IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Nov 03 2022 08:55 AM
Elizabeth A. Brown
Clerk of Supreme Court

ERIN DESHAUN WARE,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-16-311782-1
Consolidated with C-15-310099-1
Docket No: 85345

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
ERIN WARE # 1017483,
PROPER PERSON
P.O. BOX 7000
CARSON CITY, NV 89702

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

C-16-311782-1 State of Nevada vs Erin Ware

INDEX

C-16-311782-1 State of Nevada
vs
Erin Ware

I N D E X

VOL	DATE	PLEADING	PAGE NUMBER:
1	11/3/2022	Certification of Copy and Transmittal of Record	
1	4/11/2018	Criminal Order to Statistically Close Case	120 - 120
1	2/19/2016	Defendant's Opposition to State's Motion to Consolidate, or in the Alternative, Motion to Admit Evidence of Other Acts Pursuant to NRS 48.045(2)	85 - 96
1	11/3/2022	District Court Minutes	129 - 147
1	11/3/2022	Documentary Exhibits (Unfiled)	121 - 128
1	1/6/2016	Indictment	1 - 3
1	1/7/2016	Indictment Warrant Return (Redacted Version)	9 - 11
1	1/7/2016	Indictment Warrant Return (Unredacted Version) (Confidential)	6 - 8
1	1/6/2016	Indictment Warrant; Warrant for Arrest	4 - 5
1	1/11/2016	Media Request and Order Allowing Camera Access to Court Proceedings	37 - 38
1	1/11/2016	Media Request and Order Allowing Camera Access to Court Proceedings	39 - 40
1	8/16/2016	Media Request and Order Allowing Camera Access to Court Proceedings	116 - 117
1	8/12/2016	Motion for Discovery	104 - 115
1	8/4/2016	Motion to Continue Trial	98 - 103
1	6/10/2016	Notice of Department Reassignment	97 - 97
1	2/2/2016	Notice of Motion and Motion to Consolidate, or in the Alternative, Motion to Admit Evidence of Other Acts Pursuant to NRS 48.045(2)	41 - 84

C-16-311782-1 State of Nevada
vs
Erin Ware

I N D E X

VOL	DATE	PLEADING	PAGE NUMBER:
1	10/25/2017	Order for Transport	118 - 119
1	1/10/2016	Transcript of Hearing Held on January 5, 2016	12 - 36

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CLERK OF THE COURT

IND

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ELIZABETH MERCER
Chief Deputy District Attorney
Nevada Bar #010681
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-

ERIN WARE, aka,
Erin Deshaun Ware, #2652033

Defendant.

CASE NO: C-16-311782-1

DEPT NO: VI

INDICTMENT

STATE OF NEVADA)
} ss.
COUNTY OF CLARK)

The Defendant above named, ERIN WARE, aka, Erin Deshaun Ware, accused by the Clark County Grand Jury of the crime(s) of SOLICITATION TO COMMIT MURDER (Category B Felony - NRS 199.500.2 - NOC 50037), committed at and within the County of Clark, State of Nevada, on or between December 9, 2015 and December 14, 2015, as follows:

///

///

///

///

///

///

///

///

did willfully, unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit: an UNDERCOVER OFFICER, to commit the murder of JAMIE NOURIE.

DATED this 5th day of January, 2016.

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

BY
ELIZABETH MERCER
Chief Deputy District Attorney
Nevada Bar #010681

ENDORSEMENT: A True Bill

Foreperson, Clark County Grand Jury

Names of Witnesses and testifying before the Grand Jury:

MORENO, RICHARD, LVMPD# 4922

Additional Witnesses known to the District Attorney at time of filing the Indictment:

COOK, DARIN, LVMPD# 5730

CUSTODIAN OF RECORDS, CCDC

CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS, LVMPD RECORDS

GONZALEZ, ALEXANDER, LVMPD# 6188

HALL, CHRISTOPHER, LVMPD# 6060

MUNOZ, GABRIEL, LVMPD# 7137

NOURIE, JAMIE, c/o CCDA, 200 Lewis Avenue, LV, NV 89101

SEELY, JASON, LVMPD# 7729

ZUCKER, MATTHEW, LVMPD# 5761

15AGJ097X/15F18958X/ed-GJ
LVMPD EV# 1512093323
(TK14)

WARR

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ERIN WARE, aka,
Erin Deshaun Ware
ID#2652033

Defendant.

CASE NO: C-16-311782-1
DEPT NO: VI

WARRANT FOR ARREST

INDICTMENT WARRANT

THE STATE OF NEVADA,

To: Any Sheriff, Constable, Marshall, Policeman, or Peace Officer in This State:

An Indictment having been found on the 6th day of January, 2016, in the above entitled Court, charging Defendant ERIN WARE, aka, Erin Deshaun Ware, above named, with the crime(s) of: SOLICITATION TO COMMIT MURDER (Category B Felony - NRS 199.500.2 - NOC 50037).

YOU ARE, THEREFORE, COMMANDED forthwith to arrest and bring said Defendant before the Court to answer the Indictment. If the Court is not in session, you are to deliver Defendant into the custody of the Sheriff of Clark County, or if requested by Defendant, take Defendant before any Magistrate in the County where arrested that bail may be given to answer to the Indictment. Defendant shall be admitted to bail in the sum of $ 500,000.

I HEREBY AUTHORIZE THE SERVICE OF THE WITHIN WARRANT BY TELETYPE, PURSUANT TO NRS 171.148. The Warrant may be served at any hour day or night

GIVEN under my hand this 6th day of January, 2016.

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

BY 10193 For
ELIZABETH MERCER
Chief Deputy District Attorney
Nevada Bar #010681

DISTRICT JUDGE
DAVID BARKER
BAIL $ 500,000

DA# 15AGJ097X/15F18958X/ed
LVMPD EV#1512093323
2/16/1990; BMA; 602-34-2454;
(TK14)

RET
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ELIZABETH MERCER
Chief Deputy District Attorney
Nevada Bar #010681
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-

ERIN WARE, aka,
Erin Deshaun Ware,
ID#2652033

Defendant.

CASE NO: C-16-311782-1
DEPT NO: VI

INDICTMENT WARRANT RETURN

An Indictment having heretofore been found on the 6th day of January, 2016, in the above entitled Court, charging Defendant ERIN WARE, aka, Erin Deshaun Ware, above named, with the crime(s) of: SOLICITATION TO COMMIT MURDER (Category B Felony - NRS 199.500.2 - NOC 50037), and upon finding the said Indictment, the court issued a warrant for the arrest of said Defendant.

I hereby certify that I received a certified copy of the Indictment Warrant and served the same by arresting the within Defendant on the ____ day of _____2016.

JOE LOMBARDO,
Clark County, Nevada

BY _____
Deputy

THIS SEALED DOCUMENT, NUMBERED PAGE(S) 6 - 8 WILL FOLLOW VIA U.S. MAIL

RET
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ELIZABETH MERCER
Chief Deputy District Attorney
Nevada Bar #010681
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED

2016 JAN -7 A 11:10

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ERIN WARE, aka,
Erin Deshaun Ware,
ID#2652033

Defendant.

CASE NO: C-16-311782-1
DEPT NO: VI

MC

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JOE LOMBARDO,
Clark County, Nevada

BY _____
Deputy

RECEIVED
JAN 07 2016
CLERK OF THE COURT

C-16-311782-1
IWR
Indictment Warrant Return
4614219

WARR

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ERIN WARE, aka,
Erin Deshaun Ware
ID#2652033

Defendant.

CASE NO: C-16-311782-1
DEPT NO: VI

WARRANT FOR ARREST

INDICTMENT WARRANT

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GIVEN under my hand this 6th day of January, 2016.

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

BY 10193 For
ELIZABETH MERCER
Chief Deputy District Attorney
Nevada Bar #010681

DISTRICT JUDGE
DAVID BARKER
BAIL $ 500,000

DA# 15AGJ097X/15F18958X/ed
LVMPD EV#1512093323
2/16/1990; BMA; 602-34-2454;
(TK14)

*PAGE 1 OF 1 ☐ BODY CAM

*ID/CS# 2652033 ☐ NEW ID

☐ JUVENILE ☐ DNA SAMPLE TAKEN ☒ DNA NOT REQ'D

CO. SGT APPROVAL

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
TEMPORARY CUSTODY RECORD
(* DENOTES REQUIRED FIELD)

*ARREST DATE: 1/6/2016 *ARREST TIME: 1800

*EVENT #:

*CO-DEF:

☒ REBOOK ☐ ABSENTIA ☐ FORM 6 ☐ NDOC ☐ EXT TO LAS VEGAS ☐ LVC ☐ HND ☐ NLV ☐ COURTESY HOLD ☐ DETAINER

*INTAKE NAME (AKA, ALIAS, ETC.) LAST	FIRST	MIDDLE	TRUE NAME LAST	FIRST	MIDDLE
	WARE	ERIN	WARE	ERIN	DESHAUN

*HOME ADDRESS (STREET # AND STREET NAME)	BLDG./APT.#	*CITY	*STATE	*ZIP	*PLACE OF BIRTH
3010 HACIENDA		RENO	NV	89502	DUARTE, CA

*DATE OF BIRTH	*RACE	ETHNIC	*SEX	*HEIGHT	*WEIGHT	*HAIR	*EYES	*SOCIAL SECURITY #	*CITIZENSHIP	*ALIEN REGISTRATION #	
[redacted]	B		M	5'06	160	BLK	BRO	[redacted]	USA		☐ US VETERAN ☐ ACTIVE MILITARY

*LOCATION OF CRIME (STREET ADDRESS, CITY, STATE, ZIP) ☐ CC ☐ LV	*LOCATION OF ARREST (STREET ADDRESS, CITY, STATE, ZIP)	
WARRANT	CCDC	☐ CITIZEN'S ARREST ☐ SPEAKS ENGLISH

*ARR ** TYPE	*COURT LV	JC	DC	OTR	*WARRANT # / CASE #	*# COUNTS	*NOC CODE	M	GM	F	*CHARGE LITERAL	*ORD / NRS	*BAIL	*EVENT# / NIC#
GJI	☐	☐	☒	☐	C-16-311782-1	1	50037	☐	☐	☒	SOLICIT TO COMMIT MURDER	199.500	TB500,000	
	☐	☐	☐	☐				☐	☐	☐				
	☐	☐	☐	☐				☐	☐	☐				
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	☐	☐	☐	☐				☐	☐	☐	TAPP 1-13-2016 @0830 DC 6			

*OTHER JURISDICTION:

**ARREST TYPES:
PC – PROBABLE CAUSE BS – BONDSMAN SURRENDER BW – BENCH WARRANT AW – ARREST WARRANT RM – REMAND GJI – GRAND JURY INDICTMENT

TIME STAMP AT BOOKING 01-06-16 18:24 LSD RECORDS

*ARRESTING OFFICER SIGNATURE	*PRINTED NAME	*P#	*AGENCY	*SECTOR/BEAT OF ARREST
	A HARVEY	[redacted]	LVMPD	
*TRANSPORTING OFFICER SIGNATURE	*PRINTED NAME	*P#	*AGENCY	

*EMERGENCY CONTACT	CUSTODY RELEASED TO
*RELATIONSHIP	NAME
*PHONE NUMBER	POSITION
*EMAIL ADDRESS	AGENCY

FIRST APP DATE:

TIME:

COURT: ☐ JUSTICE ☐ MUNICIPAL ☐ JUVENILE

☐ STD BAIL ☐ O.R. REL

☐ PC ☐ I.A.D.

JUDGE:

TIME STAMP AT RELEASING

P# _____ DOC DIST P#

P# _____ REL REV P#

PID: 1:1 RT LT RI LI SCORE: _____ 1:N RT LT RI LI SCORE: _____

☐ POLICE RECORDS COPY ☐ COURTS COPY ☐ DSD RECORDS COPY ☐ PROCESSING COPY

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA, Plaintiff,	)	
vs.	)	GJ No. 15AGJ097X
	)	DC No. C311782
ERIN WARE, Defendant.	)	

Taken at Las Vegas, Nevada

Tuesday, January 5, 2016

4:34 p.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Danette L. Antonacci, C.C.R. No. 222

GRAND JURORS PRESENT ON JANUARY 5, 2016

ANN KLING, Foreperson

LLOYD CURTIS, Deputy Foreperson

LORI ANN KENYON, Secretary

ROSEMARY RODMAN, Assistant Secretary

KEVIN BAKER

KATHRYN MARIE DIAMOND

TAMMY FORGET

SUSAN FRANZESE

CAROL LAMB

KIMBERLY MITCHELL

JANET PEDERSEN

KAREN SCHNEUER

NINA SEDOVA

RUTH TOLBERT

Also present at the request of the Grand Jury:

Elizabeth Mercer, Chief Deputy District Attorney

Kristina Rhoades, Deputy District Attorney

12:00

INDEX OF WITNESSES

INDEX OF EXHIBITS

12:00 LAS VEGAS, NEVADA, JANUARY 5, 2016

* * * * * * *

DANETTE L. ANTONACCI,

12:00 having been first duly sworn to faithfully and accurately transcribe the following proceedings to the best of her ability.

MS. MERCER: Good afternoon ladies and
04:34 gentlemen. My name is chief deputy district attorney Liz Mercer. I have with me deputy district attorney Kristina Rhoades. We're presenting State of Nevada versus Erin Ware and it's Grand Jury case number 15AGJ097X.

04:35 The record should reflect that a copy of the proposed Indictment has been marked as Grand Jury Exhibit 1 and each grand juror has a copy. In addition we've marked as Exhibit 2 the instructions pertaining to the offense charged in that Indictment. If you could
04:35 just review that before you deliberate and let us know if you have any questions we'd appreciate it.

We just have one witness and a couple of videos to play for you today. It's Detective Richard Moreno.

04:35 THE FOREPERSON: Please raise your right

hand.

You do solemnly swear the testimony you are about to give upon the investigation now pending before this Grand Jury shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, I do.

THE FOREPERSON: Please be seated.

You are advised that you are here today to give testimony in the investigation pertaining to the offense of solicitation to commit murder, involving Erin Ware.

Do you understand this advisement?

THE WITNESS: Yes, I do.

THE FOREPERSON: Please state your first and last name and spell both for the record.

THE WITNESS: Richard Moreno.

R-I-C-H-A-R-D, M-O-R-E-N-O.

RICHARD MORENO,

having been first duly sworn by the Foreperson of the Grand Jury to testify to the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY MS. MERCER:

Q. Sir, where are you currently employed?

A. With Metro, Las Vegas Metropolitan Police Department.

Q. In what division?

A. I'm a detective.

Q. Are you assigned to the intel unit?

A. Yes, I am.

Q. And what does the intel unit do?

A. Intel unit, it gathers information on various things throughout the valley, crimes, ongoing crimes that are going on and often crimes as such, the solicitation to commit murder.

Q. How long have you been assigned to the intel unit?

A. Just a short time now. I'd say since July of 2014.

Q. In total how long have you been a detective with the Las Vegas Metropolitan Police Department?

A. I've been employed with Metro just over 20 years. I've been a detective for approximately six years.

Q. I want to direct your attention to late November of 2015 or early December of 2015. At some point were you assigned to investigate a potential case involving a suspect by the name of Erin Ware?

A. Yes, I was.

Q. Were you the lead detective on that investigation?

A. Yes, I was.

Q. The investigation that you were conducting pertained to the crime of solicitation to commit murder; correct?

A. That's correct.

Q. And the investigation came about because someone alerted you all to the fact that Erin Ware may be trying to solicit someone to kill an individual by the name of Jamie Nourie; correct?

A. Yes, that's correct.

Q. What steps did you all -- well, let me back up for a second. Did you at some point make the determination to send in an undercover detective to make contact with Erin Ware?

A. Yes, I did.

Q. Why did you make that decision?

A. To confirm the information that we had received from another source.

Q. And that undercover detective was obviously employed with the Las Vegas Metropolitan Police Department; correct?

A. Yes, he is, with the intel unit as well.

Q. Did that first contact between him and Erin

Ware occur on December 9th of 2015?

A. Yes, it did.

Q. Can you tell me what kind of steps you went through in order to facilitate that meeting?

A. Yes. What I had did is ended up meeting up with a confidential informant in the jail that was providing this information to another detective in the robbery unit with Las Vegas Metropolitan Police Department. I then met with the confidential informant there who is also an inmate in the jail who had informed me that this other inmate was providing this information.

Q. I'm going to interrupt you for just a second.

Ladies and gentlemen, I just need to admonish you that the information that he's testifying to right now is not to be considered by you for the truth of the matter asserted, only to explain why the detective took the course of action that he took.

A. And so after receiving the information from the inmate, I then went ahead and set up a meet with the undercover detective and the defendant in this case.

Q. And when this meeting occurred, the defendant believed that this undercover detective was a family member of that inmate that you made contact with;

correct?

A. That's correct.

Q. Are all visits at the Clark County Detention Center videotaped?

A. Yes, they're all audio and video recorded. There are placards up saying as such.

Q. Did you have to make some sort of special arrangements with the intel division within the Clark County Detention Center to get all of this set up?

A. Yes, I did. I ended up communicating with a couple different detectives or correction officers there in the intel department of the Clark County Detention Center to set this first meet up on December the 9th.

Q. And were you actually present at the time that this meeting was occurring?

A. Yes, I was.

Q. Were you able to watch it as it occurred?

A. No, not this particular meet here, no, I was not.

Q. You're familiar with, it's paused right now, but are you familiar with the individual on the right?

A. Yes, I am.

Q. And who is that?

A. That's Detective Mike Wilson.

Q. And he's the undercover detective that you all used in this case?

A. Yes, he is.

Q. This recording was provided to you by the detectives within the Clark County Detention Center; correct?

A. Yes.

Q. Or the intel investigators.

A. While this meet was going on down inside the jail where there's many other inmates, based on the sensitivity of sending in the UC, we were unable to be in the same area and view it. We couldn't view it by camera nor could we view it there based on the fact that it would be out of the ordinary and it would tip others off that we were doing this. So we had to sit up in the intel office which is on the second floor of the Clark County Detention Center as he was escorted out, went down to this room and then he was escorted back to this room and then the recording was downloaded there in the intel office.

Q. And the intel investigators that you were working with confirmed that the recording equipment was working properly; correct?

A. That's correct. We checked it multiple

times to ensure that it was working properly.

Q. And this was a fair and accurate copy of that meeting?

A. Yes.

Q. As it was occurring?

A. Yes, it was.

Q. And Detective, I'm just going to skip ahead. The detective had to wait for approximately 10 to 15 minutes for the defendant Erin Ware to appear; correct?

A. That's correct.

Q. So I'm going to fast forward into about 11 minutes.

A. Yes.

Q. The individual that walks in from the left side of that screen, do you recognize that individual?

A. Yes, I do.

Q. Who is that?

A. That's Erin Ware.

Q. I apologize, ladies and gentlemen. It was just working. I'm not sure what happened.

(Tape being played.)

BY MS. MERCER:

Q. Okay. Detective, when he said "You're my boy folks" and the UC responded "yeah, his fam sent me,"

that's where he's referencing the fact that he's supposedly one of the confidential informant's family members; correct?

A. That's correct. His name is, his nickname there, he said Check, C-H-E-C-K.

Q. The UC is pretending that his nickname is Check?

A. That's correct.

(Tape being played.)

BY MS. MERCER:

Q. Detective, based upon your training and experience as a detective with Las Vegas Metropolitan Police Department, what does the phrase "I got like five stacks" mean?

A. It's $5,000.

Q. So he's saying that for the work that the UC is going to do for him he'll pay him $5,000?

A. Yes, that's correct.

(Tape being played.)

BY MS. MERCER:

Q. Okay. And Detective, it's about 15 minutes and 21 seconds into the video at this point. And the defendant is holding up a letter; correct?

A. That's correct.

Q. And the letter indicates that he needs some

garbage taken out?

A. That's correct.

Q. Based upon your training and experience and the investigation you conducted in this case, what does the phrase "I need garbage taken out" mean?

A. That is to murder a person.

Q. As the video plays on you actually can see where he provides a description of the person he wants to have murdered; is that correct?

A. That's correct.

(Tape being played.)

