

INDEX

<u>Vol. No., Document & File Date</u>	<u>Page No.</u>
Vol. 2, Defendant Dustin Lewis' Motion to Suppress, filed 2/26/21 in C340051.....	165-238
Vol. 2, Defendant Dustin Lewis' Reply, filed 3/16/21 in C340051,	247-54
Vol. 2, Defendant Margaux Ornelas' Joinder to Co-Defendant Dustin Lewis' Motion to Suppress, filed 3/03/21 in C340051.....	239-40
Vol. 2, Findings of Fact, Conclusions of Law, and Order Granting Defendant Dustin Lewis' and Margaux Ornelas' Motion to Suppress, filed 8/11/22 in C340051,	314-26
Vol. 1, Indictment, filed 5/03/19 in C340051,	160-64
Vol. 2, Nevada Supreme Court's Order Vacating and Remanding, filed 4/13/22 in C340051.....	272-77
Vol. 2, Order Granting Defendant Dustin Lewis' Motion to Suppress, filed 4/08/21 in C340051.....	267-69
Vol. 1, Transcript Grand Jury Proceeding, filed 5/14/19 in C340051.....	1-159
Vol. 2, Transcript Hearing Motion to Suppress, filed 4/23/21 in C340051....	260-66
Vol. 2, Transcript Evidentiary Hearing on Motion to Suppress, filed 9/12/22 in C340051.....	pages 278-313
Vol. 2, State's Notice of Appeal, filed 4/09/21 in C340051.....	pages 270-71
Vol. 2, State's Opposition to Defendant's Motion to Suppress, filed 3/04/21 in C340051.....	241-46
Vol. 2, State's Response to Defendant Dustin Lewis' Reply, filed 3/29/21 in C340051.....	255-59

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on January 31, 2023. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

MICHAEL A. TROIANO, ESQ.
Counsel for Respondent

KAREN MISHLER
Chief Deputy District Attorney

BY /s/ E. Davis
Employee, District Attorney's Office

KM//ed



1 ALMASE LAW
2 CAESAR ALMASE, ESQ.
3 Bar No. 7974
4 526 S. 7th Street
5 Las Vegas, NV 89101
6 (702) 463-5590
7 Attorney For Defendant

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

10 STATE OF NEVADA,
11
12 Plaintiff,
13
14 v.

15 DUSTIN LEWIS,
16 #7030601
17 Defendant.

)
)
) Case No.: C-19-340051-1

)
) Dept. No.: XXIV

)
) **DEFENDANT DUSTIN LEWIS MOTION TO**
) **SUPPRESS EVIDENCE BASED ON FOURTH**
) **AMENDMENT VIOLATION AND FRUIT OF**
) **THE POISONOUS TREE DOCTRINE**
)

18 COMES NOW Defendant, DUSTIN LEWIS by and through his attorney of record,
19 CAESAR ALMASE of ALMASE LAW, and hereby files DEFENDANT DUSTIN LEWIS MOTION
20 TO SUPPRESS EVIDENCE BASED ON FOURTH AMENDMENT VIOLATION AND FRUIT OF
21 THE POISONOUS TREE DOCTRINE. This Motion is based upon the instant motion, and
22 argument of Counsel at the time set for hearing of this motion.

23 DATED this 26 of February 2021.

24 By: 

25 Caesar Almase #7974
526 S. 7th Street
Las Vegas, NV 89101
(702) 463-5590
Attorney for Defendant

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

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

PLEASE TAKE NOTICE that the foregoing motion has been set for hearing on the
____ day of _____ 2021, at 8:30 AM in District Court XXIV.

DATED this 26 day of February 2021.

By: 

Caesar Almase #7974
526 S. 7th Street
Las Vegas, NV 89101
(702) 463-5590
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify I electronically filed the foregoing document with the Clerk of the
Court by using the electronic filing system on the 26 day of February 2021. Service
was made electronically and via email to:

Steven B. Wolfson
Clark County District Attorney
pdmotions@clarkcountyda.com

By: 

CAESAR ALMASE, ESQ.
Attorney For Defendant

RELEVANT FACTS

On December 8, 2018, at 10:17 AM, Officer Penney, with LVMPD, was dispatched to the StorageOne storage facility located at 9960 W. Flamingo Rd. to investigate a burglary to unit B-151. (Exhibit A, Declaration of Arrest, page 2) He contacted complaining witness Marc Falcone, the unit's renter, who had last been to the unit the previous day. (*Id.*) On the 8th Mr. Falcone received a phone call from a StorageOne employee saying his unit had been burglarized. (*Id.* at 3.) Mr. Falcone told officers he was missing 21 wristwatches worth an estimated \$2.173 million. (*Id.*) Further investigations revealed that, in addition to B-151, B-145 and B-147 had been burglarized on December 8; and units A-301, A-185, B-148, and B-259 were burglarized on December 6. (*Id.* at 3, 6.) Beyond Mr. Falcone's watches, he reported as missing a Panerai watch brand bag, watch boxes, duffle bag, and a briefcase that also had watches in it. (*Id.* at 4)

StorageOne stills from video surveillance showed two individuals, a white female adult and white male adult, entering the facility at 3:21 AM, on the 8th and leaving again at 4:43 AM, carrying several bags and pushing a wheelchair. (*Id.* at 3.) Detectives canvassed the area and learned from unidentified homeless people that the suspects may be homeless and living near the intersection of Tropicana and Fort Apache, which is approximately 2 miles from the StorageOne location. (*Id.*) Upon checking past crime reports and field interviews of homeless people in that area between Tropicana and Fort Apache, detectives found an interview from July 7, 2018, involving an Annie Bishop and a James Gregg who were homeless and matched the general description of the suspects. (*Id.* at 3, 4) The lead detective compared still shots from StorageOne surveillance to booking photos of Ms. Bishop and Mr. Gregg, determining there were similarities, but could not conclude these were the burglary suspects, due to the still shots being distant and the faces unclear. (*Id.* at

1 5). The detective did determine from surveillance that the suspects were carrying various
2 bags and an apparent chessboard (*Id.* at 5). Ms. Bishop and Mr. Gregg were never located.

3 On December 11, 2018, at 6:30 PM, officers re-canvassed the area around
4 StorageOne, attempting to locate Ms. Bishop and Mr. Gregg, and discovered a tent in a
5 fenced-off desert area east of the StorageOne facility. (*Id.* at 6.) Officers "decided to hop the
6 fence that surrounds the desert area and challenged the tent to see if anyone was inside.
7 There was no answer, so they unzipped the door of the tent to see if anyone was inside."
8 (*Id.* at 6) (emphasis added) Upon opening the tent, officers found no one home. However,
9 officers took the opportunity the unzipped and open tent afforded, looked inside, and saw a
10 wooden chessboard and watch boxes with one box that had "Panerai" written on it. (*Id.* at
11 6-7) Outside the tent approximately 25 yards east, a folded wheelchair was also seen. (*Id.*)

12 Based on the prior investigation and, significantly, the items officers saw inside and
13 outside the tent, a search warrant was sought and obtained. (Exhibit B, Tent Application,
14 Search Warrant, Return and Property Report) Officer Shark, in his application, stated he
15 was part of the flex team who saw the tent in the desert, and that officers attempted to
16 make verbal contact with the residents of the tent (*Id.* at 5, ln. 234-40) Receiving no
17 answer, the officer states that due to the "tent being in a fenced in private area, Officers
18 opened the front zipper flap to determine if there were occupants inside." (*Id.*, at 5, ln.
19 240-42) (emphasis added) Upon opening the tent and looking inside, officers saw the
20 watch boxes, one of which had "Panerai" written on it, and the chessboard they believed
21 was seen on video, while outside was the folded wheelchair. (*Id.* at 5, ln. 242-50)

22 During the processing of the tent and surrounding area, latent prints were
23 recovered from various items including the chessboard, a coin holder, blue bag, and red
24 jewelry cleaner jar from inside the tent. (*Exh. A*, at 7) Additionally, the wheelchair handles
25 were swabbed for DNA (*Id.*)

1 Later that night of the 11th, after property from the tent was impounded, officers
2 returned to the campsite, ostensibly to search for Officer Shark's lost cell phone. (*Id.* at 7-8.)
3 They discovered the scene had been disturbed since the earlier departure. (*Id.* at 8.) While
4 at the campsite, they heard an alarm sound from inside StorageOne, but officers did not
5 locate any suspects inside the facility. (*Id.*) Instead, officers saw a black Lincoln Navigator
6 parked nearby. (*Id.*) Officers sealed the vehicle and towed it to a secured lot, anticipating
7 searching it the following day. (*Id.*) In the nearby Chevron gas station parking lot, officers
8 saw two black male adults get into a silver Nissan Altima with a Lyft sticker and drive away,
9 but did not investigate them. (*Id.*)

10 On December 12th at 1:02 AM, a "Chris Jones" called to report a robbery at 9920 W.
11 Flamingo Rd., at the Chevron just east of the StorageOne facility. (*Id.* at 8) He reported two
12 homeless men with a handgun and sawed-off shotgun took his phone and wallet and were
13 in a silver Nissan Altima with a Lyft sticker. (*Id.* at 8-9.) The person reporting said he was
14 now at his apartment at the Eagle Trace Apartments, 5370 East Craig Road. (*Id.* at 9.) The
15 Lincoln Navigator had a parking tag for the same apartment complex. (*Id.*) Surveillance
16 video from the StorageOne facility showed the same apparent white male from prior video,
17 as well as the black males from the Nissan on the property. (*Id.*)

18 Officers identified one of the black males as Tyree Faulkner and interviewed him.
19 (*Id.* at 9-10.) He would admit to fabricating the robbery incident, and was with his cousin
20 who knew a homeless white couple, who paid them \$500.00 to drive them around; the
21 white female had tried to sell a watch, but decided against it. (*Id.* at 10-11.) Later, the white
22 male offered Mr. Faulkner and his cousin each a \$1000.00, to drive them around. (*Id.* at 11.)
23 They went to the storage facility where the white male used a pair of bolt cutters to cut the
24 hasp of a lock on a unit. (*Id.*)
25

1 A search warrant of the Lincoln Navigator was issued based on the information Mr.
2 Faulkner provided, the previous investigation completed, and notably, the application
3 references a "bag of clothing sitting on the ground to the rear of the Navigator." (Exhibit C,
4 Navigator Application, Search Warrant, Return and Property Report, at 9) According to a
5 detective present during the search of the tent a few hours earlier, he recognized it as one
6 of the bags he saw at the campsite. (*Id.*) Upon searching the Navigator, officers found two
7 watches that later were determined to have the fingerprints of Mr. Faulkner and Thomas
8 Herod, and other miscellaneous items (*Id.*).

9 Of significance to the instant motion, later this same day, the latent prints from the
10 tent were processed, showing Ms. Ornelas' prints on the chessboard, and Mr. Lewis' prints
11 on a coin holder, blue bag, and red jewelry cleaner jar. (*Exh. A*, at 11) Based on the recovery
12 of these prints, the lead detective made a forensic request for the prints recovered from the
13 StorageOne facility to be matched against them; while a comparison of the prints of Messrs.
14 Faulkner, Bishop and Gregg was also requested (*Id.* at 12)

15 Subsequent investigation indicated Ms. Ornelas was located in downtown Las Vegas,
16 and surveillance located her near the Fun City Motel at 2233 South Las Vegas Boulevard.
17 (*Id.* at 12.) On December 14, she was taken into custody there, and application for a search
18 warrant for the hotel room and Ms. Ornelas' DNA was made. (Exhibit D, Motel Room
19 Application, Search Warrant, and Return) Notably, the applying detective referenced the
20 search of the tent, the items recovered inside including the watch boxes, chessboard, coin
21 holder and bags (*Id.* at 4, ln. 159-70) Then the Applicant tells the judge that latent prints
22 were recovered from the tent property, which returned to Ms. Ornelas and Mr. Lewis (*Id.* at
23 4, ln. 186-89) The search warrant was granted and among the numerous items seized and
24 listed on the Return were 3 watches which were determined to belong to Mr. Falcone. (*Exh.*
25 *D*, at 10)

1 On January 9, 2019, the lead detective received a forensic report on the prints
2 recovered from StorageOne, indicating Mr. Lewis' hand print and Ms. Ornelas' thumb print
3 were on the outside wall of unit B-145. (*Exh. A* at 14) According to the lead detective, "That
4 now placed both Lewis and Ornelas at the scene of the original burglaries to Blutman,
5 Rodrigue and Falcone's units." (*Id.*) Based on this new development of Mr. Lewis as a
6 suspect, officers began a search of him which led them to his mother's address which
7 resulted in his arrest for parole violation. (*Id.*)

8 The lead detective then interviewed Mr. Lewis about various aspects of this case
9 including the mode of the burglaries, his hand print at StorageOne, the tent, and the items
10 seized from it, including his fingerprints. (*Id.*, at 14-15) While Mr. Lewis denied
11 involvement in these burglaries and made no admissions of guilt, the lead detective
12 repeatedly said he was lying, offered to lessen his incarceration if Mr. Lewis would return
13 the watches, and generally made comments meant to elicit an admission of guilt. (*Id.* at 15)
14 At one point, the detective asked him who had the watches and Mr. Lewis said to talk with
15 Ms. Ornelas (*Id.*) After the interview, the lead detective re-booked Mr. Lewis for the instant
16 charges. (*Id.*)

17 MEMORANDUM OF POINTS AND AUTHORITIES

18 LAW

19 The Fourth Amendment to the United States Constitution protects citizens, persons
20 and property from unreasonable searches and seizures by government agents except after
21 obtaining a warrant supported by probable cause. Probable cause exists when "there is a
22 fair probability that contraband or evidence of a crime will be found in a particular place."
23 *Illinois v. Gates*, 462 U.S. 213, 238 (1983). Evidence obtained as a result of an illegal search
24 is subject to exclusion, as is evidence later discovered and "derivative of an illegality" as "fruit
25

1 of the poisonous tree." *Segura v. United States*, 468 U.S. 796, 804 (1984) (quoting *Nardona*
2 *v. United States*, 308 U.S. 338, 341 (1939)).

3 A person has a subjective expectation of privacy in a tent and its contents where
4 that person manifests such expectation, such as by leaving it closed. *Alward v. State*, 112
5 Nev. 141, 150, 912 P.2d 243, 249 (1996), *overruled on other grounds by Rosky v. State*, 121
6 Nev. 184, 111 P.3d 690 (2005); *see also United States v. Gooch*, 6 F.3d 673, 676 (9th Cir.
7 1993). The Fourth Amendment "protects people, not places." *Gooch*, 6 F.3d at 676-77
8 (quoting *Katz v. United States*, 389 U.S. 347, 351 (1967)). "Simply because [the defendant]
9 camped on land [owned by another] does not diminish his expectation of privacy." *Alward*,
10 112 Nev. at 150, 912 P.2d at 249. Warrantless searches of tents, therefore, violate the
11 Fourth Amendment. *Id.* (relied on by, *e.g., Haley v. State*, 696 N.E.2d 98, 101 (Ind. 1998);
12 *State v. Pulse*, 925 P.2d 797, 813 (Hi. 1996)).

13 Though it cannot be secured by a deadbolt and can be entered by those who
14 respect not others, the thin walls of a tent nonetheless are notice of its
15 occupant's claim to privacy unless consent to enter be asked and given. One
16 should be free to depart the campsite for the day's adventure without fear of
17 this expectation of privacy being violated. Whether of short or longer term
duration, one's occupation of a tent is entitled to equivalent protection from
unreasonable government intrusion as that afforded to homes or hotel
rooms.

18 *People v. Schafer*, 946 P.2d 938, 944 (Colo. 1997) (citing *Alward*, 112 Nev. at 150, 912 P.2d
19 at 249).

20 APPLICATION

21 The search of the tent, the car, and motel room were violations of the Fourth
22 Amendment of the United States Constitution, and the items and physical evidence
23 obtained as a result should be suppressed as fruit of the poisonous tree. Mr. Lewis
24 concedes he does not have a reasonable expectation of privacy in Mr. Faulkner's Navigator,
25 the hotel room Ms. Ornelas occupied, or her DNA. However, Mr. Lewis, like all people

1 afforded the protection of the Fourth Amendment of the US Constitution, absolutely had an
2 expectation of privacy in the home he maintained during this case, his tent. Officers
3 unzipped his tent in clear violation of the Fourth Amendment and case law. As such, every
4 tangible piece of property illegally seized from the tent and surrounding area, and any
5 physical evidence recovered including Mr. Lewis' fingerprints and DNA swabs should be
6 suppressed.

7 As *Alward* and the related cases show, the occupants of a tent, irrespective of
8 whether the tent is on private or public ground, have a legitimate expectation of privacy.
9 The *Alward* Court found their defendant, like Mr. Lewis, had a subjective expectation of
10 privacy evidenced by the leaving of his tent zipped and closed, and had an objective
11 expectation of privacy which was not diminished because the tent was on land managed by
12 the Bureau of Land Management. 112 Nev. at 150, 912 P.2d at 249 Insofar as expectations
13 of privacy, Mr. Lewis, is similarly situated here and *Alward* is on all fours with this issue.

14 Mr. Lewis also seeks to suppress, under the Fruit of the Poisonous Tree Doctrine
15 espoused in *Segura v. United States*, 468 U.S. 796, 804 (1984): his hand print recovered
16 from StorageOne; his entire interview; all documents, statements, and any other tangible
17 evidence relating to his identity; and any evidence from the search of the Navigator and the
18 Fun City Motel that the State intends to use against Mr. Lewis at trial. As the US Supreme
19 Court held in *Segura*, "evidence later discovered and found to be derivative of" an illegal
20 search or seizure must be excluded, as well as any primary evidence directly obtained from
21 the illegality. (*Id.* at 468 US 797) This directive, by necessity, includes all the above items
22 sought to be suppressed. It would go against established case law and defeat the purpose
23 of Fourth Amendment protection, to allow admission of these secondary items of evidence
24 against Mr. Lewis with the taint of illegality permeating into them as well.
25

1 Mr. Lewis was established as a possible suspect, solely from the prints recovered
2 from the tent, which was opened in violation of the Fourth Amendment. There simply was
3 no other mechanism by which Mr. Lewis would have been identified. The investigation
4 performed right up until the moment officers unconstitutionally opened the tent, led them
5 to Ms. Bishop and Mr. Gregg, and these two individuals were removed as suspects as a
6 result of this intrusion into Mr. Lewis' home. Therefore, all evidence that flowed and was
7 derived from this identification should be suppressed as well.

8 **CONCLUSION**

9 This Honorable Court should order the suppression of the tangible property and
10 physical evidence recovered from Mr. Lewis' tent and surrounding area, as these items
11 were seized in violation of the Fourth Amendment of the US Constitution and the *Alward*
12 case. By extension under the Fruit of the Poisonous Tree doctrine and the *Segura* case, Mr.
13 Lewis' hand print, his interview, all documents, statements, any other tangible evidence
14 relating to his identity, and any evidence from the search of the Navigator and the Fun City
15 Motel that the State intends to use against Mr. Lewis at trial must be suppressed as well.
16

17 DATED this 26 day of February 2021.

18 By:



Caesar Almase #7974
526 S. 7th Street
Las Vegas, NV 89101
(702) 463-5590
Attorney for Defendant

EXHIBIT A

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF ARREST REPORT**

☒ County Jail ☐ City Jail ☒ Adult ☐ Juvenile Bureau: SVAC

ID# 7030801		EVENT # 181200033889		ARRESTEE'S NAME (LAST) Lewis		ARRESTEE'S NAME (FIRST) Dustin		ARRESTEE'S NAME (MIDDLE) 		SSN# [REDACTED]
RACE W	SEX M	DOB 03/12/1983	HGT 6'2"	WGT 180	HAIR BRO	EYES HZL	POB Fresno, CA			
ARRESTEE'S ADDRESS Transient						CITY Las Vegas		STATE NV		ZIP CODE 89101
OCCURRED DATE: 12/08/2018 TIME: 03:21		ARREST DATE: 01/16/2019 TIME: 12:00		LOCATION OF ARREST (NUMBER, STREET, CITY, STATE, ZIP CODE) 330 Casino Center, Las Vegas, NV 89101						
LOCATION OF CRIME (NUMBER, STREET, CITY, STATE, ZIP CODE) 8960 W. Flamingo Road B-151, Las Vegas, NV 89147										
CHARGES / OFFENSES Burglary (First) / NRS 205.060.2 (two counts) Burglary (First) / NRS 205.060.2 Grand Larceny > \$3,500.00 / NRS 205.222.3 Conspiracy Burglary / NRS 205.060.2 Burglary (First) / NRS 205.060.2 Conspiracy Burglary / NRS 205.060.2										
CONNECTING REPORTS (TYPE OR EVENT NUMBER) ICR, Voluntary Statements, Property Report, Search Warrants - 181200033889; ICR, Voluntary Statement - 181200034924; ICR, TCP, DOA, AR, Search Warrant, Property Report - 181200061857; Vehicle Impound										

The undersigned makes the following declarations subject to the penalty of perjury and says: That I am a peace officer with the LVMPD, being so employed for a period of approximately 18 year(s).

That I learned the following facts and circumstances which lead me to believe that the above named subject committed or was committing the offenses above at the location of 8960 W. Flamingo Road #B-151, LV, NV 89147 and that the offense(s) occurred at approximately 03:21 hours on the 8th day of December, 2018.

Details for Probable Cause:

Officers Involved:

Detective E. Grimes	P# 6729
Detective A. Archer	P# 6403
Detective M. Saunders	P# 6076
Detective T. Linder	P# 9848
Detective Z. Davis	P# 13944
Detective B. Jones	P# 9679
Detective B. Rose	P# 9681
Sgt. J. Glover	P# 13976
Officer A. Shark	P# 14815
Officer J. Ellis	P# 9298
Officer M. O'Connor	P# 14817
Officer R. Tighe	P# 15849
Detective J. Zinger	P# 9298
Officer C. Penney	P# 15844
Officer J. Luoto	P# 17324
Officer A. Elkind	P# 14749

Other LVMPD Personnel Involved:

Crime Scene Analyst W. Scharpf	P# 16762
Crime Scene Analyst T. Olson	P# 16652
Crime Scene Analyst G. Tapay	P# 15709
Crime Scene Analyst B. Grover	P# 4934

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

LVMPD 1008 (Rev. 1-18)

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT**

HEADER
Page 2 of 15

Crime Scene Analyst E. Stephens P# 5158
Forensic Scientist II L. Manigault P# 15987
Forensic Scientist I J. Haines P# 9931

Victims:

Marc Falcone
03/18/73
52 Wildwing Ct, Las Vegas, NV 89135

Michael Rodrigue
11/25/47
32 Garden Rain, Las Vegas, NV 89135

Rita Yvonne Rodrigue
06/29/50
32 Garden Rain, Las Vegas, NV 89135

Kenny Blutman
07/02/83
10340 Heale Garden Ct, Las Vegas, NV 89135

Grit Koppetz
12/22/80
3200 McLeod #266, Las Vegas, NV 89121

Contacts:

Jennifer Schacht
07/22/84
52 Wildwing Ct, Las Vegas, NV 89135

Nedy Mecedo
04/30/85
9960 W. Flamingo Road, Las Vegas, NV 89147

Lee Preble
8105 S. Durango Drive #100, Las Vegas, NV 89113

Don Merchant
4240 W. Flamingo Road #100, Las Vegas, NV 89103

Tony Castillas
8920 W. Flamingo Road, Las Vegas, NV 89147

Arsen Urfalyan
8425 W. Flamingo Road #5, Las Vegas, NV 89147

Details:

On December 8, 2018, at approximately 10:17 hours, Officer C. Penney, P# 16844, was dispatched to the StorageOne storage facility, located at 9960 W. Flamingo Road, Las Vegas, NV 89147, in response for a burglary to unit B-151, under LVMPD event 181200033889.

When Officer Penney arrived, he made contact with Marc Falcone, who was the renter of B-151. Falcone had last been to that unit on December 7, 2018, at approximately 14:45 hours. Falcone left his storage unit secured. On

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are a misdemeanor).

[FOOTER/TEXT]

LVMPD 802 (Rev 02/18) Word 2013

19F00933B - ORNELAS, MARGAUX

Page 30 of 167

AA 000177

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

HEADER
Page 3 of 15

December 8, 2018, at approximately 09:48 hours, Falcone received a call from StorageOne employee Nedy Macedo, informing him that his unit had been burglarized.

Falcone's girlfriend, Jennifer Schacht, was also on scene and had told Officer Penney that she had talked with Macedo and that Macedo stated that their video surveillance showed two subjects entering the facility from the southwest corner, by the main office, at approximately 03:21 hours on December 8, 2018. Macedo also advised that there was a door activation alarm on unit B-147 at 04:03 hours. A second alarm was set off on the target unit, B-151, at 04:37 hours. The same subjects were seen leaving the facility at 04:43 hours with several bags and a wheelchair, exiting the facility and heading west on Flamingo Road.

Falcone had told Officer Penney that he was missing 21 high-end, rare, collectable wrist watches with an approximate value of \$2,173,000.00.

Officer Penney completed a report for Burglary under event 181200033889.

Sgt. M. Ibarra, P# 8103, and Detectives B. Jones, P# 9879, and B. Rose, P# 9861, responded to the scene. They learned that there were actually three storage units that had been burglarized. They were units B-146, B-147 and B-151. They ensured that the scene was processed by Crime Scene Analyst W. Scharpf, P# 16762.

Detective Jones was able to get a detailed list of stolen watches from Falcone. He also was able to get some still shots from the facility's video surveillance, which he later had uploaded into the LVMPD electronic patrol briefing system. The briefing entry described the suspects, with the first being described as a white female adult, mid-30's to 40's, light-colored hair in a ponytail, wearing a dark-colored jacket, pushing a wheelchair, and the second being described as a white male adult, mid-30's, short dark-colored hair, dark-colored hoodie, dark-colored jeans.

Sgt. Ibarra and Detectives Jones and Rose also canvassed the surrounding businesses for more video surveillance, but were unsuccessful in locating any.

On December 8, 2018, at approximately 16:04 hours, Officers J. Luoto, P# 17324, and A. Elkind, P# 14749, completed a crime report for Burglary under LVMPD event 181200034974. That report was for Michael Rodrigue, who was the renter of unit B-147. The officers were requested by Detective Jones. The report states that Rodrigue and his wife, Rita Yvonne Rodrigue, had inspected their unit and their belongings had been moved, but at that time they were not sure if anything had been stolen. Both had told the officers that entry into the unit appeared to have been made through a hole cut in the wall coming from an adjacent storage unit.

Later that afternoon, swing-shift detectives responded to canvass the area as well, trying to locate the two subjects, who appeared to possibly be homeless individuals. Detective T. Linder, P# 9848, spoke to a homeless person at the McDonald's across the street and had described the individuals we were looking for and was told that the subjects were homeless and that they lived in the area near Fort Apache and Tropicana.

Detective Linder went to Fort Apache and Tropicana and located another homeless person there that told him he had seen a blonde female in a wheel chair being pushed by a white male adult in that area. The area was checked for the two subjects, but they were not located.

Detective Linder returned to his office and conducted a records check of our crime reports and field interviews and located a field interview of a white female that was stopped in the area of Fort Apache and Tropicana named Annie Bishop, born 06/16/64, ID# 5699431, who was with her husband, James Gregg, born 12/29/86, ID# 7046098. Detective Linder was able to pull up prior booking photos for both and Bishop had blonde hair with dark roots that he thought could possibly be a match for the female in the surveillance photos, who also had blonde hair with dark roots. Gregg also had short brown hair, which the male in the video surveillance also had.

On December 10, 2018, I, Detective E. Grimes, P# 6729, was assigned Falcone and Rodrigue's cases. I checked to see if the crime scene report and photos had been uploaded into Onbase, but all I found were the video surveillance still shots that had been uploaded by Detective Jones. The crime scene report and photos had not been uploaded into Onbase yet.

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

(FOOTNOTES)

LVMPD 002 (Rev 02/10) Word 2013

19F00933B - ORNELAS, MARGAUX

Page 31 of 167

AA 000178

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

HEADER
Page 4 of 15

I was also advised that the lock to unit B-151 was found inside the unit with a key in the lock.

I had received a list of the watches that had been stolen that was sent by Detective Jones to our Investigative Specialist, B. Williams, P# 7517. The list had make/model/serial numbers/values/ and descriptions. There was also a list of photos of similar watches to those stolen that Falcone had also sent to Detective Jones. I had B Williams enter the watches into NCIC for those that had serial numbers.

