

IN THE SUPREME COURT OF THE STATE OF NEVADA

JERRY LEE DIXON,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Electronically Filed
May 24 2022 10:20 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No: C-13-292285-1
Consolidated with C-13-290942-1
Docket No: 84661

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
JERRY DIXON,
PROPER PERSON
2928 N. PECOS RD., #106
LAS VEGAS, NV 89115

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

C-13-292285-1 State of Nevada vs Jerry Dixon

I N D E X

<u>VOLUME:</u>	<u>PAGE NUMBER:</u>
1	1 - 213

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	5/24/2022	Certification of Copy and Transmittal of Record	
1	8/30/2013	Criminal Bindover (Redacted Version)	24 - 46
1	8/30/2013	Criminal Bindover (Unredacted Version) (Confidential)	1 - 23
1	9/19/2014	Criminal Order to Statistically Close Case	201 - 201
1	5/24/2022	District Court Minutes	202 - 213
1	9/10/2013	Information	47 - 48
1	2/3/2014	Jury List	196 - 196
1	10/7/2013	Motion to Suppress	133 - 148
1	11/6/2013	Notice of Department Reassignment	193 - 193
1	10/7/2013	Notice of Expert Witnesses [NRS 174.234]	149 - 151
1	10/4/2013	Notice of Motion and Motion for Joinder of Case C-13-292285-1 and C-13-290942-1	106 - 120
1	10/7/2013	Notice of Motion and Motion in Limine	121 - 132
1	9/23/2013	Order	89 - 90
1	2/3/2014	Order Denying Defendant's Motion to Suppress	194 - 195
1	9/16/2013	Petition for Writ of Habeas Corpus	80 - 88
1	2/6/2014	Proposed Jury Instructions Not Used At Trial	197 - 200
1	9/26/2013	Return to Writ of Habeas Corpus	95 - 105
1	10/16/2013	State's Opposition to Defendant's Motion to Suppress	152 - 192
1	9/24/2013	Stipulation and ORder Continuing Hearing on Writ on Habeas Corpus	93 - 94

C-13-292285-1

State of Nevada

vs

Jerry Dixon

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	9/11/2013	Transcript of Hearing Held on August 27, 2013	49 - 79
1	9/24/2013	Writ of Habeas Corpus	91 - 92

**THIS SEALED
DOCUMENT,
NUMBERED PAGE(S)
1 - 23
WILL FOLLOW VIA
U.S. MAIL**

JUSTICE COURT, NORTH LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

Electronically Filed
08/30/2013 09:41:57 AM

STATE OF NEVADA,

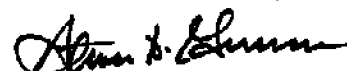
Plaintiff

-vs-

JERRY DIXON,
ID #: 2807953

Defendant(s)

**C-13-292285-1
XI**




CLERK OF THE COURT

CASE NO. 13CRN001476-0000
13FN1368X

I hereby certify the above and foregoing to be a full, true and correct copy of the
proceedings as the same appear in the above entitled matter.

WITNESS MY HAND this date: August 27, 2013.



JUSTICE OF THE PEACE
NORTH LAS VEGAS TOWNSHIP

JUSTICE COURT, NORTH LAS VEGAS TOWNSHIP

CLARK COUNTY, NEVADA

CASE NO. 13CRN001476-0000
13FN1368X

STATE OF NEVADA,

Plaintiff

-vs-

JERRY DIXON,
ID #: 2807953

Defendant(s)

COMMITMENT

and

ORDER TO APPEAR

An Order having been made this day by me, that JERRY DIXON be held to answer upon the charge(s) of:

POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL

committed in said County, on or about the 12th day of June, 2013.

IT IS FURTHER ORDERED that unless the Defendant(s) have/has been previously released on bail or by order of the Court, that the Sheriff of the County of Clark receive the above named Defendant(s) into custody, and detain such Defendant(s) until such Defendant(s) be legally discharged, and that such Defendant(s) be admitted to bail in the sum of \$10,000 Cash or Surety Bond; and

IT IS FURTHER ORDERED that said Defendant(s) is/are commanded to appear in the Eighth Judicial District Court, Clark County Courthouse, Las Vegas, Nevada at 1:30 pm on the 11th day of September, 2013 for arraignment and further proceedings on the within charge.

Dated: August 27, 2013



JUSTICE OF THE PEACE FOR NORTH LAS VEGAS TOWNSHIP

JUSTICE COURT. NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA
DOCKET SHEET...CRIMINAL

CASE # 13CRN001476-0000 13FN1368X

State DIXON, JERRY

2807953 (SCOPE)

DATE, JUDGE, OFFICERS OF COURT PRESENT	PROCEEDINGS APPEARANCES - HEARING	EVENTS
August 27, 2013 G BOOKER FOR N.L. TYRRELL, JP S WITTENBERGER, DDA M CLEVELAND, DPD K JOHNSON, CLK RECORDED BY JAVS/TS	THIS IS THE TIME SET FOR PRELIMINARY HEARING DEFENDANT PRESENT IN CCDC CUSTODY STATE'S WITNESSES: LVMPD SEAN BRYAN - EXCUSED NLVPO ALEJANDRO RODRIGUEZ - EXCUSED STATE'S EVIDENCE 1-3 NIK TESTS - ADMITTED 4-9 - PHOTOS - ADMITTED 10 - COPY OF SEARCH WARRANT - ADMITTED STATE RESTS DEFENDANT WAIVES RIGHT TO TESTIFY/PRESENT EVIDENCE DEFENSE RESTS STATE WAIVES OPENING ARGUMENT MOTION TO DISMISS AND ARGUMENT IN FAVOR OF SAID MOTION BY DEFENSE ARGUMENT AGAINST SAID MOTION BY THE STATE THEREUPON THE COURT ORDERED DEFENDANT HELD TO ANSWER TO SAID CHARGES IN THE EIGHTH JUDICIAL DISTRICT COURT CCDC 10,000 The following event: PRELIMINARY HEARING NLV scheduled for 08/27/2013 at 9:30 am has been resulted as follows: Result: PRELIMINARY HEARING HELD Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2 SET FOR COURT APPEARANCE Event: DISTRICT COURT ARRAIGNMENT NLV Date: 09/11/2013 Time: 1:30 pm Judge: Location: DISTRICT COURT DEPARTMENT 11	DISTRICT COURT ARRAIGNMENT NLV Date: September 11, 2013 Time: 1:30 pm Location: DISTRICT COURT DEPARTMENT 11

JUSTICE COURT. NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA
DOCKET SHEET...CRIMINAL

CASE # 13CRN001476-0000 13FN1368X

State DIXON, JERRY

2807953 (SCOPE)

DATE, JUDGE, OFFICERS OF COURT PRESENT	PROCEEDINGS APPEARANCES - HEARING	EVENTS
<p>August 13, 2013 N.L. TYRRELL, JP C PANDELIS, DDA M PENSALENE, DPD K JOHNSON, CLK RECORDED BY JAVS/TS</p>	<p>INITIAL ARRAIGNMENT COMPLAINT PRESENTED ADVISED WAIVED DEFENDANT PRESENT IN CCDC CUSTODY PD APPOINTED ON 7-23-13 PH SET CCDC 10,000</p> <p>The following event: COURT APPEARANCE NLV scheduled for 08/13/2013 at 8:30 am has been resulted as follows:</p> <p>Result: ARRAIGNMENT HEARING HELD Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p> <hr/> <p>SET FOR COURT APPEARANCE Event: PRELIMINARY HEARING NLV Date: 08/27/2013 Time: 9:30 am Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p>	

JUSTICE COURT. NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA
DOCKET SHEET...CRIMINAL

CASE # 13CRN001476-0000 13FN1368X

State DIXON, JERRY

2807953 (SCOPE)

**DATE, JUDGE, OFFICERS
OF COURT PRESENT**

**PROCEEDINGS
APPEARANCES - HEARING**

EVENTS

<p>July 23, 2013 N.L. TYRRELL, JP A FERREIRA, DDA W WATERS, DPD K JOHNSON, CLK RECORDED BY JAVS/TS</p>	<p>DEFENDANT NOT PRESENT IN CCDC CUSTODY DEFENDANT REFUSED TO BE TRANSPORTED COURT APPOINTS THE PD AND SETS A PRELIMINARY HEARING DATE COURT ISSUES AN ORDER FOR CCDC TO TRANSPORT THE DEFENDANT AT THE NEXT COURT DATE CCDC 10,000</p> <p>The following event: FELONY ARRAIGNMENT NLV scheduled for 07/23/2013 at 8:30 am has been resulted as follows:</p> <p>Result: CRIMINAL HEARING HELD Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p> <p>SET FOR COURT APPEARANCE Event: PRELIMINARY HEARING NLV Date: 08/06/2013 Time: 9:30 am Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p>	
<p>August 06, 2013 N.L. TYRRELL, JP A FERREIRA, DDA G GUYMAN, DPD K JOHNSON, CLK RECORDED BY JAVS/TS</p>	<p>THIS IS THE TIME SET FOR PH DEFENDANT NOT PRESENT IN CCDC CUSTODY DEFENDANT NOT TRANSPORTED DUE TO MEDICAL PASSED FOR DEFENDANT TO BE PRESENT AND SET THE PH CCDC 10,000</p> <p>The following event: PRELIMINARY HEARING NLV scheduled for 08/06/2013 at 9:30 am has been resulted as follows:</p> <p>Result: PRELIMINARY HEARING CONTINUED - OTHER Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p> <p>SET FOR COURT APPEARANCE Event: COURT APPEARANCE NLV Date: 08/13/2013 Time: 8:30 am Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p>	

JUSTICE COURT. NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA
DOCKET SHEET...CRIMINAL

CASE # 13CRN001476-0000 13FN1368X

State DIXON, JERRY

2807953 (SCOPE)

DATE, JUDGE, OFFICERS OF COURT PRESENT	PROCEEDINGS APPEARANCES - HEARING	EVENTS
<p>July 16, 2013</p> <p>N.L. TYRRELL, JP K KRAMER, DDA K JOHNSON, CLK RECORDED BY JAVS/TS</p>	<p>DEFENDANT NOT PRESENT IN CCDC CUSTODY DEFENDANT NOT TRANSPORTED DUE TO MEDICAL PASSED FOR DEFENDANT TO BE PRESENT AND I/A CCDC 10,000</p> <hr/> <p>HEARING HELD The following event: FELONY ARRAIGNMENT NLV scheduled for 07/16/2013 at 8:30 am has been resulted as follows:</p> <p>Result: CRIMINAL HEARING HELD Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p> <hr/> <p>SET FOR COURT APPEARANCE Event: FELONY ARRAIGNMENT NLV Date: 07/22/2013 Time: 8:30 am Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p>	
<p>July 22, 2013</p> <p>N.L. TYRRELL, JP K KRAMER, DDA K JOHNSON, CLK RECORDED BY JAVS/TS</p>	<p>DEFENDANT NOT PRESENT IN CCDC CUSTODY DEFENDANT REFUSED TO BE TRANSPORTED PASSED FOR DEFENDANT TO BE PRESENT AND I/A CCDC 10,000</p> <hr/> <p>HEARING HELD The following event: FELONY ARRAIGNMENT NLV scheduled for 07/22/2013 at 8:30 am has been resulted as follows:</p> <p>Result: CRIMINAL HEARING HELD Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p> <hr/> <p>SET FOR COURT APPEARANCE Event: FELONY ARRAIGNMENT NLV Date: 07/23/2013 Time: 8:30 am Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p>	

JUSTICE COURT. NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA
DOCKET SHEET...CRIMINAL

CASE # 13CRN001476-0000 13FN1368X

State DIXON, JERRY

2807953 (SCOPE)

DATE, JUDGE, OFFICERS OF COURT PRESENT	PROCEEDINGS APPEARANCES - HEARING	EVENTS
<p>July 10, 2013 N.L. TYRRELL, JP C HENDRICKS, DDA K JOHNSON, CLK RECORDED BY JAVS/TS</p>	<p>DEFENDANT NOT PRESENT IN CCDC CUSTODY PER CCDC DEFENDANT IS AT UMC PASSED FOR DEFENDANT TO BE PRESENT AND I/A CCDC 10,000</p> <hr/> <p>HEARING HELD The following event: FELONY ARRAIGNMENT NLV scheduled for 07/10/2013 at 8:30 am has been resulted as follows:</p> <p>Result: CRIMINAL HEARING HELD Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p> <hr/> <p>SET FOR COURT APPEARANCE Event: FELONY ARRAIGNMENT NLV Date: 07/15/2013 Time: 8:30 am Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p>	
<p>July 15, 2013 N.L. TYRRELL, JP C PANDELIS, DDA K JOHNSON, CLK RECORDED BY JAVS/TS</p>	<p>DEFENDANT NOT PRESENT IN CCDC CUSTODY DEFENDANT NOT TRANSPORTED THIS AM DUE TO MEDICAL PASSED FOR DEFENDANT TO BE PRESENT AND I/A CCDC 10,000</p> <hr/> <p>HEARING HELD The following event: FELONY ARRAIGNMENT NLV scheduled for 07/15/2013 at 8:30 am has been resulted as follows:</p> <p>Result: CRIMINAL HEARING HELD Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p> <hr/> <p>SET FOR COURT APPEARANCE Event: FELONY ARRAIGNMENT NLV Date: 07/16/2013 Time: 8:30 am Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2</p>	

JUSTICE COURT. NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA
DOCKET SHEET...CRIMINAL

CASE # 13CRN001476-0000 13FN1368X
 State DIXON, JERRY 2807953 (SCOPE)
 Charge(s) POSSESS, W/INTENT SELL, SCH I OR II CONT SUB BOUND OVER
 OR FLUNITRAZEPAM/GHB, 1ST

Conditions

Description	Required Amount	Bal Due	Due Dt	Notes
-------------	-----------------	---------	--------	-------

LINKED CASES FOR: 13CRN001476-0000			
CASE #	STATUS	EVENT DATE	EVENT DESCRIPTION
NO FUTURE EVENTS			

**DATE, JUDGE, OFFICERS
OF COURT PRESENT**

**PROCEEDINGS
APPEARANCES - HEARING**

EVENTS

June 12, 2013	BAIL AMOUNT Charge #1: POSSESS, W/INTENT SELL, SCH I OR II CONT SUB OR FLUNITRAZEPAM/GHB, 1ST	
July 08, 2013	COMPLAINT SWORN TO AND FILED:	
July 09, 2013	SET FOR COURT APPEARANCE Event: FELONY ARRAIGNMENT NLV Date: 07/10/2013 Time: 8:30 am Judge: TYRRELL, NATALIE L Location: DEPARTMENT 2 Result: CRIMINAL HEARING HELD	

JUSTICE COURT, NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

JERRY LEE DIXON, aka,
Jerry Dixon #2807953,

Defendant.

FILED

JUL 08 2013

NORTH LAS VEGAS JUSTICE COURT
BY

CASE NO: 13FN1368X

DEPT NO: 2

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony - NRS 453.337), in the manner following, to-wit: That the said Defendant, on or about the 12th day of June, 2013, at and within the County of Clark, State of Nevada, did then and there wilfully, unlawfully, feloniously, knowingly, and intentionally possess, for the purpose of sale, a controlled substance, to-wit: Marijuana.

All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.

7/2/2013



13FN1368X/jw
NLVPD EV# 1310068
(TK)

Clark County Justice Court

NORTH LAS VEGAS TOWNSHIP

FIRST APPEARANCE BEFORE MAGISTRATE

NAME: DIXON, JERRY LEE DATE: 6/14/13

ID #: 2807953 NLVPD MF #: _____

NLVIC CASE #: 13PCN001229-0 NLVPD CASE #: 130611010068

YOU HAVE BEEN CHARGED WITH THE FOLLOWING OFFENSE(S):

Bail Amount

- | | |
|---|-------|
| 1. ATT MURDER (1st) | 50K |
| 2. KIDNAPPING 1ST DEGREE (1st) | 50K |
| 3. DOMESTIC BATTERY VIOLENCE BY STRANGULATION (1st) | 10K |
| 4. GRAND LARCENY OF AUTO & \$3500 (1st) | 10K |
| 5. POSS TO SELL SCH 1/II, FLNTRZPM/GHB (1st) (1st) | 10K |
| 6. _____ | _____ |

DATE OF ARREST: JUNE 12TH, 2013 1:01AM

THE COURT FURTHER INFORMS YOU:

- That you have the right to have an attorney present during any questioning and to represent you concerning such charge(s).
- That if you cannot afford to hire an attorney, one will be appointed for you at the expense of the County.
- That you have the right to remain silent and that any statement you make may be used against you.
- That a formal complaint will be presented to you when you appear in North Las Vegas Justice Court, on or before 6/21/13 at 8:00 a.m. The Court is located at 2428 N. Martin Luther King Boulevard, North Las Vegas, Nevada 89032.
- That the Court has examined the Affidavit of Arrest which has been filed and finds that there is probable cause shown for your incarceration.
- That you have the right, in most cases, to have bail set to secure your release from custody. Bail is hereby set in the total sum of \$ 135K.

IT IS FURTHER ORDERED THAT IF BAIL IS SET, YOU ARE HEREBY REMANDED TO THE CUSTODY OF THE SHERIFF OF CLARK COUNTY AND THE COMMANDER, CLARK COUNTY DETENTION CENTER OR DESIGNEE UNTIL BAIL IS POSTED.

CONDUCTED BY JUDGE: _____

INTERPRETER: _____ PD OFFICER: 38089

DEPUTY DISTRICT ATTORNEY

Initials: _____

Days Requested: _____

Clark County Justice Court

NORTH LAS VEGAS TOWNSHIP

PROBABLE CAUSE DETERMINATION

DEFENDENT'S NAME: DIXON, JERRY LEE

MF:

ID: 2807953

NLVJC CASE #: 13PCN001329-D

NLVPD CASE #: 130611010068

CHARGES:

ATT MURDER
KIDNAPPING, 1ST DEGREE
DOMESTIC BATTERY VIOLENCE BY STRANGULATION
GRAND LARCENY OF AUTO, < \$3500
POSS TO SELL SCH I/II, FLNTRZPM/GHB, (1ST)

Handwritten:
\$ 50K
\$ 50K
15K
10K
10K

DATE OF ARREST:

June 12, 2013

TIME:

1:01 AM

FINDING:



I find there is sufficient probable cause, to believe that charged crime(s) have been committed and that said defendant has committed such crime(s). THEREFORE, IT IS ORDERED that the defendant be:

BAIL:

☐ Standard

☒ Other

\$ 135K

☐ O/R - Return Date:

at 08:30 A.M.

If the Defendant remains in custody, the First Appearance before the Justice Court will be:

6/14/13

at 08:30 A.M.



I find there is NOT sufficient probable cause shown to allow the defendant to be held in custody. THEREFORE, IT IS ORDERED that the defendant be immediately released from custody as to the charge(s). This order is without prejudice to the City or State to proceed with the charge(s) based upon additional evidence sufficient to establish probable cause.

Defendant to appear in Justice Court on:

at 8:30 A.M.

REMARKS:

(Empty box for remarks)

Signature of Magistrate

Date:

6-13-13

Time:

9:55 am

NORTH LAS VEGAS POLICE DEPARTMENT **PRE-BOOKING/DECLARATION OF ARREST**

PREBOOK NUMBER: 101483

☐ REVISED

2807993

NAME OF ARRESTEE: Dixon, Jerry Lee			ARRESTEE ALIAS:			PD CASE NUMBER: 130611010068		
SOCIAL SECURITY: [REDACTED]		RACE: W	SEX: M	ETHNICITY:	DATE OF BIRTH: [REDACTED]	BIRTH LOCATION: Roxboro, NC USA		
HEIGHT: 600	WEIGHT: 165	HAIR: BRO	EYES: BRO	HOME PHONE: n/a	WORK PHONE: 7044409	EMPLOYER: unemployed		
HOME ADDRESS LINE 1: 455 E TWAIN AVE 142					HOME ADDRESS LINE 2: LAS VEGAS, NV 89169			
PLACE OF ARREST: Twain/Cambridge					DATE AND TIME OF ARREST: 06/12/2013 01:01		VEHICLE: Y	IMPOUND: N
ARRESTING OFFICER'S NAME (P#): Aiello, Jenifer (1967)					TRANSPORTING OFFICER'S NAME (P#): Aiello, Jenifer (1967)			
INTAKE OFFICER'S NAME (P#):			IRS INTAKE NAME (P#):			MEDICAL ACCEPT (NURSE NAME AND DATE):		
SUBJECT INJURED: N		SUBJECT COMBATIVE: N		CONTRACT/FEDERAL AGENCY: N/A		CONTRACT/FEDERAL ID#:		
JUVENILE TREATED AS ADULT: N		OFFENDER ID:						
MUNICIPAL COURT WARRANT NUMBERS:								
#	ARREST ORIGIN	CHARGE	COUNTS	STATUTE / BAIL	ARREST TYPE	POLICE CASE # / MUNI WARR #		
1	PC	ATT MURDER NOC: 50029	1	200.010 NOT BAILABLE	F	130611010068		
2	PC	KIDNAPPING, 1ST DEGREE NOC: 50051	1	200.310.1 NOT BAILABLE	F	130611010068		
3	PC	DOMESTIC BATTERY VIOLENCE BY STRANGULATION NOC: 54740	1	200.495.2 \$15,000.00	F	130611010068		
4	PC	GRAND LARCENY OF AUTO, < \$3500 NOC: 56011	1	205.228.2 \$10,000.00	F	130611010068		
ARREST ORIGIN DESCRIPTIONS:		CA - CITIZENS ARREST WA - WARRANT OF ARREST RMD - REMAND		PCOI - PROBABLE CAUSE - OTHER JURISDICTION WFOJ - WANTED FUGITIVE - OTHER JURISDICTION NVOJ - NY WARRANT - OTHER JURISDICTION		PC - PROBABLE CAUSE BW - BENCH WARRANT BS - BOND SURRENDER		
MPD - METRO REMAND OVERFLOW								

Narrative:

On Tuesday 06/11/13 at about 11:12 hours, I was dispatched to the North West Area Command (3755 West Washburn) in reference to a possible kidnapping and stolen vehicle report. Dispatch advised they were contacted by the Las Vegas Metropolitan Police Department (LVMPD) in reference to a white male adult, identified as Phillip Rogers, who had contacted them at the Mount Charleston Hotel (2755 Kyle Canyon). Rogers claimed he was originally kidnaped in from a house in North Las Vegas (at 5120 Vista Del Rancho Way) and driven to Mount Charleston.

At about 1923 hours I made contact with LVMPD Officer Martine P#5102 and Sergeant Legrow P#507, who had dropped Phillip off NWAC to file a report on this incident (LVMPD event #1306113944.) Phillips roommate (and registered owner of the stolen vehicle) came to the station as well. Phillip told me the following: He was in a dating relationship for five years with a white male adult, identified as Jerry Dixon. Phillip and Jerry have been officially broken up for the past three weeks, but prior to that they lived together for five years at 5120 Vista Del Rancho Way. Today Phillip picked Jerry up from the area of Paradise and Twain and drove him to 5120 Vista Del Rancho. Once inside the house, Jerry (who Phillip claimed was wearing a large ring) accused Phillip of stealing his marijuana plants. Jerry demanded that he return the marijuana, but Phillip said he did not ever take his plants. This infuriated Jerry so he punched Phillip once on his left cheekbone, and 3 to 4 times on the top of his head. Phillip attempted to run out of the house and Jerry stopped him at the doorway and pulled out a pair of scissors. Jerry pushed Phillip into the door jam, placed the now opened scissors to his neck, and told Phillip he was going to have to kill him if he did not get his marijuana plants back. Jerry then wrapped one hand around Phillip's throat and started to apply pressure to the point of Phillip almost passing out. Once Phillip came to, Jerry ordered him to get into the passenger side of the vehicle. Jerry drove Phillip out to Mount Charleston, where he eventually attempted to lure him towards the ledge of a mountain and even later

pushed Phillip off the ledge. Phillip fell about 6 feet down and continued to slide down to the next bigger decline, but he slid into a tree which stopped his momentum. Jerry ran back to the car (which was Jessica's and she never gave him any permission to take) and he drove away in it. Phillip eventually got up and walked back up the hill and towards the road, where was able to flag someone down for a ride to the Mount Charleston Lodge so he could call the Police.

I made contact with Phillip and immediately noticed how disheveled he looked. Phillip had the following visible injuries: a large open gash (approximately 3 centimeters long) on the top of his head (as well as dried caked blood along the back of his ears), a large fresh bruise forming on his left cheek bone, fresh bloody scratches and cuts along the right side of his body to include his right shinbone, right forearm and right wrist. There were the beginnings of a large swollen bruise on the top of his right shoulder as well. Phillip's eyes were bloodshot and I could see small faint red dots (or what is known as petechia) in his eyes and also on along the left side of his neck. Phillip told me his throat was sore, it hurt to swallow, and as he was speaking I noticed his voice was dry and hoarse at times. I took photographs of Phillip's injuries and later downloaded them onto D.I.M.S. Due to Phillip's injuries I had Medic West 601 and Fire Engine 54 come to the scene to aid him. Medics determined that the laceration on the top of Phillip's head needed medical attention so they transported him to Mountain View Hospital (3100 N. Tenaya) for medical treatment. Jessica did not have a vehicle (her's was stolen during this incident as I'll mention later.) I transported Jessica to Mountain View Hospital so I could investigate further as I mention in much more detail in my arrest report.

After receiving 7 staples to his laceration, Phillip was medically cleared from the hospital per Medical Practitioner Nancy Walker. At about 2030 hours, I was contacted by LVMPD Officer Radich P#9340 who told me he had stopped Jerry in the stolen vehicle on the corner of Cambridge and Twain.

I made contact with Jerry and immediately noticed that there were numerous fresh bite marks all over both of his forearms, the webs of both of his hands, and also on both of his calves.

I took custody of Jerry and read his Miranda Rights to him. Jerry told me he understood and wished to speak to me without the presence of an attorney. Jerry completely denied every allegation and then eventually said he wanted a lawyer so I ceased all questioning at this point.

I placed Jerry for the following against Phillip: Attempt Murder, Kidnaping (1st degree), and Domestic Battery with Strangulation.

I also placed Jerry under arrest for Grand Larceny Auto due to the fact that he had stolen the Jessica's vehicle from Phillip.

The undersigned makes the following declarations subject to the penalty of perjury and says: That I am a peace officer with the CITY OF NORTH LAS VEGAS POLICE DEPARTMENT Clark County, Nevada. Being so employed for a period of 6 (9) years (months); that I learned the following facts and circumstances which lead me to believe that the above named subject committed (or was committing) the offense of SEE ABOVE CHARGES at the location of 5120 VISTA DEL RANCHO WAY and the offense occurred at approximately _____ hours on the _____ date of _____ 20____

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

JENIFER AIELLO

DECLARANT NAME (PLEASE PRINT)

DECLARANT SIGNATURE AND SERIAL NO.

NORTH LAS VEGAS POLICE DEPARTMENT

PRE-BOOKING/DECLARATION OF ARREST

PREBOOK NUMBER: 101498

☐ REVISED

180X993

NAME OF ARRESTEE: Dixon, Jerry Lee				ARRESTEE ALIAS:				PD CASE NUMBER: 130611010068			
SOCIAL SECURITY: [REDACTED]		RACE: W		SEX: M		ETHNICITY:		DATE OF BIRTH: [REDACTED]		BIRTH LOCATION: USA	
HEIGHT: 600		WEIGHT: 180		HAIR: BRO		EYES: BRO		HOME PHONE: N/A		WORK PHONE: N/A	
EMPLOYER: N/A		HOME ADDRESS LINE 1: 5120 VISTA DEL RANCHO									
HOME ADDRESS LINE 2: NORTH LAS VEGAS, NV 89031											
PLACE OF ARREST: 5120 Vista Del Rancho								DATE AND TIME OF ARREST: 06/12/2013 11:46		VEHICLE N	
IMPOUND N											
ARRESTING OFFICER'S NAME (PN): Bryan, Sean (1880)								TRANSPORTING OFFICER'S NAME (PN): Aiello, Jenifer (1967)			
INTAKE OFFICER'S NAME (PN):				IRS INTAKE NAME (PN):				MEDICAL ACCEPT (NURSE NAME AND DATE):			
SUBJECT INJURED N		SUBJECT COMBATIVE N		CONTRACT/FEDERAL AGENCY: N/A				CONTRACT/FEDERAL ID#:			
JUVENILE TREATED AS ADULT N				OFFENDER ID:							
MUNICIPAL COURT WARRANT NUMBERS:											
#	ARREST ORIGIN	CHARGE				COUNTS	STATUTE / BAIL		ARREST TYPE	POLICE CASE # / MUNI WARRANT #	
1	PC	POSS TO SELL SCH III, FLNTRZPM/GHB, (1ST) NOC: 51441				1	453.337.2A \$5,000.00		F	130611010068	
ARREST ORIGIN DESCRIPTIONS:		CA - CITIZENS ARREST WA - WARRANT OF ARREST RMD - REMAND				PCOJ - PROBABLE CAUSE - OTHER JURISDICTION WFOJ - WANTED-FUGITIVE - OTHER JURISDICTION NVOJ - NV WARRANT - OTHER JURISDICTION				PC - PROBABLE CAUSE BW - BENCH WARRANT BS - BOND SURRENDER	

Narrative:

On Tuesday, June 11, 2013 at approximately 2300 hours, the Narcotics Unit responded to 5120 Vista Del Rancho, in reference to an active marijuana grow that was located by patrol officers Aiello #1967 and Johnson #2104. See Johnson's follow-up report under this same case number for further details.

Upon my arrival I spoke with Officer Johnson and he stated the following: At approximately 2200 hours, Officer Aiello and him responded to 5120 Vista Del Rancho, in reference to an attempt murder which occurred and the suspect was identified as Jerry Dixon. Dixon attempted to murder his boyfriend, Phillip Rogers earlier in the day and patrol officers were able to identify 5120 Vista Del Rancho as being Dixon's current residence. Upon their arrival, they saw the front door had signs of being kicked in or forced entry. Due to this being an active investigation to locate Dixon, the officers conducted a protective sweep of the residence to check for any victims and to attempt to locate Dixon. There was nobody located at the residence. During the officers' initial walk through of the residence, the officers located an active marijuana grow in the hallway bathroom. The marijuana grow consisted of approximately 5 marijuana plants, with active electricity and a fan used for cooling. The officers also located a dismantled marijuana grow in the garage, which consisted of mylar reflective paper, exposed wiring and air duct tubing. Throughout the residence, the officers located amounts of finished marijuana product. The Narcotics Unit was advised of the marijuana grow and arrived on scene. This residence was previously identified as being involved in growing and selling marijuana from a City Track complaint I received last week. I identified Jerry Dixon as being the resident at 5120 Vista Del Rancho. I was able to identify that NV Energy was in the name of Dixon for the address and he did not have an active medical marijuana card.

Based on the information described to me by Johnson, I obtained a telephonic search warrant for the residence. I contacted Judge Hoo, read him the telephonic warrant and he gave me authorization to serve the search warrant. Investigator Rodriguez was assigned as the property custodian and Investigator Arnone was assigned to take photographs of the property located and seized.

I located an active marijuana grow in the hallway bathroom. The marijuana grow consisted of five marijuana plants and was

set-up in the bath tub. There was a lighting system consisting of two fluorescent lights and a cooling fan. I also located a dismantled marijuana grow in the garage. The entire garage was covered in reflective mylar paper. There was several feet of air duct tubing coming out of the ceiling, several exposed wires coming out of the north wall and a large hole used for ventilation on the north wall.

During a search of the residence, by whom, where and what was located is as follows: twenty-three (23) THC edibles with a gross weight of 1,011 grams, located on the kitchen counter by me; five marijuana plants with a gross weight of 140 grams, located in the hallway bathroom by me; five packages of marijuana clippings packaged in nylon stockings and one plastic bag containing marijuana clippings with a gross weight of 3,821 grams, located in the kitchen freezer by me; silver digital scale, located on the kitchen counter by me; letter addressed to Jerry Dixon with the address of 5120 Vista Del Rancho, located on kitchen table by me; Tropicana work identification card with a photograph and the name of Jerry Dixon, located on kitchen table by me. Based upon my investigation, Dixon is involved in selling marijuana and THC edibles.

Rodriguez took custody of all the above mentioned items. I left a copy of the search warrant and the Inventory sheet on the living room table.

Rodriguez tested all of the suspected marijuana and THC edibles. The marijuana and THC edibles tested positive and were booked with pink copies of the Narcopouch test checklist in the NLVPD evidence vault. Rodriguez also booked the digital scale, letter addressed to Jerry Dixon and Tropicana work card in the evidence vault.

The undersigned makes the following declarations subject to the penalty of perjury and says: That I am a peace officer with the CITY OF NORTH LAS VEGAS POLICE DEPARTMENT Clark County, Nevada. Being so employed for a period of 6 (9) years (months), that I learned the following facts and circumstances which lead me to believe that the above named subject committed (or was committing) the offense of SEE ABOVE CHARGES at the location of 5120 VISTA DEL RANCHO and the offense occurred at approximately _____ hours on the _____ date of _____ 20 _____

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

SEAN BRYAN

DECLARANT NAME (PLEASE PRINT)

DECLARANT SIGNATURE AND SERIAL NO.

NORTH LAS VEGAS POLICE
POLICE REPORT NARRATIVE PORTION

CASE NUMBER: 130611010068.1

CASE DATE: 6/12/2013 19:38:57

06/12/2013 23:17

On Tuesday 06/11/13 at about 1812 hours, I was dispatched to the North West Area Command (3755 West Washburn) in reference to a possible kidnaping report. Dispatch advised they were contacted by the Las Vegas Metropolitan Police Department (LVMPD) in reference to a white male adult, identified as Phillip Rogers, who had called 9-11 from the Mount Charleston Hotel (2755 Kyle Canyon.) Phillip claimed he was originally kidnaped from 5120 Vista Del Rancho Way, in North Las Vegas, and eventually he ended up at stranded at Mount Charleston.

At about 1930 hours I made contact with LVMPD Officer Martine P#5102 and Sergeant Legrow P#507, who had transported Phillip to the NWAC so he could file a criminal report (refer to LVMPD event #1306113944.) Phillip's roommate, Jessica Johnson (later determined to be the victim of a stolen vehicle in this case) came to the station as well.

Phillip told me the following: He was in a dating relationship and lived together at the above address for the past five years with a white male adult, he identified as Jerry Dixon. Phillip and Jerry officially separated over three weeks ago, which is when Phillip moved in with Jessica. On 06/02/13, Phillip called the NLVPD to do a civil standby at 5120 Vista Del Rancho so he could get some of his belongings. Police showed up and Jerry was not at the residence. It was determined that Phillip was still on the lease so Officer's cleared the scene and left Phillip there to get his belongings (under incident# 13060200331.) Phillip said he got some of his clothes for the time being and had no problems. He did notice that there were marijuana plants he had never seen in the bathroom, but he did not do anything about them and left. Since 06/02/13, Phillip and Jerry text a couple times in reference to property and they remained cordial but nothing more.

Today 06/12/13, Jessica allowed Phillip to borrow her vehicle (a 2005 yellow Chevy bearing NV 217XJY) so he could run some errands, as long as he picked her up from work at 1730 hours. At about 1300 hours, Jerry sent Phillip a text message asking him for a ride from the area of Twain and Paradise back down to the home the once shared, 5120 Vista Del Rancho. Phillip thought this was strange because they had not seen each other or hung out since their breakup, but he wanted keep things cordial between the two of them because Phillip had not gotten all of his property out of Jerry's house. Phillip picked Jerry up and drove him to the house. They seemed to be getting along fine during the drive so Jerry invited Phillip into the house to talk more. Once they were inside the house, Jerry's demeanor completely changed and he immediately started demanding that Phillip tell him where all his marijuana was. Phillip said he had no idea what Jerry was referring to because he no longer lived there and did not want to get involved, which seemed to infuriate Jerry. Jerry punched Phillip once on the left side of his face and said "Look in my eyes, I'm not fucking with you!" Phillip tried to run out of the house, but Jerry cornered him at the front door and said he owed some people money over the marijuana and they want to kill him. Phillip continued to say he had never taken anything from him, so Jerry punched the top of Phillip's on the top of his head 3 or 4 times with his left fist. Phillip remembered seeing a large ring on the fist that was striking him. The impact left Phillip on his knees and created a large gash on the top of Phillip's head which immediately started bleeding down his face and neck. Phillip started standing up and Jerry pulled out a pair of scissors his pants pocket and held them to open at Phillip's throat. Jerry told Phillip that both of them were in danger, and one of them has to die but it was not going to be him. Then using one hand Jerry pinned Phillip against the wall by his neck and started cutting off Phillip's area supply to the point of seeing black mostly black stars. I asked Phillip if he struck Jerry and he admitted having a lot less strength and biting him as the only way he could defend himself.

Phillip got up, opened the front door and was halfway out when Jerry caught him by his shirt and tried to pull him back into the house. Phillip was able to get out of his shirt and run outside towards the car. Once at the car, Jerry threw Phillip down against the hood and yanked his cell phone, wallet and car keys from him. Jerry ran back into the house and locked Phillip outside. Phillip went to two neighboring houses trying to get help, but no one answered.

After about five minutes Jerry opened the front door and tried to talk calmly to Phillip. Phillips asked for his property and Jerry walked back into the house, leaving the door open so Phillip could come in. Phillip asked Jerry if he could

NORTH LAS VEGAS POLICE
POLICE REPORT NARRATIVE PORTION

CASE NUMBER: 130611010068.1
CASE DATE: 6/12/2013 19:38:37

06/12/2013 23:17

just his house and leave with no problems, and Jerry's emotion seemed to swing completely from angry to sad. He started to apologize and said he was just scared for both of them, which is why he reacted aggressively. Phillip nicely told Jerry he really needed to leave to pick Jessica up from work because she has no other ride home. Jerry said the only way Phillip was leaving was if Jerry drove him. He then told Phillip to change his bloody shirt and clean up his blood before they left. Phillip could not convince Jerry to give him keys or phone and he did not want to be late picking her up since she let him use the car. He eventually gave into Jerry going because it was getting late. Jerry made it clear he was going to drive and told Phillip to get in passenger seat. Jerry left the house and headed westbound on Craig and towards 95 north. Phillip immediately questioned why he was not going towards Jessica's work and Jerry told him to stop questioning him, he patted his pants pocket and said he still had scissors. Jerry drove west on Craig Road and north on the 95 towards Mount Charleston. Phillip asked numerous times where they were going, and Jerry said he was taking them both out of the city because he was scared for their safety. Phillip asked many times if he would take him home as promised, but Jerry kept saying he wanted to see the scenic views. They ended up passing the Mount Charleston Lodge and pulling over on the side of the road. Jerry said he wanted walk into the forest with Phillip so they could pray together. Phillip stayed in the car and kept saying he wanted to go home. Jerry got back in the car, did a u-turn and said he would take Phillip home. He drove back down the mountain, but then saw another turn off and decided to pull off and park there. Jerry kept talking about the wilderness in a strange way and tried to convince Phillip to get out so they could pray together. Phillip stayed seated so Jerry walked over to the passenger side and opened the car door. He told Phillip it wasn't an option then pulled him up and started hugging and kissing him. He apologized for everything and kept telling Phillip he loved him and wanted to get back together with him. He blamed today's aggressive behaviors on being stressed about both of them being in danger and owing people. While Jerry was saying these things he was hugging Phillip and slowly inching towards a ledge nearby. Phillip said he did not feel safe with Jerry and he didn't want to be near the edge. Jerry kept kissing Phillip and nudging him closer to the edge so Phillip dropped his weight and sat down. Jerry seemed very concerned about Phillip and nicely said it was okay, and he would take Phillip home. Jerry started walking turning his body like he was heading back towards the car so Phillip stood up and just as soon as he got up, Jerry turned around and said "You got to go Bro," then shoved him over the ledge. Phillip fell about 6 feet down and he landed with his right arm behind his head. He started sliding down the hill towards an even larger drop, but he ran the right side of his body into a small tree, which stopped him from continuing down the mountain. Phillip eventually got himself up and noticed Jerry running towards the car (which he previously knew belonged to Phillip's room mate and also still has all of Phillip's belongings Jerry took from him.) Jerry got into the car and sped down the mountain.