BY MS. MERCER:

Q. Specifically in this frame you can see the word glasses and thin build; correct?

A. That's correct.

(Tape being played.)

BY MS. MERCER:

Q. And then right there you can see that after thin build it says address is and it goes onto state 10347 Maurice River Court?

A. That's correct.

Q. And then it says "I don't care how you do it"?

A. Correct.

(Tape being played.)

BY MS. MERCER:

Q. And there it says, "The garbage is about 5-foot 5 inches, blondish brown hair"?

A. That's correct, yes.

(Tape being played.)

BY MS. MERCER:

Q. Detective, are you familiar with the term wifey?

A. Yes.

Q. That based on your experience within Metro?

A. Yes, it is.

Q. What does the term wifey mean?

A. Wifey is his significant other.

Q. And at this point he's referring to the significant other of the confidential informant; correct?

A. That's correct, yes.

Q. Telling him that he can pick up the information from her?

A. Yes.

(Tape being played.)

BY MS. MERCER:

Q. And he's holding up that same -- it's 19 minutes and 52 seconds into the video. He's holding up the same letter that he held up earlier before pointing

out the address; is that correct?

A. That's correct.

(Tape being played.)

BY MS. MERCER:

Q. During the course of your investigation did you learn at some point that Jamie Nourie was employed at the Subway located at 8790 South Maryland Parkway?

A. Yes, I did.

(Tape being played.)

BY MS. MERCER:

Q. And Detective, it's 21 minutes and 41 seconds into the video. At this point he's expressing concern about their conversation being monitored; is that correct?

A. That's correct, yeah.

(Tape being played.)

BY MS. MERCER:

Q. And the time is 26:21. At this point he gets up to see if he can go find the confidential informant?

A. That's correct.

Q. I'm going to skip ahead to when he comes back.

And he comes back in at about 28:38?

A. Yes.

(Tape being played.)

BY MS. MERCER:

Q. And Detective, it's 28:03 into the video. At this point he's holding up a charging document that references the address 8790 South Maryland Parkway; correct.

A. Yes, that's correct.

(Tape being played.)

BY MS. MERCER:

Q. And now it's 29:19 into the video. This is the last page of that document which lists the names of the witnesses and the addresses; correct?

A. That's correct.

Q. And in particular he's got the portion referencing Jamie Nourie and her address?

A. Yes.

(Tape being played.)

BY MS. MERCER:

Q. Okay. So this concluded at 31:01; correct?

A. Yes, that's correct.

Q. And everything on here after that is just nothing happening?

A. That's correct.

Q. And they arranged to meet a second time at the conclusion of that?

A. Yes, they do.
Q. Did that second meeting in fact take place?
A. Yes, it did.
Q. And did that occur on December 14th of 2015?
A. Yes, it did.
Q. Under the same conditions?
A. Yes.
Q. And once again the recording equipment was checked and confirmed to be working properly, all of that; correct?
A. That's correct, yes, it was.
Q. As to this visit he only had to wait about three minutes before the defendant came in; correct?
A. Yes.
Q. I'm going to fast forward to that point.
(Tape being played.)
BY MS. MERCER:
Q. That's Erin Ware again on the left side of the screen; correct?
A. Yes, it is.
Q. And the same undercover detective on the right side?
A. Yes.
(Tape being played.)

BY MS. MERCER:

Q. Detective, at this point it's 9 minutes and 36 seconds into the second interview. The undercover detective is holding up a photograph; is that correct?

A. That's correct.

Q. Are you familiar with the person who is depicted in that photograph?

A. Yes, I am.

Q. Who is that?

A. That's Jamie.

Q. Have you had personal contact with Jamie Nourie?

A. I have had personal contact with Jamie.

Q. And were the physical descriptors that the defendant provided in the first visit pretty accurate?

A. Yes, they are.

Q. And in this photograph she's wearing glasses?

A. Yes.

(Tape being played.)

BY MS. MERCER:

Q. And the time is now 15 minutes and 31 seconds and the meeting is terminated; correct?

A. Yes, that's correct.

Q. So the remainder of that recording is again

just nothing occurring?
A. Correct.
Q. No one's sitting there?
A. Correct.
Q. What was the purpose of that second interview from the standpoint of you as the lead detective?
A. To reconfirm that the defendant wanted to continue to go through with this.
Q. And to give him an out?
A. To give him an out, absolutely.
Q. And based upon what occurred in that second interview, he opted not to take it; correct?
A. That's correct.
Q. The due date that he was referring to was December 17th; correct?
A. Yes, that's correct.
Q. Where is the Clark County Detention Center located?
A. 330 South Casino Center.
Q. Is that here in Las Vegas, Clark County, Nevada?
A. Yes, it is.
MS. MERCER: I don't believe I have any additional questions for this witness. Do any of the

grand jurors have any questions for him?

THE FOREPERSON: By law, these proceedings are secret and you are prohibited from disclosing to anyone anything that has transpired before us, including evidence and statements presented to the Grand Jury, any event occurring or statement made in the presence of the Grand Jury, and information obtained by the Grand Jury.

Failure to comply with this admonition is a gross misdemeanor punishable by a year in the Clark County Detention Center and a $2,000 fine. In addition, you may be held in contempt of court punishable by an additional $500 fine and 25 days in the Clark County Detention Center.

Do you understand this admonition?

THE WITNESS: Yes, ma'am.

THE FOREPERSON: Thank you. You are excused.

THE WITNESS: Thank you.

MS. MERCER: Ladies and gentlemen, that was our one and only witness. I just need to give you a couple of admonishments really quickly.

You are not allowed to consider the fact that the defendant Erin Ware was in custody at the Clark County Detention Center as evidenced in this case and you can't consider the fact that he was potentially

facing other criminal charges as evidence that he's committed the crime charged in the Indictment in this case. You have to completely disregard that evidence.

And if you have any questions please grab Miss Rhoades or myself and we'll be happy to answer them.

For the record you guys do have the entirety of those recordings on those disks and the computer is being left in here in case you want to review it.

THE FOREPERSON: Thank you.

(At this time, all persons, other than members of the Grand Jury, exit the room at 5:27 p.m. and return at 5:28 p.m.)

THE FOREPERSON: Madame District Attorney, by a vote of 12 or more grand jurors a true bill has been returned against defendant Erin Ware charging the crime of solicitation to commit murder in Grand Jury case number 15AGJ097X. We instruct you to prepare an Indictment in conformance with the proposed Indictment previously submitted to us.

MS. MERCER: Thank you.

And ladies and gentlemen, I forgot to make a record. The first video was Grand Jury Exhibit Number 3 and the second was Grand Jury Exhibit Number 4.

05:29

For the record.

(Proceedings concluded.)

--oo0oo--

05:29

REPORTER'S CERTIFICATE

STATE OF NEVADA)
: Ss
COUNTY OF CLARK)

05:29

I, Danette L. Antonacci, C.C.R. 222, do hereby certify that I took down in Shorthand (Stenotype) all of the proceedings had in the before-entitled matter at the time and place indicated and thereafter said shorthand notes were transcribed at and under my direction and supervision and that the foregoing transcript constitutes a full, true, and accurate record of the proceedings had.

05:29

I further certify that I am not a relative or employee of an attorney or counsel of any of the parties, nor a relative or employee of an attorney or counsel involved in said action, nor a person financially interested in said action.

Dated at Las Vegas, Nevada,

05:29

January 10, 2016.

/s/ Danette L. Antonacci

Danette L. Antonacci, C.C.R. 222

05:29

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER 15AGJ097X:

_X_ Does not contain the social security number of any person,

-OR-

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

A. A specific state or federal law, to-wit: NRS 656.250.

-OR-

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

/s/ Danette L. Antonacci
Signature

1-10-16
Date

Danette L. Antonacci
Print Name

Official Court Reporter
Title

Electronically Filed
01/11/2016 09:41:40 AM

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

CLERK OF THE COURT

State of Nevada
PLAINTIFF

-VS-

Erin Ware
DEFENDANT

CASE NO: C-16-311782-1

DEPT. NO: 6

MEDIA REQUEST AND ORDER ALLOWING CAMERA ACCESS TO COURT PROCEEDINGS

* Please fax to (702) 671-4548 to ensure that the request will be processed as quickly as possible.

Guy DeMarco (name), of 8 News NOW (media organization), hereby requests permission to broadcast, record, photograph or televise proceedings in the above-entitled case in Dept. No. 6, the Honorable Judge Elissa Cadish Presiding, on the 13 day of January, 20 16.

I hereby certify that I am familiar with, and will comply with Supreme Court Rules 229-246, inclusive. If this request is being submitted less than twenty-four (24) hours before the above-described proceedings commence, the following facts provide good cause for the Court to grant the request on such short notice:

_____

It is further understood that any media camera pooling arrangements shall be the sole responsibility of the media and must be arranged prior to coverage, without asking for the Court to mediate disputes.

Dated this 7 day of January, 20 16.

SIGNATURE: Guy DeMarco PHONE: 702-792-8870

****

IT IS HEREBY ORDERED THAT:

[ ] The media request is **denied** because it was submitted less than 24 hours before the scheduled proceeding was to commence, and no "good cause" has been shown to justify granting the request on shorter notice.

[ ] The media request is **denied** for the following reasons: _____

_____

[X] The media request is **granted.** The requested media access remains in effect for each and every hearing in the above-entitled case, at the discretion of the Court, and unless otherwise notified. This order is made in accordance with Supreme Court Rules 229-246, inclusive, at the discretion of the judge, and is subject to reconsideration upon motion of any party to the action. Media access may be revoked if it is shown that access is distracting the participants, impairing the dignity of the Court, or otherwise materially interfering with the administration of justice.

[ ] **OTHER:** _____

IT IS FURTHER ORDERED that this document shall be made a part of the record of the proceedings in this case.

Dated this 8 **day of** January, 20 16.

Elissa F. Cadish
DISTRICT COURT JUDGE

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada

PLAINTIFF

-VS-

Erin Ware

DEFENDANT

CASE NO: C-16-311782-1

DEPT. NO: 6

NOTIFICATION OF MEDIA REQUEST

TO: COUNSEL OF RECORD IN THE ABOVE-CAPTIONED CASE:

You are hereby notified pursuant to Supreme Court Rules 229-246, inclusive, that media representatives from 8 News Now KLAS have requested to obtain permission to broadcast, televise, record or take photographs of all hearings in this case. Any objection should be filed at least 24 hours prior to the subject hearing.

DATED this 8th day of January, 20 16.

Eighth Judicial District Court

CERTIFICATE OF SERVICE BY FACSIMILE TRANSMISSION

I hereby certify that on the 8th day of January, 20 16, service of the foregoing was made by facsimile transmission only, pursuant to Nevada Supreme Court Rules 229-246, inclusive, this date by faxing a true and correct copy of the same to each Attorney of Record addressed as follows:

Plaintiff

District Attorney

(702) 455-2294

Defendant

Jennifer M. Waldo

(702) 778-5007

Eighth Judicial District Court

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada
PLAINTIFF

-VS-

Erin Ware
DEFENDANT

CASE NO: C-16-311782-1

DEPT. NO: 6

MEDIA REQUEST AND ORDER ALLOWING CAMERA ACCESS TO COURT PROCEEDINGS
* Please fax to (702) 671-4548 to ensure that the request will be processed as quickly as possible.

Byron Tench (name), of KVVU-625 (media organization),

hereby requests permission to broadcast, record, photograph or televise proceedings in the above-entitled case in Dept. No 6, the Honorable Judge Cadish presiding, on the 13 day of January, 20 16.

I hereby certify that I am familiar with, and will comply with Supreme Court Rules 229-246, inclusive. If this request is being submitted less than twenty-four (24) hours before the above-described proceedings commence, the following facts provide good cause for the Court to grant the request on such short notice:

It is further understood that any media camera pooling arrangements shall be the sole responsibility of the media and must be arranged prior to coverage, without asking for the Court to mediate disputes

Dated this 7 day of January, 20 16.

SIGNATURE: [signature] PHONE: 702-436-9586

****

IT IS HEREBY ORDERED THAT:

[ ] The media request is denied because it was submitted less than 24 hours before the scheduled proceeding was to commence, and no "good cause" has been shown to justify granting the request on shorter notice.

[ ] The media request is denied for the following reasons:

[X] The media request is granted. The requested media access remains in effect for each and every hearing in the above-entitled case, at the discretion of the Court, and unless otherwise notified. This order is made in accordance with Supreme Court Rules 229-246, inclusive, at the discretion of the Judge, and is subject to reconsideration upon motion of any party to the action. Media access may be revoked if it is shown that access is distracting the participants, impairing the dignity of the Court, or otherwise materially interfering with the administration of justice.

[ ] OTHER:

IT IS FURTHER ORDERED that this document shall be made a part of the record of the proceedings in this case.

Dated this 8 day of January, 20 16.

[signature]
DISTRICT COURT JUDGE

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada

PLAINTIFF

-VS-

Erin Ware

DEFENDANT

CASE NO: C-16-311782-1

DEPT. NO: 6

NOTIFICATION OF MEDIA REQUEST

TO: COUNSEL OF RECORD IN THE ABOVE-CAPTIONED CASE:

You are hereby notified pursuant to Supreme Court Rules 229-246, inclusive, that media representatives from KVVU Fox 5 have requested to obtain permission to broadcast, televise, record or take photographs of all hearings in this case. Any objection should be filed at least 24 hours prior to the subject hearing.

DATED this 8th day of January, 20 16.

Eighth Judicial District Court

CERTIFICATE OF SERVICE BY FACSIMILE TRANSMISSION

I hereby certify that on the 8th day of January, 20 16, service of the foregoing was made by facsimile transmission only, pursuant to Nevada Supreme Court Rules 229-246, inclusive, this date by faxing a true and correct copy of the same to each Attorney of Record addressed as follows:

Plaintiff

District Attorney

(702) 455-2294

Defendant

Jennifer M. Waldo

(702) 778-5007

Eighth Judicial District Court

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02/02/2016 10:10:37 AM

CLERK OF THE COURT

MOT

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ELIZABETH MERCER
Chief Deputy District Attorney
Nevada Bar #10681
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-

ERIN WARE,
#2652033

Defendant.

CASE NO: C-16-311782-1

DEPT NO: VI

NOTICE OF MOTION AND MOTION TO CONSOLIDATE, OR IN THE ALTERNATIVE, MOTION TO ADMIT EVIDENCE OF OTHER ACTS PURSUANT TO NRS 48.045(2)

DATE OF HEARING: ~~02/15/16~~
TIME OF HEARING: ~~8:30 A.M.~~

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through ELIZABETH MERCER, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Support of its Motion to Consolidate, or in the Alternative, Motion to Admit Evidence of Other Acts Pursuant to NRS 48.045(2).

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.

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NOTICE OF HEARING

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing motion on for setting before the above entitled Court, in Department IX ~~6~~ thereof, on Thurs. ~~Monday~~, the 11th ~~15th~~ day of February, 2016, at the hour of 9:00 A.M., or as soon thereafter as counsel may be heard.

DATED this 1st day of February, 2016.

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

BY /s//LIZ MERCER
LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681

POINTS AND AUTHORITIES

STATEMENTS OF THE CASES

A warrant was issued for the arrest of Defendant Erin Ware (hereinafter "Defendant") on or about July 23, 2015. Defendant was arrested on August 11, 2015. He was arraigned in Justice Court on August 18, 2015; and, at that time a preliminary hearing was scheduled for September 1, 2015. The Public Defender's office filed a motion to withdraw due to conflict which was heard on August 24, 2015. That motion was granted and the preliminary hearing was reset to September 9, 2015.

At the time set for the preliminary hearing on September 9, 2015, defense counsel requested to continue and the State did not oppose that request. The preliminary hearing was rescheduled to October 15, 2015. On October 15, 2015, the preliminary hearing was held during which witnesses Ruth Garn, Jamie Nourie, and Detective Lance Spiotto testified. Following the hearing, Defendant was bound over to the District Court on all charges. During that hearing, witness Jamie Nourie was the only witness who was able to identify Defendant as the perpetrator of the crimes charged.

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He was arraigned in District Court on November 16, 2015. At that time, he invoked his right to a trial within sixty (60) days and his jury trial was scheduled for January 4, 2016. At the calendar call on December 17, 2015, defense counsel requested a brief continuance. The matter was reset to March 28, 2016.

Four (4) days after the December 17th calendar call, Defendant was rebooked on one count of Solicitation to Commit Murder. On December 23, 2015, he was charged via Criminal Complaint with soliciting the murder of Jamie Nourie, the only witness who is able to identify him in Case No. C310099. That case was assigned Case No. 15F18958X. The following day he was arraigned and the preliminary hearing was scheduled for January 7, 2016. Prior to the preliminary hearing, the State sought and obtained an Indictment. The Indictment was filed in District Court Case No. C311782 on January 6, 2016. Defendant was arraigned in District Court on January 13, 2016 at which time he entered a plea of not guilty and waived his right to a trial within 60 days. His Jury Trial was scheduled for July 25, 2016.

By this Motion, the State respectfully requests the consolidation of that case (C311782) into this case (C310099).

STATEMENT OF FACTS

Case No. C-15-310099-1

On June 10, 2015, at approximately 2:30 p.m., Ruth Garn and Jamie Nourie were working at the Subway located at 8790 S. Maryland Parkway, Las Vegas, Nevada. Preliminary Hearing Transcripts, 7-8, 39.[1] While working, the defendant entered the store and loitered around for a bit. PH, 39-41. Eventually, he asked for a cup for water. PH, 9, 42. Jamie charged him 25 cents for the cup. PH, 9, 42. Defendant filled up the water cup, drank the water for a minute then walked outside. PH, 42. Five (5) to ten (10) minutes later, he walked back inside and asked if he could use the restroom. PH, 10, 42. He set his water cup on the table, went to the restroom and walked back out. PH, 42. When Defendant came out of the restroom, he asked if he could wait for his ride inside the restaurant for a bit. Ruth and

[1] Hereinafter abbreviated, "PH."

Jamie allowed him to wait inside. PH, 10, 43. Defendant waited near the drink fountain and continued to drink water. PH, 44, 49, 60. Defendant was the only customer that day that asked for a water cup. PH, 49.

Jamie and Ruth walked to the back where they began to put dishes away and do prep work. PH, 44-45. There were no other customers in the store at that point. PH, 44-45. While in the back, Ruth walked into the fridge. PH, 45. As Ruth began to walk back out of the fridge, Defendant approached Jamie and stuck a gun in her face. PH, 45-46. Jamie said, "Oh my God" at which point Ruth turned around and saw Defendant holding a gun to Ruth's head. PH, 11. Defendant told Ruth, "Give me all the fucking money." PH, 12. Ruth put her hands in the air and told him that he didn't have to do that, and that they didn't have any money in the back. PH, 12. Defendant pushed her into the desk and told her, "I guess we're just going to have to get it out of your fucking purses." PH, 12. After he pushed Ruth into the desk, Defendant went behind Ruth and grabbed Jamie and put the gun to her neck and said he was going to kill her. PH, 12. At that point, Ruth went into her purse and removed her .357 Ruger Security Six revolver, for which she possessed a concealed carry permit. PH, 12. Ruth removed the gun because she was in fear for Jamie's safety. Ruth turned toward Defendant, pointed the gun at him and told him to drop his weapon. PH, 13.

Defendant fired his weapon at Ruth and shot her in the face. PH, 13. The bullet entered just below her left eye, traveled under her nose, under her cheekbone and exited the right side of her face just above her ear. PH, 13. Ruth fell to the ground onto her right side. PH, 14. Defendant stepped over her and with Jamie and had his gun to Jamie's neck. PH, 14. Ruth tried to get up, at which time Defendant shot her again. PH, 14. That bullet went through her arm and into her stomach. PH, 15. Ruth told Defendant to quit shooting her and put her arm up to block the bullets. PH, 16. He shot her a third time and the bullet entered her chest and bounced off of her sternum and exited right back out. PH, 18.

