

Electronically Filed
Aug 15 2022 09:52 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOASC
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
200 Lewis Street
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

DUSTIN LEWIS,

Defendant.

Case No. C-19-340051-1
Dept. No. XXIV

NOTICE OF APPEAL

TO: DUSTIN LEWIS, Defendant; and

TO: CAESAR V. ALMASE, Attorney for Defendant; and

TO: ERIKA BALLOU, District Judge, Eighth Judicial District Court,
Dept. No. XXIV

NOTICE IS HEREBY GIVEN THAT THE STATE OF NEVADA, Plaintiff in the
above entitled matter, appeals to the Supreme Court of Nevada, pursuant to NRS 177.015(2)
from the order the district court filed AUGUST 11, 2022, granting Defendant's Motion to
Suppress.

Dated this 12th day of August, 2021.

STEVEN B. WOLFSON,
Clark County District Attorney

BY /s/ Karen Mishler
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730

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CERTIFICATE OF ELECTRONIC TRANSMISSION

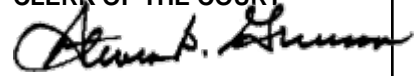
I hereby certify that service of the above and foregoing NOTICE OF APPEAL was made August 12, 2022, by electronic transmission to:

CAESAR V. ALMASE
Email: caesar@almaselaw.com

JUDGE ERIKA BALLOU
Email: Dept24LC@clarkcountycourts.us

BY /s/ J. Hall
Employee, District Attorney's Office

KM//jh



ASTA
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
200 Lewis Street
Las Vegas, Nevada 89155-2212
(702) 671-2750
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,
Plaintiff,

v.

DUSTIN LEWIS,
Defendant.

Case No. C-19-340051-1
Dept. No. XXIV

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

The State of Nevada

2. Identify the judge issuing the decision, judgment, or order appealed from:

Judge Erika Ballou

3. Identify all parties to the proceedings in the district court:

Dustin Lewis

The State of Nevada

4. Identify all parties involved in this appeal:

Dustin Lewis

The State of Nevada

5. Name, law firm, address, and telephone number of all counsel on appeal and party or parties whom they represent:

KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
Office of the Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2750

CAESAR V. ALMASE
526 S. 7th Street
Las Vegas, Nevada 89101
(702) 463-5590

Counsel for Appellant
State of Nevada

Counsel for Respondent
Dustin Lewis

6. Indicate whether appellant was represented by appointed or retained counsel in the district court: Retained

7. Indicate whether appellant is represented by appointed or retained counsel on appeal: Retained

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave: N/A

9. Date proceedings commenced in the district court:

Indictment, filed May, 3, 2019.

DATED this 12th day of August, 2022.

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

BY /s/ Karen Mishler

KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
Office of the Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2750

1 **CERTIFICATE OF ELECTRONIC TRANSMISSION**

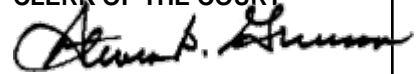
2 I hereby certify that service of the above and foregoing CASE APPEAL
3 STATEMENT was made August 12, 2022, by electronic transmission to:

4
5 CAESAR V. ALMASE
6 Email: caesar@almaselaw.com

7 JUDGE ERIKA BALLOU
8 Email: Dept24LC@clarkcountycourts.us

9
10 BY /s/ J. Hall
11 Employee, District Attorney's Office

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REQT

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

v.

DUSTIN LEWIS,
#7030601,

Defendant.

Case No. C-19-340051-1
Dept. No. XXIV

ORIGINAL TRANSCRIPT REQUEST

TO: DELORIS SCOTT, COURT RECORDER

THE STATE OF NEVADA, Appellant named above, requests preparation of a original transcript request of certain portions of the proceedings before the district court, as follows:

JUNE 10, 2022 – Evidentiary Hearing

This notice requests a transcript of only those portions of the district court proceedings which counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present. Voir dire examination of jurors, opening statements and closing arguments of trial counsel, and the reading of jury instructions shall not be transcribed unless specifically requested above.

I recognize that I must serve a copy of this form on the above named Court Reporter/Recorder and opposing counsel, and that the above named Court Reporter/Recorder

1 shall have thirty (30) days from the receipt of this notice to prepare an original certified copy
2 and an additional certified copy for the appendix.

3 Dated this 12th day of August, 2022.

4
5 BY */s/ Karen Mishler*

6 KAREN MISHLER
7 Chief Deputy District Attorney
8 Nevada Bar #013730
9 Office of the Clark County District Attorney
10 Regional Justice Center
11 200 Lewis Avenue
12 Post Office Box 552212
13 Las Vegas, Nevada 89155-2212
14 (702) 671-2750
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1 **CERTIFICATE OF ELECTRONIC TRANSMISSION**

2 I hereby certify that service of the above and foregoing ORIGINAL TRANSCRIPT
3 REQUEST was made August 12, 2022, by electronic transmission to:

4
5 CAESAR V. ALMASE
Email: caesar@almaselaw.com

6 JUDGE ERIKA BALLOU
7 Email: Dept24LC@clarkcountycourts.us

8 SUSAN SCHOFIELD
9 Court Recorder – District Court
SchofieldS@clarkcountycourts.us

10 DELORES SCOTT
11 Court Recorder – District Court
scottde@clarkcountycourts.us

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15 BY /s/ J. Hall
Employee, District Attorney's Office

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EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-19-340051-1

State of Nevada
vs
Dustin Lewis

§ Location: **Department 24**
§ Judicial Officer: **Ballou, Erika**
§ Filed on: **05/03/2019**
§ Case Number History:
§ Cross-Reference Case **C340051**
§ Number:
§ Defendant's Scope ID #: **7030601**
§ Grand Jury Case Number: **18CGJ056A**
§ ITAG Case ID: **2171126**
§ Supreme Court No.: **82750**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. CONSPIRACY TO COMMIT BURGLARY	205.060.2	G	12/08/2018		
Arrest: 05/03/2019				Case Status:	05/03/2019 Reactivated
2. BURGLARY	205.060.2	F	12/08/2018		
3. BURGLARY	205.060.2	F	12/08/2018		
4. BURGLARY	205.060.2	F	12/08/2018		
5. GRAND LARCENY	205.222.3	F	12/08/2018		
6. CONSPIRACY TO COMMIT BURGLARY	205.060.2	G	12/11/2018		
7. BURGLARY	205.060.2	F	12/11/2018		

Related Cases

C-19-340051-2 (Multi-Defendant Case)
C-19-340051-3 (Multi-Defendant Case)
C-19-340051-4 (Multi-Defendant Case)

Warrants

Indictment Warrant - Lewis, Dustin (Judicial Officer: Leavitt, Michelle)
06/24/2019 3:27 PM Quashed
05/03/2019 11:00 AM Active
Fine: \$0
Bond: **\$500,000.00** Any

Bonds

Surety #FCS50-2111777 \$10,000.00
5/2/2022 Surrendered
9/7/2020 Active
Counts: 1, 2, 3, 4, 5, 6, 7

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number C-19-340051-1
Court Department 24
Date Assigned 01/04/2021
Judicial Officer Ballou, Erika

PARTY INFORMATION















Defendant	Lewis, Dustin	Lead Attorneys
		Almase, Caesar V. <i>Retained</i> 702-463-5590(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE

EVENTS & ORDERS OF THE COURT














INDEX

CASE SUMMARY
CASE NO. C-19-340051-1

<u>EVENTS</u>		
05/03/2019	 Indictment <i>[1] Indictment</i>	<i>Index #1</i>
05/03/2019	 Warrant <i>[2] Indictment Warrant</i>	<i>Index #2</i>
05/14/2019	 Transcript of Proceedings <i>[3] Reporter's Transcript of Proceedings, Grand Jury Hearing, May 2, 2019</i>	<i>Index #3</i>
06/12/2019	 Order for Production of Inmate Party: Plaintiff State of Nevada <i>[4] Order for Production of Inmate</i>	<i>Index #4</i>
12/27/2019	 Notice of Witnesses and/or Expert Witnesses Filed By: Plaintiff State of Nevada <i>[5] State's Notice of Expert Witnesses</i>	<i>Index #5</i>
08/06/2020	 Motion to Vacate Filed By: Defendant Lewis, Dustin <i>[7] Motion to Vacate Custody Order and Request for Valdez-Jimenez Hearing and/or Emergency Motion for Temporary Compassionate Release</i>	<i>Index #7</i>
08/10/2020	 Clerk's Notice of Hearing <i>[8] Notice of Hearing</i>	<i>Index #8</i>
09/08/2020	 Bail Bond <i>[9] Power Number FCS50-2111777 amount \$10,000.</i>	<i>Index #9</i>
11/24/2020	 Motion Filed By: Defendant Lewis, Dustin <i>[10] Motion to Place on Calendar for High Level Monitoring Review</i>	<i>Index #10</i>
11/30/2020	 Clerk's Notice of Hearing <i>[11] Notice of Hearing</i>	<i>Index #11</i>
01/04/2021	Case Reassigned to Department 24 <i>Judicial Reassignment to Judge Erika D. Ballou</i>	
02/18/2021	 Motion to Dismiss Counsel Party: Defendant Lewis, Dustin <i>[12] Motion to Dismiss Counsel and Appoint Alternate Counsel</i>	<i>Index #12</i>
02/26/2021	 Motion to Suppress Filed By: Defendant Lewis, Dustin <i>[13] Defendant Dustin Lewis Motion to Suppress Evidence Based On Fourth Amendment Violation and Fruit of the Poisonous Tree Doctrine</i>	<i>Index #13</i>
02/26/2021	 Clerk's Notice of Hearing <i>[14] Notice of Hearing</i>	<i>Index #14</i>
03/04/2021	 Opposition to Motion Filed By: Plaintiff State of Nevada	<i>Index #15</i>