This is a list of the watches that were stolen:

Richard Mille/Felipe Massa, RM11, s/n - 4389 #3 of 50, \$185,000.00
Vacheron, 5000/000PB048, s/n - 1353947, \$160,000.00
Urwerk, 202 White Shark, s/n - #6 of 12, \$27,000.00
Audemar Piguet, LE100 Royal Oak Ceramic Perpetual Calendar, s/n - J63429, \$160,000.00
Rolex, white gold Skydweller 118509, s/n - 207231DO, \$44,000.00
Patek, 6170P, s/n - 316026, \$86,400.00
Patek, 6990, \$64,500.00
Audemar Piguet, Pablo Montoya, s/n - 94, \$80,000.00
Greubel Forsey, 24 Secondes, s/n - #14, \$300,000.00
Greubel Forsey, GMT, s/n - #19, \$300,000.00
Patek, 6650G, s/n - 7098449, \$160,000.00
Patek, 5168G, s/n - 7119236, \$65,000.00
Panerai, PAM 692 BMG, s/n - 0392, \$13,000.00
Panerai, PAM 721, s/n - 0394, \$10,000.00
Panerai, PAM 767, s/n - 005, \$140,000.00
MB & F, Legacy Perpetual, s/n - 03W63223, \$150,000.00
H. Moser Cie, Flying Endeavour, s/n - 200116474, \$27,000.00
Richard Mille, RM11-03, s/n - RM11-03T150, \$165,000.00
Panerai, PAM 375, s/n - 0954, \$12,300.00
Panerai, PAM 725, s/n - 067, \$17,300.00
A. Lange & Sohne, Datograph Perpetual Tourbillon, s/n - 228071, \$300,000.00

I contacted Falcone by phone and asked if he was missing anything other than wrist watches. He told me only some minor items. I explained that I had seen some still shots from the storage facility's video surveillance and it showed the suspects with a wheelchair that had what looked like a large chessboard in it. Falcone told me he had actually seen the video when he was at the facility on the day of the burglary and thought it was a chessboard too. I asked if it was his and he said it was not. He said he was missing a couple bags, one was a Panerai bag that was white with blue trim, which had two watch boxes inside of it, and a black canvas duffle bag. He was also missing a leather briefcase that had a couple watches inside, and he was also missing a couple watch boxes that were approximately 18" x 14".

I had asked Falcone why he had such valuable items inside a storage unit. Falcone explained that he was building a new home and actually had four storage units rented at this location. He said he had a handyman put together four shelving units, which he loaded up with his watch collection. Most of his watches come in wooden boxes that take up a lot of space. He also had two safes with watches inside the unit as well. He said he just did not have the space for all of those items at the home he was currently staying in.

I asked Falcone about the lock with the key in it. He told me that he had three sets of keys but could not find one of his set of keys. He said he normally keeps his keys on a lanyard that he keeps around his neck, since he has four units. He wasn't aware of how one of his keys could have been taken.

I also found the field interview that Detective Linder had found regarding Bishop and Gregg, which was from July 7, 2016, under event 188707-2623. The narrative states that Bishop's mother had called the police to set her daughter up to be arrested for some outstanding warrants she knew her daughter had. Bishop's mother wanted

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

(FOOTER TEXT)

LVMPD 602 (Rev 02/18) Word 2013

19F00933B - ORNELAS, MARGAUX

Page 32 of 167

AA 000179

CONTINUATION REPORT

HEADER
Page 5 of 15

her daughter off of the streets because she was homeless, a drug user, and wanted her away from her husband, James Gregg.

The field interview didn't list Gregg's date of birth or ID#, but I found domestic violence report between the two that occurred on March 14, 2018, under event 180314-2267, which listed Gregg's date of birth.

I also was able to view both of their booking photos and compared them to the video surveillance still shots that Detective Jones had uploaded into Onbase. The video surveillance photos are a distant shot and the faces of the subjects cannot be seen clearly. Bishop does look similar to the female in the photos, but I could not say for sure they were the same person. They both had blond hair with dark roots and a similar body build. The male suspect's face in the photos had no clear details and all I could say was that he had short dark brown hair, which Gregg also had, and their builds appeared to be similar, but I could not say for sure they were the same person.

I conducted a records check on both in our pawn shops and Bishop had not pawned anything since January of 2018, and Gregg had last pawned something on November 30, 2018. The phone number listed on that pawn transaction also matched the phone number listed for Gregg in the Domestic Violence report, listed as a cellular number.

I also found that Gregg was currently wanted for Conspiracy Burglary, Domestic Battery and some traffic violations.

Since both were homeless, I had no address for either and had both flagged in SCOPE that if located I should be notified.

I also had our FLEX Squad at our station, commanded by Sgt. J. Glover, P# 13976, attempt to locate Bishop and Gregg, but they were unsuccessful.

I decided to apply for a precision pen register on Gregg's phone, to find him for his outstanding warrants, thinking that if we locate him quickly, Bishop would probably be with him, and then I could interview both regarding the burglaries and if they were responsible, they might still have some of the stolen property. While preparing the affidavit, I spoke with Detective Linder to get the details of what he had done first hand. He told me that when he initially responded to the area of Flamingo and I-215, he had attempted to canvass the area, speaking with homeless individuals. He told me that he would describe the male and female suspects and that they had a wheelchair, asking if that sounded like anyone they knew. He found a homeless female, who he did not identify, that recognized the description as matching a couple that stayed in the area of Fort Apache and Tropicana. Detective Linder then went to that area to canvass the homeless. He found a male, who he also did not identify, that recognized the description, telling him that he believed they came by his camp with the wheelchair earlier that day. Detective Linder then attempted to locate the subjects in that area but was unable to find them. Detective Linder then returned to his office and started checking the crime reports and field interviews and that is when he found Bishop and Gregg, who he thought could possibly be a match for the suspects in the photos. His partner, Detective Z. Davis, P# 13944, took booking photos of Bishop and Gregg and started walking the bicycle/jogging path that parallels the I-215 from Flamingo to Tropicana, canvassing the homeless along that path looking for Bishop and Gregg and also showing the photos to any homeless individuals he found.

I contacted Detective Davis and he told me he found a homeless male named Ethan Riggs, born 09/16/89, in the area of Fort Apache and Tropicana, who recognized the photo of Gregg, saying he knew him as "Shamus" and that he and his wife usually stay in a RV that is usually parked in the Walmart parking lot nearby. Detective Davis had asked if he ever saw them with a wheelchair and Riggs had said he never saw them with a wheelchair. Detective Davis attempted to locate the RV but found none in the parking lot.

I applied for the precision pen register which was authorized by the Honorable District Court Judge N. Aiff.

I had one of my partners, Detective M. Saunders, P# 8076, go to the StorageOne to get me a copy of the video surveillance. Detective Saunders obtained the video and e-mailed it to me.

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

(FOOTERTEXT)

LVMPO 002 (Rev 09/14) Word 2013

19F00933B - ORNELAS, MARGAUX

Page 33 of 167

AA 000180

CONTINUATION REPORT

HEADER
Page 6 of 15

I viewed the video surveillance from two different camera views and it showed that at approximately 03:21:24 hours on December 8, 2018, the white male enters the property from the pedestrian gate that is located on the southeast part of the office building. The male is seen wearing a dark-colored jacket with possibly a hooded sweatshirt underneath, hood up, and dark-colored pants, carrying nothing. At approximately 03:21:39 hours, the female can be seen entering the same gate, wearing a large dark-colored jacket, dark-colored shirt, dark-colored pants, hair pulled back into a ponytail, pushing a wheelchair that is empty. On a different camera that appears to be between two rows of storage buildings, at approximately 04:43:17, the couple can be seen together. The female now has what appears to be a large chessboard in the wheelchair, with some type of bag hanging off of the side of the wheelchair. The male is wearing a different jacket and is carrying what looks like a light-colored duffel bag in his left hand, with two bags hanging off of his right shoulder, one that appears to be a black briefcase and the other some medium-colored (night vision camera is distorting the colors) duffel bag. At approximately 04:43:35 hours on the camera by the pedestrian gate, the female can be seen pushing the wheelchair towards the exit gate. At approximately 04:44:40 hours, the male can be seen heading toward the exit gate and the jacket can be seen in color since the lighting is better and it appeared to be a green Army jacket and the male's pants appear to be blue jeans. The male also only had one bag strapped across his shoulder in front of his chest and the other two bags are no longer with him.

On December 11, 2018, I had checked our crime reports to see if I could locate the report for the third victim, but couldn't locate one. I contacted the StorageOne and told the employee that answered that I was investigating the burglaries that had occurred there and the employee asked me, "Which ones?" I asked what she was talking about and she explained that two days prior to the three units getting burglarized on December 8, 2018, there were four units that had been burglarized on December 8, 2018. I checked and did not find any crime reports for that day. The employee told me that they had tried contacting the four renters, but three were currently out of state and did not know what they were missing and the fourth never returned their calls. I asked what units had been burglarized and she told me unit A-301, rented by Jacob Battey, unit A-185, rented by Consuelo Cassara, unit B-145, rented by Michael Mossholder, and unit B-289, rented by Mark Rothermel. The employee also told me that from the December 8th burglaries, unit B-145 was rented by Kenny Blutman.

The employee told me that their video surveillance showed it was the same couple that did the burglaries on December 8, 2018. I asked if she could make a copy of the videos for me and she told me I would have to speak with Macedo, who was off, but would leave her a note for me.

I was able to get phone numbers for Blutman, Battey, Cassara, Mossholder and Rothermel. I called Blutman and he told me that he had inspected his unit, which only contained paperwork for an old business of his, and nothing appeared to be stolen. Of the others, I was only able to speak with Cassara, who confirmed she was currently out of state and didn't know if anything was missing, but was concerned about some crystal that she had inside the unit.

I also called Rodrigue to verify that he was not missing anything. He told me that they were only missing some miscellaneous items, nothing of any great value. I told him that there was video surveillance of the suspects and although he may think his items were not of much value, it might be important for my case. He told me he was missing a Disney collector doll, Lobitan collector doll, green Barbie doll, black briefcase, Thomas the Train toys, green Army jacket with "Rodrigue" on it, and a Madam Alexander doll. I asked if he was missing anything else and he said he did not think so. I asked if he was missing a chessboard and he said he forgot about that. He said his son had given him a large wooden chessboard/set that he had stored in the unit and forgot about that, but said it was also missing. I told him that was important to me because it can be seen on the video surveillance.

Later that evening, at approximately 18:30 hours, I was contacted by my sergeant, E. Wilds, P# 6801, who told me that Sgt. Glover and his squad had decided to re-canvass the area around the storage facility in an attempt to locate Bishop and Gregg. They had created an "Investigation/Follow Up" event under event number 181200048822. While walking along the bicycle/jogging path that parallels I-215, they located a tent that was in the desert area directly east of the StorageOne, north of the Chevron gas station that is also directly east of the StorageOne. They decided to hop the fence that surrounds the desert area and challenged the tent to see if

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

(FOOTERTEXT)

LVMPD 502 (Rev 0218) Ward 2018

19F00933B - ORNELAS, MARGAUX

Page 34 of 167

AA-000181

CONTINUATION REPORT

HEADER
Page 7 of 18

anyone was inside. There was no answer, so they unzipped the door of the tent to see if anyone was inside. There was nobody inside, but they saw a large wooden chessboard, which matched the one seen on the video surveillance still shot that was in the wheelchair being pushed by the female suspect. They also saw what appeared to be watch boxes and could see that one had "Paneral" written on it. They did not enter the tent. They also saw that about 25 yards directly east of the tent was a folded wheelchair that also looked like the one on the video surveillance photos.

I responded and assisted Officer A. Shark, P# 14815, on doing a telephonic search warrant for the tent, which we did under Falcone's original event, 181200033888. Officer Shark was the affiant on the search warrant, which was authorized by the Honorable Justice Court Judge J. Bonaventure.

We had CSA B. Grover, P# 4934, process the scene first. CSA Grover was able to lift latent prints off of several items, including the wheelchair near the handle, wood "Officine Paneral" box, green "Sears" box, white "Luxor" box, plastic case in black suitcase, plastic coin case in blue bag, "Prada" eyeglass case, chess set, red jewelry cleaner jar, and "Fossil" box. CSA Grover also swabbed the handles of the wheelchair for possible DNA.

We searched the tent and were able to recover the following items pursuant to the telephonic search warrant:

Wheelchair
Watch boxes
Black duffle bag
Army jacket with "Rodrigue" that had dog tags inside one of the pockets for "Michael Rodrigue"
Chessboard
White bag ("Paneral")
Black briefcase
Disney collectible doll (Mickey Mouse)
Watch box ("Gucci") with miscellaneous jewelry and cards with Falcone's name on them

There was also numerous other items of obvious value, consisting of a lot of costume jewelry, purse/bags, music box, paperwork with names of different people (including Jacob Battey, Vic & Micah Realica), electronics (cellular phones, laptops, e-readers, tablet computers, headphones), New Jersey driver's license for Eugene Langley, passport for a child named Andrew Zhao, numerous coin collection albums and cases (with most of the coins missing except for mainly pennies), sports card collection, and other miscellaneous items.

I decided that we would also impound the other items of value for safekeeping, since I knew that at least some of it belonged to other people and the rest could possibly belong to whoever was residing at the tent and we could not secure the tent to prevent anyone else from stealing the property.

We also found a business card for Las Vegas Jewelry Broker that had handwritten on it "Audemars Piguet Royal Oak off shore T-3 Titanium" written on it. That matched one of the watches that was listed on Falcone's report.

It was now approaching 23:00 hours and was getting late and was cold outside. We did not have the time to do a property report in the field for the large amount of property that we were taking for safekeeping, so I left a post-it note on the search warrant return, which basically stated we impounded a lot of property for safekeeping and to contact me if any of the property was theirs, with my office phone number.

We returned to our office, located at the Spring Valley Area Command, and unloaded all of the property into our evidence vault, and would do a detailed property report later.

I conducted a records check on the Las Vegas Jewelry Exchange (the business card found at the tent with "Audemar Piguet" written on it, but did not see any watches sold there since December 8th and also did not see any customers named Bishop or Gregg.

Officer Shark then noticed that he could not find his personal cellular phone. We all started looking for it, checking his vehicle, calling it to see if we heard it ringing anywhere, including the multiple boxes of property we wherefore. Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

[FOOTERTEXT]

LVMPD 002 (Rev 02/16) VWed 2013

19F00933B - ORNELAS, MARGAUX

Page 35 of 167

AA 000182

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

CONTINUATION REPORT

HEADER
Page 8 of 15

had in the evidence vault, but couldn't hear it. Officer Shark thought he may have possibly dropped it in the desert area around the tent, so he and one of his partners, Officer O'Conner, P# 14817, decided to return to the tent to look around for his phone.

They arrived back at the tent at approximately 23:45 hours. When they got to the tent, they noticed that the duplicate original we had left inside the tent was gone, but the return was still there. They also noticed that some miscellaneous items we had left, such as a pair of bolt cutters, some empty non-descript bags, dirty clothing, were now missing. At approximately 23:58 hours, they heard an alarm sounding off from inside the storage facility.

They walked back to their vehicle and drove into the storage facility and also requested available patrol units, but there were no clear units available. Sgt. Glover, the rest of his squad, and I headed back up to the storage facility and took up perimeter positions surrounding the facility. The Air Unit was requested as was two K-9 units.

I had taken up a position on the southeast corner, near the pedestrian and entrance gate. Sgt. Glover and a couple of his officers (Officers J. Ellis, P# 9288 and R. Tighe, P# 16840) were on the southwest corner of the facility. While K-9 officers were searching, Sgt. Glover and his officers noticed a matte black, Lincoln Navigator SUV parked on the west side of the west wall of the storage facility, which they thought looked suspicious because there was a bag, some paperwork, and a U-Haul key on the ground outside the vehicle. They looked into the vehicle and did not see anybody inside, but did see a man's wristwatch in a clear case on the front passenger seat. The vehicle had California license plate 8N9F287 on it, which returned to Edmund Wilson, 13835 Judah Avenue, Hawthorne, CA 90250.

I advised Sgt. Glover that since it was getting late, we should seal the vehicle and tow it to a secured lot so we could do a search warrant on it the following day.

I had also noticed that there was a U-Haul cargo truck parked in the parking lot of the Chevron and Popeye's Chicken directly east of me, and advised Sgt. Glover that once K-9 was done searching, we should check to see if the U-Haul key they found was for that vehicle.

While K-9 was searching, they advised that inside building B, they found the door to B-151 halfway open. I advised that was the same unit that had been burglarized before, which was Falcone's unit. They advised that there were shelving units full of boxes and a couple safes inside.

K-9 completed their search and did not locate anyone on property. After they gave the "all clear", Sgt. Glover and Officers Ellis and Tighe came over to my position with the U-Haul key. We talked for a moment and while talking, saw a silver Nissan with a "Lyft" sign in the front window pull into the Chevron and stop near the front doors. We saw two black males exit the business. One was a large male in his 20's, weighing over 300 pounds, wearing only a white tank-top undershirt and jeans. The other male was much shorter, medium build, wearing a white long-sleeved shirt and white pants. We all thought this looked strange to us because it was currently in the 40's outside and very cold, and neither of those males was wearing a jacket. The males got into the vehicle and it left the area.

We did not make contact with them because I know the suspects in this burglary were a white couple.

After K-9 left, we decided we were going to re-check the whole facility, thinking that this couple is homeless and has no vehicle and that possibly they could be hiding in some unlocked unit or inside one of the RV's parked in the lot. We did not find any unlocked units, but did find one RV that was unlocked, but found nobody inside of it.

While we were re-searching the complex, we also had a couple officers go back to re-check the tent and desert area to make sure they did not go back there.

At approximately 01:02 hours on December 12, 2018, a robbery incident was created under event 181200051353. The details of the call stated that it occurred at the Chevron, located at 9820 W. Flamingo Road, which was the Chevron just to the east of the StorageOne facility. It was called in by "Chris Jones", who advised a 15 minute

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

(FOOTNOTES)

LVMPD 802 (Rev 08/18) Word 2013

19F00933B - ORNELAS, MARGAUX

Page 36 of 167

AA 000183

CONTINUATION REPORT

READER
Page 9 of 15

time lapse and that two with firearms (handgun and sawed-off shotgun) had took his phone and wallet. He advised they would be en route to the McDonalds near Las Vegas Boulevard and Nellis, stating they were in a black, Nissan Altima, Lyft vehicle and using the Lyft driver's phone. The caller described the suspects as two homeless white males in their 30's, who were last seen heading into a Public Storage near the Chevron. An officer arrived at the McDonalds, but was unable to locate the person reporting. The person reporting called back and advised he was now at his apartment, located at the Eagle Trace Apartments, 5370 E. Craig Road.

Sgt. Glover contacted me and advised of the robbery call and also told me that the black Lincoln Navigator had a sticker on the window for Eagle Trace Apartments. We now suspected that the black males and the vehicle may be involved in the burglary to Falcone's storage unit that evening.

There was no StorageOne manager living on site and I called an emergency contact number for the business and spoke with Lee Preble, who was a manager at another location located at 5105 S. Durango Drive. Preble was aware of the prior burglaries at this location and told me he would respond and also had access to the video surveillance at this location.

Preble arrived a short time later and we were able to review the video surveillance from that evening. It showed that at approximately 23:43:18 hours the same white male from the video surveillance from the burglaries on December 8th was inside the property. He somehow triggered the west exit gate to open and walks out of the property. At approximately 23:49:34 hours, the same male somehow triggered the gate to open again and he walks back into the property. At approximately 23:49:46 hours, as the gate is closing, a second male enters the property, who I recognized as the large black male I had seen get into the Lyft vehicle at the Chevron, except he was wearing a black hooded jacket. At approximately 23:51:06 hours, that large black male walks over to the gate from the inside of the property, out of camera view, and then the gate opens again, and the male walks back into the property. At 23:51:21 hours, a third male runs into the property through the open gate. I recognized him as the smaller black male that got into the Lyft vehicle, except he was wearing a black jacket. At 23:59:23 hours, the white male and the large black male return to the gate, the black male triggers it to open and they leave the property. The smaller black male can be seen in the distance in the parking lot west of the west wall of the facility, which means he must have just jumped the west wall.

Preble showed me another camera that was from the interior of the facility that was between two buildings, and it is a better view of all three males. It showed that at approximately 23:49:49 hours, the white male walking with something long in his hand and wearing a backpack. The two black males follow the white male at approximately 23:51:25 hours. At approximately 23:59 hours, all three males are seen running back the way they had come.

Preble showed me a third camera angle that is from the east entrance gate, where the pedestrian gate is located. It showed the white male on property, walking toward the pedestrian gate at approximately 23:38:41 hours. The white male is seen walking back into the property at approximately 23:41:20 hours. At approximately 00:04:14 hours from December 12, 2018, Officers Shark and O'Connor are seen entering the property in their white, unmarked vehicle. At approximately 00:16:00 hours, I can be seen parked outside the entrance gate on a perimeter spot.

While Preble was showing me the video surveillance, he asked if I knew that the key and lock to Falcone's unit was found inside the unit on the day of the initial burglary. I told him I was aware of that. He asked if I knew that the key had one of their StorageOne key tags on it with "B-151" on it and I told him I was not aware of that because the crime scene photos had not been uploaded yet. He told me that they sell the locks with three sets of keys to the renters and will give them the key tags as a courtesy, but they do not write the unit numbers on the tags.

Sgt. Glover had received an update from the officer that was with the person reporting the robbery at Eagle Trace Apartments. The officer said he was with a large black male that he had identified as Tyree Faulkner and that Faulkner stated he had been with his cousin, who left prior to the officer arriving, in his black Lincoln Navigator when the two homeless males had robbed them at gun point. I told Sgt. Glover to advise the officer to take the male into custody for the burglary that occurred this evening and to have him transported to the Spring Valley Area Command.

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

[FOOTERTEXT]

LVMPD 902 (Rev 02/15) Word 2013

19F00933B - ORNELAS, MARGAUX

Page 37 of 167

AA 000184

VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

HEADER
Page 10 of 16

Officers Shark and O'Connor went to the Chevron to see if they could review video surveillance. The clerk advised them that he did not have access. The clerk also remembered the two black males that had been inside and he advised them that both had left their jackets behind and the officers recovered them.

I was then advised that Officer Ellis was approached by the driver of the silver Nissan Lyft vehicle, who had returned. He later told me that the driver pulled up to him and advised that he had picked up the guys we were looking for. Officer Ellis asked who he was referring to and the driver said he picked up two black males at the Chevron, who had asked to borrow his phone. He overheard them talking to each other saying that they needed to make a false police report for their vehicle being robbed. Officer Ellis asked the driver his name and the driver told him he did not want to be involved and drove off.

I had also tried calling Falcone earlier once I learned that his storage unit had been burglarized again. He was not answering, so I had to have officers go knock on his door and he later responded after Preble had shown me the video surveillance. I had already looked at Falcone's storage unit and it still had the shelving units full of watch boxes and the two safes inside. Falcone advised me that after the initial burglary on December 8th, he removed all of his watches, but had to leave the boxes and safes because he did not have room for them. He said tonight nothing was stolen.

I asked Falcone about the key found on the day of the original burglary, saying I just learned that it had his unit number written on it. Falcone said that he has four units on property and has a lanyard with all four keys, but that they did have the extra keys with the tags, but doesn't know how it could have been left there.

I requested a crime scene analyst to process Falcone's unit for the incident that occurred that evening. CBA E. Stephens, P# 6158, responded and processed it under the original investigation/Follow up event we were still on, 181200048822. I was with her when we examined Falcone's unit and it appeared that the heap that the pad lock would be on had been damaged so the lock could be removed. We could not locate any lock. Falcone later told me that he had two locks on the unit. CSA Stephens also photographed the vehicle prior to it being towed.

It was now approaching 04:00 hours and I contacted my sergeant, Sgt. E. Wilds, P# 6801, and told him what had occurred since we last spoke and that I was going to need some relief since I had been up so long. He called in two of my partners, Detectives A. Archer, P# 6403, and M. Saunders. I met with them at Spring Valley Area Command and Faulkner had also just arrived. I briefed them on what had occurred and explained that another burglary report would have to be done for Falcone's unit for the incident that occurred that evening and that the vehicle that was impounded would need to a search warrant done so it could be searched for evidence and property belonging to Falcone.

Detective Saunders and I then conducted a taped interview (audio/video) with Faulkner. The following is a summary of that interview and is not verbatim, please refer to the transcription for full details. Detective Saunders read Faulkner his Miranda rights and Faulkner understood them and agreed to talk with us. He initially told us about his robbery in detail and then I confronted him about the burglary, letting him know that I had seen him and the other black male getting into the Lyft vehicle and that I had video from the storage facility, showing they were on property with the white male. I also told him that a few days prior, that unit had been burglarized by the white male and a white female, where some expensive watches had been stolen, but that tonight nothing had been stolen. I asked him to just tell me the truth about what had occurred and to stop lying. He then confessed to his involvement in the burglary from that evening. He said he was not going to tell me who the black male, only saying it was his cousin. He also said he did not know the white couple, saying his cousin knew the male. Apparently his cousin had met the white male in jail.

Faulkner told me he had only been in Las Vegas for just over a month and wasn't familiar with the city and the roads. He said that he and his cousin had been approached by the white couple a few days prior, the white male asking if they could give them a ride to a few places. Faulkner said they were paid \$500.00 to drive the two around. He couldn't remember any specific addresses or business names, but did remember that they did go to some jewelry store where the female had tried to sell a watch, but didn't. He said she had walked out of the

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

[FOOTER TEXT]

LVMPD 002 (Rev 02/18) Word 2013

19F00933B - ORNELAS, MARGAUX

Page 38 of 167

AA 000185

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

HEADER
Page 11 of 15

business back to the white male and the employee was running after her, telling her he wanted to buy the watch, but he said the white male did not want to sell it. Faulkner said they parted ways later.

He then said he and his cousin were at some 7-11, somewhere on Las Vegas Boulevard (he didn't know which one), and went in to buy some juice to drink. The white male was on one of the "Buffalo" machines (keno type slot machine). The male approached them again, asked if they would be willing to give them some more rides. They asked what was in it for them and he said the male told them they could have some watches he had. They looked at them and he said they looked plastic and told him they were not interested in them. He said the male then offered them \$1,000.00 each, which they accepted.

Faulkner said all he could remember from that evening was that everything they did was along Flamingo Road on the right side. He said they wanted to buy some marijuana, so they stopped at some weed dispensary and the female went in and bought some. He said she mentioned that she had some fake ID that she used when she bought it.

He then said that they stopped at some other jewelry store but didn't sell anything. They then went up to where the storage facility was located and said the white male told them that he needed their help moving some things, and he and his cousin went inside with the white male while the female stayed at the vehicle. He said the male found a way to open the gate by pressing some button on the inside of the unit. He said they went into one of the buildings and the white male had a pair of bolt cutters, which he used to cut the hasp. He said there were two locks on the hasp and the white male just slid them off and put them into his pocket. He said the white male opened the door and the alarm sounded off. He said he was not concerned that the alarm was going off, but then a moment later he heard the police helicopter flying by and he and his cousin told the male they were leaving. He said the male and female had a backpack each, and that both were full of watches. He said the white male told him he needed to get his bags and he told the white male that the vehicle was unlocked. Faulkner said he and his cousin walked over to the Chevron, where he used the clerk's phone to call his girlfriend, who arranged to have a Lyft vehicle pick them up. He admitted that he made up the robbery incident, saying he knew we were going to find his vehicle and would eventually link it to him, so he figured he would give it a try, but figured we would be arresting him.

Detective Archer completed a new burglary report for Falcone's storage unit being burglarized that evening under event 181200051857. Detective Archer was also listening to our interview with Faulkner and he did the arrest of Faulkner for Burglary and Conspiracy Burglary.

Detective Saunders applied for a search warrant to search Faulkner's vehicle, which was a matte black, 1998, Lincoln, Navigator, California plate 6NJF287, vin - 5LMPU26L2WLJ54870. The warrant was approved and signed by the Honorable Justice Court Judge M. Toblason.

Detectives Saunders and Archer executed the search warrant and had the vehicle processed by CSA T. Olson, P# 16552. Faulkner's wallet with his identification was found inside. Two watches were also located. One was a Grubel Forsey, model 14, still in a plastic case, and the other was a Panerai, PAM 767, T005/100, Tourbillon watch. These matched Falcone's report and I later released them back to Falcone.

Later that afternoon we were also advised that the latent prints lifted at the tent had been entered into AFIS and two hits came back. Latent prints from the Chessboard came back as a match to Margaux Ornelas, SCOPE ID# 7032495, and latent prints from a coin holder, blue bag, and red jewelry cleaner jar came back as a match to Dustin Lewis, SCOPE ID# 7030601.

I returned to work on December 13, 2018, and pulled up the most recent booking photos for both. Ornelas is a white female with blond hair that has dark roots, born 03/27/77, 5'8" tall, and weighing 145 pounds. Lewis is a white male with short dark-colored hair, born 03/12/83, 6'2" tall, and weighing 190 pounds.

I conducted a records check on Ornelas and she currently had outstanding warrants for Domestic Battery and Non-Sufficient Funds/Check. I conducted a records check on Lewis and he was currently showing priority "5" through P & P, which meant that he was wanted for violating his parole.