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While Defendant was initially focused on Ruth, he ordered Jamie to lay down on the ground and put her face down. PH, 46. Jamie heard Defendant say something to Ruth about getting money out of her purse. PH, 46. After that, Jamie heard a gunshot. PH, 46. She lifted her head to see what was happening and saw Defendant and Ruth struggling over something near the prep table. PH, 46. Defendant ordered her to put her head back down, and then Jamie heard another shot. PH, 46. At that point, Defendant ordered Jamie to get up and go open the safe in the front. PH, 46. Jamie got up and walked past Ruth, who was laying on the flooring bleeding. PH, 47. As she walked past Ruth, she noticed that Ruth had her gun on the floor next to her. PH, 49, 57. Defendant still had his gun in his hand. PH, 57. Per the surveillance video of the incident, Defendant picked Ruth's gun up off of the floor and shot her two more times. PH, 57. As Jamie walked to the front, she heard two more gunshots. PH, 47. Jamie was afraid that Ruth was going to die, and that Defendant was going to shoot her as well. PH, 47.

Once Jamie got near the register, she knelt to try and unlock the safe. At that point, Defendant walked up behind her and put the gun to her neck. PH, 48. Jamie tried to enter the combination to the safe but was shaking so badly that she couldn't get it to open. PH, 48. Jamie told Defendant she could not get it open at which point he ordered her to open the register. PH, 48. Jamie removed the whole drawer from the register and tried to hand it to Defendant, but he just looked at it and ran out. PH, 48. Jamie went back to Ruth and dialed 911. PH, 49. Ruth's gun was no longer present. PH, 50.

Ruth was transported to the hospital where she remained for four (4) days. PH, 22. For the first two days she was sedated. PH, 22. She suffered a brain bleed and a myriad of other injuries. PH, 23. While hospitalized she had to undergo surgery to remove the bullet from her stomach. PH, 24. After being released from the hospital, she had to have both orbital floors replaced because they were blown out by the bullet to her face. PH, 26. She had double vision, blurred vision, and can't focus her eyes. PH, 26. She has permanent damage to her right pupil and her left tear duct was ruined. PH, 26, 28. In addition, she can't smell or taste, her left

eardrum was perforated from the blast and she sustained inner ear damage and deafness. PH, 26. Additionally, several tendons in her arm were damaged. PH, 27. As a result she can't use her thumb and her pointer finger, middle finger and pinky on her left hand are numb. PH, 27. In addition, she has to use a walker to move around because of issues with her balance caused by damage from the bullets. PH, 28. Ruth was unable to identify Defendant because of damage to her eyesight. PH, 22-23.

Jamie met with a sketch artist on June 14, 2015 and assisted them in doing a sketch of Defendant. PH, 67. Then, on July 22, 2015, Jamie viewed a six pack photographic line-up and positively identified Defendant as the individual who robbed them, and shot Ruth multiple times. PH, 63-64.

The plastic cup used by Defendant for drinking water on the day of the robbery was swabbed for DNA. Subsequent testing revealed that Defendant's DNA was on that cup. In a post-Miranda interview following Defendant's arrest, he denied ever being inside of that Subway.

C-16-311782-1[2]

On November 30, 2015, Det. Lance Spiotto received a voicemail message that an inmate at the Clark County Detention Center had information that Defendant Erin Ware was attempting to solicit the murder of Jamie Nourie. After receiving the message, Detective Spiotto went to the Detention Center and interviewed the inmate that same day. The following day, Det. Spiotto and Det. Moreno met with the inmate again. During that interview, the inmate informed the detectives that Ware provided him with a great number of details concerning the incident on June 10, 2015 at Subway. The inmate provided those details to the detectives, including the fact that Jamie Nourie was the only witness who could identify Defendant at the preliminary hearing. Defendant told the inmate that he could have his "Pops" or his "broad" pay the person who was willing to kill Jamie. The inmate was able to give the

[2] See, Arrest Report, attached hereto as "Exhibit 1" and Transcript of Visit 1, Transcript of Visit 2, and letter attached hereto as, Exhibits 2, 3, and 4, respectively.

detectives Jamie's home address which Defendant provided to him. The inmate expressed to detectives that he felt he needed to let them know because he was concerned due to the violence used in the robbery, and because he believed Defendant was capable of hiring someone to murder Jamie. The inmate advised detectives that he told Defendant to expect a visit from a family member of his named "Check" who would assist Defendant.

On December 7, 2015, when Det. Moreno went to visit with the inmate about potentially wearing a wire, the inmate showed Det. Moreno a letter that Defendant provided to the inmate in which he stated, "I heard you a clean up [sic] man and I need some garbage to be taking out. Handle it and I got 5 stacks for you." The inmate advised detectives that he needed to return with the letter so that Defendant could finish it. At that point, Det. Moreno photographed the letter and gave it to the inmate.

The next day, the inmate wore a wire. While the inmate was wearing the wire, Defendant read the letter to the inmate. In addition, they discussed the solicitation in more detail.

Then, on December 9, 2015, an undercover detective conducted a videotaped visit with Defendant. Erin Ware believed that the UC was the inmate's family member who went by the name "Check." During that visit, Defendant confirmed that he wanted Jamie Nourie gone "not for a minute" but "forever." He also held up a letter for the UC which contained Nourie's name, address and description and confirmed that he would pay the UC five (5) stacks ($5,000) for taking care of it. In addition, he held up the Information from Case No. C-15-310099-1 and showed the UC the charges that he was facing, along with the list of witnesses attached to the Information. Defendant advised the UC that he needed it done by the 17th of December because that was the day that he was supposed to go to Court and see if everyone is ready for trial. That list contained the name and address of Jamie Nourie. At the conclusion of the visit, it was agreed that the UC would visit Defendant in a few days to follow-up.

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On December 10, 2015, Det. Moreno was contacted by Alex Gonzalez at the Detention Center who advised that the inmate gave two letters to him from Defendant to forward to Det. Moreno. One of those letters was the letter that Defendant held up during the videotaped visit and described Jamie Nourie, the amount to be paid for her murder, and her work and home addresses. Defendant believed that the inmate was going to mail the letters to his girlfriend to give to "Check"/the UC.

The UC met with Defendant again on December 14, 2015. Again, it was a videotaped visit over the video visitation system at the jail. During the second meeting, Defendant reiterated his desire to have Nourie murdered. Additionally, the UC advised Defendant that he'd done his "homework" on Jamie, and held up two photographs of her so that Defendant could confirm whether that was the correct individual. Defendant confirmed that was the Jamie Nourie he was talking about.

After detectives completed their investigation with regard to whether there really was anybody trying to assist Ware in paying for the murder of Jamie Nourie, Defendant was rebooked.

ARGUMENT

I.
THE PRESENT CASE AND CASE NUMBER C-16-311782-1 SHOULD BE CONSOLIDATED FOR JURY TRIAL

> NRS 174.155 addresses consolidation of charging documents. It states in pertinent part: The court may order two or more indictments or information or both to be tried together if the offenses,…could have been joined in a single indictment or information. The procedure shall be the same as if the prosecution were under such single indictment or information.

Additionally, Section 173.115 of the Nevada Revised Statutes provides:

> Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are: (1) Based on the same act or transaction; or (2) Based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

In considering whether to allow consolidation, courts examine the conflicting policies of economy and efficiency in judicial administration (looking to control courts' calendars in avoidance of multiple trials), and any resulting prejudice to the defendant which might arise from being prosecuted at trial by presentation of evidence of other crimes flowing from a common plan or scheme. United States v. Fletcher, 195 F. Supp. 634 (D. Conn. 1960), aff'd, 319 F.2d 604 (4th Cir. 1963).[3]

Joinder of two or more Indictments or Informations is within discretion of trial court and its action will not be reversed absent abuse of discretion. Lovell v. State, 92 Nev. 128 (1976).

Eighth Judicial District Court Rule 3.10, and NRS 174.155, promote judicial economy. EDCR 3.10 provides:

> (a) When an indictment or information is filed against a defendant who has other criminal cases pending in the court, the new case may be assigned directly to the department wherein a case against that defendant is already pending.
>
> (b) Unless objected to by one of the judges concerned, criminal cases, writs or motion may be consolidated or reassigned to any department for trial, settlement or other resolution.

Applying these principles to the cases in question, the interests of justice would best be served by consolidation. In the present cases, the Court is faced with offenses based upon the same act or transaction. NRS 173.115. These offenses could have been charged within a single charging document pursuant to NRS 173.115 and are precisely the type of situation referenced by the body of the statute. As such, they can, and should be tried together.

Judicial economy is an additional factor leading toward consolidation. In Robins v. State, 106 Nev. 611, (1990), our Supreme Court was faced with the joinder of a child abuse charge and a murder charge. It was held that, "if . . . evidence of one charge would be cross-admissible in evidence at a separate trial on another charge, then both charges may be

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[3] Since Nevada's consolidation statute, section 174.155 of the Nevada Revised Statutes, is the same as the federal consolidation rule, Federal Rule of Criminal Procedure 8(B), Fletcher, which discuss the federal statute, are also persuasive with regard to our state statute

tried together and need not be severed." Id. at 619, (citing Mitchell v. State, 105 Nev. 735, 738, 782 P.2d 1340, 1342).

Additionally, as discussed below, the State's position is that the evidence in both cases would be cross admissible under NRS 48.045. Cross admissibility is a basis for joinder under NRS 173.115(2) because they are "connected together." Weber v. State, 121 Nev. 554, 573 (2005). Likewise in Middleton v. State, 114 Nev. 1089, 1108 (1998) the Nevada Supreme Court held that "If evidence of one charge would be cross-admissible in evidence at a separate trial on another charge, then both charges may be tried together and need not be severed." If this other acts evidence is admissible in the instant trial, then to require separate trials serves no purpose and merely promotes the waste of resources.

With each trial lasting several days, judicial resources would be better served by trying the cases together. Because the evidence is cross admissible, any argument that the Defendant will be prejudiced by consolidation is moot, because the risk of prejudice is the same whether the evidence is admissible through consolidation or as other acts under NRS 48.045.

A.

THE EVIDENCE IS CROSS ADMISSIBLE AS EVIDENCE OF OTHER ACTS PURSUANT TO NRS 48.045(2) SO CONSOLIDATION IS WARRANTED.

In Case No. C-15-310099-1, evidence concerning the counts charged in Case No. C-16-311782-1 would be admissible at the trial in the instant case as evidence of consciousness of guilt pursuant to Evans. Similarly, evidence concerning the charges in Case No. C-15-310099-1 would be admissible at the trial in C-16-311782-1 as evidence of motive.

With regard to the admissibility of the evidence concerning the charges in C-16-311782-1, the Nevada Supreme Court has explicitly exempted such evidence from the requirements of NRS 48.045 when there is "substantial credible evidence that the defendant was the source of the intimidation." Lay v. State, 110, Nev. 1189 (1994); Evans v. State, 117 Nev. 609, 608 (2001). More specifically, in Evans v. State, 117 Nev. 609, 628 (2001), reversed in part on other grounds, the Court stated, "[W]e consider NRS 48.045(2) to be inapposite. Evidence that after a crime a defendant threatened a witness with violence is directly relevant to the question of guilt. Therefore, evidence of such a threat is neither irrelevant character

evidence nor evidence of collateral acts requiring a hearing before its admission." In light of Evans, the State submits that the evidence of Defendant's solicitation to commit the murder of Jamie Nourie is admissible as evidence of his guilt in the instant case.

Moreover, evidence of the charges in this case would be admissible at the trial in C-16-311782-1 as evidence of Defendant's motive to have Jamie Nourie murdered. Had Jamie Nourie not positively identified Defendant as the perpetrator of the crimes in this case, he would have had no reason to solicit her murder. NRS 48.045(2) provides that, "[e]vidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." When determining whether such evidence is admitted, the district court must strike a proper balance between the probative value of the evidence and its prejudicial dangers. Bradley v. State, 109 Nev. 1090, 1093, 864 P.2d 1272, 1274 (1993) (citing Elsbury v. State, 90 Nev. 50, 53, 518 P.2d 599, 601 (1974)).

In Fields v. State, 125 Nev. 785, 220 P.3d 709 (2009), the Nevada Supreme Court affirmed the District Court Judge's determination to admit evidence that the Defendant owed debts to the victim and that he had previously engaged in a conversation about killing a man to whom he owed money. The Nevada Supreme Court agreed with the District Court's decision that such evidence was admissible as proof of motive, to disprove his contention that he was just an innocent bystander to his wife's scheme, and to prove identity.

Likewise in Ledbetter v. State, 122 Nev. 252, 262-263, 129 P.3d 671, 678-679 (2006), the Supreme Court held that it was proper for the District Court to admit evidence of other bad acts to establish the Defendant's motive to repeatedly subject his stepdaughter to sexual assaults. The bad act evidence in that case consisted of evidence that Defendant sexually assaulted other young female members of his own family. In reaching its decision, the Court noted that the evidence was relevant to motive, proven by clear and convincing evidence (due to four (4) different witness' testimony) and highly probative as it showed Defendant's sexual attraction to, and an obsession with, young female members of his family.

Also, in Hogan v. State, 130 Nev. 21 (1987), wherein the Nevada Supreme Court upheld the trial court's determination to admit evidence of a prior domestic violence incident committed by Defendant against the victim in the days preceding her murder. In Hogan, the trial court admitted evidence that several days prior to the murder, Defendant dropped the victim to the ground from shoulder height. In affirming the District Court's ruling, the Nevada Supreme Court recognized that such evidence was "other acts" evidence pursuant to NRS 48.045(2) which was properly admitted to establish "ill-will as a motive to the crime." Hogan v. State, 130 Nev. 21, 23 (1987).

And, in Weber, supra, 121 Nev. at 573-574, the Court held that Weber's desire to continue and conceal the sexual abuse and/or punish the persons he believed to be thwarting it provided the motive for the murder of M.'s brother and mother as well as the subsequent attempted murder of her other brother and his guardian. Thus, the Court determined that such evidence would have been admissible as evidence of motive to commit the murders. The Court likewise determined that evidence of the murders and attempted murders was probative of Weber's sexual abuse of M. and tended to prove his consciousness of guilt regarding the abuse, as well as a lack of consent by M. Id. And, the Court found that evidence of the attempted murders was relevant and probative as to the issue of Weber's identity as the murderer of C's mother and brother. Id. In light of this cross-admissibility pursuant to NRS 48.045(2), the Court found that the events were connected together and properly joined.

Given the above-referenced legal authority, the State respectfully submits that the evidence is cross-admissible such that the two cases are connected together. Thus, two separate cases against Defendant Erin ware should be consolidated.

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CONCLUSION

For the foregoing reasons, the State respectfully requests this Court GRANT the State's Motion to Consolidate. Alternatively, the State asks that this Court admit the evidence pursuant to Evans and NRS 48.045(2).

DATED this 1st day of February, 2016.

Respectfully submitted,

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

BY /s//LIZ MERCER
LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of State's Notice, was made this 1st day of February, 2016, by Electronic Filing to:

JENNIFER M. WALDO, ESQ.
E-mail Address: jmw@gregoryandwaldo.com

AMANDA GREGORY, ESQ.
E-mail Address: asg@gregoryandwaldo.com

Shellie Warner
Secretary for the District Attorney's Office

mmw/GCU

Exhibit “1”

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

ARREST REPORT

☒ City ☐ County ☒ Adult ☐ Juvenile Sector/Beat A2

ID/EVENT#	ARRESTEE'S NAME (Last)	(First)	(Middle)	S.S.#
2652033	WARE	ERIN	DESHAUN	

ARRESTEE'S ADDRESS (Number, Street, City, State, Zip Code)
3010 HACIENDA RENO, NEVADA 89502

CHARGES
SOLICITATION TO COMMIT MURDER

OCCURRED DATE	DAY OF WEEK	TIME	LOCATION OF ARREST (Number, Street, City, State, Zip Code)
11/30/15	Monday	1800	330 S. Casino Center Las Vegas, Nevada 89101

RACE	SEX	D.O.B.	HT.	WT.	HAIR	EYES	PLACE OF BIRTH
Blk	M	02/16/90	5'6	160	Blk	Brn	Duarte, California

ARRESTING OFFICER #1:	P#:	ARRESTING OFFICER #2:	P#:
R. MORENO	4922		

CONNECTING REPORTS (Type or Event Number)
TCR, DOA, Prop Rpt., Voluntary Statement, 15120610-2629 ; **151209-3323**

APPROVED BY (PRINTED NAME): Sgt. J. Herring P#5241

CIRCUMSTANCES OF ARREST:

On November 30th, 2015 I Detective R. Moreno P#4922 was contacted by LVMPD Detective L. Spiotto P# 4774 in the Robbery Section. Detective Spiotto stated that he received information from an inmate that will be referred to as confidential informant (herein referred to as CI). The CI stated that another fellow inmate contacted him in reference to a Solicitation to Commit Murder of a witness in a criminal case. The CI stated that he had contact with this fellow inmate at the Clark County Detention Center where the two are currently being housed. The CI stated that the inmate who made these serious allegations of Soliciting to Commit Murder was identified as Erin Ware ID#2652033.

During my investigation it was brought to my attention that earlier on November 30th, 2015 the CI was talking with a relative by the use of the inmate phone system at the Clark County Detention Center. The phone system inside the jail is called the ICS phone systems. The CI had his wife place a three way call for him. The CI provided the phone number of for his relative to call; this number is registered to LVMPD Homicide section. The CI left a message for Detective Lance Spiotto to contact him in reference to a Murder for Hire case where a male inmate wanting to have a witness to a Robbery investigation murdered. Detective Spiotto is the case agent on that particular Robbery (150610-2629). The phone call in which the CI made to the LVMPD Homicide section to contact with Detective Spiotto was recorded by use of the ICS phone system.

After receiving the message Detective Spiotto then went to the Clark County Detention Center and made contact with the CI. The CI provided a taped statement to Detective Spiotto on the information that he received from an inmate that was identified as Erin Ware. Ware is currently in custody for several felonies to include, Attempt Murder. These crimes are all related to a Robbery with a Deadly Weapon at a Subway restaurant located at 8790 S. Maryland Parkway, this Robbery is documented under LVMPD event 150610-2629. Detective Spiotto is in fact the case agent on that Robbery.

The conversation between Detective Spiotto and the CI took place on November 30th, 2015 at approximately 1555 hours. This conversation was recorded and later transcribed under the original Robbery event number 150610-2629.

On December 1st, 2015 Detective Spiotto and I went to CCDC and made contact with the CI. Detective Spiotto introduced me to the CI. The three of us spoke about the same information that the CI had revealed to Detective Spiotto the day previous. The following is a synopsis of that conversation:

The CI stated that fellow inmate Erin Ware has been telling him very intimate details of a robbery that occurred at a Subway restaurant. The CI stated that Ware told him that, after the robbery started, the employee (clerk) reached into her purse to grab a gun, so he then shot her multiple times. The CI stated that Ware told him that there was another witness to the robbery and was the only living witness that could identify him on the current charges he is in custody for. Ware told the CI that he wants somebody to kill the witness "Jamie" because she was the only one at the preliminary hearing that identified him.

Ware stated that he could have "Pop's" (Ware's father) or his "broad" to pay the person who could do this for him. Ware stated that his fiancée has a good job up in Reno and that she could pay them.
The CI stated that Ware gave the witnesses name of Jaime and her address on Maurice River. The CI stated that they could go back into the Subway on Maryland Parkway, rob the store and kill her during the robbery. Ware also stated or they could rob her at her house then kill her there. The CI stated that Ware said it would look better if it was done at the store, that way it would be less likely to connect it back to Ware.

The CI stated that after hearing the intimate details of how violently Ware shot one of the store employees and then how Ware bragged about shooting her again multiple times, he knew that he had to report this to officers. The CI stated that he came forward with this information because he believes that Ware is definitely capable of hiring somebody to kill Jamie.

I informed the CI that I would be the primary detective conducting this investigation. I informed him if any new information arose to please notify a correction officer and that they would contact me. During our meeting with the CI, he brought up to me that he would wear a wire to capture Ware telling him about wanting "Jamie" killed.

The CI stated that he was freely and voluntarily doing this on his own admissions. The CI stated that he is a willing witness to this very serious allegation of Solicitation to Commit Murder. The CI stated that he knows he will have to testify at some point to the eye witness testimony he is providing to us.

The CI brought up to me that Ware is expecting a visit from the CI's family who could possibly carry out this Murder for Hire. The CI stated that he has told Ware that his sister or his nephew who goes by the moniker of "Check" would be coming to visit him soon.