CASE SUMMARY

CASE NO. C-19-340051-1


	<i>[15] State's Opposition to Defendant's Motion to Suppress Evidence Based on Fourth Amendment Violation and Fruit of The Poisonous Tree Doctrine</i>	
03/16/2021	 Reply to Opposition Filed by: Defendant Lewis, Dustin <i>[16] Defendant Dustin Lewis Reply to State's Opposition</i>	Index #16
03/29/2021	 Response Filed by: Plaintiff State of Nevada <i>[17] State's Response to Defendant's Dustin Lewis Reply to State's Opposition</i>	Index #17
04/05/2021	 Motion to Release Filed By: Defendant Lewis, Dustin <i>[18] Motion for Release on Electronic Monitoring and Request for Valdez-Jimenez Hearing Based on Changed Circumstances</i>	Index #18
04/06/2021	 Clerk's Notice of Hearing <i>[19] Notice of Hearing</i>	Index #19
04/08/2021	 Order <i>[20] Order Granting Defendant Dustin Lewis Motion to Suppress Evidence based on Fourth Amendment Violations and Fruit of The Poisonous Tree Doctrine</i>	Index #20
04/09/2021	 Notice of Hearing Filed By: Defendant Lewis, Dustin <i>[21] Notice of Hearing For Motion to Release</i>	Index #21
04/09/2021	 Notice of Appeal (Criminal) Party: Plaintiff State of Nevada <i>[22] Notice of Appeal</i>	Index #22
04/09/2021	 Case Appeal Statement Filed By: Plaintiff State of Nevada <i>[23] Case Appeal Statement</i>	Index #23
04/09/2021	 Request Filed by: Plaintiff State of Nevada <i>[24] Original Transcript Request</i>	Index #24
04/23/2021	 Recorders Transcript of Hearing <i>[25] Recorder's Transcript of Hearing: All Pending Motions 3.17.21</i>	Index #25
04/23/2021	 Recorders Transcript of Hearing <i>[26] Recorder's Transcript of Hearing: Argument; Motion to Dismiss Counsel and Appoint Alternate Counsel 3.31.21</i>	Index #26
04/23/2021	 Recorders Transcript of Hearing <i>[27] Recorder's Transcript of Hearing: Argument; Motion to Dismiss Counsel and Appoint Alternate Counsel 4.05.21</i>	Index #27
05/11/2021	 Recorders Transcript of Hearing <i>[28] Recorder's Transcript of Proceedings: Defendant's Motion for Own Recognizance Release with Intensive Supervision, April 14, 2021</i>	Index #28

CASE SUMMARY

CASE NO. C-19-340051-1

03/22/2022	 Notice of Hearing <i>[29] Notice of Hearing</i>	Index #29
04/08/2022	 Motion for Own Recognizance Release/Setting Reasonable Bail Filed By: Defendant Lewis, Dustin <i>[30] Motion For Own Recognizance Release With Mid-Level Electronic Monitoring</i>	Index #30
04/08/2022	 Clerk's Notice of Hearing <i>[31] Notice of Hearing</i>	Index #31
04/13/2022	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>[32] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Vacated and Remand</i>	Index #32
04/15/2022	 Opposition Filed By: Plaintiff State of Nevada <i>[33] State's Opposition to Defendant's Motion for Own Recognizance Release with Mid-Level Electronic Monitoring</i>	Index #33
04/21/2022	 Order Denying Motion <i>[34] Order Denying Defendant's Motion for Own Recognizance Release with Mid-Level Electronic Monitoring</i>	Index #34
05/06/2022	 Notice of Hearing <i>[35] Notice of Hearing</i>	Index #35
05/16/2022	 Bond <i>[36] "Bond surrendered; bonding company notified via mail". FCS50-211177</i>	Index #36
08/11/2022	 Findings of Fact, Conclusions of Law and Judgment <i>[37] C-19-340051 Lewis and Ornelas Suppression Order</i>	Index #37
08/12/2022	 Notice of Appeal (Criminal) Party: Plaintiff State of Nevada <i>[38] Notice of Appeal</i>	Index #38
08/12/2022	 Case Appeal Statement Filed By: Plaintiff State of Nevada <i>[39] Case Appeal Statement</i>	Index #39
08/12/2022	 Request Filed by: Plaintiff State of Nevada <i>[40] Original Transcript Request</i>	Index #40

HEARINGS

05/03/2019  **Grand Jury Indictment (11:00 AM)** (Judicial Officer: Leavitt, Michelle)

MINUTES

Warrant

05/03/2019 Inactive Indictment Warrant

Matter Heard;

Journal Entry Details:

Lawrence Holmes, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 18CGJ056A to the Court.

CASE SUMMARY

CASE NO. C-19-340051-1

COURT ORDERED, the Indictment may be filed and is assigned Case Number C-19-340051-1, Department XXIII. State requested a warrant, argued bail, and advised Deft is in custody. COURT ORDERED, \$500,000.00 BAIL; INDICTMENT WARRANT ISSUED, and matter SET for Arraignment. Upon Court's inquiry, the State advised there are no material witness warrants to quash. COURT FURTHER ORDERED, Exhibits 1-67 to be lodged with the Clerk of the Court; Las Vegas Justice Court case no. 19F00933A DISMISSED per the State's request. In addition, a Pre-Trial Risk Assessment will be prepared if one was not previously done. I.W. (NIC (COC-NDC)) 05/22/19 9:30 A.M. INITIAL ARRAIGNMENT (DEPT XXIII) ;

SCHEDULED HEARINGS



Initial Arraignment (05/22/2019 at 9:30 AM) (Judicial Officer: Miley, Stefany)

05/22/2019



Initial Arraignment (9:30 AM) (Judicial Officer: Miley, Stefany)

Matter Continued;

Journal Entry Details:

Counsel noted Deft. had not been transported from NDOC. COURT ORDERED, matter CONTINUED. State to prepare Order to Transport. NIC (COC-NDC) 06-05-19 9:30 AM ARRAIGNMENT CONTINUED;

06/05/2019



Arraignment Continued (9:30 AM) (Judicial Officer: Miley, Stefany)

06/05/2019, 06/24/2019

Matter Continued;

Trial Date Set;

Journal Entry Details:

DEFT. LEWIS ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter SET for trial. Bench warrant QUASHED. NIC (COC-NDC) 01-22-20 9:30 AM CALENDAR CALL 01-27-20 1:00 PM TRIAL BY JURY;

Matter Continued;

Trial Date Set;

Journal Entry Details:

Deft. not transported. Counsel advised all of the co-defendants had been set for trial.. COURT ORDERED, matter CONTINUED. State to prepare Order to Transport. B.W. NIC (COC-NDC) 06-24-19 10:30 AM ARRAIGNMENT CONTINUED;

01/22/2020



Calendar Call (9:30 AM) (Judicial Officer: Miley, Stefany)

MINUTES

Trial Date Set;

Journal Entry Details:

Also present: Co-Deft. Herod with counsel John Parris, Esq. and Co-Deft. Ornelas with counsel Michael Troiano, Esq. Mr. Parris advised offers have been extended to the Co-Defts. and they are contingent; however, one Deft. not accepted the offer from the State and therefore Mr. Parris requested trial date be vacated and reset. At the request of Mr. Parris and Mr. Almase, COURT ORDERED, trial date VACATED and RESET. FURTHER, matter SET for status check. NIC (COC-NDC) 2/19/20 9:30 AM STATUS CHECK: TRIAL READINESS 4/1/20 9:30 AM CALENDAR CALL 4/6/20 1:00 PM JURY TRIAL;

SCHEDULED HEARINGS

CANCELED Jury Trial (01/27/2020 at 1:00 PM) (Judicial Officer: Miley, Stefany)

Vacated - per Judge

CANCELED Jury Trial (01/27/2020 at 1:00 PM) (Judicial Officer: Miley, Stefany)



Status Check: Trial Readiness (02/19/2020 at 9:30 AM) (Judicial Officer: Miley, Stefany)

CANCELED Calendar Call (04/01/2020 at 9:30 AM) (Judicial Officer: Miley, Stefany)

Vacated

CANCELED Jury Trial (04/06/2020 at 1:00 PM) (Judicial Officer: Miley, Stefany)

Vacated

01/27/2020

CANCELED Jury Trial (1:00 PM) (Judicial Officer: Miley, Stefany)




Vacated - per Judge

01/27/2020

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-19-340051-1

	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Miley, Stefany)
02/19/2020	 Status Check: Trial Readiness (9:30 AM) (Judicial Officer: Miley, Stefany) Matter Heard; Journal Entry Details: <i>John Parris Esq., present on behalf of Mr. Almase and noted an offer had been extended, however, it is contingent. COURT SO NOTED and ORDERED, trial date STANDS. NIC (COC-NDC);</i>
04/01/2020	CANCELED Calendar Call (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Vacated</i>
04/06/2020	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Miley, Stefany) <i>Vacated</i>
06/17/2020	 Calendar Call (3:30 PM) (Judicial Officer: Miley, Stefany) Trial Date Set; Journal Entry Details: <i>Pursuant to Administrative Order due to COVID 19, COURT ORDERED, trial date VACATED and RESET. NIC (COC-NDC) 01-13-21 9:30 AM CALENDAR CALL 01-19-21 1:00 PM TRIAL BY JURY;</i>
06/22/2020	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Miley, Stefany) <i>Vacated</i>
08/12/2020	 Motion to Vacate (3:30 PM) (Judicial Officer: Miley, Stefany) 08/12/2020, 08/19/2020, 08/24/2020 <i>Motion to Vacate Custody Order and Request for Valdez-Jimenez Hearing and/or Emergency Motion for Temporary Compassionate Release</i> Matter Continued; Motion to Vacate Custody Order and Request for Valdez-Jimenez Hearing and/or Emergency Motion for Temporary Compassionate Release Matter Continued; Denied; Motion to Vacate Custody Order and Request for Valdez-Jimenez Hearing and/or Emergency Motion for Temporary Compassionate Release Journal Entry Details: <i>Argument by the State regarding bail being appropriate. Counsel argued Deft was not a risk to the community, and Deft having health issues. Further argument by the State. Court stated its findings and ORDERED, Motion DENIED; bail REDUCED to \$10,000.00 with High Level Electronic Monitoring, if posted. NIC (COC-NDC) ;</i> Matter Continued; Motion to Vacate Custody Order and Request for Valdez-Jimenez Hearing and/or Emergency Motion for Temporary Compassionate Release Matter Continued; Denied; Motion to Vacate Custody Order and Request for Valdez-Jimenez Hearing and/or Emergency Motion for Temporary Compassionate Release Journal Entry Details: <i>State advised it did not have Deft's file to argue this matter. Counsel advised Chief Deputy District Attorney David Stanton is assigned to this case. COURT ORDERED, matter CONTINUED for State to respond to the Motion. NIC (COC-NDC) 08/24/20 3:30 PM - MOTION TO VACATE CUSTODY ORDER AND REQUEST FOR VALEDEZ-JIMENEZ HEARING AND/ OR EMERGENCY MOTION FOR TEMPORARY COMPASSIONATE RELEASE ;</i> Matter Continued; Motion to Vacate Custody Order and Request for Valdez-Jimenez Hearing and/or Emergency Motion for Temporary Compassionate Release Matter Continued; Denied; Motion to Vacate Custody Order and Request for Valdez-Jimenez Hearing and/or Emergency Motion for Temporary Compassionate Release Journal Entry Details: <i>State advised Deputy District Attorney David Stanton had more knowledge regarding this case and requested a continuance for his presence. COURT ORDERED, matter CONTINUED. NIC (COC-NDC) 08/19/20 3:30 PM - MOTION TO VACATE CUSTODY ORDER AND REQUEST FOR VALEDEZ-JIMENEZ HEARING AND/ OR EMERGENCY MOTION FOR TEMPORARY COMPASSIONATE RELEASE ;</i>