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

[FOOTER TEXT]

LVMPD 012 (Rev 08/18) Word 2013

VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

HEADER
Page 12 of 15

I also checked Onbase to see if the crime scene report and photos from the original burglary to Falcone, Rodrigue and Blutman's units was completed, and found they were. I was able to view the crime scene photos and it appeared that Blutman's unit (B-145) was on the corner with his door facing east and was at the intersection of two aisles. Rodrigue's unit (B-147) was the next unit to the west, on the south side of the east/west aisle. Falcone's unit (B-151) was two units west of Rodrigue's unit. I could see that the metal wall above Blutman's unit had been pried loose somehow, giving access to his unit over the top of his rolling door. The suspect(s) would have had to climb over the door into his unit. Inside his unit, part of the metal wall on the west side, near the ceiling, was cut and pulled to the side creating a hole into Rodrigue's unit. Rodrigue's unit's door was found open, so the suspect(s) must have found a way to open the door from the inside. There was no entry into the unit between Rodrigue and Falcone's unit and no forced entry into Falcone's unit. I believe that Falcone may have either accidentally left his unit unlocked with the lock and key inside the unit, or left the key in the lock on the door. I also saw that one of the lock mechanisms on one of Falcone's safes was damaged and hanging by a wire, which showed the suspect(s) tried to break into the safe as well.

The crime scene report showed that latent prints were lifted from the exterior of Blutman's unit, as well as from inside of Falcone's unit. I made a forensic request to have Lewis, Ornelas, Faulkner, Bishop and Gregg's known prints compared to any latent prints lifted at the scene.

There are two marijuana dispensaries located on Flamingo Road. One is The Apothecary Shoppe, located at 4240 W. Flamingo Road #100, Las Vegas, NV 89103, and I spoke with the director of security, Don Merchant. I explained what I was investigating and he told me the other dispensary is not open at night, so most likely it would have occurred at his location.

We reviewed the video surveillance and at approximately 22:33 hours a matte black Lincoln Navigator parks in front of the business. There are four occupants inside. The rear passenger side door opens and then closes, and then the rear driver's side door opens and a white female exits. She is wearing a black beanie, camouflage jacket, blue jeans and light brown leather boots with fur trim. That female enters the business at 22:34:05 hours and Merchant saved off a still shot, which I immediately recognized as Ornelas. Ornelas waits in line, shows her identification and Merchant was able to check their log and said that the identification was in the name of "Grit Koppetz". Ornelas eventually makes her purchase and gets back into the vehicle and they leave.

Merchant provided me a copy of the video surveillance and a copy of the receipt.

I recognized the name Grit Koppetz as well. It was one of the customer's names that I had seen when I had looked into the Las Vegas Jewelry Exchange.

I returned to my office and conducted a records check on the name Grit Koppetz. I found that Koppetz was a victim of burglary under event 180905-1331, which occurred on September 1, 2018, at her business located at 3765 S. Las Vegas Boulevard, Las Vegas, NV 89109. The report states that her office was burglarized and her wallet was stolen, which had her Nevada driver's license, social security card, resident alien card, Germany driver's license, and \$30.00 in cash.

I called Koppetz and she said that she has no idea who committed her burglary and that there was no video surveillance.

I contacted Detective J. Zinger, P# 9206, who works on a surveillance squad. He had been advised of my case and was trying to locate Bishop and Gregg. I told him about the search warrant on the tent and that it appears that Bishop and Gregg are not actually involved in this case, letting him know that we recovered finger prints to another couple that matches the same description of the suspects (and Bishop and Gregg), and that I now needed to locate Ornelas and Lewis.

On December 14, 2018, Detective Zinger and his squad developed information that Ornelas was located in the downtown area. They conducted surveillance in that area and spotted a female that looked like Ornelas enter the Fun City Motel Apartment 110, located at 2233 S. Las Vegas Boulevard, Las Vegas, NV 89101. Detective Zinger Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

[FOOTERTEXT]

LVPD 802 (Rev. 08/18) Word 2013

2GAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

HEADER
Page 13 of 18

said he went into the office to see who was registered to that room and was told it was registered to Grit Koppetz. Detective Zinger said he exited the office and Ornelas was standing there, so he took her into custody.

Ornelas had dyed her hair dark brown, which means she was aware that the police were looking for her. I checked and Faulkner had since been released from CCDC, so he was the most likely source.

I was off that day, but had briefed Detective Jones of the new details on the investigation in case Ornelas or Lewis were caught while I was off. Detective Jones responded to the motel and applied for a telephonic search warrant to search the motel room, which was granted by the Honorable Justice Court Judge J. Bonaventure.

Detective Jones later advised me that they recovered three more watches that belonged to Falcons: Audemar Piguet (s/n - J83429), Panerai (s/n - 5067/200), and another Panerai (s/n - T0392/1000). He also said there was some other miscellaneous jewelry and baseball cards that did not belong to Falcons, as well as numerous identifications, credit/debit cards, etc. for other people, including Grit Koppetz's resident alien card, which was turned over to Fraud Detective D. Koop, P# 4882, for follow up.

Ornelas was arrested on her outstanding warrants and Lewis was not located. The Audemar Piguet recovered was the same model that was handwritten on the Las Vegas Jewelry Exchange business card we found at the tent.

I returned to work on December 17, 2018, and went to CCDC with Detective Saunders to interview Ornelas. I read Ornelas her Miranda rights and she said she understood them and wanted an attorney. I did not even get a chance to explain why I wanted to speak with her. I did learn that she had been sentenced on her Domestic Battery warrant and had to serve approximately four months in CCDC. I did not immediately re-book Ornelas because I wanted to wait for the forensic results on my print comparison from the scene of the original burglary to Falcons's unit.

I re-checked Ornelas, Lewis, Bishop, Gregg, Faulkner and the name Grit Koppetz in our pawn shops and all were still negative for any watches. The items that had been sold under Koppetz's name at the Las Vegas Jewelry Exchange had all been done prior to Falcons's burglary.

On December 19, 2018, I went to the Las Vegas Jewelry Exchange and spoke with the owner, Arsen Urfalyan. I looked at the jewelry that was sold to him under the name Grit Koppetz, but there was nothing unique about it that would allow me to determine if it belonged to someone else. I then explained my case to Urfalyan and told him that the person that presented the identification as Koppetz was not Koppetz. He said he thought the female matched the picture on the resident alien card. I then told him about his business card that was found with the specific watch written on it. He said he remembered that watch. He said a female had brought it in for him to look at, but he wasn't sure if it was the same female that used the Koppetz identification. He said he and his brother looked at the watch, saw that it was very expensive, but were not sure if it was authentic. He said he asked the female if they could keep it overnight so they could get a watch expert to examine and appraise the watch for them, but said she refused to let them do that. He said she left and never came back.

Urfalyan also let me look at all the jewelry they had in their safe and there were no watches. He also let me look at his video surveillance system, but he did not know the password. He said he and his brother bought the business from the prior owner in February of 2018, but that man had since passed away and his family did not know the password. I tried several generic passwords, but none worked and I was not even sure the system was even recording.

On December 26, 2018, I went to the Chevron at 9920 W. Flamingo Road, which is actually called "Haddies", and spoke with the manager, Tony Castillas. He was able to provide me video surveillance from the business from December 8, 2018, and December 11-12, 2018. The time shown on the video is approximately 13 minutes behind actual time.

The video from December 8, 2018, showed Ornelas and Lewis walking eastbound at approximately 04:32 hours (camera time), which is actually 04:45 hours, which matches with the StorageOne video. Ornelas is walking
Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

[FOOTERTEXT]

LVMPD 002 (Rev 02/18) Word 2013

VEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

HEADER
Page 14 of 18

along the sidewalk on the north side of Flamingo, pushing the wheelchair with the chessboard in the seat. Lewis is walking through the parking lot of Haddies, wearing Rodrigue's Army jacket, and it is definitely him and not Gregg. They both continue towards the Popeye's to the east of Haddies out of camera view. The easiest way to get to the tent camp site is to walk up a driveway between the Popeye's and the Dignity Health quick care located to the east of the Popeye's. The driveway heads north to a cell tower. There is a gate to the fence that surrounds the desert area that is not locked.

The video from December 11-12, 2018, actually started just after midnight on December 12, 2018, which is actually about 00:14 hours. I had gone back to have Casillas re-record the video to get the video from 23:30 - 00:00 on December 11, 2018, but when I picked up the video again, it still started just after midnight on December 12. The video does show that Lewis, Ornelas, Faulkner and the other black male are all together in the slot area. Ornelas is seen wearing the same outfit that she was wearing earlier in the video from the Apothecary Shoppe. It showed that Faulkner and the other black male take off their jackets and leave them in the slot area, later found by the clerk. It showed that Ornelas removed the camouflage jacket and Lewis puts it on. It showed that Ornelas and Lewis both have backpack and they leave the business at approximately 00:11 hours (00:24 actual), heading east on foot. It showed Faulkner and the other black male leave in the Lyft vehicle at approximately 00:42 hours (00:55 actual). All four walk by the register camera and I was able to print out very good still shots of their faces.

On January 8, 2019, I received a Report of Examination on my forensic request and it stated that one latent print lifted from the exterior wall of Unit B-145 north of the east facing bay door was identified to the right palm of Dustin Lewis (ID# 7030801). Another latent print lifted from the exterior wall of Unit B-145 north of the east facing bay door was identified to the right thumb of Margaux Ornelas (ID# 7032496).

That now placed both Lewis and Ornelas at the scene of the original burglaries to Blutman, Rodrigue and Falcone's units.

Later that evening, I was advised that Sgt. Glover and his squad had found a possible address for Lewis' mother, at 3212 Arlene Way #D, Las Vegas, NV 89108. They conducted surveillance there and a short time later saw a male that looked like Lewis riding on a bike, go into that apartment. They conducted a knock and talk and spoke with Lewis' mother who told them that he was inside. He had hid in the bathroom and his mother yelled at him to come out and he did and was taken into custody for his Parole Violation. He had no backpack on his person and no watches belonging to Falcone. His mother was cooperative and gave consent for the officers to search her apartment, vehicle and storage room at the apartment building and no stolen property was located.

The following day I received a Report of Examination from the latent prints lifted from the Lincoln Navigator. The report stated that multiple latent prints from the Graebel Forsey watch case were identified to the fingers of Tyree Faulkner (SCOPE ID# 7067032) and Thomas Herod (ID# 7052832).

I pulled up Herod's booking photo and immediately recognized him as the smaller black male in the videos. Herod was also showing that he was currently on probation. I checked Herod in the pawn shops and he was negative.

I compared Herod's arrest history to Lewis' arrest history and both were booked into CCDC on December 1, 2017, which confirms what Faulkner had told me.

I then went to CCDC to interview Lewis. I recorded the interview and will have it transcribed at a later date. The following is a summary of that interview and is not verbatim, please refer to the transcription for full details. I read Lewis his Miranda rights, which he said he understood, and explained my whole case to him. I explained that I could prove my case, that I knew all of the individuals involved, and that the reason I was here was to hopefully help him out by telling me where the watches were at. He told me nothing was going to help him. I asked if he wanted to be in prison and he told me he has spent his whole life in prison and was probably going to spend the rest of his life in prison. I explained that it looked like he was going to be going to prison already for his parole violation and that if my victim got his watches back, he could probably minimize his time in prison. Lewis denied stealing or selling any watches or even knowing where they were at. He denied breaking into the storage unit as well. I asked if he had ever been in that storage facility and he told me he has.

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

[FOOTNOTES]

LVMPD 002 (Rev 03/18) Word 2013

LEGAS METROPOLITAN POLICE DEPARTMENT
CONTINUATION REPORT

HEADER
Page 16 of 18

been in a storage facility on Cheyenne, near his mother's home, saying it was her unit. I told him he was lying, and told him again that his prints were found inside the storage facility on one of the units that was burglarized. He again denied stealing any watches. I showed him the crime scene report where his prints were identified on the units that were burglarized and video still shot of him and Ornelas at the Chevron, telling him I know he is lying about never being inside the storage facility and wanted him to tell me the truth. He continued to say he did not know anything about the theft. I asked him who had the watches and he told me to talk with Ornelas. I asked what she was going to tell me and he said he didn't know. He asked what proof I had and I told him I had his prints on the units from the day of the burglary and he asked how I knew they were not there from a year before. I explained that we also had his prints on property that was stolen from the units that was found in the tent. He then started to say he wasn't even sure what storage unit I was talking about and I described its location again and then he said he might have been in there before. I pulled up a map of the area and showed him where the tent was located and he said he wasn't sure if he was ever there or not.

Due to the above circumstances, I am re-booking Ornelas and Lewis for three counts of Burglary (First) and one count of Grand Larceny > \$3,500.00 and Conspiracy Burglary, for the burglaries to the three storage units (B-146, B-147, and B-151) that occurred on December 8th, 2018. I am also re-booking both for Burglary (First) and Conspiracy Burglary for the burglary to storage unit B-151 that occurred on December 11th, 2018.

I contacted Parole & Probation regarding Thomas Harod, and they are working on trying to locate him for me. I explained that I have probable cause to arrest him for Burglary (First), Conspiracy Burglary and Possession of Stolen Property > \$3,500.00.

***** End *****

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

[FOOTERTEXT]

LVMPD 002 (Rev 03/18) Word 2013

EXHIBIT B

FILED
 LAS VEGAS METROPOLITAN POLICE DEPARTMENT
 APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

2018 DEC 20 A 8:14

 JUSTICE COURT
 LAS VEGAS NEVADA

SW2018

3244

 STATE OF NEVADA)
 COUNTY OF CLARK) ss:

 BY DISBY

APPLICATION FOR TELEPHONIC SEARCH WARRANT

Det. Grimes: Okay. We are recording.

Ofcr. Shark: All right. Judge Bonaventure, for the record, this line is being recorded. Do I have your permission to continue?

Judge Bonaventure: Yes.

Ofcr. Shark: This is Officer Andrew Shark, P#14815, out of Spring Valley Area Command. I am making an application for a Telephonic Search Warrant pursuant to NRS 179.045 under LVMPD event number 181200033889. I am talking to Judge Bonaventure and the date is 12/11/18 and the time of this call is 2105 hours. Judge Bonaventure, could you please swear me in? My right hand is raised.

Judge Bonaventure: Do you swear to tell the truth, the whole truth, and nothing but the truth?

Ofcr. Shark: Yes, I do.

Judge Bonaventure: Thank you.

Ofcr. Shark: Judge Bonaventure, my application is as follows:

I, Officer Shark, P#14815, am employed by Las Vegas Metropolitan Police Department and have been so employed for the period of 5 years. I am currently assigned to the Spring Valley Area Command Flex Unit and have been assigned to this detail for 5 months. I am presently investigating the crimes of Burglary 1st and Grand Larceny > \$3,500, which occurred at 9980 W. Flamingo Road, Las Vegas, Clark County, Nevada on or about 0321 hours to 0444 hours on the 8th day of December, 2018.

There is probable cause to believe that certain property hereinafter described will be found at the following described premises to wit; a green and gray tent in the desert area directly

 SW2018-2244
 SW Search Warrant
 10323036


RECEIVED

DEC 18 2018

LAS VEGAS JUSTICE COURT

 RECEIVED IN JUSTICE COURT
 DEPARTMENT 9 CHAMBERS ON

DEC 19 2018

 RECEIVED IN JUSTICE COURT
 DEPARTMENT 9 CHAMBERS ON

DEC 18 2018

 IMAGED
 LG

AA 000192

47 North of 9920 W. Flamingo Road and South of CC215, Assessor
48 Parcel 163-18-414-004, Las Vegas, Clark County, Nevada 89147.
49

50 Further described as the tent is located in the middle of the West
51 wall bordering the property. The tent has a zipper zip up flap
52 facing East as the door. There is a metal wheelchair with black
53 seats located near the center of the desert area, East of the tent.
54

55 The property referred to and sought to be seized consists of the
56 following:
57

- 58 • Richard Mille RM11 Felipe Massa watch.
- 59
- 60 • Richard Mille RM11-03 Titanium watch.
- 61
- 62 • Vacheron Constantin Perpetual Calendar watch.
- 63
- 64 • Patek Philippe 5170P watch.
- 65
- 66 • Patek Philippe 5990 1/A watch.
- 67
- 68 • Patek Philippe 5168G-001 watch.
- 69
- 70 • Patek Philippe 5650G watch.
- 71
- 72 • Audemar Piguet LE Platinum Montoya watch.
- 73
- 74 • Audemar Piguet Royal Oak Ceramic Perpetual Calendar
- 75 watch.
- 76
- 77 • Panerai Pam 767 Tourbillon watch.
- 78
- 79 • Panerai Pam 692 BMG watch.
- 80
- 81 • Panerai Pam 721 watch.
- 82
- 83 • Panerai Pam 725 watch.
- 84
- 85 • Panerai Pam 375 watch.
- 86
- 87 • H. Moser CIE Flying Endeavor watch.
- 88
- 89 • Urwerk-202 White Shark watch.
- 90
- 91 • Rolex WG Sky Dweller watch.
- 92
- 93 • MB&F Legacy Perpetual In Platinum watch.
- 94
- 95 • Greubel Forsey GMT In Platinum watch.

- 96 • Greubel Forsey 24 Seconds Platinum watch.
- 97
- 98 • A. Lange & Sohne Datograph Perpetual Tourbillon watch.
- 99
- 100 • Panerai white and blue bag.
- 101
- 102 • Black canvas duffle bag.
- 103
- 104 • Leather briefcase.
- 105
- 106 • Multiple watch boxes.
- 107
- 108 • Latent fingerprints.
- 109
- 110 • Potential DNA.
- 111
- 112 • Large wooden chess set.
- 113
- 114 • Disney collector doll.
- 115
- 116 • Lobitan collector doll.
- 117
- 118 • Green Barbie doll.
- 119
- 120 • Black briefcase.
- 121
- 122 • Thomas the Train toys.
- 123
- 124 • Green army jacket with "Rodrigue".
- 125
- 126 • Madam Alexander doll.
- 127
- 128 • Limited items or personal property which would tend to
- 129 establish a possessory interest in the items sought to be
- 130 seized pursuant to this search warrant to include, but not
- 131 limited to: personal identification, photographs, utility
- 132 company receipts, addressed envelopes, rent receipts, etc.
- 133

The items sought to be seized constitute evidence which would tend to show the identity of persons responsible for committing the crimes of Burglary 1st and Grand Larceny > \$3,500.

In support of the assertion to constitute the existence of probable cause, the following facts are offered:

Under LVMPD event number LLV181200033889 on 12/08 of 2018 at approximately 1017 hours, Officer C. Penny, P#15488, operating as LVMPD marked patrol unit was dispatched to the

144 Storage One business located at 9960 W. Flamingo Rd, Las
145 Vegas, NV 89147, in reference to a burglary.

146
147 Upon arrival, Officers made contact with Marc Felcone, the renter
148 of unit B-151, who stated that on 12/07 of 2018 at approximately
149 1145 hours, he left his storage unit securing it with a lock. He then
150 received a call from a Storage One employee on 12/08 of 2018 at
151 0948 hours, informing him that his unit had been broken into.
152 Felcone advised Officers that 21 high end rare collectable
153 watches were taken with an approximate value of \$2,173,000.
154

155 The following are the items Felcone advised Officers that were
156 missing:
157

158 Det. Grimes: Yeah, Detective Grimes here. I had spoken with Mr. Felcone after
159 that report was taken to find out if anything else was missing. He
160 told me he was also missing a Panerai white and blue bag, a
161 black canvas duffel bag, a leather briefcase, multiple watch boxes,
162 but his main concern was the watches.
163

164 Ofcr. Shark: Later under LVMPD event number LLV181200033974 on 12/08 of
165 2018 at approximately 1603 hours, Officer J. Luoto, P#17324 and
166 Officer A. Elkind, P#14749, were again dispatched to Storage One
167 business located at 9960 W. Flamingo Rd, Las Vegas, NV 89147
168 in reference of a burglary.
169

170 Upon arrival, Officers made contact with Detective B. Jones,
171 P#9879, who advised them that unit B-147 had been broken into
172 along with unit B-145. Contact was made with Michael Rodrigue,
173 with the renters of unit B-147, who originally advised Officers that
174 though items were moved, they did not notice any items that were
175 taken at this time, but they did also state that there was a hole cut
176 in the wall to the adjacent unit and believed this to be the entry
177 location.
178

179 Detective E. Grimes, P#6729, later made contact with Rodrigue,
180 who stated that after a closer inspection, the following items were
181 in fact taken from the storage unit:
182

- 183 • Large wooden chess set.
- 184
- 185 • Disney collector doll.
- 186
- 187 • Lobitan collector doll.
- 188
- 189 • Green Barbie doll.
- 190
- 191 • Black briefcase.
- 192
- 193 • Thomas the Train toys.

194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243

- Green army jacket with "Rodrigue" written on it.
- Madam Alexander doll.

Detective Grimes made contact with the owner of B-145, who stated no items were missing and he did not want to file a report at this time.

Under both event numbers, Crime Scene Analysts were called and processed all the storage units.

Video footage of the business was then reviewed. The cameras located by the pedestrian gate showed at 0321 hours on 12/08 of '18, an unknown white male wearing a dark colored hooded jacket, gray shirt, blue jeans, dark clothes and not carrying any items or bags was followed by a white female with light colored hair in a ponytail, dark colored jacket and was pushing a metal wheelchair with dark seats that was also empty into the property.

At 0443 hours, the surveillance from a different camera from inside the complex showed rows of storage units and the same subjects can be seen walking through the East side of the storage complex, the male, now wearing a different jacket carrying multiple bags, one light colored bag, one dark duffle bag and one leather briefcase or laptop bag. The female pushing the same wheelchair, but it has a large wooden chess board placed on top of it.

At 0444 hours, the pedestrian gate camera again shows the same subjects above exiting the complex showing that the male's jacket was in fact different and he appears to be wearing a green army jacket while exiting.

Detectives had canvassed the area to possibly identify the subjects seen on the video based on their descriptions. A homeless female advised Detectives that there was a couple matching the description in the area of Tropicana and Fort Apache, but were unable to locate the subjects in that area.

On 12/11/18 at approximately 1810 hours, I, along with other Spring Valley Flex team members were conducting follow up reference the above event numbers at known homeless camps in the area of 9820 W. Flamingo, when we observed a green and gray tent on the West side a fence in the desert area. Officers attempted to make contact verbally with the occupants of the tent, but received no answer. Due to the tent being in a fenced in private area, Officers opened the front zipper flap to determine if there were occupants inside. While doing so, and without making entry, Officers observed multiple watch boxes, one with Panerai


244 written on it, matching Falcone's report. Officers also observed a
245 wooden chess board matching the chess board that was taken
246 and observed on video.
247
248 Officers then canvassed the area and located a chrome
249 wheelchair with black seats in the desert area approximately 25
250 yards East of the tent.
251
252 Your Honor, we are also hoping to process the above wheelchair
253 and the tent for potential forensic evidence, such as latent
254 fingerprints and DNA.
255
256 Det. Grimes: Which could help as a match up to any potential forensic evidence
257 that was recovered when the scene was originally processed, to
258 help us identify the suspects, and who the tent camp may belong
259 to.
260
261 Ofcr. Shark: Your affiant prays this search warrant authorize a night time
262 search clause for the following reasons: the premises is currently
263 frozen. Delaying the search may unnecessarily risk the loss of
264 evidence and result in the chain of custody issues which would be
265 minimized by a prompt search. Since the property is located in the
266 unsecured desert area, it would also tie up multiple Police
267 Officers, who could then be free to respond to calls for service.
268
269 Judge Bonaventure, this ends my probable cause details. Do you
270 want me to read the duplicate original search warrant?
271
272 Judge Bonaventure: No, that's unnecessary.
273
274 Ofcr. Shark: Judge Bonaventure, this ends the search warrant portion. Judge
275 Bonaventure, do you find probable cause exists for the issuance
276 of a search warrant?
277
278 Judge Bonaventure: Yes, I do find probable cause.
279
280 Ofcr. Shark: Judge Bonaventure, do you authorize a night time service clause?
281
282 Judge Bonaventure: Yes, I do.
283
284 Ofcr. Shark: Do I have your permission to affix your name on the duplicate
285 original search warrant?
286
287 Judge Bonaventure: Yes.
288
289 Ofcr. Shark: This application and signing of the search warrant was witnessed
290 by Detective E. Grimes, P#6729. The time is 2119 hours. Judge
291 Bonaventure, this ends our conversation. Thank you for your time.
292
293 Judge Bonaventure: You're welcome.

294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315

 #15372

Jessica Dodd, P#15372 LEST

"I certify that this is a true and accurate transcription,
dated this 17th day of December, 2018, at 1000 hours."

 #14815

Ofcr. A. Shark, P#14815, LVMPD

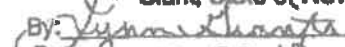
Spring Valley Area Command, Patrol Investigations

"Having read the transcription of the Telephonic Search Warrant issued by this Court on
the 11th day of December, 2018, at 2119 hours, LVMPD, serving as Affiant and having
reviewed the recording of the application, it appears the transcription is accurate."


Judge Bonaventure
Las Vegas Township, Department A
Justice of the Peace

CERTIFIED COPY

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

By:  Deputy
Date: 12-20-18

DUPLICATE ORIGINAL SEARCH WARRANT
NRS 179.046

STATE OF NEVADA

} ss.

FILED

EW2018

3244

The State of Nevada, to any Peace Officer in the County of Clark, Nevada, having been made before me by Detective/Officer A. SHARK, P# 14815 by oral statements given under oath, that there is probable cause to believe that certain evidence, to wit:

- () RICHARD MILLE RM11 FELICE MASSA WATCH
RICHARD MILLE RM11-03 TITANIUM WATCH
VACHERON CONSTANTIN PERPETUAL CALENDAR WATCH
PATEK PHILIPPE 5170P WATCH
() PATEK PHILIPPE 5990 1/A WATCH
PATEK PHILIPPE 51686-001 WATCH
PATEK PHILIPPE 51650G WATCH
Audemars Piguet LE PLATINUM MONTEVIA WATCH
() Audemars Piguet ROYAL OAK CERAMIC PERPETUAL CALENDAR WATCH
PANERAI PAM 167 TOURBILLON WATCH
PANERAI PAM 1692 AMG WATCH
PANERAI PAM 1701 WATCH
() PANERAI PAM 1705 WATCH
PANERAI PAM 375 WATCH
H. MOSER CIE FLYING ENDEAVOR WATCH
URWERK -202 WHITE SHARK WATCH
() ROLEX WG SKY DWELLER WATCH
M.B. & F. LEGACY PERPETUAL IN PLATINUM WATCH
GREUBEL FORSEY GMT PLATINUM WATCH
GREUBEL FORSEY 84 SECONDES PLATINUM WATCH
- DEPUTY JUSTICE CLERK
LAS VEGAS NEVADA
- PERPETUAL TOURBILLON WATCH
PANERAI WHITE & BLUE BAG
- BLACK CANVAS DUFFLE BAG
- LEATHER BRIEFCASE
- MULTIPLE WATCH BOXES
- LATENT FINGERPRINTS
- POTENTIAL DNA
- LARGE WOODEN CHESS SET
- DISNEY COLLECTOR DOLL
- LOBITAN COLLECTOR DOLL
- GREEN BARBIE DOLL
- BLACK BRIEF CASE
- THOMAS THE TRAIN TOYS
- GREEN ARMY JACKET WITH "ROBRIQUE"
- MADAM ALEXANDER DOLL

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

A GREEN AND GRAY TENT IN THE DESERT AREA DIRECTLY NORTH OF 7970 W. FLAMINGO RD which are presently located at: AND SOUTH OF CC 215, ASSESSOR PARCEL 163-18-44-004 Las Vegas, Clark County, Nevada, 89147 (zip code) and as I am satisfied that there is probable cause to believe that said evidence is located as set forth above and based upon the statements of Detective/Officer A. SHARK there are sufficient grounds for the issuance of the Search Warrant.

You are hereby commanded to search and examine said premise and/or vehicle for said property and trace evidence, serving this warrant (at any hour day or night) / (between 7am and 7pm) and if the property is there, to seize it and leave a written inventory and make a return before me within 10 days. The attached recorded oral statement upon which this warrant is based is hereby incorporated by this reference as though fully set forth herein.

Dated this 11TH day of DECEMBER 20 18, at 2119 hours.

(Print Judge's name) J. BONAVENTURE

Signed by Detective/Officer A. SHARK, P# 14815, acting upon oral authorization of,

Judge J. BONAVENTURE

Witnessed by E. GRIMES P# 6729

ENDORSED this 19th day of December, 20 18

Judge

LVMPD 339 (Rev. 03/15) RDP

CERTIFIED COPY

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

By [Signature] Deputy
Date: 12-20-18

AA 000199

RECEIVED

DEC 18 2018

LAS VEGAS JUSTICE COURT

DUPLICATE ORIGINAL SEARCH WARRANT

NRS 179.045

STATE OF NEVADA

}

} ss.