Once Phillip was able to climb up to the road he flagged down a passerby, who let him get into the bed of her truck. She drove him to the Hotel, and he immediately called 9-11 to report what happened. See Phillip's witness statement for further details.

Phillip was very adamant he has never seen Jerry act this erratic. He mentioned that Jerry has always been very domineering and often verbally abusive towards Phillip, who is naturally more soft spoken and also smaller in stature. Phillip said he has known Jerry long enough to believe he is possibly using hallucinogenic drugs because he is showing signs of being out of touch with reality right, or hallucinating. Before they broke up he displayed dramatic mood swings and Phillip decided he could not deal with it anymore, which is why he left and moved in with Jessica. It is also not unusual for Jerry to hit Phillip in the back of the head or smack him during an argument, but it has never been to point where he is bleeding or needs medical attention. Phillip never called the police, because has no family in Las Vegas and no where to really go and he was afraid of the backlash he would receive by doing so. See Phillip's witness statement for further details.

I made contact with Phillip and immediately noticed how disheveled he looked. Phillip had the following visible injuries: a large open gash (later measured as approximately 3 centimeters long by doctor) on the top of his head (there was caked blood along the back of his ears from this wound) a large fresh bruise forming on his left cheek bone, fresh bloody scratches and cuts along the right side of his body to include his right shinbone, right forearm and right wrist. There were the beginnings of a large swollen bruise on the top of his right shoulder as well. Phillips

NORTH LAS VEGAS POLICE
POLICE REPORT NARRATIVE PORTION

CASE NUMBER: 130611010063.1
CASE DATE: 6/12/2013 19:38:57

06/12/2013 23:17

eyes were bloodshot and I could see small faint red dots which were consistent with broken blood vessels (or what is known as petechia) in his eyes and also on along the left side of his neck. Phillip told me his throat was sore, it hurt to swallow, and as he was speaking I noticed his voice was dry and hoarse at times.

Phillip stated he was punched in the head a by Jerry while he was wearing a large ring, punched in the face, strangled, and pushed down a 6 foot drop onto rocks then slid on his right side. The injuries Phillip sustained were very consistent with his statement. The petechia in his eyes and on his neck, problems swallowing and a soar throat are all consistent with being strangled. The swelling and bruising down the right side of his body was consistent with how he said he landed after being pushed down the mountain. And all of the scratches along his arms and legs were consistent with him sliding down the hill on rocks and shrubs. I took photographs of Phillips injuries and later downloaded them onto D.J.M.S. Due to Phillips injuries I had Medic West 601 and Fire Engine 54 come to the scene to aid him. Medics determined that the laceration on the top of Phillip's head needed medical attention so they transported him to Mountain View Hospital (3100 N. Tenaya) for medical treatment. Jessica did not have a vehicle (it was taken without her knowledge or consent by Jerry earlier.) I took Jessica to Mountain View Hospital with me to continue my investigation.

I spoke to Jessica, who told me the following: She has known both Phillip and Jerry for over a year. Over time she has witnessed Jerry verbally and physically abuse Phillip. During those occasions, Phillip has never struck Jerry and normally responds by cowering and letting Jerry rant until he is finished. About three weeks ago, Phillip called Jessica and said he had to get out of the house because he was really scared and finally done. Jessica confirmed that today she let Phillip borrow her car, which she often did. Jessica said she text Phillip at about 1530 and never got a reply so she started calling him and there was no answer. By 1730, she still had not heard from Phillip so she started to get very worried. Jessica did not hear from Phillip until around 1820 hours, when he called her from the Mount Charleston Hotel and told her to meet him at the NWAC because something bad happened. See Jessica's witness statement for further details.

I advised Jessica that Jerry took possession of her vehicle and was last seen driving down from Mount Charleston. Jessica said she has not spoken to Jerry and he has never had permission to drive her car. Phillip is only recently driving her car to look for work. I issued Jessica a victim's guide at this point and called Erica P#2320, in records, to report her car as stolen and give Jerry as a suspect in the Grand Larceny. At about 2155 hours, I was notified that LVMPD had possession of Jessica's vehicle on the corner of Twain and Cambridge, and Jerry was stopped while driving her vehicle and placed into custody by LVMPD Officer's Radich P#9340 and Nitzel P#9863. Officer Radich also advised that he located Phillip's cell phone, wallet and keys which were all later documented on a property release form and given back to him.

After receiving 7 staples to his laceration, Phillip was medically cleared from the hospital per the Medical Practitioner Nancy Walker. Phillip was in obvious pain so he was issued a victim's information guide, a blue domestic violence card, and transported to his house.

I then transported Jessica to the area of Cambridge and Twain to recover her vehicle. I noticed what appeared to be blood smeared on the hood of her vehicle in a few places. This was consistent with Phillip's statement of slammed onto the hood of the car. I took photographs of the vehicle it was released to Jessica. I contacted Donna in records and she advised me the vehicle showed already recovered through LVMPD.

LVMPD Officer's Radich told me he conducted a traffic stop on the vehicle for having a head light out and identified Jerry as the driver (under LVMPD event #130611-3863.) They were quickly updated about the vehicle being stolen by Jerry. Jerry was removed from the vehicle and taken into custody without further incident. LVMPD released custody of Jerry (who was already hand cuffed) to me. I immediately noticed many fresh bite marks all over both of his forearms, in the webs of both hands, and on the lower part of both of his legs. Some of them were leaking pus and some showed clear teeth marks. I believe his injuries looked defensive in nature due to their locations and how deep they were. It seemed reasonable to believe that Phillip was able to bite the webs on both hands while Jerry was struggling to pin him against the wall and strangle him. It is also reasonable to think Phillip bit Jerry on and

NORTH LAS VEGAS POLICE
POLICE REPORT NARRATIVE PORTION

CASE NUMBER: 130611010068.1
CASE DATE: 6/12/2013 19:38:57

06/12/2013 23:17

behind his legs, after he had been punched in the head, and fell down while Jerry was still hitting him. Jerry denied medical attention for his wounds. I took photographs of his injuries to later download onto D.J.M.S.

I took custody of Jerry and secured him in my patrol vehicle. I read Jerry his Miranda Rights and he told me he understood and wished to speak to me without the presence of an attorney. I explained the reason I was there and asked him what happened today. Jerry told me the following: He has been abused by Phillip during this whole relationship. Since they have broken up Phillip will not leave him alone. Today Phillip drove Jerry to the house they once shared and then he forced himself onto to Jerry and started kissing him saying he wanted to get back together. This was very different from what Phillip told me so I started asking Jerry questions to clarify. I asked about the wound to Phillip's head and face, and Jerry originally told me he did not cause any of his wounds. Jerry then said he actually had no choice because Phillip would not take no for an answer today. Jerry denied all the claims about taking Phillip's wallet or I phone. And he did not know anything about him wanting to leave. Jerry never caused Phillip of stealing his marijuana. And denied strangling Phillip or threatening him with a scissor. I asked him why he decided to take Phillip on a long drive to the mountains and he said they remind him of North Carolina. He suddenly got the urge to be around wilderness and sight see. I directly asked if he and Phillip fought out in the wilderness and Jerry said no, then immediately said he secretly felt like Phillip wanted to push him off the edge of a cliff but he did not know why. I directly asked Jerry if he pushed Phillip off a cliff or ledge and he said no. I described the injuries Phillip sustained while going down the cliff and asked him if he then change his mind and said Phillip was the one who tried to do a "football tackle" and knock Jerry off the edge. I mentioned how that seemed like it would cause both of them to go over the edge, but Jerry did not have a response to my concern. Jerry had no answer for why he denied Phillip's attempt to push him off the cliff when he was asked. Jerry admitted to driving the vehicle the whole time and stopping along the side of the road to sightsee. Jerry talked about the trip light heartedly, refusing to really mention anything more than how he was moved by nature. Jerry started to completely ignore my questions, and talk about topics he wanted to talk about, so I decided to talk solely on their visual injuries to see if he had any idea how they happened. I asked about the bite marks, and he said Phillip always bites him. He appeared visually uncomfortable with this topic because he could not explain specifically how or why Phillip would have his mouth close enough to only bite him, especially in the strange places like the webs of both hands or as low as the back of his legs. I asked him who the car belonged to and he knew it was Jessica's, admitted to not being her friend because she was closer to Phillip, and could not give me a simple yes or no answer in regards to getting permission to drive her car. Jerry explained that today he finally decided he had enough of Phillip's abuse. During an altercation of the side of the road, Jerry said he was fed up and decided to run to the car and drive Jessica's vehicle to protect himself from further abuse by Phillip. Jerry complete ignored my question about when asked why he did not immediately contact Jessica to return the car her to her. I went back to the original question of why Jerry contact Phillip in the first place and he avoided the question. I explained that Phillip's injuries were very consistent to his story and asked him why he only had bite marks on his body if he was being abused all day and Jerry asked to speak to a lawyer so I ceased all questioning at this time. During this interview, Jerry was very extreme with his emotions. He was very angry and very happy in the same sentence. He tried to avoid my questions, and make me the focus by asking me personal questions. I had to continually lead him back into answering my questions during this interview. I explained to Jerry that he was under arrest for the following charges and the following reason's listed below:

I believe Jerry was the only physical aggressor during this domestic battery due to the fact that he proved to be in control during the entire incident by initiating contact with Phillip and asking him for a ride after being broken up, inviting him into his house, and admitting to driving the car the whole time. Secondly, Phillip's story completely corroborated with his injuries, he said Jerry strangled him and he showed the physical signs of strangulation such as faint red dots in his eyes and along the left side of his neck (known as petechia,) as well as a hoarse voice. Phillip said he was slammed against the hood of the car, and there were looked like dried blood which was consistent because he had a large open gash on the top of his head during that time. Jerry claimed to have been battered, but he could not exactly tell me how Phillip battered him and I only noticed bite marks all over his body (which actually corroborated with Phillip's story), and finally, the locations of the bite marks (such as the web of both hands) were very defensive in nature. I therefore arrested Jerry for Domestic Battery with Strangulation.

NORTH LAS VEGAS POLICE
POLICE REPORT NARRATIVE PORTION
06/12/2013 23:17

CASE NUMBER: 130611010068.1
CASE DATE: 6/12/2013 19:38:57

I placed Jerry under arrest for Kidnaping Phillip due to the fact that it was already determined that Jerry was in control of the vehicle, while Phillip was inside it, he made Phillip get into the vehicle with him based on the idea that he was going to drive them to pick Jessica up from work, therefore physically moving Phillip in the car to Mount Charleston, where he did not ever want to go, Phillip was also forced by his fear of threats or bodily injury from Jerry since he already showed a clear propensity to do so.

I placed Jerry under arrest for Grand Larceny Auto due to the fact that he took possession of an Automobile that was not his, and due to the fact that he did not ever contact Jessica to return the car, and he was stopped in her vehicle many hours after he originally took it, I believe he intended to deprive her of the vehicle. Jessica, who still had not spoken to Phillip when I interviewed her, indicated Jerry did not have any right to drive her car, had never driven her car and intentionally drove it away from Phillip.

I finally placed Jerry under arrest for Attempt Murder on Phillip due to the following reasons; Jerry made it known through verbal threats that he intended to kill Phillip. He then followed it up with physical threats that showed he had a propensity to cause bodily harm to Phillip. Phillip's physical injuries, specifically the gash to Phillip's scalp, and when Jerry strangled Phillip almost to the point of passing out. Driving Phillip to Mount Charleston and committing one direct act toward the goal of killing by shoving Phillip over the ledge and down a steep rocky hill, which has tendency to kill, but failed to in this case.

transported Jerry to the Las Vegas City Jail, where he was booked on the above charges.

Attachments: one pre-booking sheet, two property release pages, and two witness statements.

Supervisor Approving

Stone, Carla M - NL1967

Officer Reporting

Aiello, Jennifer - NL1967

NORTH LAS VEGAS POLICE
POLICE REPORT NARRATIVE PORTION

CASE NUMBER: 130611010068.2
CASE DATE: 6/11/2013 22:54:17

06/12/2013 23:17

On 06/11/2013 at about 2200 hours, Officer G. Cavaricci P#1917 and I were dispatched with Sgt. J. Cargile P#1403, S. Lee P#2027 and L. Gaston P#2035 to 5120 Vista Del Rancho in an attempt to make contact with a person of interest.

Upon arrival, we knocked on the front door and could see the front door had been forced open and was unsecured. At that time we initiated a protective sweep of the residence to check the welfare of the occupants. As we cleared the residence, we noticed the interior was in total disarray with items thrown all over the ground. A fair amount of blood was found in the entry way along with a blood soaked shirt. The garage was converted into a marijuana grow operation, however no plants were located in the garage. The bathroom contained an active grow with several plants in the bathtub. We located harvested marijuana in several locations throughout the residence laying in plain view.

We then backed out of the residence, notified the detective bureau and the narcotics bureau. The residence was secured until both units arrived to take over the scene.

Attachments: none.

Supervisor Approving
Cargile, John Q - NL2104

Officer Reporting
Johnson, Ryan - NL2104

NORTH LAS VEGAS POLICE
POLICE REPORT NARRATIVE PORTION

CASE NUMBER: 130611010063.4
CASE DATE: 6/12/2013 02:31:04

06/12/2013 23:17

On Tuesday, June 11, 2013 at approximately 2300 hours, the Narcotics Unit responded to 5120 Vista Del Rancho, in reference to an active marijuana grow that was located by patrol officers Aiello #1967 and Johnson #2104. See Johnson's follow-up report under this same case number for further details.

Upon my arrival I spoke with Officer Johnson and he stated the following: At approximately 2200 hours, Officer Aiello and him responded to 5120 Vista Del Rancho, in reference to an attempt murder which occurred and the suspect was identified as Jerry Dixon. Dixon attempted to murder his boyfriend, Phillip Rogers earlier in the day and patrol officers were able to identify 5120 Vista Del Rancho as being Dixon's current residence. Upon their arrival, they saw the front door had signs of being kicked in or forced entry. Due to this being an active investigation to locate Dixon, the officers conducted a protective sweep of the residence to check for any victims and to attempt to locate Dixon. There was nobody located at the residence. During the officers' initial walk through of the residence, the officers located an active marijuana grow in the hallway bathroom. The marijuana grow consisted of approximately 5 marijuana plants, with active electricity and a fan used for cooling. The officers also located a dismantled marijuana grow in the garage, which consisted of mylar reflective paper, exposed wiring and air duct tubing. Throughout the residence, the officers located amounts of finished marijuana product. The Narcotics Unit was advised of the marijuana grow and arrived on scene. This residence was previously identified as being involved in growing and selling marijuana from a City Track complaint I received last week. I identified Jerry Dixon as being the resident at 5120 Vista Del Rancho. I was able to identify that NV Energy was in the name of Dixon for the address and he did not have an active medical marijuana card.

Based on the information described to me by Johnson, I obtained a telephonic search warrant for the residence. I contacted Judge Hoo, read him the telephonic warrant and he gave me authorization to serve the search warrant. Investigator Rodriguez was assigned as the property custodian and Investigator Arnona was assigned to take photographs of the property located and seized.

I located an active marijuana grow in the hallway bathroom. The marijuana grow consisted of five marijuana plants and was set-up in the bath tub. There was a lighting system consisting of two fluorescent lights and a cooling fan. I also located a dismantled marijuana grow in the garage. The entire garage was covered in reflective mylar paper. There was several feet of air duct tubing coming out of the ceiling, several exposed wires coming out of the north wall and a large hole used for ventilation on the north wall.

During a search of the residence, by whom, where and what was located is as follows: twenty-three (23) THC edibles with a gross weight of 1,011 grams, located on the kitchen counter by me; five marijuana plants with a gross weight of 140 grams, located in the hallway bathroom by me; five packages of marijuana clippings packaged in nylon stockings and one plastic bag containing marijuana clippings with a gross weight of 3,821 grams, located in the kitchen freezer by me; silver digital scale, located on the kitchen counter by me; letter addressed to Jerry Dixon with the address of 5120 Vista Del Rancho, located on kitchen table by me; Tropicana work identification card with a photograph and the name of Jerry Dixon, located on kitchen table by me.

Rodriguez took custody of all the above mentioned items. I left a copy of the search warrant and the inventory sheet on the living room table.

Rodriguez tested all of the suspected marijuana and THC edibles. The marijuana and THC edibles tested positive and were booked with pink copies of the Narcopouch test checklist in the NLVPD evidence vault. Rodriguez also booked the digital scale, letter addressed to Jerry Dixon and Tropicana work card in the evidence vault.

Attachments: copy of search warrant; copy of inventory sheet; three narcopouch test checklist; copy of letter addressed to Dixon.

Supervisor Approving

Officer Reporting

NORTH LAS VEGAS POLICE
POLICE REPORT NARRATIVE PORTION
06/12/2013 23:17

CASE NUMBER: 130611010068.5
CASE DATE: 6/12/2013 16:41:37

On 06/11/13 at approximately 2230 hours I responded to 5121 Vista Del Rancho. Upon arrival I met with Detective Prieto. I was advised that a search warrant was being obtained for the residence. At approximately 0100 the search warrant was obtained.

PHOTOGRAPHS:

I took a photograph of the exterior of the residence showing the address. I then photographed the front door. There was a faint shoe wear impression on the exterior of the door. No pattern was distinguishable. I then entered the residence and photographed the interior of the door showing the damage to the door frame. I observed apparent blood (A) on the wall next to the door. I also observed apparent blood on the floor in the door way. There were signs of an apparent struggle in the living room area. Furniture was in disarray and there was debris on the floor. I observed a green t-shirt containing apparent blood on the floor in the living room area.

EVIDENCE:

- ITEM #1- swab of apparent blood from the doorway
- ITEM #2- green tshirt containing apparent blood
- ITEM #3- mail in the name of Jerry Dixon at the target address.

All photographs were taken with my department issued Nikon digital camera and were uploaded into the DIMS computer for storage. All evidence was booked into the NLVPD evidence vault by me. No further services were performed at this time.

Supervisor Approving
Sanders, John J. - NL1694

Officer Reporting
Orlando, Renee - NL1694


CLERK OF THE COURT

INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SHANNON WITTENBERGER
Deputy District Attorney
Nevada Bar #012304
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

I.A. 09/11/2013
1:30 P.M.
PD
DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JERRY LEE DIXON, aka
Jerry Dixon, #2807953

Defendant.

Case No: C-13-292285-1
Dept No: XI

I N F O R M A T I O N

STATE OF NEVADA)
COUNTY OF CLARK) ss.

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

That JERRY LEE DIXON, aka Jerry Dixon, the Defendant(s) above named, having committed the crime of **POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony - NRS 453.337)**, on or about the 12th day of June, 2013, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of

///

///

///

///

1 Nevada, did then and there wilfully, unlawfully, feloniously, knowingly, and intentionally
2 possess, for the purpose of sale, a controlled substance, to-wit: Marijuana.

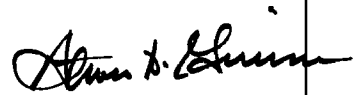
3
4
5 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
6

7
8 BY /s/ Shannon Wittenberger
SHANNON WITTENBERGER
Deputy District Attorney
Nevada Bar #012304
9

10
11 Names of witnesses known to the District Attorney's Office at the time of filing this
12 Information are as follows:

13 <u>NAME</u>	<u>ADDRESS</u>
14 AIELLO, J.	NLVPD #1967
15 BRYAN, S.	NLVPD #1880
16 CUSTODIAN OF RECORDS or Designee	Clark County Detention Center
17 CUSTODIAN OF RECORDS or Designee	NLVPD Communications
18 CUSTODIAN OF RECORDS or Designee	NLVPD Records
19 CUSTODIAN OF RECORDS or Designee	North Las Vegas Detention Center
20 JOHNSON, R.	NLVPD #2104
21 RODRIGUEZ, A.	NLVPD #1710

22
23
24
25
26
27 DA#13FN1368X/djj
NLVPD EV#1310068
28 (TK)



CLERK OF THE COURT

DISTRICT COURT NO. C-13-292285-1

IN THE JUSTICE COURT OF NORTH LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

JERRY DIXON,

Defendant.

DEPARTMENT 2

COURT CASE NO. 13CRN001476-0000

D.A. CASE NO. 13FN1368X

**RECORDED TRANSCRIPT
OF
PRELIMINARY HEARING**

BEFORE THE HONORABLE GARY BOOKER
JUSTICE OF THE PEACE PRO TEMPORE
AUGUST 27, 2013, 9:30 A.M.

APPEARANCES:

For the Plaintiff:

SHANNON WITTENBERGER, ESQ.
Deputy District Attorney

For the Defendant:

MARIA JACOB, ESQ.
Deputy Public Defender

TRANSCRIBED BY: SHARON EULIANO, COURT RECORDER-TRANSCRIBER

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

I N D E X

WITNESSES FOR THE STATE:

PAGE

SEAN BRYAN

Direct Examination by Ms. Wittenberger	4
Cross-Examination by Ms. Jacob	9
Redirect Examination by Ms. Wittenberger	19

ALEJANDRO RODRIGUEZ

Direct Examination by Ms. Wittenberger	20
Cross-Examination by Ms. Jacob	25

WITNESSES FOR THE DEFENDANT:

None

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

NORTH LAS VEGAS, CLARK COUNTY, NEVADA
AUGUST 27, 2013, 9:30 A.M.
P R O C E E D I N G S

THE COURT: State of Nevada vs. Jerry Lee Dixon.
I know Mr. Dixon was present and in custody. This one's going? It's
not resolved?
MS. JACOB: Correct.
MS. WITTENBERGER: That's correct. We're ready to proceed.
THE COURT: Everybody ready to proceed on this matter?
UNIDENTIFIED VOICE: Yes, your Honor.
UNIDENTIFIED VOICE: Yes.
THE COURT: All right, State, call your first witness, please.
MS. WITTENBERGER: Thank you. The State would call Officer Sean
Bryan.

SEAN BRYAN,
having been first duly sworn
was examined and testified as follows:

THE BAILIFF: Please have a seat.
THE DEFENDANT: Thank you.
THE BAILIFF: If you will state and spell your full name for the record.
THE WITNESS: Sean Bryan, S-e-a-n, B-r-y-a-n.

///

DIRECT EXAMINATION

BY MS. WITTENBERGER:

Q. Sir, how are you employed?

A. The City of North Las Vegas Police Department.

Q. In what capacity?

A. I'm assigned to a narcotics unit.

Q. And are you a police officer?

A. I am.

Q. And how long have you been employed by the City of North Las Vegas as a police officer?

A. Seven and a half years.

Q. And were you working in that capacity on June 11, 2013?

A. I was.

Q. And on that day were you called to 5120 Vista Del Rancho in Clark County?

A. I was.

Q. And when you were called to that address, did you apply for a search warrant regarding that address?

A. I did.

Q. And did you obtain a search warrant?

A. I did.

Q. Was that from Judge Hoo?

A. It was.

MS. WITTENBERGER: May I approach, your Honor.

THE COURT: (Indiscernible).

1 BY MS. WITTENBERGER:

2 Q. I'm showing you what's been marked as States Proposed Exhibit
3 No. 10. Do you recognize that document?

4 A. I do.

5 Q. And is that a duplicate original of the search warrant you obtained?

6 A. Yes, it is.

7 Q. And based on that search warrant --

8 MS. WITTENBERGER: The State would move to admit Exhibit No. 10.

9 MS. JACOB: No objection.

10 THE COURT: Admitted.

11 (State's Exhibit 10 admitted)

12 BY MS. WITTENBERGER:

13 Q. Based on that search warrant did you enter the premises?

14 A. I did.

15 Q. And when you entered, what did you find?

16 A. I located five active marijuana plants inside of the guest hallway
17 bathroom. Approximately there was 23 separate marijuana edibles package on the
18 kitchen counter and approximately 3800 grams of finished marijuana shake and
19 clippings.

20 Q. And did you or someone else take photographs of these items?

21 A. Another investigator did.

22 Q. And I'm showing you what's been marked as State's Proposed Exhibit
23 No. 6. Do you recognize that?

24 A. I do.

25 Q. And what is that?

1 A. That's the marijuana grow located in the guest hallway bathroom.

2 Q. And that looks substantially the same as it did on June 11th when you
3 observed it?

4 A. Yes, ma'am.

5 MS. WITTENBERGER: The State would move to admit Exhibit No. 6.

6 THE COURT: We're gonna do them all or one at a time? Okay.

7 MS. WITTENBERGER: Or I can do them all together, whatever is --

8 BY MS. WITTENBERGER:

9 Q. And then State's Proposed Exhibit 7. Do you recognize that?

10 A. I do.

11 Q. And what is that?

12 A. That was the marijuana clippings located in the freezer.

13 Q. And State's Proposed Exhibit 9, do you recognize that?

14 A. I do.

15 Q. And what is that?

16 A. The marijuana edibles located on the kitchen counter.

17 Q. And State's Proposed Exhibit 8, what is that?

18 A. Just a separate one of the marijuana edibles.

19 Q. And by marijuana edibles, what do you mean?

20 A. It's a -- the THC extract from the plant. It's used as an oil for cooking
21 and you then make edibles, brownies, cupcakes, anything that has a THC oil in it
22 that can give you the same high as marijuana but more intense because the THC
23 level is higher. You're getting pure oil.

24 Q. And State's Proposed Exhibit 5, can you tell me what that is?

25 A. That is a finished marijuana product in the bookcase in the like kitchen

1 or dining room/living room area.

2 Q. And did you find any identifiers indicating who if anyone lived in that
3 residence?

4 A. I did.

5 Q. And what did you find?

6 A. I located a Tropicana work card with a photo and a name of Jerry Dixon
7 and then mail with the same person's name to that address of 5120.

8 Q. And I'm showing you what's been marked as State's Proposed Exhibit
9 4. Is that what you were referring to?

10 A. Yes, ma'am.

11 MS. WITTENBERGER: The State would move to admit Exhibits --

12 THE COURT: Four, five, six, seven, eight, nine and ten.

13 MS. WITTENBERGER: Thank you, yes.

14 MS. JACOB: No objection.

15 THE COURT: They will be admitted.

16 (State's Exhibits 4 through 10 admitted)

17 BY MS. WITTENBERGER:

18 Q. And how long have you been assigned to the narcotics unit?

19 A. Three and a half years.

20 Q. And approximately how many arrests involving marijuana sales and
21 marijuana grows have you been involved in?

22 A. Over a hundred.

23 Q. And in your duties as a police officer in the narcotics unit, have you
24 interviewed various people who have been involved in marijuana sales?

25 A. Yes.

1 Q. As well as people involved in marijuana grows?

2 A. Yes.

3 Q. And did you also receive any training in your capacity as a police
4 officer regarding marijuana sales and marijuana grows?

5 A. I have.

6 Q. And approximately how much training have you received?

7 A. I couldn't count the hours. At least once a year I take a 40-hour class
8 once a year as a refresher, identifying marijuana grows. And on top of all the search
9 warrants I've done training, on-the-job training as well with it.

10 Q. Approximately how many search warrants have you been involved in
11 regarding marijuana grows?

12 A. Over I would say -- I don't have an exact -- over a hundred probably.

13 Q. And based on your training and experience were there any indicia of
14 sale that you observed on that day in performing that search?

15 A. Any what? I'm sorry.

16 Q. Indicia of sale.

17 A. The -- the individually wrapped marijuana edibles.

18 Q. And in your experience those are sold on -- in a market?

19 A. Correct. The number of them since they're being 23, that's more than
20 one person could consume. And after a while maybe it will expire and go bad if not
21 consumed within so many weeks. And so the fact that it was packaged with name,
22 label, the type that it was, you know, to us that tells us that it's packaged for sales.

23 Q. And what about the amount of marijuana aside from the --

24 A. That as well. The 3800 grams would be used to produce and make
25 more edibles is what it's going to be used for.

1 Q. And did you find any other items such as scales or anything else

2 A. We did.

3 Q. And what is the significance of a scale?

4 A. A scale is used to weigh out the exact weight of what you're going to
5 sell to a customer or package for sales.

6 Q. And was Officer Rodriguez also present on that day?

7 A. He was.

8 Q. And as far as you're aware did you yourself recover those items or did
9 someone else recover them?

10 A. He was set up in a work station. I would locate it. Investigator Arnona
11 would take a photo. Then I would then bring it to Investigator Rodriguez's
12 workstation where he would then weigh it, package it for evidence.

13 MS. WITTENBERGER: Thank you. No further questions at this time.

14 THE COURT: And cross-examination, counsel.

15 (Indiscernible).

16 THE WITNESS: Good morning.

17

18 **CROSS-EXAMINATION**

19 BY MS. JACOB:

20 Q. You wrote a report in this case, correct?

21 A. I did.

22 Q. And you came to learn how the previous officers came to the
23 residence, is that correct?

24 A. Correct.

25 Q. And can you tell me how it is that they initially came --

1 MS. WITTENBERGER: Objection, your Honor. I believe this is
2 hearsay and that based on our discussions I believe that they're going to try and
3 challenge the warrant and the reasons officers were there before. And I do not
4 believe that's an appropriate subject for a preliminary hearing.

5 Additionally, there's a search warrant that he has testified that is the
6 basis for their entry. The validity of the search warrant it is actually defense's
7 burden to contest the validity of the search warrant. They have certain things they
8 have to prove in order to be entitled even to a hearing on that, a Franks hearing.
9 And I do not believe this is the appropriate manner. It would be for district court, so I
10 object to any questions delving into that area.

11 MS. JACOB: Your Honor, this is the preliminary hearing and I have --
12 it's absolutely relevant whether or not there was probable cause for that search
13 warrant. That is a constitutional issue that can be raised at any time including the
14 preliminary hearing.

15 THE COURT: Was there an affidavit of the search warrant prepared on
16 this case?

17 THE WITNESS: There was. A telephonic that I did.

18 THE COURT: A telephonic?

19 THE WITNESS: And also the detective bureau did one as well.

20 THE COURT: And did it contain those things related to probable
21 cause?

22 THE WITNESS: Yes, sir, it did.

23 THE COURT: Was it ever reprinted?

24 THE WITNESS: Was it ever, what, sir?

25 THE COURT: Was it ever reprinted or put in print form?

1 THE WITNESS: Yes, sir.

2 THE COURT: Has the defense been supplied with a copy of that
3 affidavit?

4 MS. JACOB: No, your Honor.

5 MS. WITTENBERGER: No. I don't have a copy of that.

6 THE COURT: Was it (indiscernible)?

7 THE WITNESS: No. I was referring to the duplicate original, the
8 telephonic and then the records made that night from the audio recording.

9 MS. JACOB: And, your Honor, he did write a report in this case that
10 details exactly what happened at the residence before the search warrant was
11 obtained and that is relevant to the preliminary hearing. And it's not hearsay if I'm
12 asking him not what anybody said but what people did.

13 THE COURT: It sounds (indiscernible). Counsel's right, though.
14 Generally the challenge to a search warrant is normally done at the district court
15 level. I admit I'm moderately curious. I want to hear some of this.

16 MS. WITTENBERGER: Your Honor, for the record if we're going to get
17 into all that, the officers I have here because there was a valid search warrant and
18 any invalidity has to be -- is not our burden; it's their burden. We are not here today
19 to go forward on a full-blown search and seizure and that's why I believe it's more
20 appropriate in district court.

21 And additionally, I don't believe this officer was involved in those actions
22 of the original detectives. He was called once it was determined that there was --
23 there was an attempt murder. The defendant has pending additional charges. And
24 there's also that they found the marijuana grow and he was called into the search
25 warrant, so anything he would testify would be what other officers told him --

1 THE COURT: Okay.

2 MS. WITTENBERGER: -- so it is hearsay.

3 MS. JACOB: Well, and your Honor, the search warrant was obtained
4 because of another event. However, the search warrant has to be based on a legal
5 basis and they have to be lawfully present in that house.

6 THE COURT: I think counsel is right, though. If the search warrant is
7 (indiscernible) valid, you can't challenge it at this point in time. I think counsel is
8 right on this one, so I'm going to overrule the objection -- I mean --

9 MS. WITTENBERGER: Sustain?

10 THE COURT: -- sustain the objection.

11 MS. WITTENBERGER: Thank you.

12 THE COURT: There is a mechanism to challenge that warrant. I just
13 don't think now is the time and there's a certain way that it has to be done. But go
14 ahead.

15 MS. JACOB: Your Honor, my concern is that if I'm not able to cross-
16 examine these officers on the legality of the presence in the residence, then how am
17 I supposed to then file the appropriate motions in court.

18 THE COURT: Here's the problem. You have a search warrant that's
19 already been signed by an independent magistrate which indicated that they thought
20 there was probable cause. I think if the search warrant is there and it's already
21 admitted where certainly I have no problems getting it in now. You'll have an
22 opportunity to do that at the district court level, but I think probably doing it here is
23 inappropriate especially when it's tied to their other matters.

24 BY MS. JACOB:

25 Q. Officer, you obtained a search warrant in this case, correct?

1 A. Yes, ma'am.

2 Q. Okay. And what was the probable cause for obtaining that search
3 warrant?

4 A. Based on the fact there was an active marijuana grow inside of the
5 residence.

6 Q. And how were they able to determine that there was an active grow?

7 A. That was the information given to me to the officer already on scene,
8 Officer Olson.

9 Q. And did you at any point respond to the residence?

10 A. I did.

11 Q. And you were able to go through the residence to -- did you go through
12 every room?

13 A. I did.

14 Q. Okay. You didn't find any money --

15 A. No.

16 Q. -- in the house?

17 A. No. No.

18 Q. Okay. You didn't find any owe sheets?

19 A. No.

20 Q. And in your experience as an narcotics officer for 3-1/2 years, those
21 owe sheets, usually when you find them, they determine whether or not transactions
22 were recorded?

23 A. Correct.

24 Q. And in your experience is that something that is prevalent in drug
25 sales?

1 A. No.

2 Q. It's not prevalent?

3 A. No.

4 Q. In a home?

5 A. No. I don't need an owe sheet to determine if somebody's selling a

6 narcotic.

7 Q. Let me rephrase the question. People who do sell drugs, do they -- do

8 you sometimes find owe sheets?

9 A. I do.

10 Q. Okay. So in other cases that you've had it is a way, a method in which

11 a person selling drugs --

12 A. It is.

13 Q. -- will record their transactions?

14 A. Yes.

15 Q. Okay. But you didn't find any of those in that house?

16 A. No, I did not.

17 Q. And you didn't find any small baggies with logos on it?

18 A. Not that I recall, no.

19 Q. Okay. But you did do a thorough search of the residence?

20 A. I did.

21 Q. Okay. And you looked in every room?

22 A. Not myself, no.

23 Q. Not yourself?

24 A. No.

25 Q. Did other officers look in other rooms?

1 A. Yes, ma'am.

2 Q. And to your knowledge, did any of those officers find any individual
3 baggies?

4 A. What I recall, no.

5 Q. And in your experience as a narcotics officer, do you -- is that another
6 method in which drug sales can be done when they put the narcotics in individual
7 baggies to sell in those baggies and usually they'll have a logo on those baggies?

8 A. Packaged for sales, yeah.

9 Q. So none of that was found in the residence?

10 A. To my knowledge, no.

11 Q. And there was a photograph shown to you -- I'm not sure what exhibit
12 it was marked as. Exhibit 9.

13 MS. JACOB: If I may approach.

14 BY MS. JACOB:

15 Q. And what is this of?

16 A. These are the marijuana edibles located on the kitchen counter.

17 Q. Okay. And can you tell me how they're packaged?

18 A. They're packaged in plastic wrap with a sticker indicating the name and
19 type, and on the back I believe is what consists of the ingredients.

20 Q. The ingredients (indiscernible). Thank you.

21 A. Mm-hmm, you're welcome.

22 Q. And those packages in your experience, they're -- they're usually when
23 people have edibles, is that they can be also for consumption, not necessarily for
24 sales?

25 A. Correct.

1 Q. Okay. So that is a possibility that it's --

2 A. That they can be consumed?

3 Q. Absolutely.

4 A. Yes, they're sold to be consumed.

5 Q. Okay. And when you found those edibles, there was no indication that
6 they were packaged for sale?

7 A. They -- they are packaged for sales. That's why they're wrapped in the
8 plastic wrap with the label.

9 Q. Right, but there's no possibility they could be a donation?

10 A. I couldn't tell you. I don't know.

11 Q. But what I'm saying is that --

12 A. That's still sales, though. Even donating and getting away is still sales.

13 Q. And what do you mean by that?

14 A. You can't freely give or donate a narcotic. It's still falls under the sales,
15 NRS 453.

16 Q. Okay. And -- but it is possible that even though it's packaged in that
17 way, it doesn't necessarily mean that it's for sale?

18 A. To my experience, yes, it means it's for sales or has been -- been
19 purchased.

20 Q. Or has been purchased?

21 A. Or given away, obtained as some kind of payment, a gift. It's all the
22 same.

23 Q. But again, there was no -- where the THC edibles were there was no --
24 there was no money found in any of the drawers? Did you search through the
25 drawers?

1 A. To my knowledge where I searched and what was written down, no.

2 Q. Okay. Did you ever interview Mr. Dixon?

3 A. No.

4 Q. Was there an officer who did interview him?

5 A. Reference my charges, no.

6 Q. Can you describe the house to me?

7 A. Single story. I'd have to refer to my legal. It was a single story. Door
8 faced to the west. I believe it was white in color. The numbers 5120 I believe were
9 to the left of the garage door. And then, I mean, if you want me to walk you through
10 it, I can.

11 Q. Can you describe some of the belongings? Like how many bedrooms
12 were there?

13 A. I don't recall. I believe there were three.

14 Q. Three bedrooms?

15 A. I believe.

16 Q. And did you go inside of any of those bedrooms?

17 A. I didn't go inside any of the bedrooms. I searched primarily the kitchen
18 area and the guest bathroom in the hallway and in the garage area is where I went
19 into as well.

20 Q. Did you notice some of the belongings were there -- did you notice any
21 clothing?

22 A. I didn't see the bedrooms. I didn't go in there.

23 Q. There was no clothing outside? Coats hung up?

24 A. Not that I recall.

25 Q. Shoes?

1 A. I'd have to refer to the photos but nothing that I can recall seeing shoes
2 throughout the house or not that I remember.

3 Q. Was there anybody else in that residence when you were there?

4 A. The residence was empty.

5 Q. The residence was empty.

6 But it was clear that there was multiple people living in that residence?

7 A. From what I saw living in the -- in the living room and kitchen area,
8 there was at least somebody living there, a person; to how many I couldn't tell you. I
9 don't know.

10 Q. And you only found -- you found mail addressed to Mr. Dixon?

11 A. I did.

12 Q. But did you look through any of the other mail?

13 A. The mail that we found in his name was on the kitchen table and that's
14 where like a majority of the mail was, I believe. That was the only thing I found
15 addressed to somebody at that address in that name. There was no mail to
16 anybody else.