CASE SUMMARY

CASE NO. C-19-340051-1

12/07/2020



Motion (3:30 PM) (Judicial Officer: Bonaventure, Joseph T.)

Defendant's Motion to Place on Calendar for High Level Monitoring Review

Hearing Set;

Journal Entry Details:

Mr. Almase advised he had a letter from the House Arrest officer and would like to argue. Court directed Mr. Almase to file a motion to reinstate house arrest if that is what he would like to do. Court further directed Mr. Almase to provide the letter to the State. Mr. Turner noted the State would like to file a reply. COURT ORDERED, Motion to Reinstate House Arrest SET. BOND/ELECTRONIC MONITORING - HIGH LEVEL MONITORING 12/21/20 3:30 PM MOTION TO REINSTATE HOUSE ARREST;

12/21/2020



Motion (3:30 PM) (Judicial Officer: Bonaventure, Joseph T.)

Motion to Reinstate House Arrest

Motion Denied;

Journal Entry Details:

Arguments by counsel regarding Defendant's Motion to Reinstate House Arrest. COURT stated FINDINGS, motion DENIED. BOND/ELECTRONIC MONITORING - HIGH LEVEL MONITORING;

01/13/2021



Calendar Call (8:30 AM) (Judicial Officer: Ballou, Erika)

Matter Heard;

Journal Entry Details:

Yu Meng, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference. The Court noted Deft. waived his right to a speedy trial. Mr. Almase understood trials are not going forward. Colloquy regarding trial dates. Following colloquy, COURT ORDERED, trial dates VACATED and RESET. CUSTODY 05/17/2021 8:30 AM CALENDAR CALL 05/24/2021 9:00 AM JURY TRIAL;

01/19/2021

CANCELED Jury Trial (1:00 PM) (Judicial Officer: Lilly-Spells, Jasmin)

Vacated - per Judge

03/08/2021



Motion (10:00 AM) (Judicial Officer: Ballou, Erika)

Defendant Dustin Lewis Motion to Suppress Evidence Based On Fourth Amendment Violation and Fruit of the Poisonous Tree Doctrine

Matter Heard;

Journal Entry Details:

David Stanton, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference. Colloquy regarding case law. Following colloquy, COURT ORDERED, Mr. Almase to file a reply with case law; matter SET for argument. CUSTODY 03.17.2021 8:30 AM ARGUMENT;

03/17/2021

Motion to Dismiss (8:30 AM) (Judicial Officer: Ballou, Erika)

03/17/2021, 03/31/2021, 04/05/2021

Motion to Dismiss Counsel and Appoint Alternate Counsel

Matter Continued;

Matter Continued;

Moot;

Matter Continued;

Matter Continued;

Moot;

Matter Continued;

Matter Continued;

Moot;

03/17/2021

Argument (8:30 AM) (Judicial Officer: Ballou, Erika)

03/17/2021, 03/31/2021, 04/05/2021







Matter Continued;

Matter Continued;

Granted;

Matter Continued;

CASE SUMMARY
CASE NO. C-19-340051-1

	<p>Matter Continued; Granted; Matter Continued; Matter Continued; Granted;</p>
03/17/2021	<p> All Pending Motions (8:30 AM) (Judicial Officer: Ballou, Erika)</p> <p>Matter Heard; Journal Entry Details: <i>ARGUMENT...MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE COUNSEL Colloquy regarding continuance to allow the Court time to review the motion. COURT ORDERED, matter CONTINUED. BOND/ELM - HIGH LEVEL 03/31/21 8:30 AM CONTINUED ARGUMENT...MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE COUNSEL;</i></p>
03/29/2021	<p> Minute Order (7:45 AM) (Judicial Officer: Ballou, Erika)</p> <p>Minute Order - No Hearing Held; Journal Entry Details: <i>The Court Finds that no evidentiary hearing is necessary and the parties are to argue their respective positions at the hearing previously scheduled for March 31, 2021 at 8:30. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Ro'Shell Hurtado, to all registered parties by Odyssey File & Serve.//rh;</i></p>
03/31/2021	<p> All Pending Motions (8:30 AM) (Judicial Officer: Ballou, Erika)</p> <p>Matter Heard; Journal Entry Details: <i>Michael Troiano, Esq. (Co-Deft. Margaux Ornelas) and David Stanton, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference. Mr. Almase indicated the State filed a response of pleadings. COURT ORDERED, matter CONTINUED to review pleadings. CUSTODY CONTINUED TO 04.05.2021 8:30 AM;</i></p>
04/05/2021	<p> All Pending Motions (8:30 AM) (Judicial Officer: Ballou, Erika)</p> <p>Matter Heard; Journal Entry Details: <i>David Stanton, Esq. and Michael Troiano, Esq. (Co-Deft. Ornelas counsel) present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference. Argument...Motion to Dismiss Counsel and Appoint Alternate Counsel... The Court noted it read all pleadings. Mr. Almase submitted on pleadings. Arguments by Mr. Stanton. Following arguments, COURT ORDERED, Motion GRANTED in entirety; advised Mr. Almase to prepare the Order. CUSTODY;</i></p>
04/14/2021	<p> Motion to Release (8:30 AM) (Judicial Officer: Ballou, Erika)</p> <p>Granted; Journal Entry Details: <i>David Stanton, Esq.; Caesar Almase, Esq. and Michael Troiano, Esq.(Co-Deft. Ornelas) present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference. The Court noted it read all Motions and previous Motions. Mr. Almase indicated there were no oppositions filed. Mr. Stanton advised he had the matter on calendar on the 21st. Arguments by counsel. Following arguments, COURT ORDERED, Deft. RELEASED with Mid Level Electronic Monitoring. O.R./MLEMP ;</i></p>
04/19/2021	<p>CANCELED Motion to Release (8:30 AM) (Judicial Officer: Ballou, Erika)</p> <p><i>Vacated - per Judge Defendant's Motion for Release on Electronic Monitoring and Request for Valdez-Jimenez Hearing Based on Changed Circumstances</i></p>
05/17/2021	<p> Calendar Call (8:30 AM) (Judicial Officer: Ballou, Erika)</p> <p>Set Status Check; Journal Entry Details: <i>David Stanton, Esq. present via Bluejeans video conference. Deft. present in-custody via</i></p>

CASE SUMMARY


CASE NO. C-19-340051-1

Bluejeans video conference. The Court noted Deft. WAIVED his right on June 24, 2019. Mr. Almase indicated the matter is on appeal; requested a status check in 30 days. COURT ORDERED, trial date VACATED; matter SET for status check. CUSTODY 06.14.2021 8:30 AM STATUS CHECK: APPEAL;

05/24/2021

CANCELED Jury Trial (9:00 AM) (Judicial Officer: Ballou, Erika)
Vacated - per Judge

06/14/2021

 **Status Check** (8:30 AM) (Judicial Officer: Ballou, Erika)
06/14/2021, 08/02/2021, 10/04/2021, 11/01/2021, 12/13/2021, 02/09/2022, 03/28/2022

STATUS CHECK: APPEAL

Set Status Check;
Matter Continued;
Matter Continued;
Matter Continued;
Matter Continued;
Matter Continued;

Matter Heard;
Journal Entry Details:

Ann Dunn, Esq. and Michael Troiano, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference. The Court noted Supreme Court needed more of a record. Colloquy regarding evidentiary hearing. Following colloquy, COURT ORDERED, matter SET or evidentiary hearing. CUSTODY 04.14.2022 1:30 PM EVIDENTIARY HEARING;

Set Status Check;
Matter Continued;
Matter Continued;
Matter Continued;
Matter Continued;
Matter Continued;

Matter Heard;
Journal Entry Details:

Sarah Overly, Esq. and Caesar Almase, Esq. present via Bluejeans video conference; Michael Troiano, Esq. present for Deft. Ornelas; Caesar Almase, Esq. present for Steven Altig, Esq. for Deft. Herod. Upon Court's inquiry, Mr. Almase indicated Supreme Court would issue a written decision; no oral argument would be needed. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO 04.06.2022 8:30 AM ;

Set Status Check;
Matter Continued;
Matter Continued;
Matter Continued;
Matter Continued;
Matter Continued;

Matter Heard;
Journal Entry Details:

Mr. Altig present for Mr. Troiano. The Court reviewed the Supreme Court status; WAIVED Deft. Ornelas; noted Mr. Lewis was not transported; reviewed the Supreme Court status. Mr. Almase requested a continuance for Supreme Court decision. COURT ORDERED, matter CONTINUED. CONTINUED TO 02.09.2022 8:30 AM CLERK'S NOTE: This Minute Order was prepared using JAVS./01.22.2022rh ;


Set Status Check;
Matter Continued;
Matter Continued;
Matter Continued;
Matter Continued;
Matter Continued;

Matter Heard;
Journal Entry Details:

Sarah Overly, Esq. present via Bluejeans video conference. Steve Altig, Esq. present for Co-Deft. Herod. Deft. and Co-Deft. Ornelas not present. Co-Deft. Herod present out-of-custody via Bluejeans video conference. The Court noted Deft. Lewis was a special transport and was not needed; WAIVED Co-Deft. Ornelas presence; reviewed status of Supreme Court case. Mr.