}

The State of Nevada, to any Peace Officer in the County of Clark. Proof having been made before me by Detective/Officer A. SHARK, P# 14815 by oral statements given under oath, that there is probable cause to believe that certain evidence, to wit:

- | | |
|--|---|
| () RICHARD MILLE RM11 FELICE MASSA WATCH | - A. LANGE & SOHNE DATUMMA PERPETUAL TOURBILLON WATCH |
| RICHARD MILLE RM11-03 TITANIUM WATCH | - PANERAI WHITE & BLUE BAG |
| VACHERON CONSTANTIN PERPETUAL CALENDAR WATCH | - BLACK CANVAS DUFTLE BAG |
| PATEK PHILIPPE 5120P WATCH | - LEATHER BRIEFCASE |
| () PATEK PHILIPPE 5990 1/A WATCH | - MULTIPLE WATCH BOXES |
| PATEK PHILIPPE 5168G-001 WATCH | - LATENT FINGERPRINTS |
| PATEK PHILIPPE 51650G WATCH | - POTENTIAL DNA |
| Audemars Piguet La Platinum Montoya Watch | |
| () Audemars Piguet Royal Oak Ceramic Perpetual Calendar Watch | |
| PANERAI PAM 1767 TOURBILLON WATCH | - LARGE WOODEN CHESS SET |
| PANERAI PAM 692 BMG WATCH | - DISNEY COLLECTOR DOLL |
| PANERAI PAM 701 WATCH | - LOBITAN COLLECTOR DOLL |
| () PANERAI PAM 705 WATCH | - GREEN BARBIE DOLL |
| PANERAI PAM 375 WATCH | - BLACK BRIEF CASE |
| H. MOSER CIE FLYING ENDEAVOR WATCH | - THOMAS THE TRAIN TOYS |
| URWERK -202 WHITE SHARK WATCH | - GREEN ARMY JACKET WITH "ROBAGUE" |
| () ROLEX WG SKY DWELLER WATCH | - MABAM ALEXANDER DOLL |
| MB & F LEGACY PERPETUAL IN PLATINUM WATCH | |
| GREUBEL FORSEY GMT PLATINUM WATCH | |
| GREUBEL FORSEY 04 SECONDES PLATINUM WATCH | |

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

A GREEN AND GRAY TENT IN THE DESERT AREA DIRECTLY NORTH OF 9900 W. FLAMINGO RD which are presently located at AND SOUTH OF CC 2-5, ASSESSOR PARCEL N63-18-44-004 Las Vegas, Clark County, Nevada, 89147 (zip code) and as I am satisfied that there is probable cause to believe that said evidence is located as set forth above and based upon the statements of Detective/Officer A. SHARK there are sufficient grounds for the issuance of the Search Warrant.

You are hereby commanded to search and examine said premise ~~and/or vehicle~~ for said property and trace evidence, serving this warrant (at any hour day or night) / ~~(between 7am and 7pm)~~ and if the property is there, to seize it and leave a written inventory and make a return before me within 10 days. The attached recorded oral statement upon which this warrant is based is hereby incorporated by this reference as though fully set forth herein.

Dated this 11TH day of DECEMBER 18, at 2119 hours.

(Print Judge's name) J. BONAVENTURE

Signed by Detective/Officer A. SHARK, P# 14815, acting upon oral authorization of,

Judge J. BONAVENTURE

Witnessed by E. GRIMES P# 6729

ENDORSED this _____ day of _____, 20____

Judge _____

18200033889

Page 1 of 1

RETURN

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

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

A GREEN AND GRAY TENT IN THE DESERT AREA DIRECTLY NORTH OF
9920 W. FLAMINGO ROAD AND SOUTH OF CC 215, ASSESSOR
PARCEL 163-18-414-004, LAS VEGAS, CLARK COUNTY, NEVADA 89117

was executed on

12/11/18

(month, day, year)

A copy of this inventory was left with

AT THE PLACE OF SEARCH

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

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

- ~~ARMY JACKET~~ - WHEELCHAIR
- ~~ARMY JACKET~~ - WATCH BOXES
- ~~ARMY JACKET~~ - BLACK DUFFEL BAG
- DOG TAGS - ARMY JACKET
- CHESS BOARD - WATCH BOX (GUY) WITH MISC JEWELRY AND FELLOW'S NAME ON CARDS.
- WHITE BAG - DISNEY COLLECTIBLE DOLL
- BLACK BRIEF CASE

This inventory was made by: R. TEGAN #15240

[Signature] 12/11/18

[Signature] #14815

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

181200033889

Page 1 of 1

RETURN

FILED

3244

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

SW2018

2018 DEC 20 A 8:14

JUSTICE COURT

LAS VEGAS, NEVADA

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

A GREEN AND GRAY TENT IN THE DESERT AREA DIRECTLY NORTH OF
9920 W. FLAMINGO ROAD AND SOUTH OF CC 215, ASSESSOR
PARCEL 163-18-414-004, LAS VEGAS, CLARK COUNTY, NEVADA 89147

was executed on 12/11/18
(month, day, year)

A copy of this inventory was left with AT THE PLACE OF SEARCH

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

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

- ~~ARMY JACKET~~ - WHEELCHAIR
- ~~ARMY JACKET~~ - WATCH BOXES
- ~~ARMY JACKET~~ - BLACK OUTFIT BAG
- ~~ARMY JACKET~~
- DOG TAGS - ARMY JACKET
- CHESS BOARD - WATCH BOX (GUILTY) WITH MSL TRUCLAY AND FELLOWS' NAME ON CARDS.
- WHITE BAG - DISNEY COLLECTIBLE DOLL
- BLACK BRIEF CASE

RECEIVED

DEC 18 2018

SW2018-3244

RD

Return Date (Officer Execution Date)

10828036



LAS VEGAS JUSTICE COURT

This inventory was made by: R. TEGUE #15840

[Signature] [Signature] #14815

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

CERTIFIED COPY

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

By [Signature] Deputy

Date: 12-20-18

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
PROPERTY REPORT**

Date of LVMPD Possession 12/11/18	Time of LVMPD Possession 23:00	Page(s) 1 OF 5
Event # 181200033889		

Incident
SEARCH WARRANT

EVIDENCE
☒ Felony ☐ Gross Misd ☐ Misdemeanor
 List Other Related Event #'s (if any):
181200033889, 181200049822

NO EVIDENTIARY VALUE
☒ No Owner Identified
☐ Destroy
☐ Return To DMV

SAFEKEEPING
 Must provide Owner Info in
 Persons Section AND Identify
 Owner # for each item Listed

FIREARM IMPOUNDED DUE TO:
☐ Temporary Protective Order (TPO)
☐ Extended Order of Protection

Impounding Officer (Print Name):
E. GRIMES

Unit
26

PI / Initials
E 6829 G

Print Name of Officer from Other Jurisdiction:
PRINT LVMPD SGT Name & PI

Supervisor Approving (Signature):
[Signature]

Unit
563 PD

PI / Initials
E 5801 W

PERSONS - (S)USPECT / (V)ICTIM / (O)WNER / (F)INDER

SO OI VE FO	Last Name	First Name, MI	DOB	Phone #	Charge(s)
1	REALICA	VIC	12/12/77		
Street Address City State Zip Code Arrest Date ID#					
4087 RUSSIAN RIDER DR LV NV 89122					
SO OI VE FO	Last Name	First Name, MI	DOB	Phone #	Charge(s)
2	REALICA	MICHA	08/29/80		
Street Address City State Zip Code Arrest Date ID#					
4087 RUSSIAN RIDER DR LV NV 89122					
SO OI VE FO	Last Name	First Name, MI	DOB	Phone #	Charge(s)
3	LANGCEY	EUGENE	09/14/23		
Street Address City State Zip Code Arrest Date ID#					
31 RICHMAN ST POB 24 MALDEN NJ 08328					

FIELD RELEASE ONLY	Released Item(s)	By Officer PI & Initials	Date Released	Released to Owner (Above Person)	Owner's Signature
--------------------------	------------------	--------------------------	---------------	-------------------------------------	-------------------

(Relating to Impound)
**PACKAGES #7-#13 AND #15 WERE SEIZED UNDER SEARCH WARRANT FROM
 TENT IN DESERT AREA TO EAST OF EAST WALL OF 9960 W. FLAMINGO RD, LV NV
 BIKES AS EVIDENCE. PACKAGES #1-#6 WERE IMPOUNDED AS SAFEKEEPING
 FROM SAME AREA. PACKAGE #14 WAS FOUND NEAR A BLACK LINCOLN NAVIGATOR**

PKG	ITEM	OWNER	Make or Brand	MODEL	COLOR	Serial # / OAN State & Gov. Issued ID #s	Qty.	PROPERTY DESCRIPTION
1	1						99	WATCHES
1	2						(X) 10	BRACELETS
1	3						115	RINGS
1	4						38	NECKLACES
1	5						28	PAIRS OF EARRINGS
1	6						43	SINGLE EARRINGS
1	7						34	PENDANTS AND PINS
1	8						1	4 PAIRS AND 1 INDIVIDUAL COFFLINKS IN BOX
1	9						2	JUMBO ZIPLOC BAGS FULL OF MISC JEWELRY
2	10		LOUIS VUITTON	BLU			1	LOUIS VUITTON PURSE

LVMPD 01-A (Rev. 01/2)

↑ Corresponds to # Listed in PERSONS section
(Suspect / Victim / Owner / Finder)

Distribution: White: Records/Onbase | Yellow: Evidence Vault | Pink: Citizen

19F00933B - ORNELAS, MARGAUX

Page 77 of 167.

AA 000203

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
PROPERTY PERSONS & REMARKS
CONTINUATION REPORT

Page(s)
2 OF 5

Event # **181200033889**

PERSONS - (S)USPECT / (V)ICTIM / (O)WNER / (F)INDER						
80 00 VS FO # 4	Last Name ZHAO	First Name, MI ANDREW	DOB 08/17/03	Phone # ---	Charge(s) ---	
Street Address		City	State	Zip Code	Arrest Date	ID#
80 00 VS FO # 5	Last Name FALCONE	First Name, MI MARC	DOB 03/16/73	Phone # 94- 1715-3600	Charge(s) ---	
Street Address 52 WILD WING CT		City LAS VEGAS	State NV	Zip Code 89135	Arrest Date	ID#
80 00 VS FO # 6	Last Name RODRIGUE	First Name, MI MICHAEL	DOB 11/25/71	Phone # 95- 888-4370	Charge(s) ---	
Street Address 32 GARDEN RAIN		City LAS VEGAS	State NV	Zip Code 89135	Arrest Date	ID#
80 00 VS FO # 7	Last Name NORCROSS	First Name, MI LINDA	DOB	Phone # 702 279 6303	Charge(s) ---	
Street Address		City	State	Zip Code	Arrest Date	ID#
80 00 VS FO # 8	Last Name BATTEY	First Name, MI JACOB	DOB	Phone #	Charge(s) ---	
Street Address 3001 LAKE EAST RD		City LAS VEGAS	State NV	Zip Code 89117	Arrest Date	ID#
80 00 VS FO #	Last Name	First Name, MI	DOB	Phone #	Charge(s)	
Street Address		City	State	Zip Code	Arrest Date	ID#
80 00 VS FO #	Last Name	First Name, MI	DOB	Phone #	Charge(s)	
Street Address		City	State	Zip Code	Arrest Date	ID#

800 L FIELD RELEASE	Released Item(s) #	By Officer P# & Initials	Date Released	Released to Owner (Above Person) #	Owner's Signature
	Released Item(s) #	By Officer P# & Initials	Date Released	Released to Owner (Above Person) #	Owner's Signature

ADDITIONAL REMARKS
 (Referring to Impound)
TO THE WEST OF THE WEST WALL OF 8260 W. FLAMINGO ROAD. SEARCH WARRANT WAS UNDER EVENT 181200033889, WHICH IS FALCONE'S ORIGINAL BURGLARY INCIDENT. RODRIGUE IS A BURGLARY VICTIM UNDER EVENT 181200039974. TENT WAS LOCATED UNDER INVESTIGATION/FOLLOWUP INCIDENT UNDER 1812000 49822.

Distribution: White: Records/Onbase | Yellow: Evidence Vault | Pink: Citizen

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
PROPERTY CONTINUATION REPORT

Page(s)
3 OF 5

Event # 181200033889

PKG #	ITEM #	OWNER #	Make or Brand	MODEL	COLOR	Serial # / QAN State & Gov. Issued ID #s	Qty.	PROPERTY DESCRIPTION *Whereas MUST do: 1) Serial Length 2) Country Manufacturer 3) Color 4) Action Type (SM, Auto, Bolt, Revolver, Etc.)
2	11						1	DECORATIVE PET CARRIER
2	12						9	EMPTY CASES/BOXES/BAGS
2	13						4	MUSIC BOX AND DECORATIVE COMPACTS
2	14						7	KEY CHAIN HOLDERS AND ONE KEY
2	15						1	PAD LOCK & 11 KEYS
2	16						1	STEEL FLASK
2	17						2	LIGHTERS
2	18				M	"JOE"	1	BELT BUCKLE
2	19						1	BAG OF DECORATIVE STONES
2	20				M	CHRISTMAS 1998	1	COLLECTOR SPOON
2	21						1	FACE TOY
2	22		BULOVIA				1	DESK CLOCK
2	23						3	PAIRS OF GLASSES
2	24						1	COLLECTOR KNIFE IN BOX
2	25						1	PACKAGE OF FITNESS BANDS
2	26						1	TIN WITH COLLECTOR CHIPS/COINS
2	27						1	PAPERWORK FOR REVERIE, INC.
3	28						1	SPORTCARD COLLECTION
3	29						1	COIN COLLECTION/ALBUMS/CASES
4	30	8					1	BLACK LEATHER BRIEF CASE
5	31		HP			5 CD 5450 HGH	1	LAPTOP WITH POWER CORD
5	32		LENOVO			L3A 7062 08/09	1	LAPTOP WITH POWER CORD
5	33		APPLE	IPHON	3GS	88915 #23NS	1	CELL PHONE IN BOX
5	34		SAMSUNG	GALAXY	SIII		1	CELL PHONE
5	35		SAMSUNG	INTENSITY	II		1	CELL PHONE IN CASE
5	36		HTC	MY TOUCH			1	CELL PHONE
5	37		CREATIVE			MAPE MAG3700P72	1	MP3 PLAYER

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
PROPERTY CONTINUATION REPORT

Page(s)

4 OF 5

Event # 181200 033889

PKG #	ITEM #	OWNER #	Make or Brand	MODEL	COLOR	Serial # / OAN State & Gov. Issued ID #s	Qty.	PROPERTY DESCRIPTION 1) Barrel Length 2) Country Made/Importer 3) Caliber 4) Action Type (SA, Auto, Bolt, Revolver, etc.)
5	38		AVIATION			DGT 093 0943	1	LAPTOP
5	39		APPLE	MACBOOK			1	LAPTOP
5	40		SONY			275501000086529	1	TABLET
5	41		SONY			148397951047068	1	E-READER
5	42		VIZIO				1	TABLET IN CASE
5	43		DRAGON TOUCH		ANK		1	TABLET IN CASE
5	44		DRAGON TOUCH		BLU		1	TABLET IN CASE
5	45		NOOK				1	E-READER
5	46		TRIO	AXS			1	TABLET
5	47		WD	MY PASSPORT		WXY/E268000	1	EXTERNAL HARD DRIVE IN CASE
5	48		BEATS				1	HEADPHONES IN BAG
5	49						1	CUPON CAMERA DEVICE
5	50						1	MISC. CABLES/CORDS/REMOTES
6	51	1/2					1	MISC. PAPERWORK FOR MICHAEL REAKA
6	52	3				LO420124300922	1	EUGENE LANGLEY'S NEW JERSEY DRIVER'S LICENSE
6	53	4	US			507813599	1	ANDREW ZHAO'S PASSPORT
6	54						1	BASEBALL WITH SIGNATURES
5	55		AMAZON	KINDLE			1	E-READER IN CASE
7	56	5					7	WATCH BOXES AND SOME TAGS
7	57	5	TARUS MATTHEW				1	BLACK DUFFLE BAG
7	58	5	PAPERAI				1	BLUE/WHITE BAG
7	59	5					1	GUCCI BOX WITH FALCONE'S BUSINESS CARDS FOR FERTITTA ENTERTAINMENT & FERTITTA BOOK
8	60	5					1	BLACK LEATHER BRIEFCASE
9	61	5					1	BLACK LEATHER BRIEFCASE (DAMAGED)
10	62	6					1	LARGE WOODEN CHESS BOARD SET
11	63	6					1	RODRIGUEZ'S ARMY JACKET AND DOG TAGS
12	64	6					1	MICKEY MOUSE DOLL

19F00933B - ORNELAS, MARGAUX

↑ Corresponds to # Listed in PERSONS section
(Suspect / Victim / Owner / Find)

Distribution: White: Records/Onbase | Yellow: Evidence Vault | Pink: Citizen

19F00933B - ORNELAS, MARGAUX

Page 80 of 167

AA 000206

Page(s)
5 OF 5

1999年12月15日

Distribution: White: Records/Onbase | Yellow: Evidence Vault | Pink: Citizen

Page 81 of 167

AA 000207

EXHIBIT C

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

Event #: 181200051857

STATE OF NEVADA) 1998 Lincoln Navigator
) ss: California plate 6NJF287
) VIN # 5LMPU28L2WLJ54870

Michael Saunders, P# 6076, being first duly sworn, deposes and says that he is the affiant herein and is a Detective with the Las Vegas Metropolitan Police Department (LVMPD) presently assigned to the Spring Valley Area Command. That he has been employed with the LVMPD for the past 19 years and has been assigned to the Spring Valley Area Command for the past six months.

There is probable cause to believe that certain property hereinafter described will be found at the following described premises, to-wit:

- 1- 1998 Lincoln Navigator SUV Black in color, California license plate 6NJF287, VIN # 5LMPU28L2WLJ54870. This vehicle is presently located at 1200 N. A Street, Las Vegas, NV. 89106.

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

Item	Model	S/N
1) Richard Mille	RM11 Felipe Massa 4369	#3 of 50
2) Richard Mille	RM11-03 Titanium	Rm11-03ti 50
3) Vacheron Constantin Perpetual Calendar		1353947
4) Patek Phillippe	5170P	316026
5) Patek Phillippe	5990	
6) Patek Phillippe	5168G-001	7119236

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 181200051857

7) Patek Phillippe	5650G	7096449
8) Audemar Piguet LE	Pablo Montoya	94 of 100
9) Audemar Piguet	Perpetual Calender	J63429
10)Panerai	PAM 767 Tourbillion	#005/100
11)Panerai	PAM 692 BMG	#0392/1000
12)Panerai	PAM 721	#0394/1000
13)Panerai	PAM 725	#067 of 200
14)Panerai	PAM 375	0951/2000
15) H. Moser Cie	Flying Endeavour	200116474
16)Urwerk	202 White Shark	#6 of 12
17)Rolex	WG Sky Dweller-116509	207231DO
18)MB&F	Legacy Perpetual	03W63223
19)Greubel Forsey	GMT	Number 19
20)Greubel Forsey		Number 14
21)A. Lange & Sohne Datograph Perpetual Tourbillion		227868

and articles of personal property which would tend to establish the identity of persons in control of said premises, which items of property would consist in part of and include, but not limited to papers, documents and effects which tend to show possession, dominion and control over said premises, including but not limited to keys, canceled mail envelopes, rental agreements and receipts, utility and telephone bills, prescription bottles, vehicle

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 181200051857

registration, vehicle repairs and gas receipts. Items which tend to show evidence of motive and/or the identity of the perpetrator such as photographs and undeveloped film, insurance policies and letters, address and telephone records, diaries, governmental notices, whether such items are written, typed or stored on computer disc. Objects which bear a person's name, phone number or address.

The property hereinbefore described constitutes evidence which tends to demonstrate that the criminal offense of **Burglary & Conspiracy to Commit Burglary** has been committed.

In support of your affiant's assertion to constitute the existence of probable cause, the following facts are offered: On 12/8/18 at approximately 1017hrs. LVMPD patrol officers were dispatched to 9960 W. Flamingo Las Vegas, NV 89147 (StorageOne) for reports of a burglary at unit B151. Upon contact was made with renter of unit B151, Marc Falcone. Marc stated on 12/7/18 at approximately 1445 Hrs. he left his storage unit, securing it. He received a call from StorageOne employee Nedy Macedo on 12/8/18 at 0948 Hrs. informing him that his unit had been broken into.

Marc's girlfriend Jennifer Schacht was also on scene and stated that she talked to employee Nedy Macedo. Nedy stated CCTV showed two subjects entering the facility from the southwest corner by the main office at 0321 Hrs. Nedy reported that there was a door activation alarm on unit B147 at 0403 Hrs. A second alarm was set off on the target unit B151 at 0437 Hrs. The same subjects were seen leaving the facility at 0443 Hrs. with several bags and a wheelchair, exiting the facility and heading west on Flamingo.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 181200051857

At this time Marc was only able to confirm that 21 high end rare collectable watches were taken with an approximately value \$2,173,000.00. Via CCTV the suspects were described as:

Suspect#1 a white female adult, Mid 30's-40's, light colored hair in a ponytail, wearing a dark color jacket, pushing a wheelchair.

Suspect #2 light to Medium colored male adult, mid 30's, short dark colored hair, dark colored hoodie, dark colored jeans carrying several bags.

On 12-11-2018, at 2358, a burglary occurred at the Storage One located at 9960 W. Flamingo Las Vegas, Nevada 89115. Details under LVMPD event number 181200051857 are as follows:

At 2358 hours, on 12-11-2018, the alarm for unit B-151 was activated. The alarm is an audible alarm so it can be heard from a distance. Detectives from the SVAC were conducting follow up in the area of this storage facility on 12-11-2018. The follow up was due to a previous burglary under LVMPD event 181200033889 in the same Storage complex. Details of that event was unit B-151 was broken into and very high end watches were taken from that unit.

Detectives had come back to the area of the Storage complex to retrieve missing items from their follow up in the desert area and heard the alarm. Detectives started to make

7

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 181200051857

their way into the Storage One and realized it was a burglary alarm and they notified dispatch. Not long after, a perimeter was set up. Detectives entered the complex and soon learned the alarm was coming from unit B-151. It appeared to the officers on scene the suspects had cut the metal part of the latch to allow entry into the unit without having to cut the locks. Suspects were gone prior to police arrival.

Lee Preble, the employee from Storage One, was able to pull up video from the complex. The video showed 3 individuals walking in-between buildings B and C sometime around 2340 hours. The B units are inside units so there are no cameras inside. The video then shows the alarm being activated around 2358 hours. The video shows all 3 individuals, possibly 1 female and 2 males running away from building B around 0001 hours. They all jump the wall prior to the first Detective vehicle showing up on property at 0004 hours.

Marc Falcone, the renter of unit B-151 and the prior victim of the high end watches, was notified. Falcone claims he had already moved all his valuables out of B-151 due to the prior incident. The unit was left with boxes and non-valuable items.

While Detectives were still on scene, under LVMPD event number 181200051353, Tyree Faulkner DOB 8-7-1995 called in a Robbery call. Tyree was calling from his residence located at 5370 East Craig #1253 Las Vegas, Nevada 89115. Tyree claimed on his

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 181200051857

Robbery call that he and his un-named cousin were smoking marijuana at the Chevron located at 9910 W. Flamingo Las Vegas, Nevada 89115 in their 1998 Lincoln navigator bearing California plates 6NJF287. The Chevron location is just east of the Storage One. The details of his robbery was 2 white males approached his vehicle with guns and demanded their phones, wallets, keys to his vehicle and a small amount of cash. The suspects then took off running and jumped the gas station wall. Faulkner and his cousin went into the Chevron and used a patron's cell phone to call a Lyft car. The Lyft car arrived and took Faulkner and his cousin back to their home. While in the car, they used the Lyft driver's cell phone to call in the robbery.

While the Detectives and officers were now processing the second burglary to unit B-151, the Lyft driver that took Faulkner and his cousin back to the east side came back to speak with Detectives. The Lyft driver let the Detectives know that the 2 black males he took back to the east side from their location were talking about making up a story that they got robbed. He heard them talk about the robbery so they had a reason why Faulkner's vehicle was still near the scene of the Storage unit.

With that information, Dispatch set up a call to detain Tyree Faulkner at his home. Detective E. Grimes had watched the video surveillance from the storage complex and noticed one of the suspects was a larger black male adult wearing a black jacket. Grimes remembered he saw the black male leaving the storage complex and at the time didn't

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 181200051857

think he was related. Detective Grimes knew at the time he was looking for a white male and female from the previous event. The other 2 suspects in the video appeared to be the same female and white male that are related to the burglary that occurred on 12-8-2018 to unit B-151.

At 0400 hours, Tyree Faulkner was detained and transported to Spring Valley Command for questioning.

Detectives E. Grimes and M. Saunders conducted a video and audio taped interview at the station. The brief summary of the interview:

Faulkner was read his Miranda Rights and he understood his rights and agreed to speak with Detectives. The interview started off with Faulkner talking about the robbery he was a victim of. Detectives let Faulkner speak about the Robbery and then asked Faulkner if he had any idea why he was in handcuffs and at a police station. Faulkner was not sure why he was handcuffed at the time. The Detectives then explained the entire storage unit burglary to Faulkner.

Faulkner then confessed and told Detectives he was lying about the Robbery. Faulkner claimed his cousin had been in jail with this unknown white male. This male had contacted Faulkner and his cousin for help on previous burglaries. On 12-11-2018, Faulkner claims he and his cousin met up with this male on Charleston and LV Blvd at the 7-11. They were both offered \$1,000.00 to help him with another theft he wanted to commit.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 181200051857

Faulkner explained how he drove the male and then picked up the female at an unknown location nearby in his black SUV. The female had a backpack full of watches and jewelry she carried into his SUV. Faulkner remembered a few of the watches had falling out of her backpack and remained in his SUV as they showed him the backpacks contents. They all arrived at the StorageOne. The unknown male and Faulkner along with his cousin were at unit B-151. The male cut the latch and opened the rollup door. The alarm went off and Faulkner became very uncomfortable with the burglary. The male told Faulkner don't worry about the alarm nobody ever comes to check it out.

When the door opened and Faulkner saw two large safes, he told the male that he and his cousin were not going to help him carry two very large heavy safes. At that time, Faulkner heard and saw the police helicopter and they all took off running. Faulkner, not wanting to go back his vehicle and get caught, called a Lyft and made up the robbery event.

During the interview Faulkner told detectives that he is the owner of a 1998 Lincoln Navigator with an unknown California license plate. He knew the plates were current and registered his under another name until June 2019. He said his SUV is matte black with matte black rims and a paint transfer scrape on it. Faulkner stated he bought the vehicle from a friend in late August 2018 for \$2400.00 and the friend and he signed off on the pink slip giving him ownership of the vehicle. Faulkner stated the signed pink slip is in the glove

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

Event #: 181200051857

box in the vehicle and he has some other personal property in the center console that belongs to him and his girlfriend. Faulkner stated that he saw approximately three of the watches that were left inside of his car that were taken in the previous burglary committed on 12/08/2018. He said the white male was sitting in the rear driver's side seat behind him as he drove them to the storage unit.

When they ran from the storage unit after the alarm sounded he and his cousin went east towards the Chevron and the white male and white female headed west back towards his vehicle. He did not know where they went after they separated at the gate area of the storage unit.

That during further investigation, Detective Ethan Grimes P# 6729 was one of the other responding officers to the alarm that was sounded during the burglary that Faulkner involved in. He had also observed the black Lincoln SUV parked near the storage facility earlier. Per Detective Grimes, he observed a large bag of clothing sitting on the ground to the rear of the black SUV. He immediately recognized it as one of the bags that they had seen earlier in the desert area prior to the alarm sounding. As they checked the area and peered in to the SUV, he observed in plain view a wristwatch inside of the vehicle in the front passenger area. This information is consistent with the information that was provided by Faulkner.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT
(Continuation)

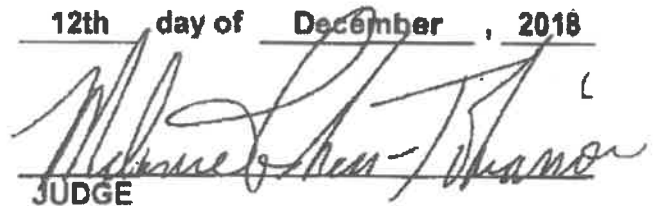
Event #: 181200051857

Due to the facts and circumstances the black Lincoln Navigator was identified as being involved in the burglary and was impounded and sealed pending a search warrant. This affiant is requesting a search warrant to recover any stolen items that were listed in the burglary that occurred on 12/08/2018 to the storage unit B151 rented Marc Falcone.

WHEREFORE, affiant requests that a Search Warrant be issued directing a search for and seizure of the aforementioned items at the location set forth herein between the hours of 7:00 A.M. & 7:00 P.M.