On December 7th, 2015 Detective Cook P#5730 and I met up with the CI to discuss wearing a recording device at which time the CI freely and voluntarily agreed to wear a device. As we were departing from the CI, he pulled out a folded up piece of lined paper. The letter appeared to be a hand written note that read as follows;
"Check what's the deal bruh. Im gonna be real brief. Im up in the county jail for Attempt Murder and Robbery. Some shit that I wouldn't even be here for if a nigga wouldn't of put my name in it. I heard you a cleanup man and I need some garbage to be taking out. Handle it and I got 5 stacks for you."

The CI stated that he needed to return with the letter so that Ware could finish it before they send it in the mail. I then took a picture of this letter with my department cell phone and returned the letter back to the CI.

On December 8th, 2015 at approximately 0930 hours Detective C. Hall P#6060 accompanied me at CCDC. We then briefly spoke with the CI together about wearing a recording device on his person to record any conversation that he may have with fellow inmate Erin Ware about any information on him wanting to Solicit to Commit Murder on the witness, Jamie. The CI freely and voluntarily agreed to wear a recording device on his person to assist the investigation. We then placed a recording device on the CI. At approximately 1000 hours, Officer M. Zucker P#5741 then escorted the CI was back to his POD where he was currently housed.

From the time the device was placed on the CI you were able to hear casual conversation coming from the device. The CI and Ware were strategically placed together to clean the rec yard. This provided the two of them to be alone while they cleaned up the rec area together. The recording is approximately one hour and 55 minutes; at approximately 43 minutes into the recording is when you can begin to hear a primarily two way conversation between the CI and Ware. There are quiet spots as well as some background noise at times. Their conversation lasted approximately 54 minutes off and on until about one hour and thirty-seven minutes of the recording.

The CI and Ware were heard talking about various unrelated conversations while briefly talking about the Solicitation to Commit Murder. At one point the CI appeared to go get a letter that Ware had been working on to mail out. Ware read the letter out loud:

"What's the deal bruh. Im gonna be real brief. Im up in the county jail for Attempt Murder and Robbery. Some shit that I wouldn't even be here for if a nigga wouldn't of put my name in it. I heard you a cleanup man and I need some garbage to be taking out. Handle it and I got 5 stacks for you."

The two spoke about various topics to include information on the Solicitation to Commit Murder that Ware has been planning.

On December 9th at approximately 1740 hours Detective C. Hall P#6060, the undercover employee UCE43, and I Detective R. Moreno P#4922 all made contact with Corrections Officer J. Seely P# at the Clark County Detention Center located at 330 Casino Center. We had already scheduled a pre-planned jail visit with undercover employee UCE043, (herein referred to as UC) and the suspect Erin Ware ID#2652033. The preplanned visit was for December 9th, 2015 at 1830 hours until 1925 hours, in visitation booth #61. This scheduled appointment was made with the cooperation of Officer G. Munoz P#7137.

At approximately 1830 hours, Officer J. Seely escorted our UC to visitation booth #61. This jail visitation was recorded by audio and video recording through the use of the Clark County Detention Center in house camera system. The visit was recorded both audio and video for evidentiary purposes. Once the UC sat down in booth # 61 and the video recorder was already recording. The undercover officer (UCE043) was alone for approximately 12 minutes until inmate Erin Ware ID#2652033, shows up and sits down. Ware then greeted the undercover detective.

The two then began to converse with each other, Ware used slightly coded words or sentences to communicate with the undercover detective. This jail visit was transcribed but the following is a synopsis of their conversation;

Ware greets the UC by saying "What's crackin bro"? "You my boy folk"? *(Ware appeared to be referring to the CI).* The UC responds by saying his own preplanned aka "Yeah uh check man, your fam sent me.

Ware: "Oh, oh okay yeah okay uh, yeah man uh it's really real man. I wanted uh to meet up with you man so uh, kind of got some business you know, handle some business, we can handle some business together. I'm posed to be havin' uh somethin' out there flyin' to you in about next couple of days you should be receivin' it like probably Friday. You feel me"?*(This is referring to a letter being mailed out).*

UC: "Uh yeah, yeah fam told me you got some work man so you know that's why I'm here".

Ware: "Yeah uh, yeah man uh I got uh, I got like five stacks". (Referring to $5,000)

UC: "It's always spacy. I, I understand where we at man but's it's all good you know. If we need, we need some work done I gotta know what I need to do though. You know"?

Ware: "Right. Well uh, somebody be get, somebody, someone will be getting wich you. You'll understand, you'll know. You'll know for sure uh.

At this point of the visit Ware places a handwritten letter up so that the UC is able to read the letter through the video monitor. The UC then took a few photographs of the letter with the use of his department cell phone that he had on his person. The letter had the first and last name of the intended victim "Jamie Nourie". It also had her home address and place of work at the subway 8790 S. Maryland Parkway.

UC: "Alright, alright so uh what we talkin' about though I mean you just want that, you just want that shit gone for a minute? Or, uh you know".

Ware: "Yeah".

UC: "Uh you know can't talk or what? What's up"?

Ware: "Uh yeah pretty much but uh, not for a minute shit forever".

UC: "Forever? Uh we talkin' that real shit then huh"?

Ware: "Yeah, yeah, yeah, yeah, yeah".

UC: "So we, we gotta make sure, we gotta make sure our shit straight you know, cause this some shit we can't come back from".

Ware: "Yeah absolutely".
UC: "So you know I'm a have to, I'm a have to get some information from you, you know we gotta talk that payment".

Ware: "Mm-hmm".

UC: "You know"?

Ware: "Mm-hmm, mm-hmm, yeah".

UC: "You know…"

Ware: "That, that's and that's one thing like I told you know, yo, yeah, yeah your folks know me man, your folks no me".

On December 10th I was contacted by Officer Gonzalez P#6188 at the Clark County Detention Center who stated that he received a couple letters in person from the CI. I then went to CCDC and made contact with Correction Officer Gonzalez and Correction Officer Munoz P#7137. Officer Gonzalez stated that the CI thought he was being removed from his current housing area in the medical POD to general population. Therefore the CI met with Officer Gonzalez handed him the two letters and asked to give them to me.
Officer Gonzalez accepted the two letters and notified me as soon as possible. The letters were handwritten in pencil, one was in standard print and the other letter was written in cursive writing. The following are the content of both letters;

"Jaime"
"Check whats the deal bruh? Im gonna be real brief Im in county jail for attempted murder & robbery for some shit that I didn't do and wouldn't even be here is a nigga wouldn't have put my name in it. I heard that you're a clean up man and I need the garbage to be taken out. Handle it and I got 5 stacks for you. The garbage about 5'5, blondish brown hair with glasses, thin build, address is

LV, NV 89183. I don't care how you do it, just clean up before the 17th of December & the $ is yours".

8790 S. Maryland Parkway is where the subway is. I know for sure that on Wednesday from 9am-3pm the trash is there. It don't matter where and how it happen. I just need it to happen. My life is on the line bruh. Don't worry about the cash I got you. When I get out Imma bless you with a little more if everything goes as planned. I appreciate it bruh much love.

On December 14th, 2015 at approximately 1740 hours Detective C. Hall P#6060, the UC, and I Detective R. Moreno P#4922 all made contact with Corrections Officer M. Zucker P#5761 at the Clark County Detention Center located at 330 Casino Center. We had already scheduled a pre-planned jail visit with our UC and the suspect Erin Ware ID#2652033. The preplanned visit was for December 14th, 2015 at 1830 hours until 1925 hours, in visitation booth #57. This scheduled appointment was made with the cooperation of Correction Officer G. Munoz P#7137.

This second jail visit was set up in order to verify the information we received from Ware during our initial visit with him and to confirm that Ware still wanted the witness killed.
At approximately 1830 hours, Correction Officer Zucker escorted our undercover officer (UCE043) to visitation booth #57. This jail visitation was recorded by audio and video recording through the use of the Clark County Detention Center in house camera system for evidentiary purposes. Once the UC sat down in booth #57 the video recorder was already recording. The UC was alone for a short period until inmate Erin Ware ID#2652033 approached the visitation booth #57.

The two then began to talk with each other, Ware used slightly coded words or sentences to communicate with the UC. This jail visit recording will be transcribed at a later time; the following is a synopsis of their conversation;

Ware and the UC greeted each other and began to have similar conversation as in the initial interview. The UC asked if Ware still wanted the trash taken out at which time Ware acknowledged yes. Ware and the UC agreed to have at least half of the money up front prior to the murder to take place.

Ware provided a phone number to the UC of and stated that he went by "Bird". Ware stated that the UC could call "Bird" at this number before December 17th, 2015 and to make contact with him about being paid.

The UC had a photograph of the victim Jamie Nourie that he had brought to the visit with Ware. The UC put the picture up to the video monitor and asked Ware if this was the trash that he wanted taken out? Ware acknowledged the UC both verbally and physically by nodding his head. Shortly thereafter the two ended their conversation.

Due to the above facts and circumstances there is probable cause to believe that Erin Deshaun Ware did willfully and unlawfully commit the criminal offense of Solicitation to Commit Murder NRS 199.500.2 Ware arranged to commit murder against a witness Jamie Nourie in his pending criminal case. The Solicitation was committed by Ware, when he told undercover detectives he wants to murder the only remaining witness in his current case. Ware would pay detectives to have the witness Jamie Nourie killed to prevent her from testifying in his current case. Ware devised a plan to have Nourie killed at her place of work located at 8790 S. Maryland Pkwy (Subway Restaurant). Ware devised a plan as a rouse to have the Subway store robbed and in the process Nourie was to be killed. Ware stated this rouse would then look as if Nourie was killed during a robbery and would not bring any attention to him. Ware also stated to undercover detectives that if his plan failed, Nourie was to be murdered at her place of residence. Ware had obtained Nourie's address and

information from discovery and was planning the attack. Ware told undercover detectives that his family would pay half of the money up front and the remaining portion when the job was finished. These actions taken by Ware to devise a plan to eliminate Nourie by means of murder for hire constitute the criminal offense of Solicitation to Commit Murder in violation of NRS 199.500.2.

Exhibit “2”

INTERVIEW WITH ERIN WARE
151209-3323

Location: CCDC
Present: ERIN WARE, UC OFFICER

EW: ERIN WARE
UC: UNDER COVER OFFICER

EW: What's cracking bro?

UC: What up bro?

EW: Shit man chillin', chillin' man uh, you uh, you my boy folks?

UC: Yeah uh check man, your fam sent me.

EW: Oh, oh okay yeah okay uh, yeah man uh it's really real man. I wanted uh to meet up with you man so uh, kind of got some business you know, handle some business, we can handle some business together. I'm posed to be havin' uh somethin' out there flyin' to you in about next couple of days you should be receivin' it like probably Friday. You feel me?

UC: Yeah.

EW: I don't know how these phones, you know I don't know how these phone is but uh we went on and got it to you, you know got it to you that way so some shit be comin' to you man. Alright, really yeah—fuck—yeah, yeah—you wanna, you wanna holler at him?

UC: Is that my folks?

EW: Yeah, yeah, yeah...

UC: Yeah, yeah, yeah.

EW: Hell yeah. Yeah I'm tryin' to get him to slide up over here.

UC: Alright. Be homie.

EW: But yeah bro—yeah, yeah, on everything. Uh...

UC: Yeah.

EW: Yeah man my name uh, my name drac to homie.

UC: Okay.

EW: My name drac but uh...

UC: Right.

EW: Yeah I hadn't heard a lot a, I didn't heard a lot bout you homie, a lot about you man and uh...

UC: Uh yeah, yeah fam told me you got some work man so you know that's why I'm here.

EW: Yeah uh, yeah man uh I got uh, I got like five stacks.

UC: Damn, they like that?

EW: Yeah my nigga.

UC: Okay uh yeah you know.

EW: Yeah my nigga.

UC: I mean what, what, what we talkin' about?

EW: Yeah. Shit uh you know uh, uh...

UC: It's all good bro...

EW: (Inaudible)

UC: It's always spacy. I, I understand where we at man but's it's all good you know. If we need, we need some work done I gotta know what I need to do though. You know?

EW: Right. Well uh, somebody be get, somebody, someone will be getting wich you. You'll understand, you'll know. You'll know for sure uh.

UC: I, I, I'm go—I expect it—how should I expect it bro?

EW: Okay uh...

UC: Yeah I can't even see that shit bro you have to pull it back.

EW: Ugh.

UC: Yeah, yeah pull it back a little bit. It's uh...yeah a little bit close.

EW: Nice?

UC: Yeah a little, yeah over to the, to the left, there you go. Uh shit, it's all blocked up. Hold uh, hold up, hold, hold up, just a little bit to the left. To uh, to your right, there you go. Uh, now back just a little bit. Hold on, okay let me try see if I could get it. Let's see, over to your, your

right a little bit. Right there, hold it right there bro. That's it, hold on, you got hold it, yeah you gotta—I know it's hard but you got to hold that shit still a little bit. I can't barely see. I say okay keep move it up just a little bit. There you go, alright, alright. Alright just, just a little bit more. Just about yeah, just slowly. Alright, alright so uh what we talkin' about though I mean you just want that, you just want that shit gone for a minute? Or, uh you know.

EW: Yeah.

UC: Uh you know can't talk or what? What's up?

EW: Uh yeah pretty much but uh, not for a minute shit forever.

UC: Forever? Uh we talkin' that real shit then huh?

EW: Yeah, yeah, yeah, yeah, yeah.

UC: So we, we gotta make sure, we gotta make sure our shit straight you know, cause this some shit we can't come back from.

EW: Yeah absolutely.

UC: You know?

EW: Absolutely, yeah absolutely, absolutely.

UC: So you know I'm a have to, I'm a have to get some information from you, you know we gotta talk that payment.

EW: Mm-hmm.

UC: You know?

EW: Mm-hmm, mm-hmm, yeah.

UC: You know...

EW: That, that's and that's one thing like I told you know, yo, yeah, yeah your folks know me man, your folks no me.

UC: Right, uh believe me...

EW: That's one thing.

UC: ...if, let me, let me say this right here bro and it's all respect uh, if my folks didn't know you I wouldn't be here you know what I'm sayin'?

EW: Abs—and, and he—and, and that's the same shit he said to me.

UC: Yeah.

EW: That's the same shit he said to me.

UC: Uh (inaudible).

EW: So that deal, that right there that's something' you ain't got to worry about man. Uh, you, you'll get that for sure, for sho'.

UC: You know the, the way, you know the way I do shit I gotta, you know I—we gotta make sure the shit clean. So I'm gonna need to kinda a day or two to, to you know kinda figure out what's goin' on and you know maybe get a pattern on, on this trash and shit like that. See you know, see what it's about. So I'm gonna need location and you know, you know the—you know how you wa—you know the best place to, to pick it up you know?

EW: Yeah for sho'. Yeap, well uh like I said uh, we uh, I think he gonna be tryin' to hit you up later on, but somethin', somethin' got blasted out to you so.

UC: Yeah, how should I expect it?

EW: You should be...

UC: How should I expect though? You know?

EW: Uh, uh at a just at it—at the, at his spot. At a, at his spot.

UC: R—right.

EW: Yeah wit wife, wit uh wit wifey.

UC: Okay, alright I got you.

EW: Yeah.

UC: Yeah I got you, I gotch you, I gotch you. What's uh...

EW: Yeah, yeah, yeah.

UC: Uh yeah well you what, what we lookin' about though? I mean, how you, you know how you want this shit done though you know what I mean? Or where?

EW: I could—I could care less, but I can care less how anything you know.

UC: As long as...

EW: Or anything just to...

UC: As long it's...

EW: Yeah as long it's...

UC: As long it's, as long it's done do?

EW: Yeah as long it's a done deal folks.

UC: Yeah.

EW: It don't even matter to me.

UC: Did uh, does it...

EW: Don't even want to tell me.

UC: Is—do we know she here? Or it's here? You know?

EW: Yeah, yeah, yeah.

UC: How do, you know, how, how to find her though? You know what I mean?

EW: Yeah, yeah.

UC: You know I can't...

EW: Yeah, yeah for sho'. I think he over there tryin' to holler to see if he can uh, if he can get over here to you.

UC: Alright. Uh, what's that in that uh, that's the, the uh, that's, that's, that's the house bro?

EW: Mm-uh.

UC: Alright. She uh, is there, is there a work spot?

EW: Yeah uh man they uh, they got for the nigga, they talk about the crime pose to happen at uh 87m 8790 Me uh, South Maryland Parkway. You know where that's at?

UC: Ah I could, I could figure that shit out man it ain't gonna be hard you know?

EW: Yeah I don't even know where the fuck that's at.

UC: Alright.

EW: But uh, yeah it was uh, happen at a Subway the...

UC: That's crazy. Hey, let me see, I need to get that uh...

EW: Yeah.

UC: I need to get that first number though, if you could hold that back, I need to get that first number cause that's gonna be one, that's gonna be the one spot. (Inaudible) Can, can you move to, to your right. Yeah, yeah right there, hold up, hold right there, right there. That's shit hard to read, you repeat it, you—what is it? Can you, just uh, uh, uh what it say? Just give me that number one.

EW: Uh, damn. Uh, look, look Brodie.

UC: What up bro?

EW: Just uh, just, just, just wait for it, just wa—it uh, it uh, it uh it uh be coming to you. Cause they, they got mother fuckers call and all and some other shit.

UC: Nah I, I hear you bro. Hey, but uh you know the, the biggest thing like I said uh you know with makin' sure we get this shit right cause it's some shit we can't come back from, but you know all my shit on my end uh that payment what we talkin', you know we talkin' numbers but uh, you know I'm a need at least half up front bro.

EW: Alright, alright that'll work.

UC: You know.

EW: That'll work.

UC: Yeah.

EW: That'll work.

UC: How we gonna work that out?

EW: Uh shit, I have, I have somebody uh you can meet up with somebody and, and, and pick it up shit.

UC: Yeah.

EW: It a, like I sa—like I said all, all information it'll be right to you, it'll be comin' to you. But uh, we had already discussed that, that's what you feel me?

UC: Yeah.

EW: And that how we just goin' to try to work it. But man though, I got you like you know we can do it like that and then at the end of the day you're gonna be blessed with everything else. Yeah...

UC: You got uh, you got somebody? I mean, I mean wh—what we talk—what's your time frame bro? I mean what you tryin', when you tryin' to get this shit done man?

EW: Shhhhhh...shit I got like two weeks man. I got like two weeks.

UC: Yes.

EW: So, if you gonna do some you know, I don't know how long it'll take you to do homework or whatever, but...

UC: Yeah.

EW: You know, then we could uh...

UC: It's gonna—like I, like I told you...

EW: (Inaudible)

UC: It's gonna, It's gonna give me—it's gonna take me a day or two and that's why I need to get as much as I can now cause this shit gotta go smooth.

EW: Yeah, yeah, yeah, well that uh, like I said that info should be there like around Friday.

UC: Yeah.

EW: And uh, I don't know uh you can, you know if you holler at uh folks relay the message to him you know whenever you ready, I can bless you with a holler at my folks, you can meet up with my folks and you feel me?

UC: Well shit uh I'm...

EW: Bein' blessed.

UC: I'm ready when you are bro, but uh you know I'm, I just want to get as much as possible. I couldn't see all that uh, I couldn't see that spot. I got the, the numbers the, the, uh 10347, but I couldn't see the rest.

EW: Yeah, yeah, well yeah I got you. Don't even worry about it. I got you.

UC: Right, right.

EW: (Inaudible) Give like uh, like two days, like I said and then I already went through the airway so in like two days you should be receivin' it.

UC: So it's comin' through?

EW: Yeah, yeah, yeah, yeah, yeah hell yeah. Then like said when uh give it like about you know you see it in about week you can pick out half of my, my folks in Cali you feel me?

UC: Okay right, right.

EW: So I'll, I'll have 'em you know shag up here and meet up wich you and then it'll be the same the ne—we do it both the same way. You feel me? They'll meet up with you both times.

UC: That's all good, that's all good. So I'm uh, what I'm gonna do is uh wait for Friday to come around, get what I need and like I told you I'm gonna need a day or two to do some homework and then uh I'm gonna come back through. I'm gonna set it up, come back through and uh we'll top it up again.

EW: Yeah (inaudible).

UC: What, what you need from me bro?

EW: Hello?

UC: Yeah, what you need from then?

EW: Shit uh...

UC: Until then, until then what you need from me bro?

EW: Nah nuttin', no nuttin', I don't need nuttin', your folks here. Uh you know I—me and your folks will keep you know choppin' game here, let me know what's happenin'. So, I really don't need nuttin' else my nigga. I got, I got what I need. You, you, you showin' up was enough. You feel me?

UC: That's it baby. Hey, on that uh, on that, on that second spot I'm, I'm a little hungry right now. I might stop in and get me a, uh get me a sandwich and shit. Well who should I ask for?

EW: Uh, shit uh, who make the best sandwiches, Jamie.

UC: Was it Jane, okay got you, got you, got you, got you. That's it, that's uh, that's the one?

EW: Yeah.

UC: Yeah, alright. I'm a, I'm a go holler (inaudible), I'm go holler to Jamie to see if uh she'll let me do some work.

EW: Yeah, sandwiches is fire. But yeah man, so that's hey look I appreciate you bro.

UC: Alright now.

EW: I, I appreciate you bro real talk.

UC: Yeah, we're gonna get it done and like I said uh, uh after uh everything come through on the next couple days and shit, I'll set it up, I'll be back through and uh we'll chop it up make sure we get this done.

EW: Absolutely.

UC: Cool?

EW: Absolutely. Yeah, yeah.

UC: Alright.

EW: Let me see if I could get you to holler at your folks.

UC: Alright bro.

EW: Hold up. (Background noise) Check this shit out man. I'm yeah folks said um he gonna hit you later on too. They trippin' uh tryin' to let him slide over here.

UC: I hear you. What you got for me?

EW: Check this. See if you could see this.

UC: They pull you, you gotta pull it back a little, okay hold on, hold on. Uh, the numbers damn they got you on all that? Hey pull it back just a little bit. Uh, over to—yeah right there, right there baby. I got you. Um, hold uh, a little bit more, a little bit more. Hold it up just a little bit more bro. Got it, got it yeah, I'm gonna go, I'm a, I'm a go get me a sandwich.

EW: Look that ain't it, look, check.

UC: They still goin' and shit huh?

EW: Yeah man.

UC: Hold it, hold it, hold it right there bro. Alright now.

EW: They uh.

UC: Pull it back just a little bit. Right there. Alright.

EW: Yeah they wasn't playin' bro. They wasn't playin' with me man.

UC: Nah.

EW: But uh...

UC: So uh, we uh, when you go back to see 'em?

EW: Uh, the 17th.

UC: I see uh that's uh, that's due date?

EW: Nah, due date uh well that's, that's just to figure out if they gonna make sure every—I go to trial January 4th, but on the 17th of this month I go just to decide if they wanna, if they ready to go ahead and go to trial on the 4th.

UC: But I'm sayin', I'm sayin uh you want that trash done by uh by the seven...

EW: Yeah, yeah.

UC: I got you yeah, yeah, just so we—like I said man just got to make sure we're on the same page cause ain't no coming back.

EW: Right I understand...

UC: You know.

EW: ...completely bro.

UC: Right.

EW: I understand completely.

UC: You know.

EW: I understand completely.

UC: You know you mother fuckers don't play so, you know, but yeah it's all good man.

EW: Yeah.

UC: Uh, let me uh, uh, uh wait to hear from uh, my family and shit get in the next couple days and uh, uh once I get that uh, I'll set it up and know I'm comin' back and uh we'll knock out what we need to knock out and get the uh, uh get you takin' care of and shit.

EW: Alright for sho' bro. For sho' bro. Alright, I be, I be, I plan on gettin' wit you in a couple days then.

UC: Alright now.

EW: Alright folks.

UC: Stay up bro.

EW: Yep you too.

End of taped conversation
Transcribed by Sharon De La Fuente, P# 7259
December 14, 2015 1558 hours

Exhibit “3”

INTERVIEW WITH ERIN WARE
151209-3323

Location:	**CCDC**	**EW:**	**ERIN WARE**
Present:	**ERIN WARE, UC OFFICER**	**UC:**	**UNDER COVER OFFICER**

??: (Background noise)

EW: What's the deal? Hello? Hello?

UC: Yeah what up bro?

EW: What's the deal folks?

UC: What's happening? What's happening?

EW: Shit man, shit man, another day. What's the word?

UC: Shit, it's good. You holdin' it down?

EW: Yeah, hell yeah.

UC: You still uh, where you at I can't see you bro? (Sigh) I gotch you, I gotch you. It's you know I make sure I, I just need to know who I'm talkin' to you know what I'm saying?

EW: (Laughs) Yeah I feel you I mean.

UC: You know what I'm sayin'? Like I said, like I said earlier you make sure we're on the same page and shit it's all good.

EW: Mm-hmm.

UC: It's uh, it's still trash day?

EW: Yes sir.

UC: Yes sir.

EW: Yes sir.

UC: Uh you know I did uh, I did that homework and shit. I got a A on that motherfucker.

EW: Okay for sho, for sho.

UC: I got a A on that motherfucker and shit. So uh, you know, uh like we talked about before you know just the, the business end of it and shit um and five stacks uh, uh could we do somethin' before? I need, you know could you do half before?

EW: Uh, ye—yeah all I gotta do is make a phone call man and uh it'll be goochie. Like I said none of my folks, none of my folks is, is, is out here though. You know what I'm sayin'? They all out the way, but I'm a have some people out here on Wednesday. I go to court Thursday. I'm a have some people out here Wednesday. All I need to do is make a call.

UC: Alright.

EW: Do uh, your folks...

UC: Which...

EW: ...got a contact with you right?

UC: Yeah, yeah, yeah I got that, I got that.

EW: Okay, okay.

UC: Uh it, it didn't come through till uh, to yeah it's (inaudible) Saturday, I think it was Saturday and shit, but that's all good, it's all good now. I understand.

EW: Okay, okay.

UC: You know.

EW: Yeah, yeah.

UC: I understand this shit. So, but you know I don't want to keep comin' in and out of here and shit. So, uh your people about that Wednesday uh, you got a contact number or somethin' like that I could reach out to 'em? Or you know we could, we could meet up?

EW: Uh, yeah I got a contact number for sho. (Background noise)

UC: You know what I'm saying? To—you know the, the more I pop in here and shit you know what I mean?

EW: Yeah I'm already, I'm already wit chu, I'm wit chu.

UC: Uh, who should I reach out to?

EW: Just uh the, the, the, the number uh

UC: I write on my hand.

EW:

UC:

EW:

UC: Who I'm reachin' out to?

EW: That's Bird.

UC: Bird.

EW: Yeah.

UC: He know what's up?

EW: Mm-hmm.

UC: Yeah?

EW: Yes sir, yes sir.

UC: So uh, you know I mean should I reach out on—what should I wait till Wednesday when they get through, we they get in town? Or what? What's up?

EW: Yeah when they get in town Wednesday shit you can hit 'em like on Wednesday morning.

UC: Alright. Hey uh he'll be able...

EW: Yeah.

UC: He'll be able to have that half?

EW: Yeah, yeah, yeah.

UC: Okay, and then uh, uh yeah after the shit done uh we get the other half and shit.

EW: Yes sir.

UC: Wat chu want? Wat chu want uh, you—how you want me to uh to, to show you that's shits a done deal?

EW: Uh...

UC: You know what I'm saying?

EW: Should a uh, uh shit you uh, that I haven't even figured that part out yet.

UC: Yeah, I mean the shits gonna get done. I'm just you know, I'm just tryin' re—you know it's like I said it's all respect and shit so you know?

EW: I, I, I trust, I trust your word bro.

UC: Yeah.

EW: I, I trust your word man. Like I said yo, yo, yo, your folks is real good people wit me man and I, I can't, I can't do nuttin' but respect what he say about you know, you're here so it, it'll be all good wit me bro.

UC: Right, right, right, right. So uh, yeah Wednesday that's when you say uh you go to court on uh Thursday?

EW: Yeah.

UC: And uh you know what, you know what about what time they gonna be through on uh the your, your family gonna be in on Wednesday and shit cause I need to meet 'em as early as possible you know get this—don't want to miss trash day you know what I'm sayin'?

EW: Uh shit uh no later than like ten o'clock.

UC: Yeah.

EW: You think the uh your boy uh, you think Bird be cool if I reach out to him be—you know like the day before and shit to submit you know set everything up and shit?

UC: Yeah, yeah.

EW: Okay.

UC: Yeah hit him. Yeah man...

EW: You know.

UC: ...though hit it.

EW: Aight.

UC: Yeah man dog hit it.

EW: Alright. Hey I just want to make sure, I wanna make sure he know what's up and shit so he don't think you know ain't no bullshit goin' on, we have no problems and shit and get held up on you know what we with what we what we really tryin' to do.

EW: No we already, it's already established my nigga.

UC: Alright.

EW: Yeah it's already establish.

UC: Alright, I like it uh bro, I like it and shit. I just you know, we talkin' about some shit that we can't come back from and shit so.

EW: Yeah.

UC: You know?

EW: Yeah, yeah.

UC: Can't come back from so we can't yeah ain't no mistakes and shit, no mistakes.

EW: Absolutely.

UC: Hey uh, on that trash though and shit you know uh, uh you want that shit just you know uh, you know you want me to get rid of that shit slowly or you want me to just go and smash that shit?

EW: Just, just go on in waste man (inaudible) and get it off the way man.

UC: Out the way alright.

EW: That shit man sittin' out too long.

UC: Alright.

EW: Yeah.

UC: So get that shit. Yeah I just, like I said bro fuck it just, just get that shit body huh?

EW: Yeah.

UC: Alright, alright, alright. Well, real quick though like I said I did uh, I did that homework, I did that homework and shit and uh, uh just let me show you is this the trash you was talkin' about?

EW: Yeah.

UC: You see that shit?

EW: Yeah, yeah, yeah.

UC: Alright, alright like I said uh I got A on that motherfucker so you know just want to make sho.

EW: Yes sir.

UC: Make sho and shit.

EW: Yes sir, yes sir.

UC: What else can I do for you bro?

EW: Shit man that's, that's, that shit, that's, that's A plus my nigger.

UC: 'Kay.

EW: That, that's a go, that's a go for sho. Make sure it's bang, hit that line and it, it'll, it'll be all good man. Thank you. You just hit that line it'll be all good.

UC: That's, that's a done deal and shit and that's gonna be a done deal and shit. So huh, what time, what time uh on the 17th you go? You know?

EW: Like 8:30 in the mornin'.

UC: Oh yeah that shit a be, that shit a be handled, that tra—yeah should be handle.

EW: Yeah 8:30 in the mornin' I'm there. For sho.

UC: Uh, how my, how my big unc doin' bro?

EW: Uh man folks is, folks is, folks is straight man. I be tryin' to gettin' 'em to slide over here man, but the onetime be they be, they be real tryin' to zero in on the motherfucker man.

UC: Yeah I understand. Low key baby, low key.

EW: Yeah absolutely, exactly, yes sir. Hey man uh, when I touchdown right, I'm gonna some we, we gonna have we, we, we gonna have to uh, uh, uh stay in contact man. I got some other shit man uh that we could fadangle.

UC: As, as, as long as we both comin' up I'm good wit it you know what I'm sayin'?

EW: Absolutely.

UC: You know it, it ain't, it ain't nuttin' but business for me so.

EW: Absolutely.

UC: You know. I just gotta you know if the motherfucker's I'm dealin' with and shit I just gotta make sure they, they good and like we said day one my family like my family and shit I would, I wouldn't even be there if it wasn't, if that shit wasn't good you know what I'm sayin'?

EW: Yes sir.

UC: So uh you know, hey we talkin' some local shit or, I gotta, I gotta a travel?

EW: Uh we, we probably move travel.

UC: Okay.

EW: Ain't no probably we will have to, but uh it's a, it's a, it'll be a good look my nigga. It'll be a good look. Talkin' about uh maybe like a couple hundit.

UC: Okay, for sure.

EW: Yeah.

UC: Alright. How soon we talkin'?

EW: Shit uh as soon as uh, as soon as I hit the bricks. As soon as I hit the bricks. It's already in motion. My people wanna—my people good. I just gotta get out there.

UC: Yeah and get that shit.

EW: And uh, yeah man and it's, and it's lovely, it's real lovely, real sweet.

UC: 'Kay. That shit, uh shit I hope his women that motherfucker that's hit as cold as hell on this bitch.

EW: Yeah, man it's real warm.

UC: Yeah, yeah.

EW: Yeah it's real warm.

UC: Alright. Like that?

EW: Yeah, yeah I've been, I've been uh, I've been playin' around and uh I really ain't the, the, I really ain't you know trust to get down they seem kinda shaky to me but, I know it's really real now. So you know uh, I'm goin' all in man, head first.

UC: Uh yeah we could, we could do that shit bro. Like I said we, you know let's, let's handle this one and uh, uh said we'll huh make a little business, make a little business out of it.

EW: Yeah absolutely.

UC: You know.

EW: Absolutely, absolutely. Hey look, I'm mean uh you know uh every mo—every, every superhero will be looking for you know that type of partner. You feel me? Like uh bort—batman got robin you know what I'm sayin' and, and, such and such man niggas that was on my team was they, they wasn't, we wasn't at the same level. You know what I'm sayin'?

UC: Right.

EW: I, they had, they had me fool man, they had me really fool man, but they, they...

UC: (Inaudible)

EW: ...really was built like that man.

UC: It ain't to me, it ain't to me real soldiers out there anymore bro.

EW: Yeah.

UC: You know.

EW: Yeah.

UC: You know I says it's lot of fakers and shit you know, lot of poses but you know not, not to many good ones left.

EW: Yeah absolutely.

UC: You know...

EW: Absolutely.

UC: Yeah, you know, you know, you know what's up in the streets right now.

EW: Yeah, yeah, yeah, well yeah man uh like I said hit that line you can hit probably hit it, hit it tomorrow, hit it the day before and you know what I'm sayin' you all could have everything established and we, we good, we on a green light man.

UC: Alright we talkin' that half right? The half...

EW: Yeah.

UC: The half stack.

EW: Yeah.

UC: Alright.

EW: Yeah.

UC: Alright I just now you know no disrespect but like I said I just you know we talkin' about somebody I ain't dealt with and shit and uh if you say he good you know just like my family said you good uh we get down but if you know I don't want to have no you know no problems and shit and, and, and, and run late you know what I mean?

EW: Yeah absolutely.

UC: And you know, you know miss that, miss that, miss that 17th the, the dead line on that trash and shit so.

EW: Yeah, yeah.

UC: So yeah just let's, let your, let your folks know I'm gonna, I'll reach out and shit uh probably uh like Tue, you know Tuesday and shit and uh we'll get that together and uh you'll know. We'll get it, you'll know, you'll know by uh the time you walk through uh, uh them doors on the 17th and shit.

EW: For sho, for sho.

UC: Cool.

EW: Yep.

UC: What else I can do for you bro?

EW: I appreciate you. No that shit, that shit my nigger. I appreciate it.

UC: Alright fool.

EW: Alright be easy.

UC: You too.

End of taped conversation #2
Transcribed by Sharon De La Fuente, P# 7259
December 31, 2015 0947 hours

Exhibit “4”

151209-3323

Jaime

Check whats the deal bruh? Im gonna be real brief. Im In County Jail For Attempted murder & Robbery for Some shit that I didnt do And wouldnt Even be here if a nigga wouldnt have put my name in it. I Heard that your a clean up man And i need the Garbage to be taken out. Handle it and i got 5 Stacks for you. The Garbage is 5'5, Blondish Brown Hair with Glasses, thin Build, Address is LV, NV 89183. I dont Care how you Do it, just Clean up before the 17th Of December & The $ is yours.

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DISTRICT COURT

CLARK COUNTY NEVADA

THE STATE OF NEVADA, Plaintiff, vs. ERIN WARE, Defendant.	Case No.: C-16-311782-1 Dept. No.: VI **DEFENDANT'S OPPOSITION TO STATE'S MOTION TO CONSOLIDATE, OR IN THE ALTERNATIVE, MOTION TO ADMIT EVIDENCE OF OTHER ACTS PURSUANT TO NRS 48.045(2)**

COMES NOW the Defendant ERIN WARE, by and through his attorneys, JENNIFER M. WALDO, ESQ. and AMANDA S. GREGORY, ESQ., of GREGORY & WALDO, LLC, and hereby submits the attached Points and Authorities in Opposition to the State's Motion to Consolidate or in the Alternative, Motion to Admit Evidence of Other Acts Pursuant to NRS 48.045(2).

This Opposition is made and based upon all the papers and pleadings on file herein, the attached points and authority, and oral argument at the time set for hearing this Motion

DATED this 18th day of February, 2016.

Respectfully submitted:

By: */s/Jennifer Waldo*
JENNIFER M. WALDO, ESQ.
AMANDA S. GREGORY, ESQ.
Attorneys for Defendant

MEMORANDUM OF POINTS & AUTHORITIES

I.
STATEMENT OF FACTS

In Case Number C-15-310099-1, the State alleges that the Defendant entered a Subway restaurant located at 8790 S. Maryland Parkway while alleged victims Ruth Garn and Jamie Nourie were working. The State alleges that Defendant pointed a gun at the victims, threatening one, and ultimately shooting Ruth Garn multiple times. Victim Jamie Nourie identified the Defendant as the suspect in the robbery and shooting.

In Case Number C-16-311782-1, detectives placed a confidential informant with the Defendant at the jail several months after the initial incident, and it is alleged that the Defendant attempted to make a plan to have the victim who identified him in case C-15-310099-1 murdered.

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III.

LEGAL ARGUMENT

A. THE COURT SHOULD NOT CONSOLIDATE THIS CASE WITH CASE NUMBER C-15-310099-1 FOR JURY TRIAL SINCE THEY ARE NOT BASED ON THE SAME ACT, TRANSACTION, OR COMMON SCHEME OR PLAN.

This Court should not order consolidation of the present case with Case Number C-15-310099-1 because they are not based on the same act, transaction, common scheme, or plan, and such consolidation would result in an unfair prejudice to the Defendant. The State cites to NRS 174.155 and NRS 173.115 to support its argument. NRS 174.155 states the following:

> The court may order two or more indictments or informations or both to be tried together if the offenses, and the defendants if there is more than one, could have been joined in a single indictment or information. The procedure shall be the same as if the prosecution were under such single indictment or information.

Additionally, NRS 173.115 states:

> Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are:
> 1. Based on the same act or transaction; or
> 2. Based on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

Even if charges could otherwise be properly joined, severance may still be mandated where joinder would result in unfair prejudice to the defendant. *Weber v. State*, 119 P.3d 107, 121 Nev. 554 (2005). In addition, prejudice from joinder of charges requiring reversal is more likely in a close case because it may prevent jurors from making a reliable judgment about guilt. *Id.*

The universal rule is that the exercise of the power to consolidate is one which lies in the trial court's discretion. *United States v. Fancher*, 195 F.Supp. 634 (D. Conn., 1960). The exercise of that discretion should be determined by the resolution of two sometimes conflicting

policies; the promotion of economy and efficiency in judicial administration by the avoidance of needless multiplicity of trials, and the protection of criminal defendants from undue prejudice often caused by the consolidation of indictments and mass trials. *Id.* A constitutional violation occurs where simultaneous trial of more than one offense renders the trial fundamentally unfair, and thereby violates due process. *Featherstone v. Estelle*, 948 f.2d 1497 (9th Cir. 1991). Prejudice exists if the joinder has a substantial and injurious effect or influence in determining the verdict. *Bean v. Calderon*, 163 F. 3d 1073, 1086 (9th Cir. 1998).

1. **The two cases the State is attempting to consolidate are not based on the same act or transaction**.

In this case, the allegations from each case are separate and distinct incidents. Case Number C-15-301199-1 involves an armed robbery that occurred in a Subway on June 10, 2015. Case Number C-16-311782-1 involves an alleged murder for hire scheme that occurred on or around November 30, 2015. While the cases certainly involve a similar victim, it is a far stretch to argue that they are part of the same transaction or occurrence. These two cases occurred over 5 months apart in time, and are completely separate charges.

Nevada currently has no controlling case law defining the phrase "same act or transaction." As such, this Honorable Court may look to definitions utilized by other States as persuasive authority. The State of Oregon, when defining what constituted the "same act or transaction" for purposes of joinder and consolidation held that two offenses arise out of the "same act or transaction" if they are connected so closely "in time, place and circumstance that a complete account of one charge cannot be related without relating details of the other charge." *State v. Fitzgerald*, 267 Or. 266, 273, 516 P.2d 1280, 1284 (1973). Oregon further expanded on this definition in State v. Boyd and held that the phrase same transaction was synonymous with "same

criminal episode." *State v. Boyd*, 271 Or. 558, 565–66, 533 P.2d 795, 799 (1975). Although the Court adopted this definition, it also suggested that a case by case analysis must be done in determining if two separate crimes fall under the "same act or transaction" test.

The State of Virginia, in *Woodfin v. Commonwealth*, adopted this definition and held that "The language is synonymous with "same criminal episode." *Woodfin v. Com.*, 372 S.E.2d 377, 379 (Va. 1988). The Virgina Court quoted *State v. Fitzgerald* and ruled that two crimes must be so close "that a complete account of one charge cannot be related without relating the details of the other charge." *Id.*

In this case, the Defense submits that this Honorable Court should utilize the definition used by Oregon and adopted by Virgina. Under this standard, the allegations in the two separate cases fail the "same act or transaction" test as they are not close in time or circumstance and the charges in this case can be related without relating any details of the allegations from case C-16-311782-1. While Defendant will submit that the fact that a victim in the robbery case implicated Defendant as a suspect in that robbery will be admissible in Case C-16-311782-1, the same is not conversely true. As such, the cases cannot be consolidated.

In attempting to prove the robbery and attempt murder in Case C-15-310099-1, the allegations can easily be relayed to a jury without mentioning the murder for hire in case C-16-311782-1. The two are completely unrelated and happen far apart in time. The two cases are separate and distinct incidents which fail the "same act or transaction" test.

2. <u>The allegations made in the two separate cases are not part of the same "common scheme or plan</u>".

In *Weber*, the Nevada Supreme Court defined "common scheme" and "plan." 119 P.3d at 119-20. The court defined scheme as a "design or plan formed to accomplish some purpose; a

system" and defined plan as a "method of design or action, procedure, or arrangement for accomplishment of particular act or object; Method of putting into effect intention or proposal." *Id.* In determining whether the charges constitute a common scheme or plan, the Court wrote:

> Thus *purposeful design is central to a scheme or plan*, though this does not mean every scheme or plan must exhibit rigid consistency or coherency . . . a person who forms and follows a scheme or plan may have to contend with contingencies, and therefore a scheme or plan can in practice reflect some flexibility and variation but still fall within overall intended design." *Id.* (emphasis added).

The existence of a common plan or scheme does not turn on commonalities among offenses but on whether those offenses tend to establish a preconceived plan. *Richmond v. State*, 118 Nev. 924, 933, 59 P.3d 1249, 1255 (2002).

The Nevada Supreme Court in *Ledbetter* expanded upon their explanation of what constitutes a common scheme or plan, writing that the acts must constitute "an integral part of an *overarching plan explicitly conceived and executed* by the defendant." 122 Nev. 252 (emphasis added). The Court went on to explain in the Ledbetter case that although the incidents in that case had "numerous similarities" including the fact that all were young female family members of the defendant and that "the initial abuse all occurred at night while they were asleep, and performed many of the same types of acts, employing similar methods" these similarities did *not* demonstrate a common scheme or plan. The Court wrote that the State needed to demonstrate that the abuse was part of "an overarching and explicitly preconceived plan" rather than just random opportunities in which the defendant had access to the victims. *Id.*

In this case, the State cannot meet this high burden. There is absolutely no evidence that any incidents that allegedly occurred with the solicitation for murder charge in case C-16-311782-1 were somehow part of an explicitly preconceived plan involving the robbery/attempt murder in

Case Number C-15-310099-1. The armed robbery occurred in June 2015. The solicitation for murder occurred several months later, in November 2015. The original armed robbery is a completely separate plan, scheme, and occurrence from the solicitation for murder charge. These are completely different plans and transactions that can and did occur separately of one another. Again, while the State might be able to admit evidence that Defendant was implicated in a robbery by the victim in Case Number C-16-311782-1 as to prove why Defendant would potentially have attempted to have her murdered, the same is not true of the originally robbery. The two events are completely separate, especially in relation to the robbery in the present case.

B. <u>THIS COURT SHOULD NOT CONSOLIDATE THE CASES BECAUSE THE EVIDENCE IS NOT CROSS ADMISSIBLE AS EVIDENCE OF OTHER ACTS PURSUANT TO NRS 48.045(2).</u>

"[F]or two charged crimes to be 'connected together' under NRS 173.115(2), a court must determine that evidence of either crime would be admissible in a separate trial regarding the other crime." *Weber*, 121 Nev. at 573, 119 P.3d at 120. The prosecution cannot use evidence of collateral offenses to show criminal propensity. *Middleton v. State*, 968 P.2d at 309 (citing *Keeney v. State*, 850 P.2d 311, 316 (Nev. 1993)). While evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith, such evidence may be admissible to prove "motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." NRS 48.045(2). Before such evidence becomes admissible, the district court must first determine that the bad act is relevant to the crime charged, proven by clear and convincing evidence, and that the probative value of the act is not substantially outweighed by unfair prejudice. *Fields v. State*, 125 Nev. 785, 790, 220 P.3d 709, 713 (2009).

The trial court should begin with the presumption that these charges are not cross-admissible because "a presumption of inadmissibility attaches to all prior bad acts evidence." *Rosky v. State*, 111 P.3d 690, 697 (Nev. 2005).

i. Modus Operandi and Identity

The modus operandi exception is generally proper in "situations where a positive identification of the perpetrator has not been made, and the offered evidence establishes a signature crime so clear as to establish the identity of the person on trial." *Ledbetter v. State*, 122 Nev. 252, 260, 129 P.3d 671, 677 (2006). In this case, the victim in in both cases made a positive identification of the Defendant in the present case, thus identity does not need to be established and there is no need to present evidence of a "signature crime." The allegations are not cross-admissible to prove identity or modus operandi.

ii. Intent or Absence of Mistake or Accident

The exception for "absence of mistake or accident" does not apply in this case because Mr. Ware has denied all the charges and has not raised a theory of mistake or accident, thus rendering this exception inapplicable. Evidence of intent is only relevant if intent is an issue in controversy in the case. Where the issue is not even being disputed or litigated, joining counts in order to "prove" intent is simply a thinly veiled attempt to impregnate the case with improper character evidence in direct violation of NRS 48.045.

In *Ledbetter v. State*, the Nevada Supreme court affirmed this principle when it rejected the State's arguments that evidence of prior bad acts were being introduced for various reasons that were not in issue in the case. The Court wrote, "Whether Ledbetter's actions were the result of an accident, mistake or unintentional conduct also do not appear at issue in this case, and we

also reject the State's reliance upon these exceptions as a basis for admission." *Ledbetter v. State*, 122 Nev. 252, 260, 129 P.3d 671, 677 (2006). Thus, there must actually be a controversy or defense challenge under one of the categories before the State can assert that they to join charges in order to "prove" the category. In this case, the Defense has no intention of challenging the element of intent or claiming that the Defendant "accidentally" committed these offenses.

iii. Opportunity and Knowledge

Similarly, opportunity and knowledge are not relevant in the present case. While the State may need to admit evidence that the victim in the present case identified the Defendant as the suspect in Case Number C-15-310099-1, the subsequent acts in Case C-16-311782-1 will in no way assist the State in proving opportunity or knowledge in Case Number C-15-310099-1.

iv. Preparation and Common Scheme or Plan

The Defense references the argument made above for why the charges cannot be joined in order to show common scheme or plan.

v. Motive

In Case Number C-25-310099-1, motive is not at issue. While motive is potentially at issue in Case C-16-311782-1, it certainly is not at issue in the robbery case. The court may be inclined to admit evidence of the robbery into cas C-16-311782-1, but as stated above, the converse is not true.

C. CONSOLIDATING THE TWO CASES WILL RESULT IN UNFAIR PREJUDICE TO MR. WARE.

Misjoinder requires reversal if the error has a substantial and injurious effect on the jury's verdict. *Mitchell v. State*, 782 P.2d 1340 (citing *United States v. Lane*, 474 U.S. 438, 449-50 (1950)). The Courts will reverse a conviction if the Defendant can show that the prejudice suffered

by the joinder constituted a denial of his right to a fair trial. *United States v. Martinez*, 48 F.2d 12, 22 (5th Cir. 1973). The Nevada Supreme Court has found prejudice where a simultaneous trial rendered the process fundamentally unfair and a violation of due process. *Honeycutt v. State, 56 P.3d 362* (Nev. 2002) (overruled on other grounds by *Carter v. State* 121 P.3d 592 (Nev. 2005)).

In this case, the solicitation for murder charge in Case C-16-311782-1 has no bearing or relation to the charges in robbery case. That case happened several months after the initial act, and evidence of the murder for hire is not necessary or relevant in proving the present case. If consolidation of these cases occurs, if the jury hears evidence of the facts in Case C-16-311782-1 during the trial Case C-15-310099-1, it will only have the effect of prejudicing the Defendant and making the jury believe he must have committed the robbery if he attempted to have the victim murdered after the fact. The facts from the subsequent case have no relevance in proving whether or not the Defendant committed the initial armed robbery. If the State were to be able to prove the facts in Case C-16-311782-1, all this would show is that the Defendant attempted to have someone murdered who implicated him in a robbery, not that he in fact committed that robbery. The jury will not be able to differentiate the two, however, and allowing facts of case C-16-311782-1 to be heard during the initial robbery case will only prejudice the Defendant and make it impossible for him to have a fair trial.

The Nevada Supreme Court has previously explained that prejudice created by a District Court's failure to sever charges is more likely to warrant reversal in a close case because it may "prevent the jury from making a reliable judgment about guilt or innocence." *Tabish*, 119 Nev. 293, 72 P.3d at 591–92. These two cases are clearly "close", since the second one would not have occurred if not for the first one, and as such, not keeping the trial separate will potentially warrant reversal in the case if Ware if found guilty at trial.

The Defense submits to the Court that consolidating these two cases will result in a fundamentally unfair trial and violate Mr. Ware's Due Process rights. Allowing facts from the second case to be heard during this present case will absolutely prevent the jury from making a reliable judgment about guilt or innocence.

IV.

CONCLUSION

Based upon the foregoing, it is respectfully requested that this Honorable Court deny the State's Motion to Consolidate, or in the Alternative, Motion to Admit Evidence of Other Acts Pursuant to NRS 48.045(2).

DATED this 18th day of February, 2016.

GREGORY & WALDO, LLC

/s/Jennifer Waldo

AMANDA S. GREGORY, ESQ.
Nevada Bar No.:11107
JENNIFER M. WALDO, ESQ.
Nevada Bar No. 11900
GREGORY & WALDO, LLC
324 South 3rd Street, Suite 2
Las Vegas, NV 89101
Attorneys for Defendant

CERTIFICATE OF ELECTRONIC SERVICE

I, do hereby certify that on the 19th day of February, 2016, I did serve a true and correct copy of the foregoing Defendant's Opposition to State's Motion to Consolidate, or in the Alternative, Motion to Admit Evidence of Other Acts Pursuant to NRS 48.045(2).by means of electronic service, addressed as follows:

Elizabeth Mercer
Kristina Rhoades
Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

/s/ Amanda S. Gregory
An Employee of Gregory & Waldo, LLC

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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * *

STATE OF NEVADA VS ERIN WARE	Case No.: C-16-311782-1 DEPARTMENT 9

NOTICE OF DEPARTMENT REASSIGNMENT

NOTICE IS HEREBY GIVEN that the above-entitled action has been reassigned to Judge Jennifer Togliatti.

☒ This reassignment is due to: Per Decision and Order filed on 05/12/16. See minutes in file

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE RESET BY THE NEW DEPARTMENT

PLEASE INCLUDE THE NEW DEPARTMENT NUMBER ON ALL FUTURE FILINGS.

STEVEN D. GRIERSON, CEO/Clerk of the Court
By: /s/ Miriam Mejia
Miriam Mejia, Deputy Clerk of the Court

C
CERTIFICATE OF MAILING

I hereby certify that: 6/10/2016

☒ The forgoing Notice of Department Reassignment was electronically served to all registered parties for case number C-16-311782-1:

/s/ Miriam Mejia
Miriam Mejia, Deputy Clerk of the Court

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CLERK OF THE COURT

MOT

AMANDA S. GREGORY, ESQ.
Nevada Bar No. 11107
JENNIFER M. WALDO, ESQ.
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Email: asg@gregoryandwaldo.com
Attorneys for Defendant
ERIN WARE

DISTRICT COURT

CLARK COUNTY NEVADA

THE STATE OF NEVADA, Plaintiff, vs. ERIN WARE, Defendant.	Case No.: C-16-311782-1 Dept. No.: IX **MOTION TO CONTINUE TRIAL**

COMES NOW the Defendant ERIN WARE, by and through his attorneys, JENNIFER M. WALDO, ESQ. and AMANDA S. GREGORY, ESQ., of GREGORY & WALDO, LLC, and hereby submits the foregoing Motion to Continue Trial.

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This Motion is made and based upon all the papers and pleadings on file herein, the attached points and authority, and oral argument at the time set for hearing this Motion

DATED this 4th day of August, 2016.

Respectfully submitted:

By: */s/Jennifer Waldo*
JENNIFER M. WALDO, ESQ.
AMANDA S. GREGORY, ESQ.
Attorneys for Defendant

NOTICE OF MOTION

TO: STATE OF NEVADA, Plaintiff; and

TO: DISTRICT ATTORNEY, its attorney:

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion to Continue Trial for hearing in Department 9 of the above-entitled Court, on the 16 day of August, 2016, at the hour of 9:00 a.m.., or as soon thereafter as counsel may be heard.

DATED this 4th day of August, 2016.

GREGORY & WALDO, LLC

/s/ Jennifer Waldo
JENNIFER M. WALDO, ESQ.
Nevada Bar No.: 11900
Attorney for Defendant

AFFIDAVIT OF JENNIFER M. WALDO

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

JENNIFER M. WALDO, ESQ., being first duly sworn according to law, deposes and states as follows:

1. That your affiant is an attorney duly licensed to practice law in the State of Nevada and I am partner at Gregory & Waldo. Your affiant makes this affidavit based upon her own personal knowledge except as to those matters stated upon information and belief and as to those matters your affiant believes them to be true;

2. That your affiant is the court appointed attorney in the matter of the *State of Nevada v. Erin Ware*, Case No.: C-15-310099-1;

3. That trial in this matter is currently set for August 22, 2016;

4. That on October 19, 2015, Mr. Ware was arraigned in case number C-15-310099-1 and entered a not guilty plea to charges related to an armed robbery;

5. That on January 13, 2016, Mr. Ware was arraigned on a new charge while in CCDC in which he was accused of soliciting the murder of a victim from case C-15-310099-1. He entered a plea of not guilty to the charge of Solicitation to Commit Murder in case number C-16-311782-1;

6. That on May 12, 2016, this honorable Court issued an Order consolidating case number C-15-31009-1 with case number C-16-311782-1;

7. That Mr. Ware has waived his right to a speedy trial;

8. That your Affiant has been diligently investigating and preparing the defense in case C-15-31009-1 since the time of her appointment. This case involved far more serious charges

then the second case. Your Affiant has also been diligently investigating and preparing case C-16-311782-1, however, that investigation and defense has now been altered since the cases have been consolidated;

9. That over the past month, counsel has learned new information regarding case C-16-311782-1, through independent investigation, that is imperative to fully investigate prior to going to trial on case number C-15-31009-1. The facts of the Solicitation case can greatly impair the defense of the armed robbery case. The new information obtained by counsel is very important to fully investigate before going to trial on both cases.

10. That the undersigned is in the process of serving several subpoenas in relation to the newly discovered information;

11. That this request to continue the trial is brought for the reasons stated above and not for the purpose of harassment or to cause undue delay.

FURTHER AFFIANT SAYETH NAUGHT.

JENNIFER M. WALDO, ESQ.

SUBSCRIBED AND SWORN to before me
this 4th day of August, 2016 .

NOTARY PUBLIC in and for
said County and State.

NICOLE PETRILLO
STATE OF NEVADA
NOTARY PUBLIC
APPT. NO. 16-2049-1
MY APPT. EXPIRES 03-28-2020

MEMORANDUM OF POINTS & AUTHORITIES

I.

PROCEDURAL HISTORY

The Defendant, ERIN WARE, has been charged by way of Information as follows: one (1) count Burglary While in Possession of a Deadly Weapon, one (1) Battery with Intent to Commit a Crime, one (2) counts Robbery with Use of a Deadly Weapon, and one (1) count Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm, one (1) count Attempt Murder with Use of a Deadly Weapon, one (1) count Assault with Use of a Deadly Weapon, three (3) counts Discharge Firearm from or within a Structure of Vehicle, one (1) count Ownership or Possession of Firearm by Prohibited Person, and one (1) count Solicitation to Commit Murder. Mr. Ware is set for trial to begin on August 22, 2016. Initially, Mr. Ware was set for two separate trials stemming out of two separate events. Both cases were set for bail at $500,000 each. However, the cases were recently consolidated. Due to the need to continue and investigate the allegations made in this case, Counsel is requesting a continuance of this Trial.

II.

ARGUMENT

Based on all representations stated in the above Affidavit of Counsel, counsel is requesting that trial in these matters be continued. It is crucial to have additional time to investigate new information discovered by counsel. Defendant is facing many serious charges that can result in a very serious prison sentence. As such, it is imperative that the case be handled properly and all avenues of defense explored.

III.

CONCLUSION

Based upon the foregoing Motion, it is respectfully requested that this Honorable Court grant Defendant's Motion to Continue Trial.

DATED this 4th day of August, 2016.

GREGORY & WALDO, LLC

/s/ Jennifer Waldo
AMANDA S. GREGORY, ESQ.
Nevada Bar No.:11107
JENNIFER M. WALDO, ESQ.
Nevada Bar No. 11900
GREGORY & WALDO, LLC
324 S. 3rd Street, Suite 2
Las Vegas, NV 89101
Attorneys for Defendant

CERTIFICATE OF MAILING

I, do hereby certify that on the 4th day of August, 2016, I did serve a true and correct copy of the foregoing Defendant's MOTION TO CONTINUE TRIAL by placing in the United States mail, first-class postage fully prepaid, addressed as follows:

Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

/s/ Nicole Petrilllo
An Employee of Gregory & Waldo

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CLERK OF THE COURT

MOT

AMANDA S. GREGORY, ESQ.
Nevada Bar No. 11107
JENNIFER M. WALDO, ESQ.
Nevada Bar No. 11900
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Facsimile: (702) 294-0231
Email: asg@gregoryandwaldo.com
Attorneys for Defendant
ERIN WARE

DISTRICT COURT

CLARK COUNTY NEVADA

THE STATE OF NEVADA, Plaintiff, vs. ERIN WARE, Defendant.	Case No.: C-15-311782-1 Dept. No.: IX **MOTION FOR DISCOVERY**

COMES NOW Defendant ERIN WARE, by and through his attorney of record JENNIFER M. WALDO, ESQ. and AMANDA S. GREGORY, ESQ. of GREGORY & WALDO, LLC, and pursuant to the Due Process Clause of the United States and Nevada Constitutions and Nevada Supreme Court Rule 179(4) and NRS 174.245 asks this Honorable Court for an Order requiring the Clark County District Attorney's Office to turn over all discovery to the Defendant.

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This Motion is made and based upon all the papers and pleadings on file herein, the attached points and authority, and oral argument at the time set for hearing this Motion

DATED this 12th day of August, 2016.

Respectfully submitted:

By: */s/Jennifer Waldo*
JENNIFER M. WALDO, ESQ.
AMANDA S. GREGORY, ESQ.
Attorneys for Defendant

NOTICE OF MOTION

TO: STATE OF NEVADA, Plaintiff; and

TO: DISTRICT ATTORNEY, its attorney:

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion to Continue Trial for hearing in Department 9 of the above-entitled Court, on the 23 day of Aug., 2016, at the hour of 9:00 a.m.., or as soon thereafter as counsel may be heard.

DATED this 12th day of August, 2016.

GREGORY & WALDO, LLC

/s/ Jennifer Waldo
JENNIFER M. WALDO, ESQ.
Nevada Bar No.: 11900
Attorney for Defendant

MEMORANDUM OF POINTS & AUTHORITIES

I.

PROCEDURAL HISTORY

The Defendant, ERIN WARE, has been charged by way of Information as follows: one (1) count Burglary While in Possession of a Deadly Weapon, one (1) Battery with Intent to Commit a Crime, one (2) counts Robbery with Use of a Deadly Weapon, and one (1) count Battery with Use of a Deadly Weapon Resulting in Substantial Bodily Harm, one (1) count Attempt Murder with Use of a Deadly Weapon, one (1) count Assault with Use of a Deadly Weapon, three (3) counts Discharge Firearm from or within a Structure of Vehicle, one (1) count Ownership or Possession of Firearm by Prohibited Person, and one (1) count Solicitation to Commit Murder . Initially, Mr. Ware was set for two separate trials stemming out of two separate events. Both cases were set for bail at $500,000 each. However, the cases were recently consolidated.

II.

ARGUMENT

Prior to trial, the State must provide to the defense any and all exculpatory evidence in its actual or constructive possession. Failure to do so violates the Due Process Clauses of the Fifth and Fourteenth Amendments to the United States Constitution. *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963); *Kyles v. Whitley*, 514 U.S. 419, 115 S.Ct. 1555 (1995). Hereinafter this type of exculpatory evidence will be referred to as "*Brady* material." The State's duty to provide *Brady* material to the defense applies regardless of how the State has chosen to structure its overall discovery process. *Strickler v. Greene*, 527 U.S. 263, 119 S.Ct. 1936 (1999).

Brady material is evidence which is (1) material, (2) relevant to guilt or punishment, (3) favorable to the accused, and (4) within the actual or constructive possession of anyone acting on behalf of the State. *Brady*, supra.

A. Materiality

When the defense makes a specific request for *Brady* material and the State does not provide such material, the Nevada Supreme Court has held that there are grounds for reversal of a conviction "…if there exists a reasonable possibility that the claimed evidence would have affected the judgment of the trier of fact." *Roberts v. State*, 110 Nev. 1121 (1994); *Jiminez v. State*, 112 Nev. 610 (1996); *State v. Bennett*, 119 Nev. 589 (2003).

Even if a specific request has not been made, reversal is warranted "…if there exists a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different." *U.S. v. Bagley*, 473 U.S. 667 (1985), *Pennsylvania v. Ritchie*, 480 U.S. 39 (1986). A "reasonable probability" is a probability sufficient to undermine confidence in the outcome of the proceeding. *Bagley*, at 682.

Therefore, where, as here, a specific request for certain evidence is made, the evidence is considered "material" if there is a reasonable possibility that it could affect the fact finder's judgment.

B. Relevancy to Guilt or Punishment

Brady material encompasses not only evidence which might affect the defendant's guilt, but also includes evidence which could serve to mitigate a defendant's sentence upon conviction. *Jimenez v. State,* 112 Nev. 610 (1996).

An example of this kind of evidence might be where the victim of a robbery who identified the defendant as one of two people who robbed him, also indicated that the defendant tried to keep

the co-defendant from further injuring him. Although the victim's statements would actually help establish the defendant's guilt for the charged offense, they would also be *Brady* material, since they could help mitigate the defendant's sentence. Essentially, anything which could convince the Court to impose something less than a maximum sentence, or rebut alleged aggravating circumstances, would be relevant to punishment, and must be provided to the defense pursuant to *Brady v. Maryland*.

C. Favorability to the Accused

The Nevada Supreme Court has defined what evidence is considered "favorable to the accused" and therefore proper *Brady* material. In *Mazzan v. Warden,* 116 Nev. 48 (2000), the Court stated:

> Due process does not require simply the disclosure of "exculpatory" evidence. Evidence also must be disclosed if it provides grounds for the defense to attack the reliability, thoroughness, and good faith of the police investigation, to impeach the credibility of the state's witnesses, or to bolster the defense case against prosecutorial attacks. Furthermore, "discovery in a criminal case is not limited to investigative leads or reports that are admissible in evidence." Evidence "need not have been independently admissible to have been material." *Mazzan*, at 67. [Citations omitted].

Therefore, *Brady* material under this standard, would include, but not be limited to, the following examples: forensic testing which was ordered, but not done, or which was completed but did not inculpate the defendant; criminal records or other evidence concerning State's witnesses which might show their bias (*e.g.,* civil litigation), or otherwise impeach their credibility; evidence that the alleged victim has been the alleged victim of an unusual number of crimes; investigative leads or ordinarily appropriate investigation which were not followed-up on or completed by law enforcement; and, of course, anything which is inconsistent with any prior or present statements of a State's witness, including the failure to previously make a statement which is later made or testified to. Of course, traditionally exculpatory evidence such as that which could

show that someone else committed the charged crime or that no crime occurred, would also be included as *Brady* material.

D. Actual or Constructive Possession of the State

It is anticipated that the prosecution may assert that it has an "open file" policy, and that if the requested material is not available in its file, the State is under no obligation to produce it. This argument is unavailing. In *Strickler v. Greene,* 527 U.S. 263, 119 S.Ct. 1936 (1999), the United States Supreme Court explicitly held that a prosecutor's open file policy does not in any way substitute for or diminish the State's obligation to turn over *Brady* material. The Nevada Supreme Court is in accord. "It is a violation of due process for the prosecutor to withhold exculpatory evidence, and his motive for doing so is immaterial." *Jimenez v. State,* 112 Nev. 610, 618 (1996).

Furthermore, "…even if the detectives withheld their reports without the prosecutor's knowledge, 'the state attorney *is charged with constructive knowledge and possession of evidence withheld by other state agents*, such as law enforcement officers.'" *Id.,*112 Nev. at 620. [Citation omitted] (Emphasis added). Defendant would submit that other state agents, such as probation and parole officers, welfare workers, employees of Child Protective Services, jail personnel, and similar agents of the State are also State agents from whom the prosecution must affirmatively collect *Brady* material.

In *Kyles v. Whitley,* 514 U.S. 419, 115 S.Ct. 1555 (1995), the United States Supreme Court made it clear that the prosecutor has an affirmative obligation to obtain *Brady* material and provide it to the defense, even if the prosecutor is initially unaware of its existence. In so finding, the Supreme Court noted that "[t]he prosecution's affirmative duty to disclose evidence favorable to a defendant can trace its origins to early 20th century strictures against misrepresentation and is of course most prominently associated with this Court's decision in *Brady v. Maryland. . .*" *Id.* at

432. The *Kyles* Court also made clear that this obligation exists even where the defense does not make a request for such evidence. *Id.*

The *Kyles* Court additionally made the following observations in finding that the State had breached its duty to Kyles and discussing the prosecutor's obligations.

> This in turn means that the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police. But whether the prosecutor succeeds or fails in meeting this obligation (whether, that is, a failure to disclose is in good faith or bad faith), the prosecution's responsibility for failing to disclose known, favorable evidence rising to a material level of importance is inescapable.
>
> The State of Louisiana would prefer an even more lenient rule. It pleads that some of the favorable evidence in issue here was not disclosed even to the prosecutor until after trial, and it suggested below that it should not be held accountable under *Bagley* and *Brady* for evidence known only to police investigators and not to the prosecutor. To accommodate the State in this manner would, however, amount to a serious change of course from the *Brady* line of cases. In the State's favor it may be said that no one doubts that police investigators sometimes fail to inform a prosecutor of all they know.
>
> But neither is there any serious doubt that "procedures and regulations can be established to carry [the prosecutor's] burden and to insure communication of all relevant information on each case to every lawyer who deals with it." Since then, the prosecutor has the means to discharge the government's *Brady* responsibility if he will, any argument for excusing a prosecutor from disclosing what he does not happen to know about boils down to a plea to substitute the police for the prosecutor, and even for the courts themselves, as the final arbiter's of the government's obligation to ensure fair trials. *Kyles,* at 437-438. [Citations omitted].

There can be little question, therefore, that despite its "open file policy," the prosecution has an affirmative duty to seek out the previously discussed *Brady* material, regardless of whether such material is in the hands of the prosecutor or in the hands of some other entity acting on behalf of the State.

E. Brady Requests

Based on the foregoing law and analysis, the Defendant requests that the following *Brady* material be produced by the State of Nevada:

1. Any and all notes and records of any physical or scientific examinations done in connection with this case. This includes any photographs, videos, or audio recordings. It also includes all documents recording what physical evidence was taken in the case, where it was stored, and any related chain of custody documents.

    a) All relevant reports of chain of custody. All reports of any destruction of evidence or failure to collect and/or preserve evidence in the case.

    b) Any and all notes and reports of any experts in the case, including crime scene investigators. This request also includes any preliminary reports or notes that were omitted from the expert's final report(s).

    c) Any and all photographs taken by law enforcement agents during execution of any search warrant.

    d) Any and all notes and records of any physical exam done on the victim in connection with this case. This includes any photographs, videos, or recordings taken in conjunction with such exam. This includes all documents recording what evidence was taken in the case, where it was stored, and any related chain of custody documents.

    e) Any and all documentation of forensic testing ordered, but not completed.

    f) Requests for and/or results of any and all crime scene analysis and/or testing performed on any of the physical evidence in this case. Including, but not limited to, the results of any forensic or medical testing of the victim.

    g) Any documentation related to the analysis of any and all evidence seized / impounded in connection with this case.

    h) Any photographic lineups and photographic lineup instructions of the defendants that were presented to any potential witnesses by law enforcement agents.

2. Any and all notes of interviews of any witnesses and any potential witnesses in the case, including any and all audio and video recordings of such interviews and any notes of interviews that were not later recorded, such as notes of patrol officers, notes of phone calls made to potential witnesses, or attempts to contact such witnesses. The State must produce any police reports, notes, or other documents that contain information pertaining to this case or any witnesses in this case, no matter what the form or title of the report. This particularly includes notes regarding witnesses the State **does not intend to call,** which often provides the most relevant and discoverable information under the law.

    a) Any notes of any statements by the defendant, to include any notes of patrol officers or other agents of the State who have had contact with the defendants.

    b) Any and all photographs, audio, video, notes, reports, or other documentation taken during law enforcement's investigation of the defendants.

    c) Disclosures of any and all written or recorded communications between law enforcement agents in this case.

    d) Any and all 911 calls, or other recorded calls made to law enforcement.

    e) Disclosures of any and all written or recorded communications between police dispatch and any State employee in this case, including but not limited to any radio traffic, CAD reports, Event Search reports or other communications.

    f) Photocopies or other reproduction of any and all handwritten notes or otherwise memorialized records kept by the investigating law enforcement agents in this case, regardless of the form in which such notes/records are maintained by the State/Agency.

3. Any and all records and notes regarding any benefits or assistance given to any witness related to the case. This includes any monetary benefits received, services or favors, or promises of favorable treatment. This is to include the names of any and all agencies and workers or other referrals that were given to any family member, relative or guardian in connection

with this case, or relevant to this case. This also includes an estimate of future benefits to be received during or after the trial.[1]

a) Audio and/or transcripts of any co-defendants who have participated in a proffer session(s) with any law enforcement agency pertaining to any aspect of this case.

4. Any information on any criminal history of any material witness in the case, to include any juvenile record, misdemeanors, or any other information that would go to the issue of credibility and bias, whether or not the information is admissible by the rules of evidence.

5. Any and all information that shows that the defendants did not commit the crimes alleged or which show the possibility of another perpetrator.[2]

6. Any and all inconsistent statements made by any material witness in this case. This includes any and all inconsistent statements made to any employee or representative of the District Attorney's office or any law enforcement agency.[3]

7. All updated witness contact information, to include last known address and phone number.

8. Any information tending to establish prosecutorial input into the manner in which the search and interrogation were conducted in this case, including, but not limited to, any requests for a search warrant authorized or denied by any employee of the prosecuting agency.

9. Cooperation agreements and benefits. This includes any and all records and notes regarding any benefits or assistance given to any witness related to the case. This includes any monetary benefits received, travel expenses paid, services offered/conveyed, favors, or promises of favorable treatment. This also includes an estimate of future benefits to be received during or after the trial. Impeachment evidence includes any/all cooperation agreement(s) between a government witness and prosecutors. Giglio v. U.S., 405 U.S. 150, 154 (1972) (requiring disclosure of cooperation

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[1] This is relevant to issues regarding possible bias, credibility, motive to lie, and impeachment. *See Davis v. Alaska*, 415 U.S. 308 (1974) and footnote 7.

[2] *See Holmes v. South Carolina*, 547 U.S. 319 (2006), which holds that preventing a defendant from presenting evidence of third party guilt deprives him of a meaningful right to present a complete defense under the 14th and 6th Amendment of the US Constitution.

[3] See *Brady*, et al, in brief.

agreement between government witness and prosecutors). It also includes benefits provided to a state witness, regardless of whether an explicit deal is outlined. Browning v. State, 120 Nev. 347, 369 (2004). It is the witness' own anticipation of reward, not the intent of the prosecutor, which gives rise to the required disclosure. Moore v. Kemp, 809 F.2d 702, 726, 729-30 (11th Cir. 1987), cert. denied, 481 U.S. 1054 (1987); Duggan v. State, 778 S.W.2d 465, 468 (Tex. Crim. App. 1989) (Agreements need not be express or formal arrangements, and understanding merely implied, suggested, insinuated, or inferred to be of possible benefit to witness constitutes proper material for impeachment). And 'benefits' are not limited to agreement made in relation to the specific case at issue. Jimenez v. State, 112 Nev. 610, 622-23 (1996). For example, prosecutors must disclose evidence that a witness acted as a paid informant on one or more occasions. State v. Bennett, 119 Nev. 589, 603 (2003). Finally, 'benefits' can include, but are not necessarily limited to, travel and/or lodging benefits, as well as counseling, treatment, or other assistance, including immigration assistance of any kind, whether actual or anticipatory. This is relevant to issues regarding possible bias, credibility, and motive to lie, all of which constitute impeachment evidence. See Davis v. Alaska, 415 U.S. 308 (1974).

10. The enumeration of the specific requests above in no way is intended to diminish, nor does it diminish, the State's ongoing obligation to affirmatively seek out and immediately disclose any other exculpatory information not specifically delineated.

III.

CONCLUSION

Based on the above, the Defendant requests that this Court grant this motion and order the State to produce the discovery as requested.

DATED this 12th day of August, 2016.

GREGORY & WALDO, LLC

/s/ Jennifer Waldo
AMANDA S. GREGORY, ESQ.
Nevada Bar No.:11107
JENNIFER M. WALDO, ESQ.
Nevada Bar No. 11900
324 S. 3rd Street, Suite 2
Las Vegas, NV 89101

CERTIFICATE OF MAILING

I, do hereby certify that on the 12th day of August, 2016, I did serve a true and correct copy of the foregoing Defendant's MOTION FOR DISCOVERY by placing in the United States mail, first-class postage fully prepaid, addressed as follows:

Clark County District Attorney
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89101

/s/ Nicole Petrilllo
An Employee of Gregory & Waldo

AUG 03 2016

DISTRICT COURT ADMIN

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

C-16-311782-1

State of Nevada

PLAINTIFF

-VS-

ERIN WARLE

DEFENDANT

CASE NO: C-16-311782

DEPT. NO: 9

CLERK OF THE COURT

MEDIA REQUEST AND ORDER ALLOWING CAMERA ACCESS TO COURT PROCEEDINGS

* Please fax to (702) 671-4548 to ensure that the request will be processed as quickly as possible.

Jordan Gartner (name), of FOX5, KVVU-TV (media organization), hereby requests permission to broadcast, record, photograph or televise proceedings in the above-entitled case in Dept. No. 9, the Honorable Judge Togliatti Presiding, on the 11th day of August, 20 16.

I hereby certify that I am familiar with, and will comply with Supreme Court Rules 229-246, inclusive. If this request is being submitted less than twenty-four (24) hours before the above-described proceedings commence, the following facts provide good cause for the Court to grant the request on such short notice:

It is further understood that any media camera pooling arrangements shall be the sole responsibility of the media and must be arranged prior to coverage, without asking for the Court to mediate disputes.

Dated this 7th day of August, 20 16.

SIGNATURE: [signature] PHONE: 702-436-8256

****

IT IS HEREBY ORDERED THAT:

[ ] The media request is **denied** because it was submitted less than 24 hours before the scheduled proceeding was to commence, and no "good cause" has been shown to justify granting the request on shorter notice.

[ ] The media request is **denied** for the following reasons:

[X] The media request is **granted**. The requested media access remains in effect for each and every hearing in the above-entitled case, at the discretion of the Court, and unless otherwise notified. This order is made in accordance with Supreme Court Rules 229-246, inclusive, at the discretion of the judge, and is subject to reconsideration upon motion of any party to the action. Media access may be revoked if it is shown that access is distracting the participants, impairing the dignity of the Court, or otherwise materially interfering with the administration of justice.

[ ] **OTHER:**

IT IS FURTHER ORDERED that this document shall be made a part of the record of the proceedings in this case.

Dated this 9th day of August, 20 16.

[signature]
DISTRICT COURT JUDGE

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

State of Nevada

PLAINTIFF

-VS-

Erin Ware

DEFENDANT

CASE NO: C-16-311782-1

DEPT. NO: 9

NOTIFICATION OF MEDIA REQUEST

TO: COUNSEL OF RECORD IN THE ABOVE-CAPTIONED CASE:

You are hereby notified pursuant to Supreme Court Rules 229-246, inclusive, that media representatives from KVVU have requested to obtain permission to broadcast, televise, record or take photographs of all hearings in this case. Any objection should be filed at least 24 hours prior to the subject hearing.

DATED this 9 day of August, 20 16.

Eighth Judicial District Court

CERTIFICATE OF SERVICE BY FACSIMILE TRANSMISSION

I hereby certify that on the 9 day of August, 20 16, service of the foregoing was made by facsimile transmission only, pursuant to Nevada Supreme Court Rules 229-246, inclusive, this date by faxing a true and correct copy of the same to each Attorney of Record addressed as follows:

Plaintiff

District Attorney

(702) 455-2294

Defendant

Jennifer Waldo

(702) 294-0231

Eighth Judicial District Court

ORDR

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

ERIN WARE

ID # 02652033

Defendant.

C-16-311782-1

CASE NO.C-15-310099-1

DEPT. NO: 9

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

ORDER FOR TRANSPORT

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

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the DSD will transport Defendant ERIN WARE, ID#02652033 to the Offices of Jeimelie Magdats, Las Vegas Family Eye Care 1300 S. Eastern Ave. Las Vegas, Nevada 89104, (702) 385-2242 for the purpose of eye exam.

IT IS FURTHER ORDERED, that the appointment will be arranged between the Medical Administration Offices of DSD and Ailen Hernandez, office manager of Dr. Jeimelie Magdats office so that neither attorneys for the Defendant or the State of Nevada or anyone else will be informed of the date of the appointment for security reasons.

IT IS FURTHER ORDERED THAT Defendant is responsible for the transportation fee and medical costs. Prior to the appointment being made, the Defendant is responsible for providing a check for the transportation fee in the amount of $200.00 to the DSD Inmate Accounts with the Inmate's name and ID number included, and will provide notification to the

DSD Medical Administration Office when the same has occurred. At the time the appointment is made, the DSD Medical Administration Office can verify with the provider that the provider and the Defendant have made arrangements for payment of services. DSD is not responsible for any payment of services related to the appointment.

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

DATED this 24th day of October, 2017.

DISTRICT COURT JUDGE

for JENNIFER P. TOGLIATTI

Submitted by:

Joshua Tomsheck
Attorney for Erin Ware
Bar # 9210
702-895-6760

Approved as to Form and Content:

Martina Geinzer
Assistant General Counsel
for Las Vegas Metropolitan Police Department
Detention Services Division

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

Electronically Filed
4/11/2018 2:06 PM
Steven D. Grierson
CLERK OF THE COURT

COSCC

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * *

STATE OF NEVADA	CASE NO.: C-16-311782-1
VS	DEPARTMENT 9
ERIN WARE	

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 11th day of April, 2018.

Jennifer P. Togliatti

JENNIFER TOGLIATTI
DISTRICT COURT JUDGE

DOCUMENTARY EXHIBITS

Grand Jury Case # 15AGJ097X

Exhibit # 1

Date 1·5·16

4

IND
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ELIZABETH MERCER
Chief Deputy District Attorney
Nevada Bar #010681
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- ERIN WARE, aka, Erin Deshaun Ware, #2652033 Defendant.	CASE NO: DEPT NO: INDICTMENT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

The Defendant above named, ERIN WARE, aka, Erin Deshaun Ware, accused by the Clark County Grand Jury of the crime(s) of SOLICITATION TO COMMIT MURDER (Category B Felony - NRS 199.500.2 - NOC 50037), committed at and within the County of Clark, State of Nevada, on or between December 9, 2015 and December 14, 2015, as follows:

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///

///

///

///

///

did willfully, unlawfully, and feloniously counsel, hire, command or otherwise solicit another, to-wit: an UNDERCOVER OFFICER, to commit the murder of JAMIE NOURIE.

DATED this _____ day of January, 2016.

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

BY _____
ELIZABETH MERCER
Chief Deputy District Attorney
Nevada Bar #010681

ENDORSEMENT: A True Bill

_____
Foreperson, Clark County Grand Jury

Names of Witnesses and testifying before the Grand Jury:

Additional Witnesses known to the District Attorney at time of filing the Indictment:

COOK, DARIN, LVMPD# 5730

CUSTODIAN OF RECORDS, CCDC

CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS

CUSTODIAN OF RECORDS, LVMPD RECORDS

GONZALEZ, ALEXANDER, LVMPD# 6188

HALL, CHRISTOPHER, LVMPD# 6060

MORENO, RICHARD, LVMPD# 4922

MUNOZ, GABRIEL, LVMPD# 7137

NOURIE, JAMIE, c/o CCDA, 200 Lewis Avenue, LV, NV 89101

SEELY, JASON, LVMPD# 7729

ZUCKER, MATTHEW, LVMPD# 5761

15AGJ097X/15F18958X/ed-GJ
LVMPD EV# 1512093323
(TK14)

Grand Jury Case #15AGJ097X

Exhibit # 2

Date 1·5·16

INST

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ERIN WARE, aka,
Erin Deshaun Ware, #2652033

Defendants.

GRAND JURY INSTRUCTIONS

Solicitation to Commit Murder

Any person who counsels, hires, commands or otherwise solicits another to commit murder, if no criminal act is committed as a result of the solicitation, has committed the crime of Solicitation to Commit Murder.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	January 06, 2016

C-16-311782-1 State of Nevada
vs
Erin Ware

January 06, 2016 **11:45 AM** **Grand Jury Indictment**

HEARD BY: Barker, David **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Louisa Garcia

RECORDER: Cheryl Carpenter

REPORTER:

PARTIES PRESENT:

Mercer, Elizabeth A.	Attorney
State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ann Kling, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. State presented Grand Jury Case Number 15AGJ097X to the Court. COURT ORDERED, the Indictment may be filed and is assigned Case Number C311782-1, Department VI. State requested a warrant and aruged bail. COURT ORDERED, WARRANT ISSUED, BAIL SET at $500,000.00, and matter SET for initial arraignment. Exhibits 1-4 lodged with Clerk of District Court Ms. Mercer stated Case No. 15F18958X will be dismissed tomorrow at the preliminary hearing. Further indicated this case arises from a case currently pending in Dept 9, case No. C310099, and she will be filing a motion to consolidate the two cases.

I.W. (CUSTODY)

1/13/2016 8:30 AM INITIAL ARRAIGNMENT (DEPT. VI)

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	January 13, 2016

C-16-311782-1 State of Nevada
vs
Erin Ware

January 13, 2016 **8:30 AM** **All Pending Motions**

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

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES PRESENT:

Gregory, Amanda S., ESQ	Attorney
Mercer, Elizabeth A.	Attorney
Rhoades, Kristina A.	Attorney
State of Nevada	Plaintiff
Ware, Erin	Defendant

JOURNAL ENTRIES

- INITIAL ARRAIGNMENT...INDICTMENT RETURN

Ms. Gregory stated the Defendant will plead not guilty and waive the reading of the indictment. Defendant WARE ARRAIGNED, PLED NOT GUILTY, AND WAIVED THE SIXTY DAY RULE. COURT ORDERED, matter SET for trial.

CUSTODY

7-18-16 9:30 AM CALENDAR CALL

7-25-16 10:00 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	February 25, 2016

C-16-311782-1 State of Nevada
vs
Erin Ware

February 25, 2016 **9:00 AM** **Motion to Consolidate**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Athena Trujillo
Skye Endresen

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Gregory, Amanda S., ESQ	Attorney
Rhoades, Kristina A.	Attorney
State of Nevada	Plaintiff
Ware, Erin	Defendant

JOURNAL ENTRIES

- CONFERENCE AT THE BENCH. COURT advised that based on it's schedule it has not had enough time to review the motions and ORDERED, matter CONTINUED. Further, COURT noted Ms. Gregory advised at the bench she does not anticipate being ready for trial and at her request ORDERED, calendar call and trial date VACATED and matter SET for status check. Upon Court's inquiry, Defendant advised he understands. State objected to resetting the trial noting all discovery, including the DNA testing, has been provided and they are ready for trial. Ms. Gregory argued it takes time to review the DNA. COURT ORDERED, oral request to vacate the trial date in C310099 GRANTED; matter SET for status check. COURT FURTHER ORDERED, motion CONTINUED.

CUSTODY (COC)

CONTINUED TO: 3/1/16 9:00 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	March 01, 2016

C-16-311782-1 State of Nevada
vs
Erin Ware

March 01, 2016 **9:00 AM** **Motion to Consolidate**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Gregory, Amanda S., ESQ	Attorney
Rhoades, Kristina A.	Attorney
State of Nevada	Plaintiff
Ware, Erin	Defendant

JOURNAL ENTRIES

- Argument in support of the motion by State, noting the evidence is cross admissible. Argument against the motion by Ms. Gregory, noting they are separate case and not relevant to identity or cross admissibility. COURT ORDERED, matter CONTINUED to the Court's chamber calendar for decision.

CUSTODY (COC)

CONTINUED TO: 3/9/16 (CHAMBERS)

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	August 11, 2016

C-16-311782-1 State of Nevada
vs
Erin Ware

August 11, 2016 **9:00 AM** **All Pending Motions**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Jennifer Kimmel

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Gregory, Amanda S.	Attorney
Rhoades, Kristina A.	Attorney
State of Nevada	Plaintiff
Ware, Erin	Defendant

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO CONTINUE TRIAL...CALENDAR CALL

COURT noted, the State is objecting to this Continuance and the Deft. is facing a significant amount of time in custody if he is found guilty. Court stated, it is inclined to grant the Deft's request to continue. Upon discussion regarding a good trial start date, matter trailed.

BENCH CONFERENCE.

Pursuant to the conference at the bench, COURT ORDERED, matters CONTINUED.

CUSTODY (COC)

CONTINUED TO: 8/16/16 9:00 A.M.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	August 16, 2016

C-16-311782-1 State of Nevada
vs
Erin Ware

August 16, 2016 **9:00 AM** **Calendar Call**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Skye Endresen

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Mercer, Elizabeth A.	Attorney
State of Nevada	Plaintiff
Waldo, Jennifer M	Attorney
Ware, Erin	Defendant

JOURNAL ENTRIES

- COURT STATED it already GRANTED the Defense Motion to Continue, however, continued the Calendar Call for resetting of the Trial. CONFERENCE AT BENCH. COURT ORDERED, Trial VACATED and RESET to the dates selected at the bench.

CUSTODY (COC)

11/8/16 9:00 AM STATUS CHECK: TRIAL READINESS

1/12/17 9:00 AM CALENDAR CALL

1/23/17 10:30 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	August 23, 2016

C-16-311782-1 State of Nevada
vs
Erin Ware

August 23, 2016 **9:00 AM** **Motion for Discovery**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keri Cromer
Olivia Black

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Mercer, Elizabeth A.	Attorney
State of Nevada	Plaintiff
Waldo, Jennifer M	Attorney
Ware, Erin	Defendant

JOURNAL ENTRIES

- Arguments by counsel regarding the merits of the motion. COURT ORDERED, Motion GRANTED IN PART/DENIED IN PART as follows:

1. As to A through H, DENIED, with the exception of all case detective notes, expert notes, including fingerprint and DNA filed. DA to inquiry as to patrol officers and notes.

2. As to audio, State advised audio has been provided.

3. As to compensation beyond witness fees, Ms. Mercer advised she is not aware of any. In camera production for victim and witness assistance, GRANTED. As to criminal history of all state witnesses court directed State to run NCIC, Court noted it does not require police personal and advised State to provide at status check trial readiness.

4. RESOLVED.

5. Request for detective secret witness or otherwise, GRANTED.

6. As to Statements, GRANTED; State required to provide known inconsistent statements.

7. Updated witness contact information, GRANTED as required by statue.

8. Search warrant report, DENIED WITHOUT PREJUDICE.

9. GRANTED IN PART; Granted for in-camera review - GPA and discovery required in any case Defendant has/DENIED IN PART as to PSI.

10. Motion GRANTED.

Ms. Waldo to prepare the order.

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	November 08, 2016

C-16-311782-1 State of Nevada
vs
Erin Ware

November 08, 2016 **9:00 AM** **Status Check**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Mercer, Elizabeth A.	Attorney
State of Nevada	Plaintiff
Waldo, Jennifer M	Attorney
Ware, Erin	Defendant

JOURNAL ENTRIES

- Ms. Waldo advised the State provided the detective's notes. State provided the Court with NCIC for review. Court noted Trudy Presutti has no discoverable convictions and Jaime Nourie, Rafeal Perez, and Ruth Garn have a date of birth and social security number and no other entry. Ms. Waldo advised there are additional motions to file but anticipates being ready for trial. State advised the police reports and underlying data for the fingerprint analysis have been requested. Further, State advised there are no victim payouts.

CUSTODY(COC)

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	January 17, 2017

C-16-311782-1 State of Nevada
vs
Erin Ware

January 17, 2017 **9:00 AM** **All Pending Motions**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Natalie Ortega

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Rhoades, Kristina A.	Attorney
State of Nevada	Plaintiff
Tomsheck, Joshua L.	Attorney
Ware, Erin	Defendant

JOURNAL ENTRIES

- CALENDAR CALL...STATUS CHECK: APPOINTMENT OF NEW COUNSEL

CONFERENCE AT BENCH. COURT ORDERED, matter TRAILED.

MATTER RECALLED. All parties present as before. Upon Court's inquiry, Mr. Tomsheck advised he would confirm as counsel. Mr. Tomsheck stated he was in trial, and discovery (in this case) was voluminous, therefore, he would not be ready for trial next week. COURT ORDERED, trial VACATED. COURT FURTHER ORDERED, Josh Tomsheck, Esq. CONFIRMED as counsel. COURT ADDITIONALLY ORDERED, Status Check SET regarding trial setting.

CUSTODY (COC)

2/7/17 9:00 AM STATUS CHECK: TRIAL SETTING

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	February 07, 2017

C-16-311782-1 State of Nevada
vs
Erin Ware

February 07, 2017 **9:00 AM** **Status Check**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Rhoades, Kristina A.	Attorney
State of Nevada	Plaintiff
Tomsheck, Joshua L.	Attorney
Ware, Erin	Defendant

JOURNAL ENTRIES

- Mr. Tomsheck advised he met with the Defendant and requested a trial date be set. COURT ORDERED, matter SET for trial.

CUSTODY (COC)

8/17/17 9:00 AM CALENDAR CALL

8/28/17 10:30 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	August 17, 2017

C-16-311782-1 State of Nevada
vs
Erin Ware

August 17, 2017 **9:00 AM** **Calendar Call**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Mercer, Elizabeth A.	Attorney
State of Nevada	Plaintiff
Tomsheck, Joshua L.	Attorney
Ware, Erin	Defendant

JOURNAL ENTRIES

- Colloquy regarding Motion to Continue. State advised it would have been prepared for trial. COURT ORDERED, Motion to Continue GRANTED; trial date VACATED and RESET.

CUSTODY (COC)

11/14/17 9:00 AM STATUS CHECK: TRIAL READINESS

1/25/18 9:00 AM CALENDAR CALL

2/5/18 10:30 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	November 14, 2017

C-16-311782-1 State of Nevada
vs
Erin Ware

November 14, 2017 **9:00 AM** **Status Check: Trial Readiness**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Tena Jolley

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Albritton, Alicia A.	Attorney
State of Nevada	Plaintiff
Tomsheck, Joshua L.	Attorney
Ware, Erin	Defendant

JOURNAL ENTRIES

- Mr. Tomsheck stated that barring some unforeseen circumstance, he anticipates being ready for the current trial setting in February. Court stated if something comes up, counsel is to file a written motion, otherwise it will count on the case being a significant priority on the Stack. Accordingly, COURT ORDERED, Trial Date STANDS.

CUSTODY (COC)

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	January 25, 2018

C-16-311782-1 State of Nevada
vs
Erin Ware

January 25, 2018 **9:00 AM** **Calendar Call**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Rhoades, Kristina A.	Attorney
State of Nevada	Plaintiff
Tomsheck, Joshua L.	Attorney
Ware, Erin	Defendant

JOURNAL ENTRIES

- Mr. Tomsheck announced ready for trial, however; Mr. Tomsheck advised the State extended an offer yesterday and indicated it would request the trial date stand with a status check next week on possible negotiations. COURT ORDERED, matter CONTINUED, noting it will make a record of the offer next week.

CUSTODY (COC)

CONTINUED TO: 1/30/18 9:00 AM

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	January 30, 2018

C-16-311782-1 State of Nevada
vs
Erin Ware

January 30, 2018 **9:00 AM** **Calendar Call**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Mercer, Elizabeth A.	Attorney
	Attorney
Rhoades, Kristina A.	Attorney
State of Nevada	Plaintiff
Tomsheck, Joshua L.	Attorney
Ware, Erin	Defendant

JOURNAL ENTRIES

- CONFERENCE AT THE BENCH. Court noted parties have advised there will be 15 - 20 witnesses and the Defense has reserved the right to call anyone on the State's witness list. Further, Court advised parties state trial will take 1 1/2 - 2 weeks. COURT ORDERED, matter SET for trial. Colloquy regarding schedule. Court noted a record of the offer will be made on the first day of trial.

CUSTODY (COC)

2/7/18 9:30 AM JURY TRIAL

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	February 07, 2018

C-16-311782-1 State of Nevada
vs
Erin Ware

February 07, 2018 **9:30 AM** **All Pending Motions**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Hill, Daniel	Attorney
Mercer, Elizabeth A.	Attorney
Rhoades, Kristina A.	Attorney
State of Nevada	Plaintiff
Tomsheck, Joshua L.	Attorney
Ware, Erin	Defendant

JOURNAL ENTRIES

- JURY TRIAL ... DEFENDANT'S MOTION TO DISMISS DUE TO CONTINUED STATE MISCONDUCT AND VIOLATIONS OF DEFENDANT'S FIFTH, SIXTH, AND FOURTEENTH AMENDMENT RIGHTS, OR IN THE ALTERNATIVE, MOTION TO SUPPRESS

Fourth Amended Information FILED IN OPEN COURT.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL.
Mr. Tomsheck advised he received approval from the Office of Indigent Defense for co - counsel. Further, Mr. Tomsheck advised Dan Hill will be co - counsel, but will not likely be here today. Court noted it will read an instruction. State made a record of the offer to the Defendant: plead to one count of attempt murder with use, robbery with use, and solicitation to commit murder with a stipulated 20 - 50 years and another case will be dismissed. Defendant canvassed as to offer and confirmed he rejected it. Mr. Tomsheck advised the State presented what it indicated would be their best and final

offer. Additionally, Mr. Tomsheck advised the Defendant has a felony conviction in C240973 and if convicted he would be a mandatory habitual criminal with a possible sentence of life without the possibility of parole. Mr. Tomsheck advised he did make a counter offer which the State has rejected. Colloquy regarding motion. Counsel submitted. COURT stated its findings and ORDERED, motion DENIED; State to prepare the order. Colloquy regarding schedule and jury selection.

PROSPECTIVE JURY PANEL PRESENT.
Voir dire.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL.
NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. WARE ARRAIGNED AND PLED GUILTY TO COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON (F), COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F), and COUNT 3 - SOLICITATION TO COMMIT MURDER (F). Court ACCEPTED plea, and, ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing.

PROSPECTIVE JURY PANEL PRESENT.
Defendant not present. Prospective jury panel thanked and excused.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL.
Colloquy regarding sentencing date. COURT ORDERED, sentencing date VACATED and RESET; Mr. Tomsheck to notify Defendant of the new sentencing date.

CUSTODY

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor	COURT MINUTES	April 10, 2018

C-16-311782-1 State of Nevada
vs
Erin Ware

April 10, 2018 **9:00 AM** **Sentencing**

HEARD BY: Togliatti, Jennifer **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES PRESENT:

Mercer, Elizabeth A.	Attorney
Rhoades, Kristina A.	Attorney
State of Nevada	Plaintiff
Tomsheck, Joshua L.	Attorney
Ware, Erin	Defendant

JOURNAL ENTRIES

- Mr. Tomsheck advised there are errors in the PSI and detailed the errors for the Court. Court noted the District Attorney has records with respect the juvenile entry. Matter TRAILED.

Matter RECALLED. COURT ORDERED, PSI AMENDED in the Judgment of Conviction (JOC) as follows: At page 6 under Institution / Supervision Adjustment, case C274352 is to be amended to reflect Attempt Burglary, not Attempt Robbery; at page 6 under Offense Synopsis redact "punched" and replace with "shot at least three times" not four times; and "fled with $400.00" is to be redacted and replaced with "only fled the business with revolver". DEFT WARE ADJUDGED GUILTY of COUNT 1 - ROBBERY WITH USE OF A DEADLY WEAPON (F), COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F), and COUNT 3 - SOLICITATION TO COMMIT MURDER (F). Argument by State. Statement by Defendant. Argument by Mr. Tomsheck. Ruth Garn and Jamie Nourie sworn and testified. COURT ORDERED, in addition to the $25.00 Administrative Assessment fee, credit for time served for DNA test and DNA fee taken 5/10/08, and $49,823.79 in RESTITUTION to Victim's of Crime, Defendant SENTENCED as to

COUNT 1 - to a MINIMUM of SEVENTY TWO (72) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Corrections (NDC) plus a CONSECUTIVE term of a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections (NDC) for the use of a deadly weapon;

COUNT 2 - to a MINIMUM of SEVENTY TWO (72) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Corrections (NDC) plus a CONSECUTIVE term of a MINIMUM of FORTY EIGHT (48) MONTHS and a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Corrections (NDC) for the use of a deadly weapon, Count 2 to run CONSECUTIVE to Count 1;

COUNT 3 - to a MINIMUM of FORTY EIGHT (48) MONTHS and a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Corrections (NDC), Count 3 to run CONCURRENT with Counts 1 and 2;

for a TOTAL AGGREGATE SENTENCE OF to a MINIMUM of SEVENTEEN (17) YEARS and a MAXIMUM of FIFTY (50) YEARS in the Nevada Department of Corrections (NDC) with NINE HUNDRED SEVENTY ONE (971) DAYS credit for time served. CASE CLOSED.

NDC

Certification of Copy and Transmittal of Record

State of Nevada
County of Clark } **SS:**

Pursuant to the Supreme Court order dated October 18, 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 147.

STATE OF NEVADA,

Plaintiff(s),

vs.

ERIN WARE aka ERIN DESHAUN WARE,

Defendant(s),

Case No: C-16-311782-1
Consolidated with C-15-310099-1
Dept. No: XXI

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 3 day of November 2022.

Steven D. Grierson, Clerk of the Court

Heather Ungermann, Deputy Clerk