CASE SUMMARY




CASE NO. C-19-340051-1

	<p><i>Almase requested a 30 to 45 day continuance. COURT SO ORDERED. CUSTODY CONTINUED TO 12.13.2021 8:30 AM;</i></p> <p>Set Status Check; Matter Continued; Matter Continued; Matter Continued; Matter Continued; Matter Continued; Matter Continued;</p> <p>Matter Heard; Journal Entry Details: <i>Sarah Overly, Esq. and Caesar Almase, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference. Upon Court's inquiry, Mr. Almase indicated the matter was still pending in Supreme Court. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO 11.01.2021 8:30 AM;</i></p> <p>Set Status Check; Matter Continued; Matter Continued; Matter Continued; Matter Continued; Matter Continued;</p> <p>Matter Heard; Journal Entry Details: <i>Sarah Overly, Esq. present via Bluejeans video conference. Deft. not present. Counsel indicated the State filed it's opening brief. COURT ORDERED, matter CONTINUED. CONTINUED TO 10.04.2021 8:30 AM;</i></p> <p>Set Status Check; Matter Continued; Matter Continued; Matter Continued; Matter Continued; Matter Continued;</p> <p>Matter Heard; Journal Entry Details: <i>Sarah Overly, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference. Colloquy regarding Nevada Supreme Court case 82750. Following colloquy, COURT ORDERED, matter SET for status check. CUSTODY 08.02.2021 8:30 AM STATUS CHECK: APPEAL;</i></p>
04/11/2022	<p> Motion for Own Recognizance Release/Setting Reasonable Bail (8:30 AM) (Judicial Officer: Ballou, Erika)</p> <p>04/11/2022, 04/18/2022</p> <p><i>Motion For Own Recognizance Release With Mid-Level Electronic Monitoring</i></p> <p>Matter Continued; Denied; Journal Entry Details: <i>Deft. present in-custody via Bluejeans video conference. Mr. Almase indicated Deft. wanted to speak on his behalf. Statement by Deft. Mr. Turner submitted. COURT ORDERED, Motion for Own Recognizance Release with Mid-Level Electronic Monitoring DENIED; DIRECTED, Mr. Turner to prepare an order. CUSTODY;</i></p> <p>Matter Continued; Denied; Journal Entry Details: <i>Robert Turner, Esq. and Caesar Almase, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference. The Court noted matter was a very late add-on from Friday; ORDERED, matter CONTINUED for the State to respond. CUSTODY CONTINUED TO 04.18.2022 8:30 AM;</i></p>
04/14/2022	<p>CANCELED Evidentiary Hearing (1:30 PM) (Judicial Officer: Ballou, Erika)</p> <p><i>Vacated - per Attorney or Pro Per</i></p>
05/09/2022	<p>Surrender (9:30 AM) (Judicial Officer: Ballou, Erika)</p> <p><i>Re; TCR Bond Surrender Hearing</i></p>

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-19-340051-1

	Hearing Set;
05/09/2022	At Request of Court (9:30 AM) (Judicial Officer: Ballou, Erika) Hearing Set;
05/09/2022	 All Pending Motions (9:30 AM) (Judicial Officer: Ballou, Erika) Matter Heard; Journal Entry Details: <i>Mr. Troiano, Esq. for Mr. Almase on behalf of Defendant. AT THE REQUEST OF THE COURT...RE: TCR BOND SURRENDER HEARING COURT NOTED this matter needed to be set for an evidentiary hearing. Mr. Troiano advised the State was close to a resolution with the insurance claims regarding the victim and then the State may be ready for a resolution Further Mr. Troiano requested a two week continuance for negotiations. Ms. Dunn stated she had spoken with the victim regarding a possible resolution, the victim wanted to contact his civil attorney and she was waiting to hear back from the victim. COURT ORDERED, matter SET. IN CUSTODY 05/23/22 9:30 A.M. STATUS CHECK: NEGOTIATIONS;</i>
05/23/2022	 Status Check (9:30 AM) (Judicial Officer: Ballou, Erika) <i>Status Check: Negotiations</i> Matter Heard; Journal Entry Details: <i>Steven Altig, Esq. on behalf of Co-Def. Herod; Michael Troiano, Esq. present on behalf of Co-Def. Ornelas. Upon Court's inquiry, Mr. Almase indicated the offers that were extended were contingent with Co-Def.'s; further indicated Def. Lewis rejected the offer. COURT ORDERED, matter SET for evidentiary hearing. 06.10.2022 1:30 PM EVIDENTIARY HEARING;</i>
06/10/2022	 Evidentiary Hearing (1:30 PM) (Judicial Officer: Ballou, Erika) Set Status Check; Journal Entry Details: <i>Steven Altig, Esq. on behalf of Co-Def. Herod; Michael Troiano, Esq. present on behalf of Co-Def. Ornelas. Testimony and exhibits presented (see worksheet). Arguments by Mr. Almase and Ms. Dunn. Following arguments, COURT STATED IT'S FINDINGS, ORDERED, ruling STANDS; advised it would prepare the order. Ms. Dunn indicated she would be appealing the matter. COURT FURTHER ORDERED, matter SET for status check: appeal. 08.29.2022 9:30 AM STATUS CHECK: APPEAL;</i>
08/29/2022	Status Check (9:30 AM) (Judicial Officer: Ballou, Erika) <i>STATUS CHECK: APPEAL</i>

DATE

FINANCIAL INFORMATION

Defendant Lewis, Dustin

Total Charges

3.50

Total Payments and Credits

3.50

Balance Due as of 8/15/2022

0.00

1 **FFCL**

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

5
6 The State of Nevada,
Plaintiff(s),

CASE NO. C-19-340051-1
C-19-340051-2

7 v.

DEPT NO. XXIV

8
9 Dustin Lewis,
Margaux Ornelas,
10 Defendant(s).

11
12
13 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING**
14 **DEFENDANT DUSTIN LEWIS'S AND MARGAUX ORNELAS'S MOTIONS TO**
15 **SUPPRESS EVIDENCE**

16 This matter having come before the Court on Dustin Lewis's ("Mr. Lewis") Motion to
17 Suppress Evidence Based on Fourth Amendment Violation and Fruit of the Poisonous Tree
18 Doctrine, filed on February 26, 2021, and Margaux Ornelas's ("Ms. Ornelas") Joinder to Co-
19 Defendant Dustin Lewis's Motion to Suppress Evidence Based on Fourth Amendment
20 Violation and Fruit of the Poisonous Tree Doctrine, filed on March 3, 2021. The State having
21 filed an opposition, which was thoroughly reviewed by the Court, and the matter having come
22 before the Court for argument on April 5, 2021, at which time the Court granted the defense
23 motions in their entirety. The State then filed an interlocutory appeal to the Nevada Supreme
24 Court, which vacated this Court's previous order and remanded for further proceedings
25 consistent with its order. Thereafter, this Court had an Evidentiary Hearing on June 10, 2022,
26 allowing the State to supplement its evidence with testimony from David Inman ("Inman"),
27 the owner of the property, and Sgt. Andrew Shark (Sgt. Shark") from the Las Vegas
28 Metropolitan Police Department ("Metro" or "LVMPD").

1 The Court, having read and considered the pleadings filed by the parties, having
2 carefully considered the evidence and testimony presented at the Evidentiary Hearing, and
3 having carefully considered the oral and written arguments of counsel and all related briefing,
4 and with the intent of deciding the matters pending before the Court, the Court makes the
5 following Findings of Fact, Conclusions of Law, and Order. If any findings of fact are properly
6 conclusions of law, or vice versa, they shall be treated as if appropriately identified and
7 designated.

8 **I. Findings of Fact**

- 9 1. On December 8, 2018, a StorageOne facility was burglarized. Three units in total
10 were burglarized that day.
- 11 2. One of the units which was burglarized, unit B-151, had been rented by Marc
12 Falcone (“Falcone”). Police were advised by Falcone that he was missing twenty-
13 one (21) high end, rare, collectible wrist watches with an approximate value of over
14 two million dollars. In addition, miscellaneous items were missing such as a
15 Panerai bag that was white with blue trim, watch boxes, a black canvas duffel bag,
16 and a leather briefcase.
- 17 3. One of the other units which was burglarized, unit B-147, had been rented by
18 Michael Rodrigue (“Rodrigue”). Rodrigue, at first, informed police that items in
19 his unit appeared to be moved but nothing take. He later updated that information
20 to inform the police that various miscellaneous items were missing but there was
21 nothing of great value taken. Some of the items that were missing included several
22 dolls, a green Army jacket with the name “Rodrigue” on it, a black briefcase, and a
23 large wooden chessboard.
- 24 4. Video surveillance from the storage facility showed two subjects entering the
25 facility and leaving approximately one hour and twenty minutes later with several
26 bags and a wheelchair.
- 27 5. Police were able to obtain still shots from the facility’s video surveillance. The
28 suspects appeared on video surveillance to be a white female adult, mid-30s to 40s,

1 with a light colored ponytail with dark roots, wearing a dark colored jacket, and
2 pushing the wheelchair. The second suspect was a white male adult, mid-30s, with
3 short, dark colored hair, dark colored hoodie, and dark colored jeans. Both were
4 potentially homeless.