 #6076
Michael Saunders, AFFIANT

Subscribed and sworn to before me this 12th day of December, 2018


JUDGE

DDA Colleen Baharav

Approved by: _____

SEARCH WARRANT

STATE OF NEVADA)
 1998 Lincoln Navigator
 California plate 6NJF287
 VIN # 5LMPU28L2WLJ54870
)
COUNTY OF CLARK)

The State of Nevada, to any Peace Officer in the County of Clark. Proof by Affidavit having been made before me by Michael Saunders, P# 6076, said Affidavit attached hereto and incorporated herein by reference, that there is probable cause to believe that certain property, namely

Item	Model	S/N
1) Richard Mille	RM11 Felipe Massa 4369	#3 of 50
2) Richard Mille	RM11-03 Titanium	Rm11-03ti 50
3) Vacheron Constantin	Perpetual Calendar	1353947
4) Patek Phillippe	5170P	316026
5) Patek Phillippe	5990	
6) Patek Phillippe	5168G-001	7119236
7) Patek Phillippe	5650G	7096449
8) Audemar Piguet LE	Pablo Montoya	94 of 100

SEARCH WARRANT
(Continuation)

Page 2

9) Audemar Piguet	Perpetual Calender	J63429
10)Panerai	PAM 767 Tourbillon	#005/100
11)Panerai	PAM 692 BMG	#0392/1000
12)Panerai	PAM 721	#0394/1000
13)Panerai	PAM 725	#067 of 200
14)Panerai	PAM 375	0951/2000
15) H. Moser Cie	Flying Endeavour	200116474
16)Urwerk	202 White Shark	#6 of 12
17)Rolex	WG Sky Dweller-116509	207231DO
18)MB&F	Legacy Perpetual	03W63223
19)Greubel Forsey	GMT	Number 19
20)Greubel Forsey		Number 14
21)A. Lange & Sohne Datograph Perpetual Tourbillon		227868

and limited items of personal property which would tend to establish a possessory interest in the items seized pursuant to this search warrant, such a papers, documents and effects which tend to show possession, dominion and control over said premises, including but not limited to keys, canceled mail envelopes, rental agreements and receipts, utility and

SEARCH WARRANT
(Continuation)

Page 3

telephone bills, prescription bottles, vehicle registration, vehicle repairs and gas receipts. Items which tend to show evidence of motive and/or the identity of the perpetrator such as photographs and undeveloped film, insurance policies and letters, address and telephone records, diaries, governmental notices, whether such items are written, typed or stored on computer disc. Objects which bear a person's name, phone number or address, are presently located at

1- 1998 Lincoln Navigator SUV Black in color, California license plate 6NJF287, VIN # 5LMPU28L2WLJ54870. This vehicle is presently located at 1200 N. A Street, Las Vegas, NV. 89106.

And as I am satisfied that there is probable cause to believe that said property is located as set forth above and that based upon the affidavit attached hereto there are sufficient grounds for the issuance of the Search Warrant.

You are hereby commanded to search forthwith said premises for said property, serving this warrant between the hours of 7:00 A.M. & 7:00 P.M., and if the property is there to seize it, prepare a written inventory of the property seized, and make a return for me within ten days.

Dated this 12th day of December, 2018


JUDGE

LVMPD EVENT#
181200051857

Page 1 of 1

RETURN

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

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

1200 N. A ST. LVN 89106

1998 BLACK LINCOLN NAVIGATOR CA. GNTF287

VIN# 5LMP428L2WJ54870

was executed on 12/12/2018
(month, day, year)

A copy of this inventory was left with IN ABOVE VEHICLE

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

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

1- GREUBEL FORSEY #14
MEN'S WATCH

1- PANENAI PAM 767
TOWN BILLION S/N #51100
MEN'S WATCH

1- 20TH CENTURY SILVER HALF DOLLAR
COLORED
1- EISENBERG U.S. PROOF DOLLAR

This inventory was made by: DET. M. SAUNDERS P# 6076 / DET. A. ARENER P# 6403

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

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

☒ **EVIDENCE**

☐ **FOUND PROPERTY**

☐ **SAFEKEEPING**

Event Number: **181200051857**

Incident: Burglary - Commercial Follow Up	Requesting Officer: A. Archer #6403	Division: CPD	Date: 12/12/2018
Victim(s): Marc Falcone, DOB: 03/16/73			
Location: 1200 A St.			
Vehicle(s): V1: 1998 Lincoln Navigator, black, SUV, CA: 6NJF287, VIN: 5LMPU28L2WLJ54870			
Additional Information:			

Description of Evidence

Location of Recovered Evidence

PACKAGE 1

Item 1: One swab of possible DNA.

From the mouth of the Guava juice bottle on the front passenger floor of V1.

CSA Supervisor: <i>E. Wilson</i>	P#: <i>91119</i>	Date Approved: <i>12/20/18</i>	Crime Scene Analyst: <i>T. Olson</i>	P#: <i>16552</i>
-------------------------------------	------------------	-----------------------------------	---	------------------

Qualifier Number: LVMPD CSI 3817
Document Number: LVMPD TSD 10
Issued By: CSI OR
Revision Date: 04/05/2018
Page 1 of 1

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
PROPERTY REPORT**

Date of LVMPD Possession 12/12/18	Time of LVMPD Possession 1440	Page(s) 1 OF 1
Event # 181200051857		

Incident:
VEHICLE SEARCH

☐ EVIDENCE
☐ Felony ☐ Gross Misd ☐ Misdemeanor
 List Other Related Events # (if any):

☒ NO EVIDENTIARY Value:
☐ No Owner Identified
☐ Destroy
☐ Return To DMV

☐ SAFEKEEPING
 Must provide Owner Info In
 Persons Section AND Identify
 Owner # for each item Listed

FIREARM IMPOUNDED DUE TO:
☐ Temporary Protective Order (TPO)
☐ Extended Order of Protection

Impounding Officer (Print Name):
M. SAUNDERS

Unit
PD157

PI / Initials
ML675

Test Force Officers from Other Jurisdictions:
PRINT LVMPD SGT Name & PI

Supervisor Approving (Signature):

Unit

PI / Initials

PERSONS - (S)USPECT / (V)ICTIM / (O)WNER / (F)INDER

SO VO FO	Last Name MC MILLAN	First Name, MI QUONESTON	DOB	Phone # 323 596-6990	Charge(s)	Arrest Date	ID#
Street Address 5370 E. CRACK #1234 W		City NV	State	Zip Code 89115			
[REDACTED]							
[REDACTED]							
[REDACTED]							

FIELD RELEASE ONLY	Released Item(s) # 1-10	By Officer PI & Initials ML675	Date Released 12/13/18	Released to Owner (Above Person) # 1	Owner's Signature
--------------------------	-----------------------------------	--	----------------------------------	---	-----------------------

(Relating to Impound)
**ITEMS BELOW WERE RELEASED FROM VEHICLE PURSUANT TO
 A SEARCH AND RETURNED TO OWNER AS DIRECTED.**

PKG #	ITEM #	OWNER #	Make or Brand	MODEL	COLOR	Serial # / OAN State & Gov. Issued ID #'s	Qty.	PROPERTY DESCRIPTION *Firearms MUST list: 1) Barrel Length 2) Caliber / Magazine Power 3) Caliber 4) Action Type (S&W, Auto, Bolt, Revolver, Etc.)
1	1	1			BLK		1	MAN'S WALLET - DRUGS
1	2	1					1	MISC PAPERWORK
1	3	1			YEL		1	HAND BAG
1	4	1					6	CA. BENEFIT CARDS
1	5	1	SS			608867437	1	SSN CARD - QUONESTON MC MILLAN
1	6	1						CASH U.S. CURRENCY (\$20 x 2) (\$5 x 2)
1	7	1	CA			FV872014	1	DRIVERS LICENSE
1	8	1	SS		BLU	605848625	1	TYRES & FAMILIAR
1	9	-					11	MISC. GIFT CARDS
1	10						2	REWARD CARDS MISC.

LVMPD 67-A (Rev. 9/12) ↑ Corresponds to # Listed in PERSONS section
(Suspect / Victim / Owner / Finder)

Distribution: White: Records/Onbase | Yellow: Evidence Vault | Pink: Citizen

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

☒ **EVIDENCE**
☐ **FOUND PROPERTY**
☐ **SAFEKEEPING**
 Event Number: **181200051657**

Incident: Burglary - Commercial Follow Up	Requesting Officer: A. Archer #6403	Division: CPD	Date: 12/12/2018
Victim(s): Marc Falcone, DOB: 03/16/73			
Location: 1200 A St.			
Vehicle(s): V1: 1998 Lincoln Navigator, black, SUV, CA: 6NJF287, VIN: 5LMPU28L2WLJ54870			
Additional Information:			

Description of Evidence

Location of Recovered Evidence

PACKAGE 1

Item 1: One swab of possible DNA.

From the mouth of the Guava juice bottle on the front passenger floor of V1.

CSA Supervisor: E. Wilson	PR: 9/11/19	Date Approved: 12/20/18	Crime Scene Analyst: T. Olson	PR: 18552
-------------------------------------	-----------------------	-----------------------------------	---	---------------------

Qualtrac Number: LVMPD CSI 3517
 Document Number: LVMPD TSD 10
 Issued By: CSI OR
 Revision Date: 04/05/2018
 Page 1 of 1

EXHIBIT D

181200033889

5/12/2018

3272

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

2018 DEC 21 A 7 39

JUSTICE COURT
LAS VEGAS NEVADA

BY CLERK

STATE OF NEVADA)
COUNTY OF CLARK) ss:

APPLICATION FOR TELEPHONIC SEARCH WARRANT

Det. Jones: Judge Bonaventure, do you understand that this phone call is being recorded?

Judge Bonaventure: Yes.

Det. Jones: This is Detective B. Jones, P#9879, of the LVMPD. I am making an application for a Telephonic Search Warrant pursuant to NRS 179.045 under LVMPD event number 181200033889. I am talking to Judge Joseph Bonaventure. The date is 12/14/2018 and the time is approximately 1242 hours. Judge Bonaventure, would you please place me under oath? My right hand is raised.

Judge Bonaventure: Do you swear to tell the truth, the whole truth, and nothing but the truth?

Det. Jones: I do.

Judge Bonaventure: Thank you.

Det. Jones: Your Honor, my application is as follows:

I, Detective B. Jones, P#9879, am employed by the Las Vegas Metropolitan Police Department and have been so employed for 12 years. I am currently assigned to the Spring Valley Area Command Patrol Investigations Section and have been so assigned for 1 year. I'm presently investigating the crime of Burglary which occurred at 8960 W. Flamingo Rd, Las Vegas, NV 89147 between 0321 and 0443 hours on the 8th day of December, 2018.

There's probable cause to believe that certain property hereinafter described will be found at the following described premises to wit: 2233 S. Las Vegas Blvd Room #110, Las Vegas, NV 89104. The structure is a two-story hotel having a primarily white colored brick exterior with red trim. The numbers "110" are white in color and

RECEIVED IN JUSTICE COURT
DEPARTMENT 9 CHAMBERS ON

DEC 20 2018

RECEIVED

DEC 19 2018

LAS VEGAS JUSTICE COURT

19F00933B - ORNELAS, MARGAUX

Page 83 of 167

AA 000228

are affixed to the front door. The front door is red in color and faces south.

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

- Black Richard Mille / Felipe Massa watch model RM11, serial #4389, #3 of 50.
- Platinum Vacheron watch model 5000/00PB048, serial #1353947.
- Urwerk watch, model 202 White Shark, serial #8 of 12.
- Audemar Piguet watch, model LE 100, serial #J63429.
- Rolex watch, model 116509, serial #207231DO.
- Patek watch, serial #318028.
- Patek watch, model 5990.
- Audemar Piguet watch, model Pablo Montoya.
- Geubel Forsey watch, model GMT, serial #19.
- Patek watch, model 5650G, serial #7098449.
- Patek watch, model 5168G, serial #7119239.
- Panerai watch, model PAM 692 BMG, serial #0932.
- Panerai watch, model PAM 721, serial #0394.
- MB&F watch, model Legacy Perpetual, serial #03W63223.
- H. Moser Cie watch, model Flying Endeavor, serial #200116474.
- Richard Mille watch, model RM11-03, serial #RM11-03T150.
- Panerai watch, model PAM 375, serial #0851.
- Panerai watch, model PAM 725, serial #067.
- A. Lange & Sohne watch, model Datograph Perpetual Tourbillon, serial #227868.

- Mobile telephones to be searched via an addendum or additional search warrant at a later date. It is your affiant's experience that often times perpetrators use mobile telephones in their conspiracy to commit their crimes. These communications, whether voice and/or text, tend to illustrate forethought, as well as to show how the perpetrators acted in concert when they committed the offense.
- Epithelial cells from the mouth of Mergaux Ornelas, date of birth 03/27/1977, to be collected via buccal swab or a blood sample from the person of Mergaux Ornelas, date of birth 03/27/1977.
- A thorough microscopic examination and documentation of the crime scene to discover trace evidence to include, but not limited to fingerprints, blood, hair, fibers, and bodily fluid samples.
- Limited items of personal property which would tend to establish a possessory interest in the items sought to be seized pursuant to this search warrant to include, but not limited to personal identification, photographs, utility company receipts, addressed envelopes, rental receipts and objects which bear a person's name, phone number or address.

The items sought to be seized constitute evidence which would tend to show the crime of burglary has been committed. In support of the affiant's assertion to constitute the existence of probable cause, the following facts are offered:

On 12/08/2018, between 0321 and 0443 hours, 3 storage units were burglarized at Storage One, located at 9980 W. Flamingo Rd, Las Vegas, NV 89147. The suspects initially made entry by bending a metal cover on top of the roll-up door into unit B146. They then cut a hole through the wall into unit B147. Afterwards, they made entry into unit B151 by unknown means. Several collectible watches with a combined value of over \$2M were taken from inside unit B151, along with several bags and boxes. Items taken from unit B147 include a chessboard and a military jacket, along with some collectible dolls and a small green tricycle.

Surveillance footage from Storage One showed a white male adult and a white female adult enter the property from the main entrance at approximately 0321 hours. They appeared to be homeless, based on their clothing. The female was pushing an empty wheelchair.

144 Motion alarms were activated at unit B147 at approximately 0403
145 hours, and at unit B151 at approximately 0437 hours.
146

147 At approximately 0443 hours, the same two suspects were seen
148 walking through the driveway in front of the storage building. The
149 male was wearing a different jacket, believed to be the one taken
150 from unit B147. He was also carrying several bags that he did not
151 have when he first entered. The female was still pushing the
152 wheelchair, which had the chessboard taken from unit B147 sitting
153 in the seat.
154

155 An employee at Storage One stated that four other units had been
156 burglarized on 12/08/2018, but that police reports had not been
157 filed.
158

159 - On 12/11/2018, a search warrant was served on a tent, located in
160 a desert area just east of the storage units. Inside, officers
161 recovered several watch boxes, matching the makes and models
162 taken from unit B151, but not the watches. Also recovered were
163 business cards bearing the name of the owner of unit B151.
164

165 Also recovered, were the chessboard and military jacket taken
166 from unit B147, and paperwork bearing the name of the owner of
167 unit B146. Numerous other items, including jewelry, electronics,
168 and collectibles, were impounded for safekeeping. Latent prints
169 were recovered from the chessboard, a coin holder, and a blue
170 bag, all located inside the tent.
171

172 Later that same night, at approximately 2358 hours, a motion
173 alarm was activated at unit B151. A black Lincoln Navigator was
174 parked near the property, which had a bag on the ground next to
175 it. The bag had previously been seen inside the tent during the
176 search warrant. A clear plastic case with a watch inside could be
177 seen in open view on the front passenger seat. The vehicle was
178 impounded, pending a search warrant.
179

180 On 12/12/2018, a search warrant was served on the Lincoln
181 Navigator. Inside, officers recovered two of the watches taken
182 from unit B151, a Panerai watch and a Greubel Forsey watch.
183 They also recovered two coin collection folders, collector cards,
184 some fake \$100 bills, and two phones.
185

186 Latent prints recovered from the search warrant inside the tent
187 returned to Margaux Ornelas, date of birth 03/27/1977, and Dustin
188 Lewis, DOB 03/12/1983. Ornelas' prints were on the chessboard,
189 and Lewis' were on the other items. Both matched the description
190 of the suspects seen in the surveillance video from the burglary. A
191 records check showed that Ornelas had a no-bail electronic
192 warrant out of the Las Vegas Justice Court for domestic battery
193 (Case#17F04320X), and that Lewis had an active warrant for a

194 parole violation, related to a possession of stolen vehicle offense,
195 from Nevada Parole & Probation (File#L19-0376).
196
197 On 12/14/2018 around 1020 hours, officers located Ornelas
198 coming out of room 110 at the Fun City Motel, located at 2233 S.
199 Las Vegas Blvd, Las Vegas, NV 89104, and took her into custody
200 for her warrant. Officers entered the room to conduct a premise
201 freeze and prevent the destruction of any evidence. Inside, two
202 bags were seen in plain view, similar to the ones seen in the
203 surveillance video from the burglary.
204
205 Based on the fact that Ornelas and Lewis match the description of
206 the burglary suspects, Ornelas' latent prints were located on one
207 of the recovered stolen items, along with the fact that the hotel
208 room is Ornelas' last known location, there is probable cause to
209 believe that the unrecovered stolen items are located inside the
210 hotel room.
211
212 Your affiant believes that the epithelial cells or blood sample when
213 collected and submitted for DNA laboratory analysis, would either
214 include or eliminate the listed person's involvement in the criminal
215 offense of burglary. A buccal swab is the preferred and intended
216 method of collection of the DNA sample. However, in the event
217 that Margaux Ornelas refuses to cooperate with the collection of
218 the buccal swab, the use of reasonable force is authorized to the
219 extent necessary to obtain a blood sample.
220
221 Judge Bonaventure, this ends the probable cause details of this
222 search warrant application and Your Honor, this ends the search
223 warrant portion. Judge Bonaventure, do you find probable cause
224 exists for the issuance of this search warrant?
225
226 Judge Bonaventure: Yes, I do find probable cause.
227
228 Det. Jones: Judge Bonaventure, would you like me to read the duplicate
229 original search warrant?
230
231 Judge Bonaventure: No, that's not necessary.
232
233 Det. Jones: Judge Bonaventure, do I have your permission to affix your name
234 to the duplicate original search warrant?
235
236 Judge Bonaventure: Yes.
237
238 Det. Jones: This application and the signing of the search warrant was
239 witnessed by Detective J. Haynes, P#14010, at 1254 hours.
240 Judge Bonaventure, this ends our conversation and concludes the
241 recording. Thank you for your time.
242
243 Judge Bonaventure: You're welcome.

244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265

 #76772

Jessica Dodd, P#15372 LEST

"I certify that this is a true and accurate transcription,
dated this 17th day of December, 2018, at 1100 hours."



Det. B. Jones, P#8679, LVMPD

Spring Valley Area Command, Patrol Investigations

"Having read the transcription of the Telephonic Search Warrant issued by this Court on
the 14th day of December, 2018, at 1254 hours, LVMPD, serving as Affiant and having
reviewed the recording of the application, it appears the transcription is accurate."



Judge Bonventure

Las Vegas Township, Department 9

Justice of the Peace

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DUPLICATE ORIGINAL SEARCH WARRANT
 NRS 179.045

FILED 3272

2018 DEC 21 A 739

STATE OF NEVADA

COUNTY OF CLARK

2233 S. LAS VEGAS BLVD
 LAS VEGAS, NV 89104
 PERSON OF: MARGAUX ORNELAS,
 DOB 03/27/1977

JUSTICE COURT
 LAS VEGAS, NEVADA
 DEPUTY

The State of Nevada, to any Peace Officer in the County of Clark. Proof having been made before me by Detective/Officer R. JONES P# 9679 by oral statements given under oath, that there is probable cause to believe that certain evidence, to wit:

- 1) Black Richard Mille / Felipe Massa Watch - Model RM11 - Serial 4389 #3 of 50
- 2) Platinum Vacheron Watch - Model 5000/000PB048 - Serial 1353947
- 3) Urwerk Watch - Model 202 White Shark - Serial #6 of 12
- 4) Audemar Piguet Watch - Model LE 100 - Serial J83429
- 5) Rolex Watch - Model 116509 - Serial 207231DO
- 6) Patek Watch - Serial 316026
- 7) Patak Watch - Model 5890
- 8) Audemar Piguet Watch - Model Pablo Montoya
- 9) Geubel Forsey Watch - Model GMT - Serial 19
- 10) Patak Watch - Model 5850G - 7086449
- 11) Patek Watch - Model 5168G- Serial 7119239
- 12) Panerai Watch - Model PAM 682 BMG - Serial 0932
- 13) Panerai Watch - Model PAM 721 - Serial 0394
- 14) MB&F Watch - Model Legacy Perpetual - Serial 03W63223
- 15) H. Moser Cie Watch - Model Flying Endeavor - Serial 200116474
- 16) Richard Mille Watch - Model RM11-03 - Serial RM11-03TI 50
- 17) Panerai Watch - Model PAM 375 - Serial 0951
- 18) Panerai Watch - Model PAM 725 - Serial 087
- 19) A. Lange & Sohne Watch - Model Datograph Perpetual Tourbillon - Serial 227668

RECEIVED

DEC 19 2018

LAS VEGAS JUSTICE COURT

Page 1 of 3

19F00933B - ORNELAS, MARGAUX

Page 89 of 167

AA 000234

****Note: This is a standardized template. Items which have been struck out are excluded as items to be sought and seized during the execution of this search warrant.****

(): Firearms to include handguns, shotguns and rifles, spent casings or live ammunition for the same, firearm accessories including, but not limited to, magazines or cylinders, firearm cleaning materials, and paperwork associated with the ownership of firearms;

(): Any evidence of criminal street gang membership or affiliation with any criminal street gang, said paraphernalia to include, but not limited to, any drawings or miscellaneous writings, or objects, or graffiti depicting gang member's names, initials, logos, monikers, slogans, and/or any information containing mention of criminal street gang membership, affiliation, activity or identity. Any paintings, photographs or photograph albums depicting persons, vehicles, weapons, or locations which may appear upon observation to be relevant on the question of gang membership or association, or which may depict items sought and/or believed to be evidence in the case being investigated with this warrant. Any letters, notes, papers and other (written) evidence of criminal activities, or which may depict evidence of any criminal gang activity. Any newspaper clippings tending to relate details or reference to any crime or crimes of violence;

(20) Mobile telephones which may be searched via an addendum or additional search warrant at a later date. It is your affiant's experience that often times perpetrators use mobile telephones in their conspiracy to commit their crimes. These communications whether voice and or text tend to illustrate forethought as well as show how the perpetrators acted in concert when they committed the offense;

(): Paraphernalia commonly associated with the smoking, injection and/or ingestion of narcotics as well as the distribution of controlled substances. These items would include but not be limited to: smoking pipes (commercial or homemade), needles, scales, packaging materials, cutting agents, customer and source lists, recordation's of purchases and sales and "owe sheets" reflecting transactions of controlled substances;

(): U.S. currency believed to be proceeds from the sales of narcotics;

21: Epithelial cells from the mouth(s) of:

MARGAUX ORNELAS, DOB 03/27/1977

to be collected via buccal swab, or,

22: A blood sample from the person(s) of:

MARGAUX ORNELAS, DOB 03/27/1977

(2) A thorough, microscopic examination and documentation of the crime scene to discover trace evidence to include but not limited to: fingerprints, blood, hair, fibers and bodily fluid samples;

(3) Limited items of personal property which would tend to establish a possessory interest in the items sought to be seized pursuant to this search warrant to include but not limited to: personal identification, photographs, utility company receipts, addressed envelopes, rental receipts, and objects which bear a person's name, phone number or address;

which are presently located at:

(1): 2233 S. LAS VEGAS BLVD, ROOM 110, LAS VEGAS, NV
89104

And (2) the person(s) of adults (or minors) located at the premises at the time of the execution of this search warrant, to include backpacks, purses or bags as well as clothing currently being worn by or in the possession of said person(s).

As I am satisfied that there is probable cause to believe that said evidence is located as set forth above and based upon the statements of Detective/Officer R. JONES, P# 9679, there are sufficient grounds for the issuance of the Search Warrant.

You are hereby commanded to search and examine said premise and/or vehicle for said property and trace evidence, serving this warrant (at any hour day or night) (between 7 am and 7 pm) and if the property is there, to seize it and leave a written inventory and make a return before me within 10 days. The attached recorded oral statement upon which this warrant is based is hereby incorporated by this reference as though fully set forth herein.

Dated this 14TH day of DECEMBER, 2018, at 1254 hours.

(Print Judge's name) JOSEPH BONAVENTURE

Signed by Detective/Officer R. JONES, P# 9679, acting upon oral authorization of

Judge JOSEPH BONAVENTURE

Witnessed by DETECTIVE J. HAYNES, P# 14010

ENDORSED this 2nd day of December, 2018

Judge [Signature]

LLV 181200033889

FILED / 1

RETURN

2018 DEC 21 A 3:272

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

JUSTICE COURT
LAS VEGAS NEVADA

BY LO

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

2233 S. LAS VEGAS BLVD, ROOM 110
LAS VEGAS, NV 89109

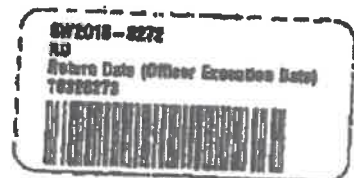
was executed on DECEMBER 14, 2018
(Month, day, year)

A copy of this inventory was left with AT THE PLACE OF SEARCH

(Name of person or the place of search)

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

AUDOMAR PIGUET WATCH - SERIAL J63429
PANERAI WATCH - SERIAL 5067200 W/BAGS
PATCK PHELEPPES ENVELOPE
PANERAI WATCH - SERIAL T0392/1000
2 PANERAI MANUALS
1 ROLEX MANUAL
6 WATCH BANDS + 1 BAG
40 IDENTIFICATION CARDS
6 PASSPORTS
6 SOCIAL SECURITY CARDS
20 DEBIT/CREDIT CARDS
2 FIREARM REGISTRATION CARDS
MISC PAPERWORK
1 CHECKBOOK



This inventory was made by: B. JONES, PH9679

J. HAYNES, PH9679

RECEIVED

(At least two officers including officer if present. If person whose property is taken is present include that person.)

UNPD 710 DEC 24 2018

LAS VEGAS JUSTICE COURT

19F00933B - ORNELAS, MARGAUX

Page 92 of 167

AA 000237

181200033889

FILED of 1

RETURN

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

2018 DEC 21 A 7:39 3272

CLERK OF COURT
JUSTICE COURT
LAS VEGAS NEVADA
BY LG

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

THE PERSON OF MARGAUX ORNELAS, BORN
03/27/77.

was executed on

12/17/18

(month, day, year)

A copy of this inventory was left with

MARGAUX ORNELAS

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

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

- EPITHELIAL CELLS FROM THE MOUTH
OF MARGAUX ORNELAS, DOB 03/27/77,
VIA BUCCAL SWABS.

This inventory was made by: E. CRIMES, #6009, M. SAUNDERS, #6006
RECEIVED

DEC 19 2018

(Get initial two officers including officer if present. If person from whom property is taken is present include that person.)

LAS VEGAS JUSTICE COURT



1 JOIN.
2 MICHAEL A. TROIANO, ESQ.,
3 Nevada Bar No. 11300
4 THE LAW OFFICE OF MICHAEL A. TROIANO
5 601 S. 7th Street
6 Las Vegas, NV 89101
7 (702) 843-5500
8 Attorney for Defendant

6 DISTRICT COURT
7 CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,	)	Case No.:	C-19-340051-2
	)	Dept. No.:	24
9 Plaintiff,)		
)		
10 vs.)		
)		
11 MARGAUX ORNELAS,)		
)		
12 Defendant,)		
13)		

14
15 **DEFENDANT MARGAUX ORNELAS' JOINDER TO CO-DEFENDANT DUSTIN**
16 **LEWIS' MOTION TO SUPPRESS EVIDENCE BASED ON FOURTH**
17 **AMENDMENT VIOLATION AND FRUIT OF THE POISONOUS TREE**
18 **DOCTRINE**

19 COMES NOW, Defendant, MARGAUX ORNELAS, by and through her counsel
20 MICHAEL A. TROIANO, ESQ., and hereby files this Joinder to Co-Defendant, Dustin Lewis
21 Motion to Suppress Evidence Based on Fourth Amendment Violation and Fruit of the Poisonous
22 Tree Doctrine.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

AA 000239

1 This Joinder incorporates the Memorandum of Points and Authorities in Co-Defendant,
2 Dustin Lewis Motion, the papers on file herein, and any oral argument the Court wishes to entertain
3 at the hearing for this Motion.

4 DATED this 3rd day of March, 2021.

5 LAW OFFICE OF MICHAEL A. TROIANO

6
7 By /s/ Michael A. Troiano
8 MICHAEL A. TROIANO, ESQ.
9 Nevada Bar No. 11300
601 S. 7th Street
10 Las Vegas, Nevada 89101
(702) 843-5500

11
12 **CERTIFICATE OF ELECTRONIC SERVICE**

13 A COPY of the above and foregoing MOTION TO WITHDRAW PLEA was sent via
14 electronic mail to the District Attorney's Office at motions@clarkcountynyda.com and Chief Deputy
15 District Attorney David Standton at david.stanton@clarkcountynyda.com on this 3rd day of March,
16 2021.

