANO: Have you or any close family members ever been accused of  
24 domestic violence?

25 PROSPECTIVE JUROR #005: No.

1 MS. SUDANO: Okay. So, I want to follow back up with you on the innocent  
2 until proven guilty. So, you understand that the State has the burden of showing  
3 you evidence, right, in proving this case beyond a reasonable doubt?

4 PROSPECTIVE JUROR #005: Yes.

5 MS. SUDANO: And you understand that the Defendant in this case doesn't  
6 have to get up, doesn't have to testify, doesn't have to tell you anything?

7 PROSPECTIVE JUROR #005: Yes.

8 MS. SUDANO: You understand similarly that Mr. Shetler could just not open  
9 his mouth the entire trial?

10 PROSPECTIVE JUROR #005: Yes, I do.

11 MS. SUDANO: And that's still our burden?

12 PROSPECTIVE JUROR #005: Yes.

13 MS. SUDANO: Okay. So, if you were sitting in the position of the State,  
14 would you want somebody like yourself on this jury?

15 PROSPECTIVE JUROR #005: Yeah, I think so.

16 MS. SUDANO: Okay. What about if you were in Mr. Perry's position right  
17 now; would you want somebody like yourself?

18 PROSPECTIVE JUROR #005: Honestly probably not.

19 MS. SUDANO: Okay. And why do you say that?

20 PROSPECTIVE JUROR #005: Because of my previous statement. You  
21 asked me if, right off the bat, if I thought it was guilty or not.

22 MS. SUDANO: We've had people kind of -- that have been excused  
23 previously but has indicated that just based on the nature of the charges they would  
24 have a hard time finding Mr. Perry not guilty; would you say you're in that same  
25 situation?

1 PROSPECTIVE JUROR #005: Not -- just since this has been talking I've  
2 been thinking back and I think recognize the situation, the case or whatever you  
3 want to call it whatever happened. It's just starting to sound familiar. If it is what I  
4 was thinking of I thought it was pretty heinous. I'm guess I'm entering this a little  
5 prejudiced already.

6 MS. SUDANO: So, you think you might have some previous knowledge  
7 about this case?

8 PROSPECTIVE JUROR #005: Nothing more than whatever you've read or  
9 heard.

10 MS. SUDANO: Okay. So, something you saw in the newspaper or the news?

11 PROSPECTIVE JUROR #005: Yes.

12 MS. SUDANO: Okay. So, if you do know anything about this case, do you  
13 think you could set aside what you know and what you may have heard in the media  
14 about this case and just judge it based on the evidence that's presented to you in  
15 the courtroom?

16 PROSPECTIVE JUROR #005: I think so.

17 MS. SUDANO: So, you could set all that stuff aside and when you go back  
18 into the jury room all that's in your mind is what's come before you?

19 PROSPECTIVE JUROR #005: I think to think so.

20 MS. SUDANO: Your Honor, the State would pass for cause.

21 THE COURT: Mr. Shetler.

22 MR. SHETLER: Your Honor, can you approach?

23 THE COURT: Yeah. Why don't you come on up.

24 [Bench conference -- begins]

25 MR. SHETLER: In the interest of time, do you want me to ask -- I don't think

1 he should be here. It's hard to tell what's playing or not but he's gone a little far. I  
2 don't think there was anything in the press.

3 MS. BAHARAV: There wasn't anything. This case never made it to the news.  
4 This is Colleen.

5 THE COURT: Right; yeah, that's what I was wondering. I didn't think this  
6 would ever, you know, been in the news.

7 MS. BAHARAV: I'm just a little concerned that he indicated he would be fine.  
8 He was saying who Mr. Perry is but then when Ms. Sudano followed up with okay  
9 well would you be fair and impartial to Mr. Perry he said no. I mean, he didn't say  
10 [indiscernible] but he said he already had some preconceived notions about Mr.  
11 Perry. So, I'm not sure --

12 MR. SHETLER: He's made a pretty good record both ways really. He's all  
13 over.

14 MS. SUDANO: It's pretty ambiguous at this point where he stands.

15 THE COURT: Yeah; I know you tried to clarify --

16 MS. BAHARAV: Yeah. She did a good job of clarifying but he changed his  
17 story a couple times.

18 MR. SHETLER: Mm-hmm; more than once.

19 THE COURT: So --

20 MS. BAHARAV: Are you challenging for cause?

21 MR. SHETLER: Well we don't have a lot of people. I'm getting worried about  
22 that. But I don't think he should be on the jury. Period. I am.

23 MS. BAHARAV: Okay.

24 MR. SHETLER: I am challenging him.

25 THE COURT: So, you think there's casue?



1 MR. SHETLER: Yeah, there's too much there. It's that comment, that  
2 bothersome comment, but I don't want to take a lot of time. He shouldn't be here, I  
3 don't think. And I recognize [indiscernible]. I don't mean that, Your Honor.

4 THE COURT: No, no, no. I wasn't taking offense. I just want to be clear that  
5 -- I mean, that you think there's cause to excuse him in this situation.

6 MR. SHETLER: Yes.

7 MS. BAHARAV: Based upon my concern about his comment that he'd be fine  
8 if he was the Defendant but noting that Mr. Perry's different and he thinks he's guilty,  
9 I'm going to submit it.

10 MR. SHETLER: And, Your Honor --

11 MS. BAHARAV: I submit it.

12 MR. SHETLER: Yeah.

13 THE COURT: Okay. Then I guess I'll go ahead and excuse him.

14 MR. SHETLER: Sorry, Judge.

15 THE COURT: You might want to check and see if there's more jurors  
16 tomorrow.

17 MR. SHETLER: We're awfully late I know, but my client says he's about to  
18 have an accident, bathroom accident.

19 THE COURT: Okay.

20 MR. SHETLER: I can take the heat if you need me to but -

21 THE COURT: No, that's fine. So, I will excuse him and then we can take a  
22 short break.

23 [Bench conference -- concludes]

24 THE COURT: All right. Mr. Williams, I'm going to go ahead and excuse you  
25 at this time. Thanks very much for your time today. Just go down to the third floor

1 at jury services and let them know I excused you.

2 THE COURT CLERK: Next in seat number 4, Badge number 043, Douglas  
3 Nelson.

4 THE COURT: Okay. Folks, so we're going to take a short break in just a  
5 minute and let everyone use the facilities because we've been going for a while. But  
6 before we take a break I need to explain some things to you about that.

7 First, the attorneys, parties, witnesses, everybody involved in the case  
8 they're not allowed to talk to you during the course of these proceedings. That's  
9 probably pretty obvious. But not only can they not talk to you about the case but  
10 they shouldn't even be talking to you about anything, the weather, clothing, shoes,  
11 whatever. So, they know to avoid talking with you guys even during the breaks  
12 during the trial and you should also avoid having interactions with them. And so if  
13 they kind of walk the other way, avoid taking an elevator with you or kind of try to  
14 distant themselves from you, please don't be offended. They're just complying with  
15 their duty not to have those interactions with you.

16 Additionally, you are required while you're a jury not to discuss the case  
17 with anybody until after you're excused from jury service regarding this case. And  
18 when I say you're not allowed to discuss this case that includes discussing the  
19 charges themselves, anybody involved with the case or even the questions and  
20 answers that are given during the jury selection process. So, when you go out on  
21 break you can't be talking about oh can you believe this one asked that question or  
22 can you believe this juror gave that answer. Don't have questions or discussions  
23 like that. And it would also include not only in person conversations with each other  
24 but also any communications with anyone else, your spouse's boyfriend's whoever  
25 else you might communicate with. You can't talk about the case in any way shape

1 or form. You can let your boss or childcare givers and things like that know that you  
2 are here as part of the jury selection process; that if you're part of the jury that the  
3 case will go the rest of this week and possibly Monday. You can let them know that  
4 much but don't get into any of the details of the case, what it's about, anything else.

5 Also when I say you're not to communicate it includes not only in  
6 person discussions, it includes telephone calls; it includes social media. So, don't  
7 go on Facebook and make a post I can't believe Judge Cadish is still talking; no  
8 Tweets, no other communications of any kind about the case until after you're  
9 completely done as a juror with this case. Okay. That's very important.

10 Also, you're not allowed to do any independent research regarding the  
11 case. So, you know, these days everyone as soon as they hear about some new  
12 issue or person they want to get on their phones and start Googling everybody. You  
13 can do that in your ordinary life outside your jury service, but as a juror you can't do  
14 that. So, you're not allowed to do any independent research; you can't start  
15 Googling anybody involved with the case or any other related issues or laws or  
16 anything like that. All the jurors have to base their decision on the evidence they  
17 see here in the courtroom and on the law instructions that I give you. So, you can't  
18 do any independent research whatsoever. And of course the folks who sit as jurors  
19 shouldn't be forming any opinion about the case until after all the evidence is  
20 presented and they go back to the jury room to deliberate at the end. So, don't allow  
21 yourselves to be forming any opinions in the case prematurely.

22 So, I'm about to read these admonitions that I'm required to read to you  
23 each time we take a break during the course of the trial. It's just basically a  
24 summary of the instructions I just gave you and they're so important that I'm  
25 required to read them to you each time we take a break. Okay. During this recess,

1 you are admonished not talk or converse among yourselves or with anyone on any  
2 subject connected with this trial or to read, watch or listen to any report or  
3 commentary on the trial or any person connected with this trial by any medium of  
4 information, including without limitation, newspapers, television, the internet or radio  
5 or to form or express any opinion on any subject connected with this trial until the  
6 case is submitted to you. Try to keep it to about ten minutes so we can get going  
7 again.

8 [Recess taken at 4:01 p.m.]

9 [Proceedings resumed at 4:11 p.m.]

10 [Outside the presence of the prospective jury panel]

11 THE COURT: On the good side I've arranged for the jury commissioner to  
12 bring in like ten extra jurors tomorrow just in case we need them. Things are going  
13 slowly but I really can't really fault you based on some of the answered we've  
14 gotten.

15 MR. SHETLER: It's been an interesting pool.

16 THE COURT: So, you guys are being pretty cooperative. It just takes a while  
17 sometimes. So, we'll keep moving.

18 MR. SHETLER: Ms. Baharav did find out that we do have warrant returns on  
19 at least one of those prelims for tomorrow.

20 MS. BAHARAV: Just one.

21 MR. SHETLER: Oh, just one. So, we'll know more in the morning, Judge.

22 THE COURT: Okay.

23 MS. BAHARAV: That doesn't mean they go forward. That usually means  
24 they resolve because our victims are there.

25 THE COURT: Right. I mean, the thing is look if I'm going to tell the jurors not

1 to come until 11 then we can't do any -- I mean, if we have evidentiary issues we  
2 can discuss those at nine if you're here and I'm here. But I can't just, you know, if  
3 you come upstairs and say nine I'm ready, I can't start.

4 MR. SHETLER: I completely understand, Judge, completely. Just making  
5 sure you know when we know.

6 THE COURT: Okay. Thank you. Get the jurors.

7 [Inside the presence of the prospective jury panel]

8 THE COURT: All right. You can go ahead and have a seat, folks. So, Mr.  
9 Nelson, how are you today?

10 PROSPECTIVE JUROR #043: During fine, thank you.

11 THE COURT: Good. Glad to hear it.

12 THE COURT: Is there any reason you could not be fair and impartial in  
13 this case?

14 PROSPECTIVE JUROR #043: No.

15 THE COURT: Can you wait in forming your opinion on the appropriate result  
16 until all of the evidence has been heard?

17 PROSPECTIVE JUROR #043: Yes.

18 THE COURT: Have you or anyone close to you worked in law enforcement?

19 PROSPECTIVE JUROR #043: No.

20 THE COURT: Have you or anyone close to you been charged with a serious  
21 crime?

22 PROSPECTIVE JUROR #043: No.

23 THE COURT: Have you or anyone close to you been the victim of a serious  
24 crime?

25 PROSPECTIVE JUROR #043: No.

1 THE COURT: Is there anything about the charges in this case that would  
2 make it difficult for you to be fair and impartial?

3 PROSPECTIVE JUROR #043: No.

4 THE COURT: Can you base your verdict solely on the evidence brought out  
5 at trial and the law that applies as stated in my instructions without fear of criticism  
6 or popular opinion?

7 PROSPECTIVE JUROR #043: Yes.

8 THE COURT: Have you ever been a juror before?

9 PROSPECTIVE JUROR #043: No.

10 THE COURT: If you were a party to this case would you be comfortable with  
11 jurors of a like frame of mind as yourself sitting in judgment?

12 PROSPECTIVE JUROR #043: Yes.

13 THE COURT: How long have you lived in Clark County?

14 PROSPECTIVE JUROR #043: Sixty-six years.

15 THE COURT: Okay. What's the highest level of education you completed?

16 PROSPECTIVE JUROR #043: Twelve.

17 THE COURT: And are you employed?

18 PROSPECTIVE JUROR #043: Yes, I am.

19 THE COURT: What do you do?

20 PROSPECTIVE JUROR #043: I'm an instructor full time faculty at Clark  
21 County at College of Southern Nevada. I go back to Clark County Community  
22 College.

23 THE COURT: Right. I understand. What do you teach?

24 PROSPECTIVE JUROR #043: Construction courses.

25 THE COURT: Okay. And are you married?

1 PROSPECTIVE JUROR #043: Yes, I am.  
2 THE COURT: Is your spouse employed?  
3 PROSPECTIVE JUROR #043: No, she's not.  
4 THE COURT: Do you have children?  
5 PROSPECTIVE JUROR #043: Nine.  
6 THE COURT: Nine. Okay. Are they all grown?  
7 PROSPECTIVE JUROR #043: The youngest is 25.  
8 THE COURT: Okay. Do you have any living at home?  
9 PROSPECTIVE JUROR #043: One; they always come back.  
10 THE COURT: That's what I hear. Okay. All right, State.  
11 MS. BAHARAV: Good afternoon, sir. You heard my question about CSI Las  
12 Vegas; have you ever watched that show?  
13 PROSPECTIVE JUROR #043: I don't watch it; I don't like it.  
14 MS. BAHARAV: Okay.  
15 PROSPECTIVE JUROR #043: I watch other cop shows a lot though.  
16 MS. BAHARAV: Anything about those other cop shows that you'll want to see  
17 here in the courtroom?  
18 PROSPECTIVE JUROR #043: No.  
19 MS. BAHARAV: You understand that those cop shows are generally fiction?  
20 PROSPECTIVE JUROR #043: I know. You busted my bubble today.  
21 MS. BAHARAV: I busted everybody's bubble. It's awful. I know. I was really  
22 hoping when I went to visit the lab they had all those fancy things.  
23 PROSPECTIVE JUROR #043: I know me too.  
24 MS. BAHARAV: They really don't.  
25 PROSPECTIVE JUROR #043: It's so cool.

1 MS. BAHARAV: They are. Would you require the State -- let me just get right  
2 to it. Would you like the State to provide DNA or fingerprint evidence in every single  
3 case?

4 PROSPECTIVE JUROR #043: No.

5 MS. BAHARAV: Do you understand in some cases the testimony and the  
6 photographic evidence will be the evidence that exists in the case?

7 PROSPECTIVE JUROR #043: Yes.

8 MS. BAHARAV: And if you have just that evidence will you be able to come  
9 to a conclusion as to guilt or innocence of the Defendant?

10 PROSPECTIVE JUROR #043: Yes.

11 MS. BAHARAV: Has anyone in your family ever been the victim of domestic  
12 violence?

13 PROSPECTIVE JUROR #043: My wife, verbally, not from me though. From  
14 her ex-husband.

15 MS. BAHARAV: Okay. And do you know -- you said it was just verbal?

16 PROSPECTIVE JUROR #043: Yes, it was verbal.

17 MS. BAHARAV: Did she stay in that relationship for a long period of time?

18 PROSPECTIVE JUROR #043: Too long.

19 MS. BAHARAV: And she explained to you kind of why she would stay in that  
20 relationship for so long?

21 PROSPECTIVE JUROR #043: A lot of it was fear.

22 MS. BAHARAV: Eventually she did get up the courage to leave?

23 PROSPECTIVE JUROR #043: Yes.

24 MS. BAHARAV: And obviously she met you?

25 PROSPECTIVE JUROR #043: Of course.



1 MS. BAHARAV: So, people can move on from those relationships?  
2 PROSPECTIVE JUROR #043: Say that again.  
3 MS. BAHARAV: People can move on from those relationships?  
4 PROSPECTIVE JUROR #043: Yes, they can.  
5 MS. BAHARAV: In that prior relationship that your wife had, were there  
6 periods of calm where there wasn't any sort of a violence or abuse going on?  
7 PROSPECTIVE JUROR #043: I don't know; I'm sure there was.  
8 MS. BAHARAV: So, it wasn't always an abusive situation for your wife --  
9 PROSPECTIVE JUROR #043: No.  
10 MS. BAHARAV: -- is what I'm trying to get at?  
11 PROSPECTIVE JUROR #043: Right.  
12 MS. BAHARAV: Anyone you know been accused of domestic violence?  
13 PROSPECTIVE JUROR #043: No.  
14 MS. BAHARAV: And have you ever contact with Metro, parking tickets,  
15 speeding tickets, stuff like that?  
16 PROSPECTIVE JUROR #043: Just traffic tickets only.  
17 MS. BAHARAV: Anything about that contact with Metro kind of stand out to  
18 you positive or negative?  
19 PROSPECTIVE JUROR #043: No.  
20 MS. BAHARAV: No negative feelings towards Metro?  
21 PROSPECTIVE JUROR #043: No.  
22 MS. BAHARAV: And you don't hold Metro up to the highest regard in the  
23 sense of you'll listen to Metro over anybody else? What I mean by that is you'll be  
24 able to listen to all the evidence and all the witnesses no matter where they come  
25 from and evaluate them just based upon what you're tell you?

1 PROSPECTIVE JUROR #043: Yes, I will.

2 MS. BAHARAV: Anything about your background that won't let you sit in  
3 judgment of other people?

4 PROSPECTIVE JUROR #043: No.

5 MS. BAHARAV: We'll pass for cause. Thank you, Judge.

6 THE COURT: Thank you. Mr. Shetler.

7 MR. SHETLER: Thank you, Your Honor. Mr. Nelson, you heard my earlier  
8 questions. Anything I've said whether brief or long winded --

9 PROSPECTIVE JUROR #043: Yes.

10 MR. SHETLER: -- strike a chord?

11 PROSPECTIVE JUROR #043: I have.

12 MR. SHETLER: It didn't even strike a chord or bring forth any more  
13 comment?

14 PROSPECTIVE JUROR #043: No.

15 MR. SHETLER: Did you always -- have you always taught construction  
16 class?

17 PROSPECTIVE JUROR #043: Well I did do it but now I teach it, yes. I taught  
18 at the college for 26 years.

19 MR. SHETLER: Other topics as well or just in that area.

20 PROSPECTIVE JUROR #043: Just construction technology.

21 MR. SHETLER: And when you were in construction what type of role did you  
22 play; manager?

23 PROSPECTIVE JUROR #043: Yeah, I built custom homes.

24 MR. SHETLER: Were you the general --

25 PROSPECTIVE JUROR #043: Contractor.

1 MR. SHETLER: You were the contractor. And you have nine kids?

2 PROSPECTIVE JUROR #043: Yeah, I do. They're all girls except for the  
3 right boys.

4 MR. SHETLER: Have you ever had an opportunity for any of those nine  
5 children, two or more of them to come to you with different stories about the same  
6 event?

7 PROSPECTIVE JUROR #043: Different stories. You mean, different  
8 versions of it, yes.

9 MR. SHETLER: Yes. Did you find some later resolve and get to a resolution  
10 that you were comfortable with?

11 PROSPECTIVE JUROR #043: Yes.

12 MR. SHETLER: And how did you do that?

13 PROSPECTIVE JUROR #043: A father always knows.

14 MR. SHETLER: And in all honestly, going down that vein just a little bit, the  
15 fact that two people might have different versions of the same event not going to  
16 prevent you from sitting here and listening to the evidence?

17 PROSPECTIVE JUROR #043: No.

18 MR. SHETLER: Would you be surprised if two people had the same version  
19 of the same event?

20 PROSPECTIVE JUROR #043: No.

21 MR. SHETLER: It happens.

22 PROSPECTIVE JUROR #043: It could, yes.

23 MR. SHETLER: All right. Likely to happen?

24 PROSPECTIVE JUROR #043: I don't know. I have to listen.

25 MR. SHETLER: The questions that I was asking Ms. De Paz about self-

1 defense, you're familiar with that concept?

2 PROSPECTIVE JUROR #043: No; what do you mean by that?

3 MR. SHETLER: That as a general rule -- and this goes a little bit into what  
4 she was studying -- we generally don't want people putting their hands on each  
5 other in this country; right? We make certain exceptions when we say it's okay, it's  
6 okay to put your hands on somebody else, it's okay if you believe that you're  
7 protecting yourself --

8 PROSPECTIVE JUROR #043: Right.

9 MR. SHETLER: -- or protecting others or in some cases just protection of  
10 property?

11 PROSPECTIVE JUROR #043: Yes.

12 MR. SHETLER: Any issues with that concept?

13 PROSPECTIVE JUROR #043: No.

14 MR. SHETLER: It makes sense?

15 PROSPECTIVE JUROR #043: It does.

16 MR. SHETLER: And have you had to be in that situation?

17 PROSPECTIVE JUROR #043: No, I haven't.

18 MR. SHETLER: Is that small brood of children ever found themselves in that  
19 situation?

20 PROSPECTIVE JUROR #043: No.

21 MR. SHETLER: Good. Thank you for patience today. We'll pass for cause,  
22 Your Honor.

23 THE COURT: Thank you. Ma'am, how do you pronounce your last name?

24 PROSPECTIVE JUROR #006: Wokasch.

25 THE COURT: Wokasch.

1 PROSPECTIVE JUROR #006: Wokasch.

2 THE COURT: Okay. Ms. Wokasch, how are you today?

3 PROSPECTIVE JUROR #006: I'm good. How are you?

4 THE COURT: Good. Is there any reason you could not be fair and impartial  
5 in this case?

6 PROSPECTIVE JUROR #006: No.

7 THE COURT: Can you wait in forming your opinion on the appropriate result  
8 until all of the evidence has been heard?

9 PROSPECTIVE JUROR #006: Yes.

10 THE COURT: Have you or anyone close to you worked in law enforcement?

11 PROSPECTIVE JUROR #006: No.

12 THE COURT: Have you or anyone close to you been charged with a serious  
13 crime?

14 PROSPECTIVE JUROR #006: Define serious.

15 THE COURT: If you thought it was serious.

16 PROSPECTIVE JUROR #006: Years ago when I was an active alcoholic  
17 drug addict, I have been charged but I'm been clean and sober now 16 years so all  
18 that's been ratified and cleared.

19 THE COURT: Okay. Very good. Okay. So, you had been charged. So, was  
20 the offenses you were charged with back at that time related to possession of the  
21 drugs themselves?

22 PROSPECTIVE JUROR #006: Yes.

23 THE COURT: Okay. And were those cases here in Nevada?

24 PROSPECTIVE JUROR #006: No.

25 THE COURT: Where was that?

1 PROSPECTIVE JUROR #006: One was somewhere in the state of  
2 Wisconsin because we were on tour when we got picked up. And then a second  
3 one was in Utah so that was it.

4 THE COURT: Okay. And do you feel you were treated fairly in those cases?

5 PROSPECTIVE JUROR #006: Yeah.

6 THE COURT: Anything about those circumstances that would affect your  
7 ability to be fair and impartial in this case?

8 PROSPECTIVE JUROR #006: No.

9 THE COURT: Have you or anyone close to you been the victim of a serious  
10 crime?

11 PROSPECTIVE JUROR #006: As in like domestic or --

12 THE COURT: Domestic would be serious.

13 PROSPECTIVE JUROR #006: Okay. Case in point back in my old life when  
14 I was out there, I had been domestically abused so yes.

15 THE COURT: And did you report that abuse to the police at all?

16 PROSPECTIVE JUROR #006: Oh, yeah.

17 THE COURT: Okay. And was that person charged?

18 PROSPECTIVE JUROR #006: He spent a night in jail and then -- I forget. I  
19 was still in my alcoholic frenzy. So, I was just kind of fleeing. I think I left state nine  
20 days after the scenario and just dropped it.

21 THE COURT: Okay. And so although you've had that prior experience with  
22 domestic abuse, do you think you could put aside your personal experiences and  
23 base a decision in this case on the evidence presented in the courtroom and the law  
24 that I give you?

25 PROSPECTIVE JUROR #006: Yes.

1 THE COURT: Do you think you could be fair to both sides here?

2 PROSPECTIVE JUROR #006: Yes.

3 THE COURT: Is anything about the charges in this case that would make it  
4 difficult for you to be fair and impartial?

5 PROSPECTIVE JUROR #006: No.

6 THE COURT: Can you base your verdict solely on the evidence and the law  
7 that applies without fear of criticism or popular opinion?

8 PROSPECTIVE JUROR #006: Yes.

9 THE COURT: Have you ever been a juror before?

10 PROSPECTIVE JUROR #006: Yes.

11 THE COURT: Have many times?

12 PROSPECTIVE JUROR #006: I was on a grand jury once in Minneapolis.

13 THE COURT: Okay. For how long were you on the grand jury?

14 PROSPECTIVE JUROR #006: It was an eight week event and it was, I think,  
15 it was one day week for eight weeks.

16 THE COURT: Okay. And you understand that there's a different burden that  
17 applies generally in a grand jury versus a case like this. Would you follow my  
18 instructions on the burden that applies in this case?

19 PROSPECTIVE JUROR #006: Absolutely.

20 THE COURT: Anything about your grand jury experience that affect your  
21 ability to be a fair and impartial juror in this case?

22 PROSPECTIVE JUROR #006: No.

23 THE COURT: If you were a party to this case would you be comfortable with  
24 jurors of a like frame of mind as yourself sitting in judgment?

25 PROSPECTIVE JUROR #006: Yeah.

1 THE COURT: How long have you lived here in Nevada?  
2 PROSPECTIVE JUROR #006: August it will be 17 years.  
3 THE COURT: And what's the highest level of education you completed?  
4 PROSPECTIVE JUROR #006: Completed -- graduated high school, some  
5 college; finished my degree in film and television.  
6 THE COURT: In film and television?  
7 PROSPECTIVE JUROR #006: Yeah.  
8 THE COURT: Okay. And are you employed?  
9 PROSPECTIVE JUROR #006: Yes.  
10 THE COURT: Doing what?  
11 PROSPECTIVE JUROR #006: I work as a stage hand for the International  
12 Alliance of Theatrical Station employees.  
13 THE COURT: And are you married?  
14 PROSPECTIVE JUROR #006: No.  
15 THE COURT: Do you have children?  
16 PROSPECTIVE JUROR #006: No.  
17 State.  
18 MS. SUDANO: Thank you, Your Honor.  
19 Good afternoon Ms. Wokasch.  
20 PROSPECTIVE JUROR #006: Yes.  
21 MS. SUDANO: Did I get it right?  
22 PROSPECTIVE JUROR #006: Yes, you did.  
23 MS. SUDANO: Okay.  
24 PROSPECTIVE JUROR #006: I know it's a tough one.  
25 MS. SUDANO: I'm sorry I'm going to ask you this. I don't want to pry too



1 much into your relationship, but you said that you've been the victim of domestic  
2 violence?

3 PROSPECTIVE JUROR #006: Yes.

4 MS. SUDANO: And at some point you ending up leaving the state?

5 PROSPECTIVE JUROR #006: Yeah.

6 MS. SUDANO: Okay. So, you were able to get out of that relationship; right?

7 PROSPECTIVE JUROR #006: Oh, yeah.

8 MS. SUDANO: Was this just a one time thing or was it something that had  
9 had happened more than once?

10 PROSPECTIVE JUROR #006: It was the first and last time he hit me, yeah.

11 MS. SUDANO: Before that was it always just the physical violence or was  
12 there any sort of emotional abuse or verbal abuse going on before that?

13 PROSPECTIVE JUROR #006: Honestly I'm going to be straight up honest  
14 and that life I was living then it was one big alcoholic blur.

15 MS. SUDANO: Okay. So, to be fair my judgment was completely impaired  
16 the whole time because that's what alcohol does, it affects your judgment as any  
17 opiate does and such, you know.

18 MS. SUDANO: So, it sounds like you got out of that situation pretty quickly;  
19 right

20 PROSPECTIVE JUROR #006: Yeah. But I was still in my disease so I was  
21 jumping from one mess to another.

22 MS. SUDANO: Do you understand that somebody else might not be able to  
23 get out of that situation as quickly?

24 PROSPECTIVE JUROR #006: Yeah.

25 MS. SUDANO: Would you hold that against somebody else?

1 PROSPECTIVE JUROR #006: No.

2 MS. SUDANO: Okay. So, if you're seated on this jury is there anything that

3 would prevent you from collaborating with the other jurors, working together with

4 those jurors to come to a verdict?

5 PROSPECTIVE JUROR #006: Anything that would affect me from working --

6 MS. SUDANO: Prevent you --

7 PROSPECTIVE JUROR #006: Prevent me, no.

8 MS. SUDANO: No. The CSI questions.

9 PROSPECTIVE JUROR #006: I used to work on CSI.

10 MS. SUDANO: You did? Okay.

11 PROSPECTIVE JUROR #006: I set up the smoke one day and I set up the

12 mirrors other day so --

13 MS. SUDANO: Beautiful. So, you know it's all fake.

14 PROSPECTIVE JUROR #006: I know it's all smoke and mirrors.

15 THE COURT: Smoke and mirrors then; okay, got it.

16 MS. SUDANO: Beautiful. So, you understand that some of that technology is

17 just what you invented?

18 PROSPECTIVE JUROR #006: Yeah, unfortunately. It's all not real. Even

19 the daylight looks like it's real.

20 MS. SUDANO: Oh, it's inside.

21 PROSPECTIVE JUROR #006: No; it's all light.

22 MS. SUDANO: Okay. So, you're not going to require the State to have

23 forensic evidence, DNA, fingerprints, anything like that to come back in this case

24 with you?

25 PROSPECTIVE JUROR #006: That all sounds great but unfortunately, no.

1 MS. SUDANO: Have you ever had contact with the Las Vegas Metropolitan  
2 Police Department or Henderson Police, anything like that?

3 PROSPECTIVE JUROR #006: For like traffic tickets or whatnot?

4 MS. SUDANO: Yeah.

5 PROSPECTIVE JUROR #006: Sure.

6 MS. SUDANO: Do you have positive negative interactions with them or are  
7 they fairly neutral?

8 PROSPECTIVE JUROR #006: A positive. I'm going to say ninety eight  
9 percent positive.

10 MS. SUDANO: Okay. So, anything about that that would affect your ability to  
11 be fair and impartial in this case?

12 PROSPECTIVE JUROR #006: No.

13 MS. SUDANO: Are you going to give more or less weight to a police officer's  
14 testimony just because he or she is a police officer?

15 PROSPECTIVE JUROR #006: Not at all.

16 MS. SUDANO: Is there anything about your life experiences that would  
17 prevent you from sitting in judgment of anybody else?

18 PROSPECTIVE JUROR #006: No; I actually think it would be beneficial. It  
19 sounds strange.

20 MS. SUDANO: What do you mean by that?

21 PROSPECTIVE JUROR #006: Well being clean and sober I'm aware of the  
22 fact that, you know, our views are altered by old habits. So, someone trying to, you  
23 know, change their -- if something dramatic happens in your life -- and I've had girls  
24 come to me getting sober where, you know, they've approached me for, you know,  
25 sponsor walking through the steps, and it's really about being accountable and

1 having gumption and improving your life. So, sometimes scenarios in life like the  
2 case in point myself, when I had gotten arrested for possession and charges and  
3 having to deal with that and take care of those situations. Those, I think, are acts of  
4 providence and that I've been able to take that and turn it around and help  
5 somebody else who is going through the same thing.

6 MS. SUDANO: First of all, congratulations on your sobriety.

7 PROSPECTIVE JUROR #006: Hey, man, it ain't all me.

8 MS. SUDANO: So, if you're in -- if you were in the State's position would you  
9 want somebody such as yourself on the jury?

10 PROSPECTIVE JUROR #006: Sure.

11 MS. SUDANO: What about if you were in Mr. Perry's position?

12 PROSPECTIVE JUROR #006: Yeah.

13 MS. SUDANO: Okay. Your Honor, the State would pass for cause.

14 THE COURT: Thank you. Mr Shetler.

15 MR. SHETLER: Ms. Wokasch.

16 PROSPECTIVE JUROR #006: Yes.

17 MR. SHETLER: Again, thank you for your honesty. That's all I can possibly  
18 hope for or Mr. Perry can hope for. I appreciate it. And just congratulations on still  
19 being on the planet.

20 PROSPECTIVE JUROR #006: Yeah, right. Those are the options death or  
21 jail or --

22 MR. SHETLER: In the situation where you were still out using and still  
23 running and getting, did you ever have an opportunity to come into contact with  
24 people who might falsely accuse somebody to the police to try and achieve some  
25 benefit?

1 PROSPECTIVE JUROR #006: Sure, yeah.

2 MR. SHETLER: It didn't surprise you if activity like that came out of that type  
3 of lifestyle?

4 PROSPECTIVE JUROR #006: It wouldn't surprise me at all, no. Actually,  
5 honestly, nothing surprises me.

6 MR. SHETLER: Right. You talked to -- you mentioned that you worked with  
7 different people in the program. When people come into the program early on, are  
8 you treating them with a different level of credibility that someone who's got some  
9 more time under their belt?

10 PROSPECTIVE JUROR #006: I think if you're new in recovery and you're  
11 trying to change your old habits, it's harder in the beginning from my own  
12 experience, and I needed that longevity with people with hardcore recovery around  
13 me. I needed to stick with 'em to learn how to live differently. You know, changing  
14 your life is hard especially when that was your path for so long, you know, and now  
15 I've surpassed the years of recovery now than of years of wreckage I've done. So,  
16 I'm kind of like in unfamiliar territory which is pretty awesome, you know, it's like a  
17 whole another life. So, when I speak of those old things that happened to me it was  
18 another lifetime ago. But, yeah, people who are very new they're just starting to  
19 learn this. If they really have a willingness and their honest and they're open  
20 minded to the concept of changing their life for the better, it really kind of opens like  
21 a clean slate for them to really start anew and look at themselves on their side of the  
22 street and clean house. You know, it's really about helping others too in the end.  
23 Did I answer your question? I don't know.

24 MR. SHETLER: You're doing fantastic.

25 PROSPECTIVE JUROR #006: Okay.

1 MR. SHETLER: The Judge asked you, the prosecution asked you, the self  
2 defense idea I was talking about earlier does that make sense? Any questions  
3 about that or any concerns it raised for you?

4 PROSPECTIVE JUROR #006: Can you reiterate? I might have been reading  
5 a book at that time.

6 MR. SHETLER: Just the idea that while we generally don't want people  
7 putting their hands on other people --

8 PROSPECTIVE JUROR #006: Sure.

9 MR. SHETLER: -- and we do make certain exceptions and one of those  
10 exceptions if you believe in self defense?

11 PROSPECTIVE JUROR #006: Sure; yeah.

12 MR. SHETLER: And that it's really your subjective point of view at the time  
13 you make that decision is what controls that issue whether you believe in self  
14 defense or not?

15 PROSPECTIVE JUROR #006: Right; oh, yeah.

16 MR. SHETLER: And you're comfortable with that concept?

17 PROSPECTIVE JUROR #006: Yes.

18 MR. SHETLER: And some other said some things about whether they could  
19 or couldn't withhold judgment. Based on your own personal experiences, is that  
20 going -- do you feel that you're going to have carry the torch for one side or the  
21 other?

22 PROSPECTIVE JUROR #006: I believe everyone has their view --

23 MR. SHETLER: Right; of course.

24 PROSPECTIVE JUROR #006: -- and their perception.

25 MR. SHETLER: Right.

1 PROSPECTIVE JUROR #006: And in my -- even in my career because I act  
2 as a steward at times in my union. So, I have to take facts and not emotions when  
3 sitting in like grievance and arbitration in situations or if there's, you know -- but  
4 everyone has a perception and everyone has, you know, they're way of seeing  
5 things and you can find the equilibrium there. I don't feel I need to hold the torch to  
6 anybody. I think everyone has their own torch.

7 MR. SHETLER: Clearly an individual who has a high level of sensitivity and  
8 passion, and there will be photographs of injuries in this case. Is that going to be  
9 problem for you?

10 PROSPECTIVE JUROR #006: No.

11 MR. SHETLER: And I'm sure that there will be testimony that's just plain  
12 unpleasant.

13 PROSPECTIVE JUROR #006: Sure.

14 MR. SHETLER: Ms. Wokasch, thank you very much. Pass for cause.

15 THE COURT: Thank you. Ms. Hamilton, how are you today?

16 PROSPECTIVE JUROR #007: I'm good. How are you?

17 THE COURT: Good. Is there any reason you could not be fair and  
18 impartial in this case?

19 PROSPECTIVE JUROR #007: No.

20 THE COURT: Can you wait in forming your opinion on the appropriate result  
21 until all of the evidence has been heard?

22 PROSPECTIVE JUROR #007: Yes.

23 THE COURT: Have you or anyone close to you worked in law enforcement?

24 PROSPECTIVE JUROR #007: No.

25 THE COURT: Have you or anyone close to you been charged with a serious

1 crime?

2 PROSPECTIVE JUROR #007: My grandson was charged with burglary  
3 involving drugs.

4 THE COURT: How long ago was that?

5 PROSPECTIVE JUROR #007: About five years.

6 THE COURT: Was he convicted?

7 PROSPECTIVE JUROR #007: Yes; twice.

8 THE COURT: Did he go to prison or is he on probation?

9 PROSPECTIVE JUROR #007: He's in Colorado. He spent time and then  
10 probation.

11 THE COURT: I see. Do you think he was treated fairly in his case?

12 PROSPECTIVE JUROR #007: I really have no idea.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR #007: I know he was addicted to drugs.

15 THE COURT: Right. Is there anything about his case or circumstances that  
16 would affect your ability to be fair and impartial in this case?

17 PROSPECTIVE JUROR #007: I don't think so.

18 THE COURT: Have you or anyone close to you been the victim of a serious  
19 crime?

20 PROSPECTIVE JUROR #007: Not that I know of -- that I can think of.

21 THE COURT: Sure. Is there anything about the charges in this case that  
22 would make it difficult for you to be fair and impartial?

23 PROSPECTIVE JUROR #007: No.

24 THE COURT: Can you base your verdict solely on the evidence brought out  
25 at trial and the law that applies as stated in my instructions without fear of criticism



1 or popular opinion?

2 PROSPECTIVE JUROR #007: Yes.

3 THE COURT: Have you ever been a juror before?

4 PROSPECTIVE JUROR #007: No.

5 THE COURT: If you were a party to this case would you be comfortable with  
6 jurors of a like frame of mind as yourself sitting in judgment?

7 PROSPECTIVE JUROR #007: Yes.

8 THE COURT: How long have you lived in Clark County?

9 PROSPECTIVE JUROR #007: Forty-two years.

10 THE COURT: And what's the highest level of education you completed?

11 PROSPECTIVE JUROR #007: Twelfth; high school.

12 THE COURT: And are you employed?

13 PROSPECTIVE JUROR #007: No; I'm retired.

14 THE COURT: What did you before?

15 PROSPECTIVE JUROR #007: Food service.

16 THE COURT: Food service?

17 PROSPECTIVE JUROR #007: Yes.

18 THE COURT: Are you married?

19 PROSPECTIVE JUROR #007: Yes.

20 THE COURT: Is your spouse employed?

21 PROSPECTIVE JUROR #007: No; he's retired also.

22 THE COURT: And what did he previously do?

23 PROSPECTIVE JUROR #007: He was a truck driver, construction truck  
24 driver.

25 THE COURT: Do you have children?

1 PROSPECTIVE JUROR #007: Yes; I have a son.

2 THE COURT: And what does he do?

3 PROSPECTIVE JUROR #007: He's disabled right now. He was a pre-fab  
4 sign maker but he was injured on the job.

5 THE COURT: I see. Okay. State.

6 MS. BAHARAV: Good afternoon. Do you know anyone that's ever been the  
7 victim of domestic violence?

8 PROSPECTIVE JUROR #007: My sister was, but it was like 16 years ago  
9 and they ended up divorced.

10 MS. BAHARAV: Do you know if the domestic violence actually precipitated  
11 that divorce?

12 PROSPECTIVE JUROR #007: Yes, it did.

13 MS. BAHARAV: Was there any violence before that one incident?

14 PROSPECTIVE JUROR #007: Yeah, both physical and mental.

15 MS. BAHARAV: Were you familiar with your sister's relationship?

16 PROSPECTIVE JUROR #007: Yes.

17 MS. BAHARAV: Was it always violent or were there periods of kind of calm in  
18 between?

19 PROSPECTIVE JUROR #007: Well her husband was alcoholic. I think that's  
20 mostly what caused it.

21 MS. BAHARAV: Did you ever see your sister after she had been injured in a  
22 domestic violent incident?

23 PROSPECTIVE JUROR #007: Yes, I did.

24 MS. BAHARAV: Knowing that your sister had been the victim of domestic  
25 violence, is there anything about that experience that you'll hold against Mr. Perry in

1 this case?

2 PROSPECTIVE JUROR #007: No, I don't think so.

3 MS. BAHARAV: You're able to look at all the evidence that's presented here  
4 and make a decision?

5 PROSPECTIVE JUROR #007: I think I can.

6 MS. BAHARAV: Now we know that your sister has been the victim, but have  
7 you -- do you know anyone that's ever been accused of domestic violence?

8 PROSPECTIVE JUROR #007: No.

9 MS. BAHARAV: Have you ever gotten any traffic tickets or anything?

10 PROSPECTIVE JUROR #007: No, I have not.

11 MS. BAHARAV: Good job, good job. It's really rare in Las Vegas for that,  
12 really, really rare. Have you ever had the opportunity to watch those crimes scene  
13 shows --

14 PROSPECTIVE JUROR #007: I have.

15 MS. BAHARAV: And you've heard it now and now we know smoke and  
16 mirrors is sitting in between you. You understand that that's not reality?

17 PROSPECTIVE JUROR #007: Right.

18 MS. BAHARAV: And not on every case the State doesn't always have DNA  
19 and fingerprints?

20 PROSPECTIVE JUROR #007: Right.

21 MS. BAHARAV: Are you going to require the State to present DNA or  
22 fingerprints?

23 PROSPECTIVE JUROR #007: No, not at all.

24 MS. BAHARAV: Okay. You'll listen to the testimony and any photographs  
25 presented and come to a conclusion that way?

1 PROSPECTIVE JUROR #007: Right.

2 MS. BAHARAV: Anything about your history that won't let you sit in judgment  
3 of other people?

4 PROSPECTIVE JUROR #007: No.

5 MS. BAHARAV: All right. Thank you. We'll pass for cause, Your Honor.

6 THE COURT: Thank you. Mr. Shetler.

7 MR. SHETLER: Your Honor, we don't have any questions for Ms. Hamilton.  
8 We'll pass for cause.

9 THE COURT: Thank you. Go ahead and pass the mic.

10 Mr. Luh, how are you today?

11 PROSPECTIVE JUROR #008: I'm fine. Thank you.

12 THE COURT: Is there any reason you could not be fair and impartial in this  
13 case?

14 PROSPECTIVE JUROR #008: No.

15 THE COURT: Can you wait in forming your opinion on the appropriate result  
16 until all of the evidence has been heard?

17 PROSPECTIVE JUROR #008: Yes.

18 THE COURT: Have you or anyone close to you worked in law enforcement?

19 PROSPECTIVE JUROR #008: No.

20 THE COURT: Have you or anyone close to you been charged with a serious  
21 crime?

22 PROSPECTIVE JUROR #008: No.

23 THE COURT: Have you or anyone close to you been the victim of a serious  
24 crime?

25 PROSPECTIVE JUROR #008: No.

1 THE COURT: Is there anything about the charges in this case that would  
2 make it difficult for you to be fair and impartial?

3 PROSPECTIVE JUROR #008: No.

4 THE COURT: Can you base your verdict solely on the evidence brought out  
5 at trial and the law that applies without fear of criticism or popular opinion?

6 PROSPECTIVE JUROR #008: Yes.

7 THE COURT: If you were a party to this case would you be comfortable with  
8 jurors of a like frame of mind as yourself sitting in judgment?

9 PROSPECTIVE JUROR #008: Yes.

10 THE COURT: How long have you lived in Clark County?

11 PROSPECTIVE JUROR #008: Ten years.

12 THE COURT: And what's the highest level of education you completed?

13 PROSPECTIVE JUROR #008: I have a medical degree.

14 THE COURT: Okay. And what was your undergraduate degree in?

15 PROSPECTIVE JUROR #008: Bachelors.

16 THE COURT: So, a bachelors in what?

17 PROSPECTIVE JUROR #008: Bachelors in biological sciences. I went to  
18 medical school after that.

19 THE COURT: Right. Are you employed?

20 PROSPECTIVE JUROR #008: Yes.

21 THE COURT: And what do you do?

22 PROSPECTIVE JUROR #008: I'm a physician.

23 THE COURT: Okay. Any particular specialty?

24 PROSPECTIVE JUROR #008: Ob-gyn.

25 THE COURT: Are you married?

1 PROSPECTIVE JUROR #008: Yes.  
2 THE COURT: Is your spouse employed?  
3 PROSPECTIVE JUROR #008: No.  
4 THE COURT: Do you have children?  
5 PROSPECTIVE JUROR #008: Yes.  
6 THE COURT: How many?  
7 PROSPECTIVE JUROR #008: I have one daughter.  
8 THE COURT: And how old is she?  
9 PROSPECTIVE JUROR #008: She is 12 years old.  
10 THE COURT: Okay. State.  
11 MS. SUDANO: Thank you, Your Honor. Hi. Dr. Luh.  
12 PROSPECTIVE JUROR #008: Hi.  
13 MS. SUDANO: So, in your profession have you ever come across victims of  
14 domestic violence?  
15 PROSPECTIVE JUROR #008: Yes.  
16 MS. SUDANO: Anything about that experience that would make it difficult for  
17 you to be fair and impartial in this case?  
18 PROSPECTIVE JUROR #008: No.  
19 MS. SUDANO: Outside of your practice, do you know anybody else that's  
20 been the victim of domestic violence?  
21 PROSPECTIVE JUROR #008: No.  
22 MS. SUDANO: You or any close family members or friends ever been  
23 accused of a domestic violence?  
24 PROSPECTIVE JUROR #008: No.  
25 MS. SUDANO: Okay. You understand that the State may not be able to

1 present forensic evidence, fingerprints, DNA in every case?

2 PROSPECTIVE JUROR #008: Understood.

3 MS. SUDANO: Would you be able to look past that in finding a verdict of  
4 guilty for the State?

5 PROSPECTIVE JUROR #008: I can look passed that.

6 MS. SUDANO: Okay. If we prove our case beyond a reasonable doubt,  
7 would you have any difficulty coming back with a verdict of guilty?

8 PROSPECTIVE JUROR #008: No.

9 MS. SUDANO: How about if we fail to prove our case beyond a reasonable  
10 doubt, would you have any difficultly coming back with a verdict of not guilty?

11 PROSPECTIVE JUROR #008: No.

12 MS. SUDANO: Now if there's an allegation of substantial bodily harm in this  
13 case, would you be able to look to the Court's definition and the instruction on the  
14 law as to what constitutes bodily harm even if it's different than your medical  
15 opinion?

16 PROSPECTIVE JUROR #008: Yes.

17 MS. SUDANO: Anything in your personal beliefs or religious convictions that  
18 would prevent you from sitting in judgment of another person?

19 PROSPECTIVE JUROR #008: No.

20 MS. SUDANO: Thank you, Your Honor. The State would pass for cause.

21 THE COURT: Thank you. Mr. Shetler.

22 MR. SHETLER: Thank you, Your Honor.

23 You took an oath to -- I want to butcher -- but to do no harm essentially;  
24 is that accurate?

25 PROSPECTIVE JUROR #008: Accurate.

1 MR. SHETLER: Notwithstanding the concept I talked about earlier with some  
2 of the jurors about self defense, do you take any issue with that idea, that concept?

3 PROSPECTIVE JUROR #008: I don't have any problems with that concept.

4 MR. SHETLER: Can you envision a situation where self defense -- using  
5 physical force to defend yourself to be appropriate?

6 PROSPECTIVE JUROR #008: A life threatening situation, I would think, right  
7 off the top of my head.

8 MR. SHETLER: All right. And likewise and I haven't come back to this in a  
9 while but just because the Las Vegas Metropolitan Police Department doesn't have  
10 a gigantic budget or has a financial obligation to balance a variety of competing  
11 interest, do you think that takes away their obligation to accurately investigate a  
12 case?

13 PROSPECTIVE JUROR #008: It doesn't take away their ability to investigate  
14 it properly.

15 MR. SHETLER: And I may have misspoke, ability or obligation?

16 PROSPECTIVE JUROR #008: I'm sorry. Can you repeat your question?

17 MR. SHETLER: Do you think they still have an obligation to adequately  
18 investigate a case?

19 PROSPECTIVE JUROR #008: Yes.

20 MR. SHETLER: Would you -- could you no matter how artfully the case is  
21 presented here in Court maintain and hold Metro to that same duty?

22 PROSPECTIVE JUROR #008: Yes.

23 MR. SHETLER: If you were in my shoes, counsel for Mr. Perry, would you  
24 have any concerns about yourself being on the jury?

25 PROSPECTIVE JUROR #008: I would not have concerns.



1 MR. SHETLER: Thank you, sir. Thank you, Dr. Luh. Pass for cause.  
2 THE COURT: Thank you. Ms. Grayson.  
3 PROSPECTIVE JUROR #030: Yes.  
4 THE COURT: How are you today?  
5 PROSPECTIVE JUROR #030: Doing well; yourself?  
6 THE COURT: Is there any reason you could not be fair and impartial in this  
7 case?  
8 PROSPECTIVE JUROR #030: No.  
9 THE COURT: Can you wait in forming your opinion on the appropriate result  
10 until all of the evidence has been heard?  
11 PROSPECTIVE JUROR #030: Yes.  
12 THE COURT: Have you or anyone close to you worked in law enforcement?  
13 PROSPECTIVE JUROR #030: My father and two uncles.  
14 THE COURT: Okay. And have they worked with Metro?  
15 PROSPECTIVE JUROR #030: No; this is back in Wisconsin.  
16 THE COURT: Okay. You said your father and two uncles?  
17 PROSPECTIVE JUROR #030: Mm-hmm.  
18 THE COURT: And so was your father a police officer when you were growing  
19 up?  
20 PROSPECTIVE JUROR #030: Yes; for 30 years.  
21 THE COURT: Okay. So, was he friends with a lot of law enforcement officers  
22 as well?  
23 PROSPECTIVE JUROR #030: Yes.  
24 THE COURT: Did you kind of have law enforcement people around your  
25 house a lot?

1 PROSPECTIVE JUROR #030: Yes.

2 THE COURT: Okay. Do you think, you know, growing up with that  
3 background and those relatives in law enforcement would affect your ability to be  
4 fair and impartial in this case?

5 PROSPECTIVE JUROR #030: I think it used to because I've actually been a  
6 jury box and was struck immediately after answering that question when I said I may  
7 be -- put more weight towards a police officer's opinion because that was honestly  
8 what I thought due to the influence of my dad and my uncles and relatives. But I'm  
9 very well aware that they do not represent all police officers or people in the  
10 profession. So, I don't think that would affect my ability at all.

11 THE COURT: So, although you may have previously had a tendency to favor  
12 law enforcement, are you saying you now you don't have a particular bias in that  
13 regard?

14 PROSPECTIVE JUROR #030: I do not have a bias. I just need to see the  
15 information from both sides.

16 THE COURT: You think you could weigh the testimony of law enforcement  
17 officers just as you would weigh any witness testimony?

18 PROSPECTIVE JUROR #030: Yes.

19 THE COURT: Have you or anyone close to you been charged with a serious  
20 crime?

21 PROSPECTIVE JUROR #030: No.

22 THE COURT: Have you or anyone close to you been the victim of a serious  
23 crime?

24 PROSPECTIVE JUROR #030: No.

25 THE COURT: Is there anything about the charges in this case that would

1 make it difficult for you to be fair and impartial?

2 PROSPECTIVE JUROR #030: No.

3 THE COURT: Can you base your verdict solely on the evidence that comes  
4 out at trial and the law that applies as stated in my instructions without fear of  
5 criticism or popular opinion?

6 PROSPECTIVE JUROR #030: Yes.

7 THE COURT: Have you ever been a juror before?

8 PROSPECTIVE JUROR #030: I have not.

9 THE COURT: If you were a party to this case would you be comfortable with  
10 jurors of a like frame of mind as yourself sitting in judgment?

11 PROSPECTIVE JUROR #030: Yes.

12  
13  
14  
15 THE COURT: How long have you lived in Clark County?

16 PROSPECTIVE JUROR #030: A year and a half.

17 THE COURT: And where did you live before that?

18 PROSPECTIVE JUROR #030: For about four years in Sacramento and then  
19 I was born and raised in Wisconsin.

20 THE COURT: What's the highest level of education you completed?

21 PROSPECTIVE JUROR #030: I have a bachelors in international relations  
22 and an associates degree in paralegal studies.

23 THE COURT: Are you employed:

24 PROSPECTIVE JUROR #030: I am.

25 THE COURT: Doing what?

1 PROSPECTIVE JUROR #030: I work in a law firm as an administrative  
2 assistant.

3 THE COURT: And what type of law firm, like what type of law do they  
4 practice?

5 PROSPECTIVE JUROR #030: Insurance defense, primarily dealing with  
6 construction defects and a little bit of bodily injury.

7 THE COURT: Okay. Have you ever worked in an office that did criminal  
8 defense work or prosecution?

9 PROSPECTIVE JUROR #030: No.

10 THE COURT: Regardless of what you may have learned in your legal  
11 studies, would you follow my instructions on the law that applies to this case?

12 PROSPECTIVE JUROR #030: Absolutely.

13 THE COURT: Are you married?

14 PROSPECTIVE JUROR #030: Yes.

15 THE COURT: Is your spouse employed?

16 PROSPECTIVE JUROR #030: Yes; he's in the Air Force.

17 THE COURT: Okay. Do you have children?

18 PROSPECTIVE JUROR #030: No; but I'm expecting.

19 THE COURT: Oh, congratulations. Okay. State.

20 MS. BAHARAV: Thank you. Where in Wisconsin is your family from?

21 PROSPECTIVE JUROR #030: Southeast Wisconsin just a couple hours  
22 north of Chicago

23 MS. BAHARAV: Anywhere near Madison?

24 PROSPECTIVE JUROR #030: An hour from Madison.

25 MS. BAHARAV: So, we're talking about a small town police department?

1 PROSPECTIVE JUROR #030: Yes.

2 MS. BAHARAV: And you understand that Las Vegas specifically has about  
3 half the size of the entire population of Wisconsin?

4 PROSPECTIVE JUROR #030: Yes.

5 MS. BAHARAV: Okay. There are two million people here and Wisconsin has  
6 about five million. Okay. We talked a little bit about CSI before. Knowing that your  
7 family is from a small town in Wisconsin, you understand that not every police  
8 department has those types of technology?

9 PROSPECTIVE JUROR #030: Correct.

10 MS. BAHARAV: And we've also learned that most of that was smoke and  
11 mirrors and wasn't even daylight?

12 PROSPECTIVE JUROR #030: Yes.

13 MS. BAHARAV: We're not going -- you're not going to hold that against the  
14 State of Nevada; are you?

15 PROSPECTIVE JUROR #030: No.

16 MS. BAHARAV: And you've already indicated this but nothing in your history  
17 with regards to your family is going to cause you to automatically think that Mr. Perry  
18 is guilty?

19 PROSPECTIVE JUROR #030: No; and certainly with my legal studies later in  
20 life I can appreciate the process a lot.

21 MS. BAHARAV: You understand that we the State, Ms. Sudano and I, have  
22 the burden of proof in this case?

23 PROSPECTIVE JUROR #030: Yes.

24 MS. BAHARAV: And if we got up and said hello and sat back down and  
25 presented no evidence, Mr. Perry's not guilty?

1 PROSPECTIVE JUROR #030: Correct.

2 MS. BAHARAV: Similarly, Mr. Shetler doesn't have to say anything, Mr. Perry

3 remains not guilty?

4 PROSPECTIVE JUROR #030: Yes.

5 MS. BAHARAV: Anyone you know ever been the victim of domestic

6 violence?

7 PROSPECTIVE JUROR #030: No.

8 MS. BAHARAV: Anyone you know ever been accused of domestic violence?

9 PROSPECTIVE JUROR #030: No.

10 MS. BAHARAV: And you've had lots of experience in law enforcement in

11 other places. Have you had any experiences with law enforcement here in Nevada?

12 PROSPECTIVE JUROR #030: No, I haven't.

13 MS. BAHARAV: No traffic tickets or anything?

14 PROSPECTIVE JUROR #030: No.

15 MS. BAHARAV: There's two of you now. That's great. Is there anything

16 about your history that would not allow you to sit in judgment of anyone else?

17 PROSPECTIVE JUROR #030: No.

18 MS. BAHARAV: And if you were sitting where Ms. Sudano and I were.

19 Would like someone like yourself on the jury?

20 MS. BAHARAV: What about if you were sitting where Mr. Perry is. Would

21 you like someone like yourself on the jury?

22 PROSPECTIVE JUROR #030: Yes.

23 MS. BAHARAV: Thank you, Your Honor. We'll pass for cause.

24 THE COURT: Thank you. Mr. Shetler.

25 MR. SHETLER: Thank you, Your Honor. Ms. Grayson, thank you for your

1 honesty. You mentioned that you had had a change of -- I don't want to put words in  
2 our mouth -- but you feel differently about the question would you hold police officers  
3 in a higher esteem possibly or give their testimony more credence; that's really what  
4 it's about; right?

5 PROSPECTIVE JUROR #030: Yes.

6 MR. SHETLER: And was there specific event, was it just not being selected  
7 for that jury, was it your legal training, what it just going through the walks of life?

8 PROSPECTIVE JUROR #030: It was me just growing up. I've since done a  
9 lot more studying. I was like -- I was very young on that panel and I've since done a  
10 lot of traveling and just opened up my views a lot more. I don't live in a small town  
11 anymore so I have a lot more interaction with, you know, big cities and different  
12 types of people.

13 MR. SHETLER: And you mentioned that you hadn't work in either side of the  
14 criminal field. Was there not for any specific reason it just hasn't come up or  
15 because of any opinions you have about the criminal field itself?

16 PROSPECTIVE JUROR #030: No opinions. This is actually the first law firm  
17 I've worked in.

18 MR. SHETLER: The self defense questions I was asking earlier, does that  
19 present any issues or concerns for you?

20 PROSPECTIVE JUROR #030: It does not.

21 MR. SHETLER: And there was one other point. Were you involved in the --  
22 this is the first law firm so you were not involved in legal activities in Sacramento?

23 PROSPECTIVE JUROR #030: No, I wasn't.

24 MR. SHETLER: What type of work were you doing there? Were you working  
25 there?

1 PROSPECTIVE JUROR #030: I was in food service while I was going to  
2 school.

3 MR. SHETLER: Okay. And where'd you go to school there?

4 PROSPECTIVE JUROR #030: I went to MTI College for my paralegal  
5 studies.

6 MR. SHETLER: All right. Thank you very much for your honesty, Ms.  
7 Grayson, I appreciate it. Pass for cause, Your Honor.

8 THE COURT: Thank you. Let's try to do one more.

9 Ms. Erickson, how are you today?

10 PROSPECTIVE JUROR #010: Great. Thank you.

11 THE COURT: Is there any reason you could not be fair and impartial in this  
12 case?

13 PROSPECTIVE JUROR #010: No.

14 THE COURT: Can you wait in forming your opinion on the appropriate result  
15 until all of the evidence has been heard?

16 PROSPECTIVE JUROR #010: Yes.

17 THE COURT: Have you or anyone close to you worked in law enforcement?

18 PROSPECTIVE JUROR #010: I have an ex-husband that works for Metro.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR #010: He's not a police officer; he's a patrol services  
21 representative.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR #010: They call 'em PSRs.

24 THE COURT: Okay. How long have you been split from him?

25 PROSPECTIVE JUROR #010: It's been probably over six years.



1 THE COURT: Okay. I guess -- was he with Metro the whole time you were  
2 together?

3 PROSPECTIVE JUROR #010: Well prior to working for Metro he was on  
4 some type of volunteer program. He was out in the field and drove in the cars,  
5 carried a gun and everything. That particular program was dissolved. He did --  
6 when he wasn't doing that he was a truck driver. And then retired from that and  
7 then started working for Metro. So, it was probably about three years of our  
8 relationship time.

9 THE COURT: Okay. So, during the time you were together and he was with  
10 Metro, were you also socializing with other Metro employees?

11 PROSPECTIVE JUROR #010: There was times, yeah.

12 THE COURT: And would those relationships affect your ability to be fair and  
13 impartial in this case?

14 PROSPECTIVE JUROR #010: No.

15 THE COURT: Do you think that you would have a tendency to give extra  
16 weight or credibility to the testimony of law enforcement officers because they're law  
17 enforcement officers?

18 PROSPECTIVE JUROR #010: No.

19 THE COURT: Do you think you could weigh their testimony as you would  
20 weigh any witness testimony?

21 PROSPECTIVE JUROR #010: Yeah, yeah.

22 THE COURT: Have you or anyone close to you been charged with a serious  
23 crime?

24 PROSPECTIVE JUROR #010: No.

25 THE COURT: Have you or anyone close to you been the victim of a serious

1 crime?

2 PROSPECTIVE JUROR #010: Yes; my daughter.

3 THE COURT: And what happened to her?

4 PROSPECTIVE JUROR #010: She was molested when she was 12.

5 THE COURT: Okay. And was that by someone you knew?

6 PROSPECTIVE JUROR #010: Yes; it was by her best friend's mom's  
7 boyfriend.

8 THE COURT: Okay. Did that get reported to law enforcement?

9 PROSPECTIVE JUROR #010: Oh, yes.

10 THE COURT: How long ago was that, by the way?

11 PROSPECTIVE JUROR #010: That was about -- sorry -- she's -- it was about  
12 13 years ago.

13 THE COURT: Okay. So, was that here in Las Vegas?

14 PROSPECTIVE JUROR #010: Yes.

15 THE COURT: And it was reported at the time?

16 PROSPECTIVE JUROR #010: Yes.

17 THE COURT: And was that person charged?

18 PROSPECTIVE JUROR #010: Yes.

19 THE COURT: And convicted?

20 PROSPECTIVE JUROR #010: Yes.

21 THE COURT: Did he go to prison?

22 PROSPECTIVE JUROR #010: Yes.

23 THE COURT: Okay. And was that person prosecuted by the District  
24 Attorney's office?

25 PROSPECTIVE JUROR #010: Yes.

1 THE COURT: Did you meet with police and prosecutors during the course of  
2 that case?

3 PROSPECTIVE JUROR #010: Yes, I did.

4 THE COURT: Okay. You don't know these two ladies who are here now  
5 though?

6 PROSPECTIVE JUROR #010: I don't.

7 THE COURT: Okay. Anything about that set of circumstances that would  
8 affect your ability to be fair and impartial in this case?

9 PROSPECTIVE JUROR #010: I don't think so. I don't have any of the  
10 evidence so I don't know.

11 THE COURT: Sure. Well right. I mean, obviously it's appropriate for you to  
12 evaluate the case based on the evidence. What I want to be sure though that you're  
13 not going to favor police or prosecutors because of their assistance in pursuing that  
14 case involving your daughter.

15 PROSPECTIVE JUROR #010: No.

16 THE COURT: Okay. You think you can be fair to both sides here?

17 PROSPECTIVE JUROR #010: Yes.

18 THE COURT: Is there anything about the charges in this case that would  
19 make it difficult for you to be fair and impartial?

20 PROSPECTIVE JUROR #010: No.

21 THE COURT: Can you base your verdict solely on the evidence brought out  
22 at trial and the law that applies as stated in my instructions without fear of criticism  
23 or popular opinion?

24 PROSPECTIVE JUROR #010: Yes.

25 THE COURT: Have you ever been a juror before?

1 PROSPECTIVE JUROR #010: No.

2 THE COURT: If you were a party to this case would you be comfortable with  
3 jurors of a like frame of mind as yourself sitting in judgment?

4 PROSPECTIVE JUROR #010: Yes.

5 THE COURT: How long have you lived in Clark County?

6 PROSPECTIVE JUROR #010: Almost 23 years.

7 THE COURT: What's the highest level of education you completed?

8 PROSPECTIVE JUROR #010: High school and then I have some college.

9 THE COURT: Did you have a particular major or course of study in college?

10 PROSPECTIVE JUROR #010: It was mostly in finance and real estate.

11 THE COURT: And are you employed?

12 PROSPECTIVE JUROR #010: Yes.

13 THE COURT: Doing what?

14 PROSPECTIVE JUROR #010: I work for a home builder, work with the sales  
15 and escrow and the broker.

16 THE COURT: Okay. And are you married?

17 PROSPECTIVE JUROR #010: Yes.

18 THE COURT: Is your spouse employed?

19 PROSPECTIVE JUROR #010: No; he's retired.

20 THE COURT: What did he do before retiring?

21 PROSPECTIVE JUROR #010: He was a manager for a rental yard in  
22 California.

23 THE COURT: And how many children do you have?

24 PROSPECTIVE JUROR #010: I have two, two daughters.

25 THE COURT: And what do they do?

1 PROSPECTIVE JUROR #010: One is an insurance agent and the other one  
2 works for a investment company.

3 THE COURT: Okay. State.

4 MS. SUDANO: Thank you, Your Honor. Last but not least for today.

5 So, you said that you had some involvement with the DA's office and  
6 Metro regarding your daughter?

7 PROSPECTIVE JUROR #010: Mm-hmm.

8 MS. SUDANO: Do you think that your daughter was treated fairly?

9 PROSPECTIVE JUROR #010: Yeah.

10 MS. SUDANO: Do you think that the process worked in her case?

11 PROSPECTIVE JUROR #010: Yes.

12 MS. SUDANO: Okay. What about the individual, the mom's boyfriend; do  
13 you think that he was treated fairly in that case?

14 PROSPECTIVE JUROR #010: Yes.

15 MS. SUDANO: And you said that your husband -- excuse me -- your ex-  
16 husband was a PSR for a while?

17 PROSPECTIVE JUROR #010: Yes. That's not the father of her.

18 MS. SUDANO: Right.

19 PROSPECTIVE JUROR #010: Yeah.

20 MS. SUDANO: When you were together did he ever discuss cases with you,  
21 people that he talked to during the day or anything like that?

22 PROSPECTIVE JUROR #010: Nothing like specific or anything. He might  
23 bring up like a general situation or something, an example if we saw oh you can't do  
24 that, you know.

25 MS. SUDANO: Did he ever talk to you about domestic violence cases that he

1 may have been involved in?

2 PROSPECTIVE JUROR #010: Not that I recall.

3 MS. SUDANO: Have you or any close family members or friends been the  
4 victims of domestic violence?

5 PROSPECTIVE JUROR #010: I have.

6 MS. SUDANO: You have? Okay. So -- I don't mean to pry; I'm sorry to ask  
7 these questions but was it just one act of violence or was it more than one?

8 PROSPECTIVE JUROR #010: It was the last two years of my first marriage.

9 MS. SUDANO: Okay. Was it always violent or were there some periods of  
10 calm in there?

11 PROSPECTIVE JUROR #010: No. The first 16 years were fine. It was just  
12 the last two years.

13 MS. SUDANO: Okay. And was it all physical or were there issues with  
14 emotional abuse, verbal abuse, things like that?

15 PROSPECTIVE JUROR #010: It was verbal and physical.

16 MS. SUDANO: Did you experience any isolation from friends or family  
17 members?

18 PROSPECTIVE JUROR #010: Looking back that's what he was trying to do,  
19 yes.

20 MS. SUDANO: But it sounds like he probably wasn't successful?

21 PROSPECTIVE JUROR #010: I'm sorry, what?

22 MS. SUDANO: He wasn't successful. You stayed in contact with those  
23 people.

24 PROSPECTIVE JUROR #010: I didn't for a little bit of time and then, you  
25 know, I got myself out of the situation.

1 MS. SUDANO: Did those people help you get out of the situation?

2 PROSPECTIVE JUROR #010: Yes.

3 MS. SUDANO: And do you think if you hadn't had those core people there to

4 support you it would have been harder to get out of the situation?

5 PROSPECTIVE JUROR #010: Probably, yeah.

6 MS. SUDANO: So, you were able to get out of that situation and move on

7 with your life?

8 PROSPECTIVE JUROR #010: Right.

9 MS. SUDANO: And you think it's possible for other people do that as well?

10 PROSPECTIVE JUROR #010: Yes.

11 MS. SUDANO: But do you understand that maybe there's some other people

12 who stay in a relationship longer than they should?

13 PROSPECTIVE JUROR #010: Right; mm-hmm.

14 MS. SUDANO: Would you hold that against somebody if they stayed in a

15 relationship?

16 PROSPECTIVE JUROR #010: No.

17 MS. SUDANO: What about somebody that went back to a violent

18 relationship; would you hold that against them?

19 PROSPECTIVE JUROR #010: No.

20 MS. SUDANO: Do you understand there might be reasons for going back into

21 a relationship or staying?

22 PROSPECTIVE JUROR #010: Right.

23 MS. SUDANO: Anything about your personal beliefs that would prevent you

24 from sitting in judgment of another?

25 PROSPECTIVE JUROR #010: No.

1 MS. SUDANO: Thank you, Your Honor. The State passes for cause.

2 THE COURT: Mr. Shetler.

3 MR. SHETLER: Thank you, Your Honor.

4 Ms. Erickson, thank you for being so honest. I've got a couple of  
5 questions. I'm sorry. Were you able to attribute why things changed in the  
6 relationship with your first husband after the first 16 years?

7 PROSPECTIVE JUROR #010: I'm sorry, say that again.

8 MR. SHETLER: What changed after the first 16 years; would you ever able to  
9 figure out?

10 PROSPECTIVE JUROR #010: We moved here from California and he got  
11 involved with drugs, I think was mostly the problem.

12 MR. SHETLER: And you said -- you made a comment, I believe, that he tried  
13 to -- I don't want to misquote it -- but isolate you from your family and friends a little  
14 bit?

15 PROSPECTIVE JUROR #010: He had some cousins that lived here that  
16 helped me; is that what you're asking as far as --

17 MR. SHETLER: I may have misunderstood the question whether he, your  
18 first husband, tried to isolate you from other family and friends.

19 PROSPECTIVE JUROR #010: Yeah. He kind of just -- he just tried to  
20 convince me that there was nowhere for me to go, that I didn't have any money or I  
21 couldn't make it on my own.

22 MR. SHETLER: Did you have -- again please bear with me. I appreciate it  
23 and I'm terribly sorry I have to ask you these questions.

24 PROSPECTIVE JUROR #010: It's okay.

25 MR. SHETLER: Did the drugs actually make it into the home?



1 PROSPECTIVE JUROR #010: I never could find any. He did admit during  
2 the divorce -- I didn't know that there was any for a long time. I couldn't figure out  
3 was wrong with the behavior. He admitted to me later on that that's what he was  
4 doing and he admitted to -- we had a court mediator during the divorce and he  
5 admitted to that person. And so then there was some -- he had to go through some  
6 drug testing, but that was about it, and as far as I know he hasn't touched any since.

7 MR. SHETLER: That experience is a traumatic experience and unfortunately  
8 you've had other traumatic experiences as well. I want to talk just briefly about the  
9 perpetrator in your daughter's case. Did that case go to trial?

10 PROSPECTIVE JUROR #010: Yes.

11 MR. SHETLER: Were you -- the fact that person went to trial, does that have  
12 any impact on your ability to sit here on a jury?

13 PROSPECTIVE JUROR #010: I don't believe so.

14 MR. SHETLER: In other words, do you think that it was okay that it went to  
15 trial?

16 PROSPECTIVE JUROR #010: Do I think what?

17 MR. SHETLER: It was okay that it went to trial?

18 PROSPECTIVE JUROR #010: That that case was okay to go to trial?

19 MR. SHETLER: It was okay that he went to trial as opposed to taking a deal?

20 PROSPECTIVE JUROR #010: I can't hear you.

21 MR. SHETLER: It's probably this damn -- excuse me.

22 THE COURT: Hey, hey, hey.

23 MR. SHETLER: I'm sorry.

24 PROSPECTIVE JUROR #010: I don't hear very good.

25 MR. SHETLER: No, it's my -- the fact that he went to trial and did not take a

1 deal, do you feel that it was appropriate for him to go to trial?

2 PROSPECTIVE JUROR #010: Yes.

3 MR. SHETLER: And obviously if that case went to trial there were a number  
4 of uncomfortable moments in there for yourself and your daughter; did that  
5 experience leave anything in your -- cause you any reason not to sit on this jury?

6 PROSPECTIVE JUROR #010: No.

7 MR. SHETLER: In that domestic violence -- in a domestic relationship if one  
8 person is being physically violent with another person, do you think it's okay for the  
9 other person to use violence to stop it?

10 PROSPECTIVE JUROR #010: To defend themselves.

11 MR. SHETLER: Correct. And did you ever find yourself in that situation  
12 where you had to defend yourself?

13 PROSPECTIVE JUROR #010: Yes.

14 MR. SHETLER: Were you able to do so?

15 PROSPECTIVE JUROR #010: Not very well.

16 MR. SHETLER: I understand. But that concepts makes perfect sense to you?

17 PROSPECTIVE JUROR #010: I'm sorry?

18 MR. SHETLER: That concept makes perfect sense to you?

19 PROSPECTIVE JUROR #010: Yes, it does.

20 MR. SHETLER: Thank you again for all your honesty. I sincerely appreciate  
21 it.

22 MS. BAHARAV: Your Honor, can we approach?

23 THE COURT: Yeah, come on up.

24 [Bench conference -- beings]

25 MS. BAHARAV: I know we said eleven but I'm concerned that he has a self

1 return on that case tomorrow.

2 THE COURT: That he has what?

3 MS. BAHARAV: There's a subpoena return on the case that Mr. Shetler has  
4 to appear on tomorrow. So, I'm wondering would the Court be okay with one. That  
5 would allow you to get your meeting. Or do you want it go at eleven?

6 MR. SHETLER: Yeah. I just -- it's entirely possible to go till -- even a pro tem  
7 we'll probably end up in there until noon.

8 THE COURT: I don't mind. I'm just worried because we still have a lot of jury  
9 selection left. We're not leaving any time for the actual trial.

10 MS. BAHARAV: I know.

11 THE COURT: So, I'm just concerned.

12 MR. SHETLER: And my concern, the other case notwithstanding, my  
13 obligation is not withstanding but certainly my obligation to Mr. Perry.

14 THE COURT: Right.

15 MR. SHETLER: And I know the Court recognizes that.

16 THE COURT: Yeah, I mean, because tomorrow is Thursday. So, if we start  
17 at one and it takes us, you know, at least a couple hours to finish jury selection, I  
18 don't know how many witnesses you have?

19 MS. BAHARAV: We have six; we might have five.

20 THE COURT: So, we could -- you could call some tomorrow afternoon. Can  
21 you start Friday morning?

22 MR. SHETLER: I just have that calendar call on the other darn case which is  
23 appropriate because they need to know what's going on; right?

24 THE COURT: On overflow at 8:30. So, overflow shouldn't be done in 15  
25 minutes, you know.

1 MS. BAHARAV: You can tell Barker that you have to go first.

2 MR. SHETLER: Ms. Baharav can tell him that.

3 THE COURT: I can tell him that.

4 MR. SHETLER: Yes.

5 MS. BAHARAV: I think -- because three of our witnesses are very fast, ten  
6 minutes apiece.

7 THE COURT: Right.

8 MS. BAHARAV: Three of them are a little longer but I don't anticipate we will  
9 need to go into Monday still. I think we can finish it.

10 MR. SHETLER: Could we come back to this juror?

11 MS. BAHARAV: Do you have more questions?

12 MR. SHETLER: No, I don't have questions. I'm worried that I believe there  
13 could be testimony that he tried -- that my client tried to isolate the victim in this case  
14 from friends and family. There are text messages to that effect. I'm worried that  
15 that may be --

16 MS. BAHARAV: Well I'm not planning on admitting this.

17 MR. SHETLER: -- too close to -- I don't know. I mean, it's just a concern. I  
18 don't -- I like certainly some of her responses and I'm quite comfortable with, but it is  
19 pretty close to the bone and I don't know that particular issue and there was a lot of  
20 head nodding from one of the potential jurors in the front row on that question. I'm  
21 concerned about her. I would like to challenge but.

22 MS. BAHARAV: The State's going to object to your challenge for cause. I  
23 think the peremptory would be most appropriate in this situation. She indicated she  
24 could be fair and impartial.

25 THE COURT: Right. I mean, what I've heard from her to me doesn't

1 establish that there's cause to excuse her although she had some similar  
2 circumstances, she did indicate she could separate that from the evidence here and  
3 could be fair. So, I'm going to deny the challenge.

4 MR. SHETLER: I understand. Thank you.

5 MS. BAHARAV: Okay.

6 THE COURT: So, 1 o'clock.

7 MS. BAHARAV: We'll do it. A Judge will make it happen.

8 THE COURT: Okay.

9 MR. SHETLER: Thank you, Judge.

10 [Bench conference -- concluded]

11 THE COURT: All right, folks. So, I apologize. I know it is a little past five  
12 now. I am going to be excusing you for the day and we're going to be picking up  
13 tomorrow. Because of some other conflicting hearings and things that we're  
14 involved in, we're going to be starting tomorrow at 1 o'clock not in the morning. I still  
15 -- we're still talking.

16 UNKNOWN PERSON: 1 a.m.?

17 THE COURT: Sorry. 1 p.m. I will not be here at 1 a.m. I should have been  
18 more clear. One in the afternoon. So, you don't need to be here in the morning.

19 But what I'm telling you though is what I told you about the schedule  
20 earlier that we're still expecting to finish the presentation of the trial Friday is still  
21 accurate but there may be some deliberations still going on on Monday for your own  
22 planning purposes.

23 Remember what I talking about earlier in terms of not talking to anyone  
24 about the case other than the minimal information that you are in jury selection in a  
25 criminal case and what the general timeframe you're looking at is. So, between now

1 and tomorrow at one in the afternoon, you are admonished not to talk or converse  
2 among yourselves or with anyone else on any subject connected with this trial or to  
3 read, watch or listen to any report of or commentary on the trial or any person  
4 connected with the trial by any medium of information, including without limitation,  
5 newspapers, television, the internet or radio or to form or express any opinion on  
6 any subject connected with this trial until the case is finally submitted to you. See  
7 you tomorrow afternoon at one.

8  
9 [Jury Trial, Day 1, concluded at 5:12 p.m.]  
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19

20 ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I  
21 acknowledge that this is a rough draft transcript, expeditiously prepared, not  
22 proofread, corrected, or certified to be an accurate transcript.

23   
24 PATRICIA SLATTERY  
25 Court Transcriber

  
CLERK OF THE COURT

1 RTRAN

2  
3  
4  
5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA  
7

8 THE STATE OF NEVADA, ) CASE #: C298879-1  
9 )  
10 Plaintiff, ) DEPT. VI  
11 )  
12 VS. )  
13 )  
14 GENARO PERRY, )  
15 Defendant. )

16 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE  
17 THURSDAY, MAY 7, 2015  
18 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS**  
19 **JURY TRIAL - DAY 2**

20 APPEARANCES:

21 For the State:

MICHELLE SUDANO, ESQ.  
COLLEEN BAHARAV, ESQ.  
Deputy District Attorneys

22  
23 For the Defendant:

TRAVIS S. SHETLER, ESQ.

24  
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 THURSDAY, MAY 7, 2015 AT 1:30 P.M.

2  
3 [Outside the presence of the prospective jury panel]

4 MS. BAHARAV: Your Honor, to be fair --

5 THE COURT: It's no longer morning.

6 MS. BAHARAV: Good afternoon. The State recently had two witness issues.  
7 So, we are down to four witnesses.

8 THE COURT: Okay.

9 MS. BAHARAV: But in light of the fact that one of the witnesses was the  
10 doctor that is no longer available; he had an emergency surgery in California  
11 tomorrow. He had to cancel the reason he was going to be in Las Vegas because  
12 of that emergency surgery. I believe that opposing counsel has a request of the  
13 Court to make. So, that's why we asked to talk to you outside the presence of the  
14 jury.

15 THE COURT: Okay.

16 MR. SHETLER: Very briefly, Your Honor.

17 Ms. Baharav has been extremely gracious in putting together the notes  
18 and agreeing to use her doctor to get in my expert's testimony because he is also  
19 unavailable. In reviewing the notes and talking with my client, we would ask to  
20 continue the matter because we think that having no doctor here to talk about  
21 anything for the jury is a little too risky because that is one of the aggravating factors  
22 of the crimes we're charged with.

23 MS. BAHARAV: The State's prepare to present its case without the testimony  
24 of a doctor and to, I guess, allay some of the concerns of opposing counsel. We did  
25 agree to admit some information from their doctor along with our medical records



1 and then allow the parties to argue. The State is of the opinion that we could  
2 proceed without a doctor. I'm not sure if they're arguing that it's their theory of  
3 defense or that it is part of their defense that they will need a doctor. So, if that's  
4 something that they're arguing then that obviously goes to an issue that they might  
5 have. I understand --

6 THE COURT: If they want to challenge whether there's substantial bodily  
7 harm.

8 MR. SHETLER: It's the crux of the most significant issue of my client's. And I  
9 mean this with all sincerity for the record and for my colleague who it's a pleasure to  
10 work with, they have bent over backwards to accommodate us on the records.

11 THE COURT: Right. So -- okay. So, to back up, and I know you guys had  
12 talked about some of this before. You had retained a doctor for the Defense --

13 MR. SHETLER: Correct.

14 THE COURT: -- but that doctor wasn't available this week.

15 MR. SHETLER: Correct.

16 THE COURT: So, then you were both going to proceed using --

17 MS. BAHARAV: Our doctor.

18 THE COURT: -- the doctor State was going to present. Is that actually a  
19 treating doctor?

20 MS. BAHARAV: He actually did the surgery to the victim's eye --

21 THE COURT: Right.

22 MS. BAHARAV: -- to repair the orbital fracture.

23 THE COURT: Okay. So, yes, it's a treating.

24 MS. BAHARAV: Yes; sorry.

25 THE COURT: Okay. And now that doctor who did that is not available

1 tomorrow because he had some emergency come up?

2 MS. BAHARAV: He did.

3 THE COURT: And so yesterday there was some conversation about the  
4 possibility, for other reasons, that you might not call the doctor and there was some  
5 talk about whether you could reach certain stipulations or use the records. So I  
6 gather that after further discussion and analysis that you feel like that's not sufficient  
7 without a witness.

8 MR. SHETLER: Right. After reviewing the record which again the State very  
9 generously took care of the redactions and putting together the documents. I talked  
10 about it with my client and what that entails, what the risk are, and what part of our  
11 Defense is possibly disabled by not being able to get questions and answers with  
12 the treating professional because of the serious bodily injury element. That's been  
13 the primary factor that he's been mostly concerned about throughout the course of  
14 the case. We probably would have resolved the case earlier but for that factor. And  
15 I understand completely where the State's at. They have documentation that says  
16 she has a fractured orbit and they've got to protect the public. I completely  
17 understand that.

18 THE COURT: Right. So -- I understand that to some extent there's strategy  
19 and attorney-client communication. So, I'm not trying to unduly infringe on that, but  
20 as a strategy or to best represent your client you think that it's better to have the  
21 doctor on the stand to attack instead of the records without a witness?

22 MR. SHETLER: But there are --

23 THE COURT: I'm just asking.

24 MR. SHETLER: -- it's a very legitimate question, Your Honor, and it's a little  
25 bit like Mr. -- I can't pass judgment and yet I have a lot of judgment to say -- there's

1 two sides to the argument.

2 THE COURT: Yes.

3 MR. SHETLER: There are two sides to -- there are some great value to not  
4 having a magic witness on the stand that the jury can listen to and become  
5 enamored with and just have paper with the proper instructions to our currently  
6 sitting Ob-Gyn on the jury. However, such it is a key element of the crime, that's the  
7 strategy that we've discussed in length, the pros and cons, and my client's most  
8 comfortable with having a doctor on the stand at this point in time. And you've gone  
9 right to the crux of the matter.

10 THE COURT: The doctor that you had who unfortunately isn't available this  
11 week but you had consulted with him about how to address this issue --

12 MR. SHETLER: Right. And he had reviewed the records --

13 THE COURT: -- is that to say?

14 MR. SHETLER: -- her prior and current medical records as well and as a  
15 great deal of commentary which a lot of that is still within the redacted section.  
16 Some of our allegations are overtreatment or pre-existing conditions although the  
17 fracture is pretty difficult to lay a solid foundation for that issue.

18 THE COURT: Okay. So, State feels that you can proceed in establishing our  
19 case without the doctor using the records.

20 MS. BAHARAV: Yes, Your Honor.

21 THE COURT: And obviously Defense feels that he can't fully present his  
22 defense without a witness.

23 MR. SHETLER: Correct, Your Honor.

24 THE COURT: And did you ever reach any stipulation about the medical  
25 records?

1 MS. BAHARAV: Yes; we did converse this morning and after I found out that  
2 our doctor is unavailable, to see about which particular information from his doctor  
3 would be admissible and then also the records from our physician that would be  
4 admissible. It's my understanding that counsel at this point did not have an issue  
5 with the records as they are. He indicated he wanted to talk to his client first before  
6 discussing whether or not he needed a witness also.

7 THE COURT: Right. Because to be specific, the reason for my question is  
8 that if this is the Defense's position and I don't know where you are but if, as a result  
9 of that they won't stipulate to the records coming in without the doctor, you may  
10 have a problem with your case as well.

11 MS. BAHARAV: Yes, Your Honor, we would at this point have a problem.  
12 She could testify but I think it strengthens the substantial bodily harm with the  
13 medical records themselves.

14 THE COURT: Right. You've got -- the victim could testify to some extent  
15 about her injuries.

16 MS. BAHARAV: But the short answer is yes. Without actual documentation  
17 that she sought medical attention for those, I mean, the argument can always be  
18 made that she's exacerbating so that would put the State at a disadvantage.

19 MR. SHETLER: Your Honor, I'm happy to consult once again with my client  
20 after this discussion here in the courtroom and make sure that the full -- both sides  
21 of the sword are clearly presented. It may have a different impact but --

22 THE COURT: Let's talk a little more about logistics and then I'll give you  
23 some time.

24 MR. SHETLER: Yes, Your Honor.

25 THE COURT: So, the underlying events of this case apparently happened

1 May 1<sup>st</sup> of 2014; right?

2 MS. BAHARAV: Yes, Your Honor.

3 THE COURT: So, a year ago. Has he been in custody this whole time for a  
4 year now? Okay. And if we need to continue this --

5 MS. BAHARAV: Yes. If we need to continue I guess we need to look  
6 [indiscernible].

7 MR. SHETLER: I misspoke. He was apprehended not immediately, there  
8 were a couple weeks.

9 THE COURT: Okay. So, it wouldn't have been right then but --

10 MS. BAHARAV: Fifty weeks he's been in custody.

11 THE COURT: Right. So, close to a year. Okay. So, if we're not doing it right  
12 now, you know, in the stack I'm in the middle of, the next criminal trial stack I have  
13 starts June 29<sup>th</sup> through the week of July 27<sup>th</sup>. That's five weeks there. And then I  
14 have another one in September.

15 MS. BAHARAV: I could do the week of the 13<sup>th</sup>.

16 THE COURT: Of July.

17 MS. BAHARAV: Of July, yes.

18 THE COURT: Obviously this would be overflow eligible.

19 MS. BAHARAV: Yes.

20 THE COURT: I needed to put it in there. So, I at least wanted you to have in  
21 mind what we were looking at. If you feel we can't proceed and if you want to go  
22 ahead and call things off at this point, we haven't seated a jury so jeopardy hasn't  
23 attached yet. So, potentially we could do that obviously. That's not the ideal for  
24 anybody. But I wanted you to at least know what we were looking at if we do need  
25 to continue it.



1 [Proceedings resumed at 1:48 p.m.]

2 [Outside the presence of the prospective jury panel]

3 THE COURT: Okay. So, now that you've had an opportunity to talk with your  
4 client, where are we?

5 MR. SHETLER: Your Honor, we would like to continue the matter until we  
6 can have our physician attended and be able to cross-examine everybody. That  
7 goes to the crux of our Defense. And we have looked at some dates with the clerk  
8 and with the government and we do have a date that seems to work for everybody.

9 THE COURT: Okay. And to be clear and we've talked about this before, but  
10 you knew your doctor wasn't available but you at least thought you were going to be  
11 able to have the State's doctor --

12 MR. SHETLER: Yes.

13 THE COURT: -- and agreed to proceed on that basis. But now that that  
14 doctor is no longer available because of an unforeseen emergency which is beyond  
15 all of our control, he also can't be here for this trial.

16 MS. BAHARAV: Right.

17 MR. SHETLER: That's correct, Your Honor.

18 THE COURT: Okay.

19 MS. BAHARAV: And counsel found out at ten this morning.

20 THE COURT: Right. Let's have a clear record. Thank you. Okay. So, what  
21 are you looking at?

22 MR. SHETLER: It appears that you have availability the week of September  
23 28<sup>th</sup> for trial.

24 THE COURT: I do; yeah, we can put it over to there. I mean, it's fine with  
25 me. There's always cases set. You could always go to overflow if you need to as

1 long as Mr. Perry understands that that's, you know, four more months -- well more.

2 MR. SHETLER: We did talk at length about that and he understands that it is  
3 time sitting in custody and it's unfortunate.

4 THE COURT: Okay. Well, you know, as I'm sure you recognize it could be  
5 another opportunity for you to talk further about a possible negotiation. That  
6 ultimately obviously that's up to, you know, it's up to you guys to discuss and  
7 ultimately up to Mr. Perry Okay. And Mr. Perry, I want to have a clear record. You  
8 agree with your -- what your client has said in terms of wanting to put off -- over the  
9 trial because of not having a doctor and re-scheduling it for the week of September  
10 28<sup>th</sup>?

11 THE DEFENDANT: Yes, ma'am. Patience is a virtue and both of these  
12 people work hard all year round. I mean, I've been here a year and the stuff that  
13 I've seen and cases. I mean, people need a break. And I know he definitely need a  
14 vacation.

15 THE COURT: Well we're not doing it because of that but that's fine.

16 THE DEFENDANT: Well you know I'm a man.

17 THE COURT: Right.

18 THE DEFENDANT: Patience is a virtue.

19 THE COURT: Right. I see. You had vacation scheduled in July. Got it.

20 MR. SHETLER: The earlier date did -- correct.

21 THE COURT: Right. And I, you know, I would rather not cause you to lose  
22 your vacation as well. Okay.

23 MR. SHETLER: Thank you. My wife thanks everybody.

24 THE COURT: So, let's schedule a calendar call and trial.

25 THE DEFENDANT: As long as I keep you, Judge Cadish, because you are a



1 very honest judge.

2 THE COURT: Well I appreciate that.

3 THE DEFENDANT: And fair and all that. Everybody likes you.

4 THE COURT: Oh, thank you. We should be clear though that you may get  
5 sent to overflow in any given week.

6 THE DEFENDANT: I'll sit until we can see you.

7 THE COURT: Well I appreciate your support. We'll see what happens. I  
8 mean, who knows what's going to go in any given week. I have a couple murder  
9 trials set that week. I have our friend, Mr. War Machine's trial, set that week.

10 MS. BAHARAV: Oh, so it's definitely your case because Rob's on that case  
11 too.

12 THE COURT: But, again, whether any of those will actually go that week  
13 remains to be seen and that's true for any week.

14 MR. SHETLER: One of the most challenging parts of this profession that  
15 complete lack of control. Thank you, Judge.

16 THE COURT: Let's go ahead and get that on the record.

17 THE COURT CLERK: Calendar call September 21<sup>st</sup> at 9:30; jury trial  
18 September 28<sup>th</sup> 10 a.m.

19 THE COURT: Okay. With respect to the jurors who have been waiting out  
20 there, you can just let them know that the trial is not proceeding and that they're  
21 dismissed. If they want to they can talk about the case now.

22 All right. Unfortunately we had these circumstances beyond our control  
23 for all of us all week. So, I appreciate that all of you have been very professional  
24 and courteous all week and I'm sure you will continue to be.

25 MS. BAHARAV: Thank you, Your Honor.

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THE COURT: Okay. Thank you.

MR. SHETLER: A pleasure to be here.

[Jury Trial, Day 2, concluded at 1:52 p.m.]

ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

  
PATRICIA SLATTERY  
Court Transcriber

IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

Supreme Court No. 69139  
District Court Case No. C298879

FILED

JAN 18 2017

*Elizabeth A. Brown*  
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

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

JUDGMENT

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

"ORDER the judgment of conviction AFFIRMED."

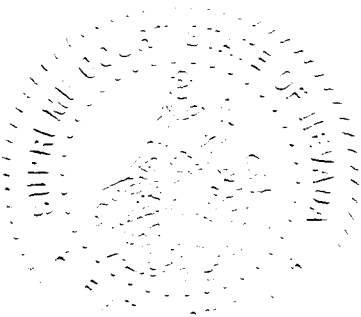
Judgment, as quoted above, entered this 14th day of December, 2016.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
January 10, 2017.

Elizabeth A. Brown, Supreme Court Clerk

By: Amanda Ingersoll  
Chief Deputy Clerk

C-14-298879-1  
CCJA  
NV Supreme Court Clerks Certificate/Judgn  
4614711



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 69139

**FILED**

DEC 14 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Appellant Genaro Richard Perry appeals from a judgment of conviction entered pursuant to a bench trial of robbery with the use of a deadly weapon, false imprisonment with the use of a deadly weapon, grand larceny of an automobile, assault with a deadly weapon, coercion, battery resulting in substantial harm and constituting domestic violence, and preventing or dissuading a witness or victim from reporting a crime or commencing prosecution. Eighth Judicial District Court, Clark County; Elissa F. Cadish, Judge.

*Evidentiary ruling*

Perry claims the district court erred by excluding testimony necessary to support his self-defense claim. "We review a district court's decision to admit or exclude evidence for an abuse of discretion." *McLellan v. State*, 124 Nev. 263, 267, 182 P.3d 106, 109 (2008). Prior to trial, the district court conducted a hearing on Perry's motion to admit evidence pursuant to NRS 48.045(2). Perry sought to elicit testimony from the victim to show the victim previously chased a woman through TJ Maxx with a knife and crowbar, the victim told Perry about this prior incident, and Perry's knowledge of this prior incident affected how he responded to

the victim in the instant case. The district court found the evidence was relevant to Perry's claim of self-defense, it was clear and convincing evidence, and it was not more prejudicial than probative. However, the district court limited the admission of this evidence to "evidence about this incident of which [Perry] was aware to show . . . that it affected his state of mind" on the day of the charged offenses.

During the trial, Perry sought to present the testimony of a security guard who witnessed the TJ Maxx incident in order to bolster his self-defense claim. The district court reiterated it was only allowing evidence about the TJ Maxx incident to the extent that it affected Perry's state of mind. And the district court ruled, unless Perry had talked to the security guard, the security guard's testimony was not pertinent to the issue of self-defense. We conclude the district court did not abuse its discretion by excluding the security guard's testimony. *See Daniel v. State*, 119 Nev. 498, 515-17, 78 P.3d 890, 902-03 (2003) (discussing the admission of evidence when a defendant claims self-defense and knew of the victim's prior violent conduct).

#### *Self-defense instructions*

Perry claims the district court erred by rejecting the parties' proposed instructions on self-defense. We review a district court's exercise of discretion when settling jury instructions for abuse of discretion or judicial error. *Crawford v. State*, 121 Nev. 744, 748, 121 P.3d 582, 585 (2005). "[A] defendant is entitled to a jury instruction on his theory of the case so long as there is some evidence to support it, regardless of whether the evidence is weak, inconsistent, believable, or incredible." *Hoagland v. State*, 126 Nev. 381, 386, 240 P.3d 1043, 1047 (2010).

We conclude the district court abused its discretion by rejecting the instructions on self-defense because Perry presented some evidence in support of his self-defense claim through the victim's testimony. However, we further conclude the error was harmless because it is clear beyond a reasonable doubt that a rational trier of fact would have found Perry guilty absent the error. See *Gonzalez v. State*, 131 Nev. \_\_\_, \_\_\_, 366 P.3d 680, 684 (2015) (instructional errors involving a defendant's right to self-defense have constitutional dimension); *Nay v. State*, 123 Nev. 326, 333-34, 167 P.3d 430, 435 (2007) (stating the test for harmless-error analysis of an instructional error with constitutional dimension).

#### *Sufficiency of the evidence*

Perry claims insufficient evidence supports his convictions because the trier of fact did not take into consideration the evidence supporting his claim of self-defense. We review the evidence in the light most favorable to the prosecution and determine whether "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

The trier of fact heard testimony that the victim allowed Perry to spend the night at her residence. Perry became agitated and aggressive when the victim asked him to leave the following morning. Perry grabbed the victim's cell phone, threw it against the wall, and told her she "was not going to call the police on him." Perry punched the victim in the face, and he continued to punch her after she fell backwards into the bathroom.

The victim bit Perry's hand, stood up, and ran for the staircase. Perry kicked the victim in the back as she started down the stairs, causing her to tumble down the stairs and into the kitchen. Perry

continued to kick and punch the victim while she lay in a fetal position on the kitchen floor. He grabbed a steak knife from the stove and swung the knife at the victim, striking her hands.

Perry dragged the victim into the living room and told her to sit on the love seat. He paced back and forth in front of the victim for about 50 minutes, all the while holding the knife and threatening to kill her. At some point, Perry spotted the keys to the victim's Mercedes on a coffee table and grabbed them. He then marched the victim back upstairs at knifepoint, placed her in a bathroom, told her not to leave or he would kill her, and threw her cell phone in the toilet.

After Perry drove off in the victim's Mercedes, the victim called the police and eventually went to the hospital. She suffered an orbital fracture, a broken nose, the loss of two teeth, a cut hand, and damage to the area of her right hip. She testified that she purchased her Mercedes for \$4,200 and it was valued at \$5,100.


We conclude a rational trier of fact could reasonably infer from this evidence that Perry assaulted, battered, robbed, imprisoned, and coerced his former girlfriend; he prevented her from reporting a crime and stole her car; he used a deadly weapon and caused her to suffer substantial bodily harm; and he was not acting in self-defense when he committed these criminal acts. See NRS 33.018(1); NRS 193.165(1); NRS 199.305(1); NRS 200.380(1); NRS 200.460(1); NRS 200.471(1); NRS 200.481(1); NRS 205.228(1); NRS 207.190(1); *Pineda v. State*, 120 Nev. 204, 212, 88 P.3d 827, 833 (2004) (the right to self-defense exists when there is a reasonably perceived apparent danger or actual danger); *People v. Hardin*, 102 Cal. Rptr. 2d 262, 268 n.7 (Ct. App. 2000) (the right to use force in self-defense ends when the danger ceases). It is for the trier of


fact to determine the weight and credibility to give conflicting testimony, and the trier of fact's verdict will not be disturbed on appeal where, as here, sufficient evidence supports its verdict. *See Bolden v. State*, 97 Nev. 71, 73, 624 P.2d 20, 20 (1981).

*Cumulative error*

Perry claims cumulative error deprived him of a fair trial. However, we reject this claim because there was one error and the error was harmless. *See United States v. Sager*, 227 F.3d 1138, 1149 (9th Cir. 2000) ("One error is not cumulative error."); *Pascua v. State*, 122 Nev. 1001, 1008 n.16, 145 P.3d 1031, 1035 n.16 (2006).

Having concluded Perry is not entitled to relief, we  
ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Elissa F. Cadish, District Judge  
Travis E. Shetler  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk



**CERTIFIED COPY**

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

DATE: January 10, 2017  
Supreme Court Clerk, State of Nevada

By A. Ingason Deputy

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

GENARO RICHARD PERRY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 69139**  
District Court Case No. C298879

**REMITTITUR**

TO: Steven D. Grierson, Eighth District Court Clerk

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

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

DATE: January 10, 2017

Elizabeth A. Brown, Clerk of Court

By: Amanda Ingersoll  
Chief Deputy Clerk

cc (without enclosures):  
Hon. Elissa F. Cadish, District Judge  
Travis E. Shetler  
Clark County District Attorney  
Attorney General/Carson City

**RECEIPT FOR REMITTITUR**

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on JAN 18 2017.

**HEATHER UNGERMANN**  
Deputy District Court Clerk

**RECEIVED**

**JAN 17 2017**

**CLERK OF THE COURT**

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DISTRICT COURT  
CLARK COUNTY, NEVADA

Genaro Perry

Plaintiff,

vs.

State of Nevada

Defendant,

Case No. CZ98879

Dept. No. VI

Docket \_\_\_\_\_

ORDER

Upon reading the motion of defendant, \_\_\_\_\_, requesting  
withdrawal of counsel, \_\_\_\_\_, Esq., of the Clark county Public  
Defender's Office, and Good Cause Appearing,

**IT IS HEREBY ORDERED** that defendant's Motion for Withdrawal of Counsel is  
**GRANTED.**

**IT IS HEREBY FURTHER ORDERED** that Counsel deliver to defendant at his address,  
all documents, papers, pleadings, discovery and any other tangible property in the above-entitled  
case.

DATED and DONE this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

C-14-298879-1  
LSF  
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\_\_\_\_\_  
DISTRICT COURT JUDGE

**THIS SEALED  
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*Alvin D. Schuman*  
CLERK OF THE COURT

PPOW  
PP  
DA  
APR - T. Smith

1 Genaro Perry 1153366  
2 Defendant / In Propria Personam  
3 SOC, Post Office Box-208  
4 Indian Springs, Nevada-89070-0208.

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA

7 Genaro Perry )  
8 Plaintiff, )  
9 vs. )  
10 State of Nevada )  
11 Defendant. )

Case No. # CE18879  
Dept. No. # V1  
Docket No. # \_\_\_\_\_

12  
13 MOTION TO APPOINT COUNSEL

14 Date Of Hearing: \_\_\_\_\_  
15 Time Of Hearing: \_\_\_\_\_

16  
17 COMES NOW the Defendant Genaro Perry in proper person and  
18 hereby moves this Honorable Court for an ORDER granting him Counsel in the herein  
19 proceeding action.

20 This Motion is made and based upon all papers and pleadings on File herein  
21 and attached Points and Authorities.

22  
23 Dated: This 11 Day Of January, 20 17.

24  
25 Respectfully Submitted,  
26 BY: Genaro L. Perry  
27 Genaro Perry #1153366  
28 Defendant, In Forma Pauperis:

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CLERK OF THE COURT

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POINTS AND AUTHORITIES

NRS.34.750 Appointment of Counsel for indigents;pleading supplemental to  
petition;response to dismiss:

"If the Court is satisfied that the allegation of indigency is True and the  
petition is Not dismissed summarily,the Court may appoint counsel to represent  
the-"petitioner/defendant."

NRS.171.188 Procedure for appointment of attorney for indigent defendant:

"Any defendant charged with a public offense who is an indigent may, by oral  
statement to the District Judge,justice of the peace,municipal judge or master,  
request the appointment of an attorney to represent him."

NRS 178.397 Assignment of counsel;

"Every defendant accused of a gross misdemeanor or felony who is financially  
unable to obtain counsel is entitled to have counsel assigned to represent him at  
every stage of the proceedings from his initial appearance before a magistrate or  
the court through appeal,unless he waives such appointment."

WHEREFORE ,petitioner/defendant,prays this Honorable Court will grant his  
motion for the appointment of counsel to allow him the assistance that is needed  
to insure that justice is served.

Dated:This 11 Day Of January, 20 17

Respectfully Submitted,

BY: Genaro R. Perry  
Genaro Perry #153866  
Defendant, In Forma Pauperis:

////

////

////

ADDITIONAL FACTS OF THE CASE:

1 This case has many issues and grounds  
2 that the petitioner cannot correctly  
3 litigate all these issues in court. Therefore  
4 I need counsel to assist me in the  
5 supplement and auxiliary hearing.  
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AFFIDAVIT OF: Genaro Perry

STATE OF NEVADA )  
COUNTY OF CLARK ) ss:

TO WHOM IT MAY CONCERN:

I, Genaro Perry the undersigned, do hereby swear that all statements, facts and events within my foregoing Affidavit are true and correct of my own knowledge, information and belief, and as to those, I believe them to be True and Correct. Signed under the penalty of perjury, pursuant to, NRS. 29.010; 53.045 ; 208.165, and state the following:

FURTHER YOUR AFFIANT SAYETH NAUGHT.

EXECUTED At: Indian Springs, Nevada, this 11 Day of January 2017

BY: Genaro R. Perry  
Genaro Perry 1155366  
Post Office Box-203 (SDCC)  
Indian Springs, Nevada 89070-0203  
Affiant, In Propria Personam:

**CERTIFICATE OF SERVICE BY MAILING**

I, Genaro Perry, hereby certify, pursuant to NRCP 5(b), that on this 11  
day of January, 20 17, I mailed a true and correct copy of the foregoing, "motion to appoint counsel"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

clerk of the court  
200 Lewis Ave 3rd floor  
LV NV 89155

Attorney General  
100 N. Carson St.  
Carson City NV 89401

Clark County DA  
200 Lewis Ave 3rd floor  
LV NV 89155

CC:FILE

DATED: this 11 day of January, 20 17

Genaro L. Perry  
Genaro Perry #153546  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

motion to appoint counsel  
(Title of Document)

filed in District Court Case number CZ98879

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

Gervasio L. Perry  
Signature

1-11-17  
Date

Gervasio Perry  
Print Name

\_\_\_\_\_  
Title

PROW  
PP  
DA  
AUR-  
Travis  
Shelter  
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CLERK OF THE COURT

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JAN 31 2017  
CLERK OF THE COURT

Genaro Perry, 1153366  
Petitioner/In Propria Persona  
Post Office Box 208, SDCC  
Indian Springs, Nevada 89070

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02/07/2017 01:31:56 PM  
Anna L. Quinn  
CLERK OF THE COURT

IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR THE  
COUNTY OF Clark

Genaro Perry  
Plaintiff,  
vs.  
State of Nevada  
Defendant,

Case No. CZ98879  
Dept. No. VI  
Docket \_\_\_\_\_

MOTION TO WITHDRAW COUNSEL

Date of Hearing: \_\_\_\_\_

Time of Hearing: \_\_\_\_\_

'ORAL ARGUMENT REQUESTED, Yes \_\_\_\_\_ No X'

COMES NOW, Defendant, Genaro Perry, proceeding in proper  
person, moves this Honorable Court for an ORDER Granting him permission to withdraw his  
present counsel of record in the proceeding action, namely,

Travis E Shelter

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

DATED: this 11 day of January, 20 17

BY: Genaro L. Perry  
Genaro Perry  
Defendant/In Propria Personam

6

1 POINTS AND AUTHORITIES

2 The Nevada Revised Statute 7.055(1), which deals with the duty of a discharged attorney, states:

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

5 As can be seen in this case, the defendant does not owe any fees, in fact, they, meaning counsel(s)

6 of record, were appointed by the Court to represent the defendant, who was an indigent, in Case

7 Number, C298879, in Department No. 6

8 N.R.S. 7.055(2) gives this Court the power to Order the Attorney(s) of record to produce and

9 deliver to the defendant in his/her possession, which states:

10 "A client who, after demand therefore and payment of the fee due from him, does not receive from his  
11 discharged attorney all papers, documents, pleadings and items of tangible personal property may, by  
12 a motion filed after at least 5 days' notice to the attorney, obtain an order for the production of his papers,  
Documents, pleadings and other property."

13 In numerous cases throughout this great land, the courts have held attorneys to a high degree of

14 professional responsibility and integrity. This carried from the time of hiring to and through the

15 attorney's termination of employment.

16 Supreme Court Rule 173 states quite clear that a withdrawn attorney owes his former client a

17 "... prompt accounting of all his client's. . . property in his possession." This is echoed in Canon 2 of

18 the Code of Professional Responsibility of the American Bar Association, which states in pertinent

19 part EC 2-32: "A lawyer should protect the welfare of his client by . . . delivering to the client all

20 papers and property to which the client is entitled." Again in Disciplinary Rule 2-110(A)(2) of the

21 ABA, this is brought out that a withdrawn attorney must deliver to the client all papers and comply with

22 applicable laws on the subject.

23 In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963) and State v. Alvey, 215 Kan. 460,

24 524 P.2d 747 (1974), both of which dealt with a factual situation involving a withdrawn attorney

25 refusing to deliver to a former client his documents after being requested to do so by the client. The

26 court in Yount, supra, ordered the attorney disbarred while in Alvey, supra, the court had the attorney

27 censured.

1 While not the intention of the Defendant in this case to have the attorney disbarred, these cases do  
2 show a pattern in the court in considering the refusal to deliver to a former client all his documents  
3 and property after being requested to do so, a serious infraction of the law and of professional ethics.  
4 See, In Re Sullivan, 212 Kan. 233, 510 P.2d 1199 (1973).

5 In summary, this court has jurisdiction through NRS 7.055 to Order the attorney(s) to produce and  
6 deliver to the Defendant all documents and personal property in his/their possession belonging to him  
7 or prepared for him. The Defendant has fulfilled his obligations in trying to obtain the papers. The  
8 attorney(s) is in discord with Cannon 2 of the Code of Professional responsibility and the Nevada  
9 Supreme Court Rules 173, 176 and 203.

10  
11 DATED: this 11 day of January, 2017.

12  
13 BY: Genaro L. Perry  
14 Genaro Perry #115336  
15 Defendant/In Propria Personam  
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AFFIDAVIT OF: Genaro Perry

STATE OF NEVADA )  
COUNTY OF CLARK ) ss:

TO WHOM IT MAY CONCERN:

I, Genaro Perry the undersigned, do hereby swear that  
all statements, facts and events within my foregoing Affidavit are  
true and correct of my own knowledge, information and belief, and  
as to those, I believe them to be True and Correct. Signed under the  
penalty of perjury, pursuant to, NRS. 29.010; 53.045; 208.165, and state  
the following:

FURTHER YOUR AFFIANT SAYETH NAUGHT.

EXECUTED At: Indian Springs, Nevada, this 11 Day of January 2017

20 \_\_\_\_.

BY: Genaro R. Perry  
Genaro Perry 1153366  
Post Office Box 203 (SDCC)  
Indian Springs, Nevada 89070  
Affiant, In Propria Personam:

**CERTIFICATE OF SERVICE BY MAILING**

I, Genaro Perry, hereby certify, pursuant to NRCP 5(b), that on this 11  
day of January, 2017, I mailed a true and correct copy of the foregoing, "motion to withdraw counsel"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Clerk of the court  
200 Lewis Ave 3rd floor  
LV NV  
89155

Attorney General  
100 N. Carson Street  
Carson City NV

Clark County DA  
200 Lewis Ave 3rd floor  
LV NV  
89155

CC:FILE

DATED: this 11 day of January, 2017.

Genaro R. Perry  
Genaro Perry 7153364  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:



AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

motion to withdraw counsel

(Title of Document)

filed in District Court Case number C294879



Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

Genaro L. Perry  
Signature

1/11/17  
Date

Genaro Perry  
Print Name

\_\_\_\_\_  
Title

Genaro Perry, 1153366

Petitioner/In Propria Persona  
Post Office Box 208, SDCC  
Indian Springs, Nevada 89070

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

Genaro Perry

Petitioner,

vs.

State of Nevada

Respondent(s).

Case No. C298879

Dept. No. 6

Docket \_\_\_\_\_

Evidentiary Hearing  
PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

INSTRUCTIONS:

- (1) This petition must be legibly handwritten or typewritten signed by the petitioner and verified.
- (2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the department of corrections, name the warden or head of the institution. If you are not in a specific institution of the department within its custody, name the director of the department of corrections.
- (5) You must include all grounds or claims for relief which you may have regarding your conviction and sentence.

RECEIVED

FEB 07 2017

CLERK OF THE COURT

1 Failure to raise all grounds in this petition may preclude you from filing future petitions  
2 challenging your conviction and sentence.

3 (6) You must allege specific facts supporting the claims in the petition you file seeking relief  
4 from any conviction or sentence. Failure to allege specific facts rather than just conclusions may  
5 cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of  
6 counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which  
7 you claim your counsel was ineffective.

8 (7) If your petition challenges the validity of your conviction or sentence, the original and one  
9 copy must be filed with the clerk of the district court for the county in which the conviction  
10 occurred. Petitions raising any other claim must be filed with the clerk of the district court for the  
11 county in which you are incarcerated. One copy must be mailed to the respondent, one copy to the  
12 attorney general's office, and one copy to the district attorney of the county in which you were  
13 convicted or to the original prosecutor if you are challenging your original conviction or sentence.  
14 Copies must conform in all particulars to the original submitted for filing.

### 10 PETITION

11 1. Name of institution and county in which you are presently imprisoned or where and who you  
12 are presently restrained of your liberty: SDCC

13 2. Name the location of court which entered the judgment of conviction under attack: \_\_\_\_\_

14 8th Judicial District Clark County dept VI

15 3. Date of judgment of conviction: 10-1-2015

16 4. Case number: C298859

17 5. (a) Length of sentence: 96 to 336 months

18 (b) If sentence is death, state any date upon which execution is scheduled: \_\_\_\_\_

19 6. Are you presently serving a sentence for a conviction other than the conviction under attack in  
20 this motion:

21 Yes \_\_\_\_\_ No X If "Yes", list crime, case number and sentence being served at this time: \_\_\_\_\_

22  
23 7. Nature of offense involved in conviction being challenged: \_\_\_\_\_

1 8. What was your plea? (Check one)

2 (a) Not guilty ☒

3 (b) Guilty \_\_\_\_\_

4 (c) Nolo contendere \_\_\_\_\_

5 9. If you entered a guilty plea to one count of an indictment or information, and a not guilty plea  
6 to another count of an indictment or information, or if a guilty plea was negotiated, give details: \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_

9 10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)

10 (a) Jury \_\_\_\_\_

11 (b) Judge without a jury ☒

12 11. Did you testify at trial? Yes \_\_\_\_\_ No ☒

13 12. Did you appeal from the judgment of conviction?

14 Yes ☒ No \_\_\_\_\_

15 13. If you did appeal, answer the following:

16 (a) Name of court: Nevada Supreme Court

17 (b) Case number or citation: 69139

18 (c) Result: case affirmed

19 (d) Date of appeal: December 14, 2016

20 (Attach copy of order or decision, if available).

21 14.) If you did not appeal, explain briefly why you did not: \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_

24 15. Other than a direct appeal from the judgment of conviction and sentence, have you previously  
25 filed any petitions, applications or motions with respect to this judgment in any court, state or  
26 federal? Yes \_\_\_\_\_ No ☒  
27  
28

1 16. If your answer to No 15 was "Yes", give the following information:

2 (a) (1) Name of court: \_\_\_\_\_

3 (2) Nature of proceedings: \_\_\_\_\_

4 \_\_\_\_\_

5 (3) Grounds raised : \_\_\_\_\_

6 \_\_\_\_\_

7 \_\_\_\_\_

8 (4) Did you receive an evidentiary hearing on your petition, application or motion?

9 Yes \_\_\_\_ No \_\_\_\_

10 (5) Result: \_\_\_\_\_

11 (6) Date of result: \_\_\_\_\_

12 (7) If known, citations of any written opinion or date of orders entered pursuant to each

13 result: \_\_\_\_\_

14 (b) As to any second petition, application or motion, give the same information:

15 (1) Name of Court: \_\_\_\_\_

16 (2) Nature of proceeding: \_\_\_\_\_

17 (3) Grounds raised: \_\_\_\_\_

18 (4) Did you receive an evidentiary hearing on your petition, application or motion?

19 Yes \_\_\_\_ No \_\_\_\_

20 (5) Result: \_\_\_\_\_

21 (6) Date of result: \_\_\_\_\_

22 (7) If known, citations or any written opinion or date of orders entered pursuant to each

23 result: \_\_\_\_\_

24 (c) As to any third or subsequent additional application or motions, give the same

25 information as above, list them on a separate sheet and attach.

26 \_\_\_\_\_

27 \_\_\_\_\_

28 \_\_\_\_\_

1 (d) Did you appeal to the highest state or federal court having jurisdiction, the result or action  
2 taken on any petition, application or motion?

3 (1) First petition, application or motion?

4 Yes \_\_\_\_ No \_\_\_\_

5 Citation or date of decision: \_\_\_\_\_

6 (2) Second petition, application or motion?

7 Yes \_\_\_\_ No \_\_\_\_

8 Citation or date of decision: \_\_\_\_\_

9 (e) If you did not appeal from the adverse action on any petition, application or motion,  
10 explain briefly why you did not. (You may relate specific facts in response to this question. Your  
11 response may be included on paper which is 8 1/2 x 11 inches attached to the petition. Your response  
12 may not exceed five handwritten or typewritten pages in length). \_\_\_\_\_

13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 17. Has any ground being raised in this petition been previously presented to this or any other  
16 court by way of petition for habeas corpus, motion or application or any other post-conviction  
17 proceeding? If so, identify:

18 (a) Which of the grounds is the same: No

19 \_\_\_\_\_  
20 (b) The proceedings in which these grounds were raised: \_\_\_\_\_

21 \_\_\_\_\_  
22 (c) Briefly explain why you are again raising these grounds. (You must relate specific facts  
23 in response to this question. Your response may be included on paper which is 8 1/2 x 11 inches  
24 attached to the petition. Your response may not exceed five handwritten or typewritten pages in  
25 length). \_\_\_\_\_

1 18. If any of the grounds listed in Nos. 23(a), (b), (c), and (d), or listed on any additional pages  
2 you have attached, were not previously presented in any other court, state or federal, list briefly what  
3 grounds were not so presented, and give your reasons for not presenting them. (You must relate  
4 specific facts in response to this question. Your response may be included on paper which is 8 1/2 x  
5 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten  
6 pages in length). \_\_\_\_\_  
7 \_\_\_\_\_

8 19. Are you filing this petition more than one (1) year following the filing of the judgment of  
9 conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay.  
10 (You must relate specific facts in response to this question. Your response may be included on  
11 paper which is 8 1/2 x 11 inches attached to the petition. Your response may not exceed five  
12 handwritten or typewritten pages in length). \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_

15 20. Do you have any petition or appeal now pending in any court, either state or federal, as to the  
16 judgment under attack?

17 Yes \_\_\_\_\_ No ☒

18 If "Yes", state what court and the case number: \_\_\_\_\_  
19 \_\_\_\_\_

20 21. Give the name of each attorney who represented you in the proceeding resulting in your  
21 conviction and on direct appeal: Ross Smillie

22 Travis E. Shetter  
23 \_\_\_\_\_  
24 \_\_\_\_\_

24 22. Do you have any future sentences to serve after you complete the sentence imposed by the  
25 judgment under attack?

26 Yes \_\_\_\_\_ No ☒ If "Yes", specify where and when it is to be served, if you know: \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_

## Ground One

Ineffective assistance of counsel. Trial counsel failed to call or list witnesses.

(Strickland v Washington 966 U.S. 668 1984)

(U.S. v Tucker 716 F2d 576 9th Cir) This is a due process violation of petitioners 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> amendment rights to the U.S. Constitution.

Trial counsel failed to list or call defense expert Dr. Steven Gabaeff MD. Counsel had Dr. Gabaeff ready to testify at the initial jury trial, which was postponed because neither the defense doctor nor the state's doctor were available to testify at that date. Trial counsel failed to utilize Dr. Gabaeff at the bench trial.

To directly dispute Corla Carpenter's injuries (Exhibit 1) Dr. Gabaeff's notes) were Dr. Gabaeff says quote "Two different stories about the assault with result of severe fracture to (R) orbit. Unnecessary ophthalmologic care before incident and after too, including a surgery that was most likely not necessary." followed by "This is a trumped up case of conjunctivitis milked for multiple visits and two false dx iritis and episcleritis... with pay and conjunctivitis



Ground One pg(2)

doesn't pay". Finally quote "Double vision and sunken eye" quote "No documentation on that... and not noted by others".

This statement directly disputes the state's doctor's finding. It also shows the state's doctor is misdiagnosing Carpenter for fraudulent billing purposes.

Trial attorney Shetler testified in the jury trial that quote "we would ask to continue this matter because we think that having no doctor here to talk about anything for the jury is a little to risky because that is one of the aggravating factors of the crimes were charged with".

After that statement; not to call the doctor is negligence on behalf of the trial attorney.

If Dr. Gabaëff would have testified.

The credibility of the state's doctor would be impeachable and very unbelievable. Therefore bolstering the self defense claim.

Trial counsel failed to list or all the security guard who witnessed Carpenter

Ground One pg (3)

running through TJ Max with a knife and crowbar. Wick Carpenter lied about during direct testimony and cross-examination. Thus committing perjury. For which she should have been impeached and brought up on charges.

The TJ-Max security guard would testify to the fact that Carpenter is a raving lunatic. By running through TJ-Max with a knife and crowbar, over the fact that a person who owed her \$. Didn't have everything that was owed to Carpenter.

If the security guard testifies. That allow's the defense to impeach the victim's credibility. And since this is a he said / she said case. That is crucial to the self-defense claim.

By not calling the guard. That prejudiced Genardo Perry.

## Ground two

Ineffective assistance of counsel. Trial counsel's failure to have the knife tested for finger prints and DNA. (Strickland v Washington) (Sanborn v State 107 Nev 399, 812 P2d 1279) (US v Agurs 49 LED 2d) (McGuire v State 100 Nev 153; 677 P2d 1060)

Trial counsel absolutely should have had the knife tested to prove that Carpenters fingerprints and petitioners DNA was on the knife. Combine this with the fact that petitioner was cut on his chest (see exhibit one) by carpenter. This would prove petitioners side of the story. Which is crucial to the self-defense aspect of this case.

It is crucial in a he said/she said case that all evidence is checked and verified. Since trial counsel failed to have the fingerprints and DNA tested. That is ineffective assistance at the highest level. This prejudiced the petitioner as this evidence would have had the charges lowered to a simple domestic violence on both people involved.

## Ground two pg (2)

There is even the probability that Corla Carpenter should be brought up on charges for fabricating evidence (blood on the walls ect) in-order to trump up charges on the petitioner. Since carpenter is a paralegal. She knows how to manipulate the system and the people who operate within it. Carpenter refers to the state as "her legal team".

## Ground three

Ineffective assistance of counsel. Trial counsel's failure to raise the issue that the criminal complaint fails to list the address or cross roads of the incident. And the appellant attorney failed to raise the issue on direct appeal. (Strickland v Washington) (Alvarado v state 912 P2d 943) (State v Harnish 954 P2d 1180) (US v Vauages 151 F3d 1185 9<sup>th</sup> cir)

This is a due process violation of the 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> amendment rights to the U.S. Constitution.

The state's complaint is fraudulent and doesn't follow the Nevada Rules of Court procedure. The complaint must contain a physical address at which the crime occurred. Not just the county. In this case there isn't any address on the

### Ground three pg 2

complaint. Therefore it's fraudulent and incomplete. Both trial and appeal attorney failed to raise this issue. This is negligence and ineffective assistance. The prejudice here is overwhelming.

### Ground four

Ineffective assistance of counsel. Trial counsel failed to object to the removal of the self-defense instructions. (Strickland v Washington) (Weggant v Duckame 774 F2d 1491 9th cir) (Riley v State 808 P2d 551) (Mumy v State 430 P2d 121) This is a due process violation of the 5th, 6th, 8th and 14th amendment right to the U.S. Constitution.

Trial counsel failed to object to the judge not allowing the self-defense instructions. As the judge stated the defense had not shown any evidence of self-defense. The decision of guilt has to be decided before the judge can say there was no evidence of self-defense. Trial counsel should have objected to reserve the issue for appeal. A plain objection is enough to reserve the issue for appeal. This is ineffective assistance and prejudice the petitioner as self-defense

Ground four pg 2  
was the basis of the defense at trial.

### Ground five

Ineffective assistance of trial counsel.

Trial counsel waived the pre-liminary hearing.  
(Strickland v Washington) This is a due  
process violation of the 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup>  
amendment rights to the U.S. Constitution.

Trial counsel was ineffective for waiving  
the right to petitioners preliminary hearing.  
Counsel would have been able to question  
the witness on all inconsistencies. Such  
as the blood on the walls and garage floor.  
Also the fact that she poured bleach on  
the petitioners clothes and cut his  
chest with a knife. This would have  
changed or dropped all charges. This  
prejudiced the petitioner and cost him  
30 years of his life.

### Ground six

Ineffective assistance of counsel. Trial  
counsel failed to have Carla Carpenter  
take a psychiatric examination before  
trial. (Strickland v Washington) (State v Osgood)

## Ground six pg 2

2003 SD 87, 667 N.W. 2d 687 S.D. 2003)

trial counsel failed to get a pre-trial psychiatric examination of Corla Carpenter. "The purpose of a psychological or psychiatric examination of the victim is to detect any thought disorders or distortion of perceptions that might effect the credibility of the complaining witness" (State v Osgood)

In this case Carpenter is diagnosed with multiple psychiatric issues. And this was a he said/she said case. Therefore the mental status of Carpenter is crucial to this case. Also Carpenter changed her story multiple times to different people. In this particular case. Carpenter's state of mind plays a big role in the self-defense claim. By not having Carpenter tested, the trial counsel was unable to effectively cross-examine Carpenter about the fabricated crime scene. This prejudice the petitioner. A psychiatric evaluation is critical to get this case dropped or atleast the charges lowered.

## Ground Seven

Ineffective assistance of counsel. Trial counsel called petitioner quote "A drug-addled maniac". (Strickland v Washington) (Byford v State 994 P2d 700)

Ground seven pg 2

Trial counsel called petitioner "a drug-addled mainiac" in the closing argument. This destroyed any possibility of showing petitioners self-defense claim to have any credibility. The petitioner cannot overcome the prejudice at this point of the trial. Before that comment, petitioner had a chance at a rebuttal.

Ground 8

Ineffective assistance of trial counsel. Trial counsel failed to do pre-trial investigation into Carpenter's past. (Strickland v Washington) (Sanborn v State 812 P2d 1297) (U.S. v Vavages 151 F3d 1185 9th cir) This is a due process violation of the 5th, 6th, 8th and 14th amendment rights to the U.S. Constitution.

Trial counsel's failure to investigate Carpenter's life/past. Corla Carpenter is involved in fraud by selling prescription pills. She also has many mental issues, when exposed in court would destroy her credibility. This is crucial in a he said/she said case. Especially since Carpenter used her knowledge of the justice system to up the charges on petitioner. This prejudices the petitioner as it goes to the heart of the self-defense.



## Ground 9

Ineffective assistance of counsel. Trial counsel failed to interview the states doctor before trial (Strickland v Washington) (Sanborn v State) (US v Agurs) This is a due process violation to the 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> amendment rights to the U.S. Constitution.

Trial counsel failed to interview the states doctor who was a expert in his field. But testified alot about the "abuse" factor in this case, with the doctor addmitt's to not being A expert in. The abuse factor in this case changes the charge from domestic violence to assault and or battery. This is huge for a case that has multiple stories to try to determine the truth.

If trial counsel would have interviewed the doctor. The defense would have been able to prepare for that portion of the trial. This prejudiced the petitioner beyond repair.

## Ground 10

Ineffective assistance of trial counsel. Trial counsel failed to interview the TJ-Max security guard. (Strickland v Washington)

## Ground 10 pg 2

(Sanborn v State) (ClS v Agur's) This is a due process violation of the 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> amendment rights to the U.S. Constitution.

Trial counsel failed to interview the T5-MAX security guard, who's testimony is paramount to this case. As Carpenter's actions inside a store with a knife and crowbar, go to the very heart of Carpenter's mental status, which is what made petitioner defend himself the way he did. The security guard has seen Carpenter act like a lunatic in public. This testimony would bolster the petitioner's self-defense claim. By not interviewing this key witness, the trial attorney was unable to impeach Carpenter about her fabricated lie's. This prejudiced the petitioner.

## Ground 11

Ineffective assistance of trial counsel. Trial counsel failed to raise the conflict of interest as the court appointed investigator is married to the justice court judge who ruled on this case. (Strickland v Washington) (Robinson v Nori's 60 F3d 457) (Page v U.S. 884 F2d 300) (ClS v Agur's 49 LED 20)

## Ground 11 pg 2

There's a conflict of interest as the appointed court investigator is married to the judge who ruled on the case. If the investigator had done a better job. The defense would have never waived the preliminary hearing. Thus possibly having the charges reduced or dropped all together. Also alot more investigation needed to be done on all the states witnesses, on the crime scene, the crime scene photo's and all other fabricated evidence. This prejudiced the petitioner.

## Ground 12

Ineffective assistance of trial counsel. Trial counsel failed to address the overlapping charges. (Strickland v Washington) This is a due process violation of the 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> amendment rights to the U.S. Constitution.

Trial counsel failed to file a pre-trial writ or motion to have the overlapping charges of assault with a deadly weapon and battery resulting in substantial bodily harm, dismissed as you cant be convicted of both for the same act. It is either one or the other. These overlapping charges

Ground 12 pg 2

are Carpenters idea as she is trained in criminal law. These convictions are unconstitutional together. It has to be one or the other.

Trial counsel's failure to address this has cost petitioner multiple years of his life.

No doubt this prejudiced the petitioner.

Ground 13

Ineffective assistance of trial counsel. Trial counsel failed to investigate the crime SCENE and bleach used on petitioners clothes by Corla Carpenter. (Strickland v Washington) (Sanborn v State) (US v Agurs) This is a due process violation of the 5<sup>th</sup> 6<sup>th</sup> 8<sup>th</sup> and 14<sup>th</sup> amendment rights to the U.S. Constitution.

Trial counsel failed to investigate the crime SCENE. At which Corla Carpenter poured bleach on petitioners clothes. (Exhibit one) This shows the erratic behavior by Carpenter that would support the self-defense claim by petitioner. Anyone pouring bleach on anything, is to ruin it or change the evidence. This should have been investigated by defense counsel, this prejudiced the petitioner.

## Ground 14

1  
2 The effective assistance of counsel. Trial  
3 counsel failed to investigate blood on the  
4 floor and walls. (Strickland v Washington)  
5 (Sanborn v State) (US v Agurs) This is a due  
6 process violation of the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and  
7 14<sup>th</sup> amendment rights to the U.S. Constitution.

8  
9 Trial counsel failed to investigate the  
10 residence where Corla Carpenter fabricated  
11 a crime scene. This is a failure to raise  
12 the fabricated evidence defense. (Tejada v  
13 Dubois 142 F3d 18 1<sup>st</sup> cir 1998)

14 Corla Carpenter went throughout the residence  
15 placing blood in specific places to fabricate  
16 a story to up the charges on petitioner. Carpenter  
17 also was the one to take specific pictures  
18 that the state used at trial. This causes a  
19 chain of custody issue with the pictures as  
20 the witness is not a investigator or cop. These  
21 pictures could be altered to support carpenter's  
22 story. Carpenter refers to "her legal team"  
23 at the sentencing testimony. That infers the  
24 DA, prosecutor and cops are working for Carpenter.  
25 That would be malicious prosecution.  
26 The blood in the garage and on the knife  
27 had to be tested. Because if both

Ground 14 pg 2

people's blood is on the knife and carpenter's blood is on the garage around where the car was. then that supports the self-defense claim. the lack of investigation prejudiced the petitioner and would have led to a acquittal.

Ground 15

ineffective assistance of trial counsel. Trial counsel failed to cross-examine Carpenter about the bleach she used. (Strickland v Washington) (US v Tucker 716 F2d 576 9th Cir)

Trial counsel failed to subject the states case to a adversarial testing process. By failing to question Corla Carpenter about the bleach she poured on petitioners clothes in the bath tub. Nor did counsel question carpenter about the fabricated pictures, blood marks or multiple inconsistencies. By just leaving these questions un-asked. This placed the burden of proof on the petitioner. Those facts would have led to a acquittal.

## Ground 16

Ineffective assistance of counsel. Trial counsel failed to correct petitioner's PSI. (Strickland v Washington) (Stockmeier v State 255 P3d 209)

This is a due process violation of the 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> amendment rights to the U.S. Constitution.

Trial counsel failed to have the PSI corrected. There are incorrect dates for past issues, shortcomings in completed sentences and a truck load of lies in the victim impact statement.

All these caused the court to impose maximum penalties on all charges. This was not addressed in district court or direct appeal. So now I must address this in the habeas.

Trial counsel's failure to correct the PSI. Has added many more years on the petitioner's sentence. This prejudice the petitioner.

## Ground 17

Ineffective assistance of counsel. Trial counsel failed to file a motion for a new trial. (Strickland v Washington) This is a due process violation of the 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> amendment rights to the U.S. Constitution.

Ground 17 pg 2

1  
2 Trial counsel failed to file a motion for  
3 a new trial within (7) days of the verdict  
4 (NRS 176.09187)

5 Counsel should have filed a motion using the  
6 fact the court ruled on the jury instructions  
7 deciding on petitioner's guilt before the  
8 verdict had been announced. Then using  
9 that to limit the jury instructions. This  
10 prejudiced petitioner.

Ground 18

11  
12 Ineffective assistance of counsel. Trial  
13 counsel failed to investigate the fraud  
14 by Carpenter. (Strickland v Washington)  
15 (Sanborn v State) (Agurs v U.S.) This is a  
16 due process violation of the 5<sup>th</sup> 6<sup>th</sup> 8<sup>th</sup> and  
17 14<sup>th</sup> amendment rights to the U.S. Constitution.  
18

19  
20 Trial counsel failed to investigate Corla  
21 Carpenters fraud with Dr. Bruce, who  
22 is currently incarcerated for the mass  
23 sales of prescription pills. Carpenter was  
24 a knowing participant. This goes directly  
25 to Carpenters credibility. This is a he said/  
26 she said case. So this investigation  
27 is crucial in order to impeach Carpenter



Ground 18 pg 2  
at trial. This prejudiced petitioner.

### Ground 19

The effective assistance of trial counsel.  
Trial counsel's cumulative errors.  
(Strickland v Washington) (US v Kladavris  
739 F. Supp 1221) (Ramseyer v Wood 69 F3d  
1434 9th Cir)

This case has set a new record for  
the cumulative error effect. This  
is what happens when one person  
acts as a judge and jury. Even if  
the court does not find a single ground  
is enough to grant a new trial.  
The cumulative errors definitely  
do warrant a new trial.

Notes on Perry for Smillie and Shetler  
By Steven Gabaeff, MD

Summary

Two different stories about assault with result of severe fracture to R orbit. Unnecessary ophthalmologic care before incident and after too, including a surgery that was most likely not necessary.

Extensive pain med use by AV over long time

Knife not analyzed for blood

\* Her version kicked in face ... his version...punched her in face after attempted stabbing and bleach in face and eyes to stop her

\* No bleach noted by cops or cloths with bleach found ... he denies stealing her car which she says he did...but found in another location locked

\* He accuses her of selling pain pills, insurance fraud, abusing pain meds, pulling a knife on someone else

Physical findings c/w with either story...

- Any evidence of her pulling a knife in store?
- Insurance fraud

Ophthal turns conjunctivitis into multiple problems and tests ... looks like billing fraud ... then cross referral to colleagues and operation follow generating \$\$ ... that does no good and probably was not necessary

Gets 12K of dental work ... 3 crowns and 2 extractions with implants in the area of punch ...probably all related to incident but some pre-existing poor dentition were probably present

2-6-15 Email re new records ... respond review my notes ... possible report?

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Exhibit 1

### INITIAL TC...12-4

~~X~~ Substantial bodily injury to eye socket ... kicked her in head ... showed up in court with eye patch ... said I need surgery but she never seemed to have it ... GBI or not?

Indigent defense

CV \$300 EIN ... 4 hours

Lawman3158@gmail.com

Initial TC/notes .2h

### DEMO

AP1 James Retic 29 yo Perp in 12-9-13 incident

AV1 Tomeeka Penderson (Kenderson?) 29yo ... from the 12-9-13 incident

- This seems to be another case

AP2 Genero Perry born 1976... 5'8" 165#

AV2 Corla Carpenter born 1975... age 38 yo ... 5'2" 135#

### POLICE REPORTS

#### PRIORS

##### 1-26-13 incident

Subject Toumekeea Penderson in back yard with male in house with 4 juveniles ... hears crying ... male is James ... little girl comes out ... noise of him barricading himself ... may be in attic ... all kids out ... he leaves ... Mo to shelter with kids

##### 12-9-13

Battery DV with Penderson and Retic

AV says pregnant and Fa beat her ... punching and kicking ... and biting upper R arm through sweatshirt ... with visible injury ... to hosp ... and incident closed that day

DOI

##### Stmt of AV Tomeeka

Returned from shopping ... took phone ... against wall ... kneed her in stomach ... swung and hit chest ... she had him pinned with arm which he bit ... kneed her again and left ... 15w pregnant with his baby

- This grey material seems to be another case

##### DOI 5-1-14 0800

AV version ... Dating on and off 6 months ... ex BF ... came get to things 5-31 and stayed over ... "late" ... in am wanted to borrow \$5k to get drugs ... No ... he grabs knife ... threatens to kill her and family ... he lunges with knife ... physical altercation ... banged head on floor and kicked her in face several times ... she tried to call ... he grabs phone and throws it ... she could not leave ... he grabs keys for car ... shows knife ... I'm taking this ... phone in toilet ... threats to kill her and ex-husband if she calls cops ... take 99 Mercedes ... later found at Karen Ct ... police observe multiple injuries on AV

##### Evidence

Found knife in garage with blood

• Who's blood on knife found in garage?

Exhibit 1

## DV report

- Repeats same history

### Photos with DV report

Injuries to face and eyes

- Need real pics of AV at scene on disc

## CSI

Blood in kitchen on floor, tissue on counter, bathroom wall ... bedding in master BeR

## Written Stmt of AV 5-1

Attempted to kill me...accused me of things ... called my family names...

- No mention of the \$5K

Kicked me in head ... lunged with knife ... blacked eye with Nike boots ... threw phone and in toilet...stole car ... threats if I called police ...sells crack cocaine

PH of Lupus and sickle cell anemia

## 5-11-14

- A possible contact with AP

## 5-17-14

A found and arrested on other warrants... burglary... battery DV...strangulation...of someone else  
Detective in this case finds out about arrest and books him for this 5-1 incident

## 5-20 Booking for 5-1-14 incident

Robbery, False imprisonment, Grand larceny, Assault with DV, threats, assault with deadly weapon

## 7-18-14 DEFENSE AP INTERVIEW IN JAIL

States argument with AV 4 d before DOI...on 5-1 at 0100 to house to get things ... asked to sleep ... she had MD appt in am ... he said see you later ... she said not sure she wanted him there... argument about her Mo and ex-husband... heated ...she put his cloths in bathtub and poured bleach on them

- Any cloths with bleach or smell of bleach when cops arrived
- Not mentioned in reports

Then she gets control of bleach and splashes him in face

- Any evidence of injury?

He calls her a bitch...she punches him in face and kicks ...he couldn't see with bleach in eyes

- He would have to get medical care for this
- This is very serious

She grabs knife and swings ...cuts his upper chest

- Any scar?

He grabs knife she bites his finger

- Any pics of those injuries he alleges?

He is bleeding all over from finger and chest

- Did they DNA test the blood to see who's was who's

Fight to ground and he starts hitting her in the face...she is dazed and he leaves...denied taking car...says he walked to get cab

- That doesn't seem plausible that they would find it somewhere else them locked

Says he left because warrants ...didn't want jail... and thought police would not believe him

Investigator says he has scar on chest and finger

Exhibit 1

D says that AV was arrested for chasing someone with a knife in store...states she abuses and sells prescription drugs...her MD was arrested for issuing false Rx... oxycodone...she staged and incident on the freeway to get insurance settlement

• Any proof of AV's insurance fraud? Chasing with knife?

He was going to sign plea deal at that time

## MEDICAL RECORDS

- DOI 5-1-14

### EYE CARE

12-17-12

Conjunctivitis on tobramycin

Meds: ... Cymbalta...vicodin...Xanax... oxycodone...Lamotrigine...fentanyl 50 mcgm/hour

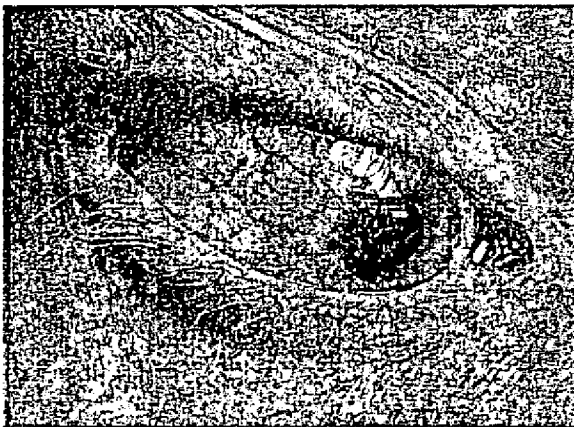
- Heavy narcotics use

Dx's episcleritis nodular OD

#### Research on Episcleritis

Episcleritis is a benign, self-limiting inflammatory disease affecting part of the eye called the episclera. The episclera is a thin layer of tissue that lies between the conjunctiva and the connective tissue layer that forms the white of the eye (sclera). Episcleritis is a common condition, and is characterized by the abrupt onset of mild eye pain and redness.

There are two types of episcleritis, one where the episclera is diffusely affected (diffuse episcleritis), and the other where nodules are present in the episclera (nodular episcleritis). Most cases have no identifiable cause, although a small fraction of cases are associated with various systemic diseases. Often people with episcleritis experience it recurrently. Treatment focuses on decreasing discomfort, and includes lubricating eye drops. More severe cases may be treated with topical corticosteroids or oral anti-inflammatory medications (NSAIDs).



- This sounds trumped up ... seems like conjunctivitis is more likely ...
- Many visits thereafter
- Does she have insurance?

Other medical problems ... depression and anxiety ... Rx with prednisone and Besivance and acular (NSAID-antiinflam drops)

- Besivance is an antibacterial solution so treating bacterial conjunctivitis as well
- Acular will make things slightly better...not heal

12-19-12

She can't get Besivance due to insurance...eye slightly better ... sends her to cornea specialist and rheumatologist

- Does not give another covered antibiotic ABX

Return after Cornea MD Yee

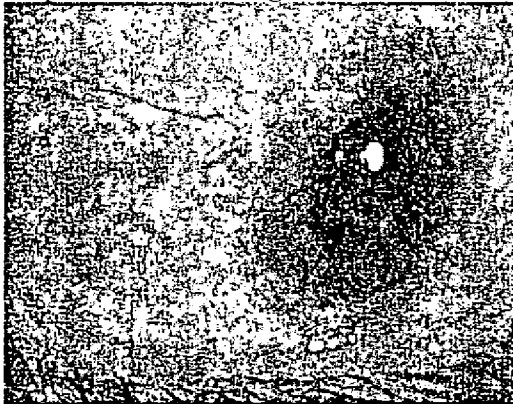
- He is setting up multiple visits to bill
- Yee sends her to Liebowitz who does surgery that is probably not necessary

12-28-12

Still has pain...he indicates she is taking the Besivance

- Probably not

Stop meds and he diagnosis iritis now and states conjunctival pinguecula



- This is common and like a pterygium
- He is totally scamming the system in NV

1-2-13

Eye matted ... put on Keflex 500 bid and back on drops

- That she may or may not have

Saw Yee 4 days ago and stopped meds

To see Rheum 1-11

1-14-13

Eyes flare up ... told by Rheum to stop meds ...going to have blood work

Wants something for pain and to stop flare-ups

Restart meds Prednisone and Acular

- Then she is not seen till after the DOI
- Never got the right meds
- This is a trumped up case of conjunctivitis milked for multiple visits and two false dx iritis and episcleritis... which pay and conjunctivitis doesn't pay

ED DOI 5-1-14

She is patient of Bruce and a pain MD

(Help her get pain pills Roxy)

Exhibit 1

c/o pain to R > L eye...dried blood at nose...lips...abrasions to upper and lower lips  
tender L ribs  
Tender L pinky no swelling abrasions L 4<sup>th</sup> and R 2<sup>nd</sup> digit  
CT face ... R orbital fractures ... floor lamina papyracea (upper nose)...hematomas of R ethmoid  
and max sinus  
BL nasal fractures...superolateral wall of R max sinus too...R orbital emphysema  
C-spine... brain ...chest ...abd ...pelvis...L hand...all WNL

#### FU AFTER DOI

##### 5-6-14 PMD

Pain ...balance issues  
More pain meds given

##### 5-13-14 PMD

Still having pain ...Renew pain meds

##### 5-13-14 EYE FU

...flashing ... floater ...light sensitivity ...vision worse...depth perception off  
Gets pics ... cupping noted by MD

- Not seen by me ...seems normal and not noted in exam

Also calls lattice degeneration

\*Says glaucoma suspect ...pressure 20 BL ...normal

- This is another bogus dx

##### 5-15-14 FU AT SWAN LAKE MEDICAL

Anxiety and depressed...in Victim's abuse program...  
Chip of R upper incisor...chip and has crack and wobbly  
Open wound of mouth noted too

##### 5-20-14 DENTAL RECORDS ALL SMILES

Starts with a context of being attacked  
No feeling in 6-7-8 and fracture of 4-5 ...these not restorable

- Seems to be R sides

DX 6-8 necrotic nerve... rec root canal

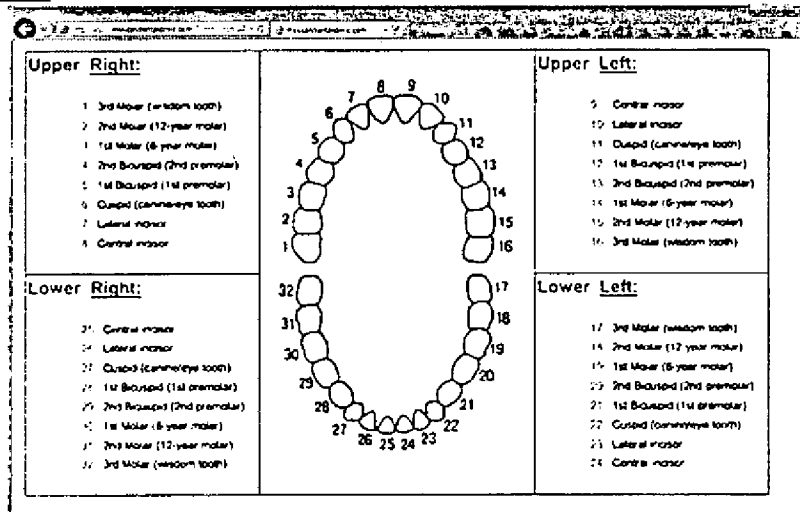
4-5 extraction and implants

- These tee tar upper right in the areas that had fractures



Exhibit 1

## Dental teeth numbers



### 5-27-14 LIEBOWITZ PRE SURG

Schedules surgery

Says diplopia and enophthalmus

- Double vision and sunken eye
- No documentation of that ...and not noted by others
- Any pre-op photos of eye for AV showing enophthalmus?

### 6-13-14 EYE FU

Schedules R orbit exploratory surgery and implants and conjunctivoplasty

BL pressure = 18 ...normal

Fundus nerve test

Visual field tests

### 7-18-14 EYE FU

No improvement with surgery ... still had double vision

- This was not reported before

Visual acuity worse

No evidence of glaucoma

### 7-24-14 DENTAL

Root canals and extractions done

Percocet 100/325...but pt says she didn't fill as of 7-26

### 7-31-14 DENTAL

Crowns in

- The double dose size

Total bill \$12.6K

## NEEDS

- Need real pics of AV at scene on disc
- Any pics of those injuries the AP alleges?
- What about the bleach aspects? Any comments while none smelled or seen?
- Any proof of AV's insurance fraud?

Exhibit 1

- Any pre-op photos of eye for AV showing enophthalmus?
- Phone in toilet?

1 WHEREFORE, Genaro Remy, prays that the court grant a new trial  
2 relief to which he may be entitled in this proceeding.

3 EXECUTED at SDCC  
4 on the 11 day of January, 20 17

5  
6 Genaro R. Remy  
7 Signature of Petitioner

8 VERIFICATION

9 Under penalty of perjury, pursuant to N.R.S. 208.165 et seq., the undersigned declares that he is  
10 the Petitioner named in the foregoing petition and knows the contents thereof; that the pleading is  
11 true and correct of his own personal knowledge, except as to those matters based on information and  
12 belief, and to those matters, he believes them to be true.

13  
14 Genaro R. Remy  
15 Signature of Petitioner

16  
17  
18 \_\_\_\_\_  
Attorney for Petitioner

CERTIFICATE OF SERVICE BY MAILING

I, Genaro Perry, hereby certify, pursuant to NRCP 5(b), that on this 11  
day of January, 20 17, I mailed a true and correct copy of the foregoing, "

Writ of habeas corpus

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Clerk of the court  
200 Lewis Ave 3rd floor  
LV NV  
89155

Attorney General  
100 N. Carson Street  
Carson City NV  
89710-4717

Clark County DA  
200 Lewis Ave 3rd floor  
LV NV  
89155

CC:FILE

DATED: this 11 day of January, 20 17

Genaro L. Perry  
Genaro Perry #11533166  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

Writ of habeas corpus  
(Title of Document)

filed in District Court Case number \_\_\_\_\_

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

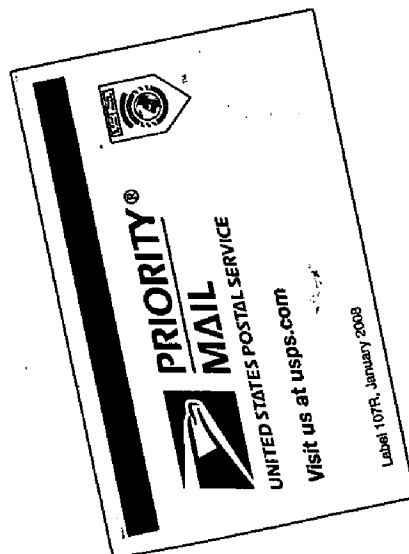
Genaro L. Perry  
Signature

1-11-17  
Date

Genaro Perry  
Print Name

\_\_\_\_\_  
Title

Genaro Richard Perry 1153366  
P.O. Box 208  
Indian Springs NV 89070



3768

P/S # 2184112  
10f2

Clerk of the Court  
200 Lewis Ave 3rd floor  
Las Vegas NV  
89155

CONFIDENTIAL

Salmon 14607

558

FILED

FEB 07 2017

CLERK OF COURT

Genaro Perry ID NO. 1153366

SOUTHERN DESERT CORRECTIONAL CTN.  
20825 COLD CREEK RD.  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

Clark County District Court

Genaro Perry  
petitioner

v.

State of Nevada  
defendant

CASE NO.: C298879

DEPT. NO.: VI

DOCKET:

Motion for a new trial with newly  
discovered evidence. Motion to vacate

COMES NOW, Genaro Perry, herein above respectfully  
moves this Honorable Court for an Motion for a new trial  
with newly discovered evidence. Motion to  
vacate

This Motion is made and based upon the accompanying Memorandum of Points and  
Authorities,

DATED: this 11 day of January, 2017

BY: Genaro R Perry  
Genaro Perry  
Defendant In Proper Personam

C-14-298879-1  
MNTR  
Motion for New Trial  
4621763



16

PPUR  
PP  
DA  
HUR-  
T. Shetty

RECEIVED  
FEB 07 2017  
CLERK OF THE COURT



ADDITIONAL FACTS OF THE CASE:

Here comes now Genaro Perry. Through and by himself. Under NRS 176.515, the court may grant a new trial to the petitioner. If required as a matter of law or on the grounds of newly discovered evidence. This is brought forth under federal rule of evidence 33.

Petitioner would ask the court to have the knife tested for Corla Carpenters fingerprints and petitioners DNA. As it was petitioners blood on the knife.

Carpenter cut Genaro. This goes purely to the self-defense claim. Also Carpenters mental state of mind.

Petitioners trial counsel failed to have the testing done.

Trial counsel also failed to raise the issue about the cuts on Carpenters hands.

Therefore petitioner would ask the court to authorize the fingerprint and DNA test.

This issue is also being raised for the new special prosecutor to look at. That has received funding through Steve Watson. Petitioner would request a motion on to be granted on this issue. Also to vacated the sentence.

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**CERTIFICATE OF SERVICE BY MAILING**

I, Genaro Perry, hereby certify, pursuant to NRCP 5(b), that on this 11  
day of January, 2017, I mailed a true and correct copy of the foregoing, "Motion for a new trial, motion to vacate"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

Clerk of the Court

CC:FILE

DATED: this 11 day of January, 2017.

Genaro R Perry  
Genaro Perry #1153366  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
**IN FORMA PAUPERIS:**

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

Motion for a new trial, motion to vacate  
(Title of Document)

filed in District Court Case number C298879

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

Genaro R Perry  
Signature

1-11-17  
Date

Genaro Perry  
Print Name

\_\_\_\_\_  
Title

*Heather D. Kordenbrock*

CLERK OF THE COURT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\*\*\*\*

State of Nevada

vs

Genaro Perry

Case No.: C-14-298879-1

Department 6

**NOTICE OF HEARING**

Please be advised that the above-entitled matter has been scheduled for Motion for New Trial, Motion to Withdraw Counsel, Motion to Appoint Counsel, to be heard by the Honorable Elissa F. Cadish, at the Regional Justice Center, 200 Lewis Ave, Las Vegas, Nevada 89101, on the 24th day of April, 2017, at the hour of 8:30 AM, in Department 6.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Heather Kordenbrock

Heather Kordenbrock, Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

I hereby certify that this 24th day of February, 2017

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

Genaro Perry #115336

PO Box 208

Indian Springs, NV 89070

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

Steven B Wolfson

/s/ Heather Kordenbrock

Heather Kordenbrock, Deputy Clerk of the Court

1 PPOW

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

5 GENARO RICHARD PERRY,

6 Petitioner,

7 vs.

8 STATE OF NEVADA,

9 Respondent,

Case No: C-14-298879-1  
Department 6

**ORDER FOR PETITION FOR  
WRIT OF HABEAS CORPUS**

10  
11 Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction Relief) on  
12 February 07, 2017. The Court has reviewed the Petition and has determined that a response would assist  
13 the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and  
14 good cause appearing therefore,

15 **IT IS HEREBY ORDERED** that Respondent shall, within 45 days after the date of this Order,  
16 answer or otherwise respond to the Petition and file a return in accordance with the provisions of NRS  
34.360 to 34.830, inclusive.

17 **IT IS HEREBY FURTHER ORDERED** that this matter shall be placed on this Court's  
18 Calendar on the 24<sup>th</sup> day of April, 2017, at the hour of

19  
20 9:30 o'clock for further proceedings.

21 C-14-298879-1  
22 OPWH  
Order for Petition for Writ of Habeas Corpus  
4626630



24 

25 District Court Judge BKL

26 **RECEIVED**

**FEB 24 2017**

**CLERK OF THE COURT**

**THIS SEALED  
DOCUMENT,  
NUMBERED PAGE(S)  
688 - 689  
WILL FOLLOW VIA  
U.S. MAIL**



IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR THE  
COUNTY OF CLARK

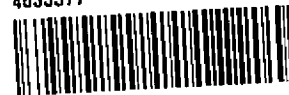
Genaro Richard Perry )  
Petitioner, )

v. )

State of Nevada )

Respondent. )

C-14-298879-1  
LSF  
Left Side Filing  
4833377



Case No. C-14-298879-1

Dept. No. 6

ORDER FOR TRANSPORTATION OF INMATE FOR COURT APPEARANCE  
OR, IN THE ALTERNATIVE, FOR APPEARANCE BY TELEPHONE OR VIDEO  
CONFERENCE

Based upon the above motion, I find that the presence of Petitioner  
Genaro Richard Perry is necessary for the hearing that is scheduled in this  
case on the 24<sup>th</sup> day of April, 2017, at  
8:30 am.

THEREFOR, IT IS HEREBY ORDERED that,

☐ Pursuant to NRS 209.274, Warden JO Gentry  
of Southern Desert Correctional Center is hereby commanded to have  
Petitioner Genaro Richard Perry transported to appear before me at a hearing  
scheduled for April 24<sup>th</sup> 2017 at 8:30 am at the  
CLARK County Courthouse. Upon completion of the hearing,

RECEIVED

MAR 21 2017

CLERK OF THE COURT  
690

2

1. Petitioner Genaro Richard Perry is to be transported back to the above  
2. named institution.

3.  
4. ☐ Pursuant to NRS 209.274(2)(a), Petitioner shall be made available for telephonic  
5. or video conference appearance by his or her institution. My clerk will contact  
6. \_\_\_\_\_ at \_\_\_\_\_ to make  
7. arrangements for the Court to initiate the telephone appearance for the hearing.  
8.

9. Dated this \_\_\_\_\_ day of \_\_\_\_\_.

10.  
11.  
12. \_\_\_\_\_  
13. District Court Judge  
14.  
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26.  
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28.  
29.

Original to Court

Electronically Filed  
03/22/2017 01:07:29 PM

Genaro Richard Perry

Alvin D. Lamm

NDOC No. 1153366

CLERK OF THE COURT

S.D.C.C. P.O. Box 208

Indian Springs, NV 89070  
In proper person

IN THE 8<sup>th</sup> JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR THE  
COUNTY OF Clark

Genaro Richard Perry )

Petitioner, )

v. )

Case No. C-14-298879-1

State of Nevada )

Dept. No. 6

Respondent.)

April 17, 2017 at 8:30am

MOTION AND ORDER FOR TRANSPORTATION  
OF INMATE FOR COURT APPEARANCE

OR, IN THE ALTERNATIVE,  
FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE

Petitioner, Genaro Richard Perry, proceeding pro se, requests  
that this Honorable Court order transportation for his personal appearance or, in the  
alternative, that he be made available to appear by telephone or by video conference  
at the hearing in the instant case that is scheduled for April 24<sup>th</sup> 2017  
at 8:30am.

1 In support of this Motion, I allege the following:

2 1. I am an inmate incarcerated at Southern Desert Correctional Center  
3 My mandatory release date is 2026.

4  
5 2. The Department of Corrections is required to transport offenders to and  
6  
7 from Court if an inmate is required or requests to appear before a Court in this state.  
8

9 NRS 209.274 Transportation of Offender to Appear Before Court states:

10 "1. Except as otherwise provided in this section, when an offender is  
11 required or requested to appear before a Court in this state, the  
12 Department shall transport the offender to and from Court on the day  
13 scheduled for his appearance.

14 2. If notice is not provided within the time set forth in NRS 50.215, the  
15 Department shall transport the offender to Court on the date scheduled  
16 for his appearance if it is possible to transport the offender in the usual  
17 manner for the transportation of offenders by the Department. If it is  
18 not possible for the Department to transport the offender in the usual  
19 manner:

20 (a) The Department shall make the offender available on the date scheduled  
21 for his appearance to provide testimony by telephone or by video conference,  
22 if so requested by the Court.

23 (b) The Department shall provide for special transportation of the offender to  
24 and from the Court, if the Court so orders. If the Court orders special  
25 transportation, it shall order the county in which the Court is located to  
26 reimburse the Department for any cost incurred for the special transportation.

27 (c) The Court may order the county sheriff to transport the offender to and  
28 from the Court at the expense of the county."

29 3. My presence is required at the hearing because:

☒ I AM NEEDED AS A WITNESS.

My petition raises substantial issues of fact concerning events in which I participated and about which only I can testify. See *U.S. v. Hayman*, 342 U.S. 205 (1952) (District Court erred when it made findings of fact concerning Hayman's knowledge and consent to his counsel's representation of a witness against Hayman without notice to Hayman or Hayman's presence at the evidentiary hearing).

☒ THE HEARING WILL BE AN EVIDENTIARY HEARING.

My petition raises material issues of fact that can be determined only in my presence. See *Walker v. Johnston*, 312 U.S. 275 (1941) (government's contention that allegations are improbable and unbelievable cannot serve to deny the petitioner an opportunity to support them by evidence). The Nevada Supreme Court has held that the presence of the petitioner for habeas corpus relief is required at any evidentiary hearing conducted on the merits of the claim asserted in the petition. See *Gebers v. Nevada*, 118 Nev. 500 (2002).

4. The prohibition against ex parte communication requires that I be present at any hearing at which the state is present and at which issues concerning the claims raised in my petition are addressed. U.S. Const. amends. V, VI.

5. If a person incarcerated in a state prison is required or is requested to appear as a witness in any action, the Department of Corrections must be notified in writing not less than 7 business days before the date scheduled for his appearance in Court if the inmate is incarcerated in a prison located not more than 40 miles from Las Vegas. NRS 50.215(4). If a person is incarcerated in a prison located 41 miles or more from Las Vegas, the Department of Corrections must be notified in writing not less than 14 business days before the date scheduled for the person's appearance in Court.

6. Southern Desert Correctional Center is located approximately 40 (forty) miles from Las Vegas, Nevada.

1 7. If there is insufficient time to provide the required notice to the Department  
2 of Corrections for me to be transported to the hearing, I respectfully request that this  
3 Honorable Court order the Warden to make me available on the date of the  
4 scheduled appearance, by telephone, or video conference, pursuant to NRS  
5 209.274(2)(a), so that I may provide relevant testimony and/or be present for the  
6 evidentiary hearing.

7 8. The rules of the institution prohibit me from placing telephone calls from  
8 the institution, except for collect calls, unless special arrangements are made with  
9 prison staff. Nev. Admin. Code DOC 718.01. However, arrangements for my  
10 telephone appearance can be made by contacting the following staff member at my  
11 institution: N/A, N/A,  
12 whose telephone number is N/A

13  
14 Dated this 16<sup>th</sup> day of March, 2017.

15 Genaro Richard Leroy 1153366

16  
17  
18 Genaro Richard Leroy 1153366

**CERTIFICATE OF SERVICE BY MAILING**

I, Gerrardo Richard Perry, hereby certify, pursuant to NRCP 5(b), that on this 16<sup>th</sup> day of MARCH, 2017, I mailed a true and correct copy of the foregoing, "Motion and Order FOR TRANSPORTATION OF INMATE FOR COURT APPEARANCE OR, IN THE ALTERNATIVE, FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE." by placing document in a sealed pre-postage paid envelope and deposited said envelope in the United State Mail addressed to the following:

STEVEN D. GRIERSON  
CLERK OF THE COURT  
200 LEWIS AVENUE, 3<sup>RD</sup> FLOOR  
LAS VEGAS, NV  
89155-1160

STEVEN WOLFSON  
DISTRICT ATTORNEY  
200 LEWIS AVENUE  
LAS VEGAS, NV  
89155-2212

CC:FILE

DATED: this 16<sup>th</sup> day of MARCH, 2017.

Gerrardo Richard Perry  
Gerrardo Richard PERRY # 1153366  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Motion And Order  
FOR TRANSPORTATION OF INMATE FOR COURT APPEARANCE OR, in the  
ALTERNATIVE, FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE  
(Title of Document)

filed in District Court Case number C-14-298879-1

☒ Does not contain the social security number of any person.

-OR-

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

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

Gerrard Richard Perry  
Signature

3/16/17  
Date

Gerrard Richard Perry  
Print Name

Petitioner  
Title



Genaro Richard Leroy 1153366  
P.O. Box 208

Indian Springs, NV 89010

3763

Box 2184903

Lot 2

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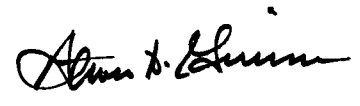
STEVEN D. GRIERSON Clerk of the Court  
200 Lewis Avenue 3rd Floor

8910138300 0075

"IN God WE TRUST"

Psalms 146:7

RECORDED

  
CLERK OF THE COURT

1 **OPPS**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 MICHELLE SUDANO  
6 Deputy District Attorney  
7 Nevada Bar #013260  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12 GENARO RICHARD PERRY,  
13 #1456173,  
14 Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

15 STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR NEW TRIAL WITH  
16 NEWLY DISCOVERED EVIDENCE AND MOTION TO VACATE

17 DATE OF HEARING: APRIL 24, 2017  
18 TIME OF HEARING: 8:30 AM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County  
20 District Attorney, through MICHELLE SUDANO, Deputy District Attorney, and hereby  
21 submits the attached Points and Authorities in Opposition to Defendant's Motion for New  
22 Trial with Newly Discovered Evidence and Motion to Vacate.

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

26 ///

27 ///

28 ///

///

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On June 15, 2014, the State filed an Information charging Defendant Genaro Perry  
4 ("Defendant") with: Count 1 – Robbery with Use of a Deadly Weapon (Felony – NRS  
5 200.380, 193.165); Count 2 – False Imprisonment with Use of a Deadly Weapon (Felony –  
6 NRS 200.460(3)(b)); Count 3 – Grand Larceny Auto (Felony – NRS 105.228(3)); Count 4 –  
7 Assault with a Deadly Weapon (Felony – NRS 200.471(2)(b)); Count 5 – Coercion (Felony –  
8 NRS 207.190(2)(a)); Count 6 – Battery Resulting in Substantial Bodily Harm Constituting  
9 Domestic Violence (Felony – NRS 200.481, 200.485, 33.018); and Count 7 – Preventing or  
10 Dissuading Witness or Victim from Reporting Crime or Commencing Prosecution (Felony –  
11 NRS 199.305).

12 Defendant waived his right to a jury and requested a bench trial. Defendant's bench  
13 trial began on September 29, 2015. On October 1, 2015, he was found guilty on all counts. On  
14 January 6, 2016, the Court sentenced Defendant to the Nevada Department of Corrections as  
15 follows:

- 16 • Count 1 – maximum of 120 months and minimum of 36 months,  
17 plus a consecutive sentence of maximum of 120 months and  
18 minimum of 36 months for the use of a deadly weapon;
- 19 • Count 2 – maximum of 60 months and minimum of 18 months,  
20 concurrent with Count 1;
- 21 • Count 3 – maximum of 96 months and minimum of 24 months,  
22 consecutive to Counts 1 and 2;
- 23 • Count 4 – maximum of 60 months and minimum of 18 months,  
24 concurrent with Count 3;
- 25 • Count 5 – maximum of 60 months and minimum of 18 months,  
concurrent with Count 4;
- Count 6 – maximum of 48 months and minimum of 18 months,  
concurrent with Count 5; and,
- Count 7 – maximum of 36 months and minimum of 12 months,  
concurrent with Count 6.

26 The Judgment of Conviction was filed on January 22, 2016.

27 ///

28 ///

1 Defendant filed a Notice of Appeal on November 4, 2015. On December 14, 2016, the  
2 Nevada Court of Appeals affirmed Defendant's Judgment of Conviction. Remittitur issued on  
3 January 10, 2017.

4 On February 7, 2017, Defendant filed the instant Motion for New Trial with Newly  
5 Discovered Evidence and Motion to Vacate. The State's Opposition follows.

### 6 **STATEMENT OF FACTS**

7 Corla Carpenter met Defendant in the summer of 2013 and the two began dating in the  
8 fall of 2013. Reporter's Transcript- Bench Trial, Day 1 (hereinafter "BT Vol. 1"), Sept, 29,  
9 2014, at 39-40. The two dated on and off until sometime in the middle or end of April 2014.  
10 Id. at 41. On the night of April 30, 2014, Defendant showed up to Carpenter's house uninvited.  
11 Id. at 42. Defendant indicated that he wanted to get his blood pressure medication and some  
12 other items that had been left at Carpenter's house when they broke up. Id. at 42-43. Carpenter  
13 agreed to let Defendant into the house, but told him there would be no physical contact  
14 between the two of them and that he would have to gather his things and go immediately in  
15 the morning. Id. at 42-43. Carpenter and Defendant went to sleep in her bed with little  
16 additional conversation. Id. at 43-44.

17 Carpenter woke up at about 7:00 am the next morning and found Defendant present in  
18 the bedroom completely clothed. BT Vol. 1 at 43-44. Carpenter told Defendant that it was  
19 time for him to get his things together to leave. Id. at 44-45. Defendant became agitated and  
20 started insulting Carpenter and her family. Id. at 45-46. Growing concerned, Carpenter sat up  
21 in bed and started to reach for her phone so that she could call 911. Id. Defendant lunged for  
22 Carpenter's phone and threw it against the wall, stating that she was not going to call the  
23 police. Id. at 46-47.

24 After Defendant threw her phone, Carpenter got out of her bed and tried to close herself  
25 in the attached bathroom. BT Vol. 1 at 46. Before she reached the bathroom, Defendant  
26 punched her in the face, causing her to fall into the bathroom and strike her head on the toilet.  
27 Id. at 47. While Carpenter was still on the ground inside the bathroom, Defendant punched her  
28 in the face several more times. Id. Carpenter began struggling to get away from Defendant and

1 was able to bite his hand. Id. at 47-48. After Carpenter bit Defendant, she was able to  
2 momentarily get away from Defendant and started to run down the stairs. Id. at 48.

3 When Carpenter was about halfway down the stairs, Defendant caught up to her and  
4 kicked her down the rest of the stairs. BT Vol. 1 at 50-51. Carpenter landed in the middle of  
5 the kitchen on her stomach. Id. at 51. Defendant followed Carpenter into the kitchen and  
6 punched and kicked her repeatedly on the right side of her body as she was balled up in the  
7 fetal position on the floor. Id. at 51-52. While Carpenter was still on the ground and begging  
8 Defendant to stop beating her, he reached up and retrieved a steak knife from the kitchen  
9 counter. Id. at 52-53. Carpenter sat up and Defendant began swinging the knife at Carpenter,  
10 cutting her across the fingers. Id. at 53. Defendant then forced Carpenter up and walked her  
11 into the living room with the knife to her back. Id.

12 Defendant forced Carpenter to sit down on a loveseat in the living room. BT Vol. 1 at  
13 54. Defendant, still holding the knife, began to pace back and forth in front of Carpenter. Id.  
14 at 54. Defendant continued to threaten Carpenter and stated, "look at your eye; look at what  
15 you made me do." Id. at 54-55. For the next 50 minutes, Defendant kept Carpenter on the  
16 loveseat while he threatened to kill her and stated that she was, "going to see Allah tonight."  
17 Id. at 55.

18 Eventually, Carpenter stood up to go to the bathroom so that she could see her injuries,  
19 with Defendant still holding the knife to her back. BT Vol. 1 at 55. When Carpenters got into  
20 the bathroom, she began to smear blood on the walls and the sink, hoping to leave signs of a  
21 struggle. Id. at 55-56. After Carpenter was able to look at her injuries, Defendant walked her  
22 back to the couch at knife point. Id. at 57-58. As she sat on the loveseat a second time,  
23 Carpenter started trying to calm Defendant down and to reassure him that her injuries would  
24 heal and things would be okay. Id. at 58.

25 While Carpenter was still sitting on the couch, Defendant found Carpenter's car keys  
26 on the coffee table in the living room. BT Vol. 1 at 58-59. Defendant picked up the keys and  
27 told her that he was taking the car because he had gone with her to buy it. Id. at 59-60. After  
28 he picked up the keys, Defendant turned the knife back to Carpenter and forced her back

1 upstairs into the guest bathroom. Id. at 60. As he was walking her up the stairs, Defendant told  
2 Carpenter that he was going to leave in her car and that if she came out of the bathroom before  
3 he was gone, he would kill her. Id. at 60-61. After Defendant placed Carpenter into the  
4 bathroom, he went back into Carpenter's bedroom and retrieved her cell phone. Id. at 61.  
5 Defendant then threw the cell phone into the toilet and left the bathroom after telling Carpenter  
6 that she would not be able to call police. Id. at 61-62.

7 As Carpenter sat in the bathroom, she heard the motor to her car and the garage door  
8 opening. BT Vol 1 at 62. Carpenter then ran downstairs and went to a neighbor's house to try  
9 to call for help. Id. After she was unable to find anyone outside to help, she ran back inside  
10 and retrieved her phone from the toilet. Id. at 62-63. Carpenter was able to get the phone to  
11 turn on and called 911. Id. at 63.

12 When police responded to Carpenter's apartment, they located a steak knife on the floor  
13 of the garage, stained with apparent blood. BT Vol. 1 at 64. On May 2, 2014, Carpenter  
14 returned to her house with officers from the Las Vegas Metropolitan Police Department. BT  
15 Vol. 1 at 72-73. While police were present, Carpenter called her insurance company and asked  
16 if they could try to locate her car via its onboard navigation system. Id. at 72-73. The company  
17 reported that the car was located roughly one mile from Carpenter's apartment and officers  
18 took her to retrieve it. Id. at 72-73. Carpenter was unable to immediately recover her vehicle  
19 that day because it only had one set of keys, which were not located with the vehicle. Id. at  
20 73-74.

21 When Carpenter went to the hospital on May 1, 2014, she was diagnosed with a blowout  
22 fracture to the right orbital and a fractured nose. BT Vol. 1 at 65-66. At the time of the trial,  
23 Carpenter was still following up with a retina specialist for ongoing vision issues and had been  
24 diagnosed with trauma-induced glaucoma. Id. at 68-69. Carpenter suffered nerve damage to  
25 the right side of her face and had undergone two surgeries, with a third pending, in an effort  
26 to restore feeling to the right side of her face. Id. Carpenter also lost two teeth on the right side  
27 of her mouth and was working to schedule a dental implant at the time of trial. Id. at 70.  
28 Finally, Carpenter went to eight weeks of physical therapy due to a hip injury sustained when

1 she was kicked by Defendant. Id. at 67-68. On May 27, 2014, Carpenter was assessed by  
2 ophthalmologist Steven Leibowitz for a blowout fracture of her right orbital, which caused her  
3 eye to partially sink into the socket. Id. at 14-15. Roughly six weeks after the attack, Carpenter  
4 received a surgical implant to rebuild her eye socket and allow her eye to sit in the socket at  
5 the appropriate level. Id. at 20-21.

### 6 LEGAL ARGUMENT

7 There is no merit to Defendant's claim that he is entitled to a new trial as a matter of  
8 law. NRS 176.515 provides that, "the court may grant a new trial to a defendant if required  
9 as a matter of law or on the ground of newly discovered evidence." The grant or denial of a  
10 new trial on this ground is within the trial court's discretion. McCabe v. State, 98 Nev. 604,  
11 655 P.2d 536 (1982). In Sanborn v. State, 107 Nev. 399, 406, 812 P.2d 1279, 1284-1285  
12 (1991), the Nevada Supreme Court laid out the requirements for granting a new trial based on  
13 newly discovered evidence:

14 To establish a basis for a new trial on this ground, the evidence must be: newly  
15 discovered; material to the defense; such that even with the exercise of  
16 reasonable diligence it could not have been discovered and produced for trial;  
17 non-cumulative; such as to render a different result probable upon retrial; not  
18 only an attempt to contradict, impeach, or discredit a former witness, unless the  
19 witness is so important that a different result would be reasonably probable; and  
the best evidence the case admits.

20 Id.

21 Defendant fails to lay out any new evidence at all, let alone explain how such evidence  
22 would be material to the defense. Defendant's sole claim of "new" evidence is the fact that the  
23 knife in this case was not tested for fingerprints or DNA before the trial. This is not a situation  
24 where Defendant either did not know of the knife's existence or sought and was denied testing  
25 of the knife before the trial. Rather, all the parties knew about the knife's existence and its  
26 location at the crime scene well prior to trial. Defendant makes nothing more than a bare and  
27 naked allegation that testing of the knife would demonstrate that the victim was injured while  
28 Defendant was defending himself from her attack. Again, this is not new evidence; Defendant

1 was certainly aware of the nature of Carpenter's injuries at the time of trial and could have  
2 presented evidence of self-defense at that time. As such, Defendant is not entitled to a new  
3 trial as a matter of law, particularly where Defendant was aware of the knife's existence before  
4 the trial and DNA testing would not have rendered a different outcome reasonably probable.  
5 Where there is no basis to grant Defendant's Motion for New Trial, there can be no reason to  
6 set aside the verdict and Defendant's request must also be denied.<sup>1</sup>

7 **CONCLUSION**


8 For the foregoing reasons, the State respectfully requests that Defendant's Motion for  
9 New Trial with Newly Discovered Evidence and Motion to Vacate be DENIED.

10 DATED this 6th day of April, 2017.

11 Respectfully submitted,

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

15 BY

16   
17 MICHELLE SUDANO  
18 Deputy District Attorney  
19 Nevada Bar #013260  
20  
21  
22  
23  
24  
25  
26  
27

28 <sup>1</sup> To the extent Defendant seeks to have his case reviewed by the Conviction Review Unit, that request is not properly before this Court and also does not establish a legal basis for a new trial.



CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing State's Opposition to Defendant's Motion for New Trial with Newly Discovered Evidence and Motion to Vacate was made this 7<sup>th</sup> day of April, 2017, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

Genaro Richard Perry  
Southern Desert Correctional Center  
P.O. Box 208  
Indian Springs, Nevada 89070-0208

BY: Theresa Dodson  
Theresa Dodson  
Secretary for the District Attorney's Office

MS/td/dvu

  
CLERK OF THE COURT

RSPN  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
RYAN J. MACDONALD  
Deputy District Attorney  
Nevada Bar #12615  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,  
  
Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS  
CORPUS, REQUEST FOR AN EVIDENTIARY HEARING, AND MOTION TO  
APPOINT COUNSEL

DATE OF HEARING: April 24, 2017  
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through RYAN J. MACDONALD, Deputy District Attorney, and hereby submits the attached Points and Authorities in Response to Defendant's Petition for Writ of Habeas Corpus, Request for an Evidentiary Hearing, and Motion to Appoint Counsel.

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

///

///

///

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On June 15, 2014, the State filed an Information charging Defendant Genaro Perry  
4 ("Defendant") with: Count 1 – Robbery with Use of a Deadly Weapon (Felony – NRS  
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6 NRS 200.460(3)(b)); Count 3 – Grand Larceny Auto (Felony – NRS 105.228(3)); Count 4 –  
7 Assault with a Deadly Weapon (Felony – NRS 200.471(2)(b)); Count 5 – Coercion (Felony –  
8 NRS 207.190(2)(a)); Count 6 – Battery Resulting in Substantial Bodily Harm Constituting  
9 Domestic Violence (Felony – NRS 200.481, 200.485, 33.018); and Count 7 – Preventing or  
10 Dissuading Witness or Victim from Reporting Crime or Commencing Prosecution (Felony –  
11 NRS 199.305).

12 Defendant waived his right to a jury and requested a bench trial. Defendant's bench  
13 trial began on September 29, 2015. On October 1, 2015, he was found guilty on all counts. On  
14 January 6, 2016, the Court sentenced Defendant to the Nevada Department of Corrections as  
15 follows:

- 16 • Count 1 – maximum of 120 months and minimum of 36 months,  
17 plus a consecutive sentence of maximum of 120 months and  
18 minimum of 36 months for the use of a deadly weapon;
- 19 • Count 2 – maximum of 60 months and minimum of 18 months,  
20 concurrent with Count 1;
- 21 • Count 3 – maximum of 96 months and minimum of 24 months,  
22 consecutive to Counts 1 and 2;
- 23 • Count 4 – maximum of 60 months and minimum of 18 months,  
24 concurrent with Count 3;
- 25 • Count 5 – maximum of 60 months and minimum of 18 months,  
26 concurrent with Count 4;
- 27 • Count 6 – maximum of 48 months and minimum of 18 months,  
28 concurrent with Count 5; and,
- Count 7 – maximum of 36 months and minimum of 12 months,  
concurrent with Count 6.

26 The Judgment of Conviction was filed on January 22, 2016.

27 ///

28 ///

1 Defendant filed a Notice of Appeal on November 4, 2015. On December 14, 2016, the  
2 Nevada Court of Appeals affirmed Defendant's Judgment of Conviction. Remittitur issued on  
3 January 10, 2017.

4 On February 7, 2017, Defendant filed the instant Petition for Writ of Habeas Corpus,  
5 Request for an Evidentiary Hearing, and Motion to Appoint Counsel. The State's Response  
6 follows.

### 7 STATEMENT OF FACTS

8 Corla Carpenter met Defendant in the summer of 2013 and the two began dating in the  
9 fall of 2013. Recorder's Transcript ("RT"), 09/30/15, at 39-40. The two dated on and off until  
10 sometime in the middle or end of April 2014. Id. at 41. On the night of April 30, 2014,  
11 Defendant showed up to Carpenter's house uninvited. Id. at 42. Defendant indicated that he  
12 wanted to get his blood pressure medication and some other items that had been left at  
13 Carpenter's house when they broke up. Id. at 42-43. Carpenter agreed to let Defendant into  
14 the house, but told him there would be no physical contact between the two of them and that  
15 he would have to gather his things and go immediately in the morning. Id. at 42-43. Carpenter  
16 and Defendant went to sleep in her bed with little additional conversation. Id. at 43-44.

17 Carpenter woke up at about 7:00 am the next morning and found Defendant present in  
18 the bedroom completely clothed. RT, 09/30/15, at 43-44. Carpenter told Defendant that it was  
19 time for him to get his things together to leave. Id. at 44-45. Defendant became agitated and  
20 started insulting Carpenter and her family. Id. at 45-46. Growing concerned, Carpenter sat up  
21 in bed and started to reach for her phone so that she could call 911. Id. Defendant lunged for  
22 Carpenter's phone and threw it against the wall, stating that she was not going to call the  
23 police. Id. at 46-47.

24 After Defendant threw her phone, Carpenter got out of her bed and tried to close herself  
25 in the attached bathroom. RT, 09/30/15, at 46. Before she reached the bathroom, Defendant  
26 punched her in the face, causing her to fall into the bathroom and strike her head on the toilet.  
27 Id. at 47. While Carpenter was still on the ground inside the bathroom, Defendant punched her  
28 in the face several more times. Id. Carpenter began struggling to get away from Defendant and

1 was able to bite his hand. Id. at 47-48. After Carpenter bit Defendant, she was able to  
2 momentarily get away from Defendant and started to run down the stairs. Id. at 48.

3 When Carpenter was about halfway down the stairs, Defendant caught up to her and  
4 kicked her down the rest of the stairs. RT, 09/30/15, at 50-51. Carpenter landed in the middle  
5 of the kitchen on her stomach. Id. at 51. Defendant followed Carpenter into the kitchen and  
6 punched and kicked her repeatedly on the right side of her body as she was balled up in the  
7 fetal position on the floor. Id. at 51-52. While Carpenter was still on the ground and begging  
8 Defendant to stop beating her, he reached up and retrieved a steak knife from the kitchen  
9 counter. Id. at 52-53. Carpenter sat up and Defendant began swinging the knife at Carpenter,  
10 cutting her across the fingers. Id. at 53. Defendant then forced Carpenter up and walked her  
11 into the living room with the knife to her back. Id.

12 Defendant forced Carpenter to sit down on a loveseat in the living room. RT, 09/30/15,  
13 at 54. Defendant, still holding the knife, began to pace back and forth in front of Carpenter.  
14 Id. at 54. Defendant continued to threaten Carpenter and stated, "look at your eye; look at what  
15 you made me do." Id. at 54-55. For the next 50 minutes, Defendant kept Carpenter on the  
16 loveseat while he threatened to kill her and stated that she was, "going to see Allah tonight."  
17 Id. at 55.

18 Eventually, Carpenter stood up to go to the bathroom so that she could see her injuries,  
19 with Defendant still holding the knife to her back. RT, 09/30/15, at 55. When Carpenter got  
20 into the bathroom, she began to smear blood on the walls and the sink, hoping to leave signs  
21 of a struggle. Id. at 55-56. After Carpenter was able to look at her injuries, Defendant walked  
22 her back to the couch at knife point. Id. at 57-58. As she sat on the loveseat a second time,  
23 Carpenter started trying to calm Defendant down and to reassure him that her injuries would  
24 heal and things would be okay. Id. at 58.

25 While Carpenter was still sitting on the couch, Defendant found Carpenter's car keys  
26 on the coffee table in the living room. RT, 09/30/15, at 58-59. Defendant picked up the keys  
27 and told her that he was taking the car because he had gone with her to buy it. Id. at 59-60.  
28 After he picked up the keys, Defendant turned the knife back to Carpenter and forced her back

1 upstairs into the guest bathroom. Id. at 60. As he was walking her up the stairs, Defendant told  
2 Carpenter that he was going to leave in her car and that if she came out of the bathroom before  
3 he was gone, he would kill her. Id. at 60-61. After Defendant placed Carpenter into the  
4 bathroom, he went back into Carpenter's bedroom and retrieved her cell phone. Id. at 61.  
5 Defendant then threw the cell phone into the toilet and left the bathroom after telling Carpenter  
6 that she would not be able to call police. Id. at 61-62.

7 As Carpenter sat in the bathroom, she heard the motor to her car and the garage door  
8 opening. RT, 09/30/15, at 62. Carpenter then ran downstairs and went to a neighbor's house  
9 to try to call for help. Id. After she was unable to find anyone outside to help, she ran back  
10 inside and retrieved her phone from the toilet. Id. at 62-63. Carpenter was able to get the phone  
11 to turn on and called 911. Id. at 63.

12 When police responded to Carpenter's apartment, they located a steak knife on the floor  
13 of the garage, stained with apparent blood. Id. at 64. On May 2, 2014, Carpenter returned to  
14 her house with officers from the Las Vegas Metropolitan Police Department. Id. at 72-73.  
15 While police were present, Carpenter called her insurance company and asked if they could  
16 try to locate her car via its onboard navigation system. Id. at 72-73. The company reported that  
17 the car was located roughly one mile from Carpenter's apartment and officers took her to  
18 retrieve it. Id. at 72-73. Carpenter was unable to immediately recover her vehicle that day  
19 because it only had one set of keys, which were not located with the vehicle. Id. at 73-74.

20 When Carpenter went to the hospital on May 1, 2014, she was diagnosed with a blowout  
21 fracture to the right orbital and a fractured nose. RT, 09/30/15, at 65-66. At the time of the  
22 trial, Carpenter was still following up with a retina specialist for ongoing vision issues and had  
23 been diagnosed with trauma-induced glaucoma. Id. at 68-69. Carpenter suffered nerve damage  
24 to the right side of her face and had undergone two surgeries, with a third pending, in an effort  
25 to restore feeling to the right side of her face. Id. Carpenter also lost two teeth on the right side  
26 of her mouth and was working to schedule a dental implant at the time of trial. Id. at 70.  
27 Finally, Carpenter went to eight weeks of physical therapy due to a hip injury sustained when  
28 she was kicked by Defendant. Id. at 67-68. On May 27, 2014, Carpenter was assessed by

ophthalmologist Steven Leibowitz for a blowout fracture of her right orbital, which caused her eye to partially sink into the socket. Id. at 14-15. Roughly six weeks after the attack, Carpenter received a surgical implant to rebuild her eye socket and allow her eye to sit in the socket at the appropriate level. Id. at 20-21.

## **ARGUMENT**

### **I. DEFENDANT RECEIVED THE EFFECTIVE ASSISTANCE OF COUNSEL**

Defendant alleges nineteen instances of ineffective assistance of counsel. Nevada has adopted the standard outlined in Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984), for determinations regarding the effectiveness of counsel. Warden v. Lyons, 100 Nev. 430, 432-33, 683 P.2d 504, 505 (1984); Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1113 (1996). Under Strickland, in order to assert a claim of ineffective assistance of counsel, the defendant must prove that he was denied “reasonably effective assistance” of counsel by satisfying a two-pronged test. Strickland 466 U.S. at 686–687, 104 S. Ct. at 2064; see State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993). Under this test, the defendant must show that his counsel’s representation fell below an objective standard of reasonableness, and that, but for counsel’s errors, there is a reasonable probability that the result of the proceedings would have been different. See Strickland, 466 U.S. at 687–688, 694, 104 S. Ct. at 2064, 2068.

“Surmounting Strickland’s high bar is never an easy task.” Padilla v. Kentucky, 559 U.S. 356, 371, 130 S. Ct. 1473, 1485 (2010). The question is whether an attorney’s representations amounted to incompetence under prevailing professional norms, “not whether it deviated from best practices or most common custom.” Harrington v. Richter, 562 U.S. 86, 88, 131 S. Ct. 770, 778 (2011). Furthermore, “[e]ffective counsel does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of competence demanded of attorneys in criminal cases.’” Jackson v. Warden, Nevada State Prison, 91 Nev. 430, 432, 537 P.2d 473, 474 (1975) (quoting McMann v. Richardson, 397 U.S. 759, 771, 90 S. Ct. 1441, 1449 (1970)).

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1 A court begins with a presumption of effectiveness and then must determine whether  
2 the defendant has demonstrated by a preponderance of the evidence that counsel was  
3 ineffective. Means v. State, 120 Nev. 1001, 1011-12, 103 P.3d 25, 35 (2004). The role of a  
4 court in considering allegations of ineffective assistance of counsel is “not to pass upon the  
5 merits of the action not taken but to determine whether, under the particular facts and  
6 circumstances of the case, trial counsel failed to render reasonably effective assistance.”  
7 Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711 (1978) (emphasis added) (citing  
8 Cooper v. Fitzharris, 551 F.2d 1162, 1166 (9th Cir. 1977)).

9 In considering whether trial counsel was effective, the court must determine whether  
10 counsel made a “sufficient inquiry into the information . . . pertinent to his client’s case.”  
11 Doleman v State, 112 Nev. 843, 846, 921 P.2d 278, 280 (1996); citing Strickland, 466 U.S.  
12 at 690–691, 104 S. Ct. at 2066. Once this decision is made, the court will consider whether  
13 counsel made “a reasonable strategy decision on how to proceed with his client’s case.”  
14 Doleman, 112 Nev. at 846, 921 P.2d at 280; citing Strickland, 466 U.S. at 690–691, 104 S. Ct.  
15 at 2066. Counsel’s strategy decision is a “tactical” decision and will be “virtually  
16 unchallengeable absent extraordinary circumstances.” Doleman, 112 Nev. at 846, 921 P.2d at  
17 280; see also Howard v. State, 106 Nev. 713, 722, 800 P.2d 175, 180 (1990); Strickland, 466  
18 U.S. at 691, 104 S. Ct. at 2066.

19 This analysis does not indicate that the court should “second guess reasoned choices  
20 between trial tactics, nor does it mean that defense counsel, to protect himself against  
21 allegations of inadequacy, must make every conceivable motion no matter how remote the  
22 possibilities are of success.” Donovan, 94 Nev. at 675, 584 P.2d at 711; citing Cooper, 551  
23 F.2d at 1166 (9th Cir. 1977). In essence, the court must “judge the reasonableness of counsel’s  
24 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s  
25 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. However, counsel cannot be deemed  
26 ineffective for failing to make futile objections, file futile motions, or for failing to make futile  
27 arguments. Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006).

28 ///



1 Even if a defendant can demonstrate that his counsel's representation fell below an  
2 objective standard of reasonableness, he must still demonstrate prejudice and show a  
3 reasonable probability that, but for counsel's errors, the result of the trial would have been  
4 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing  
5 Strickland, 466 U.S. at 687). "A reasonable probability is a probability sufficient to undermine  
6 confidence in the outcome." Strickland, 466 U.S. at 694, 104 S. Ct. at 2068. A defendant who  
7 contends his attorney was ineffective because he did not adequately investigate must show  
8 how a better investigation would have rendered a more favorable outcome probable. Molina  
9 v. State, 120 Nev. 185, 192, 87 P.3d 533, 538 (2004).

10 Finally, claims asserted in a petition for post-conviction relief must be supported with  
11 specific factual allegations, which if true, would entitle the petitioner to relief. Hargrove v.  
12 State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "Bare" and "naked" allegations are not  
13 sufficient, nor are those belied and repelled by the record. Id.

#### 14 1. Ground 1

15 Defendant complains that counsel was ineffective for failing to list or call the TJ Maxx  
16 security guard or Dr. Gabaeff. Motion at 7-9. However, Defendant cannot demonstrate  
17 deficient performance because counsel retains the authority to determine what witnesses to  
18 call at trial. Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167 (2002). Moreover, counsel did try  
19 to call the security guard, but the Court declined his request. RT, 09/30/15, at 62-64. Counsel  
20 cannot be ineffective for failing to challenge the Court's ruling, as it would have been futile.  
21 Ennis, 122 Nev. at 706, 137 P.3d at 1103.

22 Moreover, Defendant fails to establish prejudice. Defendant asserts that counsel was  
23 ineffective for failing to call Dr. Gabaeff because counsel told the Court that "having no doctor  
24 [at trial] to talk about anything for the jury is a little too risky..." RT, 05/07/15, at 2; Motion  
25 at 8. However, Defendant uses a cherry picked quote in an attempt to mislead the Court as to  
26 counsel's reasonable strategy. Indeed, a review of the record belies Defendant's claim.  
27 Hargrove, 100 Nev. at 502, 686 P.2d at 225. On the second day of trial, during jury selection,  
28 the State and counsel discussed with the Court last-minute witness issues. Id. at 2-9. Counsel's

1 discussed strategy was not to call Dr. Gabaeff, but to introduce Gabaeff's reports through the  
2 State's expert and to argue. Id. at 2-3. Moreover, counsel repeatedly discussed cross-  
3 examining the State's expert, who was the victim's attending physician. Id. at 3, 9. In context,  
4 counsel was more concerned about cross-examining the State's expert than calling his own.  
5 Id. at 9. Moreover, the "Court indicated to [counsel] that he knew his doctor would not be  
6 available and that he would be using the State's witness ...." Court Minutes, 05/07/15.

7 Further, Defendant fails to demonstrate what Dr. Gabaeff's testimony would have  
8 rendered a more favorable outcome probable. See Molina, 120 Nev. at 192, 87 P.3d at 538.  
9 Defendant argues that Dr. Gabaeff would have impeached the credibility of State's expert  
10 because Dr. Gabaeff's notes alleged false billing. Motion at 7-8. First, Defendant fails to  
11 establish how Dr. Gabaeff, having never treated the victim, would establish false billing for  
12 her ailments. Moreover, even Dr. Gabaeff's notes confirm there was a severe fracture to the  
13 orbital structure of the victim's right eye. See Exhibit 1. Indeed, there was substantial  
14 testimony and photographic evidence presented at the bench trial, with respect to the victim's  
15 injuries. RT, 09/29/15, at 14-25, 51-55, 65-72, 76-79. As such, Defendant cannot establish a  
16 more favorable outcome had Dr. Gabaeff testified.

17 Similarly, Defendant cannot establish prejudice for the failure to call the TJ Maxx  
18 security guard. At trial, the victim, Corla Carpenter, testified that she "lost it" in the store and  
19 chased a woman through the store with a crowbar over money. Id. at 74-76, 80-82. As such,  
20 Defendant fails to demonstrate what else the security guard would have testified to at trial. See  
21 Molina, 120 Nev. at 192, 87 P.3d at 538. Accordingly, the Court should deny Defendant's  
22 claim.

## 23 2. Ground 2

24 In Ground 2, Defendant complains that counsel was ineffective for failing to have the  
25 knife tested for DNA and fingerprints. Motion at 10. However, Defendant fails to demonstrate  
26 how further forensic investigation would have rendered a more favorable outcome probable.  
27 Molina, 120 Nev. at 192, 87 P.3d at 538. Indeed, based on the testimony presented at trial, the  
28 results would have confirmed the presence of both the victim's and Defendant's blood and

1 fingerprints on the knife. See RT, 09/29/15, at 53. Further, Defendant's assertion that "this  
2 evidence would have had the charges lowered to a simple domestic violence on both people  
3 involved" is nothing more than a naked assertion suitable only for summary dismissal.  
4 Hargrove, 100 Nev. at 502, 686 P.2d at 225. As such, this Court should deny the claim.

### 5 **3. Ground 3**

6 Defendant next complains that the counsel was ineffective for not challenging the  
7 Criminal Complaint, which failed to list the location of the incident. Motion at 11. However,  
8 a specific address is not required. A criminal complaint is intended solely to put the defendant  
9 on formal written notice of the charge he must defend; it need not show probable cause for  
10 arrest on its face and may simply be drawn in the words of the statute so long as the essential  
11 elements of the crime are stated. Sanders v. Sheriff, 85 Nev. 179, 451 P.2d 718 (1969). As the  
12 victim's address is not an essential element of the crime, it would have been futile to challenge  
13 the lack of address. Ennis, 122 Nev. at 706, 137 P.3d at 1103. Moreover, Defendant has  
14 consistently claimed self-defense; surely he did not need notice of the place where he was  
15 allegedly defending himself. Accordingly, the Court should deny Defendant's claim.

### 16 **4. Ground 4**

17 In Ground 4, Defendant argues that counsel was ineffective for failing to object to the  
18 removal of self-defense instructions. Motion at 12. Defendant waived his right to a jury trial  
19 so that he could put on a self-defense case and testify without a jury learning about his criminal  
20 record. However, at the conclusion of the trial, the Court determined that there was no evidence  
21 of self-defense, so a formal objection by counsel would have been futile. RT, 10/01/15, at 3;  
22 Ennis, 122 Nev. at 706, 137 P.3d at 1103. Moreover, Defendant fails to establish prejudice  
23 because the Nevada Court of Appeals addressed the issue on direct appeal, under the abuse of  
24 discretion standard—as if an objection had been made. Perry v. State, Docket No. 69139  
25 (Order of Affirmance, Dec. 14, 2016). While the Court of Appeals determined that it was error  
26 to reject the self-defense instructions, such error was harmless. Id. at 2-3. Therefore, he cannot  
27 demonstrate a reasonable probability that, but for counsel's errors, the result of the trial would  
28

1 have been different. McNelson, 115 Nev. at 403, 990 P.2d at 1268. Thus, the Court should  
2 deny Defendant's claim.

### 3 **5. Ground 5**

4 Defendant next asserts counsel's ineffectiveness for waiving the preliminary hearing.  
5 Motion at 13. Defendant fails to recognize that it was he, not counsel, who waived the  
6 preliminary hearing. Reporter's Transcript, 06/19/14, at 2-3. As such, counsel cannot be  
7 deemed ineffective for a decision that belonged solely to Defendant. See Rhyne, 118 Nev. at  
8 8, 38 P.3d at 167. As such, Defendant's claim is suitable only for denial.

### 9 **6. Ground 6**

10 In Ground 6, Defendant claims counsel was ineffective for failing to have the Court  
11 order a psychiatric examination of the victim. Motion at 13-14. However, the record fails to  
12 demonstrate a compelling need for an examination. A compelling need for an examination  
13 exists if: (1) the State has called or obtained some benefit from a psychological or psychiatric  
14 expert; (2) the evidence of the crime is supported by little or no corroboration beyond the  
15 testimony of the victim; and (3) a reasonable basis exists to believe that mental or emotional  
16 state of the victim may have affected her veracity. Abbott v. State, 122 Nev. 715, 727-32, 138  
17 P.3d 462, 470-73 (2006). As the record is completely bare of an evidence supporting any of  
18 the three Abbott factors, such a request would have been futile. Ennis, 122 Nev. at 706, 137  
19 P.3d at 1103. As counsel cannot be ineffective for failing to make futile requests, this Court  
20 should deny Defendant's claim.

### 21 **7. Ground 7**

22 Defendant complains that counsel was ineffective for calling him a "drug-addled  
23 maniac," which "destroyed any possibility of showing [] self-defense." Motion at 14-15. First,  
24 counsel was not ineffective for using the term. During the trial, the victim testified on cross-  
25 examination that Defendant had "erratic behaviors" and used and sold drugs. RT, 09/29/15, at  
26 84-86, 88. Moreover, in context, counsel's closing argument focused primarily on the victim's  
27 credibility. Counsel highlighted what he believed to be the unreasonableness of her testimony  
28 in an attempt to discredit her. Id. at 18-20. He focused on the victim's description of past

**PLEADING  
CONTINUES  
IN NEXT  
VOLUME**

# IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant(s),

vs.

THE STATE OF NEVADA,  
Respondent(s),

Case No: C-14-298879-1  
*Related Case A-22-851874-W*  
Docket No: 85042

# RECORD ON APPEAL VOLUME 2

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1 know exactly what's going to happen with my client and his desire to waive or not  
2 waive his right to get on the stand. And from a strategy and legal advice point of  
3 view, I think stopping the bus at the point where we are may well be in my client's  
4 best interest. I just can't --

5 THE COURT: Well, okay. I mean I --

6 MR. SHETLER: -- leave chips on the table.

7 THE COURT: -- hear what you're saying about that, but at the same time  
8 other bad act stuff needs to be at least -- there are times that we -- that Petrocelli  
9 hearings are had right before the trial starts or even during the trial on a break  
10 without the jury. But having said that, there's -- I at least need to know what you're  
11 moving to admit I think. I don't know. I mean I --

12 MR. SHETLER: I don't think I have a basis to -- that's my problem, I don't  
13 have a basis to move to admit anything yet. I mean you need to know what she's  
14 going to say or we all -- it would be great but we're not going to know.

15 THE COURT: So, you want to leave it as, okay, so to the extent that he  
16 raises self-defense at trial and seeks to admit evidence about this incident of which  
17 he was aware to show what he -- to show that it affected his state of mind on this  
18 day, I would grant your request.

19 MR. SHETLER: And with the limitations that you've put on that and the -- to --  
20 I'm comfortable with that. That makes sense and I --

21 THE COURT: But to --

22 MR. SHETLER: -- think that's all they're --

23 THE COURT: -- the extent --

24 MR. SHETLER: -- entitled to --

25 THE COURT: -- you're asking --



1 MR. SHETLER: -- right now.

2 THE COURT: -- for anything else, I would not be granting that yet today.  
3 You're not clearly requesting more than that today, and so you would need to raise it  
4 outside the presence of the jury and take it up and we would need to do whatever  
5 hearings were necessary at that point should you want to introduce more.

6 MR. SHETLER: I would like to leave that option available. I don't want to  
7 waste time during trial and I know we're here today and I'm happy to do that, I just  
8 don't have -- my client is not in a position where he's willing to make the final  
9 decision on that issue right now whether he testifies or testify even in this limited --  
10 even if we were to have the hearing right now in this limited capacity he's not  
11 comfortable with that.

12 THE COURT: Ms. Sudano?

13 MS. SUDANO: I mean I don't know what else we can do here. It sounds like  
14 there's no additional information that we could even have a Petrocelli hearing on at  
15 this point. We've addressed the self-defense --

16 THE COURT: Right.

17 MS. SUDANO: -- prong and the rest of it we'll have to address during trial  
18 if it --

19 THE COURT: Right, but -- so here's --

20 MS. SUDANO: -- becomes relevant.

21 THE COURT: -- what I would say. I mean there is some case law out there  
22 that would indicate that in a dispute between two people that there is some area to  
23 introduce some character evidence about somebody's character for violence or  
24 aggression, whatever you want to call it, but it's also clear that if at least offered by  
25 an accused --

1 MR. SHETLER: Right.

2 THE COURT: -- and it's also clear under NRS 48.045(1) that in that  
3 context it allows similar evidence to be offered by the prosecution to rebut that  
4 evidence and if you're seek -- to the extent you chose to try to go into that area we'll  
5 have to talk about to what extent it opens the door for the State to rebut that by  
6 showing evidence that might indicate to the contrary.

7 MR. SHETLER: Exactly, and that's -- you're correct, Your Honor, and that's  
8 the part where Mr. Perry and I need to have a long, relaxed --

9 THE COURT: Right, because --

10 MR. SHETLER: -- discussion.

11 THE COURT: -- it could certainly end up coming back to bite him.

12 MR. SHETLER: Yes. Yes.

13 THE COURT: Okay.

14 So, I guess I'm granting your motion to admit evidence to the limited  
15 extent I described --

16 MR. SHETLER: As -- yes.

17 THE COURT: -- in connection with a proposed self-defense defense and  
18 based on him knowing about this incident and not getting into the -- and that -- about  
19 the incident itself, not getting into the conviction, not getting into lying about her  
20 name, but focused on the confrontation or, you know, act with the knife or a tire iron  
21 with this woman in the TJ Maxx store.

22 MR. SHETLER: Right.

23 MS. SUDANO: And this also doesn't get into her beliefs about the criminal  
24 justice system or anything like that; right, Your Honor?

25 THE COURT: Right.

1 MS. SUDANO: Right.

2 THE COURT: I don't have anything before me to indicate how that would  
3 become relevant.

4 MR. SHETLER: I understand what you're saying.

5 THE COURT: Okay. So, perhaps one of you should prepare an order so it's  
6 clear what I have and haven't done today.

7 MR. SHETLER: I'm happy to work on that and have Ms. Sudano check and  
8 make sure I've not --

9 THE COURT: And we didn't have the evidentiary hearing, but based on the  
10 representations and the offer of proof made about what she would say satisfied that  
11 those requirements are met under Petrocelli.

12 MS. SUDANO: Thank you, Your Honor.

13 THE COURT: I guess we're done with this for today. I mean we're back next  
14 Monday for calendar call so there's not a whole lot --

15 MR. SHETLER: Right.

16 THE COURT: -- more time.

17 MR. SHETLER: Correct. And my client, of course, is extremely -- there's two  
18 issues -- one other issue I think we should mention. My client does want to remain in  
19 this courtroom. My client is willing -- and it's only a request, it hasn't been decided  
20 and it's not our decision, my client would be comfortable with a bench if the Court -- I  
21 understand the government may have a different opinion about that but we have not  
22 addressed it. We just don't want to give you any extra surprises, Judge.

23 THE COURT: Right. I do have I think one murder case still set the same  
24 week as you so I have to see how that goes. Other cases that were set there that  
25 are high priority cases have for the most part moved off of that week for various

1 reasons but I have at least one left. I mean so I understand and I appreciate your  
2 confidence in me but you know there are so many weeks that nothing goes to trial  
3 but you know then it happens where they all want to go at once and you know we do  
4 the best we can to deal with it. I mean have you yet been in contact with the  
5 witnesses that you'll be bringing to know their availability?

6 MS. SUDANO: We don't have a lot of witnesses on this case to my  
7 knowledge.

8 THE COURT: Well, we already had to continue it once --

9 MS. SUDANO: Correct.

10 THE COURT: -- because one became --

11 MS. SUDANO: One of the doctors.

12 THE COURT: -- not available.

13 MS. SUDANO: Yeah, so they're going to be the hang-up I think again  
14 potentially would be the doctors. To my knowledge at this point we are prepared to  
15 go forward barring some emergency surgery like last time. We shouldn't have an  
16 issue.

17 THE COURT: Okay.

18 MR. SHETLER: My client does understand -- my client understands there are  
19 delays. You'll recall from the last hearing -- I'll stop talking. We've been here a long  
20 time but I think that -- I just don't want to surprise the Court. I want the Court to know  
21 at least as much as we know and --

22 THE COURT: Right.

23 MR. SHETLER: -- [indiscernible].

24 THE COURT: Okay. All right, so that much is granted. We can talk more at  
25 calendar call when I see what else we have on for that week and -- so this criminal

1 stack you're on the second to last week of the stack. The last week of this criminal  
2 stack is October 5<sup>th</sup>. Obviously, -- I mean I've got you know of course a bunch of  
3 cases set every week and --

4 MR. SHETLER: Right.

5 THE COURT: -- you never know if they're going to go or not go, but.

6 MR. SHETLER: Was it a two week stack then or three week stack?

7 THE COURT: No, it's a five week stack but --

8 MR. SHETLER: We're at the end. We're --

9 THE COURT: Right.

10 MR. SHETLER: Okay.

11 THE COURT: Right, its -- right, it started a few weeks ago, so.

12 MR. SHETLER: Okay.

13 THE COURT: Right.

14 So, that's the current stack and then I go into a five week civil and then  
15 the next criminal stack is November 16<sup>th</sup> through December 14<sup>th</sup> weeks.

16 MR. SHETLER: All right, Judge. We'll get an order. Do you need the order  
17 before we're here next Monday?

18 THE COURT: Not necessarily, but certainly before trial.

19 MR. SHETLER: Right. Okay.

20 THE COURT: Okay.

21 MS. SUDANO: Thank you, Your Honor.

22 THE COURT: Thanks.

23 /////

24 /////

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MR. SHETLER: Thank you for the courtesy, Judge.

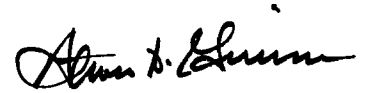
THE COURT: Okay.

[Proceedings concluded at 9:05 a.m.]

\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video recording in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
CYNTHIA GEORGILAS  
Court Recorder/Transcriber  
Eighth Judicial District Court Dept. XVIII



CLERK OF THE COURT

1 **RTRAN**

2  
3  
4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6

7 THE STATE OF NEVADA, )

8 Plaintiff, )

CASE NO. C298879-1

9 vs. )

DEPT. VI

10 GENARO RICHARD PERRY, )

11 Defendant. )

**ROUGH DRAFT**

**TRANSCRIPT OF PROCEEDINGS**

12 )  
13 )  
14 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE  
15 MONDAY, SEPTEMBER 21, 2015

16 **CALENDAR CALL**  
17  
18

19 **APPEARANCES:**

20 For the State:

MICHELLE L. SUDANO, ESQ.  
Deputy District Attorney

22 For the Defendant:

TRAVIS SHETLER, ESQ.

23  
24  
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, SEPTEMBER 21, 2015, at 10:18 A.M.

2  
3 THE MARSHAL: Page 13, State of Nevada v. Perry, Genaro Richard.

4 MR. SHETLER: Good morning, Your Honor.

5 THE COURT: Good morning.

6 State your appearance, please.

7 MR. SHETLER: Travis Shetler on behalf of Genaro Perry who is present, in  
8 custody, Judge.

9 THE COURT: Okay.

10 MS. SUDANO: Good morning; Michelle Sudano for the State, Your Honor.

11 THE COURT: Okay.

12 So, we're on for a calendar call today. Are you ready for trial next  
13 week?

14 MR. SHETLER: We are. I believe we're ready and we can proceed, yes.

15 MS. SUDANO: The State is also ready.

16 THE COURT: How long?

17 MS. SUDANO: Four to five days. The State has 7 to 9 witnesses. One of  
18 them is technically out of state.

19 THE COURT: Okay. Let me -- and I know you've been here a long time  
20 already this morning. I want to hear my other calendar calls and see --

21 MR. SHETLER: That's what we were just talking --

22 THE COURT: -- if I'm going to --

23 MR. SHETLER: -- yeah.

24 THE COURT: -- need to send you to overflow or not.

25 MR. SHETLER: And, Your Honor, we would, as I told you last week --



1 THE COURT: Oh, that's right.  
2 MR. SHETLER: -- Mr. Perry --  
3 THE COURT: You don't --  
4 MR. SHETLER: -- would like to remain.  
5 THE COURT: Right.  
6 MR. SHETLER: He's willing to --  
7 THE COURT: Okay. Right, so to determine --  
8 MR. SHETLER: -- hang.  
9 THE COURT: -- whether I can try it next week or not at a minimum.  
10 MR. SHETLER: Thank you, Judge.  
11 THE COURT: Okay so hang tight and --  
12 MR. SHETLER: Yes.  
13 THE COURT: -- we'll try to figure that out shortly.  
14 MR. SHETLER: Yes, Your Honor.  
15 [Matter trailed at 10:19 a.m.]  
16 [Matter recalled at 11:29 a.m.]  
17 THE COURT: Okay, it looks like I'm available for trial next week. So next  
18 Monday four to five days, so I guess can we start Monday afternoon with jury  
19 selection and move through the week?  
20 MS. SUDANO: Yes, Your Honor.  
21 MR. SHETLER: That would be great.  
22 THE COURT: I want to take a quick look at my --  
23 MR. SHETLER: I do have some help. I have a contractual obligation which  
24 usually requires chunks of the mornings during the week and I have help for next  
25 week to help cover those, but that would be great.

1 THE COURT: Okay, so -- because my criminal calendar next Monday is  
2 going to be pretty hefty. We put a lot over there although the rest of the week  
3 shouldn't be too bad on my end, so Monday at 1:30. Are we okay there? Hopefully  
4 --

5 MR. SHETLER: Yes, Your Honor.

6 THE COURT: -- that means we could get it done next week if we set it there.

7 MS. SUDANO: I anticipate --

8 MR. SHETLER: I feel confident.

9 MS. SUDANO: -- that shouldn't be an issue, Your Honor, no.

10 MR. SHETLER: Yes. And my client would like to renew his request that we  
11 waive the need for a jury, notwithstanding the State of Nevada's not super excited  
12 about that.

13 MS. SUDANO: And the State's not going to agree --

14 THE COURT: Okay.

15 MS. SUDANO: -- to waive the right to a jury trial in this particular case.

16 THE COURT: Okay, that's fine. I understand. So, we will have a jury then  
17 because we don't have a stipulation.

18 So, let's get the trial set for the 28<sup>th</sup> at 1:30.

19 THE CLERK: Okay, September 28<sup>th</sup> at 1:30.

20 THE COURT: And I would ask to get proposed instructions -- well, I'm going  
21 to be out this Wednesday but if you could get them to us Thursday that would be  
22 great.

23 MR. SHETLER: What type of format, Your Honor?

24 THE COURT: In Word with citations and without citations to my assistant, Mr.  
25 Kelly. You can get his e-mail address if you don't have it.

1 MR. SHETLER: I think we do from last time. We're good.

2 THE COURT: Okay, and I think that's about it.

3 MR. SHETLER: I know it's been a long morning and know the Court's  
4 made --

5 THE COURT: It has.

6 MR. SHETLER: -- a decision, my client would very much like to just make a  
7 comment about the need or not need for jury. I don't know if the Court would be  
8 willing to entertain that. I understand --

9 THE COURT: Without a stipulation there's nothing I can do in response to  
10 that. So I appreciate his confidence but the State has a right to a jury trial as well  
11 and if they're exercising that right we're going to have a jury.

12 MR. SHETLER: I understand. I just want to make sure.


13 Thank you, Judge.

14 THE COURT: Okay. Thank you.

15 [Proceedings concluded at 11:31 a.m.]

16 \* \* \* \* \*

17 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
18 audio/video recording in the above-entitled case to the best of my ability.

19   
20 CYNTHIA GEORGILAS  
21 Court Recorder/Transcriber  
22 Eighth Judicial District Court Dept. XVIII  
23  
24  
25

DISTRICT COURT  
CLARK COUNTY, NEVADA

CASE#: C298879

DEPT. VI

Defendant.

BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE  
TUESDAY, SEPTEMBER 29, 2015

**RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS  
BENCH TRIAL - DAY 1**

APPEARANCES:

ROBERT BRAD TURNER, ESQ.  
Chief Deputy District Attorney  
MICHELLE SUDANO, ESQ.  
Deputy District Attorney

TRAVIS E. SHETLER, ESQ.

RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

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[None presented.]

1 TUESDAY, SEPTEMBER 29, 2015 1:35 P.M.

2  
3 THE MARSHAL: All rise. District Court, Department 6 is now in session. The  
4 Honorable Judge Cadish presiding.

5 Please be seated. Come to order.

6 THE COURT: All right, folks, go ahead and state your appearances for the  
7 record.

8 MS. SUDANO: Good afternoon, Your Honor. Michelle Sudano and Brad  
9 Turner on behalf of the State.

10 THE COURT: Okay.

11 MR. SHETLER: Good afternoon, Your Honor. Travis Shetler on behalf of Mr.  
12 Perry, who's present at the counsel table in custody.

13 THE COURT: Okay. So let me just confirm on the record. It's my  
14 understanding that both parties have agreed for this to be a bench trial, with me at  
15 the trier of fact rather than a jury.

16 The State agree?

17 MS. SUDANO: That's correct, Your Honor.

18 THE COURT: Defendants?

19 MR. SHETLER: That is correct, Your Honor.

20 THE COURT: Okay. And I guess part -- because it's a bench trial, rather  
21 than a jury, Mr. Perry was not dressed out --

22 MR. SHETLER: Right.

23 THE COURT: -- today. I've seen him in the jail uniform before, so we know  
24 he's in custody, and I'll still rule based on the facts and the law.

25 MR. SHETLER: Right. Thank you, Your Honor. Noted.

1 THE COURT: Okay. No objection to --

2 MR. SHETLER: On objection.

3 THE COURT: Okay. Thank you.

4 And although -- so we put this over till today from yesterday because  
5 there were some issues about the doctor availability. And now it's my  
6 understanding that he is available.

7 MS. SUDANO: That is --

8 THE COURT: Somehow he made himself available.

9 MS. SUDANO: That is correct, Your Honor. I apologize for all the confusion  
10 and I do want to thank Your Honor and the department for being accommodating  
11 and pushing this back for us for a day in order to attempt to get the doctor here.

12 THE COURT: Okay. Trying to think if -- I did get instructions on the law from  
13 the State. And I -- even though it's a bench trial I think it's useful to have  
14 instructions even, you know, for my own use and to make sure that we're on the  
15 same page about the law that applies as we go through the trial and ultimately when  
16 you argue at the end.

17 I expect that when we end it and I'm -- I'll sort of take some time with  
18 the evidence in chambers and then call you back when I've got a decision. I don't  
19 expect it to be a particularly -- I mean, lengthy time, but however much time it takes  
20 for me to review it and feel comfortable. But there will sort of be a deliberation  
21 among me, myself and I, I guess.

22 MR. SHETLER: Good. That's all we could ask for, Judge.

23 THE COURT: Okay. So with that, is there anything else we need to discuss  
24 before we just do like an opening statement?

25 MR. SHETLER: No, Your Honor. We do think that we can probably wrap up



1 things, if not today, certainly tomorrow.

2 THE COURT: Okay.

3 MR. SHETLER: And Ms. Sudano and I had spoken about what the Court  
4 wanted as far as an opening statement or not. I know her doctor is supposedly  
5 ready to go at 1:30.

6 THE COURT: Okay.

7 MS. SUDANO: I just checked out there. He had not arrived --

8 THE COURT: Okay.

9 MS. SUDANO: -- a few moments ago. He may be there now and I have  
10 confirmed that he's on his way here.

11 THE COURT: Okay.

12 THE MARSHAL: What's his name?

13 MS. SUDANO: Dr. Leivowitz.

14 MR. SHETLER: But we're certainly happy to accommodate the doctor's  
15 schedule if you want to start --

16 THE COURT: Right.

17 MR. SHETLER: However the Court prefers.

18 THE COURT: Sure. So first, before I forget, I think we should schedule to  
19 start I think 10:30 tomorrow. Does that work for you? Is that --

20 MR. SHETLER: I think I have three in the morning. I have a sentencing;  
21 another calendar call, and that's in a court that sometimes take a little bit of time,  
22 Your Honor. I'll try and get it pulled, but that might be a little bit tight to make it by  
23 10:30.

24 THE COURT: Okay.

25 MS. SUDANO: That works for the State, Your Honor. I don't know why --

1 THE COURT: I mean, I'm hoping --

2 MS. SUDANO: -- I was thinking you had --

3 THE COURT: -- I'll be done --

4 MS. SUDANO: Okay.

5 THE COURT: -- with my regular morning calendar by then. The calendar's a  
6 little shorter than some of what we've had lately. That doesn't necessarily mean it's  
7 short, but -- I mean, we could call at, you know, 11 --

8 MR. SHETLER: I'm pretty sure by -- I would know what's going on. If there's  
9 a problem I could give the Court a heads up much before then.

10 THE COURT: Right. I mean --

11 MR. SHETLER: Yeah.

12 THE COURT: We don't have -- I don't have a jury to stress over, so if we run  
13 a few minutes behind 10:30 that's okay. I may be a little behind; you may be a little  
14 behind, but --

15 MR. SHETLER: Thank you, Judge.

16 THE COURT: -- if we can get started then that would be good because --  
17 because of a personal appointment I have, I'd like to be out of here by 3:30  
18 tomorrow. Maybe we'll be done by then, but if we're not I'm going to want to finish,  
19 so we'll see how it goes.

20 MR. SHETLER: That sounds fine, Your Honor.

21 MS. SUDANO: Absolutely, Your Honor.

22 MR. SHETLER: Easily doable. Thank you, Judge.

23 THE COURT: Ten-thirty tomorrow.

24 And then -- so a lot of times when I have -- so usually when I have  
25 bench trials it's in civil cases not criminal cases. It's the second time I've had one in

1 a criminal cases. So -- but usually in a civil case, when I have a bench trial, I read  
2 their pretrial briefs and I don't necessarily ask for an opening. I guess it's up to you  
3 -- I mean, if -- I've seen the instructions and gone through it, but -- and I know we've  
4 had some motion practice, but if you want to quickly outline what you expect to  
5 present it might be helpful just -- especially if we have a minute before the doctor  
6 starts.

7 MS. SUDANO: Absolutely, Your Honor.

8 So in this case the State intends to prove that on the evening of April  
9 30<sup>th</sup> of 2014 the Defendant in this case, Genaro Perry, arrived at his ex-girlfriend's  
10 house, that being Corla Carpenter. They had just broken up after about six months  
11 of dating shortly prior to that. Once Mr. Perry arrived, Ms. Carpenter agreed to let  
12 him stay in the house for the evening and then he was going to take his belongings  
13 and leave the following morning.

14 Early on the morning of May 1<sup>st</sup>, 2014, Mr. Perry woke up and was in an  
15 agitated state. He began making threats and statements to Ms. Carpenter that were  
16 very concerning to her. She attempted to call 9-1-1 while she was still in her bed.  
17 Once she attempted to call 9-1-1 the Defendant took her phone and threw it against  
18 a wall. She tried to get out of the bedroom and into a bathroom to get away from  
19 him. Once that happened, he began punching and kicking her; knocked her to the  
20 ground inside the bathroom. Once she was on the ground in the bathroom the  
21 struggle continued. She was able to pick up -- or pick herself up. She bit the  
22 Defendant to get downstairs.

23 Once she was about halfway downstairs he caught up with her; kicked  
24 her down the remaining stairs and into a landing inside her kitchen. Once she was  
25 in the kitchen, she was still on the ground, he continued to beat and kick her while

1 she was on the ground in the fetal position in the kitchen. He then located kitchen  
2 knife that was on a counter just to her side. He picked up the kitchen knife, began  
3 swinging it at her; forced her to go inside the living room at knife point. While she  
4 was in the living room he continued making threats against her and her family.  
5 Made several statements to her about how he was going to kill her that evening.

6 While she was still in the kitchen he locate -- or he still had that knife,  
7 he located her keys; picked up the keys to her 1999 Mercedes Benz and told her  
8 that he was going to take the car. He then forced her back upstairs at knife point  
9 and put her back into a back bathroom in the house and told her that she was not to  
10 leave until she heard the garage door close. He again threatened to kill her and her  
11 family or cause them great harm if she attempted to leave or call the police. He then  
12 left he bedroom, went and got her cell phone that he had prior -- previously thrown  
13 against a wall, came back into the bathroom and threw the cell phone in the toilet  
14 and again told her not to call the police. She then heard the car leaving and was  
15 able to go downstairs; attempted to leave the house to find a neighbor; was unable  
16 to do so and then used her phone that was still wet to call the police.

17 You're going to also hear from the first responding police officer, Officer  
18 Almedia Bragg, who responded to the scene and was able to observe the injuries to  
19 Ms. Carpenter.

20 You're also going to hear from the crime scene analyst, Danielle Keller,  
21 who was there to document the scene; the blood and the items found at the house,  
22 as well as the kitchen knife with apparent blood on it that was located in the garage.

23 And finally you're going to hear from Officer Justin Terry of the Las  
24 Vegas Police Department; will tell you that the following day, so May 2<sup>nd</sup> of 2014, he  
25 located the victim's car approximately two to three miles away from where she lived

1 and where it had been taken the day prior.

2 And at the end of the evidence the State's going to ask that you, Your  
3 Honor, acting as our trier of fact today, find the Defendant, Genaro Perry, guilty of all  
4 of the counts as charged.

5 THE COURT: Thank you.

6 Mr. Shetler?

7 MR. SHETLER: Your Honor, the crux of our case, there are some of the facts  
8 that are going to be in dispute and some we may be in agreement upon.

9 THE COURT: Mm-hmm.

10 MR. SHETLER: Mr. Perry's position is this stemmed from a dispute regarding  
11 money that was loaned for drug purposes. That he went to get his -- there was a  
12 fallout between the two of them a few days before the alleged date of the incident.  
13 That he went to get his stuff from her house; tried to make arrangements to do that.  
14 There was some discussion about what took place when he got there. What he was  
15 worried about is that she was the aggressor. He knew of her previous incident  
16 where she had used a knife on somebody. Any actions he did take were taken at  
17 self-defense. And that we have -- there's no evidence that's going to tie him to the  
18 Mercedes. But all his actions were taken in self-defense and any injuries that she  
19 sustained as a result of that. There's also a question to the extent of her injuries in  
20 light of the bodily harm charge. We'll get into that with the examination of the  
21 doctor, but the x-rays do show at the emergency room that there was a fracture of  
22 the orbit, so that's challenging.

23 THE COURT: Mm-hmm. Okay, you done?

24 MR. SHETLER: Yes, ma'am.

25 THE COURT: Sorry. Okay.

1 MR. SHETLER: Yes, Your Honor. I apologize.

2 THE COURT: It's all right.

3 Okay. So is the doctor here?

4 THE MARSHAL: I keep checking. I didn't see him. I'll check one more time.

5 THE COURT: Okay.

6 I see that the clerk has been given evidence that he's working on  
7 marking exhibits. Are there any stipulations as to the evidence?

8 MR. SHETLER: Your Honor, last time we were able to stipulate to those. I  
9 don't think we'll have any issue. We'll just go through them one more time. Ms.  
10 Sudano's told me they're same as last time, but I haven't gone through with my  
11 client this time yet. So maybe we could take, once they're done -- marked we'll do  
12 that.

13 THE COURT: Why don't we go off the record while we're waiting for the  
14 doctor and you can do that.

15 MR. SHETLER: Thank you, Your Honor.

16 MS. SUDANO: And, Your Honor --

17 THE COURT: Oh, stay on.

18 MS. SUDANO: -- the named victim is present. I can call her so we don't keep  
19 the Court waiting. If Mr. Shetler wants to look through the exhibits first, and then if  
20 the doctor's still not here we'll call Ms. Carpenter.

21 THE COURT: Okay.

22 MR. SHETLER: That's great. Thanks.

23 THE COURT: All right. Let's go off.

24 [Off the record at 1:46 p.m.]

25 [Proceedings resumed at 1:50 p.m.]

1 THE COURT: So my understanding is defense will stipulate to Exhibits 1  
2 through 37?

3 MR. SHETLER: That's correct, Your Honor.

4 THE COURT: Okay. So they'll be admitted by stipulation then.

5 And my understanding is the doctor's here, so we can get started.

6 MS. SUDANO: That is --

7 THE COURT: Let's go.

8 MS. SUDANO: -- correct, Your Honor. And --

9 THE COURT: Is anybody invoking the exclusionary rule?

10 MS. SUDANO: I was just going to say, yes, the State does, Your Honor.

11 THE COURT: Okay. So we'll make sure that we don't have witnesses in the  
12 courtroom before they testify. Let's go.

13 THE MARSHAL: If you could make your way up into the box and remain  
14 standing. Raise your right hand and face that gentleman right there.

15 **STEVEN LIEVOWITZ**

16 [having been called as a witness and being first duly sworn, testified as follows:]

17 THE COURT CLERK: Thank you. Please be seated.

18 Please state your complete name, spelling both your first and last name  
19 for the record, please.

20 THE WITNESS: Steven with a V -- S-T-E-V-E-N, LEIBOWITZ,  
21 L-E-I-B-O-W-I-T-Z.

22 THE COURT: Go ahead.

23 MS. SUDANO: Thank you, Your Honor.

24 ///

25 ///

1 **DIRECT EXAMINATION**

2 BY MS. SUDANO:

3 Q Sir, how are you employed?

4 A I'm self-employed.

5 Q What's your educational background?

6 A I went to Brandeis University for undergraduate. Then I went to  
7 Columbia College of Physicians and Surgeons in New York for medical school. And  
8 I did my internship in internal medicine at Stanford University. And I did my  
9 ophthalmology residency and fellow -- and fellowship in ophthalmic plastic and  
10 reconstructive surgery and orbital surgery at Harvard University.

11 Q How long have you been practicing medicine?

12 A I think 20 -- 27 -- since 1985.

13 Q Now do you have any additional certifications beyond the ones that  
14 you've already listed?

15 A Well, I'm board certified in ophthalmology by the American Board of  
16 Ophthalmology. And I'm a member of the American Society of Ophthalmic Plastic  
17 and Reconstructive Surgeons, ASOPRS, which isn't really a board certification, but  
18 in order to do that you have to do an approved fellowship, which now I think there's  
19 17. At my time there was only 14 in the country. You have to do a written exam and  
20 an oral -- a written exam, a thesis, and an oral exam.

21 Q Do you have any sort of teaching background?

22 A Yeah, I'm assistant clinical professor at UCLA, the Jules Stein Eye  
23 Institute.

24 Q What do you teach there?

25 A Ophthalmology, ophthalmic plastic and reconstructive surgery.



1 Q Now I want to draw your attention to May 27<sup>th</sup> of 2014. On that day did  
2 you have occasion to consult with a patient named Coral Carpenter?

3 A I have the chart here. If it's okay I'll refer to that.

4 Q Would that refresh your recollection as to the date?

5 A Yeah. I certainly wouldn't know the date without looking at that.

6 THE COURT: Okay, go ahead.

7 THE WITNESS: It was on --

8 THE COURT: So what are you looking at?

9 THE WITNESS: I'm sorry?

10 THE COURT: What are you looking at?

11 THE WITNESS: My note from May 27<sup>th</sup>, 2014 --

12 THE COURT: Okay.

13 THE WITNESS: -- which is the first time I saw the patient.

14 BY MS. SUDANO:

15 Q And that patient was Coral Carpenter?

16 A Correct.

17 Q What was the nature of your consult with her that day?

18 A Well, it was referred by Dr. Voo. She was referred by Dr. Voo, who's  
19 the retinal surgeon, so I assumed that she saw Dr. Voo for a retinal consultation. I  
20 don't really handle inside the eye itself. So I do -- I do -- I'm an oculoplastics and  
21 orbit surgeon, so I was sent because they believed that she had an orbital fracture,  
22 so that's why they sent her to me because we're very sub-specialized in  
23 ophthalmology.

24 Q Now were you able to confirm that she had an orbital fracture?

25 A Well, I was very suspicious of it by the examination, but I also had the

1 CT scan available at the time, which I actually still have in my chart. So when I  
2 looked at the CT scan I could confirm it.

3 Q Which eye fracture --

4 THE COURT: You confirmed that --

5 THE WITNESS: She had a orbital fracture.

6 THE COURT: Okay.

7 BY MS. SUDANO:

8 Q And which eye was that orbital fracture in?

9 A It was the right eye.

10 Q Were you able to determine any other fractures based on the CT scan?

11 A Well, the CT report, if I could read you that, it's fair -- you know, fairly  
12 specific. There it is. The impressions -- you know, they have a whole -- long report,  
13 but this is the impressions.

14 Q Now, doctor, I'm going to interrupt you there; I apologize. Would you be  
15 able to remember all of this information without looking back at your chart?

16 A I can only remember what -- the part that I do, which is that she had a  
17 right orbital fracture. You asked me about other fractures that don't really pertain to  
18 my work; that's why I wanted to review the -- from the chart. But from my -- my  
19 recollection she had a typical blow -- what we call blowout fracture, which is an  
20 orbital fracture of the orbital floor, as well as a fracture of the medial orbital wall,  
21 which is called the lamina papyracea.

22 Q Now when we're talking about the right orbital, where is that on the  
23 face?

24 A The orbit are bones around the eye. Like the socket is -- it would be a  
25 -- you know, layman's way of talking about it. There's four sets of walls around the

1 eye that house it. And when there's a -- what they call a blowout fracture, there's  
2 really two different theories as to how they happen. Both of them are very  
3 interesting in that -- usually happens like from a punch or something like that where  
4 a blunt trauma, where the eye itself compresses almost to -- they've shown this with  
5 fast action photography, compresses to the size of a -- you know, of a pancake, but  
6 doesn't -- the eyeball is more like a rubber ball and doesn't lacerate unless it's a  
7 sharp object.

8           And the two theories as to what causes the blowout fracture are that  
9 when the -- one is that the eyeball, when it expanse, the force of it blows out the  
10 walls at the weakest portions, which are the inferior wall, down below eye, or the  
11 medial wall on the side of the eye. And when I said lamina papyracea for the side of  
12 the eye that's -- means paper plate, so you can it's paper thin. And those both  
13 connect with sinuses. Those walls connect with the two sinuses. The inferior wall  
14 connects with the maxillary sinus and the medial wall connects with the ethmoid  
15 sinus.

16           Q     Now you said that there were two theories for how --

17           A     A second theory is that the actual trauma itself turns the bone itself and  
18 the torque of it blows out the orbits.

19           Q     Now through your training and experience, doctor, are blowout fractures  
20 generally associated with some sort of trauma?

21           A     It's almost always blunt trauma because as you can see if it were -- let's  
22 say with a stick or something or whatever -- the actual orbital rim, which is the bone  
23 you feel right here, doesn't fracture. It's underneath the eye or on the side of the  
24 eye at the weakest points. So it's really a -- an injury that happens from the blunt  
25 trauma, but it's not where directly the trauma hits.

1 Q So if a client were -- or a patient were to have some sort of other  
2 ongoing medical history -- history of say lupus or something along those lines, would  
3 that be consistent with an orbital fracture?

4 A I don't understand the question.

5 Q So if an individual had a pre-existing medical condition, such as lupus,  
6 is that something on its own that could cause an orbital fracture?

7 A No -- no way.

8 Q Okay. Now you indicated that you were able to observe the orbital  
9 fracture on Ms. Carpenter. Were you able to make any other diagnoses on May 27<sup>th</sup>  
10 of 2014?

11 A Well -- I mean, do you want to know what the problems were; why I  
12 thought there was a blowout fracture or what are you asking?

13 Q We'll start there and then we'll go onto the other diagnoses as well.

14 A Okay. So the things that -- the symptoms that people have when they  
15 have a blowout fracture is -- one is the diplopia, in other words, double vision. And  
16 the reason for that is because there are six muscles that move the eye like pulleys.  
17 And the inferior rectus muscle is on directly right below your pupil at the bottom, and  
18 you can see it's right where the orbital rim is. So when there's a fracture, that  
19 muscle becomes somewhat entrapped in the fracture cite itself, so people can't  
20 move their eye up and down real well and that's why they have diplopia. So that's  
21 one of the main things you have. In her particular case, she also had numbness of  
22 the cheek, upper lip and teeth area, which indicates a more posterior fracture; in  
23 other words, a bigger fracture going further back.

24 Q Now did she also report any additional issues, or were you able to  
25 observe any issues perhaps with where the eye was located?

1       A       Well, she had enophthalmos, I'm sure.

2       THE COURT: She had what?

3       THE WITNESS: Enophthalmos, E-N ophthalmos. And -- E-N-O-P-H-T-H-

4       THE COURT: Thank you.

5       THE WITNESS: -- A-L-M-O-S.

6       THE COURT: Thank you.

7       THE WITNESS: Enophthalmos --

8       THE COURT: Uh-huh.

9       THE WITNESS: -- which means the eyeball is sunk in.

10      THE COURT: Okay.

11      THE WITNESS: And the reason for the eyeball being sunk in is pretty

12 obvious and it's a volume question. So the eye is in its normal position, but if there's

13 more volume; in other words, the bone is all of a sudden down, the eyeball sinks in

14 because there's -- it's -- there's -- it's taking up more of the volume of the orbit. It

15 would be like where the attorney is standing --

16      THE COURT: Mm-hmm.

17      THE WITNESS: -- if all of a sudden was a hole in the floor there, she would

18 be halfway into the 14<sup>th</sup> floor.

19      THE COURT: Right.

20      THE WITNESS: Okay. And she would be sink back -- you would only see

21 half of her. That's why you would see -- that's why there's enophthalmos and that's

22 what basically happens when there's a orbital floor fracture. If you could picture

23 where her feet are, are where the inferior rectus muscle is. You can see why it

24 would get entrapped into the fracture cite itself because right now the floor is solid

25 there.

1 THE COURT: Right. We hope so.

2 THE WITNESS: Yeah.

3 MS. SUDANO: I didn't eat lunch, so just everybody's clear.

4 BY MS. SUDANO:

5 Q Now, doctor, so those two additional diagnoses, the enophthalmos and  
6 then the diplopia --

7 A I would call that traumatic enophthalmos, which is the code for it.

8 Q Now -- and is that just related to a trauma?

9 A Correct.

10 Q So those are not two separate diagnoses. Those are more consistent  
11 with just the diagnosis overall of an orbital fracture?

12 A Well, for insurance to approve repair of an orbital fracture -- not every  
13 fracture has to be repaired, okay, because God heals them on their own. They just  
14 -- we want to treat orbital fractures that need to be treated. The ones that need to  
15 be treated are ones that are symptomatic with diplopia, that's one criteria;  
16 enophthalmos is the other criteria. If they just had a fracture that wouldn't be  
17 enough to -- for insurance to approve that.

18 Q Now was the fracture in this case one that did need to be repaired?

19 A Yes.

20 Q Were you actually the surgeon that completed that repair?

21 A I was the surgeon.

22 Q When did that occur?

23 A I'm going to have to ask -- look at the date here of my op report  
24 because --

25 THE COURT: You --

1 BY MS. SUDANO:

2 Q And would that refresh your recollection, doctor?

3 A I hope so. It would have the date on it, so it should -- oh, here it is. And  
4 it was --

5 THE COURT: Okay.

6 BY MS. SUDANO:

7 Q And you're looking at -- you said your op report, doctor?

8 A Well, I didn't even make it there yet, but I'm looking at the face sheet,  
9 which was on 6-14-14. And then the next page is the op report.

10 THE COURT: Okay.

11 BY MS. SUDANO:

12 Q Can you just walk us through, very generally, the surgery that you  
13 performed on --

14 A Okay. We'll get back to the hole in the floor analogy where you're  
15 standing. If you -- if there was a hole in the floor and you were halfway on the 14<sup>th</sup>  
16 floor what would we do? We'd lift you up with a hoist, although you don't seem that  
17 heavy we could just pick you up, and we would put a piece of plywood down  
18 underneath your feet. And the construction people would come and fix the floor and  
19 then everybody would be okay.

20 Same kind of thing in the orbit. We don't usually repair the medial  
21 fracture, the lamina papyracea, even though that does still cause traumatic  
22 enophthalmos -- you know, can cause enophthalmos. We want to fix mostly the  
23 inferior wall problem because the eyeball and the muscle are sinking down into the  
24 sinus; that's not good. So what we do is we -- I go in by a cosmetic approach,  
25 where I go in from the inside of the eyelid called the conjunctiva, so there's no scar

1 on the outside, and I go right down to the orbital bone, the orbital rim right here; you  
2 can feel it. I make an incision in the lining of that bone called the periosteum, and I  
3 lift up the periosteum and try to get everything that was formally in the orbit back in  
4 the orbit. So you want to -- the stuff that's in the sinus, by hand-over-hand  
5 maneuvering you lift it up to -- with both a elevator and a retractor to try to get the  
6 stuff back in the orbit.

7 Q Now when you say the stuff, are you referring to pieces of bone, or  
8 you're referring to the eye matter; what are you referring to?

9 A No, it's the orbital contents. You want to get whatever was in the orbit  
10 before, the periosteum, the muscle, the fat, everything that's now in the sinus that  
11 doesn't belong there back to where it belongs. So then -- I told you we'd put a piece  
12 of plywood underneath your feet, we put an orbital implant there that's to -- to make  
13 the new floor. In her case I used a titan orbital implant, I believe, which is --

14 Q Are you referring back to your op report again, doctor?

15 A Yes, I am. Yeah, titan implant. And that's the state-of-the-art implant in  
16 that it's -- about ten years ago we used just titanium mesh, okay, but a lot of the --  
17 which you use -- like titanium is used in your golf clubs and stuff. But what we found  
18 is that a lot of the orbital contents stuck to the mesh itself. So there's a material  
19 called porex [phonetic], which is devised by the Porex Company, that's -- allows  
20 vascularization to grow into it. So they have the new -- when I put this in, this was a  
21 fairly new implant. Now it's the number one used implant in the country. And it  
22 allows the vascularization to grow into the porex and shields it away from the  
23 titanium.

24 Now you say why would you even do that? The reason I put that  
25 implant in as opposed to just a piece of silastic plastic is that a lot of the floor was



1 missing so you needed more support. So you need a heavier duty implant than -- if  
2 it was just a tiny microfracture that I lifted the stuff up, I would just put a piece of  
3 absorbable implant material and it would've been dissolved in six months. But this  
4 needed some heavy duty support there.

5 Q Now is that because it was a more serious fracture, I believe is how you  
6 characterized it earlier?

7 A Yes.

8 Q Now did you perform any additional operations or functions while you  
9 were operating on Ms. Carpenter?

10 A I don't believe so.

11 Q Okay. Now did you have occasion to see Ms. Carpenter again after  
12 June 14<sup>th</sup> of 2014?

13 A Right. I saw -- I see everyone in post-op always. So I saw her on  
14 6-23-14.

15 Q What was the purpose of that visit?

16 A It's a post-op visit. I check everyone that I operate on post-operatively  
17 to make sure everything's okay.

18 Q Were there any ongoing issues with Ms. Carpenter that concerned you  
19 on that June 23<sup>rd</sup> visit?

20 A It said that she had some slight intermittent diplopia still; in other words,  
21 some intermittent double vision. It was much better, but she still had some  
22 intermittent double vision.

23 Q And so that would've been a week and a half after your surgery --

24 A Right.

25 Q -- she was still suffering from the double vision?

1           A     Yeah.

2           Q     Okay.

3           A     And she also had a -- I wrote a subconj hemorrhage. That was still from  
4 the original trauma; in other words, the weight of eye is covered with -- it kinda looks  
5 like has blood in it, which it does.

6           Q     Was that -- and I'm sorry, you said that that was from the original  
7 trauma?

8           A     Most likely from the original trauma. It could have been from the  
9 surgery, but usually not.

10          Q     Did you observe any of that, or note any of that prior to the surgery; do  
11 you recall?

12          A     I don't recall, but I'll look in my note here. And I don't have it down  
13 there, so it could have been from the surgery. I don't know though.

14          Q     Now -- I believe you already testified that the injuries in this case could  
15 be -- or generally are consistent with trauma; is that fair?

16          A     Correct.

17          Q     Could that be consistent with being kicked in the face in addition to  
18 being punched in the face?

19          A     Kicked or punched; blunt trauma.

20          Q     So could -- would that also be consistent with maybe having your head  
21 struck against the floor or an object?

22          A     Not usually --

23          Q     Okay.

24          A     -- because it -- it really is -- has something like -- has to go in to  
25 compress the eyeball, like the fist or a boot or something, you know. It's not -- it just

1 doesn't happen from, you know, just hitting your head on the floor. When you hit  
2 your head on the floor you just get like a black and blue mark all over your face, but  
3 not an orbital fracture.

4 Q Now can you make any conclusions I suppose about whether the  
5 trauma was from a single blow or from multiple blows?

6 A No.

7 MS. SUDANO: Okay.

8 Court's indulgence.

9 THE COURT: Uh-huh.

10 MS. SUDANO: I apologize, doctor.

11 BY MS. SUDANO:

12 Q Can you make any conclusions or opinions about the amount of force  
13 that would be required to sustain this level of trauma?

14 A Not really. I mean, it's -- you know, it's basically being punched out. I  
15 mean, that's really how I would describe it. I mean, I unfortunately see quite a bit of  
16 this. And lots of times -- you know, as from a -- it's a reportable event. We're  
17 supposed to report abuse of some kind or another. And -- so the first question I ask  
18 is how did this happen. And -- you know, or is -- you know, if the -- if the patient is --  
19 you know, says that oh, the guy's already in jail or something I leave it at that, but  
20 otherwise -- you know, lots of times they try to shield the person who did this, you  
21 know, I try to have more intense questioning about it because it's obvious that this  
22 was, you know, an abuse situation from the clinical pattern.

23 Q Now when you spoke with Ms. Carpenter about this case, did you have  
24 that conversation with her about what happened that caused this trauma?

25 A Absolutely.

1 Q Okay. What did she tell you?

2 A She said she was assaulted and the -- the guy's in jail. And then we  
3 had her sign up for the Victims of Crime.

4 MS. SUDANO: No further questions, Your Honor.

5 THE COURT: Cross.

6 MR. SHETLER: Thank you, Your Honor.

7 Dr. Leibowitz, my name is Travis Shetler and I appreciate you being  
8 here today. Thank you for rearranging your schedule and making yourself available.

9 **CROSS-EXAMINATION**

10 BY MR. SHETLER:

11 Q I want to ask you a couple of questions. The -- you just stated to Ms.  
12 Sudano's last question that it was obvious that this was an abuse situation. Is that  
13 based on what you observed independently of what Ms. Carpenter related to you, or  
14 is that based on what she told you?

15 A It's based on the clinical observation of what I see; that she was  
16 punched out. I assume it was abuse. I mean, it could've been any other kind of  
17 fight, but it looked as though she was punched out. That's --

18 Q And that's -- and that's of course the crux of my concern, you used the  
19 term abuse. It could've been mutual combat; correct?

20 A Well -- I mean, I think when someone gets punched by their significant  
21 other that's abuse. I'm not a lawyer, but that's what it seems like to me.

22 Q Right, but you're not -- you're here to talk about her eye. You're not  
23 here to talk about whether she was a victim of abuse; right?

24 A Well, I'm also -- the reason I came is because I don't think this stuff  
25 should happen. You know, I -- I see -- I have, you know, a sister and daughter and I

1 wouldn't want them punched out and that's how I look at it.

2 Q And I appreciate that. And I could assure you I don't believe there's  
3 anybody in this courtroom, and I could certainly speak for myself, that wants this to  
4 happen to anybody, male or female. It's -- but my concern, because we are in the  
5 courtroom, is your use of the term abuse. Did -- it's entirely possible, based on your  
6 training and expertise, that an injury like this could happen from you and I in a fight;  
7 correct?

8 A Anyone could have punched this person.

9 Q And so when you use the word abuse that brings in some -- an extra  
10 truckload of baggage with it to this courtroom proceeding. Well, you're here --

11 A Well --

12 Q -- to talk about just the mechanism of injury; is that correct?

13 A Well, I'm supposed to as a physician evaluate that also and try to -- as I  
14 said, it's a report -- my understanding is that it's a reportable event for me, so I have  
15 to determine that -- what happened.

16 Q Right. Are --

17 A And that's why I assumed -- I concluded that it was abuse because I'm  
18 charged with that as the treating physician.

19 Q Would the -- once you -- is it your --

20 A I'm not just a guy who fixes the stuff. I'm supposed to -- you know, if I --  
21 if I thought that someone was punched out by someone, and it was an abuse  
22 situation, I'm supposed to report it.

23 Q Right. Then you said you would then have some additional follow-up  
24 questions; right? You would have a -- I think -- I don't want to misquote you, but I  
25 believe you said once you thought that there might be some sort of abuse you would

1 then have other questions you would follow up on; is that correct?

2 A Right. I would ask if they've reported it to the police, which is the first  
3 step. And if they haven't reported it, I'm supposed to report it. And if not -- and in  
4 this case, we sent her to Victims of Crime.

5 Q Right. Right. If I came in and -- and I had the same injuries as Ms.  
6 Carpenter, what you observe there, and you asked me what happened and I said I  
7 was in a fight, would that be a reportable event?

8 A Well, possibly. I mean, if it was an assault situation; yes.

9 Q You said earlier that you assumed it was abuse or you then concluded  
10 it was abuse. You said both; correct?

11 A Well, I asked her questions and I asked her what happened and she -- I  
12 asked her who did this. It wasn't like there were two girls, you know, doing this in  
13 the middle of the night at a bar or something or she punched herself out. I mean,  
14 that's -- you know, to me when someone -- some other person, especially a  
15 significant other -- a man punches you that's abuse. I mean, that's how I think about  
16 it.

17 Q But abuse can occur between two women as well; correct?

18 A There can be assault between two women, but I consider this abuse.

19 Q Well, that's not my question. Abuse -- abuse is not gender specific; is  
20 that correct?

21 A Once again, this is not my area. I would -- but if another woman had  
22 punched her I would report that also.

23 Q Right. That's exactly where -- have you ever seen an injury such as  
24 what you've observed in Ms. Carpenter that was not the source of abuse -- or result  
25 of abuse? Excuse me for misspeaking.

1           A     Well, once again, I -- I have -- theoretically you could have -- and I have  
2 seen construction injuries and so on cause a blowout fracture, but 99 percent of the  
3 time it's because they're punched out.

4           Q     Dr. Leibowitz, you stated that the symptomology -- not -- let me keep it  
5 simple. I don't want to get mixed up on the words. You stated that not every orbital  
6 fracture needs to be repair; is that correct?

7           A     Yes.

8           Q     And you specifically stated in this case that you believed it needed to be  
9 repaired because the double vision and the displacement of the eye; is that correct?

10          A     The enophthalmos of the eye.

11          Q     Right, which is the displacement?

12          A     It's -- the eye really -- she did have displacement, or called globe ptosis,  
13 which is the eye sinking down, but that's not what I was meaning. The  
14 enophthalmos, the eyeball sinking back, is the reason for the trauma enophthalmos.  
15 Those are the two criteria that insurance company -- that's not my criteria, but they -  
16 - she fit both of them. You need only one of them to have the operation --

17          Q     Do --

18          A     -- to be approved.

19          Q     Do -- at any point, in your opinion, was Ms. Carpenter at risk of losing  
20 her eyesight in that eye as a result of this injury?

21          A     It's not an eyesight issue; okay. It's not a -- the trauma to the eye that I  
22 do is not an eyesight issue. You could lose obviously vision in your eye from trauma  
23 for lots of reasons. One is that the vessels to the eyes the vasculature gets  
24 compromised by the trauma; that did happen in this case, or two is that, you know,  
25 have trauma to the lens or the retina or so on. Now she was sent to me by the

1 retina person, so I assumed that her retina was cleared. I'm down the line as far as  
2 fixing the eye. All this intraocular stuff has to be done before it gets to me.

3 Q Were you of whether or not Ms. Coleman [sic] had a history of -- and I  
4 don't want -- I'm going to be very general, any type of eye condition -- pre-existing  
5 eye condition, or symptomology, or problems?

6 A If you'll let me look at my chart there I'll tell you what I --

7 Q Would by --

8 A -- what she told me.

9 Q Before you do that, doctor, by looking at your chart would that refresh  
10 your recollection --

11 A Yes.

12 Q -- as to your question, please?

13 MR. SHETLER: Court's permission.

14 THE COURT: Go ahead.

15 THE WITNESS: She claimed no prior eye problems because I always ask,  
16 you know, really four sets of questions besides the why you're there now.

17 MR. SHETLER: Uh-huh.

18 THE WITNESS: I always ask past ocular history, past medical history, what  
19 medications they're on, and what allergies they have; every single time, every  
20 patient. And under POH, that's past ocular history, I have a negative sign, so --

21 BY MR. SHETLER:

22 Q Were you aware of any sort of a history -- and, of course, you're relying  
23 on the patient to be honest and frank with you in the history; correct?

24 A That's my only way.

25 Q And do you find that patients are always honest and frank in their



1 history?

2 A Not really.

3 Q Did you find any evidence in there -- or do you note any evidence in  
4 your chart of problems with conjunctivitis?

5 A No, but conjunctivitis wouldn't -- a lot -- people wouldn't even tell me  
6 about that because that really isn't a -- what I'm looking for. When I ask them have  
7 they had anymore eye problems in the past -- I mean, conjunctivitis is a minor thing  
8 that half the population has had at one point, including myself. I mean, I wouldn't  
9 give that in my history if I had a blowout fracture. I mean, I'm asking -- I ask them if  
10 they've had any history of glaucoma, retinal detachment, cataracts.

11 Q Right.

12 A Those are the three things I usually ask them. That's what I consider  
13 more significant ocular history.

14 Q And are those matters that you have to rely on the patient reporting to  
15 you, or are those matters that you can observe independently based on your training  
16 and education?

17 A Well both. I mean, the part I'm saying now is what I ask them, but then  
18 when I do the physical examination and look with the slit lamp, you know, I can see  
19 if they've had cataract surgery. I mean -- you know, I -- you know, they'll be an  
20 implant there rather than a lens. I mean -- and this happens all the time. I say, you  
21 ever had any eye problems; no, no, nuh-uh, nuh-uh. And then I look with a slit lamp  
22 and there's two implants in there and I go, well, you had cataract surgery; oh, yeah,  
23 yeah, I had cataract surgery. I mean, that's pretty standard stuff. It's not, you  
24 know --

25 Q Ms. Sudano asked you if a prior -- if a history of lupus would've had any

1 impact on your observations or treatment. I would ask you the same question  
2 regarding any sickle cell anemia.

3 A No, sir. I mean, these are medical issues that we have to deal with  
4 [indiscernible] and they have to be cleared for surgery --

5 Q Right.

6 A -- but not the actual causation of the problem.

7 Q What was your prognosis after you conducted your affairs to Ms.  
8 Carpenter's --

9 A Well --

10 Q -- eye orbit, I guess?

11 A I always tell people it's never gonna be perfect. You know, it's just not.  
12 You're dealing -- now in her case -- let me just get the timeline again. The -- I saw --  
13 the assault was supposedly on 5-1-14. And I operated on her on -- what date did I  
14 give you there?

15 THE COURT: 6-14 maybe?

16 THE WITNESS: Yeah, so that's, you know, a month and a half later. That's  
17 not good. The optimal time to operate is ten days to two weeks by our academy. All  
18 literature tells you that because after that, I always tell the patient God's been  
19 healing it. And if there's material that's in the orbit that's into the sinus now, there's  
20 already scar tissue around that and everything else, so it's not -- the prognosis is not  
21 nearly as good. If it's a fresh fracture, ten days to two weeks -- and it's the same if  
22 you fractured your arm. You wanna -- they want to set it right away before it starts  
23 to heal itself, so that's one thing that I always tell the patient about.

24 The other issue is that, you know, the numbness of the cheek, upper lip  
25 and teeth area could be permanent in nature. And I actually can make it worse by

1 fooling around with it during the operation because the nerve that cause -- it's call in  
2 the infraciliary nerve, and that goes right through the bone that's been fractured. So  
3 when we're leaving the fracture we're traumatizing that nerve some more. We tell  
4 patients that if it comes back it takes a full six months to come back, and then it may  
5 not come back at all. It feels like you've been to the dentist on one side. People  
6 can't see it. You know, they don't -- they don't -- they can't -- it's not a motor  
7 problem. They can't see like one side of your face being numb --

8 MR. SHETLER: Right.

9 THE WITNESS: -- but, you know, you feel it. And people have trouble  
10 chewing; they bite their tongue. It's an annoying thing.

11 BY MR. SHETLER:

12 Q Is that factor -- is the timeframe that took place here -- and let me lay a  
13 little foundation. I'm sorry. If there was no -- if she sustained this injury -- Ms.  
14 Carpenter sustained this injury and there was no -- if I use the words displacement  
15 of any of the eye orbit is that --

16 A Enophthalmos.

17 Q I can't say that word. I can't do it. I'm sorry. The -- if there was no --  
18 you said there are times you don't repair this injury; is that right?

19 A Correct.

20 Q One of those times --

21 A This wasn't one of those.

22 Q -- would be -- right.

23 A This wasn't one of those.

24 Q Is that factor -- you said there were two factors. A double -- or at  
25 least --

1           A     Right.

2           Q     -- two factors you mentioned. I don't mean two factors exclusively, the  
3 double vision or the displacement --

4           A     Right, enophthalmos.

5           Q     -- enophthalmos. Would the timeframe, the six weeks that had  
6 transpired, would that also be a factor in making that decision?

7           A     No, it wouldn't be a factor in the decision making process. A decision in  
8 the prognosis -- it's a factor in the prognosis, that's the problem.

9           Q     Can you elaborate a little bit on that?

10          A     Well, it's like I said, the optimal time to operate is ten days to two  
11 weeks. When I go in there -- and I told you I lift up the stuff, you know, and try to put  
12 it back where it belongs and then put the implant in -- slide the implant in. It's a lot  
13 easier when the stuff hasn't stuck down and made a scar. It's -- you know, it --  
14 when it's made a -- it's already -- when it's six weeks already it's tough because it --  
15 it's made a scar with the sinus tissue; now it's merged with that. Any -- anything  
16 heals, you know, so it makes into a scar and it's tougher to separate the stuff that  
17 should be in the orbit from the stuff that's in the sinus.

18                 And I tell all the patients that, you know. It's -- you know -- you know, I  
19 had a kid last week that, you know, was hit by a soccer ball and had a fracture  
20 around the eye and I told him I was going to -- I operated this past weekend and I  
21 told him I'd fit him in and they were busy. They had stuff to do, so I said, well, that's  
22 not real smart, but that's what they chose to do. So in this case, I didn't have a  
23 choice because she came to me, which is very common by the way. By the time  
24 they get to me I'm a tertiary guy; it's already past ten days to two weeks. They don't  
25 send them right away.

1 Q Is that -- when you talk about the difference in the diagnosis or the  
2 prognosis is that also a factor in whether or not it's going to be covered by insurance  
3 or not covered by insurance. That timeframe --

4 A No.

5 Q -- not an issue at all?

6 A No, insurance covers it if they have the two criteria is what I -- that's not  
7 a criteria whether they're going to cover it or whether I'm going to do it. I've done  
8 fractures six months later, you know, but I tell them that, you know, the prognosis is  
9 worse; that's all. It's not a Fixodent.

10 Q Is it possible that another doctor with your training would have looked at  
11 Ms. Carpenter's injury and said it did not need to be repaired surgically?

12 A Well, anything's possible. I don't think it would be good medicine, but  
13 anything's possible.

14 Q Do you believe there's any part of your treatment of Ms. Carpenter that  
15 wasn't necessary? And I mean that with all due respect, doctor.

16 A Oh, absolutely not. I would tell you if I did.

17 Q Do you have --

18 A Absolutely not.

19 Q -- do you have, as you sit here today -- did you have any opportunity to  
20 visit with Ms. Carpenter after your follow-up visit?

21 A No. And, you know, that's unusual in itself because what my usual  
22 pattern is, is I see people like a week or, you know, eight days or ten days  
23 depending on when we do the surgery. If I did it on a Saturday I'll see them like a  
24 week from Monday or Tuesday for their first post-op visit and then I see them three  
25 months later. And apparently she didn't come for the three month later appointment,

1 but, you know, that's when I usually see them because then I see if, you know, A  
2 they're -- you know, what -- if something else has to be done or not. Insurance  
3 doesn't usually approve a second surgery until three months anyway, so that's why I  
4 have them come back three months later to see if they need any more surgery. But,  
5 you know, no news is good news too. A lot of people don't come back when they're  
6 doing better.

7 Q So if she -- if Ms. Carpenter had report to other individuals three months  
8 later that she was worried about losing her vision, would you have expected her to  
9 show up for your appointment?

10 A Once again, the vision part is not mine.

11 Q Nothing to do with this injury?

12 A I wouldn't be dealing with this surgery. You know, they would go to her  
13 -- I think she went to Dr. Yee and Dr. Voo. Dr. Yee is a general ophthalmologist  
14 corneal specialist and Dr. Voo is a retinal specialist, so they would be more handling  
15 the actual vision part of it.

16 Q If she had complaints like that to a third party and didn't follow up with  
17 any of those doctors would you be surprised?

18 A Nothing really surprises me. I mean -- you know, I have -- honestly,  
19 nothing really surprises me. I have patients that lost -- I had one patient this year  
20 that I -- I treat a lot of thyroid disease around the eye. That's the orbital problem,  
21 you know, because the eyeballs stick out, the opposite problem to this, and I've had  
22 two patients in the 20 years of practice I've been here in Las Vegas who went blind  
23 in the eye from -- that they didn't have surgery and that their optic nerve was  
24 compressed. The first one, you know, normally called me that minute and, you  
25 know, we worked on it and that's a normal response. The second one came a

1 month later to my office, which I just can't understand. I mean, people would call me  
2 if they have a contact lens flipped inside out --

3 Q Right.

4 A -- you know, and someone goes blind in the eye --

5 Q Right.

6 A -- and doesn't call you for a month. So people have denial and nothing  
7 surprises me is what I'm saying.

8 Q Doctor, when you used the recent example of the child who was injured  
9 by the soccer ball, that was a different type of injury; is that correct?

10 A No, actually a soccer ball can cause a blowout fracture if the ball is --  
11 you know, goes right in -- oh, actually -- I'm sorry. It wasn't the soccer ball, it was  
12 the knee in the that did it.

13 Q Uh.

14 A Okay, while they were playing soccer.

15 Q It doesn't seem ideal, no.

16 A You know --

17 Q And that was not a reportable event because there was a logical history  
18 of how that came about --

19 A Right, and --

20 Q -- that you were comfortable with?

21 A -- you know, the coach was there too. I mean, everybody was there.

22 Q Right.

23 A It wasn't a -- besides the mom -- and the -- but the injuries can be just  
24 as bad. I'm actually -- you know, I have dealt with this more than regular orbit  
25 surgeons because UCLA in the infinite wisdom sent me to Martin Luther King

1 Hospital for 13 years in my -- when I first started in practice, so I'm a trauma  
2 specialist. There's no designation for that, but I'm the one who's taking care of lots  
3 and lots of trauma.

4 MR. SHETLER: We're all glad you're out there doing that. Thank you,  
5 doctor.

6 If I could have the Court's indulgence for just one moment?

7 THE COURT: Yep.

8 MR. SHETLER: Doctor, Your Honor, thank you. We don't have any further  
9 questions at this time.

10 THE COURT: Okay. Any redirect?

11 MS. SUDANO: No, Your --

12 THE COURT: Hold on. Sorry.

13 MS. SUDANO: No, Your Honor.

14 **QUESTIONS BY THE COURT**

15 THE COURT: Okay. Just a quick question. I just -- because probably  
16 everybody understands this but me. Where did you see Ms. Carpenter?

17 THE WITNESS: In my office.

18 THE COURT: Which is --

19 THE WITNESS: In Summerlin.

20 THE COURT: -- in California?

21 THE WITNESS: No, in Summerlin.

22 THE COURT: In Summerlin.

23 THE WITNESS: I'm a Nevada resident. I live here. I just have maintained  
24 my UCLA professorship --

25 THE COURT: Uh --



1 THE WITNESS: -- and I go there once a week. And I'm actually -- I'm  
2 missing my flight right now --

3 THE COURT: Sorry.

4 THE WITNESS: -- to testify here.

5 THE COURT: I apologize for inconvenience, but I do appreciate it.

6 So you -- where was the surgery done?

7 THE WITNESS: At Sunrise.

8 THE COURT: At Sunrise; okay.

9 Anything else?

10 MR. SHETLER: No, Your Honor.

11 MS. SUDANO: No, Your Honor.

12 THE COURT: Okay. Thank you, doctor, I do appreciate --

13 THE WITNESS: Thank you.

14 THE COURT: -- you making your way here.

15 Okay. Next witness.

16 MS. SUDANO: State calls Corla Carpenter.

17 THE MARSHAL: If you could step up in the box and remain standing. Raise  
18 your right hand and face that gentleman right there.

19 **CORLA CARPENTER**

20 [having been called as a witness and being first duly sworn, testified as follows:]

21 THE COURT CLERK: Thank you. You may be seated.

22 Please state your complete name, spelling both your first and last name  
23 for the record.

24 THE WITNESS: Corla Carpenter, C-O-R-L-A C-A-R-P-E-N-T-E-R.

25 THE COURT CLERK: Thank you.

1 **DIRECT EXAMINATION**

2 BY MS. SUDANO:

3 Q Good afternoon, Ms. Carpenter.

4 A Good afternoon.

5 Q Do you know Genaro Perry?

6 A Yes, I do.

7 Q Do you see him here in the courtroom today?

8 A Yes, I do.

9 Q Would you please point to him and identify an article of clothing he's  
10 wearing today?

11 MR. SHETLER: Your Honor, we'll stipulate to [indiscernible] Perry.

12 THE COURT: Okay, so stipulated.

13 BY MS. SUDANO:

14 Q Now, Ms. Carpenter, how did you first meet the Defendant in this case?

15 A I first met Mr. Perry when I was taking some boxes or some -- moving  
16 some things from my car to my condo and he was walking down the street going to  
17 visit a neighbor in the same condo complex and he offered to carry one of the  
18 articles for me.

19 Q Do you recall approximately when that was?

20 A Maybe September -- August -- sometime in the summer part of 2012, I  
21 believe. Maybe --

22 Q Now, did you have --

23 A 2013; I'm sorry.

24 Q So summer of 2013?

25 A Yes.

1 Q Did you have occasion to meet him -- or see him again after that first  
2 time in the summer of 2013?

3 A I believe it was a couple months later he was back visiting the same  
4 neighbor. And she had told him what I was doing and --

5 Q What were you doing?

6 A I owned my own independent paralegal service. I was working with a  
7 team of attorneys throughout the State.

8 Q Now did the Defendant have a legal matter that he asked you to help  
9 him with?

10 A Yes, at that time he was being evicted from an apartment and he asked  
11 if he could -- if I could help him in some way, so I had him make an appointment with  
12 me.

13 Q At some point did your roman -- or your relationship become romantic?

14 A It did.

15 Q When was that?

16 A Towards fall.

17 Q Later on in that same fall?

18 A Right, that same year towards the fall.

19 Q So 2013?

20 A Yes.

21 Q Now how long did you date?

22 A The complete relationship from start to finish?

23 Q Yes.

24 A My best guess would be six to eight months, somewhere in there.

25 Q So it started fall of 2013, when did you break up?

1           A     The end of April 2014.

2           Q     Now was your relationship physical during that period, fall of 2013 to  
3 spring of 2000 -- or -- sorry -- fall of 2013 to 2014 in the spring?

4           A     When you say physical what do you mean?

5           Q     Was it sexual in nature?

6           A     It got sexual at some point.

7           Q     About when did it get sexual?

8           A     Towards the winter of 2013.

9           Q     Did it continue on that course? Was it still sexual up until the end of  
10 April 2014?

11          A     It was off and on.

12          Q     Now I want to draw your attention to the end of April 2014. Were the  
13 two -- you said the two of you broke up?

14          A     Yes, I broke up with him. I ended the relationship.

15          Q     Do you recall when that was?

16          A     Yes, it was mid to the end of April 2013.

17          Q     2013?

18          A     2014; I'm sorry.

19          Q     Now I want to fast forward a little bit to April 30<sup>th</sup> of 2014. Were you and  
20 the Defendant dating on April 30<sup>th</sup> of 2014?

21          A     No, we were not.

22          Q     Had you seen the Defendant since you broke up a couple weeks prior?

23          A     No, I had not.

24          Q     Had you been in communication with him at all?

25          A     Yes.

1 Q How was that?

2 A Via text message.

3 Q Now did there come a time on April 30<sup>th</sup> of 2014 that he came to your

4 house?

5 A I'm sorry, repeat that.

6 Q Did there come a time on April 30<sup>th</sup> of 2014 where the Defendant came

7 to your house?

8 A Yes.

9 Q How did that come about?

10 A What I recall happening is he showed up to my home and he asked to

11 be let in. And I told him I didn't want him at my house without a police escort and he

12 showed up anyway.

13 Q So just to be clear, had you invited him over to your house on April 30<sup>th</sup>

14 of 2014?

15 A No.

16 Q And approximately what time did he arrive on April 30<sup>th</sup> of 2014?

17 A It was later in the evening, so -- and when I say evening, late evening,

18 so 10 p.m. or on --

19 Q Okay.

20 A -- being I was already in bed.

21 Q Now where were you living on April 30<sup>th</sup> of 2014?

22 A In my attorney's condo at 2461 Old Forge Lane, Apartment 106 --

23 Q Okay.

24 A -- or condo 106; sorry.

25 Q Is that here in Clark County, Nevada?

1           A     Yes.

2           Q     Now when the Defendant showed up at your house on April 30<sup>th</sup> of

3 2014 did you let him in?

4           A     Eventually, yes.

5           Q     How did that come about?

6           A     He had told me he had been in a fight that night and he needed his

7 blood pressure medication.

8           Q     Was the blood pressure medication at your house?

9           A     Yes, it was.

10          Q     Was that just something that had been left there when you were dating?

11          A     Yes.

12          Q     So is that why you agreed to let him come into the house?

13          A     Yes.

14          Q     Were there any additional conversations that took place that night

15 between you and the Defendant?

16          A     Once I let him in I told him he had to leave in the morning. I also was

17 very dry. I didn't have too much conversation. I made it known there would be no

18 physical interaction with us and I soon went back to sleep.

19          Q     Now you say back to sleep. Were you asleep before he came to your

20 house on the 30<sup>th</sup>?

21          A     I believe so. I was already in bed. It was pretty late.

22          Q     Now did the Defendant spend the night over at your house that night?

23          A     Yes, he did.

24          Q     Where did he sleep?

25          A     He slept in my bed.

1 Q Now where were you sleeping?

2 A I slept in my bed.

3 Q So I want to fast forward then to the following morning on May 1<sup>st</sup> of

4 2014. Was the Defendant still in your bed when you woke up?

5 A I think he had gotten up before me and had went to use the restroom.

6 Q Do you know approximately what time you woke up?

7 A It was seven in the hour -- seven o'clock hour.

8 Q In the morning?

9 A Yes.

10 Q Now -- so you said the Defendant had gotten up and gone to the

11 bathroom?

12 A Yes.

13 Q Was he still in the bedroom when you woke up?

14 A Yes.

15 Q Was he clothed?

16 A Yes.

17 Q What about shoes; was he wearing shoes?

18 A Yes.

19 Q How about you; were you clothed?

20 A I was clothed. I normally don't wear clothes when I sleep, but I did have

21 on a -- like a sports bra, but from the waist down I was not clothed. That's how --

22 more comfortable sleeping.

23 Q So that's just your normal practice, I guess?

24 A Normal pattern; yes.

25 Q Okay. Now did you ever have a conversation with the Defendant on the

1 morning of May 1<sup>st</sup> of 2014?

2 A When I got up that morning, I believe I asked him -- I didn't wake up  
3 talking to him as if it was normal, but I did say, okay, you know, you spent the night.  
4 You had a chance to take your blood pressure medication, I want you to leave.

5 Q How did the Defendant respond to that?

6 A He started using profanity. He started making remarks about my  
7 mother that were unkind. And at that point I kinda knew I was in trouble because he  
8 still appeared agitated.

9 Q When you say he still appeared agitated, when was he agitated  
10 previously?

11 A I noticed he was agitated that evening, but I just dismissed it as he had  
12 just been in a fight, 'cause that's what he told me, so he was still worked up. I was  
13 not alarmed at that point, but in the morning he was aggressive and he was moving  
14 kinda fast paced in my room. He was cursing. He was making up -- you know, just  
15 using obscene language about my mother. And that really upset me and I realized,  
16 oh, God, I should've followed my gut; I'm in trouble now, so I went to grab my  
17 phone.

18 Q Now where were you when you went to grab for your phone?

19 A In my bed.

20 Q Were you lying down or sitting up?

21 A I sat up at that point.

22 Q Where was your phone?

23 A In close proximity to me.

24 Q Was it on the bed or --

25 A It was on the bed.



1 Q Now where was the Defendant when he started to get agitated and you  
2 were reaching for the phone?

3 A He was standing in front of my bathroom door.

4 Q Is that still in the bedroom?

5 A Yes.

6 Q Okay. So master bedroom --

7 A With an attached bathroom.

8 Q Now what, if anything, happened when you went to reach for your  
9 phone?

10 A He charged towards me; took my phone and threw it up against the  
11 wall.

12 Q What did you do after he took the phone?

13 A I think I ran -- or walked -- ran or walked, but in a hurriedly fashion, to  
14 my bathroom so that I could kinda close myself in there till he calmed down. I don't  
15 know why I was going to the bathroom, but I knew I was trying to get away from him.

16 Q Did the Defendant say anything to you when he took your phone or  
17 when you were going to the bathroom?

18 A He said -- he used some more obscene language. I don't recall the  
19 exact pattern of obscene language, but he told me I was not going to call the police  
20 on him.

21 Q Was that when he took your phone?

22 A That was when he saw me reaching for my phone.

23 Q All right. So prior to taking the phone he said you're not calling the  
24 police?

25 A Yes.

1 Q Okay. Now was he making any additional statements as you were  
2 going into the bathroom?

3 A I don't recall.

4 Q What happened -- well, did you make it to the bathroom?

5 A Not quite.

6 Q What happened before you got to the bathroom?

7 A He punched me in my face.

8 Q And when we say he you're talking about the Defendant; correct?

9 A Yes.

10 Q Now, just to be clear, were you -- were you dressed at this point?

11 A No.

12 Q So same top, no bottom situation as before?

13 A Correct.

14 Q Had you taken a swing at the Defendant at this point?

15 A No.

16 Q Did you have any weapons or anything in your bedroom?

17 A No.

18 Q Now what happened after he took a swing at you?

19 A I fell backwards into the restroom; I hit my head on the toilet and -- the  
20 toilet and the tub are in close proximity, so I kinda tumbled over and landed on my  
21 back.

22 Q Now what happened after you tumbled over and landed on your back in  
23 the bathroom?

24 A He started punching me in my face. I started screwing. He told me to  
25 shut the fuck up. He started punching me some more, so a struggle did ensue. At

1 that point, I was in defense mode and so I bit his -- bit his hand and that allowed the  
2 grasp of him and his -- his punches making contact to my face to stop. And I got up.  
3 I was able to get -- get to the point where I got up and I took off down my stairs.

4 Q Now approximately how many times did the Defendant punch you while  
5 you were in the bathroom?

6 A I think five or less.

7 Q Is it more than one?

8 A More than one.

9 Q Now, just to be clear, did you ever punch the Defendant or hit him other  
10 than the biting?

11 A No.

12 Q Okay. Now was the biting enough for you to get out of the bedroom at  
13 that point?

14 A Yes.

15 MS. SUDANO: Your Honor, may I publish Exhibit 13?

16 THE COURT: Go ahead.

17 MS. SUDANO: And permission to publish all the exhibits.

18 THE COURT: Yeah, they're all admitted; go ahead.

19 MS. SUDANO: Thank you.

20 BY MS. SUDANO:

21 Q Ms. Carpenter, I'm showing you State's Exhibit 13; do you recognize  
22 what's depicted in that photo there?

23 A Yes.

24 Q What is that?

25 A That's my bedroom.

1 Q And that's how it looked on May 1<sup>st</sup> of 2014?

2 A Yes.

3 Q Now what part of the bedroom specifically are we looking at in this

4 photo?

5 A There's a -- the shoe closet, a fan, an end table and a bed -- or excuse

6 me, two mattresses.

7 Q Now -- so off to the left is that shoe closet and then your bed is in the

8 bottom right of this photo; is that fair?

9 A No, off to the right of the room -- oh, you mean on this picture?

10 Q Yeah.

11 A Yes, off to the left.

12 Q Okay. Now showing you also Exhibit 14; what's depicted in Exhibit 14?

13 A That is the restroom and the proximity to the door to exit out of my

14 master bedroom.

15 Q Now, Ms. Carpenter, if you actually touch that screen you can indicate

16 on there what you're talking about. So where's the bathroom door depicted?

17 A This is the bathroom room.

18 Q So that's the door to the left in this photo?

19 A Yes, and this is the door exit to get out of the master bedroom.

20 Q And that's the door to the right?

21 A Correct.

22 Q So when -- can you also see the corner, I guess, of the mattress or the

23 bed in this photo?

24 A Yes, I do.

25 Q And is that in the bottom right?

1           A     Yes.

2           Q     Okay. So just using this photo can you walk us kinda through where  
3 the altercation with the Defendant started and where it ended up in the bedroom?

4           A     Sure. So when I knew I was in trouble and he came and snatched my  
5 phone and threw it up against a wall that's not in this photo --

6           Q     Okay.

7           A     -- I walked this way to kinda get to my -- my bathroom. And right  
8 around here is where I was punched and then fell into the restroom. And actually  
9 my feet were kinda hanging out of the door here and I was on my back into the  
10 restroom.

11          Q     Now -- so you were indicating that you walked from the bottom right of  
12 this photo up to the left towards the bathroom, and you were punched right around  
13 the doorway to your bathroom?

14          A     Yes.

15          Q     Okay. And then after you left the bathroom you walked towards the  
16 door to exit your bedroom, which is the door on the right?

17          A     I didn't walk; I ran. I scurried out of there as fast as I could.

18          Q     And then you indicated that you started to go down your stairs; is that  
19 fair?

20          A     I was running down the stairs.

21          Q     Were you able to make it all the way down the stairs?

22          A     No.

23          Q     What happened?

24          A     So on the staircase it is a set of stairs, a landing, and then a set of  
25 stairs that takes you downstairs. When I got to about the landing I was kicked in the

1 back and I tumbled down the rest of the stairs into the kitchen.

2 Q Now who kicked you?

3 A Genaro Perry.

4 Q So you said you kinda tumbled down the stairs into the kitchen?

5 A Yes.

6 Q Where did you land in the kitchen?

7 A I landed on my stomach in front of the stove.

8 MS. SUDANO: And if you tap -- will you tap either the bottom left or the  
9 bottom right of that screen it will clear out those marks for me. Perfect. Thank you.

10 BY MS. SUDANO:

11 Q Now I'm showing you State's Exhibit 6; do you recognize what's  
12 depicted there?

13 A Yes, I do.

14 Q What's that?

15 A That is the bottom -- towards the left side of the screen that's the  
16 bottom part of the stairs. And then that's the kitchen -- leading into the kitchen. And  
17 there's also a little half bath, and the garage, so --

18 Q Now I know this isn't the best picture to do this, but can you kind of  
19 indicate on State's Exhibit 6 how you ended up in the kitchen?

20 A Sure. So I was tumbling down these stairs from him kicking me and I  
21 slid right here and here's the stove. There's some clutter on the counter, but the  
22 stove sits in the middle here, but I landed here on the floor on my stomach kinda in a  
23 fetal position.

24 Q What happened while you were in the fetal position in the kitchen?

25 A Genaro Perry continued to punch me in my face, and kick me with

1 boots on in my head, and punch me in the eye, and kick me on my right side  
2 because I was laying in a fetal position on my left side, so I took several blows to my  
3 face via his foot and his fist.

4 Q Now when you say several blows, do you recall approximately how  
5 many times he struck you?

6 A I don't. I wasn't counting, but I remember pleading for him to stop.

7 Q Now I'm going to show you --

8 MS. SUDANO: Can you clear that out for me, Ms. Carpenter?

9 THE WITNESS: Sure.

10 BY MS. SUDANO:

11 Q I'm showing you State's Exhibit 7; now is that a different angle of that  
12 kitchen?

13 A Yes, it is.

14 Q And can you see better where you were located at that point?

15 A Yes.

16 Q Now -- go ahead; I'm sorry.

17 A No, I was just gonna say right around where this blue towel is is kinda  
18 where I landed.

19 Q And so that's right in front of -- or the middle of the picture to the left of  
20 the stove?

21 A Yes.

22 Q Now you said that you were begging for the Defendant to stop hitting  
23 you?

24 A Yes.

25 Q At some point did he stop hitting you?

1 A Yes.

2 Q What happened when the Defendant stopped hitting you?

3 A What do you mean what happened? I don't understand.

4 Q Well, so let's back up. Prior to him, I guess, stopping hitting and kicking  
5 you, was there ever a point where anything else happened in the kitchen?

6 A Yes.

7 Q What happened in the kitchen?

8 A So obviously I'm not the best housekeeper; I own that. So there was --  
9 actually I had had a steak dinner the night before. There was actually a knife that I  
10 had left on the stove. I think it was like one of the only knives I owned. He picked it  
11 up and he started to attack me with the knife. So after that -- after -- I started to  
12 blackout briefly. And I was pleading and begging for him to stop and -- you know,  
13 not to hurt me, don't kill me, I was screaming. And I sat up and he took that knife;  
14 he began to swing it at me, and then he drug me up and then walked me into the  
15 living room with the knife at my back.

16 Q Now when he was swinging that knife at you did he ever strike you with  
17 the knife?

18 A He did.

19 Q Where did he strike you?

20 A My hands.

21 Q Now you said that he picked you up and dragged you into the living  
22 room at knife point?

23 A No, I sat up and he kinda drag -- when I say dragged, he was gripping  
24 me. I don't recall where, but he had a really strong hold onto the shirt that I was  
25 wearing and then he had the knife to my person and walked me into the living room.



1 Q What happened when you got to the living room?

2 A He told me to sit on the loveseat that I had in the living room at the time.

3 Q Did you sit on that living -- or that loveseat in the living room?

4 A Yes.

5 Q Now did you want to sit on the loveseat in the living room?

6 A No, I didn't want to sit there.

7 Q Why did you sit there?

8 A Because he had a knife on me.

9 Q What --

10 A He -- when -- he had the knife still in his possession and he did not

11 allow me to go anywhere else.

12 Q Now showing you State's Exhibit 21.

13 MS. SUDANO: If you could clear that out for me one more time.

14 THE COURT: What exhibit?

15 MS. SUDANO: Twenty-one, Your Honor.

16 THE COURT: Thank you.

17 BY MS. SUDANO:

18 Q Now what's depicted her in Exhibit 21?

19 A That is the loveseat that I had to sit on at his demand.

20 Q And that's to the right of this photo?

21 A Yes.

22 Q Now what happened while you were sitting on the loveseat?

23 A He paced in front of me and I sat there holding a Bible and bleeding.

24 He's pacing and acting very erratic. He then threatened me several more times. He

25 also made a statement, look at your eye; look at what you made me do. He made

1 the statement, because he knew from a previous marriage I was married to a Muslim  
2 man, and he said you're going to go see Allah tonight. And I sat there -- I don't  
3 know if you could see it, but there's -- for whatever reason a Bible on that couch. I  
4 don't read the Bible daily, so I'm not sure how it even got there. I just sat there,  
5 kinda gripped the Bible like, oh, my God, this is how I'm gonna die.

6 Q Now how long were you on the couch?

7 A About 50 minutes.

8 Q Fifty, 5-0?

9 A Fifty, 5-0.

10 Q Now the entire time you were on the couch where was the Defendant?

11 A He was standing in front of me pacing back and forth. I don't know if  
12 you have slides to show it, but there's a fireplace. He was walking back and forth in  
13 front of the fireplace with a knife in his hand making more plans to kill me.

14 Q When you say that was he making additional statements?

15 A He was.

16 Q Do you recall any of those statements?

17 A Yes. He said, I'm going to kill you. I'm gonna -- he said, I'm going to  
18 kill. He said, I'm going to leave you here until this evening and you're gonna die.  
19 He was cursing and saying things about my family, my children, my ex-husband; he  
20 was a very jealous person. And I think -- what -- what really stood out was you're  
21 gonna go see Allah tonight. And I just -- I just thought, oh, my God, this is how I'm  
22 going to die. And my sister and everybody else told me so; I should've let this man  
23 alone.

24 THE COURT: Okay. What --

25 MR. SHETLER: Objection, Your Honor. This is beyond the scope. There's

1 no relevance; there's no foundation for what's going on here.

2 THE COURT: Sustained, so I'll strike the last part of that answer. Go ahead.

3 MS. SUDANO: And, Ms. Carpenter, I just want to focus on what you did. I  
4 don't want to focus on what anybody else told you; okay.

5 BY MS. SUDANO:

6 Q Now at some point do you get up off the couch?

7 A I do.

8 Q Where'd you go?

9 A I exited to the half bath downstairs.

10 Q Where was the Defendant when you went to the half bathroom?

11 A Behind me with the knife in my back.

12 Q Was he making you go to the half bathroom?

13 A No, he wasn't making me go to the half bath, but at that point --  
14 instinctually, by being a paralegal, I was like well, if I'm gonna die I'm gonna leave  
15 some evidence to show that there was a struggle, I was bleeding, something  
16 happened. So I went to wipe blood on the wall and spit in the sink because I was  
17 bleeding so heavily. And because he had made the statement previously, look at  
18 your eye, I wanted to see my eye. I hadn't seen it before then, but I know I was  
19 bleeding profusely as I sat on the couch.

20 Q Now I'm showing you Exhibit 10; what's depicted in Exhibit 10?

21 A That's the half bathroom that I exit -- that I went into from the living  
22 room and I wiped my hand on the wall as I went in.

23 Q Let me zoom in on that a little bit. Can you mark on this photo where  
24 you wiped your hand?

25 A Sure.

1 Q And so that should be your blood, I guess, on that doorway in the  
2 middle of the photo?

3 A Yes, it is.

4 MS. SUDANO: Okay. If you'd clear that for me, please, Ms. Carpenter.  
5 Thank you.

6 BY MS. SUDANO:

7 Q I'm showing you now Exhibit 12; what's depicted in Exhibit 12?

8 A More blood.

9 Q And is this also in your half bathroom?

10 A It is.

11 Q Now you'd indicated something about the sink?

12 A Yes.

13 Q Can you sort of see the sink in that photo?

14 A It's a pedal stool sink off to the right.

15 Q Now what was it specifically that you were doing with regards to the  
16 sink?

17 A So I walked up to the sink to look at my eye because there's also a  
18 mirror above the sink. I again wiped my hand down the side of the wall to leave  
19 more blood evidence, and then I spit and I looked at myself in the mirror.

20 Q Was that the first time that you were able to see your injuries?

21 A Yes.

22 Q Now what, if anything, happened after you looked in the mirror?

23 A I was numb. I just looked -- Genaro Perry was still behind me with the  
24 knife and I just tried to act as normal as possible like I was just going to spit -- I was  
25 just gonna spit; kind of damp the blood off.

1 Q Now where did you go after you left the bathroom?

2 A He escorted me back to the couch.

3 Q You sit back down on the couch?

4 A Yes.

5 Q What, if anything, happened this time while you were sitting on the

6 couch?

7 A I'm looking for ways to escape. I'm looking towards the door to see it's

8 locked. To see do I have enough time to unlock the door and run. Do I have

9 enough time to grab something to get him to -- to be able to fight him back and win.

10 I'm terrified at this point, but I sit there. And then I say to him -- so I realized I don't

11 have time to do that. He's gonna catch me; he's gonna kill me. So I say to him, it's

12 going to be okay. I start telling him things to kinda get him to calm down; it's going

13 to be okay. My eye will heal. We'll be fine.

14 Q Now did he say anything back to you at that point?

15 A I don't recall.

16 Q At some point does the Defendant obtain some of your property?

17 A Yes. So we sat there for a little bit longer and he observed the keys on

18 a coffee table that I had downstairs and he --

19 Q Specifically what keys?

20 A The keys to my Mercedes Benz.

21 Q What kind of Mercedes do you have?

22 A I have a CLK430.

23 Q What year is that?

24 A A '99, I think. It's a '99.

25 Q Now do you recall the license plate number to that car?

1           A     No. I can give you a partial, I believe, because I just wrote it down for  
2 something, but I don't recall the entire --

3           Q     What's the partial that you remember?

4           A     I believe LTU.

5           Q     Now I'm going to come back to the car in a little bit, but what happened  
6 when the Defendant found your car keys?

7           A     He stated, I spoke up for you on this car and I'm going to take it.

8           Q     Did you understand what he mean when -- or what he meant when he  
9 said I spoke up for you on the car?

10          A     Yes.

11          Q     What did that mean to you?

12          A     He was there when I was purchasing the car.

13          Q     When did you buy it?

14          A     March that same year.

15          Q     So March of 2014?

16          A     Yes.

17          Q     How much did you pay for the car in March of 2014?

18          A     Nearly \$5,000.

19          Q     Now --

20          A     It was marked at \$4,200, but when they added taxes and things, doc  
21 fees, it was about \$5,000.

22          Q     So it was \$4,200 plus tax?

23          A     Yes.

24          Q     Did you ever have occasion to go onto a website and obtain the value  
25 of that car?

1           A     Yes.

2           Q     When did you do that?

3           A     After Mr. Perry was arrested and one of the prior DAs that was handling  
4 this case asked me to get the value.

5           Q     What was the value of that car when you looked it up?

6           A     Five thousand, one hundred and some odd dollars.

7           Q     Now -- so I want to go back to -- the Defendant said, you know, I spoke  
8 up for you when you got this car. What did he do at that point?

9           A     He took the keys and then he marched me upstairs.

10          Q     Did he still have the knife on his person -- or on him when he was  
11 taking the keys?

12          A     Yes.

13          Q     Did he do anything with that knife while he was making the statements  
14 about I spoke up for you?

15          A     No, not while he said that. He still had it in his hand, but not to me.

16          Q     Now at some point you said he marched you upstairs?

17          A     Yes.

18          Q     Can you explain that a little bit?

19          A     He told me to get up. He took the knife and put it to my back. He  
20 marched me up the stairs, me being in front of him, he was in the back of me with  
21 the knife in my back. He told me that he was going to leave in the car and that if I --  
22 if I left out of the bathroom, because he marched me up to a secondary bathroom.  
23 Not the one that you showed as an exhibit earlier, but there's another bathroom  
24 attached to another bedroom upstairs, and he stated to me that if I left and tried to  
25 come after him before he left in the car -- excuse me. If I left out of that bathroom

1 before he left my home in my car before the garage shut he would kill me.

2 Q Now you brought up a good point. You said you went to a different  
3 bathroom. I guess, how many bedrooms are in your condo?

4 A Two.

5 Q How many bathrooms?

6 A Three total.

7 Q So is it the one downstairs that we're looking at in this photo here --

8 A Yes, that's a half bath --

9 Q -- Exhibit 12?

10 A -- downstairs and one in each of the bedrooms upstairs.

11 Q Okay. And so this was the bedroom not in -- or excuse me -- the  
12 bathroom not in your bedroom?

13 A Yes.

14 Q Now did the Defendant say anything else to you while you were going  
15 up to that bathroom?

16 A I don't recall, but I -- I do recall him going back into the bedroom that he  
17 attacked me in and grabbing my only form of communication that I owned in the  
18 home.

19 Q What was that form of communication?

20 A It was a Samsung Galaxy cell phone.

21 Q Was that the same cell phone that he thrown against the wall earlier?

22 A Yes.

23 Q Now what, if anything, did he do with that phone the second time?

24 A So once he had barricaded me in the restroom and told me not to leave  
25 or he would kill me, he took that phone and threw it in the toilet.



1 Q Did he make any additional statements when he threw the phone in the  
2 toilet?

3 A He said something about you won't be able to call the police.

4 Q Now what happened -- well, did the Defendant still have the knife when  
5 he came back into the bedroom that second -- or the bathroom that second time?

6 A Yes, he did.

7 Q What happened after he threw the phone in the toilet and told you that  
8 you couldn't call the police?

9 A I sat there.

10 Q Did the Defendant stay in the bathroom?

11 A No, he left.

12 Q When you say he left, did he leave the room or did he leave the house?

13 A He left the bathroom. He exited because I heard the garage door open  
14 and I heard my car start. And I assumed when I heard the motor to my car start he  
15 left in my car, so I ran out of the bathroom at that point.

16 Q Now -- so your car was obviously parked in a garage?

17 A Yes.

18 Q When you ran out of the bathroom did you go downstairs to the  
19 garage?

20 A Yes.

21 Q Was your car still there?

22 A I didn't go immediately. I actually ran out to -- outside to a neighbor's  
23 home.

24 Q What was the purpose of running to the neighbor's home?

25 A I was bleeding half to death; I needed help. I wanted to -- I wanted him

1 to be apprehended shortly after he left my home so, you know, he could be  
2 prosecuted for what he had done.

3 Q Now when you left your house were you able to find a neighbor or  
4 anybody outside?

5 A No.

6 Q What did you do at that point?

7 A I ran back upstairs praying like please let this phone work; please let  
8 this phone work and I got it out of the toilet.

9 Q Now once you got your phone out of the toilet what did you do?

10 A I started banging the water out of it, trying to get the power on, and I  
11 called 9-1-1.

12 Q So the phone worked enough for you to call 9-1-1?

13 A Yes.

14 Q Did the police respond?

15 A Yes, they did.

16 Q Now are you still at the house when the police show up?

17 A Yes, I am.

18 Q Did the police show you anything or ask you about anything that was  
19 located in your garage?

20 A Yes, they asked me how did the knife -- a bloody knife get in my  
21 garage.

22 Q Now I'm showing you here Exhibit 26; do you recognize what's depicted  
23 in the exhibit?

24 A Yes.

25 Q What is that?

1           A     That is the steak knife I had on my stove that he attacked me with.

2           Q     Now around this steak knife -- and I've got a better picture for you in a  
3 minute. What's around the steak knife in that photo?

4           A     A lamp he had given me, a bottle of water, a lighter. And I'm not sure  
5 what this is. This was there when I moved in. I think it was some construction  
6 materials left over from before I moved there.

7           Q     I'm going to show you Exhibit 25. Is that just kind of a zoomed out  
8 picture of that same area?

9           A     Yes, it is.

10          Q     So where is this area?

11          A     So on the -- the other side of this wall is the half bath. You walk outside  
12 and this is the garage and sort of a landing here. And then in this area is where my  
13 car was parked.

14          Q     And so obviously there's no car there, right, at the point this picture's  
15 taken?

16          A     Yes.

17          MS. SUDANO: Now if you clear the screen for me.

18 BY MS. SUDANO:

19          Q     Zooming back in, this item here in Exhibit 26, that's the knife you were  
20 talking about?

21          A     Yes.

22          Q     And not your normal practice to leave the knife in the garage?

23          A     No.

24          Q     Okay. Now at some point after the police arrive do you leave the  
25 house?

1           A     Yes, I do.

2           Q     Where'd you go?

3           A     To my sister's. Well, my sister picked me up and she took me to my

4 mother's house.

5           Q     Why did your sister take you to your mother's house?

6           A     Because he had the keys to my house and she did not -- and she was

7 in fear of my safety and she didn't want me there alone, because I lived alone,

8 knowing that at any moment he could come back and finish me off, so she made me

9 leave.

10          Q     Now when we're saying he there you're talking about the Defendant?

11          A     Yes.

12          Q     And she is your sister?

13          A     Yes.

14          Q     Why did the Defendant have your keys?

15          A     Because they were attached to my car keys.

16          Q     So they were on some sort of key ring?

17          A     Yeah.

18          Q     Prior to this day had the Defendant had a key to your house?

19          A     No.

20          Q     Had he had a key to your car?

21          A     No.

22          Q     Now at some point do you also go to the hospital?

23          A     Yes.

24          Q     When did you go to the hospital?

25          A     Later that evening.

1 Q When you went to the hospital were you able to talk to some doctors?

2 A Yes.

3 Q Now I want to talk a little bit about your injuries now. So we heard  
4 about your eye. What was -- specifically what happened with your eye?

5 A I had a right orbital blowout and it was fractured, it was swollen, I had a  
6 black -- two black eyes at this point.

7 Q Did you have any additional fractures to your face?

8 A I did. I had a broken nose.

9 Q Now did you have to undergo any sort of treatment for the injuries to  
10 your eye?

11 A Yes.

12 Q Specifically what treatment?

13 A Initially I had to see a specialist that had to determine what damages  
14 were done to my eye. And then I had to -- I had started seeing what's called flashes  
15 and floaters, so I had to see a retina specialist to make sure that I didn't have a  
16 detached retina. And then I had to -- they diagnosed me with an onset of glaucoma  
17 due to trauma, so I had to go see another doctor -- another specialist that treated  
18 that particular injury. And then I started seeing -- well, I didn't start seeing -- I had  
19 been seeing a pain management doctor, but I had -- the hospital had notified my  
20 pain management doctor that I had -- had some pretty serious injuries and was it  
21 okay for them to -- because I had signed a narcotic agreement, if it was okay, and  
22 the doctor said give her anything she needs. He was --

23 Q Now -- so prior to this day -- prior to May 1<sup>st</sup> of 2014, you said that you  
24 were already seeing a doctor for pain management?

25 A Yes.

1 Q Why is that?

2 A I have been diagnosed with lupus -- systemic lupus.

3 Q And that was obviously prior to May 1<sup>st</sup> of 2014?

4 A Yes.

5 Q Now -- so you said that you got some pain medication and then you had  
6 some other things going on; you received additional diagnoses. Did you ever have  
7 to have any surgery after this incident?

8 A Well, I didn't actually get -- I got pain medication in the hospital. I opted  
9 not to take any away from there because I normally got that from my pain  
10 management doctor. But I -- was the question did I have any more treatment?

11 Q Yes.

12 A Yes, I did. I started seeing -- I had surgery on my eye where they  
13 placed an implant in my face to build the orbital wall that was damaged so that my  
14 eye could sit back in its proper place. I started going to physical therapy. And I  
15 started seeing a retina consultant and a -- his name is Doctor Singh, and it leaves  
16 me what practice he works for right now, but I started seeing him for the glaucoma --  
17 the induced glaucoma due to trauma.

18 Q Now --

19 A And I also started seeing a psychiatrist.

20 Q So you said you were going to physical therapy?

21 A Yes.

22 Q Why were you going to physical therapy?

23 A Because as I laid in a fetal position in my kitchen and he stomped me,  
24 and kicked and punched me, he did some damage to the right side of my hip area.  
25 And I gotten to the point where I just wasn't walking well and it's something my pain

1 management had asked me to follow up with. He wrote a prescription for I think  
2 eight -- eight weeks of physical therapy.

3 Q Did you go to all eight weeks of that physical therapy?

4 A We -- I went to four; they extended it. I went to four more and then after  
5 that I would go sporadically.

6 Q Now prior to May 1<sup>st</sup> of 2014 were you going to physical therapy for any  
7 hip issues?

8 A No.

9 Q Now did you have any additional physical injuries after May 1<sup>st</sup> of 2014?

10 A I was pretty battered and bruised, but you know I had two black eyes, a  
11 fractured nose -- a broken -- fractured nose. I had bones sticking out of my face  
12 where it was a concern with my eye. I was really sore. I was seeing physical --  
13 physical therapy and then -- I had sore ribs all from laying in that fetal position and  
14 getting beat -- beaten.

15 Q Now are you still undergoing treatment for your glaucoma?

16 A Yes.

17 Q Prior to May 1<sup>st</sup> of 2014 had you been diagnosed with glaucoma?

18 A No.

19 Q What treatment are you undergoing for that glaucoma?

20 A At this point, they were -- I became a glaucoma suspect due to trauma.  
21 And what they had me on was a steroid called prednisol [sic] -- prednisol [sic]  
22 eye drops, artificial tears, and there's another one that I use as needed that I don't  
23 recall the name of.

24 Q And are you still on the prednisone and that other eye drop?

25 A Yes.

1 Q Now additionally you had an eye surgery to replace your -- or to repair  
2 your eye socket; is that correct?

3 A Yes.

4 Q Are you still following up with any issues with regards to your eye  
5 socket?

6 A I still follow up with the retina consultant because of the flashing and  
7 floating and I have one more surgery scheduled. They're try -- my face from the  
8 right over is numb because of the nerve damage that Mr. Perry caused when he  
9 was beating me. So I'm numb and so the doctor is trying to help stimulate those  
10 nerves so I can get the feeling back in my face.

11 Q Now prior to May 1<sup>st</sup> of 2014 had you had any nerve damage or nerve  
12 issues with the right side of your face?

13 A No.

14 Q Now you said you had one more surgery.

15 A Yes.

16 Q Have you previously had some surgeries with regard to that nerve  
17 damage?

18 A Yes, I had two -- in addition to Dr. Leibowitz, I've had two additional  
19 surgeries to try to rejuvenate the nerves to get them -- get the numbness out.

20 Q Now -- and you said you have a third surgery scheduled?

21 A Yes.

22 Q In addition to the numbness, are you having any additional issues with  
23 the right side of your face?

24 A Yes, when I -- when I eat hot or cold foods -- mainly hot foods, like a  
25 slice of pizza, sometimes if I forget that I can't eat like I used to be able to, I'll bite



1 into the pizza and it burns so bad the right side of my face because that's all  
2 damaged. And I don't know exactly how it works, but I feel the heat from the top of  
3 my lip all the way to the upper part of my eye and near this part of my cheek.

4 Q And you're indicating kind of just to the right part of your cheek where  
5 your molars are?

6 A Right.

7 Q Is that an issue that you had prior to May 1<sup>st</sup> of 2014?

8 A No. And I forgot to say this. I also lost teeth and so those -- I'm seeing  
9 a dentist for the repair of the teeth he kicked out as well.

10 Q How many teeth did you lose?

11 A Two.

12 Q And you lost those May 1<sup>st</sup> of 2014?

13 A It wasn't that day. They fell out shortly after that. I don't recall the day  
14 that I actually noticed I had loose teeth and had to go see a dentist for that, so I  
15 don't -- I don't recall.

16 Q Now did you say that those teeth have been replaced now?

17 A No. I'm actually in the process of getting my whole mouth  
18 reconstructed, so -- that was the recommendation from the dentist because of -- I  
19 guess he wasn't able to just go in and fix what was damaged. He had to kinda  
20 repair teeth next to it as well.

21 Q And so is that treatment ongoing today?

22 A Yes.

23 Q At some point are you going to have to have dental surgery?

24 A Yes.

25 Q Do you know how many teeth are going to have to be replaced or what

1 area of your mouth they're in?

2 A On the right side of my face they're -- I'm gonna have an implant put in  
3 as soon as they're done moving the teeth back into a normal space and that is  
4 gonna occur next year.

5 Q Prior to May 1<sup>st</sup> of 2014 did you have any dental issues that would  
6 require surgery and reconstruction?

7 A No, it would've been cosmetic things that I would've just liked to have,  
8 but they weren't considered necessary.

9 Q So maybe you were going to get adult braces or something along those  
10 lines?

11 A Possibly, but it wasn't in the works.

12 Q Now are you still in any sort of pain from the incident on May 1<sup>st</sup>, 2014?

13 A Yes.

14 Q Can you describe that?

15 A Sure. So there are times in -- where I'm -- if I'm eating something hot  
16 that my face burns. That's painful. There are times where I'm in hip pain. That --  
17 that can be very painful. And I have this throbbing issue in my eye that's ongoing  
18 and I think that -- that is about it.

19 Q Okay. And prior to May 1<sup>st</sup> of 2014 did you have any issues with the  
20 throbbing pain in your eye?

21 A No.

22 Q I think I already asked you about the other two. Now I want to follow up  
23 with you a little bit more about your glaucoma. I believe you already said that you  
24 had not been diagnosed with glaucoma prior to May 1<sup>st</sup> of 2014.

25 A Correct.

1 Q Now I think you also testified that you have glaucoma suspect?

2 A That's what Dr. Singh indicated that I was a glaucoma suspect due to  
3 trauma.

4 Q Now is it possible that you're going to lose your eyesight in your right  
5 eye?

6 A I have not gotten a definitive yes or a definitive no from any of my  
7 doctors 'cause that was a concern. I had asked some very specific questions  
8 regarding, you know, the implant in my eye; how it's gonna affect me long term and  
9 the nerve damage in my face because of, you know, the implant and the kicking.  
10 And the answers that I get is that there's no guarantee that that feeling will ever  
11 come back.

12 Q Okay. And there's also no guarantee about what could potentially  
13 happen with your eyesight?

14 A Correct.

15 Q Okay. Now -- so we talked about your medical treatment and that all  
16 started the evening of May 1<sup>st</sup>, 2014; right?

17 A Yes.

18 Q Now I want to fast forward to the next day, May 2<sup>nd</sup> of 2014. Did you  
19 have occasion to go back to your house on May 2<sup>nd</sup>, 2014?

20 A Yes.

21 Q Why did you go back?

22 A I went back -- I don't know. That was my home. I wanted to go back,  
23 grab some things. I just went back.

24 Q Did you take any precautions on May 2<sup>nd</sup> when you went back to the  
25 house?

1           A     I did.

2           Q     What did you do?

3           A     Well, first of all, I didn't go alone. And I also called for police suspect --  
4 a police escort because my keys were still missing -- they weren't missing. Mr.  
5 Perry had left with them, so I didn't know if he was hiding in the house waiting to  
6 finish me off, and I had taken a girlfriend.

7           Q     Now when you got back on May 2<sup>nd</sup>, 2014 did you take any additional  
8 steps; you do anything else at the house?

9           A     I did. I had bought a lock to rekey my home. And the metropolitan  
10 SWAT had come with one of the K9s and sniffed the house out to make sure that  
11 there was no one hiding in there.

12          Q     Okay. Now were you able to change the locks on your front door?

13          A     I wasn't, but the police assisted me in doing so.

14          Q     Okay. Now while the police were there helping you change your locks  
15 did anything else happen regarding this case?

16          A     Yes. I figured I better try to find my car, so I called my finance company  
17 and said, hey, I know this thing has GPS on it, do you think you can help me locate  
18 it, and they said -- I kinda explained to them what had happened and they said sure,  
19 right away. So they did do a search and they located the car.

20          Q     Now do you recall where your car was located?

21          A     Not the specific address, but I know the vicinity in which it was found.

22          Q     And what was that vicinity?

23          A     It was off of Karen Avenue and just before you hit Paradise in some  
24 rundown type of apartments.

25          Q     Now had you ever been to that apartment complex before?

1           A     No.

2           Q     To your knowledge, did the Defendant have any connections to that

3 apartment complex?

4           A     Yes.

5           Q     Okay. Now about how far away from your condo was that apartment

6 complex?

7           A     One mile.

8           Q     And were you able to recover your vehicle that day?

9           A     Not that day I don't think. It was parked in such a way that the tow truck

10 wasn't able to get to it so -- I don't know if they got to it later that evening, but they

11 eventually got it.

12          Q     Okay.

13          A     I'm not sure if it was that day or the next day.

14          Q     But at some point the vehicle's returned to you?

15          A     Yes.

16          Q     Is there any reason you couldn't just drive it home?

17          A     I didn't have the keys.

18          Q     Is there only one set of keys?

19          A     Yes.

20          Q     And that was the set that the Defendant took?

21          A     Yes.

22          Q     Okay. Now I want to talk to you, Ms. Carpenter, about an incident that

23 happened in 2012. Did you have occasion to go to a T.J. Maxx on July 2<sup>nd</sup> of 2012?

24          A     Yes.

25          Q     Now can you give us a little bit of the backstory about why you went to

1 that T.J. Maxx?

2 A Sure. I had a girlfriend that owed me some money. The money was  
3 allocated already to purchase my severely disabled daughter's summer school  
4 clothes because he had attended what's called ESY, extended school year, and she  
5 had asked me to meet her there.

6 Q Now did you go to that T.J. Maxx?

7 A Yes, I did.

8 Q Were you able to meet this woman there?

9 A Yes, I did.

10 Q Did something else happen while you were in the store?

11 A Yes, it did.

12 Q Tell me about what happened.

13 A Sure. So I got there -- but prior to me arriving there she had kinda led  
14 me on a goose chase. I had just gotten out of the hospital from having like a spinal  
15 tap surgery, so we had been to a Walgreens; we had been to a bank, and this was  
16 finally what I considered shenanigans. And so when we finally got to T.J. Maxx I  
17 was really irritated.

18 Q So you meet her at the T.J. Maxx; right?

19 A Yes.

20 Q What happened inside the T.J. Maxx?

21 A I chased her. We had a brief argument and I chased her through the  
22 store. I think I had a weapon. It was a crowbar and I chased her. What happened  
23 was when we had the altercation she did not have the amount of money that she  
24 had said she would have. And at that point I was furious. All I could think about is I  
25 am so sick, and here it is my daughter has to return to school, and she's led me on a

1 goose chase and I lost my temper. And I went to threaten her. I didn't go to hurt  
2 her; I went to threaten her. And when she started running I started chasing her.

3 Q Now, Ms. Carpenter, do you take responsibility for that action?

4 A Absolutely.

5 Q Did you plead guilty to a misdemeanor assault and a misdemeanor  
6 carrying concealed weapons?

7 A Yes.

8 Q Now did you complete the requirements that were outstanding in that  
9 case?

10 A Yes, I did.

11 Q Now I want to direct your attention now back to that day on May 1<sup>st</sup>,  
12 2014. Did one of the police officers take your photo?

13 A A detective took -- a crime scene detective took photos of me; yes.

14 Q Now I'm going to show you State's Exhibit 29 here; do you recognize  
15 that photo?

16 A Yes.

17 Q What's depicted there?

18 A That's me.

19 Q Is that how you looked on May 1<sup>st</sup> of 2014?

20 A Yes.

21 Q Can you show -- or tell the Judge some of the things that we can see in  
22 that photo?

23 A So my right eye at that point is swollen shut. And actually my left eye  
24 was closed because it was painful to keep it open, but they had asked me to open it  
25 so that they could get pictures. At that point, I was laying down on a mattress that I

1 had put downstairs for my daughter because she is legally blind and it's hard to  
2 maneuver her up and down the stairs, so I was laying on that mattress that I had  
3 took downstairs. And then I have on a -- the bloody sports bra that I had slept in,  
4 but when I slept in it it wasn't bloody. That blood came from me bleeding from the  
5 injuries that I had from a broken nose, a busted lip and a fractured eye.

6 Q Okay. Now so this sports bra, is that what you were wearing when you  
7 went to sleep on the -- or the night of April 30<sup>th</sup> of 2014?

8 A Yes.

9 Q Okay. Now I'm going to zoom in a little bit with this. This is Exhibit 30.  
10 Is that just a closer-up photo of you?

11 A Yes.

12 Q And can you see kinda the blood a little bit better on your face there?

13 A Yes.

14 Q Okay. What I want to show you next is State's Exhibit 35; do you  
15 recognize that photo?

16 A Yes.

17 Q When was that photo taken?

18 A I think that may have been a photo I took of myself.

19 Q Okay. Was that that same day, May 1<sup>st</sup> of 2014?

20 A I don't believe so. I think that was a couple of days later.

21 Q So this would've been a couple days after May 1<sup>st</sup> of 2014?

22 A Yes.

23 Q Now what can we see in this photo from a couple days after May 1<sup>st</sup> of  
24 2014?

25 A Well, you can start to see that the swelling has taken place, so you can



1 see busted lips; you can see my nose is quite larger than what it normally is, and  
2 you can see a black -- a black eye on the left side, but on the right side you can see  
3 kind of a bone sticking out in the lower part of my eye and it was pretty much closed  
4 shut.

5 Q I also want to show you Exhibit 36. Let me reposition that. So is that  
6 another photo that you took a couple days later?

7 A Yes.

8 Q Now this is the top photo on Exhibit 36. Can you see some of those  
9 other injuries that you were talking about; for instance, the black eyes?

10 A Yes.

11 Q And can you also see the bone sticking out or kind of the deformity on  
12 the right side of your face?

13 A Yes.

14 Q And can you see the swelling to your nose? Is that a yes?

15 A Yes.

16 Q Okay. Now is the swelling worse in these photos than the photos that  
17 were taken by the detectives and the crime scene folks?

18 A Yes.

19 Q Okay. And is that just because it was later on?

20 A Yes.

21 Q Now I'm going to show you kind of this other one. This is the bottom  
22 photo on State's Exhibit 36; what's depicted there?

23 A My left eye was blackened and I had some swelling to my lips from him  
24 punching me and -- as if -- I had blood clots in my nose because I wasn't able to  
25 blow it -- get that -- that sort of dried out blood from out of there.

1 Q Now next I want to show you Exhibit 37. Let me zoom out there.

2 What's depicted in Exhibit 37 here?

3 A Cuts to my hands.

4 Q Now when was this photo taken?

5 A I don't recall.

6 Q Was it the same time that you took the pictures of your face?

7 A Yes, I believe so.

8 Q So a couple days after May 1<sup>st</sup> of 2014?

9 A Yes.

10 Q Now are these the cuts that we had talked about previously?

11 A These were defensive wounds from what happened in the kitchen of  
12 me trying -- to kinda get him off of me and plead for my life; yes.

13 Q Now specifically you say defensive wounds. What were you defending  
14 against?

15 A Him slicing at me with that knife that he found in the kitchen.

16 MS. SUDANO: Court's indulgence, Your Honor.

17 Your Honor, no further questions.

18 THE COURT: Okay. Why don't we take a short break; okay.

19 MR. SHETLER: Your Honor, if it would be okay to take slightly longer than  
20 short, just a few moment to go over a few things with my client and then make a  
21 phone call?

22 THE COURT: Okay.

23 THE MARSHAL: All rise. Court's now in recess.

24 [Recess taken at 3:34 p.m.]

25 [Proceedings resumed at 3:51 p.m.]

1 THE MARSHAL: Please rise. District Court Department 6 is back in session.

2 Please be seated.

3 MR. SHETLER: Thank you, Your Honor.

4 THE COURT: Sure. Okay, cross.

5 MR. SHETLER: Yes.

6 Ms. Coleman [sic], my name is Travis Shetler and I represent Mr. Perry.  
7 I'm going to ask you some questions. If you need to take a break, if you need some  
8 water -- I just need to get some information out; okay?

9 THE WITNESS: Okay, but my name isn't Miss Coleman. It's Ms. Carpenter.

10 MR. SHETLER: Thank you, Ms. Carpenter; I apologize.

11 THE WITNESS: No problem.

12 MR. SHETLER: Jury or no jury you still get a little nervous, you know.

13 **CROSS-EXAMINATION**

14 BY MR. SHETLER:

15 Q Ms. Carpenter, I want to go back briefly to the T.J. Maxx incident before  
16 we go over to the condo. Do you remember what weapon you told the Court you  
17 had with you that day?

18 A I do. I think I said a crowbar.

19 Q Was there another weapon also?

20 A There was a knife; yes.

21 Q And you told the Court -- Mr. Perry knew about that incident; is that  
22 correct?

23 A He did.

24 Q Did you -- you told the Court that you took responsibility for that  
25 incident; correct?

1 A Yes, I did.

2 Q You said you pled to a misdemeanor case?

3 A Yes.

4 Q Was that how it was charged originally?

5 A It was not charged as a misdemeanor originally.

6 Q What was the original charge?

7 A I believe there were two charges. There was a charge of an assault  
8 with a deadly weapon and I don't know the other charge.

9 Q You had mentioned that you'd recently undergone -- I believe you said  
10 a spinal tap --

11 A Yes.

12 Q -- shortly before that? And I don't want to take a lot of your time on that  
13 and I don't want to pry, but what type of symptomology were you having that  
14 required the spinal tap?

15 THE WITNESS: I don't know. Am -- do I answer that?

16 THE COURT: Yes.

17 THE WITNESS: Okay. I don't recall exactly. I just know that when I got to  
18 the hospital -- it was during that time I had a lot of complications, but when I got to  
19 the hospital that's the procedure that the ER recommended.

20 BY MR. SHETLER:

21 Q Do you remember how long before the T.J. Maxx incident that was?

22 A Two to three days, I believe.

23 Q And were those -- the complications that you talked about having, were  
24 those stemming from an accident of some type?

25 A No.

1 Q Did any of those complications you were having cause you to have any  
2 problems with your vision?

3 A No.

4 Q Any problems with your teeth?

5 A No.

6 Q Any problems with insomnia?

7 A No.

8 Q Any problems with an inability to control your anger?

9 A I'm sorry, I don't understand where -- what you mean. Are you --

10 MR. SHETLER: I'll reask it. And, please, if I do ask a question sometimes I  
11 get so excited about my own words just please ask me to repeat it; okay?

12 BY MR. SHETLER:

13 Q The -- you said, I believe -- I'm paraphrasing, bear with me. You said --  
14 talking about the T.J. Maxx incident and the victim in that -- what was the victim's  
15 name in that case?

16 A I don't recall her entire name at this point.

17 Q She led you on a goose chase all over town?

18 A Yes.

19 Q And I don't remember if you said you'd snapped or you just lost it. Do  
20 you remember the words you used?

21 A I think I said I lost it.

22 Q That's what I'm talking about. Did the -- did the complication you were  
23 having that led up to whatever other procedures were performed, including the  
24 spinal tap, were those complication -- would they cause you to lose it or to not be  
25 able to control your anger?

1           A     No, it had nothing to do with the spinal tap. I was agitated at her.

2           Q     Have you had any other incident where you lost control of yourself in  
3 public like that?

4           A     No.

5           MS. SUDANO: And, Your Honor, I'm going to -- I withdraw that  
6 [indiscernible].

7           THE COURT: Okay.

8 BY MR. SHETLER:

9           Q     How did Mr. Perry know about that incident?

10          A     We shared several things in confidence with each other that we had  
11 done in our past.

12          Q     In the course of sharing the facts relating to the T.J. Maxx incident, did  
13 you ever brag to him about the outcome of that incident?

14          A     No, I did not.

15          Q     Did you ever get the rest of your money?

16          A     No, I did not.

17          Q     On the incident that took place at the condo, did that incident stem from  
18 a dispute about money or drugs?

19          A     No, it did not.

20          Q     Did you know Mr. Perry to be involved at all with drugs?

21          THE WITNESS: I'm sorry, Judge, can I speak to a counselor about that?

22          THE COURT: You need to answer the question.

23          MR. SHETLER: [Indiscernible] pending.

24          THE WITNESS: Okay, just answer that. I did.

25          ///

1 BY MR. SHETLER:

2 Q How was that?

3 A What do you mean, how did I know to -- know of it?

4 Q Yeah.

5 A He frequently had it on his person.

6 Q Did he have the drugs on his person to use, did he have it on his  
7 person to see, or do you know?

8 A I'm not -- what drugs are you referring to because I know of a couple of  
9 different types?

10 Q I'm just talking about drugs in general. Did Mr. Perry -- you said Mr.  
11 Perry frequently had drugs on his person; correct?

12 A Yes.

13 Q Did -- do you have an opinion or do you know if he had those on his  
14 person for his personal use, if he had those on his person to sell, or do you not  
15 know?

16 A If we're referring to marijuana, he had that normally to use. I don't  
17 really recall if he sold that or not. And he told me that he had crack. I had never  
18 seen crack cocaine prior to meeting Mr. Perry, so there were times that he showed  
19 me, but I never witnessed him using it; I never witnessed him selling it.

20 Q Now when you say using it or selling it are you talking specifically about  
21 just crack cocaine or any other drugs besides marijuana?

22 A Just crack cocaine.

23 Q Did he -- did you ever have occasion to -- well, let me strike that. I  
24 apologize. Did you ever help him sell drugs?

25 MS. SUDANO: I'm going to object as to the relevance of that, Your Honor.

1 THE COURT: Relevance?

2 MR. SHETLER: Your Honor, our position is that there was a dispute that  
3 night that took place related to drug money, drug loans. And there are -- is evidence  
4 in text messages that the victim was aware that Mr. Perry was involved in drug  
5 usage, drug sales. And I'd like a little bit -- well [indiscernible] the answer. Anyhow,  
6 I believe it's relevant because I believe that's what the source of the dispute possibly  
7 could have been that night and a dispute over money that the victim believed she  
8 was owed by the Defendant, which is referenced in text message.

9 THE COURT: Ms. Sudano?

10 MS. SUDANO: Your Honor, in going through the text messages there's  
11 reference to money, but I don't believe that that's what the money is for. There's no  
12 relevance or foundation for that question or that line of inquiry, frankly, in this case.

13 THE COURT: So your theory is that it's a dispute about drug money that  
14 gave rise to this dispute.

15 MR. SHETLER: Specifically that the victim was expecting money from my  
16 client that she wanted some of the money that evening. And --

17 THE COURT: And there's going to be some evidence relating to that in this  
18 trial?

19 MR. SHETLER: The -- they're in the text messages, yes. I don't think it  
20 would take special lawyering to get there, Judge.

21 THE COURT: All right, I'll give you some leeway. Go ahead. Overruled.

22 BY MR. SHETLER:

23 Q You were aware that -- you communicated by text message with Mr.  
24 Perry frequently; is that right?

25 A Yes.



1 Q And do you remember sending him text messages in the vein of being a  
2 drug dealer?

3 A Possibly.

4 Q Do you believe he was a drug dealer?

5 A Yes.

6 Q Do you know how much money he made as a drug dealer?

7 MS. SUDANO: Your Honor, I'm going to object. I don't think that we really  
8 have the proper foundation for this laid at this point. I don't know what text message  
9 we're talking about here or when.

10 THE COURT: Okay.

11 MR. SHETLER: I don't want to go -- I'll, of course, do whatever the Court  
12 would like. I don't -- I don't think we need to spend a lot of time in the heart of those  
13 messages, but I'm happy to do that, Judge.

14 THE COURT: So the question is what?

15 MR. SHETLER: Do you have any idea how much money he made as a drug  
16 dealer?

17 THE WITNESS: He asked me did I help him sell drugs.

18 THE COURT: You can ask about the money. Go ahead.

19 BY MR. SHETLER:

20 Q Do you have any idea how much money Mr. Perry made over the time  
21 that you knew him from selling drugs?

22 A No, I -- I have no idea.

23 Q Did you ever make any money from his sale of drugs?

24 A No, I did not.

25 Q Did you ever assist him in his travels to sell drugs?

1           A     I several times gave Mr. Perry rides. I don't -- I didn't know what he  
2 was doing. I didn't -- I gave him a ride; I sat in my car. I didn't witness him doing  
3 anything other than getting out of the car and going into the places he needed to go  
4 into.

5           Q     Did Mr. Perry -- do you believe Mr. Perry owed you money that night  
6 before he came over to the condo?

7           A     Yes.

8           Q     Do you know why he owed you money?

9           A     Because he signed a promissory note stating that he owed me money  
10 for \$1,250.

11          Q     What was the reason for that note?

12          A     'Cause he borrowed the money from me and I wanted some sort of  
13 paper trail on getting it back.

14          Q     And that was the amount you loaned him was \$1,250?

15          A     Yes.

16          Q     You weren't going to make any interest on the deal?

17          A     There was a clause in there regarding interest.

18          Q     Do you know what he used that money for?

19          A     Not specifically. I know what he told me he was gonna use it for.

20          Q     What was that?

21          A     He wanted to invest in a travel company and purchase a car.

22          Q     Did you ever see Mr. Perry with trying to generate revenue from  
23 prescription drugs?

24          A     Did I ever see it; no.

25          Q     Do you -- well, strike that.

1                   On the -- do you remember texting with Mr. Perry the night before he  
2                   came over to the condo?

3           A       Yes.

4           Q       Do you remember telling him that you needed money the following day  
5           for a doctor?

6           A       That what?

7           Q       That you needed money the following day for a doctor or doctor's  
8           appointments?

9           A       Possibly.

10          Q       Do you remember him stating that he needed to get his medications  
11          and identification from you?

12          A       Yes.

13          Q       Do you remember what you told him?

14          A       I don't.

15          Q       Before Mr. Perry came to your condominium that night was he -- were  
16          you scared of him?

17          A       I was leery, I wasn't scared, no.

18          Q       And when you say leery can you elaborate a little, please?

19          A       He tended to have erratic behaviors.

20          Q       In public department stores; where?

21          A       I wouldn't have any idea other than when he was with me the behaviors  
22          he exhibited so. He tended to have erratic behavior when he was with me.

23          Q       Can you give us an example, please?

24          A       He would get upset when I was handling business with people from out  
25          of town that needed -- two gentlemen that was coming from out of town to transact

1 business with me that I needed to pick up from the airport. He would get upset at  
2 comedy clubs when the comedians on stage, whom I was friends with, would heckle  
3 me and make jokes. He would get upset about that.

4 Q Jealousy stuff you're talking about?

5 A Yes.

6 Q Did he ever raise a hand to you?

7 A When? I don't understand.

8 Q Any time before the events we're talking about that night in the  
9 condominium. Did he ever raise a hand to you?

10 THE WITNESS: Can I talk to counsel about that because she told me not to  
11 bring up incidents.

12 THE COURT: Right, but defense counsel is inquiring so I guess defense  
13 counsel is knowingly getting into this issue, correct?

14 THE WITNESS: Yes he did.

15 MR. SHETLER: Yes, Your Honor.

16 THE COURT: Okay. All right.

17 MR. SHETLER: Thank you.

18 THE COURT: Go ahead.

19 MR. SHETLER:

20 Q And did he use a weapon against you previously?

21 A No.

22 Q Did you ever have to seek medical treatment previously?

23 A Yes.

24 Q Can you tell the Court what kind of treatment that was?

25 A Well, I was pretty embarrassed that I was doing what someone -- that I

1 was taught to be unequally yoked with me. So when we had --

2 Q I'm really stuffed up myself. Can you repeat that? I don't -- I didn't hear  
3 it properly.

4 A Sure. I was pretty embarrassed regarding the first time he put his  
5 hands on me.

6 Q You used a phrase though.

7 A Unequally yoked.

8 Q Yoked. Thank you.

9 A So, what I did was I informed two of my closest friends and my doctor  
10 that I had been strangled by the Defendant and I did not report it to police.

11 Q And how did he -- what did he use to strangle you with? Did he use his  
12 hands or did he use an object or an item?

13 A I don't recall.

14 Q Do you remember how long prior to this incident that was?

15 A I believe it was in November 2013.

16 Q And do you remember how long it was you maintained a relationship  
17 with Mr. Perry after that?

18 A It was off and on until April 2014.

19 Q Do you remember texting Mr. Perry the night before the incident that  
20 we're talking about in this case at the condo; do you remember texting him about  
21 sending his stuff to the police station to pick it up?

22 A Yes.

23 Q Do you remember texting him about putting his stuff out on the front  
24 steps to pick it up?

25 A No.

1 Q Did he tell you how much money -- did he ever tell you he was going to  
2 bring you any money that night?

3 A No.

4 Q Did you think he was going to bring you money that night?

5 A No.

6 Q Do you remember what time it was when he arrived at your condo?

7 A Not specifically, I know it was late in the evening.

8 Q Still dark outside?

9 A Yes.

10 Q If I said that you were still texting between, say, midnight and one a.m.  
11 would that sound about right to you?

12 A Possibly.

13 Q And you think he arrived sometime between one a.m. and before the  
14 sun came up; is that fair?

15 A Yes.

16 Q And can you tell me how you knew he was at your condo?

17 A I think he rang the doorbell.

18 Q Did you know it was him when he rang?

19 A Not when he rang, when I went to the door and asked him who -- you  
20 know, who's there I knew it was him.

21 Q Did he ask for his items at that time?

22 A No.

23 Q What happened?

24 A He -- I opened the door and he explained to me that he had been in an  
25 altercation and that he wanted to just come in and I think he said he wanted to

1 spend the night.

2 Q You didn't tell him no?

3 A No. He mentioned he needed his blood pressure medication so, that  
4 was the basis of me not turning him away

5 Q Do you remember in the course of the texting conversations back and  
6 forth telling him that if anybody showed up other than Metro you were going to call  
7 the police?

8 A Possibly.

9 Q But you didn't do that?

10 A I did not.

11 Q You said after he arrived, shortly after he arrived, you went back to  
12 sleep.

13 A Yes.

14 Q And, do you have any trouble with sleeplessness or insomnia?

15 A I have had trouble in the past, yes.

16 Q Were you experiencing any problems with that at that point in time?

17 A I don't recall.

18 Q Is it a big deal for you to be woken up in the middle of the night? Do  
19 you go back to sleep easily or is it something that creates problems for you?

20 A Normally if I'm woken up it's difficult for me to go back to sleep.

21 Q In this case you were able to go back to sleep easily?

22 A I don't recall if it was easy or not but I went back to sleep.

23 Q Fair enough. Thank you for clearing that up.

24 Was there any place else Mr. Perry could have stayed that night other  
25 than in your bed?

1           A     I'm sorry, inside my apartment?

2           Q     No, inside your bed with you. Is there some place else he could have

3 slept in the condo?

4           A     Possibly, yes.

5           Q     Did you suggest that he sleep somewhere else?

6           A     No.

7           Q     Did he tell you where he was going to sleep?

8           A     No.

9           Q     How did the decision come to be made that he was going to sleep in

10 your bed?

11          A     He just got in the bed.

12          Q     Were you comfortable with that?

13          A     I didn't care.

14          Q     Do you remember what it was that woke up, either you or him, in the

15 morning?

16          A     I believe he woke me up.

17          Q     Do you remember how?

18          A     No.

19          Q     Were you alarmed when he woke you up?

20          A     No.

21          Q     Do you remembered what happened after he woke you up when you

22 first felt threatened or scared or worried?

23          A     Yes.

24          Q     What was that?

25          A     He started pacing the floor, cursing about my mother and other things



1 that he was unhappy with.

2 Q And was he dressed at that point in time?

3 A Yes.

4 Q Had on, what kind of shoes did he have on?

5 A I don't recall what kind of shoes. I know they were some sort of high-  
6 top tennis shoes.

7 Q Did he have them on at that time as far as you could tell or you  
8 remember?

9 A Yes.

10 Q At some point in time did he later put on some boots?

11 A No.

12 Q Do you remember testifying earlier that he was kicking you with a  
13 booted foot?

14 A Yes.

15 Q Are you talking about a different shoe or are you referring to the high-  
16 top or?

17 A I was referring to the high-top sneakers.

18 Q So he's up pacing or moving in some sort of agitated manner and you  
19 become concerned?

20 A Yes.

21 Q What do you do next?

22 A I reach for my phone.

23 Q What happens?

24 A He charges towards me and grabs the phone away from me and threw  
25 it.

1 Q Where'd he throw it?

2 A He threw it against the southwest window in my room.

3 Q Did it break the window?

4 A No.

5 Q Did it hit the glass or some other part of the window?

6 A It didn't hit any part of the window he just threw it on that wall that the  
7 window set on.

8 Q In that direction?

9 A Yes.

10 Q What happened next?

11 A So I was concerned at the level of irritability so I went to the bathroom  
12 that was in my bedroom and I was -- my plan was to lock myself in there, I guess,  
13 but I did quite make it in.

14 Q And that's when you told the Court that he hit you the first time in the  
15 face?

16 A Yes.

17 Q I used a fist, I'm sorry; what did he hit you with?

18 A He hit me with his fist.

19 Q Do you know if it was his right or left fist?

20 A I don't recall.

21 Q And as you sit here today or even at that time, that morning, do you  
22 have any idea what caused him to go from pacing to striking you?

23 A I have no idea.

24 Q At some point you were able to get up and try to leave the bedroom; is  
25 that right?

1 A Yes.

2 Q And you made it to the stairs; right?

3 A Yes.

4 Q And of the stairs, you talked about stairs and a landing and stairs; are  
5 they straight down stairs or do they make a turn at the landing?

6 A Um, I can go from my bedroom down about five steps, then there's a  
7 landing, and then I go about another five steps.

8 Q Are you still going to the same direction though when you hit that  
9 landing and keep walking or do you have to turn left or right from the landing to get  
10 down?

11 A I go down the stairs I make a left, and then I go down the stairs and  
12 make a right, a left to get off of them again, so two lefts.

13 Q They're not a straight staircase?

14 A No.

15 Q All right. And you testified that as you were going down the steps that  
16 Mr. Perry kicked you and you fell -- tumbled down the rest of the steps; is that  
17 accurate?

18 A Yes.

19 Q And you landed in the middle of your kitchen?

20 A Yes.

21 Q And you said you landed on your stomach originally; is that right?

22 A Yes.

23 Q And then you stated that you were in a fetal position?

24 A Yes.

25 Q And, was your face facing the -- so were on your side at that point

1 then?

2 A I was.

3 Q And were you facing the stove, were you facing away from the stove?

4 A I was facing the stove.

5 Q And what happened next?

6 A I kind of curled up in a fetal position and he continued to kick me in my

7 head and punch me.

8 Q So you were laying on right side or left side?

9 A My left side.

10 Q And he's kicking and punching you; where is he striking your body?

11 A My face, my right side. He's kicking and punching my right side

12 because I'm laying on my left side --

13 Q Right.

14 A -- kind of balled up trying to protect myself.

15 Q And you're facing the stove; right?

16 A Yes.

17 Q Is he between you and the stove?

18 A I don't know where he was.

19 Q You're positive he kicked you in the face?

20 A I'm positive.

21 Q You said you were blacking out a little bit?

22 A Somewhat.

23 Q Can you elaborate on that a little for us?

24 A I did not lose consciousness. I just remember my eye being swollen

25 shut and he was punching me so hard that I was kind of losing clarity, mental clarity,

1 kind of in and out.

2 Q Little bit surreal?

3 A I don't know if it was surreal, I just kind was in shock.

4 Q I don't take you through this for any other reason that I need to do this, I  
5 apologize.

6 Is it possible he was standing between you and the stove?

7 A I don't know.

8 Q If he wasn't standing between you and the stove do you know how he  
9 could have kicked your face?

10 A I don't know. I -- honestly I don't know. I just know that I was balled up  
11 in a fetal position trying to keep from getting beat any further in my face and kicked.

12 Q I think you testified that you were having some pain problems in your  
13 hip after this; is that accurate?

14 A Yes.

15 Q And those you believe were related to the incidents that you say that  
16 Mr. Perry performed upon you?

17 A Yes.

18 Q Not related to any diagnosis or symptomology you had prior to this?

19 A I don't believe that the particular injuries I sustained after May 1, 2014  
20 were lupus related.

21 Q Thank you, you knew where I was going. Did any doctor ever tell you  
22 they were not related?

23 A What they did tell me is I didn't have a history and this was most likely  
24 caused by the blows taken from Mr. Perry.

25 Q Let me take you out of that scene for just a second. You mentioned

1 that you had a pain management doctor; do you remember that?

2 A Yes.

3 Q Why did you have a pain management doctor?

4 A Because I've been diagnosed with sickle cell and lupus.

5 Q And what type of symptomology were you getting that caused you to  
6 seek a pain management doctor?

7 A Joint pain mostly. Joint pain, I'm trying to think of what all I was treated  
8 for, but it was mostly joint pain and joint swelling.

9 Q Was any of that related to the complications you were having prior to  
10 the T.J. Maxx incident; do you believe any of those issues were related to your  
11 diagnosis?

12 A No.

13 Q That was completely separate?

14 A It was a separate issue.

15 Q When you would have joint pain related to the -- before this incident  
16 allegedly occurred, would it be random throughout your body, were there specific  
17 areas that would suffer more than other areas?

18 A It was pretty random but normally my joint pain and swelling occurred in  
19 places that bend such as my elbows, such my wrists, such my knees, anything that  
20 bends or that I do repetitiously is normally where -- when I got the most pain.

21 Q Would it be fair to say that elbows and knees would be more of an issue  
22 than say shoulders and hips; is that what you're trying --

23 A Yes.

24 Q Thank you. You mentioned to Ms. Sudano that you had -- you didn't  
25 seek any other pain medication treatment when you went to get treated for the

1 injuries you allege were inflicted by Mr. Perry because you had your pain  
2 management doctor; correct?

3 A Correct.

4 Q And you also mentioned specifically a narcotics authorization, I believe?

5 A Correct. I was under a pain management contract where I was not to  
6 take any controlled substance from any other doctors besides my pain management  
7 doctor, so when I was treated in the ER they gave me intravenous --

8 Q Right.

9 A -- medication.

10 Q They just called to clear that you gave -- you advised them of that and  
11 they called to let the doctor.

12 A Yes.

13 Q Thank you. Did you ever obtain any prescription medications from Mr.  
14 Perry?

15 A No.

16 Q Did you ever give him any prescription medications to try and sell?

17 A Not that I can recall.

18 Q Is it possible?

19 A Is it possible? I -- I don't recall. I'm jogging my memory regarding our  
20 interaction. Mr. Perry knew that I received narcotic medication from my pain  
21 management doctor.

22 Q A little or a lot?

23 A Did he know a little or are you asking about the quantity?

24 Q Did you receive a little or a lot?

25 A I received a therapeutic dose for what I was diagnosed with.

1 Q Were you under -- back at the T.J. Maxx incident, you did not have a  
2 pain specialist at that point; is that correct?

3 A That's correct.

4 Q Did you have prescription medications on you that day?

5 MS. SUDANO: I'm going to object to the relevance of this, Your Honor.

6 THE COURT: Counsel?

7 MR. SHETLER: I'd be happy to lay some foundation, Your Honor.

8 THE COURT: Go ahead.

9 MR. SHETLER: I believe that it's possible that there was joint engagement in  
10 the sale of prescription drugs. I believe that it's possible that the, I don't want to go  
11 too far without a foundation, there are a number --

12 MS. SUDANO: And, Your Honor -- I apologize.

13 MR. SHETLER: That's okay.

14 MS. SUDANO: Continue. I'm sorry I didn't mean to interrupt you.

15 MR. SHETLER: There are a number of pills that were in her bag that day that  
16 are not identified.

17 THE COURT: Okay.

18 MR. SHETLER: And, where I'm going is to try and determine if there was an  
19 issue there that was existent and during the relationship with Mr. Perry, and that  
20 could have influenced the incident that evening or morning is a better or accurate  
21 statement.

22 THE COURT: Wait, there were pills in her bag the day of T.J. Maxx --

23 MR. SHETLER: Correct.

24 THE COURT: -- or the day of the incident with your client?

25 MR. SHETLER: T.J. Maxx.



1 MS. SUDANO: I think one, that assumes facts not in evidence; two, I don't  
2 understand the relevance of something that happened a year and a half before this  
3 incident before she even knew the Defendant.

4 THE COURT: Right. So, I'm sorry --

5 MR. SHETLER: Overrule?

6 THE COURT: I'm having trouble also, so.

7 MR. SHETLER: Okay. I'll withdraw the question, Your Honor. Thank you.

8 THE COURT: Okay. Sustained.

9 MR. SHETLER:

10 Q Can you tell me at some point in time he stops allegedly kicking and  
11 hitting you in the kitchen floor; is that accurate?

12 A Yes.

13 Q What happens next?

14 A We kind of -- I sit up. I beg him and plead with him to quit hitting me  
15 and I stand up. He kind of drags me up and marches me up into the living room.

16 Q And you talked about that earlier, kind of drag but you don't recall if it  
17 was by an arm, by your hair, by your shoulders, or --

18 A No, when I say dragged I mean he more so dragged the article of  
19 clothing that I had on.

20 Q Thank you. I'm sorry. Go ahead; he took you to the living room?

21 A He took me into my living room.

22 Q And what happened at that point?

23 A I sat down on the couch where he told me to sit and he began pacing in  
24 front of me and threatening me, discussing things that had agitated him throughout  
25 the time of our relationship so he talked about my ex-husband, my children, killing

1 me at seven p.m. that evening.

2 Q Why 7 p.m.?

3 A I don't know.

4 Q What caused him to go from pacing -- it was just trying to use your cell  
5 phone that caused him to go from pacing to first reaching out and doing anything?

6 A I'm not following.

7 Q You wake up and at some point in time between waking up and all this  
8 starting he's pacing and in an agitated manner. You feel the need to call for help;  
9 right?

10 A Yes.

11 Q But you don't call for help because he takes your phone away; right?

12 A Correct.

13 Q And there was no incident that you're aware of that went from sleeping  
14 to pacing to taking away your phone?

15 A I believe what happened was that he was still agitated by the fight that  
16 he had told me he had the night before. I also had not -- I had not been in an  
17 environment of drug users, what that behavior looked like. So when he woke up the  
18 next morning and he was erratic, pacing, and cursing and talking about my mother I  
19 didn't know whether he had been involved in some sort of illicit drugs or if he was  
20 still hyped up about the fight he had gotten into the night before. All I know is that I  
21 had asked him to leave the next morning, I had given him the privilege of staying the  
22 night and taking his blood pressure medicine, I was ready for him to go ahead,  
23 made that clear, and I went to grab my phone when I saw him acting erratic because  
24 I knew at that point it was not gonna -- I was in some sort of danger. It wasn't gonna  
25 lead to anything that I wanted it to lead to.

1 Q Why didn't he -- strike that.  
2 After you go to the living room does he do anything to you, physically?  
3 A Aside from holding me there against my will?  
4 Q Right.  
5 A He does not punch me or slice at me anymore. No.  
6 Q And it was in the course of this slicing at you that your hands got cut?  
7 A Yes.  
8 Q Do you know why that's not in the police report?  
9 A Because I was pretty dazed. I did make mention of quite a few things in  
10 that particular time frame that I had to write the police report.  
11 Q At any time during this night, morning in the condominium did you ever  
12 initiate any aggression towards him?  
13 A No.  
14 Q Did you ever verbally harass, abuse, excite him?  
15 A No.  
16 Q This man who you told if he came to your house you're going to call the  
17 police you decided, out of the kindness of your heart, to let him crash there; correct?  
18 A I don't know that it was out of the kindness of my heart. Being  
19 someone that needs medication I know what that's like to be in a position to be  
20 without it, so it was empathy.  
21 Q Empathy, that's a better description, thank you.  
22 Do you remember the photograph Ms. Sudano showed you of the door  
23 to the half bath that had the blood smear on the hinge?  
24 A Yes.  
25 Q Do you know what that blood was from?

1           A     The blood was from my body. I don't know if it can from my nose, eyes,  
2 lips but it was from my body.

3           Q     Right. Was your hand bleeding?

4           A     I don't recall what part of my body was bleeding at that point I was in  
5 survival mode where I was just trying to leave some sort of evidence that a struggle  
6 had occurred.

7           Q     You used the word survival mode, previously, as well. Do you believe  
8 at any point during your interaction with Mr. Perry that he was in survival mode?

9           A     No.

10          Q     Do you believe at any point during your interactions that he was scared  
11 of you?

12          A     No.

13          Q     Have you ever given him reason, during the course of your relationship,  
14 to be scared of you physically?

15          A     No.

16          Q     Have you ever threatened him verbally?

17          A     When you say threatened, can you kind of be more specific?  
18 Threatened bodily harm or threatened to leave him or, I don't understand.

19          Q     Bodily harm.

20          A     No.

21          Q     When you gave him rides where he may or may not have been selling  
22 drugs was that up and down Boulder Highway?

23          A     Sometimes.

24          Q     Do you remember when it was in your relationship that you were first  
25 aware of drug activity?

1           A     I don't.

2           Q     Was it before this incident at the condo?

3           A     Yes, it was.

4           Q     You think it was before Christmas?

5           A     I don't recall a specific time frame.

6           Q     Was there anybody else in your condo during this time?

7           A     No.

8           Q     When you ran out to get help can you tell the Court what you did to try  
9 and secure help?

10          A     I ran across the way meaning adjacent to my apartment well, kind of  
11 parallel actually, and I banged on a neighbors door. I heard someone home but  
12 they didn't open the door.

13          Q     Like heard voices inside?

14          A     Yes. And at that point I just thought well I don't know if I would open my  
15 door for a bleeding woman that looks like this either so I kind of ran back into my  
16 home and ran upstairs to grab the phone to see if I could use the one form of  
17 communication that I had in my home.

18          Q     But it had been laying in the toilet for some time at least?

19          A     Correct.

20          Q     When the police showed up they took some photographs.  
21 If I may approach?

22          THE COURT: Yes.

23          MR. SHETLER:

24          Q     Correct?

25          A     Yes, they did.

1 Q And then you took some photographs yourself a couple days later you  
2 said; is that right?

3 A Yes.

4 Q You don't remember how many days later?

5 A It had to be maybe a couple because I had decided I was going to chart  
6 the progress of my healing.

7 Q How long were you at the hospital before they released you to go to  
8 your sister's home -- you went home but you went to your sister's house; right? Do  
9 you remember how long?

10 A I didn't go to my sister's house I went -- she transported me to my  
11 mother's home and I was treated and released from the hospital, I believe, the same  
12 day.

13 Q I'm going to, with the Court's permission, put Exhibit 28 on the  
14 overhead.

15 THE COURT: Go ahead.

16 MR. SHETLER:

17 Q And that's a picture that the police took; is that correct?

18 A Yes.

19 Q And I think it was 30 -- Exhibit 35, 36 and 37. I'm going to start with  
20 Exhibit 35; and that you believe is a picture that you took of yourself?

21 A Yes.

22 Q And the same with 36?

23 A Yes.

24 Q And the same with 37, this is a picture of your hands; correct?

25 A Yes.

1 Q And it looks, on the bottom of the picture of 37, do you see the spot on  
2 your knuckle there; there's a dark spot and then there's a not as dark spot, for a lack  
3 of an artful term?

4 A Yes.

5 Q Do you know what that medium colored spot is?

6 A The little black dot or the --

7 Q No, the one next to the black dot. I don't have a good --

8 THE COURT: Why don't you put your finger on it.

9 MR. SHETLER: No pun intended.

10 THE COURT: Yes.

11 MR. SHETER:

12 A I believe that to be blood.

13 Q Blood, a couple days later?

14 And in the picture 36, the top picture, it looks like you're showing -- you  
15 got your hair pulled back to get a good clear shot of your face; is that an accurate  
16 statement?

17 A Yes.

18 Q And there's still quite a bit of blood still located around your mouth and  
19 your nose; is that accurate?

20 A Correct.

21 Q And then do you see what top you're wearing in that picture?

22 A Yes.

23 Q Do you know what top that is?

24 A Looks like the same top that I had when the police showed up to my  
25 home.

1 Q That's the top here in picture 28?

2 A Yes.

3 Q Exhibit 28, excuse me. You don't remember changing out of that top at  
4 any time?

5 A No. This picture could have possibly been taken that same day.

6 Q And the same thing in 35; that looks like the same top?

7 A Yes.

8 Q And do you know what -- did you -- were those pictures taken with a cell  
9 phone or with a camera or do you know?

10 A A camera.

11 Q Who's camera was that?

12 A My camera, I believe.

13 Q Did someone help you take those pictures?

14 A No, I don't recall, I don't think so.

15 Q Were they selfies?

16 A Yes. I do believe they were selfies.

17 Q But you didn't use the phone that was in the toilet?

18 A I don't know what phone I used. I had a couple of different cell phones  
19 that I hadn't used in a couple of years since -- I had a nephew pass away and I had  
20 kind of stored that phone without battery or SIM card so I may have pulled that one  
21 out and begin to use that one to take selfies since the other one was damaged, but I  
22 don't quite recall.

23 Q Did you have an opportunity -- did you ever try to get the phone from  
24 the toilet, did it ever work later or did it just work for that 9-1-1 call, or do you know?

25 A I think, um, it eventually worked, sort of, like there was still some



1 features that did not work correctly.

2 Q I'm all too familiar with that, unfortunately.

3 Why do you think Mr. Perry took your car? Why do you believe --

4 MS. SUDANO: I'm going to object as to speculation, Your Honor.

5 MR. SHETLER:

6 Q Why did you tell the Court that Mr. Perry took your vehicle? You  
7 testified that Mr. Perry took your car; correct?

8 A Yes, I did.

9 Q Why did you -- why do you believe that? Why do you believe it was  
10 him; that's where I was trying to get. I apologize, Your Honor.

11 THE COURT: Okay.

12 MR. SHETLER:

13 Q Why do you believe it was Mr. Perry that took your car? I apologize to  
14 the State as well.

15 A He took my keys in front of me when he was holding me hostage on the  
16 couch in the living room. He marched me up my stairs at knifepoint and took me  
17 into a bathroom where he asked me to stay until he left in my car and not to leave  
18 the restroom until I heard the garage door up and there was no one else in the  
19 home.

20 Q But you don't know if he drove your car away?

21 A I did not see him drive my car away.

22 Q Or if somebody else drove your car away?

23 A There was no one else in my home.

24 Q Once the garage -- the car was parked in the garage?

25 A Yes, it was parked in my garage.

1 Q And you heard the garage door open after Mr. Perry allegedly left you  
2 upstairs in the bathroom; correct?

3 A Yes.

4 Q But somebody else could have taken the car?

5 A No.

6 Q It's not possible at all; 100 percent?

7 A I don't believe it to be possible.

8 Q That's fair enough.

9 What was the next time you saw Mr. Perry after this alleged incident?

10 A Two weeks later on Boulder Highway.

11 Q Can you explain how that came about?

12 A Sure. I was pretty determined that he would not go without -- he was  
13 not gonna victimize me and think he was gonna walk the streets. So, I started  
14 because I know that, you know, Metro doesn't have the manpower to go after one  
15 criminal. They run into them and find out that they have an arrest, they arrest them.  
16 But they -- he hadn't been charged for the crime that he had committed on me so I  
17 figured I would assist and be proactive and helping locate Mr. Perry. So, I went in a  
18 rental car that I had that my insurance had given me because my car had been  
19 stolen by Mr. Perry and I went to places that I knew he would frequent hoping to  
20 bump into him, and that day that I did bump into him. I called the police and said I  
21 see him and he has a warrant. It was not at that time for me but I knew that he had  
22 a warrant and I asked them to apprehend him and explained to him that I had been  
23 attacked by the same person two weeks prior.

24 Q You believe that he had that warrant when he showed up at your condo  
25 that night?

1 A Yes.

2 Q Is that one of the reasons you did not call the police?

3 A Yes.

4 Q Did you make any contact with Mr. Perry when you saw him on Boulder  
5 Highway in the rental car?

6 A No.

7 Q Do you know how long it was before you got your car back?

8 A About a month and a half later. Well, they found it right away --

9 Q Right.

10 A -- but it had some damages to it so it went into a body shop and they  
11 took a little longer to have it fixed.

12 Q Did you ever have an opportunity to say anything to Mr. Perry that -- the  
13 police showed up after you called them.

14 A The police showed up and asked me not to say anything or approach  
15 him.

16 Q Did you watch them take him into custody?

17 A Yes.

18 Q But you didn't say anything?

19 A No.

20 Q Do you know if he saw you?

21 A I don't.

22 Q How'd you feel when he got taken into custody?

23 A I don't know how I felt. I was upset, um, but I was happy to see that my  
24 prayers had worked and that he was off the street.

25 Q Have you had any communication with Mr. Perry since that time?

1           A     No. I was granted a TPO and an extension on a TPO. I've asked to  
2 not never communicate with him.

3           Q     And you haven't communicated -- you haven't reached out to him?

4           A     No.

5           Q     At any time during this altercation did you have the knife in your hand?

6           A     No.

7           MR. SHETLER: May I have the Court's indulgence, please?

8           THE COURT: Mm-hmm.

9           MR. SHETLER:

10          Q     After you received medical treatment you had several different  
11 providers regarding your injuries; is that right?

12          A     Yes.

13          Q     And do you remember Dr. Leibowitz?

14          A     Yes.

15          Q     And Dr. Leibowitz did the reconstructive surgery; is that right?

16          A     Yes.

17          Q     And I want to -- you mentioned several times that there was a bone  
18 protruding. You're not telling the Court the bone was through the skin are you?

19          A     No.

20          Q     Just that it was misshapen underneath; right?

21          A     I read it in the medical report from Sunrise Hospital and Dr. Leibowitz.

22          Q     All right. You said on being questioned on direct from Ms. Sudano that  
23 you -- nobody could give you a good idea what was going to happen with your  
24 vision?

25          A     Correct.

1 Q And as you sit here today you still don't know that?

2 A I don't know that for sure.

3 Q You believe you may lose your vision in that eye?

4 A I don't know.

5 Q Did you do everything you could medically to try and insure that doesn't  
6 happen?

7 A Yes, I have.

8 Q Do you remember having a post-op visit with Dr. Leibowitz?

9 A Yes.

10 Q And do you remember him telling you that he wanted you to come back  
11 three months later?

12 A No.

13 Q If there was another appointment that Mr. Leibowitz -- Dr. Leibowitz  
14 wanted you to go to would you have gone to that appointment?

15 A Yes.

16 Q And if he testified that you didn't would you have any explanation for  
17 that?

18 A I would not?

19 MR. SHETLER: Thank you very much.

20 THE WITNESS: Thank you.

21 THE COURT: Redirect?

22 MS. SUDANO: Briefly, Your honor.

23 **REDIRECT EXAMINATION**

24 BY MS. SUDANO:

25 Q Now, Ms. Carpenter, you were asked whether you saw the Defendant

1 drive away in your car.

2 A Yes, I was.

3 Q And you didn't actually see him drive away?

4 A No, I did not.

5 Q Can you give us a time frame, how long before the Defendant left the  
6 bathroom that you were in did you hear the car leave the house?

7 A Approximately 30 seconds.

8 Q Now, there was some communication or some questions about whether  
9 or not you believed that the Defendant owed you money April 30<sup>th</sup> and into May 1<sup>st</sup>  
10 of 2014.

11 A Yes.

12 Q And you testified that he did owe you some money.

13 A Yes.

14 Q Now, is one of the reasons that he owed you money also because you  
15 were renting rooms for him?

16 A No, that's not one of the reasons although, I did rent rooms he paid for  
17 them on his own.

18 Q So it was just the promissory note?

19 A The promissory note that he signed.

20 Q Now, there were also some questions about a prior incident with the  
21 Defendant in this case and you said that, I believe, he choked you?

22 A He did, he choked me and banged my head up against my -- up against  
23 the floor.

24 Q When was that?

25 A Sometime -- I don't recall but it was obviously prior to this incident. It

1 was sometime in the fall, the fall of 2013.

2 Q Now, you indicated also that you didn't report that first incident; is that  
3 correct?

4 A I did not report it to the authorities.

5 Q But you told your doctor?

6 A I told my doctor and two of my closest friends, one of them is in the  
7 courtroom today.

8 Q Now, why is it that you didn't tell the police about that?

9 A I was so embarrassed, I was completely embarrassed.

10 Q Why were you embarrassed?

11 A Because my mother had not raised me to deal with thugs and at this  
12 point I had considered him kind of thuggish but yet we had a chemistry in common.  
13 I also again was working with a team of attorneys and I thought that I would be  
14 judged like -- it was just crazy. It was -- I was just embarrassed.

15 Q Now, did that changed the nature of your relationship at all after that  
16 first incident?

17 A Somewhat and temporarily.

18 Q So what happened after that first incident where he choked you?

19 A So we didn't see each other for -- I don't know for what period of time, it  
20 was off and on. We didn't see each other but he was very charming; so he would  
21 still come to my office and bring coffee or ask if I needed anything. I was still  
22 apprehensive of him because my circle of friends, family, coworkers and loved ones  
23 unanimously hated him. They thought that he was kind of out of my character.

24 MR. SHETLER: Your Honor, I'm going to object. I believe this is beyond the  
25 scope of my cross.

1 THE COURT: I'll sustain it that it was also non-responsive so, go on.

2 MR. SHETLER: Thank you, Your Honor.

3 MR. SUDANO:

4 Q So now, I believe you testified that you were kind of on and off after this  
5 incident where he choked you?

6 A Yes.

7 Q Eventually did you get back together?

8 A We did.

9 Q Now, why did you take him back after he choked you?

10 A I was just the girl trying to be in love, trying to give him a chance. He  
11 told me he wanted to be a pastor. He told me that -- he used to call me his first lady,  
12 that I was his queen. He was very charming and I thought with a little bit of  
13 grooming and counseling we could make it work somehow.

14 Q Now, you'd broken up again prior to April 30<sup>th</sup> of 2014; correct?

15 A Yes.

16 Q Now, when he came over to your house on April 30<sup>th</sup> of 2014 did you  
17 give him any indication that you wanted to reconcile?

18 A No.

19 Q Had he made any statements to you about wanting to reconcile?

20 A No.

21 Q Okay. Now, you were also asked about the time period where you  
22 were sitting on the couch where he was kind of in front of you with a knife; do you  
23 recall that?

24 A Right.

25 Q Now, did there come a point where he asked you about or he made a



1 statement to you about your eye?

2 A Yes.

3 Q What did he say specifically?

4 A He said look at what you made me do, look at your eye.

5 MR. SHETLER: Objection again, Your Honor. Believe this is still passed the  
6 scope of my cross.

7 THE COURT: Overrule.

8 MS. SUDANO: Your Honor, I have no further questions with that.

9 THE COURT: Okay. Any recross?

10 MR. SHETLER: Briefly, Your Honor.

11 **RECROSS EXAMINATION**

12 BY MR. SHETLER:

13 Q By the time these incidents allegedly went down at the condo you  
14 believed he was, at that time, a thug?

15 A Are you talking about my first condo because I moved in between that  
16 time --

17 Q The reason we're here today.

18 A I believed he was a thug, somewhat.

19 Q But you let him sleep in your bed.

20 A Yes.

21 Q Do you have any idea what kind of message that would give to  
22 somebody who might consider themselves to be a thug?

23 MS. SUDANO: I'm going to object as to speculation on that one.

24 MR. SHETLER: I'll withdraw the question

25 THE COURT: Sustained.

1 BY MR. SHETLER:

2 Q Do you believe that that may have given him a message that the  
3 relationship was not over

4 MS. SUDANO: I'm going to object as to speculation again.

5 THE COURT: Sustained.

6 BY MR. SHETLER:

7 Q When you were renting the room for him you would do the paperwork in  
8 his name, correct?

9 A Yes.

10 Q And he would pay you at that time or over time?

11 A No, he would pay at that time.

12 Q And do you know what the source was of those funds he was paying  
13 you with?

14 A Not -- I had speculation of where they were from but I didn't know for  
15 sure.

16 Q He helped you with money to get the car; correct?

17 A No.

18 MR. SHETLER: Court's indulgence, I'm trying to be very specific, Judge.

19 THE COURT: Uh-huh.

20 MR. SHETLER: Those are all the questions I can ask you. Thank you again.

21 THE COURT: Any further direct?

22 MS. SUDANO: No, Your Honor.

23 THE COURT: I just have a quick question, I think.

24 **QUESTIONS BY THE COURT**

25 THE COURT: You had a surgery by Dr. Leibowitz who was here.

1 THE WITNESS: Yes.

2 THE COURT: And I think you said you had two other surgeries since then?

3 THE WITNESS: Yes.

4 THE COURT: They were done by a different doctor?

5 THE WITNESS: Yes.

6 THE COURT: What doctor did those other surgeries?

7 THE WITNESS: They were done by Monos Health Institute and, specifically, I

8 don't recall his name. I don't see them for pain management any more other than

9 for my eye surgeries but the doctor at Monos Health Institute, the main doctor there

10 performed the surgeries. It was stellate ganglion block was the nature of the

11 surgery, for nerve damage.

12 THE COURT: Okay. And it was pain management practice?

13 THE WITNESS: Right. And it's attached to a day surgery facility.

14 THE COURT: Okay. It's here in town?

15 THE WITNESS: Yes.

16 THE COURT: And both of those surgeries are related to nerve damage in

17 your face?

18 THE WITNESS: Yes. And I have one more scheduled.

19 THE COURT: When is that?

20 THE WITNESS: We're waiting for insurance authorization.

21 THE COURT: Okay. Any follow-up?

22 MS. SUDANO: Is it Dr. Lipshutz who was perform --

23 THE WITNESS: Yes, Dr. Lipshutz, sorry.

24 THE COURT: Okay. Any follow-up.

25 MR. SHETLER: No, thank you, Your Honor.

1 THE COURT: Okay. Thank you ma'am, I appreciate your time.

2 Okay. So for tomorrow, how many witnesses does State have?

3 MS. SUDANO: State has three witnesses tomorrow, Your Honor.

4 THE COURT: Okay. About how long do you think they'll take?

5 MS. SUDANO: They should all be fairly quick. It's the first responding officer,  
6 the crime scene analyst and then the officer who found the car.

7 THE COURT: Okay.

8 MS. SUDANO: I would anticipate two hours, maybe, for all three of them.

9 MR. SHETLER: That's sounds accurate.

10 THE COURT: Okay. And are you anticipating presenting any witnesses?

11 MR. SHETLER: Mr. Perry still has to make a decision about whether he's  
12 going to take the stand. I have one witness lined up, a second one possibly but we  
13 may not. They may be [indiscernible] we don't need to use the Court's time for and  
14 if I can avoid that I will.

15 THE COURT: Okay. Why don't you stand up for a minute, Mr. Perry.

16 THE DEFENDANT: Yes, Ma'am.

17 THE COURT: I'm going to take this opportunity to advice you of your rights  
18 during this trial.

19 THE WITNESS: Yes Ma'am.

20 THE COURT: Under the Constitution of the United States and under the  
21 constitution of the State of Nevada you cannot be compelled or forced to testify in  
22 this case. Do you understand that?

23 THE DEFENDANT: Yes, Ma'am.

24 THE COURT: You may, at your own request, give up this right and take the  
25 witness stand and testify and if you do you'll be subject to cross examination by the

1 State and anything you say whether on direct or cross would be the subject of fair  
2 comment by the State when they argue at the end of the case. Do you understand  
3 that?

4 THE DEFENDANT: Yes, Ma'am.

5 THE COURT: And, of course, if you choose not to testify because that is your  
6 right, I, as the trier of fact, am not permitted to take that into consideration or to draw  
7 any inference of guilt from the fact that you choose not to testify. Do you understand  
8 that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: If you have a felony conviction in the last ten years that could  
11 be raised if you testified. Do we have -- what do we got?

12 MS. SUDANO: There is one yes, Your Honor.

13 THE COURT: Okay. So what do we got?

14 MS. SUDANO: I have a certified Judgment of Conviction out of the state of  
15 Illinois from 2005 for unlawful delivery for a controlled substance.

16 THE COURT: Okay. Now, so that means if you, I mean, I'm the trier of facts  
17 so this is a little unusual situation, but if you take the witness stand and testify the  
18 State will be allowed to ask you whether you've been convicted of a felony, what the  
19 felony was, and when it happened but without going into the details regarding that  
20 offense; do you understand that?

21 THE DEFENDANT: Yes, Ma'am.

22 THE COURT: So that would be part of the evidence in the case. Now, the  
23 decision whether to testify is a decision that is left to you as the Defendant in this  
24 case; do you understand that?

25 THE DEFENDANT: Yes, Ma'am.

1 THE COURT: Now counsel, as your counsel, gets to make a lot of decisions  
2 about strategy and tactics and evidence and objections and things like that but the  
3 decision whether to testify is one that is clearly your decision to make; do you  
4 understand that?

5 THE DEFENDANT: Yes, Ma'am.

6 THE COURT: Now, of course, having said that, you should consult with your  
7 lawyer who has education, training and experience to assist you and advice you  
8 regarding that decision but ultimately the decision is yours to make. You understand  
9 that?

10 THE DEFENDANT: Yes, Ma'am.

11 THE COURT: So before you make the final decision after the -- at the time  
12 the State rests you should consult with him. I'm assuming you've already consulted  
13 but you should consult with him so that you're prepared to make that decision when  
14 the State does rest. Okay?

15 THE DEFENDANT: Yes, Ma'am.

16 THE COURT: Okay. So, we're scheduled for 10:30. I'll try to be done with  
17 my calendar, you try to be done with your other matters and we'll start as soon as  
18 we can at or close to 10:30, we hope.

19 MR. SHETLER: Thank you very much, Your Honor.

20 THE COURT: Okay.

21 MS. SUDANO: Thank you, Your Honor.

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THE COURT: Have a good night.

MR. TURNER: Thank you, Your Honor.


[Bench Trial, Day 1, concluded at 5:02 p.m.]

\* \* \* \* \*

ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

  
SANDRA PRUCHNIC  
Court Transcriber

ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

  
DALYNE EASLEY  
Court Transcriber

  
CLERK OF THE COURT

1 **RTRAN**

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA  
7

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9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 GENARO PERRY,

13 Defendant.

)  
) CASE#: C298879  
)

) DEPT. VI  
)  
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)  
)  
)

14 BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE  
15 WEDNESDAY, SEPTEMBER 30, 2015

16 ***RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS***  
17 **BENCH TRIAL - DAY 2**

18 **APPEARANCES:**

19 For the State:

ROBERT BRAD TURNER, ESQ.  
Chief Deputy District Attorney  
MICHELLE SUDANO, ESQ.  
Deputy District Attorney

22 For the Defendant:

TRAVIS E. SHETLER, ESQ.

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25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER



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[None presented.]

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**STATE’S EXHIBITS**

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**DEFENSE EXHIBITS**

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[None presented.]

1 WEDNESDAY, SEPTEMBER 30, 2015 1:07 P.M.

2  
3 THE MARSHAL: Please rise. District Court Department Six is now in  
4 session. The Honorable Judge Elissa Cadish now presiding.

5 Please be seated. Come to order.

6 THE COURT: Good afternoon.

7 MS. SUDANO: Good afternoon.

8 MR. SHETLER: Good afternoon, Your Honor.

9 THE COURT: Unfortunately, my calendar, which page wise looked like it  
10 wasn't going to be that long, turned out to be really long. So, it's okay.

11 MR. SHETLER: Understood. And I was -- but I was stuck in 19, I think, so.

12 THE COURT: That's what I understand. Okay.

13 We can pick up now. I am -- thank you -- trying to reschedule the  
14 appointment -- what happened to my pen?

15 THE MARSHAL: You keep taking them, Judge.

16 THE COURT: Not me; got to talk to the new law clerk.

17 THE MARSHAL: All right. I'll yell at her then.

18 THE COURT: Okay. Thank you.

19 I'm trying to reschedule the appointment I had this afternoon that has  
20 me trying to leave at 3:30 because we're just starting and it's after one. So I'm  
21 trying to work that out.

22 MR. SHETLER: I'm not confident it's going to pose a huge problem, Your  
23 Honor.

24 THE COURT: Okay, well, we'll see. We can get going anyway.

25 MS. SUDANO: The State's case should be done --

1 THE COURT: Right.

2 MS. SUDANO: -- prior to that, so.

3 THE COURT: Okay.

4 MR. SHETLER: And I don't anticipate a great deal of cross. I need to make  
5 an offer on a witness that we have standing by but I'm not confident I'm going to be  
6 able to get the witness on the stand. So I think once we just make a record of that I  
7 think we'll probably be ready to wrap it up. Mr. Perry and I are still talking so that he  
8 may need some time tomorrow, but --

9 THE COURT: Yeah. And I don't have anything on calendar tomorrow.

10 MR. SHETLER: I do have my morning contract obligations and I will have  
11 some assistance. I have a double conflict at 8:30 but we'll do whatever we can to  
12 move along.

13 THE COURT: So, if we want at least to do a calendar page for tomorrow,  
14 what time could you be here to start?

15 MR. SHETLER: I'm confident I'll have somebody here by 10. I might have  
16 them by 9:30.

17 THE COURT: Just call it 10 tomorrow?

18 MR. SHETLER: Thank you, Your Honor, I appreciate it.

19 THE COURT: That's fine.

20 MS. SUDANO: Works for the State.

21 THE COURT: Okay. So, I mean, if we're not done today we'll plan to start at  
22 10 tomorrow. We'll put it on calendar for 10.

23 Okay. So whatever proofer you're talking about that after we're done  
24 with the State's case --

25 MR. SHETLER: Absolutely, Judge.

1 THE COURT: Okay. All right. Then, let's begin.

2 MS. SUDANO: State calls Justin Terry.

3 THE COURT: After the last few weeks I still keep wanting to say, you know,  
4 do you stipulate to the presence of the jury, or wanting to admonish them when we  
5 take a break, and like, oh yeah, they're not here.

6 MR. SHETLER: It does go a bit quicker, doesn't it?

7 THE COURT: Yeah.

8 THE MARSHAL: If you could step up in the box and remain standing.  
9 Raise your right hand and face that young lady right there.

10 **JUSTIN TERRY**

11 [having been called as a witness and being first duly sworn, testified as follows:]

12 THE COURT CLERK: Please be seated.

13 Would you please state and spell your first and last name for the  
14 record.

15 THE WITNESS: Name is Justin Terry, it's J-U-S-T-I-N, last name T-E-R-R-Y.

16 THE COURT CLERK: Thank you.

17 THE COURT: Go ahead.

18 MS. SUDANO: Thank you, Your Honor.

19 **DIRECT EXAMINATION OF JUSTIN TERRY**

20 BY MS. SUDANO:

21 Q Sir, how are you employed?

22 A Work for the Las Vegas Metropolitan Police Department.

23 Q In what capacity?

24 A Police officer.

25 Q How long have you been a police officer?

1 A Um, on November 5<sup>th</sup> of this year it'll be nine years.

2 Q Were you working on May 2<sup>nd</sup> of 2014?

3 A Yes.

4 Q Did you have occasion to respond to a call on Karen Court?

5 A I did.

6 Q What was the nature of that call?

7 A I believe the details of the call were that there were other officers

8 somewhere within Las Vegas area that were out with a victim who was stating that

9 her vehicle had been located by a GPS or some sort of electronic device, and that it

10 was somewhere in the vicinity of Karen Court.

11 Q Now, do you recall the specific location or the specific address where

12 you located the vehicle?

13 A Yeah, I located the vehicle at 2635 Karen Court.

14 Q Is that here in Clark County, Nevada?

15 A It is.

16 Q Do recall approximately what time you located the vehicle?

17 A Um, I'm not sure exactly what time it was when Eric located it.

18 Q What shift were you working on May 2<sup>nd</sup> of 2014?

19 A It was day shift.

20 Q Do you recall if it was -- so what time is day shift?

21 A Around 6:30 to 4:30 p.m.

22 Q 6:30 a.m. to 4:30 p.m.?

23 A Mm-hmm.

24 THE COURT: Was that a yes?

25 THE WITNESS: Yes.

1 THE COURT: Sorry, mm-hmm's don't transcribe very well.

2 THE WITNESS: Sorry.

3 MS. SUDANO:

4 Q Do you recall if it was towards the beginning or the end of your shift?

5 A Um, I believe it was near the end of my shift.

6 Q So would it be fair to say it was probably sometime in the afternoon?

7 A Yes.

8 Q Now, when you located the car was anybody in it?

9 A No.

10 Q Was it running?

11 A I don't think so, no.

12 Q Where's --

13 A I know it wasn't.

14 Q Specifically, where was it located within that 2635 Karen Court?

15 A It was parked on the north side. It would have been more towards the  
16 west corner of the building.

17 Q What is 2635 Karen Court?

18 A It's an apartment complex.

19 Q Now, what was the condition of the car when you located it?

20 A Um, I didn't -- like I said, I didn't know if it was drivable since I didn't see  
21 it driving but I really don't remember very -- what the condition -- I think it was keyed,  
22 I think it had been keyed. It had some minor -- it had some damage, I don't  
23 remember exactly what the damage was.

24 Q But it's your recollection that it would -- it had been keyed?

25 A I believe so.

1 Q Now, were you able to get inside the vehicle?

2 A No.

3 Q Why is that?

4 A The vehicle was locked.

5 Q Could you see the keys anywhere inside the vehicle?

6 A No.

7 Q While you were at that scene at 2635 Karen Court, did anybody else

8 arrive?

9 A Um, I have a vague recollection but I'm not a 100 percent sure if -- you

10 talking about other officers did arrive, yes.

11 Q Do you know if the registered owner arrived as well?

12 A I'm not real sure if I spoke to them but I think they did arrive while I was

13 there.

14 Q Now, what happened to the car after you had recovered it?

15 A I don't know exactly. I know it was returned to the owner. Actually I'm

16 pretty sure that the owner did return while I was still there and I think it returned to

17 the owner but that the owner did not have the keys at the time, if I recollect right.

18 Q Okay. So, there were no keys in the vehicle?

19 A No.

20 Q And the owner, you said, didn't have the keys either?

21 A I don't think so, no.

22 Q Now, normally when you recover a vehicle is there any sort of recovery

23 form or paperwork that you have to fill out?

24 A Yeah, there is. Yes, there is.

25 Q What is the purpose of that paperwork?



1           A     It's to document the transfer of the property to the individual.

2           Q     In addition to that is there any additional follow up or investigation that  
3 you need to do before you return a car to an owner?

4           A     Um, it all depends on the situation. Um, in some instances -- well, we --  
5 typically we'll contact the owner, obviously, and in this case the owner had been  
6 contacted. We possibly could process it with calling criminalistics and have them do  
7 their job on the vehicle to get evidence.

8           Q     Was that done in this particular case?

9           A     No.

10          Q     Why wasn't it not done in this case?

11          A     Um, it's not -- like I say, it's not always a necessary thing. In this case I  
12 would not have made that call as to whether or not it should be processed due to the  
13 fact that I had been called by another officer out to the scene I was at, so I most  
14 likely would have spoken to another officer and asked what they wanted me to do  
15 with the vehicle.

16          Q     So you weren't the one that was making the final decision --

17          A     No, no.

18          Q     -- on what needed to be done.

19          A     No. Just because I didn't have all the details with the other side of the  
20 incident.

21          Q     Now, did you have any information about the relationship of the parties  
22 involved in this case, as far as the registered owner and the individual who had  
23 taken the vehicle?

24          A     I don't remember for sure if I knew exactly what the relationship was. I  
25 think I understood they had a domestic relationship.

1 Q Anything about the fact that it was a domestic relationship that would  
2 have factored into the decision on whether or not to call ID out and have  
3 criminalistics done?

4 A Um, if the vehicle is used within the domestic violence incident and  
5 there was some type of evidence that the vehicle could provide, possibly.

6 Q Did you have any information that the vehicle was involved in the  
7 domestic situation in this case?

8 A Not that I knew other than, I mean, to what I understood is that it was a  
9 taking without owner's consent kind of situation, or that the vehicle possibly had  
10 been used by the suspect prior. But I didn't know all the details, so.

11 Q And when you say that the vehicle had possibly been used by the  
12 suspect prior, can you explain how that factored into your decision making process a  
13 little bit more?

14 MR. SHETLER: Your Honor --

15 A Usually in a --

16 THE COURT: Hold on.

17 MR. SHETLER: I'm going to object to relevance. He didn't make the decision  
18 whether criminalistics was going to be called. And now he said, several times, he  
19 was just responding on behalf of another officer.

20 MS. SUDANO: And I'm just asking for his training experience whether or not  
21 knowing if this was a domestic situation would have factored into the decision  
22 making process.

23 THE COURT: Okay. So he can talk about in general how that might factor in.  
24 Overrule.

25 MR. SHETLER: Thank you, Judge.

1 MS. SUDANO:

2 A So, what was the question?

3 Q So the question was, knowing that this was a domestic situation,  
4 knowing that the suspect may have used the car prior, would that factor into the  
5 decision of whether or not criminalistics was needed at this -- on this particular car?

6 MR. SHETLER: Your Honor, I'm sorry, I'm going to renew my objection --

7 THE COURT: Right.

8 MR. SHETLER: -- that she's referring to this situation. Not a generic, general  
9 situation.

10 MS. SUDANO: I can rephrase it.

11 MS. SUDANO:

12 Q Just in general, through your training and experience, Officer.

13 A The fact that it was a domestic relationship would definitely influence  
14 whether I called criminalistics because if the subject had been in the vehicle prior,  
15 any evidence that we obtained such as prints, DNA evidence would be difficult to  
16 determine whether it occurred prior to the incident.

17 Q So basically, there's not a lot of relevance necessarily to fingerprints or  
18 DNA if somebody's been in the car before?

19 A Not to my understanding, I mean, I'm not a criminalistics specialist but it  
20 only makes sense to me.

21 Q Just generally, through your training experience?

22 A Yeah.

23 Q Okay.

24 A Yes.

25 Q Now, did you inventory the car before it was returned to the registered

1 owner in this case?

2 A No, I did not.

3 Q Why is that?

4 A I -- there were no car keys to the vehicle and it was returning to the  
5 owner. I don't believe the owner had keys as well.

6 Q Now, normally would you inventory a car before returning it to a  
7 registered owner?

8 A Typically, yes, we would.

9 Q But again, in this case did you have any reason to believe that there  
10 was anything of evidentiary value inside the car?

11 A I didn't know of any, no, otherwise I would have probably objected it --  
12 to us -- probably would have tried to influence the officer that was requesting or at  
13 least talk to him about it and made sure that he understands that there's evidence in  
14 there. And I don't remember any evidence that was specific to the -- that was  
15 relevant that I understood.

16 Q Now, if you didn't have keys to a vehicle that you're trying to inventory  
17 and its locked what would you need to do in order to be able to inventory the  
18 vehicle?

19 A Um, we would -- if it didn't have keys? I can't think of a time I ever  
20 inventoried a vehicle if it didn't have keys. I mean, if it's a major case and I'd  
21 possibly would request a hold on the vehicle and seal the vehicle, that's the only  
22 other -- that's the only time I would do something like that if it was a serious enough  
23 case that we would actually keep the vehicle and have it sealed and have it  
24 impounded.

25 Q In this case, did you have any information that something like that was

1 required?

2 A I didn't. I had not been instructed that that was what we wanted -- what  
3 they wanted me to do so it's not what I did.

4 Q Okay. Now, I'm going to show you here, Officer, State's Exhibit 1. Do  
5 you recognize what's depicted there?

6 A I -- yeah, that's a -- that's the apartment complex that I located the  
7 vehicle at.

8 Q The 2635 Karen Court?

9 A Yeah.

10 Q Now, do you recall the registered owner's address in this particular  
11 case?

12 A I don't.

13 Q Would looking at your property return sheet refresh your recollection as  
14 to registered owner's address?

15 A I mean, I could -- I probably -- I mean, I could look at it but it's not  
16 gonna refresh my memory. I never was at the scene and I've never been to the  
17 registered owner's house. I mean, I can look at it if you want me to.

18 Q Did you -- would you have, while you were completing this property  
19 return form, would you have --

20 A I did write it down so, I mean, you want me to look at it?

21 Q Now, would it refresh your recollection -- I'm sorry -- do you recall the  
22 license plate number for the vehicle that you returned?

23 A No.

24 Q Would looking at your property return sheet refresh your recollection as  
25 to the license plate on the vehicle?

1 A Sure.

2 Q Did you write that one down?

3 A Yes, I did.

4 MS. SUDANO: Okay. May I approach, Your Honor?

5 THE COURT: Yes.

6 MS. SUDANO:

7 Q I'm showing you, for the record, the property return sheet for this

8 particular case, Officer.

9 A Okay.

10 Q Does that refresh your recollection as to the license plate number?

11 A 6-1-7, Lincoln, Tom, Union, so. I mean, that's what I wrote down. It's

12 not a number I would have just memorized though.

13 Q So at the time you wrote that down, how did you get it?

14 A I would have either looked on the vehicle plate or I would have looked

15 on the details of the call. I'm not sure.

16 Q And you would have written it down as you were looking at one of those

17 two things?

18 A Possibly, or else I possibly ran the plate and was looking off my

19 computer and looking at the DMV return.

20 Q And would it have been close in time when you looked at that

21 information to when you wrote it down on your property return sheet?

22 A Yeah.

23 MS. SUDANO: Your Honor, no further questions.

24 THE COURT: Cross?

25 MR. SHETLER: Briefly, Your Honor.

1 **CROSS-EXAMINATION OF JUSTIN TERRY**

2 BY MR. SHETLER:

3 Q Officer, my name is Travis Shetler and I represent the Defendant in this  
4 case. I want to thank you for your nine years of service.

5 You're just here today to tell us that there was a car on Karen Court,  
6 right?

7 A I'm here to answer whatever questions you have for me.

8 Q Well, but it wasn't your case, you were not the investigating officer, is  
9 that correct?

10 A Well, I was dispatched to the call but there was a prior incident --

11 Q Right.

12 A -- that occurred and I was -- as far as I remember, I was being  
13 requested to assist an officer who was on the scene at another call.

14 Q Right. Right. There wasn't -- you didn't generate all the other  
15 paperwork in this case, you just filled out the slip transferring ownership --

16 A That's --

17 Q -- or possession is a better word.

18 A That's basically -- yes, that's true.

19 Q I appreciate that.

20 You mentioned when you first started answering questions, Ms. Sudano  
21 asked you if there's anything you noticed about the vehicle; you said it was keyed?

22 A Yeah, that's true, I think it was keyed.

23 Q Was that -- do you have an independent recollection of that?

24 A Um, I'm pretty sure it was keyed. What do you mean?

25 Q Just that. I mean --

1 A I mean, this is quite a time ago but, yeah.

2 Q Not a hugely significant event for you?

3 A Not hugely significant, no.

4 Q Is it possible to tell if a car's keyed -- is it possible to tell if it's keyed  
5 within the last day or the last month or the last year?

6 A I mean there's probably a way to tell, I'm not like a specialist on it, but.

7 Q Right. That's not any training that you have in particular?

8 A No.

9 Q Okay. So you're not -- when you tell the Court that the car was keyed  
10 you're not saying that the fact that it was keyed has anything to do with anything  
11 happening in this courtroom today?

12 A I have no idea if it was related.

13 Q I appreciate that.

14 And you testified that criminalistics was not called but that was not your  
15 decision to make whether they were called or not, is that right?

16 A They were not called and I was not instructed to do that, to call them,  
17 so.

18 Q I appreciate that.

19 Thank you very much, Officer. Be safe.

20 THE COURT: Any redirect?

21 MS. SUDANO: No, Your Honor.

22 THE COURT: Okay. Thanks Officer, appreciate your time.

23 Next witness?

24 MS. SUDANO: Almedia Bragg, please.

25 THE MARSHAL: Okay, make your way up into the box, remain standing.



1 Raise your right hand and face that young lady right there.

2 **ALMEDIA BRAGG**

3 [having been called as a witness and being first duly sworn, testified as follows:]

4 THE COURT CLERK: Please be seated.

5 Would you please state and spell your first and last name for the  
6 record.

7 THE WITNESS: Almedia Bragg, A-L-M-E-D-I-A B-R-A-G-G.

8 THE COURT CLERK: Thank you.

9 THE COURT: Go ahead.

10 MS. SUDANO: Thank you, Your Honor.

11 **DIRECT EXAMINATION OF ALMEDIA BRAGG**

12 BY MS. SUDANO:

13 Q Ma'am, how are you employed?

14 A I'm retired.

15 Q Where did you retire from?

16 A Las Vegas Metropolitan Police Department.

17 Q When did you retire?

18 A December 31, 2014.

19 Q How long were you with the Las Vegas Metropolitan Police  
20 Department?

21 A 23 years 10 months.

22 Q And what was your job title when you were with the Metropolitan Police  
23 Department?

24 A Patrol officer.

25 Q Were you working on May 1<sup>st</sup> of 2014 at approximately 9:30 a.m.?

1 A Yes.

2 Q Did you have occasion to be dispatched --

3 THE COURT: I apologize, I should have -- I'm sure I should know this by  
4 now. Give me the date and time again.

5 MS. SUDANO: May 1, 2014 at approximately 9:30 a.m.

6 THE COURT: Thank you. Go ahead.

7 MS. SUDANO:

8 Q Were you dispatched to 2461 Old Forge Court, apartment number 106?

9 A Yes.

10 Q Is that here in Clark County, Nevada?

11 A Yes.

12 Q What was the nature of the call when you were dispatched?

13 A Domestic violence.

14 Q Did you have any additional details about the call when you were in  
15 route?

16 A No. That the female had been beaten up by her boyfriend and he was  
17 gone. That was it.

18 Q Do you know -- did you have any information about how he had left the  
19 scene?

20 A He had stole her car.

21 Q And that came out in your initial call?

22 A Uh, I'm not sure. I believe so.

23 Q Would looking at the catalog for this event number refresh your  
24 recollection as to whether or not you were provided that detail while you were in  
25 route?

1 A Yes.

2 MS. SUDANO: Your Honor, may I approach the witness?

3 THE COURT: Yes.

4 MS. SUDANO:

5 Q Officer, I'm showing you a catalog for -- can you verify for us that it's the  
6 particular event number that we're talking about in this case?

7 A Yes, that's the victim, that's my P number. Yes.

8 Q Did that refresh your recollection as to whether or not you were  
9 informed by dispatch on your way to the call that the victim's car had been stolen by  
10 the suspect?

11 A Yes.

12 Q Okay. Now, were you the first responding officer or was anybody  
13 present at the scene before you arrived?

14 A I was the first responding and no one else was there besides the victim.

15 Q Now, typically when you respond to a scene, what are your duties as  
16 the first responding officer?

17 A First to make sure that the suspect doesn't come back, then to make  
18 contact with the victim; which I knocked on the door and she wouldn't open the door,  
19 she was afraid to open the door.

20 Q Now, what makes you say that she was afraid to open the door?

21 A I think she thought it was her ex-boyfriend coming back.

22 Q Okay. Did you know that somebody was inside the house?

23 A Yes.

24 Q What gave you that information?

25 A She had just called. It didn't take me that long to get there.

1 Q Now, does the victim eventually open the door for you?

2 A Yes.

3 Q You're able to make contact with the victim?

4 A Yes.

5 Q And is that Corla Carpenter?

6 A Yes.

7 Q What was her demeanor when you first made contact with her?

8 A She was crying, she was scared, her face was all bloody.

9 Q Now, when you say her face was all bloody --

10 A Her nose and her lips were bleeding and her hand was bleeding.

11 Q Where was her hand bleeding, if you recall?

12 A I think it was one of her fingers, I'm not sure.

13 Q Now, did you notice any other injuries to Ms. Carpenter when you

14 arrived at the scene?

15 A Her eyes were swollen.

16 Q After you made contact with Ms. Carpenter, what did you do next?

17 A I had called for another officer to take pictures cause it was -- I knew

18 right then there had been domestic violence. And then, uh, had her explain to me

19 what happened, I actually had dispatch send other units to ATL for the car which --

20 to look for the car. And then I started taking a report and then one of the other

21 officer came, we found a knife and the blood in the garage so we decided to call ID

22 cause it was gonna be a felony.

23 Q Okay. Now, when you arrive at the house you said it was just you and

24 Ms. Carpenter.

25 A Yes.

1 Q So nobody else was present, initially?

2 A I don't think so.

3 Q Do you recall the next person who showed up at the scene?

4 A I think it was one of her friends or else it was Officer -- a different

5 officer.

6 Q Who would that officer have been?

7 A Um, what's his name? I know his first name.

8 Q What is his first name?

9 A Frank.

10 Q What that be Frank Elam?

11 A Yes.

12 Q Now, who else -- did anyone else arrive at the scene?

13 A One of her friends did, the ID tech did, and then another officer, I think,

14 also came.

15 Q Now, at some point you said that you were going through the scene and

16 assessing what was going on at the house; is that correct?

17 A Yes.

18 Q Okay. So, I want to walk through that with you a little bit. I'm going to

19 show you here, State's Exhibit 2, initially. Do you recognize what's depicted in that

20 photo there?

21 A That's her apartment.

22 Q And that would be the 2461 Old Forge address?

23 A Yes.

24 Q All right. Now, do you recall how big the apartment was? Was it a one

25 bedroom apartment or were there more than one bedrooms?

1 A I'm not sure. I know it had a upstairs, there was a upstairs.

2 Q So it was a downstairs and an upstairs?

3 A Yes.

4 Q And do you recall if there was just one bathroom or multiple  
5 bathrooms?

6 A I know there was one downstairs cause that's where, I think, the cell  
7 phone was in the toilet.

8 Q Now, was there evidence or things that were significant to your  
9 investigation located throughout the apartment?

10 A It was in disarray. You could tell a fight had taken place, basically.

11 Q Now I'm going to show you here, State's Exhibit 7. Do you recognize  
12 what's depicted there in State's Exhibit 7?

13 A Yeah, there's blood on the floor.

14 Q Do -- is this from the victim's apartment?

15 A Yes.

16 Q What area of the apartment are we looking at here?

17 A That's the kitchen.

18 Q And you said that there was blood on the floor?

19 A I believe that's blood right there, or a footprint or something.

20 THE COURT: You can touch it if you want to.

21 MS. SUDANO:

22 Q And then if you'll hit either the bottom right or the bottom left of the  
23 screen for me it will clear it out. There you go. Perfect. Thank you, Officer.

24 And now, I'm showing here you Exhibit 8. What is depicted there in  
25 Exhibit 8?

1           A     Cups thrown over, looks like a towel maybe that he tried -- looks like it  
2 has blood on it a little bit.

3           Q     Now, is that just a closer image of what we were looking at before in  
4 State's Exhibit 7?

5           A     Yes.

6           Q     So can you see that same blood stain there in State's Exhibit 8?

7           A     Yes.

8           Q     As it's just sort of in the center of the picture?

9           A     Yes.

10          Q     Okay.

11          A     Looks like there's blood on the refrigerator also.

12          Q     And so that would be over on the left of the photo?

13          A     Yes.

14          Q     Now I'm going to show you next State's Exhibit 10. What's depicted  
15 there in State's Exhibit 10?

16          A     That's the exit door from the house to the garage.

17          Q     Is there anything else of significance located in this particular photo?

18          A     Blood on the door in the doorjamb.

19          Q     Now, I'm going to show you next State's Exhibit 11. Do you recognize  
20 what's depicted there?

21          A     Yes.

22          Q     Is that just a close up photo of that blood from State's Exhibit 10?

23          A     Yes.

24          Q     Okay, on that same doorjamb?

25          A     Yes.

1 Q Now, I'm going to show you next State's Exhibit 12. Do you recognize  
2 what's depicted there?

3 A Yes.

4 Q What is that?

5 A Blood on the walls in the restroom.

6 Q Now, you had said something else about something of potential  
7 evidentiary value located in that bathroom. Can you walk us through that a little bit?

8 A There was a cell phone, I believe, somewhere in the toilet. I don't see  
9 it, though.

10 Q Now, was the cell phone actually in the toilet when you saw it?

11 A You know, I don't remember but I know it was thrown against the wall, it  
12 was against the floor and it was cracked, the whole screen was cracked, so.

13 Q So you did -- you saw the cell phone at some point?

14 A Yes.

15 Q And you said that there was a crack on the screen?

16 A Yes.

17 Q Possible it was located in the toilet, possible you saw it afterwards?

18 A Yes.

19 Q Okay. Well, next I'm going to show you State's Exhibit 13. Do you  
20 recognize what's depicted there?

21 A I believe that's the living room.

22 Q Let me show you a different angle of that, Officer. I'm showing you now  
23 State's Exhibit 14. Do you recognize what's depicted there?

24 A That's the bedroom.

25 Q And so is that -- I'm going to direct your attention down here to the



1 bottom right of the photo and then I'm going to take away that photo and show you  
2 again State's Exhibit 13. So what -- I'm sorry, State's Exhibit 13 you testified was  
3 the living room?

4 A This right here?

5 Q Yes.

6 A I think that's the bedroom.

7 Q Okay. So, and that's, basically, you can see the same corner of the  
8 bed in State's 13 as in State's 14?

9 A Yes.

10 Q Okay. Was there anything of evidentiary value located in that  
11 bedroom?

12 A Um, not that I remember. I believe there was blood upstairs but I think  
13 it was on the walk when you go up the stairs. I know there was blood on the  
14 walkway when you go up the stairs. I didn't really see any blood in the bedroom, I  
15 didn't -- I came down and started really taking the report.

16 Q Okay. Now, I'm going to move on with you next to State's Exhibit 20.  
17 Do you recognize what's depicted in State's Exhibit 20?

18 A That's the living room.

19 Q Anything of evidentiary value located within that living room?

20 A I don't see anything.

21 Q Do you recall anything of evidentiary value within the living room?

22 A There was -- it was in disarray.

23 Q Okay. And so, you did know -- when you say disarray, what specifically  
24 do you mean by that?

25 A Stuff that's thrown over that normally wouldn't be thrown over in a

1 house like stuff on the floor, like if there was something on the table to be -- if the  
2 table was thrown over or something like that. It wasn't a normal household.

3 Q Now, through your training and experience, when you see that kind of  
4 disarray what, if anything, does that indicate about that living room area?

5 A A physical altercation took place.

6 Q Now, is that kind of consistent with what you learned from Ms.  
7 Carpenter?

8 A Yes.

9 Q Okay. Now, next photo I'm going to show you here is State's Exhibit  
10 24; and what are we looking at in 24?

11 A That's the garage.

12 Q Was there anything of evidentiary value located inside the garage?

13 A The knife was in there but I don't see it on here.

14 Q Okay. So you located a knife in the garage?

15 A Yes.

16 Q Do you recall what kind of knife it was?

17 A It was like a little steak knife.

18 Q Was there anything of significance about locating that knife in the  
19 garage?

20 A It had blood on it.

21 Q Now, I'm going to show you here, State's Exhibit 25. Is that just a  
22 closer up image of the corner of the garage?

23 A Okay. Yeah, there's the knife right there.

24 Q And can you mark on the screen for me, please? So, just kind of in the  
25 bottom center of that photo is the knife that you were talking about?

1           A     Yes.

2           Q     Now, I'm going to show you here Exhibit 27. Is that an actual close up  
3 shot of that knife?

4           A     Yes.

5           Q     And, you indicated that there was blood or apparent blood on that  
6 knife?

7           A     Yes.

8           Q     Where was the blood located?

9           A     On the end. I believe it was on the end.

10          Q     And when you say the end, do you mean --

11          A     The jagged edge.

12          Q     Okay. So the actual blade of the knife as opposed to the handle?

13          A     Yes.

14          Q     Okay. Now, was there anything else of significance about the garage in  
15 your investigation?

16          A     The vehicle was gone.

17          Q     Now, had Ms. Carpenter told you, given you information that the vehicle  
18 had previously been located in the garage?

19          A     Yes.

20          Q     And when you arrived, there's obviously no vehicle in the garage; is that  
21 fair?

22          A     Yes.

23          Q     What, if anything, did you do with the information that the vehicle was  
24 missing?

25          A     Just put it on the radio to be on the look-out. She said he'd probably be

1 going down Boulder Highway so we had units checking Boulder Highway.

2 Q Now, was the vehicle ever formally reported stolen?

3 A Yes.

4 Q What's the process for reporting a vehicle stolen, just generally?

5 A You just take a report and then you call a WVS and they enter it into the  
6 system. And when somebody runs a license plate it comes back as a stolen  
7 vehicle.

8 Q Now, is that the process that you followed in this particular case?

9 A Yes.

10 Q Were you actually the officer that took the report for the vehicle?

11 A Yes.

12 Q And so it was listed as stolen on May 1<sup>st</sup> of 2014?

13 A Yes.

14 Q Now, do you know if the vehicle was ultimately recovered?

15 A Yes.

16 Q Do you know when it was recovered?

17 A It was like two or three days later. Maybe two days later.

18 Q Were you actually present when it was recovered?

19 A No.

20 Q Now, I'll walk you through some additional photos here. I'm going to  
21 show you now State's Exhibit 28. Do you recognize what's depicted there?

22 A Yes.

23 Q What is that?

24 A That's the victim.

25 Q That's Ms. Carpenter?

1 A Yes.

2 Q Was that taken while you were at the house at 2461 Old Forge on May  
3 1<sup>st</sup> of 2014?

4 A It was taken at that time cause I was there but I didn't -- I wasn't there  
5 when she took the picture.

6 Q Okay. So you didn't actually take the photo?

7 A No.

8 Q But it was taken that day?

9 A Yes.

10 Q Now, is that a fair and accurate depiction of how Ms. Carpenter looked  
11 when you saw her on May 1<sup>st</sup>?

12 A Yes. I think she actually looked worse than that picture.

13 Q So you're saying the picture doesn't really do it --

14 A No, she --

15 Q -- justice?

16 A Her eyes looked like raccoons, like it was swollen and it was black  
17 [indecipherable] it looks horrid, she looked worse.

18 Q Now, I'm going to show you a closer up picture here. I'm showing you  
19 Exhibit 29.

20 A Yes. That's it right there.

21 Q So, can you walk us through some of the injuries that you had  
22 described previously that you saw in Ms. Carpenter?

23 A Her eyes were swollen, she had the black marks like a raccoon. Her  
24 nose was bleeding, her lips were bleeding, her hand was bleeding.

25 Q Can you see any sort of swelling or anything on her face?

1 A Yeah, it was -- her whole side of her face was swollen, one whole side.

2 Q Do you recall which side that would have been?

3 A I think it was her right side.

4 Q And you said at least one of her eyes was swollen shut?

5 A Oh yeah.

6 Q Was that the same, that right eye?

7 A Yes.

8 Q Now, I'm showing you again here State's Exhibit 28. What is Ms.  
9 Carpenter doing in that particular photo?

10 A Looks like she's just laying down.

11 Q Is there anything significant to you about the fact that she was laying  
12 down?

13 A Oh, she -- I think she said her back or her stomach hurt real bad. One  
14 -- something hurt really bad and she couldn't hardly move. I couldn't remember  
15 what it was cause like we couldn't mark it on the report because it was no marks but  
16 it hurt really bad and she could hardly move.

17 Q Okay. And so that's why she was laying down when --

18 A Yes.

19 Q -- these photos were taken?

20 A Yes.

21 Q Now, I think we've kind of walked through this but I want to walk  
22 through it a little bit more. So, there was an upstairs and a downstairs to this  
23 apartment?

24 A Yes.

25 Q And we walked through -- there was -- can you walk me through where

1 there was blood located in the apartment?

2 A There was blood on the walkway, on the walls going up the stairs, in the  
3 kitchen, in the bathroom, in the garage. I think that's it. And the living room, I'm  
4 sorry, the living room.

5 Q Now, was there any blood in the bedroom upstairs?

6 A There was, I think there was but I didn't really pay attention to it  
7 because I was trying to get the report. It was one of those calls that would take all  
8 day so I was trying to get the report done and ID, I think, had came by then and was  
9 upstairs.

10 Q Okay. And so you kind of left the documenting the scene upstairs to  
11 ID?

12 A Yes.

13 Q Now, was there anything significant to you, through your training or  
14 experience, about the fact that there was blood located in multiple areas throughout  
15 the house?

16 A It seemed to me that like she was trying to get away from him.

17 Q So, did this seem like a short struggle through your training experience?

18 A No.

19 Q Okay. Seem like something that had gone on longer?

20 A Yes.

21 Q Now, was medical also called out to the scene?

22 A Yes.

23 Q Do you know if the -- if Ms. Carpenter was transported away from the  
24 scene?

25 A I don't think so.

1 Q So medical did not transport --

2 A I don't think so.

3 Q -- Ms. Carpenter? Okay.

4 Now, other than this day on May 1<sup>st</sup> of 2014, was there any additional  
5 follow-up that you or Officer Elam did with regards to this particular victim, Ms.  
6 Carpenter?

7 A Officer Elam changed her locks; so, the Defendant took her keys, so he  
8 couldn't get back in.

9 Q Now, do you know if that occurred that same day on May 1<sup>st</sup> of 2014 or  
10 if it occurred a different day?

11 A I'm not sure. It may have occurred the same day, I'm not sure. I know  
12 he changed her lock though because she was really scared.

13 Q And so the victim had indicated to you and Officer Elam that she was  
14 frightened?

15 A Yes.

16 Q And that was because the suspect had taken the keys to her house?

17 A Yes.

18 Q Now, Officer Bragg, you had testified that there were some cuts on Ms.  
19 Carpenter's hands?

20 A Mm-hmm, yes.

21 Q Through your training and experience was there anything significant  
22 about the cuts on her hands?

23 A They looked like defensive wounds.

24 MS. SUDANO: Your Honor, no further questions.

25 THE COURT: Okay. Cross.



1 MR. SHETLER: Thank you, Your Honor.

2 Court's indulgence.

3 THE COURT: Uh-huh.

4 **CROSS-EXAMINATION OF ALMEDIA BRAGG**

5 BY MR. SHETLER:

6 Q I know you're retired but I've got to -- if it's okay with you I'm going to  
7 refer to you as Officer Bragg.

8 A Sure.

9 Q Were you an -- what was your rank when you were an officer, 23 plus  
10 years -- 23 years 10 months --

11 A Yes.

12 Q -- approximately?

13 A Yes.

14 Q Thank you for your service.

15 A Thanks.

16 Q I've got a couple -- my name's Travis Shetler, I represent Mr. Perry.  
17 I've got a couple of questions. I don't think we're going to have to take a lot of your  
18 time. If I misstate or I speak too quickly or I get too excited about what a great  
19 question I'm asking or I get confusing, please just ask me to repeat it; okay?

20 A Yes, sir.

21 Q In 23 years -- were you in law enforcement before LVMPD?

22 A I was in Texas.

23 Q Same thing?

24 A Yes.

25 Q How many years down in Texas?

1 A Two.

2 Q And how about before that?

3 A No.

4 Q How many -- do you have an idea, I won't ask you for a number but  
5 what percentage of the calls you responded to were domestic violence calls?

6 A Seventy-five to eighty percent. It's a lot.

7 Q During the course of your over a quarter of a decade as a law  
8 enforcement officer, did you receive specialized training in domestic violence  
9 investigations?

10 A Yes.

11 Q Can you give us just a little bit of an idea what that would involve?

12 A We get trained on special classes; everybody has to take them,  
13 mandatory every year. We have to go and refresh the classes and then when  
14 something else, a new law, comes up every year the domestic violence unit comes  
15 in and gives a class for training. So we keep up on it every year, basically.

16 Q And was there anything in your career that resulted in you receiving  
17 specialized training above and beyond an average officer on domestic violence?  
18 Did you go away for any classes or any special seminars?

19 A I did go to a class, a domestic violence class that they have at the  
20 academy, yes.

21 Q What type of topics, if you -- can you recall what type of topics you  
22 covered in them?

23 A Just what to -- it actually covered sex trafficking and domestic violence  
24 cause they were both in the same. When a victim is scared to talk always separate  
25 them, you know? So, because a lot of times they're scared to talk and how they

1 appeared to be detached and you just have to read the signs because a lot of  
2 suspects they'll hit the victim where you can't see it, so.

3 Q And a lot of victims try and protect the possible defendant, right?

4 A Oh, yeah. I've been attacked from a victim trying to arrest a suspect.

5 Q Is it the number one source of officer injury or is that traffic stops?

6 A I think it's domestic, probably.

7 Q I believe you're --

8 A Yes.

9 Q Yeah, that's my understanding.

10 A Yes.

11 Q Have you -- you made a couple of comments about this crime scene  
12 about maybe blood on this wall going up the stairs.

13 A Yes.

14 Q And blood upstairs in the bedroom.

15 A Yes.

16 Q If there's no photographs of that would that rule that out or would the  
17 photographs have nothing to do where there was blood -- and that's a clumsy  
18 question, I apologize. If there was blood would you expect it to be in these  
19 photographs?

20 A Could be or it couldn't be, I didn't really take the pictures.

21 Q Not your job.

22 A Yes, so. I mean there was enough blood everywhere else that it was  
23 immaterial, I mean, you could just tell what happened.

24 Q Right. Officer Bragg, in the -- in your experience responding to a  
25 horrific percentage of your career to domestic violence calls, do you have any idea

1 what percentage of those involve male on female violence?

2 A Probably 75 percent of them.

3 Q Do you receive any training or did you ever have any experience during  
4 the course of your career where you responded to a domestic violence call and the  
5 facts turned out to be opposite than what the victim relayed them to you?

6 A Yes.

7 Q Can you put any number on that, a competent number?

8 A Not too many, probably around three or four.

9 Q Okay. Pretty tiny?

10 A Yes. Yes.

11 Q Would -- in the course of investigating a domestic violence incident, I'm  
12 sure any of -- let me just limit it to this, I apologize. In the course of investigating a  
13 domestic violence incident does the alleged perpetrator's criminal background  
14 history have any impact on your investigation? Does it have any significance to  
15 you?

16 A Very little. We try to just go by the evidence at the scene.

17 Q And what about the same question for a victim's criminal background?

18 A No. We just try to go by the evidence at the scene.

19 Q But you did say that it's not unusual for a victim to be reluctant to give  
20 up information?

21 A Yes.

22 Q And it does happen although, not in a ton of cases but there were cases  
23 where the victim would give up incorrect information?

24 A Yes. It's very seldom that the victim ever shows up to court. They  
25 hardly ever show up to court after it happens.

1 Q Unfortunately, I'm very familiar with that. I can't get over that number  
2 still.

3 I believe Ms. Sudano took you back to the issue; you mentioned the cell  
4 phone and the toilet downstairs?

5 A Yes.

6 Q You're not sure now if there was one in the toilet or not?

7 A No, I -- he had threw it in the toilet. He had threw it in the toilet.

8 Q You're not sure if it was there when you got there?

9 A No, I'm not sure.

10 Q You're not sure if it was downstairs or upstairs?

11 A I believe it was downstairs in the living room on the floor.

12 Q There was a photograph shown to you, this photograph number 28, and  
13 on the bed with her on the mattress, the upside down mattress, there's a cell phone  
14 there. Is that the same cell phone we're talking about?

15 A I don't believe so. The cell phone I seen had a cracked mirror.

16 Q Do you know if Ms. Carpenter had access to more than one cell phone  
17 that day?

18 A I don't know.

19 Q But at least in your testimony here in Court is there were at least two in  
20 that house within a short period of time?

21 A Yes.

22 Q I asked you the question about either the victim or the potential  
23 defendant or the perpetrators criminal background. Would that -- would your answer  
24 to those questions change, talking about their criminal history specifically, if there  
25 were a violent criminal history would that have any impact or would it still be the

1 same answers?

2 A It's evidence at the scene.

3 Q And Ms. Sudano asked you what happened when you arrived at the  
4 scene and you stated, please don't let me misquote this, you think she was afraid to  
5 open the door because you're worried about her ex-boyfriend coming back?

6 A Yes, she was.

7 Q She told you that?

8 A Yes.

9 Q Okay. You also said that it seemed that she was trying to get away  
10 from him; do you remember that?

11 A Yes.

12 Q And that's based on your observation of the house in disarray?

13 A Well, she also said she tried to call 9-1-1 and then he wouldn't let her  
14 call and that's when he took the phone and threw it and she tried to run and he  
15 wouldn't let her. He wouldn't let her get away.

16 Q I'd like to come back to this idea of disarray just a little bit. Ms.  
17 Carpenter testified yesterday that she was not, I'm going to paraphrase here slightly,  
18 but housekeeping was not number one on her list of stuff.

19 A Mm-hmm.

20 Q When you talk about disarray are you talking about a place with Top  
21 Ramen on the bed, are you talking about the cups that were in the floor on the  
22 kitchen, where do you draw -- I mean, my seven year old and my four year old make  
23 disarray every minute every day but.

24 A Yeah. Well, you can tell when somebody just keeps a nasty house.

25 Q Right.

1 A Or you can tell when there's a struggle.

2 Q Thank you, that's much cleaner.

3 A Yes.

4 Q Thank you. And you're talking about the later, a struggle?

5 A Yes.

6 Q And in this case there was evidence of both present, right?

7 A Well, it wasn't the cleanest house but you could tell there was a

8 struggle.

9 Q That was a nicer way to put it, thanks for helping me out.

10 The information that you testified to about the perpetrator taking her

11 car, stealing her car, that came from Ms. Carpenter; right?

12 A Yes.

13 Q You didn't conduct any other investigation into that or talk to any other

14 witnesses about that?

15 A What witnesses?

16 Q Any.

17 A She was the only witness.

18 Q She was the only source for that information?

19 A Yes.

20 Q Ms. Carpenter testified yesterday that she took some selfies of her

21 injuries. You're familiar with what a selfie is?

22 A Yes.

23 Q Have you had a chance to look at those photographs at all?

24 A No.

25 Q Can you tell me any additional information or any -- if there's any

1 information in your report that would help you with your statement to the Court that  
2 you believe she was bleeding on her hands? Is there any other basis for that than  
3 other what you recollect?

4 A He snatched her keys from her. That's how -- she said she think [sic]  
5 he snatched the keys from her cause she said she didn't -- she wasn't sure he cut  
6 her with the knife but when he snatched the keys she thinks that's how her hand got  
7 cut.

8 Q If she testified yesterday that he picked up the keys off some surface in  
9 the house would that have any impact on that?

10 A It could. She could've picked up the keys up, either way her hand was  
11 cut.

12 Q You saw that though?

13 A Yes.

14 Q You're here to tell us today that you saw that?

15 A Her hand was cut, yes. Maybe she tried to get the keys back from him  
16 and something like that but there was a struggle over the keys.

17 Q In your experience investigating domestic violence incidents where, let  
18 me keep it simple -- do you find that the victims try and get themselves -- clean up  
19 their injuries as much as possible?

20 A No.

21 Q Do you, same question, in your experience investigating these types of  
22 incidents -- strike that.

23 How do you, after 25 years as a police officer investigating all these  
24 types of crimes, what did you do to take care of yourself and just not --

25 A That's why I'm retired at a young age cause it's just a revolving door,



1 it's a revolving door. Like I said, she's one of the very few victims who's come into  
2 Court to testify. Most of them will not come in to testify and you'll just keep going to  
3 their house over and over again until one day you'll go and they're dead.

4 Q And that's a huge problem in Clark County.

5 A Yes. They just won't force them to testify and, I don't know. I just think  
6 they should do mandatory restraining orders like other states.

7 Q And they -- and it's a huge source of our homicides in Clark County.

8 A Yes. And I've been on several where I've been to the house several  
9 times and they wouldn't come to court and then one day I go and they're dead.

10 Q Do you know what type of injuries Ms. Carpenter was later diagnosed  
11 with?

12 A Later on I heard her eye socket was broken but at the time I didn't  
13 know.

14 Q The decision for her to get transported or not transported, was that your  
15 decision, her decision, a combination?

16 A No, she -- we were still at the scene. So I believe her friend, if I'm not  
17 mistaken, I believe her friend came and took her to the hospital.

18 Q That's right. Have you had any contact with Ms. Carpenter since you  
19 submitted your file on this case?

20 A No.

21 MR. SHETLER: Court's indulgence, please.

22 MR. SHETLER:

23 Q You did make a comment on direct, Ms. Sudano asked you about the  
24 garage if there was anything significant. There was a knife in the garage and you  
25 said the car wasn't parked in the garage. That was -- you believed the car was

1 parked there before?

2 A Yes, that's what she said.

3 Q And that was based on what Ms. Carpenter said?

4 A Yes.

5 MR. SHETLER: Your Honor, if I could just consult with my client for a second.

6 THE COURT: Sure.

7 MR. SHETLER: Officer Bragg, thank you and sincerely, thanks for your  
8 service.

9 THE COURT: Any redirect?

10 MS. SUDANO: Briefly, Your Honor.

11 **REDIRECT EXAMINATION OF ALMEDIA BRAGG**

12 BY MS. SUDANO:

13 Q Now, Officer Bragg, you testified that I believe it was three or four of  
14 your investigations over the course of 25 plus years investigating domestic violence  
15 cases where what actually happened was different than what you thought happened  
16 initially; is that correct?

17 A Yes.

18 Q And that was just based on what you were told by witnesses or --

19 A Or just going over the story or -- and noticing things when you first get  
20 there and then you go outside in the car and then there's something else there that  
21 wasn't there when you got there and you're like, hmmm, so.

22 Q So people kind of tampering with the scene --

23 A Yes.

24 Q -- after the fact maybe?

25 A Yes.

1 Q Now, was there anything about this particular scene that caused you  
2 concern with regard to diversion of events that you heard from Ms. Carpenter?

3 A No. This was -- this was one of the -- this was a pretty bad one and her  
4 eyes were like -- I've never seen eyes like that except once before and it was a girls'  
5 eyes were like that where he beat up so bad her eyes were like that.

6 Q Now, so was everything that you saw at the scene consistent with the  
7 version of events you heard from Ms. Carpenter?

8 A Yes.

9 MS. SUDANO: No further questions.

10 THE COURT: Any recross?

11 MR. SHETLER: Briefly, Your Honor, thank you.

12 **RECROSS EXAMINATION OF ALMEDIA BRAGG**

13 BY MR. SHETLER:

14 Q Officer Bragg, did you ever have a chance to inspect Mr. Perry after he  
15 was apprehended?

16 A No. That -- this is the first time I seen him beside his on wanted [sic]  
17 poster.

18 Q Did you ever hear any evidence during your investigation of mutual  
19 combat or self-defense on Mr. Perry's part?

20 A No. If it was self-defense he should've stayed there at the scene.

21 MR. SHETLER: Thank you very much officer.

22 THE COURT: Any further redirect?

23 MS. SUDANO: No, Your Honor.

24 THE COURT: Thank you. We appreciate your time.

25 Next witness.

1 MS. SUDANO: The State would call Danielle Keller, please.

2 THE MARSHAL: Okay, go ahead into the box, remain standing. Raise your  
3 right hand and face that young lady right there.

4 **DANIELLE KELLER**

5 [having been called as a witness and being first duly sworn, testified as follows:]

6 THE COURT CLERK: Please be seated.

7 Would you please state and spell your first and last name for the  
8 record.

9 THE WITNESS: Yes, it's Danielle Keller, D-A-N-I-E-L-L-E K-E-L-L-E-R.

10 THE COURT CLERK: Thank you.

11 THE COURT: Go ahead.

12 MS. SUDANO: Thank you, Your Honor.

13 **DIRECT EXAMINATION OF DANIELLE KELLER**

14 BY MS. SUDANO:

15 Q Ma'am, how are you employed?

16 A I'm a senior crime scene analyst at the Las Vegas Metropolitan Police  
17 Department.

18 Q Now, I want to talk you through a little bit. Do you have to have special  
19 training and education in order to be a crime scene analyst?

20 A Yes.

21 Q Walk us through a little bit of that, if you would.

22 A I have a bachelor's degree in criminal justice and then I completed the  
23 academy infill training program at Metro and subsequent training ever since I've  
24 been employed.

25 Q When you say subsequent training, what are some of the things you

1 have to do for that subsequent training?

2 A Various things such as: blood stain classes, shooting reconstruction,  
3 photography classes; all sorts of courses.

4 Q How often do you have to take those additional courses?

5 A We have quarterly training and then there's various classes offered  
6 throughout the year.

7 Q Now, you said that you are a senior crime scene analyst; is that  
8 correct?

9 A Yes.

10 Q How long have you been a crime scene analyst, total?

11 A Seven and a half years.

12 Q And how is it that you become a senior crime scene analyst as opposed  
13 to when you first start out?

14 A At around your fourth year you have to test which is a written, practical,  
15 and oral board exam to promote to senior.

16 Q And you were able to do that?

17 A Yes.

18 Q Now, I'm going to draw your attention to May 1<sup>st</sup> of 2014. Were you  
19 working that day?

20 A Yes.

21 Q Did you have occasion to be dispatched to a scene at 2461 Old Forge  
22 Lane?

23 A Yes.

24 Q Is that here in Clark County, Nevada?

25 A Yes.

1 Q What was the nature of -- well, first, let's back up. What's your typical  
2 process when you respond to a scene; just in general?

3 A Typically, I meet with the officers and the victim and they walk me  
4 through the scene. I then take photos and notes to document the scene and collect  
5 any evidence and recover latent prints.

6 Q Now, is it different when you respond to a scene where there are patrol  
7 officers as opposed to when you respond to a scene with detectives?

8 A Yes.

9 Q What are those differences?

10 A Usually the detectives take the lead role in a scene if they're there. If  
11 it's just the patrol officers, patrol and myself will take the lead role.

12 Q So you have a lot more involvement when you're with patrol officers; is  
13 that fair?

14 A Yeah.

15 Q And why is that; just generally?

16 A Um, I mean, just how it goes. The detectives get all the information and  
17 on bigger cases on different -- on cases that are not so involved they don't need to  
18 be dispatched.

19 Q So now, on this scene at 2461 Old Forge, was there a detective  
20 present?

21 A No.

22 Q So, were you just working with patrol officers?

23 A Yes.

24 Q Now, what was the first thing that you did when you responded to this  
25 particular scene on May 1<sup>st</sup> of 2014?

1           A     I met with officers who were at the scene already.

2           Q     Based on your meeting with those officers, what, if anything, did you do  
3 next?

4           A     Then I took notes documenting what I saw at the scene and  
5 photographed it as well.

6           Q     What's your process for taking the photos at a scene?

7           A     We try to do a chronological if we can tell or based on the information  
8 that's given to us we do overalls just to document the rooms, how the house is laid  
9 out. Then we'll show close ups and comparison and relationship photos of any  
10 evidence or anything that we're trying to point out in the scene.

11          Q     Now, in this particular case did also you meet with the victim and  
12 discuss the crime scene with the victim?

13          A     Yes.

14          Q     Okay. After you meet with all the parties do you always take photos of,  
15 I guess, every room in a house?

16          A     Not typically.

17          Q     Why wouldn't you take photos of every single room?

18          A     Usually we'll just focus on the rooms that have disturbance or that were  
19 -- there was information given to us that there was something relevant in that room.

20          Q     Now, I'll walk through with you if I can some of the photos of this scene  
21 that you took here. I apologize. These are in no particular order because I messed  
22 them up earlier. All right. So while I'm tracking down my photos here, oh, there we  
23 go.

24                   I'm going to start you here with State's Exhibit 4. What's depicted in  
25 State's Exhibit 4?

1           A     That's the front door to the residence.

2           Q     And then State's Exhibit 5, what's depicted in State's Exhibit 5?

3           A     That's showing the condominium number.

4           Q     And so, is there any reason that you would take Exhibit 4 and then also

5 Exhibit 5; so the faraway shot of the door and then the close up shot?

6           A     Just to show that's it's from the same door and that's the address that

7 we're about to enter.

8           Q     And so, that's just the first step you take when you're kind of

9 documenting the scene?

10          A     Yes.

11          Q     Now, after you took the photos of the door and the residence where did

12 you go next?

13          A     I believe it was the living room, the downstairs portion of the residence.

14          Q     See what I can find for the living room. Showing you State's Exhibit 20;

15 is that the living room?

16          A     Yes.

17          Q     Now, is there anything of evidentiary value located in that living room?

18          A     No.

19          Q     Okay. And then same with Exhibit 21; is that a different angle of the

20 living room?

21          A     Yes.

22          Q     Now, is there any reason why you would have multiple shots of the

23 same living room area?

24          A     It's just to show the general layout of the room.

25          Q     And is that so later on when we come back for something like this you



1 can kind of remember and document the entire room?

2 A Yes.

3 Q Okay. So, after you were done in the living room, where did you go  
4 next?

5 A There was -- it was kind of one big room but there was a kitchen in the  
6 center and then a bathroom and then a door that led to the garage.

7 Q Okay. Now, is there anything of evidentiary value located in the  
8 kitchen?

9 A There was some blood on the floor and a bloody tissue on the counter.

10 Q So, showing you State's Exhibit 7; is that the kitchen of the residence?

11 A Yes.

12 Q Now, if you mark on the screen --

13 A Okay.

14 Q -- up there we can see kind of where these items are. Can you see the  
15 blood on the floor?

16 A Yeah, it's back -- oh, let me see. Oh, there -- I'm sorry, back in that  
17 corner.

18 Q Okay.

19 A And then the tissue was up here.

20 Q And then if you'll hit either the bottom right or the bottom left to clear  
21 that out. And now, State's Exhibit 8 is -- what is depicted there?

22 A That's a close up of the blood.

23 Q And now, State's Exhibit 9; what's depicted in State's Exhibit 9?

24 A And that's a close up of the tissue on the counter.

25 Q And a way back you testified that it was kind of one big area and there

1 was the garage and a bathroom; is that correct?

2 A Yes.

3 Q Now, showing you State's Exhibit 6. What's depicted there?

4 A So, there's the kitchen again here, and then this is the door to the  
5 bathroom and this is the door leading to the garage.

6 Q Is there anything of evidentiary value located in the bathroom?

7 A Yes.

8 Q What was that?

9 A There was some blood on the doorway, right here. And then there was  
10 also some in the bathroom, as well.

11 Q Showing you State's Exhibit 11; is that the blood on the doorway to the  
12 bathroom?

13 A Yes.

14 Q And then State's Exhibit 12; is that inside the bathroom?

15 A Yes.

16 Q And can you indicate just where the blood is and --

17 A There some. It's right here.

18 Q And so on that bathroom wall downstairs?

19 A Yes.

20 Q Is there anything else of evidentiary value located in the bathroom?

21 A Not that I recall.

22 Q Now, I'm showing you State's Exhibit 10. What's depicted there?

23 A That is, again, the bathroom door here and then the door leading to the  
24 garage.

25 Q Is there anything of evidentiary value found outside in the garage?

1 A In the garage, yes; there was.

2 Q What was located in the garage?

3 A There was a steak knife on the floor.

4 Q Let me show you this one. State's Exhibit 26; is that the steak knife you  
5 were talking about?

6 A Yes.

7 Q Now, was there anything additional of significance with that steak knife?

8 A There was some apparent blood on the steak knife.

9 Q Based on that apparent blood what, if anything, did you do with the  
10 steak knife?

11 A I recovered it and impounded it.

12 Q Now, after you were done documenting the garage where did you go  
13 after that?

14 A I believe upstairs to the master bedroom.

15 Q Now, was there anything of evidentiary value located inside the master  
16 bedroom?

17 A There was apparent blood on the bedding of the bed in the room.

18 Q Okay. Showing you State's Exhibit 13; is that a photo of the master  
19 bedroom with the bed in it?

20 A Yes.

21 Q Okay. Now, showing you State's Exhibit 19; is that a close up shot of  
22 that bedspread and bed?

23 A Yes.

24 Q Now, can you see any of the apparent blood you were talking about?

25 A Yes, there's some right here and then I think a little bit on the floor as

1 well.

2 Q So that's just kind of to the center bottom right of that photo?

3 A Yes.

4 Q I'm also going to show you State's Exhibit 16. What's depicted in  
5 State's Exhibit 16?

6 A That's more apparent blood on the bedding; down here and up here,  
7 kind of all over.

8 Q Is there anything else of evidentiary value located inside the master  
9 bedroom?

10 A No.

11 Q Okay. Now, after you went into the master bedroom did you go  
12 anywhere else in the house?

13 A I photographed the victim back in the living room.

14 Q Did you ever photograph any of the bathrooms upstairs?

15 A No.

16 Q Did you photograph -- was there another bedroom upstairs?

17 A I don't recall if there was.

18 Q Did you take any photos of any additional bedrooms upstairs?

19 A No.

20 Q Okay. So after you documented this master bedroom upstairs you just  
21 went back downstairs?

22 A Yes.

23 Q Now, was there anything else of evidentiary value located on the stairs  
24 or anywhere else?

25 A Not that I had -- was -- not that I saw or that I recall.

1 Q Now, you said that you documented the victim back downstairs. Where  
2 was the victim when you documented her injuries?

3 A She was lying on a mattress in the living room.

4 Q Now, is there any particular reason that she was lying on the mattress?

5 A She was not feeling well and seemed out of it, so I just let her stay on  
6 the mattress to take pictures of her.

7 Q Normally, would you document somebody lying down on a mattress?

8 A Not typically, no.

9 Q How would you normally document somebody?

10 A We usually do standups, what's what we call standups where we'll  
11 shoot vic pictures of all four sides and then a close up of their face.

12 Q Okay. Now, so I'm showing you Exhibit 28 there. Is that the victim  
13 lying on that mattress?

14 A Yes.

15 Q Okay. And again, there -- are there are any, I guess, angles of her  
16 back or anything?

17 A No.

18 Q And that was just due to her discomfort?

19 A Yes.

20 Q Okay. So I'm going to show you State's Exhibit 30. What's depicted in  
21 State's Exhibit 30?

22 A That's just a close up of her face.

23 Q Are there any injuries that you can see on her face?

24 A She had injuries to her eyes and to her mouth.

25 Q Now are those depicted in that photo?

1 A Yes, and there should be some close ups as well of those.

2 Q Let's start with Exhibit 31. Is that one of the close up photos you took?

3 A Yes.

4 Q And, specifically, what area are you focusing on in 31?

5 A It was her right eye.

6 Q And then how about State's Exhibit 32; what area are you focusing on

7 in 32?

8 A That's the same photo. I will take a picture both with a scale and

9 without just to show that there's nothing that was covered up by the scale.

10 Q So same area of that right eye area?

11 A Yes.

12 Q Was there anything significant as far as injuries on that right eye?

13 A It just looked swollen and maybe starting to bruise.

14 Q Now, showing you Exhibit 33. What's depicted in Exhibit 33?

15 A That's her left eye.

16 Q Is there anything significant as far injuries in Exhibit 33?

17 A Same thing, swollen and just getting discolored from bruising.

18 Q And now State's Exhibit 34. What's depicted there?

19 A Her mouth.

20 Q Anything significant about the victim's mouth?

21 A There was some apparent blood and then also swelling and discoloring.

22 Q Is there apparent blood anywhere other than her mouth in that photo?

23 A It looks like closer to her nose there.

24 Q Now, after you took your notes and documented the scene with photos

25 did you do anything else to process this particular scene?

1 A I recovered some blood samples from the scene.

2 Q Do you recall specifically where you took those blood samples from?

3 A From the master bedroom, the bedding in the bedroom as well as the  
4 doorway to that bathroom downstairs.

5 Q Now, when you recover potential blood from a scene do you do any  
6 testing at the scene or does that all just happen at the lab?

7 A We'll do some presumptive testing at the scene but as far as looking for  
8 DNA or anything like that, that's done at the lab.

9 Q So what kind of presumptive testing do you do?

10 A In this case I performed a test called phenolphthalein kit on the  
11 samples, well, on a sample from the same area that I recovered the samples.

12 Q And can you just walk through, very briefly, what the phenolphthalein  
13 sample is?

14 A You have two parts and you just apply a couple drops to the sample of  
15 each and if it's positive for blood it will turn pink.

16 Q And you said you did that presumptive test on the presumptive blood  
17 from the master bedroom?

18 A Yes.

19 Q Do you recall whether or not that was positive for presumptive blood?

20 A Yes, it was positive.

21 Q And you also tested for presumptive blood on the doorway of the  
22 bathroom?

23 A Yes.

24 Q Was that test positive?

25 A Yes.

1 Q Now, in addition to the presumptive blood testing did you do anything  
2 else at the scene?

3 A I recovered the knife.

4 Q What did you do with the knife when you recovered it?

5 A I put it in a package so that it could, if they wanted to later test it for  
6 DNA, fingerprints, whatever they wanted to.

7 Q And so you impounded it into evidence?

8 A Yes.

9 Q But then as far as any sort of testing that would later be done on that is  
10 that something you would do?

11 A Sometimes we will, but in this case I did not.

12 Q So you just booked it into evidence, essentially?

13 A Yes.

14 Q Did you have any additional involvement at the scene?

15 A No.

16 MS. SUDANO: Your Honor, I have no further questions.

17 THE COURT: Okay. Cross?

18 MR. SHETLER: Thank you, Your Honor.

19 **CROSS-EXAMINATION OF DANIELLE KELLER**

20 BY MR. SHETLER:

21 Q Ms. Keller, my name is Travis Shetler and I represent Mr. Perry.

22 A Okay.

23 Q I've got just a couple questions for you. Are you okay comfort-wise?

24 A Yes, I'm okay.

25 Q You, take a break?



1 A No, I'm okay, thank you.

2 Q It's a lot of stuff.

3 Ms. Sudano asked you if you recalled any blood going up the stairway.

4 A No, I don't.

5 Q If there was blood there would you have photographed it or  
6 documented it?

7 A Yes.

8 Q If there was something there and you thought it was blood would you  
9 have photographed it and documented it?

10 A Yes.

11 Q Right. You're not testing it at that point, you're just --

12 A No.

13 Q And when you took photographs of Ms. Carpenter's injuries you're  
14 trying to document any injury that she has --

15 A Yes.

16 Q -- that you -- that would come out on a photo?

17 A Yes.

18 Q You didn't take any photographs of her hands, is that correct?

19 A No.

20 Q Did she tell you that she had cuts on her hands?

21 A No.

22 Q Do you rely on the victim to let you know what injuries there are or do  
23 you make your own determination about that?

24 A Yeah, typically unless it's something really obvious we'll just ask them,  
25 you know, where they're injured and try to look and see if there's anything visible to

1 document.

2 Q So if, and if I get this confused, please stop me. If there's no  
3 photographs that you took of cuts on her hands does that mean there were no cuts  
4 on her hands or does that mean you just didn't notice them, it didn't come up --

5 A I didn't notice them and wasn't told about them if there's no  
6 documentation of that.

7 Q Well, it may be significant or it may not be significant.

8 A Correct.

9 Q Did you ever have an opportunity to view some -- you know what a  
10 selfie is?

11 A A selfie?

12 Q Yes.

13 A Yes.

14 Q Have you ever had an opportunity to review any of Ms. Carpenter's  
15 selfies of her injuries?

16 A No.

17 Q She told the Court that she took some photographs some number of  
18 days later and then maybe the same day, it's not clear; so I'm going to show you a  
19 photograph she took. It's Exhibit 37. Can you see that okay?

20 A Yes.

21 Q She testified in the lower photograph there two marks on what I'm --  
22 would you agree that it seems possible to be her left pinkie?

23 A It could be, yes.

24 Q You see the two marks; there's a very dark small mark and then a  
25 slightly bigger, not as dark mark?

1 A Yes.

2 Q Did either of those marks look significant to you from your experience  
3 and training?

4 A If I had seen them at the time I probably would have photographed  
5 them but I don't recall seeing them or her telling me about them.

6 Q I'm going to show you photograph 36 or -- Exhibit 36, excuse me.  
7 Those are two photographs she took of her face.

8 A Uh-huh.

9 Q Again, she wasn't -- it was unclear when these were taken.

10 A Correct.

11 Q Those injuries seem consistent with what you saw?

12 A Yes, I mean, they appear darker but that can happen as time goes on.  
13 Bruises can darken.

14 Q Right. And as you look at these today its -- do you have any ability to  
15 tell how much later they were taken if it was --

16 A No.

17 Q -- the same day or different days?

18 A Everybody kind of goes differently as far as injuries.

19 Q Right. I mean, that would be as subjective as the quality of the camera  
20 or the phone that was used, everything.

21 A Correct.

22 Q Yeah. Once you, and Ms. Sudano may have asked you this and if she  
23 did, please excuse me; once you documented everything, recorded everything,  
24 bagged up everything, have you had a chance to revisit this file for any reason?

25 A No, just for Court purposes.

1 Q Right, right. Okay.

2 Court's indulgence, please.

3 THE COURT: Mm-hmm.

4 MR. SHETLER: Officer Keller, thank you and I hope you get out of here  
5 quick.

6 THE WITNESS: Thank you.

7 THE COURT: Is there any redirect?

8 MS. SUDANO: No, Your Honor.

9 THE COURT: Thank you, ma'am.

10 THE WITNESS: Thank you.

11 THE COURT: Appreciate your time.

12 Does State have any other witnesses?

13 MS. SUDANO: The State does not have any additional witnesses and I  
14 believe all the Exhibits 1 through 37 have previously been admitted. So with that the  
15 State --

16 THE COURT: Okay. Can the Court Clerk confirm that 1 through 37 is  
17 admitted?

18 THE COURT CLERK: Yes, they are.

19 THE COURT: Okay.

20 MS. SUDANO: With that, the State would rest, Your Honor.

21 THE COURT: Thank you.

22 Defense?

23 MR. SHETLER: Your Honor, I would like to consult with my client to make a  
24 final determination whether he will be testifying or not testifying.

25 THE COURT: Okay.

1 MR. SHETLER: I do have -- again, I believe it's just going to be an offer of  
2 proof. I don't believe I have a good basis to have another witness in so we may just  
3 have Mr. Perry or nobody.

4 THE COURT: Okay. So, we'll take a short break and come back in and see  
5 what we're going to do.

6 MR. SHETLER: Thank you, Your Honor.

7 THE COURT: And, you know what; before we take a break let me just ask.  
8 Did you -- have you gone through the State's proposed Instructions?

9 MR. SHETLER: I have.

10 THE COURT: Okay. Are you -- are we going to need to talk about objections  
11 or additional proposed Instructions?

12 MR. SHETLER: There's one question, I will try and address that with Ms.  
13 Sudano and see if we can avoid wasting the Court's time. I don't think -- because  
14 we went through them last time, so.

15 THE COURT: Okay.

16 MR. SHETLER: Thank you, Your Honor.

17 THE COURT: Thank you.

18 [Recess taken at 2:27 p.m.]

19 [Proceedings resumed at 2:37 p.m.]

20 THE COURT: Okay. Mr. Shetler.

21 MR. SHETLER: Your Honor, I've spoken with my client, Mr. Perry does not  
22 care to testify.

23 THE COURT: Okay.

24 MR. SHETLER: We -- the only other witness that we intended to possibly call  
25 would have been the security guard. I can make an offer of proof. I think the Court

1 really, and I've spoken about this with Ms. Sudano, I think the Court's ruling on the  
2 previous motion regarding -- would be just through *Gideon* testimony about more of  
3 the details of what took place at T.J. Maxx --

4 THE COURT: So --

5 MR. SHETLER: -- and I don't --

6 THE COURT: Okay. The security guard --

7 MR. SHETLER: -- and I think based on the Court's ruling --

8 THE COURT: -- from T.J. Maxx.

9 MR. SHETLER: I'm sorry, Your Honor, I apologize.

10 THE COURT: Okay.

11 MR. SHETLER: I understand you may not be exactly where my little head's  
12 at. It would be brought in to color up and give some more details as to her activities  
13 that day.

14 THE COURT: Right.

15 MR. SHETLER: To try and establish a slightly more of what we would  
16 consider a fuller picture of Ms. Carpenter. I think the Court's previous ruling on the  
17 motion is sufficient for the record. I don't -- I'll do whatever the Court would like.  
18 We've talked about it and we think that your ruling on that motion, you made it clear  
19 in the evidence offer that would come if we would try to offer for that, but.

20 THE COURT: So, I was only allowing information about that incident to the  
21 extent that it affected your client's --

22 MR. SHETLER: Right.

23 THE COURT: -- state of mind --

24 MR. SHETLER: Right.

25 THE COURT: -- that day. So unless he talked to the security guard I don't

1 see how that would be pertinent to that issue.

2 MR. SHETLER: Right. And I did speak about this with Mr. Perry. He  
3 understands what's going on. I just wanted to make sure we talked about it.

4 THE COURT: Okay.

5 MR. SHETLER: The only other request we'd have at that time, and I'm  
6 slightly ahead of the scheduling here, is I would like the opportunity to speak with  
7 Mr. Perry and prepare for closing, if it would be possible to do our closings  
8 tomorrow. I don't know if the Court's amenable to that.

9 THE COURT: Okay.

10 MS. SUDANO: And, Your Honor, I'm not going to belabor the point with the  
11 security guard, I do think that Your Honor's prior ruling is sufficient there.

12 As far as Mr. Shetler's request on closings, I'm prepared to go forward  
13 today or we can do it tomorrow, whatever Your Honor's preference, and whatever's  
14 most convenient for Mr. Shetler, I'm fine with.

15 THE COURT: Right. I mean, I could, you know, we could do them now. I  
16 don't mind if you want to do them tomorrow, but are you prepared to talk about the  
17 Instructions?

18 MS. SUDANO: Oh, that's right.

19 MR. SHETLER: No. I spent my time back in the luxurious confines of the  
20 little room. Maybe if -- I don't think we're going to have an issue there. I just -- it  
21 would probably make sense to take a second and do that. In an hour we could put  
22 that on right before closing, whatever you're comfortable with, Your Honor.

23 I'm not. The short answer is no, I'm not.

24 THE COURT: Right. Okay. Well, on the good side we won't have to make  
25 14 copies of the Instructions, so. I guess we'll deal with that first when you come

1 back at 10 in the morning.

2 So, to be clear, Defense is resting then at this point, right?

3 MR. SHETLER: Yes. I didn't say that either. Yes, Your Honor.

4 THE COURT: Okay. I just wanted to be clear.

5 MR. SHETLER: And if I do come across something I will make sure that I do  
6 that before the afternoon is over and send an email to the Court and everybody on  
7 the issue.

8 THE COURT: Right. So, we can address the Instructions first and then I will  
9 read the Instructions to myself before we proceed. I don't need to read them out  
10 loud in Court and then have closings, I guess, tomorrow and then I'll probably just  
11 vacate for some time to contemplate, review the Exhibits and my notes and come  
12 back with a verdict.

13 Okay. So, with the evidence being complete, we'll come back at 10  
14 tomorrow. We'll first address Instructions and then do closings, okay?

15 MR. SHETLER: Thank you, Your Honor.

16 THE COURT: Great.

17 MS. SUDANO: Thank you, Your Honor.

18 THE COURT: Thank you.

19 [Bench Trial, Day 2, concluded at 2:41 p.m.]

20  
21 \* \* \* \* \*

22 ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I  
23 acknowledge that this is a rough draft transcript, expeditiously prepared, not  
24 proofread, corrected, or certified to be an accurate transcript.

25   
DALYNE EASLEY  
Court Transcriber



DISTRICT COURT  
CLARK COUNTY, NEVADA

Defendant.

441

1 THURSDAY, OCTOBER 1, 2015 AT 10:39 A.M.

2  
3 THE COURT: Good morning.

4 MS. SUDANA: Good morning, Your Honor.

5 THE COURT: And what have we here?

6 MS. SUDANO: Your Honor, I know that we put it on the record --

7 THE COURT: Go ahead and sit down.

8 MS. SUDANO: -- previously.

9 THE COURT: Hold on. Just, go ahead and have a seat.

10 THE DEFENDANT: Yes Ma'am.

11 MS. SUDANO: I know that we put it on the record previously that both sides  
12 were waiving the jury but we do just want to have it in writing.

13 THE COURT: Yes.

14 MS. SUDANO: And so if Your Honor would sign our stipulation and order  
15 after the Defendant has looked over it we would appreciate that.

16 THE COURT: Okay.

17 MS. SUDANO: May I approach to have that filed?

18 THE COURT: Yep.

19 MS. SUDANO: Thank you, Your Honor.

20 THE COURT: Do you need me to sign?

21 MS. SUDANO: Oh, yes, if you would, I apologize.

22 THE COURT: That's okay. So, it's just multiple copies of the stip and order?

23 MS. SUDANO: It is. I just wanted to have one original but I guess we have  
24 them all signed.

25 THE COURT: Okay. So the clerk will file those or file the stip and return the

1 copies, I guess.

2 MS. SUDANO: Thank you.

3 THE COURT: Okay. So we've got the Instructions to discuss.

4 MR. SHETLER: Your Honor, we did phone chambers last night to let you  
5 know that we were in good shape on the Instructions themselves. Ms. Sudano  
6 wants to make a presentation regarding the self-defense Instructions.

7 MS. SUDANO: That's correct, Your Honor. I didn't hear any evidence  
8 throughout the case even in inference of slight -- or self-defense so even though  
9 those were initially included with the packet and they were presented to Your Honor,  
10 at this point I don't think that there's any evidence to support the giving or the  
11 including of the self-defense Instructions in this particular case. So that was  
12 Instructions on pages 35 through 40.

13 THE COURT: Okay. Mr. Shetler.

14 MR. SHETLER: Your Honor, the evidence itself to support those Instructions,  
15 it's a good argument that we didn't establish enough evidence to get to that point.  
16 Certainly the victim did not assist us in that endeavor and Officer Braggs [sic] did not  
17 -- Braggs right; did not say that she saw any evidence.

18 I will argue in closing that it's possible our officer was slightly biased,  
19 with all due respect for her service, and I'll make an argument about that. I -- I'm  
20 saying everything I think I can.

21 THE COURT: Right. I appreciate that. Right.

22 So, there is no evidence that Ms. Carpenter made any threat or  
23 threatened any kind of violence or held a weapon or said she was going to do  
24 anything to cause the Defendant harm. So, I think the State is correct that there is  
25 not evidence to support the giving of those Instructions in this case. I just -- there

1 just isn't evidence of self-defense.

2 So, that's 30 -- pages 35 to 40 would be pulled then?

3 MS. SUDANO: Correct, Your Honor.

4 THE COURT: Is there any objection -- so, the State is still proposing all the  
5 rest of what it had originally given though?

6 MS. SUDANO: Yes, Your Honor.

7 THE COURT: Are there any other objections by the Defense?

8 MR. SHETLER: No, Your Honor.

9 THE COURT: And have you reviewed the proposed verdict form as well?

10 MR. SHETLER: Not with my client but I have looked at that and I don't have  
11 any concerns about that, but I have not done that with Mr. Perry. I'm sorry, Judge.

12 THE COURT: Do you have a copy to take a quick look at the verdict form?

13 MR. SHETLER: I do not. Thank you.

14 [Colloquy between Court and court staff not transcribed.]

15 THE COURT: While you're looking at that, Tim is going to go make a final set  
16 of the Instructions and while I wait we can go off the record while they discuss the  
17 verdict form.

18 [A brief recess was taken at 10:46 a.m.]

19 [Proceedings resumed at 10:48 a.m.]

20 THE COURT: Okay. Have you had an opportunity to review the verdict  
21 form?

22 MR. SHETLER: I have, Your Honor and I've gone over those with my client  
23 and we do not have any objections.

24 THE COURT: Okay. So, what we're going to do then is finalize the verdict  
25 form and run a final set of the Instructions numbered as we would do for a jury. So

1 as I indicated, what I'd like to do is read them to myself. I don't think I need to read  
2 them out loud.

3 MR. SHETLER: Right.

4 THE COURT: So, I guess, I don't know how you feel about it. I -- if I like  
5 read them, the full set in chambers, and come in and say I've done that and sign it,  
6 is that sufficient for you or do you think I need to sit in front of you and read them? I  
7 don't want a problem later so, however you prefer.

8 MS. SUDANO: And, Your Honor, I would leave that to you. I'm certainly  
9 comfortable with you going back to chambers if that's where you're more  
10 comfortable to read them and then letting us know on the record that you have  
11 reviewed them all.

12 THE COURT: And then I would sign them and make them part of the record.

13 MR. SHETLER: Right. I've talked with Mr. Perry about that. We're both  
14 comfortable with that as well, Judge.

15 THE COURT: Okay. So I guess what I'm going to do then is take a few  
16 minutes to do that in chambers and then I'll come back in and we'll do closings;  
17 okay? All right. We'll take a few minutes here.

18 MR. SHETLER: Thank you

19 [A brief recess was taken at 10:49 a.m.]

20 [Proceedings resumed at 11:11 a.m.]

21 THE COURT: Okay. I think you were given the revised Instructions which  
22 are numbered now one through forty-one. I believe they are in accordance with our  
23 discussion a few minutes ago. Are there any concerns about that? Hearing none --

24 MS. SUDANO: No, Your Honor.

25 THE COURT: Okay. So I did, as we discussed, in chambers read to myself

1 Instructions 1 through 41. I'm going to now sign indicating that I have given myself  
2 those instructions. Today's October 1<sup>st</sup>; correct?

3 MR. SHETLER: Correct.

4 MS. SUDANO: Yes, Your Honor.

5 THE COURT: Okay. Okay, so I'm giving that to the clerk and the clerk has  
6 the verdict form ready to go. So with that, closing argument.

7 MS. SUDANO: Thank you, Your Honor.

8 **CLOSING ARGUMENT BY THE STATE**

9 BY MS. SUDANO:

10 Now, Your Honor, we're in a unique position here today. Obviously,  
11 you understand all of the instructions that were provided to you so I'm not going to  
12 go through those with you. The one thing that I do want to say first is that the  
13 insinuations that you may have heard through Mr. Shetler's questions are not  
14 evidence. So instead, what I'm going to do is walk through the scene that was in  
15 Ms. Carpenter's house April 30<sup>th</sup> of 2014 into the morning of May 1<sup>st</sup> of 2014.

16 So you heard testimony from Ms. Carpenter that on the evening of April  
17 30<sup>th</sup> of 2014 the Defendant, Genaro Perry, arrived at her house late in the evening in  
18 order to pick up some medication. Because it was late she agreed to let him spend  
19 the night in the house, they went to bed without much discussion. They woke up  
20 early that next morning on May 1<sup>st</sup> of 2014 and they were here in Exhibit 13, the  
21 master bedroom located upstairs in that residence.

22 Now, the Defendant woke up first and he still appeared to be agitated  
23 from the fight or whatever had happened the night previous. Ms. Carpenter  
24 originally didn't understand why he was agitated but he began threatening her  
25 family, began making statements that she began to be concerned about. Prior to

1 this she had not been concerned but once she became concerned while she was  
2 still sitting in that bed that's depicted there in Exhibit 13, she picked up her cell  
3 phone and she attempted to make the first call to 9-1-1 of that morning.

4 Now, upon seeing her pick up that phone the Defendant took the phone  
5 from her and he threw it against the wall. While he threw that phone against the wall  
6 he made some statement along the lines of you're not calling the police. Now that's  
7 part of the coercion charge here in this case was the taking of phone, throwing it so  
8 that she could not call 9-1-1 which she was perfectly, lawfully permitted to do. Now,  
9 as I've mentioned that is part of coercion count I believe here is charged as Count 5.

10 Now, after throwing the phone Ms. Carpenter got up and she tried to go  
11 into the bed -- or to the bathroom, you can see that depicted here in Exhibit 14. So  
12 she got up and she walked to the door to the left which was the bathroom. Before  
13 she made it into the bathroom the Defendant punched her, knocked her down into  
14 the ground in the bathroom. While she was down on the ground with her feet kind of  
15 hanging back into that bedroom he then struck her repeatedly while she was on the  
16 ground more than once she said, I believe, no more than five times. She began to  
17 struggle back and was able to bite him, get released get free from that situation.  
18 And then she took off through that second door, the door to the right there, out into  
19 the hallway to go downstairs. Now, the incidents that took place up in that bathroom  
20 in that bedroom is the first part of the battery count that Your Honor's heard about.

21 Now, when she got about halfway down the stairs the Defendant caught  
22 up with her and he kicked her, he knocked her down the rest of the stairs. You can  
23 see here to the left of State's Exhibit 6 that bathroom -- or that stairwell that she was  
24 kicked down. When she was kicked she slid out into the middle of the kitchen that  
25 you can see in Exhibit 6, and landed approximately where that blue towel was in

1 front of the stove in State's Exhibit 7. Now even though she was still on the ground  
2 the Defendant continued to punch and kick her while she was there in that kitchen.  
3 She had injuries consistent with being punched and kicked while she was on the  
4 ground. All of the injuries were to the right side of her face. She also had injuries to  
5 her hip, she had a bruised or sore rib all consisted with being kicked while she was  
6 already down on the ground. Now, at some point during this struggle she's begging  
7 for the Defendant to stop, she's begging that he stops beating her and he does but  
8 not for any good reason.

9 Now, she testified that on top of this stove that you can see here in  
10 Exhibit 9 was a steak knife. The Defendant picked that steak knife up and began  
11 threatening her with it; he began swinging it at her. So that right there is the assault  
12 with a deadly weapon. As used in this particular case, that knife constitutes a  
13 deadly weapon, Your Honor. And he was obviously intending to hit Ms. Carpenter  
14 to strike her with that knife because she did -- or because he did.

15 She testified that that's where the injuries to her hand came from. You  
16 can see here in State's Exhibit 37 the bottom photo there's something that looks like  
17 a cut mark there, and if you look at it it's actually consistent with being struck with a  
18 serrated knife. There are two separate parts to that cut or at least two separate  
19 parts to that cut that are consistent with being struck with a serrated knife.

20 Now, once the Defendant has that knife in his hand he does heed her  
21 prayers and her requests to stop beating on her in the kitchen but what he does  
22 instead is he drags her up, still holding the knife in her -- in his hand and puts her  
23 into the living room. Now when she ends up in the living room she's just sitting there  
24 on the couch in the living room. She's sitting there for approximately 50 minutes  
25 while he's pacing back in front of her with the knife. Now, the entire time that he's



1 pacing back in front of her with the knife she's not free to leave. She's not free to  
2 get up, go out of the house, go anywhere else in the house. So, that's our false  
3 imprisonment with a deadly weapon because he still had that knife for the entire  
4 time, Your Honor.

5 Now, as he's got her standing there he's making threats to her, to her  
6 family, to her children, to her husband, he's telling her that he's going to kill her. For  
7 some reason he picks seven p.m. that night as a time that he's going to kill her and  
8 he's telling her -- he's referencing her Muslim background history and telling her  
9 she's going to go see Allah tonight.

10 Now, at some point while she's up on that couch or she's sitting on the  
11 couch she gets up and she goes into the bathroom downstairs, you can see here  
12 the entrance to that bathroom in State's Exhibit 10. She's saying that the entire time  
13 she's sitting on that couch she's trying to plan her escape, to see if she can get far  
14 enough out. She doesn't think that she can so instead what she does is she tries to  
15 leave some evidence behind and you can see that, you can see the blood smear on  
16 the door in Exhibit 10 because she believes that the Defendant is going to kill her  
17 throughout this entire thing.

18 Now, once we get into Exhibit 12, which is actually the inside of the  
19 bathroom, you can still see again that blood that she was leaving intentionally  
20 hoping that if things went wrong there would be enough evidence to tie it back to her  
21 to what happened here. Now, once she is in that living -- or done with the bathroom  
22 she goes back and she sits back on that living room couch again. The Defendant  
23 still has the knife and he's still holding her there and still not letting her leave.

24 At some point though he finds the car keys; the car keys are sitting  
25 somewhere downstairs and the victim, Ms. Carpenter, actually sees the Defendant

1 grab those car keys and pick them up. And he says something along the lines of I'll  
2 take these and that's clearly done while he still has the knife and it's done in her  
3 presence. So that right there is our robbery with use of a deadly weapon, still  
4 holding onto that knife, threatening her with force if she tries to resist while he's  
5 taking those car keys.

6           You know, he also makes a statement while he's taking those keys,  
7 something along the lines of: I stood up for you when you got this car, implies that  
8 he's going to take that car from her because he believes that he's somehow entitled  
9 to it because he was there when she bought it and he helped her negotiate the  
10 price.

11           Now, after they're downstairs and he's got those keys in his hand  
12 already and he's still has the knife he takes her back upstairs, forces her back  
13 upstairs at knifepoint into the other bathroom. And once she's back in that other  
14 bathroom he goes and he gets that cell phone again, Your Honor, that same cell  
15 phone that he'd previously thrown against wall. He takes it and he brings it back to  
16 her in that bathroom where he's forced her up to at knifepoint, and he tells her again  
17 that she's not to call the police and she's not going to be able to call the police, and  
18 he takes the phone and he throws it into the toilet. Now that's the other part of the  
19 coercion in this case, he was again making sure that she couldn't call the police.

20           Now, when he had her in that bathroom he also made the statement  
21 that she was to stay in that bathroom until he left in the car, until she heard the car  
22 drive away. And that if she left the bathroom or tried to get help prior to hearing that  
23 he was going to kill her, her ex-husband, her family and things were just going to go  
24 very badly for her if she left. So, based on all of those threats she stayed in the  
25 bathroom while he left the house. Now, that right there is our dissuading a witness.

1 He actively told her that if she took steps to call the police or commence the  
2 prosecution in this case that he would kill her or her family.

3 Now, after he leaves the bathroom she hears him go downstairs, hears  
4 the garage door open, hears her car drive away and that's within about 30 seconds  
5 worth of time. Now, once he leaves she's finally able to get out of the bathroom,  
6 tries to go find a neighbor, she's unable to do so. She comes back in and,  
7 thankfully, she pulls her phone out of the toilet and it works well enough for her to  
8 make that 9-1-1 call.

9 Now, when the officers respond -- you heard from Officer Bragg that in  
10 25 years' worth of doing domestic violence work this is one of the more severe  
11 cases that she's ever seen. Now, Officer Bragg also corroborates all of the injuries  
12 that were present on Ms. Carpenter's face. She sees the raccoon eyes, she sees  
13 the cut on the hands, she sees the state that Ms. Carpenter's in. Initially she tells  
14 Ms. Carpenter -- or Ms. -- Officer Bragg that she's not going to open the door  
15 because she's terrified. She thinks initially that it's the Defendant who's coming  
16 back to her house.

17 Now after that, after they get the scene evaluated, Carpenter's still  
18 terrified. She still thinks that the Defendant is going to come back, and so she  
19 actually has to call officers back a second time and they help her change her locks  
20 because she's so scared that the Defendant has her keys in this case.

21 Now, what you also got from Officer Bragg and the crime scene analyst  
22 was that this crime scene that we've walked through here spreads all over the  
23 house. And Officer Bragg testified that from her training experience this wasn't just  
24 a short interaction between these two people this was something that took a lot of  
25 time. There was disarray and that was in addition to just the general clutter that was

1 in the house. There were signs of struggle there and that indicated to her again that  
2 this isn't just some short interaction, it's a long struggle. She also said that  
3 everything she saw at this crime scene was consistent with what Corla Carpenter  
4 told her had happened in this case.

5 Now, you also heard from Officer Terry that on May 2<sup>nd</sup> of 2014, so the  
6 day after all of this, he finds the car. And he finds the car here in States Exhibit 3  
7 over to the left here is that Karen Court address. Over to the right is Ms.  
8 Carpenter's apartment at 2461 Old Forge Lane. Now, the car is gone by the time  
9 that Officer Bragg and the crime scene analyst get there and it's not found until  
10 Corla remembers that she has this GPS tracking the following day in the car.

11 So, in order for there to be any inference that the Defendant isn't the  
12 one who took the car you would have to believe, Your Honor, that somehow Ms.  
13 Carpenter, in her state that morning, got the car over to this area on Karen Court  
14 where she said she's got no connections but she knows the Defendant has ties. So  
15 she drops it off there and then walks back to her apartment, which she testified was  
16 approximately a mile away, in the state that she was in that morning.

17 Now, I also want to talk a little bit about the crime scene itself. You  
18 heard from Ms. Carpenter that she was a paralegal and that she was thinking about  
19 maybe leaving some evidence and making sure that somebody would be able to  
20 see this. But do you really think that in her state, Your Honor, she would decide that  
21 she needed to leave that knife in the garage; that same knife that she said that the  
22 Defendant had, and in the garage right by where her car was? Do you think she  
23 was in a state of mind to really plan that all out and to think enough in order to leave  
24 this garage -- or that knife in the garage, that's depicted here in State's 25 and 27, to  
25 leave it right by that car, to leave it with apparent blood on it where the crime scene

1 analyst are going to find it; and where the reasonable inference would be, that the  
2 Defendant ran out into the garage, dropped the knife, got into the car and took off.  
3 Now, I don't think that she was in any state of mind and I don't think that the  
4 evidence has shown, Your Honor, that she was capable of thinking that far ahead to  
5 really do something like that.

6 Now, I want to talk a little bit about the car. You heard from her that she  
7 purchased it -- it was a Mercedes, a 1999 Mercedes that she purchased in March of  
8 2014 for \$4200.00 which is more than the 3500 required by statute. And then after  
9 this case started she went back and she looked on a Kelly Blue Book or a similar  
10 site and ascertained the value as about \$5100.00. So either of those values are  
11 above the \$3500.00 limit.

12 Now, as far as the grand larceny auto: You again heard the Defendant  
13 make that statement when he had the car keys that was something along the lines  
14 of I stood up for you when you got this car, which indicated that he thought he was  
15 somehow entitled to it, that he's intending to take it because he helps her get the  
16 deal, helps her get the car -- or the deal done or get the car. And so he's not  
17 borrowing it, he doesn't intend to return it; he says I stood up for you so I'm taking  
18 these, the keys meaning that he's also going to take the car. There's no indication  
19 that he ever intended to return it. All indications show that he meant to permanently  
20 deprive her of that automobile.

21 Now, the last thing that I want to talk about here are the injuries that Ms.  
22 Carpenter sustained this day on May 1<sup>st</sup> of 2014. You saw in State's Exhibit 28 and  
23 some of the additional exhibits her state and what she looked like, and you heard  
24 from Officer Bragg that that's pretty consistent. Either Officer Bragg or the crime  
25 scene analyst, one of them, said those pictures don't even really do justice to how

1 beat up she was, she actually, in person, looked even worse than that. Now, that's  
2 important for a couple of reasons. This isn't -- you don't have any evidence before  
3 you, Your Honor, that this was self-defense but even if there were some slight  
4 inference of self-defense at some point this stopped being self-defense. Even if  
5 there was some sort of altercation, which again you have no evidence of in front of  
6 you, Your Honor, but even if that were the case at some point the Defendant won  
7 the fight and he didn't need to continue beating her up this way. There's no  
8 indication that any of this was done in any sort of mutual combat.

9           She's lying down on the ground and she's got those injuries that are  
10 consistent with being kicked while she's on the ground; the injuries to the hips and  
11 the ribs. And you heard from Dr. Leibowitz that the blow out fracture she sustained  
12 to her right eye is always consistent with trauma, 100 percent of the time is from  
13 some sort of trauma. He said 99 percent of the time it's from somebody getting  
14 punched out. He also said it's possible that that comes from somebody being  
15 kicked. Both of those are consistent with what Corla Carpenter told you happened.  
16 She said that the Defendant punched her in the face multiple times and that while  
17 she was on the ground he was kicking her while he was wearing those Nike boots or  
18 his shoes.

19           Now, you also heard that that wasn't the extent of her injuries. She  
20 also, still to this day, has numbness and pain and nerve damage in the right side of  
21 her face. She's missing teeth, eventually she's going to have to get an implant to  
22 have that done. She had to go and get physical therapy in order to deal with the hip  
23 pain that she didn't have prior. She also is still undergoing surgery; she's had two  
24 and she's going to have a third for the nerve damage and the nerve blocking in her  
25 face. Now, she also has that diagnosis of potential glaucoma which is related back

1 to this trauma and what did she say about that; she said I haven't really gotten an  
2 answer but it's possible that I'm gonna lose my eyesight as a result of this trauma  
3 here.

4 Now, you also heard her say that while she was sitting on the living  
5 room couch the Defendant was in front of her yelling at her making all those  
6 statements and those threats to kill her. One of the things that he said was look at  
7 what you made me do, look at your eye. Now, Your Honor's seen enough of these  
8 cases to know that that's unfortunately not uncommon in this type of case but what  
9 Your Honor --

10 MR. SHETLER: Objection, Your Honor. I believe that calls for the trier of fact  
11 to make a decision beyond the evidence presented in the case.

12 THE COURT: Okay. Sustained. Let's talk about this case.

13 MS. SUDANO: Okay. Move on.

14 MS. SUDANO:

15 So, what Your Honor sees here and what Your Honor knows from that  
16 statement that look at what you made me do, look at my eye, is that the Defendant's  
17 action in this particular case and what he did, none of that was Corla Carpenter's  
18 fault. All of the evidence that you have before you, Your Honor, indicates that the  
19 Defendant was not only the initial aggressor but that he took all of these actions  
20 against Ms. Carpenter simply because he was upset and he was agitated, there  
21 wasn't really any good reason given to you.

22 And with that, Your Honor, when you go back to deliberate in this case  
23 the State's going to ask that you find the Defendant, Genaro Perry, guilty of all  
24 seven counts.

25 THE COURT: Thank you. Mr. Shetler.

1 MR. SHETLER: Thank you, Your Honor.

2 Court's indulgence one moment; let me make this a little quicker.

3 THE COURT: Uh-huh.

4 **CLOSING ARGUMENT BY THE DEFENSE**

5 MR. SHETLER:

6 Your Honor, I want to thank you for your time and the professional  
7 courtesy you have extended to myself and my client here in this trial. I'm  
8 cognizance of the fact that our victim is in the courtroom, and I mean no disrespect,  
9 but I'm doing my job that I have to do here. I say that to the Court and to her.

10 The concern in this case and what I would ask this Court to do is to hold  
11 the State to their burden. To prove my client guilty beyond a reasonable doubt of  
12 the elements required for each of the charges.

13 We have an officer, who I have a great deal of respect for, I believe  
14 some of her testimony indicates that she may have been slightly biased against  
15 people who are charged with domestic violence. I think that she, Ms. Sudano was  
16 clearly correct when she stated that she corroborated everything that Ms. Carpenter  
17 stated and in fact, I think she went a little further. I think that she tried to corroborate  
18 the hand injury that was documented at some point after this went down the same  
19 day, four days later, it's not clear. The evidence would suggest it was the same day  
20 because of the clothing.

21 The cell phone: She was adamant the cell phone was in the toilet and  
22 then the toilet downstairs. She stuck on that pretty hard. It's our position that  
23 perhaps the cell phone was in the toilet downstairs, or perhaps that was the story  
24 that was related to the police. The evidence introduced by the victim is that the cell  
25 phone was thrown into the toilet after the cell phone was already taken away from



1 her and that it remained in the toilet for some unknown period of time, but it's very  
2 difficult to get any reliable time estimates out of any of the testimony that came out  
3 of this trial. But after that period of time it was able somehow, to make that one  
4 phone call.

5 We have the photograph taken by CSA Keller that shows our victim on  
6 the bed on the mattress in the living room next to a cell phone. I'm not saying that's  
7 a cell phone. The evidence doesn't say that's a cell phone. The evidence also  
8 doesn't say that's not the cell phone.

9 We have the selfies. The victim wasn't able to tell us what phone those  
10 were taken with or what camera it was taken with. Both items were mentioned in  
11 cross-examination. I don't believe that the evidence can -- has established that the  
12 cell phone was ever in the toilet beyond the victim's testimony on the stand. I asked  
13 Officer Bragg several times and she was adamant that it was in the toilet and  
14 possibly in the toilet when she got there. Those are inconsistent statements.

15 The crime scene: And I'm sorry, I should have referenced those. The  
16 first exhibit talking about the cuts on the hand, it's Exhibit 37. The exhibit showing  
17 Ms. Carpenter on the bed is Exhibit 28. Utilizing Exhibit 7 which shows the kitchen  
18 area where Ms. Carpenter says she came to rest after she went down the stairs,  
19 was pushed, kicked down the stairs, forced down the stairs. I believe the evidence  
20 is clear that she testified she was somehow forced down the stairs quicker than  
21 walking, and ended up falling coming to a stop in front of the stove.

22 She was adamant that she was curled up in a fetal position facing the  
23 stove. That's not a wide kitchen. Mr. Perry, as everybody else in this courtroom, is  
24 considerably smaller than I am, but there's not a lot of room in this area between the  
25 refrigerator and the stove. I asked her several times how he was able -- she was

1 adamant that he was kicking her in the face. I asked her several times how that  
2 could be in there and she was looking at the stove; there was no answer.

3 And this is what it comes back to, you know, the horrific events of  
4 abuse that occur on a daily basis in our town. Nobody deserves to be injured. But  
5 our Constitution requires that the government establish beyond a reasonable doubt  
6 each element of the crime. Our Constitution requires that there is sufficient reliable  
7 evidence to get to this stage. Our Constitution requires and our rules of evidence  
8 require that the trier of fact make their decision just based on the evidence  
9 presented in the trial.

10 And a significant element and in fact, the only remaining element we  
11 have to work with on those jury instructions is the fact that if the trier of fact believes  
12 that a witness, out of respect, was inconsistent at some point in time that that could  
13 be taken into consideration. It doesn't mean the witness has to be completely  
14 dismissed, but it is a factor and it's a significant factor. And this Court -- that right to  
15 face our accused is one of the strongest rights in the Constitution. And nobody's  
16 comfortable in a courtroom setting. Nobody wants to be asked questions by a  
17 lawyer, but your story's got to make sense. It's got to be a linear story that explains  
18 some ideas.

19 The holes or the problems, the inconsistencies in Ms. Carpenter's  
20 story are not just: I can't be sure how much time it was, I can't be sure what  
21 happened. There are significant inconsistencies. She has been present many  
22 times in preparing for this case. There's no doubt that the story at T.J. Maxx was  
23 going to come up. It escaped her memory that she happened to have a knife in her  
24 purse until I asked her later. That's a significant factor that there's a kitchen knife in  
25 your purse at a department store; a significant factor, Your Honor. That's not I don't

1 remember if I had my car keys or my apartment keys.

2                   The significance of the phone initially, for no -- which there's not a  
3 clear reason given. And perhaps my client was a drug-addled maniac, perhaps  
4 there was a dispute that was ongoing between of them, perhaps they were engaged  
5 in economic transactions to generate money and interest to support the promissory  
6 note --

7           MS. SUDANO: I'm going to object, Your Honor. That assumes a lot of facts  
8 not in evidence.

9           THE COURT: Right --

10          MR. SHETLER: She denied all those things.

11          THE COURT: -- so you've got to focus on what the evidence is.

12          MR. SHETLER:

13                 She denied all those things. But the story of this man who hurt me  
14 previously, shows up at my door, I know he has a bench warrant and I know he  
15 needs his medication because that causes problems for people, sounds very  
16 humane and very compassionate. It also sounds somewhat inconsistent with a  
17 person who may have been scared of a person who act in that fashion, who shows  
18 up at her door in the middle of the night, and I mean this in absolutely no disrespect  
19 to Ms. Carpenter, everybody should be able to do what they want to do, but to greet  
20 a former lover at the door essentially disrobed, not direct him to the mattress in the  
21 living room downstairs but he comes upstairs, gets in bed with her and again, I don't  
22 need to say it again, it's -- those are not the actions of a woman, no matter how tired  
23 she is, who's worried about this person.

24                 She told him earlier in the text messages that she would leave his stuff  
25 outside, that didn't happen. She told him earlier that she would send him to the

1 police station, that didn't happen. She knew he had a warrant. She knew the  
2 weeklies where he stayed, that didn't happen. That's unusual.

3 The morning after, he's agitated. He's walking around and for no  
4 reason he takes my cell phone and throws it. Okay. He says -- she said twice  
5 maybe three times that he said something about my mother, and I'm not minimizing  
6 it, but then he punches her in the face so hard that he fractures her eye socket,  
7 maybe. Maybe that happened downstairs when we're between her and the stove  
8 kicking her in the face, maybe. The doctor did say that he was pretty adamant that  
9 mostly these are as a result of abuse but he also said that a kid had just gotten a  
10 similar injury from a soccer ball.

11 We're going to convict a man of several felonies here and the standard  
12 needs to be observed.

13 The -- Ms. Carpenter knew that my client needed his medication. She  
14 didn't take any steps to do anything with it other than let him into her home.

15 She was a trained paralegal who knows what evidence is important.  
16 She knows it was important to leave this blood trail on the door jam. Perhaps,  
17 contrary to what Ms. Sudano says, perhaps, it's important that that knife get dropped  
18 in the garage before he gets in the car because it makes more sense.

19 There's not a clear explanation of what happens between this incident  
20 in the floor in the kitchen and this undetermined period of time where we're happy to  
21 leave a blood trail, and where at some point my client forces her back upstairs and  
22 sets her down and then throws this cell phone in the toilet and then leaves. There's  
23 not a clear timeline. There's not a reason, why does it stop. Ms. Sudano said at  
24 some point this fight was over. At some point it was no longer self-defense or there  
25 was no longer a mutual combat -- I'm going to be very careful -- excuse me, but

1 there's no explanation as to why it changed.

2           She said he cut her hands and Officer Bragg was confident that he cut  
3 her hands, and Ms. Sudano says that those injuries are in the bottom of Exhibit 37  
4 are consistent with a serrated knife. I think that's a bit of a stretch. We don't know  
5 when those were. We don't know when that occurred but we know the CSA did not  
6 document them. The CSA is a trained professional, this is her job.

7           We know that this woman was in so much pain that she couldn't get up  
8 and do standups for the CSA, which is how they do their business. And I'm sure  
9 they're accommodating at the scene but they want stuff done the way they want  
10 stuff done. The decision to take these photographs with her lying down, I'm sure,  
11 was not made lightly but that same woman doesn't allow an ambulance to transport  
12 her. She somehow gets up and walks up on this injured [sic] hip that she talked  
13 about to get in the car and go to the hospital and walk into the emergency room.  
14 That doesn't make sense.

15           The common sense Instruction is, of course, controlling here and it's  
16 frequently all the criminal Defendants have to work with. It's important. It's -- our  
17 position is it's not enough and it's not common sense enough to get to a conviction.

18           Ms. Carpenter's special training and knowledge of not only the legal  
19 system but of the activities of her partner that she talked about; she talked about  
20 driving him up and down Boulder Highway selling drugs. She knew where he lived  
21 on Boulder Highway. She talked about specifically going and staking him out on  
22 Boulder Highway weeks after this so the police could find him.

23           This just sounds like a case of overreaching. It sounds like a case  
24 where whether it's a fatal attraction, whether it's a mutual combat, whether it's an  
25 agreement that's gone wrong maybe a business agreement that's gone wrong.

1 There's no logical step from, I woke up to I have a fractured eye socket. And, no  
2 matter what my client is involved in or doing or the allegations are against my client,  
3 and his irregular activities or his irregular behavior, there's no step from I'm lying in  
4 bed and he says something about my mother and I have a fractured eye socket.  
5 That's not connected, Your Honor.

6 The car: Our position is that there is completely insufficient evidence to  
7 connect us to the car. Ms. Sudano's explanation or discussion of this occurring  
8 down the street or her getting up and doing it and then injuring herself, there's just  
9 nothing there. That's too far to reach.

10 Mr. Perry may not be a model citizen and he may be a convicted felon  
11 or at least prior convictions for these injuries, similar; but just as I objected to during  
12 Ms. Sudano's argument, this trier of fact needs to focus on the facts of this case and  
13 this trial. The State has to show these elements. The State has very skillfully  
14 presented this case. Both sides are working with the evidence that they have and  
15 there's insufficient evidence to convict this man of seven felonies. There's  
16 insufficient evidence and the trier of fact's not be allowed to fill in gaps that don't  
17 flow.

18 We're confident in this trier of facts to be able to analyze the case. And  
19 once again, I thank you for your time and I again, on behalf of the victim, I do this as  
20 my job and I feel for her being here.

21 Thank you.

22 THE COURT: Thank you. Final argument?

23 MS. SUDANO: Thank you, Your Honor.

24 May I have the Court's brief indulgence while I grab one more?

25 THE COURT: Sure.

1 **REBUTTAL ARGUMENT BY THE STATE**

2 BY MS. SUDANO:

3 Your Honor, Mr. Shetler stood before you and said that there was no  
4 link between waking up in the morning and having a fractured eye socket. That it  
5 just doesn't all add up, that something's missing. I would submit, Your Honor, that  
6 you did hear some testimony and some evidence of this relationship, this domestic  
7 type relationship that was going on. They'd been together for approximately six  
8 months. They'd broken up, kind of on again off again relationship.

9 Now, you heard from Ms. Carpenter that they'd broken up at some point  
10 before April 30<sup>th</sup> of 2014 but that prior to that, even though there was some history  
11 between the two of them, she wasn't afraid of the Defendant in this case. So when  
12 the Defendant wanted to come over and get his medicine she told him no but when  
13 he showed up she empathized. She said you know what you need your medicine  
14 that's fine. And then Mr. Shetler pointed out that she wasn't wearing a lot of clothing  
15 when he arrived. She wasn't wearing a lot of clothing when she went to bed. She  
16 let him sleep in the bed with her.

17 Now, we've heard that that following morning the Defendant's just  
18 upset. He's just angry he's making statements about Ms. Carpenter and her family.  
19 I would submit to you, Your Honor, that is it possible that he wanted to reconcile and  
20 he was given some signals by this woman who's letting him sleep in her bed while  
21 she's not wearing a ton of clothing that maybe she wants to reconcile? But that she  
22 told you up on the stand she didn't want to reconcile. She didn't give him any  
23 additional indication of that other than that just letting his stay over for the night. But  
24 is it possible that that's what started this all was him wanting to reconcile and then  
25 finding out that morning that she wasn't interested in reconciling? That's for your

1 Honor to determine but you're free to use your common sense in evaluating that  
2 situation.

3 Now, you also heard Mr. Shetler's argument, Your Honor, that Officer  
4 Bragg, who sat up here and was very happily retired, had some bias because she'd  
5 worked so many domestic violence cases. But what did she tell you? She told you  
6 that three or four times she's been wrong. She admitted that there have been cases  
7 where she's been wrong. She also told you that she didn't believe that this was one  
8 of those cases where there was anything inconsistent. So she didn't seem like a  
9 witness who was biased and had to be right and had to have everything fit with her  
10 version of events. No. She told you that the way that she investigated this case  
11 everything seemed consistent, and this wasn't a case where she was concerned  
12 about anything.

13 Now, you also heard that there was some confusion about that phone  
14 being in the toilet. Now, Officer Bragg was adamant that at some point she's  
15 learned the phone was in the toilet but she couldn't remember if it was in the phone  
16 -- or in the toilet, excuse me, when she arrived. She was adamant that that phone  
17 that she saw had a cracked screen. So I would submit to Your Honor that that  
18 cracked screen is still evidence of that coercion and still corroborates the coercion  
19 because regardless of when and if the phone ends up in the toilet, throwing the  
20 phone against the wall, taking the phone away from the victim, throwing it against  
21 the wall when she's attempting to call 9-1-1 after the Defendant's getting agitated  
22 and making threats, that in-of-itself is sufficient for the coercion.

23 MR. SHETLER: Your Honor, I'm sorry, I have to object. The testimony was  
24 not that the phone was thrown against the wall the testimony was that the phone fell  
25 short of the wall.



1 THE COURT: That's not my recollection. So I'll rely on my recollection of the  
2 evidence. Go ahead.

3 MR. SHETLER: Thank you, Your Honor.

4 MS. SUDANO: Thank you, Your Honor.

5 MS. SUDANO:

6 Now, there was also testimony and argument here about what  
7 happened at the T.J. Maxx. And Mr. Shetler told you that it was inconsistent and it  
8 didn't make any sense the way that Ms. Carpenter relayed to you what happened at  
9 the T.J. Maxx. Two arguments that are important on that point, Your Honor, one:  
10 you heard evidence of what happened at that T.J. Maxx based on the belief that this  
11 was going to be a self-defense case and you were going to hear additional evidence  
12 that this was self-defense. You didn't hear any of that evidence, so what happened  
13 at that T.J. Maxx, respectfully, probably isn't even properly before Your Honor at this  
14 point.

15 Now in addition, what happened at that T.J. Maxx, none of those facts  
16 are material to what happened here, Your Honor. And the Instruction on the  
17 creditability of witnesses tells you that if you believe a witness has lied or has been  
18 untruthful or inconsistent about a material fact you're free to disregard their  
19 testimony or limit the consideration you give to their testimony. Anything that  
20 happened at that T.J. Maxx is not a material fact regarding what happened here,  
21 what happened at Ms. Carpenter's house on May 1<sup>st</sup> of 2014.

22 Now, Mr. Shetler also argued that it was inconsistent. That based on  
23 the prior history of Ms. Carpenter and the Defendant that she wouldn't be afraid of  
24 him and she would just let him back in, but what did she say about that? She said  
25 that she'd let him back into her life previously, that she'd given him chances

1 because she was just a girl trying to be in love. And that was her phrase, Your  
2 Honor. That she was willing to give the Defendant chances, probably more than,  
3 looking back, she wishes she had but that was just because she this girl trying to be  
4 in love. And so as far as her story being inconsistent or not making sense because  
5 she wasn't always afraid of the Defendant no, she was overlooking a lot of things  
6 because she wanted to believe, and she wanted to believe that they could have a  
7 future and that she could be his queen like he promised.

8 So, none of that is inconsistent. It doesn't require Your Honor to make  
9 leaps that don't comport with your common sense. Now that's just her explanation  
10 of why she kept giving him chances.

11 Now, you also heard again that your common sense is going to guide  
12 and that there are too many holes for Your Honor to fill in. But I would submit that  
13 your common sense, Your Honor, would tell you that Ms. Carpenter did not do this  
14 to herself. That these injuries are not something that somebody's going to fabricate  
15 or go to all of these lengths, which seemed to be the insinuation by Mr. Shetler, that  
16 she's this paralegal and she's, for whatever reason, just particularly upset with the  
17 Defendant on this day.

18 Now, you also heard testimony that she was after the fact -- after this  
19 she was kind of looking around for the Defendant because she wanted to make sure  
20 that he was held accountable for what had happened to her. And Mr. Shetler tried  
21 to infer and argue to Your Honor that that was because of this vendetta that she  
22 has. I would submit, Your Honor, that that's just because she was finally done being  
23 embarrassed. She had said previously that she'd overlooked some things because  
24 she was embarrassed and she just wanted to let it all go but this was kind of the  
25 final straw for Corla Carpenter, Your Honor. And this, what you have before Your

1 Honor in Exhibit 30, was why she was willing to follow this man around and look for  
2 him for two weeks just to make sure that he didn't get away with what he did to her.

3 And with Your Honor -- with that, Your Honor, I would submit it to you  
4 for deliberation.

5 THE COURT: Thank you. Okay.

6 So, what I'm going to do is, I'll be going into chambers to deliberate. I'll  
7 get the exhibits and I have the verdict form and I guess we'll give you guys a call  
8 when I'm ready. I don't think it'll be too long but I will go through the evidence and  
9 my notes before rendering a verdict.

10 So I guess just make sure we have your cell numbers to reach you  
11 when that happens.

12 MR. SHETLER: I will, Your Honor. And I do -- just to inform, that there's a  
13 prelim downstairs that's waiting for me right now --

14 THE COURT: Okay.

15 MR. SHETLER: -- so I will be in Justice Court 10.

16 THE COURT: Okay.

17 MR. SHETLER: And see if we can get that wrapped up as quickly as  
18 possible, Your Honor.

19 THE COURT: Okay.

20 MR. SHETLER: Thank you, Your Honor.

21 THE COURT: Thank you.

22 MS. SUDANO: Thank you, Your Honor.

23 [The Court retired to deliberate at 11:58 a.m.]

24 [Proceedings resumed at 12:59 p.m.]

25 THE COURT: Okay, folks. Thanks for coming back.

1 I did review my notes and the exhibits and have reached a verdict, so  
2 I'm now handing the verdict to the Clerk.

3 Defendant and his counsel please stand and the Clerk will read the  
4 verdict out loud.

5 THE COURT CLERK: District Court, Clark County, Nevada, the State of  
6 Nevada, plaintiff, versus Genaro Richard Perry, Defendant, case number  
7 C14298879-1, Department Six, Verdict.

8 I, the finder of fact in the above entitled case find the Defendant,  
9 Genaro Richard Perry, as follows: Count 1, robbery with use of a deadly weapon,  
10 guilty of robbery with use of a deadly weapon. Count 2, false imprisonment with use  
11 of a deadly weapon, guilty of false imprisonment with use of a deadly weapon.  
12 Count 3, grand larceny auto, guilty of grand larceny auto value \$3,500.00 or more.  
13 Count 4, assault with a deadly weapon, guilty of assault with a deadly weapon.  
14 Count 5, coercion, guilty of coercion with force. Count 6, battery resulting in  
15 substantial bodily harm constituting domestic violence, guilty of battery resulting in  
16 substantial bodily harm constituting domestic violence. Count 7, preventing or  
17 dissuading witness or victim from reporting crime or commencing prosecution, guilty  
18 of preventing or dissuading witness -- excuse me -- witness or victim from reporting  
19 crime or commencing prosecution. Dated this 1<sup>st</sup> day of October, 2015, District  
20 Court Judge Cadish.

21 THE COURT: Thank you. You can go ahead and have a seat.

22 Defendant will be remanded into custody without bail pending  
23 sentencing. Let's go ahead and set a sentencing date.

24 THE COURT CLERK: That will be November 16<sup>th</sup>, 8:30.

25 THE COURT: Okay. Thanks for your professionalism and courtesy all week.

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MS. SUDANO: Thank you, Your Honor.

[Bench Trial, Day 3, concluded at 1:01 p.m.]

ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.

  
DALYNÉ EASLEY  
Court Transcriber

  
CLERK OF THE COURT

1 RTRAN

2  
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4  
5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA  
7

8 THE STATE OF NEVADA, ) CASE #: C298879-1  
9 )  
10 Plaintiff, ) DEPT. VI  
11 )  
12 vs. )  
13 )  
14 GENARO PERRY, )  
15 Defendant. )

16 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE  
17 WEDNESDAY, MAY 6, 2015  
18 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS**  
19 **JURY TRIAL - DAY 1**

20 APPEARANCES:

21 For the State:

MICHELLE SUDANO, ESQ.  
COLLEEN BAHARAV, ESQ.  
Deputy District Attorneys

22  
23 For the Defendant:

TRAVIS S. SHETLER, ESQ.

24  
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 WEDNESDAY, MAY 6, 2015 AT 1:52 P.M.

2  
3 [Outside the presence of the prospective jury panel]

4 THE COURT: All right, folks. Go ahead and state your appearances for the  
5 record.

6 MS. BAHARAV: Colleen Baharav, bar number 1177 and Michelle Sudano,  
7 bar number 13260 on behalf of the State.

8 MR. SHETLER: Good afternoon, Your Honor. I'm Travis Shetler, 4747, on  
9 behalf of Genaro Perry who is present in custody.

10 THE COURT: Okay. So, I appreciate you putting over the start of the trial till  
11 today from yesterday because of some unexpected issues I had to deal with  
12 yesterday and for the late start now. Apparently we're having some technical  
13 difficulties with the recorder's computer.

14 Now I need to make sure this happens. So, in terms of scheduling, I  
15 had as I normally do an evidentiary hearing set for tomorrow morning. Usually that's  
16 what I do Thursday mornings although we were just told a little while ago that the  
17 attorney on that case seems to think that that evidentiary hearing will take like  
18 several hours. And so given where we are on this trial and a couple other issues,  
19 I'm getting that hearing ready. I'm going to end up pushing that hearing off to  
20 another day. It's on a habeas petition, a post-conviction habeas, and so there was  
21 just no way to do it all. So, I'm going to have to put that one off which means on the  
22 good side for you guys that I'm free all tomorrow morning. So, I was -- and I don't  
23 know what your schedules are like; I don't know how far hopefully we can get jury  
24 selection done, but maybe we could start at nine tomorrow morning if that works for  
25 you. I don't know what your --

1 MR. SHETLER: I was just, with the Court's indulgence, I can check the DV  
2 calendar on a contract attorney down there and Ms. Baharav has one case, she  
3 thinks.

4 MS. BAHARAV: Yes. Mine should not be that big a deal though. So, I can  
5 always give mine to somebody else. But I know that Travis or Mr. Shetler is in  
6 charge of his track in domestic violence and tomorrow is his day. So, I'm not sure if  
7 there's anything for him there.

8 THE COURT: Okay. Well obviously if you've got those issues we'll work  
9 around them. I'm trying to make sure we're able to get the trial done.

10 MR. SHETLER: Right.

11 MS. BAHARAV: And, Your Honor, we've -- in that vein, we have had some  
12 communications about making sure we're finished on Friday. Mr. Shetler has a trial  
13 that's supposed to start on Monday next week --

14 THE COURT: Right.

15 MS. BAHARAV: -- which is pretty important as well as this.

16 THE COURT: That's what I gather.

17 MS. BAHARAV: Right. And so the State in this trial is making every effort  
18 that we can to accommodate that particular trial schedule. So, we've already had  
19 some discussions about potentially stipulating to some medical records in lieu of a  
20 doctor's testimony on Friday. We're hoping that we won't get there, but if that's what  
21 has to happen then we'll resolve it.

22 THE COURT: The doctor's testimony you mean?

23 MS. BAHARAV: Yes. We are anticipating having a doctor testify at 11 a.m.  
24 on Friday. It looks like we won't -- if having that person testify will result in us  
25 moving the trial into Monday we -- between counsel and the State have discussed



1 potentially stipulating to admission of medical records in lieu of live testimony. I'm  
2 including some documentation from the Defense expert as well. So, we'll address  
3 that tomorrow depending on where we are per the Court.

4 THE COURT: Okay. Thanks.

5 MR. SHETLER: I do have -- it looks like there are two prelims and some  
6 status checks. Those are generally relatively quick.

7 THE COURT: Tomorrow?

8 MR. SHETLER: Tomorrow is going to be challenging. The Court knows that  
9 I'm trial for most of the month. So, we'll get it done as quick as we can. The only  
10 other concern I have is we have calendar call for overflow, but myself and Mr.  
11 Stevens had that Friday morning on the case for next week. That should be  
12 relatively quick, but it's early on Friday.

13 THE COURT: Right, right. That's at 8:30.

14 MR. SHETLER: You're correct, Your Honor.

15 MS. BAHARAV: Yes, with Judge Barker.

16 THE COURT: So, what are you looking at tomorrow -- so would those  
17 matters that you have tomorrow, what time realistically do you think we can start?

18 MR. SHETLER: Justice Tobiasson, I believe, is still out and so that can  
19 sometimes slow down the calendar a little bit.

20 THE COURT: Right. So, you got to pro tem?

21 MR. SHETLER: Right. They do try to keep it somewhat consistently for each  
22 week. And so I'll just push and depending on how long my people have been in  
23 custody that's where I run into the biggest rub.

24 MS. BAHARAV: Do you think eleven would be too soon?

25 MR. SHETLER: I would certainly think that by eleven we would if not be

1 ready. I would know if I was going to have prelims by eleven -- I'm sorry Judge -- I  
2 had two lawyers. I just don't anymore.

3 THE COURT: Okay. So, I mean, I just -- I need to put it on calendar for  
4 sometime tomorrow.

5 MR. SHETLER: If we said eleven do you think that's reasonable.

6 THE COURT: Eleven? Well that would give time for them to deal with the  
7 technical issues in the morning. I mean, as long -- I mean, you guys know the case.  
8 I don't know the case.

9 MR. SHETLER: Colleen's been there a million times two -- excuse me -- Ms.  
10 Baharav.

11 MS. BAHARAV: How many -- you said you have two prelims?

12 MR. SHETLER: Two separate clients, one has two cases.

13 MS. BAHARAV: Okay. Your Honor, when we're finished today -- or actually I  
14 can text the person who is handling the calendar tomorrow and to see if we have  
15 something in returns for his clients for tomorrow. That will obviously speed up the  
16 process if we're not able to proceed. So, I'll communicate with my team to make  
17 sure right now what the timing is for that, but I think eleven would be a good  
18 conservative estimate for tomorrow if that's okay with the Court.

19 MR. SHETLER: And certainly if I've got some earlier indication which we may  
20 have; I can get word to chambers. But it doesn't help --

21 THE COURT: Right, right.

22 MR. SHETLER: -- for the jury, yeah.

23 THE COURT: Right. We need to -- I need to put it on calendar for a certain  
24 time. Obviously by the end of the day we'll need to let the jurors know what time  
25 they're coming back; eleven?

1 MS. BAHARAV: Yes, eleven, Your Honor. And I will communicate with my  
2 team to double check and make sure.

3 THE COURT: So, tomorrow at 11.

4 [Colloquy between the Court and the Court Clerk]

5 MR. SHETLER: There are two -- one other calendaring matter, Your Honor.

6 THE COURT: Okay.

7 MR. SHETLER: It's nobody's problem but my own but there is an open house  
8 Friday starting at four. I can get there -- I hope to get there by five. My daughter is  
9 going to go to a different school next year.

10 THE COURT: Oh, I see for school.

11 MR. SHETLER: Ms. Baharav and I believe that we can have closed and to  
12 the jury by the time so it shouldn't be a problem.

13 THE COURT: Right.

14 MS. BAHARAV: That has to happen so it will happen.

15 THE COURT: Okay then.

16 MR. SHETLER: See; that enthusiasm is what makes going to trial with her  
17 fun.

18 THE COURT: I like that attitude.

19 MR. SHETLER: I do have two other matters regarding objections or pre-trial  
20 issues. I do want to wait until we're done with the jury. I think that's fine, Your  
21 Honor.

22 THE COURT: Are there evidentiary issues?

23 MS. BAHARAV: Concerns about -- Defense counsel raised and we wanted  
24 the Court to have a ruling on prior to the witnesses coming in.

25 THE COURT: Yeah. Why don't we -- we may end up here a little late after

1 five this evening, but why don't we try to get the jurors in and then we can talk after  
2 that. Probably we should try to do that today rather than waiting until eleven  
3 tomorrow.

4 MR. SHETLER: Right.

5 MS. BAHARAV: And, Your Honor, I was going to review the jury instructions  
6 provided by the Defense. The only thing that I saw that was different was the self-  
7 defense instructions. The State has actually provided the total self-defense  
8 instruction packet.

9 THE COURT: Right.

10 MS. BAHARAV: So, if there is evidence of self-defense obviously that will --  
11 those will come in. It's my understanding the remaining jury instructions were the  
12 same as ours. So, jury instructions should also take a short period of time to settle.

13 MR. SHETLER: And it is sometimes possible that in that DV track sometimes  
14 there's a little bit of a gap in there between about 9:15 and 10:15 where if we did  
15 have an evidentiary issue we might be able to pop in here. I don't know how much  
16 the Judge would love that, of course but --

17 THE COURT: I mean, if I'm available I don't mind trying to accommodate.

18 MR. SHETLER: We'll probably get it taken care of this evening. Thank you.

19 THE COURT: And just to add more complication, although it's right here, but  
20 I've got a committee -- I'm the chair of the Bar's Law Related Education committee  
21 and we're having a meeting tomorrow at noon back here in the jury rooms. I don't  
22 have to go far so it's not a huge deal.

23 MR. SHETLER: They did mention that, yes.

24 THE COURT: I'm supposed to be going tomorrow evening to the Federal Bar  
25 Association dinner, you know, right after work. We'll do what we can. Obviously we

1 need to make sure that the case gets the attention it needs --

2 MR. SHETLER: Right.

3 THE COURT: -- while we accommodate all of our schedules, but hopefully  
4 we can do that.

5 MR. SHETLER: That has always been my experience with Ms. Baharav. I  
6 don't think that will be an issue.

7 THE COURT: Great. And now on more mundane matters. With the charges  
8 that we have in this case, it's five preempts each. It's not -- there's no life tail;  
9 correct?

10 MS. BAHARAV: That's correct.

11 THE COURT: Okay. And so I don't think you've tried a case in here before.  
12 So, let's just talk in general terms then. First, throughout the trial including when  
13 you're at the bench, everything that happens in this courtroom is on the record.  
14 Okay. So, when you come up to the bench we put on the white noise to try to  
15 prevent others from hearing and we try to keep our voices down. But having said,  
16 you can't just do little whispers because then it won't be picked up by the mic up  
17 here and we need it to be picked up by the mic here so it's on the record because  
18 I'm not going to later summarize what happened at the bench because it's already  
19 on the record when it happens. So, you kind of need to be loud enough to be heard  
20 by the mic but not so loud everyone else hears you. And particularly with the two  
21 ladies this may more of an issue as to identify yourself when you're speaking up  
22 here so someone later who wasn't here transcribes it they knew who is talking at  
23 any given time.

24 So, when we do jury selection when we bring in the group of jurors, I  
25 first have the general questions for the whole group. In the course of those general

1 questions, I'll be asked the State to introduce yourselves, identify witnesses that  
2 may be called and briefly describe the nature of the charges that we're dealing with  
3 in this case. And after that I'll be asking Mr. Shetler to similarly introduce himself  
4 and his client. I don't think you have any independent witnesses.

5 MR. SHETLER: No, not that I'm aware of at this point, Your Honor.

6 THE COURT: Okay. So, we'll do that and I'll talk to them about the expected  
7 length of the trial. I'm going to say that we're going to finish by Friday with trial  
8 although I'm going to just mention to them the possibility that they could have to  
9 come back Monday to deliberate depending on when we finish on Friday so they're  
10 not shocked if that happens and ask about undue burden and all those questions.

11 At the end of the general questions that I ask of the group as a whole,  
12 I'll call you up here to the bench to go over that -- go over the matter so you'll bring  
13 your notes up and we'll go through and anyone that needs to be excused for cause  
14 in my view, we'll then excuse those.

15 We then do individual questioning of the 24 that are shown on the chart  
16 that's been prepared for your convenience. We'll start with Juror number 1. I will  
17 ask Juror number 1 individual questions, then it goes to the State to pass for cause  
18 or ask questions you have for that juror and then to the Defense to ask questions of  
19 that juror. If you have a cause challenge during the course of those questioning, just  
20 ask to approach and we'll address any such challenges up here at the bench so that  
21 the jurors don't hear our discussion about that and then we'll go on. So, your direct  
22 questioning of the jurors is on an individual basis.

23 Once we've passed 24 jurors for cause is when we'll do the peremptory  
24 challenges using the chart that will be prepared. Just so you're aware, when we do  
25 those perempts I'll be excusing the jurors from the courtroom rather than having

**PLEADING  
CONTINUES  
IN NEXT  
VOLUME**

# IN THE SUPREME COURT OF THE STATE OF NEVADA

GENARO RICHARD PERRY,  
Appellant(s),

vs.

THE STATE OF NEVADA,  
Respondent(s),

Electronically Filed  
Case No: C-14-298879 Jul 29, 2022 8:58 a.m.  
*Related Case A: 22-851874-W*  
Docket No: 85042 Elizabeth A. Brown  
Clerk of Supreme Court

# RECORD ON APPEAL VOLUME 1

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LAS VEGAS, NV 89155-2212



**I N D E X**

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**THIS SEALED  
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NUMBERED PAGE(S)  
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WILL FOLLOW VIA  
U.S. MAIL**

INFM  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
ROBERT STEPHENS  
Deputy District Attorney  
Nevada Bar #011286  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

  
CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

I.A. 06/26/14  
1:00 PM  
T. SHETLER

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,

Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

INFORMATION

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

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

That GENARO RICHARD PERRY, the Defendant(s) above named, having committed the crimes of **ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.460 - NOC 50185); GRAND LARCENY AUTO (Category B Felony - NRS 205.228.3 - NOC 56014); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); COERCION (Category B Felony - NRS 207.190 - NOC 53159); BATTERY RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE (Category C Felony - NRS 200.481; 200.485; 33.018 - NOC 57937) and PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING**

1 **CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305 -**  
2 **NOC 52996)**, on or about the 1st day of May, 2014, within the County of Clark, State of  
3 Nevada, contrary to the form, force and effect of statutes in such cases made and provided,  
4 and against the peace and dignity of the State of Nevada,

5 COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON

6 did then and there wilfully, unlawfully, and feloniously take personal property, to-wit:  
7 car keys and/or cellular telephone, from the person of CORLA CARPENTER, or in her  
8 presence, by means of force or violence, or fear of injury to, and without the consent and  
9 against the will of the said CORLA CARPENTER, with use of a deadly weapon, to-wit: a  
10 knife.

11 COUNT 2 - FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON

12 did then and there wilfully and unlawfully confine and detain, without sufficient legal  
13 authority, the personal liberty of another, to-wit: CORLA CARPENTER, with use of a deadly  
14 weapon, to-wit: a knife, by battering the said CORLA CARPENTER and threatening her by  
15 said knife and refusing to allow her to leave.

16 COUNT 3 - GRAND LARCENY AUTO

17 did then and there wilfully, unlawfully, feloniously, and intentionally, with intent to  
18 deprive the owner permanently thereof, steal, take and carry away, drive away or otherwise  
19 remove a motor vehicle owned by another person, having a value of \$3,500.00, or greater, in  
20 the possession of CORLA CARPENTER, to-wit: a 1999 Mercedes CLK 430, bearing Nevada  
21 License No. 617LTU.

22 COUNT 4 - ASSAULT WITH A DEADLY WEAPON

23 did then and there wilfully, unlawfully, feloniously and intentionally place another  
24 person in reasonable apprehension of immediate bodily harm and/or did willfully and  
25 unlawfully attempt to use physical force against another person, to-wit: CORLA  
26 CARPENTER, with use of a deadly weapon, to-wit: a knife, by threatening to kill the said  
27 CORLA CARPENTER while holding said knife and/or by slashing at/towards her with said  
28 knife and/or by holding said knife to her throat.

1 COUNT 5 - COERCION

2 did then and there wilfully, unlawfully, and feloniously use physical force, or the  
3 immediate threat of such force, against CORLA CARPENTER, with intent to compel her to  
4 do, or abstain from doing, an act which she had a right to do, or abstain from doing, by  
5 throwing the telephone belonging to the said CORLA CARPENTER against the wall and/or  
6 into the toilet to prevent her from calling the police and/or by not allowing her to leave the  
7 residence.

8 COUNT 6 - BATTERY RESULTING IN SUBSTANTIAL BODILY HARM  
9 CONSTITUTING DOMESTIC VIOLENCE

10 did then and there wilfully, unlawfully, and feloniously use force or violence upon the  
11 person of his spouse, former spouse, or any other person to whom he is related by blood or  
12 marriage, a person with whom he is or was actually residing, a person with whom he has had  
13 or is having a dating relationship, a person with whom he has a child in common, the minor  
14 child of any of those persons or his minor child, to-wit: CORLA CARPENTER, by grabbing  
15 the said CORLA CARPENTER and striking her head against/into the floor and/or by kicking  
16 her repeatedly in the face, resulting in substantial bodily harm to the said CORLA  
17 CARPENTER.

18 COUNT 7 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM  
19 REPORTING CRIME OR COMMENCING PROSECUTION

20 did then and there wilfully, unlawfully, and feloniously, by intimidation or threats,  
21 prevent or dissuade, or hinder or delay CORLA CARPENTER, from reporting a crime to the

22 ///

23 ///

24 ///

25 ///

26 ///

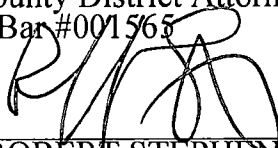
27 ///

28 ///

1 police by threatening to kill the said CORLA CARPENTER and her husband if she called the  
2 police.

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

6 BY

  
7 ROBERT STEPHENS  
8 Deputy District Attorney  
9 Nevada Bar #011286

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

12	<u>NAME</u>	<u>ADDRESS</u>
13	BRAGG, ALMEDIA M.	LVMPD #4150
14	CARPENTER, CORLA	C/O DISTRICT ATTORNEY'S OFFICE
15	CUSTODIAN OF RECORDS	CCDC
16	CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
17	CUSTODIAN OF RECORDS	LVMPD RECORDS
18	LASTER, GEORGE TIMOTHY	LVMPD #5658
19	MARRIOTT, DEBORAH	District Attorney Investigator
20	PATTERSON, DEBRA	District Attorney Process Server

21  
22  
23  
24  
25  
26  
27 DA#14F07966X/td/dvu  
28 LVMPD EV#1405011127; 1312092558  
(TK14)

1 NNEW  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ROBERT STEPHENS  
6 Deputy District Attorney  
7 Nevada Bar #011286  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

Electronically Filed  
06/25/2014 09:19:42 AM

  
CLERK OF THE COURT

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-14-298879-1

12 GENARO RICHARD PERRY,  
13 #1456173,

DEPT NO: VI

14 Defendant.

15 NOTICE OF EXPERT WITNESSES  
16 [NRS 174.234(2)]

17 TO: GENARO RICHARD PERRY, Defendant; and

18 TO: T. SHETLER, ESQ., Counsel of Record:

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
20 NEVADA intends to call the following expert witnesses in its case in chief:

21 1. GREENE, ELYNNE, P#4959, Victim Advocate for the Las Vegas Metropolitan  
22 Police Department or Designee, is an expert in domestic violence and will testify about the  
23 counterintuitive behavior of victims of domestic abuse, the reasons therefore, and other related  
24 topics. Her testimony may include, but is not limited to, the cycle of domestic abuse; the effects  
25 of power and control stratagems on the behavior of victims; coping and avoidance mechanisms  
26 employed by victims; and the tendency of victims to delay reporting, minimize abuse, recant  
27 prior statements, and vacillate affections toward their abusers.

28 These witnesses are in addition to those witnesses endorsed on the Information or

1 Indictment and any other witnesses for which a separate Notice of Witnesses and/or Expert  
2 Witnesses has been filed.

3 The substance of each expert witness' testimony and a copy of all reports made by or  
4 at the direction of the expert witness has been provided in discovery.

5 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

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

9 BY

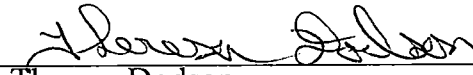
10 ROBERT STEPHENS  
11 Deputy District Attorney  
12 Nevada Bar #011286

13 CERTIFICATE OF FACSIMILE TRANSMISSION

14 I hereby certify that service of Notice of Expert Witnesses, was made this 25th  
15 day of June, 2014, by facsimile transmission to:

16 TRAVIS SHETLER, ESQ.  
17 FAX #702-866-0093

18 BY:

19   
20 Theresa Dodson  
21 Secretary for the District Attorney's Office  
22  
23  
24  
25  
26  
27

28 td/dvu



# Lisa Gavin, M.D., M.P.H.

1704 Pinto Lane, Las Vegas, NV 89106 ♦ 702.455.3210 ♦ LGavin@co.clark.nv.us

---

**Current Position** Medical Examiner, 2009 to present

*Office of the Coroner/Medical Examiner, Clark County, Las Vegas, Nevada*

**Training & Education**

Forensic Pathology Fellowship, 2008 to 2009

*Office of the Chief Medical Investigator, Albuquerque, New Mexico*

Surgical Pathology Fellowship, 2007-2008

*Hartford Hospital, Hartford, Connecticut*

Anatomic & Clinical Pathology Residency, 2002 – 2007

*Hartford Hospital, Hartford, Connecticut*

Post-Sophomore Fellowship in Pathology, 2001 – 2002

*University of Connecticut Health Center, Farmington, Connecticut*

Medical Degree, 2001

*University of Connecticut School of Medicine, Farmington, Connecticut*

Master Degree of Public Health, 1994

*Columbia University School of Public Health, New York, New York*

Bachelor of Arts, 1991

*Mount Holyoke College, South Hadley, Massachusetts*

**Research Experience**

Polyoma Virus Hemorrhagic Cystitis in an Otherwise Normal Child, 2008

*Hartford Hospital Department of Pathology & Department of Pediatric Infectious Disease*

Metastatic Testicular Choriocarcinoma in a Young Male with Abdominal Pain, 2007

*Hartford Hospital Department of Pathology & University of Connecticut  
Department of Internal Medicine*

Inter-observer Variability in Diagnosing Colon Biopsies as Indefinite for Dysplasia, 2006

*Hartford Hospital Department of Pathology*

Susceptibility of Streptococcus Pneumoniae to Moxifloxacin and  
Other Antimicrobial Agents, 2004

*Hartford Hospital Department of Pathology & Laboratory Medicine*

**Awards & Scholarship**

Dr. Beckett Book Award, 2007

Martin Berman Immunopathology Award, 2007

Bloomberg Award for Psychiatry, 2001

**Memberships**

American Academy of Forensic Sciences (2009 to present)

American Society of Clinical Pathology (2003 – 2008, 2010)

United States and Canadian College of Pathologist (2005 – 2007)

College of American Pathologist (Delegate 2003 – 2007)

Connecticut Society of Pathologists (CSP) Delegate (2003 – 2007)

*Next Page > > >*

# Lisa Gavin, M.D., M.P.H.

1704 Pinto Lane, Las Vegas, NV 89106 ♦ 702.455.3210 ♦ LGavin@co.clark.nv.us

---

## Connecticut Society of Pathologists Presentations

Malignant Peritoneal Mesothelioma in 17 year-old male, January 2006  
Focal Nodular Hyperplasia, June 2004

## Resident & Fellow Topics

Two Unusual Neuropathology Cases, January 2008  
Testicular Germ Cell Tumors, October 2007  
Waldenstroms Macroglobulinemia, October 2005  
Minimal Change Disease & Focal Segmental Glomerular Sclerosis, October 2004  
Crescentic Glomerulonephritis or Rapidly Progressive Glomerulonephritis, January 2004  
Mitral Valve Prolapse and Sudden Death, July 2003

## Previous Work Experience

Teacher of "Correlated Medical Problem Solving" Course, 2001 – 2002  
*University of Connecticut School of Medicine, Farmington Connecticut*  
Manager of South Marshall Street Pediatric Clinic, 1995 – 1997  
*Salvation Army, South Marshall Street, Hartford Connecticut*  
Administrative Assistant to the Director of Admissions & Career Development  
and to the Director of Academic & Student Affairs, 1992 – 1994  
*Columbia University School of Public Health, New York, New York*  
Tutor and Evaluator of children with learning disabilities, 1988 – 1994 & 1996 – 1997  
*Milford, Connecticut & Farmington, Connecticut*  
Coordinator of Infant Registration Project, 1991 – 1992  
*New York City Department of Health: Office of Child Health Planning, New York, New York*

## Service Work

- Annual Host for summer high-school student tours of Hartford Hospital Department of Pathology
- Education of Medical Students & Residents on rotation in Hartford Hospital Department of Pathology
- Guest speaker for Public Relations Department at Hartford Hospital for local middle-school children
- Guidance to Medical Technician Students interested in future careers in Medicine
- Editor of personal statements and resumes

## Medical License

State of New Mexico, 2008 – 2011  
State of Nevada, 2009 – 2011

Eligible For Anatomic Pathology,  
Clinical Pathology and Forensic Pathology Boards

## **ELYNNE GREENE**

### **EMPLOYMENT HISTORY**

<b>1981 – 1987</b>	Creative Arts Therapist & Addictions Counselor, Charter Fairmount Institute, Philadelphia, Pennsylvania
<b>1983 – 1988</b>	Family Therapist & Addictions Counselor, Private Practice, Mt. Laurel, New Jersey
<b>1987 – 1988</b>	Lafayette Clinic, Lafayette Indiana, Therapist and EAP Provider for Purdue University and ALCOA
<b>1988- 1992</b>	Director of Crisis Intervention Services and Domestic Violence Shelter EYE Counseling and Crisis Services, Escondido California
<b>1992 – 1993</b>	Director of Training & Education Altercrest Juvenile Sex Offender Treatment, Cincinnati, Ohio
<b>1993 – Present</b>	LVMPD Victim Services Detail Las Vegas Metropolitan Police Department, Las Vegas, Nevada
<b>2008- 2012</b>	Acting Program Director of the Southern Nevada Human Trafficking Task Force
<b>2012 - Present</b>	Technical Advisor to the Southern Nevada Human Trafficking Task Force

### **EDUCATION**

1975- Hahnemann University College Accelerated Program, **High School Diploma**  
1979 - Temple University, **B.S. Psychology**  
1981 - Lesley University, **MA Counseling and Creative Arts Therapies**  
1986 – **Certificate** in Structural Family Therapy, Philadelphia Child Guidance Center

### **PROFESSIONAL QUALIFICATIONS**

**National Credentialed Advocate**, Advanced, National Organization for Victim Assistance  
NACP #N87-268-5746, Since 2005  
**POST Certified Trainer, Instructor Development**, 1994  
**National Victim Assistance Academy**, Washington DC, 1995  
**National Victim Assistance Academy, Faculty Development**, Washington, DC, 1996  
**AB348 Task Force (Policy Development)**, 1998  
**Intermediate Instructor Development**, 2000  
**Nevada Department of Justice Domestic Violence Train the Trainer**, 2004  
**Nevada Department of Justice Domestic Violence Expert Witness Training**, 2004  
**Rick Culley 360 Leadership Program**, 2009- 2010  
**Clark County, Child Protective Services/Domestic Violence Policy Work Group**, 2009  
**Child Advocacy Center Stakeholders' Workgroup**, 2009  
**Clark County Adult Fatality Review Team**, 2011  
**Nevada State Victim Assistance Academy Steering Committee**, 2012

## **PROFESSIONAL MEMBERSHIPS /AFFILIATIONS**

**San Diego Domestic Violence Council, Executive Committee 1989 - 1990**  
**Nevada Network Against Domestic Violence , Board Member, 1995 -2000**  
**National Organization for Victim Assistance, Membership**  
**National Center for Victims of Crime, Membership**  
**Nevada State Domestic Violence Prevention Council, Executive Committee Member**  
**The Shade Tree Board of Trustees, 1993 – Present, Chair**  
**Southern Nevada Domestic Violence Task Force, President**  
**Community Coalition for Victims' Rights, Treasurer**  
**Southern Nevada Human Trafficking Task Force Steering Committee**

## **PRESENTATIONS/COURSES TAUGHT**

**Domestic violence and Mental Health, Hahnemann University 1997**  
**Sexual Assault Team/SART Trainer, 1989 – 1991**  
**Police and Corrections Academies for LVMPD since 1993**  
**In-service Training on Victim Issues for LVMPD, since 1993**  
**National Organization for Victims of Crime 20<sup>th</sup> Annual Conference, 1994**  
**Nevada Network Against Domestic Violence Statewide Conference, 1994**  
**Durango High School Empowerment Program, Teen Dating Violence, 1994**  
**Latino Peace Officers' Association, 1994**  
**Victim Issues for Law Enforcement – Three time/year 1993 - 2011**  
**City of Las Vegas City Attorney's and Municipal Court Judges, 1995**  
**Nevada Sheriff's and Police Chief's Association, 1996**  
**Commendation from the City of Reno for helping to establish the Reno Police Department Victim Services Unit, 1998**  
**UNLV Sexual Assault Peer Education Training, 1999**  
**Nevada POST I and II Basic Training, Community College of Southern Nevada, 2001-2002**  
**LVMPD No Hitter Conference, 2001**  
**Nevada Network Against Domestic Violence Statewide Conference, 2002**  
**Las Vegas Municipal Court Annual Domestic Violence Conference, 2002**  
**Child Advocacy Center Stakeholders' Workgroup, 2009**  
**Rape Crisis Center Volunteer Training, Domestic Violence, 2001 - 2011**  
**Teen Dating Violence Course, Bishop Gorman High School, 2010 – Present**  
**Human Trafficking and the Impact on Victims, 2013**  
**Police Briefing on Victim Issues – 1993 – Ongoing**

## **TRAINING RECEIVED**

**Nevada Judiciary Training on Family Violence. 1993**  
**Effective Child Sexual Assault Approaches. 16 hours, 1994**

**POST Instructor Development, 40 Hours, 1994**  
**Gangs in Clark County, 7.0 Hours, 1994**  
**National Organization for Victim Assistance Victim Service Providers Skill Development Program. 16 Hours, 1994**  
**Domestic Violence Train the Trainer, 6.0 hours, 1994**  
**Domestic Violence Statewide Training, 8.0 Hours, 1994**  
**Domestic Violence Crime Scene Photo Documentation, 1994**  
**National Threat Assessment Conference, 1994**  
**San Diego Domestic Violence Council Domestic Violence Intervention Training 16.0 hours, 1995**  
**Domestic Violence Statewide Training, 12.0 hours, 1995**  
**Protocols to Identify Battered Women During Investigations of Child Abuse & Neglect, 1995**  
**Western States Sexual Assault Conference, 28.0 Hours, 1995**  
**Governors Conference on Healthy Families: Victory over Violence, 1996**  
**Western States Sexual Assault Conference, 20.0 Hours, 1996**  
**National Threat Assessment Conference, 1996**  
**Leadership in Victim Services, 18.0 Hours, 1998**  
**9<sup>th</sup> Annual District Attorneys Domestic Violence Conference, 1999**  
**Intermediate Instructor Development, 80.0 Hours, 2000**  
**Investigating and Intervening in Domestic Violence Cases, 2000**  
**Crisis Intervention Skills, 6.0 Hours, 2000**  
**Statewide Domestic Violence Conference, 24.0 Hours, 2002**  
**Patrol Response to Custodial Issues in Domestic Violence Cases, 4.0 Hours, 2002**  
**Western States Sexual Assault Conference, 24.0 Hours, 2002**  
**International Domestic Violence and Sexual Assault Conference, 21.0 Hours, 2002**  
**Boyd School of Law Intersection of Domestic Violence and Practice, 2002**  
**Domestic Violence & Special Populations, 16.0 Hours, 2002**  
**Victim Services 2000, A Collaborative Model of Serving Domestic Violence and Sexual Assault Victims, 2002**  
**International Human Trafficking Conference, 2009**  
**Teen Dating Violence, 2009**  
**Protection Orders in Nevada, 2009**  
**National Organization for Victim Assistance International Conference, Attended Annually from 1990 – 2011**  
**National Center for Victims of Crime Annual Conference, Attended Annually from 2010 – Present Year**  
**The Intersection Between Human Trafficking and Domestic Violence for Shelter Workers, 2010**  
**Stalking Investigations & Safety Planning, 8.0 Hours, 2010**  
**Advanced Human Trafficking Investigations, 40.0 Hours, 2010**  
**Strangulation Identification and Implications Training, 2010**  
**Statewide Domestic Violence Fatality Review Summit, 2010**  
**National Family Justice Center Alliance Annual Conference, 2011**  
**EMERGE: Best Practices for Batterer Treatment and Risk Management, 2011**  
**Investigating and Intervening in Domestic Violence Cases, 2011**

**The CSI Effect; Maximizing the Potential for Forensic DNA, 2011**  
**Western Region Anti-Trafficking Task Force Training, 2011**  
**Providing Mental Health Services to Victims of Human Trafficking, 2011**  
**Best Practices in Advocating for Sexual Assault and Domestic Violence Victims, 2011**  
**EMERGE: Domestic Violence Danger Assessment and Risk Management, 2012**  
**National Family Justice Center Alliance Annual Conference, 2012**  
**Best Practices in Working with Families & Friends of Homicide Victims, 2013**  
**National Family Justice Center Alliance Annual Conference, 2013**  
**Impact of Cybercrimes and Identity Theft on Victims, 2013**

#### **VOLUNTEER POSITIONS**

**Women Organized Against Rape (Hotline and Hospital Crisis Counselor) 1994 – 1997**  
**Boston Crisis Center (Hotline Crisis Intervention Counselor) 1998 – 1990**  
**Lafayette Indiana Crisis Center (Hotline Counselor) 1991**  
**Nevadan For the Common Good 2012 (Co0mmunity Organizing) - Present**

#### **AWARDS/RECOGNITION**

**Families of Murder Victims Victim Rights Week Award, 1996**  
**Commendation from LVMPD Sheriff's Office for Authoring Domestic Violence Brochure for the Agency, 1997**  
**Victim Rights Week Gary Collie Award, 1997**  
**Families of Murder Victims Victim Rights Week Award, 2000**  
**Volunteer of the Year Award, Victory Missionary Baptist Church, 2008**  
**Shade Tree Volunteer Service Award, 2009**  
**Southern Nevada Domestic Violence Task Force STAR Award, 2010**  
**Rape Crisis Center Volunteer Award, 2011**  
**Florence McClure Volunteer Award, 2013**

1 TRAN  
2 CASE NO. C298879  
3  
4 IN THE JUSTICE'S COURT OF LAS VEGAS TOWNSHIP  
5 COUNTY OF CLARK, STATE OF NEVADA  
6  
7 STATE OF NEVADA, )  
8 Plaintiff, )  
9 vs. ) CASE NO. 14F07966X  
10 GENARO RICHARD PERRY, )  
11 Defendant. )

12  
13 REPORTER'S TRANSCRIPT

14 OF

15 WAIVER OF PRELIMINARY HEARING

16 BEFORE THE HONORABLE MELANIE ANDRESS-TOBIASSON  
17 JUSTICE OF THE PEACE

18 THURSDAY, JUNE 19, 2014

19 APPEARANCES:

20  
21 For the State: JEFFREY ROGAN  
22 Deputy District Attorney

23 For the Defendant: ROSS SMILLIE  
24 Attorney at Law

25 Reported by: Donna J. McCord, CCR #337

2  
1 Electronically Filed  
2 LAS VEGAS, NEVADA, JUNE 19, 2014, 06/29/2014 05:34:25 PM

3 \* \* \* \* \*

4  
5 THE COURT: 14F07966X, Genaro Perry. He  
6 is present in custody with Mr. Smillie. **CLERK OF THE COURT**

7 MR. SMILLIE: Good morning, your Honor.

8 THE COURT: Good morning. What's the  
9 status?

10 MR. SMILLIE: We want to waive prelim and  
11 get an arraignment date.

12 THE COURT: So you're waiving the prelim  
13 unconditionally without negotiations?

14 MR. SMILLIE: There were negotiations but  
15 they have fallen through.

16 THE COURT: Okay. So it's an  
17 unconditional waiver without negotiations at this  
18 point?

19 MR. ROGAN: That's correct.

20 THE COURT: All right. So, sir, do you  
21 understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: All right. You've discussed  
24 that with your attorney?

25 THE DEFENDANT: Absolutely.

1 THE COURT: Do you understand when you  
2 unconditionally waive your right to a preliminary  
3 hearing you're giving up that right forever?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: At a preliminary hearing you  
6 would have the right to confront the State's  
7 witnesses. You'd also have the right to testify and  
8 present your own evidence. You're giving up those  
9 rights as well; do you understand?

10 (At this time, Mr. Smillie consulted  
11 with the defendant.)

12 THE COURT: Not forever, just at a  
13 preliminary hearing.

14 THE DEFENDANT: Oh, yes, ma'am.

15 THE COURT: All right. When you get up to  
16 District Court one of two things will happen, this  
17 case will either get negotiated or it will go to  
18 trial, it just won't come back here for a  
19 preliminary hearing; do you understand?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: All right. It appears to me  
22 from the complaint on file that crimes have been  
23 committed, to-wit: Count 1, robbery with use of a  
24 deadly weapon; Count 2, false imprisonment with use  
25 of a deadly weapon; Count 3, grand larceny auto;

1 Count 4, assault with a deadly weapon; Count 5,  
2 coercion; Count 6, battery resulting in substantial  
3 bodily harm constituting domestic violence; and  
4 Count 7, preventing or dissuading a witness or  
5 victim from reporting crime or commencing  
6 prosecution, and the defendant having  
7 unconditionally waived his right to a preliminary  
8 hearing, I hereby order said defendant be held to  
9 answer to said charges in the Eighth Judicial  
10 District Court, County of Clark, State of Nevada at  
11 the following date and time.

12 THE CLERK: June 26th, 1:00 p.m.

13 THE COURT: You will be remanded on Counts  
14 6 and 7 but the bail won't change, it will just stay  
15 the amount it is now.

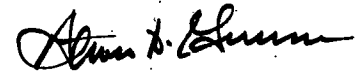
17 \* \* \* \* \*

18 Attest: Full, true, accurate transcript of  
19 proceedings.

20  
21 /s/Donna J. McCord  
22 DONNA J. MCCORD CCR #337  
23  
24  
25

1 NNEW  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 COLLEEN R. BROWN  
6 Deputy District Attorney  
7 Nevada Bar #011777  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

Electronically Filed  
07/03/2014 11:18:35 AM



CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: C-14-298879-1

12 GENARO RICHARD PERRY,  
13 #1456173,

DEPT NO: VI

14 Defendant.

NOTICE OF WITNESSES  
[NRS 174.234(1)(a)]

17 TO: GENARO RICHARD PERRY, Defendant; and

18 TO: TRAVIS SHETLER, ESQ., Counsel of Record:

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
20 NEVADA intends to call the following witnesses in its case in chief:

21 NAME

ADDRESS

22 ABDAL-KARIM SHAKEEL

LVMPD #13724

23 ELAM, FRANKLIN D.

LVMPD #5977

24 TERRY, JUSTIN D.

LVMPD #9668

25 ///

26 ///

27 ///

28 ///



1 These witnesses are in addition to those witnesses endorsed on the Information or  
2 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert  
3 Witnesses has been filed.

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

7 BY

COLLEEN R. BROWN  
Deputy District Attorney  
Nevada Bar #011777

10 CERTIFICATE OF FACSIMILE TRANSMISSION

11 I hereby certify that service of Notice of Witnesses, was made this 3<sup>rd</sup> day of July,  
12 2014, by facsimile transmission to:

13 TRAVIS SHETLER, ESQ.  
14 FAX #702-866-0093

15 BY:

Theresa Dodson  
Secretary for the District Attorney's Office

28 td/dvu

**SLOW**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**COLLEEN R. BROWN**  
Deputy District Attorney  
Nevada Bar #011777  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

  
CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: C-14-298879-1

GENARO RICHARD PERRY,  
#1456173,

DEPT NO: VI

Defendant.

SUPPLEMENTAL NOTICE OF EXPERT WITNESSES  
[NRS 174.234(2)]

TO: GENARO RICHARD PERRY, Defendant; and

TO: TRAVIS SHETLER, ESQ., Counsel of Record;

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF NEVADA intends to call the following expert witnesses in its case in chief:

1. KELLER, DANIELLE, P #12712, Senior Crime Scene Analyst or Designee – Las Vegas Metropolitan Police Department. She is an expert in the area of the identification, documentation, collection and preservation of evidence and will give opinions related thereto. She is expected to testify regarding the identification, documentation, collection and preservation of evidence in this case.

2. LEIBOWITZ, STEVEN, MD, or Designee, A treating physician who will provide testimony regarding the injuries and progress of the victim.

///

1 These witnesses are in addition to those witnesses endorsed on the Information or  
2 Indictment and any other witnesses for which a separate Notice of Witnesses and/or Expert  
3 Witnesses has been filed

4 The substance of each expert witness' testimony and a copy of all reports made by or  
5 at the direction of the expert witness has been provided in discovery.

6 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

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

10 BY 

11 COLLEEN R. BROWN  
12 Deputy District Attorney  
13 Nevada Bar #011777

14 CERTIFICATE OF FACSIMILE TRANSMISSION

15 I hereby certify that service of Supplemental Notice of Expert Witnesses, was made this  
16 3rd day of July, 2014, by facsimile transmission to:

17 TRAVIS SHETLER, ESQ.  
18 FAX #702-866-0093

19 BY: 

20 Theresa Dodson  
21 Secretary for the District Attorney's Office  
22  
23  
24  
25  
26  
27

28 td/dvu

*Curriculum Vitae*  
**Las Vegas Criminalistics Bureau**  
**Statement of Qualifications**

Name: CARVOUNIARIS, Danielle

P# 12712

Date: 04-17-13

<b>CURRENT CLASSIFICATION</b>		
	<i>Classification</i>	<i>Minimum Qualifications</i>
	Crime Scene Analyst I	AA Degree with major course work in Criminal Justice, Forensic Science, Physical Science or related field, including specialized training in Crime Scene
	Crime Scene Analyst II	18 months - two (2) years continuous service with LVMPD as a Crime Scene Analyst I.
X	Senior Crime Scene Analyst	Two (2) years as a Crime Scene Analyst II to qualify for the promotional test for Senior Crime Scene Analyst.
	Crime Scene Analyst Supervisor	Four (4) years continuous service with LVMPD and completion of probation as a Senior Crime Scene Analyst. Must have the equivalent of a Bachelor's Degree from an accredited college or university with major course work in Criminal Justice, Forensic Science, Physical Science or related field.
<b>FORMAL EDUCATION</b>		
<i>Institution</i>	<i>Major</i>	<i>Degree/Date</i>
University of Nevada Las Vegas	Criminal Justice	Bachelor of Arts/May 2006
<b>TESTIMONY</b>		
<i>Yes</i>	<i>No</i>	
X		District Court, Justice Court, Grand Jury
<b>EMPLOYMENT HISTORY</b>		
<i>Employer</i>	<i>Title</i>	<i>Date</i>
LVMPD	Senior CSA	06-23-12 to Present
LVMPD	CSA II	03-10-10 to 06-23-12
LVMPD	CSA I	03-10-08 to 03-10-10
Malibu Services	Owner	08/06 - 07/07
Dave Groover and Associates	Private Investigator	2002 - 03/07
A Special Memory Wedding Chapel	Florist	2004 - 01/06
Mt. Olive Lutheran Church	Child Care Provider	05/00 - 12/02
Wells Fargo Bank	Teller	05/00 - 12/02

  
CLERK OF THE COURT

1 NNEW  
2 TRAVIS E. SHETLER  
3 Nevada Bar No. 4747  
4 LAW OFFICE OF  
5 TRAVIS E. SHETLER  
6 844 East Sahara Avenue  
7 Las Vegas, Nevada 89104  
8 Telephone: 702.866.0091  
9 Facsimile: 702.866.0093  
10 Attorney for Defendant  
11 Genaro Perry

7  
8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 STATE OF NEVADA,  
11 Plaintiff,

CASE NO: C-14-298879-1  
DEPT NO: VI

12 vs.

13 GENARO RICHARD PERRY  
14 #1456173

15 Defendant.

16 **NOTICE OF WITNESSES**

17 TO: STATE OF NEVADA

18 TO: STEVEN B. WOLFSON, CLARK COUNTY DISTRICT ATTORNEY AND  
19 COLLEEN R. BROWN, DEPUTY DISTRICT ATTORNEY

20 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the DEFENDANT  
21 intends to call the following witnesses in its case in chief:

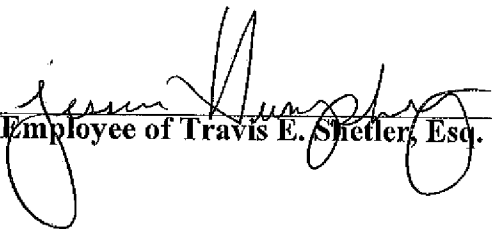
22 NAME:	ADDRESS:
23 GREENE, ELYNNE	LVMPD P#4959
24 KELLER, DANIELLE,	LVMPD P#12712
25 LEIBOWITZ, STEVEN, MD.	C/O DISTRICT ATTORNEY'S OFFICE
26 ABDAL- KARIM SHAKEEL	LVMPD #13724
27 ELAM, FRANKLIN D.	LVMPD #5977
28 TERRY, JUSTIN D.	LVMPD #9668

TRAVIS E. SHETLER  
Attorney At Law  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
Telephone (702) 866-0091  
Facsimile (702) 866-0093

**CERTIFICATE OF SERVICE**

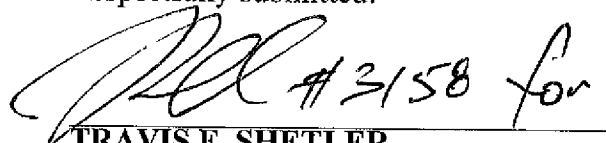
It is hereby certified that on this 9<sup>th</sup> day of July, 2014, a true and correct copy of the forgoing Notice of Witnesses was served upon the Clark County District Attorney's Office through the Wiznet Electronic Filing system:

Clark County District Attorney's Office  
PDMotions@ccdanv.com

  
Employee of Travis E. Shetler, Esq.

Dated this 9<sup>th</sup> day of July, 2014.

Respectfully submitted:

  
**TRAVIS E. SHETLER**  
Nevada Bar No. 4747  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
Attorney for Defendant  
Genaro Perry

  
CLERK OF THE COURT

1 TRAVIS E. SHETLER  
Nevada Bar No. 4747  
2 LAW OFFICE OF  
TRAVIS E. SHETLER  
3 844 East Sahara Avenue  
Las Vegas, Nevada 89104  
4 Telephone: 702.866.0091  
Facsimile: 702.866.0093  
5 Attorney for Defendant  
Genaro Perry  
6

7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 STATE OF NEVADA,

10 Plaintiff,

11 vs.

12 GENARO RICHARD PERRY  
13 #1456173

14 Defendant.

CASE NO: C-14-298879-1  
DEPT NO: VI

DATE OF HEARING: 09/29/14


TIME OF HEARING: 10:00 A.M.

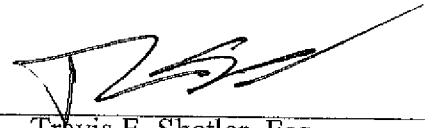
15  
16 STIPULATION AND ORDER TO CONTINUE TRIAL

17 In light of the fact that there is still outstanding discovery to be provided to the Defendant  
18 by the District Attorney's Office; namely Medical Records pertaining to the victim's injuries  
19 which are alleged to be substantial, as well as photographs relating to same; both parties stipulate  
20 and request that there be a continuation of the current Trial date.

21 IT IS HEREBY STIPULATED by the parties, by and through their counsel hereto, that  
22 the Trial scheduled for September 29, 2014, be continued for sixty (60) days or until the courts  
23 next available date thereafter.

24 DATED this 22nd day of September, 2014.

25  
26 By:   
27 Robert Stephens  
District Attorney  
200 Lewis Avenue  
Las Vegas, Nevada 89155  
Attorney for Plaintiff  
28

By:   
Travis E. Shetler, Esq.  
Nevada Bar No. 004747  
844 E. Sahara Avenue  
Las Vegas, Nevada 89104  
Attorney for Defendant

TRAVIS E. SHETLER  
Attorney At Law  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
Telephone (702) 866-0091  
Facsimile (702) 866-0093

TRAVIS E. SHETLER  
Attorney At Law  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
Telephone (702) 866-0091  
Facsimile (702) 866-0093

ORDER

Upon Stipulation of the parties hereto, and good cause appearing therefor;

IT IS HEREBY ORDERED that the Trial scheduled for September 29, 2014 be continued for sixty (60) days or until the courts next available date thereafter, within the next two weeks.

IT IS FURTHER ORDERED that the <sup>trial</sup>hearing be rescheduled for the 1 day of

December, 2014, in Department 6, at 10:00 .M. *Calendar call November 24, 2014 at 9:30am. EFF*

DATED this 22 day of September, 2014.

*Elin F. Galt*  
DISTRICT COURT JUDGE



1 **EXMT**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ROBERT STEPHENS  
6 Deputy District Attorney  
7 Nevada Bar #011286  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

  
CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10 Plaintiff,

11 -vs-

12 GENARO RICHARD PERRY,  
13 #1456173,  
14 Defendant.

CASE NO. C-14-298879-1

DEPT NO. VI

EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

17 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County  
18 District Attorney, through ROBERT STEPHENS, Deputy District Attorney, and moves this  
19 Honorable Court for an Order Releasing evidence which includes protected health information  
20 being held by ALL SMILES DENTAL consisting of any and all medical records for patient:  
21 CORLA CARPENTER, DOB: August 29, 1975, concerning diagnosis, prognosis and/or  
22 treatment given or provided on or about May 1, 2014, to be released to a representative of the  
23 DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case  
24 charging the crimes of ROBBERY WITH USE OF A DEADLY WEAPON (Category B  
25 Felony - NRS 200.380, 193.165 - NOC 50138); FALSE IMPRISONMENT WITH USE OF  
26 A DEADLY WEAPON (Category B Felony - NRS 200.460 - NOC 50185); GRAND  
27 LARCENY AUTO (Category B Felony - NRS 205.228.3 - NOC 56014); ASSAULT WITH  
28 A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); COERCION

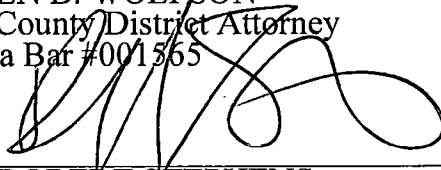
1 (Category B Felony - NRS 207.190 - NOC 53159); BATTERY RESULTING IN  
2 SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE (Category C  
3 Felony - NRS 200.481; 200.485; 33.018 - NOC 57937) and PREVENTING OR  
4 DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING  
5 PROSECUTION (Category D Felony - NRS 199.305 - NOC 52996)

6 Pursuant to 45 CFR 164.512(f), Movant represents that the information sought is  
7 relevant and material to a legitimate law enforcement inquiry; that the request is specific and  
8 limited in scope to the extent reasonably practicable in light of the purpose for which the  
9 information is sought; and that de-identified information could not reasonably be used.

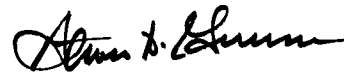
10 DATED this 9th day of October, 2014.

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

14 BY

15   
16 ROBERT STEPHENS  
17 Deputy District Attorney  
18 Nevada Bar #011286  
19  
20  
21  
22  
23  
24  
25  
26  
27

28 td/dvu



CLERK OF THE COURT

**ORDR**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
ROBERT STEPHENS  
Deputy District Attorney  
Nevada Bar #011286  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,  
Defendant.

CASE NO. C-14-298879-1

DEPT NO. VI

**ORDER RELEASING MEDICAL RECORDS**

Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark County District Attorney, by and through ROBERT STEPHENS, Deputy District Attorney, that certain records containing protected health information are necessary for the prosecution of the above-captioned criminal case are being held in the custody of ALL SMILES DENTAL; that said information is relevant and material to a legitimate law enforcement inquiry; that the application was specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and that de-identified information could not reasonably be used;

NOW THEREFORE, pursuant to 45 CFR 164.512(f), and GOOD CAUSE APPEARING, ALL SMILES DENTAL, shall release to a representative of the DISTRICT ATTORNEY'S OFFICE, any and all medical records concerning diagnosis, prognosis, and/or

1 treatment of CORLA CARPENTER, whose date of birth is August 29, 1975, for the time  
2 period May 1, 2014.

3 IT IS HEREBY ORDERED.

4 DATED this 10 day of October, 2014.

5  
6   
7 \_\_\_\_\_  
8 DISTRICT JUDGE 

9 STEVEN B. WOLFSON  
10 Clark County District Attorney  
11 NEVADA BAR #001565

12 BY 

13 ROBERT STEPHENS  
14 Deputy District Attorney  
15 Nevada Bar #011286  
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28 td/dvu

  
CLERK OF THE COURT

**ORDR**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
ROBERT STEPHENS  
Deputy District Attorney  
Nevada Bar #011286  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,  
  
-vs-  
  
GENARO RICHARD PERRY,  
#1456173,  
  
Defendant.

CASE NO. C-14-298879-1  
DEPT NO. VI

ORDER RELEASING MEDICAL RECORDS

Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark County District Attorney, by and through ROBERT STEPHENS, Deputy District Attorney, that certain records containing protected health information are necessary for the prosecution of the above-captioned criminal case are being held in the custody of SUNRISE HOSPITAL; that said information is relevant and material to a legitimate law enforcement inquiry; that the application was specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and that de-identified information could not reasonably be used;

NOW THEREFORE, pursuant to 45 CFR 164.512(f), and GOOD CAUSE APPEARING, SUNRISE HOSPITAL, shall release to a representative of the DISTRICT ATTORNEY'S OFFICE, any and all medical records concerning diagnosis, prognosis, and/or

1 treatment of CORLA CARPENTER, whose date of birth is August 29, 1975, for the time  
2 period May 1, 2014.

3 IT IS HEREBY ORDERED.

4 DATED this 10 day of October, 2014.

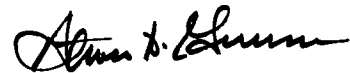
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7 \_\_\_\_\_  
8 DISTRICT JUDGE

9 STEVEN B. WOLFSON  
10 Clark County District Attorney  
11 NEVADA BAR #001565

12 BY 

13 ROBERT STEPHENS  
14 Deputy District Attorney  
15 Nevada Bar #011286  
16  
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28 td/dvu



CLERK OF THE COURT

**ORDR**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
ROBERT STEPHENS  
Deputy District Attorney  
Nevada Bar #011286  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,  
Defendant.

CASE NO. C-14-298879-1

DEPT NO. VI

**ORDER RELEASING MEDICAL RECORDS**

Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark County District Attorney, by and through ROBERT STEPHENS, Deputy District Attorney, that certain records containing protected health information are necessary for the prosecution of the above-captioned criminal case are being held in the custody of WESTFIELD EYE CENTER; that said information is relevant and material to a legitimate law enforcement inquiry; that the application was specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and that de-identified information could not reasonably be used;

NOW THEREFORE, pursuant to 45 CFR 164.512(f), and GOOD CAUSE APPEARING, WESTFIELD EYE CENTER, shall release to a representative of the DISTRICT ATTORNEY'S OFFICE, any and all medical records concerning diagnosis,

1 prognosis, and/or treatment of CORLA CARPENTER, whose date of birth is August 29, 1975,  
2 for the time period May 1, 2014.

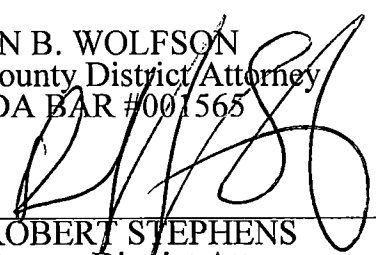
3 IT IS HEREBY ORDERED.

4 DATED this 10 day of October, 2014.

5  
6   
7 DISTRICT JUDGE 

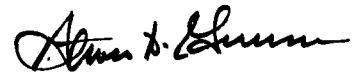
8  
9 STEVEN B. WOLFSON  
10 Clark County District Attorney  
11 NEVADA BAR #001565

12 BY

  
13 ROBERT STEPHENS  
14 Deputy District Attorney  
15 Nevada Bar #011286  
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28 td/dvu





CLERK OF THE COURT

1 **EXMT**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 ROBERT STEPHENS  
6 Deputy District Attorney  
7 Nevada Bar #011286  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,  
10  
11 Plaintiff,

11 -vs-

CASE NO. C-14-298879-1

12 GENARO RICHARD PERRY,  
13 #1456173,  
14 Defendant.

DEPT NO. VI

EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

17 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County  
18 District Attorney, through ROBERT STEPHENS, Deputy District Attorney, and moves this  
19 Honorable Court for an Order Releasing evidence which includes protected health information  
20 being held by SUNRISE HOSPITAL consisting of any and all medical records for patient:  
21 CORLA CARPENTER, DOB: August 29, 1975, concerning diagnosis, prognosis and/or  
22 treatment given or provided on or about May 1, 2014, to be released to a representative of the  
23 DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case  
24 charging the crimes of ROBBERY WITH USE OF A DEADLY WEAPON (Category B  
25 Felony - NRS 200.380, 193.165 - NOC 50138); FALSE IMPRISONMENT WITH USE OF  
26 A DEADLY WEAPON (Category B Felony - NRS 200.460 - NOC 50185); GRAND  
27 LARCENY AUTO (Category B Felony - NRS 205.228.3 - NOC 56014); ASSAULT WITH  
28 A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); COERCION

1 (Category B Felony - NRS 207.190 - NOC 53159); BATTERY RESULTING IN  
2 SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE (Category C  
3 Felony - NRS 200.481; 200.485; 33.018 - NOC 57937) and PREVENTING OR  
4 DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING  
5 PROSECUTION (Category D Felony - NRS 199.305 - NOC 52996)

6 Pursuant to 45 CFR 164.512(f), Movant represents that the information sought is  
7 relevant and material to a legitimate law enforcement inquiry; that the request is specific and  
8 limited in scope to the extent reasonably practicable in light of the purpose for which the  
9 information is sought; and that de-identified information could not reasonably be used.

10 DATED this 9th day of October, 2014.

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

14 BY

15 ROBERT STEPHENS  
16 Deputy District Attorney  
17 Nevada Bar #011286

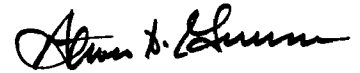
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1 **EXMT**

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

5 ROBERT STEPHENS  
6 Deputy District Attorney  
7 Nevada Bar #011286  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

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CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO. C-14-298879-1

12 GENARO RICHARD PERRY,  
13 #1456173,

DEPT NO. VI

14 Defendant.

15 EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS  
16

17 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County  
18 District Attorney, through ROBERT STEPHENS, Deputy District Attorney, and moves this  
19 Honorable Court for an Order Releasing evidence which includes protected health information  
20 being held by WESTFIELD EYE CENTER consisting of any and all medical records for  
21 patient: CORLA CARPENTER, DOB: August 29, 1975, concerning diagnosis, prognosis  
22 and/or treatment given or provided on or about May 1, 2014, to be released to a representative  
23 of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced  
24 case charging the crimes of ROBBERY WITH USE OF A DEADLY WEAPON (Category B  
25 Felony - NRS 200.380, 193.165 - NOC 50138); FALSE IMPRISONMENT WITH USE OF  
26 A DEADLY WEAPON (Category B Felony - NRS 200.460 - NOC 50185); GRAND  
27 LARCENY AUTO (Category B Felony - NRS 205.228.3 - NOC 56014); ASSAULT WITH  
28 A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); COERCION

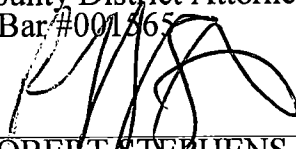
1 (Category B Felony - NRS 207.190 - NOC 53159); BATTERY RESULTING IN  
2 SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE (Category C  
3 Felony - NRS 200.481; 200.485; 33.018 - NOC 57937) and PREVENTING OR  
4 DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING  
5 PROSECUTION (Category D Felony - NRS 199.305 - NOC 52996)

6 Pursuant to 45 CFR 164.512(f), Movant represents that the information sought is  
7 relevant and material to a legitimate law enforcement inquiry; that the request is specific and  
8 limited in scope to the extent reasonably practicable in light of the purpose for which the  
9 information is sought; and that de-identified information could not reasonably be used.

10 DATED this 9th day of October, 2014.

11 STEVEN B. WOLFSON  
12 Clark County District Attorney  
13 Nevada Bar #001265

14 BY

  
15 ROBERT STEPHENS  
16 Deputy District Attorney  
17 Nevada Bar #011286  
18  
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28 td/dvu

  
CLERK OF THE COURT

**SLOW**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**COLLEEN R. BAHARAV**  
Deputy District Attorney  
Nevada Bar #011777  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,

Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

SUPPLEMENTAL NOTICE OF WITNESSES  
[NRS 174.234(1)(a)]

TO: GENARO RICHARD PERRY, Defendant; and

TO: TRAVIS SHETLER, ESQ., Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
NEVADA intends to call the following witnesses in its case in chief:

NAME

ADDRESS

LNU, DAYNE

C/O DISTRICT ATTORNEY'S OFFICE

///

///

///

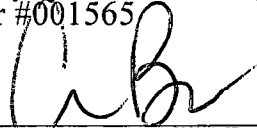
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1           These witnesses are in addition to those witnesses endorsed on the Information or  
2 Indictment and any other witness for which a separate Notice of Witnesses and/or Expert  
3 Witnesses has been filed.

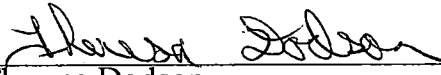
4                           STEVEN B. WOLFSON  
5                           Clark County District Attorney  
6                           Nevada Bar #001565

7                           BY   
8                           COLLEEN R. BAHARAV  
9                           Deputy District Attorney  
10                          Nevada Bar #011777

11                           CERTIFICATE OF FACSIMILE TRANSMISSION

12           I hereby certify that service of Supplemental Notice of Witnesses, was made this  
13 8th day of January, 2015, by facsimile transmission to:

14                           TRAVIS SHETLER, ESQ.  
15                           FAX #702-866-0093

16                           BY:   
17                           Theresa Dodson  
18                           Secretary for the District Attorney's Office

19  
20  
21  
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23  
24  
25  
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28   td/dvu

  
CLERK OF THE COURT

**SLOW**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**COLLEEN R. BAHARAV**  
Deputy District Attorney  
Nevada Bar #011777  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: C-14-298879-1

GENARO RICHARD PERRY,  
#1456173,

DEPT NO: VI

Defendant.

SECOND SUPPLEMENTAL NOTICE OF EXPERT WITNESSES  
[NRS 174.234(2)]

TO: GENARO RICHARD PERRY, Defendant; and

TO: TRAVIS SHETLER, ESQ., Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
NEVADA intends to call the following expert witnesses in its case in chief:

1. GUJRATHI, SUNIL, MD, A medical doctor employed by Sunrise Hospital and  
Red Rock Radiology. He/She will testify to his/her observations, treatment, diagnosis, and  
prognosis of the injuries sustained by the victim, Corla Carpenter.

2. LIPSHUTZ, JEREMY, MD, A medical doctor employed by Monos Health  
Institute. He will testify to his observations, treatment, diagnosis, and prognosis of the injuries  
sustained by the victim, Corla Carpenter.

3. SINGH, SURJEET, MD, A medical doctor employed by Westfield Eye Care.  
He/She will testify to his/her observations, treatment, diagnosis, and prognosis of the injuries

1 sustained by the victim, Corla Carpenter.

2 These witnesses are in addition to those witnesses endorsed on the Information or  
3 Indictment and any other witnesses for which a separate Notice of Witnesses and/or Expert  
4 Witnesses has been filed.

5 The substance of each expert witness' testimony and a copy of all reports made by or  
6 at the direction of the expert witness has been provided in discovery.

7 A copy of each expert witness' curriculum vitae, if available, is attached hereto.

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

10 BY 

11 COLLEEN R. BAHARAV  
12 Deputy District Attorney  
Nevada Bar #011777

13  
14 CERTIFICATE OF FACSIMILE TRANSMISSION

15 I hereby certify that service of Second Supplemental Notice of Expert Witnesses, was  
16 made this 11th day of May, 2015, by facsimile transmission to:

17 TRAVIS SHETLER, ESQ.  
18 FAX #702-866-0093

19 BY: 

20 Theresa Dodson  
21 Secretary for the District Attorney's Office  
22  
23  
24  
25  
26  
27

28 td/dvu



## Sunil K Gujrathi, MD

### *Diagnostic and Vascular Interventional Radiology*

Dr. Gujrathi graduated from Emory University - Atlanta, Georgia in 1995, with a Bachelor of Science Degree. His post-graduate education continued at the University of Medicine and Dentistry of New Jersey - New Jersey Medicine School, where he received a Doctor of Medicine degree in 2000 and his residency in Diagnostic Radiology in 2005. He served as junior and administrative chief resident during his residency program. Dr. Gujrathi completed his fellowship in Vascular and Interventional Radiology from Weill Cornell Medical Center and the Memorial Sloan – Kettering Cancer Center in 2006. Prior to joining Red Rock Radiology, he practiced vascular and interventional radiology in New York City at St. Luke's – Roosevelt Hospital Center, an affiliate of Columbia University College of Physicians & Surgeons. Dr. Gujrathi was a clinical instructor training residents and fellows in vascular and interventional radiology.

### **Medical Education & Training**

**Medical School:** University of Medicine and Dentistry of New Jersey

**Internship:** Mountainside Hospital, Montclair, New Jersey

**Residency:** University Hospital - University of Medicine and Dentistry of New Jersey

**Fellowship:** New York Presbyterian Hospital – Weill Cornell Medical Center and Memorial Sloan – Kettering Cancer Center

# Jeremy Lipshutz, MD

Anesthesiology Las Vegas, NV  
Physician

## **Clinical Specialties & Interests**

Anesthesiology: Addiction Medicine, Pain Medicine

## **Education & Training**

Wayne State University School of Medicine  
Case Western Reserve University - University Hospitals  
Wayne State University School of Medicine

## **Certifications & Licensure**

NV State Medical License 2009 - 2015  
MI State Medical License 2005 - 2015  
American Board of Anesthesiology Anesthesiology  
American Board of Anesthesiology Pain Medicine  
Hospital Affiliations  
Spring Valley Hospital Medical Center Las Vegas, NV

## **Awards**

☑ Top 10 Doctor - State (2014)  
Nevada  
Anesthesiologist

☑ Top 10 Doctor - City (2014)  
Las Vegas, NV  
Anesthesiologist

☑ Top 10 Doctor - Metro Area (2014)  
Greater Las Vegas  
Anesthesiologist

## **Associations**

American Board of Anesthesiology

# **SURJEET SINGH, M.D.**

Dr. Singh completed his undergraduate education at University of California Irvine, where he graduated with *Cum Laude* honors. He received his M.D. degree from Rosalind Franklin University School of Medicine. Thereafter, he completed his internship at the prestigious St. Lukes-Roosevelt Hospital at Columbia University College of Physicians and Surgeons in New York, NY. He then underwent rigorous training as an ophthalmic surgical resident at Los Angeles County Drew Medical Center. He worked under the direct supervision of many internationally recognized eye surgeons from the UCLA Jules Stein Eye Institute and Drew Medical Center.

Even as a junior resident, Dr. Singh was awarded the prestigious M. Roy Wilson Award for Outstanding Medical and Surgical Ophthalmology Resident of the Year. He graduated as the Chief Resident in Ophthalmology at the State University of New York.

Dr. Singh specializes in cataract surgery with advanced technology lenses such as the ReSTOR®, TECNIS® and Crystalens® intraocular lenses in order to reduce your dependence on eye glasses. He can combine cataract surgery with Toric lens implants and Limbal Relaxing Incisions to reduce your astigmatism after cataract surgery. Dr. Singh has performed more than 5,000 cataract surgeries in the last 5 years. He is also one of the first ophthalmologist in Nevada to be certified on the LENSAR® femtosecond system.

Dr. Singh also performs LASIK, PRK and Bladeless Laser Vision correction for nearsightedness, farsightedness and astigmatism. He is one of few surgeons that offers implantable Collamer lens placement for extremely nearsighted patients for whom laser vision correction is not an option. His expertise also includes pterygium surgery, cosmetic BOTOX® injections and specialized glaucoma laser surgeries.

Dr. Singh is board certified and is an active member of the American Academy of Ophthalmology and the American Medical Association. He is also an Associate Professor of Ophthalmology at Touro University College of Osteopathic Medicine. He is committed to providing the highest quality of eye care for his patients.

## **Education & Medical Training**

SUNY Health Science Center at Brooklyn  
Residency, Internal Medicine, 2007–2008

St Luke's-Roosevelt Hospital Center  
Internship, Ophthalmology, 2004–2005

Rosalind Franklin University of Medicine and Science  
Class of 2004

## **Certifications & Licensure**

American Board of Ophthalmology  
Certified in Ophthalmology

NV State Medical License  
Active through 2015

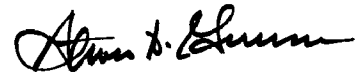
CA State Medical License  
Active through 2015

**Awards, Honors & Recognition**

CMS Meaningful Use Stage 1 Certification, NextGen Ambulatory EHR, NextGen Healthcare - 2012

CMS Meaningful Use Stage 1 Certification, NextGen Ambulatory EHR, NextGen Healthcare - 2013

Fellow (FAAO), American Academy of Ophthalmology



CLERK OF THE COURT

1 **TRAVIS E. SHETLER**  
Nevada Bar No. 4747  
2 **LAW OFFICE OF**  
3 **TRAVIS E. SHETLER**  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
4 Telephone: 702.866.0091  
Facsimile: 702.866.0093  
5 Attorney for Defendant  
Genaro Perry  
6

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

9 STATE OF NEVADA,  
10 Plaintiff,

CASE NO: C-14-298879-1  
DEPT NO: VI

11 vs.

12 GENARO RICHARD PERRY  
13 #1456173

14 Defendant.

15  
16 **MOTION TO ADMIT EVIDENCE PURSUANT TO NRS 48.045**

17 COMES NOW, Defendant Genaro Perry, by and through his attorney Travis E. Shetler, of  
18 the Law Office of Travis E. Shetler, P.C., hereby submits his Notice of Motion and Motion to Admit  
19 Evidence of Prior Acts of the alleged victim Corla Carpenter.

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

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

**TRAVIS E. SHETLER**  
Attorney At Law  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
Telephone (702) 866-0091  
Facsimile (702) 866-0093

**NOTICE OF MOTION**

**TO: ALL PARTIES IN INTEREST AND THEIR ATTORNEYS**

Please take notice that on the 20 day of July, 2015, at the hour of 8 : 30 a.m the undersigned will bring the foregoing motion to Admit Evidence Pursuant to NRS 48.045 on the following grounds for hearing before Department VI of the Clark County Regional Justice Center, located at 200 Lewis Avenue, Las Vegas, NV 89155.

Dated: June \_\_, 2015.

By



Travis E. Shetler, ESQ.  
Attorney for Genaro Perry

**PROCEDURAL SUMMARY**

On May 20, 2014, Genaro Richard Perry was charged by way of Criminal Complaint with: Count I - Robbery with use of a Deadly Weapon (Category B Felony - NRS 200.380); Count II - False Imprisonment with use of a Deadly Weapon (Category B Felony - NRS 200.460); Count III - Grand Larceny Auto (Category C Felony - NRS 205.228.2); Count IV - Assault with a Deadly Weapon (Category B Felony - NRS 200.471); and Count V - Battery Constituting Domestic Violence (Misdemeanor - NRS 200.485(1)(A)). Trial is currently set for September 28, 2015.

**ALLEGED VICTIM CORLA CARPENTER'S PRIOR RECORD**

On July 2, 2012 the alleged victim, Corla Carpenter was arrested for Assault with a Deadly Weapon against victim Hannah Mitchell at the TJ Maxx store located at 8435 W. Warm Springs, Las Vegas, NV under LVMPD event number 120702-2824 (Arrest Report attached as Exhibit A). According to Loss Prevention Security Officer Brandon Gallion, he observed via camera Cora Carpenter and Hannah Mitchell meeting in a clothing section of the west side of the store. Upon further observation Ms. Carpenter reach into her purse and retrieved what appeared to be a large kitchen knife. She then began to threaten and chase Ms. Mitchell through the store.

Mr. Gallion eventually took Carpenter into his custody near the east entrance of the store and at that time Gallion located a metal tire iron on the floor and secured the tire iron with him. It is stated in Ms. Mitchell's voluntary statement that she arrived at the TJ Maxx in order to shop and pay a \$440.00 debt to Ms. Carpenter that she owed her. Mitchell stated as soon as she handed Carpenter the money, Carpenter pulled a butcher knife from her purse along with the tire iron and lunged at her and chased her as Ms. Mitchell was attempting to elude Carpenter. Carpenter suffered cuts on her hands from crashing through and shattering a large glass pane at the North East exit of the store. Ms. Carpenter provided a fictitious name to officers and did not provide her real name until officers located a Nevada driver's license with her identification information on it. Carpenter admitted she lied due to outstanding warrants for her arrest.

### ARGUMENT

Defendant Genaro Perry is seeking to admit in its Case-in-Chief facts and circumstance of LVMPD Event # 120702-2824 (Case No.: 12F10489X) involving Alleged victim Corla Carpenter's July 03, 2012 arrest for Carrying a Concealed Weapon and Assault against Ms. Hannah Mitchell. The Defendant seeks to admit this evidence pursuant to NRS 48.045(2), which provides as follows:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

In Bigpond v. State, 270 P.3d 1244, 128 Nev. Adv. Op. 10 (2012), the Nevada Supreme Court held that evidence of other crimes, wrongs or acts may be admitted under the statute for a relevant, non-propensity purpose other than those listed in NRS 48.045(2). The Court explained that the statutory construction "is consistent with the use of the expression 'such as,' which indicates that the list of 'other purposes' is illustrative rather than exhaustive" and "traditional exceptions become simply illustrations of the kinds of use that are not prohibited by the general rule." Id. At 1249-1250. Thus, the plain language of NRS 48.045(2) provides that other bad act evidence is inadmissible to prove propensity but is admissible for any other purpose and provides examples of such purposes. Id.

1 Here, evidence of Corla Carpenter's assault with a deadly weapon is relevant to prove Ms.  
2 Carpenter's intent and/or state of mind when she attacked Ms. Mitchell. Likewise, in the instant case,  
3 Corla Carpenter attacked and threatened to kill Defendant Genaro Perry, who knew of the incident  
4 with Ms. Mitchell as well as Corla Carpenter's response. As Corla Carpenter attacked him, the  
5 Defendant ( with the Knowledge of Corla Carpenter's violent past tendencies) acted in self-defense  
6 to protect himself from the violent acts of Corla Carpenter in this case.

8 **CONCLUSION**

9 For the reasons stated, Defendant Genaro Perry respectfully requests that this Honorable Court  
10 grant his Motion to Admit Evidence Pursuant to NRS 48.045 including the prior Criminal Record  
11 of alleged victim Cora Carpenter nad any other evidence related to the same.

13 Respectfully Submitted:

17 By: 

Travis E. Shetler  
844 E. Sahara Avenue  
Las Vegas, Nevada 89104-3017  
Telephone: (702) 866-0091  
Attorney for Defendant Genaro Perry

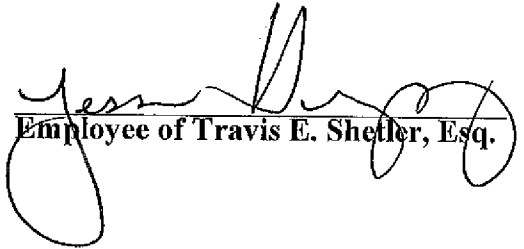


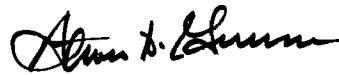
CERTIFICATE OF SERVICE

It is hereby certified that on this 11<sup>th</sup> day of June 2015, a true and correct copy of the forgoing Motion to Admit evidence Pursuant to NRS 48.045 was served upon the Clark County District Attorney's Office through the Wiznet Electronic Filing system:

Clark County District Attorney's Office

PDMotions@ClarkCountyDA.com

  
Employee of Travis E. Shetler, Esq.



CLERK OF THE COURT

**EXMT**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
COLLEEN R. BAHARAV  
Deputy District Attorney  
Nevada Bar #011777  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,

Defendant.

CASE NO. C-14-298879-1

DEPT NO. VI

EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through COLLEEN R. BAHARAV, Deputy District Attorney, and moves this Honorable Court for an Order Releasing evidence which includes protected health information being held by ALL SMILES DENTAL consisting of any and all certified medical records, x-rays, MRI records and films, Cat Scan records and films, and radiology records for patient: CORLA CARPENTER, DOB: August 29, 1975, concerning diagnosis, prognosis and/or treatment given or provided on or about May 20, 2014 to present, to be released to a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case charging the crimes of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.460 - NOC 50185); GRAND LARCENY AUTO (Category B Felony - NRS 205.228.3 -

1 NOC 56014); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471  
2 - NOC 50201); COERCION (Category B Felony - NRS 207.190 - NOC 53159); BATTERY  
3 RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC  
4 VIOLENCE (Category C Felony - NRS 200.481; 200.485; 33.018 - NOC 57937) and  
5 PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME  
6 OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305 - NOC 52996)

7 Pursuant to 45 CFR 164.512(f), Movant represents that the information sought is  
8 relevant and material to a legitimate law enforcement inquiry; that the request is specific and  
9 limited in scope to the extent reasonably practicable in light of the purpose for which the  
10 information is sought; and that de-identified information could not reasonably be used.

11 DATED this 21st day of May, 2015.

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

15 BY

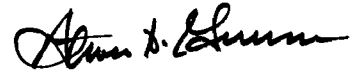
16 COLLEEN R. BAHARAV  
17 Deputy District Attorney  
18 Nevada Bar #011777  
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27

28 td/dvu

1 **EXMT**

2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 COLLEEN R. BAHARAV  
6 Deputy District Attorney  
7 Nevada Bar #011777  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

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07/01/2015 02:19:19 PM



CLERK OF THE COURT

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO. C-14-298879-1

12 GENARO RICHARD PERRY,  
13 #1456173,

DEPT NO. VI

14 Defendant.

15 EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS  
16

17 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County  
18 District Attorney, through COLLEEN R. BAHARAV, Deputy District Attorney, and moves  
19 this Honorable Court for an Order Releasing evidence which includes protected health  
20 information being held by SUNRISE HOSPITAL consisting of any and all certified medical  
21 records, x-rays, MRI records and films, Cat Scan records and films, and radiology records for  
22 patient: CORLA CARPENTER, DOB: August 29, 1975, concerning diagnosis, prognosis  
23 and/or treatment given or provided on or about May 1, 2014 to present, to be released to a  
24 representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the  
25 above referenced case charging the crimes of ROBBERY WITH USE OF A DEADLY  
26 WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); FALSE  
27 IMPRISONMENT WITH USE OF A DEADLY WEAPON (Category B Felony - NRS  
28 200.460 - NOC 50185); GRAND LARCENY AUTO (Category B Felony - NRS 205.228.3 -

1 NOC 56014); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471  
2 - NOC 50201); COERCION (Category B Felony - NRS 207.190 - NOC 53159); BATTERY  
3 RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC  
4 VIOLENCE (Category C Felony - NRS 200.481; 200.485; 33.018 - NOC 57937) and  
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6 OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305 - NOC 52996)

7 Pursuant to 45 CFR 164.512(f), Movant represents that the information sought is  
8 relevant and material to a legitimate law enforcement inquiry; that the request is specific and  
9 limited in scope to the extent reasonably practicable in light of the purpose for which the  
10 information is sought; and that de-identified information could not reasonably be used.

11 DATED this 21st day of May, 2015.

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

15 BY

16 COLLEEN R. BAHARAV  
17 Deputy District Attorney  
18 Nevada Bar #011777

19  
20  
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25  
26  
27  
28 td/dvu

  
CLERK OF THE COURT

**EXMT**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
COLLEEN R. BAHARAV  
Deputy District Attorney  
Nevada Bar #011777  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,

Defendant.

CASE NO. C-14-298879-1

DEPT NO. VI

EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through COLLEEN R. BAHARAV, Deputy District Attorney, and moves this Honorable Court for an Order Releasing evidence which includes protected health information being held by WESTFIELD EYE CENTER consisting of any and all certified medical records, x-rays, MRI records and films, Cat Scan records and films, and radiology records for patient: CORLA CARPENTER, DOB: August 29, 1975, concerning diagnosis, prognosis and/or treatment given or provided on or about May 13, 2014 to present, to be released to a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case charging the crimes of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.460 - NOC 50185); GRAND LARCENY AUTO (Category B Felony - NRS 205.228.3 -

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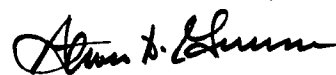
11 DATED this 21st day of May, 2015.

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

15 BY

16 COLLEEN R. BAHARAV  
17 Deputy District Attorney  
18 Nevada Bar #011777

19  
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27  
28 td/dvu



CLERK OF THE COURT

**EXMT**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
COLLEEN R. BAHARAV  
Deputy District Attorney  
Nevada Bar #011777  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,  
  
Defendant.

CASE NO. C-14-298879-1  
  
DEPT NO. VI

EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through COLLEEN R. BAHARAV, Deputy District Attorney, and moves this Honorable Court for an Order Releasing evidence which includes protected health information being held by ST. ROSE HOSPITAL consisting of any and all certified medical records, x-rays, MRI records and films, Cat Scan records and films, and radiology records for patient: CORLA CARPENTER, DOB: August 29, 1975, concerning diagnosis, prognosis and/or treatment given or provided on or about May 2, 2014 to present, to be released to a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case charging the crimes of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.460 - NOC 50185); GRAND LARCENY AUTO (Category B Felony - NRS 205.228.3 -



1 NOC 56014); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471  
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4 VIOLENCE (Category C Felony - NRS 200.481; 200.485; 33.018 - NOC 57937) and  
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7 Pursuant to 45 CFR 164.512(f), Movant represents that the information sought is  
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10 information is sought; and that de-identified information could not reasonably be used.

11 DATED this 21st day of May, 2015.

12 STEVEN B. WOLFSON  
13 Clark County District Attorney  
14 Nevada Bar #001365

15 BY

16 COLLEEN R. BAHARAV  
17 Deputy District Attorney  
18 Nevada Bar #011777

19  
20  
21  
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28 td/dvu

  
CLERK OF THE COURT

**EXMT**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
COLLEEN R. BAHARAV  
Deputy District Attorney  
Nevada Bar #011777  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,  
  
Defendant.

CASE NO. C-14-298879-1  
  
DEPT NO. VI

EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through COLLEEN R. BAHARAV, Deputy District Attorney, and moves this Honorable Court for an Order Releasing evidence which includes protected health information being held by STEVEN LEIBOWITZ, MD consisting of any and all certified medical records, x-rays, MRI records and films, Cat Scan records and films, and radiology records for patient: CORLA CARPENTER, DOB: August 29, 1975, concerning diagnosis, prognosis and/or treatment given or provided on or about May 27, 2014 to present, to be released to a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case charging the crimes of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.460 - NOC 50185); GRAND LARCENY AUTO (Category B Felony - NRS 205.228.3 -

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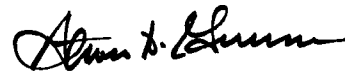
11 DATED this 21st day of May, 2015.

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

15 BY

16 COLLEEN R. BAHARAV  
17 Deputy District Attorney  
18 Nevada Bar #011777

19  
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28 td/dvu



CLERK OF THE COURT

**EXMT**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
COLLEEN R. BAHARAV  
Deputy District Attorney  
Nevada Bar #011777  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,  
Defendant.

CASE NO. C-14-298879-1  
DEPT NO. VI

EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through COLLEEN R. BAHARAV, Deputy District Attorney, and moves this Honorable Court for an Order Releasing evidence which includes protected health information being held by MONOS HEALTH INSTITUTE consisting of any and all certified medical records, x-rays, MRI records and films, Cat Scan records and films, and radiology records for patient: CORLA CARPENTER, DOB: August 29, 1975, concerning diagnosis, prognosis and/or treatment given or provided on or about May 6, 2014 to present, to be released to a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case charging the crimes of ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.380, 193.165 - NOC 50138); FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.460 - NOC 50185); GRAND LARCENY AUTO (Category B Felony - NRS 205.228.3 -

1 NOC 56014); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471  
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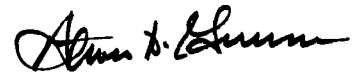
11 DATED this 21st day of May, 2015.

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

15 BY 

16 COLLEEN R. BAHARAV  
17 Deputy District Attorney  
18 Nevada Bar #011777  
19  
20  
21  
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27

28 td/dvu



CLERK OF THE COURT

**ORDR**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
COLLEEN R. BAHARAV  
Deputy District Attorney  
Nevada Bar #011777  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,  
Defendant.

CASE NO. C-14-298879-1

DEPT NO. VI

ORDER RELEASING MEDICAL RECORDS

Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark County District Attorney, by and through COLLEEN R. BAHARAV, Deputy District Attorney, that certain records containing protected health information are necessary for the prosecution of the above-captioned criminal case are being held in the custody of ALL SMILES DENTAL; that said information is relevant and material to a legitimate law enforcement inquiry; that the application was specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and that de-identified information could not reasonably be used;

NOW THEREFORE, pursuant to 45 CFR 164.512(f), and GOOD CAUSE APPEARING, ALL SMILES DENTAL, shall release to a representative of the DISTRICT ATTORNEY'S OFFICE, any and all certified medical records, x-rays, MRI records and films,

1 Cat Scan records and films, and radiology records concerning diagnosis, prognosis, and/or  
2 treatment of CORLA CARPENTER, whose date of birth is August 29, 1975, for the time  
3 period May 20, 2014 to present.

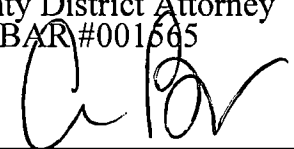
4 IT IS HEREBY ORDERED.

5 DATED this 27 day of May, 2015.

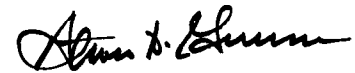
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8 DISTRICT JUDGE *te*

9  
10 STEVEN B. WOLFSON  
11 Clark County District Attorney  
12 NEVADA BAR #001665

13 BY

  
14 COLLEEN R. BAHARAV  
15 Deputy District Attorney  
16 Nevada Bar #011777  
17  
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28 td/dvu



CLERK OF THE COURT

**ORDR**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
COLLEEN R. BAHARAV  
Deputy District Attorney  
Nevada Bar #011777  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO. C-14-298879-1

GENARO RICHARD PERRY,  
#1456173,

DEPT NO. VI

Defendant.

ORDER RELEASING MEDICAL RECORDS

Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark County District Attorney, by and through COLLEEN R. BAHARAV, Deputy District Attorney, that certain records containing protected health information are necessary for the prosecution of the above-captioned criminal case are being held in the custody of SUNRISE HOSPITAL; that said information is relevant and material to a legitimate law enforcement inquiry; that the application was specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and that de-identified information could not reasonably be used;

NOW THEREFORE, pursuant to 45 CFR 164.512(f), and GOOD CAUSE APPEARING, SUNRISE HOSPITAL, shall release to a representative of the DISTRICT ATTORNEY'S OFFICE, any and all certified medical records, x-rays, MRI records and films,



1 Cat Scan records and films, and radiology records concerning diagnosis, prognosis, and/or  
2 treatment of CORLA CARPENTER, whose date of birth is August 29, 1975, for the time  
3 period May 1, 2014 to present.

4 IT IS HEREBY ORDERED.

5 DATED this 27 day of May, 2015.

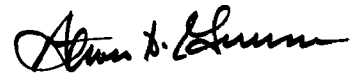
6  
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8 DISTRICT JUDGE 

9  
10 STEVEN B. WOLFSON  
11 Clark County District Attorney  
12 NEVADA BAR #001565

13 BY 

14 COLLEEN R. BAHARAV  
15 Deputy District Attorney  
16 Nevada Bar #011777  
17  
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28 td/dvu



CLERK OF THE COURT

**ORDR**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
COLLEEN R. BAHARAV  
Deputy District Attorney  
Nevada Bar #011777  
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Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,  
Defendant.

CASE NO. C-14-298879-1

DEPT NO. VI

ORDER RELEASING MEDICAL RECORDS

Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark County District Attorney, by and through COLLEEN R. BAHARAV, Deputy District Attorney, that certain records containing protected health information are necessary for the prosecution of the above-captioned criminal case are being held in the custody of WESTFIELD EYE CENTER; that said information is relevant and material to a legitimate law enforcement inquiry; that the application was specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and that de-identified information could not reasonably be used;


NOW THEREFORE, pursuant to 45 CFR 164.512(f), and GOOD CAUSE APPEARING, WESTFIELD EYE CENTER, shall release to a representative of the DISTRICT ATTORNEY'S OFFICE, any and all certified medical records, x-rays, MRI

1 records and films, Cat Scan records and films, and radiology records concerning diagnosis,  
2 prognosis, and/or treatment of CORLA CARPENTER, whose date of birth is August 29, 1975,  
3 for the time period May 13, 2014 to present.

4 IT IS HEREBY ORDERED.

5 DATED this 27 day of May, 2015.

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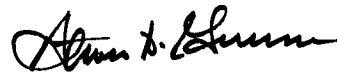
8 DISTRICT JUDGE 

9  
10 STEVEN B. WOLFSON  
11 Clark County District Attorney  
12 NEVADA BAR #001565

13 BY 

14 COLLEEN R. BAHARAV  
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16 Nevada Bar #011777  
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CLERK OF THE COURT

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#1456173,  
Defendant.

CASE NO. C-14-298879-1

DEPT NO. VI

ORDER RELEASING MEDICAL RECORDS

Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark County District Attorney, by and through COLLEEN R. BAHARAV, Deputy District Attorney, that certain records containing protected health information are necessary for the prosecution of the above-captioned criminal case are being held in the custody of ST. ROSE HOSPITAL; that said information is relevant and material to a legitimate law enforcement inquiry; that the application was specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and that de-identified information could not reasonably be used;

NOW THEREFORE, pursuant to 45 CFR 164.512(f), and GOOD CAUSE APPEARING, ST. ROSE HOSPITAL, shall release to a representative of the DISTRICT ATTORNEY'S OFFICE, any and all certified medical records, x-rays, MRI records and films,

1 Cat Scan records and films, and radiology records concerning diagnosis, prognosis, and/or  
2 treatment of CORLA CARPENTER, whose date of birth is August 29, 1975, for the time  
3 period May 2, 2014 to present.

4 IT IS HEREBY ORDERED.

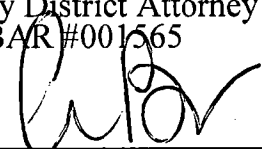
5 DATED this 27 day of May, 2015.

6  
7 

8 DISTRICT JUDGE *for*

9  
10 STEVEN B. WOLFSON  
11 Clark County District Attorney  
12 NEVADA BAR #001565

13 BY

  
14 COLLEEN R. BAHARAV  
15 Deputy District Attorney  
16 Nevada Bar #011777  
17  
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25  
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27

28 td/dvu

1 **ORDR**

2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 COLLEEN R. BAHARAV  
6 Deputy District Attorney  
7 Nevada Bar #011777  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

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CLERK OF THE COURT

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,  
11 Plaintiff,

12 -vs-

13 GENARO RICHARD PERRY,  
14 #1456173,  
15 Defendant.

CASE NO. C-14-298879-1

DEPT NO. VI

17 ORDER RELEASING MEDICAL RECORDS

18 Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark  
19 County District Attorney, by and through COLLEEN R. BAHARAV, Deputy District  
20 Attorney, that certain records containing protected health information are necessary for the  
21 prosecution of the above-captioned criminal case are being held in the custody of STEVEN  
22 LEIBOWITZ, MD; that said information is relevant and material to a legitimate law  
23 enforcement inquiry; that the application was specific and limited in scope to the extent  
24 reasonably practicable in light of the purpose for which the information is sought; and that de-  
25 identified information could not reasonably be used;

26 NOW THEREFORE, pursuant to 45 CFR 164.512(f), and GOOD CAUSE  
27 APPEARING, STEVEN LEIBOWITZ, MD, shall release to a representative of the  
28 DISTRICT ATTORNEY'S OFFICE, any and all certified medical records, x-rays, MRI

1 records and films, Cat Scan records and films, and radiology records concerning diagnosis,  
2 prognosis, and/or treatment of CORLA CARPENTER, whose date of birth is August 29, 1975,  
3 for the time period May 27, 2014 to present.

4 IT IS HEREBY ORDERED.

5 DATED this 27 day of May, 2015.

6  
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8 \_\_\_\_\_  
9 DISTRICT JUDGE *re*

10 STEVEN B. WOLFSON  
11 Clark County District Attorney  
12 NEVADA BAR #001865

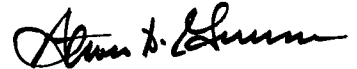
13 BY 

14 COLLEEN R. BAHARAV  
15 Deputy District Attorney  
16 Nevada Bar #011777  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

28 td/dvu

**ORDR**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
COLLEEN R. BAHARAV  
Deputy District Attorney  
Nevada Bar #011777  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff



CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

GENARO RICHARD PERRY,  
#1456173,  
Defendant.

CASE NO. C-14-298879-1

DEPT NO. VI

ORDER RELEASING MEDICAL RECORDS

Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark County District Attorney, by and through COLLEEN R. BAHARAV, Deputy District Attorney, that certain records containing protected health information are necessary for the prosecution of the above-captioned criminal case are being held in the custody of MONOS HEALTH INSTITUTE; that said information is relevant and material to a legitimate law enforcement inquiry; that the application was specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and that de-identified information could not reasonably be used;

NOW THEREFORE, pursuant to 45 CFR 164.512(f), and GOOD CAUSE APPEARING, MONOS HEALTH INSTITUTE, shall release to a representative of the DISTRICT ATTORNEY'S OFFICE, any and all certified medical records, x-rays, MRI



1 records and films, Cat Scan records and films, and radiology records concerning diagnosis,  
2 prognosis, and/or treatment of CORLA CARPENTER, whose date of birth is August 29, 1975,  
3 for the time period May 6, 2014 to present.

4 IT IS HEREBY ORDERED.

5 DATED this 27 day of May, 2015.

6   
7  
8 DISTRICT JUDGE 

9  
10 STEVEN B. WOLFSON  
11 Clark County District Attorney  
12 NEVADA BAR #001565

13 BY 

14 COLLEEN R. BAHARAV  
15 Deputy District Attorney  
16 Nevada Bar #011777  
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18  
19  
20  
21  
22  
23  
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25  
26  
27

28 td/dvu

  
CLERK OF THE COURT

**OPPS**  
**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565  
**COLLEEN BAHARAV**  
Deputy District Attorney  
Nevada Bar #011777  
**MICHELLE SUDANO**  
Deputy District Attorney  
Nevada Bar #013260  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
  
Plaintiff,

-VS-

GENARO PERRY,  
aka Genaro Richard Perry, #1456173  
  
Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO ADMIT EVIDENCE  
PURSUANT TO NRS 48.045

DATE OF HEARING: AUGUST 31, 2015  
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through COLLEEN BAHARAV, Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion To Admit Evidence Pursuant To NRS 48.045.

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

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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On June 25, 2014, the State filed an Information charging Genaro Perry (hereinafter  
4 "Defendant") as follows: Count 1—Robbery with Use of a Deadly Weapon (Category B  
5 Felony – NR S200.460); Count 2—False Imprisonment with Use of a Deadly Weapon  
6 (Category B Felony – NRS 200. ); Count 3—Grand Larceny Auto—Category B Felony (NRS  
7 205.228.3); Count 4—Assault with a Deadly Weapon (Category B Felony – NRS 200.471);  
8 Count 5—Coercion (Category B Felony – NRS 207.190); Count 6—Battery Resulting in  
9 Substantial Bodily Harm Constituting Domestic Violence (Category C Felony – NRS 200.481,  
10 200.485, 33.018) and Count 7—Preventing or Dissuading Witness or Victim from Reporting  
11 a Crime or Commencing Prosecution (Category D Felony – NRS 199.305).

12 Defendant's jury trial commenced on May 6, 2015. However, prior to swearing in a  
13 jury, the trial was continued due to the unavailability of multiple witnesses. Defendant's jury  
14 trial is currently scheduled to begin on September 28, 2105.

15 On June 15, 2015, the State filed the instant Motion to Admit Evidence Pursuant to  
16 NRS 48.045. The State's Opposition follows.

17 **STATEMENT OF FACTS<sup>1</sup>**

18 Defendant and Corla Carpenter met in 2013 and dated for approximately six (6) months  
19 before breaking up near the end of April 2014. On the night of April 30, 2014, Defendant came  
20 over to Carpenter's apartment to recover some property he had left there. Defendant arrived  
21 late and Carpenter agreed to let him spend the night and gather his things the following  
22 morning.

23 Defendant awoke early on the morning of May 1, 2014, and immediately became  
24 agitated. Defendant and Carpenter got into a verbal altercation and Carpenter told Defendant  
25 to leave. When Carpenter attempted to call police from her cell phone, Defendant ripped the  
26 phone from her hand and threw it against a wall. Defendant then punched Carpenter, knocking  
27 her to the ground. Defendant repeatedly kicked and hit Carpenter while she was on the ground.

28 \_\_\_\_\_  
<sup>1</sup> The following facts are contained in the police reports for this case.

1 Defendant then grabbed a kitchen knife and threatened to kill Carpenter and her family.  
2 Defendant eventually picked up Carpenter's car keys and told her, while still holding the knife,  
3 that he was taking her car. Before leaving in her car, Defendant threw Carpenter's cell phone  
4 in a toilet and told her that he would come back and kill her family if she called police.

5 Well before Carpenter ever met Defendant, she was charged with Assault with a Deadly  
6 Weapon. In Case Number 12F10489X, Carpenter was alleged to have fought with an  
7 acquaintance at a TJ Maxx. According to the report, which is attached hereto as Exhibit 1, on  
8 July 2, 2012, Carpenter and Hannah Mitchell agreed to meet at TJ Maxx so that Mitchell could  
9 repay a financial debt to Carpenter. Mitchell paid Carpenter approximately \$400.00, which  
10 was less than the amount Carpenter believed she was owed. Carpenter "snapped" and pulled  
11 a knife and a tire iron out of her purse and began chasing Mitchell around the store. Carpenter  
12 was stopped by store security and a knife and tire iron were found near her location. Carpenter  
13 initially gave police the name of "Yolanda Pipes" because she had an outstanding warrant.

14 On October 16, 2012, Carpenter pleaded guilty to the misdemeanor offenses of Assault  
15 and Carrying Concealed Weapon. Carpenter was sentenced to complete impulse control  
16 counseling and community service. Carpenter's case was closed on April 19, 2013.

### 17 LEGAL ARGUMENT

18 Evidence of Carpenter's 2012 arrest is irrelevant to the facts of this case and would  
19 unduly prejudice Carpenter. As such, this testimony should be excluded. NRS 48.025 provides  
20 that only relevant evidence may be admitted. NRS 48.035(1) provides that, "[a]lthough  
21 relevant, evidence is not admissible if its probative value is substantially outweighed by the  
22 danger of unfair prejudice, of confusion of the issues or of misleading the jury."

23 Typically, a witness can only be impeached regarding felony convictions within ten  
24 years or convictions bearing on the witness's veracity. See NRS 50.095; NRS 50.085.  
25 Carpenter was convicted of two misdemeanors as a result of her 2012 conduct. Neither of  
26 those misdemeanor convictions relate to Carpenter's truthfulness.<sup>2</sup> Thus, generally, Defendant  
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<sup>2</sup> The State would note that Carpenter was never charged with a criminal offense for providing a false name to officers when they initially contacted her.

1 would not be entitled to question Carpenter on her 2012 arrest as it did not result in felony  
2 conviction and does not bear on her truthfulness. See NRS 50.095; NRS 50.085.

3 The State acknowledges that evidence of Carpenter's arrest may, however, be relevant  
4 if Defendant claims self-defense at the time of trial. When a defendant is attempting to  
5 establish his state of mind at the time of an offense relative to a self-defense claim, "specific  
6 acts which tend to show that the [victim] was a violent and dangerous person may be admitted  
7 provided that the specific acts of violence of the [victim] were known to the accused or had  
8 been communicated to him." Burgeon v. State, 102 Nev. 43, 45-46, 714 P.2d 576, 578 (1986)  
9 (citing State v. Sella, 41 Nev. 113, 138, 168 P. 278, 286 (1917)). Under Burgeon, testimony  
10 regarding the specific instance of Carpenter's arrest is only relevant to the extent Defendant  
11 was aware of Carpenter's conduct on or before the date alleged for the offenses in this case.  
12 See Daniel v. State, 119 Nev. 498, 515, 78 P.3d 890, 902 (2003). Absent a showing that  
13 Defendant was aware of Carpenter's arrest, or in the event Defendant does not seek to establish  
14 self-defense, testimony regarding her arrest should be excluded as irrelevant. See NRS 48.025.

15 Even if relevant, this Court must still make a determination about whether the evidence  
16 in this case is admissible. See NRS 48.035. In Daniel, the Nevada Supreme Court recognized  
17 that:

18 [T]he admission of evidence of a victim's specific acts, regardless of its source,  
19 is within the sound and reasonable discretion of the trial court and is limited to  
20 the purpose of establishing what the defendant believed about the character of  
21 the victim. The trial court "should exercise care that the evidence of specific  
22 violent acts of the victim not be allowed to extend to the point that it is being  
offered to prove that the victim acted in conformity with his violent tendencies."

23 Daniel, 119 Nev. at 515, 78 P.3d at 902. (quoting State v. Daniels, 160 Wis. 2d 85, 465 N.W.2d  
24 633, 637 (Wis. 1991)). Defendant argues that evidence of Carpenter's 2012 arrest is admissible  
25 under NRS 48.045(2), which provides that:

26 Evidence of other crimes, wrongs or acts is not admissible to prove the character  
27 of a person in order to show that the person acted in conformity therewith. It  
28 may, however, be admissible for other purposes, such as proof of motive,

///

1 opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake  
2 or accident.

3 Id. Defendant further cites to Bigpond v. State, 270 P.3d 1244, 1250, 128 Nev. Adv. Rep. 10  
4 (2012), for the proposition that evidence of Carpenter's arrest is relevant to prove her intent at  
5 the time of the 2012 incident and at the time of the fight with Defendant; accordingly, the  
6 defense argues, evidence of Carpenter's arrest is not being proffered to show her propensity to  
7 ask in conformity therewith on the date in question.

8 Contrary to the defense argument about Carpenter's state of mind, Defendant seeks to  
9 present evidence of Carpenter's 2012 arrest precisely to show her propensity for violence,  
10 contrary to Daniel and NRS 48.045(2). Carpenter's state of mind and her intent in 2012 are  
11 wholly irrelevant to the facts at issue here, and easily distinguishable from Bigpond. As such,  
12 evidence regarding Carpenter's 2012 arrest should not be permitted. Bigpond was a felony  
13 domestic violence case where the victim told various emergency personnel about the defendant  
14 striking her in the jaw with a closed fist, knocking her to the ground. Id. at 1246, 128 Nev.  
15 Adv. Op. at 10. By the time of trial, the victim and the defendant had reconciled, and the victim  
16 recanted her pretrial statements about the violence. Id. The State then sought to admit evidence  
17 regarding other acts of the defendant's violence against the victim, in an effort to explain their  
18 relationship dynamic and the change in the victim's testimony. Id. Following a Petrocelli  
19 hearing, the trial court permitted testimony regarding prior instances of violence. Id.

20 Initially, the State notes that Defendant stands accused in this matter, not Carpenter. As  
21 such, it is Defendant's state of mind, not Carpenter's, that is relevant to any proposed self-  
22 defense claim.<sup>3</sup> Furthermore, Carpenter's 2012 arrest stemmed from a dispute with a third  
23 party. Carpenter acknowledged that she had "snapped" because the victim in her 2012 case,  
24 Mitchell, owed Carpenter money. Defendant has failed to demonstrate that Carpenter's state  
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26 <sup>3</sup> However, in the event that this Court permits testimony into Carpenter's state of mind, this opens the door to testimony  
27 regarding prior instances of domestic violence between Defendant and Carpenter. On at least one occasion prior to May  
28 1, 2014, Defendant struck Carpenter and she did not immediately notify police. If Defendant presents testimony that  
Carpenter was the initial aggressor in the 2012 incident with Mitchell and tries to equate this to Carpenter's state of mind  
on May 1, 2014, the State should be permitted to respond with specific instances where Defendant was the initial aggressor.  
These instances are equally relevant to Carpenter's state of mind on May 1, 2014 and excluding this testimony would risk  
confusing the jury or leaving them with an unfair impression of Carpenter and her relationship with Defendant.

1 of mind or intent during a 2012 financial dispute with another woman in any way correlates to  
2 her interactions with Defendant. Furthermore, there has been no allegation or evidence that  
3 Carpenter possessed a weapon in this case or that the modus operandi or motive were the same  
4 in this case as in the 2012 arrest.

5 Testimony or evidence regarding specific acts of violence in Carpenter's past is  
6 irrelevant and unduly prejudicial to this case and should not be permitted. Carpenter's state of  
7 mind during her 2012 arrest and her state of mind on the date in question are irrelevant to  
8 whether Defendant acted in self-defense. Even to the extent that Defendant was aware of the  
9 specific instance of assault in 2012, the conduct was far removed in time and directed at an  
10 individual other than Defendant. Accordingly, the conduct at issue in Carpenter's 2012 arrest  
11 is so remote that it does not reasonably place Carpenter's character for violence at issue in this  
12 case and Defendant should not be permitted to inquire into it.<sup>4</sup> Should this Court decide to  
13 allow some testimony regarding Carpenter's prior arrest, it must be closely limited to avoid  
14 testimony suggesting that Carpenter acted in conformity with any history for violence on the  
15 date in question. See Daniel, 119 Nev. at 515, 78 P.3d at 902. Additionally, evidence about  
16 Carpenter's use of a different name should be precluded as Carpenter was never charged with  
17 any crime related to her use of a different name and there is no allegation of any similar conduct  
18 at issue here. As such, presenting evidence to the jury about Carpenter's use of another name  
19 is irrelevant and would only create unnecessary prejudice, regardless of whether additional  
20 information about Carpenter's arrest is permitted.

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28 <sup>4</sup> Prior to admitting evidence under NRS 48.045(2), the Court is required to hold a Petrocelli hearing for the defense to overcome the presumption of inadmissibility of bad acts evidence. Bigpond, 270 P.3d at 1250, 128 Nev. Adv. Rep. at 10.

1 CONCLUSION


2 For the foregoing reasons, the State respectfully requests that Defendant's Motion to  
3 Admit Evidence Pursuant to NRS 48.045 be DENIED.

4 DATED this 20th day of July, 2015.

5 Respectfully submitted,

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

9 BY


  
10 COLLEEN BAHARAV  
11 Deputy District Attorney  
12 Nevada Bar #011777

13 CERTIFICATE OF FACSIMILE TRANSMISSION

14 I hereby certify that service of State's Opposition To Defendant's Motion To Admit  
15 Evidence Pursuant To NRS 48.045, was made this 20th day of July, 2015, by facsimile  
16 transmission to:

17 TRAVIS SHETLER, ESQ.  
18 702-866-0093

19  
20  
21 BY:

  
22 C. Cintola  
23 Employee of the District Attorney's Office  
24  
25  
26  
27  
28

CB/MS/cc/L3



# EXHIBIT “1”

## LAS VEGAS METROPOLITAN POLICE DEPARTMENT

**ARREST REPORT**☐ City☒ County☒ Adult☐ JuvenileSector/Beat 03/EAC

ID/EVENT# <b>1484846</b>	ARRESTEE'S NAME (Last) <b>CARPENTER</b>		(First) <b>CORLA</b>	(Middle)	S.S.#
ARRESTEE'S ADDRESS (Number, Street, City, State, Zip Code)					
CHARGES ASSAULT WITH DEADLY WEAPON, FELONY					
OCCURRED	DATE 07/02/12	DAY OF WEEK <u>MONDAY</u>	TIME 1539	LOCATION OF ARREST (Number, Street, City, State, Zip Code) 8435 WEST WARM SPRINGS ROAD, LAS VEGAS, NEVADA, 89113	
RACE	SEX	D.O.B.	HT.	WT.	HAIR
					EYES
PLACE OF BIRTH					

ARRESTING OFFICER #1: <b>B. YOUNG</b>	P#: <b>13236</b>	ARRESTING OFFICER #2:	P#:
SIGNATURE(S):			
CONNECTING REPORTS (Type or Event Number) 120702-2824, REQUEST FOR PROSECUTION, WITNESS LIST, TEMPORARY CUSTODY RECORD, FOUR PAGES OF DECLARATION OF ARREST, VOLUNTARY STATEMENT BY BOTH MITCHELL AND BRENDAN GALLION, PROPERTY REPORT FOR ALL PROPERTY IMPOUNDED			

**CIRCUMSTANCES OF ARREST:****OFFICERS INVOLVED:**

Officer B. Young, P#13236  
 Officer K. McKnight, P#13468  
 Officer F. Pacchiega, P#9200  
 Officer D. Pickerel, P#7940  
 Officer J. Irwin, P#9708

**VICTIM:**

Hannah Leah Mitchell  
 DOB: 10/19/88  
 SS#: 538-17-5329

**WITNESS:**

Brandon Gallion  
 DOB: 01/24/87  
 Loss-prevention security at T.J. Maxx  
 8435 West Warm Springs Road  
 Las Vegas, Nevada 89113  
 Phone: 278-7121

**PROPERTY IMPOUNDED:**

PACKAGE 1, ITEM 1:

Two CD video surveillances

PACKAGE 2, ITEM 2:

Four white, round pills

PACKAGE 2, ITEM 3:

Two long, white tablets

PACKAGE 2, ITEM 4:

15 blue, round pills

LAS VEGAS METROPOLITAN POLICE DEPARTMENT  
**CONTINUATION REPORT**

ID/EVENT #: 11484846

All items impounded at Enterprise Area Command

**DETAILS:**

On July 2, 2012, at approximately 1525 hours, I, Officer B. Young, P#13236, operating as marked unit 3S54, responded to the T.J. Maxx/Home Goods store located at 8435 West Warm Springs Road, Las Vegas, Nevada, 89113, in reference to an assault-with-a deadly-weapon incident.

Upon arrival, I made contact with loss-prevention employees of the T.J. Maxx/Home Goods store, Brandon Gallion, date of birth 01/24/87 (verbatim). Gallion had taken Corla Carpenter, date of birth 08/29/75, into his custody and was standing by with Carpenter at the store's security office when officers arrived. Also present was Hannah Mitchell, date of birth 10/19/88, as well as Carpenter's 11-year-old daughter, Aaliyah Muhammad. Her date of birth is 06/26/01, who is diagnosed with "Angel Man Syndrome" (verbatim).

According to Gallion, he was watching video surveillance of the store while sitting in the office, when he observed, via camera, subjects later identified as Carpenter and Mitchell, meeting in a clothing section of the west side of the store. As Gallion was observing the surveillance of Carpenter and Mitchell, Gallion observed the female later identified as Carpenter reach into her purse, retrieve what appeared to be a large kitchen knife, then began to threaten and chase Mitchell through the store. Gallion then went after Carpenter and Mitchell as they ran through the store, eventually taking Carpenter into his custody near the east entrance of the store/cashier area. At that time, Gallion located a metal tire iron on the floor and secured the tire iron with him.

I read Carpenter Miranda warning at approximately 1538 hours using the LVMPD 148 card, which she acknowledged by stating, "Yes." Carpenter stated that she arrived at the T.J. Maxx/Home Goods with daughter, Aaliyah, in order to shop for clothing for Aaliyah. Carpenter stated that Mitchell had owed her approximately \$600 and that they had planned to meet at the store so that Mitchell could pay her debt in order to be able to purchase the clothing. Carpenter stated that when Mitchell met her, Mitchell only had \$400 of the \$600 that she owed her. Carpenter stated that an argument ensued and that due to the stresses in her life, as well as Aaliyah's rare disease, that she, meaning Carpenter, "snapped." Carpenter stated that she did not have intention to kill Mitchell but could not explain why she was carrying the large knife in her purse to begin with.

Mitchell completed a voluntary statement stating that she arrived at the T.J. Maxx/Home Goods in order to shop and pay \$440 to Carpenter that Mitchell had owed Carpenter. Mitchell stated that as soon as she handed Carpenter the money, that Carpenter pulled a butcher knife from the purse, along with tire iron, lunged at her, meaning Mitchell, and chased her as Mitchell was attempting to elude Carpenter. Mitchell was adamant about pressing charges against Carpenter for the assault with a deadly weapon.

I observed video surveillance of the incident. Cameras observed Carpenter shopping in the store, along with Aaliyah, who was seated inside the shopping cart. I observed the meeting between Carpenter and Mitchell, at which time there was an exchange between the two. There did not appear to be a lengthy exchange of words or argument, when Carpenter is shown reaching into her purse, pulling out a large-bladed kitchen knife and a metal tire iron, then displaying both items towards Mitchell in a threatening manner. Video surveillance shows

**CONTINUATION REPORT**ID/EVENT #: 11484846

Carpenter chasing Mitchell towards the northeast exit of the store and Carpenter being taken into custody by T.J. Maxx security.

The large blade knife was located by the northeast exit, within a store dolly/cart. Carpenter suffered cuts upon her hands, possibly from crashing through and shattering a large, glass pane at the northeast exit during the incident. Video surveillance also shows Carpenter falling through the pane of glass.

Upon making contact with Carpenter, she verbally identified herself as "Yolanda Pipes," date of birth given was 08/20/74, to officers. Carpenter was duly warned about providing false info to a public officer and again identified herself as Yolanda Pipes, date of birth 08/20/74, and stated that she has several different names. Carpenter did not identify herself as Corla Carpenter, date of birth 08/29/75, until after officers located a Nevada driver's license with her picture/info and upon being confronted by officers about the false information. Carpenter later admitted to me that she lied about her name and date of birth due to having outstanding warrants.

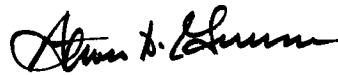
Due to the above facts and circumstances, that Corla Carpenter placed Hannah Mitchell in immediate apprehension/fear of injury by pulling a kitchen knife and tire iron, which are both deadly weapons, Carpenter was placed under arrest for assault with a deadly weapon and transported to Clark County Detention Center and booked accordingly. Aaliyah Muhammad was transferred into the care and custody of Child Protective Services. It should be noted that officers also recommended the charge of child endangerment due to the proximity of Aaliyah Muhammad to both females as Corla Carpenter pulled the knife from her purse.

BY/egw (Records)

Job #187572

Date & Time Dictated: 07/02/12 2356 hours

Date & Time Transcribed: 07/03/12 0552 hours



CLERK OF THE COURT

1 **NOTM**  
2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 COLLEEN BAHARAV  
6 Deputy District Attorney  
7 Nevada Bar #011777  
8 MICHELLE SUDANO  
9 Deputy District Attorney  
10 Nevada Bar #013260  
11 200 Lewis Avenue  
12 Las Vegas, Nevada 89155-2212  
13 (702) 671-2500  
14 Attorney for Plaintiff  
15

DISTRICT COURT  
CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,  
12  
13 Plaintiff,

14 -vs-

15 GENARO RICHARD PERRY, #1456173  
16  
17 Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

17 STATE'S NOTICE OF MOTION AND MOTION TO ADMIT  
18 EVIDENCE PURSUANT TO NRS 48.045

19 DATE OF HEARING: AUGUST 31, 2015  
20 TIME OF HEARING: 8:30 AM

21 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County  
22 District Attorney, through COLLEEN BAHARAV, Chief Deputy District Attorney, and files  
23 this Notice of Motion and Motion to Admit Evidence Pursuant to NRS 48.045.

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

27 ///

28 ///

///

1 **NOTICE OF HEARING**

2 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned  
3 will bring the foregoing motion on for setting before the above entitled Court, in Department  
4 VI thereof, on Monday, the 31st day of August, 2015, at the hour of 8:30 A.M., or as soon  
5 thereafter as counsel may be heard.

6 DATED this 5 day of August, 2015.

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

10 BY

  
11 COLLEEN BAHARAV  
12 Deputy District Attorney  
13 Nevada Bar #011777

14 **POINTS AND AUTHORITIES**  
15 **STATEMENT OF THE CASE**

16 On June 25, 2014, the State filed an Information charging Genaro Perry (hereinafter  
17 "Defendant") as follows: Count 1—Robbery with Use of a Deadly Weapon (Category B  
18 Felony – NR S200.460); Count 2—False Imprisonment with Use of a Deadly Weapon  
19 (Category B Felony – NRS 200. ); Count 3—Grand Larceny Auto—Category B Felony (NRS  
20 205.228.3); Count 4—Assault with a Deadly Weapon (Category B Felony – NRS 200.471);  
21 Count 5—Coercion (Category B Felony – NRS 207.190); Count 6—Battery Resulting in  
22 Substantial Bodily Harm Constituting Domestic Violence (Category C Felony – NRS 200.481,  
23 200.485, 33.018) and Count 7—Preventing or Dissuading Witness or Victim from Reporting  
a Crime or Commencing Prosecution (Category D Felony – NRS 199.305).

24 Defendant's jury trial commenced on May 6, 2015. However, prior to swearing in a  
25 jury, the trial was continued due to the unavailability of multiple witnesses. Defendant's jury  
26 trial is currently scheduled to begin on September 28, 2105.

27 On June 15, 2015, the State filed the instant Motion to Admit Evidence Pursuant to  
28 NRS 48.045. The State filed its Opposition on July 20, 2105. The matter is currently set for

1 argument on August 31, 2015. In addition to its previously filed Opposition, the State now  
2 also files the instant Motion to Admit Evidence.

3 **STATEMENT OF FACTS<sup>1</sup>**

4 Defendant and Corla Carpenter met in 2013 and dated for approximately six months  
5 before breaking up near the end of April 2014. On the night of April 30, 2014, Defendant came  
6 over to Carpenter's apartment to recover some property he had left there. Defendant arrived  
7 late and Carpenter agreed to let him spend the night and gather his things the following  
8 morning.

9 Defendant awoke early on the morning of May 1, 2014, and immediately became  
10 agitated. Defendant and Carpenter got into a verbal altercation and Carpenter told Defendant  
11 to leave. When Carpenter attempted to call police from her cell phone, Defendant ripped the  
12 phone from her hand and threw it against a wall. Defendant then punched Carpenter, knocking  
13 her to the ground. Defendant repeatedly kicked and hit Carpenter while she was on the ground.  
14 Defendant then grabbed a kitchen knife and threatened to kill Carpenter and her family.  
15 Defendant eventually picked up Carpenter's car keys and told her, while still holding the knife,  
16 that he was taking her car. Before leaving in her car, Defendant threw Carpenter's cell phone  
17 in a toilet and told her that he would come back and kill her family if she called police.

18 **LEGAL ARGUMENT**

19 NRS 48.045(2) provides that:

20 Evidence of other crimes, wrongs or acts is not admissible to prove the character  
21 of a person in order to show that the person acted in conformity therewith. It  
22 may, however, be admissible for other purposes, such as proof of motive,  
23 opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake  
or accident.

24 In order to admit substantive evidence of a prior bad act, the State must first seek a hearing  
25 outside the presence of the jury pursuant to Petrocelli v. State, 101 Nev. 46, 692 P.2d 503  
26 (1985) holding modified on other grounds by Sonner v. State, 112 Nev. 1328, 930 P.2d 707  
27 (1996). The Petrocelli hearing must establish: 1) that the evidence is relevant to the crime  
28

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<sup>1</sup> The following facts are contained in the police reports for this case.

1 charged; 2) that the other act is proven by clear and convincing evidence; and 3) that the  
2 probative value of the other act is not substantially outweighed by the danger of unfair  
3 prejudice. Tinch v. State, 113 Nev. 1170, 1176, 946 P.2d 1061, 1064–65 (1997).

4 On June 15, 2015, Defendant filed a Motion to Admit Evidence of Carpenter's prior  
5 charge for Assault with a Deadly Weapon, arguing that this offense was relevant to Carpenter's  
6 state of mind on the day of the instant case and shows that Carpenter was the initial aggressor.  
7 The State has previously responded that Carpenter's state of mind is not relevant to  
8 Defendant's conduct or Defendant's claim of self-defense. However, the State also submits  
9 this Motion to clarify that if the defense presents evidence of Carpenter's state of mind on the  
10 day in question, this also opens the door to Defendant's prior acts of domestic violence.

11 On June 3, 2014, Defendant pleaded guilty to misdemeanor battery domestic violence  
12 in case 13F20557X. The charges stemmed from a fight with another of Defendant's ex-  
13 girlfriends, Monique Leshawn Williams, on December 19, 2013. See Court Minutes, case  
14 13F20557X, attached hereto as Exhibit 1. At the time of his fight with Carpenter on May 1,  
15 2014, Carpenter was aware that Defendant had a warrant out for his arrest based on a fight  
16 with a prior girlfriend. In addition to being aware that Defendant had been charged with  
17 domestic violence against a former girlfriend, Carpenter also had first-hand knowledge of  
18 Defendant's violence. On November 21, 2013, Defendant and Carpenter got into a fight and  
19 when Carpenter tried to leave, Defendant slapped and strangled her. See Case Report, LVMPD  
20 event # 140512-2410, attached hereto as Exhibit 2. Defendant also bashed Carpenter's head  
21 against the ground and threatened her. Carpenter did not report this November incident to  
22 police at the time, but she did take photographs of her injuries and discuss the incident with  
23 various friends. Carpenter also alluded to other instances of abuse and violence that she had  
24 not reported. Carpenter stated that initially she was too embarrassed to report the violence to  
25 police and feared that it would jeopardize her business relationships. After the violence  
26 escalated on May 1, 2014, however, Carpenter decided that it was necessary to report the prior  
27 incidents to police.



1 Before Defendant came to Carpenter's house on April 30, 2014, she was already aware  
2 of his violence against her and another prior girlfriend. These incidents contributed to  
3 Carpenter's state of mind during her interactions with Defendant on April 30, 2014 and May  
4 1, 2014. To the extent that Defendant attempts to elicit testimony regarding Carpenter's state  
5 of mind on May 1, 2014 to show that she was the initial aggressor, specific instances of  
6 Defendant's prior domestic violence should also be admitted. See, e.g., Dutton v. State, 94  
7 Nev. 461, 464, 581 P.2d 856, 858 (1978) (overruled on other grounds by Gray v. State, 100  
8 Nev. 556, 557, 688 P.2d 313, 314 (1984)) (recognizing that the State has the right to present  
9 "a full and accurate account" of the circumstances surrounding a crime). Defendant's prior  
10 acts of domestic violence are equally, if not more, relevant to Carpenter's state of mind on  
11 May 1, 2014 and excluding this testimony would risk confusing the jury or leaving them with  
12 an unfair impression of Carpenter and her relationship with Defendant.

13 Prior acts of domestic violence can be admissible to demonstrate a victim's state of  
14 mind at or after the crimes. For instance, in Bigpond v. State, 270 P.3d 1244, 1250, 128 Nev.  
15 Adv. Rep. 10 (2012), the defendant was charged with felony domestic violence against his  
16 wife. The day of the incident, the victim told various emergency personnel about the defendant  
17 striking her in the jaw with a closed fist, knocking her to the ground. Id. at 1246, 128 Nev.  
18 Adv. Op. at 10. By the time of trial, the victim and the defendant had reconciled, and the victim  
19 recanted her pretrial statements about the violence. Id. Following a Petrocelli hearing, the State  
20 was permitted to introduce evidence of prior acts of domestic violence in an effort to explain  
21 the victim's state of mind and the dynamics of her relationship with the defendant. Id.  
22 Additionally, NRS 48.061 specifically provides that testimony regarding domestic violence is  
23 admissible for any relevant purpose:

24  
25 ...[E]vidence of domestic violence and expert testimony concerning the effect  
26 of domestic violence, including, without limitation, the effect of physical,  
27 emotional or mental abuse, on the beliefs, behavior and perception of the alleged  
28 victim of the domestic violence that is offered by the prosecution or defense is  
admissible in a criminal proceeding for any relevant purpose....

1 NRS 48.061(1).

2 If Defendant makes Carpenter's state of mind relevant, the State should be permitted to  
3 present evidence of Defendant's prior acts of domestic violence. This evidence would not be  
4 introduced to show Defendant's conformity therewith on the date in question. Rather, these  
5 acts were known to Carpenter and are necessary to provide a full and accurate picture of  
6 Carpenter's state of mind on the day in question. Additionally, evidence of Defendant's prior  
7 acts of domestic violence are not substantially more prejudicial than probative, particularly if  
8 the jury hears testimony regarding Carpenter's bad acts as well.

9 **CONCLUSION**

10 For the foregoing reasons, the State respectfully requests that the State's Motion to  
11 Admit Evidence Pursuant to NRS 48.045 be GRANTED and that the State receive a Petrocelli  
12 hearing on the matter in the event Defendant places Carpenter's state of mind at issue.

13 DATED this 5<sup>th</sup> day of August, 2015.

14 Respectfully submitted,

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

17  
18 BY

Colleen Baharav  
19 COLLEEN BAHARAV  
20 Deputy District Attorney  
Nevada Bar #011777

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1                                    **CERTIFICATE OF FACSIMILE TRANSMISSION**

2                    I hereby certify that service of STATE'S NOTICE OF MOTION AND MOTION TO  
3 ADMIT EVIDENCE PURSUANT TO NRS 48.045, was made this 5<sup>th</sup> day of August,  
4 2015, by facsimile transmission to:

5                                    TRAVIS E. SHETLER, ESQ.  
6                                    1702-866-0093

7                                    BY \_\_\_\_\_  
8                                    C. Jimenez  
9                                    Secretary for the District Attorney's Office

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# EXHIBIT “1”

Justice Court, Las Vegas Township  
Clark County, Nevada

Court Minutes



13F20557X State of Nevada vs. PERRY, GENARO RICHARD

Lead Atty: Travis E Shetler

6/3/2014 10:00:00 AM Preliminary Hearing

Result: Matter Heard

**PARTIES PRESENT:** Attorney Shetler, Travis E  
Defendant Perry, Genaro Richard

**Judge:** Tobiasson, Melanie A.

**Prosecutor:** Stephens, Robert

**Court Reporter:** Delucca, Gerri

**Court Clerk:** Wenz, William

PROCEEDINGS

**Events:** Admonishment of Rights - BDV

*Signed in open court.*

**Case Closed - Court Order**

**USJR - Guilty Plea with Sentence (before PH) (F,G)**

**Judgment Entered**

**Plea/Disp:** 001: Burglary, (1st) [50424]  
Disposition: Dismissed

**002: Dom battery by strangulation [54740]**  
Disposition: Dismissed

**003: Dom battery, (1st) [50235]**  
Plea: Nolo Contendere

Disposition: Guilty as Charged

Sentence: Misdemeanor Sentence

Sentence To CCDC:

Remand Term: 6 Months 0 Days

CTS: 0 Specific Days Scenario: Total CTS, This Case, All Lodgings

FILED

JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

Dec 30 3:11 PM '13

THE STATE OF NEVADA, JUSTICE COURT  
LAS VEGAS NEVADA

Plaintiff, BY \_\_\_\_\_ DEPUTY

CASE NO: 13F20557X

DEPT NO: 10

-vs-

GENARO RICHARD PERRY #1456173,

Defendant.

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of BURGLARY (Category B Felony - NRS 205.060); BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION (Category C Felony - NRS 200.481; 200.485; 33.018); and BATTERY CONSTITUTING DOMESTIC VIOLENCE (Misdemeanor - NRS 200.481; 200.485; 33.018), in the manner following, to-wit: That the said Defendant, on or about the 19th day of December, 2013, at and within the County of Clark, State of Nevada,

COUNT 1 - BURGLARY

did then and there wilfully, unlawfully, and feloniously enter, with intent to commit assault and/or battery, that certain building occupied by MONIQUE LESHAWN WILLIAMS, located at 5600 Boulder Highway, Las Vegas, Clark County, Nevada.

COUNT 2 - BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION

did then and there wilfully, unlawfully, and feloniously use force or violence upon the person of the defendant's spouse, former spouse, or any other person to whom the defendant is related by blood or marriage, a person with whom the defendant is or was actually residing, a person with whom the defendant is having a dating relationship, a person with whom the defendant has a child in common, the minor child of any of those persons or the defendant's minor child, to-wit: MONIQUE LESHAWN WILLIAMS, by strangulation.

COUNT 3 - BATTERY CONSTITUTING DOMESTIC VIOLENCE

did then and there wilfully and unlawfully use force or violence against or upon the person of his spouse, former spouse, any other person to whom he is related by blood or

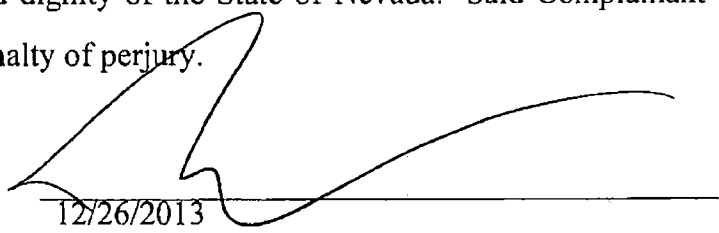
13F20557X  
CRM  
Criminal Complaint  
3311430



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1 marriage, a person with whom he is or was actually residing, a person with whom he has had  
2 or is having a dating relationship, a person with whom he has a child in common, the minor  
3 child of any of those persons or his minor child, to-wit: MONIQUE LESHAWN  
4 WILLIAMS, by striking the said MONIQUE LESHAWN WILLIAMS in the face with a  
5 closed fist and/or biting her on the shoulder.

6 All of which is contrary to the form, force and effect of Statutes in such cases made  
7 and provided and against the peace and dignity of the State of Nevada. Said Complainant  
8 makes this declaration subject to the penalty of perjury.

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27 13F20557X/cas  
28 LVMPD EV# 1312190110  
(TK3)

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NOTICE OF WITNESSES

[NRS 174.234]

TO: Defendant or attorney of record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF  
NEVADA intends to call the following witnesses:

NAME

ADDRESS

CUSTODIAN OF RECORDS

Communication Bureau  
Law Enforcement Agency – Clark County,  
Nevada

These witnesses are in addition to those witnesses noted in the discovery or other  
documents provided.

DATED December 26, 2013.



# **EXHIBIT “2”**



## Administrative

Location 30 E SILVERADO RANCH BLVD LAS VEGAS, NV 89183

Sector / Beat 13

Occurred On (Date / Time) Thursday 11/21/2013 10:00:00 AM

Or Between (Date / Time)

Reporting Officer 06577 - Williams, E.

Reported On 5/12/2014

Entered By 06577 - Williams, E.

Entered On 5/12/2014 3:21:57 PM

Related Cases

Jurisdiction

Clark County

Traffic Report

Place Type

Accident Involved

## Offenses:

BATTERY / DOMESTIC VIOLENCE - (STRANGULATION)

Completed Yes Domestic Violence Yes

Entry Premises Entered

Weapons Personal Weapons (Hands, Feet, Teeth, etc.)

Criminal Activities

Hate/Bias None (No Bias)

Type Security

Tools

Location Type Residence/Home

*\* this in additional to current charges*

## Victims:

Name: CARPENTER, CORLA

Victim Type Individual

Written Statement Yes

Can ID Suspect Yes

Victim of 200.485-2 - BATTERY / DOMESTIC VIOLENCE - (STRANGULATION)

DOB 8/29/1975

Age 38

Sex Female

Race Black

Height 5' 2"

Weight 155

Hair Color Brown

Eye Color Brown

Employer/School

Work Schedule

Occupation/Grade

Injury Weapons

Injury Not Provided

Personal Weapons (Hands, Feet, Teeth, etc.)

## Addresses

Residence 2461 Old Forge Ln #106 LAS VEGAS, NV 89121 USA

## Phones

Cellular 702 882-1876

## Offender Relationships

Notes:

## Suspects:

Name: PERRY, GENARO

Alias:

Scope ID

DOB 11/12/1976

Age 37

Race Black

Sex Male

Height

5' 7"

Weight

165

Hair Color

Black

Eye Color

Brown

Employer/School

Occupation/Grade

## Addresses

Residence 5050 E Missouri LAS VEGAS, NV USA

## Phones

Cellular 702 572-3217

Notes:

## Narrative

Victim states that on 11/21/13 at approximately 1000 hours, she and Suspect became involved in an argument. Victim states that she attempted to leave listed address, and Suspect pushed her to stop her from leaving.

Victim states that Suspect hit and slapped her, then strangled her. She states that he bashed her head against the floor and threatened her.

Victim states that she did not report this incident until today, due to being embarrassed. Victim states that she has photos of bruises caused by this incident on her cell phone.

NFI

The Use and Dissemination of this  
Record is Regulated by Law. Secondary  
Dissemination of any kind is Prohibited  
and could subject the offender to Criminal  
and Civil Liability.

This Information Released To:

By: E. CARPENTER  
Date: 5/12/14  
Las Vegas Metro Police Dept.

## VOLUNTARY STATEMENT

140512.2410

## THIS PORTION TO BE COMPLETED BY OFFICER

Specific Crime <b>FATHER DV Strangulation</b>	Date Occurred <b>11/21/13</b>	Time Occurred <b>1000</b>
Location of Occurrence <b>30 E Silverado Ranch</b>	Sector/Beat	City County <input type="checkbox"/> <input type="checkbox"/>

Your Name (Last / First / Middle) <b>Carpenter Corta</b>				Date of Birth <b>08/29/75</b>		Social Security # <b>340-64-5909</b>	
Race <b>Blk</b>	Sex <b>F</b>	Height <b>5'2 1/2"</b>	Weight <b>155</b>	Hair <b>Brown</b>	Eyes <b>Brown</b>	Work Schdl. (Hours) <b>disabled</b>	Days Off <b>N/A</b>
Residence Address (Number & Street) Bldg/Apt. # <b>2461 Old Forge Ln 106</b>				City <b>Las Vegas</b>	State <b>NV</b>	Zip Code <b>89121</b>	Res. Phone <b>(702) 882-1876</b>
Business (Local) Address (Number & Street) Bldg/Apt. # <b>N/A</b>				City	State	Zip Code	Bus. Phone <b>N/A</b>
Best place to contact you during the day: (residence address) <b>at home</b>				Best time to contact you during the day: <b>any</b>		Can you identify the Suspect? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

## DETAILS:

On or about mid Nov or so <sup>2013</sup> I was attacked by a man. I was dating by the name of Genaro Richard Perry. Genaro hit me slapped me and strangled me. He bashed my head against the floor and threatened me. At the time I was embarrassed to report the incident as I had just made several business relationships and did not want the judgement & embarrassment to affect my business relationships. I had also recently moved into an office space w/ several colleagues.

- On May 1, 2014 Genaro attacked me again event #140581-1127 this time I wasn't so lucky. He nearly killed me. In sight of the recent event I have since decided to come forth with the old information. At the time I did of the old event I did take pictures and send them to a friend's phone as well as contact another friend for support who iced. Those friends are Antoinette Broedell + Carolyn Norris. My old landlord was aware of an ~~incident that happened in January as well as she had him escorted off of the property I lived in at the time which was 30 E Silverado Ranch Blvd #130-201~~

For Official Use Only

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT

WAS COMPLETED AT (LOCATION) **LUMPD on Martin Luther King Blvd**  
 ON THE **12th** DAY OF **May**, 2014 AT **3:12** ☐ A.M. ☒ P.M.

Witness/Officer:

Witness/Officer:

**E. Williams** (SIGNATURE)  
 (PRINTED)

**1577** #

**C. Corta**  
 SIGNATURE OF PERSON GIVING STATEMENT

## CONTINUATION

Event #: 140512.2410

The people who have first hand knowledge of at least one of these incidences are Gary Norris (702) 682-6222. He helped me ice my bruises and sprains.

I reported the incident to a close friend of mine as well Anthony Breddell (702) 374-1616 who kept the pictures of the crime <sup>one of her</sup>

And to my landlord & workers at the time (incident in Jan 2018) Kefly Huang (702) 624-1927. Melinda a spiritual advisor was also contacted. (the new incident)

I would like to make detective Foster who is handling the current cases know that there are pictures and incident reports available of these old crimes as well.

Apparently ~~the~~ Genaro Perry has a habit of beating on women and I have realized that letting a crime go unreported can only lead to escalated future events and I do not want to become a co-conspirator by not reporting crimes. I can save a life.

<sup>+ correctable at all</sup> I also wanted to report that regarding Event 140501-1127 I have broken bones in / around the eye socket, ribs, nose and may need surgery. It has also since been found that Genaro stole multiple items from my home, including over \$1000 and credit cards which I would use to pay my bills. Some places he has known to frequent are:

Dunkin Donuts inside Sams town on Boulder Hwy 5111 Boulder Hwy 700 456-7777

The Suites on Boulder Hwy & Indian Bldg H or K by the Pool #159 a lady name Jackie lives there. The # to the

Suites is 702 454-4625

Boulder Palms 4350 Boulder Hwy #100 by the office he visits a man named Marlon

A Chicago address for him used to be 8147 S. Dante Ave. Zip code 60619

(2) Another Las Vegas address he may be at are Dina Titus Estates 5050 E. Missouri living with a man named Kenny on the first floor to your right last apartment.

A lady only known to me as "candy cane" address: 5600 South Bend Apt. A.

People who may know his whereabouts (773) 491-5119, (773) 374-3518, (773) 768-6884 and (312) 314-1550

Also a license plate that may or may not be connected to his crimes are KCL6 (NVLPL-Nevada License Plate)

## CONTINUATION

Event #: 140512.2410

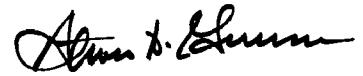
It should also be noted that I myself am a disabled citizen and he was aware ~~that~~ of that. He threatened to kill me, my family (entire) extended & immediate.

He has also said he will purchase all black sweat pants/clothes & burglarize my home as well as my ex husband's home.

~~He has~~ He has threatened to get some gang called the G-A's or something to that affect who he claims to be affiliated with in Chicago to kill & kidnap me

He has known to be fascinated with the local Mob museum as well.

He gets his hair cut on Maryland Parkway / DT SW corner by a jerk chicken spot & home health store & smoke shop address unknown



CLERK OF THE COURT

1 **TRAVIS E. SHETLER**  
Nevada Bar No. 4747  
2 **LAW OFFICE OF**  
3 **TRAVIS E. SHETLER**  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
4 Telephone: 702.866.0091  
Facsimile: 702.866.0093  
5 Attorney for Defendant  
Genaro Perry  
6

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

9 STATE OF NEVADA,  
10 Plaintiff,

CASE NO: C-14-298879-1  
DEPT NO: VI

11 vs.

Date of Hearing: August 31, 2015  
Time of Hearing: 8:30 AM

12 **GENARO RICHARD PERRY**  
13 **#1456173**

14 Defendant.  
15

16 **OPPOSITION TO STATE'S MOTION TO ADMIT EVIDENCE**  
17 **PURSUANT TO NRS 48.045**

18 COMES NOW, Defendant Genaro Perry, by and through his attorney Travis E. Shetler, of  
19 the Law Office of Travis E. Shetler, P.C., hereby submits his Opposition to the State's Motion to  
20 Admit Evidence of Prior Acts of the Defendant Genaro Perry.

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

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**TRAVIS E. SHETLER**  
Attorney At Law  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
Telephone (702) 866-0091  
Facsimile (702) 866-0093

**PROCEDURAL SUMMARY**

On May 20, 2014, Genaro Richard Perry was charged by way of Criminal Complaint with: Count I - Robbery with use of a Deadly Weapon (Category B Felony - NRS 200.380); Count II - False Imprisonment with use of a Deadly Weapon (Category B Felony - NRS 200.460); Count III - Grand Larceny Auto (Category C Felony - NRS 205.228.2); Count IV - Assault with a Deadly Weapon (Category B Felony - NRS 200.471); and Count V - Battery Constituting Domestic Violence (Misdemeanor - NRS 200.485(1)(A)). On June 15, 2015 Defendant filed his Motion to Admit Evidence of the Prior Incident of alleged victim Corla Carpenter. On July 20, 2015 the State filed its Opposition to Defendant's Motion. On August 5, 2015 The State filed a Motion to Admit Evidence of Defendant Genaro Perry's Prior Incident with alleged victim Corla Carpenter. Arguments for both Motions are set to be heard on August 31, 2015 and trial is currently set for September 28, 2015.

**STATEMENT OF FACTS**

Defendant and Corla Carpenter met in 2013 and dated for approximately six (6) months before breaking up in April 2014. On the night of April 30, 2014, Defendant Perry came over to Carpenter's apartment to recover some property he had left there. Defendant arrived late and Carpenter agreed to let him spend the night and gather his things the following morning. The morning of May 1, 2014, Defendant and Carpenter got into a verbal disagreement which became physical resulting in the instant case.

Defendant filed his motion relating to Carpenter's prior incident (Case No. 12F10489X) in an attempt to demonstrate Carpenter's aggressive nature and state of mind. Defendant was acting in self defense the day of May 1, 2014. However, the State is now seeking to introduce Defendant's prior Domestic Violence charge which Defendant pled guilty to misdemeanor battery domestic violence and also an incident which allegedly took place on November 21, 2013 but was not reported by the victim, Corla Carpenter until May 12, 2014, long after the alleged incident occurred and also after this instant matter had already occurred. The reasoning behind this, Ms. Carpenter claims she was "embarrassed" by the incident and did not want to report it.

ARGUMENT

Evidence of Perry's alleged Domestic Violence charge and prior incident are irrelevant to the facts of this case and would unduly prejudice Defendant Perry, as such, this testimony should be excluded. NRS 48.025 provides that only relevant evidence may be admitted. NRS 48.035(1) provides that, "[a]lthough relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury." NRS 48.045(2) provides that:

Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that hte person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

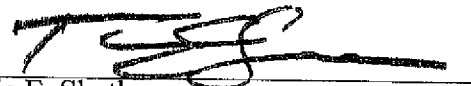
Defendant previously pled guilty to a misdemeanor battery domestic violence in case 13F20557X which occurred on December 19, 2013 with a former girlfriend, Monique Leshawn Williams. The State is also attempting to introduce an alleged altercation between Defendant Perry and Corla Carpenter which occurred on November 21, 2013 but was not reported until nearly six months later. The fact that Corla Carpenter did not report the incident until almost six (6) months later is creates a position of confusion of the issues and is unfairly prejudice to the Defendant.

CONCLUSION

For the reasons stated, Defendant Genaro Perry respectfully requests that this Honorable Court deny the State's Motion to Admit Evidence Pursuant to NRS 48.045 including the prior Criminal Record of Defendant Genaro Perry and any other evidence related to the same.

Respectfully Submitted:

By:



Travis E. Shetler  
844 E. Sahara Avenue  
Las Vegas, Nevada 89104-3017  
Telephone: (702) 866-0091  
Attorney for Defendant Genaro Perry



CERTIFICATE OF SERVICE

It is hereby certified that on this 11<sup>th</sup> day of August 2015, a true and correct copy of the forgoing Opposition to State's Motion to Admit evidence Pursuant to NRS 48.045 was served upon the Clark County District Attorney's Office through the Wiznet Electronic Filing system:

Clark County District Attorney's Office

PDMotions@ClarkCountyDA.com

  
Employee of Travis E. Shetler, Esq.

1 VER

FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

OCT 01 2015 @ 12:58 p.m.

BY, S. Boyle

S. BOYLE, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 -vs-

10 GENARO RICHARD PERRY,

11 Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

12 VERDICT

13 I, the finder of fact in the above-entitled case, find the Defendant GENARO  
14 RICHARD PERRY, as follows:

15 COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON

16 *(Please check the appropriate box, select only one)*

- 17 ☒ Guilty of Robbery with Use of a Deadly Weapon  
18 ☐ Guilty of Robbery  
19 ☐ Not Guilty

20  
21 COUNT 2 – FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON

22 *(Please check the appropriate box, select only one)*

- 23 ☒ Guilty of False Imprisonment with Use of a Deadly Weapon  
24 ☐ Guilty of False Imprisonment  
25 ☐ Not Guilty

26 ///

27 ///

28 ///

C-14-298879-1  
VER  
Verdict  
4492184



1 **COUNT 3 – GRAND LARCENY AUTO**

2 *(Please check the appropriate box, select only one)*

- 3 ☒ Guilty of Grand Larceny Auto, Value \$3,500 or More  
4 ☐ Guilty of Grand Larceny Auto  
5 ☐ Not Guilty

6  
7 **COUNT 4 – ASSAULT WITH A DEADLY WEAPON**

8 *(Please check the appropriate box, select only one)*

- 9 ☒ Guilty of Assault with a Deadly Weapon  
10 ☐ Guilty of Assault  
11 ☐ Not Guilty

12  
13 **COUNT 5 - COERCION**

14 *(please check the appropriate box, select only one)*

- 15 ☒ Guilty of Coercion (With Force)  
16 ☐ Guilty of Coercion (Without Force)  
17 ☐ Not Guilty

18  
19 **COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM  
20 CONSTITUTING DOMESTIC VIOLENCE**

21 *(please check the appropriate box, select only one)*

- 22 ☒ Guilty of Battery Resulting in Substantial Bodily Harm Constituting  
23 Domestic Violence  
24 ☐ Guilty of Battery Resulting in Substantial Bodily Harm  
25 ☐ Guilty of Battery Constituting Domestic Violence  
26 ☐ Guilty of Battery  
27 ☐ Not Guilty

28 ///

///

1 ///

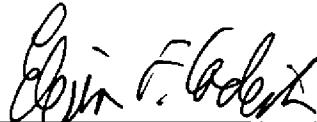
2 **COUNT 7 – PREVENTING OR DISSUADING WITNESS OR VICTIM FROM**  
3 **REPORTING CRIME OR COMMENCING PROSECUTION**

4 *(please check the appropriate box, select only one)*

5 ☒ Guilty of Preventing or Dissuading Witness or Victim from Reporting  
6 Crime or Commencing Prosecution

7 ☐ Not Guilty

8 DATED this 1 day of October, 2015

9 

10 \_\_\_\_\_  
11 DISTRICT COURT JUDGE

ORIGINAL

1 **SAO**

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

5 MICHELLE SUDANO  
6 Deputy District Attorney  
7 Nevada Bar #013260  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

**FILED IN OPEN COURT**  
STEVEN D. GRIERSON  
CLERK OF THE COURT

**OCT 01 2015**

BY, *S. Boyle*

S. BOYLE, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

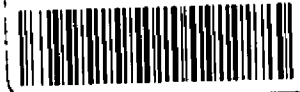
10 Plaintiff,

11 -vs-

12 GENARO RICHARD PERRY,  
13 #1456173

14 Defendant.

C-14-298879-1  
SAO  
Stipulation and Order  
4492185



CASE NO: C-14-298879-1

DEPT NO: VI

15 **STIPULATION AND ORDER**

16 COMES NOW, the Defendant, GENARO RICHARD PERRY, by and through his  
17 counsel, TRAVIS SHETLER, and the State of Nevada, by and through MICHELLE  
18 SUDANO, Deputy District Attorney, and pursuant to NRS 175.011(1), hereby agree and  
19 stipulate to the following:

- 20 1. Defendant, GENARO RICHARD PERRY, consented to allow his  
21 attorney Travis Shetler to request a bench trial as opposed to a jury trial  
22 in case C-14-298879-1.
- 23 2. Defendant, GENARO RICHARD PERRY, thoroughly discussed the  
24 differences between a bench trial and a jury trial with his attorney prior  
25 to requesting a bench trial. Defendant, GENARO RICHARD PERRY,  
26 understands that by requesting a bench trial, he gives up his right to have  
27 an impartial jury decide the case. Instead, the Judge will determine guilt  
28 or innocence.

///

///

///

///

1 DATED this 15<sup>th</sup> day of October 2015.

2 ATTORNEY FOR DEFENDANT


3 CLARK COUNTY DISTRICT  
ATTORNEY

4 BY: 

5 TRAVIS SHETLER  
6 Attorney for Defendant  
Nevada Bar #004747

7 BY: 

8 MICHELLE SUDANO  
9 Deputy District Attorney  
10 Nevada Bar #013260

11   
12 GENARO RICHARD PERRY

13 IT IS SO ORDERED.

14   
15 DISTRICT JUDGE

16 a/L-3

FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

OCT 01 2015

BY.

*S. Boyle*

S. BOYLE, DEPUTY

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY,

Defendant.

CASE NO: C-14-298879-1

DEPT NO: VI

INSTRUCTIONS TO THE TRIER OF FACT (INSTRUCTION NO. 1)

It is now my duty as judge to instruct in the law that applies to this case. It is my duty as the trier of fact to follow these instructions and to apply the rules of law to the facts as I find them from the evidence.

I must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion I may have as to what the law ought to be, it would be a violation of my oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

C-14-298879-1  
INST  
Instructions to the Jury  
4492186



43

INSTRUCTION NO. 2

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by me. For that reason, I am not to single out any certain sentence or any individual point or instruction and ignore the others, but I am to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.



INSTRUCTION NO. 3

An Information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an Information that on or about the 1st day of May, 2014, the Defendant committed the offenses of Robbery with Use of a Deadly Weapon, False Imprisonment with Use of a Deadly Weapon, Grand Larceny Auto, Assault with a Deadly Weapon, Coercion, Battery Resulting in Substantial Bodily Harm Constituting Domestic Violence, and Preventing or Dissuading Witness or Victim from Reporting Crime or Commencing Prosecution within the County of Clark, State of Nevada contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada as follows.

COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON

did then and there wilfully, unlawfully, and feloniously take personal property, to-wit: car keys and/or cellular telephone, from the person of CORLA CARPENTER, or in her presence, by means of force or violence, or fear of injury to, and without the consent and against the will of the said CORLA CARPENTER, with use of a deadly weapon, to-wit: a knife.

COUNT 2 - FALSE IMPRISONMENT WITH USE OF A DEADLY WEAPON

did then and there wilfully and unlawfully confine and detain, without sufficient legal authority, the personal liberty of another, to-wit: CORLA CARPENTER, with use of a deadly weapon, to-wit: a knife, by battering the said CORLA CARPENTER and threatening her by said knife and refusing to allow her to leave.

COUNT 3 - GRAND LARCENY AUTO

did then and there wilfully, unlawfully, feloniously, and intentionally, with intent to deprive the owner permanently thereof, steal, take and carry away, drive away or otherwise remove a motor vehicle owned by another person, having a value of \$3,500.00, or greater, in the possession of CORLA CARPENTER, to-wit: a 1999 Mercedes CLK 430, bearing Nevada License No. 617LTU.

1 COUNT 4 - ASSAULT WITH A DEADLY WEAPON

2 did then and there wilfully, unlawfully, feloniously and intentionally place another  
3 person in reasonable apprehension of immediate bodily harm and/or did willfully and  
4 unlawfully attempt to use physical force against another person, to-wit: CORLA  
5 CARPENTER, with use of a deadly weapon, to-wit: a knife, by threatening to kill the said  
6 CORLA CARPENTER while holding said knife and/or by slashing at/towards her with said  
7 knife and/or by holding said knife to her throat.

8 COUNT 5 - COERCION

9 did then and there wilfully, unlawfully, and feloniously use physical force, or the  
10 immediate threat of such force, against CORLA CARPENTER, with intent to compel her to  
11 do, or abstain from doing, an act which she had a right to do, or abstain from doing, by  
12 throwing the telephone belonging to the said CORLA CARPENTER against the wall and/or  
13 into the toilet to prevent her from calling the police and/or by not allowing her to leave the  
14 residence.

15 COUNT 6 - BATTERY RESULTING IN SUBSTANTIAL BODILY HARM  
16 CONSTITUTING DOMESTIC VIOLENCE

17 did then and there wilfully, unlawfully, and feloniously use force or violence upon  
18 the person of his spouse, former spouse, or any other person to whom he is related by blood  
19 or marriage, a person with whom he is or was actually residing, a person with whom he has  
20 had or is having a dating relationship, a person with whom he has a child in common, the  
21 minor child of any of those persons or his minor child, to-wit: CORLA CARPENTER, by  
22 grabbing the said CORLA CARPENTER and striking her head against/into the floor and/or  
23 by kicking her repeatedly in the face, resulting in substantial bodily harm to the said CORLA  
24 CARPENTER.

25 COUNT 7 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM  
26 REPORTING CRIME OR COMMENCING PROSECUTION

27 did then and there wilfully, unlawfully, and feloniously, by intimidation or threats,  
28 prevent or dissuade, or hinder or delay CORLA CARPENTER, from reporting a crime to the

1 police by threatening to kill the said CORLA CARPENTER and her husband if she called  
2 the police.

3 It is the duty of the trier of fact to apply the rules of law contained in these  
4 instructions to the facts of the case and determine whether or not the Defendant is guilty of  
5 one or more of the offenses charged.

6 Each charge and the evidence pertaining to it should be considered separately. The  
7 fact that I may find a defendant guilty or not guilty as to one of the offenses charged should  
8 not control my verdict as to any other offense charged.

INSTRUCTION NO. 4

Robbery is the unlawful taking of personal property from the person of another, or in her presence, against her will, by means of force or violence or fear of injury, immediate or future, to her person or property, or the person or property of a member of her family, or of anyone in her company at the time of the robbery. Such force or fear must be used to obtain or retain possession of the property, to prevent or overcome resistance to the taking, or to facilitate escape.

The degree of force used is immaterial if it is used to compel acquiescence to the taking of or escaping with the property.

INSTRUCTION NO. 5

If I find the defendant guilty of Robbery, I must also determine whether or not a deadly weapon was used in the commission of this crime.

“Deadly weapon” means:

(1) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;

(2) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or

(3) A dangerous or deadly weapon specifically described as an explosive or incendiary device, a dirk, dagger or switchblade knife, a nunchaku or trefoil, a blackjack or billy club or metal knuckles; a gun, pistol, spring pistol, revolver or other firearm; any dirk, dirk-knife, sword, sword cane, or any knife which is made an integral part of a belt buckle or any instrument or weapon of the kind commonly known as a slung shot, sand club, sandbag or machete.

INSTRUCTION NO. 7

The law recognizes two kinds of possession: actual possession and constructive possession. A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it.

A person who, although not in actual possession, knowingly has both the power and the intention, at a given time, to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

The law recognizes also that possession may be sole or joint. If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

I may find that the element of possession, as that term is used in these instructions, is present if I find beyond a reasonable doubt that a defendant had actual or constructive possession, either alone or jointly with others.

INSTRUCTION NO. 8

In order to "use" a deadly weapon, there need not be conduct which actually produces harm but only conduct which produces a fear of harm or force by means or display of the deadly weapon in aiding the commission of the crime.



INSTRUCTION NO. 9

When it is impossible to commit a particular crime without committing, at the same time and by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a "lesser included offense."

If I am not satisfied beyond a reasonable doubt that the defendant is guilty of the offense charged, he may be found guilty of any lesser-included offense if the evidence is sufficient to establish his guilt of such lesser offense beyond a reasonable doubt.

INSTRUCTION NO. 10

In this case, the Defendant is charged with Robbery with Use of a Deadly Weapon. The offense of Robbery with Use of a Deadly Weapon necessarily includes the lesser offense of Robbery.

If I find beyond a reasonable doubt that the Defendant committed Robbery with Use of a Deadly Weapon, then I am instructed that the verdict of Robbery with Use of a Deadly Weapon is the appropriate verdict.

If, however, I find that a deadly weapon was not used in the commission of the Robbery, but I do find that a Robbery was committed, then I am instructed that the verdict of Robbery is the appropriate verdict.

I am instructed that I cannot return a verdict of both Robbery with Use of a Deadly Weapon and Robbery.

INSTRUCTION NO. 11

False Imprisonment is an unlawful violation of the personal liberty of another, and consists in confinement or detention without sufficient legal authority.

INSTRUCTION NO. 12

If I find the defendant guilty of False Imprisonment, I must also determine whether or not a deadly weapon was used in the commission of this crime.

INSTRUCTION NO. 13

In this case, the Defendant is charged with False Imprisonment with Use of a Deadly Weapon. The offense of False Imprisonment with Use of a Deadly Weapon necessarily includes the lesser offense of False Imprisonment.

If I find beyond a reasonable doubt that the Defendant committed False Imprisonment with Use of a Deadly Weapon, then I am instructed that the verdict of False Imprisonment with Use of a Deadly Weapon is the appropriate verdict.

If, however, I find that a deadly weapon was not used in the commission of the False Imprisonment, but I do find that a False Imprisonment was committed, then I am instructed that the verdict of False Imprisonment is the appropriate verdict.

I are instructed that I cannot return a verdict of both False Imprisonment with Use of a Deadly Weapon and False Imprisonment.

INSTRUCTION NO. 14

A person who intentionally steals, takes and carries away, drives away or otherwise removes a motor vehicle owned by another person commits Grand Larceny Auto.

INSTRUCTION NO. 15

The term "taking" as that term is used as an element of the crime of larceny means that the personal goods or property of another are taken from the possession of the person who is entitled to them and into the possession of the person accused of the crime.

The term "carrying away" as that term is used as an element of the crime of larceny means that the taking is followed by an asportation or carrying away of the property so as to supersede the possession of the owner.

The "taking" element is separate and distinct, and a "taking" which is not followed by a carrying away or asportation cannot itself support a larceny conviction.

In order to constitute an asportation or carrying away, it is not necessary that personal property be removed from the building in which it is located, but any removal of the property from its original status, such as would constitute a complete severance from the possession of the owner, constitutes an asportation or carrying away, even though the transfer of possession existed for a very brief period of time. What constitutes sufficient asportation to support a conviction for larceny is a question of fact for the jury.

INSTRUCTION NO. 16

If I find the Defendant guilty of Grand Larceny Auto, I must also determine if the value of the motor vehicle taken was less than \$3,500 or \$3,500 or more.



To establish Grand Larceny Auto, Value \$3,500 or more, the State must prove by evidence beyond a reasonable doubt that the value of the motor vehicle, by any reasonable standard, exceeds the threshold amount.

The value of the motor vehicle in a larceny offense shall be deemed to be the highest value attributable to the motor vehicle by any reasonable standard.

When the value of the motor vehicle alleged to have been taken by larceny must be determined, the reasonable and fair market value at the time and in the locality of the theft shall be the test.

Where such market value cannot be reasonably determined, other evidence of value may be received such as replacement cost or purchase price.

INSTRUCTION NO. 18

In this case, the Defendant is charged with Grand Larceny Auto, Value \$3,500 or More. The offense of Grand Larceny Auto, Value \$3,500 or More necessarily includes the lesser offense of Grand Larceny Auto.

If I find beyond a reasonable doubt that the defendant committed Grand Larceny Auto, and that the value of the motor vehicle taken was \$3,500 or more, then I am instructed that the verdict of Grand Larceny Auto, Value \$3,500 or More is the appropriate verdict.

If, however, I find that the value of the motor vehicle was less than \$3,500, but I do find that a Grand Larceny Auto was committed, then I am instructed that the verdict of Grand Larceny Auto is the appropriate verdict.

I am instructed that I cannot return a verdict of both Grand Larceny Auto, Value \$3,500 or More and Grand Larceny Auto.

Assault is:

(1) the intentional placing of another person in reasonable apprehension of immediate bodily harm; or

(2) unlawfully attempting to use physical force against another person.

To constitute assault, it is not necessary that any actual injury be inflicted.

If I find that an assault occurred in this case, I must also determine whether a deadly weapon was used in the commission of this crime.

INSTRUCTION NO. 20

In this case, the Defendant is charged with Assault with a Deadly Weapon. The offense of Assault with a Deadly Weapon necessarily includes the lesser offense of Assault.

If I find beyond a reasonable doubt that the Defendant committed an Assault with a Deadly Weapon, then I am instructed that Assault with a Deadly Weapon is the appropriate verdict.

If, however, I find that a deadly weapon was not used in the commission of the Assault, but I do find that an Assault was committed, then I am instructed that Assault is the appropriate verdict.

I am instructed that I cannot return a verdict of both Assault with a Deadly Weapon and Assault.

INSTRUCTION NO. 21

Any person who uses violence upon another person or threatens violence or injury to another person with the specific intent to compel another to do or abstain from doing an act which such other person has a right to do or abstain from doing is guilty of Coercion (With Force).

INSTRUCTION NO. 22

Any person who compels another to do or abstain from doing an act which she has a right to do or abstain from doing, without force or violence, is guilty of Coercion (Without Force).

INSTRUCTION NO. 23

In this case, the Defendant is charged with Coercion (With Force). The offense of Coercion (With Force) necessarily includes the lesser offense of Coercion (Without Force).

If I find beyond a reasonable doubt that the defendant committed Coercion (With Force), then I am instructed that Coercion (With Force) is the appropriate verdict.

If, however, I find that the Defendant compelled another to do or abstain from doing an act she had a right to do, but did not use force or the threat of force to compel such compliance, I am instructed that Coercion (Without Force) is the appropriate verdict.

I am instructed that I cannot return a verdict of both Coercion (With Force) and Coercion (Without Force).

INSTRUCTION NO. 24

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

If I determine that a battery has occurred, I must also determine whether or not that battery constituted domestic violence.

Battery Constituting Domestic Violence occurs when an individual commits a battery upon his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, or a person with whom he has a child in common.

"Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.



INSTRUCTION NO. 25

If I determine that a battery has occurred, I must also determine whether or not that battery resulted in substantial bodily harm.

Substantial bodily harm means:

(1) Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ; or

(2) Prolonged physical pain.

"Prolonged physical pain" encompasses some physical suffering or injury that lasts longer than the pain immediately resulting from the wrongful act.

INSTRUCTION NO. 27

Battery Resulting in Substantial Bodily Harm Constituting Domestic Violence occurs when an individual batters his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, or a person with whom he has a child in common and that battery results in substantial bodily harm to the victim.

INSTRUCTION NO. 28

In this case, Defendant is charged with Battery Resulting in Substantial Bodily Harm Constituting Domestic Violence. The offense of Battery Resulting in Substantial Bodily Harm Constituting Domestic Violence necessarily includes the lesser offenses of Battery Resulting in Substantial Bodily Harm, Battery Constituting Domestic Violence, and Battery.

If I find beyond a reasonable doubt that Defendant committed Battery Resulting in Substantial Bodily Harm Constituting Domestic Violence, then I am instructed that Battery Resulting in Substantial Bodily Harm Constituting Domestic Violence is the appropriate verdict.

If I find beyond a reasonable doubt that a Battery Resulting in Substantial Bodily Harm occurred, but I determine that the Defendant did not have a domestic relationship with the victim, then I am instructed that Battery Resulting in Substantial Bodily Harm is the appropriate verdict.

If I find beyond a reasonable doubt that a Battery occurred and that the Defendant had a domestic relationship with the victim, but I determine that the battery did not result in substantial bodily harm to the victim, then I am instructed that Battery Constituting Domestic Violence is the appropriate verdict.

Finally, if I find beyond a reasonable doubt that a Battery occurred, but I determine that Defendant did not have a domestic relationship with the victim and that substantial bodily harm did not result to the victim, then I am instructed that Battery is the appropriate verdict.

I am instructed that I cannot return a verdict of Battery Resulting in Substantial Bodily Harm Constituting Domestic Violence, Battery Resulting in Substantial Bodily Harm, Battery Constituting Domestic Violence, and Battery.

INSTRUCTION NO. 29

A person who, by intimidating or threatening another person, prevents or dissuades a victim of a crime, a person acting on behalf of the victim or a witness, or who hinders or delays such a victim, agent or witness in an effort to carry out any of those actions, from reporting a crime or possible crime to a police officer commits the crime of Preventing or Dissuading Witness or Victim from Reporting Crime or Commencing Prosecution.

“Victim of a Crime” means a person against whom a crime has been committed.

INSTRUCTION NO. 30

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, I may consider evidence of motive or lack of motive as a circumstance in the case.

INSTRUCTION NO. 31

The evidence which I are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence: direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by me in arriving at my verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, I must accept the stipulation as evidence and regard that fact as proved.

I must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

I must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything I may have seen or heard outside the courtroom is not evidence and must also be disregarded.

INSTRUCTION NO. 32

The Defendant is presumed innocent until the contrary is proved. This presumption places upon the State the burden of proving beyond a reasonable doubt every element of the crime charged and that the Defendant is the person who committed the offense.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If I have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.



INSTRUCTION NO. 33

It is a constitutional right of a defendant in a criminal trial that he may not be compelled to testify. Thus, the decision as to whether he should testify is left to the Defendant on the advice and counsel of his attorney. I must not draw any inference of guilt from the fact that he does not testify, nor should this fact be discussed by me or enter into my deliberations in any way.

INSTRUCTION NO. 34

Evidence that the Defendant committed offenses other than that for which he is on trial, if believed, was not received and may not be considered by me to prove that he is a person of bad character or to prove that he has a disposition to commit crimes. Such evidence was received and may be considered by me only for the limited purpose of proving the Defendant's, intent, preparation, plan, motive, knowledge, or the absence of mistake or accident. I must weigh this evidence in the same manner as I do all other evidence in the case.

INSTRUCTION NO. 35

I am here to determine the guilt or innocence of the Defendant from the evidence in the case. I am not called upon to return a verdict as to the guilt or innocence of any other person. So, if the evidence in the case convinces me beyond a reasonable doubt of the guilt of the Defendant, I should so find, even though I may believe one or more persons are also guilty.

INSTRUCTION NO. 36

The credibility or believability of a witness should be determined by his or her manner upon the stand, his or her relationship to the parties, his or her fears, motives, interests or feelings, his or her opportunity to have observed the matter to which he or she testified, the reasonableness of his or her statements and the strength or weakness of his or her recollections.

If I believe that a witness has lied about any material fact in the case, I may disregard the entire testimony of that witness or any portion of his or her testimony which is not proved by other evidence.

INSTRUCTION NO. 37

A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his opinion as to any matter in which he is skilled.

I should consider such expert opinion and weigh the reasons, if any, given for it. I am not bound, however, by such an opinion. Give it the weight to which I deem it entitled, whether that be great or slight, and I may reject it, if, in my judgment, the reasons given for it are unsound.

INSTRUCTION NO. 38

Although I am to consider only the evidence in the case in reaching a verdict, I must bring to the consideration of the evidence my everyday common sense and judgment as a reasonable person. Thus, I am not limited solely to what I see and hear as the witnesses testify. I may draw reasonable inferences from the evidence which I feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. My decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

INSTRUCTION NO. 39

In my deliberation I may not discuss or consider the subject of punishment, as that is a matter which is irrelevant to the determination of whether the Defendant is guilty or not guilty.

INSTRUCTION NO. 40

During my deliberation, I will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for my convenience.



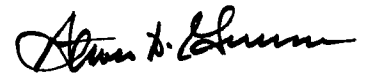
INSTRUCTION NO. 41

Now I will listen to the arguments of counsel who will endeavor to aid me to reach a proper verdict by refreshing in my mind the evidence and by showing the application thereof to the law; but, whatever counsel may say, I will bear in mind that it is my duty to be governed in my deliberation by the evidence as I understand it and remember it to be and by the law as given to me in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN:

  
DISTRICT JUDGE

10/1/15



CLERK OF THE COURT

1 TRAVIS E. SHETLER, ESQ.  
Nevada Bar No. 004747  
2 TRAVIS SHETLER, P.C.  
844 East Sahara Avenue  
3 Las Vegas, NV 89104-3017  
Telephone: (702) 866-0091  
4 Facsimile: (702) 866-0093  
Attorney for Defendant  
5

6 DISTRICT COURT

7 CLARK COUNTY, NEVADA

8 STATE OF NEVADA ) CASE NO.: C-14-298879-1  
9 Plaintiff, ) Dept. No.: VI  
10 v. )  
11 GENARO RICHARD PERRY, ) NOTICE OF APPEAL  
#1456173 )  
12 Defendant. )  
13 \_\_\_\_\_ )

14 Notice is hereby given that Petitioner GENARO RICHARD  
15 PERRY, Petitioner above named, hereby appeals to the Supreme  
16 Court of Nevada from the jury verdict in this action on the 1st  
17 day of October, 2015.

18  
19 Dated this 4<sup>th</sup> day of November, 2015  
20

21 LAW OFFICE OF TRAVIS SHETLER

22  
23  
24 By: 

25 TRAVIS E. SHETLER, ESQ.  
Nevada State Bar No. 4747  
844 East Sahara Avenue  
26 Las Vegas, NV 89101  
Attorney for Petitioner  
27 GENARO RICHARD PERRY  
28

1 TRAVIS E. SHETLER, ESQ.  
Nevada State Bar No. 4747  
2 LAW OFFICE OF TRAVIS E. SHETLER  
844 East Sahara Avenue  
3 Las Vegas, NV 89104  
Telephone: (702) 866-0091  
4 Facsimile: (702) 866-0093  
Counsel for Petitioner  
5 GENARO RICHARD PERRY

6  
7 DISTRICT COURT  
8 CLARK COUNTY NEVADA  
9

10 STATE OF NEVADA )

11 Plaintiff, )

12 v. )

13 GENARO RICHARD PERRY,  
#1456173 )

14 Defendant. )  
15

Case No. A-13-692122-C


CASE APPEAL STATEMENT

16 CASE APPEAL STATEMENT  
17

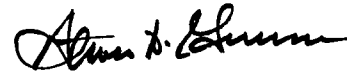
- 18 1. The name of appellant filing this case appeal  
19 statement is GENARO RICHARD PERRY.
- 20 2. JUDGE ELLISA F. CADISH, was the Judge issuing the  
21 judgment appealed.
- 22 3. THE STATE OF NEVADA and myself are the extent of the  
23 parties to the proceedings in the District Court.
- 24 4. GENARO RICHARD PERRY is the only party involved in  
25 this appeal.
- 26 5. TRAVIS E. SHETLER, ESQ., LAW OFFICE OF TRAVIS SHETLER,  
27 844 East Sahara Avenue, Las Vegas, Nevada, 89104,  
28 represented Petitioner GENARO RICHARD PERRY in  
District Court.

1 6. Appellant had appointed counsel in the District Court  
2 7. The Initial Arraignment was held on or about June 2,  
3 2014.

4 Dated this 4<sup>th</sup> day of November, 2015

5  
6   
7 TRAVIS E. SHETLER, ESQ.  
8 Nevada State Bar No. 4747  
9 LAW OFFICE OF TRAVIS E. SHETLER  
10 844 East Sahara Avenue  
11 Las Vegas, NV 89101  
12 Telephone: (702) 866-0091  
13 Facsimile: (702) 866-0093  
14 Attorney for Petitioner  
15 GENARO RICHARD PERRY  
16  
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**THIS SEALED  
DOCUMENT,  
NUMBERED PAGE(S)  
179 - 188  
WILL FOLLOW VIA  
U.S. MAIL**



CLERK OF THE COURT

1 TRAVIS E. SHETLER  
Nevada Bar No. 4747  
2 LAW OFFICE OF  
TRAVIS E. SHETLER  
3 844 East Sahara Avenue  
Las Vegas, Nevada 89104  
4 Telephone: 702.866.0091  
Facsimile: 702.866.0093  
5 Attorney for Defendant

6  
7 DISTRICT COURT  
8 CLARK COUNTY, NEVADA

9 STATE OF NEVADA,  
10 Plaintiff,

CASE NO: C-14-298879-1  
DEPT NO: VI

11 vs.

SENTENCING MEMORANDUM  
ON BEHALF OF GENARO PERRY

12 GENARO PERRY,  
13 #1456173

14 Defendant.

15 GENARO PERRY, by and through his attorney Travis E. Shetler, submits the following  
16 Sentencing Memorandum setting forth the many factors that the Court should consider in  
17 determining what type and what length of sentence is sufficient, but not greater than necessary to  
18 serve the ends of justice.

19 GENARO PERRY was diagnosed as legally blind in 2013 by his ophtalmologist. He does  
20 not have a documented history of current or past mental health concerns.

21 GENARO PERRY was raised by his paternal Grandmother, in Chicago Illinois, because his  
22 natural parents were unable to do so. His father was in and out of prison, and his mother was very  
23 young at the time of his birth. PERRY's Grandmother passed away when he was twelve years old,  
24 at which time he lived with his Mother and her husband. Once his Grandmother passed away, Mr.  
25 PERRY's life became difficult, as his step-father was unable to provide for the family. Mr. PERRY's  
26 criminal history began in 1995, with his first conviction in 1999 resulting in six months of jail time.  
27 Between 1995 and 2014, Mr. PERRY was charged and sometimes convicted of various other  
28 offenses. While in custody, Mr. PERRY has not had any reports of fighting, gang affiliation or any  
other bad behavior.

TRAVIS E. SHETLER  
Attorney At Law  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
Telephone (702) 866-0091  
Facsimile (702) 866-0093

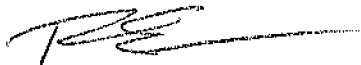
Mr. PERRY has found inaccuracies with the Presentence Investigative report, namely: that in 2005, Mr. PERRY was sentenced to a four (rather than a 5) year prison term, plus 120 days of bootcamp and paroled in May of 2006. The Illinois Department of Corrections then found that Mr. PERRY successfully completed his requirements, and was discharged in November of 2006. Mr. PERRY points out that he never violated the terms of his parole, and that the PSI has inaccurately listed these parole violations on the top of Page 5 of the PSI.

In this case, GENARO PERRY was charged and convicted of seven separate charges due to one night of conflict with the victim. All occurrences for which Mr. PERRY has been charged and convicted occurred due to one night during which he was overcome with emotion, and made poor choices as a result. Because these separate offenses carry such long independent sentences, GENARO PERRY requests that this Honorable Court render a sentence to the separate charges concurrent with one another. Mr. PERRY has made several additional points in a letter, attached herein.

For the foregoing reasons, GENARO PERRY requests that this Honorable Court renders a sentence of 36 to 96 months in Nevada State Prison, to run concurrent with one another. As of January 6, 2016, Mr. PERRY has 597 days credit for time served.

DATED this 31<sup>st</sup> day of December 2015.

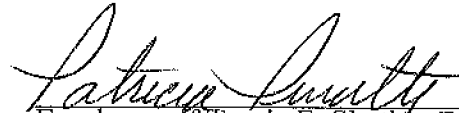
Respectfully submitted:

  
\_\_\_\_\_  
**TRAVIS E. SHETLER**  
Nevada Bar No. 4747  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
Telephone: 702.866.0091  
Attorney for Defendant

**CERTIFICATE OF SERVICE**

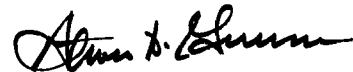
It is hereby certified that on this 5<sup>th</sup> day of January, 2016, a true and correct copy of the foregoing Sentencing Memorandum on Behalf of Defendant Genaro Perry was served upon the Clark County District Attorney's Office through the Wiznet Electronic Filing system:

Clark County District Attorney's Office  
PDMotions@ClarkCountyDA.com

  
Employee of Travis E. Shetler, Esq.



COSCC



CLERK OF THE COURT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\*\*\*

STATE OF NEVADA

CASE NO.: C-14-298879-1

VS

DEPARTMENT 6

GENARO PERRY

**CRIMINAL ORDER TO STATISTICALLY CLOSE CASE**

Upon review of this matter and good cause appearing,

IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to statistically close this case for the following reason:

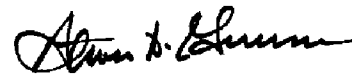
**DISPOSITIONS:**

- ☐ Nolle Prosequi (before trial)
- ☐ Dismissed (after diversion)
- ☐ Dismissed (before trial)
- ☐ Guilty Plea with Sentence (before trial)
- ☐ Transferred (before/during trial)
- ☐ Bench (Non-Jury) Trial
- ☐ Dismissed (during trial)
- ☐ Acquittal
- ☐ Guilty Plea with Sentence (during trial)
- ☒ Conviction
- ☐ Jury Trial
- ☐ Dismissed (during trial)
- ☐ Acquittal
- ☐ Guilty Plea with Sentence (during trial)
- ☐ Conviction
- ☐ Other Manner of Disposition

DATED this 6th day of January, 2016.



ELISSA F. CADISH  
DISTRICT COURT JUDGE



CLERK OF THE COURT

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

GENARO RICHARD PERRY  
#1456173

Defendant.

CASE NO. C298879-1

DEPT. NO. VI

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of  
COUNT 1 – ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in  
violation of NRS 200.380, 193.165; COUNT 2 – FALSE IMPRISONMENT WITH USE  
OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.460; COUNT 3 –  
GRAND LARCENY AUTO (Category B Felony) in violation of NRS 205.228.3; COUNT  
4 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS  
200.471; COUNT 5 – COERCION (Category B Felony) in violation of NRS 207.190;  
COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM  
CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of NRS

//

1 200.481, 200.485, 33.018; COUNT 7 – PREVENTING OR DISSUADING WITNESS OR  
2 VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D  
3 Felony) in violation of NRS 199.305; and the matter having been tried before a jury and  
4 the Defendant having been found guilty of said crimes; thereafter, on the 6<sup>th</sup> day of  
5 January, 2016, the Defendant was present in court for sentencing with his counsel,  
6 TRAVIS SHETLER, ESQ., and good cause appearing,  
7

8 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in  
9 addition to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee,  
10 \$250.00 Indigent Defense Civil Assessment Fee, Restitution in the amount of  
11 \$18,103.28, and a \$150.00 DNA Analysis Fee including testing to determine genetic  
12 markers, plus a \$3.00 DNA Collection Fee, the Defendant is SENTENCED to the  
13 Nevada Department of Corrections (NDC) as follows: AS TO **COUNT 1** - TO A  
14 MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole  
15 Eligibility of THIRTY-SIX (36) MONTHS, plus a CONSECUTIVE term of ONE  
16 HUNDRED TWENTY (120) MONTHS MAXIMUM with a MINIMUM Parole Eligibility of  
17 THIRTY-SIX (36) MONTHS for use of a Deadly Weapon; AS TO **COUNT 2** - TO A  
18 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of EIGHTEEN  
19 (18) MONTHS, Count 2 to run CONCURRENT with Count 1; AS TO **COUNT 3** - TO A  
20 MAXIMUM of NINETY-SIX (96) MONTHS with a MINIMUM Parole Eligibility of  
21 TWENTY-FOUR (24) MONTHS, Count 3 to run CONSECUTIVE to Counts 1 & 2; AS  
22 TO **COUNT 4** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
23 Eligibility of EIGHTEEN (18) MONTHS, Count 4 to run CONCURRENT with Count 3;  
24 AS TO **COUNT 5** - TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole  
25  
26  
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28

//

1 Eligibility of EIGHTEEN (18) MONTHS, Count 5 to run CONCURRENT with Count 4;  
2 AS TO **COUNT 6** - TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM  
3 Parole Eligibility of EIGHTEEN (18) MONTHS, Count 6 to run CONCURRENT with  
4 Count 5; and AS TO **COUNT 7** - TO A MAXIMUM of THIRTY-SIX (36) MONTHS with a  
5 MINIMUM Parole Eligibility of TWELVE (12) MONTHS, Count 7 to run CONCURRENT  
6 with Count 6; with FIVE HUNDRED NINETY-SEVEN (597) DAYS credit for time served.  
7 Defendant's AGGREGATE TOTAL SENTENCE is THREE HUNDRED THIRTY-SIX  
8 (336) MONTHS MAXIMUM with a MINIMUM of NINETY-SIX (96) MONTHS.  
9  
10  
11

12 DATED this 22 day of January, 2016.

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14

15 ELISSA F. CADISH  
16 DISTRICT COURT JUDGE  
17  
18  
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20  
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28

  
CLERK OF THE COURT

1 **TRAVIS E. SHETLER**  
Nevada Bar No. 4747  
2 **LAW OFFICE OF**  
3 **TRAVIS E. SHETLER**  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
4 Telephone: 702.866.0091  
Facsimile: 702.866.0093  
5 Attorney for Defendant

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

9 STATE OF NEVADA,  
10 Plaintiff,

CASE NO: C-14-298879-1  
DEPT NO: VI

11 vs.

12 GENARO RICHARD PERRY,  
13 #1456173

14 Defendant.

15 **REQUEST FOR ROUGH DRAFT TRANSCRIPT**

16 TO: Jessica Kirkpatrick

17 GENARO RICHARD PERRY, Appellant named above, requests preparation of a rough  
18 draft transcript of certain portions of the proceedings before the district court, as follows:

19 Honorable Judge Elissa F. Cadish:

20 July 21, 2014	Rough Draft of the Entire transcript	1 copy
21 May 6, 2015	Rough Draft of the Entire transcript	1 copy
22 May 7, 2015	Rough Draft of the Entire transcript	1 copy
23 August 31, 2015	Rough Draft of the Entire transcript	1 copy
24 September 17, 2015	Rough Draft of the Entire transcript	1 copy
25 September 21, 2015	Rough Draft of the Entire transcript	1 copy
26 September 28, 2015	Rough Draft of the Entire transcript	1 copy
27 September 29, 2015	Rough Draft of the Entire transcript	1 copy
28 September 30, 2015	Rough Draft of the Entire transcript	1 copy
October 1, 2015	Rough Draft of the Entire transcript	1 copy

**TRAVIS E. SHETLER**  
Attorney At Law  
844 East Sahara Avenue  
Las Vegas, Nevada 89104  
Telephone (702) 866-0091  
Facsimile (702) 866-0093

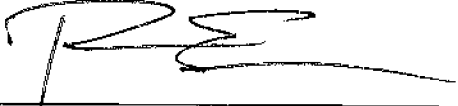
1 November 16, 2015 Rough Draft of the Entire transcript 1 copy  
2 November 23, 2015 Rough Draft of the Entire transcript 1 copy  
3 January 6, 2016 Rough Draft of the Entire transcript 1 copy  
4

5 This notice requests a transcript of only those portions of the district court proceedings that  
6 counsel reasonably and in good faith believes are necessary to determine whether appellate issues  
7 are present. Voir dire examination of jurors, opening statements and closing arguments of trial  
8 counsel, and the reading of jury instructions shall not be transcribed unless specifically requested  
9 above.

10 I recognize that I must serve a copy of this form on the above named court reporter and  
11 opposing counsel, and that the above named court reporter shall have ten (10) days from the receipt  
12 of this notice to prepare and submit to the district court the rough draft transcripts requested herein.

13 I hereby certify that on this date I ordered these transcripts from the court reporters named  
14 above, and paid the required deposit.

15 DATED this 26<sup>th</sup> day of February, 2016.

16  
17   
18 By: TRAVIS E. SHETLER  
19 Nevada Bar No.: 4747  
20 844 East Sahara Avenue  
21 Las Vegas, Nevada 89104  
22 (702) 866-0091  
23  
24  
25  
26  
27  
28

  
CLERK OF THE COURT

1 **RTRAN**

2  
3  
4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6

7 THE STATE OF NEVADA, )

8 Plaintiff, )

CASE NO. C298879-1

9 vs. )

DEPT. VI

10 GENARO RICHARD PERRY, )

11 Defendant. )  
12 )  
13 )

**ROUGH DRAFT**

**TRANSCRIPT OF PROCEEDINGS**

14 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE  
15 MONDAY, AUGUST 31, 2015

16 ***DEFENDANT'S MOTION TO ADMIT EVIDENCE PURSUANT TO NRS 48.045***  
17  
18

19 **APPEARANCES:**

20 For the State:

MICHELLE L. SUDANO, ESQ.  
Deputy District Attorney

22 For the Defendant:

TRAVIS SHETLER, ESQ.

24  
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, AUGUST 31, 2015, at 10:31 A.M.

2  
3 THE MARSHAL: Bottom of page 6, State of Nevada v. Perry, Genaro  
4 Richard.

5 THE COURT: Good morning.

6 State your appearances.

7 MS. SUDANO: Good morning; Michelle Sudano on behalf of the State.

8 MR. SHETLER: Good morning, Your Honor, Travis Shetler on behalf of  
9 Mr. Perry who is present, in custody.

10 THE COURT: Okay.

11 So, we have the Defense motion to admit evidence pursuant to NRS  
12 48.045 on calendar and the State opposed that. And then the State filed its own  
13 motion which apparently didn't officially get on the calendar but we can discuss it  
14 today as well and the Defense oppose that.

15 So, Mr. Shetler.

16 MR. SHETLER: Your Honor, very briefly; I've spoken about it with the State.  
17 It's really a matter -- I think both of us have to get to a point where at least the door  
18 gets cracked open during testimony during trial. I like to think that our argument's  
19 slightly better because it goes to our state of mind and the self-defense issues. But  
20 the fact is we also have unfortunately a history and I could go on. I would be happy  
21 to answer specific questions to the Court. I know that you've -- you're up to speed  
22 on this one and --

23 THE COURT: Well, so for purposes of your motion -- so your client, who's  
24 intending to present a self-defense defense --

25 MR. SHETLER: Correct.



1 THE COURT: -- intends to -- so what you're trying to bring in is this prior  
2 incident involving the named victim in our case --

3 MR. SHETLER: Right.

4 THE COURT: -- which happened before your client met her and that that  
5 goes to your client's state of mind in the self-defense defense?

6 MR. SHETLER: Yup.

7 THE COURT: So, he's going to say or is -- not he's going to say, there's  
8 going to be some evidence --

9 MR. SHETLER: Right.

10 THE COURT: -- that he's aware --

11 MR. SHETLER: Right.

12 THE COURT: -- of this incident that happened before he met her?

13 MR. SHETLER: Correct, and we understand we would need that threshold --

14 THE COURT: And that that --

15 MR. SHETLER: -- to get anywhere.

16 THE COURT: -- affected his perceptions on the day of the events that bring  
17 us to this case?

18 MR. SHETLER: Yes, Your Honor.

19 THE COURT: Okay.

20 And -- so you would be bringing in the prior incident just to show that  
21 your client was aware of it and how it affected his choices?

22 MR. SHETLER: Precisely.

23 THE COURT: And Ms. Carpenter's state of mind is not relevant?

24 MR. SHETLER: Not for the purposes of our self-defense case, no. Her  
25 actions, those actions that took place that day at Marshalls, of course --

1 THE COURT: Of course.

2 MR. SHETLER: -- but, no.

3 THE COURT: Her actions --

4 MR. SHETLER: No, all that --

5 THE COURT: -- that took place the day of the incident that brings us here?

6 MR. SHETLER: I'm not -- as we sit here right now I'm not aware of any

7 evidence that would let me get to that issue, Judge. I suppose something could

8 happen at trial. But, no, the real factor in our self-defense is just what is Mr. Perry --

9 what's he aware of, what's he perceive, and does he feel that he's in fear for his life.

10 THE COURT: And so then what is the State's position?

11 MS. SUDANO: So the way that the motion was framed I think indicated that

12 they were concerned with the victim's state of mind. And so it's our position

13 obviously that the victim's state of mind is irrelevant to any claim of self-defense that

14 the Defendant may raise.

15 Now with that, I think that Mr. Shetler is correct and Your Honor as well.

16 Absent any showing; one, that the Defendant was aware of those specific acts of

17 violence; and two, that that somehow impacted his decision making process on this

18 day in question which implies that there's a self-defense claim raised, absent all of

19 those things, we don't get into any of the victim's acts of violence in the past

20 because --

21 THE COURT: It would not be relevant.

22 MS. SUDANO: Exactly. They wouldn't be relevant, Your Honor.

23 But based on the way that the Defense motion was framed, we did at

24 least want to file our motion, which again isn't relevant at this point but we did just

25 want to make everyone aware that if they try to get into the victim's state of mind

1 then the prior instances of violence with the Defendant as the perpetrator are going  
2 to be relevant because those go to her state of mind that day in question as well, if  
3 that makes sense.

4 THE COURT: Okay, so assuming I tell Mr. Shetler, as I am, that he's not  
5 getting into the victim's state of mind in the course of presenting his client's  
6 self-defense defense, then you wouldn't need to bring in other evidence about her  
7 state of mind.

8 MS. SUDANO: That's correct. Unless they open the door to that during trial  
9 we would not be trying to get into the prior acts of domestic violence with the  
10 Defendant as the aggressor.

11 MR. SHETLER: And I apologize, Your Honor, I did get the -- the motion itself  
12 is a little confusing, please excuse that, but you've hit it on the head.

13 THE COURT: Okay. So, in terms of -- then the Defense request to be able to  
14 present a prior violent circumstance in which Ms. Carpenter was involved, because  
15 of Mr. Perry's awareness of it and as it relates to his self-defense defense, does that  
16 require a Petrocelli hearing?

17 MS. SUDANO: It would be the State's request for a Petrocelli hearing if  
18 there's going to be external evidence of that presented. If it's something where  
19 they're just going to ask her about it and she's either going to admit it or deny it, I  
20 don't know that we do need the Petrocelli hearing, but if they're going to call external  
21 witnesses, absolutely.

22 MR. SHETLER: And they -- we have had contact with the security guard at  
23 Marshalls and so you would probably necessitate that, Your Honor. I know that your  
24 calendar is just chock full of free time but --

25 THE COURT: Yup.

1 So Judge Bell is logged in and locked on my computer, so.

2 So -- now the trial is set September 28<sup>th</sup> so that doesn't give us a whole  
3 lot of time to try to get the Petrocelli in.

4 MR. SHETLER: And Mr. Perry, as you may recall from our previous start at a  
5 trial, is most anxious to have you hear the matter. How does your calendar look on  
6 that week or the week that week, Your Honor?

7 THE COURT: Not good.

8 MR. SHETLER: Okay, good. It's consistent.

9 THE COURT: I wish I could say otherwise.

10 MR. SHETLER: Yeah.

11 THE COURT: As before, I have -- well, it looks like I have two murders, an  
12 attempt murder, and a sexual assault, among other cases that week. Again, you  
13 know, we're not there yet.

14 MR. SHETLER: Anything could happen.

15 THE COURT: We don't know if -- which, if any of them, are actually going to  
16 trial.

17 MR. SHETLER: Mr. Perry has expressed to me, and I'm sure he would  
18 express to the Court, that his willingness even extends so far as to remain in  
19 custody to accommodate the Court's calendar, but --

20 THE COURT: Okay.

21 MR. SHETLER: -- I know there are other issues involved as well.

22 THE COURT: Okay.

23 Do we have any Thursday's available between now and September  
24 28<sup>th</sup>?

25 [Colloquy between Court and clerk]

1 THE COURT: Okay, so let's -- so we could do the Petrocelli hearing the  
2 morning of September 17<sup>th</sup>, that's a Thursday morning.

3 MR. SHETLER: Thank you, Your Honor.

4 THE COURT: All right, let's set it there.

5 THE CLERK: Yes, Your Honor; Petrocelli hearing September 17<sup>th</sup> 8:30.

6 THE COURT: And so for now I'm assuming I'm not going to hear from the  
7 State on its motion because that is really contingent on them somehow opening the  
8 door and if we need to take that up during the trial we'll take it up outside the  
9 presence.

10 MS. SUDANO: That's correct. We just wanted everybody to kind of be aware  
11 that those instants -- or those incidences are out there in the event that the door's  
12 open.

13 THE COURT: Okay. And so, on the morning of September 17<sup>th</sup>, at 8:30 this,  
14 as the Petrocelli hearing which I expect will be an evidentiary presentation, --

15 MR. SHETLER: Right, Your Honor.

16 THE COURT: -- will be the only hearing that I have on calendar --

17 MR. SHETLER: Okay.

18 THE COURT: -- for that morning so I need you folks to be here 8:30.

19 MR. SHETLER: And ready.

20 THE COURT: Ready to go.

21 MR. SHETLER: If it changes we'll let you know, Your Honor.

22 THE COURT: Thank you.

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MR. SHETLER: Thank you.

MS. SUDANO: Thank you, Your Honor.

[Proceedings concluded at 10:41 a.m.]

\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video recording in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
CYNTHIA GEORGILAS  
Court Recorder/Transcriber  
Eighth Judicial District Court Dept. XVIII

  
CLERK OF THE COURT

1 **RTRAN**

2  
3  
4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6

7 THE STATE OF NEVADA, )

8 Plaintiff, )

CASE NO. C298879-1

9 vs. )

DEPT. VI

10 GENARO RICHARD PERRY, )

11 Defendant. )

**ROUGH DRAFT**

**TRANSCRIPT OF PROCEEDINGS**

12 )  
13 )  
14 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE  
15 WEDNESDAY, JANUARY 6, 2016

16 ***SENTENCING***  
17

18  
19 **APPEARANCES:**

20 For the State:

MICHELLE L. SUDANO, ESQ.  
Deputy District Attorney

21  
22 For the Defendant:

TRAVIS SHETLER, ESQ.

23  
24  
25 **RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER**

1 LAS VEGAS, NEVADA, WEDNESDAY, JANUARY 6, 2016, at 9:23 A.M.

2  
3 THE MARSHAL: Bottom of page 6, State of Nevada v. Perry, Genaro  
4 Richard.

5 MR. SHETLER: Good morning, Your Honor, Travis Shetler on behalf of Mr.  
6 Perry who is present, in custody.

7 THE COURT: Good morning.

8 So of course I have the PSI which I had last time when we were here.

9 MR. SHETLER: Right.

10 THE COURT: I got a sentencing memorandum by facsimile from your office  
11 yesterday.

12 MR. SHETLER: Yes; thank you for the courtesy, Your Honor.

13 THE COURT: And the memorandum says that Mr. Perry -- wait, wait, hold  
14 on: "Mr. Perry has made several additional points in a letter attached herein." And I  
15 have not seen that letter and don't know what you're talking about.

16 MR. SHETLER: We did discuss attaching that letter and at the end of that  
17 decided not to do that and I apologize, I should have corrected that, Your Honor.

18 THE COURT: Okay, so -- because I -- that's all right, I read what you gave  
19 me.

20 MR. SHETLER: Right. And then I do have a number -- I have approximately  
21 18 Certificates of Completion I would like to include in the Court's file if I may?

22 THE COURT: Show that to the State. Have you shown them to the State?

23 MS. SUDANO: I have. He did.

24 THE COURT: Okay.

25 MR. SHETLER: Ms. Sudano didn't seem as impressed with those as I am so



1 she doesn't care if we're copied [indiscernible].

2 THE COURT: Understand. Let me take a quick look at these certificates.  
3 These are copies for me?

4 MR. SHETLER: Yes, Your Honor.

5 THE COURT: Okay.

6 MR. SHETLER: And does the Court object if I join Mr. Perry in the box?

7 THE COURT: I do not object.

8 THE RECORDER: Just stay close --

9 THE COURT: Just make sure you're --

10 THE REOCRDER: -- to [indiscernible] mic.

11 THE COURT: -- on a mic, yeah.

12 MR. SHETLER: Yes.

13 [Pause in proceedings]

14 THE COURT: Right, so I've reviewed the stack of Certificates of Completion  
15 which run from June of 2014 until July of 2015 it looks like.

16 MR. SHETLER: The last few may be out of order.

17 THE COURT: Oh no, there are some after that date.

18 MR. SHETLER: Right.

19 THE COURT: They're not necessarily in order but -- so spanning a period of  
20 time that he has been in custody at CCDC encompassing various anger  
21 management programs, marriage and family relationships, and maybe a couple of  
22 other programs that he has attended in custody.

23 With that, this is the time set for entry of judgment and imposition of  
24 sentence. Is there any legal cause or reason why judgment should not be entered  
25 at this time?

1 MR. SHETLER: No, Your Honor.

2 THE COURT: By virtue of the verdict rendered at trial in this case, I hereby  
3 adjudicate you guilty of Count 1, robbery with use of a deadly weapon, a B felony;  
4 Count 2, false imprisonment with use of a deadly weapon, a B felony; Count 3,  
5 grand larceny auto, value \$3,500.00 or more, a B felony; Count 4, assault with a  
6 deadly weapon, a B felony; Count 5, coercion with force, a B felony; Count 6, battery  
7 resulting in substantial bodily harm constituting domestic violence, a C felony; Count  
8 7, preventing or dissuading witness or victim from reporting crime or commencing  
9 prosecution, a D felony. Did I get all 7 counts?

10 THE COURT CLERK: Yes.

11 THE COURT: Okay, thank you.

12 Okay, so we are set to proceed with sentencing then today. I would  
13 note at the prior time scheduled for sentencing, although Mr. Shetler requested and  
14 was granted a continuance of the sentencing, we did have the victim speaker  
15 present at that time and the parties agreed and I agreed to allow her to speak at that  
16 time which she did so we heard from her at that time and of course heard her  
17 testimony at the time of trial as well.

18 With that being said, let me hear from the State about sentence.

19 MS. SUDANO: Thank you, Your Honor.

20 In this case and Mr. Shetler's sentencing memorandum he's asking for  
21 a 3 to 8 which is essentially the minimum that the Defendant can receive on this  
22 case because of the robbery with the deadly weapon conviction.

23 THE COURT: Right.

24 MS. SUDANO: This is absolutely not a case that deserves the minimum  
25 sentence. If you look at P&P's recommendation, they actually recommend that all 7

1 of these counts run consecutive. So their total sentence that they recommend on  
2 this Defendant is a 14 to 53 year sentence and I'm going to submit it to Your Honor  
3 on the recommendation of P&P as far as what's an appropriate sentence.

4 But the thing that I do want to reiterate is just absolutely this is not a  
5 minimum sentence type crime. This Defendant has one prior drug felony. He has  
6 two prior domestic violence convictions. Officer Bragg testified at the time of the trial  
7 that in her 20 years of experience in working a ton of DV cases this is one of the  
8 worst cases that she's ever seen. And we also heard from the doctor that this was a  
9 serious fracture that this Defendant inflicted on Corla Carpenter and she required an  
10 implant in her eye based on that. We also heard from the victim that in addition to  
11 that implant in her eye she's still suffering from numbness and pain. She lost a  
12 bunch of teeth. She may end up losing her eyesight as a result of this. She had back  
13 pain, ongoing things. Even now I think it's almost a year and a half afterwards those  
14 things were still going on. She said she's going to suffer those impacts and those  
15 effects for the rest of her life because of the Defendant.

16 The other thing that I think is particularly telling in this case and means  
17 that this is not a case that deserves the minimum sentence is what the victim said  
18 she did after the crimes. After the crimes she knew that the Defendant had another  
19 warrant out for a domestic violence on another woman and she wouldn't lay down  
20 and just accept the abuse and walk away from the case because she knew that he  
21 was going to do this to another woman. He's done it to multiple women in the past.  
22 He did it to her. She thought that she was going to be different, that they were in  
23 love. And when that proved false, she decided that she had to be the one to go  
24 forward with these cases so that he couldn't do this to anybody else. And so that's  
25 what brought us here, Your Honor. You know Corla thought she was going to be

1 lucky and she was going to be different and I don't think that anybody would say that  
2 she was lucky for what this Defendant did to her but certainly she may be luckier  
3 than the next woman when he gets out of prison.

4 And so with that, I would submit it to Your Honor. He has 597 days  
5 credit.

6 THE COURT: Five hundred and what?

7 MS. SUDANO: Ninety-seven, Your Honor.

8 THE COURT: Thank you. Okay.

9 Mr. Perry, is there anything you would like to tell me today before I  
10 impose sentence?

11 THE DEFENDANT: Yes, ma'am. First of all, I want to say Happy New Year  
12 to you. I want to say Happy New Year to the DA and Happy New Year to my lawyer  
13 Travis Shetler. I wish you all a prosperous and peaceful new year. I been quiet all  
14 through this trial. I feel like we family, Judge Cadish, 'cause I been with you for quite  
15 some time.

16 THE COURT: Yes.

17 THE DEFENDANT: But today I do have to fight in my defense. Since I been  
18 incarcerated, Judge Cadish, I -- noticed that is two type of people in the world.  
19 There's builders and destroyers. Obviously, you know, I have a weakness with  
20 women. Sometimes I always get with the women that destroy. I even [indiscernible]  
21 the Bible verse. In the Bible it say: The wise women be over her house but with her  
22 own hands the food is one that tears her down -- and obviously I got in the process  
23 of -- with a woman that tears hers down.

24 With the victim statement that I have in my PSI I have my Brady  
25 material and documents that is inconsistent but I know we don't have time to go

1 through that.

2 THE COURT: You've been convicted so we're --

3 THE DEFENDANT: Right, also, --

4 THE COURT: -- not going back over that.

5 THE DEFENDANT: -- Judge Cadish, I want to just say if you will have mercy  
6 on me today for the sentences of my PSI that I read, the mandatory sentences, its  
7 24 to 60, 12 to 36, and the 18 to 48 in Count 2, 3, 4, 5, and 7 run concurrent with all  
8 of them, so I can go on with my life and build something new. And I just wish that  
9 you have mercy to me -- on me today, Judge Cadish.

10 THE COURT: Thank you.

11 Mr. Shetler?

12 MR. SHETLER: Thank you, Your Honor, and thank you for the courtesy of  
13 continuing this until this month.

14 Let me say very briefly, I disagree with Ms. Sudano that this is a case  
15 that merits more than the minimums, not surprisingly. But we do agree on one other  
16 fact and that is the conduct of Corla after this incident went down. He'd been  
17 convicted. I've had a long talk with my client about what that means and where --  
18 what flows from that. Our Courts, our laws in Nevada recognize that the danger an  
19 individual feels at any point in time is completely subjective. And I'm not going to  
20 minimize what she said she went through, but I do think it's very important this Court  
21 bear in mind two things: she went and hunted him down on Boulder Highway to find  
22 him. I think that cuts both ways. I also think that we have a woman who received in  
23 essence essentially \$18,000.00 in benefits from Victims of Crime. And this is the  
24 same woman who told this Court about her behavior in a department store where a  
25 dispute with somebody over \$450.00 bearing a kitchen knife, and the final result of

1 the security guard taking her down was her going through a plate glass window. I  
2 think those are important considerations that bear on her perception of things and  
3 what's appropriate and essentially reality, Your Honor.

4 The Parole & Probation and report contemplates a sentence of 15 to  
5 over 50 years on behalf of my client. Clearly, that's excessive. They even go so far  
6 as to require the installation of an interlock device in his vehicle. At the end of all  
7 that, which has absolutely no bearing whatsoever on anything in this case, I know  
8 that -- let me just stop at that. Fifteen to fifty years; there's absolutely no basis and  
9 no support for that. This Court -- I know my client feels comfortable with this. We're  
10 very comfortably in front of this judge on this matter for this sentencing. I'm happy to  
11 elaborate on any of these details or any questions that the Court has. I know that  
12 you read through the paperwork. Fifteen years on the bottom end is excessive for  
13 this man.

14 THE COURT: Okay. All right. So, obviously -- I mean I sat -- I didn't just sit  
15 through the trial, I tried it because you stipulated to a bench trial in this case so it's  
16 my verdict of guilty in this case, so obviously I was persuaded beyond a reasonable  
17 doubt that he is guilty of each of these charged crimes based on the evidence  
18 presented before me. And whether Ms. Carpenter was angry at Mr. Perry, whether  
19 she demanded money from him, which really no evidence of that ever came out at  
20 trial, but even assuming that something like that happened, in no way, shape, or  
21 form would that ever justify the events that followed that and the injuries that were  
22 inflicted on her which frankly she's lucky to be alive. So -- and you're lucky you're  
23 not facing a murder charge. So, I think it warrants a significant sentence. I'm not  
24 saying on the level of what P&P recommended, but it warrants a significant  
25 sentence.

1                   So, I will impose administrative assessment fee of \$25.00; DNA  
2 analysis fee \$150.00 and require you to submit to testing for genetic markers; DNA  
3 collection fee \$3.00; domestic violence fee \$35.00; civil indigent defense  
4 assessment \$250.00. Those fees are a lien against you and collection can be  
5 pursued on them.

6                   On Count 1, I'm sentencing you to 120 months in the Nevada  
7 Department of Corrections, minimum parole eligibility after 36 months, class A,  
8 consecutive term of 120 months with minimum parole eligibility after 36 months for  
9 use of a deadly weapon.

10                  The restitution request is for \$18,103.28. I am awarding that amount of  
11 restitution as well. Do you need the number again?

12                                 [Colloquy between Court and clerk]

13                  THE COURT: On Count 2: 60 months with minimum parole eligibility after 18  
14 months, concurrent with Count 1.

15                  Count 3: 96 months with minimum parole eligibility after 24 months,  
16 consecutive to Counts 1 and 2.

17                  Count 4: 60 months with minimum parole eligibility after 18 months,  
18 concurrent with Count 3.

19                  Count 5: 60 months, minimum parole eligibility after 18 months,  
20 concurrent with Count 4.

21                  Count 6: 48 months with minimum parole eligibility after 18 months,  
22 concurrent with Count 5.

23                  Count 7: 36 months with minimum parole eligibility after 12 months,  
24 concurrent with Count 6.

25                  I believe that is an aggregate sentence of 336 months with minimum

1 parole eligibility after 96 months with 597 days credit for time served.

2 Good luck.

3 MR. SHETLER: Thank you, Your Honor.

4 THE COURT: Thank you.

5 [Proceedings concluded at 9:38 a.m.]

6 \* \* \* \* \*

7 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
8 audio/video recording in the above-entitled case to the best of my ability.

9 

10 CYNTHIA GEORGILAS

11 Court Recorder/Transcriber

12 Eighth Judicial District Court Dept. XVIII



  
CLERK OF THE COURT

1 **RTRAN**

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6

7 THE STATE OF NEVADA, )

8 Plaintiff, )

CASE NO. C298879-1

9 vs. )

DEPT. VI

10 GENARO RICHARD PERRY, )

11 Defendant. )

**ROUGH DRAFT**

**TRANSCRIPT OF PROCEEDINGS**

12 )  
13 )  
14 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE  
15 MONDAY, JULY 21, 2014

16 **CALENDAR CALL**  
17

18  
19 **APPEARANCES:**

20 For the State:

ROBERT STEPHENS, ESQ.  
Deputy District Attorney

21  
22 For the Defendant:

TRAVIS SHETLER, ESQ.  
ROSS SMILLIE, ESQ.

23  
24  
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, JULY 21, 2014, at 9:48 A.M.

2  
3 THE MARSHAL: Bottom of page 13, State of Nevada v. Perry, Genaro  
4 Richard.

5 MR. STEPHENS: Rob Stephens for the State.

6 MR. SHETLER: Good morning, Your Honor, Travis Shetler and Ross Smillie  
7 on behalf of the Defendant who's present, in custody.

8 THE COURT: Okay, good morning.

9 MR. SMILLIE: Good morning.

10 THE COURT: Okay, you're on for calendar call today. Where are we?

11 MR. SHETLER: We've -- we'll let Mr. Stephens speak.

12 MR. STEPHENS: Your Honor, I handed some discovery to Defense counsel  
13 some of the CCDC records along with some jail phone calls. Additionally, Your  
14 Honor, I will be forthcoming -- the victim is still seeking treatment for some of the  
15 injuries she sustained and so I have not obtained all the medical records at this time  
16 to disclose to Defense counsel.

17 Having said that, the State would be ready, although if the Defense  
18 would like a continuance being that I haven't disclosed all the discovery as of yet --  
19 it's still ongoing, Your Honor, so it's not like I don't have it and don't want to give it to  
20 them. Like I said, --

21 THE COURT: No, I know.

22 MR. STEPHENS: -- it's ongoing.

23 THE COURT: No, I'm not -- I understand you're giving what you can give and  
24 what you have.

25 MR. STEPHENS: Yeah.

1 THE COURT: Right, I --

2 MR. STEPHENS: So I'd have no objection, though, if the Defense requested  
3 a continuance.

4 THE COURT: Right. I mean he was also arraigned June 26<sup>th</sup> and invoked  
5 and here we are, you know, July 21<sup>st</sup>.

6 MR. SHETLER: Right, it's been a quick run, Your Honor, and I've -- I was  
7 involved in a ridiculous tax trial, at least what it took from mental capacity was  
8 ridiculous, not --

9 THE COURT: Okay.

10 MR. SHETLER: -- the rest of it --

11 THE COURT: Right.

12 MR. SHETLER: -- for about a month and a half.

13 I've spoken with our client, explained to him the lack of the medical  
14 records right now, explained that there's a possibility of the injury to the eye being  
15 significant enough that there may be a problem with retaining the eye on the victim  
16 and that that's an important issue for us to have resolved before we make a final  
17 decision about resolution and before we go to trial. He did invoke. He would prefer  
18 to keep the trial on for when it's going. We talked about the fact that my advice is  
19 we don't go to trial until we have those records and know exactly what our universe  
20 of potential outcomes is.

21 He does have another matter that he's currently detained on. If there is  
22 a stack in September, what I would ask is the Court's permission to talk to my client  
23 a little bit and see if that's a feasible resolution for him but we are in a little bit of a  
24 difficult spot.

25 THE COURT: Is this going to be an overflow eligible case when it goes?

1 MR. STEPHENS: It would be an overflow eligible case when it goes.

2 THE COURT: Okay. So then -- I mean I could put it over the top of some  
3 other matters I have in September if that works for everybody.

4 MR. SHETLER: We do have -- if we -- with the Court's permission, we'll talk  
5 to our client a little bit. If we could --

6 THE COURT: Okay.

7 MR. SHETLER: -- possibly go about when you were just talking about with  
8 the last case, that middle. I've got a trial the first week of September, so.

9 MR. STEPHENS: As do I but I could do the end of September.

10 THE COURT: So -- right. There's the week of the 22<sup>nd</sup> or the 29<sup>th</sup> or October  
11 6<sup>th</sup>.

12 MR. STEPHENS: The 29<sup>th</sup> or the 6<sup>th</sup> would be better for me.

13 THE COURT: Okay, so you want to talk with --

14 MR. SHETLER: With your permission, Your Honor.

15 THE COURT: -- your client? Okay, so let's trail this a little bit.

16 MR. SHETLER: Thank you very --

17 MR. STEPHENS: Thank you, Your Honor.

18 MR. SHETLER: -- much for the courtesy.

19 [Matter trailed at 9:51 a.m.]

20 [Matter recalled at 10:13 a.m.]

21 THE MARSHAL: Recalling the bottom of page 13, State of Nevada v. Perry,  
22 Genaro Richard.

23 MR. STEPHENS: Rob Stephens for the State.

24 THE COURT: Okay.

25 MR. SHETLER: Your Honor, thank you for the consideration. We've spoken

1 with our client, if it's possible to go on that -- September 29<sup>th</sup> did we say, Mr.  
2 Stephens?

3 MR. STEPHENS: Yes. Perfect.

4 THE COURT: Right, September 29<sup>th</sup>.

5 Okay, so it's -- in light of the short-type, short setting and the additional  
6 discovery still being provided, Defense requested for a continuance; correct?

7 MR. SHETLER: That's correct, Your Honor.

8 THE COURT: And -- with the understanding that I'm going to put it  
9 September 29<sup>th</sup>; is he waiving to allow that to happen?

10 MR. SHETLER: That is what we discussed over there. The Court, I  
11 understand, may need to address that further and I tried to brief him for that and --

12 THE COURT: Okay.

13 MR. SHETLER: -- prepare him.

14 THE COURT: So, Mr. Perry, with the understanding that I'm intending to  
15 continue the trial to September 29<sup>th</sup>, are you waiving your right to a speedy trial to  
16 allow that to happen?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay, let's go ahead and continue the trial then.

19 THE CLERK: Calendar call September 22<sup>nd</sup>, 9:30; jury trial September 29<sup>th</sup>,  
20 10:00 a.m.

21 MR. STEPHENS: Thank you, Your Honor.

22 THE COURT: Thank you.

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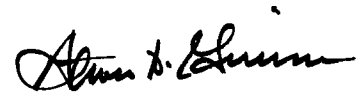
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[Proceedings concluded at 10:15 a.m.]

\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video recording in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
CYNTHIA GEORGILAS  
Court Recorder/Transcriber  
Eighth Judicial District Court Dept. XVIII



CLERK OF THE COURT

1 **RTRAN**

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6

7 THE STATE OF NEVADA, )

8 Plaintiff, )

CASE NO. C298879-1

9 vs. )

DEPT. VI

10 GENARO RICHARD PERRY, )

11 Defendant. )

**ROUGH DRAFT**

**TRANSCRIPT OF PROCEEDINGS**

12 )  
13 )  
14 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE  
15 MONDAY, NOVEMBER 16, 2015

16 ***SENTENCING***  
17

18  
19 **APPEARANCES:**

20 For the State:

MICHELLE L. SUDANO, ESQ.  
Deputy District Attorney

21  
22 For the Defendant:

ANAI-MARIE H. CACCAMO, ESQ.

23  
24  
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 LAS VEGAS, NEVADA, MONDAY, NOVEMBER 16, 2015, at 9:08 A.M.

2

3 THE MARSHAL: Bottom of page 7, State of Nevada v. Perry, Genaro  
4 Richard.

5 MS. CACCAMO: Good morning, Your Honor, I'm Anais Caccamo. I am here  
6 from Travis Shetler's office.

7 THE COURT: Okay.

8 MS. SUDANO: Good morning, Your Honor, Michelle Sudano for the State.

9 MS. CACCAMO: Mr. Shetler is sick today unfortunately so he is asked for me  
10 to request a continuance on this sentencing.

11 THE COURT: Okay. Is he just talking about like over the Wednesday or a  
12 week or --

13 MS. CACCAMO: A week would be fine. We told the State that we would  
14 accommodate their schedule.

15 MS. SUDANO: And the reason we've asked for accommodation is because  
16 the victim speaker and several members of her family are here today.

17 THE COURT: Right.

18 MS. SUDANO: She's not -- she'll be here next Monday, next Wednesday,  
19 whenever is convenient for the Court.

20 THE COURT: Okay.

21 Let's put it over a week then.

22 THE COURT CLERK: November 23<sup>rd</sup>, 8:30, sentencing.

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THE COURT: Okay. Thank you.

[Proceedings concluded at 9:09 a.m.]

\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video recording in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
CYNTHIA GEORGILAS  
Court Recorder/Transcriber  
Eighth Judicial District Court Dept. XVIII

DISTRICT COURT  
CLARK COUNTY, NEVADA

# TRANSCRIPT OF PROCEEDINGS

## ***SENTENCING***

225 Rough Draft

1 LAS VEGAS, NEVADA, MONDAY, NOVEMBER 23, 2015, at 10:01 A.M.

2  
3 THE MARSHAL: Top of page 16, State of Nevada v. Perry, Genaro Richard.

4 THE COURT: Good morning.

5 MR. SHETLER: Good morning, Your Honor, Travis Shetler on behalf of Mr.  
6 Perry who's present, in custody.

7 MS. SUDANO: Good morning, Michelle Sudano on behalf of the State.

8 MR. SHETLER: Your Honor, first let me apologize for not being here last  
9 week and being late this morning. I received the Presentence Investigation Report  
10 on November 12<sup>th</sup>. I hand carried it over to CCDC, gave it to CCDC, and it came  
11 back to me in the mail with insufficient postage on Monday following that, which I  
12 didn't have any postage, it's true, but I didn't think I needed it. We forwarded a  
13 second copy to Mr. Perry. He had that last Tuesday when I was not here and he  
14 was. There are -- the recommendations for a significant amount of time.

15 THE COURT: Yes.

16 MR. SHETLER: Mr. Perry would like to sit down with me face to face and go  
17 over this together so we can submit a proper sentencing memo, so I am going to  
18 ask for some time. I know the State's objecting and I know the victim's here for a  
19 second time and I apologize for that. If there's any way I can assist in that matter --  
20 but I do think in light of the time that's out there I need the time to meet with him face  
21 to face and prepare a memorandum to make sure I do my job, Your Honor.

22 MS. SUDANO: And, Your Honor, yes, for the record, the State is going to be  
23 objecting to that again just because we do have the victim present again for the  
24 second time with several members of her family. When we were here last week I  
25 understand Mr. Shetler was ill and there's not much we can do about that one --

1 THE COURT: Right.

2 MS. SUDANO: -- but they did specifically ask for just a week to get Mr.  
3 Shetler back up to health and up to speed.

4 THE COURT: So, they returned the PSI to you the first time and then it was  
5 given to him last week --

6 MR. SHETLER: Correct.

7 THE COURT: -- but you haven't been able to meet with him?

8 MR. SHETLER: I have not been able to. I haven't recovered one hundred  
9 percent. I have a strep throat and --

10 THE COURT: Okay.

11 MR. SHETLER: -- it was like revisiting elementary school at my own house  
12 again for a while, but it's completely on me. It's not the Court's problem or Mr.  
13 Perry's, and I again I apologize. It's just unfortunately the way it was, Your Honor. If  
14 there's a fee or something I'm happy to cover that on behalf of the victim. I just --

15 THE COURT: Okay.

16 MS. SUDANO: And I'm not sure if Your Honor would entertain potentially  
17 allowing -- or Mr. Shetler allowing the victim to speak today and then continuing the  
18 sentencing.

19 MR. SHETLER: I'm not horribly opposed to that. We do have some issues  
20 with some of that but it's not like we would have a chance to examine her on that  
21 matter, so it might facilitate for the victim --

22 THE COURT: I would be in kind to allow that rather than inconveniencing her  
23 again. I'd be happy to hear what she would like to add. Obviously I heard her  
24 testimony at trial.

25 MS. SUDANO: Correct, Your Honor. Give me one moment --

1 THE COURT: And so you're not objecting?

2 MR. SHETLER: No.

3 THE COURT: Okay.

4 Go ahead and talk with her. And so then I'd be continuing the  
5 sentencing other than hearing from her.

6 MR. SHETLER: Correct.

7 MS. SUDANO: And Ms. Carpenter does wish to address the Court today,  
8 Your Honor.

9 THE COURT: I understand that. Okay. So, let's get her up to the table and  
10 we'll swear her in.

11 MR. SHETLER: Your Honor, do you mind if I join Mr. Perry in the box?

12 THE COURT: You can go over there, yes.

13 **VICTIM IMPACT SPEAKER: CORLA CARPENTER**

14 [having been called as a witness and being first duly sworn, testified as follows:]

15 [Colloquy between Court and Witness]

16 THE COURT CLERK: Please state your first and last name and spell it for  
17 the record.

18 THE WITNESS: Corla Carpenter, C-O-R-L-A, C-A-R-P-E-N-T-E-R.

19 THE COURT: Okay, ma'am, go ahead.

20 THE COURT CLERK: Thank you.

21 THE WITNESS: So as I sit before the district court today I'd like to thank God  
22 for even being here and being alive, Honorable Judge, Elissa Cadish, and my legal  
23 team, my friends, family, and colleagues that have been so patient, and those in the  
24 courtroom and those that couldn't be here, and my doctors who have been  
25 instrumental in my healing and piecing me back together.

1                   So, Judge, as you -- I guess I was prepared for a sentence to be set  
2                   today.

3                   THE COURT: Right, and I'm sorry that, for reasons beyond our control, that's  
4                   not happening but I appreciate you speaking today.

5                   THE WITNESS: What I'd like to say is on the morning of May 1<sup>st</sup>, 2014, the  
6                   Defendant -- I just pray that he pays for his crimes against me and his past victims.  
7                   And I have been instrumental in being here and being diligent and doing my part to  
8                   make sure that this does not happen and that he thinks twice about harming anyone  
9                   else. And it's just funny to me how he never seem to -- not that I want anyone hurt,  
10                  but he never seemed to attack men, just women that he thinks he can overpower.

11                  So, Judge, as you decide on a sentence that is appropriate, I want you  
12                  to understand that he left me for dead and that --

13                  THE COURT: Ms. Sudano, want to hand her the -- thanks.

14                  THE WITNESS: Thank you.

15                  I have a disabled child who's blind who does not talk. If he's able to  
16                  make good on his threats to come back and kill my entire family she wouldn't be  
17                  able to escape unassisted. He's threatened me numerous times. I currently have a  
18                  temporary protection order. And I just need to say this. I've come to court with  
19                  makeup, hair done, trying to be presentable but don't make any assumptions that  
20                  this is how I am every day. Some days it is very hard. My right face is numb for the  
21                  rest of my life and when my kids go to kiss me I don't feel it anymore. I don't get to  
22                  feel their warmth. I have an implant in my eye.

23                  THE COURT: Right.

24                  THE WITNESS: The Defendant is a menace to this community. And I  
25                  haven't been perfect but I am a 30 year resident of Nevada and I have done

1 community service. I have talked to women in abusive relationships. I've done  
2 several things with UNLV and disabled children. And during the time, the brief  
3 period of time, I was in a relationship with him I was just a girl in love, just a girl in  
4 love. I did not ask for any of this. I was very diligent in making sure he was caught.  
5 I know it doesn't work like it does on TV so I went to every place that I thought he  
6 might be until we found him and that was my responsibility to the community.

7 I have years of rehabilitation. My eyesight will never be the same. I  
8 actually rent -- one of the attorneys I work for I rent his house. My blood is stained  
9 throughout that house which will be addressed in a separate civil matter, but -- he's  
10 never paid for his crimes, not for me and not for people in the past and I just ask that  
11 as you make an appropriate sentence that it's a lengthy amount of time because I  
12 will never fully recover.

13 And I thank you for letting me address the Court. I do not want to ever  
14 come back here and be in his presence again. And I pray that he gets everything  
15 coming to him. Thank you.

16 THE COURT: Thank you very much. I appreciate your time today.

17 So now that we heard from the victim I will go ahead and continue the  
18 remainder of the sentencing hearing.

19 MR. SHETLER: Thank you, Your Honor.

20 THE COURT: I am out next week, and having tried the case I would like to  
21 impose the sentence.

22 MR. SHETLER: And, Your Honor, I have trial set for both of the following  
23 weeks of that -- after that. I've -- I could do it the week right before Christmas which  
24 would be super fun, or the week inbetween Christmas and New Year's which would  
25 be almost as much fun. I'll do whatever you tell me, Judge. I'm the slow poke here,

1 so.

2 THE COURT: I could do it -- I understand you just said you're in trial, I could  
3 do it on the 14<sup>th</sup> or the 16<sup>th</sup>, or I can do it in January.

4 MS. SUDANO: Whichever works for the State, Your Honor -- or for the Court,  
5 Your Honor. We can do it --

6 THE COURT: And he's remanded so --

7 MR. SHETLER: If January is possible then we -- I would appreciate that  
8 courtesy if it's possible, Judge.

9 THE COURT: So --

10 MR. SHETLER: There's crazy trials --

11 THE COURT: -- are you available the first week in January?

12 MR. SHETLER: No, the third week looks pretty good, but I will do what you  
13 tell me. I'll have plenty of time to get my stuff. I'll just have to get a judge that works  
14 with me as you did so I can do my county commitments. It's going to be a whirlwind  
15 couple of weeks. The 14<sup>th</sup> or 15<sup>th</sup> would not be ideal for me, but anything after that  
16 I'm going to take whatever you tell me, Judge.

17 THE COURT: After that?

18 MR. SHETLER: The 14<sup>th</sup> or 15<sup>th</sup> of December, those first two days.

19 THE COURT: Oh, but I'm -- so --

20 MR. SHETLER: Anything after that I'll work around.

21 THE COURT: So the beginning of January we could do it like --

22 MR. SHETLER: I'll make it work.

23 THE COURT: January 6?

24 MR. SHETLER: Yeah. Yes.

25 THE COURT: Okay, let's put it then.



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THE COURT CLERK: January 6, 2016, 8:30, sentencing.


THE COURT: Okay.

MR. SHETLER: Thank you for all the courtesy, Judge. I appreciate it.

THE COURT: Thank you.

[Proceedings concluded at 10:11 a.m.]  
\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video recording in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
CYNTHIA GEORGILAS  
Court Recorder/Transcriber  
Eighth Judicial District Court Dept. XVIII

  
CLERK OF THE COURT

1 **RTRAN**

2  
3  
4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6

7 THE STATE OF NEVADA, )

8 Plaintiff, )

CASE NO. C298879-1

9 vs. )

DEPT. VI

10 GENARO RICHARD PERRY, )

11 Defendant. )  
12 )  
13 )

**ROUGH DRAFT**

**TRANSCRIPT OF PROCEEDINGS**

14 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE  
15 THURSDAY, SEPTEMBER 17, 2015

16 ***DEFENDANT'S MOTION TO ADMIT EVIDENCE PURSUANT TO NRS 48.045***  
17 ***PETROCELLI HEARING***

18 **APPEARANCES:**

19 For the State:

MICHELLE L. SUDANO, ESQ.  
Deputy District Attorney

22 For the Defendant:

21  
23 TRAVIS SHETLER, ESQ.  
ANAIS-MARIE CACCAMO, ESQ.

24  
25 RECORDED BY: JESSICA KIRKPATRICK, COURT RECORDER

1 LAS VEGAS, NEVADA, THURSDAY, SEPTEMBER 17, 2015, at 8:47 A.M.

2  
3 THE MARSHAL: State of Nevada v. Perry, Genaro Richard.

4 THE DEFENDANT: Good morning, Judge.

5 THE COURT: Good morning.

6 All right --

7 THE MARSHAL: And Mr. Perry, you can have a seat for that. [Indiscernible]  
8 they want to talk.

9 THE COURT: All right, so what's up? Sorry, state your appearance.

10 MR. SHETLER: Travis Shetler on behalf of Genaro Perry who is present, in  
11 custody. With me at --

12 THE COURT: And we've told --

13 MR. SHETLER: -- counsel --

14 THE COURT: -- Mr. Perry he could have a seat, it's okay.

15 MR. SHETLER: With me at counsel table is Anais Caccamo.

16 THE COURT: Okay. How do you spell that last name?

17 MS. CACCAMO: C-A-C-C-A-M-O, and bar number 13083.

18 THE COURT: Okay.

19 THE CLERK: What was the first name?

20 MSS. CACCAMO: A-N-A-I-S, Anais.

21 THE COURT: Okay, so -- and we have Ms. Sudano --

22 MS. SUDANO: Good morning.

23 THE COURT: -- on this.

24 MS. SUDANO: So Ms. Carpenter is here and I have spoken to her. It's my  
25 understanding that if she were to get up on the stand she would acknowledge that

1 this incident at the TJ Maxx did occur. She would acknowledge that she did tell the  
2 Defendant, Mr. Perry, about that. So in light of that, I don't know that we need to call  
3 her to testify to those things. I believe that Mr. Shetler also was potentially going to  
4 call a security guard from TJ Maxx just to verify that it happened and maybe even  
5 his client to confirm that his client was aware of it. But in light of Ms. Carpenter's  
6 representations to me that I don't have any reason to doubt, I don't know that we  
7 need to take the Court's time by putting her up there. I think that we just need to  
8 then move on to the analysis of whether or not that comes in, if its more probative  
9 than prejudicial, and addressing the scope of how far into that we're going to get.

10 MR. SHETLER: I -- she's of course got it right I think.

11 THE COURT: So, I think at the last hearing we had on this matter my  
12 recollection of what you told us is that your intention was to use it only in support of  
13 the self-defense defense, that is, in an attempt to show that because your client  
14 knew about this prior incident that that affected how he responded to what  
15 happened that day.

16 MR. SHETLER: I think that that's the most meat for that information. I agree  
17 with that, Your Honor.

18 There is one other angle and that is going to be a little bit more of a  
19 battle for us and that is the idea that if, in fact, the victim was willing to use a knife on  
20 somebody in the middle of TJ Maxx then why wouldn't she do it in the privacy and  
21 comfort of her own home which now it's an argument basically that she did it once  
22 why didn't she do it again? And I understand that the government's going to be  
23 much more excited about that argument but --

24 THE COURT: Not in a good way.

25 MR. SHETLER: No, not in a positive fashion whatsoever. You're right.

1 You're right. But that would be the other benefit we would try and get in from that,  
2 Your Honor, but that's going to be very much dependent on the testimony at trial  
3 because it's going to have to come up at trial now.

4 THE COURT: So are you trying to use it to show she's a violent or  
5 aggressive person?

6 MR. SHETLER: Well, in a -- if everything lined up perfectly, yes, I understand  
7 that I'm -- that's my far reach. But the main thing is, look, we have -- we know this  
8 happened and we had to protect our self and that's solid ground I believe that we're  
9 in a good position on that.

10 THE COURT: Okay, so to the extent it's just being used to show what your  
11 client was aware of for a possible self-defense that's one thing. But to the extent  
12 that it's attempted to be used regarding Ms. Carpenter's character for aggression or  
13 violence, then that opened the door for the State to introduce similar evidence to  
14 rebut that position.

15 MR. SHETLER: Right, and that's a conversation that needs to be gone  
16 through a little more detail with Mr. Perry.

17 THE COURT: So what are we doing today?

18 MS. SUDANO: So today I think we just need to address whether or not this is  
19 going to be more probative or prejudicial as to the self-defense claim. I think  
20 obviously if that's the theory of Defense that they put forward at the time of trial it's  
21 going to be pretty darn probative and we're going to have a hard time arguing that  
22 it's prejudicial. But that obviously depends on them raising the self-defense claim at  
23 the time of trial. If we don't get into self-defense it's obviously not relevant at all for  
24 any purpose. And then to the extent that it's going to be used as character evidence  
25 or propensity evidence for Ms. Carpenter, its -- that's completely improper under the

1 statute and as Your Honor said it does open the door to his prior acts of violence at  
2 that point I think.

3 THE COURT: Well, I mean if it's trying to show that she was the aggressor, I  
4 mean there are some case law that allows evidence to show that, but yes, it opens  
5 the door for rebuttal evidence.

6 MS. SUDANO: That's correct. And so I think today one of the things that we  
7 need to address is the scope to which we're going to get into that information with  
8 her. It's the State's position that the question should be limited to, you know, very  
9 briefly, hey, did this incident happen? To the extent they think that that's going to be  
10 crucial, was there a knife involved, and then, you know, move on beyond that, you  
11 know, no testimony from any of the additional witnesses, no gory details, for lack of  
12 a better word, into it, just, hey, it happened and you told him and then we move on  
13 from it.

14 MR. SHETLER: I do feel -- no, go ahead.

15 THE COURT: Well, what I was going to say is to the extent that its being --  
16 that we're talking about possibly using knowledge of it on the self-defense issue,  
17 number one, that would be about the incident itself and wouldn't get into whatever  
18 legal convictions she may have from it. It would be about the incident itself is what  
19 would be at issue that --

20 MR. SHETLER: That's all that goes to our state of mind. You're right, Your  
21 Honor.

22 THE COURT: Okay. And that would not include whether she lied about her  
23 name at the time she was picked up; correct?

24 MR. SHETLER: Right.

25 THE COURT: Okay. I see a nodding; that's not on the record.

1 MR. SHETLER: You're right. I'm sorry, Judge.

2 THE COURT: Okay. And in that narrow circumstance I think it would be  
3 relevant to a self-defense defense, if he's raising a self-defense, and with respect to  
4 the other prongs under Petrocelli, the clear and convincing evidence, it sounds like  
5 based on talking to her you're not disputing clear and convincing evidence that the  
6 incident happened --

7 MS. SUDANO: And that he knew about it.

8 THE COURT: -- and that he knew about it.

9 MS. SUDANO: Correct.

10 THE COURT: So, it's -- the relevance, the clear and convincing and not more  
11 prejudicial. I mean --

12 MR. SHETLER: [Indiscernible].

13 THE COURT: -- to the extent its used in that context, I don't think it's more  
14 prejudicial and I think it could come in as -- to present some evidence that, yes, this  
15 incident happened and he was aware of it and that was part of what was in his mind  
16 when he was dealing with her that day.

17 MR. SHETLER: Right, and that's certainly the most important --

18 THE COURT: And -- okay, --

19 MR. SHETLER: -- item that comes out of this whole --

20 THE COURT: -- so that I think you win. If that's the context, I would allow  
21 based on the representation about Ms. Carpenter's testimony and the fact that that  
22 part of it is not disputed at this point.

23 MS. SUDANO: That's correct.

24 THE COURT: Okay. Now, when you say that's most of it, that doesn't give  
25 me great comfort because then we need to deal with whatever the rest of it is.

1 MR. SHETLER: Well, the issue regarding how she talked to my client about  
2 this matter and there's only one way really to get that in if she doesn't want to get  
3 into that and that's another issue because my client's very uncomfortable testifying  
4 and is not ready -- not in a position -- he's not made the decision yet he's willing to  
5 waive that right even for these limited purposes. There's other information that I  
6 don't even want to get into with the Court right now because I don't have it in the  
7 record any other way then from my busy little brain, but it is -- there is other  
8 information that [indiscernible] developed during trial that would go to what she had  
9 to say about that --

10 THE COURT: About?

11 MR. SHETLER: -- the fashion in which she told him about how that incident  
12 went down, the -- I'm trying to be very careful, Your Honor, the -- her analysis of how  
13 the system dealt with her and would deal with her in the future, if I can be slightly  
14 vague. Those are matters that are only residing in our heads and I don't anticipate  
15 that even on the stand those are things that she would get into, [indiscernible] --

16 MS. SUDANO: And I don't understand how any of that's relevant to the  
17 self-defense claim.

18 MR. SHETLER: It's -- no, no, I agree. We're -- I completely can see that  
19 that's not going to be part of our self-defense claim. It's purely trying to show prior  
20 bad -- basically bad character, character [indiscernible] which very dangerous and it  
21 goes both ways and it -- and that's a little bit developed depending on how it  
22 develops at trial.

23 THE COURT: Okay.

24 MR. SHETLER: The number one issue we're fine. The number two issue I  
25 can't put completely to bed because it's not completely my decision and we don't



**PLEADING  
CONTINUES  
IN NEXT  
VOLUME**