5 6. Once police obtained the actual surveillance video, the white female adult is seen
6 to have a large wooden chessboard in the wheelchair.

7 7. Metro officers canvassed the area and spoke with homeless individuals about the
8 suspects. Some of the homeless individuals who were canvased confirmed to police
9 that there was a homeless couple fitting that description who had recently been seen
10 with a wheelchair and who lived in the area of Fort Apache and Tropicana. Police
11 were unable locate either subject.

12 8. Det. Linder of Metro conducted a records check of crime reports and field
13 interviews and located a field interview of a white female adult who was stopped in
14 the area of Fort Apache and Tropicana, named Annie Bishop (DOB 6/15/84, ID#
15 5599431) ("Bishop") who was with her husband, James Gregg (DOB: 12/29/86, ID
16 # 7048098) ("Gregg"). Det. Linder was able to pull up prior booking photos for
17 both Bishop and Gregg. Bishop had blonde hair with dark roots. Police determined
18 that she could be a possible match for the female in the surveillance photos. Gregg
19 also had short, dark hair which could be a match for the male in the photos as well.

20 9. On December 11, 2018, LVMPD officers decided to re-canvas the area for the
21 suspects. Pages 6-7 of the LVMPD Continuation Report explain:

22 While walking along the bicycle/jogging path that
23 parallels I-215, they located a tent that was in the desert
24 area directly east of the StorageOne, north of the
25 Chevron gas station that is also directly east of the
26 StorageOne. They decided to hop the fence that
27 surrounds the desert area and challenged the tent to see
28 if anyone was inside. **There was no answer, so they**

1 **unzipped the door of the tent to see if anyone was**
2 **inside.** There was nobody inside, but they saw a large
3 wooden chessboard, which matched the one seen on
4 the video surveillance still shot that was in the
5 wheelchair being pushed by the female suspect. They
6 also saw what appeared to be watch boxes and could
7 see that one had “Panerai” written on it. They did not
8 enter the tent. They also saw that about 25 yards
9 directly east of the tent was a folded wheelchair that
10 also looked like the one in the video surveillance
11 photos.

12 (See LVMPD Continuation Report, attached as Exhibit A.) (Emphasis added.)

13 10. Police then obtained a search warrant, authored by Officer Shark.

14 11. Once inside the tent, police were able to lift several latent prints from various items,
15 including the wheelchair near the handle, the “Panerai” bag, and the chess board.

16 12. The search warrant also returned numerous items of evidentiary value including an
17 Army jacket with “Rodrigue” on it that had dog tags in the name of Michael
18 Rodrigue in one of the pockets, watch boxes, white “Panerai” bag, and black duffel
19 bag.

20 13. Police later returned to the scene of the search to recover Officer Shark’s lost cell
21 phone. While there, officers noticed that items, such as the duplicate original search
22 warrant and other miscellaneous items, were missing. Approximately fifteen
23 minutes after arrival, officers also heard the alarm sounding at the StorageOne
24 facility. Several police units responded.

25 14. Police on scene noticed a suspicious Lincoln Navigator parked on the west side wall
26 of the facility. This vehicle led to the arrest of co-defendants Thomas Herod
27 (“Herod”) and Tyree Faulkner (“Faulkner”). Faulkner spoke with police and
28 explained his part in the burglaries. Faulkner did not identify Mr. Lewis or Ms.

Ornelas, only stating his cousin (co-defendant Herod) knew the male. The vehicle was eventually searched pursuant to a search warrant.

15. Latent prints lifted from the tent returned to defendants Dustin Lewis and Margaux Ornelas. The two matched the suspects from the burglaries.

16. Officers later located Ms. Ornelas at a motel. Police obtained a search warrant for the room where Ms. Ornelas was staying. More of Falcone's property was located in the room.

17. Ms. Ornelas was taken into custody on an unrelated domestic battery. She did not speak with police.

18. In January 2019, latent prints lifted from the exterior of the burglarized units returned to Mr. Lewis and Ms. Ornelas.

19. The same day, Mr. Lewis was located at his mother's home. He was taken into custody for an unrelated parole violation. He did not have any stolen property in his possession. His mother gave officers permission to search her home, vehicle, and storage room at her apartment complex. No stolen property was located.

20. Police interviewed Mr. Lewis who denied stealing or selling any watches. He further denied breaking into the storage units at issue. When asked specifically about who had the watches, Mr. Lewis told police to speak with Ms. Ornelas. Mr. Lewis claimed he may have been to the storage facility but did not make any further admissions.

21. On June 10, 2022, this Court held an evidentiary hearing allowing the State to supplement its evidence.

22. David Inman testified that he was the owner of the land on which the tent in question was located. When he purchased the land, there was no fencing.

23. Inman testified that he was made aware of a tent on his property on the weekend of November 10, 2018. He remembered the date because he was in New York for his son's wedding. He contacted Metro in November of 2018 to remove the homeless from his property but he never filed a report because he was told that he had to put

up signs before any action could be taken.

24. He had the fence erected in November of 2018. It would have been within a day or two of the November 19, 2018, invoice for that fence. He placed “No Trespassing” signs on the fence within a day of the fence being erected.

25. Sgt. Shark testified that although he is now a sergeant in the Summerlin Area Command, in December of 2018, he was a patrol officer in the Spring Valley Area Command where this incident occurred.

26. On December 11, 2018, he was working the burglaries and speaking to transient people. In this capacity, he came across the desert lot in question. He testified that although the lot had fencing around it, the fencing was damaged. He entered through the portion that was damaged. Sgt. Shark also testified that he does not recall any posted “No Trespassing” signs.

27. He observed a transient camp on the lot. There were several pieces of trash and a tent. He approached the tent to make contact with anyone inside. Sgt. Shark identified himself as a police officer and challenged the tent to see if there would be a response. He testified that he received no response. Sgt. Shark further testified that based on the proximity of the tent to the wall, and due to officer safety **Metro opened the tent to see if anyone was inside.** There was no one inside. While the officers cleared the tent, he noticed several items of evidentiary value to the case they were investigating including the chessboard. He then obtained a search warrant for the tent where additional items of evidentiary value were located.

28. On cross-examination, Sgt. Shark testified that he did not speak with the owner of the property before opening the tent. The justification for opening the tent was officer safety.

29. He also claimed that there was a small opening so the tent was not completely zipped.

II. Conclusions of Law

30. The Fourth Amendment to the United States Constitution protects citizens, persons

1 and property from unreasonable searches and seizures by government agents except
2 after obtaining a warrant supported by probable cause. Probable cause exists when
3 “there is a fair probability that contraband or evidence of a crime will be found in a
4 particular place.” Illinois v. Gates, 462 U.S. 213, 238 (1983). Evidence obtained
5 as a result of an illegal search is subject to exclusion, as is evidence later discovered
6 and “derivative of an illegality” as “fruit of the poisonous tree.” Segura v. United
7 States, 468 U.S. 796, 804 (1984) (quoting Nardona v. United States, 308 U.S. 338,
8 341 (1939)).

9 31. A person has a subjective expectation of privacy in a tent and its contents where
10 that person manifests such expectation, such as **by leaving it closed**. Alward v.
11 State, 112 Nev. 141, 150, 912 P.2d 243, 249 (1996), overruled on other grounds by
12 Rosky v. State, 121 Nev. 184, 111 P.3d 690 (2005); see also United States v. Gooch,
13 6 F.3d 673, 676 (9th Cir. 1993) (Emphasis added).

14 32. The Fourth Amendment “protects people, not places.” Gooch, 6 F.3d at 676-77
15 (quoting Katz v. United States, 389 U.S. 347, 351 (1967)).

16 33. **“Simply because [the defendant] camped on land [owned by another] does not**
17 **diminish his expectation of privacy.”** Alward, 112 Nev. at 150, 912 P.2d at 249.
18 Warrantless searches of tents, therefore, violate the Fourth Amendment. Id.

19 34. In its initial opposition to Mr. Lewis’s suppression motion, the State argued that the
20 Metro officers had “to ascertain whether an ongoing crime was being committed
21 (trespassing)” (See State’s Opposition filed March 4, 2021, at page 2, lines 13-14.)

22 a. Nothing in the original police reports in this matter would lead one to believe
23 that the police were concerned about the “ongoing crime of trespassing.” There
24 is no mention of trespassing at all in any of the police reports.

25 b. Sgt. Shark’s testimony was that although the property was fenced, the fencing
26 had damage and that he did not recall any “No Trespassing” signs on the
27 property.

28 c. Sgt. Shark further testified that he did not speak to the owner of the property

1 prior to opening the tent.

2 d. Inman's testimony is that he did not file a police report related to trespassing as
3 he was informed that he must post signage before anything could be done.

4 35. For the same reason, the State's argument that the entire tent and its contents could
5 be seized and inventoried (See State's Opposition filed March 4, 2021, at page 2,
6 lines 22-24), also fails.

7 36. The State also argues in its initial opposition that the officers were duty bound, by
8 the doctrine of "community caretaking," to open and investigate the tent. (See
9 State's Opposition filed March 4, 2021, at page 5, lines 19-22.) The State chose not
10 to analyze in any way, shape, or fashion how the simple presence of a wheelchair
11 in the vicinity of a tent would induce the police to open a zipped tent without a
12 warrant.

13 a. The State mentions the "community caretaking" doctrine in its Opposition to
14 stand for the proposition that "The officers were obligated to see if the
15 wheelchair was related to the occupants of the tent for several reasons –
16 'community caretaking.'" (See State's Opposition filed March 4, 2021, at page
17 2, lines 15-19).

18 b. The Rincon case cited by the State for this proposition is a case related to driving
19 under the influence. State v. Rincon, 122 Nev. 1170, 147 P.3d. 233 (2006).
20 "The community caretaking exception applies if a police officer initiates a traffic
21 stop based on a reasonable belief that a slow driver is in need of emergency
22 assistance." Id. 122 Nev. at 1176, 147 P.3d at 237. A wheelchair in close
23 proximity to a tent does not relate to driving at all. Neither does a wheelchair
24 simply existing engender a reasonable belief that someone is in need of
25 emergency assistance.

26 37. The State also urges the Court to make a distinction between a tent found on public
27 land and that on private land. (See State's Opposition filed March 4, 2021, at page
28 2, lines 2-12.) The State argues that this distinction shows that the tent in question

1 here evidenced the ongoing crime of trespass whereas tents on public land could be
2 lawfully present for such things as camping.

- 3 a. As noted elsewhere, Sgt. Shark did not recall ever seeing any posted signage
4 warning trespassers away from the property.
5 b. Neither did Sgt. Shark attempt to contact the property owner to determine
6 whether the campsite was permitted.
7 c. Inman, the property owner, testified that he did not file a police report related to
8 trespass on his property as he was told that he must post signage before he could
9 do so.

10 38. During his testimony, Sgt. Shark testified that the reason for opening the tent was
11 for officer safety.

- 12 a. Officer safety appears to be a pretextual, after-the-fact justification, as no
13 mention of officer safety appears in the original police reports.
14 b. Sgt. Shark testified that an attack “can happen through a tent” though there was
15 no discussion as to why officers would anticipate an attack – officers were only
16 speaking to civilians as potential witnesses. This reasoning is akin to officers
17 investigating a burglary three days prior at a business adjacent to a home and
18 then fully opening a door to the home when no one answered to speak with
19 officers. A partially closed door could also be seen as a bad tactical situation in
20 the same manner as a tent.
21 c. This was also not a hot pursuit situation where police knew there to be someone
22 inside the tent who could or would attack officers.
23 d. The State argued at the evidentiary hearing on June 10, 2022, that a person who
24 is trespassing does not have a privacy interest as the privacy interest must be one
25 that society is willing to accept. This devalues the interests of the Fourth
26 Amendment in preventing government overreach. Also as noted above, The
27 Fourth Amendment “protects people, not places.” Gooch, 6 F.3d at 676-77
28 (quoting Katz v. United States, 389 U.S. 347, 351 (1967)).

1 39. Mr. Lewis and Ms. Ornelas, like all citizens afforded the protection of the Fourth
2 Amendment of the US Constitution, absolutely had an expectation of privacy in the
3 home they maintained during this case, the tent. Officers unzipped the tent in clear
4 violation of the Fourth Amendment and case law. As such, every tangible piece of
5 property illegally seized from the tent and surrounding area must be suppressed.

6 40. As the US Supreme Court held in Segura v. United States, 468 U.S. 796, 804 (1984),
7 “evidence later discovered and found to be derivative of” an illegal search or seizure
8 must be excluded, as well as any primary evidence directly obtained from the
9 illegality. (Id. at 468 US 797). Based on the Fruit of the Poisonous Tree doctrine,
10 Mr. Lewis and Ms. Ornelas also seek to suppress: (1) Mr. Lewis’s and Ms. Ornelas’s
11 latent prints recovered from the exterior of the burglarized units at the StorageOne
12 facility; (2) the entirety of Mr. Lewis’s and Ms. Ornelas’s statements to police; (3)
13 all tangible documents, statements, and any other tangible evidence related to the
14 identities of Mr. Lewis and Ms. Ornelas; (4) any evidence from the search of the
15 Lincoln Navigator that the State intends to use against Mr. Lewis or Ms. Ornelas;
16 and (5) any evidence from the search of the Fun City Motel the State intends to use
17 against Mr. Lewis or Ms. Ornelas.

18 a. The State argues that the latent prints were obtained independently and therefore
19 shouldn’t be suppressed. However, as these prints were recovered from the
20 exterior of the burglarized units, the only way to link these to the burglary is
21 based on the illegally obtained evidence from the tent. Therefore, these latent
22 prints must be suppressed.

23 b. The police were investigating Bishop and Gregg in relation to these burglaries.
24 The only reason this focus shifted was due to the illegally obtained items from
25 the tent. Therefore, the statements Mr. Lewis and Ms. Ornelas made after
26 encountering police must be suppressed.

27 c. Because the only reason police shifted their sights onto Mr. Lewis and Ms.
28 Ornelas and away from Bishop and Gregg is based on the contents of the tent

1 which were illegally obtained, all tangible documents, statements, and any other
2 tangible evidence related to the identities of Mr. Lewis and Ms. Ornelas must be
3 suppressed.

4 d. Again, as the police only shifted their investigation from Bishop and Gregg to
5 Mr. Lewis and Ms. Ornelas after the illegal search of the tent, all evidence
6 derived from the Fun City Motel, must also be suppressed.

7 **III. Order**

8 Based on the above Findings of Fact and Conclusions of Law,

9 **IT IS HEREBY ORDERED SUPRESSED,**

10 All tangible property and physical evidence recovered from the tent of Mr. Lewis and
11 Ms. Ornelas and the surrounding area, as these items were seized in violation of the Fourth
12 Amendment to the United States Constitution, U.S. v. Gooch, 6 F.3d. 673 (9th Cir. 1993), U.S.
13 v. Sandoval, 200 F.3d 659 (2000), and State v. Alward, 112 Nev. 141 (1996);

14 **FURTHER ORDERED SUPPRESSED,**

15 Under the Fruit of the Poisonous Tree doctrine and Segura v. United States, 468 U.S.
16 796, 804 (1984), is the hand print of Mr. Lewis; the interviews of Mr. Lewis and Ms. Ornelas;
17 any statements attributed to Mr. Lewis and Ms. Ornelas; all documents, statements, and any
18 other tangible or physical evidence relating to the identity of Mr. Lewis and Ms. Ornelas; any
19 evidence derived from the Lincoln Navigator that the State intends to use against Mr. Lewis
20 and Ms. Ornelas; and any evidence derived from the Fun City Motel.

21 Dated this 11th day of August, 2022

22 

23 **DEB 477 B137 8A16**
24 **Erika Ballou**
25 **District Court Judge**

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CERTIFICATE OF SERVICE

I hereby certify that on the date e-filed, a copy of the foregoing was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program.

If indicated below, a copy of the foregoing was also

☐ Mailed by the U.S. Postal Service, postage prepaid, to the proper parties listed below at their last known address(es):

Chapri Wright
Chapri Wright
Judicial Executive Assistant

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-19-340051-1

7 vs

DEPT. NO. Department 24

8
9 Dustin Lewis

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 8/11/2022

15 Caesar Almase

caesar@almaselaw.com

16 Caesar Almase

caesar@almaselaw.com

17 Dept 24 LC

dept24lc@clarkcountycourts.us

18 Ann Dunn

ann.dunn@clarkcountyda.com

20

21

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23

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 03, 2019

C-19-340051-1 State of Nevada
vs
Dustin Lewis

May 03, 2019

11:00 AM

Grand Jury Indictment

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 10C

COURT CLERK: Kimberly Estala

RECORDER: Trisha Garcia

REPORTER:

PARTIES

PRESENT:

Stanton, David L.
State of Nevada

Attorney
Plaintiff

JOURNAL ENTRIES

- Lawrence Holmes, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 18CGJ056A to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C-19-340051-1, Department XXIII.

State requested a warrant, argued bail, and advised Deft is in custody. COURT ORDERED, \$500,000.00 BAIL; INDICTMENT WARRANT ISSUED, and matter SET for Arraignment.

Upon Court's inquiry, the State advised there are no material witness warrants to quash. COURT FURTHER ORDERED, Exhibits 1-67 to be lodged with the Clerk of the Court; Las Vegas Justice Court case no. 19F00933A DISMISSED per the State's request. In addition, a Pre-Trial Risk Assessment will be prepared if one was not previously done.

I.W. (NIC (COC-NDC))

05/22/19 9:30 A.M. INITIAL ARRAIGNMENT (DEPT XXIII)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 22, 2019

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

May 22, 2019 9:30 AM Initial Arraignment

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Almase, Caesar V. Attorney
 Stanton, David L. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Counsel noted Deft. had not been transported from NDOC. COURT ORDERED, matter CONTINUED. State to prepare Order to Transport.

NIC (COC-NDC)

06-05-19 9:30 AM ARRAIGNMENT CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 05, 2019

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

June 05, 2019 9:30 AM Arraignment Continued

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Albright, Brandon B. Attorney
 Almase, Caesar V. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not transported. Counsel advised all of the co-defendants had been set for trial.. COURT ORDERED, matter CONTINUED. State to prepare Order to Transport.

B.W. NIC (COC-NDC)

06-24-19 10:30 AM ARRAIGNMENT CONTINUED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 24, 2019

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

June 24, 2019 10:30 AM Arraignment Continued

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Derjavina, Ekaterina	Attorney
	Lewis, Dustin	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT. LEWIS ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter SET for trial. Bench warrant QUASHED.

NIC (COC-NDC)

01-22-20 9:30 AM CALENDAR CALL

01-27-20 1:00 PM TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 22, 2020

C-19-340051-1 State of Nevada
vs
Dustin Lewis

January 22, 2020 9:30 AM Calendar Call

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Michaela Tapia

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Stanton, David L. Attorney
State of Nevada Plaintiff

JOURNAL ENTRIES

- Also present: Co-Deft. Herod with counsel John Parris, Esq. and Co-Deft. Ornelas with counsel Michael Troiano, Esq.

Mr. Parris advised offers have been extended to the Co-Defts. and they are contingent; however, one Deft. not accepted the offer from the State and therefore Mr. Parris requested trial date be vacated and reset. At the request of Mr. Parris and Mr. Almase, COURT ORDERED, trial date VACATED and RESET. FURTHER, matter SET for status check.

NIC (COC-NDC)

2/19/20 9:30 AM STATUS CHECK: TRIAL READINESS

4/1/20 9:30 AM CALENDAR CALL

4/6/20 1:00 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 19, 2020

C-19-340051-1 State of Nevada
vs
Dustin Lewis

**February 19, 2020 9:30 AM Status Check: Trial
Readiness**

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Lewis, Dustin	Defendant
	Stanton, David L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- John Parris Esq., present on behalf of Mr. Almase and noted an offer had been extended, however, it is contingent. COURT SO NOTED and ORDERED, trial date STANDS.

NIC (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 17, 2020

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

June 17, 2020 3:30 PM Calendar Call

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Katherine Streuber

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Almase, Caesar V. Attorney
 Lewis, Dustin Defendant
 Stanton, David L. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Pursuant to Administrative Order due to COVID 19, COURT ORDERED, trial date VACATED and RESET.

NIC (COC-NDC)

01-13-21 9:30 AM CALENDAR CALL

01-19-21 1:00 PM TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 12, 2020

C-19-340051-1 State of Nevada
vs
Dustin Lewis

August 12, 2020

3:30 PM

Motion to Vacate

**Motion to Vacate
Custody Order and
Request for Valdez-
Jimenez Hearing
and/or Emergency
Motion for
Temporary
Compassionate
Release**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Grecia Snow

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Clowers, Shanon	Attorney
	Lewis, Dustin	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- State advised Deputy District Attorney David Stanton had more knowledge regarding this case and requested a continuance for his presence. COURT ORDERED, matter CONTINUED.

NIC (COC-NDC)

08/19/20 3:30 PM - MOTION TO VACATE CUSTODY ORDER AND REQUEST FOR VALEDEZ-JIMENEZ HEARING AND/ OR EMERGENCY MOTION FOR TEMPORARY COMPASSIONATE

C-19-340051-1

RELEASE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 19, 2020

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

August 19, 2020 3:30 PM Motion to Vacate

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Grecia Snow

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Almase, Caesar V. Attorney
 State of Nevada Plaintiff
 Turner, Robert B. Attorney

JOURNAL ENTRIES

- State advised it did not have Deft's file to argue this matter. Counsel advised Chief Deputy District Attorney David Stanton is assigned to this case. COURT ORDERED, matter CONTINUED for State to respond to the Motion.

NIC (COC-NDC)

08/24/20 3:30 PM - MOTION TO VACATE CUSTODY ORDER AND REQUEST FOR VALEDEZ-JIMENEZ HEARING AND/ OR EMERGENCY MOTION FOR TEMPORARY COMPASSIONATE RELEASE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 24, 2020

C-19-340051-1 State of Nevada
vs
Dustin Lewis

August 24, 2020	3:30 PM	Motion to Vacate	Motion to Vacate Custody Order and Request for Valdez- Jimenez Hearing and/or Emergency Motion for Temporary Compassionate Release
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HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Grecia Snow

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Lewis, Dustin	Defendant
	Stanton, David L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Argument by the State regarding bail being appropriate. Counsel argued Deft was not a risk to the community, and Deft having health issues. Further argument by the State. Court stated its findings and ORDERED, Motion DENIED; bail REDUCED to \$10,000.00 with High Level Electronic Monitoring, if posted.

NIC (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 07, 2020

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

December 07, 2020 3:30 PM Motion

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Natalie Ortega

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Lewis, Dustin	Defendant
	State of Nevada	Plaintiff
	Turner, Robert B.	Attorney

JOURNAL ENTRIES

- Mr. Almase advised he had a letter from the House Arrest officer and would like to argue. Court directed Mr. Almase to file a motion to reinstate house arrest if that is what he would like to do. Court further directed Mr. Almase to provide the letter to the State. Mr. Turner noted the State would like to file a reply. COURT ORDERED, Motion to Reinstate House Arrest SET.

BOND/ELECTRONIC MONITORING - HIGH LEVEL MONITORING

12/21/20 3:30 PM MOTION TO REINSTATE HOUSE ARREST

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 21, 2020

C-19-340051-1 State of Nevada
vs
Dustin Lewis

December 21, 2020 3:30 PM Motion

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Natalie Ortega

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT: Almase, Caesar V. Attorney
Lewis, Dustin Defendant
Stanton, David L. Attorney
State of Nevada Plaintiff

JOURNAL ENTRIES

- Arguments by counsel regarding Defendant's Motion to Reinstate House Arrest. COURT stated FINDINGS, motion DENIED.

BOND/ELECTRONIC MONITORING - HIGH LEVEL MONITORING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 13, 2021

C-19-340051-1 State of Nevada
vs
Dustin Lewis

January 13, 2021 8:30 AM Calendar Call

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Angelica Michaux

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Lewis, Dustin	Defendant
	Meng, Yu	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Yu Meng, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference.

The Court noted Deft. waived his right to a speedy trial. Mr. Almase understood trials are not going forward. Colloquy regarding trial dates. Following colloquy, COURT ORDERED, trial dates VACATED and RESET.

CUSTODY

05/17/2021 8:30 AM CALENDAR CALL

05/24/2021 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 08, 2021

C-19-340051-1 State of Nevada
vs
Dustin Lewis

March 08, 2021 10:00 AM Motion

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Lewis, Dustin	Defendant
	Stanton, David L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- David Stanton, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference.

Colloquy regarding case law. Following colloquy, COURT ORDERED, Mr. Almase to file a reply with case law; matter SET for argument.

CUSTODY

03.17.2021 8:30 AM ARGUMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 17, 2021

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

March 17, 2021 8:30 AM All Pending Motions

HEARD BY: Ballou, Erika **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Natalie Ortega

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Almase, Caesar V. Attorney
 Clowers, Shanon Attorney
 Lewis, Dustin Defendant
 State of Nevada Plaintiff

JOURNAL ENTRIES

- ARGUMENT...MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE COUNSEL

Colloquy regarding continuance to allow the Court time to review the motion. COURT ORDERED, matter CONTINUED.

BOND/ELM - HIGH LEVEL

03/31/21 8:30 AM CONTINUED ARGUMENT...MOTION TO DISMISS COUNSEL AND APPOINT ALTERNATE COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 29, 2021

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

March 29, 2021 7:45 AM Minute Order

HEARD BY: Ballou, Erika

COURTROOM: Chambers

COURT CLERK: Ro'Shell Hurtado

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court Finds that no evidentiary hearing is necessary and the parties are to argue their respective positions at the hearing previously scheduled for March 31, 2021 at 8:30.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Ro'Shell Hurtado, to all registered parties by Odyssey File & Serve.//rh

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 31, 2021

C-19-340051-1 State of Nevada
vs
Dustin Lewis

March 31, 2021 8:30 AM All Pending Motions

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Lewis, Dustin	Defendant
	Stanton, David L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Michael Troiano, Esq. (Co-Deft. Margaux Ornelas) and David Stanton, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference.

Mr. Almase indicated the State filed a response of pleadings. COURT ORDERED, matter CONTINUED to review pleadings.

CUSTODY

CONTINUED TO 04.05.2021 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 05, 2021

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

April 05, 2021

8:30 AM

All Pending Motions

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Lewis, Dustin	Defendant
	Stanton, David L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- David Stanton, Esq. and Michael Troiano, Esq. (Co-Deft. Ornelas counsel) present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference.

Argument...Motion to Dismiss Counsel and Appoint Alternate Counsel...

The Court noted it read all pleadings. Mr. Almase submitted on pleadings. Arguments by Mr. Stanton. Following arguments, COURT ORDERED, Motion GRANTED in entirety; advised Mr. Almase to prepare the Order.

CUSTODY

April 14, 2021

C-19-340051-1 State of Nevada
vs
Dustin Lewis

PRESENT: Almase, Caesar V. Attorney
Lewis, Dustin Defendant
Stanton, David L. Attorney
State of Nevada Plaintiff

Minutes Date: May 03, 2019

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 17, 2021

C-19-340051-1 State of Nevada
vs
Dustin Lewis

May 17, 2021 8:30 AM Calendar Call

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Lewis, Dustin	Defendant
	Stanton, David L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- David Stanton, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference.

The Court noted Deft. WAIVED his right on June 24, 2019. Mr. Almase indicated the matter is on appeal; requested a status check in 30 days. COURT ORDERED, trial date VACATED; matter SET for status check.

CUSTODY

06.14.2021 8:30 AM STATUS CHECK: APPEAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 14, 2021

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

June 14, 2021 8:30 AM Status Check

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Almase, Caesar V. Attorney
 Lewis, Dustin Defendant

JOURNAL ENTRIES

- Sarah Overly, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference.

Colloquy regarding Nevada Supreme Court case 82750. Following colloquy, COURT ORDERED, matter SET for status check.

CUSTODY

08.02.2021 8:30 AM STATUS CHECK: APPEAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 02, 2021

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

August 02, 2021 8:30 AM Status Check

HEARD BY: Ballou, Erika **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Almase, Caesar V. Attorney
 Overly, Sarah Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Sarah Overly, Esq. present via Bluejeans video conference. Deft. not present.

Counsel indicated the State filed it's opening brief. COURT ORDERED, matter CONTINUED.

CONTINUED TO 10.04.2021 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 04, 2021

C-19-340051-1 State of Nevada
vs
Dustin Lewis

October 04, 2021 8:30 AM Status Check

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Lewis, Dustin	Defendant
	Overly, Sarah	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Sarah Overly, Esq. and Caesar Almase, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference.

Upon Court's inquiry, Mr. Almase indicated the matter was still pending in Supreme Court. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO 11.01.2021 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 01, 2021

C-19-340051-1 State of Nevada
vs
Dustin Lewis

November 01, 2021 8:30 AM Status Check

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Overly, Sarah	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Sarah Overly, Esq. present via Bluejeans video conference. Steve Altig, Esq. present for Co-Deft. Herod. Deft. and Co-Deft. Ornelas not present. Co-Deft. Herod present out-of-custody via Bluejeans video conference.

The Court noted Deft. Lewis was a special transport and was not needed; WAIVED Co-Deft. Ornelas presence; reviewed status of Supreme Court case. Mr. Almase requested a 30 to 45 day continuance. COURT SO ORDERED.