17
18 LAW OFFICE OF MICHAEL A. TROIANO

19 By /s/ Noelle Steadmon
20 Employee of The Law Office of
21 Michael A. Troiano
22 601 S. 7th Street
Las Vegas, Nevada 89101
(702) 843-5500



1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 DAVID STANTON
6 Chief Deputy District Attorney
7 Nevada Bar #03202
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,

11 -vs-

12 DUSTIN LEWIS, #7030601

13 Defendant.

CASE NO: C-19-340051-1

DEPT NO: XXIV

15 **STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS EVIDENCE**
16 **BASED ON FOURTH AMENDMENT VIOLATION AND FRUIT OF THE**
17 **POISONOUS TREE DOCTRINE**

17 DATE OF HEARING: MARCH 8, 2021
18 TIME OF HEARING: 10:00 AM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through DAVID STANTON, Chief Deputy District Attorney, and hereby
21 submits the attached Points and Authorities in Opposition to Defendant's Motion To Suppress
22 Evidence Based On Fourth Amendment Violation And Fruit Of The Poisonous Tree Doctrine.

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

26 //

27 //

28 //

1 POINTS AND AUTHORITIES

2 The instant motion fails to cite any authority that supports an absolute right to privacy
3 in a tent that by its very nature was evidence of a crime to wit – trespass. Defendant, relying
4 primarily on *Alward*, asserts that this Court should rely on that decision to grant the instant
5 Motion. A critical fact that separates the reasoning between *Alward* and the instant case is that
6 unlike the facts in *Alward* [tent lawfully on BLM land] the tent clearly evidenced, among other
7 things, a criminal act was being committed. The tent, conceded in the instant Motion as being
8 the Defendant's property, was on private property. Also conceded in the Motion is the
9 uncontroverted fact that the property was fenced.

10 The land in question – immediately adjacent to the location of the crimes in this case –
11 was clearly the property of someone other than the Defendant and privately owned. This was
12 not BLM land or public lands. Thus, *Alward* is NOT dispositive of this case. The officers had
13 additional reasons to be concerned about the tent in question (discussed *infra*) as they
14 approached the tent. Not only did they have a duty to ascertain whether an ongoing crime was
15 being committed (trespassing) but they had observed a wheelchair in proximity to the tent
16 itself. The officers were obligated to see if the wheelchair was related to the occupants of the
17 tent for several reasons – “community caretaking.” See, *State v. Rincon*, 122 Nev. 1170, 1176,
18 147 P.3d 233, 237 (2006) (community caretaking); *S. Dakota v. Opperman*, 428 U.S. 364,
19 369, 96 S. Ct. 3092, 3097 (1976).

20 Officers announced themselves in close proximity to the tent and received no answer.
21 Their obligations as outlined *supra* still existed. The only way they could confirm or dispel
22 those concerns was to verify if the tent was occupied. Equally, the Officers were well within
23 the scope of their duties to seize the entire tent itself. Impounding the same would require
24 them to conduct an inventory of the obvious contents inside the tent.

25 It is uncontested that the following actions then took place. That officers immediately
26 recognized items of contraband and that someone appeared to be living inside the tent on
27 private property. Additionally, this private lot was surrounded by fencing to keep others from
28

1 personal effects, his actions did not violate Cleator's
2 limited expectation of privacy.
3 *State v. Cleator*, 71 Wash. App. 217, 220–22, 857 P.2d 306, 308–09 (1993) (footnotes
4 omitted).

5 The facts as Defendant LEWIS argues in the instant motion are more directly on point
6 with *Cleator* than *Alward* or *Gooch*. In fact, the expectation of privacy analysis in all cases
7 cited fail to support LEWIS as he was not on a campground or public property – it was private
8 property.

9 Another critical fact separates LEWIS from the facts cited by defense counsel in *Gooch*.
10 In *Gooch*:

11 The officers then ordered Gooch's companion out of the tent and searched the
12 tent for the firearm, finding a loaded handgun under an air mattress. *Id.* The
13 court concluded that Gooch had both a subjective and an objectively reasonable
14 expectation of privacy in the tent, noting that camping in a public campground
15 as opposed to on private land was of no consequence since the Fourth
16 Amendment “protects people, not places.” *Id.* at 676–77 (quoting *Katz v. United*
17 *States*, 389 U.S. 347, 351, 88 S.Ct. 507, 511, 19 L.Ed.2d 576 (1967))

18 *Id.*, 6 F3d at 676.

19 It is uncontroverted that no such search was conducted in this case. Thus, for 2 distinct
20 and important facts separates *Gooch* from LEWIS.

21 The instant Motion quotes *Alward* in an interesting way. The Motion at page 8, lines
22 8-9 uses brackets to paraphrase the opinion. Specifically, the Motions states: “Simply because
23 [the Defendant] camped on land owned by another does not diminish his expectation of
24 privacy.” (Emphasis added). Of course, as indicated throughout this Opposition, the
25 ownership and type of ownership that the tent sits on is critical to the respective Court’s
26 analysis.

27 Thus, both the illegality, and defendant's awareness that he was illicitly
28 occupying the premises without consent or permission, are undisputed.
“Legitimation of expectations of privacy by law must have a source outside of
the Fourth Amendment, either by reference to concepts of real or personal
property law or to understandings that are recognized and permitted by society.”
(*Rakas v. Illinois* (1978) 439 U.S. 128, 143, fn. 12, 99 S.Ct. 421, 58 L.Ed.2d
387.) Defendant was not in a position to legitimately consider the campsite—or
the belongings kept there—as a place society recognized as private to him.
(*Dodds, supra*, 946 F.2d 726, 728–729.) Nor did he have the right to exclude
others from that place. He had no ownership, lawful possession, or lawful
control of the premises searched. (See *United States v. Gale* (D.C.Cir.1998) 136

F.3d 192, 195–196; *United States v. Carr* (10th Cir.1991) 939 F.2d 1442, 1446.) A “person can have no reasonable expectation of privacy in premises on which they are wrongfully present...” (*United States v. Gutierrez-Casada* (D.Kan.2008) 553 F.Supp.2d 1259, 1270; see also *United States v. McRae* (6th Cir.1998) 156 F.3d 708, 711; *Dodds*, *supra*, at pp. 728–729.)

People v. Nishi, 207 Cal. App. 4th 954, 961, 143 Cal. Rptr. 3d 882, 889 (2012).

In light of the Officer's ability to impound the tent, they would have been duty bound to then inventory the contents therein. This analysis further confirms courts decision as it relates to tents on public versus private land. Additionally, there is no reasonable contention that the land in question was private property and that considerable efforts had been made by the owners to communicate to the general public by surrounding the property with significant fencing.

Finally, it is important to note that not one legal citation in the instant Motion addresses the critical inquiry that this Court needs to make whether the objective expectation of privacy is one that society is prepared to recognize. There can be no question that numerous jurisdictions properly find that an expectation of privacy does indeed exist inside of a tent on public property. But the critical inquiry here is that this is not public land but private property that LEWIS' presence constitutes an illegal act and one that is ongoing in nature as it clearly and reasonably appeared to Officers on the date in question.

The presence of the wheelchair in the same private fenced lot and near LEWIS' tent adds an important additional fact into the privacy interest of LEWIS. In either or both interpretations of the wheelchair the officers were clearly bound to investigate further under the long-held doctrine of "community caretaking."

CONCLUSION

The instant Motion proclaims that the “evidence recovered from Mr. Lewis’ tent and surrounding area” should be suppressed. No such argument has been made, let alone legal authority to support, that evidence found outside the tent is suppressible under the theory of a violation of a “right to privacy.” As outlined above, it is critical that this Court analyses the facts in this case as being substantively and qualitatively different from those cases cited by



1 ALMASE LAW
2 CAESAR ALMASE, ESQ.
3 Bar No. 7974
4 526 S. 7th Street
5 Las Vegas, NV 89101
6 (702) 463-5590
7 Attorney For Defendant

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

10 STATE OF NEVADA,

11 Plaintiff,

12 v.

13 DUSTIN LEWIS,
14 #7030601

15 Defendant.

)
)
) Case No.: C-19-340051-1

)
) Dept. No.: XXIV

)
) **DEFENDANT DUSTIN LEWIS REPLY TO**
) **STATE'S OPPOSITION**
)
)
)

16 COMES NOW Defendant, DUSTIN LEWIS by and through his attorney of record,
17 CAESAR ALMASE of ALMASE LAW, and hereby files DEFENDANT DUSTIN LEWIS REPLY TO
18 STATE'S OPPOSITION. This Reply is based upon the contents herein, the underlying
19 Motion on file, and argument of Counsel at the hearing.

20 DATED this 16 of March 2021.

21 By 

22 Caesar Almase #7974
23 526 S. 7th Street
24 Las Vegas, NV 89101
25 (702) 463-5590
Attorney for Defendant

AA 000247

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

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

PLEASE TAKE NOTICE that the foregoing motion has been set for hearing on the

_____ day of _____ 2021, at 8:30 AM in District Court XXIV.

DATED this 11 day of March 2021.

By: 

Caesar Almase #7974
526 S. 7th Street
Las Vegas, NV 89101
(702) 463-5590
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify I electronically filed the foregoing document with the Clerk of the Court by using the electronic filing system on the _____ day of March 2021. Service was made electronically and via email to:

Steven B. Wolfson
Clark County District Attorney
pdmotions@clarkcountyda.com

By: 

CAESAR ALMASE, ESQ.
Attorney For Defendant

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

RELEVANT FACTS

Defense incorporates the recitation of facts provided in the "Relevant Fact" section of the underlying Motion To Suppress. The State filed an Opposition to that Motion. In it, the State really makes one argument¹ against suppression of evidence: that the officers had a legal right to search Mr. Lewis' tent, because the tent was presumably² illegally placed on private property. At the March 8 hearing, the State requested an evidentiary hearing to determine whether the tent was illegally pitched in that area, ostensibly to justify the officers' intrusion. Defense counsel asked this Honorable Court permission to file the instant Reply, and after reading it, to assess whether an evidentiary hearing is actually necessary.

24
25

MEMORANDUM OF POINTS AND AUTHORITIES

In its Opposition, the State cited to *State v. Cleator*, 71 Wash. App. 217 (1993), as persuasive authority, for the proposition that a tent placed illegally on land can be searched and seized, without regard to the privacy expectations of the occupier. In other words, police have a right to search and seize any property, including a tent, of a person who is trespassing, because that person is breaking the law by trespassing. Simply put, this is not the law in Nevada. Reliance on *Cleator* is completely misplaced and is not even followed by the Washington Appeals Court that issued the opinion. Defense urges this Honorable Court to instead follow the controlling authority for Fourth Amendment issues of this nature in the Ninth Circuit, *US v. Gooch*, 6 F.3d. 673 (9th Cir. 1993) and *US v. Sandoval*, 200 F.3d 659 (2000); and in Nevada state court, *State v. Alward*, 112 Nev. 141 (1996). *Alward*, as the

¹The State mentions "community caretaking" as an alternate justification for the officers' tent intrusion and cites to *State v. Rincon*, 122 Nev. 1170 (2006). *Rincon* is in no way applicable, as it dealt with officers' ability to stop motorists in the interest of community caretaking, when an emergency may exist and no reasonable suspicion that a crime occurred can justify the stop. To argue it applies here is absurd.

1 lone Nevada Supreme Court case on point, is the controlling case regarding Fourth
2 Amendment privacy interests of tent occupiers in Nevada.

3 ***State v. Cleator Is Neither Controlling Nor Persuasive***

4 *State v. Cleator*, 71 Wash. App. 217 (1993) dealt with a tent located in an area the
5 investigating officer believed to be on city property, 150 yards from a residence where
6 items had been stolen. *Id.* at 218. Although there is no mention in the opinion as to
7 whether the tent was determined to be on public or private land, it was undisputed that the
8 defendants did not have permission to place the tent at that location. *Id.* at 219-22. The
9 Washington Court of Appeals, Division One, decided against suppression of the evidence,
10 citing to past cases, which the State recounts in the long block quotes on page 3 of the
11 Opposition.

12 Seven years after *Cleator*, the Ninth Circuit issued *US v. Sandoval* 200 F.3d 659
13 (2000), which drew from and bolstered *US v. Gooch* 6 F.3d 673 (1993), which is still the
14 lead case on Fourth Amendment law in the Ninth Circuit. The defendant, Sandoval, was one
15 of 18 defendants indicted for marijuana growing and conspiracy. *Id.* at 660. At issue, was
16 one of the sixteen grow sites; a “makeshift tent” that was closed on all sides, located
17 illegally on BLM land, and had a medicine bottle with Mr. Sandoval’s name on it, linking him
18 to the tent and other items of evidentiary value. *Id.* The tent was searched and seized
19 without a warrant, and the trial court denied a Motion to Suppress, reasoning that because
20 the tent was illegally on BLM land, the defendant could not have reasonably expected to
21 keep the tent private from intrusion. *Id.* However, the Ninth Circuit reversed, stating the
22 defendant did have a reasonable expectation of privacy:

23 First, the tent was located in an area that was heavily covered by vegetation
24 and virtually impenetrable. Second, the makeshift tent was closed on all four

25 ²It is presumed, as this Honorable Court pointed out at the hearing on March 8, because no information
has been presented to show the property was actually private; that the property owner even knew about
the tent; or that the tent was illegally pitched without the property owner’s permission.

1 sides, and the bottle could not be seen from outside. Third, Sandoval left a
2 prescription medicine bottle inside the tent; a person who lacked a subjective
3 expectation of privacy would likely not leave such an item lying around. The
4 government counters that Sandoval could not have had a subjective
5 expectation of privacy because he was growing marijuana illegally and was
6 not authorized to camp on BLM land. However, **we have previously**
7 **rejected the argument that a person lacks a subjective expectation of**
8 **privacy simply because he is engaged in illegal activity or could have**
9 **expected the police to intrude on his privacy.** See *United States v. Gooch*, 6
10 F.3d 673, 677 (9th Cir. 1993). According to this view, no lawbreaker would
11 have a subjective expectation of privacy in any place because the expectation
12 of arrest is always imminent.

13 *Id.* at 660. (quotes omitted) (emphasis added). The similarities to Mr. Lewis' situation are
14 apparent. Like the defendant in *Sandoval*, Mr. Lewis clearly showed a subjective
15 expectation of privacy in his home, the tent, by keeping it zipped up and closed to outsiders.
16 (see also *Alward v. State*, 112 Nev. 141, at 150, defendant "had a subjective expectation of
17 privacy in the tent and its contents. . .manifested. . .by leaving the tent. . .closed.")

18 The *Sandoval* Court goes further, stating the privacy expectation was objectively
19 reasonable too. *Id.* at 660-61.

20 In *LaDuke v. Nelson*, we held that a person can have an objectively reasonable
21 expectation of privacy in a tent on private property. In *Gooch*, we extended
22 that holding to find a reasonable expectation of privacy in a tent on a public
23 campground. Here, the tent was located on BLM land, not on a public
24 campground, and it is unclear whether Sandoval had permission to be there.
25 However, **we do not believe the reasonableness of Sandoval's**
expectation of privacy turns on whether he had permission to camp on
public land.

Id. (citations and footnotes omitted) (emphasis added). This language from *Sandoval*
makes clear that Fourth Amendment analysis regarding whether a person has a reasonable
expectation of privacy in their tent, does not depend on where the tent is, be it private or
public land, or whether it was pitched legally or illegally.

1 The Ninth Circuit cases of *US v. Sandoval* and *US v. Gooch*, and the Nevada Supreme
2 Court case of *State v. Alward* represent the current state of Fourth Amendment case law in
3 the Ninth Circuit and Nevada. The Washington Appeals Court, Division One case of *State v.*
4 *Cleator* should not figure into this analysis, not only because it does not control in Nevada,
5 but because it is not even followed in Washington. As if to clarify the error of *Cleator*,
6 twenty-four years after that ruling, the Washing Appeals Court, Division Two issued *State v.*
7 *Pippin*, 200 Wash. App. 826 (2017).

8 In *Pippin*, the appellant, who was living in a tent in downtown Vancouver WA, was
9 contacted by officers who were enforcing a new law that made camping on public ground
10 illegal. *Id.* at 830-31. During the interaction officers lifted a tarp covering the tent and saw
11 the defendant with methamphetamine. *Id.* at 831-32. He was charged with drug
12 possession, he moved to suppress under the Fourth Amendment, the State opposed saying
13 he did not have a privacy interest, and the trial court granted suppression, relying
14 primarily on *US v. Sandoval*, 200 F.3d 659 (2000). *Id.*

15 On appeal, the Washington Appeals Court upheld the lower court and took the
16 opportunity to announce abandonment of *Cleator* in favor of *Sandoval*, stating:

17 We decline to follow *Cleator* for several reasons. First, *Cleator* predominantly
18 analyzed the Fourth Amendment in determining that *Cleator*'s privacy
19 interests were not violated. Further, in coming to its conclusion, *Cleator*
20 heavily relied on the proposition that other federal circuits had "rejected an
21 individual's claim to a right of privacy in the temporary shelter he or she
22 wrongfully occupies on public property." *Id.* at 220, 857 P.2d 306 (citing
23 *United States v. Ruckman*, 806 F.2d 1471, 1472-73 (10th Cir. 1986);
Amezquita v. Hernandez-Colon, 518 F.2d 8, 11 (1st Cir. 1975)).³ **Those cases,**
though, have been called into question by the 9th Circuit, which has
held that the reasonableness of an individual's expectation of privacy is
not lessened when he or she wrongfully occupies public property. See
***Sandoval*.**

24
25 ³It is noteworthy, that *US v. Ruckman* and *Amezquita v. Hernandez-Colon* are among the cases the State
cites to as authority on page 3 of its Opposition, for the specious argument that Courts addressing the
issue of a tent on private property, "are almost unanimous in finding that NO right to privacy if [sic]
found to be objectively reasonable." Opp., p. 3, ln. 5-6. This is clearly untrue.

1 *Pippin* at 842-43. (emphasis added).

2 The *Pippin* Court then revealed the Court that issued the *Cleator* opinion, its sister
3 court Washington Appeals Court, Division One, “itself has now departed from *Cleator*’s
4 view that unlawfully occupying land diminishes one’s privacy rights.” *Id.* at 843, citing *State*
5 *v. Wyatt*, noted at 187 Wash.App. 1004, WL 1816052 (2015). The *Pippin* Court concluded,
6 “*Cleator*’s holding is inconsistent with *Sandoval*, and its rationale was abandoned by *Wyatt*.
7 For these and the other reasons just noted, we join the approach of *Sandoval* and *Wyatt* and
8 hold that Pippin’s privacy interests are not diminished by his lack of permission to camp at
9 that location.” *Id.* at 843-44.

11 Just as the Washington Appeals Court, Division Two, abandoned *Cleator*, which was
12 their controlling case law, this Honorable Court should likewise reject it as unpersuasive.

13 **An Evidentiary Hearing Is Unnecessary**

14 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)). “Simply because [the defendant]
16 camped on land [owned by another] does not diminish his expectation of privacy.” *Alward*,
17 112 Nev. at 150, 912 P.2d at 249. Under the Ninth Circuit case of *Gooch*, by extension
18 *Sandoval*, and our Nevada Supreme Court case of *Alward*, Mr. Lewis had a reasonable
19 expectation of privacy in his home, the tent. It does not matter whether Mr. Lewis was
20 actually trespassing, because he would still have a Fourth Amendment protected
21 expectation of privacy, which officers violated by opening the tent. Therefore, an
22 evidentiary hearing to determine whether Mr. Lewis illegally pitched the tent is
23 unnecessary and a waste of time.
24
25

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

CONCLUSION

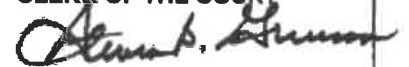
This Honorable Court should order the suppression of all tangible property and physical evidence recovered from Mr. Lewis' tent and the surrounding area, as these items were seized in violation of the Fourth Amendment of the US Constitution, *US v. Gooch*, 6 F.3d 673 (9th Cir. 1993), *US v. Sandoval*, 200 F.3d 659 (2000), and *State v. Alward*, 112 Nev. 141 (1996). By extension under the Fruit of the Poisonous Tree doctrine and *Segura v. United States*, 468 U.S. 796, 804 (1984), which was cited in the underlying Motion To Suppress, Mr. Lewis' hand print, his interview, any statements attributed to him, all documents, statements, any other tangible evidence relating to his identity, and any evidence from the search of the Navigator and the Fun City Motel that the State intends to use against Mr. Lewis at trial must be suppressed as well.

DATED this 11 day of March 2021.

By:



Caesar Almase #7974
526 S. 7th Street
Las Vegas, NV 89101
(702) 463-5590
Attorney for Defendant



1 RSPN
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 DAVID STANTON
6 Chief Deputy District Attorney
7 Nevada Bar #003202
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 DUSTIN LEWIS,
13 #7030601

14 Defendant.

CASE NO: C-19-340051-1

DEPT NO: XXIV

15 **STATE'S RESPONSE TO DEFENDANT'S DUSTIN LEWIS REPLY TO STATE'S**
16 **OPPOSITION**

17 DATE OF HEARING: MARCH 31, 2021
18 TIME OF HEARING: 8:30 AM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through DAVID STANTON, Chief Deputy District Attorney, and hereby
21 submits the attached Points and Authorities in Response to Defendant's Dustin Lewis Reply
22 To State's Opposition.

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

26 //

27 //

28 //

//

1 POINTS AND AUTHORITIES

2 The original Motion relies upon the Nevada case *Alward*¹ and two Ninth Circuit cases
3 *Gooch*² and *Sandoval*³. The Motion and Reply makes the same error – that the tent in question
4 is on private property, as opposed to government property, and that make s a significant legal
5 distinction. The authority relied upon by the State speaks directly to this issue and this analysis
6 is not only not in conflict with the Ninth Circuit but correctly embraces the analysis of the
7 presence of a tent on private land. LEWIS yet again fails to cite any authority that the search
8 of a tent on private land (not the defendant's land) satisfies the 2nd prong of the *Katz* test
9 recognizing a legal right of privacy. *Katz v. United States*, 389 U.S. 347, 360-61, 88 S.Ct. 507,
10 19 L.Ed.2d 576 (1967) (Harlan, J., concurring)).

11 LEWIS also errs in outlining the underlying facts about the “search” in the instant case.
12 Specifically, the Reply incorrectly states the underlying facts in this case Reply at page 3, lns.
13 3-8. LEWIS claims that the Officers searched LEWIS’ tent after opening the flap. They did
14 not. They looked inside the tent, observed items of contraband. They sought and obtained a
15 search warrant of the LEWIS tent wherein those evidentiary items were impounded. This
16 important fact is highly relevant to appellate courts analysis of the objective/objective right of
17 privacy under *Katz*.

18 PRIVATE PROPERTY MAKES A CRITICAL DISTINCTION

19 Not surprisingly numerous appellate courts within the Ninth Circuit have addressed the
20 *Sandoval/Gooch* scenario as it relates to tents, trespassing and private property. Consistent
21 within these opinions is the rejection that one has an objectively reasonable expectation of
22 privacy in a tent/home/structure is one is trespassing.

23 Whiting, nevertheless, analogizes his situation to defendants who successfully
24 challenged searches of tents they themselves constructed, citing *United States v. Sandoval*, 200 F.3d 659, 661 (9th Cir.2000), *United*
25 *States v. Gooch*, 6 F.3d 673, 677 (9th Cir.1993), and *Kelley v. State*, 146
26 Ga.App. 179, 245 S.E.2d 872, 874 (1978). In *Sandoval*, 200 F.3d at 661, the
court found that the defendant possessed an objectively reasonable expectation
of privacy in the tent where he was staying on federally owned land. Although

27
28 ¹ *Alward*, 112 Nev 141 (1996)

² 6 F.3d 673 (1993)

³ 200 F.3d 659 (2000)

1 it was questionable whether the defendant had permission to do so, the court
2 stated:

3 [C]amping on public land, even without permission, is far different from
4 squatting in a private residence. A private residence is easily identifiable and
5 clearly off-limits, whereas public land is often unmarked and may appear to be
6 open to camping. Thus, we think it much more likely that society would
7 recognize an expectation of privacy for the camper on public land than for the
8 squatter in a private residence.

9 *Id.* at 661.

10 Finally, Whiting asserts that we should acknowledge an indigent's expectation
11 of privacy in the place where he or she stays because to not do so is to
12 discriminate against indigents and the homeless in favor of people who are
13 fortunate enough to have money. A person's monetary worth, however, is not
14 the issue; the issue is lawful occupancy.

15 Whiting neither lawfully owned, leased, controlled, occupied, nor rightfully
16 possessed 810 East Preston Street, or any part of the premises therein.
17 Accordingly, we find that Whiting lacked standing to challenge the April 27 and
18 May 4, 2001 searches because, although he may have possessed a subjective
19 expectation of privacy, that expectation was not objectively reasonable.

20 *Whiting v. State*, 389 Md. 334, 362–63, 885 A.2d 785, 801–02 (2005)

21 California court of appeals after extensively outlining *Gooch* and *Sandoval* rejected the
22 application of that to very similar facts to LEWIS.

23 We find the decision in *United States v. Ruckman* (10th Cir.1986) 806 F.2d
24 1471, persuasive in the present case. In *Ruckman*, the defendant lived in a
25 natural cave located in a remote area of southern Utah on land owned by the
26 United States and controlled by the Bureau of Land Management. He attempted
27 to enclose the cave by “fashioning a crude entrance wall from boards and other
28 materials which surrounded a so-called ‘door.’ ” (*Id.* at p. 1472.) A warrantless
search of the cave resulted in seizure of firearms and “anti-personnel booby
traps.” (*Ibid.*) As in the case before us, the evidence established
that *963 “Ruckman was admittedly a trespasser on federal lands and subject to
immediate ejectment” (*ibid.*) by authorities “at any time.” (*Id.* at p. 1473.) The
court pointed out that “ ‘whether the occupancy and construction were in bad
faith,’ ” and the “ ‘legal right to occupy the land and build structures on it,’ ”
were factors “ ‘highly relevant’ ” to the issue of the defendant's expectation of
privacy. (*Id.* at p. 1474, quoting *Amezquita v. Hernandez-Colon* (1st Cir.1975)
518 F.2d 8, 12.) The court determined “that Ruckman's cave is **891 not subject
to the protection of the Fourth Amendment.” (*Ruckman, supra*, at p. 1472.)

29 *People v. Nishi*, 207 Cal. App. 4th 954, 962–63, 143 Cal. Rptr. 3d 882, 890–91 (2012).

1 All of the cited cases are post- *Gooch* and *Sandoval*. The relevance of the private
2 property/public property is important in determining whether an objectively reasonable right
3 to privacy exists.

4 TRESPASSING

5 Again, citing to *Sandoval* LEWIS claims that illegal activity does not affect one's
6 subjective expectation of privacy. Reply pg. 5, lns 4-7. *Sandoval* does not address the
7 criminal conduct as it relates to the critical component of the issues before this Court. Once
8 again issues that are not addressed by LEWIS. *Sandoval*, at least as it is cited by LEWIS, is
9 not in dispute by the State. The State understands that LEWIS is claiming a subjective
10 expectation of privacy in his illegal conduct by trespassing on private land. Once again, that
11 is not in dispute.

12 LEWIS fails to address the precise legal issue in the very next paragraph wherein it
13 states *Sandoval* yet again that talks about the objectively reasonable right of privacy on public
14 land. As several courts have noted that *Gooch* and *Sandoval* deal with structures on public
15 land that are normally used for camping. A critical fact that is missing in the instant case.

16 Finally, the *Cleator* case, contrary to the claim in the Reply, has not been overturned.
17 In fact, the only criticism post-decision has been based upon Washington's own constitution
18 and the questioning of *Cleator* was done that is the basis alone. See *Pippin*, 200 WashApp
19 826 (2017) and *State v. Wyatt*, 187 WashApp 1004 (2015).

20 EXIGENT CIRCUMSTANCES

21 The Reply does not address the uncontroverted fact that a wheelchair was found in
22 close proximity to the tent in question. Officers had a reasonable basis to inquire further as to
23 whether any person was present in the tent and could have potentially needed aid.

24 This is evidenced by the, once again, uncontroverted fact that the Officers announced
25 themselves when they were physically outside the tent and heard no response.

26 EVIDENTIARY HEARING

27 LEWIS states that there is no need for an evidentiary hearing. The State agrees but for
28 fundamentally different reasons. There cannot be any reasonable argument that LEWIS and

1 his co-defendant ORNELEAS were trespassing on private property. Without citation to one
2 case to the contrary, LEWIS asserts that the distinction of private/public property is irrelevant
3 to the objective privacy analysis. That clearly is not the case. The distinction is a very
4 important one and one that leads to the conclusion that no objectively reasonable expectation
5 of privacy exists in the instant case.

6 As such, the instant Motion should be denied.

7 DATED this 29th day of March, 2021.

8 Respectfully submitted,

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

12 BY: 

13 DAVID STANTON
14 Chief Deputy District Attorney
15 Nevada Bar #003202

16 CERTIFICATE OF SERVICE

17 I certify that on the 29th day of March, 2021, I e-mailed a copy of the foregoing to:

18 CAESAR ALMASE, ESQ.
19 caesar@almaselaw.com

20 BY: 

21 M. HERNANDEZ
22 Secretary for the District Attorney's Office
23
24
25
26
27

28 DS/mah/L3



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,
10 vs.
11 DUSTIN LEWIS,
12 Defendant.

CASE#: C-19-340051-1
DEPT. XXIV

13
14 BEFORE THE HONORABLE ERIKA BALLOU, DISTRICT COURT JUDGE
15 APRIL 5, 2021

16 **RECORDER'S TRANSCRIPT OF HEARING:**
17 **ARGUMENT; MOTION TO DISMISS COUNSEL AND APPOINT**
18 **ALTERNATE COUNSEL**

19 APPEARANCES:

20 For the State: DAVID STANTON, ESQ.
21 Chief Deputy District Attorney

22 For the Defendant: CAESAR ALMASE, ESQ.
23 MICHAEL TROIANO, ESQ.

24
25 RECORDED BY: SUSAN SCHOFIELD, COURT RECORDER

1 Las Vegas, Nevada, Wednesday, April 5, 2021

2 *****

3 [Proceeding began at 9:06 a.m.]

4 THE COURT: Page Numbers 10 and 11, State of Nevada
5 versus Margo Ornelas and Dustin Lewis, Case Numbers C-19-340051-1
6 and 2. Both Ms. Ornelas and Mr. Lewis are present in Court via – I'm
7 sorry, present in the jail via Blue Jeans. Mr. Almase present on behalf of
8 Mr. Lewis, Mr. Troiano present on behalf of Ms. Ornelas, and Mr.
9 Stanton for the State.

10 Mr. Stanton, you there?

11 MR. STANTON: [inaudible] Your Honor.

12 THE COURT: Okay. So I have read everything that's been,
13 you know, filed in this case. And, Mr. Almase, this is your matter so you
14 can go ahead and start.

15 MR. ALMASE: Judge, actually I'm just going to submit on the
16 pleadings and reserve for rebuttal.

17 THE COURT: Okay. Mr. Stanton.

18 MR. STANTON: Judge, in making his record last week, Mr.
19 Almase pronounced to this Court that the body of research backing his
20 various pleadings is that in mid-1980s, the Ninth Circuit pronounced a
21 ruling that there's a right of privacy recognized both subjectively and
22 objectively in a tent on private property.

23 He then went on to inform this Court that that doctrine has
24 been expanded through several cases, both in the Ninth Circuit as well
25 as in the State of Nevada, recognizing the right of privacy, both

1 objectively and reasonably, in public lands.

2 I would respectfully submit that the authority doesn't support
3 that claim whatsoever. The claim has to go back to the mid-1980s as
4 cited at least by the moving party that the Ninth Circuit recognized that
5 there was a -- in an injunctive action, not a criminal action, it was an
6 injunctive action brought on behalf of a large number of migrant laborers
7 in the State of California that were housed on private property, but the
8 distinction that's very important and not addressed, either Mr. Almase in
9 writing or in his oral presentation, that the presence on private property
10 in that case was done with the permission of the property owner which
11 clearly doesn't exist here.

12 So under the Katz test, this Court has to address two things.
13 Number one, is there a subjective expectation of privacy by the
14 defendants? Now there's nothing before this Court that's claiming as
15 evidence that these two defendants have an ownership interest in the
16 tent itself. It's presumed under the facts, but it's not sworn testimony in
17 any way, shape, or form.

18 There's no affidavit attached to any of the pleadings, and so it
19 may be inferred under the facts of the case that that tent was theirs in
20 whole or in part, but there are several other questions and facts that I
21 think are relevant, at least potentially, to this Court's assessment.

22 So number one, what are the facts of this case? Number one,
23 it's on private property. Now this Court indicated, hey, I read the police
24 report --

25 THE COURT: Mr. Stanton, there's nothing in the record that

1 says it's on private property. All there is is that it's a fenced-in lot. We
2 don't know who owns that lot. There's nothing in the police report that
3 says it, there's nothing in anything. I mean, we have nothing that says
4 that it's private property, or public property, or anything. We don't have
5 anything.

6 We also don't have anything saying that if it is private
7 property, they didn't have permission to be on that private property, so I
8 don't get where you're going here.

9 MR. STANTON: Okay. Well then if that's the Court's
10 concern, then I think we need an evidentiary hearing to establish those
11 facts, and we can proceed accordingly.

12 THE COURT: But here's the thing. If we don't know it from
13 the police report, then the police didn't know it at the time. They would
14 have put it in the police report. And so that means that they had
15 objective expectation of privacy on a zipped tent. The police report
16 clearly states that they unzipped the tent.

17 MR. STANTON: That's correct. But, Judge, I don't think the
18 police report is going to address the ongoing trespass because that was
19 not the focus of their investigation as they wrote up the report.

20 THE COURT: But it should have been when they knew that
21 they had to have done something to get that search warrant, when they
22 knew that they had to have done something to be able to unzip that tent.
23 If they didn't write that in their police report, then bad on them and they
24 need to be trained better.

25 MR. STANTON: Well but, Judge, they're not – the State's not

1 precluded and the State certainly is not limited by what's written in a
2 police report. The nature of what they did in the police report that was
3 attached by Mr. Almase was assessing the investigation that ultimately
4 they submitted for criminal prosecution that didn't address the underlying
5 trespass that was occurring at the time that they approached the tent.

6 THE COURT: But what I'm saying is that they knew. I mean,
7 I didn't even just read what Mr. Almase attached. I went back and I
8 looked and everything that was in the criminal bindover packet. I looked
9 at everything. They knew that they wrote in the police report that it was
10 a zipped tent, so there should have been something in there that says
11 that they had a reason to unzip that tent. And so –

12 MR. STANTON: I think – right. But the State's not limited to
13 the explanation of what the officers' state of mind and what their thought
14 process was by what was contained in a police report outlining the
15 investigation in a largely unrelated criminal investigation.

16 I mean, certainly the State is entitled to call the witnesses, the
17 detectives themselves, to explain what their perception of – and this is
18 clearly private property. It is [audio distortion], it has a no trespassing
19 sign on it, and it's not – the defendants did not have permission, and
20 they're not the owners of the property. That cannot be reasonably
21 disputed in this case.

22 THE COURT: So do you have the owners of the property?

23 MR. STANTON: Yes.

24 THE COURT: Okay.

25 MR. STANTON: And as one case sites, what they had to do

1 to render that property private from an exterior viewpoint. That is the
2 fencing and the no trespassing. I'm well aware of what it is, what they
3 did, and the timing of it.

4 THE COURT: They need to write better reports is all I'm
5 saying.

6 So go ahead, Mr. Almase.

7 MR. ALMASE: Judge, I agree with the Court, and I think it's
8 just very clear that there was no – the intent of the officers when he
9 unzipped the tent was to further their investigation. That is clear. There
10 was no thought that this was a trespass and they had to remedy the
11 trespass. There was nothing to indicate that they were checking on any
12 individuals for community caretaking, or whatever other reason the State
13 wants to give for their presence.

14 What they did was violate the Fourth Amendment by opening
15 my client's home. Period, that's it. And the State has not submitted any
16 authority against Alward, and we are in Alward. Alward is good law.
17 That's Nevada Supreme Court law. And the State hasn't given any case
18 law that goes against Alward, let alone Sandoval or Gooch.

19 And so I would submit, Judge, that this motion needs to be
20 granted in its entirety.

21 THE COURT: And, Mr. Troiano, I know that you are just on
22 as a joinder, but do you have anything you want to add?

23 MR. TROIANO: I concur with Mr. Almase, Your Honor.

24 THE COURT: Mr. Stanton, I understand where you're coming
25 from. I think that you're trying to, you know, do the best that you can to

1 cover, you know, for the officers who simply did a bad job and did not
2 follow the law, the Fourth Amendment.

3 This motion is granted in its entirety. And also as to Ms.
4 Ornelas, if you're able to proceed with anything else that's not fruit of the
5 poisonous tree, then you're free to do so.

6 MR. STANTON: And, Judge, so you're making a ruling that
7 I'm precluded from calling the officers and the owners of the property to
8 establish their state of mind and the ownership and lack of ownership
9 interest of the defendant.

10 THE COURT: I don't think it's necessary. I think that what's
11 happening is if they had, you know, if they had their – they should have
12 written a better police report. So I don't think it's necessary to have an
13 evidentiary hearing. If you'd like to, you know, take that up, you're free
14 to do so, but I don't think it's necessary.

15 And Mr. Almase, would you prepare the Order.

16 MR. ALMASE: I will, Judge.


17 THE COURT: Thank you.

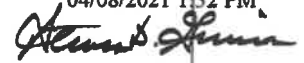
18 MR. ALMASE: Thank you.

19 [Proceeding concluded at 9:18 a.m.]

20 * * * * *

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
23 ability.

24 
25 SUSAN SCHOFIELD
Recorder/Transcriber


CLERK OF THE COURT

1 ALMASE LAW
2 CAESAR ALMASE, ESQ.
3 Bar No. 7974
4 526 S. 7th Street
5 Las Vegas, NV 89101
6 (702) 463-5590
7 Attorney For Defendant

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

10 STATE OF NEVADA,)	
)	
11 Plaintiff,	)	Case Nos.: C-19-340051-1
	)	C-19-340051-2
12 v.)	
	)	Dept. No.: XXIV
13 DUSTIN LEWIS,)	
14 MARGAUX ORNELAS,	)	ORDER GRANTING DEFENDANT DUSTIN
	)	LEWIS MOTION TO SUPPRESS EVIDENCE
15 Defendants.	)	BASED ON FOURTH AMENDMENT
	)	VIOLATION AND FRUIT OF THE
	)	POISONOUS TREE DOCTRINE

16 THIS MATTER, having come before this Honorable Court on April 5, 2021, for
17 hearing on DEFENDANT DUSTIN LEWIS MOTION TO SUPPRESS EVIDENCE BASED ON
18 FOURTH AMENDMENT VIOLATION AND FRUIT OF THE POISONOUS TREE DOCTRINE; the
19 parties present through counsel, CAESAR ALMASE on behalf of DUSTIN LEWIS, MICHAEL
20 TROIANO on behalf of MARGAUX ORNELAS, having filed a Joinder, and DAVID STANTON on
21 behalf of the STATE OF NEVADA, having filed an Opposition and Response; that based on
22 the pleadings, argument of counsel on April 5, 2021, prior argument made in court, and
23 good cause shown,

24 **IT IS HEREBY ORDERED SUPRESSED,**

25 All tangible property and physical evidence recovered from the tent of DEFENDANT
LEWIS AND ORNELAS and the surrounding area, as these items were seized in violation of
the Fourth Amendment of the United States Constitution, *US v. Gooch*, 6 F.3d. 673 (9th Cir.

1 1993), *US v. Sandoval*, 200 F.3d 659 (2000), and *State v. Alward*, 112 Nev. 141 (1996);

2 **FURTHER ORDERED SUPPRESSED,**

3 Under the Fruit of the Poisonous Tree doctrine and *Segura v. United States*, 468 U.S.
4 796, 804 (1984), is the hand print of Mr. LEWIS; the interview of Mr. LEWIS; any
5 statements attributed to Mr. LEWIS and Ms. ORNELAS; all documents, statements, and any
6 other tangible or physical evidence relating to the identity of Mr. LEWIS and Ms. ORNELAS;
7 any evidence derived from the Lincoln Navigator that the State intends to use against Mr.
8 LEWIS and Ms. ORNELAS; and any evidence derived from the Fun City Motel that the State
9 intends to use against Mr. LEWIS.

10 DATED this 8 day of April 2021.

Dated this 8th day of April, 2021



12 ERIKA D. BALLOU

13 DISTRICT COURT JUDGE

C4B A6D 7676 1EAD
Erika Ballou
District Court Judge

19 Submitted By:



20 Caesar Almase #7974

21 526 S. 7th Street

22 Las Vegas, NV 89101

(702) 463-5590

23 Attorney for Defendant Dustin Lewis

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 State of Nevada

CASE NO: C-19-340051-1

7 vs

DEPT. NO. Department 24

8 Dustin Lewis
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/8/2021

15 Caesar Almase caesar@almaselaw.com

16 Caesar Almase caesar@almaselaw.com

17 David Stanton david.stanton@clarkcountyda.com

18 Dept 24 LC dept24lc@clarkcountycourts.us
19
20
21
22
23
24
25
26
27
28

AA 000269



1 NOASC
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 KAREN MISHLER
6 Chief Deputy District Attorney
7 Nevada Bar #013730
8 200 Lewis Street
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

12 DUSTIN LEWIS,

13 Defendant.

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

NOTICE OF APPEAL

14 TO: DUSTIN LEWIS, Defendant; and

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

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

18 NOTICE IS HEREBY GIVEN THAT THE STATE OF NEVADA, Plaintiff in the
19 above entitled matter, appeals to the Supreme Court of Nevada, pursuant to NRS 177.015(2)
20 from the order the district court filed APRIL 8, 2021, granting Defendant's Motion to
21 Suppress.

22 Dated this 9th day of April, 2021.

23 STEVEN B. WOLFSON,
24 Clark County District Attorney

25 BY /s/ Karen Mishler
26 KAREN MISHLER
27 Chief Deputy District Attorney
28 Nevada Bar #013730

AA 000270

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

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that service of the above and foregoing NOTICE OF APPEAL was made April 9, 2021, by electronic transmission to:

CAESAR V. ALMASE
Email: caesar@almaselaw.com

JUDGE ERIKA BALLOU
Email: Dept24LC@clarkcountycourts.us

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

KM//jg

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
DUSTIN LEWIS,
Respondent.

THE STATE OF NEVADA,
Appellant,
vs.
MARGAUX ORNELAS,
Respondent.

Supreme Court No. 82750/82751
District Court Case No. C340051-1 #2

FILED

APR 13 2022

Elizabeth A. Brown
CLERK OF COURT

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

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

JUDGMENT

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

"ORDER the judgement of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order."

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

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
April 12, 2022.

Elizabeth A. Brown, Supreme Court Clerk

By: Rory Wunsch
Deputy Clerk

C-19-340051-1
CCJR
NV Supreme Court Clerks Certificate/Judge
4988832



IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
DUSTIN LEWIS,
Respondent.

THE STATE OF NEVADA,
Appellant,
vs.
MARGAUX ORNELAS,
Respondent.

No. 82750

No. 82751

FILED

MAR 11 2022

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

ORDER VACATING AND REMANDING

These are consolidated appeals from a district court order granting a motion to suppress in a criminal matter. Eighth Judicial District Court, Clark County; Erika D. Ballou, Judge.

The State indicted Dustin Lewis and Margaux Ornelas on charges stemming from burglaries of storage units at a storage facility on two separate dates.

After the first date of burglaries, Las Vegas Metropolitan Police Department officers canvassing the area came across a tent and a wheelchair in a desert area adjacent to the storage facility. Officers approached the tent and when no one answered, they unzipped the front door of the tent. They found no one inside but saw what appeared to be items reported missing from storage units. Officers obtained a warrant and seized numerous items, and a crime scene analyst collected forensic evidence. Later that evening, a second incident of burglaries occurred at the storage facility.

Based on forensic analysis of items found in the tent and the wheelchair outside of the tent, analysis of fingerprints taken from

burglarized storage units, questioning of an alleged co-conspirator in the second incident of burglaries, surveillance footage, and review of recent booking photos, detectives identified Lewis and Ornelas as suspects. Respondents were then each indicted on charges of two counts of conspiracy to commit burglary, four counts of burglary, and grand larceny.

Lewis moved to suppress all evidence, and Ornelas joined the motion. The district court decided that no evidentiary hearing was necessary, even though the State requested to present witnesses. The district court granted Lewis's motion, ordering suppressed all tangible and physical evidence recovered from the tent and the surrounding area, stating the items were seized in violation of the Fourth Amendment. The district court additionally suppressed other incriminating evidence under the fruit-of-the-poisonous-tree doctrine. The State appeals this order.

The State argues the district court failed to make necessary factual findings on the record for this court to review on appeal. The State also argues the district court erred by granting the motion to suppress all evidence because respondents did not have a legitimate expectation of privacy in the seized materials. It additionally argues the district court erred by suppressing additional evidence under the fruit-of-the-poisonous-tree doctrine because the evidence was sufficiently attenuated from the search of the tent. Respondents assert the district court adopted by reference the facts in Lewis's motion to suppress and properly suppressed the evidence.

The district court's decision to suppress evidence presents a mixed question of law and fact. *State v. Beckman*, 129 Nev. 481, 485, 305 P.3d 912, 916 (2013). This court reviews a district court's findings of facts

for clear error but reviews the legal consequences of those factual findings de novo. *Id.* at 486, 305 P.3d at 916.

We agree with the State that the district court did not make proper factual findings for this court to review the legal conclusions on appeal. This court has clearly stated that the district court is required to make express factual findings on the record when deciding suppression motions. *State v. Rincon*, 122 Nev. 1170, 1177, 147 P.3d 233, 238 (2006). In this matter, it is apparent that the district court made factual determinations and inferences, but it did not do so on the record, and this court does not act as a factfinder. *See id.* at 1176-77, 147 P.3d at 237. In order for this court to properly review de novo the legal consequences of the district court's factual findings, district "courts must exercise their responsibility to make factual findings when ruling on motions to suppress." *Rosky v. State*, 121 Nev. 184, 191, 111 P.3d 690, 695 (2006) (internal quotation marks omitted). This court will not speculate about the factual inferences drawn by the district court. *Rincon*, 122 Nev. at 1177, 147 P.3d at 238.

In this matter, the district court did not make any factual findings in its order. We disagree with respondents that the district court adopted by reference the statement of facts included in Lewis's motion to suppress. The district court merely stated its decision was "based on the pleadings, argument of counsel on April 5, 2021, prior arguments made in court, and good cause shown." There is no indication in the district court's order that it intended to adopt any parties' statement of facts and it did not indicate it was incorporating by reference any other source of facts.

Accordingly, without factual findings on the record, we are unable to evaluate the State's additional arguments on appeal, and we

vacate and remand. *See Rincon*, 122 Nev. at 1177-78, 147 P.3d at 238 (remanding the matter to the district court for an evidentiary hearing because the record was insufficient to permit review by this court). For the reasons set forth above, we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.¹

J. Hardesty J.
Hardesty

Stiglich J.
Stiglich

Herndon J.
Herndon

cc: Hon. Erika D. Ballou, District Judge
Attorney General/Carson City
Clark County District Attorney
The Almase Law Group LLC
The Law Office of Michael A. Troiano
Eighth District Court Clerk

¹This order constitutes our final decision of this matter. Any subsequent appeal shall be docketed in this court as a separate matter.

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
DUSTIN LEWIS,
Respondent.

Supreme Court No. 82750/82751
District Court Case No. C340051-1 ¶ 2.

THE STATE OF NEVADA,
Appellant,
vs.
MARGAUX ORNELAS,
Respondent.

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

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

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

DATE: April 12, 2022

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch
Deputy Clerk

cc (without enclosures):

Hon. Erika D. Ballou, District Judge
Clark County District Attorney
The Almase Law Group LLC

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on APR 13 2022.

HEATHER UNGERMANN
Deputy District Court Clerk

RECEIVED
APPEALS
APR 13 2022

CLERK OF THE COURT



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 STATE OF NEVADA,

8 Plaintiff,

9 vs.

10 DUSTIN LEWIS,

11 Defendant.
12

CASE NO: C-19-340051-1

DEPT. XXIV

13
14 BEFORE THE HONORABLE ERIKA BALLOU, DISTRICT COURT JUDGE
15 FRIDAY, JUNE 10, 2022

16
17 **RECORDER'S TRANSCRIPT OF HEARING RE:**
18 **EVIDENTIARY HEARING**

19 APPEARANCES:

20 For the Plaintiff:

ANN DUNN, ESQ.
Deputy District Attorney

21
22 For the Defendant:

CAESAR ALMASE, ESQ.

23
24
25 RECORDED BY: SUSAN SCHOFIELD, COURT RECORDER

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

INDEX OF WITNESSES

<u>WITNESS:</u>	<u>PAGE</u>
DAVID INMAN	
Direct Examination by Ms. Dunn	7
Cross-Examination by Mr. Almase	12
Redirect Examination by Ms. Dunn	16
ANDREW SHARK	
Direct Examination by Ms. Dunn	18
Cross-Examination by Mr. Almase	25

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

INDEX OF EXHIBITS

STATE'S EXHIBITS:

PAGE

1 – Site Plan

11

2 – Invoice

9

1 Las Vegas, Nevada; Friday, June 10, 2022

2 *****

3 [Proceeding commenced at 1:33 P.M.]

4 THE COURT: Page Number 1, State of Nevada versus
5 Dustin Lewis, Case Number C-19-340051-1. Page Number 2, State of
6 Nevada versus Margo Ornelas, Case Number C-19-340051-2, and Page
7 Number 3, State of Nevada versus Thomas Herod, Case Number C-19-
8 340051-4. Mr. Lewis is present, in custody, with his attorney, Mr.
9 Almase. Mr. Troiano is present on behalf of Ms. Ornelas whose
10 presence – are we waiving her presence today?

11 MR. TROIANO: I would ask that her presence be waived,
12 Your Honor. As I've represented before, she's been in excellent contact
13 with myself, personally, since her release.

14 THE COURT: Okay. Ms. Ornelas's presence is waived
15 today. Mr. Herod is present, out of custody, with Mr. Altig on his behalf,
16 and this is on for the Evidentiary Hearing in this matter.

17 Ms. Dunn.

18 MS. DUNN: Yes, Your Honor.

19 THE COURT: I'm sorry. Ms. Dunn on behalf of the State.
20 And so, Ms. Dunn, you have witnesses and everything?

21 MS. DUNN: Yes, Your Honor. We have two witnesses.

22 MR. ALMASE: Judge, before witnesses are called, I wanted
23 to just address the Court primarily.

24 THE COURT: Sure.

25 MR. ALMASE: So my position when this case, before this

1 case was sent up to the Supreme Court, was that an evidentiary
2 hearing, at least testimony from witnesses, is unnecessary. And in
3 reading the Supreme Court's Order, they state that on Page 3, "The
4 district court merely stated its decision was 'based on the pleadings,
5 argument of counsel on April 5, 2021, prior arguments made in court,
6 and good cause shown.' There is no indication in the district court's
7 order that intended to adopt any party's statement of facts, and it did not
8 indicate it was incorporating by reference any other source of facts."

9 And then page 4 of the Order it states in parens, "Remanding
10 the matter to the district court." Vacate and remand was the Order, but
11 "(remanding the matter to the district court for an evidentiary hearing
12 because the record was insufficient to permit review by the Court)."

13 I would ask the Court to consider adopting at this point the
14 back portion of my moving document, the defendant Lewis motion to
15 suppress, in its entirety or perhaps distilling it down for this particular
16 issue, but if this Court in its mind when it made this decision was relying
17 on that factual recitation, then I don't see any need to have testimony
18 taken today. And it doesn't appear that the Supreme Court specifically
19 said testimony must be given in this matter because of X, Y, and Z. It
20 just was that it was insufficient. A factual basis was insufficient here at
21 the time.

22 And so I visit that it's unnecessary to have witnesses taken if
23 this Court is willing to adopt those findings.

24 THE COURT: Ms. Dunn.

25 MS. DUNN: And, Your Honor, the State does previously

1 request the evidentiary hearing, and we still stand by that. Our
2 argument is that the crux of this issue is whether the tent was on private
3 land and whether that constitutes a reasonable expectation of privacy,
4 so I think that having testimony to discuss what gave the defendants
5 notice that this was private land is important.

6 THE COURT: So here's where I am. I did rely on the
7 recitation of facts from Mr. Almase's motion. I do think that just because
8 it got remanded back that we should probably make a better record than
9 just me saying I'm going to adopt that, and that's why – I'm pretty sure
10 you said that when we set this evidentiary hearing, Mr. Almase, and I
11 just want to – this is just a CYA at this point –

12 MR. ALMASE: Right.

13 THE COURT: -- because I honestly think that if I had written
14 a better Order then it wouldn't have come back, but since the Order was
15 basically just – it's granted in its entirety, I think it would have just said –
16 then I think that's why they came back.

17 MR. ALMASE: Right.

18 THE COURT: But at this point because it did come back I do
19 want to have a full evidentiary hearing just because it came back and
20 just for that reason. I understand your argument, and had we, you
21 know, had I done a better job, I would have not – I think I would have not
22 necessarily needed it, but.

23 MR. ALMASE: Right. And I blame myself, Judge. The court
24 had tasked me with drafting the proposed order and I could have done
25 better with the actual recitation, so I understand.

1 THE COURT: Okay. So, okay.

2 So, Ms. Dunn, or does anybody wish to invoke the
3 exclusionary rule?

4 MR. ALMASE: Yes. Please, Judge.

5 THE COURT: Okay. So the exclusionary rule is invoked.
6 Anybody who is not going to be the State's first witness needs to go out
7 into the vestibule.

8 MS. DUNN: I did ask our second witness to step out.

9 THE COURT: Okay. So who is your first witness, Ms. Dunn?

10 MS. DUNN: David Inman.

11 THE CLERK: Please raise your right hand.

12 **DAVID INMAN**

13 [having been called as a witness and being first duly sworn, testified as
14 follows:]

15 THE CLERK: Can you please state and spell your name for
16 the record?

17 THE WITNESS: David Inman, D-A-V-I-D I-N-M-A-N.

18 THE COURT: Thank you. You can be seated. And, Ms.
19 Dunn, you may proceed.

20 MS. DUNN: Thank you.

21 **DIRECT EXMAINATION**

22 BY MS. DUNN:

23 Q Good afternoon, Mr. Inman. I would like to direct your
24 attention to the latter part of 2018, starting in October of 2018. At that
25 point did you acquire a piece of land here in Las Vegas?

1 A I did.

2 Q And what were the cross streets for that property?

3 A It's on Flamingo at the light. Hualapai is about another block
4 down, so it's kind of mid-block.

5 Q Okay. And what if anything was on that property when you
6 acquired it in October?

7 A Nothing.

8 Q Nothing. Okay. Was it paved, was it desert, what was it like
9 there?

10 A It was just raw land. The hospital had brought the utilities to it
11 because they were going to sell the property, and I bought it to develop
12 it.

13 Q Okay. In October of 2018, was there any sort of fencing
14 around that property?

15 A There was none.

16 THE COURT: I'm sorry. I couldn't hear the answer.

17 THE WITNESS: There was none.

18 THE COURT: No. Okay.

19 BY MS. DUNN:

20 Q Was a fence ever erected?

21 A Yes it was.

22 Q When was that?

23 A Approximately mid-November.

24 Q Of which year?

25 A Of – in 2018.

1 Q After the fence was erected were there any no trespassing
2 signs placed?

3 A Yes, there was.

4 Q Who placed those signs?

5 A I did.

6 MS. DUNN: May I approach the witness, Your Honor?

7 THE COURT: Yes.

8 Q I'm showing you what's been marked as State's proposed
9 Exhibit 2. Do you recognize this?

10 A Yes. I do.

11 Q What is that?

12 A That's my invoice for putting up the fences.

13 Q Okay. And is that a fair and accurate copy of the invoice that
14 you received?

15 A Yes.

16 MS. DUNN: The State would move to admit Exhibit 2, Your
17 Honor.

18 MR. ALMASE: No objection.

19 THE COURT: And that'll be admitted.

20 **[Exhibit 2 Admitted]**

21 MS. DUNN: Thank you.

22 BY MS. DUNN:

23 Q Can you please tell me what date the fence was installed?

24 A The invoice for November 19th, 2018. It was probably installed
25 a couple days before or a couple days after.

1 Q Okay. Once it was installed did you go out and view the
2 fence?

3 A Yes.

4 Q Was that event in November, 2018?

5 A Yes.

6 Q I'm showing you what's been marked as State's proposed
7 Exhibit 1. Do you recognize that?

8 A Yes.

9 Q What is that?

10 A That's my site plan that I drew up where the fence was, where
11 the existing wall was.

12 Q Okay.

13 THE COURT: I'm sorry. Ms. Dunn, can you please move the
14 microphone closer to him? I'm having a real hard time hearing him.

15 THE WITNESS: I'm a low talker. I'm sorry.

16 THE COURT: Okay. Thank you.

17 BY MS. DUNN:

18 Q Can you please tell me what that is, State's proposed Exhibit
19 1?

20 A It's my site plan and where I was going to build the buildings.
21 This is the existing convenience store, and this is the existing hospital.

22 Q Okay. And we'll get to that in one second. But is that a fair
23 and accurate depiction of the site plan?

24 A Yes.

25 MS. DUNN: We would move to admit State's Exhibit 1.

1 MR. ALMASE: No objection.

2 THE COURT: Okay. That'll be admitted.

3 MS. DUNN: Thank you.

4 **[Exhibit 1 – Admitted]**

5 BY MS. DUNN:

6 Q I'm showing you Exhibit 1. I see some markings on here. Are
7 those markings you added yourself?

8 A I did.

9 Q Showing you I see a pink highlighter. Can you tell me what
10 that indicates?

11 A That's the existing wall between my property and the storage
12 units next door.

13 Q And then I see orange highlighters. Can you tell me what
14 those are?

15 A That's where they put the fence up.

16 Q What type of fence was it?

17 A Chain link.

18 Q And I see X's along the orange highlighter. What do those
19 indicate?

20 A That's the no trespassing signs that I put up myself.

21 Q And then is this the entirety of the lot you owned covered in
22 the pink and orange highlighters?

23 A Yes. I have easements going here and here, but that's the
24 property that I bought.

25 Q Okay. And just for the record, I see kind of green dots going

1 down where it says existing retail center to the right, and then you
2 indicated that was one easement, and another easement to the left
3 where it says it's the same retail center. Is that correct?

4 A Yes.

5 Q Do you recall when you placed the no trespassing signs?

6 A Within a day of the fence going up.

7 Q Would that still have been November of 2018?

8 A Yes.

9 MS. DUNN: I have no further questions for this witness, Your
10 Honor.

11 THE COURT: Go ahead, Mr. Almase.

12 MR. ALMASE: Thank you, Judge.

13 **CROSS-EXAMINATION**

14 BY MR. ALMASE:

15 Q Good afternoon, sir. How are you?

16 A Good.

17 Q Were you ever made aware of a tent that was on your
18 property back in 2018?

19 A I was.

20 THE COURT: I'm sorry. Can you please speak up. I really
21 can't hear you.

22 A I was.

23 Q Were you made aware in December of 2018?

24 A No. I was made aware of the weekend of November 10th I
25 was in New York at my son's wedding, and they called me and said a lot

1 of tents have been –

2 Q Hold on for a second. So you heard – was this 2018,
3 November, 2018?

4 A Yes.

5 Q And you got a phone call?

6 A Yes. I did.

7 Q From who?

8 A I believe it was the manager from the convenience store.

9 Q In that adjacent area?

10 A Yes. Next – contiguous to the property.

11 Q Okay. And they alerted you to this happening.

12 A They alerted me to the tents and the fires that were being
13 started at nighttime because they said they were having a problem, that
14 the homeless –

15 Q So, and I'm sorry to interrupt you.

16 A No problem.

17 Q If the State has some questions for you to follow up, they can
18 come back and ask you.

19 A Okay.

20 Q But just to answer my question.

21 A Got it.

22 Q The people at the 7-Eleven back in November, 2018, they
23 alerted you as to the existence of a tent on your property?

24 A Yes.

25 Q Okay. And then after that did you have any communication

1 with Metro or law enforcement in December of 2018 with regards to that
2 tent?

3 A No. In November.

4 Q In November the 7-Eleven people contacted you?

5 A No. You asked me about Metro?

6 Q Yes. Did Metro contact you in November?

7 A I contacted them.

8 Q You contacted Metro in November?

9 A Yes.

10 Q With regard to –

11 A The situation, and could they remove the homeless off my
12 property.

13 Q Okay. And they spoke to you. Did you get a name of the
14 Metro officer at that time?

15 A Four years ago, I don't remember.

16 Q Okay. Did you fill out a police report or anything like that?

17 A No. They told me I had to put up the sign in the fence before
18 they could act.

19 Q Okay. In December, let's focus on December, 2018. There
20 was nobody from Metro, if I understand you, that contacted you with
21 regard to a tent?

22 A I don't recall.

23 Q Okay. And specifically, if you don't recall, but you do recall
24 you had a conversation with them in November?

25 A Yes.

1 Q Okay. But specifically in December, December 8th, or around
2 that time, any time in that month, there was no communication with you
3 and law enforcement.

4 A I got a letter.

5 Q You got a letter?

6 A Um hmm.

7 Q Okay.

8 A Saying that they moved the –

9 Q Well, the question again. Maybe I'm being a little repetitive.

10 A I'm sorry.

11 Q There was no actual communication whether verbally over the
12 phone or in person with regard to a tent in December of 2018.

13 A I don't recall right at this moment.

14 Q Was there any written communication with regard to a tent,
15 not fires or anything else, but a tent?

16 A It's hard to answer that without explaining. Their letter to me
17 was they had moved the homeless off. They had left a lot of property
18 there, and I needed to clean it up.

19 Q That was from Metro in November?

20 A December. Right around there.

21 Q Do you have that letter?

22 A No.

23 Q Is that a no?

24 A That's a no. I'm sorry.

25 Q Okay. And that was never submitted to the District Attorney's

1 Office or anything like that?

2 A No.

3 MR. ALMASE: Okay. Pass the witness.

4 **REDIRECT EXAMINATION**

5 BY MS. DUNN:

6 Q I'm going to be clear about when you were contacted by the
7 convenience store in November. Was that in regard to a specific tent or
8 tents in general?

9 A They said that there was five or six tents. There was fires and
10 people were coming over to the convenience store at nighttime and
11 bothering the patrons of the convenience store.

12 Q Did you go out after receiving that call, did you go out to the
13 lot?

14 A I was in New York.

15 Q When you returned from New York?

16 A When I returned I went out there, yes.

17 Q And did you see any tents there?

18 A I saw three or four. Yes.

19 Q Was it at that point you contacted Metro?

20 A I did.

21 Q Okay. And what did they tell you?

22 A They said I have to put up a fence and put a no trespassing
23 sign before they could act.

24 Q And is that when you contacted the company to install the
25 fence?

1 A Yes I did.

2 Q After the fence was installed and after you put up the no
3 trespassing signs were there still tents on the property?

4 A Yes there were.

5 Q Do you recall how many?

6 A Three of four. I didn't go physically out there.

7 Q Did you call Metro again after you had the fence installed?

8 A I did.

9 Q And what did you tell them?

10 A I told them I had installed the fence and the signs, and they
11 said they'd take care of the situation, and they did.

12 Q Was it after that that you received that letter from Metro?

13 A After they removed everybody from the property, then I
14 received a letter from Metro saying that I had to clean it up or it would be
15 a \$1,000 a day fine if I didn't.

16 MS. DUNN: Pass the witness.

17 MR. ALMASE: Nothing further.

18 THE COURT: Okay. Please don't discuss – you're excused.
19 Please don't discuss your testimony with anyone. Thank you.

20 MS. DUNN: Your Honor, our next witness is Sergeant Andrew
21 Sharp.

22 THE COURT: Thank you.

23 **ANDREW SHARP**

24 [having been called as a witness and being first duly sworn, testified as
25 follows:]

1 THE CLERK: Can you please state and spell your name for
2 the record?

3 THE WITNESS: Andrew Sharp, A-N-D-R-E-W, last name S-
4 H-A-R-P.

5 THE CLERK: Thank you.

6 THE COURT: You can be seated. Please proceed, Ms.
7 Dunn.

8 **DIRECT EXAMINATION**

9 BY MS. DUNN:

10 Q Good afternoon, Sergeant Sharp. Can you please tell us how
11 you are employed?

12 A I'm currently employed as a Sergeant for Summerlin Area
13 Command.

14 Q Is that with the Las Vegas Metropolitan Police Department?

15 A Yes it is.

16 Q Were you employed by Metro in December of 2018?

17 A Yes I was.

18 Q What was your capacity with Metro at that point?

19 A In December of 2018, I was currently working for a flex squad
20 which basically they are tasked with doing multiple different missions
21 and duties at Spring Valley Area Command for LVMPD.

22 Q What part of town does Spring Valley Area Command cover?

23 A It's the southwest part of town. It's actually from, at that time it
24 was Charleston to Tropicana was the border, and then all the way from
25 the far west mountain to the 15.

1 Q Were you a Sergeant at that time?

2 A No. I was not. I was an officer.

3 Q A patrol officer?

4 A Yes.

5 Q Were you assigned to investigate some burglaries by the
6 Storage One facility?

7 A Yes I was. Our squad was tasked with conducting follow-up
8 and canvassing the area related to the burglary cases that were taking
9 place.

10 Q And, specifically, was that the Storage One at 9960 West
11 Flamingo?

12 A Yes it is.

13 Q And directing your attention to December 11th of 2018. Were
14 you working on that day?

15 A Yes I was.

16 Q And were you working on this case on that day?

17 A Yes I was.

18 Q What were your duties on that day?

19 A Like I say before, our duties were to canvas the area, just talk,
20 literally walk around the whole entire area, any hot spots around there,
21 talk to any people, any transient individuals, to see if we can get any
22 leads or information, or any possible witnesses, or evidence, or video, or
23 anything related to the case.

24 Q Is there a reason that you were interested in transient people?

25 A Just based off the details, the detective investigating the case

1 stated that he believed that was a possibility just due to the high amount
2 of transient subjects in the area.

3 Q Okay. At some point did you come upon a desert lot?

4 A Yes I did.

5 Q Was that at the corner or near the area of Flamingo and
6 Hualapai?

7 A Yes it was.

8 Q Did that lot have a fence around it?

9 A Yes it did.

10 Q Did you ever enter the lot?

11 A Yes we did.

12 Q Okay. What caused you to enter the lot?

13 A As we were canvassing the area, we were walking down a trail
14 path, like walking path that was on the 215 beltway. Again, this was
15 after talking with multiple different areas and multiple different transient
16 subjects. We noticed that the fenced-in area by that walkway was bent
17 over, collapsed as if someone, like, damaged the fence to make it –

18 MR. ALMASE: I would object to the speculation, Judge.

19 MS. DUNN: Your Honor, he's saying what he observed.

20 THE COURT: That's what it sounded like to me.

21 MR. ALMASE: Well, he said as if someone had –

22 THE COURT: Okay. So I will grant that as to that part, and I'll
23 strike him saying "as if", you know, what it was.

24 MR. ALMASE: Okay.

25 THE COURT: So he'll just say it was damaged.

1 BY MS. DUNN:

2 Q The portion of the fence that was on the ground, did it appear
3 to you to be professionally done?

4 A The fence itself was professionally done. The damage
5 appeared to be done by –

6 MR. ALMASE: I'm going to object to the speculation, Judge.

7 THE COURT: Again, so don't speculate, Sergeant. Just say
8 what you saw.

9 THE WITNESS: I understand.

10 THE COURT: So that is going to be sustained.

11 Q In your training and experience have you ever seen, you know
12 – I'm going to move on from that actually.

13 When you entered the portion of the fence, did you go through
14 the part that was torn down, or did you hop over the fence?

15 A Yes. My squad entered through the damage to the fence.

16 Q When you got into the lot, what, if anything, did you see?

17 A We – I observed on the wall that was – that the lot shares with
18 the storage unit, there appeared to be a transient camp from my training
19 and experience.

20 Q What made it look like a transient camp to you?

21 A There was several pieces of trash items scattered in the
22 desert area. There was a tent. From my experience it was a homeless
23 camp.

24 Q Did you approach the tent?

25 A Yes we did.

1 Q Why?

2 A Because, again, our duties that night were to canvass the
3 area, make contact with any subjects, make contact with anything that
4 stood out. So we approached tents to make contact with whoever
5 possibly could be inside.

6 Q When you arrived at the tent did you say anything, do
7 anything, what happened?

8 A Yeah, we identified ourselves as police officers and we
9 challenged the tent to see if we got a response.

10 Q When you say challenged the tent, was it –

11 A Again, identify ourselves as police officers, advise anyone
12 inside that we were there, that we were investigating a crime, and asked
13 for them to come out and speak with us.

14 Q Did you receive any response?

15 A We did not.

16 Q What happened next?

17 A After not receiving a response, based on the proximity of the
18 crime scene and the task that we had at hand, one of our officers on the
19 squad, we approached the tent. There was an opening in the front
20 entrance. Due to safety reasons of the tent we opened it to clear – to
21 assure us there was anyone inside the tent or not.

22 Q When you say safety reasons, can you tell me more about
23 that?

24 A Typically, based off our normal duties and how we're trained,
25 a tent is not a very good tactical situation, especially in a desert lot that

1 is open. It's very possible for subjects to attack through tents. The
2 barriers to a tent don't provide any cover, and the desert lot doesn't
3 provide much cover. Due to this and investigating the crime, the safest
4 and quickest way to insure the safety of officers and everyone around us
5 was to approach the tent and open it to insure that there was no one
6 inside.

7 Q When you opened it did you see anything inside?

8 A Yeah. We cleared the tent meaning that there was no
9 subjects inside, and we noticed that there was multiple items inside
10 including a chess board.

11 Q What was significant about the chess board?

12 A The chess board was one of the pieces of information
13 provided to us that was part of the burglary at the storage unit.

14 Q Did you ever enter the tent?

15 A I did not.

16 Q Did anyone with you at that point enter the tent?

17 A At that point no one entered the tent.

18 Q Okay. When you saw the chess board what, if anything, did
19 you do?

20 A We contacted the investigating detective to relay the
21 information. Again, this is after securing, freezing the premise, and
22 making the surrounding area safe, just relayed the information to them
23 to investigate.

24 Q After that point did Metro obtain the search warrant for the
25 tent?

1 A Yes.

2 Q And were you part of the team that executed that search
3 warrant?

4 A Yes I was.

5 Q Do you recall what, if anything, you recovered from the tent?

6 A We recovered several items that were related to the burglary
7 such as watch boxes to watches, multiple cell phones, and the chess
8 board, and I believe, if I remember correctly, items of clothing also.

9 Q What time of day was it that you went out to the tents?

10 A I do not remember the exact time. It was nighttime though.

11 Q Do you recall if it was earlier in the night or later at night?

12 A Later at night.

13 Q Do you recall seeing any No Trespassing signs on the fence?

14 A I do not recall if there was any posted No Trespassing signs.

15 MS. DUNN: Your Honor, may I approach the witness?

16 THE COURT: Yes.

17 BY MS. DUNN:

18 Q I'm showing you what has been admitted as State's Exhibit 1.
19 Can you point out on there where you found the tents?

20 A The tent was located I would say right in the middle area,
21 possibly more north, so on the – in the northwest side of the storage
22 property, by the wall.

23 Q And on the Exhibit you point to kind of in the middle of that
24 pink highlighted area. Is that correct?

25 A That is correct.

1 THE COURT: It was right, it was actually not, a little bit above
2 the middle, so closer to where the handwriting is. Is that correct?

3 THE WITNESS: That is correct. I would say even slightly
4 above the handwriting if I'm remembering correctly.

5 THE COURT: Okay, so further than half way?

6 THE WITNESS: Yeah, further north than halfway.

7 THE COURT: Okay.

8 MS. DUNN: Your Honor, may we approach?

9 THE COURT: Sure.

10 (Bench Conference)

11 MS. DUNN: In terms of everything else that was written in the
12 statement of facts, do you want me to [indiscernible] the panel or is your
13 plan to adopt his statement of facts as to, like, the course of the
14 investigation. My plan was to have testimony regarding, you know, the
15 fence being in the privacy.

16 THE COURT: That's all I think I needed.

17 MS. DUNN: Okay. Okay. I just wanted --

18 THE COURT: Thank you.

19 MS. DUNN: I will pass the witness, Your Honor.

20 THE COURT: Mr. Almase.

21 MR. ALMASE: Thank you, Judge.

22 **CROSS-EXAMINATION**

23 BY MR. ALMASE:

24 Q Good afternoon, Sergeant.

25 A Good afternoon, sir.

1 Q How are you?

2 A Fantastic. How are you doing?

3 Q Great.

4 So back in 2018, and you did a pretty thorough job reciting
5 what happened when you got to the tent. It's fair to say that based on
6 your direct testimony you did not speak to the owner of the property
7 before opening the tent. Is that fair?

8 A We did not.

9 Q And at the time your justification for opening it as you say was
10 for officer's safety?

11 A That is correct.

12 Q Okay. And to be fair and to be clear, you said there was an
13 opening but the tent was actually zipped, wasn't it?

14 A It was zipped. There was a slight opening. It wasn't
15 completely sealed at the bottom of the tent from my – from being in
16 tents before, it wasn't completely shut.

17 Q Do you have a complete recollection of that being some
18 opening?

19 A Yes.

20 Q There was a little bit of an opening there? How long of an
21 opening was this?

22 A It was a small opening. The reason I remember is when
23 opening the tent it was hard to grab the zipper so they actually moved
24 just through the gap that was opened to allow it to open.

25 Q You have a recollection of that.

1 A Yes I do.

2 Q But you had to nevertheless open the tent completely to look
3 inside. Is that fair?

4 A To adequately clear for a person, yes.

5 Q Right. And, again, you had no recollection of whether there
6 were any trespass signs up or not?

7 A I did not see any. I don't remember if there was any
8 trespassing signs.

9 MR. ALMASE: Okay. Pass the witness.

10 MS. DUNN: I have no further questions.

11 THE COURT: Do either of you have any questions?

12 MR. ALTIG: No, Your Honor.

13 THE COURT: Sorry, I should have asked that on the first
14 witness.

15 You're excused. Please do not discuss your testimony with
16 others. Thank you.

17 MS. DUNN: Your Honor, the State has no further witnesses.

18 THE COURT: And so the State will rest?

19 MS. DUNN: Yes.

20 THE COURT: Any witnesses?

21 MR. ALMASE: No witnesses, Judge.

22 THE COURT: The defense will rest?

23 MR. ALMASE: Yes.

24 THE COURT: So go ahead. Argument, Ms. Dunn.

25 MS. DUNN: We would save it for rebuttal, Your Honor.

1 THE COURT: Okay. Mr. Almase.

2 MR. ALMASE: Does the Court want to direct me to any
3 specific item or issue that is of primary concern?

4 THE COURT: Whatever you'd like to make the record of, Mr.
5 Almase. Go ahead.

6 MR. ALMASE: Judge, as Sandoval case makes clear, a
7 person has a reasonable expectation of privacy even if they are
8 trespassing. And in that case, it was BLM land. It was the defendant,
9 Sandoval, was one of 18 defendants who had a makeshift tent or shed
10 erected on BLM land and was illegally growing marijuana there. The
11 Ninth Circuit said he still had a reasonable expectation of privacy even
12 though he had been trespassed.

13 Here the situation is slightly different and, in fact, I think is
14 stronger because the officers at the time that they opened the tent and
15 my client's residence, in effect, did not know, had no knowledge as to
16 whether he was, in fact, trespassing or not. And I submit that it is not
17 enough for them to say that there was fencing up.

18 The officer very truthfully said that there was – he had no
19 recollection of no trespass signs, whether there were no trespass signs
20 or not. But even if there were, I think that it's a bit of a red herring to
21 focus any analysis there because, again, their subjective belief, and he
22 even said the justification for opening the tent was for officer's safety
23 which doesn't really jive with what we're talking about here.

24 It's whether a person has a reasonable or objective
25 expectation of privacy in their dwelling, in their home, and so the fact

1 that they didn't know whether that person, the occupants of that tent at
2 the time were, in fact, trespassing because they didn't stop to call the
3 property owner, looms large here.

4 As this Court's aware, a typical trespass case is where
5 officers will receive a call from the property owner saying, hey, these
6 people are trespassing right now, remove them, or they have
7 knowledge beforehand somehow that the people were actually
8 trespassing. And without that, without that explicit knowledge, then what
9 they did fails, and this Court's ruling should stand.

10 I stand by the analysis that was enunciated in Sandoval but
11 then also take into consideration the Alward case which shows that the
12 defendant there had a reasonable expectation of privacy, and that was a
13 homicide matter. And our State Supreme Court stated that, in fact, was
14 that person had a reasonable expectation of privacy as well.

15 We have this sort of situation, Judge, which clearly the items
16 that were seized from that tent and the surrounding area, all of it should
17 be suppressed, one, because they violated my client's reasonable
18 expectation of privacy, but due to everything else that was recovered
19 through the poisonous tree, all of it should be suppressed which this
20 Court did. And unless the Court has any questions, I think I'll submit on
21 that.

22 THE COURT: Ms. Dunn, go ahead.

23 MS. DUNN: Thank you.

24 Your honor, the difference between Sandoval and this case is
25 that in Sandoval the tent was on BLM land that was out in an isolated

1 area. I don't believe that the land there was fenced, and it was entirely
2 possible the Court ruled that a person could have easily mistaken it for
3 a public campground.

4 Here, there is no indication that this fenced-in lot in a
5 commercial area could be mistaken for a public campground. That is
6 the differentiating factor between this and Sandoval. Similarly, in
7 Alward that tent was on public land and it was lawfully there. He was
8 a camper on a public campground.

9 There's numerous case law that supports that someone who
10 is trespassing does not have a privacy interest. As we all know from
11 Katz that they must have not only a subjective expectation of privacy but
12 the privacy expectation must be one that society recognizes as
13 reasonable. And while there are certainly cases indicating that a tent
14 may have, you know, a person may have an expectation of privacy
15 that's not, you know, under dispute, and there's certainly case law that
16 indicates if somebody's on a campground or public land, or even as in
17 Sandoval land that they may think is a campground, there could be a
18 reasonable expectation of privacy that society is willing to accept.

19 But in this case this tent was found on land that was in the
20 middle of a commercial area, surrounded by fencing that had no
21 trespassing signs put up. That's not a right to privacy that society has
22 accepted nor one that is ready to accept.

23 In terms of the officer's subjective state of mind, that is not
24 determinative. As to whether the defendant had a legitimate expectation
25 of privacy, we have to look at the totality of the facts, and the totality of

1 the facts and circumstances in this case indicate that it was a lot, again,
2 in a commercial area with fencing and with no trespassing signs placed
3 on it.

4 In terms of the fruit of the poisonous tree doctrine, the State
5 would submit that much of the evidence that was previously ruled to be
6 suppressed by this Court wasn't fruit of the poisonous tree at all. The
7 handprint that was outside of the storage unit, that was collected prior to
8 the officers ever even encountering this tent.

9 The statement made by the defendant did not come from the
10 tent or from anything like that. The fingerprints that were in ATHIS from
11 both of the defendants, Lewis and Ornelas, those would have been
12 discovered regardless of what happened with the tent.

13 Evidence related to their identities, the identity of the
14 defendant is not something that could be suppressed based on the
15 Fourth Amendment. The evidence from the navigator that was
16 sufficiently attenuated from the tent, the officers discovered the
17 navigator because there was a second alarm at the storage unit and
18 when they went out there they found the navigator. So the evidence
19 from inside the navigator was not part of this tent as well.

20 So for all of those reasons, the State would submit that the
21 motion to suppress should not be re-granted, and even if it were those
22 items that the defense seeks to have suppressed based on fruit of the
23 poisonous tree are sufficiently attenuated from the search of the tent,
24 that the motion should not be granted as to those.

25 THE COURT: As far as I remember, you weren't trying to

1 suppress anything from the navigator. Is that correct, Mr. Almase?

2 MR. ALMASE: Judge, Court's Order was that under the
3 fruit of the poisonous tree doctrine, handprint of Mr. Lewis, interviewed
4 Mr. Lewis, any statements attributed to Mr. Lewis and Ms. Ornelas. All
5 documents, statements, and any other tangible, physical evidence
6 relating to the identity of Mr. Lewis and Ms. Ornelas, any evidence
7 derived from the Lincoln navigator that the State intends to use against
8 Mr. Lewis and Ms. Ornelas, that was the distinction that was drawn
9 because the navigator wasn't their property.

10 THE COURT: Right.

11 MR. ALMASE: And any evidence derived from the Fun City
12 Motel that the State intends to use against Mr. Lewis.

13 And so there's that distinction as to the navigator.

14 THE COURT: Okay. So do you want to add anything?

15 MR. ALMASE: Very briefly, Judge, if I may.

16 Ms. Dunn states that there is a lot of case law with regard to
17 trespassing. In fact, there is not to support her position. With all due
18 respect, the moving or the opposition filed by her predecessor, David
19 Stanton, cited to one case, Kleetor, which is a Washington State case
20 which I addressed in my reply and is no longer followed in Washington
21 State because of Sandoval. A subsequent Washington State case
22 Say that explicitly we are not following Kleetor anymore because of
23 Sandoval, and Sandoval again stated, even if a person is trespassing,
24 even if they don't have permission to be on land, they have a
25 reasonable expectation of privacy.

1 Now, there perhaps is a distinction between public and private
2 land, but even if a distinction is going to be drawn, that doesn't
3 necessarily apply here because they still didn't know whether – what
4 the status of that tent was when they opened it. And there is simply no
5 case law to support their position that my client did not have a
6 reasonable expectation of privacy under these circumstances. They
7 can't get away from Sandoval, Judge. It's solid law. And Alvert here
8 has not been overruled in Nevada Supreme Court.

9 And for all of those reasons, I would ask the Court to stand
10 by its original Order suppressing all of the evidence.

11 MS. DUNN: Just so the record's clear, Your Honor, the case
12 that Mr. Almase is referring to that sends out Kleetor that didn't rely
13 on the Fourth Amendment, and all assist that on the Washington
14 Constitution, so it's completely different than this case.

15 THE COURT: So, to me, Ms. Dunn, the fact of the matter is
16 that the officer didn't speak to the owner of the property, the officer didn't
17 even see the no trespassing signs, so, I mean, whether it's fenced in or
18 not, he doesn't know if they have, you know, permission to be there.
19 And so, because of that, I still think that the suppression is warranted in
20 this case, and so I still think that basically the order just needs to be
21 flushed out, and I'm going to grant it again. The way that it was
22 written, I'm just going to add some more information to the statement of
23 facts.

24 So, Mr. Almase, can you please e-mail me a copy of the
25 original order in Word so that I can work from it?

1 MR. ALMASE: Yes, ma'am.

2 THE COURT: Thank you.

3 MS. DUNN: Thank you.

4 MR. ALMASE: Thank you, Judge.

5 MR. TROIANO: Your Honor, we don't have hearing dates on
6 this.

7 THE COURT: As far as I know, that still means that they're
8 going to be able to go forward with a trial against Mr. Herod, and so we
9 probably just need to set a calendar call and trial date against
10 Mr. Herod. I'm not sure.

11 MS. DUNN: We will be re-appealing, Your Honor.

12 THE COURT: I'm sorry.

13 MS. DUNN: We will be appealing it again.

14 THE COURT: Okay. So we probably don't need to do
15 anything for a while.

16 And I'm sorry, Mr. Herod, what did you want to say?

17 MR. HEROD: How is it, the situation [indiscernible] – I'm just
18 trying to figure out what happened with his arrangements. That's all.

19 THE COURT: He's in bench warrant as far as I know, right?

20 MS. DUNN: That's correct.

21 THE COURT: Yeah. So he's still –

22 MR. HEROD: He's needed. I'm just saying.

23 THE COURT: Okay.

24 MR. ALMASE: Thank you, Judge.

25 THE COURT: So do we need to have a status check then on

1 the appeal so that we can – I don't want to –

2 MS. DUNN: We need to wait for the order to be filed. Once
3 it's ordered, we'll file our notice of appeal within two days of that. So I
4 don't know how long you anticipate the order taking, but I would
5 suggest a status check in maybe – I mean it won't be done with the
6 Supreme Court, but maybe sixty or ninety days, just to keep it on
7 everyone's radar.

8 THE COURT: Yeah. So –

9 MR. ALMASE: And I'll submit the Word document of the
10 Order. Did the Court want a Word document of the motion?

11 THE COURT: Sure. I'd like a Word document of all of you
12 guys' motions, so if everybody can just –

13 MS. DUNN: I will try to track that down.

14 THE COURT: Okay. If you can't then just send an e-mail to
15 my law clerk or something just so I know. Because it is, I mean, so that
16 it's easier so that I can cut and paste everything that I want to put in.

17 MR. ALMASE: Right.

18 THE COURT: And it would be easier to do that.

19 MR. ALMASE: And I will include Ms. Dunn on the e-mail.

20 THE COURT: Absolutely.

21 MS. DUNN: Thank you.

22 THE COURT: So, Ro, can we have a status check in 60
23 days?

24 THE CLERK: August 29th, at 9:30.

25 MS. DUNN: And may I approach, Your Honor?

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

THE COURT: Yes. Thank you.

And, Mr. Herod, on these status checks, you can just appear via Blue Jeans like you've been doing. You can appear via Blue Jeans like you've been doing so you don't have to come.

MR. HEROD: I apologize, ma'am. [Indiscernible]

THE COURT: We hadn't started yet.

[Proceeding concluded at 2:18 P.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.



SUSAN SCHOFIELD
Court Recorder/Transcriber

Andrew S. Shuman
CLERK OF THE COURT

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**

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

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 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 State of Nevada

CASE NO: C-19-340051-1

7 vs

DEPT. NO. Department 24

8 Dustin Lewis
9

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
22
23
24
25
26
27
28

AA 000326