17 Q. Were there any cars in the driveway?

18 A. No.

19 Q. No cars?

20 A. Not that I -- Was there one? I don't recall. I don't recall, actually.

21 Q. But you pulled up to the front of the residence, correct?

22 A. I did.

23 Q. And so if you were going into the house, you would be able to see a
24 car in the driveway?

25 A. I don't remember if there was a vehicle in the driveway or not. I'd been

1 in that house on many occasions prior to this, so I don't recall on that date if there
2 was a car in the driveway or not.

3 Q. To your knowledge, there was no car?

4 A. To my knowledge, I believe there was not a car.

5 Q. Okay. Okay, thank you.

6 A. You're welcome.

7 MS. WITTENBERGER: Briefly, your Honor.

8
9 **REDIRECT EXAMINATION**

10 BY MS. WITTENBERGER:

11 Q. On those prior occasions did you ever have any contact with Mr. Dixon?

12 A. No.

13 Q. And based on your -- did you find any indicia of anybody else living
14 there other than Mr. Dixon?

15 A. No.

16 MS. WITTENBERGER: Nothing further.

17 THE COURT: You may have asked and maybe I didn't hear.

18 Was Mr. Dixon present during the search?

19 THE WITNESS: No, sir.

20 THE COURT: He wasn't, okay.

21 So you haven't had any contact with him at all?

22 THE WITNESS: No, sir.

23 THE COURT: This address is in North Las Vegas --

24 THE WITNESS: Yes, sir.

25 THE COURT: -- Clark County, Nevada?

1 THE WITNESS: Yes.

2 MS. WITTENBERGER: The State would call Alejandro Rodriguez.

3

4 **ALEJANDRO RODRIGUEZ,**

5 having been first duly sworn

6 was examined and testified as follows:

7

8 THE BAILIFF: Please have a seat.

9 THE WITNESS: Thank you.

10 THE BAILIFF: If you will state and spell your full name for the record.

11 THE WITNESS: Yeah. It's Alejandro, A-l-e-j-a-n-d-r-o, Rodriguez,
12 R-o-d-r-i-g-u-e-z.

13

14 **DIRECT EXAMINATION**

15 BY MS. WITTENBERGER:

16 Q. Sir, how are you employed?

17 A. I'm a narcotics investigator with North Las Vegas Police Department.

18 Q. How long have you been employed with North Las Vegas Police
19 Department?

20 A. Nine years.

21 Q. And what is your current assignment?

22 A. A Narcotics investigator.

23 Q. And were you working in that capacity on June 11, 2013?

24 A. Yes, I was.

25 Q. And were you involved in the execution of a search warrant at 5120

1 Vista Del Rancho in Clark County?

2 A. Yes, I was.

3 Q. And during that investigation did you do any testing of any items found
4 at that scene?

5 A. Yeah, I did all the testing and all the evidence found in the residence.

6 Q. And are you trained in the NarcoPouch 908 test for marijuana?

7 A. Yes, I am.

8 Q. And when were you certified in that?

9 A. December of 2004.

10 Q. Approximately how many tests since that time have you done?

11 A. I've done a lot. On top of my head I don't have a number, but I've done
12 quite a bit, especially working narcotics.

13 Q. More than 50?

14 A. Yes.

15 Q. And on June 11, 2013 you had occasion to test some items?

16 A. Yes, I did.

17 Q. Do you recall what items were given to you to test?

18 A. Yeah. There was some THC edibles, some plants and some marijuana
19 clippings.

20 Q. And I'm showing you what's been marked as State's Proposed Exhibits
21 1, 2, and 3.

22 As to State's Proposed Exhibit 1, do you recognize that document?

23 A. Yes, I do.

24 Q. And what is that?

25 A. It's a NarcoPouch 908 test for marijuana.

1 Q. And based on your recollection, what specific items? You mentioned
2 three different items --

3 A. Yes.

4 Q. -- you tested.

5 A. Yes.

6 Q. What items refer to --

7 A. This is the weight of 3,821 grams, which was the clippings of marijuana
8 found in the refrigerator.

9 Q. And did someone give you those items?

10 A. Yes, Investigator Bryan.

11 Q. And did you perform a test on those clippings pursuant to your training
12 and experience?

13 A. Yes, I did.

14 Q. And what was the results?

15 A. Positive for marijuana.

16 Q. And then you indicated the weight. Did you then weigh that item?

17 A. Yes. It was a gross weight.

18 Q. And what do you use to weigh that?

19 A. It was a scale that we have in our van.

20 MS. WITTENBERGER: I move to admit State's Exhibit 1.

21 MS. JACOB: Objection.

22 THE COURT: Pardon?

23 MS. JACOB: No objection.

24 THE COURT: All right, it will be admitted.

25 MS. WITTENBERGER: Thank you.

1 (State's Exhibit 1 admitted)

2 BY MS. WITTENBERGER:

3 Q. As to State's Exhibit 2, what does that refer to?

4 A. It's also a NarcoPouch 908 test for marijuana.

5 Q. And what items did you test regarding Exhibit 2?

6 A. These were for the marijuana plants.

7 Q. And did you test it pursuant to your training and experience?

8 A. Yes, I do.

9 Q. And what was your result?

10 A. It was positive for marijuana.

11 Q. And as to State's Exhibit 3, what is that in reference to?

12 A. It's also another NarcoPouch 908 for marijuana, and this was for the
13 edibles that were tested.

14 Q. And in reference to the edibles, I'm showing you what's been marked
15 as Exhibit -- State's Exhibit No. 9. Do you recognize the items in there?

16 A. Yes.

17 Q. And what are those?

18 A. Those are some of the edibles that were found in that residence.

19 Q. And in testing edibles -- 'cause it's a little different than testing the
20 actual plant -- what do you do?

21 A. It's the same process. You still test it the same way you would the
22 marijuana and it still will show the -- the positive result if there is THC in it.

23 Q. So you just take a piece of the edible --

24 A. Correct.

25 Q. -- and put it into the different pouches?

1 A. Yes.

2 Q. And you perform that test consistent with your training and experience?

3 A. Yes, I did.

4 Q. And the result was?

5 A. It was also positive.

6 Q. And you have a weight indicating 1,011 grams; is that correct?

7 A. Correct.

8 Q. And I'm assuming that's the weight of all the evidence?

9 A. Of all the items, yes.

10 Q. And was that for all the edibles shown in the picture or was that just for

11 the one?

12 A. That's for all the edibles.

13 Q. The State would move to admit Exhibits 2 and 3 as well, your Honor.

14 THE COURT: Counsel, objection to the admission of 2 and 3, the

15 marijuana test?

16 MS. JACOB: I have some (indiscernible).

17 THE COURT: Pardon?

18 MS. JACOB: Oh, I thought you were --

19 MS. WITTENBERGER: Do you have any objection to --

20 MS. JACOB: Oh, no.

21 MS. WITTENBERGER: Okay.

22 THE COURT: One, two, and three will be admitted.

23 (State's Exhibits 1, 2, and 3 admitted)

24 MS. WITTENBERGER: Thank you. No further questions.

25 ///

CROSS-EXAMINATION

BY MS. JACOB:

Q. Officer Rodriguez, when did you respond to the residence?

A. The same evening where the search warrant was executed or the same night.

Q. So you responded after the search warrant was already --

A. Well, I was there before the search warrant was obtained, not in the residence but outside.

Q. But you were outside?

A. Yes.

Q. Okay. Were there any cars in the driveway?

A. Not that I recall.

Q. Nobody was there? Nobody was present when you were at the residence?

A. When I entered the residence, no, there wasn't.

Q. Can you describe the house to me?

A. Yes. As you walk in there was a living room and there was like kind of like a dining room area where there was a table and in to the left was a bathroom. And as you walk in to the right, I don't recall if there was another room in the house or not, but the garage was to the right. And as you walk in to the left was a kitchen and then there was a hallway. Where the hallway -- there was a bathroom to the left where the marijuana plants were found. And then I don't recall if there was a bedroom across the way from the --

Q. Did you go into any of the bedrooms yourself?

A. I didn't go into all of them, no, 'cause I was -- I was the one collecting

1 all the evidence, so I mainly stayed in the living room area where I had all my, uh,
2 laptop and printer.

3 Q. What rooms did you collect evidence from?

4 A. Officer -- Investigator Bryan was the one that found the property and
5 brought them to me and I took possession of them and I tested them.

6 Q. By you observing the residence, did it appear -- did you find multiple
7 belongings such as clothing, shoes, anything like that? Did you notice anything like
8 that?

9 A. I didn't look for any closets, so wouldn't know -- I don't know. Every
10 time if I found any clothes in the residence?

11 Q. Yeah, were there any clothes just hanging around?

12 A. I don't know. I didn't --

13 Q. Okay. Any shoes in the doorway, in the garage?

14 A. No. The garage, there was nothing in there besides the stuff that was
15 on the walls.

16 Q. What about in the bathroom? You mentioned something about a
17 bathroom.

18 A. I don't recall, top of my head.

19 Q. You don't recall if there was anything in the bathroom?

20 A. I don't recall if there was any shoes or clothes.

21 Q. Or personal items such as --

22 A. I'm sure there were. I mean I --

23 Q. -- shampoo or anything like that?

24 A. -- I didn't -- I didn't do the full search of the house. I wasn't the one
25 doing most of the search. I was the one collecting most of the evidence, so I didn't

1 really do a thorough search, search of the whole house.

2 Q. And you said that you tested these items?

3 A. Correct.

4 Q. Now, do you know -- I'm actually not sure myself, but do you know is
5 there -- is there a difference between marijuana that is for medical purposes and
6 marijuana that's not for medical purposes?

7 A. Not that I know of.

8 Q. It tests the same?

9 A. Yes.

10 Q. Okay. And can you tell me the difference between an OD positive test
11 and the test that the -- the later tests that are done? Do you conduct both of those
12 kinds of tests?

13 A. No. I just -- we just do the ODV tests ourselves and then if any other
14 request is done, they're taken to the lab. We don't do them.

15 Q. You don't do them yourself --

16 A. No.

17 Q. -- but do you know --

18 A. -- We just do the --

19 Q. -- the difference --

20 A. We just do the NarcoPouch for the marijuana.

21 Q. And do you know the difference between those tests?

22 A. Once they go to the lab, I don't know what it is they do.

23 Q. So the test that you do is just a preliminary?

24 A. Correct. It's a presumptive test to show that it is positive for marijuana.

25 MS. WITTENBERGER: Thank you.

1 THE WITNESS: You're welcome.

2 MS. JACOB: Nothing further.

3 MS. WITTENBERGER: The State would rest at this time.

4 THE COURT: Defense?

5 MS. JACOB: I've advised him of his right to testify. He has decided not
6 to testify, and the defense also rests.

7 MS. WITTENBERGER: The State would save for rebuttal.

8 THE COURT: Pardon?

9 MS. WITTENBERGER: I would save any argument for rebuttal.

10 THE COURT: Counsel.

11 MS. JACOB: Your Honor, he's being charged with -- Mr. Dixon is being
12 charged with one count of possession of controlled substance with intent to sell. A
13 crucial element of that offense is simple possession; without that, the charge cannot
14 stand. We have a -- we have officers who've testified to not speaking to Mr. --
15 nobody has interviewed Mr. Dixon. The only basis of this possession, of possession
16 of that he, in fact, was the one to possess this marijuana that was found is the fact
17 that he might have lived there because there is mail that was addressed to him.

18 Now we don't know if there's anybody else living in that residence.
19 You've heard -- you heard testimony that the officers didn't know, they couldn't recall
20 what was inside the bedrooms, whether or not there was clothing of other
21 individuals, whether or not there was belongings of other individuals.

22 Officer Bryan testified that there was three bedrooms. Typically there
23 are other people who live in a house when there's three bedrooms. If he was the
24 only person to live in that house, then he likely would not have those three
25 bedrooms, but the point is that we don't know and the State has the burden at the

1 preliminary hearing. Although it is probable cause, they still have to have -- they still
2 have a burden to show that this is the individual who, indeed, possessed that
3 marijuana.

4 There could have been several other people in that house. He wasn't
5 present. He never admitted to any kind of possession, and so this really is, you
6 know, under Nevada law we can't even say that this was mere presence because
7 he wasn't even present at the residence. We have no link between him possessing
8 that marijuana and it just being in a residence in which mail was addressed to him.
9 We don't have a lease. We don't have any indication that he actually lived there.
10 Some people just get mail addressed to him. He could have been a roommate of
11 the person who actually owned that residence.

12 This is not enough to say that Mr. Dixon, indeed, possessed that -- the
13 marijuana that was found, and I'll submit on that, your Honor.

14 MS. WITTENBERGER: Your Honor, the exhibits that have been
15 introduced and I'll refer to State's Exhibit No. 4 -- may I approach -- they show a tag
16 from -- presumably an employment tag from Mob Experience specifically showing a
17 picture of Mr. Dixon. Investigator Bryan specifically testified that mail was found in
18 the kitchen area and there was no mail to anybody else. There is clearly a linkage
19 there.

20 This is not a mere presence situation, agreed, but it's more than that
21 because mere presence is usually when items are found in a hidden or somewhere
22 you can't link someone. The only evidence they had was that this is the person that
23 was living there. And the marijuana was all over the house, so this isn't even a
24 situation where you could say, well, he might have been there but he didn't know
25 about it. That was obvious. There's plants growing. The pictures show the lighting,

1 all the accoutrements that are required for a marijuana grow. In addition that there
2 are things being done with it, it's being cut, it's being processed, it's all over the
3 house. And the only identification of everyone is Mr. Dixon.

4 Therefore I believe that there is more than slight or marginal evidence,
5 but all that we have to prove is slight or marginal evidence for these purposes. We'd
6 ask the court to bind him up on the charges.

7 THE COURT: Having heard the evidence here and knowing that the
8 State's burden is only slight or marginal, they certainly surpassed that for the
9 purposes of a preliminary hearing. I'm looking at the exhibit reference No. 4, which
10 is the photograph of him on it and there was no other information to tying anybody
11 else to it.

12 I think for purposes of probable cause there's enough to bind this over
13 and the matter should proceed to district court where it can be set for trial. I know
14 you have certain reservations, and you'll be able to address those in district court
15 through means of certain motions and activity on the warrant. That would be the
16 time to take that up there.

17 THE CLERK: September 11th, 1:30 p.m. --

18 THE COURT: Are these all the exhibits, counsel?

19 MS. WITTENBERGER: Yes, your Honor, I believe so.

20 THE CLERK: -- lower-level for arraignment, tracked to District Court
21 11.

22 MS. WITTENBERGER: Thank you.

23 ///

24 ///

25 ///

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

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



SHARON EULIANO
Court Recorder/Transcriber


CLERK OF THE COURT

0014
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
309 South Third Street, Suite #226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Application of,)	
	)	CASE NO. C-13-292285-1
)	
	)	DEPT. NO. XI
Jerry Lee Dixon,)	
for a Writ of Habeas Corpus.	)	DATE: September 30, 2013
	)	TIME: 9:00 a.m.

PETITION FOR WRIT OF HABEAS CORPUS

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

The Petition of Jerry Lee Dixon submitted by MARIA N. JACOB, Deputy Public Defender,
as attorney for the above-captioned individual, respectfully affirms:

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

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

3. That the imprisonment and restraint of said Petitioner is unlawful in that:
insufficient evidence was adduced at the Preliminary Hearing.

4. That Petitioner waives his right to be brought to trial within 60 days only as in
so far as it takes to hear this petition.

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

1 WHEREFORE, Petitioner prays that this Honorable Court make an order directing the
2 County of Clark to issue a Writ of Habeas Corpus directed to the said Doug Gillespie, Sheriff,
3 commanding him to bring the Petitioner before your Honor, and return the cause of his
4 imprisonment.

5 DATED this 16th day of September, 2013.

6 PHILIP J. KOHN
7 CLARK COUNTY PUBLIC DEFENDER

8
9 By: /s/ Maria N. Jacob
10 MARIA N. JACOB, #12410
11 Deputy Public Defender
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION

MARIA N. JACOB makes the following declaration:

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

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

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

EXECUTED this 16th day of September, 2013.

/s/ Maria N. Jacob
MARIA N. JACOB

1 **MEMORANDUM OF POINTS AND AUTHORITIES**
2 **IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

3 COMES NOW the Petitioner, JERRY LEE DIXON, by and through his counsel,
4 MARIA N. JACOB, the Clark County Public Defender's Office, and submits the following Points
5 and Authorities in Support of Defendant's Petition for a pre-trial Writ of Habeas Corpus.

6 **STATEMENT OF FACTS**

7 On August 27, 2013, a preliminary hearing was held in North Las Vegas Justice Court #2.
8 At that time, Judge Booker held Defendant, Jerry Dixon, to answer on the charge of Possession of
9 Controlled Substance With Intent to Sell. Defendant submits that there was insufficient evidence
10 adduced at the preliminary hearing to hold him to answer in this case.

11 At the preliminary hearing, the first witness called by the State was Officer Sean Bryan who
12 testified that on June 11, 2013, he responded to 5120 Vista Del Rancho in Clark County after
13 obtaining a search warrant (PHT pg 4). Officer Bryan testified that he located five marijuana plants
14 inside the guest hallway bathroom, 23 separate edible marijuana packages and 3800 grams of
15 marijuana shake on the kitchen counter (PHT pg 5:16-19). Officer Bryan then testified that he
16 located a Tropicana work identification card with the name of Jerry Dixon and a single piece of mail
17 with Jerry Dixon's name and address of 5120 Vista Del Rancho (PHT pg 7:6-7).

18 On cross examination, Officer Bryan testified that the house had possibly three bedrooms but
19 that he did not go inside any of the bedrooms (PHT pg 17:14-19). Officer Bryan believed that there
20 was not a car parked in the driveway (PHT pg 19:4).

21 The State then called Officer Alejandro Rodriguez who testified that the items that were
22 found in the residence tested positive for marijuana (PHT pg 23:10). On cross-examination, Officer
23 Rodriguez also testified that he did not go into any of the other bedrooms in the residence (PHT pg
24 26).

25 Defendant Jerry Dixon was held to answer for the charge of Possession of Controlled
26 Substance with Intent to Sell based on this testimony and he entered a plea of not guilty on
27 September 11, 2013. Trial is currently set in this Department for November 4, 2013.

1 **ARGUMENT**

2 **I. There Was Insufficient Evidence to Hold Defendant to Answer for the Charge of Possession**
3 **of Controlled Substance With Intent to Sell**

4 The Justice Court's role at a preliminary hearing is to determine whether there is probable
5 cause and whether that offense has been committed and that the defendant is the one who committed
6 it. N.R.S. 171.206; Azbill v. State, 84 Nev. 345 (1968), Maskaly v. State, 85 Nev. 111 (1969);
7 Lamb v. Holsten, 85 Nev. 566 (1969). A finding of probable cause may be based on "slight" or
8 "marginal" evidence. Dettloff v. State, 120 Nev. 588, 591 (2004); Sheriff v. Hodes, 96 Nev. 184,
9 186 (1980). Although the State's burden is slight, the State is still obligated to that burden and it
10 remains incumbent on the State to produce some evidence that the offense charged was committed
11 by the accused. Woodall v. Sheriff, Clark County, 95 Nev. 218 (1979). The State must not only offer
12 evidence, but it must offer competent evidence that convinces the magistrate that a trial should be
13 held. Marcum v. Sheriff, Clark County, 85 Nev. 175 (1969). In this case, the State has failed to
14 produce adequate evidence to establish that Jerry Dixon committed the crime of Possession of
15 Controlled Substance With Intent to Sell.

16 **N.R.S. 453.337** requires the element of possession in order to be charged with this offense.
17 To meet the elements of this crime, the drugs must be actually possessed by the accused, or
18 constructively possessed by the accused. *Black's Law Dictionary* defines "actual possession" as: "A
19 person who knowingly has direct physical control over a thing at a given time." In Roland v. State,
20 the defendant was found on videotape holding a firearm and the court found that the defendant was
21 in actual possession over the firearm. 96 Nev. 300 (1980). Here, Mr. Dixon was not in the house at
22 the time of the search and the drugs were found not on his person but on the kitchen counter and in a
23 guest bathroom. Therefore, this is not a case of actual possession where the defendant had direct,
24 physical control over the item in question like the defendant had physical control over the gun in
25 *Roland*.

26 Nevada courts define constructive possession as "both the power and the intention at a given
27 time to exercise dominion and control over a thing, either directly or through another person or
28 persons." Batin v. State, 118 Nev. 61 (2002). The fact that a defendant was given mere access to the

1 property is insufficient. Id at 883. The essential part of constructive possession is that dominion and
2 control is shown over the object in question. In this case, Mr. Dixon may have had access to the
3 residence where the marijuana was found as shown by the identification card and the piece of mail
4 found (PHT pg 5,7). However, just because he had access to the home does not mean that he had
5 dominion and control over all of the objects inside the home.

6 Officer Bryan testified that there were three other bedrooms in the house but that he did not
7 go inside any of the bedrooms (PHT pg 17:14-19). A single person does not usually live in a three
8 bedroom house and there were likely more people that lived inside this house. If other people lived
9 at the residence or were allowed access to the residence, Mr. Dixon would not be the only one who
10 had access to the residence and the drugs that were found. Furthermore, there was no evidence that
11 Mr. Dixon actually resided at this house other than the identification card and the piece of mail that
12 was addressed to him. Even if he did reside at this address, there was no evidence that Mr. Dixon
13 had any dominion or control over the items found on the kitchen counter which was open to all
14 people who lived in that house. There were also drugs found in the guest hallway bathroom, but we
15 have no evidence suggesting who had access to that bathroom.

16 Nevada courts have ruled over and over again that mere presence in the area where the
17 narcotic is discovered or mere association with the person who does control the drug or property is
18 insufficient to support a finding of possession. Konold v. Sheriff, 94 Nev. 289 (1978). In that case,
19 Konold was arrested because there was marijuana found in a room where multiple people were
20 present, including Konold. The court found that Konold could not be charged with possession
21 because there was no proof that he had the sole right to the control the contraband. Id at 291. In this
22 case, Jerry Dixon was not even present at the residence at the time of the search. The State tried to
23 assert that Mr. Dixon somehow had the right to control this contraband simply because it was found
24 in a residence where they also found an identification card with his name and mail addressed to the
25 residence with his name. If anything, there is proof that Mr. Dixon possibly had mere association
26 with the person who controlled the drugs. *Konold* and many other courts have held this is
27 insufficient to support possession. Konold v. Sheriff, 94 Nev. 289 (1978), Oxbow v. Sheriff, 93 Nev.
28 343 (1977).

1 The Nevada Supreme Court referred to these rules again by saying that “possession may be
2 imputed when the contraband is immediately and exclusively accessible to the accused and subject
3 to his/her dominion and control. Marshall v. State, 110 Nev. 1328 (1994). In that case, the court did
4 not find sufficient evidence that Marshall possessed the drugs after the State presented evidence that
5 he was not present at the time of the search but that there were documents found in the house that
6 listed the address in question, as well as photographs of him at the residence. The court said this
7 was not sufficient because the State failed to show that he had exclusive control over the contraband
8 when there was evidence that other people lived in the home. Id at 607. Similarly, the State showed
9 evidence that Jerry Dixon’s identification card listing the address in question was found on the
10 kitchen table as well as mail addressed to Jerry Dixon. According to *Marshall*, this is insufficient
11 evidence to show that just because these items existed in the residence that Jerry Dixon had
12 exclusive control over the contraband. The officers could not testify about the other people living in
13 the residence because they did not even bother to look in the other bedrooms; however it is more
14 than likely that other people lived in this house because there were three bedrooms. Nevada courts
15 have been clear on this issue and Jerry Dixon should not have been bound up on this charge because
16 the State failed to show he had possession of the drugs that were found.

17 **II. Defendant Was Not Bound Over on Legal and Competent Evidence because Defense was**
18 **Not Permitted to Inquire about the Legality of the Evidence Obtained.**

19 The State must not only offer evidence, but it must offer competent evidence that convinces
20 the magistrate that a trial should be held. Marcum v. Sheriff, Clark County, 85 Nev. 175 (1969).
21 Competent evidence must be legal and in the absence of legally sufficient evidence, a defendant
22 should not be bound over for trial. State v. Plas, 80 Nev. 251 (1964). In State v. Plas, the court
23 affirmed the lower court’s decision to bind over the defendant but only because the court separately
24 determined that the search that was contested as unconstitutional was found to be consensual and
25 therefore was legal evidence. Id at 254. Furthermore, the court made it clear that in the absence of
26 the evidence obtained upon the search of the automobile, the magistrate would be without authority
27 to bind the defendant over for trial. State v. Plas, 80 Nev. 251, 253 (1964).

1 In this case, the magistrate would not even allow counsel to cross-examine the officers on the
2 legality of the search that led to the search warrant (PHT pg 12). Without the search that was
3 executed by the officers, the evidence would not have been obtained in this case and the magistrate
4 would not have been able to bind over Mr. Dixon for trial. Defense counsel questioned the legality
5 of the initial search because defense counsel had legal authority to suggest that the officers did not
6 have an objectively reasonable basis to believe that there was an immediate need to protect the lives
7 or safety of themselves or others when they entered the residence without a warrant and used the
8 welfare and protective sweep exception to the fourth amendment. Hannon v. State, 125 Nev. 142,
9 147 (1994).

10 The *Plas* court made it very clear that in order to be held to answer charges; those charges
11 must be based on legally sufficient evidence. State v. Plas, 80 Nev. 251 (1964). Here, the court
12 precluded the defense from inquiring into the legality of the evidence and so the court was unable to
13 determine whether or not the evidence obtained was legal. Had defense counsel had the opportunity
14 to cross-examine the officers on the initial search, the court would have been able to determine
15 whether or not the search was constitutional and whether or not the evidence obtained was legal.
16 Because that did not happen, the magistrate was without authority to bind over Mr. Dixon because
17 the evidence was not determined to be legally sufficient.

18 CONCLUSION

19 The State failed to show probable cause that Jerry Dixon had actual or constructive
20 possession of the drugs that were found and the magistrate did not have authority to bind over Mr.
21 Dixon on this charge when it precluded defense counsel from determining the legality of the
22 evidence obtained. For these reasons, the defendant submits that the petition should be granted and
23 the charge dismissed.

24 DATED this 16th day of September, 2013.

25 PHILIP J. KOHN
26 CLARK COUNTY PUBLIC DEFENDER

27 By: /s/ Maria N. Jacob
28 MARIA N. JACOB, #12410
Deputy Public Defender

1 **NOTICE**

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

3 YOU WILL PLEASE TAKE NOTICE that the foregoing PETITION FOR WRIT OF
4 HABEAS CORPUS will be heard on 30th day of November, 2013, at 9:00 a.m. in Department No.
5 XI of the District Court.

6 DATED this 16th day of September, 2013.

7 PHILIP J. KOHN
8 CLARK COUNTY PUBLIC DEFENDER

9
10 By: /s/ Maria N. Jacob
11 MARIA N. JACOB, #12410
12 Deputy Public Defender
13
14
15
16

17 **CERTIFICATE OF SERVICE BY ELECTRONIC TRANSMISSION**

18 I hereby certify that service of the foregoing Petition for Writ of Habeas Corpus was made on
19 the 16th day of September, 2013, by electronic service to the District Attorney's Office with a
20 courtesy copy to District Court Department 11.
21

22
23 By: /s/ Annie McMahan
24 Employee of the Public Defender's Office
25
26
27
28

ORIGINAL

Electronically Filed
09/23/2013 03:12:57 PM

ORDR
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
309 South Third Street, Suite #226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant


CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-13-292285-1
)	
v.	)	DEPT. NO. XI
)	
JERRY LEE DIXON,)	
)	
Defendant.)	

ORDER

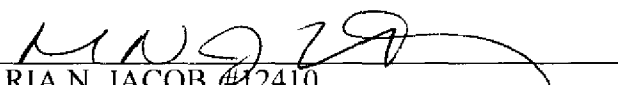
The Petition of JERRY LEE DIXON submitted by MARIA N. JACOB, Deputy Public Defender, as attorney for the above-captioned individual, having been filed in the above-entitled matter,

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

DATED AND DONE at Las Vegas, Nevada, this 19 of September, 2013.


DISTRICT COURT JUDGE

Submitted By:
PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By 
MARIA N. JACOB, #12410
Deputy Public Defender

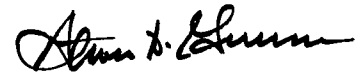
CERTIFICATE OF SERVICE BY ELECTRONIC TRANSMISSION

I hereby certify that service of the foregoing Order was made on the 23 day of
September, 2013, by electronic service to the District Attorney's Office with a courtesy copy to
District Court Department 11.

By: /s/ Annie McMahan
Employee of the Public Defender's Office

Case Name: JERRY LEE DIXON
Case No.: C-13-292285-1
Dept. No.: XI

ORIGINAL



CLERK OF THE COURT

1 WRTH
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 309 South Third Street, Suite #226
5 Las Vegas, Nevada 89155
6 (702) 455-4685
7 Attorney for Defendant

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

10 THE STATE OF NEVADA,
11
12 Plaintiff,

CASE NO. C-13-292285-1

DEPT. NO. XI

13 JERRY LEE DIXON,
14
15 Defendant.

16 **WRIT OF HABEAS CORPUS**

17 To: Clark County Sheriff
18 Clark County, Nevada

19 **GREETINGS:**

20 We command that you have the body of the above-captioned person, by you imprisoned and
21 detained, as it is alleged, together with the time and cause of such imprisonment and detention, by
22 whatever name said above-captioned person shall be called or charged, before the Honorable
23 Elizabeth Gonzalez, District Court Judge, at his/her chambers or his/her courtroom in the County
24 Courthouse Building in the City of Las Vegas, County of Clark, State of Nevada, on September 30,
25 2013 at the hour of 9:00 a.m., to do and receive that which shall then and there be considered
26 concerning the said above-captioned person; and have you then and there this Writ.

27 DATED AND DONE this _____ of September, 2013.

28 STEVE GRIERSON, COUNTY CLERK

By: 

DEPUTY

SEP 24 2013

LOVIE HAWKINS

CERTIFICATE OF SERVICE BY ELECTRONIC TRANSMISSION

I hereby certify that service of the foregoing Writ of Habeas Corpus was made on the 24 day of September, 2013, by electronic service to the District Attorney's Office with a courtesy copy to District Court Department 11.

By: /s/ Annie McMahan
Employee of the Public Defender's Office

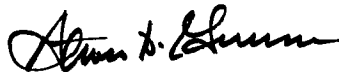
CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of the foregoing WRIT OF HABEAS CORPUS was made this 24 day of September, 2013, by facsimile transmission to:

CLARK COUNTY DETENTION CENTER
FAX #702-671-3763

By: [Signature]
Employee of the Public Defender's Office

Case Name: JERRY LEE DIXON
Case No.: C-13-292285-1
Dept. No. XI



CLERK OF THE COURT

1 **SAO**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
5 **SHANNON WITTENBERGER**
6 **Deputy District Attorney**
7 **Nevada Bar #12304**
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 **JERRY LEE DIXON,**
13 **#2807953**

14 **Defendant.**

CASE NO. C-13-292285-1
DEPT NO. XI

15 **STIPULATION AND ORDER**
16 **CONTINUING HEARING ON WRIT OF HABEAS CORPUS**


17 **IT IS HEREBY STIPULATED AND AGREED by and between the above named**
18 **parties, through their undersigned counsel of record, that the Hearing on Defendant's Writ of**
19 **Habeas Corpus currently scheduled for September 30, 2013 be continued to October 2, 2013**
20 **at 9:00 a.m.**

21 **DATED this 24 day of September, 2013.**


22 **STEVEN B. WOLFSON**
23 **Clark County District Attorney**
24 **Nevada Bar#001565**

MARIA JACOB
ATTORNEY FOR DEFENDANT

25 **BY**

26 
27 **SHANNON WITTENBERGER**
28 **Deputy District Attorney**
Nevada Bar #12304

BY


OFFICE OF THE CLARK COUNTY
PUBLIC DEFENDER
309 S. Third St. #226
Las Vegas, Nevada 89155

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

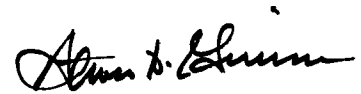
ORDER

IT IS HEREBY ORDERED that the hearing on the Defendant's Writ of Habeas Corpus shall be continued to October 2, 2013.

DATED this 23rd day of September, 2013.


DISTRICT JUDGE

da


CLERK OF THE COURT

1 **RET**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 SHANNON C. WITTENBERGER
6 Deputy District Attorney
7 Nevada Bar #12304
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 State of Nevada

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 In the Matter of Application,
11 of

12 JERRY LEE DIXON, aka, Jerry Dixon
13 #2807953

CASE NO: C-13-292285-1
DEPT NO: XI

14 for a Writ of Habeas Corpus.
15

16
17 RETURN TO WRIT OF HABEAS CORPUS
18 DATE OF HEARING: September 30, 2013
19 TIME OF HEARING: 9:00 A.M.

20 COMES NOW, DOUGLAS C. GILLESPIE, Sheriff of Clark County, Nevada,
21 Respondent, through his counsel, STEVEN B. WOLFSON, Clark County District Attorney,
22 through SHANNON C. WITTENBERGER, Deputy District Attorney, in obedience to a writ
23 of habeas corpus issued out of and under the seal of the above-entitled Court on the 16th day
24 of September, 2013, and made returnable on the 30th day of September, 2013, at the hour of
25 9:00 o'clock A.M., before the above-entitled Court, and states as follows:

26 1. Respondent admits the allegations of Paragraph 2 of the Petitioner's Petition
27 for Writ of Habeas Corpus.

28 2. Respondent denies the allegations of Paragraph 3 of the Petitioner's Petition
for Writ of Habeas Corpus.

1 3. Paragraph(s) 1, 4 and 5 do not require admission or denial.

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

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

7 DATED this 25 day of September, 2013.

8 Respectfully submitted,

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

12 BY

13 SHANNON C. WITTENBERGER
14 Deputy District Attorney
Nevada Bar #12304

15 **POINTS AND AUTHORITIES**

16 **STATEMENT OF THE CASE**

17 On July 2, 2013, the State filed a Criminal Complaint charging Jerry Lee Dixon,
18 hereinafter "Defendant," with one (1) count of Possession of Controlled Substance With
19 Intent to Sell. Thereafter on August 27, 2013, following a preliminary hearing in justice
20 court, Defendant was held to answer to the sole count in the Criminal Complaint as alleged.

21 **STATEMENT OF THE FACTS**

22 On June 11, 2013, City of North Las Vegas Police Officer Sean Bryan was called to
23 5120 Vista Del Rancho in Clark County, Nevada (PHT pgs. 3:24-4:16). Once at the
24 residence, Officer Bryan applied for and received a telephonic search warrant (PHT pgs.
25 4:17-5:6; *See also State's Preliminary Hearing Exhibit 10*). Upon entering the residence
26 pursuant to said search warrant, Officer Bryan located five active marijuana plants inside of
27 the guest hallway bathroom, 23 separately packaged marijuana edibles, and approximately
28 3,800 grams of finished marijuana shake and clippings (PHT p. 5:13-7:1; *See also State's*

1 *Preliminary Hearing Exhibits 5-9*). Officer Bryan also located a Tropicana work card with a
2 photo and name of Jerry Dixon and mail addressed to Jerry Dixon at said residence (PHT p.
3 7:5-16; *See also State's Preliminary Hearing Exhibit 4*).

4 When Officer Bryan entered the residence, it was empty (PHT p. 18:3-4). From his
5 observations after searching the kitchen area and bathroom in the hallway and garage area, it
6 appeared someone was living there but there was no evidence more than one person was
7 living at the address (PHT pgs. 17:11-18:16). The majority of the mail was found on the
8 kitchen table and the only item addressed to a person was addressed to the Defendant. There
9 was no mail addressed to anyone else (*Id.*). There was no evidence that anyone other than
10 Defendant lived at the residence (PHT p. 19:13-15).

11 **ARGUMENT**

12 **I. THE STATE PRESENTED SUFFICIENT EVIDENCE TO SUPPORT THE** 13 **CHARGED OFFENSE**

14 **A. Standard of Review**

15 In a preliminary hearing, the State needs only to show that a crime has been
16 committed and that the accused probably committed it. The finding of probable cause to
17 support a criminal charge may be based on "slight, even 'marginal' evidence...because it
18 does not involve a determination of the guilt or innocence of an accused." Sheriff v.
19 Hodges, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980); Sheriff v. Potter, 99 Nev. 389, 391,
20 663 P.2d 350, 352 (1983).

21 Moreover, to commit an accused for trial, the State is not required to negate all
22 inferences which might explain his conduct, but only to present enough evidence to support
23 a reasonable inference that the accused committed the offense." Kinsey v. Sheriff, 87 Nev.
24 361, 363, 487 P.2d 340, 341 (1971). The Court need not consider whether the evidence
25 presented in the record may, by itself, sustain a conviction, since the State at a preliminary
26 hearing need not produce the quantum of proof required to establish guilt of the accused
27 beyond a reasonable doubt. Sheriff v. Hodges, *supra*; Miller v. Sheriff, 95 Nev. 255, 592
28

1 P.2d 952 (1979).

2 Neither the preliminary hearing nor a hearing on a Petition for Writ of Habeas Corpus
3 is designed to resolve factual disputes or matters of defense which are functions of the trier
4 of fact at trial. Brymer v. Sheriff, 92 Nev. 598, 555 P.2d 844 (1976); Wrenn v. Sheriff, 87
5 Nev. 85, 482 P.2d 289 (1971). Likewise, it is not incumbent upon the state to negate all
6 other inferences at the preliminary hearing. Graves v. Sheriff, 88 Nev. 436, 498 P.2d 1324
7 (1972).

8 **B. The State Presented Sufficient Evidence to Support the Justice Court**
9 **Binding the Case to District Court**

10 NRS 453.337 states, in relevant part, "it is unlawful for a person to possess for the
11 purpose of sale flunitrazepam, gamma-hydroxybutyrate, any substance for which
12 flunitrazepam or gamma-hydroxybutyrate is an immediate precursor or any controlled
13 substance classified in schedule I or II."

14 A defendant has constructive possession of a controlled substance "if [he] maintains
15 control or a right to control the contraband." Glipsey v. Sheriff, 89 Nev. 221, 223, 510 P.2d
16 623, 624 (1973). When the doctrine of constructive possession is applicable, the accused is
17 deemed to have present constructive possession even though he does not have actual
18 possession; constructive possession can be inferred from the evidence. Id. at 223-24, 510
19 P.2d at 624; Konold v. Sheriff, 94 Nev. 289, 290, 579 P.2d 768, 769. "Two or more persons
20 may have joint possession of a narcotic if jointly and knowingly they have its dominion and
21 control." Maskaly v. State, 85 Nev. 111, 114, 450 P.2d 790, 792 (1969). Possession can be
22 established by circumstantial evidence and the reasonable inferences to be drawn from that
23 evidence. Kinsey v. Sheriff, Washoe County, 87 Nev. 361, 363, 487 P.2d 340 (1971).

24 The evidence presented at the preliminary hearing showed that Defendant resided at
25 the residence where substantial amounts of marijuana were found. The only mail found at
26 the residence was addressed to Defendant. Additionally, his work identification card with
27 his picture was also found at the residence. The reasonable inference to be drawn is that
28 Defendant resided at said residence. Most people have their mail sent to their residence and

1 would keep their work identification at the location they live. These items connect
2 Defendant to the residence. Additionally, no identifiers of any other person were found.

3 Contrary to Defendant's arguments, this is not a "mere presence" case. The authority
4 cited by Defendant is easily distinguishable from the facts adduced at the preliminary
5 hearing. In Konold v. Sheriff, Clark County, 94 Nev. 289, 290 (1978), the Court found there
6 was insufficient evidence to bind Defendant over, including on the basis of joint possession,
7 because he was a guest at the residence and there were thirteen occupants of the house when
8 a small quantity of marijuana was found in plain view in the living room. That is completely
9 opposite to this case. In this matter, there was a substantial amount of marijuana found
10 throughout the house, including an active marijuana grow in a hallway bathroom, marijuana
11 clippings found on shelves and in the refrigerator and numerous edibles. Furthermore, there
12 were no occupants of the house when the drugs were found and the ONLY indicators linking
13 a person to the ownership/residence of the house were those directly connected to Defendant.
14 This is not a "mere association" or "mere presence" situation.¹

15 Defendant also argues that Marshall v. State, 110 Nev. 1328 (1994), holds that
16 Defendant's mail and identification card are insufficient to demonstrate possession.
17 However, this is not accurate. In Marshall, the Court addressed whether Appellate counsel
18 was ineffective for failing to raise the sufficiency of the evidence regarding the jury verdict,
19 not the sufficiency of evidence at the probable cause hearing (grand jury). Id. at 1332. The
20 police found numerous documents in the apartment and only one of those was in Marshall's
21 name. The remaining documents listed Marshall's sister or mother and at least five other
22 person's names. The police also found photographs of people other than Marshall in the
23 apartment. Id. at 1329.

24
25 ¹ Defendant's suggests that Konold requires a showing that a person had the "sole right" to control the
26 contraband (See *Defendant's Petition for Writ of Habeas Corpus*, p. 6, lines 20-21). However, neither Konold
27 nor any other case requires the State to prove a Defendant was in sole possession of drugs or other evidence in
28 order to prove possession. Id. at 290-91. To the contrary, case law clearly only requires the State to
demonstrate constructive or joint possession. Id. By definition, joint would include more than one person
having the right to control the contraband. See Maskaly v. State, 85 Nev. 111 (1969). Even if other people
were living at the residence, given the large amount of drugs and obvious marijuana grow, the evidence clearly
supports a finding that Defendant and any person residing in the home jointly possessed the marijuana.

1 The facts alone are distinguishable because in Defendant's case the documents found
2 at the house were directly linked to Defendant (mail in his name and his address, work ID
3 with his picture and name), and there were no documents or other items showing anyone else
4 lived or frequented the residence. The fact that there were three bedrooms does not provide
5 any inference that others lived there without any additional information. Furthermore, a
6 preliminary hearing is a probable cause hearing only. The State is only required to
7 demonstrate slight or marginal evidence of the crime and that Defendant committed said
8 crime. Sheriff v. Hodges, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980); Sheriff v. Potter, 99
9 Nev. 389, 391, 663 P.2d 350, 352 (1983). Marshall was addressing sufficiency of evidence
10 to support a jury verdict, a much greater and different burden than the one here. Therefore,
11 there is no support, as suggested by Defendant, that Marshall stands for the proposition that
12 the facts in this case are insufficient to bind Defendant over to District Court.

13 Given the large amount of marijuana and marijuana edibles found in various parts of
14 the house and the fact that the only identifying information at the home is directly linked to
15 Defendant, there is more than sufficient evidence to bind Defendant over to District Court
16 and answer to said charges.

17 **C. A Preliminary Hearing is Not the Appropriate Forum to Address Whether**
18 **Evidence Was Legally Obtained**

19 Since the decision of State v. Plas, 80 Nev. 251 (1964), the Nevada Supreme Court
20 has held that the legality of the evidence obtained is NOT an appropriate issue at a
21 preliminary hearing and should be addressed with a motion in District Court.

22 Defendant suggests that he has a constitutional right to argue the legality of evidence
23 at preliminary hearing (PHT p. 10:11-14, 12:15-17). However, there is no constitutional
24 right to a preliminary hearing and the purpose of said hearing is "to protect one accused of a
25 crime from hasty, improvident or groundless charges." Azbill v. Fisher, 84 Nev. 414, 418
26 (1968). The Justice Court Judge's role is solely to decide whether a crime has been
27 committed and "whether there is probable cause to believe that the named accused was the
28 perpetrator." Id., see also NRS 171.206. There is no statutory provision allowing a

1 Defendant to challenge constitutional issues at a preliminary hearing. To the contrary, the
2 only statute addressing suppression of evidence that a Defendant claims is illegally obtained
3 is NRS 174.125 which requires a motion to suppress evidence to be brought prior to trial and
4 requires said motions to be in writing with notice to the opposing party. *See NRS*
5 *174.125(2)&(3)*. The statute does not provide that said issues can be addressed at
6 preliminary hearing. Allowing the issue to be raised at a preliminary hearing, and then again
7 in District Court pursuant to the statutory provisions, would be a waste of judicial resources.
8 Furthermore, allowing the issue to be raised at a preliminary hearing would contravene NRS
9 174.125 because it would subvert any notice requirements which require a written motion
10 and, like all motion work, require a timely response. Additionally, allowing such issues to
11 be addressed in Justice Court would lengthen preliminary hearings substantially because it is
12 very likely additional and multiple witnesses would be required in order for the State to
13 present all the evidence necessary to fully address suppression issues. This is not what a
14 preliminary hearing was designed to address.

15 Furthermore, in cases such as the one before this Court, finding that the State is
16 required to prove that evidence was obtained legally and allowing inquiry into the basis for
17 obtaining a search warrant would be contrary to established law by transferring the burden to
18 the State. "It is a well established principle that the party seeking to impeach a search
19 warrant has the burden of establishing the matters complained of and that, if the warrant is
20 regular on its face, it will be presumed that the magistrate properly discharged his duties in
21 issuing it." One 1970 Chevrolet Motor Vehicle v. County of Nye, 90 Nev. 31, 33-34, 518
22 P.2d 38, 39 (1974). The Nevada Supreme Court has also declared that it will not "overturn a
23 magistrate's finding of probable cause for a search warrant unless the evidence in its entirety
24 provides no substantial basis for the magistrate's finding." Garrettson v. State, 114 Nev.
25 1064, 1068-1069, 967 P.2d 428, 431 (1998). However, if the probable cause finding at a
26 preliminary hearing would require the State to show that there was probable cause to obtain
27 evidence, a different and distinct issue from that of whether there is probable cause that a
28 crime was committed and committed by the Defendant, said finding would change the long

1 established burden of proof upon a Defendant to challenge the validity of a search warrant.
2 See 68 Am. Jr. 2d Searches and Seizures §178. Determining legality of warrant; burden of
3 proof (the burden of establishing the invalidity of a search warrant is upon the defendant).

4 The Defendant relies on State v. Plas, 80 Nev. 251 (1964), to support his argument
5 that he should have been able to inquire as to the legality of the search warrant; however,
6 subsequent case law has rejected any suggestion in Plas that “legal and competent” evidence
7 requires a showing that the evidence was legally obtained.² Additionally, subsequent cases
8 have clearly rejected any suggestion in Plas that the suppression of evidence is an
9 appropriate issue at a preliminary hearing or for a pre-trial Writ of Habeas Corpus.

10 A challenge to the validity of a search via a pre-trial habeas proceeding is
11 unwarranted and should be challenged pursuant to statute by filing a motion to suppress.
12 Robertson v. Sheriff, Clark County, 88 Nev. 696, 697-698 (1972). In Cook v. State, 85 Nev.
13 692, 694 (1969), the Supreme Court specifically addressed whether NRS 34.500(7), which
14 provides habeas as a remedy to test the legality of a commitment upon a criminal charge
15 without reasonable or probable cause, is to be read to include challenges to the admissibility
16 of evidence based on constitutional reasons. The Court rejected such a reading and firmly
17 held “a challenge to the admissibility of evidence secured by an alleged illegal search must
18 be presented to the district court by appropriate motion.” Id Reaffirming Prescott v. State, 85
19 Nev. 448 (1969) (challenges to the legality of arrest are to be presented by motion and not by
20 pre-trial writ of habeas corpus). “Habeas is no longer to be employed for that purpose.”
21 Cook, 85 Nev. at 695. It is the absence of evidence that provides the cause for challenge via
22 habeas and not the legality of the evidence. Id at 695-96. Furthermore, the court specifically
23 mentioned that the habeas procedure had been allowed to be utilized in prior cases, including
24 in Plas, to make such constitutional challenges because there had been no opposition by the
25 State. Id at 696, footnote 4. However, with this decision, it is no longer an appropriate
26

27 ² The cases cited in Plas do not address the issue of the legality of the recovered evidence but only whether the evidence
28 presented was sufficient to establish probable cause. See Application of Hutchinson, 76 Nev. 478 (1960) and
Application of Ervin, 76 Nev. 297 (1960).

1 remedy for challenges to the legality of evidence.

2 The Court's holding in Cook was reaffirmed in Williams v. Sheriff of Washoe
3 County, 92 Nev. 127, 128 (1976), when the Court rejected defense counsel's argument at the
4 writ hearing that certain items of evidence should be suppressed. "[T]he motion to suppress
5 is the remedy normally used to preclude the introduction of evidence at trial which is
6 claimed to be inadmissible for constitutional reasons, and is the remedy contemplated by our
7 criminal code." Williams, 92 Nev. at 128 *citing* Cook v. State, 85 Nev. 692, 694-695, 462
8 P.2d 523, 526 (1969).

9 The case law is clear that inquiry into the legality of the evidence is not relevant or
10 appropriate at preliminary hearing. The only issue is whether there is sufficient evidence to
11 show that a crime was committed and Defendant was the person that committed the crime.
12 Therefore, the Court did not err in prohibiting Defendant from inquiring into the obtaining of
13 the warrant and attempting to conduct a discovery hearing instead of addressing issues
14 relevant to the sufficiency of the evidence to establish probable cause.³

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26
27 ³ Defense counsel specifically argued that her inability to cross-examine officers on the legality of their presence in the
28 residence hindered her ability to then file motions in court. (PHT p. 12:15-17). The purpose of a preliminary hearing is
not a fishing expedition or an avenue for discovery and, therefore, prohibiting such inquiries was appropriate.

1 CONCLUSION


2 Based upon the foregoing arguments, the State respectfully requests that Defendant's
3 petition be DISMISSED as the justice court appropriate found sufficient probable cause on
4 the sole count to bind the case up to District Court.

5 DATED this 25 day of September, 2013.

6 Respectfully submitted,

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

10 BY


11 SHANNON C. WITTENBERGER
12 Deputy District Attorney
13 Nevada Bar #12304

14 CERTIFICATE OF ELECTRONIC FILING

15 I hereby certify that service of Return to Writ of Habeas Corpus, was made this
16 26th day of September, 2013, by Electronic Filing to:

17 ARLENE HESHMATI, Deputy Public Defender
18 Email: bairpw@clarkcountynv.gov PD's Secretary

19 
20 Secretary for the District Attorney's Office

21
22
23
24
25
26
27
28 13FN1368X: SW/ckb/L5

JUSTICE COURT, NORTH LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

JERRY LEE DIXON, aka,
Jerry Dixon #2807953,

Defendant.

FILED

JUL 08 2013

NORTH LAS VEGAS JUSTICE COURT
BY

CASE NO: 13FN1368X

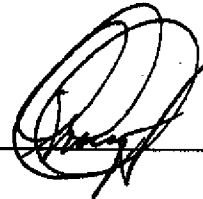
DEPT NO: 2

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO SELL (Category D Felony - NRS 453.337), in the manner following, to-wit: That the said Defendant, on or about the 12th day of June, 2013, at and within the County of Clark, State of Nevada, did then and there wilfully, unlawfully, feloniously, knowingly, and intentionally possess, for the purpose of sale, a controlled substance, to-wit: Marijuana.

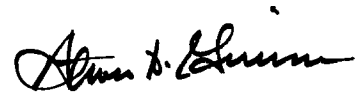
All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.

7/2/2013



13FN1368X/jw
NLVPD EV# 1310068
(TK)

EXHIBIT "1"



CLERK OF THE COURT

MOT

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SHANNON WITTENBERGER
Deputy District Attorney
Nevada Bar #012304
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JERRY LEE DIXON,
#2807953,
Defendant.

CASE NO: C-13-290942-1

DEPT NO: X

THE STATE OF NEVADA,
Plaintiff,

-vs-

JERRY LEE DIXON,
#2807953,
Defendant.

CASE NO: **C-13-292285-1**

DEPT NO: X

NOTICE OF MOTION AND MOTION FOR JOINDER OF

CASE C-13-292285-1 AND C-13-290942-1

DATE OF HEARING: 10/16/2013

TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through SHANNON WITTENBERGER, Deputy District Attorney, and files this NOTICE OF MOTION AND MOTION FOR JOINDER OF CASE C-13-292285-1 AND C-13-290942-1.

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

4 NOTICE OF HEARING

5 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned
6 will bring the foregoing motion on for setting before the above entitled Court, in Department
7 X thereof, on Wednesday , the 16th day of October, 2013, at the hour of 8:30 o'clock AM,
8 or as soon thereafter as counsel may be heard.

9 DATED this 4th day of October, 2013.

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

12
13 BY /s/ Shannon Wittenberger
14 SHANNON WITTENBERGER
15 Deputy District Attorney
Nevada Bar #012304

16 POINTS AND AUTHORITIES

17 FACTS

18 C-13-290942-1

19 Approximately three weeks prior to June 2, 2013, Defendant Jerry Lee Dixon
20 (hereinafter "Defendant") and victim Phillip Rogers separated after a five year relationship.
21 They had lived at 5120 Vista Del Rancho together but Mr. Rogers had moved after their
22 relationship ended. On June 2, 2013, Mr. Rogers called North Las Vegas Police Department
23 to do a civil standby so he could obtain some of his belongings. Police showed up and
24 Defendant was not at the residence. Officers cleared the scene and left Mr. Rogers there to
25 get his belongings. Mr. Rogers obtained some of his clothes for the time being and had no
26 problems. Mr. Rogers observed marijuana plants in the bathroom that, to his knowledge,
27 had not been in the residence previously. Between June 2, 2013 and June 12, 2013, Mr.
28 Rogers and the Defendant texted each other a couple of times in reference to property.

1 On June 12, 2013, Mr. Roger's roommate Jessica Johnson allowed Mr. Rogers to
2 borrow her vehicle, a 2005 yellow Chevy bearing NV plate 217XJY, as long as he picked
3 her up from work at 5:30 p.m. At approximately 1:00 p.m., Defendant sent Mr. Rogers a
4 text message asking for a ride from the area of Twain and Paradise back to 5120 Vista Del
5 Rancho. Mr. Rogers wanted to maintain a cordial relationship because he still had to obtain
6 some of his property from the house, so he picked up Defendant and drove him to the
7 residence. Defendant invited Mr. Rogers into the house to talk. Once they were inside,
8 Defendant's demeanor changed and he immediately started demanding that Mr. Rogers tell
9 him where all his marijuana was. Mr. Rogers did not know what Defendant was talking
10 about. Defendant punched Mr. Rogers once on the left side of his face and said "Look in my
11 eyes, I'm not fucking with you!" Mr. Rogers tried to run out of the house but Defendant
12 cornered him at the front door and said he owed some people money over the marijuana and
13 they wanted to kill Defendant. Mr. Rogers continued to tell Defendant he never took
14 anything from him. Defendant punched Mr. Rogers on the top of his head 3 or 4 times with
15 his left fist. Defendant had a large ring on his left fist which struck Mr. Rogers on the head
16 and caused a large gash on Mr. Rogers' head. As a result of the injury, blood was running
17 down Mr. Rogers' face and neck. Defendant pulled out a pair of scissors from his pants
18 pocket and held them to Mr. Roger's throat and told Mr. Rogers that both of them were in
19 danger and one of them had to die but it was not going to be Defendant. Defendant then
20 pinned Mr. Rogers against the wall by his neck and started cutting off Mr. Rogers' air supply
21 causing Mr. Rogers to see stars. Mr. Rogers did bite Defendant in an attempt to defend
22 himself.

23 Mr. Rogers got up, opened the front door and was half way out when Defendant
24 caught Mr. Rogers by his shirt and tried to pull him back into the house. Mr. Rogers was
25 able to get out of his shirt and run towards the car. At the car, Defendant threw Mr. Rogers
26 down against the hood and took Mr. Rogers' cell phone, wallet and car keys. Defendant ran
27 back inside the house and locked Mr. Rogers outside. Mr. Rogers went to two neighboring
28 houses for help but no one answered.

1 After about five minutes, Defendant opened the front door and tried to talk calmly to
2 Mr. Rogers. Mr. Rogers asked for his property and Defendant walked back inside, leaving
3 the door open. Mr. Rogers asked if he could get his stuff and leave with no problems.
4 Defendant then began apologizing for his actions and said he was just scared. Mr. Rogers
5 told Defendant he had to leave to pick up Jessica from work. Defendant told Mr. Rogers the
6 only way Mr. Rogers was leaving was if Defendant drove him. Mr. Rogers was unable to
7 convince Defendant to give him his keys or phone and he did not want to be late picking
8 Jessica up so he gave into Defendant. Defendant drove the vehicle and Mr. Rogers got in the
9 passenger seat. Defendant began driving West on Craig Road and North on the 95 towards
10 Mount Charleston. Mr. Rogers asked numerous times where they were going and Defendant
11 said he was taking them both out of the city because he was scared for their safety. They
12 ended up passing the Mount Charleston Lodge and pulling over on the side of the road.
13 Defendant said he wanted to walk into the forest with Mr. Rogers so they could pray
14 together. Mr. Rogers stayed in the car and kept saying he wanted to go home. Defendant
15 got back in the car, did a u-turn and said he would take Mr. Rogers home. Defendant then
16 pulled into another turn off and parked. Defendant walked over to the passenger side and
17 opened the car door. Defendant pulled Mr. Rogers up and started hugging and kissing him.
18 Defendant apologized for everything and kept telling Mr. Rogers he loved him and wanted
19 to get back together. As Defendant was telling Mr. Rogers these things, he continued to hug
20 him and was inching towards a ledge nearby. Mr. Rogers was concerned for his safety and
21 dropped his weight and sat down. Defendant said he would take him home and Mr. Rogers
22 got up to walk back to the car. Defendant then turned around and said "You got to go Bro"
23 and shoved Mr. Rogers over the ledge. Mr. Rogers fell about 6 feet down and landed with
24 his right arm behind his head. He started sliding down the hill towards an even larger drop
25 but stopped himself using a small tree. Mr. Rogers got himself up and saw Defendant
26 running towards the car. Defendant got into the car and sped down the mountain.

27 Mr. Rogers flagged down a passerby who drove him to the hotel and Mr. Rogers
28 called 9-1-1. Officer Aiello made contact with Mr. Rogers and observed a large open gash

1 on the top of his head, caked blood along the back of his ears, a large fresh bruise forming on
2 his left cheek bone, fresh bloody scratches and cuts along the right side of his body,
3 including his right shinbone, right forearm and right wrist. There were beginnings of a large
4 swollen bruise on the top of Mr. Rogers' right shoulder as well. Officer Aiello also observed
5 that Mr. Rogers had bloodshot eyes and small faint red dots (petechia) in his eyes and along
6 the left side of his neck. Mr. Rogers told Officer Aiello that his throat was sore and it hurt to
7 swallow. Officer Aeillo also noticed that Mr. Rogers' voice was dry and hoarse at times.
8 Mr. Rogers received 7 staples to the laceration on his head.

9 Officer Aeillo also spoke to Jessica Johnson, the owner of the vehicle, who indicated
10 she did not give Defendant permission to drive her vehicle.

11 At approximately 10:00 p.m., Officer Cavaricci and Officer Johnson were sent to
12 5120 Vista Del Rancho in an attempt to make contact with a person of interest. Upon
13 arrival, they knocked on the front door and could see the door had been forced open and was
14 unsecured. They entered the residence to check on the welfare of any occupants and
15 observed that the interior was in total disarray with items thrown all over the ground. A fair
16 amount of blood was found in the entry way along with a blood soaked shirt. The bathroom
17 contained an active marijuana grow with several plants in the bathtub. Officers also
18 observed harvested marijuana in several locations throughout the residence in plain view.
19 Officers then contacted the narcotics bureau.

20 Officers obtained a search warrant for the residence at 5120 Vista Del Rancho.

21 Officer Radich stopped Jessica's vehicle at Twain and Cambridge. Defendant was
22 driving the vehicle and was taken into custody. Officer Radich located Mr. Rogers' cell
23 phone, wallet and keys in the vehicle.

24 **C-13-292285-1**

25 On June 11, 2013, Officer Bryan was involved in the execution of a search warrant at
26 5120 Vista Del Rancho. Officer Bryan identified that the utility services through NV Energy
27 were in the name of the Defendant. Officer Bryan located an active marijuana grow in the
28 hallway bathroom consisting of five marijuana plants in the bathtub and a lighting system

1 consisting of two fluorescent lights and a cooling fan. He also located the following: twenty-
2 three (23) marijuana edibles located on the kitchen counter; five packages of marijuana
3 clippings packaged in nylon stockings and one plastic bag containing marijuana clippings
4 with a gross weight of 3,821 grams in the kitchen freezer; a digital scale located on the
5 kitchen counter; a letter addressed to Jerry Dixon with the address of 5120 Vista Del Rancho
6 located on the kitchen table; and a Tropicana work identification card with a photograph and
7 the name of Jerry Dixon located on the kitchen table.

8 The marijuana edibles, plants and clippings were tested by Officer Rodriguez and
9 tested positive.

10 **ARGUMENT**

11 **I. THE CASES SHOULD BE JOINED PURSUANT TO NRS 173.115**

12 Joinder of two or more offenses is appropriate if the offenses are “based on the same
13 act or transaction” or “two or more acts or transactions connected together or constituting
14 parts of a common scheme or plan.” *NRS 173.115*. There are two basis for joinder under
15 *NRS 173.115(2)*; the offenses constitute parts of a common scheme or plan or the
16 offenses/acts/transactions are “connected together”.

17 **A. THE TWO OFFENSES ARE BASED ON THE SAME ACT OR** 18 **TRANSACTION**

19 The first basis for joinder of offenses is when the offenses are “based on the same act
20 or transaction.” *NRS 173.115(1)*. The initial contact between victim Mr. Rogers and
21 Defendant, which resulted in the battery (strangulation and substantial bodily harm) occurred
22 on June 12, 2013 and was directly related to the possession of marijuana with intent to sell.
23 As demonstrated by Defendant’s own words, the battery was in part motivated by
24 Defendant’s accusation that Mr. Rogers took Defendant’s marijuana. Furthermore, the
25 marijuana was observed by Mr. Rogers at the time and later recovered by police as a result
26 of their investigation into the attempt murder, battery, etc. All the actions, including the
27 discovery of the drugs, all occurred on the same day and within a few hour time frame. The
28 discovery of the marijuana by Mr. Rogers and then by the police are intertwined with

1 Defendant's other actions and it is impossible to describe the events in one case without
2 referring to the events in the other case. Therefore, all the crimes alleged in both cases were
3 based on the same act or transaction on June 12, 2013.

4 **B. THE TWO OFFENSES WERE PART OF A COMMON SCHEME OR**
5 **PLAN**

6 "Scheme or plan" as used in NRS 173.115(2) has been defined as "a design or plan
7 formed to accomplish some purpose; a system. A plan is a method of design or action,
8 procedure, or arrangement for accomplishment of a particular act or object. Method of
9 putting into effect an intention or proposal." Weber v. State, 121 Nev. 554, 572
10 (2005)(internal quotations omitted). However, a plan or scheme does not have to be rigid
11 but may reflect variation and still be within an overall intended design. Id.

12 Defendant's motive in part for beating up Mr. Rogers and trying to kill him appears to
13 be due to his mistaken belief that Mr. Rogers was involved in taking some of the drugs found
14 at Defendant's residence. Defendant told Mr. Rogers that he owed people and they were
15 not safe. Defendant's overall design in selling/distributing the drugs and protecting his
16 investment, including his safety because he owed people as a result of his drug dealing
17 business, is directly related to his actions and physical abuse of Mr. Rogers on June 12,
18 2013.

19 **C. THE TWO OFFENSES ARE "CONNECTED TOGETHER" AND,**
20 **THEREFORE, JOINDER IS APPROPRIATE**

21 Two charged crimes are "connected together" if they are cross-admissible; evidence
22 of one crime would be admissible in a separate trial regarding the other crime. Weber, 121
23 Nev. at 573. Other crimes are not admissible as character evidence; however, they may be
24 admissible for other purposes "such as proof of motive, opportunity, intent, preparation, plan
25 knowledge, identity, or absence of mistake or accident." *NRS 48.045(2); see also Weber*,
26 121 Nev. at 573. To admit such evidence, "it must be relevant, be proven by clear and
27 convincing evidence, and have probative value that is not substantially outweighed by the
28 risk of unfair prejudice." Weber, 121 Nev. at 573.

1 The offenses in these cases are relevant and cross admissible under both the complete
2 story doctrine (res gestae) and pursuant to NRS 48.045 (2).

3 **i. Evidence Regarding the Interaction Between Defendant and Mr.**
4 **Rogers as Well as Defendant's Actions Leading Up to the Discovery**
5 **of the Marijuana Are Necessary to Give the Complete Story**

6 NRS 48.035 (3) provides:

7 Evidence of another act or crime which is so closely related to an
8 act in controversy or a crime charged that an ordinary witness
9 cannot describe the act in controversy or the crime charged
without referring to the other act or crime shall not be excluded,
but at the request of an interested party, a cautionary instruction
shall be given explaining the reason for its admission.

10 Additionally, in Bellon v. State, 121 Nev. 436, 443-44, 117 P.3d 176, 180-81 (2005), the
11 Nevada Supreme Court held the State in a criminal prosecution may present a full and
12 accurate account of the crime, and such evidence is admissible even if it implicates the
13 defendant in the commission of other uncharged acts. *See also*, Bletcher v. State, 111 Nev.
14 1477, 907 P.2d 978 (1995). The test requires the State to show that “the crime must be so
15 interconnected to the act in question that a witness cannot describe the act in controversy
16 without referring to the other crime.” Bellon, *supra*.; Bletcher, 111 Nev. at 1480, 907 P.2d at
17 980.

18 One of the elements the State must prove is possession of the drugs found at
19 Defendant's residence. Obviously one of the issues involved in possession is who had
20 access, dominion and control over the residence. The facts leading up to the police locating
21 the marijuana are very relevant to the issue of possession. The fact that Mr. Rogers
22 previously resided in the home and was present at the home earlier in the evening, and
23 observed the marijuana plants while Defendant was in the home, directly ties Mr. Rogers to
24 the evidence¹. Additionally, Defendant makes statements to Mr. Rogers about the marijuana
25 and admits that the marijuana is his and that he owes people for the marijuana, which is
26 ///

27
28 ¹ Mr. Rogers' observations on June 2, 2013 are also relevant to prove possession. The fact that marijuana was present in
the home on June 2, 2013 and still present 10 days later show Defendant maintained dominion and control over the
evidence and, therefore, possessed the illegal drugs.

1 strong evidence of the fact that he not only possessed the drugs but was also involved in
2 distributing and/or selling the marijuana.

3 It is also important for the State to establish Defendant's whereabouts on the day in
4 question to show that he was aware of the items on the day they were found by police and to
5 refute any possible argument that someone else was responsible for putting the items in his
6 residence. Defendant's actions prior to the police entering the home explain why Defendant
7 was not present at the home. The police did find the house unsecured when they initially
8 arrived. Defendant could argue that this would suggest someone else was at the residence.
9 However, the physical altercation leading up to Defendant leaving his residence and his
10 forcible use of the vehicle clearly explain why the house was unsecured and contravene any
11 possible argument that anyone other than Defendant was responsible for the drugs found
12 inside.

13 Lastly, the fact that an incident occurred and Mr. Rogers contacted the police to report
14 the crime explain why police arrived at the house. Again, this would refute any possible
15 arguments that Defendant was unfairly targeted by police for any reason, which is a common
16 argument at trial.

17 **ii. Mr. Rogers' Observations on June 2, 2013 and June 12, 2013 and**
18 **the Defendant's Actions Towards Mr. Rogers on June 12, 2013,**
19 **Including His Statements Regarding the Marijuana, Are Relevant**
20 **to Defendants' Motive and Intent and To Demonstrate Possession**

21 NRS 48.045(2) makes other bad acts admissible under certain circumstances:

22 Evidence of other crimes, wrongs, or acts is not admissible to
23 prove the character of a person in order to show that he acted in
24 conformity therewith. It may, however, be admissible for other
25 purposes, such as proof of motive, opportunity, intent,
26 preparation, plan, knowledge, identity, or absence of mistake or
27 accident.

28 Evidence of a prior bad act such as a criminal conviction is admissible if the Court
determines: (1) the prior bad act is relevant to the crime charged and for a purpose other than
proving the defendant's propensity to commit the charged offense; (2) the act is proven by

1 clear and convincing evidence; and (3) the probative value of the evidence is not
2 substantially outweighed by the danger of unfair prejudice. Bigpond v. State, 270 P.3d 1244,
3 1249-1250 (2012) (modifying Tinch v. State, 113 Nev. 1170, 946 P.2d 1061 (1997)).
4 Moreover, “evidence of ‘other crimes, wrongs or acts’ may be admitted under NRS
5 48.045(2) for a relevant nonpropensity purpose other than those listed in the statute.” Id. at
6 1249.

7 Ultimately, the decision to admit or exclude evidence lies within the discretion of the
8 court and such a decision will not be reversed absent manifest error. Kazalyn v. State, 108
9 Nev. 67, 825 P.2d 578 (1992); Halbower v. State, 93 Nev. 212, 562 P.2d 485 (1977). The
10 decision to admit or exclude evidence of separate and independent acts rests within the
11 sound discretion of the trial court, and will not be disturbed unless manifestly wrong. Daly v.
12 State, 99 Nev. 564, 567, 665 P.2d 798, 801 (1983).

13 While evidence of other bad acts is inadmissible to show Defendant is of bad
14 character, such other bad acts are admissible when they are relevant and offered for a proper
15 purpose. NRS 48.045(2). The Nevada Supreme Court has routinely held such evidence is
16 relevant and admissible when offered for the proper purposes for which the State now seeks
17 admission of Defendants’ other bad acts. The Defendant’s prior act certainly goes to intent,
18 absence of mistake and knowledge.

19 In Petrocelli v. State, 101 Nev. 46 (1985) the defendant was convicted of first degree
20 murder and the death penalty was imposed. The Supreme Court affirmed the verdict. One
21 issue raised on appeal concerned the admissibility of testimony relating to the prior killing of
22 Petrocelli’s girlfriend.

23 Petrocelli had gotten into an argument with his fiancé and tried to drag her away from
24 work; she refused and a struggle ensued. Petrocelli pulled out a gun and killed his fiancé in
25 a flurry of shots; he claimed the death was accidental. After killing his fiancé Petrocelli fled
26 from Washington and eventually ended up in Reno. While test driving a vehicle in Reno,
27 Petrocelli shot and killed the car dealer with the same gun used on his fiancé, robbed the
28 victim and hid his body under rocks and sagebrush.

1 At trial, Petrocelli claimed he had gotten into an argument with the car dealer and as
2 they struggled for the gun it went off two or three times. The court held the testimony was
3 properly admissible under NRS 48.045(2) to show absence of mistake or accident stating in
4 101 Nev. at 50:

5 . . . that the “two killings with the same gun involving the same
6 person, Mr. Petrocelli, who within a short period of time
[committed the killings]” bore sufficient similarity to admit the
evidence at trial.

7 In both Felder v. State, 107 Nev. 237, 810 P.2d 755 (1991) the Court found that prior
8 bad act evidence related to the Defendants’ desperate financial condition showing that
9 Defendant took money from bank accounts without permission, forged signatures to obtain
10 credit cards and wrote checks without having sufficient funds to cover those checks were
11 admissible to demonstrate motive.

12 In Fields v. State, 125 Nev 785 (2009), the Court admitted testimony regarding
13 Defendant’s debts to a former friend and the friend’s foreclosure proceedings against the
14 defendant and his wife as well as a tape recording in which Defendant, his wife and another
15 individual discussed trying to kill their former friend. The Court found that the evidence of
16 Defendant’s prior debt and the situation surrounding the debt was relevant to show motive
17 and intent.

18 NRS 48.045(2) is identical to Federal Rules of Evidence, Rule 404(3)(b) and,
19 therefore, Federal cases interpreting this statute which provides assistance in determining the
20 admissibility of evidence under 48.045(2).

21 In United States v. Parker, 549 F.2d 1217 (CA9, 1977), defendants were convicted of
22 armed bank robbery and one defendant was convicted of bank larceny. During the course of
23 the trial, evidence was adduced that the defendant had been addicted to heroin for
24 approximately ten years and had been involved in drug counseling during most of that
25 period. The Court held that the evidence of defendant's narcotics dealing was admissible to
26 show his motive to commit a robbery. Defendant argued that the prejudicial affect of the
27 extrinsic offense substantially outweighed its probative value. The Court stated, *citing*
28 United States v. Mahler, 452 F.2d 547 (CA9, 1971), in 549 F.2d at 1222 “. . . Evidence

1 relevant to defendant's motive is not rendered inadmissible because of its highly prejudicial
2 nature. . . The best evidence often is!"

3 In establishing who possessed the drugs found at Defendant's residence on June 12,
4 2013, it is important for the State to establish Defendant's whereabouts and actions leading
5 up to the discovery of the marijuana grow. The fact that Mr. Rogers came to the house and
6 observed the marijuana grow on June 2, 2013 and then again on June 12, 2013 establishes
7 Defendant's connection to the drugs at the residence. Furthermore, Defendant's actions in
8 battering Mr. Rogers appear to be connected in part to the marijuana. Defendant asks Mr.
9 Rogers where the drugs are and indicates that he (Defendant) owes people for the drugs.
10 When Mr. Rogers does not give him the responses he desires, he proceeds to beat Mr.
11 Rogers about the head causing a severe laceration. Defendant's actions are evidence of his
12 possession and ownership of the drugs. Furthermore, his statements and actions show not
13 only did he possess the drugs for his benefit, but clearly he owed others for the drugs which
14 one could reasonably infer that he was distributing the drugs for others.

15 The facts surrounding Defendant leaving the house and that he was gone from the
16 residence until found in a stolen vehicle also explain why the house was found in disarray
17 and unsecured and would refute any possible claim that someone else was responsible for the
18 drugs being in the residence.

19 And, as stated previously under the complete story argument, the events are also
20 relevant and important to explain why police responded to the home and found the drugs.
21 The police officer's basis is important to refute any possible argument of police targeting the
22 Defendant or acting in an unacceptable manner, which are often arguments made at trial.

23 Because there are numerous valid reasons for admitting the evidence, other than
24 propensity, the evidence is admissible.

25 Any possible unfair prejudice can be handled by use of a jury instruction cautioning
26 the jury that each charge and the evidence pertaining to it should be considered separately.
27 Jury instructions are used to direct a jury on how to consider the evidence and such an
28 instruction is common and sufficient in cases involving much more inflammatory conduct

1 than presented in these cases to guide a jury in the correct application and use of other acts
2 evidence. Other than the usual prejudice that comes from evidence that tends to show a
3 Defendant committed the crime as alleged, there is no “unfair prejudice” that would accrue
4 to the Defendant. Furthermore, the probative value of establishing Defendant’s motive,
5 intent and providing the complete story is not “substantially outweighed” by the risk of
6 unfair prejudice.

7 **II. FAILING TO CONSOLIDATE THE CASES IS A SUBSTANTIAL WASTE** 8 **OF JUDICIAL RESOURCES**

9 Because the reasoning behind consolidation is the same as that opposing a motion for
10 severance, recent cases regarding severance provide useful guidance in matters of
11 consolidation, as well. In Howard v. State, 102 Nev. 572, 729 P.2d 1341 (1986), for
12 example, a defendant was convicted of two counts of robbery with use of a deadly weapon
13 and one count of first degree murder. In March of 1980, that defendant was caught trying to
14 defraud a Sears department store. Id. While being detained in the security office, the
15 defendant produced a handgun and made his escape. Id. In the process, he stole a security
16 officer's badge and a portable radio. Id. That day and the following day, the defendant used
17 the stolen badge and radio to lure a Las Vegas dentist to his death. Id. At one point during
18 the criminal proceedings, the defendant attempted to sever the charges arising out of the two
19 incidents, those being the robbery of the security guard and the murder of the dentist. Id.
20 There, the court noted that the defendant gained possession of the tools used in the second
21 crime during the robbery of the victim in the first crime, *and* that the two crimes occurred
22 within a twenty-four hour period. Id. The court also opined that one crime flowed into the
23 other. There, the court found that severance was inappropriate. Id.

24 Similarly, in Gibson v. State 96 Nev. 48, 50, 604 P.2d 814 (1980), the court also
25 found joinder or consolidation to be appropriate. That court held that joinder of offenses is
26 proper if the trying of all counts in the indictment will result in judicial economy and if the
27 criminal activity charged therein is part of a common scheme or plan. There, the defendant
28 stole a car in the State of California during an escape from prison. He drove the vehicle into

1 Nevada where he abandoned it and stole a second vehicle from a used car lot in
2 Winnemucca. Id. Charged with both offenses, the defendant was found guilty of grand
3 larceny for the first vehicle and possession of stolen property for the second vehicle. Id. At
4 one point the charges were filed separately. Id. Later, the district attorney moved for joinder
5 pursuant to NRS 173.115(2). The court ruled that, "Since the possession of the Toyota truck
6 and the subsequent larceny of the Ford truck could have been part of appellant's scheme or
7 plan to escape from the California Correctional Institution, these indictments were properly
8 joined." Id.

9 Here, as in the cases cited above, having two separate trials for these offenses would
10 cause an unnecessary waste of scarce judicial resources. As previously detailed, each of the
11 State's cases is part of a single transaction, and in fact, one case gives context and meaning
12 to the other. Furthermore, each case is cross admissible in the other case.

13 Significantly, if this Honorable Court does not grant the State's Motion to
14 Consolidate, the State intends on filing a motion for other bad acts to bring in the evidence
15 from the other. Therefore, this would, require the State to present the same evidence and the
16 same witnesses at each trial. Judicial economy would be best served by consolidating the
17 cases and proceeding with one trial against both Defendants for all acts arising out of the
18 events of June 12, 2013.

19 In sum, joinder of offenses is a means of avoiding expensive duplicative trials and
20 such joinder is favored where there are common elements of proof in the joined offenses,
21 and where the interest of judicial economy outweighs any prejudice to the defendant. United
22 States v. Wilson, 715 F.2d 1165, 1171 (7th Cir. 1983). There must be more prejudice shown
23 than is inherent in any joinder of counts. United States v. Bright, 630 F.2d 804 (5th Cir.
24 1980). It is insufficient to show that severance gives the defendants a better defense. They
25 must show prejudice of such a magnitude that they are denied a fair trial. United States v.
26 Martinez, 486 F.2d 15 (5th Cir. 1973). Thus, in light of the above cases and the facts in this
27 case, it is clear that many of the same individuals will be called to testify on all of the

28 ///

1 counts. The Defendant cannot demonstrate any prejudice which would deny him a fair trial,
2 or which is any greater than the amount of prejudice inherent in any joinder of counts.

3 **CONCLUSION**

4 For the above stated reasons, the State respectfully requests this Court to grant the
5 State's Motion and join Case C-13-292285-1 and Case C-13-290942-1 for trial.

6
7 DATED this 4th day of October, 2013.

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

10
11 BY /s/ Shannon Wittenberger
12 SHANNON WITTENBERGER
13 Deputy District Attorney
Nevada Bar #012304

14 **CERTIFICATE OF ELECTRONIC FILING**

15 I hereby certify that service of the above and foregoing, was made this 4th day of
16 October, 2013, by Electronic Filing to:

17
18 G. DARREN COX, Deputy Public Defender
19 E-mail Address: coxGD@clarkcountyNV.gov
20 pdclerk@clarkcountyNV.gov

21
22
23
24 By: /s/ D. Jason
Secretary for the District Attorney's Office


CLERK OF THE COURT

MLIM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SHANNON WITTENBERGER
Deputy District Attorney
Nevada Bar #012304
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JERRY LEE DIXON,
#2807953,

Defendant.

CASE NO: C-13-292285-1

DEPT NO: XI

NOTICE OF MOTION AND MOTION IN LIMINE

DATE OF HEARING: 10/21/2013

TIME OF HEARING: 9:00 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through SHANNON WITTENBERGER, Deputy District Attorney, and files this NOTICE OF MOTION AND MOTION IN LIMINE.

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

///

///

///

///

///

///

1 NOTICE OF HEARING

2 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned
3 will bring the foregoing motion on for setting before the above entitled Court, in Department
4 ~~X~~ I thereof, on , Monday, the 21st day of October, 2013, at the hour of 9:00 o'clock AM, or as
5 soon thereafter as counsel may be heard.

6 DATED this 4th day of October, 2013.

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

10 BY /s/ Shannon Wittenberger
11 SHANNON WITTENBERGER
12 Deputy District Attorney
Nevada Bar #012304

13 POINTS AND AUTHORITIES

14 FACTS

15 FACTS OF INSTANT CASE

16 On June 11, 2013, Officer Bryan was involved in the execution of a search warrant at
17 5120 Vista Del Rancho. Officer Bryan determined that the utility services through NV
18 Energy were in the name of the Defendant. Officer Bryan located an active marijuana grow
19 in the hallway bathroom consisting of five marijuana plants in the bathtub and a lighting
20 system consisting of two fluorescent lights and a cooling fan. He also located the following:
21 twenty-three (23) marijuana edibles located on the kitchen counter; five packages of
22 marijuana clippings packaged in nylon stockings and one plastic bag containing marijuana
23 clippings with a gross weight of 3,821 grams in the kitchen freezer; a digital scale located on
24 the kitchen counter; a letter addressed to Jerry Dixon with the address of 5120 Vista Del
25 Rancho located on the kitchen table; and a Tropicana work identification card with a
26 photograph and the name of Jerry Dixon located on the kitchen table.

27 The marijuana edibles, plants and clippings were tested by Officer Rodriguez and
28 tested positive.

1 **ARGUMENT**

2 The State moves to admit the following facts into evidence.¹ Prior to the June 2,
3 2012, Phillip Rogers and Defendant had been in a relationship and lived at 5120 Vista Del
4 Rancho. On June 2, 2012, Mr. Rogers went to the home to retrieve his belongings. He
5 utilized the services of the North Las Vegas Police Department to assist as a civil standby.
6 Officers cleared the scene and left Mr. Rogers there to get his belongings. Mr. Rogers
7 obtained some of his clothes for the time being and had no problems. Mr. Rogers observed
8 marijuana plants in the bathroom that had not, to his knowledge, previously been at the
9 residence. After June 2, 2013 and prior to June 12, 2013, Mr. Rogers and the Defendant
10 texted a couple of times in reference to property.

11 On June 12, 2013, Mr. Rogers' roommate Jessica Johnson allowed Mr. Rogers to
12 borrow her vehicle, a 2005 yellow Chevy bearing NV plate 217XJY, as long as he picked
13 her up from work at 5:30 p.m. At approximately 1:00 p.m., Defendant sent Mr. Rogers a
14 text message asking for a ride from the area of Twain and Paradise back to 5120 Vista Del
15 Rancho. Mr. Rogers wanted to maintain a cordial relationship because he still had to obtain
16 some of his property from the house, so he picked up Defendant and drove him to the
17 residence. Defendant invited Mr. Rogers into the house to talk. Once they were inside,
18 Defendant's demeanor changed and he immediately started demanding that Mr. Rogers tell
19 him where all his marijuana was located. Mr. Rogers did not know what Defendant was
20 talking about. Defendant punched Mr. Rogers once on the left side of his face and said
21 "Look in my eyes, I'm not fucking with you!" Mr. Rogers tried to run out of the house but
22 Defendant cornered him at the front door and said he owed some people money over the
23 marijuana and they wanted to kill Defendant. Mr. Rogers continued to tell Defendant he
24 never took anything from him. Defendant punched Mr. Rogers on the top of his head 3 or 4
25 times with his left fist. Defendant had a large ring on his left fist which struck Mr. Rogers
26 on the head and caused a large gash on Mr. Roger's head. As a result of the injury, blood
27

28 ¹ The State is in the process of filing a Motion to Consolidate Case C-13-292285-1 (this case) and C-13-290942-1
(involving the other crimes committed by Defendant on June 12, 2013) in District Court Department 10 due to C-13-
290942-1 being the lower case number.

1 was running down Mr. Rogers' face and neck. Defendant pulled out a pair of scissors from
2 his pants pocket and held them to Mr. Rogers' throat and told Mr. Rogers that both of them
3 were in danger and one of them had to die but it was not going to be Defendant. Defendant
4 then pinned Mr. Rogers against the wall by his neck and started cutting off Mr. Rogers' air
5 supply causing Mr. Rogers to see stars. Mr. Rogers did bite Defendant in an attempt to
6 defend himself.

7 Mr. Rogers got up, opened the front door, and was half way out when Defendant
8 caught Mr. Rogers by his shirt and tried to pull him back into the house. Mr. Rogers was
9 able to get out of his shirt and run towards the car. At the car, Defendant threw Mr. Rogers
10 down against the hood and took Mr. Rogers' cell phone, wallet and car keys. Defendant ran
11 back inside the house and locked Mr. Rogers outside. Mr. Rogers went to two neighboring
12 houses for help but no one answered.

13 After approximately five minutes, Defendant opened the door. Mr. Rogers asked for
14 his property and Defendant walked back inside, leaving the door open. Mr. Rogers asked if
15 he could get his stuff and leave with no problems. Defendant then began apologizing for his
16 actions and said he was just scared. Mr. Rogers told Defendant he had to leave to pick up
17 Jessica from work. Defendant told Mr. Rogers the only way Mr. Rogers was leaving was if
18 Defendant drove him. Mr. Rogers was unable to convince Defendant to give him keys or
19 phone and he did not want to be late picking Jessica up so he gave into Defendant.
20 Defendant drove the vehicle and Mr. Rogers got in the passenger seat. Defendant began
21 driving West on Craig Road and North on the 95 towards Mount Charleston. Mr. Rogers
22 asked numerous times where they were going and Defendant said he was taking them both
23 out of the city because he was scared for their safety. They ended up passing the Mount
24 Charleston Lodge and pulling over on the side of the road. Defendant said he wanted to
25 walk into the forest with Mr. Rogers so they could pray together. Mr. Rogers stayed in the
26 car and kept saying he wanted to go home. Defendant got back in the car, did a u-turn and
27 said he would take Mr. Rogers home. Defendant then pulled into another turn off and
28 parked. Defendant walked over to the passenger side and opened the car door. Defendant

1 pulled Mr. Rogers up and started hugging and kissing him. Defendant apologized for
2 everything and kept telling Mr. Rogers he loved him and wanted to get back together. As
3 Defendant was telling Mr. Rogers these things, he continued to hug him and was inching
4 towards a ledge nearby. Mr. Rogers was concerned for his safety and dropped his weight
5 and sat down. Defendant said he would take him home and Mr. Rogers got up to walk back
6 to the car. Defendant then turned around and said "You got to go Bro" and shoved Mr.
7 Rogers over the ledge. Mr. Rogers fell about 6 feet down and landed with his right arm
8 behind his head. He started sliding down the hill towards an even larger drop but stopped
9 himself using a small tree. Mr. Rogers got himself up and saw Defendant running towards
10 the car. Defendant got into the car and sped down the mountain.

11 Mr. Rogers flagged down a passerby who drove him to the hotel and Mr. Rogers
12 called 9-1-1. Officer Aiello made contact with Mr. Rogers and observed a large open gash
13 on the top of his head, caked blood along the back of his ears, a large fresh bruise forming on
14 his left cheek bone, fresh bloody scratches and cuts along the right side of his body including
15 his right shinbone, right forearm and right wrist. There were beginnings of a large swollen
16 bruise on the top of his right shoulder as well. Officer Aiello also observed that Mr. Rogers
17 had bloodshot eyes and small faint red dots (petechia) in his eyes and along the left side of
18 his neck. Mr. Rogers told Officer Aiello that his throat was sore and it hurt to swallow.
19 Officer Aeillo also noticed that Mr. Rogers' voice was dry and hoarse at times. Mr. Rogers
20 received seven staples to the laceration on his head.

21 Officer Aeillo also spoke to Jessica Johnson, the owner of the vehicle, who indicated
22 she did not give Defendant permission to drive her vehicle.

23 At approximately 10:00 p.m., Officer Cavaricci and Officer Johnson were sent to
24 5120 Vista Del Rancho in an attempt to make contact with a person of interest. Upon
25 arrival, they knocked on the front door and could see the door had been forced open and was
26 unsecured. They entered to check on the welfare of any occupants and observed that the
27 interior was in total disarray with items thrown all over the ground. A fair amount of blood
28 was found in the entry way along with a blood soaked shirt. The bathroom contained an

1 active marijuana grow with several plants in the bathtub. Officers also observed harvested
2 marijuana in several locations throughout the residence in plain view. Officers then
3 contacted the narcotics bureau.

4 Officers obtained a search warrant for the residence at 5120 Vista Del Rancho.

5 Officer Radich stopped Jessica's vehicle at Twain and Cambridge. Defendant was
6 driving the vehicle and was taken into custody. Officer Radich located Mr. Rogers' cell
7 phone, wallet and keys in the vehicle.

8 **I. EVIDENCE REGARDING DEFENDANT'S ACTIONS LEADING UP TO THE**
9 **POLICE FINDING THE DRUGS IN DEFENDANT'S RESIDENCE IS**
10 **ADMISSIBLE TO TELL THE COMPLETE STORY, AS EVIDENCE OF**
11 **POSSESSION, AND AS EVIDENCE OF DEFENDANT'S INTENT TO SELL**

12 **A. Evidence Regarding the Interaction Between Defendant and Mr. Rogers,**
13 **as Well as Defendant's Actions Leading Up to the Discovery of the**
14 **Marijuana, Are Necessary to Give the Complete Story**

15 The State seeks to admit the complete story of events from the night of June 12, 2013.
16 NRS 48.035 (3) provides:

17 Evidence of another act or crime which is so closely related to an
18 act in controversy or a crime charged that an ordinary witness
19 cannot describe the act in controversy or the crime charged
20 without referring to the other act or crime shall not be excluded,
21 but at the request of an interested party, a cautionary instruction
22 shall be given explaining the reason for its admission.

23 Additionally, in Bellon v. State, 121 Nev. 436, 443-44, 117 P.3d 176, 180-81 (2005), the
24 Nevada Supreme Court held the State in a criminal prosecution may present a full and
25 accurate account of the crime, and such evidence is admissible even if it implicates the
26 defendant in the commission of other uncharged acts. *See also*, Bletcher v. State, 111 Nev.
27 1477, 907 P.2d 978 (1995). The test requires the State to show that "the crime must be so
28 interconnected to the act in question that a witness cannot describe the act in controversy
without referring to the other crime." Bellon, *supra*.; Bletcher, 111 Nev. at 1480, 907 P.2d at
980.

One of the elements the State must prove is possession of the drugs found at
Defendant's residence. Obviously one of the issues involved in possession is who had

1 access, dominion and control over the residence. The facts leading up to the police locating
2 the marijuana are very relevant to the issue of possession. The fact that Mr. Rogers
3 previously resided in the home and observed marijuana on June 2, 2013 and again on June
4 12, 2013, the later time while Defendant was in the home, directly ties Defendant to the
5 evidence. Furthermore, Defendant's actions prior to the police entering the home explain
6 why Defendant was not present at the home when police did recover the evidence.
7 Additionally, Defendant makes statements to Mr. Rogers about the marijuana and admits
8 that the marijuana is his and that he owes people for the marijuana, which is strong evidence
9 of the fact that he not only possessed the drugs but was also involved in distributing and/or
10 selling the marijuana.

11 It is also important for the State to establish Defendant's whereabouts on the day in
12 question to show that he was aware of the items on the day they were found by police and to
13 refute any possible argument that someone else was responsible for putting the items in his
14 residence. The police did find the house unsecured when they initially arrived. Defendant
15 could argue that this would suggest someone else was at the residence. However, the
16 physical altercation leading up to Defendant leaving his residence and his actions clearly
17 explain why the house was unsecured and contravene any possible argument that any one
18 other than Defendant was responsible for the drugs found inside.

19 Lastly, the events explain why police arrived at the house. Again, this would refute
20 any possible arguments that Defendant was unfairly targeted by police for any reason, which
21 is a common argument at trial.

22 Not allowing evidence of Defendant's actions on the day of the crime does not give
23 context to a jury and would result in telling the story in a vacuum. Doing so makes it very
24 difficult to provide the jury with the whole picture of the true situation and often leaves
25 many questions in the minds of the jurors. Prohibiting such evidence handicaps the State's
26 ability to adequately present a fair and accurate representation of what occurred on June 12,
27 2013 and how Defendant is related to the crime alleged.

28 ///

1 **B. Standard for Admissibility of Other Bad Acts**

2 NRS 48.045(2) makes other bad acts admissible under certain circumstances:

3 Evidence of other crimes, wrongs, or acts is not admissible to
4 prove the character of a person in order to show that he acted in
5 conformity therewith. It may, however, be admissible for other
6 purposes, such as proof of motive, opportunity, intent,
7 preparation, plan, knowledge, identity, or absence of mistake or
8 accident.

9 Evidence of a prior bad act such as a criminal conviction is admissible if the Court
10 determines: (1) the prior bad act is relevant to the crime charged and for a purpose other than
11 proving the defendant's propensity to commit the charged offense; (2) the act is proven by
12 clear and convincing evidence; and (3) the probative value of the evidence is not
13 substantially outweighed by the danger of unfair prejudice. Bigpond v. State, 270 P.3d 1244,
14 1249-1250 (2012) (modifying Tinch v. State, 113 Nev. 1170, 946 P.2d 1061 (1997)).
15 Moreover, "evidence of 'other crimes, wrongs or acts' may be admitted under NRS
16 48.045(2) for a relevant nonpropensity purpose other than those listed in the statute." Id. at
17 1249.

18 Ultimately, the decision to admit or exclude evidence lies within the discretion of the
19 court and such a decision will not be reversed absent manifest error. Kazalyn v. State, 108
20 Nev. 67, 825 P.2d 578 (1992); Halbower v. State, 93 Nev. 212, 562 P.2d 485 (1977). The
21 decision to admit or exclude evidence of separate and independent acts rests within the
22 sound discretion of the trial court, and will not be disturbed unless manifestly wrong. Daly v.
23 State, 99 Nev. 564, 567, 665 P.2d 798, 801 (1983).

24 **C. The Defendant's Actions Towards Mr. Rogers, Including His Statements
25 Regarding the Marijuana, Are Relevant to Defendants' Motive and Intent
26 and To Demonstrate Possession**

27 While evidence of other bad acts is inadmissible to show Defendant is of bad
28 character, such other bad acts are admissible when they are relevant and offered for a proper
29 purpose. NRS 48.045(2). The Nevada Supreme Court has routinely held such evidence is
30 relevant and admissible when offered for the proper purposes for which the State now seeks

1 admission of Defendants' other bad acts. The Defendant's prior act certainly goes to intent,
2 absence of mistake and knowledge.

3 In Petrocelli v. State, 101 Nev. 46 (1985) the defendant was convicted of first degree
4 murder and the death penalty was imposed. The Supreme Court affirmed the verdict. One
5 issue raised on appeal concerned the admissibility of testimony relating to the prior killing of
6 Petrocelli's girlfriend.

7 Petrocelli had gotten into an argument with his fiancé and tried to drag her away from
8 work; she refused and a struggle ensued. Petrocelli pulled out a gun and killed his fiancé in
9 a flurry of shots; he claimed the death was accidental. After killing his fiancé Petrocelli fled
10 from Washington and eventually ended up in Reno. While test driving a vehicle in Reno,
11 Petrocelli shot and killed the car dealer with the same gun used on his fiancé, robbed the
12 victim and hid his body under rocks and sagebrush.

13 At trial, Petrocelli claimed he had gotten into an argument with the car dealer and as
14 they struggled for the gun it went off two or three times. The court held the testimony was
15 properly admissible under NRS 48.045(2) to show absence of mistake or accident stating in
16 101 Nev. at 50:

17 . . . that the "two killings with the same gun involving the same
18 person, Mr. Petrocelli, who within a short period of time
19 [committed the killings]" bore sufficient similarity to admit the
evidence at trial.

20 In both Felder v. State, 107 Nev. 237, 810 P.2d 755 (1991) the Court found that prior
21 bad act evidence related to the Defendants' desperate financial condition showing that
22 Defendant took money from bank accounts without permission, forged signatures to obtain
23 credit cards and wrote checks without having sufficient funds to cover those checks were
24 admissible to demonstrate motive.

25 In Fields v. State, 125 Nev 785 (2009), the Court admitted testimony regarding
26 Defendant's debts to a former friend and the friend's foreclosure proceedings against the
27 defendant and his wife as well as a tape recording in which Defendant, his wife and another
28 individual discussed trying to kill their former friend. The Court found that the evidence of

1 Defendant's prior debt and the situation surrounding the debt was relevant to show motive
2 and intent.

3 NRS 48.045(2) is identical to Federal Rules of Evidence, Rule 404(3)(b) and,
4 therefore, Federal cases interpreting this statute which provides assistance in determining the
5 admissibility of evidence under 48.045(2).

6 In United States v. Parker, 549 F.2d 1217 (CA9, 1977), defendants were convicted of
7 armed bank robbery and one defendant was convicted of bank larceny. During the course of
8 the trial, evidence was adduced that the defendant had been addicted to heroin for
9 approximately ten years and had been involved in drug counseling during most of that
10 period. The Court held that the evidence of defendant's narcotics dealing was admissible to
11 show his motive to commit a robbery. Defendant argued that the prejudicial affect of the
12 extrinsic offense substantially outweighed its probative value. The Court stated, citing
13 United States v. Mahler, 452 F.2d 547 (CA9, 1971), in 549 F.2d at 1222 “. . . Evidence
14 relevant to defendant's motive is not rendered inadmissible because of its highly prejudicial
15 nature. . . The best evidence often is!”

16 In establishing who possessed the drugs found at Defendant's residence on June 12,
17 2013, it is important for the State to establish Defendant's whereabouts and actions leading
18 up to the discovery of the marijuana grow. The fact that Mr. Rogers came to the house and
19 observed the marijuana grow on June 2, 201,3 and then again on June 12, 2013, establishes
20 Defendant's connection to the drugs at the residence. Furthermore, Defendant's actions in
21 battering Mr. Rogers are connected to the marijuana possession as well. Defendant asks Mr.
22 Rogers where the drugs are and indicates that he (Defendant) owes people for the drugs.
23 When Mr. Rogers does not give him the responses he desires, he proceeds to beat Mr.
24 Rogers about the head causing a severe laceration. Defendant's actions are evidence of his
25 possession and ownership of the drugs. Furthermore, his statements and actions show not
26 only did he possess the drugs for his benefit, but clearly he owed others for the drugs which
27 one could reasonably infer that he was distributing the drugs for others.

28 ///

1 The facts surrounding Defendant leaving the house and that he was gone from the
2 residence until found in a stolen vehicle also explain why the house was found in disarray
3 and unsecured and would refute any possible claim that someone else was responsible for the
4 drugs being in the residence.

5 And, as stated previously under the complete story argument, the events are also
6 relevant and important to explain why police responded to the home and found the drugs.
7 The police officer's basis is important to refute any possible argument of police targeting the
8 Defendant or acting in an unacceptable manner, which are often arguments made at trial.

9 Because all of the reasons are for something other than propensity, the evidence is
10 admissible.

11 **II. The Probative Evidence of the Defendant's Other Bad Acts Are Not**
12 **Substantially Outweighed By The Danger Of Unfair Prejudice.**

13 The third prong of the prerequisites to admitting evidence of other bad acts requires
14 the Court to strike a proper balance between the probative value of the evidence and its
15 prejudicial dangers. Tinch v. State, *supra*; *See also* Elsbury v. State, 90 Nev. 50, 518 P.2d
16 599 (1974). In addition to being critically relevant to disputed issues in this case, the intent
17 of the Defendants, the probative value of Defendant's prior conduct is not substantially
18 outweighed by the potential for unfair prejudice. As is always the case, evidence that is
19 probative to the State's case is inherently going to be prejudicial to the defense case.
20 However, any possibility of prejudice can be cured by a limiting instruction. *See Chavez v.*
21 *State*, 125 Nev. 328, 345, 213 P.3d 476, 488 (2009) (limiting instruction cured any unfair
22 prejudice associated with the introduction of bad act evidence). Additionally, the prior acts
23 regarding Defendant's interaction with Mr. Rogers are distinct from the possession of the
24 drugs. Therefore, it is extremely unlikely that it will unfairly prejudice the Defendants. On
25 the other hand, the evidence is extremely probative and relevant to Defendant's possession
26 of the drugs and his intent to sell or distribute the drugs. Admission of Defendant's prior
27 conduct is highly probative and is certainly not substantially outweighed by the risk of unfair

28 ///

1 prejudice. Finally, any small risk of unfair prejudice would be effectively counteracted by
2 the Court's limiting instructions.

3 **CONCLUSION**

4 For the above stated reasons, the State respectfully requests this Court to grant the
5 State's Motion in Limine and admit the proposed evidence.

6
7 DATED this 7th day of October, 2013.

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

10
11 BY /s/ Shannon Wittenberger
12 SHANNON WITTENBERGER
13 Deputy District Attorney
Nevada Bar #012304

14 **CERTIFICATE OF ELECTRONIC FILING**

15 I hereby certify that service of the above and foregoing, was made this 7th day of
16 October, 2013, by Electronic Filing to:

17
18 G. DARREN COX, Deputy Public Defender

19 E-mail Address: coxGD@clarkcountyNV.gov
20 pdclerk@clarkcountyNV.gov

21
22
23
24 By: /s/ D. Jason

25 Secretary for the District Attorney's Office
26
27
28


CLERK OF THE COURT

0208
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
309 South Third Street, Suite 226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)	
)	
Plaintiff,	)	CASE NO. C-13-292285-1
)	
	)	DEPT. NO. XI
JERRY LEE DIXON,)	
	)	DATE: October 21, 2013
Defendant.	)	TIME: 9:00 a.m.

MOTION TO SUPPRESS

COMES NOW, the Defendant, JERRY LEE DIXON, by and through MARIA N. JACOB, Deputy Public Defender and hereby moves this honorable court to suppress illegally obtained evidence under Article 1, Section 18 of the Nevada Constitution and the Fourth Amendment to the United States Constitution, and a result dismiss the charge.

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

DATED this 7th day of October, 2013.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Maria N. Jacob
MARIA N. JACOB, #12410
Deputy Public Defender

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

DECLARATION

MARIA N. JACOB makes the following declaration:

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

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

EXECUTED this 7th day of October, 2013.

/s/ Maria N. Jacob
MARIA N. JACOB

1 **FACTS**

2 On June 11, 2013, Las Vegas Metropolitan Police Department officers responded to 5120
3 Vista Del Rancho in reference to an attempt murder that was reported earlier in the day (exhibit 1).
4 Officers were attempting to locate the alleged suspect, Jerry Dixon. The alleged victim, Phillip
5 Rogers, called 911 from the Mount Charleston Hotel at 2755 Kyle Canyon making allegations that
6 Jerry Dixon attempted to use force against him (exhibit 2). During this conversation, Mr. Rogers told
7 the police that Mr. Dixon resided at 5120 Vista Del Rancho. At this time, Mr. Rogers was safe,
8 secured, and away from the alleged suspect (exhibit 2).

9 When the officers arrived at 5120 Vista Del Rancho, they knocked on the door to attempt to
10 locate Mr. Dixon but received no answer (exhibit 1). The officers allegedly observed that the door
11 may have been forced open at one point and so they entered the residence without a warrant, saying
12 that they were conducting a protective sweep of the residence to check the welfare of the occupants
13 (exhibit 1).

14 As a result of this warrantless search, the officers observed purported narcotics inside the
15 residence. Based on this observation, the officers were able to obtain a telephonic search warrant to
16 search the rest of the residence (exhibit 3).

17 **POINTS AND AUTHORITIES**

18 Warrantless home entries, under the Fourth Amendment to the United States Constitution are
19 presumptively unreasonable unless justified by a well-delineated exception to the warrant
20 requirement. Katz v. United States, 389 U.S 347, 357 (1967). One such exception to the warrant
21 requirement is the protective sweep doctrine which authorizes officers to conduct a warrantless
22 search incident to arrest when there are “articulable facts would warrant a reasonably prudent officer
23 in believing that the area to be swept harbors an individual posing a danger to those on the arrest
24 scene.” Maryland v. Buie, 494 U.S. 325 (1990).

25 Another exception to the warrant requirement is the need to “need to render emergency
26 assistance to an injured occupant or to protect an occupant from imminent injury.” Bringham City v.
27 Stuart, 547 U.S 398, 404 (2006), Hannon v. State, 207 P.3d 344, 346 (2009). This “emergency
28

1 doctrine” is only valid when law enforcement has an objectively reasonable basis to believe that
2 there is an immediate need to protect the lives or safety of themselves or others. *Id* at 147.

3 **ARGUMENT**

4 **I. THE PROTECTIVE SWEEP DOCTRINE DOES NOT APPLY IN THIS CASE BECAUSE** 5 **THERE WAS NO ARREST**

6 The officers in this case could not rely on the protective sweep exception to the warrant
7 requirement because there was no arrest that would allow them to conduct a search incident to arrest.
8 The Nevada Supreme Court adopted the United States Supreme Court standard for allowing
9 protective sweeps during a search incident to arrest. *Hayes v. State*, 106 Nev. 543 (1990). The
10 Nevada court agreed that a protective sweep is only justified incident to an arrest of a defendant if
11 there are “articulable facts which, taken together with the rational inferences from those facts, would
12 warrant a reasonably prudent officer in believing that the area to be swept harbors an individual
13 posing a danger to those on the arrest scene.” *Id* at 549. The court in *Hayes* found that the officers
14 were not reasonable when they conducted their protective sweep because there was no reason to
15 believe anyone was in danger. *Hayes v. State*, 106 Nev. 543 (1990).

16 However, we do not even need to assess the reasonableness of the officers in this case
17 because there was no arrest, which is the first and most crucial part of the standard allowing
18 warrantless searches under the protective sweep doctrine. *Maryland v. Buie*, 494 U.S. 325 (1990).
19 In this case, the alleged victim called 911 from a completely different location after the event had
20 already allegedly occurred and after the alleged suspect was already separated from the alleged
21 victim. Furthermore, the officers went to 5120 Vista Del Rancho in order to locate the alleged
22 suspect, making it clear that no arrest had yet been made. Therefore, the officers could not use this
23 exception to justify their warrantless entry into the residence because the doctrine only allows a
24 sweep pursuant to a search incident to arrest.

1 **II. THE OFFICERS HAD NO OBJECTIVE BASIS FOR BELIEVING THERE WAS AN**
2 **IMMEDIATE NEED TO PROTECT THE LIVES OR SAFETY OF THEMSELVES OR**
3 **OTHERS**

4 The second exception to the warrant requirement that the Las Vegas Metropolitan Police
5 Department wrongfully relied upon on June 11, 2013 was the “emergency doctrine” or the “welfare
6 check” exception. Hannon v. State relied upon the United States Supreme Court ruling in Scott v.
7 United States to require that law enforcement have an objectively reasonable basis to believe that
8 there was an immediate need to protect the lives or safety of themselves or others when using the
9 “emergency” exception to the warrant requirement. Hannon v. State, 125 Nev. 142 (2009), Scott v.
10 United States, 436 U.S. 128 (1978).

11 In *Hannon*, officers received a domestic disturbance call from a neighbor saying that she
12 overheard “yelling and screaming and thumping against the walls” in Hannon’s apartment. Hannon
13 v. State, 125 Nev. 142, 143 (2009). Officers responded to this call to find Hannon’s girlfriend
14 answering the door and assuring officers more than once that although there was a verbal argument
15 between her and Hannon, nobody was injured and everyone was okay. *Id* at 144. Despite
16 Robinson’s answers and refusal to allow officers to enter the home, officers tried to justify their
17 warrantless entry saying they wanted to check the welfare of those inside. Hannon v. State, 125 Nev.
18 142, 144 (2009). The *Hannon* court did not agree with the officer’s conduct when they concluded
19 that they had no objectively reasonable basis to believe that a third party was injured inside. *Id* at
20 147. The court based their reasoning on the following factors: 1) Officers did not witness, let alone
21 overhear, sounds of an altercation when they arrived so there was no need for “swift” action; 2)
22 Nobody exhibited any signs of injury and when asked if anyone was harmed, both responded that
23 they were not; and lastly, 3) No indicia existed to believe a third person was inside Hannon’s
24 apartment. Hannon v. State, 125 Nev. 142, 147, 148 (2009).

25 We can use the same factors to conclude that officers in this case also did not have an
26 objectively reasonable basis to believe that there was an immediate need to protect the lives or safety
27 of themselves or others on June 11, 2013 when they entered 5120 Vista Del Rancho without a
28 warrant. Firstly, officers did not overhear or witness any signs of an altercation between individuals

1 upon their arrival to the residence. In fact, they observed just the opposite. They knocked on the
2 door and realized there was nobody home. The officers claim that they saw something on the door
3 to indicate that it might have been forced open at some point but there is no evidence that this was a
4 result of the incident reported and more importantly, the altercation reported was already under
5 control and the situation was diffused. There was no reason for officers to believe that the
6 altercation was ongoing and so they were unreasonable in using the condition of the door that was
7 closed but had signs of possible forced entry from an unknown time, to say that there was possibly
8 another altercation going on inside.

9 Secondly, there was no answer at the residence whatsoever and no evidence to suggest
10 anyone was even inside for officers to believe that there could be someone inside that was injured.
11 Lastly, the officers had no reason to believe that there was a third party involved in the incident and
12 that a possible third party was inside the residence. Philip Rogers reported that it was Mr. Dixon
13 who tried to hurt him and Mr. Rogers did not say anything about Mr. Dixon wanting to harm anyone
14 else. According to the *Hannon* factors in determining the reasonableness of a welfare check or
15 emergency entry, the officers in this case do not even come close to showing that they had an
16 objectively reasonable basis for thinking there was a need to protect anyone's safety by entering. At
17 least in *Hannon*, there were individuals at the residence who were reported to be fighting inside the
18 residence at some point. *Hannon v. State*, 125 Nev. 142, 143 (2009). In this case, there was much
19 less evidence to support the officers decision to enter the home and the *Hannon* court as well as the
20 United Supreme Court would find that this entry was illegal and not based on any exception to the
21 warrant requirement.

22 **III. THE EVIDENCE OBTAINED AS A RESULT OF THE ILLEGAL ENTRY SHOULD BE** 23 **SUPPRESSED**

24 The officers in this case wrongfully relied upon two exceptions to the warrant requirement
25 and because of their illegal entry into 5120 Vista Del Rancho, they illegally obtained evidence that
26 should be suppressed pursuant to the exclusionary rule that "prohibits the introduction of tangible
27 materials seized during an unlawful search." *Murray v. United States*, 487 U.S. 533, 436 (1988).
28 "The exclusionary rule also prohibits the introduction of derivative evidence that is the product of

1 the primary evidence, or that is otherwise acquired as an indirect result of the unlawful search.” *Id.*
2 The officers in this case were only able to obtain a search warrant based on an illegal entry that was
3 not justified by any exceptions to the warrant requirement and is therefore evidence that was
4 acquired as an indirect result of the unlawful search. Because the exclusionary rule applies to such
5 evidence, the narcotics found as a result of the illegal entry and anything else found pursuant to the
6 execution of the later obtained search warrant should be suppressed.

7 **CONCLUSION**

8 Based on the foregoing reasons, Mr. Dixon respectfully moves this court to suppress the
9 illegally obtained evidence in this case and dismiss the charge against him.

10 DATED this 7th day of October, 2013.

11 PHILIP J. KOHN
12 CLARK COUNTY PUBLIC DEFENDER

13
14 By: /s/ Maria N. Jacob
15 MARIA N. JACOB, #12410
16 Deputy Public Defender
17
18
19
20
21
22
23
24
25
26
27
28

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

NOTICE OF MOTION

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing Motion to Suppress will be heard
on ²¹16th day of October, 2013, at 9:00 a.m. in Department No. XI of the District Court.

DATED this 7th day of October, 2013.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Maria N. Jacob
MARIA N. JACOB, #12410
Deputy Public Defender

CERTIFICATE OF SERVICE BY ELECTRONIC TRANSMISSION

I hereby certify that service of the foregoing Motion to Suppress was made on the 7th day of
October, 2013, by electronic service to the District Attorney's Office with a courtesy copy to District
Court Department 11.

By: /s/ Annie McMahan
Employee of the Public Defender's Office



INFORMATION - ONLY

Case No. 130611010068
E-Police No.
Report No. 130611010068.2
Report Date: 6/11/2013

11

Page 11 of 26

Subject:	INFO	Routing	
Case Report Status	A - Approved	Case Status	O - Open
Case Attachments	Yes	Date Entered	6/11/2013 10:54:17 PM
		Entered By	NL2104 - Johnson, Ryan
Occurred On (and Between)	6/11/2013 10:00:00 PM	Date Verified	6/12/2013 12:16:31 AM
		Verified By	NL1403 - Cargile, John
Location	5120 VISTA DEL RANCHO WAY	Date Approved	6/13/2013 9:43:07 PM
Jurisdiction	N	Approved By	NL1444 - Hamilton, Deborah
		Connecting Cases	
Grid	NE2 - 0	Disposition	Active
Sector	E	Clearance Reason	
Map		Date of Clearance	
Census/Geo		Reporting Agency	North Las Vegas Police Department
Call Source	Phone	Division	NWAC 1500 2300
		Notified	
Vehicle Activity		Means	L-111 - Single Family
Vehicle Traveling		Other Means	
Cross Street		Motive	999 - Other motive not listed above
		Other Motives	
Reporting Officer			NL2104 - Johnson, Ryan
Assisted By			NL1967 - Aiello, Jenifer NL1403 - Cargile, John NL1917 - Cavaricci, Gianni NL2035 - Gaston, Lee NL2027 - Lee, Skyler

Offense Detail: Info09 - Information Only

Offense Description	Info09 - Information Only	Location	20 - Residence/Home	No. Prem. Entered	
IBR Code		Offense Completed?	Yes	Entry Method	
IBR Group		Hate/Bias	88 - None (No Bias)	Type Security	
Crime Against		Domestic Violence	No	Gang Related	No
Using	D - Drugs/Narcotics	Fraud Related	No		
Tools Used					
Criminal Activity					
Weapons					

Report Narrative On 06/11/2013 at about 2200 hours, Officer G. Cavaricci P#1917 and I were dispatched with Sgt. J. Cargile P#1403, S. Lee P#2027 and L. Gaston P#2035 to 5120 Vista Del Rancho in an attempt to make contact with a person of interest.

Upon arrival, we knocked on the front door and could see the front door had been forced open and was unsecured. At that time we initiated a protective sweep of the residence to check the welfare of the occupants. As we cleared the residence, we noticed the interior was in total disarray with items thrown all over the ground. A fair amount of blood was found in the entry way along with a blood soaked shirt. The garage was converted into a marijuana grow operation, however no plants were located in the garage. The bathroom contained an active grow with several plants in the bathtub. We located harvested marijuana in several locations throughout the residence laying in plain view.

We then backed out of the residence, notified the detective bureau and the narcotics bureau. The residence was secured until both units arrived to take over the scene.

Attachments: none.



INFORMATION - ONLY

Case No. 130611010068
E-Police No.
Report No. 130611010068.3
Report Date: 6/12/2013

12

Page 12 of 28

Subject:	Located StIn Veh/Locating ORI LVMPD/Case 130611-3863	Routing	
----------	---	---------	--

Case Report Status **A - Approved**
Case Attachments **Yes**

Occurred On **6/11/2013 10:00:00 PM**
(and Between)

Location **5120 VISTA DEL RANCHO WAY**
Jurisdiction **N**

Grid **NE2 - 0**
Sector **E**
Map
Census/Geo
Call Source **Phone**

Vehicle Activity
Vehicle Traveling
Cross Street

Case Status **O - Open**
Date Entered **6/13/2013 6:50:02 AM**
Entered By **NL1843 - Balgame, Jolyne**
Date Verified **6/13/2013 7:28:53 AM**
Verified By **NL0694 - Finizie, Edmond**
Date Approved **6/13/2013 9:43:55 PM**
Approved By **NL1444 - Hamilton, Deborah**
Connecting Cases

Reporting Officer
NL2104 - Johnson, Ryan

Assisted By
NL1967 - Aiello, Jenifer
NL1403 - Cargile, John
NL1917 - Cavaricci, Gianni
NL2035 - Gaston, Lee
NL2027 - Lee, Skyler

Disposition **Active**
Clearance Reason
Date of Clearance
Reporting Agency **North Las Vegas Police Department**
Division **NWAC 1500 2300**
Notified

Means **L-111 - Single Family**
Other Means
Motive **999 - Other motive not listed above**
Other Motives

Offense Detail: Info09 - Information Only

Offense Description **Info09 - Information Only**
IBR Code
IBR Group
Crime Against
Using **D - Drugs/Narcotics**
Tools Used
Criminal Activity
Weapons

Location **20 - Residence/Home**
Offense Completed? **Yes**
Hate/Bias **88 - None (No Bias)**
Domestic Violence **No**
Fraud Related **No**

No. Prem. Entered
Entry Method
Type Security
Gang Related **No**

Property Description Item 1: 3503 - Automobile (Stolen Locally and Recovered By Other Jurisdictions) - 411 VEHICLE

Item No. **1**
Property Category **3503 - Automobile (Stolen Locally and Recovered By Other Jurisdictions)**
IBR Type
UCR Type
Status **B - Both Stolen And Recovered (Also Used To Update Prev. Stolen)**
Impound Sheet **Yes**
Count **1**
Value **4000**
Manufacturer **CHEVY**
Model **COBALT**
Serial No.
VIN **1G1AK12FX57656381**
OAN
License No. **217XJY**



Arrest-Adult

7

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

Page 7 of 26

License Year
State
Body Style

Recovered Date 6/12/2013
Owner 2

Recovered Value 50
Disposition recovered

Evidence Tag
Alert(s)

Drop Off Location None - None

Drug Info

Drug Type
Drug Quantity

Drug Measure

Check Info

Check Date
Check Number
Payee Name
Holder Name

Routing Number
Account Number
Bank Name
Check Amount

Credit/Debit Card Info

Holders Name
Card Type
Exp Month/Yr

Issuers Name
Card Number
Camp Phone

Firearms Info

Caliber
Size

Date Last Seen 6/11/2013
Length

Property Notes located in 411

Report Narrative

On Tuesday 06/11/13 at about 1812 hours, I was dispatched to the North West Area Command (3755 West Washburn) in reference to a possible kidnaping report. Dispatch advised they were contacted by the Las Vegas Metropolitan Police Department (LVMPD) in reference to a white male adult, identified as Phillip Rogers, who had called 9-11 from the Mount Charleston Hotel (2755 Kyle Canyon.) Phillip claimed he was originally kidnaped from 5120 Vista Del Rancho Way, in North Las Vegas, and eventually he ended up at stranded at Mount Charleston.

At about 1930 hours I made contact with LVMPD Officer Martine P#5102 and Sergeant Legrow P#507, who had transported Phillip to the NWAC so he could file a criminal report (refer to LVMPD event #1306113944.) Phillip's roommate, Jessica Johnson (later determined to be the victim of a stolen vehicle in this case) came to the station as well.

Phillip told me the following: He was in a dating relationship and lived together at the above address for the past five years with a white male adult, he identified as Jerry Dixon. Phillip and Jerry officially separated over three weeks ago, which is when Phillip moved in with Jessica. On 06/02/13, Phillip called the NLVPD to do a civil standby at 5120 Vista Del Rancho so he could get some of his belongings. Police showed up and Jerry was not at the residence. It was determined that Phillip was still on the lease so Officer's cleared the scene and left Phillip there to get his belongings (under incident# 130602000331.) Phillip said he got some of his clothes for the time being and had no problems. He did notice that there were marijuana plants he had never seen in the bathroom, but he did not do anything about them and left. Since 06/02/13, Phillip and Jerry text a couple times in reference to property and they remained cordial but nothing more.

Today 06/12/13, Jessica allowed Phillip to borrow her vehicle (a 2005 yellow Chevy bearing NV 217XJY) so he could run some errands, as long as he picked her up from work at 1730 hours. At about 1300 hours, Jerry sent Phillip a text message asking him for a ride from the area of Twain and Paradise back down to the home the once shared, 5120 Vista Del Rancho. Phillip thought this was strange because they had not seen each other or hung out since their breakup, but he wanted keep things cordial between the two of them because Phillip had not gotten all of his property out of Jerry's house. Phillip picked Jerry up and drove him to the house. They seemed to be getting along fine during the drive so Jerry invited Phillip into the house to talk more. Once they were inside the house, Jerry's demeanor completely changed and he immediately started demanding that Phillip tell him where all his marijuana was. Phillip said he had no idea what Jerry was referring to because he no longer lived there and did not want to get involved, which seemed to infuriate Jerry. Jerry punched Phillip once on the left side of his face and said "Look in my eyes, I'm not fucking with you!" Phillip tried to run out of the house, but Jerry cornered him at the front door and said he owed some people money over the marijuana and they want to kill him. Phillip continued to say he had never taken anything from him, so Jerry punched the top of Phillip's on the top of his head 3 or 4 times with his left fist. Phillip remembered seeing a large ring on the fist that was striking him. The impact left Phillip on his knees and created a large gash on the top of Phillip's head which immediately started bleeding down his face and neck. Phillip started standing up and Jerry pulled out a pair of scissors his pants pocket and held them to open at Phillip's throat. Jerry told Phillip that both of them were in danger, and one of them has to die but it was not going to be him. Then using one hand Jerry pinned Phillip against the wall by his neck and started cutting off Phillip's area supply to the point of seeing black mostly black stars. I asked Phillip if he struck Jerry and he admitted having a lot less strength and biting him as the only way he could defend himself



Arrest-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

8

Page 8 of 26

Phillip got up, opened the front door and was halfway out when Jerry caught him by his shirt and tried to pull him back into the house. Phillip was able to get out of his shirt and run outside towards the car. Once at the car, Jerry threw Phillip down against the hood and yanked his cell phone, wallet and car keys from him. Jerry ran back into the house and locked Phillip outside. Phillip went to two neighboring houses trying to get help, but no one answered.

After about five minutes Jerry opened the front door and tried to talk calmly to Phillip. Phillips asked for his property and Jerry walked back into the house, leaving the door open so Phillip could come in. Phillip asked Jerry if he could just his house and leave with no problems, and Jerry's emotion seemed to swing completely from angry to sad. He started to apologize and said he was just scared for both of them, which is why he reacted aggressively. Phillip nicely told Jerry he really needed to leave to pick Jessica up from work because she has no other ride home. Jerry said the only way Phillip was leaving was if Jerry drove him. He then told Phillip to change his bloody shirt and clean up his blood before they left. Phillip could not convince Jerry to give him keys or phone and he did not want to be late picking her up since she let him use the car. He eventually gave into Jerry going because it was getting late. Jerry made it clear he was going to drive and told Phillip to get in passenger seat. Jerry left the house and headed westbound on Craig and towards 95 north, Phillip immediately questioned why he was not going towards Jessica's work and Jerry told him to stop questioning him, he patted his pants pocket and said he still had scissors. Jerry drove west on Craig Road and north on the 95 towards Mount Charleston. Phillip asked numerous times where they were going, and Jerry said he was taking them both out of the city because he was scared for their safety. Phillip asked many times if he would take him home as promised, but Jerry kept saying he wanted to see the scenic views. They ended up passing the Mount Charleston Lodge and pulling over on the side of the road. Jerry said he wanted walk into the forest with Phillip so they could pray together. Phillip stayed in the car and kept saying he wanted to go home. Jerry got back in the car, did a u-turn and said he would take Phillip home. He drove back down the mountain, but then saw another turn off and decided to pull off and park there. Jerry kept talking about the wilderness in a strange way and tried to convince Phillip to get out so they could pray together. Phillip stayed seated so Jerry walked over to the passenger side and opened the car door. He told Phillip it wasn't an option then pulled him up and started hugging and kissing him. He apologized for everything and kept telling Phillip he loved him and wanted to get back together with him. He blamed today's aggressive behaviors on being stressed about both of them being in danger and owing people. While Jerry was saying these things he was hugging Phillip and slowly inching towards a ledge nearby. Phillip said he did not feel safe with Jerry and he didn't want to be near the edge. Jerry kept kissing Phillip and nudging him closer to the edge so Phillip dropped his weight and sat down. Jerry seemed very concerned about Phillip and nicely said it was okay, and he would take Phillip home. Jerry started walking turning his body like he was heading back towards the car so Phillip stood up and just as soon as he got up. Jerry turned around and said "You got to go Bro," then shoved him over the ledge. Phillip fell about 6 feet down and he landed with his right arm behind his head. He started sliding down the hill towards an even larger drop, but he ran the right side of his body into a small tree, which stopped him from continuing down the mountain. Phillip eventually got himself up and noticed Jerry running towards the car (which he previously knew belonged to Phillip's room mate and also still has all of Phillips belongings Jerry took from him.) Jerry got into the car and sped down the mountain.

Once Phillip was able to climb up to the road he flagged down a passerby, who let him get into the bed of her truck. She drove him to the Hotel, and he immediately called 9-11 to report what happened. See Phillip's witness statement for further details.

Phillip was very adamant he has never seen Jerry act this erratic. He mentioned that Jerry has always been very domineering and often verbally abusive towards Phillip, who is naturally more soft spoken and also smaller in stature. Phillip said he has known Jerry long enough to believe he is possibly using hallucinogenic drugs because he is showing signs of being out of touch with reality right, or hallucinating. Before they broke up he displayed dramatic mood swings and Phillip decided he could not deal with it anymore, which is why he left and moved in with Jessica. It is also not unusual for Jerry to hit Phillip in the back of the head or smack him during an argument, but it has never been to point where he is bleeding or needs medical attention. Phillip never called the police, because has no family in Las Vegas and no where to really go and he was afraid of the backlash he would receive by doing so. See Phillip's witness statement for further details.

I made contact with Phillip and immediately noticed how disheveled he looked. Phillip had the following visible injuries: a large open gash (later measured as approximately 3 centimeters long by doctor) on the top of his head (there was caked blood along the back of his ears from this wound) a large fresh bruise forming on his left cheek bone, fresh bloody scratches and cuts along the right side of his body to include; his right shinbone, right forearm and right wrist. There were the beginnings of a large swollen bruise on the top of his right shoulder as well. Phillips eyes were bloodshot and I could see small faint red dots which were consistent with broken blood vessels (or what is known as petechia) in his eyes and also on along the left side of his neck. Phillip told me his throat was sore, it hurt to swallow, and as he was speaking I noticed his voice was dry and hoarse at times.

Phillip stated he was punched in the head a by Jerry while he was wearing a large ring, punched in the face, strangled, and pushed down a 6 foot drop onto rocks then slid on his right side. The injuries Phillip sustained were very consistent with his statement. The petechia in his eyes and on his neck, problems swallowing and a soar throat are all consistent with being strangled. The swelling and bruising down the right side of his body was consistent with how he said he landed after being pushed down the mountain. And all of the scratches along his arms and legs were consistent with him sliding down the hill on rocks and shrubs. I took photographs of Phillips injuries and later downloaded them onto D.I.M.S. Due to Phillips injuries I had Medic West 601 and Fire Engine 54 come to the scene to aid him. Medics determined that the laceration on the top of Phillip's head needed medical attention so they transported him to Mountain View Hospital (3100 N. Tenaya) for medical treatment. Jessica did not have a vehicle (it was taken without her knowledge or consent by Jerry earlier.) I took Jessica to



Arrest-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

9

Page 9 of 26

Mountain View Hospital with me to continue my investigation.

I spoke to Jessica, who told me the following: She has known both Phillip and Jerry for over a year. Over time she has witnessed Jerry verbally and physically abuse Phillip. During those occasions, Phillip has never struck Jerry and normally responds by cowering and letting Jerry rant until he is finished. About three weeks ago, Phillip called Jessica and said he had to get out of the house because he was really scared and finally done. Jessica confirmed that today she let Phillip borrow her car, which she often did. Jessica said she text Phillip at about 1530 and never got a reply so she started calling him and there was no answer. By 1730, she still had not heard from Phillip so she started to get very worried. Jessica did not hear from Phillip until around 1820 hours, when he called her from the Mount Charleston Hotel and told her to meet him at the NWAC because something bad happened. See Jessica's witness statement for further details.

I advised Jessica that Jerry took possession of her vehicle and was last seen driving down from Mount Charleston. Jessica said she has not spoken to Jerry and he has never had permission to drive her car. Phillip is only recently driving her car to look for work. I issued Jessica a victim's guide at this point and called Erica P#2320, in records, to report her car as stolen and give Jerry as a suspect in the Grand Larceny. At about 2155 hours, I was notified that LVMPD had possession of Jessica's vehicle on the corner of Twain and Cambridge, and Jerry was stopped while driving her vehicle and placed into custody by LVMPD Officer's Radich P#9340 and Nitzel P#9863. Officer Radich also advised that he located Phillip's cell phone, wallet and keys which were all later documented on a property release form and given back to him.

After receiving 7 staples to his laceration, Phillip was medically cleared from the hospital per the Medical Practitioner Nancy Walker. Phillip was in obvious pain so he was issued a victim's information guide, a blue domestic violence card, and transported to his house.

I then transported Jessica to the area of Cambridge and Twain to recover her vehicle. I noticed what appeared to be blood smeared on the hood of her vehicle in a few places. This was consistent with Phillip's statement of slammed onto the hood of the car. I took photographs of the vehicle it was released to Jessica. I contacted Donna in records and she advised me the vehicle showed already recovered through LVMPD.

LVMPD Officer's Radich told me he conducted a traffic stop on the vehicle for having a head light out and identified Jerry as the driver (under LVMPD event #130611-3863.) They were quickly updated about the vehicle being stolen by Jerry. Jerry was removed from the vehicle and taken into custody without further incident. LVMPD released custody of Jerry (who was already hand cuffed) to me. I immediately noticed many fresh bite marks all over both of his forearms, in the webs of both hands, and on the lower part of both of his legs. Some of them were leaking pus and some showed clear teeth marks. I believe his injuries looked defensive in nature due to their locations and how deep they were. It seemed reasonable to believe that Phillip was able to bite the webs on both hands while Jerry was struggling to pin him against the wall and strangle him. It is also reasonable to think Phillip bit Jerry on and behind his legs, after he had been punched in the head, and fell down while Jerry was still hitting him. Jerry denied medical attention for his wounds. I took photographs of his injuries to later download onto D.I.M.S.

I took custody of Jerry and secured him in my patrol vehicle. I read Jerry his Miranda Rights and he told me he understood and wished to speak to me without the presence of an attorney. I explained the reason I was there and asked him what happened today. Jerry told me the following: He has been abused by Phillip during this whole relationship. Since they have broken up Phillip will not leave him alone. Today Phillip drive Jerry to the house they once shared and then he forced himself onto to Jerry and started kissing him saying he wanted to get back together. This was very different from what Phillip told me so I started asking Jerry questions to clarify. I asked about the wound to Phillip's head and face, and Jerry originally told me he did not cause any of his wounds. Jerry then said he actually had no choice because Phillip would not take no for an answer today. Jerry denied all the claims about taking Phillip's wallet or I phone. And he did not know anything about him wanting to leave. Jerry never caused Phillip of stealing his marijuana. And denied strangling Phillip or threatening him with a scissor. I asked him why he decided to take Phillip on a long drive to the mountains and he said they remind him of North Carolina. He suddenly got the urge to be around wilderness and sight see. I directly asked if he and Phillip fought out in the wilderness and Jerry said no, then immediately said he secretly felt like Phillip wanted to push him off the edge of a cliff but he did not know why. I directly asked Jerry if he pushed Phillip off a cliff or ledge and he said no. I described the injuries Phillip sustained while going down the cliff and asked him if he then change his mind and said Phillip was the one who tried to do a "football tackle" and knock Jerry off the edge. I mentioned how that seemed like it would cause both of them to go over the edge, but Jerry did not have a response to my concern. Jerry had no answer for why he denied Phillip's attempt to push him off the cliff when he was asked. Jerry admitted to driving the vehicle the whole time and stopping along the side of the road to sightsee. Jerry talked about the trip light heartedly, refusing to really mention anything more than how he was moved by nature. Jerry started to completely ignore my questions, and talk about topics he wanted to talk about, so I decided to talk solely on their visual injuries to see if he had any idea how they happened. I asked about the bite marks, and he said Phillip always bites him. He appeared visually uncomfortable with this topic because he could not explain specifically how or why Phillip would have his mouth close enough to only bite him, especially in the strange places like the webs of both hands or as low as the back of his legs. I asked him who the car belonged to and he knew it was Jessica's, admitted to not being her friend because she was closer to Phillip, and could not give me a simple yes or no answer in regards to getting permission to drive her car. Jerry explained that today he finally decided he had enough of Phillip's abuse. During an altercation of the side of the road, Jerry said he was fed up and decided to run to the car and drive Jessica's vehicle to protect himself from further abuse by Phillip. Jerry complete ignored my question about when asked why he did not immediately contact Jessica to return the car her to her. I went back to the original question of why Jerry contact Phillip in the first place and he avoided the question. I explained that Phillip's injuries were very consistent to his story and asked him why he only had bite marks on his body if he was being abused all day and Jerry asked to speak to a



Arrest-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

10

Page 10 of 26

lawyer so I ceased all questioning at this time. During this interview, Jerry was very extreme with his emotions. He was very angry and very happy in the same sentence. He tried to avoid my questions, and make me the focus by asking me personal questions. I had to continually lead him back into answering my questions during this interview. I explained to Jerry that he was under arrest for the following charges and the following reason's listed below:

I believe Jerry was the only physical aggressor during this domestic battery due to the fact that he proved to be in control during the entire incident by initiating contact with Phillip and asking him for a ride after being broken up, inviting him into his house, and admitting to driving the car the whole time. Secondly, Phillip's story completely corroborated with his injuries, he said Jerry strangled him and he showed the physical signs of strangulation such as faint red dots in his eyes and along the left side of his neck (known as petechia,) as well as a hoarse voice. Phillip said he was slammed against the hood of the car, and there were looked like dried blood which was consistent because he had a large open gash on the top of his head during that time. Jerry claimed to have been battered, but he could not exactly tell me how Phillip battered him and I only noticed bite marks all over his body (which actually corroborated with Phillip's story), and finally, the locations of the bite marks (such as the web of both hands) were very defensive in nature. I therefore arrested Jerry for Domestic Battery with Strangulation.

I placed Jerry under arrest for Kidnaping Phillip due to the fact that it was already determined that Jerry was in control of the vehicle, while Phillip was inside it, he made Phillip get into the vehicle with him based on the idea that he was going to drive them to pick Jessica up from work, therefore physically moving Phillip in the car to Mount Charleston, where he did not ever want to go, Phillip was also forced by his fear of threats or bodily injury from Jerry since he already showed a clear propensity to do so.

I placed Jerry under arrest for Grand Larceny Auto due to the fact that he took possession of an Automobile that was not his, and due to the fact that he did not ever contact Jessica to return the car, and he was stopped in her vehicle many hour's after he originally took it, I believe he intended to deprive her of the vehicle. Jessica, who still had not spoken to Phillip when I interviewed her, indicated Jerry did not have any right to drive her car, had never driven her car and intentionally drove it away from Phillip.

I finally placed Jerry under arrest for Attempt Murder on Phillip due to the following reasons; Jerry made it known through verbal threats that he intended to kill Phillip. He then followed it up with physical threats that showed he had a propensity to cause bodily harm to Phillip. Phillips physical injuries, specifically the gash to Phillip's scalp, and when Jerry strangled Phillip almost to the point of passing out. Driving Phillip to Mount Charleston and committing one direct act toward the goal of killing by shoving Phillip over the ledge and down a steep rocky hill, which has tendency to kill, but failed to in this case.

transported Jerry to the Las Vegas City Jail, where he was booked on the above charges.

Attachments: one pre-booking sheet, two property release pages, and two witness statements.



NORTH LAS VEGAS POLICE DEPARTMENT
PRE-BOOKING/DECLARATION OF ARREST

REBOOK NUMBER: 101498

☐ REVISE

TIME STAMP: CS# 2207953

NAME OF ARRESTEE: Dixon, Jerry Lee			ARRESTEE ALIAS:			PD CASE NUMBER: 130611010068		
SOCIAL SECURITY: 240-47-2847		RACE: W	SEX: M	ETHNICITY:	DATE OF BIRTH: 07/31/1985	BIRTH LOCATION: USA		
HEIGHT: 600	WEIGHT: 180	HAIR: BRO	EYES: BRO	HOME PHONE: N/A	WORK PHONE: N/A	EMPLOYER: N/A		2013 JUN 12 PM 1:43
HOME ADDRESS LINE 1: 5120 VISTA DEL RANCHO					HOME ADDRESS LINE 2: NORTH LAS VEGAS, NV 89031			
PLACE OF ARREST: 5120 Vista Del Rancho					DATE AND TIME OF ARREST: 06/12/2013 11:46		VEHICLE: N	IMPOUND N
ARRESTING OFFICER'S NAME (P#): Bryan, Sean (1880)				TRANSPORTING OFFICER'S NAME (P#): Aiello, Jenifer (1967)				43
INTAKE OFFICER'S NAME (P#): N/A		IRS INTAKE NAME (P#): RMD 245		MEDICAL ACCEPT (NURSE NAME AND DATE):				
SUBJECT INJURED N	SUBJECT COMBATTITIVE N		CONTRACT/FEDERAL AGENCY: N/A			CONTRACT/FEDERAL ID#:		
JUVENILE TREATED AS ADULT N		OFFENDER ID						
MUNICIPAL COURT WARRANT NUMBERS:								
#	ARREST ORIGIN	CHARGE			COUNTS	STATUTE / BAIL	ARREST TYPE	POLICE CASE # / MUNI WARR #
1	PC	POSS TO SELL SCH I/II, FLNTRZPM/GHB, (1ST) NOC: 51141			1	453.337.2A \$5,000.00	F	130611010068
ARREST ORIGIN DESCRIPTIONS:		CA - CITIZENS ARREST WA - WARRANT OF ARREST RMD - REMAND			PCOJ - PROBABLE CAUSE - OTHER JURISDICTION WFOJ - WANTED FUGITIVE - OTHER JURISDICTION NVOJ - NV WARRANT - OTHER JURISDICTION		PC - PROBABLE CAUSE BW - BENCH WARRANT BS - BOND SURRENDER	

NARRATIVE:

On Tuesday, June 11, 2013 at approximately 2300 hours, the Narcotics Unit responded to 5120 Vista Del Rancho, in reference to an active marijuana grow that was located by patrol officers Aiello #1967 and Johnson #2104. See Johnson's follow-up report under this same case number for further details.

Upon my arrival I spoke with Officer Johnson and he stated the following: At approximately 2200 hours, Officer Aiello and him responded to 5120 Vista Del Rancho, in reference to an attempt murder which occurred and the suspect was identified as Jerry Dixon. Dixon attempted to murder his boyfriend, Phillip Rogers earlier in the day and patrol officers were able to identify 5120 Vista Del Rancho as being Dixon's current residence. Upon their arrival, they saw the front door had signs of being kicked in or forced entry. Due to this being an active investigation to locate Dixon, the officers conducted a protective sweep of the residence to check for any victims and to attempt to locate Dixon. There was nobody located at the residence. During the officers' initial walk through of the residence, the officers located an active marijuana grow in the hallway bathroom. The marijuana grow consisted of approximately 5 marijuana plants, with active electricity and a fan used for cooling. The officers also located a dismantled marijuana grow in the garage, which consisted of mylar reflective paper, exposed wiring and air duct tubing. Throughout the residence, the officers located amounts of finished marijuana product. The Narcotics Unit was advised of the marijuana grow and arrived on scene. This residence was previously identified as being involved in growing and selling marijuana from a City Track complaint I received last week. I identified Jerry Dixon as being the resident at 5120 Vista Del Rancho. I was able to identify that NV Energy was in the name of Dixon for the address and he did not have an active medical marijuana card.

Based on the information described to me by Johnson, I obtained a telephonic search warrant for the residence. I contacted Judge Hoo, read him the telephonic warrant and he gave me authorization to serve the search warrant. Investigator Rodriguez was assigned as the property custodian and Investigator Arnona was assigned to take photographs of the property located and seized.

I located an active marijuana grow in the hallway bathroom. The marijuana grow consisted of five marijuana plants and was

set-up in the bath tub. There was a lighting system consisting of two fluorescent lights and a cooling fan. I also located a dismantled marijuana grow in the garage. The entire garage was covered in reflective mylar paper. There was several feet of air duct tubing coming out of the ceiling, several exposed wires coming out of the north wall and a large hole used for ventilation on the north wall.

During a search of the residence, by whom, where and what was located is as follows: twenty-three (23) THC edibles with a gross weight of 1,011 grams, located on the kitchen counter by me; five marijuana plants with a gross weight of 140 grams, located in the hallway bathroom by me; five packages of marijuana clippings packaged in nylon stockings and one plastic bag containing marijuana clippings with a gross weight of 3,821 grams, located in the kitchen freezer by me; silver digital scale, located on the kitchen counter by me; letter addressed to Jerry Dixon with the address of 5120 Vista Del Rancho, located on kitchen table by me; Tropicana work identification card with a photograph and the name of Jerry Dixon, located on kitchen table by me. Based upon my investigation, Dixon is involved in selling marijuana and THC edibles.


Rodriguez took custody of all the above mentioned items. I left a copy of the search warrant and the Inventory sheet on the living room table.

Rodriguez tested all of the suspected marijuana and THC edibles. The marijuana and THC edibles tested positive and were booked with pink copies of the Narcopouch test checklist in the NLVPD evidence vault. Rodriguez also booked the digital scale, letter addressed to Jerry Dixon and Tropicana work card in the evidence vault.

The undersigned makes the forgoing declarations subject to the penalty of perjury and says: That I am a peace officer with the CITY OF NORTH LAS VEGAS POLICE DEPARTMENT Clark County, Nevada. Being so employed for a period of 6 (6) years (months), that I learned the forgoing facts and circumstances which lead me to believe that the above named subject committed or was committing) the offense of SEE ABOVE CHARGES at the location of 5120 VISTA DEL RANCHO and the offense occurred at approximately 0100 hours on the 12 date of JUNE 20 13

I therefore declarant prays that a finding be made by magistrate that probable cause exists to hold said person for preliminary hearing (If charges are a felony or gross misdemeanor) or for trial (If misdemeanor).

JEAN BRYAN
DECLARANT NAME (PLEASE PRINT)

 1220
DECLARANT SIGNATURE AND SERIAL NO.


CLERK OF THE COURT

NOTC
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SHANNON WITTENBERGER
Deputy District Attorney
Nevada Bar #012304
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JERRY LEE DIXON,
#2807953

Defendant.

CASE NO: C-13-292285-1

DEPT NO: XI

NOTICE OF EXPERT WITNESSES
[NRS 174.234]

TO: JERRY LEE DIXON, Defendant; and

TO: MARIA JACOB, Deputy Public Defender, Counsel of Record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF
NEVADA intends to call expert witnesses in its case in chief as follows:

SEAN BRYAN, NLVPD #1880, or Designee, is expected to testify as to indicia of
intent to sell.

**GLENN PARRENT, GC/MS ANALYST-CHEMIST, SYNERGY
LABORATORIES, Las Vegas, NV, or Designee:** he is expected to testify to the science,
techniques and procedures employed in chemical analysis of controlled substances,
techniques employed in this case, results of those tests and any reports therefrom, including
the weight of the questioned substances.

///

1 The substance of each expert witness testimony and copy of all reports made by or at
2 the direction of the expert witness has been provided in discovery.

3 A copy of each expert witness curriculum vitae, if available, is attached hereto.
4

5 STEVEN B. WOLFSON
6 District Attorney
Nevada Bar #001565

7 BY /s/ Shannon Wittenberger
8 SHANNON WITTENBERGER
9 Deputy District Attorney
Nevada Bar #012304
10

11 CERTIFICATE OF ELECTRONIC FILING

12 I hereby certify that service of the above and foregoing, was made this 7th day of
13 October, 2013, by Electronic Filing to:
14

15 MARIA JACOB, Deputy Public Defender

16 E-mail Address: maria.jacob@clarkcountyNV.gov
17 pdclerk@clarkcountyNV.gov
18

19
20
21 By: /s/ D. Jason

22 Secretary for the District Attorney's Office
23
24
25
26
27
28

Glenn H. Parrent

(702) 374-3049

glenn@castleguard.us

GC/MS Analyst- Chemist

GC/MS SPECIALIST-TOXICOLOGY: Feb 2010 to present, Synergy Laboratories, Las Vegas, NV. Perform Blood Alcohol by GC-FID and development of illegal drug confirmation by GC/MS for North Las Vegas Police Department.

QUALITY ASSURANCE ADMINISTRATOR AND INTERNAL AUDITOR: Feb. 2007 to Sept. 2009, Computer Science Corporation, North Las Vegas. Internal Auditor and Administrator for an ISO-9001 registered Air Force Contractor. Active TS clearance and access to DOD sites. Compiled reports and statistics using Windows Word, PowerPoint, and Excel for management review contributing to continual improvement efforts. Primary duties included editor and coordinator for all company SOP procedures.

OPERATIONS MANAGER-SENIOR ANALYST: Aug. 2005 to Feb. 2007, Castleguard Analytical Services LLC, Las Vegas, NV. Owned, operated, and maintained HP analytical GC-MS instrument and analyzed samples to EPA methods. Consulted with clients on environmental testing and performed analysis for various engineering companies on projects. Personally performed analysis on volatiles, semi-volatiles, gasoline, diesel, and oil range by GC/MS.

QUALITY ASSURANCE MANAGER/ SENIOR ANALYST: Sept. 2003 to July 2005. Southwest Analytical, Inc., aka, Nevada Environmental Lab (NEL), North Las Vegas, NV. Performed data review and internal auditing, implemented corrective actions. Edited SOPs; trained employees; prepared credentialing documents and maintained files. Managed Volatiles Lab for water, soil, and waste and maintained equipment. Operated multiple Agilent GC-MS. Methods: SWA 846, volatiles, semi-volatiles, Gas and Diesel Range organics, Drinking Water 524.2, Herbicide analysis by 8151.

SENIOR ANALYST / TEAM LEADER /ON-TIME-DELIVERY COORDINATOR: Jan. 2000 to Mar. 2003 Environmental Health Laboratory (owned by Underwriters Laboratories), South Bend, IN. Led team of three analysts in the Custom Analytical Group, reducing turn-around-time for special client samples from 90 days to 30 days, a 66% reduction using EPA Drinking Water methods 525.2, 525, and 526.1. Operated and maintained Varian Ion Trap equipment and Saturn software.

SENIOR ANALYST: May 1999 to Jan 2000: New Age Landmark Mobile Lab, 667 W. Main Street, Benton Harbor, MI, 1999. Field analyst for volatiles and semi-volatiles by HP GC/MS equipment, some ICP for Pb, and soil extraction and analysis for PCB.

SENIOR ANALYST: Jan. 1991 to Feb. 1999: Twin Cities Testing, aka Maxim Technologies, St Louis and Billings; GC-MS Analyst, instrument repair, calibration, set-up, report writing, forms documentation and review, HP GC/MS, ChemStation for volatile, semi-volatile, waste water, drinking water, and soil / waste.

CHEMIST: June 1989 – Dec. 1991, Applied Research and Development Laboratory, Mount Vernon, IL, GC/MS Chemist for samples for Corps of Engineers.

QA TECHNICIAN: June 1979- June 1989, Special Metals Corporation, KY. Super-alloy production.

COMMUNICATIONS OFFICER: U.S. Marines: Active duty, June 1975-June 1979, 2nd Marine Air Wing, Cherry Point, NC. Letter of Commendation, Honorable Discharge.

EDUCATION AND TRAINING:

BS, Biology with Chemistry minor, University of Illinois, Champaign, IL, MBA Business, Murray State University, Murray, KY, ISO 9001-2008 Certified Lead Auditor, RABQSA, Las Vegas, NV, Six Sigma Green Belt, Six Sigma Inc.


CLERK OF THE COURT

OPPS

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SHANNON WITTENBERGER
Deputy District Attorney
Nevada Bar #012304
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JERRY LEE DIXON,
#2807953,

Defendant.

CASE NO: C-13-292285-1

DEPT NO: XI

STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS

DATE OF HEARING: October 28, 2013

TIME OF HEARING: 9:00 a.m.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through SHANNON WITTENBERGER, Deputy District Attorney, and files the STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS.

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

DATED this 16TH day of October, 2013.

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

BY /s/ Shannon Wittenberger
SHANNON WITTENBERGER
Deputy District Attorney
Nevada Bar #012304

1 **POINTS AND AUTHORITIES**

2 **FACTS**

3 On June 11, 2013 at 1812 hours, Officer Jennifer Aiello was dispatched to the North
4 West Area Command in reference to a possible kidnapping report. (See **Exhibit 1**, Officer
5 Aiello's Report). Officer Aeillo met with victim Phillip Rogers at approximately 1930
6 hours. Mr. Rogers told Officer Aeillo that he and Jerry Dixon (hereinafter "Defendant") had
7 been in a dating relationship and lived together at 5120 Vista Del Rancho Way for the past
8 five years. Approximately three weeks ago, Mr. Rogers moved in with Jessica Johnson. On
9 June 2, 2012, Mr. Rogers went to the home to retrieve his belongings. He utilized the
10 services of the North Las Vegas Police Department to assist as a civil standby. Officers
11 cleared the scene and left Mr. Rogers there to get his belongings. Mr. Rogers obtained some
12 of his clothes for the time being and had no problems. Mr. Rogers observed marijuana
13 plants in the bathroom that had not, to his knowledge, previously been at the residence.
14 After June 2, 2013 and prior to June 12, 2013, Mr. Rogers and the Defendant texted a couple
15 of times in reference to property. Id.

16 On June 12, 2013, Mr. Rogers' roommate Jessica Johnson allowed Mr. Rogers to
17 borrow her vehicle, a 2005 yellow Chevy bearing NV plate 217XJY, as long as he picked
18 her up from work at 5:30 p.m. At approximately 1:00 p.m., Defendant sent Mr. Rogers a
19 text message asking for a ride from the area of Twain and Paradise back to 5120 Vista Del
20 Rancho. Mr. Rogers wanted to maintain a cordial relationship because he still had to obtain
21 some of his property from the house, so he picked up Defendant and drove him to the
22 residence. Defendant invited Mr. Rogers into the house to talk. Once they were inside,
23 Defendant's demeanor changed and he immediately started demanding that Mr. Rogers tell
24 him where all his marijuana was located. Mr. Rogers did not know what Defendant was
25 talking about. Defendant punched Mr. Rogers once on the left side of his face and said
26 "Look in my eyes, I'm not fucking with you!" Mr. Rogers tried to run out of the house but
27 Defendant cornered him at the front door and said he owed some people money over the
28 marijuana and they wanted to kill Defendant. Mr. Rogers continued to tell Defendant he

1 never took anything from him. Defendant punched Mr. Rogers on the top of his head 3 or 4
2 times with his left fist. Defendant had a large ring on his left fist which struck Mr. Rogers
3 on the head and caused a large gash on Mr. Roger's head. As a result of the injury, blood
4 was running down Mr. Rogers' face and neck. Defendant pulled out a pair of scissors from
5 his pants pocket and held them to Mr. Rogers' throat and told Mr. Rogers that both of them
6 were in danger and one of them had to die but it was not going to be Defendant. Defendant
7 then pinned Mr. Rogers against the wall by his neck and started cutting off Mr. Rogers' air
8 supply causing Mr. Rogers to see stars. Mr. Rogers did bite Defendant in an attempt to
9 defend himself. Id.

10 Mr. Rogers got up, opened the front door, and was half way out when Defendant
11 caught Mr. Rogers by his shirt and tried to pull him back into the house. Mr. Rogers was
12 able to get out of his shirt and run towards the car. At the car, Defendant threw Mr. Rogers
13 down against the hood and took Mr. Rogers' cell phone, wallet and car keys. Defendant ran
14 back inside the house and locked Mr. Rogers outside. Mr. Rogers went to two neighboring
15 houses for help but no one answered. Id.

16 After approximately five minutes, Defendant opened the door. Mr. Rogers asked for
17 his property and Defendant walked back inside, leaving the door open. Mr. Rogers asked if
18 he could get his stuff and leave with no problems. Defendant then began apologizing for his
19 actions and said he was just scared. Mr. Rogers told Defendant he had to leave to pick up
20 Jessica from work. Defendant told Mr. Rogers the only way Mr. Rogers was leaving was if
21 Defendant drove him. Mr. Rogers was unable to convince Defendant to give him keys or
22 phone and he did not want to be late picking Jessica up so he gave into Defendant.
23 Defendant drove the vehicle and Mr. Rogers got in the passenger seat. Defendant began
24 driving West on Craig Road and North on the 95 towards Mount Charleston. Mr. Rogers
25 asked numerous times where they were going and Defendant said he was taking them both
26 out of the city because he was scared for their safety. They ended up passing the Mount
27 Charleston Lodge and pulling over on the side of the road. Defendant said he wanted to
28 walk into the forest with Mr. Rogers so they could pray together. Mr. Rogers stayed in the

1 car and kept saying he wanted to go home. Defendant got back in the car, did a u-turn and
2 said he would take Mr. Rogers home. Defendant then pulled into another turn off and
3 parked. Defendant walked over to the passenger side and opened the car door. Defendant
4 pulled Mr. Rogers up and started hugging and kissing him. Defendant apologized for
5 everything and kept telling Mr. Rogers he loved him and wanted to get back together. As
6 Defendant was telling Mr. Rogers these things, he continued to hug him and was inching
7 towards a ledge nearby. Mr. Rogers was concerned for his safety and dropped his weight
8 and sat down. Defendant said he would take him home and Mr. Rogers got up to walk back
9 to the car. Defendant then turned around and said "You got to go Bro" and shoved Mr.
10 Rogers over the ledge. Mr. Rogers fell about 6 feet down and landed with his right arm
11 behind his head. He started sliding down the hill towards an even larger drop but stopped
12 himself using a small tree. Mr. Rogers got himself up and saw Defendant running towards
13 the car. Defendant got into the car and sped down the mountain. Mr. Rogers flagged down
14 a passerby who drove him to the hotel and Mr. Rogers called 9-1-1. Id.

15 Officer Aiello observed a large open gash on the top of Mr. Rogers' head, caked
16 blood along the back of his ears, a large fresh bruise forming on his left cheek bone, fresh
17 bloody scratches and cuts along the right side of his body including his right shinbone, right
18 forearm and right wrist. There were beginnings of a large swollen bruise on the top of his
19 right shoulder as well. Officer Aiello also observed that Mr. Rogers had bloodshot eyes and
20 small faint red dots (petechia) in his eyes and along the left side of his neck. Mr. Rogers told
21 Officer Aiello that his throat was sore and it hurt to swallow. Officer Aiello also noticed that
22 Mr. Rogers' voice was dry and hoarse at times. Mr. Rogers received seven staples to the
23 laceration on his head. Id.

24 Officer Aiello also spoke to Jessica Johnson, the owner of the vehicle, who indicated
25 she did not give Defendant permission to drive her vehicle. Id.

26 At approximately 10:00 p.m., Officer Cavaricci and Officer Johnson were sent to
27 5120 Vista Del Rancho in an attempt to make contact with Defendant. (*See Exhibit 2,*
28 *Declaration of Officer Ryan Johnson*). Upon arrival, Officer Johnson observed the door was

1 open approximately 1 to 1 ½ inches and was broken. Officer Cavaricci observed movement
2 through a window but was unable to determine what caused the movement. Officers
3 knocked on the door and announced their presence. Upon knocking on the door, the door
4 opened further inward due to the broken door jam. From outside the residence, Officer
5 Johnson observed fresh drying blood and dirt right inside the door. He also observed the
6 inside was in disarray. The officers then entered and performed a sweep of the home. The
7 officers observed marijuana plants in a bathroom and harvested marijuana in several
8 locations throughout the residence. Officers exited the residence and contacted Detectives.
9 Id.

10 At 1:30 a.m. on June 12, 2013, Detective Ed Melgarejo telephonically applied for and
11 was granted a search warrant for 5120 Vista Del Rancho Way. (**Exhibit 3**, Transcription of
12 Application for Telephonic Search Warrant NLVPD Case # 130611-10068; and **Exhibit 4**,
13 Search Warrant). At approximately 1:20 a.m. on June 12, 2013, Officer Sean Bryan
14 telephonically applied for and was granted a search warrant for 5120 Vista Del Rancho Way.
15 (**Exhibit 5**, Transcription of Application for Telephonic Search Warrant NLVPD Case #
16 130611-10068 by Officer Sean Bryan; and **Exhibit 6**, Search Warrant).

17 ARGUMENT

18 **I. AN EVIDENTIARY HEARING IS REQUIRED WHEN THERE ARE** 19 **DISPUTED ISSUES OF MATERIAL FACT**

20 The State is requesting that an evidentiary hearing be held in this matter. It will be
21 necessary for this Court to make findings of fact based on the totality of the circumstances.
22 If there are disputed issues of material fact, an evidentiary hearing is required. State v.
23 Ruscetta, 123 Nev. 299 (2007).

24 **II. THE OFFICERS ENTRY INTO THE DEFENDANT'S RESIDENCE WAS** 25 **LEGAL PURSUANT TO THE EMERGENCY EXCEPTION**

26 Law enforcement officers may enter a home without a warrant to render emergency
27 assistance to an injured occupant or to protect an occupant from imminent injury, without
28 violating the Fourth Amendment. Brigham City, Utah v. Stuart, 547 US. 398, 126 S.Ct.

1 1943 (2006). The reasonableness of an emergency home entry depends on whether law
2 enforcement had an objectively reasonable basis to believe that there was an immediate need
3 to protect the lives and safety of themselves or others. Hannon v. State, 125 Nev. 142, 147,
4 207 P.3d 344, 347 (2009). Determination of the reasonableness of officers' actions requires
5 a fact specific inquiry based on the totality of the circumstances. U.S. v. Snipe, 515 F.3d
6 947, 953 (9th Cir. 2008). Furthermore, there is no requirement that the police must witness
7 ongoing or present violence before responding to an emergency. Brigham City, 547 U.S. at
8 406, 126 S.Ct. at 1949. "We do not think that the police must stand outside an apartment,
9 despite legitimate concerns about the welfare of the occupant, unless they can hear screams."
10 United States v. Brown, 64 F.3d 1083, 1086 (7th Cir. 1995).

11 Hannon is easily distinguishable from the facts in this case. In Hannon, when the
12 police arrived, they made contact with both the victim and the Defendant and were told
13 everything was fine. While there was evidence of an argument, there were no visible
14 injuries or any other signs that a person was injured. The only information the officers had
15 was that there was an argument and both people alleged to have been involved were located
16 and fine. In the case before this Court, the officers had strong evidence to believe that there
17 was possibly someone inside the home that needed further assistance. At the time the
18 officers responded to Defendant's residence, the whereabouts and physical condition of the
19 Defendant were unknown. Officers observed movement inside the home, giving them a
20 reasonable basis to believe someone could be inside the home. They also observed that the
21 door was broken and ajar, which lead to a reasonable inference that someone may have
22 forcibly entered the residence. They then observed fresh blood and dirt inside the doorway
23 which clearly led to a reasonable concern by the officers that someone, possibly the
24 Defendant himself, could be inside the home needing assistance. The officers had
25 information that there had been an altercation between Defendant and Mr. Rogers at the
26 home and that Defendant then forced Mr. Rogers to leave the home. However, they had no
27 further information regarding Defendant's current whereabouts or physical condition. And,

28 ///

1 based on the door being broken and unsecured, they had reasonable concern that there could
2 be additional victims or that Defendant himself was in danger.

3 In Minnesota v. Lemieux, 726 N.W.2d 783, 786 (2007), officers found the body of
4 the victim on a sidewalk. Police were sent to a residence where a possible suspect might be
5 present. Upon arrival, officers saw that the screen on the window had been torn loose, the
6 window pushed up, and the door slightly open and not secured. Officers knocked but no one
7 answered. Id. They had information that someone had been in the residence the previous
8 night. Id. They then entered, found items belonging to the Defendant, did not find any
9 persons inside, and then obtained a warrant. Id. The Court found that based on those
10 circumstances, the Officers entry under the emergency exception was justified. In our case,
11 there are even more compelling facts supporting the officers' decision to enter. Not only did
12 they respond to the residence knowing a serious crime had occurred, they observed an
13 unsecured, damaged home with blood and dirt inside the door area. They did not receive any
14 response when trying to determine if anyone was present, even though they had observed
15 movement inside the home.

16 In United States v. Black, 482 F.3d 1035 (9th Cir. 2007), Officer's initial warrantless
17 entry into an apartment was justified by the exigent circumstances of 911 domestic violence
18 call where officers reasonably feared that defendant's ex-girlfriend could have been inside
19 the apartment badly injured and in need of medical attention. Police were dispatched to
20 defendant's apartment upon a report from defendant's ex-girlfriend that defendant had beat
21 her up that morning, that he had a gun, and that she intended to return to the apartment to
22 retrieve her property. However, upon arrival of police, ex-girlfriend was not present, no one
23 answered when the police knocked on the apartment door, and defendant (who was located
24 outside) denied living in the apartment even though he had a key to it in his pocket. Id. Just
25 like the case at bar, officers went to the residence to try to locate defendant but were unable
26 to do so. However, in the case at bar, the facts are even more compelling because offices
27 saw movement, observed damage to the door and blood and dirt inside the door and that the
28 residence was in disarray. Even though the victim was at the police station, they still did not

1 know the whereabouts of the Defendant, were unaware if he was possibly seriously injured
2 from the incident or if there were other persons now involved.

3 In People v. Poulson, 69 Cal.App.4th Supp. 1 (1998), the Court found the warrantless
4 entry into defendant's home was justified by a reasonable belief that defendant or his wife
5 were in need of aid or assistance for injuries suffered in an automobile accident despite being
6 told by defendant's wife that no aid was needed. The officers had observed severe damage
7 to the car, blood on the car and on the walkway leading up to the house, and no one would
8 answer the phone or the door. Officers observed defendant's wife with blood on her face
9 and a cut to her eye. Despite her saying everything was alright, the court found officers were
10 not bound by her statements and the other circumstances justified their entry into the
11 residence to provide assistance. Id. at 5-6.

12 The emergency aid exception requires only that there is an objectively reasonable
13 basis to believe that a person is in need of immediate aid. People v. Troyer, 51 Cal.4th 599,
14 605-606 (2011). Based on the officers' observations at Defendant's residence, an unsecured
15 door with damage, movement inside the home, fresh blood and dirt inside the door, disarray
16 inside the home, the officers were completely justified in entering and "sweeping" the home
17 to determine if anyone needed their assistance. Once they determined no one was present,
18 they then exited the residence and secured a warrant.¹

19 "Officers do not need ironclad proof of 'a likely serious, life-threatening' injury to
20 invoke the emergency aid exception." Michigan v. Fisher, 558 U.S. 45, 49 (2009).
21 Hindsight is twenty/twenty. Just because it is later determined there was not an emergency
22 inside the home does not make the officers actions any less valid.

23 It does not meet the needs of law enforcement or the demands of public safety
24 to require officers to walk away from a situation like the one they encountered
25 here. Only when an apparent threat has become an actual harm can officers
26 rule out innocuous explanations for ominous circumstances. But "[t]he role of
a peace officer includes preventing violence and restoring order, not simply
rendering first aid to casualties."

28 ¹ The Defendant is only challenging the initial entry into the home thereby conceding that once inside the residence, any
observations of legally significant items and subsequent basis for the search warrant were made under the plain view
doctrine or other valid basis.

1 Michigan, 558 U.S. at 49 *quoting* Brigham City, 547 U.S. at 406.

2 With the information officers had regarding the incident that occurred inside the
3 home, along with their observations before entering the home, the officers would have been
4 derelict in their duties if they had not entered and ensured no one was inside the home and
5 needed assistance.

6 Therefore, the entry into the home was valid. Any observations made inside the
7 home, including observing the marijuana plants, led to officers obtaining a valid warrant and
8 any and all evidence was then collected pursuant to those warrants.

9 **II. THE WARRANT WAS VALID BECAUSE THERE WAS SUFFICIENT**
10 **PROBABLE CAUSE IN THE WARRANT FROM AN INDEPENDENT**
11 **SOURCE**

12 The Constitution does not require suppression of evidence initially discovered during
13 a possibly illegal entry of a residence and rediscovered during a later search pursuant to a
14 valid warrant. Murray v. U.S., 487 U.S. 533 (1988). The purpose of the exclusionary rule is
15 to deter unlawful police conduct and to put the police in the same position they would have
16 been prior to any illegal conduct; they should not be put in a worse position. Id. at 537-38.
17 Therefore, evidence obtained independently from activities untainted by the initial illegality
18 is admissible. Id.

19 When a warrant is tainted by some unconstitutionally obtained information, we
20 nonetheless uphold the warrant if there was probable cause absent that
21 information. An affidavit containing erroneous or unconstitutionally obtained
22 information invalidates a warrant if that information was critical to establishing
23 probable cause. If, however, the affidavit contained sufficient accurate or
24 untainted evidence, the warrant is nevertheless valid.

25 United States v. Sims, 428 F.3d 945, 954 (10th Cir. 2005). *See* United States v. Cusumano,
26 83 F.3d 1247, 1250 (10th Cir. 1996)(“In our review, we may disregard allegedly tainted
27 material in the affidavit and ask whether sufficient facts remain to establish probable
28 cause.”); United States v. Snow, 919 F.2d 1458, 1460 (10th Cir. 1990)(“An affidavit
containing erroneous or unconstitutionally obtained information invalidates a warrant if that

///
///

1 information was critical to establishing probable cause. If, however, the affidavit contained
2 sufficient accurate or untainted evidence, the warrant is nevertheless valid.”).²

3 In the telephonic affidavit of Det. Melgarejo, Det. Melgarejo included information
4 regarding the battery/attempt murder and kidnapping that occurred at Defendant’s residence
5 based on what the victim Mr. Rogers told police when he reported the crime. (See **Exhibit**
6 **3**). The information in the warrant indicated that victim Phillip Rogers reported to police
7 that on June 11, 2013 he went to 5120 N. Vista Del Rancho where he previously lived with
8 his x-boyfriend, the Defendant. The Defendant accused Mr. Rogers of stealing marijuana
9 and then struck Mr. Rogers several times in the head, causing a laceration on top of his head.
10 Defendant also choked Mr. Rogers until he almost passed out. Defendant then took Mr.
11 Rogers’ keys, wallet and cell phone and coerced Mr. Rogers into the car. This information
12 alone is sufficient to establish probable cause that there would be evidence of the crimes of
13 domestic violence battery/strangulation, attempt murder and kidnapping. Because the
14 events occurred inside Defendant’s residence, it would be reasonable to believe that
15 evidence of blood, hair and fibers would be found in the Defendant’s home. Therefore, even
16 if the Court would determine that the officers’ initial entry into the Defendant’s home was
17 illegal, the warrant survives because there is sufficient probable cause obtained
18 independently of the alleged illegal entry.

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26
27 ² Some courts have interpreted this analysis under the Good Faith exception, others under the independent source.
28 Under either exception, the analysis is the same. The illegally obtained evidence is excised from the warrant and the
remaining information is assessed to determine if there is sufficient probable cause. This is also the same analysis
performed when there are allegations of false or misleading information contained in a search warrant. See Doyle v.
State, 116 Nev. 148, 159 (2000).

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

CONCLUSION

The State respectfully requests that an evidentiary hearing be held to address these issues. The State further requests, based on the foregoing arguments, that the Defendant's motion be denied.

DATED this 16th day of October, 2013.

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

BY /s/ Shannon Wittenberger
SHANNON WITTENBERGER
Deputy District Attorney
Nevada Bar #12304

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing, was made this 16th day of October, 2013, by Electronic Filing to:

MARIA JACOB, Deputy Public Defender
E-mail Address: maria.jacob@clarkcountyNV.gov
pdclerk@clarkcountyNV.gov

By: /s/ D. Jason
Secretary for the District Attorney's Office

EXHIBIT 1



est-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

1
Page 1 of 10

Subject:	AMURD/KID/DB- STRANGULATION/GLA/RSU	Routing	
----------	--	---------	--

Case Report Status	A - Approved	Case Status	O - Open	Reporting Officer	
Case Attachments	Yes	Date Entered	6/12/2013 7:38:57 PM	NL1967 - Aiello, Jenifer	
Occurred On (and Between)	6/11/2013 5:30:00 PM	Entered By	NL1967 - Aiello, Jenifer		
Location	5120 VISTA DEL RANCHO WAY	Date Verified	6/12/2013 9:53:49 PM		
Jurisdiction	N	Verified By	NL0796 - Stone, Carla		
Grid	NE2 - 0	Date Approved	6/13/2013 9:41:55 PM	Assisted By	
Sector	E	Approved By	NL1444 - Hamilton, Deborah	NL1967 - Aiello, Jenifer	
Map		Connecting Cases			
Census/Geo		Disposition	Arrest		
Call Source	Phone	Clearance Reason			
		Date of Clearance			
		Reporting Agency	North Las Vegas Police Department		
		Division	Patrol		
		Notified	detectives/narcs/records/LVMPD		
Vehicle Activity	driving	Means	L-100 - ---Residential L-213 - Open Public Area L-215 - Vehicle		
Vehicle Traveling Cross Street	west	Other Means			
		Motive	11 - Forms of domestic viol not mentioned above 12 - Acts against the Victim in retaliation 2 - Money		
		Other Motives			

Offense Detail: 50029 - Att Murder - 200.01

Offense Description	50029 - Att Murder - 200.01	Location	25 - Other/Unknown	No. Prem. Entered	
IBR Code	13A - Aggravated Assault	Offense Completed?	Yes	Entry Method	
IBR Group	A	Hate/Bias	88 - None (No Bias)	Type Security	
Crime Against	PE	Domestic Violence	Yes	Gang Related	No
Using		Fraud Related	No		
Tools Used					
Criminal Activity					
Weapons	40 - Personal Weapons (Hands, Feet, Teeth, etc.)				

Offense Detail: 50051 - Kidnapping, 1st Degree - 200.310.1

Offense Description	50051 - Kidnapping, 1st Degree - 200.310.1	Location	13 - Highway/Road/Alley	No. Prem. Entered	
IBR Code	100 - Kidnaping/Abduction	Offense Completed?	Yes	Entry Method	
IBR Group	A	Hate/Bias	88 - None (No Bias)	Type Security	
Crime Against	PE	Domestic Violence	Yes	Gang Related	No
Using		Fraud Related	No		
Tools Used					
Criminal Activity					
Weapons	20 - Knife/Cutting Instrument (Icepick, Ax, Etc.)				

Offense Detail: 54740 - Domestic Battery By Strangulation - 200.485.2

Offense Description	54740 - Domestic Battery By Strangulation - 200.485.2	Location	20 - Residence/Home	No. Prem. Entered	
IBR Code	13A - Aggravated Assault	Offense Completed?	Yes	Entry Method	
IBR Group	A	Hate/Bias	88 - None (No Bias)	Type Security	
Crime Against	PE	Domestic Violence	Yes	Gang Related	No
Using		Fraud Related	No		
Tools Used					
Criminal Activity					
Weapons	40 - Personal Weapons (Hands, Feet, Teeth, etc.)				



Rest-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

2

Page 2 of 10

Offense Detail: 50527 - Grand Larceny of Auto, < \$2500 - 205.228.2

Offense Description	50527 - Grand Larceny of Auto, < \$2500 - 205.228.2	Location	13 - Highway/Road/Alley	No. Prem. Entered	
IBR Code	240 - Motor Vehicle Theft	Offense Completed?	Yes	Entry Method	
IBR Group	A	Hate/Bias	88 - None (No Bias)	Type Security	
Crime Against	PR	Domestic Violence	Yes	Gang Related	No
Using		Fraud Related	No		
Tools Used					
Criminal Activity					
Weapons					

Arrestee A1: Dixon, Jerry

Arrestee Number	A1	DOB	7/31/1985	Place of Birth	
Name	Dixon, Jerry	Age	27	SSN	
AKA		Sex	M - Male	DLN	
Alert(s)		Race	W - White	DLN State	
CS No		Ethnicity	N - Not of Hispanic Origin	DLN Country	
MF No		Ht.	6' 0"	Occupation/Grade	n/a
Address	5120 VIS Del Rancho WAY	Wt.	165	Employer/School	unemployed
CSZ	NLV, NV 89030	Eye Color	BRO - Brown	Employer Address	
		Hair Color	BRO - Brown	Employer CSZ	
		Hair Style		Res. County	Clark
		Hair Length		Res. Country	USA - United States of America
		Facial Hair		Resident Status	R - Resident
		Complexion		Habitual Offender Status	
Email Address		Build		Modus Operandi	
Scars/Marks/Tattoos		Teeth		Other MO	
Attire					
Arrest No.	0	Arrested For	50051 - Kidnapping, 1st Degree - 200.310.1 50527 - Grand Larceny of Auto, < \$2500 - 205.228.2 54740 - Domestic Battery By Strangulation - 200.485.2 50029 - Att Murder - 200.01 01 - Unarmed	Arrest Location	cambridge/twain
Arrest Type	T - Taken into Custody	Armed With		Booked Location	las vegas city
FBI No.		Arrested On	6/12/2013 1:00:00 AM	Released Location	
State No.		Booked On	6/12/2013 4:00:00 AM	Released On	
Multi. Clearance	N - Not Applicable	Juvenile Disposition		Released By	
Multi. Clearance		Adult Present		Release Reason	
Offense					
Prev. Suspect No.					
Notified					
Arrest Notes	ex-boyfriend			Held For	

Telephone Numbers
Number Type Phone Number
CELL - Cell 704-4409

Victim V1: Rogers, Phillip

Victim Code	V1	Victim Of	50051 - Kidnapping, 1st Degree - 200.310.1
Victim Type	I - Individual		54740 - Domestic Battery By Strangulation - 200.485.2
Name	Rogers, Phillip		50029 - Att Murder - 200.01
		Emergency Contact Name	



Arrest-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

3

Page 3 of 10

DOB 5/4/1981

AKA

Alert(s)

Elderly Abuse

Address 370 E Twain #310

CSZ Lv, NV

Email Address

Attire

Injury

Circumstances

I - Possible Internal Injury
L - Severe Laceration
M - Apparent Minor Injury
01 - Argument
06 - Lovers' Quarrel

Place of Birth

Age 32

Sex M - Male

Race W - White

Ethnicity N - Not of Hispanic Origin

Ht 5' 5"

Wt 140

Eye Color BRO - Brown

Hair Color BRO - Brown

Facial Hair

Complexion

Build

SSN

DLN

DLN State

DLN Country

Occupation/Grade

Employer/School

Employer Address

Employer CSZ

Res. County

Res. Country

Resident Status

Testify

unemployed

Clark
USA - United States of America

R - Resident

Law Enforcement
Officer Killed or
Assaulted
Information

Type
Assignment
Activity
Other ORI

Justifiable Homicide
Circumstances

Telephone Numbers

Number Type Phone Number
CELL - Cell 306-0163

Victim Offender Relationships

Offender Relationship
A1 HR - Homosexual Relationship

Victim Notes ex boyfriend

Victim V2: Johnson, Jessica

Victim Code V2
Victim Type I - Individual

Victim Of 50527 - Grand Larceny of Auto, < \$2500 - 205.228.2

Name Johnson, Jessica
DOB 9/13/1985

AKA

Alert(s)

Elderly Abuse

Address 370 E Twain #310

CSZ Lv, NV

Email Address

Attire

Injury

Circumstances

Place of Birth

Age 27

Sex F - Female

Race W - White

Ethnicity N - Not of Hispanic Origin

Ht 5' 5"

Wt 250

Eye Color BRO - Brown

Hair Color BRO - Brown

Facial Hair

Complexion

Build

Emergency Contact Name

SSN

DLN

DLN State

DLN Country

Occupation/Grade

Employer/School

Employer Address

Employer CSZ

Res. County

Res. Country

Resident Status

Testify

retail sales
cashman photo
Fremont ST
Lv, NV
Clark
USA - United States of America
R - Resident

Law Enforcement
Officer Killed or
Assaulted
Information

Type
Assignment
Activity
Other ORI

Justifiable Homicide
Circumstances

Telephone Numbers

Number Type Phone Number
CELL - Cell 592-9920

Victim Offender Relationships

Offender Relationship

Victim Notes Roger's room mate



est-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

4
Page 4 of 10

Other Entity: O1 -- [E] LVMPD Officer Martine P#5102

Entity Code O1
Entity Type O - Other Entity (Business, Institution,
Etc.)

Name [E] LVMPD Officer Martine P#5102
AKA
Alert(s)

Address LVMPD
CSZ

Email Address
Attire

DOB
Age
Sex
Race
Ethnicity
Ht.
Wt.
Eye Color
Hair Color
Facial Hair
Complexion

Build

Place of Birth
SSN
DLN
DLN State
DLN Country
Occupation/Grade
Employer/School
Employer Address
Employer CSZ

Res. County
Res. Country

Resident Status

Clark
USA - United States
of America

Entity Notes located Phillip at the Mount Charleston Hotel and transported him to the NWAC under LVMPD event #
13061103944. cell#5913481

Telephone Numbers

Number Type Phone Number

Other Entity: O2 -- [E] Nancy Walker M.P.

Entity Code O2
Entity Type O - Other Entity (Business, Institution,
Etc.)

Name [E] Nancy Walker M.P.
AKA
Alert(s)

Address Mountain View Hospital
CSZ Lv, NV

Email Address
Attire

DOB
Age
Sex
Race
Ethnicity
Ht.
Wt.
Eye Color
Hair Color
Facial Hair
Complexion

Build

Place of Birth
SSN
DLN
DLN State
DLN Country
Occupation/Grade
Employer/School
Employer Address
Employer CSZ

Res. County
Res. Country

Resident Status

Clark
USA - United States
of America

Entity Notes medically treated Phillips wounds and released him from hospital

Telephone Numbers

Number Type Phone Number

Other Entity: O3 -- [E] LVMPD Officer Radich P#9340

Entity Code O3
Entity Type O - Other Entity (Business, Institution,
Etc.)

Name [E] LVMPD Officer Radich P#9340
AKA
Alert(s)

Address LVMPD
CSZ Lv, NV

Email Address

DOB
Age
Sex
Race
Ethnicity
Ht.
Wt.
Eye Color
Hair Color
Facial Hair

Place of Birth
SSN
DLN
DLN State
DLN Country
Occupation/Grade
Employer/School
Employer Address
Employer CSZ

Res. County

Clark



est-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

5

Page 5 of 10

Attire

Complexion

Build

Res. Country

USA - United States
of America

Resident Status

Entity Notes found original p/c for 411 vehicle and conducted 487 on cambridge/twain. Took suspect into custody and held for me under LVMPD event # 130611-3863. cell#323-719-5210.

Telephone Numbers

Number Type Phone Number

Property Description Item 1: 3503 - Automobile (Stolen Locally and Recovered By Other Jurisdictions) - 411 VEHICLE

Item No. 1
Property Category 3503 - Automobile (Stolen Locally and Recovered By Other Jurisdictions)
IBR Type 03 - Automobiles
UCR Type Y - Stolen Locally and Recovered By Other Jurisdiction
Status B - Both Stolen And Recovered (Also Used To Update Prev. Stolen)
Impound Sheet Yes
Count 1
Value 4000
Manufacturer CHEVY
Model COBALT
Serial No.
VIN 1G1AK12FX57656381
OAN
License No 217XJY
Color YEL - Yellow
2nd Color
Size
Description 411 VEHICLE
Vehicle Year 2005
License Year 2013
State NV - Nevada
Body Style 2D - 2 Door

Recovered Date 6/12/2013
Owner V2 - Johnson, Jessica

Recovered Value 4000
Disposition RECOVERED

Evidence Tag
Alert(s)

Drop Off Location None - None

Drug Info

Drug Type
Drug Quantity

Drug Measure

Check Info

Check Date
Check Number
Payee Name
Holder Name

Routing Number
Account Number
Bank Name
Check Amount

Credit/Debit Card
Info

Holders Name
Card Type
Expr Month/Yr

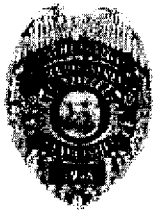
Issuer's Name
Card Number
Comp Phone

Firearms Info

Caliber
Size

Date Last Seen 6/11/2013
Length

Property Notes reported vehicle as an Original stolen through Records, Erica P#2320 . Later recovered/released vehicle to r/o and contacted Donna, record, who confirmed vehicle was recovered under LVMPD



est-Adult

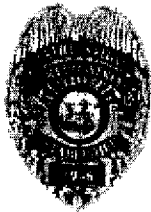
Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

6

Page 6 of 10

Property Description Item 2: 1500 - Cellular Phone - victim's cellphone

Item No.	2		
Property Category	1500 - Cellular Phone		
IBR Type	75 - Portable Electronic Equipment		
UCR Type	K - Miscellaneous		
Status	B - Both Stolen And Recovered (Also Used To Update Prev. Stolen)		
Impound Sheet			
Count	1		
Value	500		
Manufacturer	iphone		
Model	5		
Serial No.			
VIN			
OAN			
License No.			
Color	WHI - White		
2 nd Color			
Size			
Description	victim's cellphone		
Vehicle Year			
License Year			
State			
Body Style			
Recovered Date	6/12/2013	Recovered Value	500
Owner	V1 - Rogers, Phillip	Disposition	recovered
Evidence Tag		Drop Off Location	None - None
Alert(s)			
Drug Info	Drug Type	Drug Measure	
	Drug Quantity		
Check Info	Check Date	Routing Number	
	Check Number	Account Number	
	Payee Name	Bank Name	
	Holder Name	Check Amount	
Credit/Debit Card Info	Holders Name	Issuers Name	
	Card Type	Card Number	
	Expr Month/Yr	Comp Phone	
Firearms Info	Caliber	Date Last Seen	6/11/2013
	Size	Length	
Property Notes	located inside 411		



est-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

7

Page 7 of 10

Property Description Item 3: 3002 - Wallet - brown wallet and id's

Item No	3		
Property Category	3002 - Wallet		
IBR Type	25 - Purses/Handbags/Wallets		
UCR Type	K - Miscellaneous		
Status	B - Both Stolen And Recovered (Also Used To Update Prev. Stolen)		
Impound Sheet			
Count	1		
Value	50		
Manufacturer			
Model			
Serial No.			
VIN			
OAN			
License No.			
Color	BRO - Brown		
2 nd Color			
Size			
Description	brown wallet and id's		
Vehicle Year			
License Year			
State			
Body Style			
Recovered Date	6/12/2013	Recovered Value	50
Owner	V1 - Rogers, Phillip	Disposition	recovered
Evidence Tag		Drop Off Location	None - None
Alert(s)			
Drug Info	Drug Type	Drug Measure	
	Drug Quantity		
Check Info	Check Date	Routing Number	
	Check Number	Account Number	
	Payee Name	Bank Name	
	Holder Name	Check Amount	
Credit/Debit Card Info	Holders Name	Issuers Name	
	Card Type	Card Number	
	Expr Month/Yr	Comp Phone	
Firearms Info	Caliber	Date Last Seen	6/11/2013
	Size	Length	

Property Notes located in 411

Report Narrative On Tuesday 06/11/13 at about 1812 hours, I was dispatched to the North West Area Command (3755 West Washburn) in reference to a possible kidnaping report. Dispatch advised they were contacted by the Las Vegas Metropolitan Police Department (LVMPD) in reference to a white male adult, identified as Phillip Rogers, who had called 9-11 from the Mount Charleston Hotel (2755 Kyle Canyon.) Phillip claimed he was originally kidnaped from 5120 Vista Del Rancho Way, in North Las Vegas, and eventually he ended up at stranded at Mount Charleston.

At about 1930 hours I made contact with LVMPD Officer Martine P#5102 and Sergeant Legrow P#507, who had transported Phillip to the NWAC so he could file a criminal report (refer to LVMPD event #1306113944.) Phillip's roommate, Jessica Johnson (later determined to be the victim of a stolen vehicle in this case) came to the station as well.

Phillip told me the following: He was in a dating relationship and lived together at the above address for the past five years with a white male adult, he identified as Jerry Dixon. Phillip and Jerry officially separated over three weeks ago, which is when Phillip moved in with Jessica. On 06/02/13, Phillip called the NLVPD to do a civil standby at 5120 Vista Del Rancho so he could get some of his belongings. Police showed up and Jerry was not at the residence. It was determined that Phillip was still on the lease so Officer's cleared the scene and left Phillip there to get his belongings (under incident# 130602000331.) Phillip said he got some of his clothes for the time being and had no problems. He did notice that there were



Rest-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

8

Page 8 of 10

marijuana plants he had never seen in the bathroom, but he did not do anything about them and left. Since 06/02/13, Phillip and Jerry text a couple times in reference to property and they remained cordial but nothing more.

Today 06/12/13, Jessica allowed Phillip to borrow her vehicle (a 2005 yellow Chevy bearing NV 217XJY) so he could run some errands, as long as he picked her up from work at 1730 hours. At about 1300 hours, Jerry sent Phillip a text message asking him for a ride from the area of Twain and Paradise back down to the home the once shared, 5120 Vista Del Rancho. Phillip thought this was strange because they had not seen each other or hung out since their breakup, but he wanted keep things cordial between the two of them because Phillip had not gotten all of his property out of Jerry's house. Phillip picked Jerry up and drove him to the house. They seemed to be getting along fine during the drive so Jerry invited Phillip into the house to talk more. Once they were inside the house, Jerry's demeanor completely changed and he immediately started demanding that Phillip tell him where all his marijuana was. Phillip said he had no idea what Jerry was referring to because he no longer lived there and did not want to get involved, which seemed to infuriate Jerry. Jerry punched Phillip once on the left side of his face and said "Look in my eyes, I'm not fucking with you!" Phillip tried to run out of the house, but Jerry cornered him at the front door and said he owed some people money over the marijuana and they want to kill him. Phillip continued to say he had never taken anything from him, so Jerry punched the top of Phillip's on the top of his head 3 or 4 times with his left fist. Phillip remembered seeing a large ring on the fist that was striking him. The impact left Phillip on his knees and created a large gash on the top of Phillip's head which immediately started bleeding down his face and neck. Phillip started standing up and Jerry pulled out a pair of scissors his pants pocket and held them to open at Phillip's throat. Jerry told Phillip that both of them were in danger, and one of them has to die but it was not going to be him. Then using one hand Jerry pinned Phillip against the wall by his neck and started cutting off Phillip's area supply to the point of seeing black mostly black stars. I asked Phillip if he struck Jerry and he admitted having a lot less strength and biting him as the only way he could defend himself

Phillip got up, opened the front door and was halfway out when Jerry caught him by his shirt and tried to pull him back into the house. Phillip was able to get out of his shirt and run outside towards the car. Once at the car, Jerry threw Phillip down against the hood and yanked his cell phone, wallet and car keys from him. Jerry ran back into the house and locked Phillip outside. Phillip went to two neighboring houses trying to get help, but no one answered.

After about five minutes Jerry opened the front door and tried to talk calmly to Phillip. Phillips asked for his property and Jerry walked back into the house, leaving the door open so Phillip could come in. Phillip asked Jerry if he could just his house and leave with no problems, and Jerry's emotion seemed to swing completely from angry to sad. He started to apologize and said he was just scared for both of them, which is why he reacted aggressively. Phillip nicely told Jerry he really needed to leave to pick Jessica up from work because she has no other ride home. Jerry said the only way Phillip was leaving was if Jerry drove him. He then told Phillip to change his bloody shirt and clean up his blood before they left. Phillip could not convince Jerry to give him keys or phone and he did not want to be late picking her up since she let him use the car. He eventually gave into Jerry going because it was getting late. Jerry made it clear he was going to drive and told Phillip to get in passenger seat. Jerry left the house and headed westbound on Craig and towards 95 north, Phillip immediately questioned why he was not going towards Jessica's work and Jerry told him to stop questioning him, he patted his pants pocket and said he still had scissors. Jerry drove west on Craig Road and north on the 95 towards Mount Charleston. Phillip asked numerous times where they were going, and Jerry said he was taking them both out of the city because he was scared for their safety. Phillip asked many times if he would take him home as promised, but Jerry kept saying he wanted to see the scenic views. They ended up passing the Mount Charleston Lodge and pulling over on the side of the road. Jerry said he wanted walk into the forest with Phillip so they could pray together. Phillip stayed in the car and kept saying he wanted to go home. Jerry got back in the car, did a u-turn and said he would take Phillip home. He drove back down the mountain, but then saw another turn off and decided to pull off and park there. Jerry kept talking about the wilderness in a strange way and tried to convince Phillip to get out so they could pray together. Phillip stayed seated so Jerry walked over to the passenger side and opened the car door. He told Phillip it wasn't an option then pulled him up and started hugging and kissing him. He apologized for everything and kept telling Phillip he loved him and wanted to get back together with him. He blamed today's aggressive behaviors on being stressed about both of them being in danger and owing people. While Jerry was saying these things he was hugging Phillip and slowly inching towards a ledge nearby. Phillip said he did not feel safe with Jerry and he didn't want to be near the edge. Jerry kept kissing Phillip and nudging him closer to the edge so Phillip dropped his weight and sat down. Jerry seemed very concerned about Phillip and nicely said it was okay, and he would take Phillip home. Jerry started walking turning his body like he was heading back towards the car so Phillip stood up and just as soon as he got up. Jerry turned around and said "You got to go Bro," then shoved him over the ledge. Phillip fell about 6 feet down and he landed with his right arm behind his head. He started sliding down the hill towards an even larger drop, but he ran the right side of his body into a small tree, which stopped him from continuing down the mountain. Phillip eventually got himself up and noticed Jerry running towards the car (which he previously knew belonged to Phillip's room mate and also still has all of Phillips belongings Jerry took from him.) Jerry got into the car and sped down the mountain.

Once Phillip was able to climb up to the road he flagged down a passerby, who let him get into the bed of her truck. She drove him to the Hotel, and he immediately called 9-11 to report what happened. See Phillip's witness statement for further details.

Phillip was very adamant he has never seen Jerry act this erratic. He mentioned that Jerry has always been very domineering and often verbally abusive towards Phillip, who is naturally more soft spoken and also smaller in stature. Phillip said he has known Jerry long enough to believe he is possibly using hallucinogenic drugs because he is showing signs of being out of touch with reality right, or hallucinating. Before they broke up he displayed dramatic mood swings and Phillip decided he could not deal with it anymore, which is why he left and moved in with Jessica. It is also not unusual for



Rest-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

9

Page 9 of 10

Jerry to hit Phillip in the back of the head or smack him during an argument, but it has never been to point where he is bleeding or needs medical attention. Phillip never called the police, because has no family in Las Vegas and no where to really go and he was afraid of the backlash he would receive by doing so. See Phillip's witness statement for further details.

I made contact with Phillip and immediately noticed how disheveled he looked. Phillip had the following visible injuries: a large open gash (later measured as approximately 3 centimeters long by doctor) on the top of his head (there was caked blood along the back of his ears from this wound) a large fresh bruise forming on his left cheek bone, fresh bloody scratches and cuts along the right side of his body to include; his right shinbone, right forearm and right wrist. There were the beginnings of a large swollen bruise on the top of his right shoulder as well. Phillips eyes were bloodshot and I could see small faint red dots which were consistent with broken blood vessels (or what is known as petechia) in his eyes and also on along the left side of his neck. Phillip told me his throat was sore, it hurt to swallow, and as he was speaking I noticed his voice was dry and hoarse at times.

Phillip stated he was punched in the head a by Jerry while he was wearing a large ring, punched in the face, strangled, and pushed down a 6 foot drop onto rocks then slid on his right side. The injuries Phillip sustained were very consistent with his statement. The petechia in his eyes and on his neck, problems swallowing and a soar throat are all consistent with being strangled. The swelling and bruising down the right side of his body was consistent with how he said he landed after being pushed down the mountain. And all of the scratches along his arms and legs were consistent with him sliding down the hill on rocks and shrubs. I took photographs of Phillips injuries and later downloaded them onto D.I.M.S. Due to Phillips injuries I had Medic West 601 and Fire Engine 54 come to the scene to aid him. Medics determined that the laceration on the top of Phillip's head needed medical attention so they transported him to Mountain View Hospital (3100 N. Tenaya) for medical treatment. Jessica did not have a vehicle (it was taken without her knowledge or consent by Jerry earlier.) I took Jessica to Mountain View Hospital with me to continue my investigation.

I spoke to Jessica, who told me the following: She has known both Phillip and Jerry for over a year. Over time she has witnessed Jerry verbally and physically abuse Phillip. During those occasions, Phillip has never struck Jerry and normally responds by cowering and letting Jerry rant until he is finished. About three weeks ago, Phillip called Jessica and said he had to get out of the house because he was really scared and finally done. Jessica confirmed that today she let Phillip borrow her car, which she often did. Jessica said she text Phillip at about 1530 and never got a reply so she started calling him and there was no answer. By 1730, she still had not heard from Phillip so she started to get very worried. Jessica did not hear from Phillip until around 1820 hours, when he called her from the Mount Charleston Hotel and told her to meet him at the NWAC because something bad happened. See Jessica's witness statement for further details.

I advised Jessica that Jerry took possession of her vehicle and was last seen driving down from Mount Charleston. Jessica said she has not spoken to Jerry and he has never had permission to drive her car. Phillip is only recently driving her car to look for work. I issued Jessica a victim's guide at this point and called Erica P#2320, in records, to report her car as stolen and give Jerry as a suspect in the Grand Larceny. At about 2155 hours, I was notified that LVMPD had possession of Jessica's vehicle on the corner of Twain and Cambridge, and Jerry was stopped while driving her vehicle and placed into custody by LVMPD Officer's Radich P#9340 and Nitzel P#9863. Officer Radich also advised that he located Phillip's cell phone, wallet and keys which were all later documented on a property release form and given back to him.

After receiving 7 staples to his laceration, Phillip was medically cleared from the hospital per the Medical Practitioner Nancy Walker. Phillip was in obvious pain so he was issued a victim's information guide, a blue domestic violence card, and transported to his house.

I then transported Jessica to the area of Cambridge and Twain to recover her vehicle. I noticed what appeared to be blood smeared on the hood of her vehicle in a few places. This was consistent with Phillip's statement of slammed onto the hood of the car. I took photographs of the vehicle it was released to Jessica. I contacted Donna in records and she advised me the vehicle showed already recovered through LVMPD.

LVMPD Officer's Radich told me he conducted a traffic stop on the vehicle for having a head light out and identified Jerry as the driver (under LVMPD event #130611-3863.) They were quickly updated about the vehicle being stolen by Jerry. Jerry was removed from the vehicle and taken into custody without further incident. LVMPD released custody of Jerry (who was already hand cuffed) to me. I immediately noticed many fresh bite marks all over both of his forearms, in the webs of both hands, and on the lower part of both of his legs. Some of them were leaking pus and some showed clear teeth marks. I believe his injuries looked defensive in nature due to their locations and how deep they were. It seemed reasonable to believe that Phillip was able to bite the webs on both hands while Jerry was struggling to pin him against the wall and strangle him. It is also reasonable to think Phillip bit Jerry on and behind his legs, after he had been punched in the head, and fell down while Jerry was still hitting him. Jerry denied medical attention for his wounds. I took photographs of his injuries to later download onto D.I.M.S.

I took custody of Jerry and secured him in my patrol vehicle. I read Jerry his Miranda Rights and he told me he understood and wished to speak to me without the presence of an attorney. I explained the reason I was there and asked him what happened today. Jerry told me the following: He has been abused by Phillip during this whole relationship. Since they have broken up Phillip will not leave him alone. Today Phillip drive Jerry to the house they once shared and then he forced himself onto to Jerry and started kissing him saying he wanted to get back together. This was very different from what Phillip told me so I started asking Jerry questions to clarify. I asked about the wound to Phillip's head and face, and Jerry originally told me he did not cause any of his wounds. Jerry then said he actually had no choice because Phillip would not take no for an answer today. Jerry denied all the claims about taking Phillip's wallet or I phone. And he did not know



est-Adult

Case No. 130611010068
E-Police No.
Report No. 130611010068.1
Report Date: 6/11/2013

10

Page 10 of 10

anything about him wanting to leave. Jerry never caused Phillip of stealing his marijuana. And denied strangling Phillip or threatening him with a scissor. I asked him why he decided to take Phillip on a long drive to the mountains and he said they remind him of North Carolina. He suddenly got the urge to be around wilderness and sight see. I directly asked if he and Phillip fought out in the wilderness and Jerry said no, then immediately said he secretly felt like Phillip wanted to push him off the edge of a cliff but he did not know why. I directly asked Jerry if he pushed Phillip off a cliff or ledge and he said no. I described the injuries Phillip sustained while going down the cliff and asked him if he then change his mind and said Phillip was the one who tried to do a "football tackle" and knock Jerry off the edge. I mentioned how that seemed like it would cause both of them to go over the edge, but Jerry did not have a response to my concern. Jerry had no answer for why he denied Phillip's attempt to push him off the cliff when he was asked. Jerry admitted to driving the vehicle the whole time and stopping along the side of the road to sightsee. Jerry talked about the trip light heartedly, refusing to really mention anything more than how he was moved by nature. Jerry started to completely ignore my questions, and talk about topics he wanted to talk about, so I decided to talk solely on their visual injuries to see if he had any idea how they happened. I asked about the bite marks, and he said Phillip always bites him. He appeared visually uncomfortable with this topic because he could not explain specifically how or why Phillip would have his mouth close enough to only bite him, especially in the strange places like the webs of both hands or as low as the back of his legs. I asked him who the car belonged to and he knew it was Jessica's, admitted to not being her friend because she was closer to Phillip, and could not give me a simple yes or no answer in regards to getting permission to drive her car. Jerry explained that today he finally decided he had enough of Phillip's abuse. During an altercation of the side of the road, Jerry said he was fed up and decided to run to the car and drive Jessica's vehicle to protect himself from further abuse by Phillip. Jerry complete ignored my question about when asked why he did not immediately contact Jessica to return the car her to her. I went back to the original question of why Jerry contact Phillip in the first place and he avoided the question. I explained that Phillip's injuries were very consistent to his story and asked him why he only had bite marks on his body if he was being abused all day and Jerry asked to speak to a lawyer so I ceased all questioning at this time. During this interview, Jerry was very extreme with his emotions. He was very angry and very happy in the same sentence. He tried to avoid my questions, and make me the focus by asking me personal questions. I had to continually lead him back into answering my questions during this interview. I explained to Jerry that he was under arrest for the following charges and the following reason's listed below:

I believe Jerry was the only physical aggressor during this domestic battery due to the fact that he proved to be in control during the entire incident by initiating contact with Phillip and asking him for a ride after being broken up, inviting him into his house, and admitting to driving the car the whole time. Secondly, Phillip's story completely corroborated with his injuries, he said Jerry strangled him and he showed the physical signs of strangulation such as faint red dots in his eyes and along the left side of his neck (known as petchia,) as well as a hoarse voice. Phillip said he was slammed against the hood of the car, and there were looked like dried blood which was consistent because he had a large open gash on the top of his head during that time. Jerry claimed to have been battered, but he could not exactly tell me how Phillip battered him and I only noticed bite marks all over his body (which actually corroborated with Phillip's story), and finally, the locations of the bite marks (such as the web of both hands) were very defensive in nature. I therefore arrested Jerry for Domestic Battery with Strangulation.

I placed Jerry under arrest for Kidnaping Phillip due to the fact that it was already determined that Jerry was in control of the vehicle, while Phillip was inside it, he made Phillip get into the vehicle with him based on the idea that he was going to drive them to pick Jessica up from work, therefore physically moving Phillip in the car to Mount Charleston, where he did not ever want to go, Phillip was also forced by his fear of threats or bodily injury from Jerry since he already showed a clear propensity to do so.

I placed Jerry under arrest for Grand Larceny Auto due to the fact that he took possession of an Automobile that was not his, and due to the fact that he did not ever contact Jessica to return the car, and he was stopped in her vehicle many hour's after he originally took it, I believe he intended to deprive her of the vehicle. Jessica, who still had not spoken to Phillip when I interviewed her, indicated Jerry did not have any right to drive her car, had never driven her car and intentionally drove it away from Phillip.

I finally placed Jerry under arrest for Attempt Murder on Phillip due to the following reasons; Jerry made it known through verbal threats that he intended to kill Phillip. He then followed it up with physical threats that showed he had a propensity to cause bodily harm to Phillip. Phillips physical injuries, specifically the gash to Phillip's scalp, and when Jerry strangled Phillip almost to the point of passing out. Driving Phillip to Mount Charleston and committing one direct act toward the goal of killing by shoving Phillip over the ledge and down a steep rocky hill, which has tendency to kill, but failed to in this case.

transported Jerry to the Las Vegas City Jail, where he was booked on the above charges.

Attachments: one pre-booking sheet, twp property release pages, and two witness statements.

EXHIBIT 2

DECLARATION

Ryan Johnson makes the following declaration:

1. That I am employed as a police officer for the City of North Las Vegas.
2. I have been so employed for 6 years.
3. I was working in that capacity on June 11, 2013.
4. On June 11, 2013 at approximately 2200 hours, myself and Officer Cavaricci were dispatched to 5120 Vista Del Rancho, North Las Vegas, Clark County in an attempt to make contact with a possible suspect.
5. Upon arrival, Officer Cavaricci informed me that he observed movement inside of the home but was unable to determine what caused the movement.
6. I observed that the front door to the residence was open approximately 1 to 1 1/2" inches and the door was broken.
7. An officer knocked on the door and announced our presence. Due to the door being unsecured, the door opened approximately 6-8 inches.
8. I observed fresh drying blood and dirt right inside the door.
9. I also observed the inside was in disarray.
10. We continued to announce our presence with no response.
11. We performed a sweep of the home, found no people inside, exited the residence and contacted detectives.
12. During the sweep, we observed marijuana plants inside a bathroom and harvested marijuana in several locations throughout the residence.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

10.15.13
(Date)

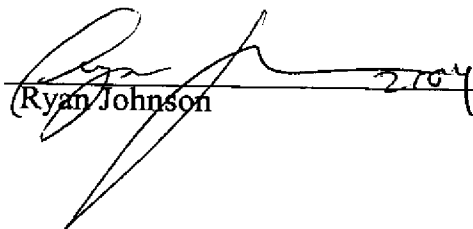

(Ryan Johnson)

EXHIBIT 3

NORTH LAS VEGAS

FILED

POLICE



JOSEPH CHRONISTER
CHIEF OF POLICE

JUSTICE COURT
NORTH LAS VEGAS, NV
BY _____ CLERK

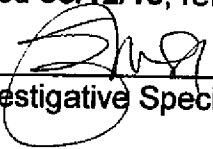
S.W.

13-111

CERTIFICATION OF TRANSCRIPT

I, **Sonia Pitts**, received this recording labeled with North Las Vegas Police Department Event No. 13-10068 5120 Vista Del Rancho, from Detective Ed Melgarejo, on **06/12/13**. I transcribed this recording on **06/12/13** at the North Las Vegas Police Department Detective Bureau located at 3525 W Cheyenne Avenue in North Las Vegas, Nevada 89032.

I certify that the foregoing is a true and accurate transcript of the recording labeled with North Las Vegas Police Department Event No. 13-10068 5120 Vista Del Rancho, and dated **06/12/13**, reference the application for telephonic search warrant.


Investigative Specialist's Signature

June 12, 2013
Date

Having read the transcription of the telephonic search warrant issued by this Court on 06/12/13, under North Las Vegas Police Event No. 130611-10068 with **Detective Ed Melgarejo**, as Affiant and having reviewed the recording of the application it appears that the transcription is accurate.


Judge's Signature

6/14/13
Date



**NORTH LAS VEGAS POLICE DEPARTMENT
TRANSCRIPTION OF APPLICATION FOR TELEPHONIC SEARCH WARRANT
NLVPD CASE # 130611-10068**

Transcribed by: Sonia Pitts
Date/Time: June 12, 2013 1030 Hrs

(Phone clicking, dial tone, ringing)

JUDGE HOO: Hello?

DET. MELGAREJO: How ya doin Judge? It's uh It's uh Detective Ed Melgarejo.

JUDGE HOO: Hey, what's going on?

DET. MELGAREJO: Hey, I'm calling to do a telephonic.

JUDGE HOO: Ok

DET. MELGAREJO: Ok, uh then uh swear me in?

JUDGE HOO: Sure, uh, the statements you're about to make in support of the search
warrant, uh do you swear or affirm that it's the truth, the whole truth to
the best of your knowledge and beliefs?

DET. MELGAREJO: I do

JUDGE HOO: Ok, you may proceed.

DET. MELGAREJO: Ok, uh, this is Detective Ed Melgarejo of the North Las Vegas Police
Department. I am making an application for a telephonic search
warrant. This conversation is being recorded pursuant to NRS
179.045. I am talking with Judge Hoo of the North Las Vegas Police
of the North Las Vegas Justice Court. The date is June 12th, 2013
and the time is approximately 1:10 am. This is Detective Ed
Melgarejo being duly sworn deposes that the applicant is a Detective
with the North Las Vegas Police Department. I have been duly

**NORTH LAS VEGAS POLICE DEPARTMENT
TRANSCRIPTION OF APPLICATION FOR TELEPHONIC SEARCH WARRANT
NLVPD CASE # 130611-10068**

employed as such for the past 21 years and I am presently assigned to the Detective Bureau. There is probable cause to believe that certain property herein described will be found at the following location: 5120 Vista Del Rancho Way, North Las Vegas, Nevada 89031. The property referred to and sought to be seized consists of the following: blood; hair; fibers; t-shirt with blood stains; marijuana plants, also, limited items of personal property which would tend to establish a possessory interest in the items seized pursuant to this search warrant, such as, personal identification; photographs; utility company receipts; or addressed papers. The property described constitutes evidence which tends to demonstrate that the criminal offense offenses of Attempt Murder; Domestic Battery Strangulation and Kidnaping have been committed. The probable cause is on June 11th, 2013, Officers of the North Las Vegas Police Department were contacted by a Phillip Rogers at the North West Area Command. Rogers told Officers that earlier this evening he was at 5120 Vista Del Rancho Way, a house he lived in with his ex-boyfriend, a Jerry Dixon. Dixon accused him of stealing marijuana and struck Rogers several times in the head, causing a laceration on top of his head. Dixon also choked Rogers until he almost passed out. Dixon took Roger's keys, wallet and cell phone and coerced Rogers to get into the passenger seat of the car Rogers was driving by threatening him with scissors,

**NORTH LAS VEGAS POLICE DEPARTMENT
TRANSCRIPTION OF APPLICATION FOR TELEPHONIC SEARCH WARRANT
NLVPD CASE # 130611-10068**

which he kept in his pocket. Dixon then drove Rogers out to Mount Charleston to an area just past the Mount Charleston Lodge. Once there he made Rogers exit the car and pushed Rogers over a ledge, saying You got to go Bro. Rogers fell approximately five to six feet and struck a tree which stopped his fall. Dixon then drove away. Rogers climbed back onto the road and hitched a ride to the Mount Charleston Lodge where he met with Las Vegas Metro Police Department Officers who drove him to the North Las Vegas Police Department Northwest Area Command. North Las Vegas Police Department Officers responded to 5120 Vista Del Rancho and found the front door open. Fearing someone might be hurt inside they conducted a safety sweep. They did not find anyone else in the house. However, when they were looking for injured persons they found blood in the front entry way, a t-shirt with blood on it in the kitchen and marijuana plants in the bathroom tub. They also found what appeared to be equipment to run a large marijuana grow house in the garage, such as Mylar insulation along the walls, ceiling hooks and loose wiring. Uh, the premise is frozen and the warrant is to be served at this time, the time being 1:12 am. Ok, I'm gonna read the Duplicate Search Warrant.

JUDGE HOO:Ok.

DET. MELGAREJO: The State of Nevada to any Peace Officer in the County of Clark.

**NORTH LAS VEGAS POLICE DEPARTMENT
TRANSCRIPTION OF APPLICATION FOR TELEPHONIC SEARCH WARRANT
NLVPD CASE # 130611-10068**

Proof having been made before me by Detective Ed Melgarejo by affidavit incorporated by reference herein, that there is probable cause to believe that certain property, namely: blood; hair; fibers; t-shirt with blood stains; marijuana plants is presently located at : 5120 Vista Del Rancho Way, North Las Vegas, Nevada 89031 and as I am satisfied there is probable cause to believe that said evidence is located as set forth and based upon the Affidavit of Detective Ed Melgarejo there are sufficient grounds for the issuance of the Search Warrant. You are hereby commanded to search said premises for said property, serving this warrant at any hour of the day or night and if the property is there to seize it and leave a written inventory and make a return before me within ten days. Dated this 12th day of June 2013. Do I have permission to sign the warrant?

JUDGE HOO: Yes you do.

DET. MELGAREJO: (unintelligible) Alright, thank you.

JUDGE HOO: Alright.

DET. MELGAREJO: Alright, thanks. Good Night. Dispatch, you got that?

DISPATCH: Got that.

DET. MELGAREJO: Alright, thank you.

DISPATCH: Ok, you're welcome, bye bye.

DET. MELGAREJO: Bye.

End of Tape

**NORTH LAS VEGAS POLICE DEPARTMENT
TRANSCRIPTION OF APPLICATION FOR TELEPHONIC SEARCH WARRANT
NLVPD CASE # 130611-10068**

:sp

EXHIBIT 4

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

NRS 179.045

S.W. 13-14

PREMISES

17.00066

The State of Nevada, to any Peace Officer in the County of Clark. Proof having been made before me by DET. ED MULLANEJO by affidavit incorporated by reference herein, that there is probable cause to believe that certain property, namely:

1. BLOOD
2. HAIR
3. FIBERS
4. T-SHIRTS w/ BLOOD STAINS
5. MARIJUANA PLANTS

is presently located at:

5120 VISTA DEL RANCHO WAY

NORTH LAS VEGAS NV 89031

and as I am satisfied that there is probable cause to believe that said evidence is located as set forth and based upon the Affidavit of DET. ED MULLANEJO there are sufficient grounds for the issuance of the Search Warrant.

You are hereby commanded to search said premises for said property, serving this warrant (between 7 a.m and 7 p.m.) / (at any hour of the day or night) and if the property is there to seize it and leave a written inventory and make a return before me within 10 days.

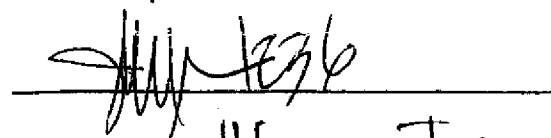
Dated this 12 day of JUNE 2013

Signed by:



Action upon oral authorization of the Honorable Judge HOO

Witnessed by:



Endorsed this 14 day of June 2013

Judge

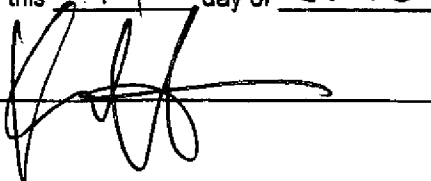


EXHIBIT 5

NORTH LAS VEGAS

POLICE

FILED



JOSEPH CHRONISTER
CHIEF OF POLICE

S.W. 13-112

2013 JUN 14 PM 3 17
JUSTICE COURT
NORTH LAS VEGAS, NV
BY _____ CLERK

DF

CERTIFICATION OF TRANSCRIPT

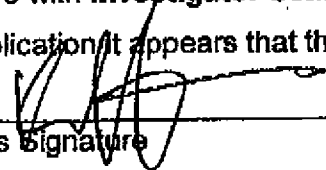
I, **Sonia Pitts**, received this recording labeled with North Las Vegas Police Department Event No. 130611-10068 5120 Vista Del Rancho, from Investigator Sean Bryan, on **06/12/13**. I transcribed this recording on **06/12/13** at the North Las Vegas Police Department Detective Bureau located at 3525 W Cheyenne Avenue in North Las Vegas, Nevada 89032.

I certify that the foregoing is a true and accurate transcript of the recording labeled with North Las Vegas Police Department Event No. 130611-10068, and dated **06/12/13**, reference the application for telephonic search warrant.


Investigative Specialist's Signature

June 12, 2013
Date

Having read the transcription of the telephonic search warrant issued by this Court on 06/12/13 with Investigator Sean Bryan, as Affiant and having reviewed the recording of the application it appears that the transcription is accurate.


Judge's Signature

6/14/13
Date



Rev. 02/08

1301 East Lake Mead Blvd., North Las Vegas, Nevada 89030, 702.633.9111, www.cityofnorthlasvegas.com, TDD 800.326.6868

S.W. 18112 FILED

NORTH LAS VEGAS POLICE DEPARTMENT 3 18
TRANSCRIPTION OF APPLICATION FOR TELEPHONIC SEARCH WARRANT
NLRPD CASE # 130841-1098 JUSTICE COURT

Transcribed by: Sonia Pitts
Date/Time: June 12, 2013 1345 Hrs BY NORTH LAS VEGAS, NV CLERK

INV. BRYAN: Hello Judge, this is Investigator Bryan of the North Las Vegas Police

Department. I am requesting a telephonic search warrant. Can you
place me under oath?

JUDGE HOO: Yes, do you sit swear or affirm that the statements you are about to
make in support of the search warrant are the truth, the whole truth to
the best of your knowledge and understanding?

INV. BRYAN:

I do

JUDGE HOO:

Alright, you may proceed.

INV. BRYAN:

Alright. This is Investigator Bryan of the North Las Vegas Police

Department. I am making application for a telephonic search warrant.

This conversation is being recorded - recorded pursuant to NRS

179.045. I am talking with Judge Hoo of the North Las Vegas Justice

Court. The date is June 12th, 2013 and the time is approximately 120

hours. This is Investigator Bryan being duly sworn deposes that the

applicant is a Police Officer with the North Las Vegas Police

Department. I have been duly employed as such for the past seven

years and two months, and I am presently assigned to the Narcotics

Bureau, and have been for more than three years and six months.

There is probable cause to believe that certain property herein

described will be found at the following location: 5120 Vista Del

Rancho, city of North Las Vegas, county of Clark, State of Nevada,

89031, more particularly described as a single story, single family

dwelling, white in color with a pink trim. It has a grey front door which

faces west and the numbers 5120 are posted to the left of the garage

door. The property referred to and sought to be seized consists of the

following one, an unknown quantity of marijuana and other controlled

NORTH LAS VEGAS POLICE DEPARTMENT
TRANSCRIPTION OF APPLICATION FOR TELEPHONIC SEARCH WARRANT
NLVPD CASE # 130611-40068

substances; two, the paraphernalia commonly associated with the ingestion and distribution of the controlled substance marijuana such as scales, packaging materials and cut, grinders, customer and source lists, recordations of purchases and sales including owe sheets reflecting transactions in the controlled substance marijuana; three, limited items of personal property which would tend to establish a possessory interest in the items seized pursuant to this search warrant, such as personal identification, photographs, utility company receipts or addressed envelopes; four, Sales, which are commonly used by persons engaged in sales of narcotics to conceal narcotics and proceeds derived from the sales of narcotics; five, U.S. Currency, cashiers' checks, money orders, and travelers checks which are proceeds derived from drug sales; six, Equipment commonly used in indoor marijuana operations, such as halved lights, electrical ballasts, fertilizers, which will be disposed of and destroyed due to potential health risks from chemicals and possible mold. Probable cause, On June 11th, 2013, at approximately 2200 hours, Officer Aledo #1967 and Officer Johnson #2104, responded to 5120 Vista Del Rancho, in reference to attempt to locate an attempt murder suspect identified as Jerry Dixon, case# 130611010068. The crimes committed by Dixon took place earlier in the day and patrol officers were able to identify 5120 Vista Del Rancho as being Dixon's current residence. Upon their arrival, they saw the front door had signs of being kicked in or forced open. Due to this being an active investigation to locate Dixon, the officers conducted a protective sweep of the residence to check for any victims and to attempt to locate Dixon. During the officers initial walk through of the residence, the officers located an active marijuana grow in the hallway bathroom. The marijuana grow consisted of approximately 5 marijuana plants,

NORTH LAS VEGAS POLICE DEPARTMENT
TRANSCRIPTION OF APPLICATION FOR TELEPHONIC SEARCH WARRANT
NLVPD CASE # 130611-10068

with active electricity and a fan used for cooking. The officers also located a d-a dismantled marijuana grow in the garage, which consisted of mylar reflective paper, exposed wiring and air duct tubing. Throughout the residence, the officers located amounts of finished marijuana product. The Narcotics Unit- Our Narcotics unit was advised of the marijuana grow and your Affidavit responded to the scene. Your Affidavit requests that the Honorable Court authorize your Affidavit and/or agents of your Affidavit, in accordance with Environmental Protection Agency guideline, to document and photograph all items believed to be associated and/or contaminated by the illegal cultivation of marijuana/manufacture of controlled substance. To process these items for latent fingerprints, and then release items to a licensed chemical disposal contractor who will then dispose of all hazardous waste located at the suspected premise. Duplicate Search Warrant. The State of Nevada, to any Peace Officer in the County of Clark, Prior having been made before me by the Affidavit of Investigator Bryan Incorporated by reference herein, that there is probable cause to believe that certain property, namely: one, an unknown quantity of marijuana and other controlled substances; two, the paraphernalia commonly associated with the ingestion and distribution of the controlled substance marijuana such as scales, packaging materials and oil, grinders, customer and source lists, recordings of purchases and sales including one sheets reflecting transactions in the controlled substance marijuana; three, limited items of personal property which would tend to establish a possessory interest in the items seized pursuant to this search warrant, such as personal identification, photographs, utility company receipts or addressed envelopes; four, Safes, which are commonly used by persons engaged in the sales of narcotics to conceal

NORTH LAS VEGAS POLICE DEPARTMENT
TRANSCRIPTION OF APPLICATION FOR TELEPHONIC SEARCH WARRANT
NLVPD CASE # 130814-10008

narcotics and proceed— proceeds derived from the sales of narcotics;
fire, U.S. Currency; cashiers' checks, money orders, and travelers
checks which are proceeds derived from drug sales; six. Equipment
commonly used in indoor marijuana operations, such as halved
lights, electrical ballasts, fertilizers, which will be disposed of and
destroyed due to potential health risks from chemicals
and possible mold is presently located at 5120 Vista Del Rancho, city
of North Las Vegas, county of Clark, State of Nevada, 89031, more
particularly described as a single story, single family dwelling, white in
color with a pink trim. It has a grey front door which faces west and
the numbers 5120 are posted to the left of the garage door and as I
am satisfied that there is probable cause to believe that said evidence
is located as set forth and based upon the Affidavit of Investigator
Bryan there are sufficient grounds for the issuance of the Search
Warrant. You are hereby commanded to search said location for said
evidence, serving this warrant and if the property is there to seize it
and leave a written inventory and make a return before me within ten
days, dated this June 12th, 2013. Judge do I have permission to sign
your name on the Duplicate Original Search Warrant?

JUDGE HOO: Yes you do.

INV. BRYAN: Thank you. For the record, the Judge's name has been placed on two

Duplicate Original Search Warrants and a witness has also signed the
Search Warrant and the correct date and time has been noted on the
warrant. Thank you for your time Judge.

JUDGE HOO: (unintelligible)

End of Tape

:sp

EXHIBIT 6

S.W.

13.112

DUPLICATE ORIGINAL SEARCH WARRANT
NRS 179.045

STATE OF NEVADA)

COUNTY OF CLARK)

) ss:

PREMISES

The State of Nevada, to any Peace Officer in the County of Clark, Proof having been made before me by the Affidavit of Investigator Bryan incorporated by reference herein, that there is probable cause to believe that certain property, namely:

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

1. An unknown quantity of marijuana and other controlled substances.
2. The paraphernalia commonly associated with the ingestion and distribution of the controlled substance marijuana such as scales, packaging materials and "cut," grinders, customer and source lists, recordings of purchases and sales including "owe sheets" reflecting transactions in the controlled substance marijuana.
3. Limited items of personal property which would tend to establish a possessory interest in the items seized pursuant to this search warrant, such as personal identification, photographs, utility company receipts or addressed envelopes.
4. Safes, which are commonly used by persons engaged in the sales of narcotics to conceal narcotics and proceeds derived from the sales of narcotics.
5. U.S. Currency, cashiers' checks, money orders, and travelers checks which are proceeds derived from drug sales.
6. Equipment commonly used in outdoor marijuana operations, such as fertilizer, chemicals, watering drip systems, which will be disposed of and destroyed due to potential health risks from chemicals and possible mold.

There is probable cause to believe that certain property herein described will be found at the following location:

5120 Vista Del Rancho, city of North Las Vegas, county of Clark, State of Nevada, 89031 more particularly described as a single story single family dwelling, white in color with a pink trim. It has a grey front door which faces west and the numbers "5120" are posted to the left of the garage door.

and as I am satisfied that there is probable cause to believe that said evidence is located as set forth and based upon the Affidavit of Investigator Bryan there are sufficient grounds for the issuance of the Search Warrant.

You are hereby commanded to search said premises for said property, serving this warrant at any time of the day or night, and if the property is there to seize it and leave a written inventory and make a return before me within 10 days.

Dated this 12th day of June, 2013.

 1800
Signed by Investigator Sean Bryan

Acting upon oral authorization of the Honorable Judge Hoo, North Las Vegas Justice Court


Witnessed by

Endorsed this 14 day of June 2013.


Judge (Endorsement to be signed by Judge at a later date)


CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA
VS
JERRY DIXON

CASE NO: C-13-290942-1
C-13-292285-1
DEPARTMENT 10

NOTICE OF DEPARTMENT REASSIGNMENT

NOTICE IS HEREBY GIVEN that the above-entitled action has been reassigned to Judge Jessie Walsh.

☒ This reassignment is due to: Per Minutes Re: Consolidation Dated 10-23-13 & 10-28-13

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE RESET BY THE NEW DEPARTMENT

Any motions or hearings presently scheduled in the FORMER department will be heard by the NEW Department as set forth below:

The Jury Trial will be heard on December 09, 2013, at 1:00 PM.

The Calendar Call will be heard on December 02, 2013, at 8:30 AM.

PLEASE INCLUDE THE NEW DEPARTMENT NUMBER ON ALL FUTURE FILINGS.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Salevao Asifoa
S.L. Asifoa, Deputy Clerk of the Court

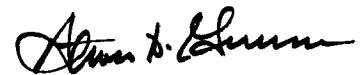
CERTIFICATE OF SERVICE

I hereby certify that: on this the 6th day of November, 2013

☒ I placed a copy of the foregoing NOTICE OF DEPARTMENT REASSIGNMENT in the appropriate attorney folder located in the Clerk of the Court's Office:

Steven B Wolfson
Public Defender

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



CLERK OF THE COURT

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
SHANNON WITTENBERGER
Deputy District Attorney
Nevada Bar #012304
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JERRY LEE DIXON,
#2807953

Defendant.

CASE NO: ²⁹²²⁸⁵⁻¹ C-13-290942-1

DEPT NO: X

ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS

DATE OF HEARING: 12/02/2013
TIME OF HEARING: 8:30 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 2ND day of December, 2013, the Defendant being present, represented by RONALD PAULSON and MARIA JACOB, Deputy Public Defenders, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through SHANNON WITTENBERGER, Deputy District Attorney, and the Court having heard testimony and the arguments of counsel, and good cause appearing therefor,

///

///

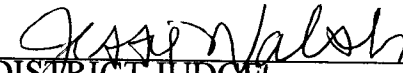
///

///

///

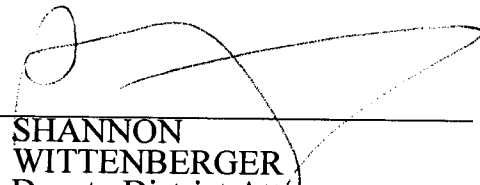
1 IT IS HEREBY ORDERED that the Defendant's Motion to Suppress, shall be, and it
2 is DENIED.

3 DATED this 8 day of ^{Jan}~~December~~, 201⁴~~5~~.

4
5 
6 DISTRICT JUDGE

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

10 BY


11 SHANNON
12 WITTENBERGER
13 Deputy District Attorney
14 Nevada Bar #012304
15
16
17
18
19
20
21
22
23
24
25
26
27

28 djj / l-5

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

FEB 03 2014

JUR

DISTRICT COURT

CLARK COUNTY, NEVADA

BY, 
TERI BRAEGELMANN, DEPUTY

STATE OF NEVADA

Plaintiff(s),

CASE NO.
C284172/C292285

-VS-

DEPT. NO. X

JERRY DIXON

Defendant(s).

C-13-292285-1
JURL
Jury List
3435796



JURY LIST

- | | |
|----------------------|-----------------------|
| 1. LATOYA JACKSON | 7. PAUL ACKERLEY |
| 2. JEFFREY KHEMVISAI | 8. NABIL SILVAN-PEREZ |
| 3. DEREK WEISHAUP | 9. STEPHANIE PATTON |
| 4. FRED VIEUX | 10. NICOLE JENKINS |
| 5. KYLE MILLER | 11. JOLYNN PINZL |
| 6. ANDREW CRAVEN | 12. JOHN HORTON |

ALTERNATES SECRET FROM ABOVE

- | | |
|------------------|-----------------|
| 1. BARBARA CASEY | 2. DAVID WEAVER |
|------------------|-----------------|

35

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

FEB 06 2014

DISTRICT COURT
CLARK COUNTY, NEVADA

BY: 
TERI BRAEGELMANN, DEPUTY

STATE OF NEVADA
Plaintiff(s),
-vs-
JERRY LEE DIXON
Defendant(s).

CASE NO.
C290942/C292285
DEPT. NO. X

PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL

Attached hereto are the proposed jury instructions which were offered to the Court, but not submitted to the jury in the above entitled action.

DATED: This 6th day of February, 2014 .

Steven D. Grierson, Clerk of the Court

By: 
Teri Braegelmann, Deputy Clerk

RECEIVED

FEB 12 2014

CLERK OF THE COURT

C-13-290942-1
PINU
Proposed Jury Instructions Not Used At Tri:
3466599



INSTRUCTION NO. _____

The reasonable doubt standard requires the jury to reach a subjective state of near
certitude on the facts in issue.

not given over Δ/c obj.

Holmes v. State, 114 Nev. 1357, 972 P.2d 337 (1998)

INSTRUCTION NO. _____

If the evidence is susceptible of two reasonable interpretations, one of which points to the defendant's guilt and the other to his innocence, it is your duty to adopt that interpretation which points to the defendant's innocence, and reject the other which points to his guilt.

not given over Δ/c obj.

Bails v. State, 92 Nev. 95 (1976)

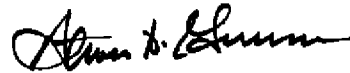
INSTRUCTION NO. _____

One attacked by another has the right to use his own judgment in determining what is necessary to repel the attack, and his right to self-defense cannot be limited by what may appear after the fact to have been absolutely necessary.⁴

Not give over
Δ/obj

⁴ *State v. Scott*, 37 Nev. 412, 142 P. 1053, 1056 (1914)

COSCC



CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA

CASE NO.: C-13-292285-1

VS

DEPARTMENT 10

JERRY DIXON

CRIMINAL ORDER TO STATISTICALLY CLOSE CASE

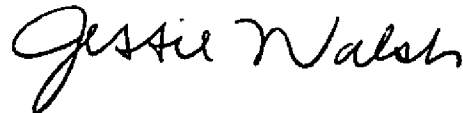
Upon review of this matter and good cause appearing,

IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to
statistically close this case for the following reason:

DISPOSITIONS:

- ☐ Nolle Prosequi (before trial)
- ☐ Dismissed (after diversion)
- ☐ Dismissed (before trial)
- ☐ Guilty Plea with Sentence (before trial)
- ☐ Transferred (before/during trial)
- ☐ Bench (Non-Jury) Trial
 - ☐ Dismissed (during trial)
 - ☐ Acquittal
 - ☐ Guilty Plea with Sentence (during trial)
 - ☐ Conviction
- ☐ Jury Trial
 - ☐ Dismissed (during trial)
 - ☐ Acquittal
 - ☐ Guilty Plea with Sentence (during trial)
 - ☒ Conviction
- ☐ Other Manner of Disposition

DATED this 12th day of September, 2014.



JESSIE WALSH
DISTRICT COURT JUDGE

RECEIVED

SEP 19 2014

CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 02, 2013

C-13-292285-1 State of Nevada
 vs
 Jerry Dixon

**October 02, 2013 9:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Dulce Romea
Katrina Hernandez

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Dixon, Jerry Lee	Defendant
	Jacob, Maria N.	Attorney
	State of Nevada	Plaintiff
	Wittenberger, Shannon	Attorney

JOURNAL ENTRIES

- Arguments by M. Jacobs in support of Petition and request for dismissal. Arguments by Ms. Wittenberger in opposition. COURT STATED FINDINGS and ORDERED, Petition DENIED.

CUSTODY (COC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 07, 2013

C-13-292285-1 State of Nevada
 vs
 Jerry Dixon

October 07, 2013 9:00 AM Status Check

HEARD BY: Gonzalez, Elizabeth COURTROOM: RJC Courtroom 14C

COURT CLERK: Dulce Romea
 Ying Pan

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Dixon, Jerry Lee	Defendant
	Jacob, Maria N.	Attorney
	Keeler, Brett O.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Jacob advised she has the preliminary hearing transcript and already filed a writ of habeas corpus; today she also plans to file a motion to suppress and will provide a courtesy copy to the State. Upon inquiry of the Court, Mr. Keeler advised a forensic examination is being done; the State also plans to do a bad acts motion and a motion to consolidate; however, he does not know when these will be filed as he does not have the physical file. Ms. Jacob stated this is news to her. Statement by the Court regarding an evidentiary hearing related to motion to suppress issues. Court DIRECTED the State to identify other issues if any.

CUSTODY (COC)

10-30-13 9:00 AM CALENDAR CALL

PRINT DATE: 05/24/2022

Page 3 of 12

Minutes Date: September 11, 2013

C-13-292285-1

11-4-13 1:00 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 16, 2013

C-13-292285-1 State of Nevada
 vs
 Jerry Dixon

October 16, 2013 8:30 AM Motion to Consolidate

HEARD BY: Walsh, Jessie **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Dania Batiste

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT:	Dixon, Jerry Lee	Defendant
	Ferreira, Amy L.	Attorney
	Paulson, Ronald S.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court NOTED Mr. Paulson has not filed an opposition to the State's Motion. Upon the Court's inquiry, Mr. Paulson advised he will file the opposition no later than Thursday, October 17, 2013.

COURT ORDERED, matter CONTINUED one (1) week.

CUSTODY (COC)

CONTINUED TO: 10/23/2013 8:30 am

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 23, 2013

C-13-292285-1 State of Nevada
 vs
 Jerry Dixon

October 23, 2013 8:30 AM Motion to Consolidate

HEARD BY: Walsh, Jessie **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Teri Berkshire

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT:	Dixon, Jerry Lee	Defendant
	Ferreira, Amy L.	Attorney
	Paulson, Ronald S.	Attorney
	State of Nevada	Plaintiff
	Wittenberger, Shannon	Attorney

JOURNAL ENTRIES

- Following arguments by counsel, Court Stated its Findings and ORDERED, motion GRANTED.

CUSTODY (COC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 28, 2013

C-13-292285-1 State of Nevada
 vs
 Jerry Dixon

October 28, 2013 9:00 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth

COURTROOM: RJC Courtroom 14C

COURT CLERK: Dulce Romea
 Andrea Natali

RECORDER: Jill Hawkins

REPORTER:

PARTIES

PRESENT:	Dixon, Jerry Lee	Defendant
	Jacob, Maria N.	Attorney
	State of Nevada	Plaintiff
	Wittenberger, Shannon	Attorney

JOURNAL ENTRIES

- STATE S NOTICE OF MOTION AND MOTION IN LIMINE DEFT S MOTION TO SUPPRESS
STATE'S NOTICE OF MOTION AND MOTION FOR JOINDER OF CASE C292285-1 AND C290942-1

Upon Court's inquiry, Ms. Jacob stated Judge Walsh granted the Joinder. Further Ms. Jacob requested the pending motions are set on Judge Walsh calendar. Counsel stated the Motion for Bad Acts was moot. COURT ORDERED, State's Notice of Motion and Motion for Joinder of Case C292285-1 and C290942-1 GRANTED; Deft's Motion to Suppress SET on Judge Walsh calendar.

State's Motion in Limine MOOT; Jury Trial VACATED.

CUSTODY (COC)

PRINT DATE: 05/24/2022

Page 7 of 12

Minutes Date: September 11, 2013

11/4/13 8:30 AM - DEFT S MOTION TO SUPPRESS (DEPT 10)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 02, 2013

C-13-292285-1 State of Nevada
 vs
 Jerry Dixon

December 02, 2013 8:30 AM All Pending Motions

HEARD BY: Walsh, Jessie COURTROOM: RJC Courtroom 14B

COURT CLERK: Keri Cromer

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT:	Dixon, Jerry Lee	Defendant
	Jacob, Maria N.	Attorney
	State of Nevada	Plaintiff
	Wittenberger, Shannon	Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO SUPPRESS...CALENDAR CALL

Officer Ryan Johnson sworn and testified. Exhibit presented (see worksheet). Ms. Whittenberger argued this was a clear emergency exception, the officers saw blood, believed someone may have been injured, and that entry by the officers was appropriate in this case based on their observations of movement in the window; further argued that the door's deadbolt was locked yet the door was open. Ms. Jacob cited Hannon v State, and argued that the officers must have facts that someone was in danger; further argued that there was no information available indicating that there was an altercation involving more than one person and that there was no ongoing emergency. Ms. Jacob advised that a search warrant should have been obtained in this case. Ms. Jacob requested count one be dismissed. Ms. Whittenberger opposed the dismissal of count I and stated hearsay was allowed in this type of situation in regard to the movement seen inside the house. Court advised that, given the totality of the circumstances, the damaged door, and the blood found, it was reasonable for the

PRINT DATE: 05/24/2022

Page 9 of 12

Minutes Date: September 11, 2013

officers to think there was an emergency and someone was inside who may have needed help. COURT ORDERED, Motion DENIED; 12/9/13 trial STANDS. Ms. Whittenberger to prepare the order; Ms. Jacob to review as to form and content. Upon Court's inquiry, Ms. Whittenberger announced ready for trial; anticipated one week with 13-15 local witnesses.

CUSTODY (COC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 11, 2013

C-13-292285-1 State of Nevada
 vs
 Jerry Dixon

December 11, 2013 8:30 AM Status Check

HEARD BY: Walsh, Jessie **COURTROOM:** RJC Courtroom 14B

COURT CLERK: Teri Berkshire

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT:	Dixon, Jerry Lee	Defendant
	Paulson, Ronald S.	Attorney
	State of Nevada	Plaintiff
	Wittenberger, Shannon	Attorney

JOURNAL ENTRIES

- Court noted this trial cannot go next week. Upon court's inquiry, counsel advised they will need 4-5 days for trial. COURT ORDERED, trial date set.

CUSTODY (COC)

01/27/14 8:30 AM CALENDAR CALL

02/03/14 1:00 PM JURY TRIAL

PRINT DATE: 05/24/2022

Page 11 of 12

Minutes Date: September 11, 2013

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 27, 2014

C-13-292285-1 State of Nevada
 vs
 Jerry Dixon

January 27, 2014 8:30 AM Calendar Call

HEARD BY: Walsh, Jessie

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Berkshire
Athena Trujillo

RECORDER: Victoria Boyd

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Nicole Cannizzaro, Deputy District Attorney, present for the State of Nevada.
Defendant Dixon, present in custody, with Ronald Paulson, Deputy Public Defender.

Counsel announced ready for trial. State advised there will be approximately 12 witnesses with trial taking four to five days. State further advised Amy Ferreira and Shannon Wittenberger, Deputy District Attorneys will be trying the case. COURT ORDERED, matter SET for trial.

CUSTODY (COC)

02/03/14 1:00 PM JURY TRIAL

.

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated May 16, 2022, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises one volume with pages numbered 1 through 213.

STATE OF NEVADA,

Plaintiff(s),

vs.

JERRY LEE DIXON
aka JERRY DIXON,

Defendant(s),

Case No: C-13-292285-1

Consolidated with C-13-290942-1

Dept. No: II

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 24 day of May 2022.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk