

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

ROBERT BROWN, JR.,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-14-299234-1

Docket No: 85061

RECORD ON APPEAL VOLUME 4

ATTORNEY FOR APPELLANT
ROBERT BROWN, JR. # 6006120,
PROPER PERSON
330 S. CASINO CENTER BLVD.
LAS VEGAS, NV 89101

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

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
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9 THE STATE OF NEVADA,
10
11 Plaintiff,
12 vs.
13 ROBERT BROWN, JR.,
14 Defendant.
15

CASE NO.: C-14-299234-1

DEPT. IX

TRANSCRIPT OF PROCEEDINGS

16 BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE
17 THURSDAY, MARCH 9, 2017

18 RECORDER'S TRANSCRIPT RE:
19 **DEFENDANT'S PRO PER MOTION FOR A BILL OF PARTICULARS/
20 CALENDAR CALL**

21 APPEARANCES:

For the State:

RICHARD SCOW, ESQ.
COLLEEN BAHARAV, ESQ.
Deputy District Attorneys

For the Defendant:

PRO SE/JENNIFER WALDO, ESQ.
(Standby Counsel)

Also Present:

ALBERTO FUENTES - INVESTIGATOR

25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 Las Vegas, Nevada, Thursday, March 9, 2017 at 11:12 a.m.

2
3 THE COURT: Robert Brown, C299234-1. He's present in custody. This is
4 on calendar for calendar call and Defendant's pro per motion for a bill of particulars.

5 Ms. Waldo, you're standing in for Ms. Gregory? Remind me, are you
6 250 certified?

7 MS. WALDO: No, neither one of us are.

8 THE COURT: Okay. I just was – I know Ms. Gregory isn't, but – so couple
9 things, first is the motion for bill of particulars, then the Defendant has a motion to
10 continue the trial I guess somewhere?

11 MS. WALDO: Yes, Your Honor.

12 THE COURT: Is that set for something?

13 MR. SCOW: It's set for March 28th. It was recently filed.

14 THE COURT: Did you get a copy of it?

15 MR. SCOW: Yes.

16 THE COURT: So why don't we address your motion to continue since this is
17 the time set for calendar call.

18 THE DEFENDANT: I don't have anything new to add to it. I can say that
19 much. I think it – it speaks for itself.

20 THE COURT: Well let me ask you this --

21 THE DEFENDANT: I don't have no discovery.

22 THE COURT: -- well let me ask you this. Let me ask you this. You take
23 issue with the Court's standby counsel. I mean you've taken issue with every
24 counsel you've ever had in this case, agreed?

25 THE DEFENDANT: Agreed.

1 THE COURT: Okay. So let me ask you this, pointing out – first of all, you're
2 not entitled to an attorney of your choosing. That's not the way it works. I'm not
3 entitled to give you an attorney of your choosing. I have three panel attorneys, and
4 an attorney with the county that has a list of attorneys that he sends out. You don't
5 get to pick one, and neither do I. But in any event, nobody that's appointed to your
6 case is going to agree with – and I can't recall how you phrase it, your religious law I
7 believe is the language you use. And so, you know, known only to you and the
8 parameters of which are not always easily to understand, but nothing is going to
9 require that person to litigate your case. Standby counsel is there to ask questions.
10 And quite frankly, interestingly to me, it seemed like you objected to having standby
11 counsel at all. Now you're objecting as to who the standby counsel is, because my
12 recollection is, you didn't want standby counsel, and you told me you didn't need
13 standby counsel. If I'm wrong, you should correct me now.

14 THE DEFENDANT: No, you're definitely wrong.

15 THE COURT: Pardon me?

16 THE DEFENDANT: You're definitely wrong.

17 THE COURT: Okay, so you want standby counsel who's going to help you do
18 what? I mean, what do you need them for that's – that is the problem with the
19 person that you have?

20 THE DEFENDANT: For legal advice, for the research; that's primarily it.

21 THE COURT: Well, there are limitations when you're a standby counsel as to
22 how much legal advice you can give. You know that right?

23 THE DEFENDANT: Okay.

24 THE COURT: And so, let me ask you this, what is going to be the difference
25 between having the person represent you that doesn't accept your religious law

1 versus standby counsel?

2 THE DEFENDANT: Well, I don't know why you keep saying I'm attempting to
3 have them accept my religious law. You're mistaken.

4 THE COURT: Okay.

5 THE DEFENDANT: That is not my intent.

6 THE COURT: All right.

7 THE DEFENDANT: I do have a right to put on a defense. I am pro se now, so
8 they have that obligation; that's all I'm asking them to do, is to do their job --

9 THE COURT: Who has what obligation?

10 THE DEFENDANT: -- standby counsel would have an obligation --

11 THE COURT: To do what?

12 THE DEFENDANT: -- to do what's legal.

13 THE COURT: To do what's legal. And your position -- that all the attorneys
14 before that you have had in the past, none of them are capable of doing that. Is that
15 what you're telling me? And you won't to pick your own person?

16 THE DEFENDANT: No, what's apparent from those other attorneys is that
17 they did nothing basically for this case. The investigators and attorneys -- I'm three
18 years in, and they've done nothing. I've done more than all three of them combined;
19 all three sets of attorneys, within the short time that I've been pro se. That's a fact. I
20 don't know how --

21 THE COURT: Okay, but part of the -- part of the problem is whether your
22 requests and demands are reasonable. So, you know, when I appoint standby
23 counsel, it's not their job to file motions on your behalf or drop everything and do
24 legal research for you within your parameters. I mean that's part of the concern is I
25 feel like I could get any lawyer, you know, who's top notch, and you'll never be

1 satisfied –

2 THE DEFENDANT: That's not true.

3 THE COURT: -- because that's kinda how you are.

4 THE DEFENDANT: That's not true, I think just as an example regarding my
5 distaste for the previous investigator, Mr. Fuentes can attest to that, we've been
6 getting along just fine; and I'm pleased with his work, unlike the previous
7 investigators. So that's – that's not true at all.

8 THE COURT: How many? How many previous investigators were there? Just
9 remind me.

10 THE DEFENDANT: Probably about four –

11 THE COURT: Four; you've been through four –

12 THE DEFENDANT: -- and they were not all fired because I asked them to be
13 fired either, so you're mistaken if you believe that.

14 THE COURT: I didn't say I believe that. I said you weren't happy with them.
15 I don't think anyone can make you happy, quite frankly. So even if I take Ms.
16 Gregory off and give you someone else, you're not going to be happy with them
17 either.

18 THE DEFENDANT: I appreciate your intent that, you know, your display of
19 omnitions *[sic]*, but you're mistaken with that as well.

20 THE COURT: Am I? Okay. Do you want to be heard on your motion for bill of
21 particulars?

22 THE DEFENDANT: Sure.

23 MR. SCOW: And while he's getting ready, it was partly continued for there to
24 be a reply.

25 THE COURT: Pardon me.

1 MR. SCOW: Part of the reason it was continued from the last hearing to today
2 was for a reply. I did never see a reply filed. So I just –

3 THE COURT: Did you file a reply?

4 THE DEFENDANT: No I didn't. The reason the reply wasn't filed was
5 because counsel, Waldo I believe her name is, approached me at the last court
6 date, and basically informed me of my right to file a reply to that, which I was unaware
7 of; at which time, I explained to her that I don't have any – any – any format as to
8 how I'm supposed to reply, so I would need that; that was not given. She told me
9 she would provide that to me, and that hasn't been done, so that's why I haven't
10 replied.

11 THE COURT: What format are you referring to?

12 THE DEFENDANT: Just how the motion is supposed to be filed. You know,
13 what case law, precedence I need to – I need to put in the motion itself.

14 THE COURT: You mean the reply? Because you already filed the motion, so
15 – you mean the reply? What you're supposed to –

16 THE DEFENDANT: Reply to my bill of particulars.

17 THE COURT: Okay. So, the format. See format doesn't mean substance.
18 Format means what's the title, what's the caption. Format has a different meaning
19 to someone who practices law than what you said. What you said was case law,
20 and those kinds of things. That's not format. And so she told you she would give
21 you format and she didn't, you know, it should say reply to State's opposition, to the
22 bill of particulars, motion for bill of particulars, and it has the caption; that's a format.

23 THE DEFENDANT: I was under the impression that she did understand
24 despite your analogy of our conversation.

25 THE COURT: Well, it's not an analogy of a conversation. I'm simply saying

1 what a format is versus case law and argument. I'm not here to debate you all day.
2 I'm just telling you what format means –

3 THE DEFENDANT: Okay –

4 THE COURT: -- to a normal person who does legal work.

5 THE DEFENDANT: -- okay, regardless it was not provided.

6 THE COURT: Okay. So Ms. Waldo, do you know what he's talking about?

7 MS. WALDO: Yes, Your Honor. What we discussed was the motion to
8 continue trial, which we actually did provide him some language for that.

9 As far as the reply, I explained to him what a reply was, and I just
10 basically – because he had indicated at the last hearing that he did have some
11 lengthy argument. He did not ask – I do not recall him asking me to send him the
12 format or a form of the reply. The only thing he asked me to send was the motion to
13 continue information, which I did provide to his investigator. But by that point, it's my
14 understanding he actually already filed the motion to continue.

15 THE COURT: So, Mr. Brown, she doesn't recall you asking her to give you – I
16 mean it's not – it's not standby counsel's – if you direction or ask for a case or ask
17 them to look at a particular case, but they don't research the law for a reply until you
18 figure out what you want to say in your reply and tell them, could you pull this case,
19 could you *Shepardize* that case. Whatever it is you're going to ask them for.

20 So I guess I'm – if I continue this for you to file a reply to your own
21 motion, what is specifically that you would be looking for other than, you know,
22 obviously you call it a reply and it has to have the caption. It's whatever response
23 you wish to make to the State's – and it has to be confined to the State's opposition,
24 meaning you can't go off into some new subject. It has to be related to the motion to
25 the bill of particulars in the first place and their opposition. Those are your

1 limitations, but otherwise, you're free to make any argument and cite case law you
2 think might be relevant or statute or anything else you wish to say in the reply. So
3 what do you want to do?

4 THE DEFENDANT: Just orally argue it.

5 THE COURT: Today, you wish to go forward without the reply or are you
6 asking me for a continuance to allow you to file a reply?

7 THE DEFENDANT: No, we can go forward now.

8 THE COURT: All right. I have, for the record, reviewed the motion and the
9 State's opposition.

10 THE DEFENDANT: On page 8 of the State's opposition, they state: To
11 require the State to provide a bill of particulars, there must be some prima fascia
12 showing that the charging documents so vague or indefinite, the Defendant is left
13 without any notice of what the State intends to prove at the time of trial.

14 The purpose of the bill of particulars is to enable the Defendant to
15 prepare an adequate defense at the time of trial and not to enter the trial without any
16 idea of what will be presented to the jury.

17 In my motion, I explained that, you know, the NRS code to Nevada's
18 murder statute does not supply an element for the actor. It simply reads: Murder
19 defined. Murder is the unlawful killing of a human being with malice or forethought,
20 either expressed or implied.

21 Now, it's plainly evident, there's no element to the act or the State is
22 just simply refusing to tell me what that element is. I gave a list as examples of how
23 other states provide that element, either by using the term, in one, whoever,
24 whosoever, a person, or a human. That's all I'm asking for is simply provide me
25 what the element is. You can't – you can't use my name to supplant the actual

1 element of this crime that would be specific. The constitution forbids being specific
2 in the first place. It has to be general speaking in general terms. So that's – that's
3 simply the question there.

4 I would have problems formulating a defense if I don't know this
5 because rights are attributed to different – different elements. A person has certain
6 rights. A human has certain rights, and they're all different. I need to formulate a
7 proper defense accordingly.

8 I'm asking that basic question now. If I need to give further example of
9 what problems I will face, I will, but this is a simple question. There is no element
10 there. What is the element?

11 MR. SCOW: And I'm – I'm prepared to say something if you'd like –

12 THE COURT: Wait until he's done. Are you done?

13 MR. SCOW: Are you asking me to say something right now?

14 THE DEFENDANT: Yeah, I'm asking just to --

15 THE COURT: No. No, this isn't how it works. Argument, opposition, reply,
16 ruling, done. That's how it's going to work. It's not the free exchange of ideas. It's
17 not a high school legal class. So, when you're done arguing, I will hear from you in
18 an opposition. Please don't pose hypotheticals to each other. If you choose to pose
19 a hypothetical knowing you won't get an answer, you can argue that to me. Are you
20 done?

21 THE DEFENDANT: So you say – if I'm done, does that mean I'm not going to
22 be able to further argue?

23 THE COURT: That means your first argument on the motion when you're
24 done, then the State presents their opposition, then you reply, then I make a ruling,
25 and I don't debate it with you. Just like I wouldn't debate it with a lawyer. Nothing

1 personal against you. I don't – argument, argument, argument, ruling. Believe me,
2 Ms. Hoffman does it all the time, and I won't let her do it, and I won't let you do it.
3 So, when the time comes, and I rule, we'll be done. Are you finished with your
4 argument on your motion?

5 THE DEFENDANT: I'm finished.

6 THE COURT: Okay. State, your argument on your opposition.

7 MR. SCOW: Yes, Judge. Our opposition indicates that we have charged the
8 Defendant, Robert Brown, with the crimes of murder and all the other crimes, and he
9 specifically takes issues with the murder statute and I think – I think his main issue is
10 there is no actor or element for an actor in the murder definition, but what he doesn't
11 notice in NRS 200.030 subsections 4 and 5; 4 says a person convicted of murder of
12 the first degree is guilty of an A Felony. So that right there defines the actor of first-
13 degree murder. And in subsection 5, says a person convicted of murder of the
14 second degree is guilty of an A Felony and should be punished, and then the
15 punishments for second-degree murder are set forth. So that -- the statute does
16 define that a person can be charged with murder in subsection 3, that talks about
17 the jury deliberations if they find a person guilty of murder, and they decide if it's first
18 or second-degree.

19 So the statute is not vague. It defines that a person or, in ordinary
20 terms, that's a human being, a person can be charged with murder. The person is
21 the actor. A person is defined in 193.0205, and he is such a person that we have
22 charged with murder, as well as all the other charges; that's the State's response.

23 THE COURT: Before he argues his reply, your position on his motion to
24 continue the trial.

25 MR. SCOW: Since he is his own attorney at this point, pro se status, if he

1 doesn't have the discovery, I don't think that there is a way we could go to trial on
2 our current trial date, so we don't oppose the motion to continue.

3 THE COURT: One moment please. One thing I don't see here in your four-
4 page motion to continue the trial is any representation as to how long you need to
5 get ready. If you could address that first, and then address your reply on your
6 motion, I would appreciate it.

7 THE DEFENDANT: I actually did address it in the motion.

8 THE COURT: Where is it? You talking about page 5 to 6, I mean page 4,
9 lines 5 and 6; this system will not relent from the accused will not endeavor to
10 suppose one to fix a time of readiness, is that it?

11 THE DEFENDANT: That's it.

12 THE COURT: Is that what you're referring to?

13 THE DEFENDANT: That's it.

14 THE COURT: I see.

15 THE DEFENDANT: I sent it to your address.

16 THE COURT: I'm going to have to fix a time for you I think, because I'm not
17 going to endlessly have this go forward without an actual date for trial. You can't
18 issue subpoenas and, you know, expect people to comply by a certain date if you
19 don't have an actual trial date. So, any allowance you need to read the purchase
20 law books. I – I honestly not going to engage in that. Your investigator is going to
21 have to contact Mr. Christensen and determine what if any request is being made
22 and what the expense is and then if he has an issue with it, you can bring it before
23 the Court if it's not resolved.

24 As far as transcripts, I'm not just going to prepare one transcript. They
25 should all be getting to you –

1 [Colloquy – The Court and the recorder]

2 THE COURT: -- so you're going to get all of them not just motion to proceed
3 in pro se, so that will be forthcoming. I'm not quite sure what the first reference is. I
4 don't know what you're talking about for CCDC to report its findings.

5 THE DEFENDANT: Well I submitted a grievance for the fact that they've lost
6 my discovery. They were work product. So they're not complying, so I'm asking the
7 Court to intervene.

8 THE COURT: What were the dates of your hospitalization? Or, I don't know
9 you refer to a date in November of 2016; then you refer to a different date.

10 THE DEFENDANT: It was November. I don't – I don't remember the exact
11 date.

12 THE COURT: And then you were returned – well you say on or about
13 November 21st, you were transported to UMC Hospital. Is that correct?

14 THE DEFENDANT: That's correct.

15 THE COURT: And when were you transported back?

16 THE DEFENDANT: About four days later.

17 THE COURT: And so how come this is – have you brought this to my
18 attention before and I'm just not recall it, which is possible?

19 THE DEFENDANT: No.

20 THE COURT: So just now, in 2017, four months later, you're bringing this up?

21 THE DEFENDANT: Right.

22 THE COURT: So how have you been doing anything for four months?

23 THE DEFENDANT: Well, they gave me part of my property about maybe a
24 month later.

25 THE COURT: Which included what?

1 THE DEFENDANT: Which included half of my discovery and half of my
2 books. At the time the Sergeant, by the name of Sergeant Williams told me I
3 couldn't have all of my property, otherwise I would be sent to the North Tower and
4 [unintelligible] my access to the legal kiosk would be restricted so I didn't want to do
5 that; so she told me she would send my property back down to the property room,
6 and then when I need it, I can re-submit a request for it to get that property; that's
7 when a couple months later I did submit an another grievance – I mean another
8 request, and that's when I found out that they were saying they lost my property.

9 THE COURT: Okay but in order to understand what property we're talking
10 about –

11 THE DEFENDANT: Yes.

12 THE COURT: -- when you say half my discovery, half by date? Half by –

13 THE DEFENDANT: Just by amount.

14 THE COURT: And so how do you know what you have and don't have?

15 THE DEFENDANT: I don't – that's why I'm asking for re-issuance of my entire
16 discovery because I don't know what I have and don't have.

17 THE COURT: Any suggestions as to how this should be handled?

18 MR. SCOW: Yes, what I propose is that we can put on a disc or a USB drive
19 and provide it to the investigator, and then he can go through whatever paperwork
20 he has, what's on the disc and what's not in paper form, that he can print out for
21 him. That to me is the most workable solution.

22 THE COURT: Can you bring a lap top in there and go through the discovery
23 with him? Somebody?

24 MS. WALDO: You can, Your Honor. You just have to notify the detention
25 center.

1 THE INVESTIGATOR (MR. FUENTES): I imagine so. I've never tried, but I
2 guess if the attorney says I can, yes I – my suggestion would be just to take the disc
3 and just copy it all and take it to him, that way he could have everything.

4 THE COURT: Well I – I'm not doing it, so it's just a matter of what you –

5 THE INVESTIGATOR (MR. FUENTES): No, I think I would be more
6 comfortable then. I'm sure he would be too. Just get a hard copy of the whole file
7 and just give it to him after I copy it.

8 THE COURT: Can you give him that?

9 MR. SCOW: Yes. We'll give him the disc and he can –

10 THE INVESTIGATOR (MR. FUENTES): And I will submit the bill to Drew
11 Christensen.

12 THE COURT: Could you step forward please – so that you can speak into the
13 microphone?

14 THE INVESTIGATOR (MR. FUENTES): Yes. If they go ahead and give me
15 the disc, I will go to UPS, have the copy it and bring Mr. Brown the entire file and
16 therefore, I mean I can ask the – bill – give the receipt to Mr. Christensen, and we
17 can go from there. Mr. Christensen is waiting for the outcome of this hearing
18 anyway to see where we're going to go as far as the continuance goes because I
19 am at the point where I'm going to be needing additional funds myself. So, there's
20 several things that are at issue, once we decide – or you decide, Your Honor, what
21 date we're going to continue this to.

22 And I just have just one question, if I may, now that I'm standing here
23 because I'm a little confused.

24 We've issued several subpoenas in this particular case, some to the
25 Las Vegas Police Metro Day Police – Metro Las Vegas Police, some to Nevada

1 Energy, some to the apartment complex where Mr. Brown resided, the scene of the
2 crime, and none of them have responded until yesterday I got a call from the police
3 department saying they were going to try and quash those subpoenas anyway. But
4 the other folks that have been subpoenaed, I just have one question. They were all
5 subpoenaed to respond by the 20th of March, which was our original trial date. Now
6 obviously we are going to continue that, but my question is should these people
7 have to reply any way by the original date on the subpoena than if they don't?

8 THE COURT: I don't give legal advice. He wants to represent himself, there
9 she is. What a lawyer does when the subpoena is completely ignored by the
10 recipient is one of the logistical problems when you choose to represent yourself
11 and you're incarcerated. So he's just gonna have to work within you – discussing
12 Ms. Waldo and/or Ms. Gregory what your legal options are, like an order to show
13 cause. They can give you a template for that. They might be willing to make a
14 phone call and say this is standby counsel for Mr. Brown. You can call the District
15 Attorney if you don't believe us, but I'm going to have to do an order to show cause,
16 when all you have to do is turn over the records for now. You can have those kinds
17 of conversations that might be – not that they wouldn't listen to you but might be
18 more effective from Ms. Waldo.

19 I have had occasions where just in an effort to get it done, the
20 District Attorney will agree. You know, we all understand that people understand the
21 language of the badge. Sometimes when they just are trying to get a Defendant to
22 be ready to go to trial, even though they don't want anything to do with it, they'll do it.
23 It just depends on the circumstances. So I guess you'll have to ask, Mr. Brown, who
24 he would you to have assist whether that's the District Attorney. If not, because it's
25 sensitive to the nature to his defense, to engage counsel to help you either prepare

1 an order to show cause or make a preliminary phone call because usually, you
2 know, if you call legal counsel for a utility, and you – and they – you know, if you
3 have some direction you won't be wasting a lot of time on who to speak to, but I –
4 I'm prohibited from legal advice.

5 THE INVESTIGATOR (MR. FUENTES): I just asked because I –

6 THE COURT: You're in a logistically difficult place.

7 THE INVESTIGATOR (MR. FUENTES): -- Right.

8 THE COURT: So, you know, it doesn't require a significant amount of legal
9 knowledge to – to have an attorney kind of advise you of what Mr. Brown's options
10 are.

11 THE INVESTIGATOR (MR. FUENTES): Well my only concern was – now –
12 and I have talked to Ms. Waldo about it, and she's – well, you're going to have to re-
13 issue them.

14 THE COURT: Right.

15 THE INVESTIGATOR (MR. FUENTES): Well that's just going to –

16 THE COURT: He needs the information now presumably though.

17 THE INVESTIGATOR (MR. FUENTES): -- yeah, I mean we gotta get ready
18 for trial. I mean they're just going to delay it now until we get another trial date, and
19 then –

20 THE COURT: Look, look –

21 THE INVESTIGATOR (MR. FUENTES): -- three months down the road, they
22 may say; hey well we don't have to produce it until August or January, whatever.

23 THE COURT: -- I understand.

24 THE INVESTIGATOR (MR. FUENTES): Yeah.

25 THE COURT: But usually if you put the magical language; you may produce

1 the requested documents in lieu of appearance –

2 THE INVESTIGATOR (MR. FUENTES): I did.

3 THE COURT: -- then –

4 THE INVESTIGATOR (MR. FUENTES): And then?

5 THE COURT: -- you still have to produce the documents, and they don't have
6 to come down here. Usually they're happy to see that language, that's why I'm
7 saying that Ms. Gregory or Ms. Waldo should be able to call legal counsel for these
8 places and say; what are you doing? Do you really want us to have an order to
9 show cause to ask that you be held in contempt when we really don't want to go
10 down that road?

11 THE INVESTIGATOR (MR. FUENTES): That's fine, Your Honor. I'm sure
12 you'll be –

13 THE COURT: I mean it's not a threat, it's just a conversation.

14 MS. WALDO: Understood, Your Honor.

15 THE COURT: To avoid –

16 THE INVESTIGATOR (MR. FUENTES): Now the police department also
17 called me and told me they were going to try and quash these subpoenas.

18 THE COURT: Sure; that's what they always do.

19 THE INVESTIGATOR (MR. FUENTES): Is that a legal thing that I have to
20 deal with or the Court is going to deal with or Ms. Waldo is going to have to do it?

21 THE COURT: They put on a motion to quash the subpoena, then the
22 Defendant will be brought over for it, and it's a legal thing the Defendant has to deal
23 with.

24 THE INVESTIGATOR (MR. FUENTES): Great. Thank you. Thank you very
25 much.

1 THE COURT: Okay. So, Mr. Brown, you'll need to give your investigator
2 some direction as to – you know, do you want him to ask Ms. Waldo or Ms. Gregory
3 to contact legal counsel for these people and the subpoenas and the people who
4 aren't complying or do you want to have him query the District Attorney and see if
5 they could get it sooner rather than later and send their troops out if they'll agree.
6 Sometimes they do it just because they want to have the case tried before they're in
7 the Public Employee Retirement System. That's a conversation you're going to
8 need to have with your investigator okay? Yes?

9 THE DEFENDANT: All right.

10 THE COURT: Next is your reply to your motion.

11 THE DEFENDANT: I'm a bit confused because the District Attorney is citing
12 statutes and perimaterial to the murder statute, without addressing the fact that still
13 the definition is lacking an actor. He also labeled the fact that it's a human being;
14 now I'm really confused because a person and a human being are separate. A
15 person can actually do something that a human being cannot do, that is at least in
16 the eyes of the law and that is act as a legal fiction.

17 A legal fiction, I understand in some of the statutes and perimaterial to
18 the murder statute has a reasonable person standard which is an objective
19 standard, which a legal fiction can do, but a human being cannot do.

20 So, still – I'm happy – I would have problems attempting to put on a
21 defense not knowing which person or human for that matter the State is using in this
22 case.

23 THE COURT: Okay, the Court will issue a minute order with a ruling that will
24 be mailed to the Defendant. The Court will be mailing to the Defendant – I won't, but
25 my staff will, transcripts as they are completed, and that will be a working progress,

1 and we will endeavor to have those done well in advance of trial.

2 I need to know who to talk to at the jail regarding his housing and his – oh I
3 don't know discovery property, whatever we're calling it.

4 THE CORRECTIONS OFFICER: Housing will be Classification.

5 THE COURT: Like Molina or somebody else?

6 THE CORRECTIONS OFFICER: No that's Records. I can find out who the
7 Sergeant is in there right now. I believe it's Sergeant Albright [phonetics]. He's the
8 Classification Sergeant there. And as far as his – is he going to get a copy of the –

9 THE COURT: Here's the problem I have, what I really need to do is I need to
10 talk to somebody at the jail with some authority to understand the profound
11 problems when his stuff is just removed from him.

12 Now, I get that there's rules, I do, but you know I got the whole jail
13 complaints because people are waiting for trial for four years, and I got a guy who
14 half of his discovery is gone, and my guess is, not to be assuming anything, but
15 there's some missing discovery. He goes to the hospital, he comes back, and his
16 stuff isn't all there. Is that a stretch for me to imagine? No.

17 So, respectfully, I don't agree with Mr. Brown on very much, but that I
18 understand and probably assume to be true. So I'm trying to think of who I could
19 talk to at the jail so that they could understand the significance that this isn't your
20 average circumstance where he just lost a few pieces of paper, because every time
21 he makes this claim, I'm kind of stuck in limbo and can't go to trial on this case, and
22 you all are going to house him until that happens. So I'm trying to like get someone
23 in the know to understand that this isn't, you know, I know you guys have a lot of
24 people and a lot of cases, but to understand the significance of that.

25 THE CORRECTIONS OFFICER: So we are –

1 THE COURT: I don't know who that person would be.

2 THE CORRECTIONS OFFICER: -- Lieutenant Burrows [phonetics] he's in
3 charge of booking, which means he's in charge of the property room as well.

4 THE COURT: Okay, so if I spoke to someone in classification and Lieutenant
5 Burrows in booking, if they're not the people, they could probably give me a person?

6 THE CORRECTIONS OFFICER: That's --

7 THE COURT: To explain just the history here and the significance, you know,
8 there is no lawyer, like he's it. So if you take his stuff, we're just going to keep
9 having copies --

10 THE CORRECTIONS OFFICER: -- oh I totally understand.

11 THE COURT: -- copies are just gonna keep coming in, and that's just not
12 really what you guys want.

13 THE CORRECTIONS OFFICER: No.

14 THE COURT: It's a total time suck right?

15 THE CORRECTIONS OFFICER: Right.

16 THE COURT: And a labor suck because you have to go through everything.

17 THE CORRECTIONS OFFICER: Yes that's -- the thing is when they leave --

18 THE COURT: If you didn't throw it away in the first place or lose it, then you
19 wouldn't have to go through it again. So those are -- so those are my conversations,
20 understanding that he gets to keep it all in his cell or it has to go down somewhere
21 and keep getting -- getting brought up. How does that work?

22 THE CORRECTIONS OFFICER: You can only have so much in your room,
23 so whatever he needs at that time, someone will go down and get what he needs
24 and brings it up.

25 THE COURT: So you're going to keep this CD yes? Or this disc, so that if

1 and when after you provide a full copy, anything else happens and he says I need
2 that report on Tuesday the 15th of the forensic examiner of such and such, you could
3 go on your laptop, print it out on a printer, and hand it to him. Does that sound like a
4 plan?

5 THE INVESTIGATOR (MR. FUENTES): That's fine to me, Your Honor; I'll do
6 anything that I can to move this along.

7 THE COURT: Okay. So –

8 THE INVESTIGATOR (MR. FUENTES): You want me to give him one copy
9 first though before anything? Okay great.

10 THE COURT: Sadly yes. I don't think I have a choice. Anything else?

11 THE DEFENDANT: There is another issue that the District Attorney
12 mentioned alluding to me using an illegal name by missing my baptism name, and
13 how that's relevant to the issue.

14 I'm using an illegal name. My name is Yahshua Ariyl Ha-Kohen
15 baptized in 2006. It's a legitimate name by common law. It's not an illegal name.

16 THE COURT: You're going to be Mr. Brown until you give me proof of a court
17 order that your name has been legally changed.

18 THE DEFENDANT: Okay.

19 THE COURT: Okay.

20 THE DEFENDANT: Well I'm just going to run through the common law
21 process rather than the legal process --

22 THE COURT: Okay, well here's what I suggest –

23 THE DEFENDANT: -- -- because it's not required by legal process –

24 THE COURT: -- I suggest you take a writ up to the Nevada Supreme Court
25 and lay out for them the common law process, and if they agree with your position, I

1 will refer to you by whatever common process that they tell me I have to, but in the
2 mean time until you name has been legally changed, you're Mr. Brown.

3 THE DEFENDANT: Okay well let me add this though.

4 THE COURT: Anything else.

5 THE DEFENDANT: I understand that. Let me add this though – the relevance
6 of that is because crimes in general, they are to be evaluated according to various
7 relations with other persons. The crime that I'm being charged with – to me it's
8 assuming that – like I said, I'm an objective person, rather than a subjective religious
9 person. That's the problem.

10 Okay so if they're – if they're not going to specify how they charge me,
11 whether they are going to go with objectively or subjectively, then that's just making
12 me to do work. I have to do two defenses at the least to cover myself; and that's
13 unreasonable in itself.

14 So I have – religious people have rights that's not due to the common
15 people just – and vice versa. So that's – so that's hindering me there.

16 THE COURT: Mr. Brown, you'll be referred to as Mr. Brown during the
17 pendency of this trial. You've made your argument on your motion for bill of
18 particulars. It's been opposed. You've done a reply. I'll issue a written ruling.
19 Anything else that you have an objection to, feel free to bring a writ to the Nevada
20 Supreme Court. We're done. They'll be a status check resetting of trial in 30 days.
21 If you could do the discovery between now and then, I'm going to have a
22 conversation with somebody at the jail to try to understand their process so that I
23 can deal with these issues in the future in a more efficient way, and then we will set
24 a trial date in 30 days.

25 THE INVESTIGATOR (MR. FUENTES): Your Honor, so should I inform Mr.

1 Christensen then there is a going to be a resetting of a trial in 30 days so that –
2 because he asked me –

3 THE COURT: Oh yeah, I'm going to reset –

4 THE INVESTIGATOR (MR. FUENTES): -- to report back to him.

5 THE COURT: -- yeah, I don't have a date right now because he doesn't have
6 his discovery –

7 THE INVESTIGATOR (MR. FUENTES): -- right.

8 THE COURT: -- I'm going to get the copy of the discovery over to him, if
9 there's no problems. I'm going to try to get some transcripts over to him –

10 THE INVESTIGATOR (MR. FUENTES): Okay.

11 THE COURT: He can do whatever writs he needs to do in the meantime. I'm
12 going to issue an order on this bill of particulars, and then in 30 days we'll set a trial.

13 THE INVESTIGATOR (MR. FUENTES): Great. I just want to be able to tell
14 him that there is going to be a reset in 30 days so that he can –

15 THE COURT: Yes, the trial date is vacated.

16 THE INVESTIGATOR (MR. FUENTES): -- he can go ahead and give me
17 additional funds.

18 THE COURT: The Defendant's motion to continue is granted, and the status
19 check setting of trial in 30 days after his discovery, and I talked to the jail about his
20 discovery, and he has transcripts. State, were you going to say something?

21 MR. SCOW: I was just going to say, we should be able to get the disc to him
22 within a week or so.

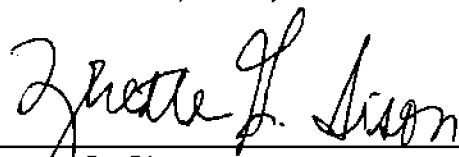
23 THE COURT: Okay. Thank you. Court's in recess.

24 MS. BAHARAV: What's the date?

25 THE CLERK: It'll be April 6th, 9 a.m.

[Proceedings concluded at 11:50 a.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Yvette G. Sison
Court Recorder/Transcriber



1 **RTRAN**

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

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9 **THE STATE OF NEVADA,**
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11 **Plaintiff,**
12 **vs.**
13 **ROBERT BROWN, JR.,**
14 **Defendant.**

CASE NO.: C-14-299234-1

DEPT. IX

TRANSCRIPT OF PROCEEDINGS

15
16 **BEFORE THE HONORABLE CHIEF JUDGE DAVID BARKER, DISTRICT COURT JUDGE**
17 **THURSDAY, SEPTEMBER 8, 2016**

18 **RECORDER'S TRANSCRIPT RE:**

19 ***ALL PENDING MOTIONS***

20 **APPEARANCES:**

21 **For the State:**

RICHARD SCOW, ESQ.
Deputy District Attorney

22
23 **For the Defendant:**

ANDREA LUEM, ESQ.

24
25 **RECORDED BY: YVETTE SISON, COURT RECORDER**

1 Las Vegas, Nevada, Thursday, September 8, 2016 at 9:08 a.m.

2
3 THE COURT: C299234, State of Nevada v. Robert Brown. Record should
4 reflect the presence of Ms. Luem on behalf of the Defendant who's present in
5 custody. Mr. Scow on behalf of the State.

6 Time set series of motions, further proceedings, return from
7 competency, status check withdraw of motions. Review of September 2, 2016
8 minutes reflect all motions with Faretta canvas will be set for today's date.

9 The Defendant advised he is withdrawing all pending motions. Court
10 noted and advised we will be doing a Faretta canvas at the continued date.

11 Frankly, based upon the nature of the allegations and the process I use,
12 I would do a written – make a written admonishment and waiver a component of
13 Faretta, especially – especially now. I mean I understand Faretta.

14 Judge Togliatti will have to live with whatever decision is made, so I
15 think Judge Togliatti should make the decision, frankly.

16 MS. LUEM: That's fine Judge, and I think based on the nature of some of the
17 prior conversations, outside the presence of the District Attorney with Judge
18 Togliatti, she has pretty much a better understanding I think of what's going on.

19 THE COURT: And she – she was the presiding Judge in the competency
20 effort, so she has some unique understanding.

21 MS. LUEM: Right.

22 THE COURT: So I think we should pass this one week for Judge Togliatti.

23 MS. LUEM: That would be great.

24 THE COURT: All right.

25 MR. SCOW: That would be fine, Judge.

1 THE COURT: All right. Mr. Brown, do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. One week.

4 THE CLERK: That'll be September 15th, 9 a.m.

5 [Proceedings concluded at 9:09 a.m.]

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12 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
13 proceedings in the above-entitled case to the best of my ability.

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Yvette G. Sison
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
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9 THE STATE OF NEVADA,
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11 Plaintiff,
12 vs.
13 ROBERT BROWN, JR.,
14 Defendant.
15

CASE NO.: C-14-299234-1

DEPT. IX

TRANSCRIPT OF PROCEEDINGS

16 BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE
17 THURSDAY, SEPTEMBER 22, 2016

18 RECORDER'S TRANSCRIPT RE:

19 **STATUS CHECK: DISCOVERY**

20 APPEARANCES:

21 For the State:

RICHARD SCOW, ESQ.
Deputy District Attorney

22
23 For the Defendant:

ANDREA LUEM, ESQ.

24
25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 Las Vegas, Nevada, Thursday, September 22, 2016 at 9:32 a.m.

2
3 THE COURT: You are here on Mr. Brown, page 9, C299234-1. He is present
4 in custody. He has – as the record would reflect in this case, chosen to represent
5 himself. We set this for a status check for discovery for you to – we went through it
6 last time, and so if you could just supplement the record with what's happened since
7 the last time you were here.

8 MS. LUEM: Judge, I went through my file and I put together everything that I
9 believe is separate and apart from the information received from the District
10 Attorney's office including work product and records and things like that. Went back
11 through mitigation specialist emails and made copies of those. Got copies of
12 memos from our investigator, and put all of that together with the exception Judge of
13 – there is one set of records that's 1,200 pages long, so I'm going –

14 THE COURT: What is that?

15 MS. LUEM: -- it's for the mitigation case; medical records and things. I think
16 it's –

17 THE COURT: The Defendant's medical records?

18 MS. LUEM: No Judge, it's I believe his mother's medical records.

19 THE COURT: Okay.

20 MS. LUEM: So I think it's something that he's entitled to in preparation of his
21 mitigation case, so what I'd like to do is just send that out to Kinkos because I think I
22 would be a lot faster and cheaper --

23 THE COURT: Right.

24 MS. LUEM: -- for the County, and I will provide that to Mr. Brown via email.

25 THE COURT: Okay, so officer, because he represents himself in a capital

1 murder case –

2 THE CORRECTIONS OFFICER: Uhuh.

3 THE COURT: I told her to bring the discovery and hand it over today. I need
4 to like see it go into his hands, so I have that record. There's nothing – what's in
5 there? Can you let them look at it real quick?

6 MS. LUEM: Judge, and in my file, it's mostly mental health records, medical
7 records, some photographs from things that we photographed, the Defense, not –
8 the State has the copies of all of the discovery, so the crime scene photos and
9 everything are in their file, and ours are just from going to the crime scene from the
10 evidence review and –

11 THE COURT: Can I have it?

12 MS. LUEM: -- yes, and items that we took. I also included a

13 THE COURT: I mean there's no clips or –

14 MS. LUEM: No, I took all of that out.

15 THE COURT: -- paperclips or – it's just loose leaf pages.

16 MS. LUEM: Right, and it's mostly – but I know the State has a lot more than
17 we do. And some – a lot of these items have already been provided to Mr. Brown,
18 we know that, but just in an abundance of caution I made –

19 THE COURT: Sure.

20 MS. LUEM: -- duplicates.

21 THE CORRECTIONS OFFICER: So it's not possible for it to go through the
22 jail?

23 THE COURT: I'm – he has to take it in open court. He represents himself he
24 has to take it –

25 THE CORRECTIONS OFFICER: I understand because certain things they

1 can't have –

2 THE COURT: Yeah, capital murder cases –

3 THE CORRECTIONS OFFICER: -- some things they can't have so they have
4 someone that actually goes through all of that, because we wouldn't be able to do
5 that.

6 THE COURT: Yeah, you know what – sorry.

7 MS. LUEM: And I don't know what –

8 THE COURT: It's a death penalty case, and he's going to get it handed over
9 right here. I mean he's representing himself and he's insisting on it. I don't have
10 any options. I can't – you know – I have to have a record of exactly what's going in
11 his hand because respectfully, Mr. Brown, a lot of Defendant's say; whenever it goes
12 to the jail, they magically didn't get it. Not that I believe that, just that that's – I can
13 belie that record, and there's no way for me to prove it when it's just him
14 representing himself. I'm like – I'm between a rock and a hard place. So, I'm going
15 to go through here and say exactly what's in here, and then if you guys want to go
16 through it again because you – that's your rules, you know, that's up to you.

17 Reporter's transcript of preliminary hearing – I'm not gonna like detail
18 anything, I'm just going through --

19 MS. LUEM: Those Judge are the –

20 THE COURT: -- records –

21 MS. LUEM: -- records from Mr. Brown's prior conviction of a California court
22 records.

23 THE COURT: -- making sure there's no –

24 MS. LUEM: Do you want me to stay up here or do you want –

25 THE COURT: -- well if you don't mind so I can ask you about something. I

1 know I'm not going to – you know, I have to be careful because the DA's here and –
2 well you separate it by little separators.

3 MS. LUEM: I did.

4 THE COURT: So this is all the California case?

5 MS. LUEM: To the next little divider, yes.

6 THE COURT: Okay. Okay no porn. The record should reflect that I'm just
7 looking at the jail and saying that and to reassure them that there's no inappropriate
8 materials contained herein.

9 MS. LUEM: The next stuff deals with the mitigation.

10 THE COURT: There's no staples either.

11 MS. LUEM: No I took all that out.

12 THE COURT: No paperclips. Mitigation worksheet and –

13 MS. LUEM: Yeah that's work product –

14 THE COURT: -- work product –

15 MS. LUEM: -- and then it's followed by a number of records that were
16 obtained by the Defense and there's I believe some signed releases by Mr. Brown
17 or by his mother, and there's also some memorandum from Angie Mason, who's are
18 mitigation specialist.

19 THE COURT: Can you estimate for me the number of pages that are here
20 from this?

21 MS. LUEM: Oh.

22 THE COURT: Is this the entire mitigation file?

23 MS. LUEM: Well, with the exception of the other records that I still have to
24 send out, then yes.

25 THE COURT: You mean, except for the 1,200 pages.

1 MS. LUEM: Right.

2 THE COURT: Okay.

3 MS. LUEM: There's summaries of interviews contained in there as well.

4 THE COURT: Medical records.

5 MS. LUEM: These are memos from our investigator, and the photographs

6 that he took.

7 THE COURT: How many pages would you say this is? Did you tell me yet?

8 MS. LUEM: Ummm –

9 THE COURT: I'm sorry; I just need to make a record.

10 MS. LUEM: -- I don't – 500 maybe – I have no idea, maybe 1,000.

11 THE COURT: Okay. And so –

12 MS. LUEM: -- I mean I could – I could take it back and do a paper count.

13 THE COURT: And is this an investigator that is privately – that only does

14 work for you or what?

15 MS. LUEM: Yes. Well that's the investigator that we retained for this case, so

16 he was – he's paid through the Office of Appointed Counsel and did investigation –

17 THE COURT: He or she?

18 MS. LUEM: He. Oh sorry, it's Mr. Retke who's the investigator, but that case

19 –

20 THE COURT: He has other employer, employees?

21 MS. LUEM: -- yeah, the case brief was prepared by one of his employees

22 and that showed an overview – she goes through all the discovery and summarizes

23 it.

24 THE COURT: Retke?

25 MS. LUEM: Retke, R-e-t-k-e; first name is –

1 THE COURT: We're gonna have to talk about whether you're asking for an
2 invest – you're gonna need an investigator if you're representing yourself, correct?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. Do you have a conflict with this person?

5 THE DEFENDANT: Yes.

6 THE COURT: What's the conflict? The whole – here's the deal. You're the
7 only one that believes in your religious law, never going to find an investigator that
8 believes in that; so if that's the basis for the conflict, you know, if you have some
9 other basis for conflict, then you should explain it to me, but if it's – he doesn't
10 believe it or she doesn't believe in my religious law, there is no such investigator, so
11 you'll – you're going to have to make some compromises.

12 MS. LUEM: And Judge –

13 THE COURT: -- unless the conflict is something different.

14 MS. LUEM: -- I met with Mr. Retke about this yesterday, and he has
15 expressed that he does not wish to stay on the case if – if Mr. Brown is representing
16 himself.

17 THE COURT: Okay. Just for the future, we're not gonna find an investigator
18 that – you know, that has religious beliefs consistent with yours. It's not a
19 requirement for the appointment of an investigator for them to tell me what their
20 religion is and to agree with you about anything to do with religion. So is that gonna
21 be a problem for you?

22 THE DEFENDANT: Well, for the future, I've never made that issue, so I don't
23 know why you are making that issue right now.

24 THE COURT: Because that's why you fired your lawyers to begin with.

25 THE DEFENDANT: That's not why I fired the lawyers.

1 THE COURT: Well that's what you told me. One of the many things you told
2 me.

3 THE DEFENDANT: Besides that, yes we do have conflict.

4 THE COURT: Okay. There appears to be photos of evidence, lots of photos;
5 and an investigator report, and that's it. No photos of any autopsy or bodies or
6 anything like that. I just looked at every single photograph so –

7 MS. LUEM: And Judge, for the record, I did not provide those, but I think that
8 the State will be providing those to Mr. Brown, and I think that since he's
9 representing himself, he needs to have all of the crime scene and autopsy photos.

10 THE COURT: Sure that's the – I'm just making a record what's going over –

11 MS. LUEM: Okay.

12 THE COURT: -- here in open court, and they have to follow their rules and do
13 whatever it is they have to do. If they're not – you know – that's – sorry, but it is
14 what it is.

15 So, Mr. Brown, you're being handed probably 1,000 pages in open
16 court of the things that were just detailed in very general terms. Are you prepared to
17 tell me how long it's going to take for you to get ready for trial or do you have to look
18 at these things and the other 1,200 pages, and speak to an investigator first?

19 THE DEFENDANT: Yes.

20 THE COURT: Yes what? Yes, you're prepared to me or –

21 THE DEFENDANT: No I'm not prepared to tell you, until I go through those
22 materials.

23 THE COURT: Okay. All right. I'm going to notify Mr. Christensen that I need
24 a private investigator in this case, and the matter is continued – do you think you
25 could have his stuff to him in two weeks?

1 MS. LUEM: Well he has all of the –
2 MR. SCOW: You had asked us to bring a copy of our file, and this is 2,500 to
3 3,000 pages.
4 THE COURT: Is there any staples or –
5 MR. SCOW: No.
6 THE COURT: Okay.
7 MR. SCOW: -- and I spoke with the correction officers. They don't think it's
8 physically possible for him to carry it with the handcuffs on for them -- so I -- I don't
9 know --
10 THE COURT: Well my marshal will bring it over with him.
11 THE MARSHAL: And do like we did before?
12 THE COURT: I'm not -- I'm not having -- there's no way like the DA's Office
13 books in evidence or stuff for the Defendant.
14 THE MARSHAL: No what we did with the other Defendant, take it over to
15 evidence, then take it up to the unit.
16 THE COURT: Thank you.
17 THE MARSHAL: Okay.
18 THE COURT: Okay, so the record should reflect that that's -- how many
19 pages?
20 MR. SCOW: I have no idea how many but it's -- to me it looks to be about
21 3,000.
22 THE COURT: And that's a complete copy of your file?
23 MR. SCOW: Yeah.
24 THE COURT: Okay with --
25 MR. SCOW: It's all the pictures -- right -- it's not the audios, because he can't

1 listen to the audio, but it – whatever transcripts, police reports, crime scene reports,
2 autopsy, whatever reports and records there are copies in here.

3 THE COURT: Okay. So Mr. Brown, when we have the private investigator
4 appointed, you can talk to them about audios and how to deal with that. So we'll
5 pass the matter two weeks. The record should reflect that the Defense file has been
6 provided, and the State's file has been provided, and my marshal will walk it over
7 there after court.

8 THE CLERK: October 6 at 9 a.m.


9 THE COURT: So I need an email to Drew Christensen, and you can ask
10 Diane to do it; Drew Christensen for a court-appointed investigator on a pro per
11 case, and he'll need the case number, and then he'll just pick someone. Do you
12 have anything else?

13 THE DEFENDANT: No.

14 THE COURT: So that's going to be status check appointment of investigator.

15 [Proceedings concluded at 9:45 a.m.]
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18

19 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
20 proceedings in the above-entitled case to the best of my ability.

21 
22 Yvette G. Sison
23 Court Recorder/Transcriber
24
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1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
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7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 ROBERT BROWN, JR.,

12 Defendant.

CASE NO. C-14-299234-1

DEPT. IX

13 BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE
14 THURSDAY, SEPTEMBER 15, 2016

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
16 **ALL PENDING MOTIONS**
17 **FURTHER PROCEEDINGS: RETURN FROM COMPETENCY COURT**
18 **STATUS CHECK: WITHDRAW OF MOTIONS**
19 **[SEE PAGE 2 FOR MOTIONS BEFORE THE COURT]**

20 APPEARANCES:

21 For the State:

RICHARD H. SCOW, ESQ.
Chief Deputy District Attorney

22 For the Defendant:

AMANDA S. GREGORY, ESQ.
ANDREA L. LUEM, ESQ.

23
24
25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 **DEFENDANT’S MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE**

2 **DEFENDANT’S MOTION TO BAR THE ADMISSION OF CUMULATIVE VICTIM**
3 **IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE**

4 **DEFENDANT’S MOTION TO PRECLUDE THE COURT FROM PARTICIPATING**
5 **IN REHABILITATION OF POTENTIAL JURORS**

6 **DEFENDANT’S MOTION FOR COURT TO ALLOW PRESENTATION OF**
7 **EVIDENCE TO THE JURY OF THE DISPROPORTIONALITY AND**
8 **ARBITRARINESS AND UNFAIRNESS OF A DEATH SENTENCE**

9 **DEFENDANT’S MOTION TO PROHIBIT EVIDENCE AND ARGUMENT**
10 **CONCERNING MITIGATING CIRCUMSTANCES NOT RAISED BY THE**
11 **DEFENDANT**

12 **DEFENDANT’S MOTION FOR AN ORDER PERMITTING DISCOVERY OF**
13 **RECORDS PERTAINING TO FAMILY LIFE OF VICTIM**

14 **DEFENDANT’S MOTION FOR THE COURT TO DISCLOSE ITS VIEWS**
15 **REGARDING THE IMPOSITION OF CAPITAL PUNISHMENT OR, IN THE**
16 **ALTERNATIVE, FOR THE STATE TO STIPULATE TO LIFE WITHOUT PAROLE**
17 **IN THE EVENT OF A HUNG PENALTY JURY**

1 THURSDAY, SEPTEMBER 15, 2016 AT 10:39 A.M.

2
3 THE COURT: State versus Robert Brown, C299234-1. Mr. Brown is present
4 in custody. This is the time set for *Faretta* canvass of the Defendant.

5 Counsel, can you state your appearances for the record.

6 MS. LUEM: Thank you, Judge. Andrea Luem, bar number 8844, and
7 Amanda Gregory on behalf of Mr. Brown.

8 MR. SCOW: Richard Scow for the State.

9 THE COURT: Okay. So Mr. Brown, the record should reflect, is insisting on
10 representing himself. He's been evaluated by multiple doctors and found competent
11 to proceed in representing himself. They were provided numerous records and had
12 conversations with appointed counsel; correct?

13 MS. LUEM: Yes.

14 THE COURT: And I've already made a record of all those things in
15 competency court.

16 MS. LUEM: Yes.

17 THE COURT: Okay. And so now is the time for me to conduct a *Faretta*
18 canvass with the Defendant.

19 Mr. Brown, under the Sixth Amendment of the United States
20 Constitution you're entitled to the assistance of an attorney at all stages of the
21 criminal proceeding. You have the right to represent yourself and conduct your own
22 defense if you so choose. The Court cannot force a lawyer upon you should you
23 insist you want to conduct your own defense. You are given this right under the
24 United States Supreme Court decision of *Faretta versus California*, but you must
25 first knowingly and voluntarily waive and give up your right to assistance of an

1 attorney before you can represent yourself.

2 Do you understand you have the right to assistance of two attorneys
3 because this is a capital case where the State of Nevada is seeking a sentence of
4 death, that you have the right to assistance of attorney at all stages of these
5 proceedings?

6 THE DEFENDANT: I'm aware of that.

7 THE COURT: And you understand criminal law is a complex area where
8 experience and professional training is both required and desirable?

9 THE DEFENDANT: I'm aware of that.

10 THE COURT: What legal training have you had?

11 THE DEFENDANT: None.

12 THE COURT: You realize an attorney is trained in the law and has the skill
13 and experience to properly conduct a defense of your case?

14 THE DEFENDANT: I'm aware of that.

15 THE COURT: An attorney knows the elements of the offenses and has been
16 charged -- that you've been charged with and the possible defenses that you could
17 present on your own behalf; do you understand that?

18 THE DEFENDANT: I'm aware of that.

19 THE COURT: Do you understand criminal trials present difficult choices as to
20 strategy and tactics. And even attorneys can differ as to the proper defense to
21 make in a case. You're not trained to make these choices. An attorney knows the
22 degree of proof that the State must meet to prove your guilt beyond a reasonable
23 doubt. And by investigation and review of their -- State's evidence, it can be
24 determined that the State can't prove its case. You understand that those are
25 advantages that lawyers have over a non-legally trained person?

1 THE DEFENDANT: I'm aware of that.

2 THE COURT: Also, because of the nature of the defense case -- I mean,
3 excuse me, the nature of the penalty sought in this case, and because it's a death
4 penalty case, Nevada Supreme Court rules require that lawyers appointed in death
5 penalty cases have a higher level of experience and knowledge related to the
6 defense of a murder case than just your average run-of-the-mill case, and they
7 require two lawyers not one. And the reason they do that is because the penalty is
8 so significant that you face, and the legal issues, and it's not just a liability part of the
9 trial, but there's also a penalty part of the trial with a presentation of alleged
10 aggravating factors and mitigating factors for a jury to decide what the proper
11 penalty is; do you understand all of that?

12 THE DEFENDANT: I'm aware of that.

13 THE COURT: And so do you understand if you represent yourself you're
14 going to have to determine how to subpoena witnesses to testify on your own
15 behalf?

16 THE DEFENDANT: I'm aware of that, but if I may digress for just one
17 moment, Judge. I'd like to know if -- or why isn't -- rather the motion to dismiss
18 counsel being heard first?

19 THE COURT: What?

20 THE DEFENDANT: I filed simultaneously a motion to dismiss counsel along
21 with --

22 THE COURT: That's what we're doing, a *Faretta* canvass, to -- I have to do a
23 *Faretta* canvass before you can represent yourself. You said you wanted to fire
24 your lawyer and represent --

25 THE DEFENDANT: Well --

1 THE COURT: -- yourself. Do you know what a *Faretta* canvass is?

2 THE DEFENDANT: Yes. Yes, I'm --

3 THE COURT: Okay.

4 THE DEFENDANT: -- aware of what it -- what it's for, but as I explained
5 during our ex parte hearing, essentially, if you understood, is that -- that the pro se
6 motion would not even be necessary if the counsels were dismissed.

7 THE COURT: I know.

8 What set of lawyers are you? I can't recall.

9 MS. LUEM: Third.

10 MS. GREGORY: Third.

11 THE COURT: Yeah, third set of two.

12 MS. LUEM: Right.

13 THE COURT: So technically you're the fifth and sixth lawyer that he's
14 dissatisfied with?

15 MS. GREGORY: Yes.

16 THE DEFENDANT: Yeah.

17 THE COURT: Yeah.

18 What I've said is this. I've denied your motion to replace counsel
19 because your demands are unreasonable because the things that you expect them
20 to do or not do are unreasonable, and that you're not going to get along with any
21 lawyer that I appoint. I mean -- you know, after -- I realize it's a death penalty case.
22 I do. And you got the first two removed, and you got the second two removed, but
23 at some point it becomes you and not them. And I've spent enough time with you in
24 private without the district attorney present to know this is definitely you and not
25 them.

1 You -- just because someone has personality issues, and are stubborn,
2 and want to tell everybody what to do, and stick their hand in the back of their head
3 and think they know everything more than everybody else doesn't mean they're
4 incompetent. And so that's just your personality. And so you have two choices.
5 They have done nothing that warrant their removal. Nothing except zealously
6 represent you and file motions that apparently you don't agree with. So your
7 choices are dismiss them and represent yourself, proceed with them and have the
8 right to have an appeal and challenge their performance after a trial, if you get
9 convicted of anything, or represent yourself. We've gone through that. So my ruling
10 is, I'll grant your motion to dismiss counsel if that's what you want, but then you'll be
11 representing yourself because I'm not giving you a seventh and eighth lawyer.

12 THE DEFENDANT: Well, for the record, I never dismissed any attorneys.

13 THE COURT: Okay. Well, they --

14 THE DEFENDANT: But [indiscernible].

15 THE COURT: -- moved to withdraw because you didn't -- you didn't want to
16 cooperate with them because you disagree with everybody on -- so far anybody and
17 everybody who's touched your case. So, that's your ruling. Is there anything else
18 before we go through the *Faretta* canvass?

19 THE DEFENDANT: Nuh-uh. That's it.

20 THE COURT: Okay. You must determine how to subpoena witnesses on
21 your own behalf. Do you know how to subpoena a witness?

22 THE DEFENDANT: I'll -- I'll learn.

23 THE COURT: Okay. Do you know how to disqualify a juror?

24 THE DEFENDANT: I'll learn.

25 THE COURT: All right. An attorney is trained to observe jurors and select the

1 jurors that are most favorable to your case. Do you know how to do that? Have you
2 thought about that?

3 THE DEFENDANT: I'll learn.

4 THE COURT: Do you know the consequences if you decide to testify on your
5 own behalf?

6 THE DEFENDANT: I'm aware of them.

7 THE COURT: Okay. What are those consequences?

8 THE DEFENDANT: Well, they can be used against me for one. That's not
9 good.

10 THE COURT: Okay.

11 THE DEFENDANT: But all the consequences, no.

12 THE COURT: Okay. Do you have any prior convictions in your history?

13 THE DEFENDANT: Yes.

14 THE COURT: Counsel, for the record -- and I realize you may not recall right
15 off the top of your head, but if you would please -- any of you, since you presumably
16 will be using them as an aggravating factor, or could use them in sentencing, what
17 are those?

18 MR. SCOW: Carjacking and corporal injury to spouse convictions; the same
19 case.

20 THE COURT: Felonies or --

21 MR. SCOW: Yes, both of those.

22 THE COURT: -- one felony or what?

23 MR. SCOW: They're both felonies.

24 THE COURT: And how old are they?

25 MR. SCOW: They are within the ten years.

1 THE COURT: Okay. So the -- Nevada -- well, the law allows felony
2 convictions within seven -- within ten years -- felony conviction -- if you have a felony
3 conviction or convictions and more than ten years has not elapsed from the date
4 you've been convicted or discharged from prison, parole, or probation, whichever is
5 later, and that evidence isn't precluded from coming before the jury, and you take
6 the stand and testify, one of the deputy district attorneys, in the presence of the jury,
7 would be allowed to ask you have you been convicted of a felony, what was the
8 felony and when did it happen; however, no other details could be gone into at least
9 -- at least during testimony of the liability phase; do you understand that?

10 THE DEFENDANT: I'm aware of that.

11 THE COURT: Okay. And during a penalty phase the details of those things
12 could be gone into potentially; do you understand that?

13 THE DEFENDANT: I'm aware of that.

14 THE COURT: Do you understand that -- that the offenses that are included
15 within the charge against you in the Information or Indictment, the list of charges, do
16 you understand all the charges?

17 THE DEFENDANT: No, I don't, but I'm aware of them.

18 THE COURT: Okay. Which ones don't you understand?

19 THE DEFENDANT: All of them.

20 THE COURT: You don't understand invasion of the home while you had
21 possession of a weapon?

22 THE DEFENDANT: No, I don't.

23 THE COURT: Okay. You don't understand burglary while in possession of a
24 firearm?

25 THE DEFENDANT: No, I don't.

1 THE COURT: You don't understand murder?

2 THE DEFENDANT: No, I don't.

3 THE COURT: Okay. What don't you understand about it?

4 THE DEFENDANT: I don't understand the elements, what constitutes the
5 crime. I don't understand the meaning of the different languages within the statute.
6 I don't understand the omission of certain elements in the statute. So there's no
7 way I can understand them, but I am aware of what they are under statute.

8 THE COURT: Okay. And there's no --

9 MS. LUEM: And, Judge, for the record, I did provide Mr. Brown the jury
10 instructions for all of the crimes that's he's charged with and all the standard
11 instructions for a capital murder case.

12 THE COURT: Okay.

13 MS. GREGORY: And, Your Honor, also just for the record, when you asked
14 Mr. Brown if he understands the charges, I think that he has a different meaning of
15 that word versus if he perhaps comprehends the elements or -- he has a different
16 meaning of those words, so --

17 THE COURT: Like what? What -- what do those words mean to --

18 MS. GREGORY: Mr. Brown can probably get into that.

19 THE COURT: Do you have your own language that you use?

20 THE DEFENDANT: What was this?

21 THE COURT: I'm using the common word charge.

22 THE DEFENDANT: Yeah, the --

23 THE COURT: The crime.

24 THE DEFENDANT: Yeah, well, to me that carries with it the fact that I'm
25 subjected to it in the first place. And I have my own religious beliefs, religious law

1 system that I adhere to. And I have a right of conscience and all of that, so I can
2 only subscribe to one form of law; one obedience to one law and that's it, so I can't
3 possibly --

4 THE COURT: Yeah, that's going to make this trial --

5 THE DEFENDANT: -- I can't possibly --

6 THE COURT: -- real hard for you.

7 THE DEFENDANT: -- not know them both.

8 THE COURT: Yeah, it's going to be hard for you to do this, really hard, if you
9 can't know what the law is.

10 THE DEFENDANT: Well, there's -- you have ignorance of law as a defense.

11 THE COURT: Okay. Anything else on that?

12 THE DEFENDANT: No.

13 THE COURT: And so when -- when you are able to research the law for
14 similar cases and present possible defenses -- do you know how to research the
15 law? Not your law, but the other law?

16 THE DEFENDANT: Yes.

17 THE COURT: Okay. So you know how to do that?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you know the range of punishment for --

20 State, why don't you go through the ranges of punishments for one
21 through -- Counts 1 through 15 for me, please --

22 MR. SCOW: Yeah. Court's indulgence.

23 THE COURT: -- for Mr. Brown's benefit.

24 MR. SCOW: Court's indulgence. Let me pull out the Information.

25 THE COURT: Well, let's start with invasion of the home while in possession --

1 MR. SCOW: Okay. Yeah, if you'd --
2 THE COURT: -- of a deadly weapon.
3 MR. SCOW: -- name them I'll tell -- it's one to ten years for the home
4 invasion. And the use of a deadly weapon increases it to 15 years.
5 THE COURT: Okay. Burglary while in possession of a firearm.
6 MR. SCOW: The same, two to 15.
7 THE COURT: Murder with use of a deadly weapon.
8 MR. SCOW: It's either a 20 to life, or 20 to 50, or life without. And in this
9 case, since the notice of intent to seek death is filed, death is also one of the
10 possible penalties. And then the weapon enhancement adds an additional one to
11 20 years.
12 THE COURT: Two counts, four and five, of attempt murder with use of a
13 deadly weapon.
14 MR. SCOW: Those are each one to 20 years for the attempt murder and an
15 additional one to 20 years for the use of the deadly weapon.
16 THE COURT: Possession of firearm by ex-felon.
17 MR. SCOW: It's a one to six.
18 THE COURT: Discharge of firearm from or within a structure, Counts 7
19 through 14.
20 MR. SCOW: Those are two to 15 years.
21 THE COURT: And child abuse, neglect, or endangerment with use of a
22 deadly weapon.
23 MR. SCOW: That's one to 20 years.
24 THE COURT: So, Mr. Brown, do you understand that those are the ranges of
25 punishment for each offense listed in the charging document?

1 THE DEFENDANT: I'm aware of them.

2 THE COURT: All right. Do you know the difference between an opening
3 statement and a closing argument?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. What's the difference?

6 THE DEFENDANT: An opening statement is just to give a brief overview of
7 what I intend to offer as evidence, et cetera. Closing arguments is closing out the
8 case and making my final arguments. I simply --

9 THE COURT: Okay. An opening statement is a statement designed to tell
10 the jury what you expect to prove in your case. And a closing argument is to argue
11 what facts might be properly drawn from the evidence and how those facts apply to
12 the law; that's the difference.

13 Do you know how to object to a question that might be improper? Do
14 you know the rules of evidence?

15 THE DEFENDANT: Not -- not all of them.

16 THE COURT: Okay. Are you going to work on those?

17 THE DEFENDANT: I am.

18 THE COURT: Do you understand that you're going to be held to all the legal
19 standards of a lawyer and you're still going to have to follow the rules even though
20 you don't know them?

21 THE DEFENDANT: I'm aware of that.

22 THE COURT: Okay. And you understand once you decide on self-
23 representation that, you know, it's very difficult for you to just change your mind in
24 the middle and say I want to have an attorney?

25 THE DEFENDANT: I'm aware of that.

1 THE COURT: You've advised me you don't want standby counsel; is that
2 correct?

3 THE DEFENDANT: Not this stand -- not this counsel as standby.

4 THE COURT: Okay. Or any of the other four -- none of the six?

5 THE DEFENDANT: The resurrect I was making back [sic]?

6 THE COURT: You don't want any of the six lawyers that have previously
7 represented you?

8 THE DEFENDANT: Okay. No.

9 THE COURT: Okay. And could -- for the record, how old are you?

10 THE DEFENDANT: Forty-seven.

11 THE COURT: And what level of education have you received?

12 THE DEFENDANT: Junior high.

13 THE COURT: Pardon me?

14 THE DEFENDANT: Jurior high.

15 THE COURT: What grade?

16 THE DEFENDANT: Probably ninth.

17 THE COURT: All right. And you've decided to represent yourself because
18 why?

19 THE DEFENDANT: Because -- well, we've -- we went through this in the ex
20 parte hearing. To protect my interests, one of them being my religious right and the
21 fact that counsel were going against that right.

22 THE COURT: Okay. And you've already rejected standby counsel; correct?

23 THE DEFENDANT: Yes.

24 THE COURT: And you understand that if you are convicted after trial you
25 have a right to an appeal. You're going to have to file that appeal and pursue that

1 appeal on your own representing yourself; you understand that?

2 THE DEFENDANT: I'm aware of that.

3 THE COURT: And if you -- if that -- if you lose that appeal you will not have
4 the avenue of post-conviction relief that every other person who's represented by a
5 lawyer would have. Meaning, you can't challenge your lawyer's performance during
6 trial because you represented yourself?

7 THE DEFENDANT: I'm aware of that.

8 THE COURT: Okay. So -- so if -- if the supreme court says, you know what,
9 Judge -- Judge Togliatti's right. After appointing three full sets of lawyers, it is not
10 reasonable to expect her, Judge Togliatti, to appoint two more lawyers to adhere to
11 some religious protocol that only you have, that nobody really understands, and
12 require them to try to work under those conditions as you direct them to do whatever
13 it is you want to do under your own law, you were right, Judge Togliatti, appeal is
14 denied. You didn't have to give him two new lawyers, lawyers seven and eight. If
15 we get to that point, then you will not be able to pursue post-conviction relief for
16 failures on your client's behalf, which is a huge part of death penalty litigation.
17 Many, many -- well, I won't say many, but there are plenty of cases where the
18 penalty and the -- and/or the liability is vacated by an appellate court because of --
19 not that you would have failures, but because of attorney failures. That would not be
20 something that you will be able to pursue; do you understand that? That's really the
21 most important thing out of all of this that you understand that.

22 THE DEFENDANT: I'm aware of that.

23 THE COURT: All right. The motion to dismiss counsel and -- is granted in
24 part. Counsel's ordered dismissed. Defendant's representing himself as I find he
25 understands the nature of the charges. He understands the ramifications of

1 representing himself. He understands that he's going to have to explore possible
2 defenses, learn the rules of evidence, learn the elements, to the extent he's willing
3 to, learn the law that isn't his -- his religious law. And so he's going to represent
4 himself.

5 There's a list of motions on calendar. I'm going to go through them.
6 You can tell me if you wish to have them heard. I think you told me this once
7 already, but let's just go through them briefly.

8 Defendant's motion for individual sequestered voir dire. Do you wish to
9 pursue that?

10 THE DEFENDANT: Withdrawn.

11 THE COURT: All right. Defendant's motion to bar the admission of
12 cumulative victim impact evidence in violation of the due process clause.

13 THE DEFENDANT: Withdrawn.

14 THE COURT: Defendant's motion to preclude the Court from participating in
15 rehabilitation of potential jurors?

16 THE DEFENDANT: Withdrawn.

17 THE COURT: Defendant's motion for Court to allow presentation of evidence
18 to the jury of the disproportionality and arbitrariness and unfairness of a death
19 sentence.

20 THE DEFENDANT: Withdrawn.

21 THE COURT: Defendant's motion to prohibit evidence and argument
22 concerning mitigating circumstances not raised by the Defendant.

23 THE DEFENDANT: Withdrawn.

24 THE COURT: Defendant's motion for an order permitting discovery of
25 records pertaining to family life of victim.

1 THE DEFENDANT: Withdrawn.

2 THE COURT: Defendant's motion for the Court to disclose its views
3 regarding the imposition of capital punishment and it goes on.

4 THE DEFENDANT: Withdrawn.

5 THE COURT: You're familiar with what that motion is; correct?

6 THE DEFENDANT: No.

7 THE COURT: The one that says --

8 THE DEFENDANT: I have a copy of them though.

9 THE COURT: Okay. The one that says we want the Court to disclose its
10 views regarding the imposition of capital punishment, or in the alternative, for the
11 State to stipulate to life without parole in the event of a hung penalty jury.

12 THE DEFENDANT: Withdrawn.

13 THE COURT: Okay. All right. So we need to set a trial date. How long are
14 you going to need to get -- we don't have a trial, do we? Do we have a trial?

15 MR. SCOW: We do not.

16 THE COURT: Okay.

17 MS. LUEM: Judge, there was the other -- one other motion to -- the
18 Defendant's motion to declare the Nevada death penalty statute unconstitutional.

19 THE COURT: I didn't already rule on that?

20 MS. GREGORY: No.

21 MS. LUEM: No. It was -- it was withdrawn -- well, it was held in abeyance at
22 the request of Mr. Brown and so it's still out there, but the Court hasn't ruled, so --

23 THE COURT: Do you wish to go forward?

24 THE DEFENDANT: With the motion? No, withdrawn.

25 THE COURT: Okay. He's withdrawn the motion.

1 Mr. Brown, how long till you can be ready for trial?

2 THE DEFENDANT: I don't know and I think that's kind of a tricky question
3 because for me -- my speedy trial rights have been violated, so for me to say I want
4 a specific date, I don't want that to be a concession to anything.

5 THE COURT: Well --

6 THE DEFENDANT: So at this point, I guess --

7 MS. LUEM: Judge, I think that Mr. Brown waived his right to a speedy trial a
8 long time before we were ever on the case.

9 THE COURT: Yeah. I'm not -- you know, he can file whatever he needs to
10 file. In the meantime --

11 MS. LUEM: And just -- in terms of determining trial dates, all the discovery
12 that I have, and Ms. Gregory has, is in a digital form. We received a lot of it from the
13 State and some of it from prior counsel, so I'm just requesting that rather than we --
14 us printing paper copies of everything, it's just -- I think the County is charged ten
15 cents a page. It's probably more efficient and more sound to have the District
16 Attorney's Office produce the discovery for Mr. Brown.

17 THE COURT: How big is your -- how big is your discovery file?

18 MR. SCOW: It wouldn't be -- it wouldn't be too bad to print off. My concern
19 would be --

20 THE COURT: But -- I mean, I -- he's entitled --

21 MR. SCOW: I think they --

22 THE COURT: -- to your work product. I'm concerned --

23 MR. SCOW: Yeah, I was going to say --

24 THE COURT: -- that they're not going to get --

25 MR. SCOW: -- they would have --

1 THE COURT: -- he's not going to get everything he needs.

2 MS. LUEM: No, the work -- I mean, the work product I'm happy to give.

3 MR. SCOW: Okay.

4 MS. LUEM: The problem is I'm -- my concern is that Mr. Brown is not going to
5 trust the version that I produce to him as far as the discovery. So, I mean, anything
6 that we have in terms of research, or investigation, I can produce that separately,
7 but --

8 THE COURT: All right.

9 MS. LUEM: -- I think the actual generating of reports should probably come
10 straight from the State.

11 THE COURT: So what does he have now?

12 MS. LUEM: I'm sorry. What does he have?

13 THE COURT: What does he have?

14 MS. LUEM: In his discovery? Or what does he --

15 THE COURT: Yeah. What does he have -- what have you given him?

16 MS. GREGORY: Your Honor, what he has -- there was one -- it was probably
17 an entire week that I sat at the jail with Mr. Brown for several hours a day and went
18 through everything. And he picked out everything that he wanted printed and I
19 printed all of that and provided it to him. It wasn't the entire file. It was specifics of
20 what he wanted.

21 THE DEFENDANT: Excuse me.

22 MS. GREGORY: So I don't recall what that was. I don't have a list of what
23 that was. He's really the only person that knows that.

24 THE COURT: Okay.

25 MS. LUEM: And he has copies of all of his motions and copies of the jury

1 instructions that I provided to him.

2 THE COURT: Okay. So, State, because he's representing himself, and
3 because it's a capital case, I need you to make a duplicate copy of your discovery.
4 Sorry, but he needs a hard copy.

5 MR. SCOW: Okay.

6 THE COURT: If -- how long do you think it would take you to print out a hard
7 copy because I'm going to give it to him here in court? How long would that take?

8 MR. SCOW: Give us a week.

9 THE COURT: All right. How long will it take for you to produce whatever it is,
10 work product, cases, or anything else that you haven't already given him? Can you
11 have that here in a week to give him in open court?

12 MS. LUEM: A week, Judge. And I'll make copies of things that we've
13 probably already gave him just to be safe.

14 THE COURT: All right. So the matter's continued one week for discovery.
15 You're going to get the discovery and then you're going to have some time period
16 since I know you're familiar with the case. Next week you have to commit to a
17 timeframe when you can be ready.

18 THE DEFENDANT: I think that --

19 THE COURT: And then you have to tell me if you're going to want an
20 investigator, and you're going to have to tell me if you want a mitigation specialist.

21 THE COURT CLERK: September 22nd at 9 a.m.

22 THE COURT: I assume you know what a mitigation specialist is.

23 THE DEFENDANT: Yes.

24 THE COURT: Okay.

25 So if you could come back one more time.

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MS. LUEM: Sure. Thank you, Judge.

THE COURT: Thank you.

MS. GREGORY: Thank you.

[Proceedings concluded at 11:01 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


SANDRA PRUCHNIC
Court Transcriber



1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 ROBERT BROWN, JR.,

12 Defendant.

CASE NO. C-14-299234-1

DEPT. IX

13 BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE
14 THURSDAY, APRIL 6, 2017

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
16 **STATUS CHECK: RESETTING OF TRIAL**

17 APPEARANCES:

18 For the State:

COLLEEN BAHARAV, ESQ.
Deputy District Attorney

19 For the Defendant:

20 AMANDA S. GREGORY, ESQ.
21 JENNIFER M. WALDO, ESQ.
Standby Counsel

22 ALSO PRESENT:

ALBERTO FUENTES
Investigator

23
24
25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 THURSDAY, APRIL 6, 2017 AT 9:49 A.M.

2
3 THE COURT: Page 12. State versus Robert Brown, C299234-1. He's
4 present in custody. This is the time set for status check resetting of trial.

5 Mr. --

6 MS. BAHARAV: And, Your Honor -- go ahead. I'm sorry.

7 THE COURT: What?

8 MS. BAHARAV: The State filed a receipt of copy and to provide proof that we
9 gave the Defendant additional discovery. We've also labeled the discovery this time
10 and provided him with a listing of what it is. So if for some reason the jail takes his
11 discovery again, he should have an idea of what he's missing.

12 THE COURT: Okay. Could you --

13 MS. WALDO: Your Honor, may I provide this to him?

14 THE COURT: Please.

15 MS. BAHARAV: And we did mail him a copy. I'm just not sure how long the
16 mail takes to get to him.

17 MS. WALDO: Your Honor, what he's indicated to me is he did receive the --
18 his file already.

19 THE COURT: Okay. So we passed this for the Defendant to determine when
20 he could be ready for trial.

21 THE DEFENDANT: I don't know.

22 THE COURT: What do you mean you don't know?

23 THE DEFENDANT: I indicated that to the Court last time that I would just let
24 the Court decide.

25 THE COURT: You need to speak up, please.

1 THE DEFENDANT: I indicated last time in our last hearing to let the Court
2 decide that.

3 THE COURT: Well, is the investigator here?

4 MS. WALDO: I don't see him this morning, Your Honor.

5 THE COURT: So how much investigation is left to do?

6 THE DEFENDANT: I'm probably only about a third through.

7 THE COURT: So meaning records or speaking to witnesses? Let's just start
8 with records. What kind of records -- I don't need details, just general -- you know,
9 what -- how many entities are we talking about?

10 See, this is the thing. It's really hard for me to do this in the middle of
11 the calendar. I know you want to get out of here, but I need to trail it because, you
12 know, he doesn't volunteer anything and just -- you know, I have to make the record,
13 and I have to ask very specific questions to get him to answer the questions. And to
14 make everybody wait for that is --

15 MS. WALDO: I understand, Your Honor.

16 THE COURT: -- while he --

17 MS. WALDO: I can come back. I have an appearance in JC 3. I can --

18 THE COURT: -- doesn't answer the question is difficult.

19 MS. WALDO: I understand. I'll come back.

20 THE COURT: Okay.

21 So, Mr. Brown, have a seat. We're going to trail your case till the end.
22 Thank you.

23 [Proceedings trailed at 9:51 a.m.]

24 [Proceedings resumed at 12:20 p.m.]

25 THE COURT: Okay. Robert Brown, Jr., C299234-1. The record should

1 reflect that the Defendant is present in custody. He has two standby counsel who
2 switched out from Ms. Waldo and is now Ms. Gregory because, I don't know, three
3 hours has passed. I also have the presence of the Defendant's investigator.

4 So you dropped something off to -- that was handed to me by my staff a
5 couple minutes ago. I assume that's not anything that needs to be discussed in
6 open court and will be addressed through the Court and my staff. Not me, but my
7 staff will advise you if there's any, you know, stuff related to the Defendant's
8 defense; correct? We don't need --

9 MR. FUENTES: Well, Your Honor, the reason I just now gave it to them was
10 because we went ahead and gave it to Mr. Christensen yesterday by email. And the
11 Court had informed me before that anytime we did anything like that that you wanted
12 a copy of not only the request, but the curriculum of the expert and what we were
13 asking for --

14 THE COURT: Well, here's --

15 MR. FUENTES: -- this crime scene expert.

16 THE COURT: -- here's the reason. You under -- it would be great if I didn't
17 have to be involved in any of this, except guess who has to sign a court order for
18 every single penny to be paid; me. So I'm not going to go signing a court order for
19 some expert I know nothing about. Sometimes I get these expert bills that are
20 insane and they haven't even prepared a report yet. And so I just -- it's not because
21 I want to. It's because I'm the one that has to order the payment, so --

22 MR. FUENTES: Your Honor, I'm just following your instructions, that's all.

23 THE COURT: Sure. No, I'm making a record.

24 MR. FUENTES: Okay.

25 THE COURT: I'm making a record that I don't know what -- so did Drew say

1 the judge orders this, or has he agreed to it --

2 MR. FUENTES: I -- I have --

3 THE COURT: -- or what did he say?

4 MR. FUENTES: -- no idea because I just sent it to him yesterday and I
5 haven't even talked to him about it, but -- you know, that's why I -- I've got a copy for
6 you, he's got a copy, and I guess he'll either be getting in touch with you or
7 whatever, but -- also, I had no idea we were coming to court today. I thought it was
8 tomorrow, but -- obviously --

9 THE COURT: So you're --

10 MR. FUENTES: -- if we're going to set a new court date, and if that expert is
11 given to us, it's going to take some time for him to do what he's got to do, so --

12 THE COURT: Okay. Knowing that I haven't looked at it yet --

13 MR. FUENTES: Okay.

14 THE COURT: -- just assume that he gets it, how long would it take, from your
15 point of view?

16 MR. FUENTES: Oh, Your Honor, I have -- I have no idea because I don't
17 know what his schedule is, but I would say -- you know, this -- it has to be at least
18 six months I would think.

19 MS. GREGORY: Judge, can I approach and see what it is that was
20 submitted? Just look at what -- what kind --

21 MR. FUENTES: It's a --

22 MS. GREGORY: -- of document you got.

23 MR. FUENTES: -- crime scene expert.

24 THE COURT: Could you walk over there with him and make sure that he's --
25 making sure that that's exactly what he's --

1 MS. GREGORY: And, Judge, if you would like, I can help Mr. Brown prepare
2 a witness motion asking for an expert on the case to give you all the information.

3 THE COURT: Well, I think it's there. I don't really need a motion --

4 MS. GREGORY: Okay.

5 THE COURT: -- because I have a general understanding of, you know -- I
6 mean, he's pretty good at explaining everything.

7 THE DEFENDANT: I think so. I'm saying that. But for the record again, Ms.
8 -- Ms. Gregory's trying to hand me some paperwork, but I do object to Ms. Gregory's
9 assignment to my case as standby counsel. And we've been through this before. I
10 mentioned it a few times on the record.

11 THE COURT: Sure. Well, your choices are go without standby counsel or go
12 with the law office of --

13 MS. GREGORY: Of Gregory and Waldo.

14 THE COURT: -- of Ms. Waldo. So --

15 THE DEFENDANT: Well, I can't -- the problem is you said you granted me
16 new standby counsel then you reassign Amanda Gregory.

17 THE COURT: Anything else that you want to make a record of?

18 THE DEFENDANT: The other fact that I've asked for transcripts that I have
19 not received. I would like my transcripts.

20 THE COURT: I'm not going to give you transcripts to every proceeding with --
21 other than what's required by court rule, which I assume you're doing.

22 Are you mailing them to him?

23 THE COURT RECORDER: I mailed some.

24 THE COURT: Okay.

25 THE COURT RECORDER: Yeah, some I'm still working on.

1 THE COURT: So if you're missing something you'll need to be more specific.
2 You need a date that you say you're missing.

3 THE DEFENDANT: Okay.

4 THE COURT: I'm happy --

5 THE DEFENDANT: I'll find --

6 THE COURT: -- to do that --

7 THE DEFENDANT: -- I'll find the dates then.

8 THE COURT: -- if I have a date. That I just can -- you know, you just say I
9 want transcripts. Okay. Well, you've been here a hundred times and that could be
10 thousands of pages, so you need to be specific and give me the date that you say
11 you don't have.

12 THE DEFENDANT: I'll find the dates then.

13 THE COURT: Okay.

14 So I'm not familiar with this request for expert witness, but assume it
15 gets granted, then -- and knowing that we need to check and expert's schedule, and
16 knowing all those things, just assume we build in some wiggle room there and I give
17 a date for trial and then you find out that this person has a family reunion or
18 whatever and can't -- can't do it. Then if you bring that to my attention sooner rather
19 than later we'll revisit the trial -- the trial date. But assuming you get this person and
20 all your other experts that you're in the process of pursuing, if you haven't already
21 done so, and your investigation -- you told me you don't know last time, then I'm
22 going to pick a date for you and that will be your aspirational goal.

23 MR. FUENTES: Your Honor, if I may?

24 THE COURT: I'm sorry. Can I finish a sentence with him?

25 MR. FUENTES: Well, I -- I talked to him about this situation as far as

1 investigative wise, and experts, and things like that.

2 THE COURT: Okay.

3 MR. FUENTES: And I was just going to go -- I was going to just suggest to
4 the Court, I would think a date probably in January or February of the following -- the
5 next year would give us plenty of time to not only do our investigations or -- but deal
6 with whatever experts we may have to deal with. I don't anticipate at this point, as
7 far as we've talked about, not having any other experts. So far we've got Dr.
8 Chambers who we've already talked to and is already in line and waiting for a trial
9 date. And then we have this one here as to when it will be granted, or when he will
10 be given to us, it's up to the Court and Mr. Christensen, and then we can start
11 working with him.

12 As far as my investigation is concerned, I can't see me not being ready
13 by that date, if the Court would so grant that date. My investigation is -- is really up
14 -- up till now almost finished and I'm just waiting for several other small details. The
15 biggest problem is dealing with the police department, and getting subpoenas
16 served, and things like that. But other than that, we've pretty much formulated our
17 defense. And my investigation there's only a few things left for me to do, so I can't
18 see me not being ready on my part if that date is granted. And then as far as the
19 expert's concerned, it's just a matter of how much time it takes for us to get this
20 expert, and get him going, and get him all the materials.

21 MS. BAHARAV: January would work for the State, Your Honor.

22 THE COURT: Could -- I'm sorry. He's representing himself, so if you would
23 just give me second.

24 Did you hear everything he just said?

25 THE DEFENDANT: We did discuss --

1 THE COURT: Could you speak up?

2 THE DEFENDANT: We did discuss a timeframe and I agree to his
3 calculations.

4 THE COURT: You agree to his calculations approximately?

5 THE DEFENDANT: Right.

6 THE COURT: Understanding that someone could literally die, one of your
7 witnesses, experts between now and January of 2017 and you'd have to get another
8 one, I understand that. Things happen, unavailability, I understand that. But
9 generally, based upon what he said, assuming you get this expert that I haven't
10 even looked at yet, with all things being considered, is that what you're asking for?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. That's what -- that's all I want to know.

13 THE DEFENDANT: If I may clarify one thing for the record. Also, Judge, as
14 to my objection -- my objection to Amanda Gregory's assignment. I did specify in
15 my last motion that it's the fact that she's not 250 qualified, so I'd like to clarify that
16 as to my objection again today.

17 MS. GREGORY: And, Judge, I don't think Mr. Brown wants a new standby
18 counsel. I think he wants attorneys appointed on his case to represent him at trial.

19 THE COURT: Well, we've -- how many lawyers have you gone through?

20 THE DEFENDANT: I don't know.

21 THE COURT: I can't remember. Should we go and count or could you just
22 generally guess off the top of your head? I can't remember.

23 THE DEFENDANT: Well, I haven't fired any technically, so --

24 THE COURT: Pardon me?

25 THE DEFENDANT: I haven't fired any technically, so if that helps.

1 THE COURT: Technically; hmm.

2 THE DEFENDANT: Yes, technically.

3 MS. BAHARAV: Mr. Tomsheck represented him at the preliminary hearing.

4 Mr. Christiansen, Jr. was appointed because he's 250 qualified and Mr. Tomsheck is

5 not. Both asked to withdraw at the first trial setting. And then it was -- has been Ms.

6 Luem and Ms. Gregory since then.

7 THE COURT: And Ms. Gregory was 250 certified and he --

8 MS. GREGORY: Ms. Luem was --

9 MS. BAHARAV: Ms. Luem is.

10 MS. GREGORY: -- I wasn't.

11 MS. BAHARAV: Ms. Luem is.

12 THE COURT: Ms. Luem was. I mean, that's what I meant to say.

13 MS. BAHARAV: Yes.

14 THE COURT: So -- and you did fire them, if I recall, so technically. So this --

15 so that would be -- he's asking for his --

16 MS. BAHARAV: Third --

17 THE COURT: Third or --

18 MS. BAHARAV: -- technically set.

19 THE COURT: -- fifth depending on how you count it.

20 MS. BAHARAV: Yes.

21 THE COURT: And, you know, if I had any confidence that you would work

22 with the person and not fire them -- I don't recall why the special public defender or

23 the public defender -- I know the public defender had a conflict.

24 MS. BAHARAV: Yes.

25 THE COURT: I don't recall the special public defender having a conflict.

1 MS. BAHARAV: I think they claimed the similar conflict based upon
2 witnesses criminal histories.

3 THE COURT: Yes. Well, there you go.

4 THE DEFENDANT: Judge, I would think by the fact that they have not done
5 virtually any work in my case should speak for itself. But why --

6 THE COURT: Okay. Well, you're representing yourself, so you're doing your
7 own work. If they were representing you they would be doing work, but they're not.

8 THE DEFENDANT: They -- they didn't do work, that's the problem. I've been
9 here --

10 THE COURT: Your objection is noted.

11 THE DEFENDANT: -- nearly three years.

12 THE COURT: Your objection is noted; okay? So you can file a writ. Take it
13 up there; okay? I've been asking you to do that. Go file one. You got all this time,
14 and all this energy, and all this legal knowledge. Use it to your advantage and take
15 up a writ. In the meantime, I'm just trying to get you to commit to a trial date
16 sometime in the next, I don't know, decade. So I'm hearing that -- I'm glad you think
17 this is funny because I don't. I am hearing that you believe that if I set it in January
18 there's a possibility you could be ready; agreed?

19 THE DEFENDANT: That's a possibility.

20 THE COURT: Okay. So what I'm going to do then is I'm going to set your
21 case for January 8th, 2018 at 10:30, with a calendar call January 21st, 2017 at
22 9 a.m., with a status check trial readiness in September on --

23 THE COURT CLERK: September 14th at 9 a.m.

24 THE COURT: Now, between now and then, if you need anything in your case
25 your investigator will bring it to me. If you file motions they'll be scheduled by the

1 clerk's office and heard.

2 Is there anything else from the State?

3 MS. BAHARAV: No, Your Honor.

4 THE COURT: Do you have anything else --

5 THE DEFENDANT: No.

6 THE COURT: -- at this time?

7 THE DEFENDANT: No.

8 THE COURT: By the way, I need dates for trans -- I can't just give you every
9 transcript. There isn't enough paper. So if you could just give us some dates and
10 we can look at getting you --

11 THE DEFENDANT: And who I'm supposed to ask to how I'm gonna get those
12 dates in the first place, but --

13 THE COURT: Okay. I'm going to ask Ms. Gregory to mail you the Odyssey
14 case summary. There's a case summary that has every single date, kind of like a
15 journal for lack -- with a very, very general summary of what happened. It's not
16 even a summary. It's almost like, you know, status check, trial date, whatever. I'll
17 get her to print --

18 Can you print that out for him?

19 MS. GREGORY: Yes.

20 THE COURT: She will print that out for you, get it over to you. And then if
21 you need more -- if you could just tell her -- I mean -- you know, I know you don't
22 want to work with her, but this is just having her print something, minutes from that
23 day so that you know what happened that day. Just ask her --

24 Could you do that for him if he asks you?

25 MS. GREGORY: Your Honor, I'll -- I always provide him what he asks me to

1 provide to him.

2 THE COURT: Okay. So it's a ministerial act. It's a ministerial act. You don't
3 need to be 250 certified to go into Odyssey and click a button and print it out and
4 give you the minutes. She'll do that for you and then you can tell me what dates you
5 need. Deal?

6 THE DEFENDANT: Fine.

7 THE COURT: Okay. Now, by then I'm probably going to be reassigned to
8 who knows what. So this case may end up going to trial in front of somebody else
9 and I'm sure Mr. Brown will be thrilled.

10 THE DEFENDANT: Yeah.

11 THE COURT: But be careful what you wish for.

12 [Colloquy between the Court and the court recorder]

13 THE COURT: Did you receive the ones that you were mailed a month ago --

14 THE DEFENDANT: I've received --

15 THE COURT: -- certified?

16 THE DEFENDANT: -- I've received four of them. Yes, I did.

17 THE COURT RECORDER: Okay.

18 THE COURT: Okay.

19 THE DEFENDANT: Not including -- well, one --

20 THE COURT: So you're talking about older transcripts than that?

21 THE DEFENDANT: Yeah. I think they go back '15 and '16.

22 THE COURT: Okay. Just give us the dates.

23 THE DEFENDANT: All right.

24 THE COURT: Anything else?

25 MS. BAHARAV: No, Your Honor. Thank you.

1 THE COURT: Thank you. I appreciate your patience. You know, I think
2 when you know this case is on, I have to spend some time with him, he's
3 representing himself, it's a capital case. I can't do it in the middle; I can't do it at the
4 beginning, so I try -- I hope you guys all know to come towards the end. Don't come
5 at nine o'clock. I'm trying to save you time.

6 MS. GREGORY: We do, Judge. That's why we planned a tradeoff this
7 morning.

8 THE COURT: Okay.

9 MS. BAHARAV: I brought work here. It was no big deal.

10 THE COURT: Thank you.

11 MS. BAHARAV: You're welcome.

12 MR. FUENTES: I thought we were on for tomorrow, so I was --

13 THE COURT: Pardon me?

14 MR. FUENTES: I thought we were on for tomorrow, so I'm glad I --

15 THE COURT: Yeah. Criminal is --

16 MR. FUENTES: -- I came by to bring you that. That's it.

17 THE COURT: -- criminal is always Tuesday, Thursday.

18 MR. FUENTES: Okay.

19 THE COURT: Rarely would I ever -- civil is Wednesday, just so you know. It
20 would be very rare.

21 MR. FUENTES: Your Honor, is it possible for me to speak to you for a few
22 minutes?

23 THE COURT: About what?

24 MR. FUENTES: In reference to the situation with the attorneys.

25 THE COURT: I can't right now, but if you want to make an appointment to do

1 it after next week when I'm not here in the jurisdiction --

2 MR. FUENTES: When will you be back?

3 THE COURT: -- you certainly can.

4 MR. FUENTES: When will you be back?

5 THE COURT: April 17th.

6 MR. FUENTES: April 17th.

7 THE COURT: Yeah.

8 MR. FUENTES: Okay. Then I'll call your office. I'm only going to need about
9 ten minutes of your time.

10 THE COURT: Sure. It's not that. It's that I've got the competency task force
11 waiting for me --

12 MR. FUENTES: No, no, I understand.

13 THE COURT: -- and a meeting with the chief judge, so I'm not trying --

14 MR. FUENTES: I think in the interest of moving this all along, I would like to
15 just talk to you about something.

16 THE COURT: Sure.

17 MR. FUENTES: Okay. Thank you.

18 MS. BAHARAV: It's January 8th.

19 MR. FUENTES: January 8th?

20 MS. BAHARAV: Mm-hmm.

21 MR. FUENTES: Perfect. Thank you, Your Honor.

22 THE COURT: So, State, you're going to need to trust --

23 MS. BAHARAV: Yeah.

24 THE COURT: -- you're going to need to trust that I will not engage in any
25 substantive conversation about the case.

1 MS. BAHARAV: Well --
2 THE COURT: It is procedural only.
3 MS. BAHARAV: I understand.
4 THE COURT: And, you know, we're ethically and obligated to disclose this
5 and that, and that's almost practically impossible when someone chooses --
6 MS. BAHARAV: Yeah.
7 THE COURT: -- to represent themselves --
8 MS. BAHARAV: I know that.
9 THE COURT: -- and I have to have a conduit to --
10 MS. BAHARAV: It's okay.
11 THE COURT: -- investigation and other things, so --
12 MS. BAHARAV: We understand you're doing the best you can to make the
13 best record, so whatever you got to do is fine.
14 MR. FUENTES: Thank you, Your Honor.

15 [Proceedings concluded at 12:35 a.m.]

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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 SANDRA PRUCHNIC
25 Court Transcriber



1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 THE STATE OF NEVADA,

8 Plaintiff,

9
10 vs.

11 ROBERT BROWN, JR.,

12 Defendant.

CASE NO. C-14-299234-1

DEPT. IX

13 BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE
14 FRIDAY, JUNE 9, 2017

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
16 **REQUEST OF COURT: FURTHER PROCEEDINGS REGARDING LETTER FROM**
17 **DEFENDANT**

18 APPEARANCES:

19 For the State:

RICHARD H. SCOW, ESQ.
Chief Deputy District Attorney

20 For the Defendant:

AMANDA S. GREGORY, ESQ.
Standby Counsel

21
22 ALSO PRESENT:

ALBERTO FUENTES
Investigator

23
24
25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 FRIDAY, JUNE 9, 2017 AT 10:12 A.M.

2
3 THE COURT: C299234-1. The record should reflect the Defendant is
4 present in custody; from the District Attorney's Office, Mr. Scow. And we have the
5 investigator that's been assigned to this case as well, Mr. Fuentes.

6 The Court -- Mr. Brown is in receipt of correspondence from you asking
7 me to consider appointing two more lawyers beyond the six that you've already had.
8 And then -- and so I read that letter. Then on top of that letter, but yet -- I mean, it
9 was in the same envelope, but it wasn't attached and it was separate, you had a
10 printout of the -- lost my words, the docket. The -- can you fill in the blank? Oh, my
11 God.

12 MR. FUENTES: The transcripts.

13 THE COURT: No, the --

14 MR. FUENTES: No.

15 THE COURT: -- entries for events.

16 MS. GREGORY: The minutes.

17 THE COURT: Yeah, it's a list -- you know, the docket -- the case summary.
18 Sorry. The case summary and you highlighted things and you said -- so on one
19 hand I got the letter, but then I got on top of that letter separately, not stapled to it or
20 anything, was this other paper with the highlighted transcript requests which, you
21 know -- there are some things that there are not transcripts for, like you highlight
22 minutes. Minutes are something that generate from a clerk, but the actual, like
23 event itself, can be transcribed. The problem is it was unclear to me, based upon
24 your handwritten note that was on this one page versus the letter, whether you are
25 asking me to consider the appointment after -- you know, I can get you these, but I

1 can't do it in like minutes. I mean, I got one person, 600 cases. It takes a while.

2 THE DEFENDANT: Well --

3 THE COURT: When you're in trial you get dailies by -- by rule. And then I
4 have like three -- three people in here typing their fingers to the bone --

5 THE DEFENDANT: Right.

6 THE COURT: -- so that dailies are coming. But there's no rule and there's
7 really no ability for me to generate it that quick. You will get them ultimately, but --
8 so my first question to you is am I -- are you asking me to consider this letter and
9 address it now, or are you saying give me this first and then -- then --

10 THE DEFENDANT: No, no, that's not necessary to give me the --

11 THE COURT: Transcripts?

12 THE DEFENDANT: -- the transcripts first.

13 THE COURT: Okay. I wasn't clear. Okay. So -- so number one, I am having
14 transcripts prepared for any and all proceedings that were highlighted on this that
15 don't say minutes, because minutes are just typed out by a person. But if anything
16 else that occurred in open court that's highlighted will be -- you know, like for
17 example, maybe it's not clear to you, but just using March 15th, 2017 decision and it
18 says 3 a.m. The reason it says that because I'm not in my office at 3 a.m. deciding
19 your case, and we're not in court at 3 a.m., is because Odyssey needs a time, so
20 that's the time that they choose when it means that the judge is just typing it at her
21 computer and issuing it. There was no hearing. So any hearing, you're getting a
22 transcript of. I just want to make that record.

23 THE DEFENDANT: Okay.

24 THE COURT: So that's number one. So I'm going to set that aside. I would
25 ask that you give a little patience to this. And then if -- if you end up getting

1 attorneys and you don't -- they don't -- you and they don't get them in the time
2 period within the next, I don't know, 30, 45 days.

3 Are you generating them when you can or how's that --

4 THE COURT RECORDER: That's the plan.

5 THE COURT: I know.

6 So then you can re-raise it to me. So about the letter. Your -- I don't
7 really need -- I didn't give the district attorney a copy of this letter because they don't
8 really -- it doesn't discuss the substance of the case. It doesn't discuss the trial date
9 or anything where the district attorney should be able to be copied on it. However,
10 when I appoint counsel I have to do that in open court and they are entitled to, if I'm
11 going to consider that, be present. So you -- unless you need to address anything
12 further, then the four pages handwritten that you've given me -- I just need you to
13 know one thing. Number one, if I give you 250 qualified counsel pursuant to the
14 rules, I don't get to pick them and neither do you, and neither does Mr. Fuentes.
15 The Office of Indigent Counsel -- and the reason they do that is because, you know,
16 20 years ago -- you know, these people are paid by the hour. So if a judge picks an
17 attorney, right, they make tens of thousands of dollars because I'm giving them a
18 case. That's not appropriate. So the reason that the Office of Indigent Counsel was
19 created in the first place was to kind of remove that ethical issue from district court
20 judges, so it ain't my call.

21 If you want two attorneys then I -- I have an idea who Drew picked
22 because I see people here, but I don't get to make that -- I just tell him, hey, I've
23 decided to go ahead and appoint two more attorneys, and it can't be the six that he's
24 already had; can you please send someone over. So if you want me to do that, then
25 on the four pages that you've provided me I'm inclined to do it. There is nothing

1 substantive in here about the case. It's about attorney relationships and other things
2 that the defense -- that the State is not -- and I would file this under seal, left side,
3 and give you two attorneys at his discretion.

4 I assume -- is someone here on this case from the Office of Indigent
5 Counsel?

6 MR. FUENTES: Well, Your Honor, but I have spoken to Mr. Christensen
7 about this matter and he told me that once you gave them the go ahead to go ahead
8 and appoint counsel -- we discussed some counsel that would be willing to work on
9 the case, and willing to be working with me, and he said he would consider that as
10 long as counsel could handle the cases as far as their caseload and/or for whatever
11 other reason they may have a problem. But other than that, he said that he would
12 consider those counsel. And at that point, I guess he'll either make the
13 appointment and have them here for the next hearing --

14 THE COURT: Yeah. Well, I spoke to him --

15 MR. FUENTES: -- but this has already been discussed; yeah.

16 THE COURT: -- I spoke to him and said if I'm -- I'm granting this how long do
17 I need to continue it and he said one week.

18 MR. FUENTES: Okay. I mean, I don't anticipate a problem.

19 THE COURT: But I'd rather -- I'd rather not do it on a Friday with the
20 competency. I'd rather do it on Thursday with the regular calendar. So why don't I
21 pass this to Thursday. I'm going to grant your request. You know, we'll see what he
22 does and then we'll deal with it when that time comes. Okay?

23 THE DEFENDANT: All right.

24 THE COURT: Anything else?

25 MR. FUENTES: No, Your Honor. Thank you very much.

1 THE COURT: Anything else?

2 THE DEFENDANT: No. Thank you.

3 THE COURT: Okay. Thank you very much.

4 THE COURT CLERK: June 15th 9 a.m.

5 THE COURT: Okay. So I am -- this letter, because it doesn't relate to

6 anything substantive in the case other than requests that you're making for an

7 attorney, is going to be left-side filed under seal. So, just for the record, if anybody

8 ever needed to get it for any purpose you'd need a court order because -- you know,

9 I don't know that it would prejudice you to give it to the State, but they're not entitled

10 to it, so -- unless you want to give it to them, I'm not going to. What's your pleasure

11 on that?

12 THE DEFENDANT: I'd rather not give it to the State.

13 THE COURT: Okay. So it will be filed under seal. Thank you.

14 MR. FUENTES: Thank you, Your Honor.

15 THE COURT: Actually, I'm probably just going to file it under seal. Yeah, left

16 side -- yeah, left-side filed.

17 [Proceedings concluded at 10:23 a.m.]

18 * * * * *

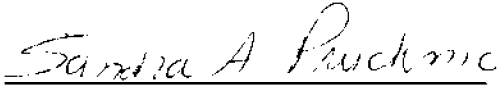
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the

22 audio/video proceedings in the above-entitled case to the best of my ability.

23

24 
SANDRA PRUCHNIC

25 Court Transcriber



1 RTRAN

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4 DISTRICT COURT
5 CLARK COUNTY, NEVADA
6

7 THE STATE OF NEVADA,

8 Plaintiff,

9 vs.
10

11 ROBERT BROWN, JR.,

12 Defendant.

CASE NO. C-14-299234-1

DEPT. IX

13 BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE
14 THURSDAY, JUNE 15, 2017

15 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
16 **STATUS CHECK: APPOINTMENT OF COUNSEL**

17 APPEARANCES:

18 For the State:

ALICIA A. ALBRITTON, ESQ.
Chief Deputy District Attorney

19 For the Defendant:

IVETTE A. MANINGO, ESQ.
PATRICIA PALM, ESQ.

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25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 THURSDAY, JUNE 15, 2017 AT 9:57 A.M.

2
3 THE COURT: Robert Brown, C299234-1. This is a status check appointment
4 of counsel.

5 Counsel, can you state your appearances for the record. And you were
6 sent by the Office of Indigent Counsel; yes?

7 MS. MANINGO: Yes. Ivette Maningo and Patricia Palm on behalf of Mr.
8 Brown.

9 THE COURT: Okay. Mr. Brown, this is who -- these are the attorneys that
10 Mr. Christensen set over. I just want to confirm that you want me to appoint them.

11 THE DEFENDANT: Yes.

12 THE COURT: All right. They're appointed to represent you.

13 We have -- here's our dates right now. January 8th, 2018 for jury trial;
14 status check trial readiness -- or no, I'm sorry. Calendar call December 21st; status
15 check trial readiness September. I don't know if you're in a position to address that
16 now, but I would prefer if we could address it at another time.

17 MS. MANINGO: That -- that's fine. I need to just --

18 THE COURT: Don't you need time to --

19 MS. MANINGO: Yes. And for the record -- I mean, I mentioned this last week
20 when we were here. That was one of the things. Obviously this a death case. We
21 cannot be ready in January.

22 THE COURT: Can we just address it --

23 MS. MANINGO: Mr. Brown understands that.

24 THE COURT: -- in September?

25 MS. MANINGO: I'm sorry?

1 THE COURT: Can we just address it in September at your status check
2 about moving that trial? I mean, you're putting the DA on notice, hey, we're going to
3 ask for more time than January. I understand you're asking for more time than
4 January, but I don't want to set a date right now --

5 MS. MANINGO: Right.

6 THE COURT: -- because I've got a jury in the hallway and --

7 MS. MANINGO: That's fine. And for the record --

8 THE COURT: -- you have -- we have time.

9 MS. MANINGO: -- Mr. Scow said last time he wasn't opposed to a
10 continuance and then we can address it at that time.

11 THE COURT: Okay?

12 THE DEFENDANT: That's fine.

13 THE COURT: Thanks.

14 MS. MANINGO: Thank you.

15 [Proceedings concluded at 9:59 a.m.]

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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 SANDRA PRUCHNIC
25 Court Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA
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9 THE STATE OF NEVADA,
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11 Plaintiff,
12 vs.
13 ROBERT BROWN, JR.,
14 Defendant.
15

CASE NO.: C-14-299234-1

DEPT. IX

TRANSCRIPT OF PROCEEDINGS

16 BEFORE THE HONORABLE JENNIFER P. TOGLIATTI, DISTRICT COURT JUDGE
17 THURSDAY, SEPTEMBER 14, 2017

18 RECORDER'S TRANSCRIPT RE:
19 **STATUS CHECK: TRIAL READINESS**

APPEARANCES:

20 For the State:

COLLEEN BAHARAV, ESQ.
Deputy District Attorneys

21 For the Defendant:

22 PATRICIA PALM, ESQ.
23 IVETTE MANINGO, ESQ.
24

25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 Las Vegas, Nevada, Thursday, September 14, 2017 at 9:25 a.m.

2
3 THE COURT: State versus Robert Brown. He's present in custody on
4 C299234-1. Status check trial readiness. You had indicated – first of all could you
5 state your appearance please.

6 MS. BAHARAV: Colleen Baharav, #11777, for the State of Nevada.

7 MS. MANINGO: Ivette Maningo and Patricia Palm on behalf of Mr. Brown.

8 THE COURT: Okay. On June 15th, the minute say that you had told me that
9 you didn't anticipate being ready for trial in January and that I told you we would
10 address it today.

11 MS. MANINGO: Yes.

12 THE COURT: Do you won't to address it today?

13 MS. MANINGO: We can, Your Honor. I mean we've been – knowing that we
14 had the status check today we wanted to make sure we were ready to address it.
15 As you know, Your Honor, this case has a bit of a – kind of a tortured history. It's
16 been pending for some time, but we are new on the case.

17 We've actually gone to the DA, did a file review, tried to piece together
18 our file with what the DA obviously had in theirs, and from previous counsel, which
19 there was various attorneys on this case.

20 We do have what we believe is a complete file at this time; so we've sat
21 down, reviewed everything with our team. We actually re-engaged our mitigation
22 specialist who started a while ago on this case but really hasn't done a lot because
23 for a minute there, Mr. Brown was representing himself and things were on ice for a
24 moment. We've also engaged some other experts. So we have a lot of work to do.

25 There's – from reviewing the records, there's some medical issues, and

1 a lot of things we're going to have to get into deeply in this case, so we are
2 requesting – and again, I realize this case has been pending for some time, but we
3 are requesting that we go into – we're going to need about a year and a half to be
4 ready. And that's based – we have met with some experts and we know that's a
5 long time out, but we – I know that these are firm settings with this new pilot
6 program, and I don't want to be in the position where I tell you we can be ready in 12
7 months and be here in front of you asking for another continuance.

8 MS. BAHARAV: And Your Honor, I'll be out of the office from March to almost
9 October anyway, so if we – if you're inclined to grant the Defense request, I don't
10 have any opposition.

11 THE COURT: Did you talk to Mr. Brown about these issues?

12 MS. MANINGO: We have. We've talked at length about it. He understands
13 our position, although this case has been pending. He's been in custody for some
14 time. We're brand new on the case, and we want to do the best – the best trial we
15 can, and he understands this. So our request would be for March of 2019.

16 And Your Honor, just so you're aware, we did look into maybe trying to
17 do this in September, a year from now, but we have Stewart, the case that was just
18 called before this. We both are going to be going to trial in November in that case,
19 so we want to make sure that we don't have one –

20 THE COURT: Okay. I'm going grant your motion in part, and I'm setting it a
21 month earlier than you're asking. You can handle that right? February 11, 2019.

22 MS. MANINGO: That's fine.

23 THE COURT: Okay, so here's what we're going to do. I'm setting this trial
24 date with the caveat that I – I'm going to set some status checks for you to advise
25 me how the case is progressing. You know, I need you to chisel this in stone and

1 not have, you know, other judges setting things that you don't give them notice in
2 advance that this was set, that it's old as dirt by then, and you know, basically
3 understanding that I'm going to treat it like a firm date.

4 MS. MANINGO: We understand, Your Honor.

5 THE COURT: Okay, so the matter I set for trial. Because it's a capital case,
6 because counsel is new on the case, and because they have these issues that
7 they've already detailed related to discovery and investigation and experts, the trial
8 date for January 8, 2018 is vacated. Calendar call, December 28, 2017 is vacated.
9 The matter is reset for trial February 11, 2019 at 10:30, with a calendar call January
10 31, 2019 at 9 a.m. with a status check trial readiness – we're going to do March, and
11 then I'm going to do it every 90 days, thereafter, until you go to trial – or every 60
12 days; I haven't decided yet, but I just want to be able to justify that I – you know,
13 when the numbers come out and people are looking at this date, and everybody's
14 calendars, that I'm still following up on the case. Does anyone have any questions?
15 Mr. Brown, do you have any questions?

16 THE DEFENDANT: No.

17 THE COURT: Thank you.

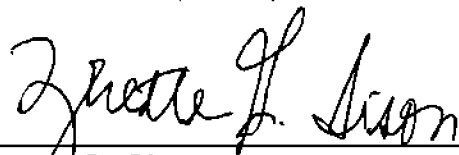
18 THE CLERK: March 15th at 9 a.m.

19 MS. MANINGO: Thank you, Your Honor.

20 MS. PALM: Thank you, Your Honor.

21 [Proceedings concluded at 9:31 a.m.]
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4 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video
5 proceedings in the above-entitled case to the best of my ability.

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9 Yvette G. Sison
10 Court Recorder/Transcriber
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ORDR

IVETTE AMELBURU MANINGO, ESQ.
Nevada Bar No. 7076
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Las Vegas, Nevada 89101
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Email: patricia.palmlaw@gmail.com
Attorneys for Defendant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

vs.

ROBERT BROWN JR.,
ID #6006120

Defendant.

CASE NO. C-14-299234-1

DEPT. NO. IX

ORDER FOR TRANSPORT

Based on the preceding Motion, the Court being fully advised on the premises, approval received from the Las Vegas Metropolitan Police Department, Detention Services Division ("DSD") (Martina Geinzer approving form and content of Order), and good cause appearing,

OFFICE OF GENERAL COUNSEL
Las Vegas Metropolitan Police Department
400 S. Martin L. King Blvd.
Las Vegas, Nevada 89106
(702) 828-3310

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the DSD will transport
2 Defendant ROBERT BROWN JR., ID# 6006120 to the Offices of Dr. David Smith, 1485 W.
3 Warm Springs Rd.,(address), (702)433-1102 for the purpose of an eye exam.

4 IT IS FURTHER ORDERED, that the appointment will be arranged between the Medical
5 Administration Offices of DSD and Dr. David Smith's office so that neither attorneys for the
6 Defendant or the State of Nevada or anyone else will be informed of the date of the appointment
7 for security reasons.

8 IT IS FURTHER ORDERED THAT Defendant is responsible for the transportation fee
9 and medical costs. Prior to the appointment being made, the Defendant is responsible for
10 providing a check for the transportation fee in the amount of \$200.00 to the DSD Inmate
11 Accounts with the Inmate's name and ID number included, and will provide notification to the
12 DSD Medical Administration Office when the same has occurred. At the time the appointment is
13 made, the DSD Medical Administration Office can verify with the provider that the provider and
14 the Defendant have made arrangements for payment of services. DSD is not responsible for any
15 payment of services related to the appointment.

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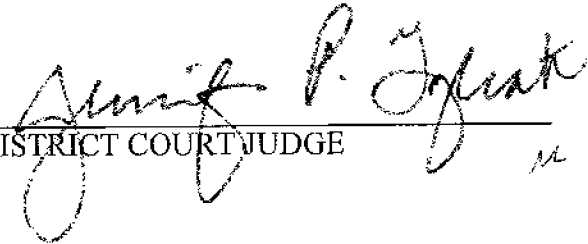
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1 All of the DSD rules, regulations and protocols will be followed in regards to the number
2 of transport officers and the presence of the officers directly outside the secured room used for the
3 exam. The secured room will be inspected and approved by corrections officers. The officers
4 shall approve and follow their protocol of securing the inmate at all times both during
5 transportation and during the examination itself to ensure the safety of civilians present at the
6 office during the time of the appointment, this will include random physical/visual checks by the
7 officers which may involve opening the door of the examination room if said room does not have
8 a window in the door.

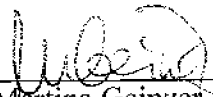
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13 DATED this 22 day of February, 2018.

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15 
16 DISTRICT COURT JUDGE

17
18 Submitted by:

19 /s/ Ivette Amelburu Maningo
20 IVETTE AMELBURU MANINGO
21 Attorney for the Defendant

22 Approved as to Form and Content:

23 
24 Martina Geinzer
25 Assistant General Counsel
26 for Las Vegas Metropolitan Police Department
27 Detention Services Division
28



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,
10 vs.
11 ROBERT BROWN, JR.,
12 Defendant.
13

}
CASE#: C-14-299234-1
DEPT. IX
}

14 BEFORE THE HONORABLE JENNIFER P. TOGLIATTI,
15 DISTRICT COURT JUDGE
16 THURSDAY, MARCH 15, 2018

17 **RECORDER'S TRANSCRIPT OF HEARING:**
18 **STATUS CHECK: TRIAL READINESS**

19 APPEARANCES:

20 For the State: MELANIE SCHEIBLE, ESQ.
Deputy District Attorney

21 For the Defendant: PATRICIA PALM, ESQ.
22 IVETTE MANINGO, ESQ.

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25 RECORDED BY: YVETTE SISON, COURT RECORDER

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Las Vegas, Nevada, Thursday, March 15, 2018

[Case called at 9:08 a.m.]

THE COURT: State versus Robert Brown, Jr., C299234-1.
He is present in custody. Can you state your appearances for the
record please?

MS. PALM: Patricia Palm and Ivette Maningo representing
Mr. Brown.

MS. SCHEIBLE: Melanie Scheible for the State.

THE COURT: Okay, the last time this was on calendar you
advised me of retained experts, mitigation specialists, and you are
moving towards readiness in less than a year now. Anything changed?

MS. MANINGO: No, we're moving forward, Your Honor.

THE COURT: Okay, and you anticipate being ready?

MS. MANINGO: We do.

THE COURT: All right. The matter is continued status check
trial readiness August.

THE COURT CLERK: August 14th at 9 a.m.

MS. MANINGO: Thank you.

THE COURT: Thank you.

[Hearing concluded at 9:09 a.m.]

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ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

A handwritten signature in black ink, appearing to read "Yvette G. Sison", written over a horizontal line.

Yvette G. Sison
Court Recorder/Transcriber



1 **RTRAN**

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

7
8 **THE STATE OF NEVADA,**

9 **Plaintiff,**

10 **vs.**

11 **ROBERT BROWN, JR.,**

12 **Defendant.**

CASE#: C-14-299234-1

DEPT. IX

13
14 **BEFORE THE HONORABLE JENNIFER P. TOGLIATTI,**
15 **DISTRICT COURT JUDGE**
16 **TUESDAY, AUGUST 14, 2018**

17 ***RECORDER'S TRANSCRIPT OF HEARING:***
18 ***STATUS CHECK: TRIAL READINESS***

19 **APPEARANCES:**

20 **For the State:**

MORGAN THOMSON, ESQ.
Deputy District Attorney

21 **For the Defendant:**

IVETTE MANINGO, ESQ.

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25 **RECORDED BY: YVETTE SISON, COURT RECORDER**

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Las Vegas, Nevada, Tuesday, August 14, 2018

[Case called at 9:17 a.m.]

THE COURT: Robert Brown, page 1, C299234-1. This is a status check trial readiness.

MS. MANINGO: I'm sorry, Your Honor.

THE COURT: You good? I don't know what's going on. So, are you good?

MS. MANINGO: Yes.

THE COURT: Okay. Do you have a file or what am I doing?

MS. THOMSON: I do, I'm sorry.

THE COURT: Okay. Trial set for February 11, 2019. Just making sure there's nothing that you need the Court's involvement on, any orders, or anything else. If everything is going along as planned, I'll just continue the -- I'll just set a status check for November.

MS. MANINGO: There was some discovery, and Mr. Scow has made it available. I'm picking it up now --

THE COURT: Okay.

MS. MANINGO: -- on the 7th floor and the only thing that's outstanding, which I'm going to talk to him about, of course he's not here today, are some witness addresses that I'm hoping that they'll let us --

THE COURT: Have?

MS. MANINGO: -- get access of -- get access to, and that's it right now, Your Honor.

THE COURT: Okay, so is there any reason, I should set this earlier than November?

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MS. MANINGO: No.

THE COURT: Okay.

MS. MANINGO: I'll put it back on calendar if it becomes a problem.

THE COURT: All right. So, status check trial readiness November 8th at 9 a.m.

MS. MANINGO: Thank you.

THE COURT: Does that work?

MS. MANINGO: Yes.

THE COURT: Okay. Thank you.

MS. MANINGO: Thank you.

[Hearing concluded at 9:19 a.m.]

* * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Yvette G. Sison
Court Recorder/Transcriber



1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 ROBERT BROWN, JR.,

12 Defendant.
13

CASE#: C-14-299234-1

DEPT. IX

14 BEFORE THE HONORABLE JENNIFER P. TOGLIATTI,
15 DISTRICT COURT JUDGE

16 THURSDAY, NOVEMBER 15, 2018

17 **RECORDER'S TRANSCRIPT OF HEARING:**
18 **STATUS CHECK: TRIAL READINESS**

19 APPEARANCES:

20 For the State:

WILLIAM ROWLES, ESQ.
Deputy District Attorney

21 For the Defendant:

22 IVETTE MANINGO, ESQ.
23 ABEL YANEZ, ESQ.

24
25 RECORDED BY: YVETTE SISON, COURT RECORDER

1 Las Vegas, Nevada, Thursday, November 15, 2018

2 [Case called at 9:16 a.m.]

3 THE COURT: Robert Brown, C299234-1. Status check trial
4 readiness for February 11th. Can you state your appearances?

5 MR. ROWLES: Good Morning, Your Honor, William Rowles
6 on behalf of the State.

7 THE COURT: How you doing?

8 MR. ROWLES: Not too bad.

9 THE COURT: Okay, great. How's the other guy?

10 MR. ROWLES: Just an accident last night.

11 THE COURT: Oh, I'm sorry.

12 MS. MANINGO: Ivette Maningo and Mr. Yanez on behalf of
13 Robert Brown.

14 THE COURT: How are you doing for trial readiness?

15 MS. MANINGO: Well, Your Honor, actually I wanted to
16 update the Court. There were two orders recently that came down that
17 may affect our trial date.

18 The first one is, I have Browning, a case in DC 3, in front of
19 Herndon. The Ninth Circuit came down with an opinion and reversed the
20 case, and so that has to be tried by January 21st. We're set for that day
21 in Herndon.

22 In addition to that, an order came down on another case that I
23 have, Garcia, which is the Palafox, Vagos Motorcycle Club case in
24 Federal Court. I was put in the first trial group, and we start the week
25 after Browning. The Judge --

1 THE COURT: Wait, so I'm just fascinated with the Ninth
2 Circuit. They said you have to -- the Eighth Judicial District Court Judge
3 has to try it by January 21st?

4 MS. MANINGO: Yes.

5 THE COURT: Is that part of the legal issues in the case? Or
6 is it just kind of a, hey this case is really old, I'm just curious.

7 MS. MANINGO: Well, he's been on death row for 30 years.
8 The case was reversed.

9 THE COURT: So it's just really old?

10 MS. MANINGO: Yeah, it was reversed for misconduct of the
11 State and for ineffective assistance of counsel and ordered the State to
12 try it by that date.

13 THE COURT: I see. Well that's interesting.

14 MS. MANINGO: And so I just -- I've discussed both of those
15 with Mr. Brown. The Vagos case is estimated to take ten weeks in
16 Federal Court, so it will definitely affect his trial date. There's also an
17 issue with the investigator on the case, Mr. Fuentes. Can we approach,
18 Your Honor?

19 THE COURT: You understand that it's not transcribeable,
20 whatever happens here.

21 MS. MANINGO: It's fine.

22 THE COURT: Okay.

23 MS. MANINGO: Thank you.

24 [Bench Conference]

25 MS. MANINGO: I just didn't want to put his issues on the

1 records, but Mr. Fuentes, if you remember, was the guy. He's the
2 investigator that has been on this case forever.

3 THE COURT: Yes.

4 MS. MANINGO: He's kind of the glue in this case. He's in the
5 hospital. I really didn't want to put that on the record, but I wanted to let
6 you know that's kind of my other issue.

7 THE COURT: Is he okay?

8 MS. MANINGO: I think he will be, but it's been a while, so
9 after checking in, I just wanted to let you know. I didn't want to put that
10 on the record.

11 THE COURT: That's fine.

12 MS. MANINGO: But that is what's going on so our trial date --

13 THE COURT: Okay, and he knows about that?

14 MR. ROWLES: I was brought on this case last night at 8 p.m.

15 THE COURT: Hey what happened to your face?

16 MR. ROWLES: I was in a basketball game last night and
17 wore my glasses, and the ball came down and split open all my stuff so.

18 THE COURT: Did that hurt a lot?

19 MR. ROWLES: Not really.

20 THE COURT: Is it a plastics [unintelligible] I guess guys don't
21 need plastic surgery, they just look more rugged.

22 MS. MANINGO: Yeah they look cool.

23 THE COURT: Right.

24 MS. MANINGO: So Richard Scow doesn't know all of this, so
25 maybe pass it -- we can pass it for another status check, and I can see if

1 maybe -- some great miracle Browning -- something negotiates or
2 something, but I don't think that this trial date is realistic anymore but.

3 MR. ROWLES. And I'll bring this all to Mr. Scow's attention
4 today.

5 THE COURT: Here's what I would suggest. I mean do you
6 want to do it while I'm still here, then you should do it in December.

7 MS. MANINGO: That's -- yes.

8 THE COURT: Otherwise, it's going to be I think, Villani.

9 MS. MANINGO: Yeah, I would like to --

10 THE COURT: I'm sure he would give you the same
11 continuance, but I don't know.

12 MS. MANINGO: -- I would like to do the status check while
13 you're here, yes.

14 THE COURT: Did you tell him all of this stuff? Okay. So he
15 already knows all of it.

16 MS. MANINGO: He knows and I'd like to do the status check
17 before you even before you leave the bench.

18 THE COURT: Okay.

19 MS. MANINGO: Thank you, Your Honor.

20 [Bench Conference Concluded]

21 THE COURT: Okay, so Mr. Brown, your lawyer advised me
22 that she hasn't had an opportunity to discuss these problems that she
23 has with trial readiness with Mr. Scow, so as a professional courtesy,
24 she's going to discuss it with him. She advises me that you are familiar
25 with all these issues and is asking me to set a status check, possible

1 trial rescheduling, December 12th --

2 MS. MANINGO: Court's indulgence.

3 THE COURT: -- at 9:30?

4 MS. MANINGO: That's fine, Your Honor. Thank you.

5 THE COURT: Okay? Yes?

6 THE DEFENDANT: Yes.

7 THE COURT: Okay. Thanks.

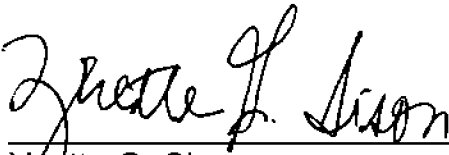
8 MS. MANINGO: Thank you.

9 MR. ROWLES: Thank you, Your Honor.

10 [Hearing concluded at 9:20 a.m.]

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15 ATTEST: I do hereby certify that I have truly and correctly transcribed the
audio/video proceedings in the above-entitled case to the best of my ability.

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18 Yvette G. Sison
19 Court Recorder/Transcriber
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3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5 *****

6 State of Nevada

Case No.: C-14-299234-1

7 vs

Department 17

8 Robert Brown, Jr.

9
10 **NOTICE OF CHANGE OF HEARING**

11 The hearing on the Status Check: Trial Readiness, presently set for January 09, 2019, at
12 9:30 AM, has been moved to the 9th day of January, 2019, at 8:30 AM and will be heard by
13 Judge Michael Villani.

14
15 STEVEN D. GRIERSON, CEO/Clerk of the Court
16 /s/ Salevao Asifoa

17 By: _____
18 S.L. Asifoa, Deputy Clerk of the Court

19 **CERTIFICATE OF SERVICE**

20 I hereby certify that this 5th day of January, 2019

21 ☒ The foregoing Notice of Change of Hearing was electronically served to all registered
22 parties for case number C-14-299234-1.

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

25 Steven B Wolfson
26 Ivette A. Maningo

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



1 RTRAN

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 WEDNESDAY, JANUARY 9, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **STATUS CHECK: TRIAL READINESS**

17
18
19 APPEARANCES:

20 For the State:

WILLIAM ROWLES, ESQ.
Deputy District Attorney

22
23 For the Defendant:

IVETTE A. MANINGO, ESQ.
ABEL M. YANEZ, ESQ.

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25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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Las Vegas, Nevada, Wednesday, January 9, 2019

[Hearing begins at 9:02 a.m.]

THE MARSHAL: Page 5.

THE COURT: Robert Brown -- Ms. Maningo, I saw her
someplace. This is a status check on trial readiness. We have a
calendar call set for January 31st, trial date February 11.

MS. MANINGO: Good morning, Your Honor, Ivette Maningo
and Abel Yanez on behalf of Mr. Brown.

When we were in front of Judge Togliatti recently, we
explained to the Court that I have several conflicts with the trial, but
more importantly, we have a conflict – or not a conflict, but a problem
with our investigator who unfortunately passed away last week and so I
need to get a new investigator appointed to the case. I'm also going to
be in a capital trial during this time, and so, we're not going to be able to
go on this so we want to reset the trial.

THE COURT: All right.

Any position by the State?

MR. ROWLES: No objection, Your Honor.

THE COURT: How much time do you need, Ms. Maningo?

MS. MANINGO: Well, Mr. Yanez and I were looking at our
calendars. I believe we both have a capital – or a murder case in May
and then he's got one in September, so – and I have a federal case in
July so we're thinking October.

THE COURT: And --

MR. ROWLES: That works for the State, Your Honor.

1 THE COURT: I'm sorry?

2 MR. ROWLES: That works for the State, Your Honor.

3 MS. MANINGO: If --

4 THE COURT: Okay.

5 MS. MANINGO: If you have a calendar during that month.

6 THE COURT: And if this matter does go forward, how many

7 days is it expected to take?

8 MS. MANINGO: It's -- I mean, I would say two or three weeks.

9 THE COURT: Two to three; okay. How about if we start

10 September 30th which is a Monday and then the 1st is Tuesday?

11 MS. MANINGO: My -- I start a federal case that's supposed to

12 go about -- I believe about 12 weeks and it starts the first week of July. Is

13 it possible to go into October just to make sure that --

14 THE COURT: How about October 7?

15 MS. MANINGO: That should work, Your Honor.

16 [Colloquy between Defense Counsel]

17 THE COURT: All right. And again, as you know I've inherited

18 the case. Have we had all the motions filed in this matter? Has --

19 MS. MANINGO: Not all the motions have been filed in this

20 matter; no.

21 THE COURT: I mean what I call the stock motions; have all

22 those been filed?

23 MS. MANINGO: No, not the -- I'm assuming you're referring to

24 some of the penalty motions. They -- not all of them have been filed.

25 THE COURT: Right. And how about a juror questionnaire?

1 It's a 250 case: correct?

2 MS. MANINGO: We don't have a jury questionnaire that's
3 been – I mean I have one prepared but we haven't filed that with the
4 Court.

5 THE COURT: And when I'm referring to the stock motion,
6 about federalizing the objections, referring –

7 MS. MANINGO: The penalty motions; I understand, Your
8 Honor.

9 THE COURT: You know those –

10 MS. MANINGO: No, not all of those have been filed and I
11 don't know if Your Honor is going to set any type of briefing schedule,
12 but of course we're open to that.

13 THE COURT: Do you think we can get those done in about
14 60 days for hearing so –

15 MS. MANINGO: Sixty days from now?

16 THE COURT: Those stock motions, yeah.

17 MS. MANINGO: Well, we're – I'm going to be in a capital case
18 starting soon, so I mean I'd like some more time to do that.

19 THE COURT: Okay. All right. I was just trying to -- just file
20 those so we have enough time. And also, as you know, sometimes
21 depending on how the motions turn out, you know, it might have an
22 impact on the resolution of the case.

23 MS. MANINGO: I understand, Your Honor, and they will be
24 filed – I don't want to say within 60 days, but I'll make sure that they are
25 filed reasonably soon.

1 THE COURT: All right. And as far as you know, is there any
2 outstanding discovery right now?

3 MS. MANINGO: Not discovery, no. We've had file reviews
4 and –

5 THE COURT: Any DNA, fingerprint, ballistic?

6 MS. MANINGO: Not that I'm aware of. I don't know what the
7 State – if the State has anything else.

8 MR. ROWLES: Everything that we have in opposition we've
9 turned over to the Defense from my understanding, Your Honor.

10 MS. MANINGO: We were waiting for some medical records
11 but we did get those from the State, so right now there's nothing
12 outstanding.

13 THE COURT: All right, I'll wait for those motions and if not
14 we'll see you at calendar call.

15 MR. ROWLES: Your Honor, if I may just note for the record
16 that obviously the State has no objection to a continuance. We would
17 have been ready to proceed otherwise.

18 THE COURT: Okay.

19 All right. Thank you.

20 THE CLERK: Okay, calendar call is going to be September
21 24th at 8:30; jury trial is October 7th at 9:00 a.m.

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MS. MANINGO: Thank you.

THE COURT: Thank you.

[Hearing concludes at 9:06 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
District Court Dept. XVII

STATE OF NEVADA

CASE # C-14-299234-1

2. V.

DEPT # XVII

3. ROBERT BROWN 6006120 (legal PERSON), by

4. Yahshua Ariyl Ha-kohen (Spiritual Parson)

FILED

JAN 17 2019

Am. & H. H.
CLERK OF COURT

6. MOTION TO DISMISS COUNSEL

February 14, 2019
@ 8:30 AM

9. COMES NOW, ROBERT BROWN, and moves this Court to dismiss Counsels
10. IVETTE A. MANINGO and ABEL M. YANEZ and appoint counsels to represent
11. the Accused as Treasonous. See attached OPEN CONFESSION doc. (pp6-10)

13. This motion is based upon all papers, pleadings and documents on
14. file and/or in possession of the STATE.

16. Factual statements set forth in the Points and Authorities -
17. Dated this 11th Day of January 2019 C.E.

Accused,

ROBERT BROWN

TZ x RD

CLERK OF THE COURT

RECEIVED
JAN 17 2019

C-14-299234-1
MDC
Motion to Dismiss Counsel
4810263



- Points and Authorities -

1.

2. It is respectfully requested of this Court to grant this Motion
3. to Dismiss Counsels for the reasons listed below.

4.

5.

i. Procedural Background

6.

7. Since Ivette Maningo was appointed as Counsel on , 201
8. the Accused has been prejudiced and suffers manifest injustice
9. based on counsels refusal or failure to:

10.

11. 1) Communicate (honestly) the basic principles of Positive Law to
12. the Accused.

13.

14. 2) Investigate the oral or written requests of the Accused, concerning
15. problematic evidentiary issues, for which counsels neither care to
16. provide the Accused with a written refusal, based on any legitimate
17. Authorities.

18.

19. 3) Provide the Accused with requested Copies of letters sent
20. to counsels, which express displeasure in the issues herein.

21.

22. 4) Inform the Court of the fact that the Accused has been
23. refusing counsels visits, for about a month to date. Counsels
24. are clearly aware of their causing a breakdown in the trust
25. and/or confidence reasonably expected by the Accused. And as
26. such, counsels are aware that such actions have manifest a
27. Hostile relationship, for which cause a BAR complaint has ensued.

1. 5) Keep promise of trial readiness on 2-11-2018. Instead, Ivette
2. Maningo - without informing the Accused beforehand - requested an
3. October trial date on 1-9-2018.
- 4.
5. 6) Provide proof of, or necessity of an alleged recent Supreme
6. Court reversal that "forces" Ivette Maningo to take that case
7. over the Accused's February 2018 capital trial date. This
8. claim was made in Court before retired Judge Jennifer
9. Togliatti, who also expressed disbelief in asking how that
10. could be so.
- 11.
12. 7) Make a diligent, competent attempt to retrieve the Accused's
13. legal/case documents, which CCDC has once again forcibly
14. seized from the Accused (i.e., 53 legal manila folders). Thus,
15. counsels care not about the right of the Accused to Assist
16. Counsel, etc.; and neither do they care to inform the Court.
17. And this Court is aware that these same careless acts by CCDC
18. forced the Accused to give up his Pro Se status.
- 19.
20. 8) File any Motions during the period of over a year, since
21. being assigned to case.
- 22.
23. 9) Honor the agreement and commitment with then co-chair
24. Patricia Palm, of the "caring" team, which the Accused's now
25. deceased investigator carefully arranged as a prerequisite of
26. the Accused. (Palm abandoned the Accused shortly after a letter
27. of discontent was sent to counsels). See item (1), (3), supra.

ii. Argument

- 1.
- 2.
3. The Accused, ROBERT BROWN, asserts he is being denied the
4. right to competent and effective counsel. ROMPILLA v. BEARD,
5. 125 S. Ct. 245 (Outlining Death Penalty Standards for Counsel).
6. Counsels innate actions comport to nothing less than a
7. violation of Due Process. The right to counsel is also the
8. right to effective Assistance of Counsel. CUYLER v. SULLIVAN,
9. 100 S. Ct. 1708 (1980) and FRAZIER v. U.S., 18 F.3d 778 (9th, 1994).
10. The Accused ought to have counsel "acting in the role of advocate."
11. ANDERS v. CALIFORNIA, 87 S. Ct. 1396 and 1480 (1967).
- 12.
13. A Counsel who is unable to provide effective or adequate
14. assistance, is no better than one who has no counsel at all;
15. and any appeal(s) would be futile in its gesture. EVITTS v. LUCEY,
16. 105 S. Ct. 830 (1985); DOUGLAS v. CALIFORNIA, 83 S. Ct. 814 (1963).
- 17.
18. Clearly, a Conflict of Interest now exists between counsels
19. and the Accused, as all faith and trust has diminished, despite
20. the extraordinary effort by the Accused to resolve issues by
21. unanswered letters, etc. As a result of counsels' actions or
22. lack thereof, a showing of Conflict of Interest requires, still,
23. no showing of Prejudice. CUYLER, *supra*, at 1717.
- 24.
25. Counsels' services have proven to be ineffective as per the 6th
26. Amendment (See STRICKLAND v. WASHINGTON)
- 27.

VERIFICATION

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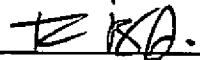
24.

25.

26.

27.

I, ROBERT BROWN, submit that the aforementioned
is true and accurate to the best of my knowledge, under
the penalty of perjury. NRS 208.165

Respectfully submitted,


ROBERT BROWN

DATED THIS 11th DAY OF JANUARY, 2019 C.E.

OPEN CONFESSION

THE UNITED APO-STATES CONSTITUTION: A COVENANT - ALLIANCE
OF THE VULGAR ("PEOPLE") TO SEPARATE THEMSELVES AS ENEMIES
AGAINST THE HOLY CHURCH (ASSEMBLY) OF YAHSHUA MESSIAH
(MOTION TO DECLARE THE STATE (OR ACCUSED) TREASONOUS - NRS 196.010)

In this country there is a "Separation of Church and State," which means "the people" (literally, *Vulgar*) have been set up as an Adversary and Opposer of recognizing the establishment of a specific type of Church "Theocracy", which, by its own Holy Law precludes any Secular State from changing its Law, or Status, etc. I belong to this Biblical "Church", called the Body of Messiah. In England, its law had classified a "monotheistic" Church, which had One Founder whose One Will all members must conform to, as a Sole Spiritual Corporation. The Church, which the Messiah established is such a Corporate Body. And it is universally accepted that the Messiah, as the Head of the Church, is alive in heaven. Therefore, His Body (the Church) also, as members of His Sole Spiritual Corporation can NOT be abolished. Thus, the specific "Church", which the "people" (*vulgar*) naturally Oppose as Satan (literally, Adversary) is: The Holy Church of Messiah as Head of an unchangeable Sole Spiritual Corporate "Theocracy".

The vulgar ("people"), therefore, have formed the Opposing type of Corporation, which conforms to such characteristics as they are: a Lay Aggregate Corporation of the Civil sort, called a STATE. Because it is Lay (Secular - Worldly), it is Opposed to the Spiritual (Holy Order). Thus, every "dignity," acknowledged or created by the STATE is un-Holy (i.e., Profane

1. or Common), "... since these [holy Church] dignities do not exist in
2. the United States." STEVENSON'S HEIRS v. SULLIVANT, 5 Led 70, 5
3. WHEAT 207.

4. Because the Profane (Common-wealth) constitute an
5. Aggregate Corporation, two-thirds of their Wills dictate
6. the others, and can thereby add or remove any Head, law, or
7. Status, etc. It is thus "Polytheistic" by nature, acknowledging
8. many gods and churches as Secular (Worldly), through its 501(c)
9. charter. But the Law of the Sole Church is "Monotheistic", Deuteronomy 6:4.

10. Because the STATE is Civil (pertaining to Citizens as a
11. Secular Society), and is a government "by and for the people"
12. (Profane, Un-Holy, and Common), its "[STAT-utory law is] a rule of
13. civil conduct because they do not extend into the subjective
14. domain of morals or religion." J. SUTHERLAND, Statutes and
15. Statutory Construction, 88 (1891).

16. All these facts demonstrate that the nature and type
17. of Corporation (Association of Persons) formed by Constitution
18. (i.e., the UNITED STATES) reflect the very essence of the unholy
19. human system personified under the term SATAN, which
20. literally means Adversary and Opposer. It is an Association
21. of Persons who stand as an Enemy of Yahweh, and thus are
22. not in a Covenant of Peace with Yahweh, since Peace involves
23. being in a proper internal and external, Safe, Friendly, and
24. Complete condition with another; but Yahweh is Holy.

25. This means that every member of the One living
26. Church of Yahshua Messiah being convicted by the Enemy
27. STATE, by its strictly un-Holy Secular "crimes", is done as an Act of War

1. against immune Servants (Ambassadors) of a Supreme Sovereign.
2. In His Revealed Will, Yahweh in no way "authorized" Satan to
3. act as the instrument to judge and punish His people by such unholy
4. standards, etc. See Revelation 12:9; 17:7-14; 13:1-8.

5. Every Charge and Conviction had by an Enemy STATE,
6. against the immune subjects of any Sovereign, is not
7. only an Act of Hostility, but an Act of War imputed as an
8. Act by the entire nation, and not just by a judge, or State.
9. And this nation cannot possibly 'think' that its destruction
10. is not coming from a War that is provoked by a two-thirds
11. majority rule of those who consented against Yahweh.

12. Moreover, because this nation claims it is "one
13. nation under God" (4 USC 5, 84), the facts above show that
14. the UNITED apo-STATES not only stand as an Enemy, but are
15. in a STATE of Treason against Yahweh, whom the illiterate
16. "people" call "God", because it has exalted itself above the Church.

17. It is known, however, that the Professional class of persons
18. belonging to the dignity of Esquire (i.e., Lawyers) not only drafted
19. the Constitution, and Declaration of Independence from
20. England, but were sworn members of England's Franchise
21. called the BAR. Thus, it can hardly be said that an Illiterate class
22. called the "People" understood and consented to the true STAT-us,
23. which every member of the BAR, being Treasonous, can be said
24. to have knowingly placed this lower class vassal STATE in.

25. How, then, can anyone stand by silent, knowing that I
26. am a professed Servant of Yahweh who is being "represented"
27. by, and tried by a Treasonous Enemy?

1. With these facts in mind, the Law, and Revealed Will
2. of Yahweh serve as Witnesses to the Act of Treason by
3. the STATE, an intent perpetrated by, and imputed to, the
4. associates and members of the B&K. The "people" also
5. serve as a Witness, since no unlearned person can be
6. said to have willingly placed themselves in a STATE of
7. Treason. And finally, I stand as another Witness, being
8. an individual (and Indian) made an Enemy by such STATE.

9. Under 18 USCA, § 2381; Article 3, Sec. 3 of the UNITED
10. STATES Constitution; & NRS 196.010, one may be convicted of
11. treason "on the testimony of two witnesses, or confession
12. in open court."

13. The Accused, with the aforementioned, thus Witnesses
14. and/or makes the Confession that the STATE (or else the
15. Accused) has committed the act of Treason, by binding
16. one's self to the other's Enemy, for the purpose of giving
17. Aid and Comfort. Charges must then ensue, or else a
18. passive admission works, inter alia, as a Judgment of Not
19. Guilty, or else must be taken as a Confession and Avoidance.
20. And if my Position or Status is left to show that I remain
21. with impunity, then that impunity must extend to all charges
22. against me, since it is an essential element that an Accused
23. must have committed a crime "against the PEACE and Dignity
24. of the STATE of Nevada." And this STATE, as I have already
25. shown, cannot itself be in a STATE of Peace with the "God"
26. whom this nation claims it is "under" in 4 USCS, § 4, because it
27. has exalted itself Above, and Separate from, the HOLY One, as an Enemy.

1. Moreover, since logic dictates that, because an inferior
2. STATE has wrongly provoked an Act of War against the
3. subjects of a Supreme Spiritual Sovereign, it logically
4. follows that His subjects cannot possibly be contemplated
5. in Law or otherwise, as committing an offense against an
6. active Enemy of War. And this is especially true, since the
7. convictions by the Enemy STATE are the type that have nothing
8. to do with the "subjective domain of morals or religion."

9. J. SUTHERLAND, *Supra*.

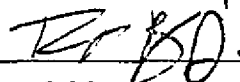
10. It is a plain LIE that this Secular (Worldly) government
11. is at Peace with Yahweh, or Yahshua Messiah and His Church.
12. See Matthew 10:34-36; Jeremiah 6:14; 1 Thessalonians 5:1-3;
13. John 15:18-19; James 4:4; 1 John 2:15-17; Daniel 7:21; 8:23-26; Revelation
14. 17:11-14. Apo-stasy of the Profane (Secular) becomes an apo-STATE.

15. The U.S. Constitution has made the People a Company or Troop in a
16. Blasphemous military cloak of rebellion, which has all but certainly
17. cast the souls of such Enemies into condemnation, by such an
18. Allegiance. Every dead soul is also a Witness of the STATE they're in.

19.
20. I hereby give Witness and Confession in Open Court,
21. under penalty of perjury, that the aforementioned is true and
22. accurate to the best of my knowledge.

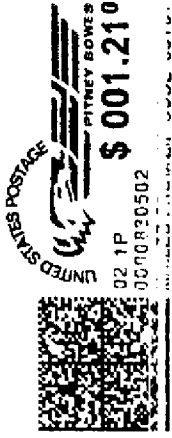
23.
24. Jan. 11th, 2019 C.E.

25. ROBERT BROWN JR. (legal PERSON), by
26. Yahshua Ariyl Ha-kohen (Spiritual Parson)

27. 

Robert Brown 6006120
CLARK COUNTY DETENTION CENTER
330 S. Casino Blvd. 7B-17
Las Vegas, NV 89101

CLERK OF COURT
200 Lewis Ave. 3rd Floor
Las Vegas, NV 89101



LEGAL



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6
7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

9 vs.

DEPT. XVII

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 THURSDAY, FEBRUARY 14, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **MOTION TO DISMISS COUNSEL**

17
18
19 APPEARANCES:

20
21 For the State: WILLIAM ROWLES, ESQ.
22 Deputy District Attorney

23 For the Defendant: NO APPEARANCE

24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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Las Vegas, Nevada, Thursday, February 14, 2019

[Hearing begins at 10:21 a.m.]

THE COURT: All right, page 7, motion to dismiss counsel;
Robert Brown.

Colloquy between Court, recorder, and marshal]

THE COURT: Counsel is Ms. Maningo.

MR. ROWLES: I've not seen her, Your Honor.

THE COURT: I don't know if she is aware of this.

Sir, Ms. Maningo is – it's Miss, right, Yvette Maningo?

THE DEFENDANT: Yes.

THE COURT: It's not Mr. Maningo – perhaps is not aware.
She always makes her court appearances. We'll pass this to the next
homicide day.

THE CLERK: February 27th, 9:00 a.m.

MR. ROWLES: Thank you, Your Honor.


THE COURT: Thank you.

We'll contact her, sir, so she can be here. All right, thank you.

[Hearing concludes at 10:21 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
District Court Dept. XVII



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6
7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 WEDNESDAY, FEBRUARY 27, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **MOTION TO DISMISS COUNSEL**

17
18
19 APPEARANCES:

20 For the State:

WILLIAM ROWLES, ESQ.
Deputy District Attorney

22
23 For the Defendant:

IVETTE A. MANINGO, ESQ.
ABEL M. YANEZ, ESQ.

24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, February 27, 2019

2 [Hearing begins at 9:02 a.m.]

3 THE COURT: I think we can probably go forward on Robert
4 Brown with one of our DA's here.

5 Is Mr. Brown here? Robert Brown?

6 THE DEFENDANT: Here.

7 THE COURT: Sir, you filed a motion to dismiss the services
8 of Ms. Maningo – actually, we should – we need to have her here. I
9 thought we could – no, sorry.

10 MR. ROWLES: Okay.

11 [Matter trailed at 9:02 a.m.]

12 [Matter recalled at 9:27 a.m.]

13 THE MARSHAL: Page 2.

14 THE COURT: Robert Brown.

15 Ms. Maningo and Mr. Yanez, did you receive a motion from
16 your client seeking to dismiss your services?

17 MS. MANINGO: We did, Your Honor. I believe it was on
18 before but we hadn't – we did not get notice and so you passed it for
19 today's date.

20 THE COURT: Sir, I didn't quite understand everything in your
21 motion here. You're talk about the separation of church and state and
22 other matters. It's not very clear. Why do you want to get rid of your
23 attorneys?

24 THE DEFENDANT: I gave the reasons in there. One thing
25 that's particularly disturbing is the fact that I've sent both attorneys, Ms.

1 Maningo and Mr. Yanez, letters of discontent about issues and I never
2 received any response from them and that's not – that's just not
3 acceptable.

4 THE COURT: All right.

5 Ms. Maningo or Mr. Yanez.

6 MS. MANINGO: We've attempted unfortunately in the last
7 month, four times, visits and it's a refusal, so we haven't been able to
8 discuss those issues.

9 THE COURT: Sir, how can they represent you if you're
10 refusing to see them? They just told me they've --

11 THE DEFENDANT: Well, --

12 THE COURT: -- gone down there four times.

13 THE DEFENDANT: -- the letters have -- the letter issue has
14 been occurring way before this issue of me not seeing them or me
15 refusing their visits, I should say.

16 THE COURT: Okay, well, how about now? They're willing --
17 they've been trying to come down and talk to you. It seems like they're
18 trying to resolve any issues or any misunderstandings here. I mean they
19 have to meet with you to talk to you to see if they can clarify anything.

20 THE DEFENDANT: Like I said, the letter issues have been
21 going on for a long time.

22 THE COURT: Well, sir, can --

23 THE DEFENDANT: It's been --

24 THE COURT: -- Ms. Maningo and --

25 THE DEFENDANT: It's been at least 9 months. So for them

1 now to complain that I'm refusing their visits you know after 9 months of
2 you know ignoring my letters, that's not competent at all.

3 MS. MANINGO: Judge – and for the record, Your Honor,--

4 THE COURT: Yes.

5 MS. MANINGO: -- I think I've received, since I've been
6 representing him, I want to say probably 3 letters. We've addressed all
7 of them during visits. They're letters similar to what was filed in the
8 motion today with regards to the separation of church and state,
9 etcetera, so we've discussed that.

10 And one of his frustrations, which I completely understand, is
11 that there's been a delay in the case. We're the fourth set of attorneys
12 because the other people he had a conflict with. And, unfortunately,
13 since I've been on the case, my co-counsel, Ms. Palm, actually
14 transitioned over to the SPD so we had to have new counsel on the case
15 which obviously causes a delay. And unfortunately, our investigator who
16 has actually been with him from the very beginning even when he was
17 representing himself, Al Fuentes, passed away at the beginning – just
18 you know a month ago. And so, he's frustrated because of those delays
19 which I understand but those are things that are out of my control. I'm
20 also preparing and starting a capital case in 30 days so it's a 33 year old
21 case that the federal court has ordered for me to try and that's why we
22 had to continue this case. So, those are things that are frustrating him
23 and I understand it but they are simply out of my control.

24 THE COURT: Sir, do you understand that?

25 THE DEFENDANT: Yeah, but I've been incarcerated over 5

1 years and attorneys have –

2 THE COURT: Well, these attorneys have –

3 THE DEFENDANT: -- not even –

4 THE COURT: Well, sir, these attorneys have not been on
5 your case for 5 years.

6 THE DEFENDANT: They've been on my case over a year.

7 THE COURT: Okay, but they haven't – so the 5 years – so,
8 I'm going to start the clock for them for one year; okay? And they've
9 been trying to come down and apparently there's been different
10 attorneys and we have a problem with the investigator who apparently
11 passed away. These are all issues outside of their control. I have known
12 both these attorneys for a long time and they're very aggressive in their
13 representation. You just give them a chance.

14 Counsel, when is – when do you think you can go down and
15 speak with him?

16 MS. MANINGO: I mean we could go this –

17 THE COURT: Or at least one of you or –

18 MS. MANINGO: Well, can you go tomorrow?

19 MR. YANEZ: Yeah, or – not later than the end of this week by
20 Friday.

21 MS. MANINGO: Yes.

22 THE COURT: Okay. Why don't we do this, I'm going to put
23 you back on the – on our -- in two weeks just a status check. They're
24 going to come down and speak with you, sir, hopefully at the end of this
25 week and resolve some of these issues.

1 So, let's come – I'll make a final decision on the motion to
2 dismiss counsel in two weeks from today.

3 MS. MANINGO: Okay.

4 THE CLERK: March 13th at 9:00 a.m.

5 THE COURT: Sir, they're going to come down. Don't refuse
6 their visitation.

7 [Hearing concludes at 9:32 a.m.]

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video recording in the above-entitled case to the best of my ability.

23 *Cynthia Georgilas*
24 CYNTHIA GEORGILAS
25 Court Recorder/Transcriber
 District Court Dept. XVII



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6
7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 WEDNESDAY, MARCH 13, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **MOTION TO DISMISS COUNSEL**

17
18 APPEARANCES:

19 For the State:

NO APPEARANCE

20
21 For the Defendant:

IVETTE A. MANINGO, ESQ.
22 ABEL M. YANEZ, ESQ.

23
24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, March 13, 2019

2 [Hearing begins at 9:50 a.m.]

3 THE MARSHAL: Page 1.

4 THE COURT: Ms. Maningo is on Robert Brown.

5 All right, Mr. Brown, we were last here February 27th. It seems
6 – I think we were here on a motion to dismiss counsel and I thought the
7 issues were resolved back then, and now it's on calendar again for
8 motion to dismiss counsel; is that incorrect?

9 MR. YANEZ: I think we continued it, Judge, to give us an
10 opportunity to meet with –

11 THE COURT: Okay.

12 MR. YANEZ: -- Mr. Brown and go over that. We did meet with
13 him twice –

14 THE COURT: All right.

15 MR. YANEZ: -- so I'm not sure what Mr. Brown's position is,
16 but we did meet with him twice.

17 THE COURT: Mr. Brown, did Counsel in fact go meet with
18 you twice and discuss your case?

19 THE DEFENDANT: Yeah, they did. Our first meeting wasn't
20 very pleasant.

21 THE COURT: Was or was not?

22 THE DEFENDANT: Was not very –

23 THE COURT: Okay.

24 THE DEFENDANT: -- pleasant. Ms. Maningo simply verbally
25 insulted me, she demeaned me, [indiscernible] me. The only thing

1 positive came out of our first meeting was the fact that Mr. Yanez said
2 he was going to look into the written documents that I had been provided
3 – the attorneys as far as my issues are concerned. He would read them
4 is what he told me. So, that's the only thing positive came out of that.

5 THE COURT: Okay, how about the second meeting?

6 THE DEFENDANT: Well in between –

7 THE COURT: And I don't want you – don't go over specifics,
8 but just tell me generally.

9 THE DEFENDANT: Well before I miss it though I called Mr.
10 Yanez before the second meeting and I gave him a little bit of case law
11 and explained to him that I needed copies. The – one of the issues, as
12 you know, is that I have not been receiving my copies of complaints to
13 these attorneys and even thus far they still have not provided me with all
14 of those copies and it's critical that I have all those copies because –

15 THE COURT: Copies of complaints against the attorneys?

16 THE DEFENDANT: Right. Issues –

17 THE COURT: Okay, why do you need that – hang on – to
18 defend this case?

19 THE DEFENDANT: Well, it's not to defend this case. It's an
20 [indiscernible] that we have conflicts and I need to prove them. I don't
21 expect you, Judge, to take my word over theirs [indiscernible] –

22 THE COURT: I'm not taking anyone's word right now, so.

23 THE DEFENDANT: All right, but my – part of my – part of the
24 reason why I'm doing that is so that I can have documented proof that I
25 have been communicating, issues have or have or not been resolved,

1 and I'd be able to give you that proof. They're denying me that.

2 THE COURT: Okay, sir, why aren't we focusing on witness
3 statements, police reports, forensic reports?

4 THE DEFENDANT: Okay, [indiscernible]. Okay, I – we can
5 get to that.

6 THE COURT: I mean that's the important thing because if
7 you're innocent they need the information –

8 THE DEFENDANT: Right.

9 THE COURT: -- during the trial and if there's other issues
10 then they need information, perhaps you get a favorable negotiation for
11 you.

12 THE DEFENDANT: Right. One of the issues is that they won't
13 go over these documents that support legal authorities and arguments
14 for my right to challenge the Nevada murder statute for violating, for
15 example, Article 4 Section [indiscernible] –

16 THE COURT: Sir, that has been presented a thousand times
17 to our Supreme Court and its –

18 THE DEFENDANT: I have no case law.

19 THE COURT: -- been rejected.

20 THE DEFENDANT: I have no –

21 THE COURT: It's been rejected.

22 THE DEFENDANT: -- [indiscernible]. If that's the case, then
23 I've asked them to provide me with that simple proof. Show me that's it's
24 been rejected and that I have [indiscernible] grounds. They refuse to do
25 that. It's a *de novo* issue as far as my research; okay? That's my point

1 to them. They refuse to do that. They don't even want to give me a
2 written response saying that I don't have grounds and I said in the
3 alternative if you're not going to file a motion or intend to and don't think I
4 have grounds, then just simply provide me with a written response
5 saying that and that's fine and we can move forward. They refuse to do
6 even that. And the hypocrisy in that to me –

7 THE COURT: Okay, well, sir, what issues regarding preparing
8 your defense are they not doing because that's the most important thing
9 here, your –

10 THE DEFENDANT: Sure.

11 THE COURT: -- defense.

12 THE DEFENDANT: Sure, I can get to that but I'd like to
13 finish –

14 THE COURT: No, I'm – that's where we're going, okay,
15 because for them to show you case law to -- that's been – has rejected
16 the issue that you're bringing up numerous times, okay, their job is not to
17 file frivolous motions; okay? And I don't know –

18 THE DEFENDANT: I don't know –

19 THE COURT: -- if that's their interpretation of it. Sir, let's
20 focus in on your defense.

21 THE DEFENDANT: So I don't have a right to challenge
22 statutes then. Is that what –

23 THE COURT: No, I'm telling –

24 THE DEFENDANT: -- you're saying?

25 THE COURT: -- you we're going to focus in on your defense.

1 THE DEFENDANT: Okay.

2 THE COURT: Okay, are they not – do they not have the –

3 THE DEFENDANT: They – that –

4 THE COURT: -- police reports?

5 THE DEFENDANT: -- as well. They're not investigating
6 issues that go to matters concerning, for example, Officer [indiscernible].
7 I've give him all the documents showing them that this particular officer
8 has fabricated statements. The audio had – there's a problem with the
9 audio. There's a problem –

10 THE COURT: Are you saying the audio has been doctored?

11 THE DEFENDANT: Right. Exactly.

12 THE COURT: Okay. All right. Let me just -- let's just cut to the
13 chase here.

14 Mr. Yanez or Ms. Maningo, I'm – as far as the issues going –
15 preparing for trial, have you met with your client and are you preparing –
16 I'm assuming you're preparing for trial, analyze the reports, etcetera;
17 Counsel?

18 MS. MANINGO: I am aware of the issues that he's
19 referencing. We've noted them but some of them are trial issues which
20 will be addressed at trial.

21 With regards to investigation, he – well, we recently had our
22 investigator pass away. This is an investigator that's been – was on his
23 case for years with his other team of attorneys and when he was
24 representing himself. The investigator, I believed to his satisfaction,
25 really did investigate the case that he wanted to. They got along well

1 actually. He passed away recently. We do have follow up investigations
2 to do with regard – which, of course, I'm not going to get into on the
3 record, which we were in the process of doing when my investigator
4 unexpectedly passed away. So, that's where we're at.

5 THE DEFENDANT: Judge, I have even matters that go to the
6 Las Vegas Metropolitan Police Department staging the crime scene in
7 my case. They refuse to address that as well. I have complaints –

8 THE COURT: Okay, well I don't want to get into the specifics.

9 THE DEFENDANT: I'm not getting into specifics.

10 THE COURT: If you've communicated –

11 THE DEFENDANT: I understand that.

12 THE COURT: -- to them that concern I'm sure that – first off,
13 on cross examination they will address those issues. Presenting any
14 motion here telling me, I think the officers are lying, I think they staged it,
15 I think they doctored – unless [indiscernible] very specific, that's not an
16 issue for me to decide someone's lying at this point. It's for the jury to
17 decide; okay?

18 THE DEFENDANT: I'm not asking you to decide that. I'm
19 asking you to consider that as to why I'm here, to fire them for failing to
20 do that. Those are my rights.

21 THE COURT: Sir, they're doing it. They're preparing for trial.

22 THE DEFENDANT: They have not. They even refuse to give
23 me a written response to these things.

24 THE COURT: Okay, well they don't have to do that, sir; okay?
25 They're documenting their file –

1 MR. YANEZ: And, Judge –

2 THE COURT: -- of what they're doing and not doing –

3 MR. YANEZ: -- just one thing –

4 THE COURT: -- on your case.

5 MR. YANEZ: -- on that point. What I did tell Mr. Brown is that
6 both Ivette and I, from this point forward I believe he wants written
7 responses to some of his questions that he has about the case.
8 Typically, that's just done verbally when you meet with your client. But I
9 told him that Ivette and I have no problem writing down our response to
10 his request so he has documentation as to that.

11 And we did tell him, as well, Judge, -- and this might be the
12 frustrating part for Mr. Brown 'cause he did represent himself at one
13 point, is the duty that – or the job of the lawyer, when it comes to what is
14 our responsibility and what is the client's decision making, when it
15 comes to the legal strategy and the filing of the motions the law does say
16 that his attorneys get to make that decision. Obviously, we'll take Mr.
17 Brown's input in that. And I don't know – that might be the frustrating
18 part with Mr. Brown because perhaps we have disagreements as to
19 what should be filed or not be filed. And we did have that discussion with
20 him that that is our legal strategies; that ball is in our court and we get to
21 make that decision. Obviously, we're going to zealously represent him
22 and any motion that we think has merit that should draw – that should be
23 considered by the Court we're going to do that. But my impression at
24 least is that might be Mr. Brown's frustration that we just disagree on
25 certain strategies. And again, he did represent himself so at one point he

1 was kind of running the show. And obviously, he still has that right if he –
2 I don't think he's made that request to represent himself, but at one point
3 Judge Togliatti gave him – canvassed him and let him represent himself.
4 But as to the written requests, and I told this to Mr. Brown, both Ivette
5 and I are willing to do that so that he has something in writing so I just
6 want to put that on the record.

7 THE COURT: Okay, so they're going to be doing that, sir.

8 It seems like you want them to do things that are not
9 appropriate at this stage. It sounds like they are preparing for trial while
10 these issues of witnesses lying perhaps, things being doctored is for
11 them to bring up in front of the jury. The jury decides whether or not you
12 can believe the audio, you can believe the photographs, you can believe
13 the testimony. It's not for me. So, I'm sure they are preparing their cross
14 examination when they do their final –

15 THE DEFENDANT: But, Judge, --

16 THE COURT: -- prep for the trial.

17 THE DEFENDANT: But, Judge, there are several *de novo*
18 issues, several. I don't understand that justifying the hypocrisy in that
19 these attorneys intentionally are going to file stock motions that are
20 expected by them to be dismissed but to preserve the issue, though.

21 THE COURT: That's their job.

22 THE DEFENDANT: Right. Okay. That logic is sound, but
23 when it comes to my argument that -- a *de novo* issue that they don't
24 know is going to be denied, they even refuse to preserve the issue.
25 That's –

1 THE COURT: Well, sir, they –

2 THE DEFENDANT: -- absurd to me.

3 THE COURT: -- make the judgment call whether or not any
4 motion has merit and they're making that call. And so, I don't find a basis
5 at this point to remove them so they are on the case. And it sounds like
6 they're going to put in writing the answers to your questions as far as
7 anything that you are requesting so that should clear that up.

8 I do see that we have a calendar call September 24th, trial
9 date October 7; are we on track to keep that date?

10 MS. MANINGO: And that was the next issue that I – 'cause
11 he's not going to be happy about this. I already brought this up in the
12 meeting and a lot of this occurred -- and I know he's frustrated, and
13 again, I acknowledged that last time. These are things I don't have
14 control over. His trial date was continued because of a conflict with
15 another trial that we had and because the investigator passed away and
16 of course I need to get a new investigator. It's set for October. I am –
17 and since then, I've been in a status check and hearings in a federal
18 case that I have. It's a racketeering case that is starting June 27th. We
19 thought it was going to be an 8 week trial. When we were there last,
20 they're talking 10 to 12 weeks. And so, I want to tell the Court this now
21 and I want Mr. Brown to know, which I've already told him, because I
22 don't want to run into this situation again where I'm continuing trial and
23 he loses faith in us because of that. These were things I don't have
24 control over so I want to put it on the record now. I'm in a federal case.
25 Obviously, I can't be in two places at once and I want to prepare for his

1 trial and be ready. And so, that's my other concern and I'm sure his
2 concern.

3 THE COURT: In the event that the federal case does not go
4 forward, will you be ready to try this case?

5 MS. MANINGO: Yes.

6 THE COURT: Okay. Let's see how that turns out. As you
7 know, especially in federal court, things get continued all the time and
8 I'm sure you're preparing for that trial as well as this one; okay?

9 MS. MANINGO: And that is accurate. And I will know –
10 obviously we're starting in July. I will know in early summer – or I
11 continue to know if it's still going, and as of now, it looks like it is going,
12 Your Honor. I just make sure –

13 THE COURT: All right.

14 MS. MANINGO: -- you know that.

15 THE COURT: I appreciate the heads up. And who is the DA
16 on this case who is trying the case, do we know?

17 MS. MANINGO: Richard Scow.

18 THE COURT: All right. Okay, thank you.

19 All right, I'll just wait for any future motions. If – as soon as you
20 hear that your federal case is going forward, please immediately put it
21 back on calendar if we don't have other issues before that time.

22 MS. MANINGO: Right. And just so – we just had a status
23 check two days ago and it is going forward as of now. We'll be back in
24 court within the next 30 days and I'll know more then. I guess I could
25 update you in another 30 days here as well.

1 THE COURT: Okay. And do you feel that you have all
2 discovery in this matter as far as forensic testing, DNA –

3 MS. MANINGO: We –

4 THE COURT: -- I don't know if he's items exists in your case,
5 but –

6 MS. MANINGO: We've done a file review in this case. I have
7 all the discovery. But the one thing for me is getting a new investigator
8 on the case. I was in a holding pattern because of this motion he filed
9 but if we're going to stay on the case I'm going to go ahead and – I
10 already spoke to the investigator and get a new one in there and have
11 him meet with him and left – pick up where we left off on the couple of
12 things we're working on.

13 THE COURT: All right. Great.


14 All right, thank you very much, Counsel.

15 MR. YANEZ: Thank you, Judge.

16
17 [Hearing concludes at 10:03 a.m.]

18 * * * * *

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video recording in the above-entitled case to the best of my ability.

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25 CYNTHIA GEORGILAS
Court Recorder/Transcriber
District Court Dept. XVII



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4 **DISTRICT COURT**
5 **CLARK COUNTY, NEVADA**

6 * * * *

7 THE STATE OF NEVADA,

8 PLAINTIFF,

9 v.

10 ROBERT BROWN, JR., #6006120;

11 DEFENDANT.

Case No.: C-14-299234-1

Dept. No.: XVII

12 **ORDER SCHEDULING STATUS CHECK**

13 YOU ARE HEREBY ORDERED TO APPEAR in District Court, 200 Lewis Avenue,
14 Department XVII, on **WEDNESDAY, MAY 22, 2019 at 9:00 a.m.** to give status to this Court
15 as to the following:

- 16 1. Retention of experts
- 17 2. Forensic testing
- 18 3. Motion to suppress evidence and/or statement (Jackson Denno hearing)
- 19 4. Photos/video/body camera
- 20 5. Phone records/cell tower records
- 21 6. Autopsy
- 22 7. File review
- 23 8. Motion for evidence of crimes of other crimes (NRS 48.045)
- 24 9. Res gestae motion (NRS 48.035) and
- 25
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- 27
- 28

MICHAEL P. VILLANI
DISTRICT JUDGE
DEPARTMENT XVII

1 10. Pending offer(s).

2 DATED: April 15, 2019

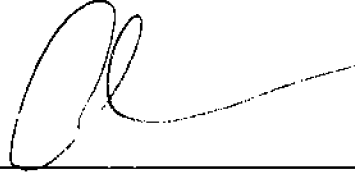
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4 MICHAEL P. VILLANI
5 DISTRICT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on the date filed, I electronically served, mailed to the following proper persons, or placed a copy of this order in the attorney's folder in the Clerk's Office as follows:

Richard Scow, Esq. Chief Deputy District Attorney
William C. Rowles, Esq. Chief Deputy District Attorney
Ivette A. Maningo, Esq.
Abel M. Yanez, Esq.



Christina Greene
Judicial Executive Assistant



1 RTRAN

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE
14 WEDNESDAY, MAY 22, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **STATUS CHECK**

17
18 APPEARANCES:

19 For the State:

RICHARD H. SCOW, ESQ.
Chief Deputy District Attorney

21
22 For the Defendant:

IVETTE A. MANINGO, ESQ.
ABEL M. YANEZ, ESQ.

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25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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Las Vegas, Nevada, Wednesday, May 22, 2019

[Hearing begins at 9:16 a.m.]

THE COURT: State versus Robert Brown.

All right, Mr. Brown is present in custody with Ms. Maningo and Mr. Yanez. And we have –

MR. SCOW: Richard Scow for the –

THE COURT: Mr. -- I know who –

MR. SCOW: -- State.

THE COURT: -- you are -- Mr. Scow representing the State and this is on for status check trial readiness. So, where are we, Defense?

MS. MANINGO: Well, Your Honor, this is set for October. I know that Mr. Villani [sic] wanted to know the status of a federal case that I have that's –

THE COURT: You and like every other defense attorney in town.

MS. MANINGO: I know. There's 23 defendants in that case so a lot of people are on – I'm on the first group –

THE COURT: Okay.

MS. MANINGO: -- which is the first 8 defendants and it starts the end of July.

THE COURT: Okay.

MS. MANINGO: It's scheduled to go like 10 to 12 weeks. And so, he wanted to know the status of that. As of right now, it's still set to go.

1 THE COURT: Okay.

2 MS. MANINGO: Because we were here about 30 days ago
3 and we –

4 THE COURT: Right.

5 MS. MANINGO: -- had a status check about a week and a half
6 ago so he wanted to know the status of that. I do know that.

7 THE COURT: Do you know what Judge Villani's plan was?
8 Do you -- was it to keep the trial date for right now and have the
9 attorneys continue to –

10 MS. MANINGO: Yes.

11 THE COURT: -- prepare the case?

12 MR. SCOW: Yes, that's my understanding.

13 MS. MANINGO: I believe that's the plan.

14 THE COURT: Okay.

15 MS. MANINGO: And he asked me that – if the Vagos case
16 didn't go if we could be ready on this case and we could –

17 THE COURT: Okay.

18 MS. MANINGO: -- as long as we know that relatively early.
19 But we do have status checks in that case pretty regularly so –

20 THE COURT: Okay.

21 MS. MANINGO: -- if that changes I'll let the Court know.

22 THE COURT: All right. In terms of your preparation, where is
23 the Defense? What's still remaining?

24 MS. MANINGO: Well, we've – I know one of the things he
25 asked me for are in the scheduling order is with regards to experts. We

1 have hired experts in this case. We're still consulting with probably the
2 one or two more to hire, but we're in the process of all that.

3 THE COURT: Okay.

4 MS. MANINGO: So, that's on track for us.

5 THE COURT: And do the experts have all the records that
6 they are going to need to rely on or review?

7 MS. MANINGO: The experts that I've retained so far do have
8 what –

9 THE COURT: Okay.

10 MS. MANINGO: -- they need.

11 The one other issue that we had in this case, unfortunately, is
12 my investigator passed away unexpectedly –

13 THE COURT: Oh, I'm sorry.

14 MS. MANINGO: -- at the beginning of January. We do have a
15 new investigator on the case now. He has the entire file from the
16 [indiscernible] investigator, has reviewed it. He actually met with Mr.
17 Brown yesterday along with us, and I know he's going to start seeing
18 him more, so that issue has been resolved.

19 THE COURT: Okay.

20 Mr. Yanez, anything to add?

21 MR. YANEZ: No, just besides what Ms. Maningo said, Judge;
22 no.

23 THE COURT: Mr. Scow?

24 MR. SCOW: No, nothing to add.

25 THE COURT: All right.

1 Has all of the discovery been turned over to the best of your
2 knowledge?

3 MR. SCOW: Yes.

4 THE COURT: Is there any outstanding forensic testing, DNA,
5 fingerprints?

6 MR. SCOW: No, not that we have submitted or have asked
7 for; no.

8 THE COURT: All right, so you believe that there is not going to
9 be any additional reports or anything like that?

10 MR. SCOW: No, there shouldn't be.

11 THE COURT: All right. And in terms of your mitigation
12 preparation, are the experts for mitigation or for the guilt phase?

13 MS. MANINGO: We have --

14 THE COURT: For both?

15 MS. MANINGO: -- experts on both phases.

16 THE COURT: Okay.

17 MS. MANINGO: My mitigation specialist has been on this case
18 even before I was so she's worked it up and is continuing to do so, so
19 we're on track with mitigation as well.

20 THE COURT: Okay.

21 MS. MANINGO: I do want to add for the discovery, we did
22 have a file -- a full file review, at the DA's office and they provided us
23 with a lot of discovery a while back. There was one thing that I recently
24 asked for that I -- that Mr. Scow immediately looked for but I don't think
25 it's in their file and we're going to continue to work on that and that was

1 information from the actual arrest in California. I had no reports relating
2 to that, the actual arrest, before he was extradited here. And so, we'll
3 work on that. That's the only piece of discovery that I still need that we
4 don't have and it's not in the DA's file either –

5 THE COURT: Okay.

6 MS. MANINGO: -- is my understanding.

7 THE COURT: What about motions? Are there going to -- I'm
8 assuming there are going to be some motions.

9 MS. MANINGO: There will be. And before we had this case
10 there were some motions that were filed by attorney Luem.

11 THE COURT: Right.

12 MS. MANINGO: They were withdrawn --

13 THE COURT: Okay.

14 MS. MANINGO: -- and we are intending to file those motions
15 or variations thereof --

16 THE COURT: Okay.

17 MS. MANINGO: -- and well as potentially a couple of other
18 motions when we get closer to trial.

19 THE COURT: State, any motions, motions for other bad act
20 evidence?

21 MR. SCOW: Potentially one, and if we were to do that we'd do
22 it well in advance of trial.

23 THE COURT: All right.

24 And has there been any meaningful discussion regarding a
25 possible negotiation at this time?

1 MR. SCOW: We have – between us we've had meaningful
2 discussions –

3 THE COURT: Okay.

4 MR. SCOW: -- and that's as far as it goes with his position. I
5 don't know, that's up to him so we'll see.

6 THE COURT: Okay. Have you made a firm offer that's been
7 discussed with Mr. Brown?

8 MS. MANINGO: There has been a firm offer made. There's
9 actually – and we've talked to Mr. Brown about it. And we've also sent
10 him a letter making sure that he understood and it was memorialized.
11 And at this point there is no negotiation – there is no resolution yet.

12 THE COURT: Okay, so at this point, Mr. Brown is not
13 interested in accepting the offer?

14 MS. MANINGO: That's correct.

15 THE COURT: Is that right, Mr. Brown, you had enough time
16 to discuss the offer with your lawyers, Ms. Maningo and Mr. Yanez, and
17 asked them whatever questions you might have had?

18 THE DEFENDANT: That's right.

19 THE COURT: All right. And it's your desire, at least today, to
20 reject that offer; is that true?

21 THE DEFENDANT: Correct.

22 THE COURT: All right. And does the offer remain open?

23 MR. SCOW: Yes.

24 THE COURT: All right.

25 So, I don't know, maybe 30 days or is that too soon? Let me

1 think.

2 MS. MANINGO: I don't think it's too soon, only because we'll
3 have -- I'll know more information—

4 THE COURT: Okay.

5 MS. MANINGO: -- on the federal case by then.

6 THE COURT: All right, 30 days for the next status check.

7 THE CLERK: June 26th, 9:00 a.m.

8 MR. SCOW: Okay. Thank you.


9 THE COURT: All right, thank you.

10 MS. MANINGO: Thank you, Your Honor.

11 [Hearing concludes at 9:22 a.m.]

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video recording in the above-entitled case to the best of my ability.

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24 CYNTHIA GEORGILAS
25 Court Recorder/Transcriber
District Court Dept. XVII



1 RTRAN

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT
14 JUDGE

WEDNESDAY, JUNE 26, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **STATUS CHECK: TRIAL READINESS**

17
18 APPEARANCES:

19 For the State:

MICHAEL SCHWARTZER, ESQ.
Chief Deputy District Attorney

20
21 For the Defendant:

IVETTE A. MANINGO, ESQ.
ABEL M. YANEZ, ESQ.

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25 RECORDED BY: KRISTINE SANTI, COURT RECORDER

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Las Vegas, Nevada, Wednesday, June 26, 2019

[Hearing begins at 9:50 a.m.]

THE COURT: Okay, page 3; State versus Robert Brown, C299234. Mr. Brown is present and he is in custody. This is on for trial readiness.

MR. SCHWARTZER: Michael Schwartzer for the State filling in for Richard Scow.

MS. MANINGO: Ivette Maningo and Abel Yanez is here for Mr. Brown.

THE COURT: Good morning.

MS. MANINGO: Good morning.

THE COURT: So, you have a trial date pending of October 7th; are we on track to make that date?

MS. MANINGO: Well, -- and we were here about 30 days ago and I've explained this to the Court. I have a federal trial that's starting --

THE COURT: Right, I saw that in the minutes.

MS. MANINGO: The Vargos case. So it starts -- we actually are in court the day after tomorrow and I don't anticipate the trial date is going to change, but of course at our next status check I can inform the Court on what's going on. But it's supposed to start, I think -- I believe it's the last week of July and it's supposed to go all the way through -- its looking through October potentially into November.

So, that's what we're -- that's what the Court was -- I've been updating the Court on that --

THE COURT: Okay.

1 MS. MANINGO: -- basically.

2 THE COURT: So, that's going to go forward?

3 MS. MANINGO: Yeah. It looks like it's definitely going forward.

4 Like I said, we have a court date in two days. We may have more
5 information but I don't anticipate anything's going to change on that.

6 THE COURT: Okay.

7 What's the State's position? I mean --

8 MR. SCHWARTZER: And unfortunately, Your Honor, I'm filling
9 in for Mr. Scow so I don't -- it sounds like he already was aware of this
10 information, so I would just ask that we keep this trial date understanding
11 that there's a good chance it would get moved. And then the next
12 session when Mr. Scow is here then maybe they can all choose a
13 different trial date if they think this is going to conflict with the Vargos
14 trial.

15 THE COURT: Okay, can I give you 30 days and then you can
16 reset your trial date on that date?

17 MS. MANINGO: Okay.

18 THE COURT: But other than that, I mean is there anything
19 else to update the Court on? Any outstanding discovery?

20 MS. MANINGO: No.

21 THE COURT: Has an offer been made?

22 MS. MANINGO: Yes, and we -- I think we talked about that
23 last time as well.

24 THE COURT: Okay.

25 MS. MANINGO: An offer has been made and Mr. Scow put on

1 the record that its still on the table but we have not negotiated the case.

2 THE COURT: Okay.

3 THE CLERK: So the status check date will be July 24th at 9:00
4 a. m.

5 MS. MANINGO: That's just several days before we start so I
6 will be able to tell the Court –

7 THE COURT: Okay, yeah --

8 MS. MANINGO: -- for sure. Okay, thank you.


9 MR. YANEZ: Thank you.

10 MR. SCHWARTZER: Thank you, Your Honor.

11 [Hearing concludes at 9:53 a.m.]

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video recording in the above-entitled case to the best of my ability.

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24 CYNTHIA GEORGILAS
25 Court Recorder/Transcriber
District Court Dept. XVII



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6
7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 WEDNESDAY, JULY 10, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **STATUS CHECK: TRIAL DATE**

17
18 APPEARANCES:

19 For the State:

WILLIAM ROWLES, ESQ.
Deputy District Attorney

20
21 For the Defendant:

LANCE MANINGO, ESQ.
ABEL M. YANEZ, ESQ.

22
23
24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, July 10, 2019

2 [Hearing begins at 9:30 a.m.]

3 MR. MANINGO: Your Honor, if we could have one –

4 THE COURT: Sure.

5 MR. MANINGO: -- one more if I may?

6 MR. YANEZ: It's with – its – I'm – he's filling in for Yvette. It's
7 Mr. Brown on page 3, Judge.

8 THE COURT: All right. The Court put this on calendar, you
9 may have heard if you were here earlier, Counsel, from October 7 to the
10 17th I'll be at judicial college.

11 MR. YANEZ: Right. And I don't know if Your Honor
12 remembers, but this is the case where Ms. Maningo – we had already
13 put the Court on notice and the State that there was probably going to
14 be a continuance of the trial date based on the fact that she's in that
15 federal Vagos trial which she – I spoke to her yesterday; she has
16 confirmed again is going. It's going to be approximately, best estimate,
17 12 weeks, so that's going to run into the trial.

18 What I was going to suggest to the Court -- I think we have
19 status check in two weeks already on this case on the 24th, what I was
20 going to ask the Court is maybe we just put everything on hold until that
21 date with the understanding that the trial, not only based on Your
22 Honor's reason but based on the fact that Ms. Maningo is going to be in
23 that federal trial still, we would reset the trial at that point. And that's
24 where we're at, Judge.

25 THE COURT: State?

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MR. ROWLES: No objection, Your Honor.

THE COURT: Okay. And, Defense, is there any, as far as you know, any outstanding discovery, anything I need to order, anything?

MR. YANEZ: Not as of right now, Judge.

THE COURT: Okay. All right, so we're going to vacate the trial date and we'll just see everyone back July 24th.

MR. YANEZ: Correct.

THE COURT: Okay. And I'm going to ask both parties to check your files because if there's something missing I want that to be reported because I'm trying to keep a good handle on these cases.

MR. YANEZ: Absolutely.

MR. ROWLES: Yes, Your Honor.

THE COURT: Okay, so cell towers, DNA, video, you know photographs, forensics, okay?

MR. ROWLES: Yes, Your Honor.


THE COURT: All right. Thank you.

MR. YANEZ: Thank you, Judge.

MR. MANINGO: Thank you, Your Honor.

[Hearing concludes at 9:32 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
District Court Dept. XVII



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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 WEDNESDAY, JULY 24, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **STATUS CHECK: TRIAL READINESS**
17 **STATUS CHECK: RESET TRIAL DATE**

18 APPEARANCES:

19 For the State:

20 RICHARD SCOW, ESQ.
21 Chief Deputy District Attorney
22 WILLIAM ROWLES, ESQ.
23 Deputy District Attorney

24 For the Defendant:

25 IVETTE MANINGO, ESQ.
ABEL M. YANEZ, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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Las Vegas, Nevada, Wednesday, July 24, 2019

[Hearing begins at 9:01 a.m.]

MS. MANINGO: We have Mr. Scow here on Brown; page 3, I believe.

THE MARSHAL: Page 3.

THE COURT: Thank you.

This is a status check on trial readiness.

MR. SCOW: Yes, Judge. The October trial date's been vacated. I think we just need to set a new trial date.

MR. YANEZ: Yeah. We were here a few weeks ago –

THE COURT: Right.

MR. YANEZ: -- if you remember, Judge, and we vacated the date, as Mr. Scow indicated, and we were going to select a new date. Part of the issue I know is, and Ms. Maningo can explain to the Court, she's going to be in a federal trial for a while so I'll let her do the talking –

THE COURT: A lot of –

MR. YANEZ: -- in that regard.

THE COURT: -- people from the Defense Bar will be there; right?

MS. MANINGO: Yeah, and I'm not sure, Your Honor, if you've received the letter from Judge Navarro in federal court yet. I have a copy for you if you; may I approach?

THE COURT: I have not.

MS. MANINGO: Okay.

THE COURT: Thank you.

1 MS. MANINGO: This actually lists all the attorneys that are
2 going to be [indiscernible]. It starts Monday and it will be 12 to 16 weeks.

3 [Pause in proceedings as Court reviews document]

4 THE COURT: All right, I appreciate the copy of – State, do
5 you have a copy of this letter or –

6 MR. SCOW: No. I mean I can get it later. That's fine.

7 THE COURT: Okay.

8 MS. MANINGO: Yeah, I'll –

9 THE COURT: All right. Thank you.

10 MS. MANINGO: – actually mail it to him.

11 THE COURT: So, if its 16 weeks and it starts next week, I
12 guess, right?

13 MS. MANINGO: Yeah. We have a – she's given us a calendar
14 for it all the way through the month of November. So the hope is that it
15 will be finishing by December.

16 THE COURT: So then we're looking at 2020 then, right?
17 Have the parties discussed their respective calendars?

18 MS. MANINGO: I mean I – the only thing that I have set is – I
19 have something in March which is the Stewart trial and that's my conflict.

20 THE COURT: And if this matter does go forward, how many
21 days is it – or weeks is it expected to take?

22 MR. SCOW: Probably –

23 MS. MANINGO: I would say –

24 MR. SCOW: Depending on the result of the trial portion, it
25 could be well into two weeks.

1 THE COURT: All right.

2 MS. MANINGO: I would say three weeks, Your Honor. We're
3 going to have a mitigation case to put on if it goes that far.

4 THE COURT: Are the parties available April 6? We can give
5 you three weeks.

6 MR. SCOW: Yup, that works for us.

7 MS. MANINGO: Your Honor, I have a case that's on March
8 30th which is a death case as well.

9 THE COURT: Which case is older?

10 MS. MANINGO: Mr. Brown's case is older. Mr. Brown's case
11 is older than the Stewart case –

12 THE COURT: Okay.

13 MS. MANINGO: -- is my understanding.

14 THE COURT: Who is the – which department?

15 MS. MANINGO: Stewart is –

16 THE COURT: And do you have the case name and number?

17 THE JEA: It's in our department.

18 MS. MANINGO: It's – oh, yeah, it got changed.

19 THE COURT: It might be in our department.

20 THE JEA: It is. It is.

21 MS. MANINGO: Yes, it is in this department.

22 THE COURT: Okay. Well, we're –

23 MS. MANINGO: I wanted to say Togliatti and it wasn't
24 registering, I guess.

25 THE COURT: Okay. Well, we'll put this at the – what date did

1 we give?

2 THE CLERK: You said 6, right?

3 THE COURT: 6th -- on April 6. And, you know one, case may
4 negotiate or not, who knows, during the discovery process, but this case
5 would have priority.

6 MS. MANINGO: Okay. Is it possible to start on April 7th, Your
7 Honor, or is that not -- just because I have something on April 6th that I
8 know if we could start a Tuesday start? I don't know if that's a possibility.

9 THE COURT: The problem is I try to do it on Monday
10 because I can give you a full day for jury selection because we start at
11 9:00 and if we start on Tuesday we're talking about 11:00.

12 MR. SCOW: If she has something Monday I wouldn't -- it
13 would be fine for us to start at 11:00. If we have three full weeks, it -- we
14 will finish in that time frame.

15 THE COURT: So Monday is completely out or just --

16 MS. MANINGO: It is, Your Honor, if the Court would allow
17 that.

18 THE COURT: All right, we'll do a Tuesday start at 10:30.

19 THE CLERK: Calendar call will be March 24th, 2020 at 8:30
20 a.m.

21 THE COURT: Ms. Maningo, as far as you know, is there any
22 outstanding discovery, anything you are missing?

23 MS. MANINGO: The only thing -- I think we put this on the
24 record before when Adair was seated for you one day -- and Mr. Scow's
25 actually, I believe, looked for it as well but we still have to touch base,

1 my client was arrested in California. I am missing all the documents that
2 are related to that arrest. Of course, I have everything once he's here in
3 Las Vegas -- and that was something Mr. Scow was looking into. He
4 wasn't able to find it in his files so I think we just have to dig a little
5 deeper for that.

6 THE COURT: Mr. Scow?

7 MR. SCOW: That's an accurate representation. I don't have it
8 in my files. And I'll reach out to -- 'cause Metro went to California to do
9 the arrest, but I'll see if there's any reports out of California or anything in
10 addition to what the homicide detectives from Las Vegas did.

11 THE COURT: All right.

12 Besides the arrest report, anything else, like DNA, forensics,
13 body cams, cell towers?

14 MS. MANINGO: No, but --

15 THE COURT: I don't know if they existed in this case. These
16 are just generally the issues --

17 MS. MANINGO: Yeah.

18 THE COURT: -- that we have.

19 MS. MANINGO: The only other records we were waiting for
20 we have now received which was the victim's medical records. That's --
21 and we did a full -- two file reviews, so I think we're good. We'll again
22 review the file to make sure before getting closer to trial, but I don't think
23 there's anything else other than all the California records with regards to
24 his surveillance and arrest.

25 THE COURT: All right. What I'm going to do is I'm going to

1 set a status check about 3 months from today. Please report at that time
2 that you have contacted your experts, whoever they may be, and if they
3 are available for this trial date. Again, I'm saying it's a three week trial so
4 there's a period of time that you would need them here.

5 THE CLERK: October 23rd, 9:00 a.m.

6 MS. MANINGO: Thank you.

7 THE COURT: All right. Mr. Scow, if you can – hopefully, you
8 can report that you have those police reports and they've been turned
9 over to the Defense.

10 MR. SCOW: Yes, Judge.


11 THE COURT: Thank you.

12 MS. MANINGO: Thank you, Your Honor.

13 [Hearing concludes at 9:06 a.m.]
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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video recording in the above-entitled case to the best of my ability.

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25 Court Recorder/Transcriber
District Court Dept. XVII

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1 RTRAN

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT
14 JUDGE

15 WEDNESDAY, OCTOBER 23, 2019

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **STATUS CHECK: TRIAL READINESS**

18
19 APPEARANCES:

20 For the State:

DANIELLE PIEPER, ESQ.
Chief Deputy District Attorney

21
22 For the Defendant:

ABEL M. YANEZ, ESQ.

23
24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, October 23, 2019

2 [Hearing begins at 9:39 a.m.]

3 MR. YANEZ: I do have one more matter, Judge, --

4 THE COURT: Sure.

5 MR. YANEZ: -- if you wouldn't mind calling? It's Robert Brown.

6 It is page 4.

7 THE COURT: All right.

8 THE COURT: And this is a status check on trial readiness.

9 This trial is set for April 7th, 2020. We were last here in July. There was
10 an issue about some records from California.

11 MR. YANEZ: Yes, that's what I was just informing --

12 THE COURT: Okay.

13 MR. YANEZ: -- Ms. Pieper. I think Ms. Pieper's being nice
14 enough to stand in. We brought this to the Court's attention before.
15 Mr. Brown was actually arrested in California. Those actual arrest
16 reports we haven't received so we've been making the request that that
17 be provided by the State.

18 THE COURT: Mr. Scow was here last time. He said he was
19 checking into it. Do you have any -- do you know any update?

20 MR. YANEZ: Nothing since then, Judge.

21 THE COURT: You might want to get that resolved as soon as
22 possible. Let's --

23 MS. PIEPER: I can text Mr. Scow and ask him. I just don't
24 know if he'll be here today. So if the Court wants to pass it for two weeks
25 then I'll make sure that he knows --

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THE COURT: Let me just do that because –

MS. PIEPER: -- to have an answer.

THE COURT: -- I know we've been dealing with this issue
and I want to make sure we get this taken care of –

MR. YANEZ: Absolutely.

THE COURT: -- as soon as possible. So, let's go two weeks
out on the issue of the police reports from California.

THE CLERK: November 13th, 9:00 a.m.

MS. PIEPER: I'll text him [indiscernible].


MR. YANEZ: Okay; thank you.

THE COURT: Thank you.

[Hearing concludes at 9:41 a.m.]

* * * * *

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 WEDNESDAY, NOVEMBER 13, 2019

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **STATUS CHECK: CALIFORNIA POLICE REPORTS**

17
18
19 APPEARANCES:

20 For the State:

RICHARD SCOW, ESQ.
Chief Deputy District Attorney

21
22 For the Defendant:

ABEL M. YANEZ, ESQ.

23
24
25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, November 13, 2019

2 [Hearing begins at 10:01 a.m.]

3 THE MARSHAL: 5.

4 THE COURT: Another Ms. Fleck case?

5 MS. FLECK: Probably.

6 THE COURT: All right, Robert Brown.

7 MS. FLECK: Robert Brown.

8 THE COURT: It says Ms. Maningo is on that case or –

9 [Colloquy]

10 MR. SCOW: Good morning, Judge, Richard Scow for the
11 State.

12 MR. YANEZ: Abel Yanez, bar number 7566, on behalf of Mr.
13 Brown who is present in custody. Ms. Maningo is co-counsel with me but
14 she's still in that Vagos trial in federal court, Judge.

15 THE COURT: Okay, so – and this is just a – we're not doing
16 anything dispositive here because this is a death penalty case; we --

17 MR. YANEZ: Yes; that is –

18 THE COURT: -- do need two attorneys.

19 MR. YANEZ: -- correct. Today's – the purpose of today's
20 hearing, Judge, was for the State to provide an update in regards to
21 potential arrest records from Los Angeles County.

22 THE COURT: I remember; yes.

23 MR. SCOW: Yep, and we have some records that have
24 previously been provided and I provided them again, just everything that
25 the – that Metro has from California, the Defense already has them.

1 They're looking for an arrest report or the record from when he was
2 arrested and – that they have faxed confirmation from years ago when
3 they sent that over and they're checking again to see what the status is
4 on it. There was information that there's a corrupted PDF file with LAPD
5 and so they're checking with the jail. That's the status right now. As of
6 today I haven't received any word as far as if that's been received or not,
7 but --

8 MR. YANEZ: And, Judge, the records Mr. Scow did send we
9 already had those; I double checked. So, I don't know if Your Honor
10 wants to do another status check to see if there's any new information
11 in, I don't know, a month, whatever the Court's pleasure is. Or, if you
12 don't want it back on calendar I can just, you know, follow up with Mr.
13 Scow and if there's any issues that I think need to be brought before
14 Your Honor's attention I can do that, whatever the Court's preference is.

15 THE COURT: How about a status check on January 8th?

16 MR. YANEZ: Okay.

17 THE COURT: Okay.

18 Now, as far as other discovery items, Mr. Yanez, do you have
19 everything that's out there besides these California records?

20 MR. YANEZ: As of right now, that is correct. That is everything
21 that we're looking for, Judge.

22 THE COURT: Okay. And since this is a 250 case, have the
23 parties worked on a juror questionnaire together because we do need at
24 least 30 days prior to the calendar call date?

25 MR. YANEZ: Not yet. But my understanding is Mr. Scow is not

1 going to be staying on this case so -- I mean I'll let Mr. Scow make those
2 representations, but whoever the counsel is going to be we will work on
3 that, Judge.

4 THE COURT: All right, so -- I just want to -- when we come
5 back on the 8th if the parties can just report to me that they've conferred
6 on a juror questionnaire I would appreciate it.

7 MR. SCOW: Okay.

8 THE COURT: Okay. See you back at that time. Thank you.


9 THE CLERK: January 8th, 9:00 a.m.

10 THE COURT: Thank you.

11 [Hearing concludes at 10:04 a.m.]
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7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 WEDNESDAY, JANUARY 8, 2020

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **STATUS CHECK: CALIFORNIA POLICE REPORTS**

17
18
19 APPEARANCES:

20 For the State:

JAY P. RAMAN, ESQ.
Chief Deputy District Attorney

21
22 For the Defendant:

ABEL M. YANEZ, ESQ.

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25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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Las Vegas, Nevada, Wednesday, January 8, 2020

[Hearing begins at 9:12 a.m.]

THE COURT: Robert Brown. This is a status check on some discovery and I think you were waiting for some California police reports; is that correct?

MR. YANEZ: That's correct, Judge, and we had – I spoke with Mr. Raman this morning because this case was previously with Mr. Scow who has provided us an additional document from that arrest. My understanding, and Mr. Ramon can confirm or deny this, that everything Mr. Scow believes is in existence not only in their file but in the LAPD California jurisdiction that assisted in this case, has been provided. We thought there would be more documents. I have nothing to contradict that Mr. – what Mr. Scow is saying that that is everything that's in existence but that's where we're at on that issue.

THE COURT: Okay. And was there any other discovery issues? I think last time there was a PDF file but it was corrupted?

MR. YANEZ: Right. And that's – that is part of Mr. Scow's statement that everything that is in existence that they have has been provided to us.

THE COURT: Okay. And –

MR. YANEZ: That's my understanding.

THE COURT: And you've been able to pull – did they give you a thumb –

MR. YANEZ: The only thing that –

THE COURT: -- drive or disk or –

1 MR. YANEZ: The only thing that's been provided in addition is
2 a single page arrest report out of California. That's the new information
3 that's been provided. Beyond that, Mr. Scow has represented to us that
4 that is all that exists.

5 THE COURT: Okay. So, any other matters that you're aware
6 of, Counsel?

7 MR. YANEZ: We did want to – I did want to approach on an
8 issue, Judge, please.

9 THE COURT: Sure.

10 [Bench conference begins – transcribed as follows:]

11 MR. YANEZ: I want to give the Court a heads up. I spoke to
12 Mr. Raman about this. For the past about 2 to 3 months our client's been
13 refusing to speak to us, [Indiscernible] with me, with our investigator, and
14 today he's again refusing. I have concerns based on that as to
15 competency. I wanted to see how the Court wanted to go with this. My
16 preference – I wanted the Court to know 'cause I know we have a trial
17 date approaching, --

18 THE COURT: Right. It's in April; right?

19 MR. YANEZ: Yes. What I would prefer to do, unless the Court
20 wants to order one itself, is allow – I just want the Court to know, we're
21 going to do a competency evaluation. If there's issues that we think are
22 raised on that then bring it to the Court's attention. If you're –

23 THE COURT: And you would your own evaluation?

24 MR. YANEZ: Yes.

25 THE COURT: Okay.

1 MR. YANEZ: And then if there's issues based on that -- I just --
2 we wanted the Court to be informed of that so we're not surprising you.
3 That would be my preference rather than have a court ordered one right
4 now.

5 THE COURT: Okay. If you can do that sooner than later --

6 MR. YANEZ: Yes, I'm --

7 THE COURT: -- I would appreciate it.

8 MR. YANEZ: We're going to do that right away.

9 THE COURT: [Indiscernible], I say anything with him? Just
10 that -- are you guys having problems you want me to address?

11 MR. YANEZ: Say that again?

12 THE COURT: Do you want me to address anything with him?

13 MR. YANEZ: No. No.

14 THE COURT: Okay.

15 MR. YANEZ: I just want to make sure if there's a difference
16 between him just being difficult and whether there are some competency
17 issues.

18 THE COURT: Okay.

19 MR. YANEZ: So based on the results if we think there's issues
20 then we'll bring it to the Court's attention, but we wanted to give you a
21 heads up.

22 THE COURT: I appreciate that.

23 MR. YANEZ: If you're okay with that, that's way I would like to
24 go.

25 THE COURT: [Indiscernible] just do it sooner than later so --

1 MR. YANEZ: Yes.

2 MR. RAMAN: Two other issues, Judge. Ms. Maningo, who is
3 co-counsel with Mr. Yanez on this case, we've been discussing the
4 e-mail – the jury questionnaire. I – she's in the Vagos murder trial in
5 federal court which is going to [indiscernible] probably another month at
6 least so we're attempting to try to get a quorum on this questionnaire –

7 THE COURT: Okay.

8 MR. RAMON: -- and it's happening concurrent. The second
9 thing is I've inherited this case from Mr. Scow. Obviously his trial
10 schedule was not mine and I'm out of the country for the setting we have
11 'cause its spring break.

12 MR. YANEZ: I – and if the State's going to need a continuance
13 we'll probably not going to object but –

14 THE COURT: Should we get a new date now instead of wait?

15 MR. RAMON: That would be prudent.

16 MR. YANEZ: I –

17 MR. RAMON: We're just going to be in the same position
18 later. I've purchased my tickets.

19 THE COURT: And this way you can contact your experts and
20 tell them the dates May or June, whatever.

21 MR. YANEZ: Can we do –

22 MR. RAMON: Yeah.

23 MR. YANEZ: Here's what I'd like to do so I don't want him
24 thinking I'm – we're springing this on him, can we set a status check in a
25 couple of weeks as to that?

1 THE COURT: All right, we'll go out for two weeks.

2 MR. YANEZ: Let me send him a letter. I'll get the competency

3 all set up. And then we can address it at that point –

4 THE COURT: Okay.

5 MR. YANEZ: -- with the understanding that –

6 MR. RAMON: That's fine.

7 THE COURT: Two week status check?

8 MR. YANEZ: Yes, --

9 THE COURT: Okay.

10 MR. YANEZ: -- please.

11 MR. RAMON: Okay. Thank you.

12 [Bench conference ends]

13 THE COURT: All right, Counsel, it appears that discovery

14 issues are resolving and – that the parties also – they advised me at the

15 bench that they're finalizing the jury questionnaire. And let's just,

16 because there's some other issues, let's come back in two weeks

17 regarding trial readiness. So here's your new date.

18 THE CLERK: January 22nd, 9:00 a.m.

19 THE MARSHAL: Page 3.

20 THE COURT: Thank you, Counsel

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MR. RAMON: Thank you.

MR. YANEZ: Thank you.

[Hearing concludes at 9:16 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
District Court Dept. XVII



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 THE STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 ROBERT BROWN, JR.

10 Defendant.

CASE#: C-14-299234-1

DEPT. XVII

11
12 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
13 WEDNESDAY, JANUARY 22, 2020

14 **RECORDER'S TRANSCRIPT OF HEARING:**
15 **STATUS CHECK: TRIAL READINESS**

16 APPEARANCES:

17 For the State:

NICK PORTZ

Chief Deputy District Attorney

18
19 For the Defendant:

ABEL M. YANEZ, ESQ.

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25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

1 LAS VEGAS, NEVADA, WEDNESDAY, JANUARY 22, 2020

2 [Hearing began at 10:50 a.m.]

3 THE COURT: Robert Brown; this is a status check: trial readiness.
4 Mr. Yanez, are you here on behalf of Ms. Maningo?

5 MR. YANEZ: Yeah; I'm her co-counsel.

6 THE COURT: Okay.

7 MR. YANEZ: She's still in that Federal trial, Judge. And I've not
8 heard from Mr. Raman today. He did email me his schedule as we're
9 trying to coordinate.

10 If Your Honor remembers last time we were here Mr. Raman
11 is new to the case. He indicated he was going to be requesting that the
12 trial date be moved based on a prior conflict that he had. I don't know if
13 we want to just bump this to make sure Mr. Raman's here? Again, he did
14 send me his schedule so I've been trying to coordinate his schedule,
15 mine, Ivette's, and we have five experts in a death penalty case.

16 The date that I'm looking at is open for him. It's a little further
17 then what I wanted, but with all our experts and their different schedules
18 unfortunately, this is the date I came up with where there's no conflicts.

19 Mr. Brown, of course, wanted to go to trial coming up here in
20 April. I did explain the situation to him that Mr. Raman's new on the case
21 and he was requesting. This isn't my request. So whatever Your Honor
22 would like to do. If you want to continue this to make sure Mr. Raman's
23 here; or if we want to go ahead and select that date now, Judge.

24 THE COURT: Do you have a date where all of your experts are
25 available?

1 MR. YANEZ: In everyone's schedule it's the first week of November.

2 THE COURT: Do you have any issue with that, Mr. Portz? At least
3 at this point?

4 MR. PORTZ: Your Honor, I'm just standing in for Raman.

5 THE COURT: Okay.

6 MR. PORTZ: I have --

7 MR. YANEZ: And, again, according to the email Mr. Raman sent, it
8 doesn't conflict with his schedule.

9 THE COURT: Okay. Actually the first a -- the Monday is November
10 2nd.

11 MR. YANEZ: Right.

12 THE COURT: Okay. I think that's enough time, Mr. Portz. If there's
13 some scheduling issues maybe you can work it out. But it just seems if
14 we can get all the Defense experts, and they're all available that date
15 hopefully the State's experts, we can make them available at the same
16 time.

17 So we will set -- we're going to vacate the trial date. This is a
18 250 case; however, this is regarding a procedural matter.

19 MR. YANEZ: Correct.

20 THE COURT: And -- so we can go forward with Mr. Yanez here.

21 MR. YANEZ: Correct.

22 THE COURT: And so we will set trial November 2nd 2020 at 9 a.m.
23 and here's your calendar call date.

24 THE COURT CLERK: Calendar call will be October 20th at 9 a.m.

25 THE COURT: And we're going to set a status check four to six

1 weeks from today.

2 THE COURT CLERK: Okay.

3 THE COURT: Just the trial readiness.

4 THE COURT CLERK: That's going to be March 4th at 9 a.m.

5 MR. YANEZ: And just so the records clear, because I want Mr.
6 Brown to understand, this was the State's motion to continue, Judge, it
7 wasn't ours so --

8 THE COURT: Right.

9 MR. YANEZ: And I know I've repeated that. I still want to make it
10 clear --

11 THE COURT: Right.

12 MR. YANEZ: -- for the record.

13 THE COURT: I understand. And good cause appearing that's why
14 the trial's getting vacated. But then also -- I mean it's the State's request,
15 but also it seems like the first available date for all the Defense experts
16 and I'm telling the State to get their experts available on that day as well.

17 MR. PORTZ: Thank you.

18 MR. YANEZ: I know how to find Mr. Raman.

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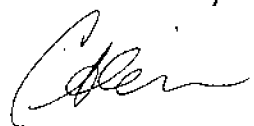
THE COURT: All right. Thank you.

MR. YANEZ: Thank you.

[Hearing concluded at 10:53 a.m.]

* * * * *

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Christine Erickson,
Court Recorder



1 RTRAN

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6
7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 WEDNESDAY, MARCH 4, 2020

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **STATUS CHECK: TRIAL READINESS**

17
18
19 APPEARANCES:

20 For the State:

MARC DiGIACOMO, ESQ.
Chief Deputy District Attorney

21
22 For the Defendant:

ABEL M. YANEZ, ESQ.
IVETTE MANINGO, ESQ.

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25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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Las Vegas, Nevada, Wednesday, March 4, 2020

[Hearing begins at 10:14 a.m.]

THE MARSHAL: 7.

THE COURT: 7 is Robert Brown. Ms. Maningo is here, Mr. Yanez is here. This is a status check trial readiness. We have a trial set November 2nd.

MR. DiGIACOMO: Judge, I'm actually here for Mr. Raman. It was his case but couldn't be here. He had another court to attend to. My understanding from the Defense is that both parties are on track but we're asking to pass this 30 days for a status check.

MR. YANEZ: That's correct, Judge. I spoke with Mr. Raman yesterday.

THE COURT: Is that because of the reason for the continuance?

MR. YANEZ: Well, he's out at North Las Vegas and if we can approach on a related matter, Judge?

THE COURT: Sure. Sure.

[Bench conference begins – transcribed as follows:]

MR. YANEZ: [Indiscernible], Judge, one of the things I brought to the Court's attention, since he's been refusing our visits, is competency. And I mean that's been approved. We're just setting it up. So, that's part of the reason why we're going to [indiscernible] the 30 days to see what comes of that, if that's going to require another court expert to be appointed to do that based on what our evaluation shows.

THE COURT: Okay.

1 MR. DiGIACOMO: He may be going to Bell. We just want 30
2 days to –

3 THE COURT: Right.

4 MR. DiGIACOMO: -- see if that –

5 THE COURT: Okay.

6 MR. YANEZ: Yes.

7 THE COURT: All right. I appreciate that.

8 MR. YANEZ: Yeah.

9 THE COURT: Thank you.

10 [Bench conference ends]


11 THE COURT: All right, Mr. Brown, we're going to have
12 another status check 30 days from today on trial readiness. And so,
13 here's our date.

14 THE CLERK: That will be April 8th, 9:00 o'clock a.m.

15 [Hearing concludes at 10:16 a.m.]

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20 * * * * *

21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio/video recording in the above-entitled case to the best of my ability.

23 
24 CYNTHIA GEORGILAS
25 Court Recorder/Transcriber
District Court Dept. XVII



MOTN

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Attorneys for Defendant Robert Brown

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

ROBERT BROWN,

#6006120,

Defendant.

Case No.: C-14-299234-1

DEPT. No: XVII

**DEFENDANT ROBERT BROWN'S MOTION FOR RELEASE ON HIS OWN
RECOGNIZANCE OR IN THE ALTERNATIVE MOTION TO SET
REASONABLE BAIL**

COMES NOW, the Defendant, ROBERT BROWN, by and through his
Attorneys, IVETTE AMELBURU MANINGO, ESQ., and ABEL M. YANEZ, ESQ.
and hereby submits the following Motion for Release on his own Recognizance or

1 in the Alternative Motion to Set Reasonable Bail. This Motion is made and based
2 upon the papers and pleadings on file in this matter, the Points and Authorities
3 which follow, and argument of counsel hereinafter entertained by the Court at any
4 hearing of said Motion.
5

6 DATED this 22nd day of June, 2020

7 RESPECTFULLY SUBMITTED:

8
9 /s/ Ivette Amelburu Maningo
10 IVETTE AMELBURU MANINGO, ESQ.
11 NV Bar No. 7076
12 400 S. 4TH Street, Suite 500
13 Las Vegas, NV 89101
14 Attorney for Defendant Stewart
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YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing MOTION FOR RELEASE ON OWN RECOGNIZANCE OR IN THE ALTERNATIVE MOTION TO SET REASONABLE BAIL on the ____ day of _____, 20__ at the hour of ____ .m., in Department No. XVII of the above entitled Court, or as soon thereafter as counsel may be heard.

/s/ Ivette Amelburu Maningo
IVETTE AMELBURU MANINGO, ESQ.
NV Bar No. 7076
400 S. 4TH Street, Suite 500
Las Vegas, NV 89101

I. PROCEDURAL BACKGROUND

The instant case arises out of the death of Nichole Nick and the shootings allegedly involving Esther Maestas and Kayla Higgins on December 7, 2012. On July 3, 2014, a Preliminary Hearing was held and on July 17, 2014, a Criminal Information was filed in this Honorable Court charging Mr. Brown with one (1) count of Murder with Use of a Deadly Weapon, two (2) counts of Attempted Murder with Use of a Deadly Weapon, one (1) count of Invasion of the Home while in Possession of a Deadly Weapon, one (1) count of Burglary while in

1 Possession of a Firearm, five (5) counts of Discharge of Firearm from or Within a
2 Structure and one (1) count of Child Abuse, Neglect, or Endangerment with Use
3 of a Deadly Weapon. On August 8, 2014, the State filed a Notice of Intent to Seek
4 Death Penalty against Mr. Brown.
5

6 Mr. Brown's calendar call date is set for October 20, 2020, and a jury trial
7 is scheduled for November 2, 2020. There is currently no bail set for Mr. Brown.
8

9 **II. RELEVANT BACKGROUND AND FACTS**

10 This Motion is brought pursuant to the changed circumstances and health
11 concerns related to the COVID-19 pandemic, as Mr. Brown is considered high risk
12 due to his respiratory medical condition and hypertension. As of April 22, 2020,
13 Clark County alone has 10,774 confirmed cases of the COVID-19 and 400
14 confirmed deaths from the virus¹ and the Clark County Detention Center (CCDC)
15 is among the facilities infected with the fatal virus. Both the total number of
16 confirmed cases and death toll are growing every day in Clark County and
17 incarcerated individuals, particularly those with underlying health conditions, are
18 at even higher risk than other populations.
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21 On March 15, 2020, Governor Sisolak ordered a shutdown of non-essential
22 services in Nevada. On May 25, 2020, the state slowly began to reopen. The State
23 reopened to new mandated policies and procedures to attempt to curve the
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26 ¹ See <https://www.reviewjournal.com/news/politics-and-government/clark-county/clark-county-records-288-new-covid-19-cases-as-death-toll-hits-400-2058354/>
27
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1 continual spread of COVID-19. Restaurants and stores are now opened, however,
2 simply stated, everything is now different. Opened businesses have to keep people
3 at a social distance, disinfect surfaces frequently and aren't allowed to have over a
4 certain number of people within a particular distance at the same time.
5

6 The reopening of businesses did not occur because COVID-19 had somehow
7 vanished and was no longer a threat to our community. It was purely for economic
8 and political reasons. Since the reopening of businesses, the State's confirmed
9 numbers of COVID-19 cases has drastically increased. The weekend of June 20,
10 2020 through June 21, 2020 saw drastic increases in confirmed cases, with over
11 400 new cases on both days. ² COVID-19 is still, and will be for an extended period
12 of time, a legitimate concern to everyone's health and the overall health of our
13 community. Controlled quantities of people, social distancing and facemasks are
14 going to be necessary for the imminent future to assist in slowing COVID-19's
15 growth.
16
17

18 Other than hospitals, jails and prisons are the only places left with a
19 constant large population of people in closed, crowded quarters. As mentioned
20 above, COVID-19 is a constantly evolving threat to the health and safety of every
21 person, but particularly to incarcerated people. According to public health experts,
22 incarcerated individuals "are at special risk of infection, given their living
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26 ² See *Nevada Records over 400 new COVID-19 cases for 2nd Straight Day* (June 21, 2020)
27 [https://www.reviewjournal.com/local/local-nevada/nevada-records-over-400-new-covid-19-](https://www.reviewjournal.com/local/local-nevada/nevada-records-over-400-new-covid-19-cases-for-2nd-straight-day-2057423/)
28 [cases-for-2nd-straight-day-2057423/](https://www.reviewjournal.com/local/local-nevada/nevada-records-over-400-new-covid-19-cases-for-2nd-straight-day-2057423/)

1 situations,” and “may also be less able to participate in proactive measures to keep
2 themselves safe.”³

3 The coronavirus outbreak has reached correctional facilities throughout the
4 entire United States and specifically, on April 13, 2020, CCDC announced its first
5 confirmed case of COVID-19.⁴ On April 15, 2020, CCDC announced three more
6 inmates had tested positive.⁵ On April 19, 2020, Sheriff Joe Lombardo announced
7 the release of 107 inmates consistent with the Honorable Linda Bell’s Order which
8 required the sheriff to reduce the population in the detention center and release
9 inmates who are at a higher risk for serious illness.⁶ Courts and correctional
10 institutions throughout the United States have been releasing inmates to halt the
11 virus’s spread, which would be catastrophic in a prison setting. While recent
12 CCDC statistics have curiously not been formally released and the total amount of
13 confirmed cases at CCDC to date are unknown by the public, it is the undersigned’s
14 understanding, in communicating with various inmates, that COVID-19 confirmed
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20 ³ See *Achieving A Fair and Effective COVID-19 Response: An Open Letter to Vice President*
21 *Mike Pence, and Other Federal, State, and Local Leaders from Public Health and Legal*
22 *Experts in the United States*, signed by over 800 health experts and agencies (March 2, 2020)
(available at <https://bit.ly/2W9V6oS>).

23 ⁴ See *Inmate at Clark County Detention Center treated for COVID-19*, (April 14, 2020)
24 (https://www.fox5vegas.com/coronavirus/inmate-at-clark-county-detention-center-treated-for-covid-19/article_fd96da8c-7de0-11ea-81a9-eb87d52a1ce4.html)

25 ⁵ See *Three More Clark County Jail Inmates test Positive for Coronavirus* (April 15, 2020)
26 (<https://lasvegassun.com/news/2020/apr/15/3-clark-county-jail-inmates-test-positive-virus/>)

27 ⁶ See *107 Inmates released so far from Clark County Detention Center amid Court Order* (April
28 19, 2020) (<https://news3lv.com/news/local/107-inmates-released-so-far-from-clark-county-detention-center-amid-court-order>)

1 cases are rising in facilities and the threat of contamination is more prominent
2 than ever in jails and prisons, including CCDC. Irrespective of current numbers, it
3 is uncontroverted that jails and prisons are always going to be at a high risk based
4 on the very nature of the conditions. Jails and prisons are crowded, notoriously
5 unsanitary and protective measures necessary to avoid COVID-19 simply are not
6 available to Mr. Brown or any other inmate at CCDC. It is virtually impossible to
7 achieve social distancing in the prison or jail. Inmates share toilets, sinks, showers,
8 eat in cafeterias and have limited access to soap, hot water, and other necessary
9 hygiene items. Inmates are controlled by the jail staff and can only wash their
10 hands when officials allow it, are unable to avoid touching high-touch surfaces, or
11 even clean and disinfect their own living space when necessary.⁷ Additionally,
12 staff at CCDC pose a severe risk to the inmates, they enter and exit daily to go
13 home to their communities and with inadequate infection screening procedures,
14 the spread of COVID-19 within the jail is inevitable.

15
16 Overcrowding, scarce medical care, and the number of vulnerable people in
17 custody make the risk of uncontrolled spread of COVID-19 in jails or prison even
18 greater. Overcrowding is a particular issue at CCDC. Over the past five years,
19 there have been almost yearly reports of overcrowding at the CCDC.⁸ The Las
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25 ⁷ *Prisons and Jails are Vulnerable to COVID-19 Outbreaks*, *The Verge*, (Mar. 7, 2020)
(available at <https://bit.ly/33qGcfC>).

26 ⁸ *Metro, County Jail Granted \$700,000 to combat Overcrowding*, (Oct. 24, 2018) (available at
27 [https://lasvegassun.com/news/2018/oct/24/metro-county-jail-granted-700000-to-combat-](https://lasvegassun.com/news/2018/oct/24/metro-county-jail-granted-700000-to-combat-overcro/)
28 [overcro/](https://lasvegassun.com/news/2018/oct/24/metro-county-jail-granted-700000-to-combat-overcro/)) and *Official Tackling Overcrowding Problem at Clark County Jail*, (June 22, 2016)
(available at <https://www.reviewjournal.com/post/55361>)

1 Vegas Metropolitan Police Department is constantly evaluating how to reduce the
2 number of inmates housed there.⁹ Scarce medical care is also of grave concern as
3 doctors, nurses, hospitals and clinics are already overwhelmed because of
4 shortages of supplies, beds and resources. When treatment is absolutely necessary,
5 inmates will get transferred to hospitals, if beds are available, as bad cases of
6 COVID-19 can't be treated by medical staff at CCDC. Further, symptoms will
7 likely go unnoticed or untreated until the very last minute. Releasing Mr. Brown
8 will not only protect him from the risk of infection as the coronavirus outbreak
9 inevitably gets worse in CCDC, but also avoids the inevitable impact upon the
10 quality of the medical care he requires by taxing an already taxed system.¹⁰

11
12 Based on research, healthy individuals and/or inmates can weather the virus
13 if they get it, however, Mr. Brown may not be able to. Mr. Brown is among the
14 group of people the Centers for Disease Control and Prevention categorizes as
15 being the most at-risk for contracting COVID-19. Brown has a heightened risk of
16 contracting severe forms of the virus because he has chronic asthma.¹¹

17
18 Mr. Brown's chronic asthma is well documented in his medical records,
19 including those provided by the Clark County Detention Center to counsel by way
20

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24 ⁹ <https://news3lv.com/news/local/downtown-detention-center-exploring-early-release-grant>

25 ¹⁰ See U.S. Dep't of Justice, Bureau of Justice Statistics, Laura M. Maruschak, Marcus
26 Berzofsky, and Jennifer Unangs, *Medical Problems of State and Federal Prisoners and Jail*
Inmates, 2011-2012 at 1-22 (Feb. 2015) (available at <https://bit.ly/2WpPi17>).

27 ¹¹ See CDC, *If You Are at Higher Risk* (last visited April 14, 2020) (available at
28 <https://bit.ly/2UhHAWT>).

1 of subpoena. Mr. Brown was diagnosed with asthma as a child and used an inhaler
2 once per month. *See* Exhibit “1”, Pg. 2. Mr. Brown has been treated at the
3 Detention Center for his respiratory disease since his arrest in 2014. He is
4 prescribed Albuterol to help prevent asthma attacks. *See* Exhibit 1, Pgs. 2 and 5.
5
6 ¹² Mr. Brown had gall-bladder surgery in 2016 and tested positive for asthma,
7 CPOD and/or OSA. *See* Exhibit “1”, Pg. 3-4.

8 Further, Mr. Brown has been treated for hypertension and/or high blood
9 pressure. *See* Exhibit “1”, Pg. 2. Recent studies have shown that high blood
10 pressure doubles coronavirus death risk.¹³ In 2014, Mr. Brown was diagnosed with
11 hypertension at CCDC. In sum, Mr. Brown’s health condition places him at a high
12 risk for COVID-19 and contracting the virus could be fatal in his case. As such,
13 this motion has been brought to notify this Court of Mr. Brown’s serious and
14 sensitive medical condition, as it relates to contracting the COVID-19 deadly virus,
15 and it is respectfully requested that same be taken into consideration in releasing
16 Mr. Brown on his own recognizance or in setting a reasonable bail in light of this
17 current local and national crisis.
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24 ¹² Counsel is able to provide a sealed copy of the full CCDC records and other
25 previous medical records if requested or required by this Court.

26 ¹³ *See High Blood Pressure Doubles Coronavirus Death Risk* (last visited June 16,
27 2020) (available at <https://www.webmd.com/lung/news/20200608/high-blood-pressure-doubles-coronavirus-death-risk>)
28

III. LEGAL ARGUMENT

All persons are bailable as guaranteed by both the Nevada and United States Constitutions. The central thought is that punishment should follow conviction, not precede it. Although Mr. Brown is facing capital punishment, he is presumed innocent and is bailable where the proof is not evident, or the presumption is not great. *Nevada Constitution, Article 1, Section 7*. NRS 178.4851(1) gives the following authority to the Court: “Upon a showing of good cause, a court may release without bail any person entitled to bail if it appears that it can impose conditions on that person which will adequately protect the health, safety, and welfare of the community and ensure that the person will appear at all times and places ordered by the court.” When bail is set at an amount greater than necessary to serve the purpose of bail, it effectively denies the Defendant his or her rights under the Nevada constitution to be bailable and for bail not to be excessive. *Jose Valdez-Jimenez v. the Eighth Judicial District Court of the State of Nevada*, 136 Nev. 20 at *8, 2020 WL 1846887 (Nevada Supreme Court Case Nos. No. 76417, No. 76845, filed April 9, 2020). A Defendant who has bail is entitled to an individualized hearing, where the State has to prove by clear and convincing evidence that bail, rather than less restrictive conditions, is necessary to ensure the Defendant’s appearance and protect the safety of the community. *Ibid*. In addition to equitable considerations and the Court’s general discretion in light of current and changed circumstances surrounding the case, the factors the Court will

1 consider when releasing a defendant on his own recognizance or reducing his bond
2 are set out in NRS 178.4851(1) as follows:

- 3 1. The length of the residence in the community;
- 4 2. The status and history of employment;
- 5 3. Relationships with the person's spouse and children,
parents, or other family members and with close friends.
- 6 4. Reputation, character and mental condition;
- 7 5. Prior criminal record, including without limitation, any
record of appearing or failing to appear after release on bail or
8 without bail.
- 9 6. The identity of responsible members of the community
who would vouch for the reliability of the person;
- 10 7. The nature of the offense with which the person is
charged, the apparent probability of conviction and the likely
11 sentence, insofar as these factors relate to the risk of not appearing;
- 12 8. The nature and seriousness of the danger to the alleged
victim, any other person or the community that would be posed by
13 the person's release;
- 14 9. The likelihood of more criminal activity by the person
after release; and
- 15 10. Any other factors considering the person's ties to the
community or bearing on the risk that the person may willfully fail
16 to appear." See NRS 178.4853.

17 Currently, Mr. Brown has no bail set. Considering the above factors, the
18 requirements of law in regard to setting bail, and the current local and national
19 health crisis directly affecting the health and risk to Mr. Brown, this Court
20 should release Mr. Brown on his own recognizance or, in the alternative, set a
21 reasonable bail. Based on the current pandemic and analysis herein, said release
22 is justified and equitable.
23

24
25 Mr. Brown moved to Las Vegas in 2011. Mr. Brown has both an uncle,
26 Donald Brown, and a long-time family friend, Sharon Hooks, who reside in Las
27 Vegas. Mr. Brown has maintained relationships with his mother, uncles and
28

1 nephews and has their support throughout his pending case. His mother is in
2 frequent contact with Mr. Brown and very supportive of him and also remains in
3 contact with the undersigned. Although Mr. Brown does have a violent criminal
4 history, there can be strict measures put in place that reduce Mr. Brown's
5 movement and risk to the community if he is released. He has family members
6 that can vouch for his character if he is released.
7

8 Although the Government is seeking death against Mr. Brown for the death
9 of one (1) individual and a shooting involving another two (2) individuals, the
10 potential punishment and nature of the case should not outweigh that Mr. Brown
11 should still be considered for bail. The Defense recognizes that these charges are of
12 course very serious and could potentially lead to the ultimate punishment allowed
13 in the United States. In an effort to preserve Mr. Brown's rights and his defense,
14 at this time, the Defense is unable to provide this Court with in-depth theories or
15 defenses, but based on the evidence available to this Court to date, Mr. Brown
16 asserts that the proof is not evident, or the presumption great to the point that he
17 is not entitled to bail. While there arguably is evidence to suggest that Mr. Brown
18 is culpable of the charges against him, it does not make the proof evident or the
19 presumption great rising to the level of making him ineligible for a bail
20 consideration. This case has yet to go to trial and be tested before a jury. Mr.
21 Brown has always maintained his innocence, is presumed to be under the law, and
22 should be treated accordingly.
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1 In addition, the current circumstances in which Nevada and the United
2 States are operating because of the global pandemic, COVID-19, must be
3 considered in determining whether Mr. Brown's custody status should be
4 reassessed. Mr. Brown is not only at high risk to contract the virus because he is
5 incarcerated but most importantly, he is among the population that is most at risk
6 based on his underlying medical condition effecting his respiratory health and
7 hypertension. The combination of these realities could be deadly.
8

9 Moreover, Mr. Brown has been in custody for over four (4) years but because
10 of the current health crisis, the Defense is unable to meaningfully continue the
11 investigation and mitigation work that is necessary to effectively prepare for trial,
12 which depending on what lies ahead, could lead to a continuance of the current
13 trial date. This delay is obviously out of Mr. Brown's control and should be taken
14 into account when considering his continued detention pending trial.
15

16 Irrespective of the probability of conviction and potential sentence in this
17 case, bail should be considered with conditions that will ensure that Mr. Brown
18 attends all court dates and the safety of the community. Brown's has community
19 ties and family support and ties to ensure that he will be present at all court dates
20 and at trial. Additionally, proper measures can be pursued, and conditions set,
21 such as house arrest, to protect the community and ensure that Mr. Brown is not a
22 threat to anyone, including the victim and those who are associated with the
23 victims. There is no evidence to suggest that Mr. Brown would engage in any
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1 activity to cause more harm to the victims and further commit any other criminal
2 acts while awaiting trial.
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2 **CERTIFICATE OF ELECTRONIC SERVICE**

3
4 Pursuant to NRCP5(b), I certify that I am an employee of THE LAW
5 OFFICES OF IVETTE AMELBURU MANINGO, and that on this 22nd day of June,
6 2020 I caused the foregoing document entitled Motion to Release on Own
7 Recognizance and/or in the Alternative Motion to Set Bail in a Reasonable Amount
8 to be served upon those persons designated by the parties in the E-service Master
9 List for the above-referenced matter in the Eighth Judicial District Court eFiling
10 System in accordance with the mandatory electronic service requirements of
11 Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules.
12
13

14
15 /s/ Tatum Wehr
16 An Employee of The Law Offices of Ivette Amelburu Maningo
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EXHIBIT 1

PHOTOGRAPH 12/19/16
1 of 1

Brown, Robert 12/24/1959

Office/Outpatient Visit

Visit Date: Tue, Dec 13, 2016 02:34 pm

Provider: Terry Lewis, MD (Supervisor: Terry Lewis, MD; Assistant: Mayra Cruz, MA)

Location: Desert West Surgery

This note has not been signed and may be incomplete. Printed on 12/19/2016 at 11:47 am.

SUBJECTIVE:

CC:

Mr. Brown is a 46 year old male.

LOCATION: DWS 81

POST-OP PATIENT- 11/22/15 UMC BY DR. LEWIS

XARELTO/PRADAXA/ELIQUIS/LIXIANA/PI AVIX/COLUMASA: No

REASON(S) FOR EVAL: gallbladder c/c

HPI:

Patient returns today for post operative follow up appointment. Doing Well. No drainage from incision. Tolerating Diet. No nausea. No Fever. No Chills. No Pain.

ROS:

CONSTITUTIONAL: Negative for fever, chills, unintentional weight loss and fatigue.

EYES: Negative for eye pain, eye pain and Glaucoma.

EARS: Negative for diminished hearing, tinnitus, use of dentures and hearing aids.

CARDIOVASCULAR: Negative for chest pain, palpitations and pedal edema.

RESPIRATORY: Positive for Asthma or COPD or OSA. Negative for hemoptysis, frequent wheezing or dyspnea.

GASTROINTESTINAL: Negative for diarrhea, melena, hematochezia and constipation.

GENITOURINARY: Negative for dysuria, hematuria, frequent urination and prostate problems.

MUSCULOSKELETAL: Negative for limb pain, weakness, arthralgias, joint pain and leg swelling.

NEUROLOGICAL: Positive for fainting. Negative for seizures.

HEMATOLOGIC/LYMPHATIC: Negative for hepatitis, easy bruising, excessive bleeding, history of blood transfusion and lymphadenopathy.

ENDOCRINE: Negative for temperature intolerances and excessive sweating.

ALLERGIC/IMMUNOLOGIC: Negative for tuberculosis, immunosuppression and risk factors for HIV.

PSYCHIATRIC: Positive for anxiety, depression and suicidal thoughts.

INTEGUMENTARY/BREAST: Negative for breast mass, skin changes of breast, nipple discharge and jaundice.

PMH/EMH/SH:

Past Medical History:

Positive for

Hypertension.

Surgical History:

Appendectomy

Hysterotomy and Lapostomy TD.

Family History:

Negative for anesthetic or bleeding problems with surgery.

Tobacco/Alcohol/Supplements:

Tobacco: He has never smoked. Non-drinker.

Dr. Lewis

Substance Abuse History:

NEGATIVE

12/19/2016

Mental Health History:

NEGATIVE

BROWN, ROBERT 06008120

PHOTOGRAPH 12/19/16

Printed on 12/19/2016

Dr. Robert
William Brown
11/16/2016
Approved for Publication
Procedures and Guidelines

Education

Approved for publication on 11/16/2016 by Dr. Robert Brown

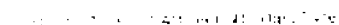
Page 1 of 11

Under review: 1. 11/16/2016, History of Present Illness, Past Medical History, Surgical History, Social History, Medication List, Drug Toxicology, Treatment plan for the current condition, ongoing monitoring procedures, TBM, Education, and/or special procedures, and emergency care. Additional considerations follow.

1. 11/16/2016, 11/16/2016, 11/16/2016, 11/16/2016
2. 11/16/2016, 11/16/2016, 11/16/2016
3. 11/16/2016, 11/16/2016
4. 11/16/2016, 11/16/2016
5. 11/16/2016, 11/16/2016, 11/16/2016

BROWN, ROBERT 0806120

Approved for publication



Downloaded by [Keele University] on 14 July 2015 at 15:02:17, subject to the Cambridge Core terms of use, available at <http://www.cambridge.org/core/terms>. <http://dx.doi.org/10.1017/S0022278X15000069>

PICTURE
NOT AVAILABLE

[illegible]
$$A_1 \otimes A_2 \otimes \cdots \otimes A_n = \bigotimes_{i=1}^n A_i \quad \text{and} \quad A_1 \otimes A_2 \otimes \cdots \otimes A_n = \bigotimes_{i=1}^n A_i$$

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BROWN, ROBERT 00000120

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Ever been tested for TB?

- ☒ Yes
- ☐ No
- ☐ NA

Results:

Positive

Neg

CXR done

Have you recently used alcohol, sedatives, or opiates?

- ☐ Yes
- ☒ No

Last Menstrual Period:

N/A

STD Testing:

- ☐ Schedule for syphilis screening (RPR)
- ☒ Patient declines syphilis screening or has had screening performed in previous 6 months

Other Comments

-Current Complaint- Denies

-Medical hx – Hypertension-reports no recent treatment. Asthma-Last attack unknown

-Surgical hx – Denies

-Psych hx – Depression, Psychosis. Treatment 3 years ago. SI attempt 1992 by GSW to chest.

-Meds (not requiring/detox) – Albuterol PRN

-LMP – N/A

-Allergies –NKDA/NKFA

-EtOH – Denies

-Benzos – Denies

-Narcotics – Denies

-Illegal drugs – Denies

Grand Jail Records Form Two 03/02

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
6/23/2020 7:56 AM
Steven D. Grierson
CLERK OF THE COURT



State of Nevada
vs
Robert Brown, Jr.

Case No.: C-14-299234-1
Department 17

NOTICE OF HEARING

Please be advised that the Defendant Robert Brown's Motion for Release on his Own Recognizance or in the Alternative Motion to Set Bail in the above-entitled matter is set for hearing as follows:

Date: June 25, 2020
Time: 10:15 AM
Location: RJC Courtroom 11A
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.

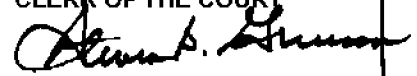
STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Kadira Beckom
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/ Kadira Beckom
Deputy Clerk of the Court



OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAY P. RAMAN
Chief Deputy District Attorney
Nevada Bar #010193
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-

ROBERT BROWN, JR.,
#6006120

Defendant.

CASE NO: C-14-299234-1

DEPT NO: XVII

**STATE'S OPPOSITION TO DEFENDANT ROBERT BROWN'S
MOTION FOR RELEASE ON HIS OWN RECOGNIZANCE OR IN THE
ALTERNATIVE MOTION TO SET REASONABLE BAIL**

DATE OF HEARING: JUNE 25, 2020
TIME OF HEARING: 10:15 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through JAY P. RAMAN, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant Robert Brown's Motion for Release On His Own Recognizance Or In The Alternative Motion to Set Reasonable Bail.

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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Officers and medical personnel were dispatched to the Canyon Pointe Apartments located at 5421 East Harmon Ave. They found the front window to the apartment broken out. An adult female identified as Esther Maestas met them in the living room. She had been shot and told them her daughter's boyfriend "Robert" had broken into the apartment and shot her and her daughter. The officers found another adult female, later identified as Nichole Nick, deceased from apparent gunshot wounds in the single bedroom of the apartment, along with an uninjured three-year-old female juvenile.

The police received a call on December 8, 2012 at 7:13 AM that a gun was found in the road, and the citizen removed the gun by using a shopping bag as to not touch the gun. It was a Smith and Wesson 9mm, and based upon its condition it appeared to have been thrown from a moving vehicle. Other pieces belonging to the gun were found near where the gun was discovered, in the gutter of Jimmy Durante Boulevard, north of Stephanie St.

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1 An autopsy was conducted on Nicole Nick and found the cause of death to be gunshot
2 wound to the chest and significant sharp force trauma – stab wounds. The manner of death
3 was homicide.

4 The surviving adult victim, Ester Maestas, was transported to Sunrise Hospital Trauma
5 Center. She was bleeding from the neck and leg. She said that “Robert did it,” her daughter
6 Nicole’s boyfriend. She stated that Robert and Nicole had been arguing earlier in the evening,
7 and Robert left. He came back, breaking into the apartment through the front window. He shot
8 her, he shot Nicole, and left.

9 Property management at the apartments believed that Nicole’s boyfriend was Robert
10 Brown Jr. at 4475 Jimmy Durante Boulevard, #232. Nicole’s sister Kathleen Maestas said her
11 sister Nicole was in a relationship with a man named Ariyl. The lease agreement for Robert
12 Brown Jr revealed that his registered vehicle had personalized license plates “ARIYL.” Nicole
13 Nick’s cell phone was located inside her apartment, and the wallpaper background was a
14 picture of Robert Brown Jr. There was also a text history between herself and Ariyl, which
15 discussed him returning belongings, as well as relationship and money issues.

16 Another neighbor, Cory Robertson, knew Robert Brown Jr as Ariyl and Pee Wee. He
17 has known Nicole Nick since 2009 and she introduced him to Brown. He knew Brown to drive
18 a SUV with the personalized plates “ARIYL.” He recalled that on December 7, 2012 Brown
19 came to Robertson’s apartment at approximately 7:30 pm and told him that he had broken up
20 with Nick and kicked her out of his apartment because she owed him money. Robertson went
21 to work, and Brown called him around midnight from his cell phone. Brown asked Robertson
22 what was going on at the apartment complex. Robertson told Brown he was at work and did
23 not know what was happening at the complex. Brown told Robertson to get into his apartment
24 #232 and he could take whatever he wanted for himself. Robertson asked Brown what was
25 going on, and Brown’s response was “you will find out soon enough.” Brown called three

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1 more times within the hour and kept asking what was going on at the apartment, which was
2 unusual. When Robertson returned home and found out some of what happened, Brown called,
3 and Robertson said SWAT had been at his apartment. Brown said "Ah, damn" and became
4 very quiet.

5 The Defendant fled to Van Nuys, California and gave his car to his adult son.

6 The shell casings were found to be consistent with having been fired from the recovered
7 firearm, however the bullets were consistent but could not be conclusively tied to the firearm.

8 POINTS AND AUTHORITIES

9 The Defendant has been charged with Murder with Use of a Deadly Weapon, two
10 Counts of Attempted Murder with Use of a Deadly Weapon, Burglary while in Possession of
11 a Deadly Weapon, Home Invasion with a Deadly Weapon, five counts of Discharging of
12 Firearm from or within a Structure and one count of Child Abuse, Neglect or Endangerment
13 with Use of a Deadly Weapon. The State has filed notice that we intend to pursue the Death
14 Penalty. The Defendant currently does not have a bail amount, as was rightfully set. In
15 Nevada, a person charged with First Degree Murder is not entitled to bail. In fact, the Nevada
16 Constitution and the Nevada Revised Statutes deny bail to an individual charged with murder
17 where the proof is evident, or the presumption is great. Article 1, Section 7 of the Nevada
18 Constitution reads:

19 Bail; exception for capital offenses and certain murders. All persons shall be
20 bailable by sufficient sureties; unless for Capital Offenses or murders punishable
21 by life imprisonment without possibility of parole when the proof is evident or
the presumption great.

22 Additionally, NRS 178.484 states, in relevant part:

23 4. A person arrested for murder of the first degree may be admitted to bail
24 unless the proof is evident or the presumption great by any competent Court or
25 Magistrate authorized by law to do so in the exercise of discretion, giving due
26 weight to the evidence and to the nature and circumstances of the offense.
(Emphasis added).

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1 While the proof necessary for the quantum of proof which is needed to meet this
2 requirement has not been specifically defined, it is at least higher than probable cause. See
3 Hanley v. State, 85 Nev. 154, 451 P.2d 852 (1969). In fact, a dying declaration of the victim
4 has been deemed to be sufficient under the statute. See In re Wheeler, 81 Nev. 495, 406 P.2d
5 713 (1965). Moreover, the Court is granted broad discretion in determining the amount of
6 proof necessary for this determination. Id.

7 As far back as 1917, the Nevada Supreme Court held that an affidavit was sufficient
8 for purposes of denying bail. See Ex Parte Nagel, 41 Nev. 86, 88-89 (1917) ("The true rule
9 upon the subject of bail or discharge after indictment for murder undoubtedly is for the Judge
10 to refuse to bail or discharge upon any affidavit or proof that is susceptible of being
11 controverted on the other side."). However, in this case there is more than an affidavit, as the
12 Grand Jury heard evidence from witnesses, including DNA evidence, and returned a True Bill.

13 Defendant's Motions asked for reasonable bail and did not ask for a specific amount of
14 bail but did ask for an own recognizance release. Additionally, absolutely zero evidence of
15 his financial ability or inability to pay for bail has been produced by the Defendant to the Court
16 or the State. In support of his Motion, the Defendant cited to Valdez-Jimenez v. Eighth
17 Judicial District Court, 136 Nev. Adv. Op. 20 (Nev. 2020), as many Defendants have done
18 recently, to argue for release from custody. However, Valdez-Jimenez does not stand for the
19 proposition that all Defendants, especially murder Defendants, are to be released from custody
20 or given bail. The Nevada Supreme Court, in its decision, laid out the specific analysis that
21 must be done in determining bail. Specifically, the Court stated:

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1 A Defendant who remains in custody following arrest is constitutionally entitled to a
2 prompt individualized determination on his or her pretrial custody status. The individualized
3 determination must be preceded by an adversarial hearing at which the Defendant is entitled
4 to present evidence and argument concerning the relevant bail factors. The Judge must
5 consider the factors set forth in NRS 178.4853 and may impose bail only if the State proves
6 by clear and convincing evidence that it is necessary to ensure the Defendant's presence at
7 future Court proceedings or to protect the safety of the community, including the victim and
8 the victim's family. *Valdez-Jimenez*, at 1.

9 Within this "individualized determination" in the case before this Court, there is far and
10 away more than clear and convincing evidence that the bail status should remain in place
11 because the proof is evidence and the presumption is great of the Defendant's guilt.
12 Additionally, by more than clear and convincing evidence it is clear that the safety of the
13 community cannot be ensured if the Defendant is released and this Court cannot be assured
14 the Defendant will comply with conditions of release and remain trouble free.

15 In this case, this Court can be sure that individualized determination warrants the
16 current bail status based on the proof being evident and the presumption great of the
17 Defendant's guilt based on the evidence presented to the Grand Jury. Specifically, the
18 evidence has established that the Defendant, was seen by one of the surviving victims breaking
19 into the window of the apartment, shooting her, shooting her daughter killing her, and that
20 where the three-year-old slept fired at least one bullet at her as well. The Defendant was well
21 known to friends and family of the victims, as he was the Victim's boyfriend. The events
22 leading up to this violent and tragic event are common stressors of domestic violence
23 circumstances. Texts were in the phone where arguments about their relationship and money
24 were found. Additionally, at approximately 7:30 PM the Defendant told Corey Robertson that
25 they had broken up that evening, and then suspiciously called repeatedly after the murder to

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1 Robertson seeking info about what happened in the complex, alluding to knowing what
2 happened in cryptic terms, and offering Robertson anything he wanted from his apartment –
3 like he was abandoning. The Defendant threw the murder weapon out of his car window and
4 fled to California.

5 The Defendant has prior criminal history of a violent nature which makes him even
6 more dangerous. In 1998 he was convicted of Carjacking and Corporal Injury, which stemmed
7 from a case where he kidnapped and attempted to kill his then-wife.

8 In making this individualized determination, this Court has the discretion to maintain
9 the bail status that has already been in place. In fact, in Ex Parte Wheeler, 81 Nev. 495 (1965),
10 the Nevada Supreme Court stated, “In evaluating the amount of proof needed to defeat bail
11 the lower Court is granted broad discretion. Wheeler, 716. Furthermore, the, “state need not
12 prove accused's guilt beyond reasonable doubt.” Wheeler, 716. Additionally, the Court said,
13 “How much evidence is enough to satisfy constitutional provision that all persons shall be
14 bailable by sufficient sureties unless for capital offenses when proof is evident, or presumption
15 great must be resolved on case by case basis. A fixed rule cannot be formulated. Wheeler,
16 716. The holding in Wheeler still stands today. In fact, the Nevada Supreme Court cited to
17 Wheeler four times in its decision in Valdez-Jimenez.

18 In Wheeler, the Defendant sought his release on bail pending his trial for murder. The
19 District Court heard evidence by way of testimony from a police officer of the victim's dying
20 declaration. Additionally, “before the lower Court ruled, the prosecutor and defense counsel
21 each made comment concerning the accused's prior criminal record and also referred to the
22 fact that he was on bail from another state when the shooting at hand took place.” After
23 hearing all this, the District Court denied his request for bail and the Defendant appealed to
24 the Nevada Supreme Court. The Nevada Supreme Court affirmed the District Court's denial
25 of the Defendant's request for bail. Comparing the facts of the case before this Court to that
26 in Wheeler, the proof is also evident and the presumption great of Defendant's guilt as it is

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1 based on the totality of the evidence which shows that no other person is responsible, and that
2 the Defendant conclusively committed these acts. As such, this Court should maintain the no
3 bail status.

4 The other case that the Nevada Supreme Court relied heavily upon in determining
5 Valdez-Jimenez was United States v. Salerno, 481 U.S. 739, 107 S.Ct. 2095, 95 L.Ed.2d 697
6 (1987). It is unclear how the United States Supreme Court's interpretation of federal
7 legislation, specifically, The Bail Reform Act of 1984, authorized the Nevada Supreme Court,
8 not being the Nevada Legislature, to cut from parts of the federal legislation, specifically 18
9 U.S.C. § 3142 and paste such measures into Nevada law without any legislative action. But
10 far be it for the legal doctrine of separation of powers to get in the way of another "tool" to be
11 utilized in order to depopulate the prisons and the jails of the State of Nevada.

12 In Salerno the United States Supreme Court came to the conclusion that the pre-trial
13 detention originally ordered by the District Court was appropriate and reversed the Court of
14 Appeals, rejecting the argument that the Act violated substantive due process because the
15 detention it authorizes does not, according the United States Supreme Court, constitute
16 impermissible punishment before trial. Specifically, the United States Supreme Court stated,
17 "We have repeatedly held that the Government's regulatory interest in community safety can,
18 in appropriate circumstances, outweigh an individual's liberty interest." Salerno, at 748. The
19 United States Supreme Court further stated, "The government's interest in preventing crime
20 by arrestees is both legitimate and compelling. De Veau v. Braisted, 363 U.S. 144, 155, 80
21 S.Ct. 1146, 1152, 4 L.Ed.2d 1109 (1960)." Salerno, at 749. In juxtaposing a Defendant's
22 liberty interest against community safety, the United States Supreme Court further stated, "On
23 the other side of the scale, of course, is the individual's strong interest in liberty. We do not
24 minimize the importance and fundamental nature of this right. But, as our cases hold, this right
25 may, in circumstances where the government's interest is sufficiently weighty, be
26 subordinated to the greater needs of society." Salerno, at 750-751.

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1 Additionally, since the Nevada Supreme Court has pointed us towards federal law and
2 specifically the Bail Reform Act of 1984, the Act itself presumes this Defendant should not
3 be released. Beyond the procedure for the bail hearings, the federal law also provides guidance
4 as to when bail is appropriate. Pursuant to 18 U.S.C. § 3142(e)(3)(B), where there is probable
5 cause to believe a Defendant used or possessed a firearm during a crime of violence, a
6 presumption exists that no conditions exist that will reasonably assure the safety of the
7 community and Defendant's future appearance. Detention is therefore presumed where a
8 Defendant commits a crime of violence with a firearm. *Id.* In the case before this Court, the
9 Defendant shot and killed the victim with a firearm. He shot and wounded another female
10 victim and shot at but did not wound a 3-year-old child. Probable cause has been demonstrated
11 supporting these charges. Consequently, the presumption mandated by the very statute the
12 Nevada Supreme Court cited to as guidance is for detention. That presumption is clearly valid
13 based on the totality of the facts in this case and the totality of the Defendant's history. This
14 presumption cannot be overcome by this Defendant based on the facts of this case and his
15 history. As such, the Defendant's bail should remain no bail.

16 Additionally, the United States Supreme Court also rejected the argument in Salerno
17 that the Bail Reform Act of 1984 violated the Excessive Bail Clause of the Eighth Amendment.
18 In so holding the Court pointed out that the often cited language from Stack v. Boyle, 342 U.S.
19 1, 5, 72 S.Ct. 1, 3, 96 L.Ed. 3 (1951), in which the Court stated that "[b]ail set at a figure higher
20 than an amount reasonably calculated [to ensure the Defendant's presence at trial] is
21 'excessive' under the Eighth Amendment" is actually, "dictum." Salerno, at 753. (Emphasis
22 added). The Court went on to clarify by stating:

23 The holding of Stack is illuminated by the Court's holding just four months later in
24 Carlson v. Landon, 342 U.S. 524, 72 S.Ct. 525, 96 L.Ed. 547 (1952). In that case, remarkably
25 similar to the present action, the detainees had been arrested and held without bail pending a
26 determination of deportability. The Attorney General refused to release the individuals, "on
27 the ground that there was reasonable cause to believe that [their] release would be prejudicial
28 to the public interest and would endanger the welfare and safety of the United States." *Id.*, at

1 529, 72 S.Ct., at 528–529 (emphasis added). The detainees brought the same challenge that
2 respondents bring to us today: the Eighth Amendment required them to be admitted to bail.
3 The Court squarely rejected this proposition:

4 “The bail clause was lifted with slight changes from the English Bill of Rights Act. In
5 England that clause has never been thought to accord a right to bail in all cases, but merely to
6 provide that bail shall not be excessive in those cases where it is proper to grant bail. When
7 this clause was carried over into our Bill of Rights, nothing was said that indicated any
8 different concept. The Eighth Amendment has not prevented Congress from defining the
9 classes of cases in which bail shall be allowed in this country. Thus, in criminal cases bail is
10 not compulsory where the punishment may be death. Indeed, the very language of the
11 Amendment fails to say all arrests must be bailable.” *Id.*, at 545–546, 72 S.Ct., at 536–537
12 (footnotes omitted). Salerno, at 753-754.

13 Finally, the United States Supreme Court summarized its rejection of the attack on the
14 federal statute by stating, “We are unwilling to say that this congressional determination, based
15 as it is upon that primary concern of every government—a concern for the safety and indeed
16 the lives of its citizens—on its face violates either the Due Process Clause of the Fifth
17 Amendment or the Excessive Bail Clause of the Eighth Amendment.” Salerno, at 755.

18 The Nevada Supreme Court, in Valdez-Jimenez, in addition to pointing to federal
19 legislation, directed Nevada Courts to the Nevada Revised Statutes on bail. In fact, NRS
20 178.498 provides as follows:

- 21 1. The nature and circumstances of the offense charged;
22 2. The financial ability of the Defendant to give bail;
23 3. The character of the Defendant; and
24 4. The factors listed in NRS 178.4853.

25 NRS 178.4853 provides as follows:

26 In deciding whether there is good cause to release a person without bail, the Court as a
27 minimum shall consider the following factors concerning the person:

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1. The length of his residence in the community;
2. The status and history of his employment;
3. His relationship with his spouse and children, parents or other members of his family and with his close friends;
4. His reputation, character and mental condition;
5. His prior criminal record, including any record of his appearing or failing to appear after release on bail or without bail;
6. The identity of responsible members of the community who would vouch for the Defendant's reliability;
7. The nature of the offense with which he is charged, the apparent probability of conviction and the likely sentence, insofar as these facts relate to the risk of his not appearing;
8. The nature and seriousness of the danger to any person or the community that would be posed by the person's release;
9. The likelihood of more criminal activity by the person after he is released; and
10. Any other factors concerning his ties to the community or bearing on the risk that he may willfully fail to appear.

In this case analyzing the factors of NRS 178.498 shows that the nature and circumstances of the charge, murder, could be no more serious, which weighs against the Defendant's release. The Defendant has made no showing as to his financial ability to give bail. The State would point out that routinely a Defendant is given Court appointed counsel based solely on filling out a financial assessment document in Justice Court with nothing other than the self-serving representations made by the Defendant. The prosecution is never allowed to see the document, let alone challenge it, nor is the State aware of any formal guidelines lower Courts are given to make such a determination. In the absence of any guidelines as well as input and involvement by the party opponent, such judicial determinations of indigency are ripe for arbitrary determinations.

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1 Clearly, the “adversarial hearing” spoken of by the Nevada Supreme Court in Valdez-
2 Jimenez must require more than just an averment on behalf of a Defendant regarding his or
3 her ability to give bail. Some actual evidence should be produced that can be reviewed and
4 potentially challenged by the prosecution. The Defendant has done nothing in that regard,
5 which also weighs against the Defendant’s release. The character of the Defendant based on
6 the evidence produced at the Grand Jury regarding this case, as well as his prior criminal
7 history, weighs heavily against release as the proof is evident and the presumption great that
8 the Defendant is responsible for the death of Nicole Nick, and that he is capable of harming
9 others as evidenced in this case and his prior convictions. Additionally, he is a definite flight
10 risk, having fled the State immediately after the murder here. His character, or the lack thereof
11 based on all of this, weighs heavily against release.

12 The analysis then proceeds to the factors set forth in NRS 178.4853. Specifically:

13 1. The length of his residence in the community; While the Defendant has spoken of his strong
14 ties to Las Vegas, it is of note that when he was arrested in this case he was in California, not
15 Las Vegas.

16 2. The status and history of his employment; the status and history of the Defendant’s
17 employment weighs against release, as he has had none for many years.

18 3. His relationship with his spouse and children, parents or other members of his family and
19 with his close friends; Per the Defendant’s Motion, he has an uncle and family friend who
20 live in Las Vegas. While such support is positive, unfortunately, family support in the past did
21 not dissuade the Defendant from committing crimes, including the one he currently faces that
22 carries a possible life in prison without the possibility of parole. What also cuts against this is
23 that he is known for committing crimes against family members in a domestic capacity – so
24 having family ties isn’t exactly comforting.

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1 4. His reputation, character and mental condition; As explained above, the Defendant's
2 reputation and character weigh heavily against release. Besides his violent tendencies and
3 flight, in recent legal writings he has demonstrated a constitutionalist mindset, filled with
4 conspiracy theories and fiction. This is not the sound mind needed to conduct a trouble-free
5 life outside of the jail.

6 5. His prior criminal record, including any record of his appearing or failing to appear after
7 release on bail or without bail; the Defendant's criminal history, including his committing new
8 crimes after he was released from custody pending charges, has been discussed above.

9 6. The identity of responsible members of the community who would vouch for the
10 Defendant's reliability; Again, the State would point out that the same people who the
11 Defendant said will be there for him if released were there for him when he committed the
12 underlying murder and were there for him when he committed his prior crimes. Those
13 members of the community did not dissuade him from committing his earlier crimes.

14 7. The nature of the offense with which he is charged, the apparent probability of conviction
15 and the likely sentence, insofar as these facts relate to the risk of his not appearing; The
16 Defendant is charged with murder and as explained above, the apparent probability of
17 conviction is high as the Defendant's DNA is found inside the victim's vagina and rectum—
18 the victim the Defendant claims he did not know. Any murder conviction in this case carries
19 with it a possible life in prison sentence for the Defendant which creates a greater risk of the
20 Defendant not appearing to Court considering the possible punishments.

21 8. The nature and seriousness of the danger to any person or the community that would be
22 posed by the person's release; It is clear from his crimes here and previous, that he is a danger
23 to witnesses in this case – which are numerous, should he be released.

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1 9. The likelihood of more criminal activity by the person after he is released; The Defendant
2 had Attempted Murder and Kidnapping charges in California and served a prison sentence as
3 a result of his pleas. He did not come out reformed, and instead when a rough patch hit with
4 his girlfriend Nicole Nick, killed her and tried to kill her mother and daughter. Attempting to
5 kill, and killing are the most serious crimes, and the risk is too great for release given his
6 violent history.

7 10. Any other factors concerning his ties to the community or bearing on the risk that he may
8 willfully fail to appear. There are no other factors which apply to the Defendant.

9 Lastly, Defendant claims he should be released in part due to the Covid-19 pandemic.
10 The State understands the general effort to depopulate CCDC in response to Covid-19.
11 However, significant measures have already been taken to ensure inmates' safety¹. Further,
12 advocates pushing for depopulating custody facilities in response to Covid-19 recommend
13 releasing non-violent offenders. Defendant is facing an extremely violent charge—murder,
14 and numerous other violent felonies. Nonetheless, taking into consideration those ailments,
15 recent data has shown that asthma is not a serious risk for Covid-19 patients as previously
16 thought and reported. In fact, the New York Times and Physician's Weekly have both reported
17 on the data obtained from New York City Covid-19 patients. What was found was asthma
18 appeared to be underrepresented in the comorbidities reported for patients with COVID-19,
19 showing that only about 5 percent of COVID-19 patients who have died had asthma.² While
20 the Court should consider the risks associated with Covid-19 in CCDC, the Court must also
21 balance the risk dangerous inmates present to the community at large if released. The
22 Defendant's other claimed health issues of high blood pressure does not outweigh his pre-trial
23 detention, and the fact that he had his gallbladder removed is the cure to a problem –

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27 ¹ Chief Judge Bell issued an Order releasing inmates on technical violations of supervision, inmates serving a sentence
28 who are at high risk for illness, and inmates who have already served 75% of their sentence.

²<https://www.nytimes.com/2020/04/16/health/coronavirus-asthma-risk.html>, <https://www.physiciansweekly.com/asthma-not-common-in-covid-19-patients-who-have-died>.

1 not a problem by itself. Here, the underlying offense is extremely violent. The risk of releasing
2 the Defendant based on his history and crimes is not one this Court should take. In fact, the
3 Sheriff did not take such a risk when he did not release the Defendant as a part of the group of
4 nearly 300 inmates released based on the Covid-19 concerns.

5 **CONCLUSION**

6 Based on the foregoing, the State respectfully requests Defendant's Motion be
7 DENIED and his NO BAIL status remain.

8 DATED this 24th day of June, 2020.

9 Respectfully submitted,

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

13 BY 

14 JAY P. RAMAN
15 Chief Deputy District Attorney
16 Nevada Bar #010193

17 **CERTIFICATE OF ELECTRONIC FILING**

18 I hereby certify that service of the above and foregoing was made this 24th day of
19 June, 2020, by Electronic Filing to:

20 IVETTE MANINGO, ESQ.
21 iamaningo@iamlawnv.com

22 BY /s/ E. Goddard

23 E. Goddard
24 Secretary for the District Attorney's Office

25
26 12F19975X/erg/L-5
27
28

Evelyn Goddard

From: Evelyn Goddard
Sent: Wednesday, June 24, 2020 8:06 AM
To: iamaningo@iamlawnv.com
Subject: C299234 - BROWN
Attachments: Black and White0952.pdf

Please find attached a courtesy copy of State's Opposition to Defendant's Motion for OR Release

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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7 THE STATE OF NEVADA,
8 Plaintiff,

CASE: C-14-299234-1

DEPT. XVII

9 vs.

10 ROBERT BROWN, JR.,
11 Defendant.

12
13 BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE
14 FRIDAY, JUNE 26, 2020

15 **RECORDER'S TRANSCRIPT OF HEARING:**
16 **DEFENDANT ROBERT BROWN'S MOTION FOR RELEASE ON HIS**
17 **OWN RECOGNIZANCE OR IN THE ATERNATIVE MOTION TO SET**
18 **BAIL**
19 **STATUS CHECK: TRIAL READINESS**

20 APPEARANCES:

21 For the State: JAY P. RAMAN, ESQ.
22 Chief Deputy District Attorney

23 For the Defendant: ABEL M. YANEZ, ESQ.

24 Also appearing via Bluejeans: IVETTE MANINGO, ESQ.

25 RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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Las Vegas, Nevada, Friday, June 26, 2020

[Hearing begins at 10:18 a.m.]

MR. RAMAN: Good morning, Your Honor, J. P. Raman for the State.

THE COURT: Good morning.

MR. YANEZ: Good morning, Judge, Abel Yanez, bar number 7566, on behalf of Mr. Brown. Ms. Ivette Maningo should also be on video. She's co-counsel with me on this case.

MS. MANINGO: I'm here, Your Honor, Ivette –

THE COURT: All right, thank --

MS. MANINGO: -- Maningo –

THE COURT: -- you.

MS. MANINGO: -- appearing on behalf of Mr. Brown.

THE COURT: All right, this is – a couple of matters. We have status check trial readiness. We have a trial set for November 2nd. I know we've had a lot of issues, the COVID, are we on track for that date or do parties need a new date?

MR. YANEZ: Well, obviously the difficult thing is that our investigation, the – moving this case forward has been basically put on hold due to the whole pandemic. So, as always, Judge, we're going to try to be ready to go to trial but we just can't obviously be forthright with the Court and say we're absolutely going to be ready 'cause I just don't know.

Obviously, I – what I also don't know is what a trial is going to look like in November, whether we're going to have any objections to

1 what is finally, I guess, established, you know, what it looks like, mask/
2 no mask, where the jury's going to be, all of that stuff. So, I just don't
3 know at this point, Judge.

4 THE COURT: Well, just so you know, I'm on the – actually, I'm
5 on the jury committee.

6 MR. YANEZ: Okay.

7 THE COURT: And our plan right now is to commence a jury
8 trial July 27th. We're looking to select a jury, one a day. Now obviously
9 on a homicide case, in particular a death penalty case, you know it could
10 be four or five, even going into the second week depending on you know
11 the jurors. And so, we still don't know how that's going to work but we
12 are planning to be able to do some trials July 27th and we're going to see
13 how that works. You know, so I really don't know yet. But that's our plan
14 is to, you know, select a jury in the jury commissioners' chambers, all
15 right, and then we may have the trials on the third floor. I'm not sure, or
16 we may come up to the particular department, but we are working on
17 those plans as I speak.

18 MR. YANEZ: Sound good. And I – obviously, we'll wait to see
19 what that looks like. What I can tell the Court for sure is that most of our
20 investigation has been put on hold because of the pandemic this past
21 few months.

22 THE COURT: All right. I can do – I can just set it, like a 60 day
23 status check to see where we're at as far as the trials and also in the
24 final preparation for your trial.

25 MR. RAMAN: That would be fine.

**PLEADING
CONTINUES
IN NEXT
VOLUME**