CUSTODY

CONTINUED TO 12.13.2021 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 13, 2021

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

December 13, 2021 8:30 AM Status Check

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Michelle Jones

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT: Almase, Caesar V. Attorney
 Lewis, Dustin Defendant

JOURNAL ENTRIES

- Mr. Altig present for Mr. Troiano.

The Court reviewed the Supreme Court status; WAIVED Deft. Ornelas; noted Mr. Lewis was not transported; reviewed the Supreme Court status. Mr. Almase requested a continuance for Supreme Court decision. COURT ORDERED, matter CONTINUED.

CONTINUED TO 02.09.2022 8:30 AM

CLERK'S NOTE: This Minute Order was prepared using JAVS./ /01.22.2022rh

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 09, 2022

C-19-340051-1 State of Nevada
vs
Dustin Lewis

February 09, 2022 8:30 AM Status Check

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Lewis, Dustin	Defendant
	Overly, Sarah	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Sarah Overly, Esq. and Caesar Almase, Esq. present via Bluejeans video conference; Michael Troiano, Esq. present for Deft. Ornelas; Caesar Almase, Esq. present for Steven Altig, Esq. for Deft. Herod.

Upon Court's inquiry, Mr. Almase indicated Supreme Court would issue a written decision; no oral argument would be needed. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO 04.06.2022 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 28, 2022

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

March 28, 2022 8:30 AM Status Check

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Charisse Ward

REPORTER:

PARTIES

PRESENT:	Dunn, Ann Marie	Attorney
	Lewis, Dustin	Defendant
	State of Nevada	Plaintiff
	Troiano, Michael	Attorney

JOURNAL ENTRIES

- Ann Dunn, Esq. and Michael Troiano, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference.

The Court noted Supreme Court needed more of a record. Colloquy regarding evidentiary hearing. Following colloquy, COURT ORDERED, matter SET or evidentiary hearing.

CUSTODY

04.14.2022 1:30 PM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 11, 2022

C-19-340051-1	State of Nevada
	vs
	Dustin Lewis

April 11, 2022	8:30 AM	Motion for Own Recognizance Release/Setting Reasonable Bail
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HEARD BY: Bonaventure, Joseph T.

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Lewis, Dustin	Defendant
	State of Nevada	Plaintiff
	Turner, Robert B.	Attorney

JOURNAL ENTRIES

- Robert Turner, Esq. and Caesar Almase, Esq. present via Bluejeans video conference. Deft. present in-custody via Bluejeans video conference.

The Court noted matter was a very late add-on from Friday; ORDERED, matter CONTINUED for the State to respond.

CUSTODY

CONTINUED TO 04.18.2022 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 18, 2022

C-19-340051-1 State of Nevada
vs
Dustin Lewis

**April 18, 2022 8:30 AM Motion for Own
Recognizance
Release/Setting Reasonable
Bail**

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:	Almase, Caesar V.	Attorney
	Lewis, Dustin	Defendant
	State of Nevada	Plaintiff
	Turner, Robert B.	Attorney

JOURNAL ENTRIES

- Deft. present in-custody via Bluejeans video conference.

Mr. Almase indicated Deft. wanted to speak on his behalf. Statement by Deft. Mr. Turner submitted. COURT ORDERED, Motion for Own Recognizance Release with Mid-Level Electronic Monitoring DENIED; DIRECTED, Mr. Turner to prepare an order.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 09, 2022

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

May 09, 2022

9:30 AM

All Pending Motions

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Cynthia Moleres

RECORDER: Susan Schofield

REPORTER:

PARTIES

PRESENT:

Dunn, Ann Marie
Lewis, Dustin
State of Nevada
Troiano, Michael

Attorney
Defendant
Plaintiff
Attorney

JOURNAL ENTRIES

- Mr. Troiano, Esq. for Mr. Almase on behalf of Defendant.

AT THE REQUEST OF THE COURT...RE: TCR BOND SURRENDER HEARING

COURT NOTED this matter needed to be set for an evidentiary hearing. Mr. Troiano advised the State was close to a resolution with the insurance claims regarding the victim and then the State may be ready for a resolution. Further Mr. Troiano requested a two week continuance for negotiations. Ms. Dunn stated she had spoken with the victim regarding a possible resolution, the victim wanted to contact his civil attorney and she was waiting to hear back from the victim. COURT ORDERED, matter SET.

IN CUSTODY

05/23/22 9:30 A.M. STATUS CHECK: NEGOTIATIONS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 23, 2022

C-19-340051-1 State of Nevada
 vs
 Dustin Lewis

May 23, 2022 9:30 AM Status Check

HEARD BY: Ballou, Erika **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Almase, Caesar V. Attorney
 Lewis, Dustin Defendant
 State of Nevada Plaintiff
 Turner, Robert B. Attorney

JOURNAL ENTRIES

- Steven Altig, Esq. on behalf of Co-Deft. Herod; Michael Troiano, Esq. present on behalf of Co-Deft. Ornelas.

Upon Court's inquiry, Mr. Almase indicated the offers that were extended were contingent with Co-Deft.'s; further indicated Deft. Lewis rejected the offer. COURT ORDERED, matter SET for evidentiary hearing.

06.10.2022 1:30 PM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 10, 2022

C-19-340051-1 State of Nevada
vs
Dustin Lewis

June 10, 2022

1:30 PM

Evidentiary Hearing

HEARD BY: Ballou, Erika

COURTROOM: RJC Courtroom 12C

COURT CLERK: Ro'Shell Hurtado

RECORDER: Deloris Scott

REPORTER:

PARTIES

PRESENT:

Almase, Caesar V.
Dunn, Ann Marie
Lewis, Dustin
State of Nevada

Attorney
Attorney
Defendant
Plaintiff

JOURNAL ENTRIES

- Steven Altig, Esq. on behalf of Co-Deft. Herod; Michael Troiano, Esq. present on behalf of Co-Deft. Ornelas.

Testimony and exhibits presented (see worksheet). Arguments by Mr. Almase and Ms. Dunn. Following arguments, COURT STATED IT'S FINDINGS, ORDERED, ruling STANDS; advised it would prepare the order. Ms. Dunn indicated she would be appealing the matter. COURT FURTHER ORDERED, matter SET for status check: appeal.

08.29.2022 9:30 AM STATUS CHECK: APPEAL

CASE NO. C-19-340051-1, -2, -3, -4
DEPT. NO. XXIII
DDA BRANDON ALBRIGHT (L-3)

Defendant(s): DUSTIN LEWIS, #7030601
MARGAUX ORNELAS, aka, Margaux Shannon Ornelas, #7032495
TYREE FAULKNER, #7067032
THOMAS HEROD, #7052832

Case No(s): 18CGJ056A-D (RANDOMLY TRACKS TO DC XXIII & XXX)

Charge(s): As to Deft's Lewis & Ornelas
(2) CTS - CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor - NRS 205.060, 199.480 - NOC 50445);
(4) CTS - BURGLARY (Category B Felony - NRS 205.060 - NOC 50424) and
(1) CT - GRAND LARCENY (Category B Felony - NRS 205.220.1, 205.222.3 - NOC 56008)

As to Deft's Faulker & Herod
(1) CT - CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor - NRS 205.060, 199.480 - NOC 50445) and
(1) CT - BURGLARY (Category B Felony - NRS 205.060 - NOC 50424)

Def. Counsel(s): LEWIS - CAESAR ALMASE
ORNELAS - MICHAEL TROIANO
FAULKNER - PD
HEROD - JOHN PARRIS

5/22 930
DL23

WARRANTS (3 WEEKS):

LEWIS - 500
ORNELAS - 100
FAULKNER - ~~summons~~ summons
HEROD - ~~summons~~ summons

DEFT LEWIS IS IN CUSTODY @ NDOC (19F00933A - PH 5/13 IN JC 2)
DEFT ORNELAS IS IN CUSTODY @ CCDC (19F00933B PH 5/13 IN JC 2)
DEFT FAULKNER IS NOT IN CUSTODY (18F23275X DISM'D 4/19)
DEFT HEROD IS NOT IN CUSTODY (19F01352X - PH 5/13 IN JC 2)

LVJC CASE TO BE DISM'D: 19F00933A-B & 19F01352X

Exhibits:

- py 1. Proposed Indictment
- py 2. CD/DVD
- py 3. Photo
- py 4. Photo
- py 5. Photo
- py 6. Photo
- py 7. Spreadsheet
- py 8. Report

- py 9. Report
- py 10. Report
- py 11. Photo
- py 12. Photo
- py 13. Map
- py 14. Photo
- py 15. Photo
- py 16. Photo

17. Photo
18. Photo
19. Photo
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65. Photo
66. Report
67. Report

Exhibits 1 - 67 to be lodged with the Clerk of the Court.

Case No.:

Dept. No.:

Plaintiff:

Defendant:

Hearing / Trial Date:

Judge:

Court Clerk:

Recorder / Reporter:

Counsel for Plaintiff:

Counsel for Defendant:

VS.

EXHIBITS

[illegible]



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS ST.
LAS VEGAS, NV 89155-2212

DATE: August 15, 2022
CASE: C-19-340051-1

RE CASE: STATE OF NEVADA vs. DUSTIN LEWIS

NOTICE OF APPEAL FILED: August 12, 2022

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☐ Case Appeal Statement
- NRAP 3 (a)(1), Form 2
- ☐ Order
- ☒ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; ORIGINAL
TRANSCRIPT REQUEST; DISTRICT COURT DOCKET ENTRIES; FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER GRANTING DEFENDANT DUSTIN LEWIS'S AND
MARGAUX ORNELAS'S MOTIONS TO SUPPRESS EVIDENCE; DISTRICT COURT MINUTES;
EXHIBITS LIST; NOTICE OF DEFICIENCY

STATE OF NEVADA,

Plaintiff(s),

vs.

DUSTIN LEWIS,

Defendant(s).

Case No: C-19-340051-1

Dept No: XXIV

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 15 day of August 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk